

# Administrative Justice & Tribunals Council

ANNUAL REPORT 2007/2008

This Report is made to the Lord Chancellor,  
the Scottish Ministers and the Welsh Ministers

It is laid before Parliament, the Scottish Parliament and the  
National Assembly for Wales by the Lord Chancellor and the  
Scottish and Welsh Ministers pursuant to paragraph 21 of Schedule 7  
to the Tribunals, Courts and Enforcement Act 2007

The AJTC's Scottish and Welsh Committees publish their own annual reports  
which are laid before the Scottish Parliament and the National Assembly  
for Wales by the Scottish and Welsh Ministers respectively.

9 October 2008

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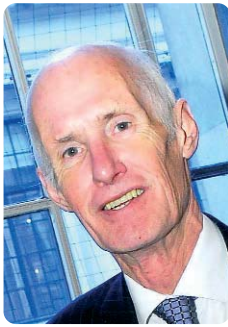
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## Chairman's Preface



November 2007 saw the completion of our transition from Council on Tribunals to Administrative Justice and Tribunals Council with a well attended launch event at which we welcomed our Minister, Bridget Prentice MP, and the Lord Chief Justice, Lord Phillips of Worth Matravers, following earlier addresses from Senior President of Tribunals, Lord Justice Carnwath and Ann Abraham, the Parliamentary Ombudsman.

The wider remit of the AJTC across the whole landscape of administrative justice is an important one. In the end, it is about helping to promote good quality decision-making by government, local councils and agencies - and ensuring that there are accessible, fair and effective means of securing correction or redress when grievances arise. These are things that matter to every citizen.

Correspondingly, it presents a significant challenge, with a much wider range of interests and stakeholders than tribunals alone. Yet we approach it with confidence, having prepared the way in recent years with the extension of our contacts, improving the way we work, and building up our relationship with other key players like the British and Irish Ombudsman Association.

Among our early priorities will be encouraging good feedback from tribunals, etc., to help avoid problems arising in the first place; promoting alternative methods of dispute resolution where appropriate; and supporting greater flexibility between ombudsmen, tribunals and courts. The needs of users will be high on our agenda. Using our experience in creating a Framework of Standards for Tribunals, we intend also to explore the possibility of developing a set of generally applicable principles of administrative justice.

Meanwhile, tribunals both inside and outside the new Tribunals Service remain significant within our wider role. We shall continue to give much attention to playing our part as "critical friend" of the Service as it establishes its new structures and patterns.

To help in all this work, we welcome our newly-formed Welsh Committee alongside our established Committee in Scotland. After a year in which we have looked back with some pride on nearly 50 years of the Council on Tribunals, we are all now looking firmly forward to our future as the AJTC.

A handwritten signature in blue ink that reads "Tony Newton". The signature is written in a cursive, slightly stylized font.

**The Rt Hon. the Lord Newton of Braintree OBE, DL**

# Our Purpose, Vision and Values

## PURPOSE

Our purpose is to help make administrative justice and tribunals increasingly accessible, fair and effective by:

- playing a pivotal role in the development of coherent principles and good practice;
- promoting understanding, learning and continuous improvement;
- ensuring that the needs of users are central.

## VISION

Our vision for administrative justice and tribunals is a system where:

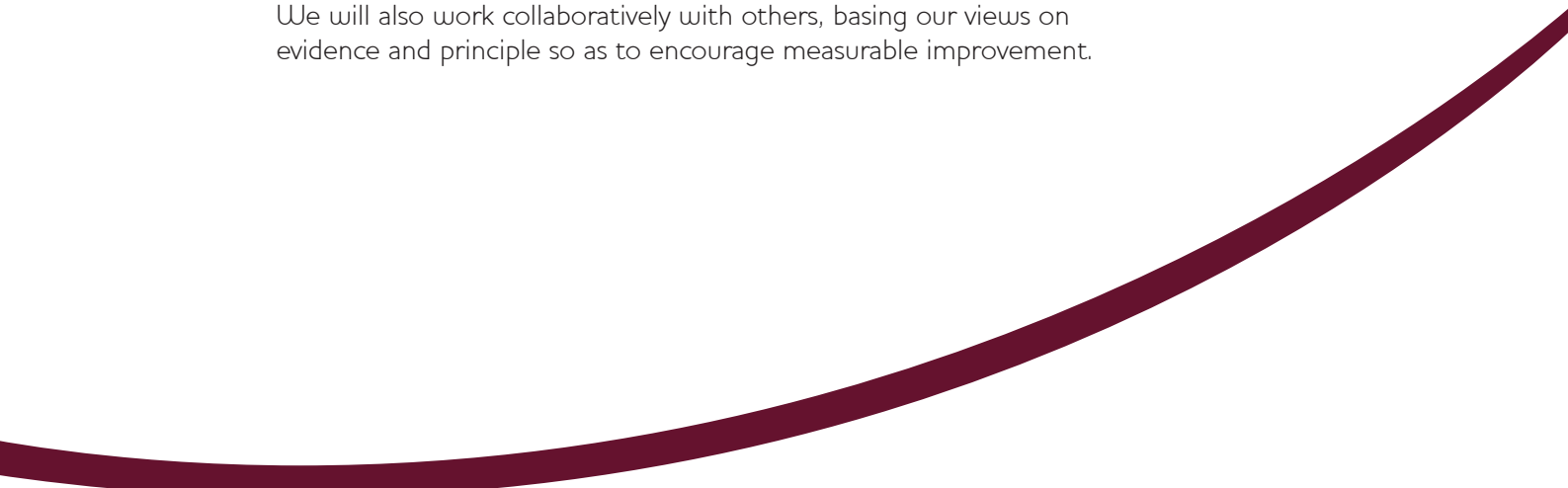
- those taking administrative decisions do so on soundly-based evidence and with regard to the needs of those affected;
- people are helped to understand how they can best challenge decisions or seek redress at least cost and inconvenience to themselves;
- grievances are resolved in a way which is fair, timely, open and proportionate;
- there is a continuous search for improvement at every stage in the process.

## VALUES

The values we seek to promote in administrative justice and tribunals are:

- openness and transparency
- fairness and proportionality
- impartiality and independence
- equality of access to justice.

We will also work collaboratively with others, basing our views on evidence and principle so as to encourage measurable improvement.



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## Planning Bill

15. The Planning Bill took forward proposals in the White Paper Planning for a sustainable future (May 2007) and associated consultative documents. We responded to the White Paper and the consultation *Improving the Appeal Process in the Planning System*. The most radical of the White Paper proposals was the proposed establishment of an independent Commission to determine applications for development consent for nationally significant infrastructure projects, against a background of national policy statements for key infrastructure sectors. The policy statements themselves would be subject to public consultation and Parliamentary scrutiny.
16. Our main concern about these proposals as a whole was that they should not adversely affect the position of ordinary members of the public. It is essential that people should feel that they have a real opportunity to have their say on planning matters that affect their lives and to put over their arguments properly. Otherwise, the system will not command public confidence. At the same time, we recognise that the interests of citizens may be better served by the more rapid development of major infrastructure projects. The challenge is to find the optimum balance between such wider collective citizens' interests and the adverse impact such projects can have on the quality of life for those immediately affected.
17. We supported in principle the introduction of national policy statements but emphasised the need for thorough and effective public consultation on them. Particular care would be needed to reach ordinary members of the public. Full consultation would also be required as part of the preparation of applications for consent for particular projects. We had great concerns about leaving the consultation process in the hands of the promoter, as we felt this would not command the necessary degree of public confidence.
18. We supported the rationalisation of the various different consent regimes, provided that existing rights to be heard were not reduced or removed where individual property rights were involved. So far as the examination of applications was concerned, we had doubts about how far a predominantly inquisitorial process can be made to work fairly and adequately from the point of view of members of the public affected. The fairness of the processes will depend greatly on their application in practice. We welcomed the Bill's provision for the AJTC to be consulted on the Commission's procedural rules. Once the Bill becomes an Act we will take a continuing close interest in its operation on the ground.
19. Aside from the proposals for the Infrastructure Planning Commission, there were measures proposed in connection with ordinary planning appeals that caused us concern. These included the fast tracking of householder appeals, which we thought would give householders insufficient time to prepare an appeal; the establishment of local member review boards to hear minor appeals in place of an inspector, which we thought would not command public confidence; giving the Planning Inspectorate, on behalf of the Secretary of State, the power to determine whether appeals should be heard by way of written



## EXPLORING AND PROMOTING NEW APPROACHES TO DISPUTE RESOLUTION

23. In the Government's 2004 White Paper *Transforming Public Services: Complaints, Redress and Tribunals* it was envisaged that the new Administrative Justice and Tribunals Council, would, amongst other things: 'make suggestions for ... proportionate dispute resolution and for the balance between the different components of the system ... [and] be concerned to ensure that the relationships between the courts, tribunals, ombudsmen and other ADR routes satisfactorily reflect the needs of users.'
24. To further our strategic objective of "keeping under review and influencing the development of administrative justice and tribunals through exploring and promoting the scope for new approaches to dispute resolution" we published in February 2008 a 'PDR Special Edition' of our newsletter, *Adjust*. Among other items, this included a report of our survey of alternative and proportionate dispute resolution in tribunals, referred to immediately below. In fulfilling our statutory duty of reviewing tribunal procedural rules, we have sought to encourage specific mention of alternative dispute resolution processes wherever relevant. We have done the same in respect of primary legislation such as the Tribunals, Courts and Enforcement Act 2007.

### Survey of Proportionate Dispute Resolution in Tribunals

25. In 2006-07, as the Council on Tribunals, we conducted a short survey of the use of 'alternative' and 'proportionate' dispute resolution techniques in tribunals. The aim of the survey was to identify good practice and opportunities in dispute resolution to encourage effective and swift resolution of disputes. The survey questionnaire was sent out to 44 tribunal systems throughout England, Wales and Scotland, of which 28 responded.
26. Though not comprehensive, the survey gave a good impression of the current position. It found that ADR techniques such as mediation and early neutral evaluation tended to be used more frequently in those jurisdictions that deal with party and party disputes as opposed to disputes between citizen and state. For the majority of jurisdictions in which ADR is not used, most respondents stated that this was because it was not appropriate for the types of matters heard in these jurisdictions. However, jurisdictions often employ procedures that aim to increase efficiency and encourage a flexible approach to resolving disputes, such as case management, early evaluation and the use of telephone and video linking.
27. We agree that some ADR techniques are not always appropriate in tribunals, particularly where issues of entitlement are concerned. But we consider that there is a need to promote better awareness of the range of such techniques generally. We will be considering further how we can assist with that process.

















## TRANSFORMING TRIBUNALS

10. We responded to the Tribunals Service consultation *Transforming Tribunals: Implementing Part 1 of the Tribunals, Courts and Enforcement Act 2007*. As well as addressing the specific consultation questions, we also made some general observations on the consultation proposals. We felt that the Tribunals Service had made good progress with its operational change agenda. However, we considered that the presentation of the consultation proposals sometimes lost sight of the fact that structural change, rationalisation and standardisation were not ends in themselves but were part of a wider reform with the needs of users at its heart.
11. We were concerned that there was little in the consultation about the impact of the proposed changes on users or the extent to which appellants will continue to need advice and assistance specific to particular tribunal jurisdictions. We were disappointed that the Enhanced Advice Project outlined in the 2004 White Paper appeared to have been abandoned and that the consultation paper gave no clear indication of how the need for advice will be met.
12. We also expressed the view that there is a need for a dedicated policy team within the Ministry of Justice, but outside the Tribunals Service, to consider administrative justice issues in a more holistic way. A dedicated policy unit of this kind would be able to accommodate a more systemic approach, linking access and justice so that the wider vision in the 2004 White Paper of improved knowledge and awareness of rights, with support into and through the institutions of administrative justice, can be realised. We look forward to engaging with those with lead responsibility for this important area of policy.
13. Of particular interest was the proposed mapping of existing non-legal members of tribunals into the new roles in a way that maximises the opportunity for their flexible use in hearing appeals. We feel we have a useful contribution to make to this exercise, on which we look forward to being consulted in due course.
14. In response to particular consultation questions, our observations included:
  - After a fixed period of time, it will be necessary for the Tribunals Service to conduct a structured review of the ticketing and assignment processes, to determine whether they are meeting the needs of users, the tribunal system and tribunal members.
  - Appropriate safeguards will be needed to ensure that the necessary individual characteristics, particularly of smaller and more specialised Tribunals, are maintained, including the provision of advice and assistance to appellants at hearing centres.
  - The Upper Tribunal should be accessible to users and flexible in its approach to sitting in regional centres if needed. It is important that the concerns of some tribunals about the reduction in the number of hearing centres generally are addressed, as this will be likely to impact on access in more rural areas, particularly in Scotland and Wales.



## FEEDBACK FROM OUR VISITS TO TRIBUNAL HEARINGS

18. In April 2007 we introduced a system of providing feedback from our visits to observe tribunal hearings. Following a visit to a tribunal hearing, a copy of our member's written report of the visit is now forwarded to the tribunal Chair and, where appropriate, to the President or Head of the particular tribunal jurisdiction. The reaction of tribunals has been largely positive. A few reports have prompted follow-up correspondence, usually seeking clarification of specific comments in a report.
19. We have also begun providing six-monthly feedback reports from our visits to the Senior President of Tribunals, which he shares with the members of the Tribunal Presidents Group. As a regular attendee of our monthly meetings the Senior President sees our members' visit reports as a matter of course. However, he and the other tribunal Presidents have indicated that they find our six-monthly feedback useful.
20. For the purpose of reporting on our visits to tribunal hearings we decided to adopt the Council on Tribunals' *'Framework of Standards for Tribunals'*, which sets out the issues with which we are concerned in fulfilling our statutory role in respect of tribunals. In the light of our new wider remit to keep the administrative justice system under review we are currently considering the need to enhance our framework document to include wider principles of administrative justice.

## OUR RESPONSES TO STATUTORY CONSULTATION

### Police Appeals Tribunal Rules 2008

21. The Home Office consulted us on new rules for the Police Appeals Tribunal, which arose as a consequence of proposed changes to the Police (Performance) Regulations 2008 and the Police (Conduct) Regulations 2008. Under the new misconduct arrangements a police officer will have a right of appeal against the finding of, and any sanction imposed at, a misconduct hearing or special case hearing. Under new 'unsatisfactory performance and attendance' arrangements, a police officer will have a right of appeal against the finding and any outcome of a third stage meeting, which might comprise dismissal, reduction in rank or an extensions to a notice of improvement.
22. We felt that the grounds for appeal were too limited because of the way the relevant rule had been drafted and suggested it be amended to provide for the right of appeal under any of the three given grounds. We were also strongly of the view that the proposed time limit of 5 working days to submit a notice of appeal was unreasonable, even subject to a general provision to extend the statutory time limits. We suggested that 5 days was entirely inadequate to enable an officer to seek initial advice in order to properly frame an appeal. Moreover, we felt that such a short time limit might encourage the lodgement of unmeritorious appeals simply in order to meet the tight deadline. We suggested that Police Appeal Tribunal hearings should be held in public rather than in private, as was proposed, in the interests of greater openness, fairness and









discuss the decision, as a result of which some cases have been conceded, mainly because proper account has not been taken of medical evidence or mental health issues. Decision-makers have also had the opportunity to attend appeal hearings in order to observe at first hand the matters that tribunals take into account and how they view issues such as conflicting medical evidence.

18. The *PIDMA* initiative, which we mentioned briefly in our last report, continues to be taken forward. *PIDMA*, a work-based learning programme leading to accreditation and higher education awards for DCS decision makers (DMs) and their managers, is reported to be making a real difference in raising decision making standards. The programme is modular, the number and level of modules undertaken by DMs and their HEO DMs being congruent with their role, responsibilities and experience. Early evaluation findings indicate that positive benefits are being realised, which will be used in future evaluation to measure any changes as a result of the rollout of *PIDMA*.
19. *PIDMA* is an exciting development within DCS, which appears to us to have clear potential to make real improvements in standards of decision-making, not just within DCS but also across the other Agencies of the Department for Work and Pensions. Moreover, we believe that this type of programme has potential benefits for decision making in other areas of administrative justice and we have been keen to promote it through our electronic newsletter, *Adjust*. We look forward to learning about the outcome of the evaluation exercise, which is expected to quantify the benefits accruing from *PIDMA*.

## COMMUNICATIONS

### ***Adjust***

20. In 2008 we moved to bi-monthly rather than quarterly editions of our newsletter, *Adjust*. This move was prompted by the wealth of news and information relevant to the administrative justice and tribunals world and by the positive feedback we received from our growing readership.
21. Since our last Annual Report *Adjust* has included contributions from a diverse range of perspectives, and contributors have included members of the tribunal judiciary, ombudsmen, researchers, user representatives, mediators and initial decision-makers. We have developed our international section, with news items and articles from Australia, New Zealand and Canada. We have also added a new research section to encourage and promote research related to the administrative justice field. Over the coming year we hope to further develop our international content, by including more information from Europe and further abroad.





## Appendix A

# Membership of the AJTC and its Scottish Committee

Judith Edwards retired from the Council on Tribunals in 2007, having been a member since 2003. She made a significant contribution to the Council's work, notably in her specialist field of tax law and practice, and represented the Council on the Tax Appeals Modernisation Stakeholder Group.

Heather Wilcox retired from the Administrative Justice and Tribunals Council in 2008, having served on that body and its predecessor since 2003. For more than five years, up to the establishment of the AJTC's Welsh Committee, she conscientiously represented the interests of people in Wales, while finding time to make frequent visits to tribunals, conferences and training events on both sides of Offa's Dyke. She was a member of the Lord Chancellor's Standing Committee for the Welsh Language.

We wish them both well for the future.

Our new Welsh Committee was formally established with effect from 1 June 2008. Chaired by Professor Sir Adrian Webb, its other members are Bob Chapman, Gareth Lewis and Rhian Williams-Flew.

In March 2008 we also said goodbye to Marjorie MacRae, who retired after nearly 13 years service as the Secretary to the Scottish Committee. Marjorie was an indomitable character, whose contribution to the work of the Scottish Committee and the Council will be sorely missed. Her successor as Scottish Secretary is Debbie Davidson.

### AJTC MEMBERSHIP AT 31 MARCH 2007



**The Rt Hon. the Lord Newton of Braintree OBE, DL:** Chairman of the Council since 1 October 1999. Lord Newton was Conservative Member of Parliament for Braintree, Essex, from 1974-97. During that period he held many Ministerial offices including Secretary of State for Social Security (1989-92) and Lord President of the Council and Leader of the House of Commons (1992-97). He became a Life Peer in 1997.



**Professor Alistair MacLeary:** Honorary Professor, University of Heriot-Watt and formerly MacRobert Professor of Land Economy and the University of Aberdeen. Member of the Lands Tribunal for Scotland (1989-2005). Member of the Council and Chairman of the Scottish Committee since September 2005. Member of the Economic & Regulatory committee and Tribunals Service Liaison Group.



**Mrs Elizabeth Cameron:** Formerly worked for the Citizens Advice Bureau, latterly in Edinburgh Sheriff Court as manager of the in-Court Advice Services and co-ordinator of the Mediation Service. Member of the Scottish Mediation Network. Lay member of the Scottish Solicitors' Discipline Tribunal since 2001. Member of the Council and the Scottish Committee since September 2002, and of the Social Affairs committee and Employment Task Group.



**Mrs Sue Davis CBE:** Chair of Sandwell & West Birmingham Hospitals Trust. Deputy Chair of RegenWUM, centre of excellence in regeneration for the West Midlands. Formerly an elected member of Telford & Wrekin Council and Shropshire County Council. Involved at senior level in regional, national and international local government for 25 years, most recently as Cabinet Member for Resources in Telford and as member of UK delegation to the Congress of the Council of Europe. Previously served as Chair of Telford's Primary Care Trust. Deputy Chair of the Advantage West Midlands Regional Development Agency 1998-2004. Member of the Council since December 2005, and of the Social Affairs committee and Tribunals Service Liaison Group.



**Miss Judith Edwards:** Barrister. A partner with tax consultants, Balfour Kent since October 2002, advising on tax planning for individuals, companies and trusts. Member of the Council since September 2003, and of the Economic & Regulatory Committee.



**Ms Penny Letts OBE:** Policy Consultant and Trainer specialising in mental health, mental capacity and disability law. Member of the Mental Health Act Commission 1995-2004. Policy Advisor to the Law Society 1987-2001. Member of the Judicial Studies Board's Tribunals Committee since May 2003. Member of the Council since September 2002. Chair of the Social Affairs committee and member of the Principles Task Group and the MHRT Advisory Group.



**Mr Stephen Mannion QPM:** Scottish Area Commander of the British Transport Police 1992-99 following a career with Strathclyde Police 1960-92, reaching the rank of Assistant Chief Constable. Awarded the Queen's Police Medal for Distinguished Service in 1997. Lead signatory and collator in child protection matters for a national voluntary organisation. Lay member of the Employment Tribunal Service 1999-2001. Member of the Council and the Scottish Committee since August 2001. Member of the Economic & Regulatory committee.



**Ms Bronwyn McKenna:** Solicitor, qualified in England and Wales, and in Northern Ireland, specialising in employment, trade union and public inquiry law. Currently a Director at UNISON, leading the union's work on organising, member representation and participation. Principal legal advisor to UNISON's National Executive Council and Senior Management Group. Sits on the Central Arbitration Committee and formerly a member of the Industrial Injuries Advisory Council. Member of the Council since 2007 and of the Social Affairs committee and Employment and Principles Task Groups.



**Mr Bernard Quoroll:** Solicitor and commercial community mediator with an extensive career in local government. Held the post of Chief Executive in three local authorities: Aylesbury Vale District Council 1985-95; Royal Borough of Kingston-upon-Thames 1995-99; Isle of Wight County Council 1999-2001. Member of the Council since May 2003, and of the Economic & Regulatory committee, the Research Group and Ombudsman, Principles and Employment Task Groups.



**Professor Genevra Richardson CBE, FBA:** Professor of Law, King's College London. Member of the Mental Health Act Commission 1987-92. Chair of the Prisoners' Advice Service 1994-2003. Chair of the Expert Committee on Reform of Mental Health Legislation 1998-99. Member of the Medical Research Council 2001-2008. Trustee, Nuffield Foundation 2002 to date. Member of the Council since February 2001. Chair of the Economic & Regulatory committee and member of the Research Group, Principles Task Group and the MHRT Advisory Group.



**Dr Jonathan Spencer CB:** Civil servant 1974-2005, Director General and Departmental Board Member, first at the DTI (Director General Resources and Services, then Director General Business Group) and at LCD/DCA (Director General Clients and Policy) where among other tasks he was responsible for the work leading up to publication of the White Paper on Tribunal reform. Over the last 25 years has worked in a wide variety of government roles in three departments (Cabinet Office, DTI, LCD/DCA). Now a public policy consultant and member of the Solicitors Regulation Authority. Member of the Council since December 2005, and of the Economic & Regulatory committee. Chair of the Tribunals Service Liaison Group and member of the Employment and Principles Task Groups.



**Dr Adrian V Stokes OBE:** Chief Executive of CAT Ltd, a consultancy specialising in health informatics, international standards and computer networking. Worked in NHS 1981-2000, retiring as Joint Director of the Information Management Centre. Non-Executive Director of Barnet Primary Care Trust and Special Trustee of the Royal National Orthopaedic Hospital NHS Trust. Governor, University of Hertfordshire. Founder Governor, Motability; Vice-Chairman of the Mobilise Organisation. Member of Disability Appeal Tribunals 1992-2003. Member of the Council since November 2003 and of the Social Affairs committee.



**Mrs Pat Thomas CBE:** Local Government Ombudsman in the north Midlands and the north of England 1985-2005 and Vice-chairman of the Commission for Local Administration 1993-2005. Previously head of School of Law at Lancashire Polytechnic. Member of the Greater Manchester and Lancashire Rent Assessment Panel 1977-85, and Vice-President/President 1984-85. Part-time chair of Blackpool Supplementary Benefit Appeal Tribunal 1980-85. Member of the Council since December 2005, and of the Economic and Regulatory committee and Ombudsman Task Group.



**Mr Brian Thompson:** Senior Lecturer in Law at the University of Liverpool with teaching and research covering the whole field of administrative justice. Member of the Panel of Specialist Advisers to the House of Commons Public Administration Select Committee, and Consultant on Public Law to the Northern Ireland Ombudsman. Member of the Council since 2007 and of the Social Affairs Committee, Research Group and Ombudsman task Group.



**Heather Louise Wilcox:** Accountant and former career civil servant. Director of Primary and Community Health, National Assembly for Wales until retirement in September 2001. Appointed by the Privy Council as a member of General Optical Council from January 2002 to December 2006. Serves on Quaker Finance and Property Central Committee and as a director of Friends Trusts Limited. Former Treasurer of Cruse Cymru. Member of the Council since February 2003 and of the Social Affairs committee. Also represents the interests of people in Wales.



**Ms Ann Abraham:** UK Parliamentary Ombudsman and Health Service Ombudsman for England. *Ex-officio* member of the Council and of the Scottish and Welsh Committees since her appointment in November 2002. *Ex-officio* member of the Commission for Local Administration in England. Chair of the British and Irish Ombudsman Association 2004-06, and remains a member of their validation committee.

## SCOTTISH COMMITTEE MEMBERSHIP AT 31 MARCH 2007



**Ms Lyndy Boyd:** Solicitor, formerly a Children's Reporter, Welfare Rights Officer, solicitor with Aberdeen City Council and Professional Adviser (Legal) for the Care Commission. Former Associate Lecturer, Monitor and Consultant with the Open University. Legal member of the Parole Board for Scotland from January 2005. Member of the Scottish Committee since December 2004.



**Eileen C Macdonald:** A solicitor who has worked both within the private sector; latterly as an associate partner specialising in civil litigation, and in the public sector as a procurator fiscal depute and senior solicitor at the Scottish Environment Protection Agency with responsibility for enforcement, including working with the Crown Office in the prosecution of environment offences. Director of the Vine Trust from 2003 until 2007.



**Michael Menlowe:** A philosopher who was Head of the School of Philosophy, Psychology and Language Science in the University of Edinburgh until his retirement. An Associate of the General Medical Council, where he chairs Fitness to Practise panels. A board member of the Scottish Refugee Council since 2006, a member of the Home Office's DNA Database Ethics Group and a lay member of the Royal College of Pathologists.



**Mrs Audrey Watson:** Solicitor with West Lothian Council, responsible for licensing and training JPs. Depute Clerk of Court and Depute Clerk of the Peace. Former project co-ordinator for the District Courts Association. Consultant providing training in relation to the practice and procedure of District Courts. Legal Assessor and former panel member for the Health Professions Council. Depute Clerk to the Scottish Solicitors Discipline Tribunal. Member of the Scottish Committee since August 2001.



**Professor Alice Brown:** Scottish Public Services Ombudsman. *Ex-officio* member of the Scottish Committee since July 2004.



# Appendix C

## Note on the constitution and functions of the Administrative Justice and Tribunals Council

1. The Administrative Justice and Tribunals Council (AJTC) was set up by the Tribunals, Courts and Enforcement Act 2007 to replace the Council on Tribunals.
2. The AJTC consists of not more than 15 nor less than 10 appointed members. Of these, either two or three are appointed by the Scottish Ministers with the concurrence of the Lord Chancellor and the Welsh Ministers; and either one or two are appointed by the Welsh Ministers with the concurrence of the Lord Chancellor and the Scottish Ministers. The remainder are appointed by the Lord Chancellor with the concurrence of the Scottish Ministers and the Welsh Ministers.
3. The Lord Chancellor, after consultation with the Scottish Ministers and the Welsh Ministers, nominates one of the appointed members to be Chairman of the AJTC. The Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) is a member of the AJTC by virtue of her office.
4. The Scottish Committee of the AJTC consists of the two or three members of the AJTC appointed by the Scottish Ministers (one being nominated by the Scottish Ministers as Chairman) and three or four other members, not being members of the AJTC, appointed by the Scottish Ministers. The Parliamentary Ombudsman and the Scottish Public Services Ombudsman are members of the Scottish Committee by virtue of their office.
5. The Welsh Committee of the AJTC consists of the one or two members of the AJTC appointed by the Welsh Ministers (one being nominated by the Welsh Ministers as Chairman) and two or three other members, not being members of the AJTC, appointed by the Welsh Ministers. The Parliamentary Ombudsman and the Public Services Ombudsman for Wales are members of the Welsh Committee by virtue of their office.
6. The principal functions of the AJTC as laid down in the Tribunals, Courts and Enforcement Act 2007 are:
  - a) to keep the administrative justice system under review;
  - b) to keep under review and report on the constitution and working of listed tribunals; and
  - c) to keep under review and report on the constitution and working of statutory inquiries.

7. The AJTC's functions with respect to the administrative justice system include considering ways to make it accessible, fair and efficient, advising the Lord Chancellor, the Scottish Ministers, the Welsh Ministers and the Senior President of Tribunals on its development and referring to them proposals for change, and making proposals for research.
8. The "administrative justice system" means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including the procedures for making such decisions, the law under which they are made, and the systems for resolving disputes and airing grievances in relation to them.
9. The AJTC's functions with respect to tribunals include considering and reporting on any matter relating to listed tribunals that the AJTC determines to be of special importance, considering and reporting on any particular matter relating to tribunals that is referred to the AJTC by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers, and scrutinising and commenting on legislation, existing or proposed, relating to tribunals.
10. "Listed tribunals" are the First-tier Tribunal and Upper Tribunal established by the 2007 Act and tribunals listed by orders made by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers. The AJTC must be consulted before procedural rules are made for any listed tribunal except the First-tier Tribunal and Upper Tribunal. The AJTC is represented on the Tribunal Procedure Committee that makes procedural rules for the First-tier Tribunal and Upper Tribunal.
11. The AJTC's functions with respect to statutory inquiries include considering and reporting on any matter relating to statutory inquiries that the AJTC determines to be of special importance, and considering and reporting on any particular matter relating to statutory inquiries that is referred to the AJTC by the Lord Chancellor, the Scottish Ministers and the Welsh Ministers.
12. "Statutory inquiry" means an inquiry or hearing held by or on behalf of a Minister of the Crown, the Scottish Ministers or the Welsh Ministers in pursuance of a statutory duty, or a discretionary inquiry or hearing held by or on behalf of those Ministers which has been designated by an order under the Tribunals and Inquiries Act 1992. The AJTC must be consulted on procedural rules made by the Lord Chancellor or the Scottish Ministers in connection with statutory inquiries.
13. Members of the AJTC and the Scottish and Welsh Committees have the right to attend (as observer) proceedings of a listed tribunal or a statutory inquiry, including hearings held in private and proceedings not taking the form of a hearing.
14. The AJTC has no authority to deal with matters within the legislative competence of the Northern Ireland Assembly.

15. The AJTC must formulate, in general terms, a programme of the work that it plans to undertake in carrying out its functions. It must keep the programme under review and revise it when appropriate. It must send a copy of the programme, and any significant revision to it, to the Lord Chancellor, the Scottish Ministers and the Welsh Ministers.
16. The AJTC must make an annual report to the Lord Chancellor, the Scottish Ministers and the Welsh Ministers, which must be laid before Parliament, the Scottish Parliament and the National Assembly for Wales. The Scottish Committee must make an annual report to the Scottish Ministers, who must lay the report before the Scottish Parliament. The Welsh Committee must make an annual report to the Welsh Ministers, who must lay the report before the National Assembly for Wales.

## Appendix D

### Cost of the AJTC and its Scottish Committee

This section contains details of the income and expenditure of the Council on Tribunals and AJTC for the financial year ending 31 March 2008, with the 2006/07 figures of the Council on Tribunals for comparison.

The AJTC is funded through the Ministry of Justice (formerly the Department for Constitutional Affairs). Certain costs - in particular accommodation, IT and accounting/payroll services - are funded centrally and do not feature in the account below. Other costs, such as staff pay rates, are determined centrally but paid from the AJTC budget.

The total allocation for this year, excluding items funded centrally, was £1,265,000 (£1,185,000 in 2006/07).

	AJTC (Council on Tribunals)		Scottish Committee	
	2006/07	2007/08	2006/07	2007/08
Staff Salaries <sup>1</sup>	415,783	<b>427,027</b>	67,870	<b>68,306</b>
Members' Retainers <sup>2</sup>	253,436	<b>252,986</b>	40,028	<b>39,884</b>
Members' Travel etc <sup>3</sup>	53,221	<b>53,440</b>	4,729	<b>6,139</b>
Consultancy	15,359	-	-	-
Agency Staff <sup>4</sup>	110,386	<b>123,273</b>	-	-
Printing and Publishing <sup>5</sup>	17,820	<b>39,624</b>	2,624	<b>2,642</b>
Other Admin Costs <sup>6,7</sup>	105,795	<b>82,371</b>	13,443	<b>19,239</b>
Capital expenditure	-	-	-	-
<b>Totals</b>	<b>971,800</b>	<b>978,721</b>	<b>128,694</b>	<b>136,210</b>

## Notes

1. The staff of the secretariat are civil servants seconded from the Ministry of Justice and the Scottish Government. Salary costs include employer's National Insurance Contributions and superannuation.
2. The Council and Scottish Committee Chairmen's salaries at 31 March 2008 were £53,876 and £26,938 respectively. The retainers for Members of the AJTC (based on 44 days work per year) and of the Scottish Committee (based on 35 days work per year) were £12,319 and £9,799 respectively. Salaries and retainers are reviewed annually. The figures for Members' retainers include the remuneration of the Scottish Committee Chairman and the two members of the Council who are also members of the Scottish Committee. These costs include employer's National Insurance Contributions.
3. Members' expenses for attending meetings of the Council, visits to tribunals and other events, including Scottish Committee expenses for attending meetings held in London.
4. Agency personnel are engaged as required to cover vacancies and absences and to provide specialist skills such as additional legal work and the editing of our journal *Adjust*.
5. Design and printing including, in 2007/8, costs of the new logo and brand for the AJTC
6. Other general expenditure including the Council's conference and other events, office supplies, postage, and catering for meetings etc.
7. Adjusted to reflect changes in arrangements for funding of Scottish Committee expenditure.





























































