



Tribunals Service



SCOTTISH EXECUTIVE

The Commissioners' Office

Annual Report
2005-2006

The Social Security Commissioners
The Child Support Commissioners
The Pension Appeals Commissioners

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Chief Commissioner's Foreword

The Commissioners' Work

The last year has been another challenging year for the Commissioners and their Offices. However, against a backcloth of constitutional change and uncertainty, the statistics contained in this report show that time taken to deal with applications and appeals, and the costs of doing so, are within imposed targets and compare well with the court system and other tribunals. It is a tribute to both Commissioners and staff that, despite considerable background noise, their focus on providing a good service for those seeking to appeal benefit decisions has remained undiminished.

As I have said in previous reports, statistics lack qualitative sensitivity and hence can never be relied upon to give a full picture of the exercise of any judicial functions. In particular, such data give no indication as to the extent to which Commissioners are fulfilling their vital function of developing a coherent body of welfare law and procedure within the statutory framework. Although the number of statutory schemes with which the Commissioners are concerned numbers more than forty, over half of the appeals brought before Commissioners (and before the tribunals below) relate to one benefit, namely disability living allowance. In the last year, a number of decisions of Tribunals of Commissioners (R(DLA) 3/06, R(DLA) 4/06 and R(DLA) 6/06) have refocused and clarified the underlying principles relating to this benefit. Following a series of cases concerning the mechanics of making and varying benefit decisions, these cases have been apparently well received as a valuable addition to the jurisprudence of the Commissioners.

The Commissioners remain committed to the coherent development of the law within their field - and a number of Tribunals of Commissioners have already been set up for hearing cases of special legal difficulty during the first part of this new year.

The Tribunal Reform Programme

At the time of last year's report, the Commissioners were awaiting the long-heralded Tribunals Bill which it was proposed would abolish the Commissioners in favour of a new Superior Court of Record incorporating a number of second-tier jurisdictions (including the Land Tribunal, the Transport Tribunal, parts of the Tax & Financial Services Tribunals and certain jurisdictions currently exercised by the High Court, in addition to the Commissioners). Following the transfer of tribunals from sponsoring Government Departments to the Tribunal Service within the Department for Constitutional Affairs, this was an exciting prospect for the rationalisation of the tribunals appeal system and the formation of a more coherent and consistent body of administrative law.

However, despite optimism raised by the Queen's Speech in November 2004, although the Bill was published in draft form immediately before the Parliamentary recess in July - lack of Parliamentary time will almost certainly doom the presentation of the Bill, at least before the 2008-9 session. Whilst of course the scarcity of Parliamentary time and importance of other business is recognised, the postponement and possible abandonment of this legislation is much to be regretted. The Tribunal Service has been operational from 1 April 2006, and on that date several of the larger tribunals that had previously been within the control of sponsoring Departments - including tribunals from which the Commissioners hear appeals - were transferred to it. That important move of tribunals towards independence from the executive was very much welcomed. However, without primary legislation to put the constitutional footing

of tribunals judiciary (including the Senior President, Lord Justice Carnwath) on a proper and settled basis - fully and patently independent - and to set up rational and modern machinery for efficient justice through tribunals, the opportunities for tribunals to give the best service to those who use them could substantially be lost. The Commissioners are currently working with the Senior President, other tribunal judiciary and the administration to ensure that, even without primary legislation, the momentum of reform is maintained so far as possible. This will be a major challenge for the coming months.

Pension Appeals

It is part of the rationale of the reform programme that onward appeals within the tribunal system would benefit from rationalisation. From April 2005, the Commissioners took over the jurisdiction of appeals from the Pensions Appeal Tribunals, that had previously been exercised by the High Court in England & Wales and the Inner House of the Court of Session in Scotland. It is hoped that the movement of this judicial work, which bears considerable similarities to the benefits jurisdictions exercised by the Commissioners, will be followed by further transfers that will ensure that second tier appeals are dealt in a proportionate way by specialist judges within the tribunal system.

Information and Reporting

Although the Commissioners deal only with appeals on points of law, the majority of appellants in England and Wales appear in person. This makes the provision of readily accessible and comprehensible information vital. During the course of the year, the Commissioners' Offices have updated their guidance notes for parties and their much used websites, in addition to holding well attended Users' Meetings in London and Edinburgh.

Most decisions of interest to a wider audience than the specific parties are published on the Commissioners' website. This ready availability of cases has led the Editorial Board carefully to consider the criteria for including cases in the official Commissioners' Reports. New guidelines - based upon the precedential and practical value of the case - have recently been approved and published on the website.

Representation

The public funding scheme does not extend to hearings before the Commissioners in England & Wales, and funding is rarely granted in Scotland, where there is a particularly well developed system of local authority welfare rights representation. Most appellants before the Commissioners do not therefore have the benefits of legal representation.

In some cases, appellants are able to put their case to a Commissioner adequately - and Commissioners are always willing to assist to ensure that points open to appellants are made and properly developed. However, the statutory schemes with which Commissioners are involved are often complex, and in some cases, if the claimant is not represented, there is a real risk that a fair hearing may be compromised because of "inequality of arms" between the claimant and the respondent Government Department.

The crucial role of voluntary organisations (often in the form of Citizen's Advice Bureaux or local authority sponsored advisers) in representing claimants should not be underestimated. In many

cases of particular importance, organisations such as the Child Poverty Action Group act for the claimant, and ensure that the claimant has the benefit of advice and access to an appropriately experts and experienced advocate. During the course of this year, the Free Representation Unit of the Bar in London instigated an initiative to ensure that as many claimants as possible who required assistance had proper legal advice and access to an advocate for hearings before Commissioners.

Representation from each of these sources is important to claimants, and very much appreciated by the Commissioners. It not only ensures that claimants are not at an unfair disadvantage, but also assists the Commissioners with the interpretation of often difficult statutory provisions. At a time when public resources are at a premium, it is hoped that the value obtained from this facility is properly appreciated and that such advice continues to be properly funded and readily available.

Legal Officers

On behalf of all the Commissioners, I would like to pay tribute to the contribution made by their team of Legal Officers, led by Senior Legal Officers Jennifer Fowler and her successor Jill Walker in London, and Christopher Smith in Edinburgh.

The Commissioners are supported by a team of ten Legal Officers, nine in the London Office and one in Edinburgh. These are qualified barristers, solicitors or advocates with diverse previous legal experience, drawn from private practice, central and local government, the CPS and specialist welfare rights organisations. Given the inordinate breadth and complexity of the statutory provisions - that now occupy 20 lever arch files - and the fact that claimants are largely unrepresented, the Legal Officers play a vital role in ensuring cases are disposed of efficiently and expeditiously, as well as justly.

In addition to exercising delegated judicial functions (e.g. issuing directions, dealing with case management applications and dealing with procedural issues raised by office staff), their duties include undertaking research for Commissioners (often at the application for leave stage); managing cases referred to a Tribunal of Commissioners and cases stayed pending the ultimate determination of cases before the higher courts; and being involved in the Commissioners' specialist committees, e.g. the Editorial Board and committees set up to consider case procedure. Their contribution to the individual casework of the Commissioners, and generally to the efficient running of the jurisdiction, is very considerable indeed. It is pleasing to note that this is recognized in the draft Tribunals Bill, which includes provision for the extension of this valuable facility to other tribunals.

Appointments and Retirements

I am delighted that during the year His Honour Judge John Martin QC (the Chief Commissioner in Northern Ireland) and Mrs Moya Brown (also a Commissioner in Northern Ireland) were appointed to sit as Deputy Commissioners in Great Britain. Their experience and expertise will greatly benefit this jurisdiction, and, the statutory schemes across the United Kingdom being similar, their appointment will assist in the development of a consistent body of welfare law for which we strive. Mr Commissioner Powell, a Great Britain Commissioner, has sat for some years as a Deputy in Belfast, and will continue to do so.

There were two significant retirements in the year. Mr Commissioner Jonathan Henty retired after 13 years service. His imperturbability and style will be missed, as well as his contribution to Commissioners' jurisprudence which has been considerable.

Mrs Jennifer Fowler also retired as the Senior Legal Officer, after a total of over 25 years' service to the Commissioners. She has a long service record unlikely to be equalled in the future, and her contribution to the Commissioners' Procedure Committee (and their procedural rules generally) and to the Tribunal Reform Programme are both worthy of particular mention, in addition to her encyclopaedic knowledge of benefits law. We are glad that she has agreed to continue part time during her "retirement".

Coda

This will be my last Annual Report. On 1 August 2005, I was appointed the Designated Civil Judge for South Wales, Dyfed Powys and Gwent, and will cease being the Chief Commissioner within the next few weeks, once a successor has been identified.

I have greatly appreciated my time as Chief Commissioner. As the higher courts have frequently recognised, the post involves law of the most difficult nature, coupled with administrative functions presiding over a jurisdiction of fifty full time Commissioners, part time Deputies and Legal Officers, dealing with 7,000 cases a year from all parts of England, Wales and Scotland. That combination is not every judge's cup of tea. However, I have thoroughly enjoyed the last three years. Working and sitting with my fellow Commissioners has been a great pleasure, as well as a privilege: and I would also like to commend and thank all of the staff of both London and Edinburgh Offices - but especially my Personal Assistant, Marisa Baldini - for their invaluable and unfailing expertise and support. I hope my successor finds his or her time as Chief Commissioner as rewarding as I have done.

Whilst resources continue to be severely constrained and that which lies in the future is anything but certain, I firmly believe that the Commissioners and their staff are well placed to meet the challenges they face. I wish all those involved in the jurisdiction the very best for the future.

His Honour Judge Gary Hickinbottom
Chief Social Security & Child Support Commissioner of Great Britain
September 2006

Rhagair y Prif Gomisiynydd

Gwaith y Comisiynwyr

Bu'r flwyddyn ddiwethaf yn flwyddyn arall llawn her i'r Comisiynwyr a'u Swyddfeydd. Ond, yn erbyn cefndir o newid cyfansoddiadol ac ansicrwydd, dengys yr ystadegau yn yr adroddiad hwn fod yr amser a gymerwyd i ddelio gyda cheisiadau ac apeliadau, a chostau gwneud hynny, o fewn y targedau a osodwyd, ac yn cymharu'n dda â'r system llysoedd a thribiwnlysoedd eraill. Mae'n deyrnged i'r Comisiynwyr a'u staff, er gwaethaf yr holl ystyriaethau cefndirol, bod eu ffocws ar ddarparu gwasanaeth da i'r rhai sy'n ceisio am apelio yn erbyn penderfyniadau budd - daliadol wedi aros yn ddiwyro.

Fel y dywedais mewn adroddiadau blaenorol, nid oes gan ystadegau sensitifrwydd ansoddol, ac felly does dim modd dibynnu arnynt i roi darlun llawn o unrhyw swyddogaethau barnwrol a weithredir. Yn neilltuol, nid yw'r cyfryw ddata'n dangos i ba raddau y mae Comisiynwyr yn cyflawni'u swyddogaeth hanfodol o ddatblygu casgliad cydlynol o gyfreithiau a threfniadaethau lles o fewn y fframwaith statudol. Er bod y Comisiynwyr yn ymwneud â dros ddeugain o gynlluniau statudol, mae dros hanner yr apeliadau a ddaw gerbron y Comisiynwyr (a gerbron y Tribiwnlysoedd isod) yn gysylltiedig ag un budd-dal, sef y lwfans byw i'r anabl. Yn ystod y flwyddyn ddiwethaf, mae nifer o benderfyniadau Tribiwnlysoedd Comisiynwyr (R(DLA) 3/06, R(DLA) 4/06 a R(DLA) 6/06) wedi arwain at ailgyfeirio a chrisialu'r egwyddorion sylfaenol sy'n gysylltiedig â'r budd-dal hwn. Yn dilyn cyfres o achosion yn ymwneud â mecanweithiau gwneud ac amrywio penderfyniadau ynghylch budd-daliadau, mae'r achosion hyn i bob golwg wedi cael eu derbyn fel ychwanegiad gwerthfawr i gyfreitheg y Comisiynwyr.

Mae ymrwymiad y Comisiynwyr yn parhau i ddatblygiad cydlynus y gyfraith o fewn eu maes – ac mae nifer o Dribiwnlysoedd Comisiynwyr wedi cael eu sefydlu eisoes ar gyfer clywed achosion sy'n arbennig o anodd o safbwynt cyfreithiol yn ystod rhan gyntaf y flwyddyn newydd hon.

Rhaglen Diwygio'r Tribiwnlysoedd

Adeg adroddiad y llynedd, roedd y Comisiynwyr yn disgwyl y Mesur Tribiwnlysoedd hir ddisgwyliedig a oedd fod i ddiddymu'r Comisiynwyr a sefydlu Llys Cofnodion Uwch newydd yn eu lle a fyddai'n ymgorffori nifer o awdurdodaethau ail-haen (gan gynnwys y Tribiwnlys Tir, y Tribiwnlys Trafnidiaeth, rhannau o'r Tribiwnlysoedd Gwasanaethau Ariannol a Threth, a rhai awdurdodaethau sy'n cael eu harfer gan yr Uchel Lys ar hyn o bryd, yn ychwanegol at y Comisiynwyr). Ar ôl trosglwyddo tribiwnlysoedd o Adrannau noddi'r Llywodraeth i'r Gwasanaeth Tribiwnlysoedd o fewn yr Adran Materion Cyfansoddiadol, roedd hyn yn cael ei ystyried yn gyfle cyffrous i symleiddio'r system tribiwnlysoedd apêl a chreu casgliad mwy cydlynol a chyson o gyfreithiau gweinyddol.

Ond, er gwaetha'r optimistiaeth a gafwyd yn sgil Araith y Frenhines ym mis Tachwedd 2004, ac er i ffurf drafft o'r Mesur gael ei gyhoeddi yn union cyn y gwyliau Seneddol ym mis Gorffennaf, bydd prinder amser Seneddol yn sicrhau yn atal y mesur rhag cael ei gyflwyno, o leiaf cyn sesiynau 2008-9. Wrth gwrs, er bod prinder amser Seneddol a phwysigrwydd busnes arall yn cael ei gydnabod, mae'n drueni mawr fod y ddeddfwriaeth hon yn cael ei gohirio neu'n cael ei gadael hyd yn oed. Mae'r Gwasanaeth Tribiwnlysoedd wedi bod yn weithredol ers 1 Ebrill 2006, ac ar y dyddiad hwnnw cafodd nifer o'r tribiwnlysoedd mwy a arferai fod o dan reolaeth Adrannau noddi - gan gynnwys tribiwnlysoedd y mae Comisiynwyr yn gwrando apeliadau a yrrir oddi wrthynt - eu trosglwyddo iddo. Roedd y symudiad pwysig hwnnw tuag at annibyniaeth y tribiwnlysoedd oddi ar y weithrediaeth i'w groesawu'n fawr. Fodd bynnag, heb ddeddfwriaeth sylfaenol i sicrhau

llwyfan cyfansoddiadol priodol a sefydlog ar gyfer barnwyr y tribiwnlysoedd (gan gynnwys yr Uwch Lywydd, Arglwydd Ustus Carnwath), - a hwnnw'n amlwg yn gwbl annibynnol - ac i sefydlu peirianwaith rhesymegol a modern ar gyfer gweinyddu cyfiawnder yn effeithlon drwy'r tribiwnlysoedd, mae'n bosibl y collir cyfleoedd i dribiwnlysoedd roi'r gwasanaeth gorau i'r rhai sy'n eu defnyddio. Ar hyn o bryd mae'r Comisiynwyr yn gweithio gyda'r Uwch Lywydd, barnwyr tribiwnlysoedd eraill a'r weinyddiaeth i sicrhau, hyd yn oed heb ddeddfwriaeth sylfaenol, bod momentwm y diwygio'n cael ei gynnal cyn belled ag y bo modd. Bydd hyn yn gryn her ar gyfer y misoedd i ddod.

Apeliadau Pensiynau

Rhan o sail resymegol y rhaglen ddiwygio yw y byddai apeliadau a symudir ymlaen o fewn y system Tribiwnlysoedd yn elwa ar gael eu symleiddio. O fis Ebrill 2005, trosglwyddwyd yr awdurdodaeth apeliadau i'r Comisiynwyr o'r Tribiwnlys Apeliadau Pensiynau, awdurdodaeth a arferai fod yn nwylo Uchel Lys Cymru a Lloegr a Llys Mewnol Llys y Sesiwn yn yr Alban. Gobeithir y bydd symud y gwaith barnwrol hwn, gwaith sy'n debyg iawn i'r awdurdodaethau budd-daliadau y mae'r Comisiynwyr yn gyfrifol amdanynt, yn cael ei ddilyn gan ragor o drosglwyddiadau a fydd yn sicrhau bod apeliadau ail haen yn cael sylw cymesur gan farnwyr arbenigol o fewn y system tribiwnlysoedd.

Gwybodaeth ac Adrodd

Er bod y Comisiynwyr ond yn delio gydag apeliadau ar bwyntiau cyfraith, mae'r rhan fwyaf o'r apelyddion yng Nghymru a Lloegr yn ymddangos yn bersonol. Oherwydd hyn mae darparu gwybodaeth gynhwysfawr a hwylus-cael-ati'n hanfodol. Yn ystod y flwyddyn, mae Swyddfeydd y Comisiynwyr wedi diweddarau eu nodiadau cyfarwyddyd ar gyfer partïon a'u gwefannau y defnyddir llawer arnynt, yn ogystal â chynnal Cyfarfodydd i Ddefnyddwyr yn Llundain a Chaeredin a fu'n boblogaidd iawn.

Mae'r rhan fwyaf o benderfyniadau sydd o ddiddordeb i gynulleidfao ehangach na'r partïon penodol yn cael eu cyhoeddi ar wefan y Comisiynwyr. Mae'r ffaith bod yr achosion hyn i'w gweld yn hwylus wedi arwain y Bwrdd Golygyddol i ystyried yn ofalus y meini prawf ar gyfer cynnwys achosion yn Adroddiadau swyddogol y Comisiynwyr. Mae canllawiau newydd – yn seiliedig ar werth ymarferol yr achos a'i werth o ran gosod cynsail – wedi cael eu cymeradwyo'n ddiweddar a'u cyhoeddi ar y wefan.

Cynrychiolaeth

Nid yw'r cynllun cyllido cyhoeddus yn ymestyn i wrandawiadau gerbron y Comisiynwyr yng Nghymru a Lloegr; ac yn anaml iawn y rhoddir cyllid yn yr Alban, lle mae system dra ddatblygiedig ar gyfer cynrychiolaeth hawliau lles yr awdurdod lleol. Felly, nid yw'r rhan fwyaf o'r apelyddion sy'n dod gerbron y Comisiynwyr yn gallu manteisio ar gynrychiolaeth gyfreithiol.

Mewn rhai achosion, gall apelwyr gyflwyno'u hachos gerbron Comisiynydd yn iawn - ac mae Comisiynwyr wastad yn fodlon helpu i sicrhau bod pwyntiau sy'n agored i apelwyr yn cael eu gwneud a'u datblygu'n briodol. Ond, mae'r cynlluniau statudol y mae'r Comisiynwyr yn gysylltiedig â hwy yn aml yn gymhleth, ac mewn rhai achosion, os nad oes gan yr hawlydd gynrychiolydd, mae gwir risg na fydd yn cael gwrandawriad teg oherwydd "anghydraddoldeb cynrychiolaeth" rhwng yr hawlydd a'r ateblydd sef un o Adrannau'r Llywodraeth.

Ni ddylir tanbrizio rôl hanfodol mudiadau gwirfoddol (yn aml y Canolfannau Cyngor Ar Bopeth neu gynghorwyr a noddir gan awdurdodau lleol) yn cynrychioli hawlwr. Mewn sawl achos o bwysigrwydd neilltuol, mae mudiadau megis y Grŵp Gweithredu ar Dlodi Plant yn gweithredu ar ran yr hawlydd, ac yn sicrhau bod yr hawlydd yn cael cyngor ac yn cael gafael ar arbenigwyr priodol ac adfocad profiadol. Yn ystod eleni, bu i Uned Cynrychiolaeth Ddi-dâl y Bar yn Llundain sefydlu cynllun i sicrhau bod cymaint ag y bo modd o hawlwr y mae angen cymorth arnynt yn gallu cael cyngor cyfreithiol priodol a gwasanaeth adfocad ar gyfer gwrandawiaid gerbron Comisiynwyr.

Mae cynrychiolaeth gan bob un o'r ffynonellau hyn yn bwysig i hawlwr ac mae'r Comisiynwyr yn gwerthfawrogi hyn yn fawr. Mae hyn nid yn unig yn sicrhau nad yw hawlwr dan anfantais annheg, ond mae hefyd yn cynorthwyo'r Comisiynwyr wrth iddynt ddehongli darpariaethau statudol sy'n aml yn anodd. Ar adeg pan fo adnoddau cyhoeddus yn brin, gobeithir y gwir werthfawrogi'r y gwerth a geir o'r cyfleuster hwn, ac y parheir i ariannu cyngor o'r fath a hwnnw ar gael yn hwylus.

Swyddogion Cyfreithiol

Ar ran yr holl Gomisiynwyr, hoffwn dalu teyrnged i'r cyfraniad a wneir gan eu tîm o Swyddogion Cyfreithiol, dan arweiniad yr Uwch Swyddogion Cyfreithiol Jennifer Fowler a'i holynydd Jill Walker yn Llundain, a Christopher Smith yng Nghaeredin.

Cefnogir y Comisiynwyr gan dîm o ddeg Swyddog Cyfreithiol, naw yn Swyddfa Llundain ac un yng Nghaeredin. Mae'r rhain yn fargyfreithwyr, twrneiod neu adfocadau cymwysedig gyda phrofiad cyfreithiol blaenorol amrywiol, o bractisiau preifat, llywodraeth ganol a llywodraeth leol, Gwasanaeth Erlyn y Goron a mudiadau hawliau lles arbenigol. O wybod am ehangder a chymhlethdod hynod y darpariaethau statudol y mae'n rhaid cael 20 ffeil lever arch ar eu cyfer erbyn hyn - a'r ffaith nad oes gan hawlwr at ei gilydd gynrychiolaeth, mae gan y Swyddogion Cyfreithiol rôl hanfodol yn sicrhau bod achosion yn cael eu datrys yn effeithlon, yn brydlon ac yn deg hefyd.

Yn ogystal ag ymgymryd â swyddogaethau barnwrol dirprwyedig (e.e. rhoi cyfarwyddiadau, delio gyda cheisiadau rheoli achos a delio gyda materion trefniadol a godir gan staff y swyddfa), mae eu dyletswyddau'n cynnwys gwneud gwaith ymchwil ar gyfer y Comisiynwyr (yn aml ar y cam cais am ganiatâd); rheoli achosion a gyfeirir at Dribiwnlys Comisiynwyr ac achosion a atelir tra'u bod yn aros am benderfyniadau terfynol ar achosion gerbron yr uwch lysoedd; a bod yn gysylltiedig â phwyllgorau arbenigol y Comisiynwyr e.e. y Bwrdd Golygyddol a phwyllgorau a sefydlir i ystyried trefniadaeth achosion. Mae eu cyfraniad at waith achos unigol y Comisiynwyr, ac at rediad effeithlon yr awdurdodaeth yn gyffredinol, yn sylweddol iawn. Mae'n braf gallu nodi bod hyn yn cael ei gydnabod yn y Mesur Tribiwnlysoedd drafft, sy'n cynnwys darpariaeth ar gyfer ymestyn y cyfleuster gwerthfawr hwn i dribiwnlysoedd eraill.

Penodiadau ac Ymddeoliadau

Yn ystod y flwyddyn rwyf wrth fy modd fod Ei Anrhydedd y Barnwr John Martin CF (Prif Gomisiynydd Gogledd Iwerddon) a Mrs Moya Brown (hithau hefyd yn Gomisiynydd yng Ngogledd Iwerddon) wedi cael eu penodi i eistedd fel Dirprwy Gomisiynwyr ym Mhrydain Fawr. Bydd eu profiad a'u harbenigedd o fudd mawr i'r awdurdodaeth hon, a chan fod y cynlluniau statudol ar draws y Deyrnas Unedig yn debyg, bydd eu penodiadau'n helpu i ddatblygu casgliad cyson o gyfreithiau lles yr ydym yn ymgynghraedd ato. Mae Mr Gomisiynydd Powell, un o

Gomisiynwyr Prydain Fawr, wedi eistedd ers sawl blwyddyn fel Dirprwy ym Melfast, a bydd yn parhau i wneud hynny.

Cafwyd dau ymddeoliad o bwys yn ystod y flwyddyn. Ymddeolodd Mr Gomisiynydd Jonathan Henty ar ôl 13 blynedd o wasanaeth. Bydd colled ar ôl ei natur ddidaro a'i arddull, yn ogystal â'i gyfraniad at gyfreitheg y Comisiynwyr sydd wedi bod yn sylweddol.

Ymddeolodd Mrs Jennifer Fowler hefyd fel yr Uwch Swyddog Cyfreithiol, ar ôl cyfanswm o dros 25 mlynedd o wasanaeth i'r Comisiynwyr. Mae ganddi gofnod gwasanaeth hir, y bydd yn anodd ei guro yn y dyfodol, ac mae ei chyfraniad at Bwyllgor Trefniadaeth y Comisiynwyr (a'u rheolau trefniadol yn gyffredinol) a Rhaglen Diwygio'r Tribiwnlysoedd yn haeddu sylw arbennig, yn ogystal â'i gwybodaeth wyddoniadurol o gyfraith budd-daliadau. Rydym yn falch ei bod wedi cytuno i barhau'n rhan amser yn ystod ei "hymddeoliad".

Coda

Hwn fydd fy Adroddiad Blyneddol olaf. Ar 1 Awst 2005, fe'm penodwyd yn Farnwr Sifil Dynodedig ar gyfer De Cymru, Dyfed Powys a Gwent, a byddaf yn rhoi'r gorau i fod yn Brif Gomisiynydd o fewn yr wythnosau nesaf, unwaith y bydd olynnydd wedi'i enwi.

Rwyf wedi gwerthfawrogi f'amser fel Prif Gomisiynydd yn fawr. Fel y mae'r uwch lysoedd wedi'i gydnabod yn aml, mae'r swydd yn ymwneud â'r gyfraith fwyaf anodd, ynghyd a swyddogaethau gweinyddol dros awdurdodaeth o hanner cant o Gomisiynwyr amser llawn, Dirprwyon rhan amser a Swyddogion Cyfreithiol, gan ddelfio gyda 7,000 o achosion y flwyddyn o bob rhan o Gymru, Lloegr a'r Alban. Nid yw'r cyfuniad hwnnw at ddant pob barnwr: Ond rwyf wedi mwynhau'r tair blynedd ddiwethaf yn fawr iawn. Mae gweithio ac eistedd gyda'm cyd Gomisiynwyr wedi bod yn bleser mawr, ac yn anrhydedd hefyd: a hoffwn ganmol a diolch i holl staff Swyddfeydd Llundain a Chaeredin – ond yn arbennig fy Nghynorthwy-ydd Personol, Marisa Baldini – am eu cefnogaeth a'u harbenigedd diflino a gwerthfawr: Gobeithio y bydd f'olynnydd yn cael yr un boddhad â mi o fod yn Brif Gomisiynydd.

Er bod adnoddau'n dal yn gyfyngedig iawn a'r hyn a fydd yn digwydd yn y dyfodol ymhell o fod yn sicr, credaf yn gryf fod y Comisiynwyr a'u staff yn barod i gwrdd â'r heriau a fydd yn eu hwynebu. Dymunaf i bawb sy'n gysylltiedig â'r awdurdodaeth y gorau yn y dyfodol.

Ei Anrhydedd y Barnwr Gary Hickinbottom

Prif Gomisiynydd Nawdd Cymdeithasol a Chynnal Plant Prydain Fawr

Medi 2006

Introduction

This is the fourth Annual Report of The Commissioners' Office (formerly known as the office of Social Security and Child Support Commissioners), for the period April 2005 to March 2006.

The Commissioners have two offices where appeals can be registered and managed, in London and Edinburgh. The London office is managed under the auspices of the Tribunals Service, an executive agency of the Department for Constitutional Affairs; the Edinburgh office is managed by the Justice Department of the Scottish Executive. This report covers both offices, the London office being dealt with in Part I and the Edinburgh office in Part II.

The Social Security and Child Support Commissioners are specialist judges appointed by Her Majesty the Queen to hear appeals from decisions of Appeals Service Tribunals. These decisions relate to entitlement to social security benefits (including housing benefit and council tax benefit), tax credits, the recovery of benefits from compensators, and the assessment of child support maintenance payments. In addition, since April 2005 Commissioners have also sat as Pension Appeal Commissioners hearing appeals from decisions of the Pensions Appeal Tribunals. An appeal to a Commissioner can only be made on a point of law, and then only with leave (permission) from either a tribunal chairman or a Commissioner himself. The jurisdiction covers the whole of Great Britain, there being a parallel but separate jurisdiction in Northern Ireland. An appeal from the Great Britain Commissioners (again only on points of law and with permission) is to the Court of Appeal in England & Wales, or the Court of Session in Scotland, and from these courts to the House of Lords.

There are 17 Great Britain Commissioners who sit full-time in the jurisdiction. The Commissioners have diverse legal backgrounds being drawn from practising Queen's Counsel, senior advocates, barristers and solicitors, academic lawyers and Appeal Service tribunal chairmen. In addition to the Commissioners, 13 part-time Deputy Commissioners sat in the year 2005-2006, generally for 3-4 weeks.

As well as their work in this jurisdiction, some Commissioners continue to sit on other tribunals (the Employment Appeal Tribunal, the Asylum & Immigration Tribunal, the Care Standards Tribunal, the VAT & Duties Tribunal, or as a Deputy Special Tax Commissioner) or in the court system.

The Commissioners are assisted by Legal Officers - barristers and solicitors highly experienced in benefits law and procedure - who exercise some judicial case management powers and assist the Commissioners with their caseload and management e.g. in research, training and reporting of cases.

There are hearing rooms in both London and Edinburgh, but the Commissioners can and do hear appeals at other venues across Great Britain. Cardiff, Bury and Doncaster are all regular hearing venues. So far as cases emanating from Wales are concerned, although these are registered in London, a hearing may be conducted in Wales (and in the medium of the Welsh language) if a party requests. Additionally, the London Office has the benefit of videoconference facilities which are used for hearings with each party being linked through video conferencing facilities convenient for them.

The website is an increasingly important means of communication with those who appear before Commissioners, particularly in respect of informing them of recent Commissioners' decisions.

In addition to the Great Britain website, there is a separate website maintained by the Edinburgh Office on which decisions of notable Scottish interest are posted.

Lesley Armes
TCO Secretary (London)

Susan Niven
TCO Secretary (Edinburgh)

Part I – England and Wales

TCO London – Standards of Service

We aim to achieve as high a level of service as possible. This means ensuring that we reach the standards and expectations set out in the Courts Charter:

These standards are as follows:

- Register applications and appeals within 5 working days of receiving them
- Reply to correspondence within 5 working days of receipt
- Issue Commissioners decisions within 5 working days of receipt from the Commissioner
- Telephones to be answered weekdays between 9am and 5pm
- Telephones to be answered within 30 seconds

In addition to the above a customer can expect:

- All details and information will be dealt with in confidence
- To be given the name of any member of staff who communicates with them
- To be called back by a member of staff if necessary
- To receive assistance with travelling expenses to and from hearings
- Where a hearing is directed, for that hearing to be arranged at a convenient location wherever possible, either face to face or by video conference: and, where the case emanates from Wales, for the hearing to be conducted in Wales and in the medium of English or Welsh at the claimant's option.

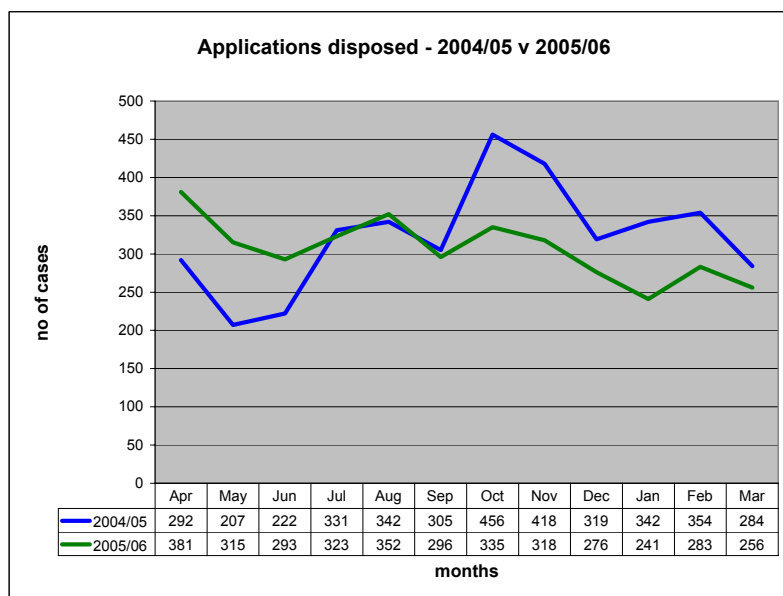
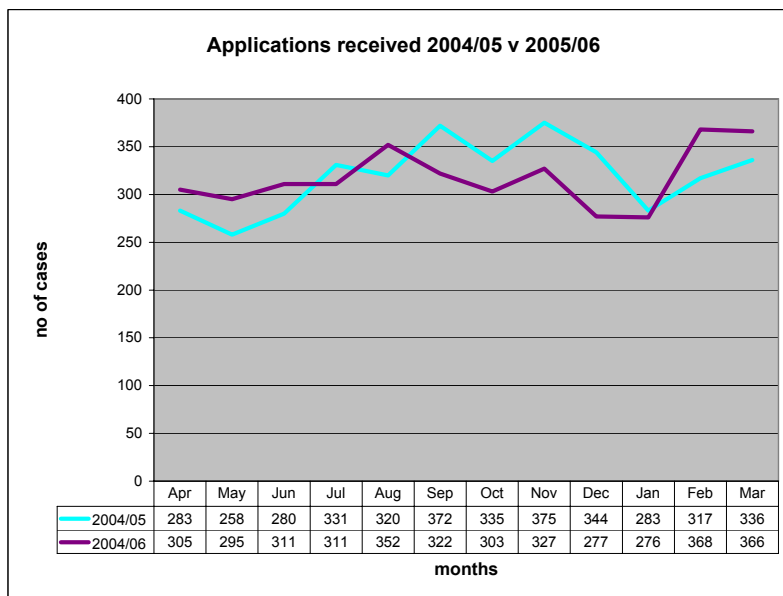
I. Workload and Performance

As demonstrated in the tables below, the workload of the London Office declined slightly during the year 2005-2006. The total disposals also fell by 568 on the previous year (04/05). However, the downwards trend in workload reversed towards the end of the year. The total outstanding caseload stood at 1288 in March 2006.

Receipts and Disposals

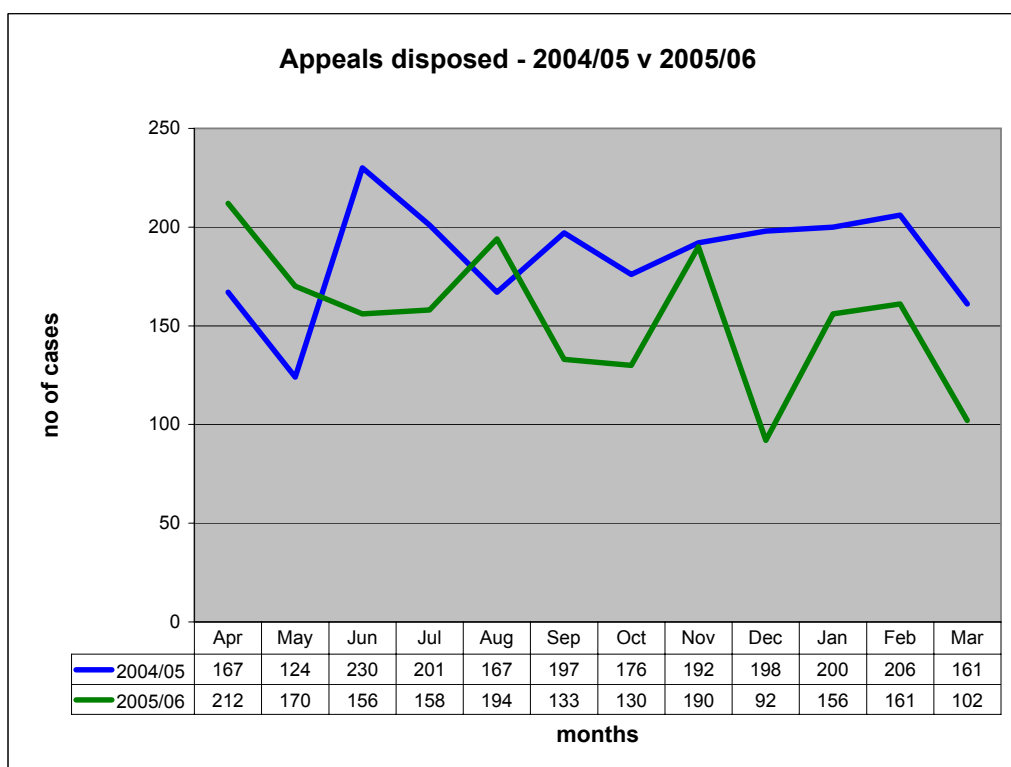
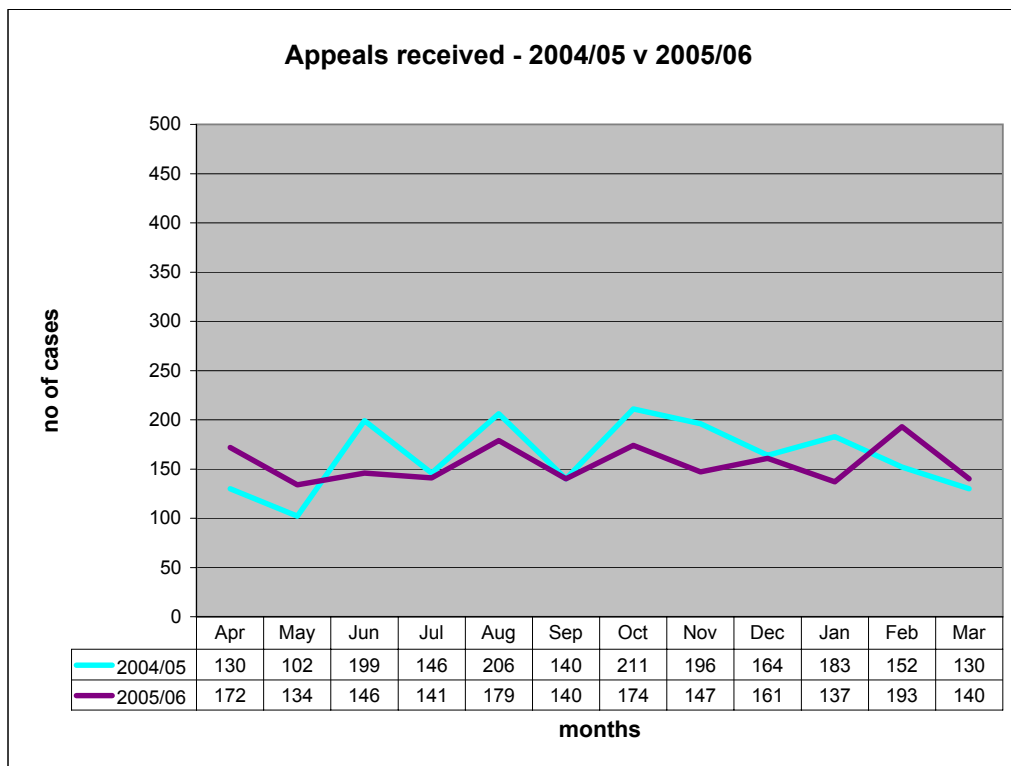
Applications

The number of applications received between April 2005 and March 2006 fell from 3884 to 3813 compared with the previous year. The number of applications disposed of also fell over the same period, from 3872 to 3669.

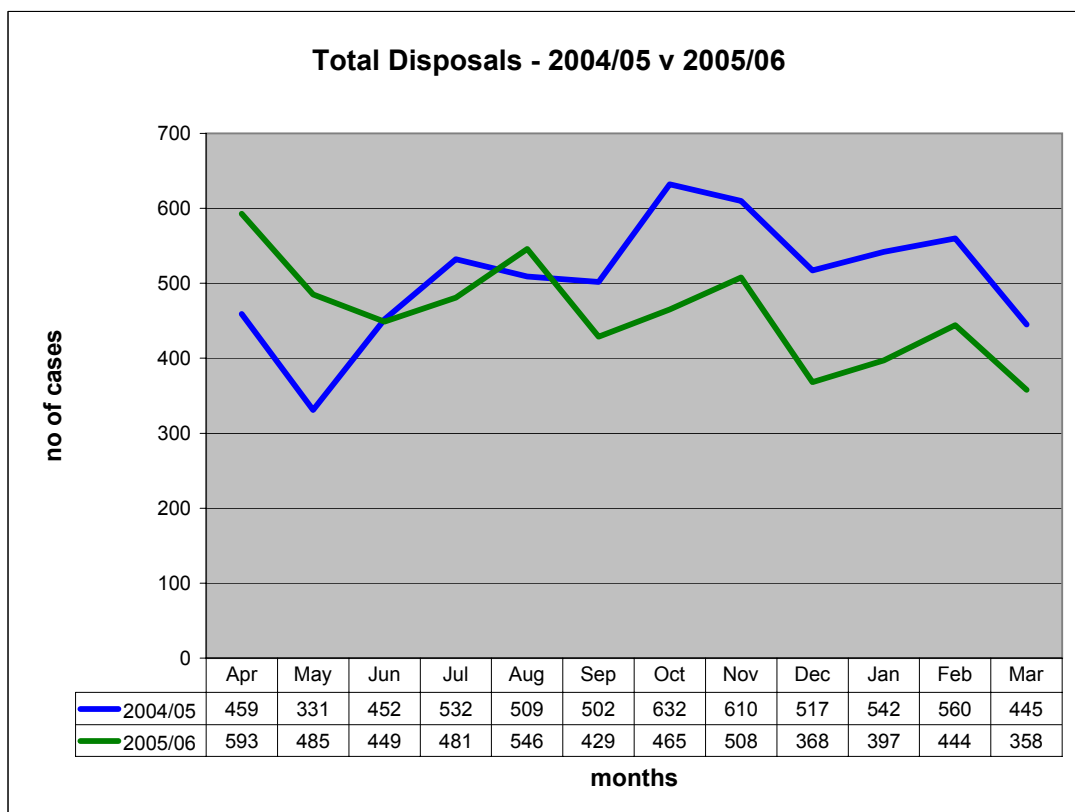
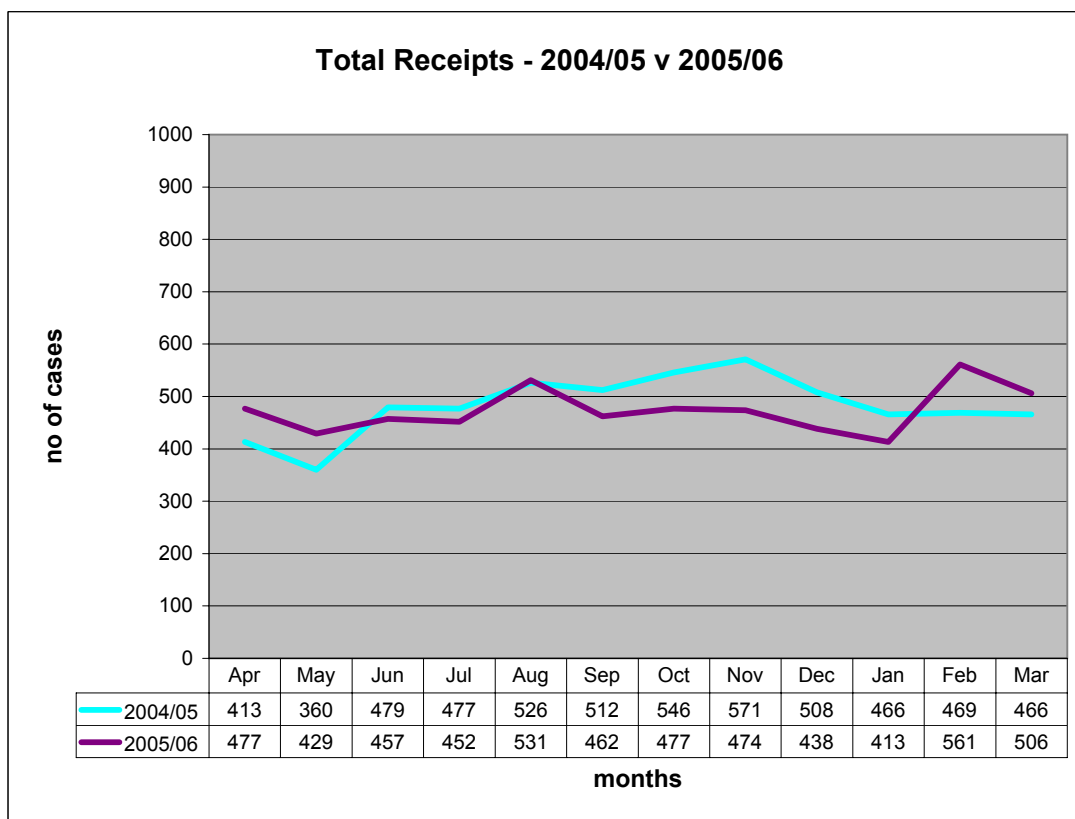


Appeals

Both receipts and disposals fell during the year compared with 2004-2005. Receipts fell from 1959 to 1864 and disposals from 2219 to 1854.



Totals



Average Waiting Times

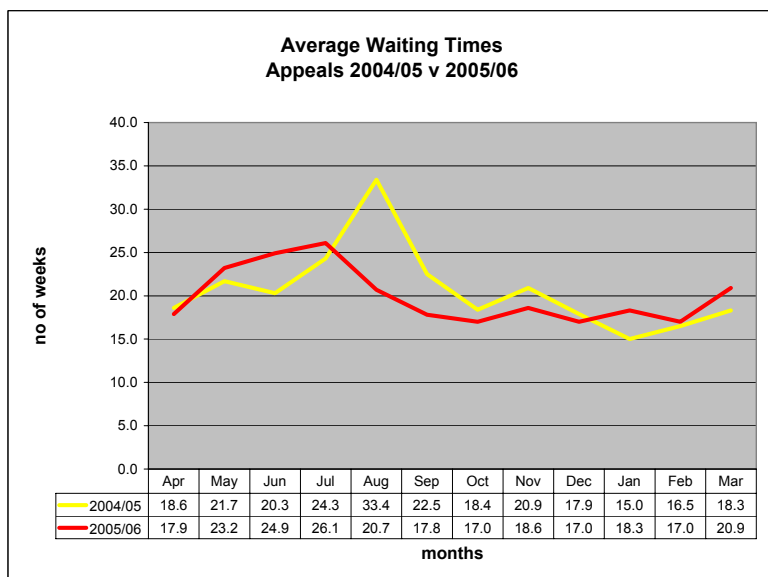
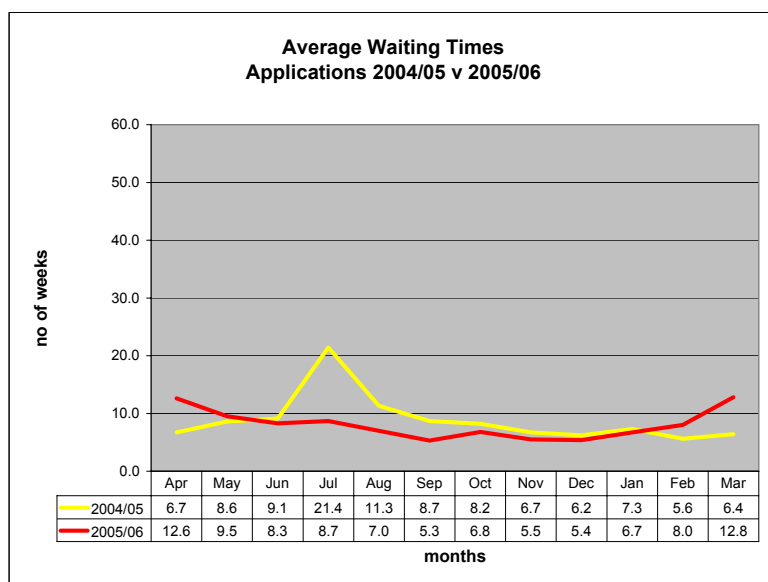
During the year 2005-2006 the average waiting time from application to ruling was 8.1 weeks compared with an average of 8.8 weeks in the previous year. At its lowest point in September the waiting times of applications was 5.3 weeks, however in March it rose to 12.8 weeks

This increase in average time was due to the processing of a block of deferred cases (i.e. cases stayed pending the resolution of an appeal to the higher courts), which caused the average waiting time to increase.

The target for the average time for applications across all cases 2006-2007 continues to be 10 weeks.

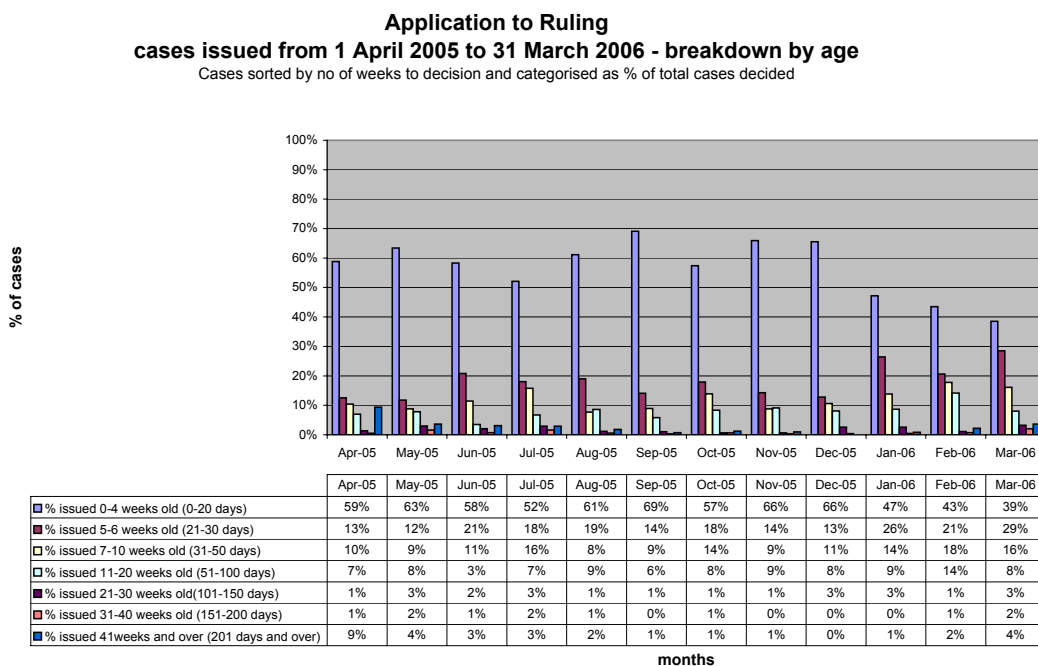
The average waiting time for appeal to final decision was 20 weeks compared with 20.6 weeks in 2004-05.

The target for 2006-2007 continues to be 20 weeks.



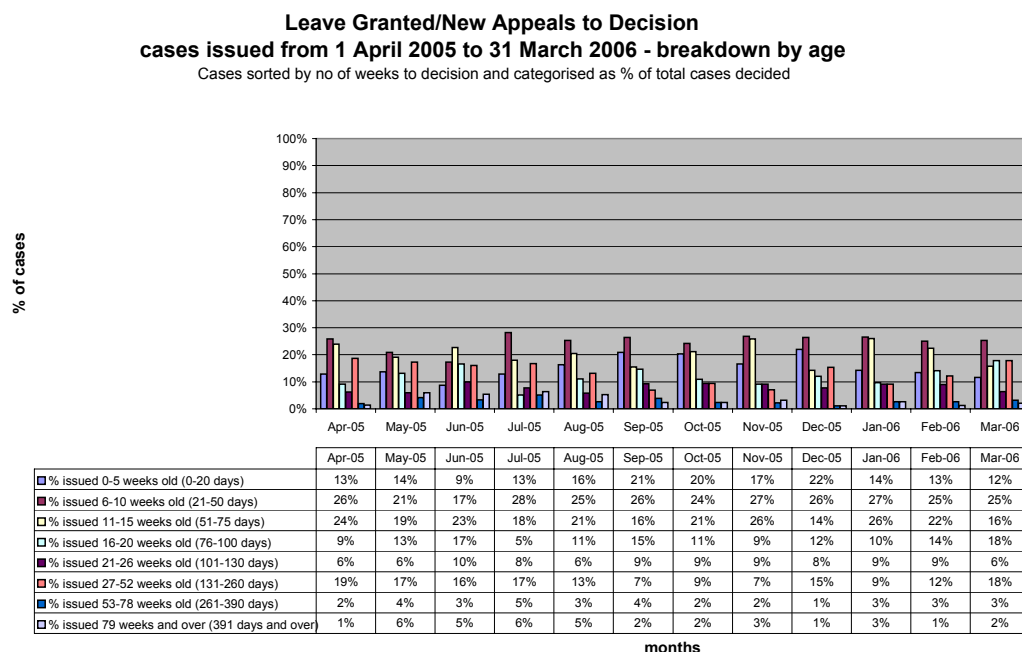
Disposal of Cases – Application to Ruling

The average percentage of cases dealt with within 10 weeks over the year stood at 86.8% against a target of 80%. The target remains for the year 2006-2007.



Disposal of Cases – Leave granted/new appeal to decision

The average percentage of all cases dealt with within 20 weeks was 72.6% against a target of 70%. Since August 2005 the percentage achieved has consistently exceeded 90%. The target for 2006-2007 remains 70%.

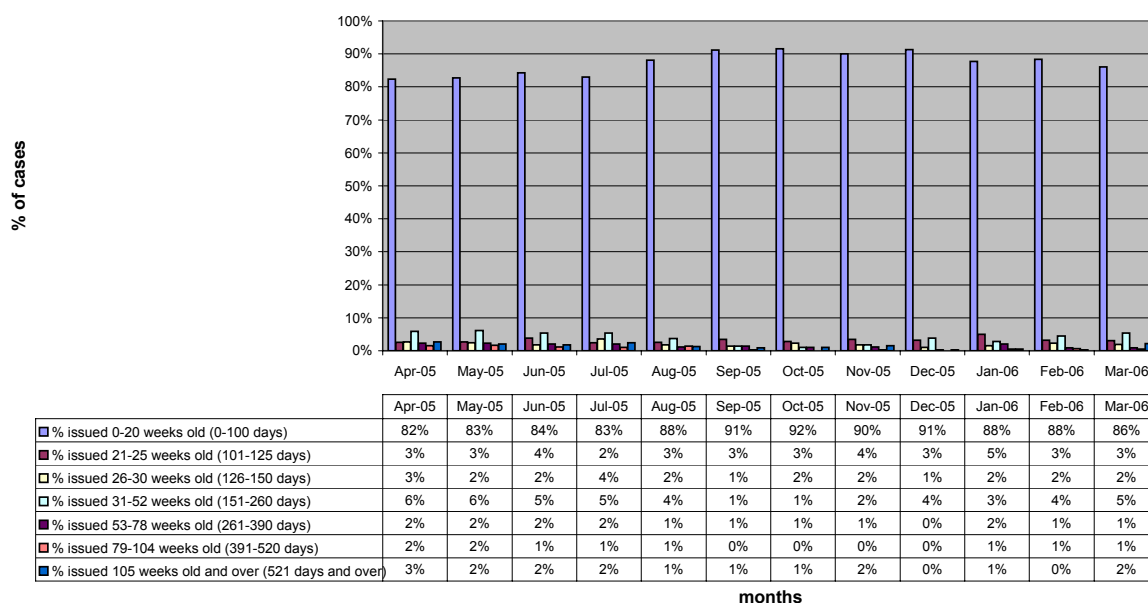


Disposal of Cases – Receipt to Disposal (End-to-end)

The average percentage of all cases dealt with within 30 weeks was 92.3% against a target of 85%. Since August 2005 the percentage achieved has consistently exceeded 90%. The target for 2006-2007 remains 85%.

Total of All Cases Disposed Of cases issued from 1 April 2005 to 31 March 2006 - breakdown by age

Cases sorted by no of weeks to decision and categorised as % of total cases decided



2. Financial Performance

The 2005-2006 financial allocation provided TCO with £3,616,777 to cover its business for the year. There was an underspend of 2% for the year.

Budget Head	Budget £'s	Expenditure £'s	Variance £'s	Variance %
Salaries *	1,072,831	1,043,973	28,852	3%
Administrative Costs **	1,60,563	159,573	990	1%
Programme costs ***	2,383,383	2,358,180	25,203	1%
Total	3,616,777	3,561,726	55,045	2%

- * Includes permanent and casual staff salaries, staff travel and subsistence, miscellaneous allowances and overtime.
- ** Includes utility, telephone and, IT services and agency staff.
- *** Includes Commissioners' salaries, travel and subsistence, stationery and training, Deputy Commissioner's fees and appellants' expenses.

3. Achievements

Statistics and IT Review

We undertook a review of the performance statistics we collate and how we use them to assist in case management. This involved requesting a number of alterations to the reports produced by the database in order to remove the need for manual collation, as well broadening the range of information regarding outstanding cases.

Case Management Review

There have been a series of joint working group meetings, made up of Commissioners, two senior legal officers and the office manager to review the way in which cases were processed with a view to speeding up the throughput of work. Following on from these meetings the Chief Commissioner has introduced a new system for monitoring cases.

User group

A user group meeting was held at the beginning of 2006 to hear the views of our users. This was well attended and the Chief Commissioner and other Commissioners were present. Several issues were raised at the meeting and as a result of points raised we have since produced a comprehensive video conference list detailing all centres across the country that have the facilities.

Visitors

We have also received visits from staff from ACI (Adjudication and Constitutional Issues Branch) to view how we operate and gain a better understanding of the whole appeal process. Our staff will be visiting their office during the next year.

We hosted a number of visitors from across the DCA in order to provide information on our processes and organisation in preparation for the launch of the Tribunal Service in April 2006.

Staff Development Day

A Staff Development Day was held in April. Part of the day was dedicated to presentations from judiciary and lawyers from the various tribunals in Procession House. This was designed to give the staff of Procession House an overview of the other tribunals. One of the Commissioners delivered an awareness session and we had delegates from the DCA diversity networks, Benenden Healthcare and the Civil Service Benevolent Fund.

Part 2 - The Commissioners' Office in Scotland Objectives

The intention of this office is to provide as high a quality of service as possible to both the Commissioners and the users of The Commissioners' Office in Scotland.

To help us achieve this intention we have the following objectives, subject to the levels of work, staffing, annual and sick leave.

- Register applications and appeals within 5 working days of receiving them.
- Issue Commissioners' decisions within 5 working days of receipt from the Commissioners.
- Reply to correspondence within 10 working days of receipt.
- Telephone to be answered Monday to Thursday between 9am – 5pm and 9am – 4.30pm on Fridays.

We will also:

- Provide the name of any member of staff who communicates with you.
- Arrange for a member of staff to call you back if necessary.
- Provide assistance, to all those entitled to claim, with travelling expenses incurred in attending an oral hearing.

Waiting times

	2003 - 2004*	2004 - 2005*	2005 - 2006*
Applications**	5.1	3.9	4.5
Appeals***	14.3	14.5	17.2

* Average waiting times shown in weeks

** From receipt of application to disposal of the application, either being refused or granted

*** From grant of the application or from receipt of an appeal

On the face of it the waiting times for both applications and appeals for the period 2005 – 2006 have increased. However, these figures hide the true figures which show that for both applications and appeals waiting times actually fell. The average waiting times for applications fell from 3.9 to 2.6 weeks and for appeals from 14.5 to 7.6 weeks.

The increase in the average waiting times for applications was due to the processing of a block of deferred cases on the resolution of appeals to the House of Lords. This caused the time taken from application to determination to increase from 3.6 weeks in January to 15.1 weeks in February and 9.5 weeks in March.

Whilst the waiting times for appeals were affected by the processing of two blocks of deferred cases. The first block of cases were decided during April, May, June and August of 2005, with the second block being processed in February and March 2006.

10 weeks continues to be regarded by this office as being the acceptable parameter for processing of applications and 20 weeks for appeals.

New Jurisdiction

Last year we were unsure how the addition of a further jurisdiction (Armed Forces) in April 2005, allowing appeals from Pensions Appeal Tribunals would impact on this office. However, to date we have not received any cases from this route. It therefore remains to be seen what impact, if any this jurisdiction will have on the Edinburgh office.

Moving

Since August last year a lot of time, both judicial and administrative has been taken up with the planning of our move to new premises at George House in central Edinburgh. The move took place in July 2006. Our new contact details can be found under appendices at the back of this report.

I. Workload and Performance

The workload of The Commissioners' Office in Scotland remained relatively constant throughout 2005 until December, of that year, when the number of applications received suddenly increased; a trend that was to continue over the next three months. During this period [December to end of March] a total of 306 applications were received. The number of appeals received, in conjunction with the grants of leave to appeal also reached a high of 151 for the same period, with a monthly high of 50 cases in February 2006. This was the highest combined monthly figure since the previous June when 49 appeals were recorded in one month.

As a result of the increase in workload the disposal rate of the last three months of the financial year 2005 - 06 also increased, with 251 applications and 139 appeals being disposed of. This represents an increase in the disposal rates of 76 applications and 44 appeals over the same period in the previous financial year.

In addition, the Commissioners and Deputy Commissioners in Scotland also disposed of 71 appeals forwarded by The Commissioners' Office in London. Despite the above increases the outstanding caseload for 2005/06 fell from 142 to 119 cases at the end of March 2006; peaking in December at 157 cases.

Receipts and Disposals

Applications

The number of applications received during 2005/06 showed a significant increase over the previous year of 176 from 632 to 808. This is the first increase in the number of applications received for three years. The number of applications disposed of has also increase by 134 from 672 to 806.

Applications received – 2004/05 V 2005/06

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2004/05	62	47	66	56	60	57	35	39	38	51	48	72
2005/06	66	61	83	71	46	56	63	56	76	68	78	84

Applications disposed – 2004/05 V 2005/06

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
	69	53	70	60	55	65	30	48	47	60	49	66
	71	56	80	81	54	40	61	64	48	90	69	92

Appeals

As with the applications; both the number of appeals received and disposed of in 2005/06 increased in comparison to the previous year. The number of receipts rose from 396 to 424, while the disposals increased from 366 to 449.

Appeals received – 2004/05 V 2005/06

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2004/05	34	38	29	29	31	29	23	37	33	46	24	43
2005/06	40	25	43	49	32	24	31	29	29	34	50	38

Appeals disposed – 2004/05 V 2005/06

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2004/05	30	33	36	40	22	25	26	36	33	33	30	32
2005/06	41	36	33	36	40	31	44	31	18	40	44	55

Average Waiting Times

Applications

The average waiting times for applications rose this year from 3.9 weeks in 2004/05 to 4.5 weeks in 2005/06 due primarily to the processing of stayed cases. If the waiting times figures are adjusted to take account of the stayed block of cases then the average waiting time actually fell to 2.6 weeks during 2005/06.

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2004/05	3.6	4.1	4.2	3.7	3.1	3.3	4.9	3.4	7.4	3.8	2.5	32
2005/06	2.2	3.3	3.1	3.9	2.8	2.4	2.9	3.6	2.1	3.6	15.1	9.5

Average Waiting Times

Appeals

The average waiting times for appeals rose significantly during 2005/06 but again this was due to the processing of the stayed cases. The average waiting time figure for 2004/05 was 14.5 weeks whereas the same figure for 2005/06 was 17.2 weeks. Again if these figures are adjusted then the average waiting times figure falls from 17.2 to 7.6 weeks.

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
2004/05	14.4	13.0	15.2	9.1	9.1	21.7	17.7	13.9	21.9	9.6	7.6	15.4
2005/06	13.6	12.1	14.8	7.7	11.5	8.4	10.9	9.8	21.1	8.4	59.0	37.8

2. Financial Performance

The budget allocation for the financial year 2005/06 to carryout the administrative function of The Commissioners' Office in Scotland was £303,045. At the end of the financial year 8.6% of the allocation, excluding staff costs remained unspent. This underspend was due to lower than expected utility, postage, and reprographic costs, as well as a low number of appellant's attending oral hearings.

Budget Head	Budget £'s	Expenditure £'s	Variance £'s	Variance %
Salaries *	231,230	1,88,324.59	44,335.64	19.2%
Administrative costs**	27,950	23,799.38	4,150.62	14.9%
Accommodation costs***	42,365	41,203.35	1,161.65	2.7%
Appellants	1,500	665.46	834.54	55.6%
Total	303,045	253,992.78	50,482.45	16.2%

* Includes permanent staff cost, staff travel and subsistence and agency staff fees

** Includes postage, publications, stationery, reprographics, hospitality, miscellaneous office supplies and telephone costs

*** Includes rates, electricity, office cleaning, water and sewage and minor maintenance

Appendices

I. The Commissioners' Office Contact Details

London Office

Hearing Centre and Judicial Operations

Harp House
83 Farringdon Street
London
EC4A 4DH

Administrative Office

3rd Floor
Procession House
55 Ludgate Hill
London EC4M 7JW
Tel: 020 7029 9850
Fax: 020 7029 9819
Minicom: 020 7029 9817
Email: ossccsc@tribunals.gsi.gov.uk

Specific Contact Numbers

Tribunal Manager
Ms Lesley Armes 020 7029 9839
Office Manager
Miss Clare Zubler 020 7029 9838
Customer Service Manager
Ms Linda Smith 020 7029 9839
Website Support Team
Email: TS.Webmaster@tribunals.gsi.gov.uk

Edinburgh Office

Hearing Centre, Judicial Operations and Administrative Office

George House
126 George Street
Edinburgh
EH2 4HH
Tel: 0131 271 4310
Fax: 0131 271 4398
Email: osscc@osscc-scotland.org.uk

2. The Social Security and Child Support Commissioners of Great Britain (with dates of appointment)

The following Commissioners sat during the year 2004-5.

The Chief Commissioner of Great Britain

His Honour Judge Gary Hickinbottom	29 September 2003
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Commissioners

Douglas May QC	4 May 1993
Mark Rowland	27 September 1993
John Mesher	1 October 1993
Jonathan Henty	29 November 1993, retired 31 March 2006
Patrick Howell QC	19 September 1994
Robert Angus	3 April 1995
Stephen Pacey	10 June 1996
Patrick Powell	23 August 1996
Howard Levenson	3 November 1997
David Williams	5 January 1998
Edward Jacobs	5 October 1998
Andrew Lloyd-Davies	19 October 1998
Christine Fellner	1 March 1999
Andrew Bano	30 May 2000
Tanya Parker	3 July 2000
Charles Turnbull	6 November 2000
Elisabeth Jupp	10 September 2001

Deputy Commissioners

Alan Gamble	1 April 1994
Alison Green	31 May 1995
Christopher Whybrow QC	21 May 1996
Ann Humphrey	30 May 1996
John Wright QC	1 May 1997
Michael Mark	6 August 1997
Elisabeth Ovey	6 August 1997
Robin White	6 August 1997
David Burns QC	23 July 1998
Harcourt Concannon	3 June 1999
Jeremy Thomas	11 August 2000
Sir Crispin Agnew of Lochnaw Bt QC	2 November 2000
Nicholas Paines QC	2 November 2000
Richard Poynter	2 November 2000
Alison Rowley	2 November 2000
Nick Wikeley	2 November 2000
Judge Martin QC	1 December 2005
Moya Brown	1 December 2005