The Commissioners’ Office
Annual Report 2006-2007

The Social Security Commissioners
The Child Support Commissioners
The Pension Appeals Commissioners
# Commissioners Annual Report 2006 – 2007

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Foreword

I am pleased once again to have been invited to write this foreword to the Annual Report of the Commissioners’ Office, the fourth of my term as Chief Commissioner.

This report contains some statistics upon which a more informed view can be taken with regard to, for example, how long cases take before the Commissioners and how much it costs to process them. These compare favourably with the court system and other tribunals. However, as I have stressed in previous reports, they do not give a complete picture.

First, those statistics seek to measure performance in exclusively quantitative terms. The Commissioners are a second-tier appeal tribunal, considering appeals from first-tier tribunals on questions of law only. The benefits system is complex, and gives rise to particularly difficult questions of interpretation of specific provisions of welfare law. In addition, outside those provisions, complex questions of domestic, European and human rights law are frequent. It is therefore vital that the Commissioners give clear, cogent and authoritative decisions in relation to the legal issues which come before them: and, in addition to dealing with individual appeals, it is an essential part of the Commissioners’ role to give clarity and more general guidance in relation to areas of the law giving rise to widespread difficulties. The Commissioners’ performance in qualitative terms is more difficult to measure than simple throughput of work: but academic comment and encouragement from the higher courts suggest that the Commissioners continue to play a vital role in ensuring the coherent development of benefits law.

Second, even looking at the statistics in merely quantitative terms, the indicators used by administration to measure the performance of the jurisdiction are narrow, focussing exclusively upon the time taken from the outset of an application or appeal to the Commissioners to its conclusion. This is an important criterion – parties are entitled to have matters decided with reasonable expedition – but a focus on this one aspect of the work alone can give a misleading picture of performance as a whole. In the year in review, although the cases dealt with by the Commissioners were completed with reasonable expedition, the data show a number of trends which evidence declining performance in real terms. Notably, the statistics in this report largely conceal a relentless increase in the number of cases in the Commissioners’ Office – its “work-in-progress” – over the last two years, during which time the number of cases held within the Office has more than doubled. This trend is of considerable concern.

What has caused this decline, and what steps are being taken to address it?

Overview of the Statistical Data

Historically, the number of cases referred to the Commissioners has been in direct correlation to the number of appeals dealt with by the tribunal below. Although since 2006 a few appeals have come to the Commissioners from the Pensions Appeal Tribunal, the vast majority of appeals to Commissioners continue to emanate from the Social Security & Child Support Appeal Tribunal (formerly, the Appeals Service Tribunals). Where the number of appeals to that tribunal increases, then the number of appeals to the Commissioners tends to increase in line – the proportion of inward appeals remaining relatively stable. Where this number of appeals increases, the Commissioners’ work in progress could also be expected to increase.
However, over the last couple of years the number of appeals to the tribunals below has not risen. It has been relatively static, with a slight fall overall. Neither has the proportion of onward appeals increased, remaining fairly constant (i.e. at about 2% for all benefits other than Disability Living Allowance, in respect of which the onward appeal rate is about 6%). Despite the historical correlation, these figures cannot explain the increase in Commissioners’ work-in-progress.

This increase appears to be explained by the following factors.

(i) Over the last two years, the Commissioner’s Office in London has suffered as the result of a reduction in staff numbers. Not only has the number of staff decreased but, crucially, there has been a loss of experience in the office due to longer standing members of staff moving to take on new challenges. The result has been at times extensive delays in the turn round of paperwork. Compared with a target of all paperwork being processed within 5 working days, there have been times when this has increased to 3-4 weeks. Given that much of the Commissioner’s work is paper-based, the cumulative effect of these delays on individual cases has been very significant.

Following discussions between the Office and the judiciary, steps have now been put in place to ensure that the backlog is eliminated and the target maintained in future. This is a substantial long-term project, but the backlog has been reduced since April 2007 and it is hoped that the target for the processing of all paperwork will be met from January 2008.

(ii) The number of available judicial days has fallen dramatically over the last few years. Five Commissioners have retired without being replaced, there having been no appointments to the post since 2001. Two Commissioners have moved to part-time working, one since the period covered by this report. Another Commissioner has died. Other than the sad and unexpected death of Miss Commissioner Fellner, the loss of these judicial days had been anticipated for some considerable time – and from 2003 the Department for Constitutional Affairs (as it was) was put on notice in the annual request for competitions that further appointments by no later than 1 April 2007 were essential. Delays have resulted from the setting up of the Judicial Appointments Commission, and it is greatly disappointing that appointments are now unlikely before Autumn 2008. It is now hoped that the competition due to commence in September 2007 will result in the appointment of three full-time Commissioners by October 2008.

In the meantime, a greater burden of judicial casework has been imposed upon Commissioners and Deputies currently in post at a time when (because of the tribunal reform programme and other initiatives) there is an ever increasing load of administrative work for the Commissioners. An arrangement has been made with the Social Security & Child Support Appeal Tribunal, that enables chairmen who are also Deputy Commissioners to sit for lengthy periods in this jurisdiction to assist with the weight of work. I am very grateful indeed to the Acting President of the tribunal for this considerable assistance which has of course had the effect of drawing judicial resources’ away from the tribunal’s own work.

(iii) It has also been unfortunate that, during this challenging period for the Commissioners, I have been unable to devote the time to the post of Chief Commissioner that I would have liked to have
done and the time that the post demands. In 2005, I was appointed full-time Designated Civil Judge in Wales, and since then I have been resident in Cardiff not only undertaking the heavy judicial work of that post but also being involved with the reorganisation of civil justice in Wales. Despite efforts through the appointment system, a successor has not been identified: and, although I have undertaken some of the Chief Commissioner’s functions, this has meant that for all intents and purposes the jurisdiction has not had the benefit of a presiding judge for some time.

I am extremely grateful to all those Commissioners who have filled in for me whilst I have been in Wales. Many have done something and some have done a great deal, but none more than Mr Commissioner Rowland who has done an enormous amount of additional work particularly in respect of the tribunal reform programme. The Commissioners generally (but myself in particular) owe him a considerable debt.

I am pleased that arrangements have now been made for me to return to the post of Chief Commissioner full-time with effect from 1 January 2008, and I am looking forward to leading the jurisdiction into the new tribunals era referred to below.

Finally, over the last four years the profile of the Commissioners’ work has changed. Case management – including a more robust approach to applications for leave to appeal – and an improvement in the quality of decisions below (itself resulting in part from intensive and productive training at that level) has resulted in appeals that are heard by the Commissioners being generally on average more complex than has been the case historically. The proportion of cases turning on relatively straightforward “facts and reasons” grounds, although still high, has reduced – with more cases turning on issues of more complexity. This is encouraging – but it has also resulted in the consideration of individual cases generally taking longer.

All of these factors have contributed to a month-on-month increase of work-in-progress over the last two years, a trend which has continued into the year 2007-8. As I have indicated, these matters are being addressed: and although a reversal of the trend will take some time, it is hoped that work-in-progress levels will be reduced to an acceptable level over the course of the next 12 months.

The Tribual Reform Programme

The year saw a reversal in fortunes for the tribunal reform programme. At the beginning of the period, it looked unlikely that Parliamentary time would be found for consideration of the Bill: but fortunately that pessimism proved unfounded. An opportunity was taken in early 2007 to introduce the Bill, and Royal Assent to the Tribunals, Courts and Enforcement Act 2007 was received in July 2007.

Under the Act, it is expected that the second-tier jurisdictions of the Commissioners, the reformed Tax Tribunals, the Lands Tribunal and the Transport Tribunal – together with appeals from first-tier tribunals that are currently challengeable only by way of judicial review and some first-tier jurisdictions – will be subsumed into a new Superior Court of Record called the Upper Tribunal. The Act is largely enabling, and an extensive consultation paper is expected to be published in October 2007: but it is currently hoped that the new tribunal will be operational by October 2008 or (at the latest) April 2009.
Under the Senior President of Tribunals, the new tribunal will bring a new coherence to administrative law and procedure as applied by tribunals, and is greatly welcomed by the Commissioners who are fully committed to its success. The Act is a tribute to cooperation between the various stakeholders involved, including the tribunal judiciary who have had considerable input into the principles behind the statutory provisions. Labour-intensive as the work has been, the product is to be commended. It enjoys the overwhelming support of the Commissioners, and indeed the tribunals judiciary generally. I am confident that this will continue as the Act is implemented: and, with the other Commissioners, I am greatly looking forward to the challenges and opportunities that will arise in the new era.

**Development of the Law**

As I indicate above, one of the main roles of the Commissioners is to develop a coherent corpus of benefits law. In my absence in Wales, the Commissioners have continued to produce decisions to this end, with both the quality and quantity of reported cases bearing witness to this.

However, since my appointment to Wales, there have been very few Tribunals of Commissioners called to deal with matters of special difficulty. There are considerable areas of benefits law (including those provisions relating to the armed forces) which, in my view, would benefit from clarification and guidance from a tribunal of Commissioners: and I intend to call tribunals to begin dealing with these from my return in January.

**Miss Commissioner Christine Fellner**

Sadly, on 1 April 2007, Miss Commissioner Fellner died in post, after a lengthy illness. She served as an Appeals Service chairman from 1986 and a Deputy Commissioner from 1995, before being appointed a Commissioner in 1999.

It is only right that I take this opportunity to pay tribute to the service Christine Fellner gave as a tribunal judge. In addition to her legal expertise, she brought considerable experience and common sense to our jurisdiction. Christine is much missed, not only by the Commissioners, but all who work in and with our jurisdiction. Our commiserations and very warm wishes go to her family.

**Mr Commissioner Robert Angus**

On 1 April 2007, Mr Commissioner Angus retired. He too served as an Appeals Service chairman from 1984 and was appointed a Commissioner in 1995.

Robert Angus’s route to being a Commissioner was similar to that of Christine Fellner being through the tribunals below, although he was a Scottish solicitor before becoming a tribunal judge in England, living evidence of the flexibility that is the hallmark of the tribunals judiciary. As such he is blessed with the attributes of a good Scottish lawyer, and a fine dry particularly Scottish sense of humour that we will miss. We all wish him a lengthy and happy retirement in the Northumberland that he loves.

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His Honour Judge Gary Hickinbottom  
Chief Social Security & Child Support Commissioner of Great Britain  
September 2007
Rhagarweiniad

Yr wyf yn falch unwaith eto o fod wedi cael fy ngwahodd i ysgrifennu’r rhagair hwn i Adroddiad Blynyddol Swyddfa’r Comisiynwyr, yr pedwerydd yn ystod fy nhymor fel Prif Comisiynydd.

Mae’r adroddiad hwn yn cynnwys rhai ystadegau ar gyfer llunio barn fwy gwybodus ynghylch, er enghraiff, pa mor hir y maе aci он yn ei gymryd o flaen y Comisiynwyr a faint y maе’n ei gostio i’w prosesu. Mae’r rhain yn cymharu’n ffaith at system y llysoedd eraill. Fodd bynnag, fel imi bwysleisio mewn adroddiadau blaenorol, nid ydym yn rhoi darlun llawn.

Yn gyntaf, mae’r ystadegau hynny’n ceisio mesur perfformiad mewn termau meintiol yn unig. Tribiwnlys apêl ail gam yw’r Comisiynwyr, sy’n ystyr o apeliadau o dribiwnlysoedd cam cyntaf ar sail cwestiynau cymhleth ymwmneud á chyfraith ddomestig, Ewropeaidd a hawlau dynol ymwmneud. Felly, maе’n holbwysig bod yr Adroddiad yr Comisiynwyr yn gwneud rhagfrydiau casgluedd, amser i gwestiynau arbennig o anodd, a thindiau ar y gyfraith dynol yn aml. Felly, mae’n hollbwysig bod yr Comisiynwyr yn gwneud penderfyniadau clir, argyhoeddol o anodd ac arweiniaid mwy cyffredinol ar y dyddiadau sy’n gyfrifol gyda’r cyfrifoliau ac byddiadau o amser gyfrifol ar y gyfraith dynol. Mae’n hollbwysig bod yr Comisiynwyr yn perfformio i’r oedd a chwarae rôl hanaid mewn termawr ymwmneud yr holl dduddfaliadau a’r Comisiynwyr erioed ag eu olyu i’w gweinio nhw fel amser gyfrifol ymwmneud.

Yn ail, ydy mewn termawr ac i’r apeliadau mewn termawr meintiol ymwmneud, mae’r dangosyddion a ddefnyddir gan weinyddwyr i fesur perfformiad yr Comisiynwyr ymwmneud yr holl dduddfaliadau. Hyd yn oed o’r amser y mae bais neu apêl i’r Comisiynwyr ymwmneud yr holl dduddfaliadau, mae’r mwyafrif llethol o apeliadau o hyd o’r Comisiynwyr ymwmneud yr holl dduddfaliadau, ac mae’n hollbwysig bod yr Comisiynwyr yn ddefnyddio amser i gyfrifol yr holl dduddfaliadau.

Beth sydd wedi’i chyfrif mewn termawr meintiol ymwmneud, mae’r dangosyddion ymwmneud yr holl dduddfaliadau, ac mae’n hollbwysig bod yr Comisiynwyr yn ddefnyddio amser i gyfrifol yr holl dduddfaliadau. Yn olaf, mae’r ystadegau hynny’n ceisio mesur perfformiad ymwmneud yr holl dduddfaliadau, ac mae’n hollbwysig bod yr Comisiynwyr yn ddefnyddio amser i gyfrifol yr holl dduddfaliadau.
Lle mae’r apeliadau hyn yn cynyddu, gellid disgwyl i waith ar ei hanner y Comisiynwyr hefyd gynyddu.

Fodd bynnag, dros y ddwy flynedd diwethaf, nid yw nifer yr apeliadau i’r tri-bwnlysoedd wedi cynyddu. Maent wedi aros yn weddod gyson, ac wedi lleihau fy mryn. Ychwaith, nid yw cyfran yr apeliadau a anfonir ymlaen wedi cynyddu, gan aros yn weddod gyson (h.y. tua 2% ar gyfer yr holl fudd-daliadau ar wahân i Lwfans Byw i’r Anabl, lle mae’r gyfradd ymlaen wedi cynyddu tua 6%). Er gwaetha’r cysylltiaid hanesyddol, ni all y ffigurau hyn egluro’r cynnydd yn y gwaith ar ei hanner sydd gan y Comisiynwyr.

Ymddengys y gallai’r ffactorau canlynol egluro’r cynnydd.

(i) Dros y ddwy flynedd diwethaf, mae Swyddfa'r Comisiynydd yn Llundain wedi dioddef o ganlyniad i leihad yn nifer y staff. Nid yn unig y mae llai o staff ond, yn greiddiol, mae profiad wedi cael ei golli o’r swyddfa wrth i staff a fu yno ers tro symud ymlaen i borsefudd newydd. O ganlyniad, cafwyd oedi sylweddol iawn weithiau gyda’r gwaith papur. O’i gymharu â tharged o brosesu’r holl waith papur, cafwyd adegau pan aeth hyn yn 3-4 wythnos. Ac ystyried bod llawer o waith y Comisiynydd yn waith papur, mae effaith yr oedi hwn ar achosion unigol wedi bod yn bur sylweddol.

Yn dilyn trafodaethau rhwng y Swyddfa a’r farnwriaeth, mae mesurau bellach wedi eu cymryd i sicrhau bod yr ol-waith hyn yn cael ei glirio a’r targed yn cael ei gwrdd yn y dyfodol. Mae hyn yn brosiect mawr hirdymor, ond mae’r ol-waith wedi lleihau ers Ebrill 2007 a’r gobaith y bydd y targed ar gyfer proesiwr’i holl waith papur yn cael ei gwrdd o fis Ionawr 2008 ymlaen.

(ii) Mae nifer y diwrnodau barnwrol sydd ar gael wedi lleihau’n ddramatig yn y blynynaddoddi diwethaf. Mae pum Comisiynydd wedi ymddeol ac ni ddaeth neb yn eu lle, gyda neb wedi’i benodi i’r swydd ers 2001. Mae dau Comisiynydd wedi dechrau gweithio’n rhan amser, un ers y cyfnod y soniwn amdano yn yr adroddiad hwn. Mae Comisiynydd arall wedi marw. Ar wahân i farwolaeth driost ac amnisgwyll Miss Comisiynydd Ffemml, mae colli’r diwrnodau barnwrol hwn ymwneud â’r ddifiateg y byddan nhw’r gwaith papur a rhywbeth ers Ebrill 2007 fan bellaf ym Mharch 2007. Mae oedi wedi digwydd yn sglig sefydlu’r Comisiwn Penodiadau Barnwrol, ac mae’n siom enfawr ar ddisgwyliau penodiadau bellach cyn tynnu’r mwy o araf hyn gan yr Adran Materion Cyfansoddio (fel yr oedd bryd hynny) yn y cais blynynaddol am gystadlaethau bod penodiadau bellach cyn tynnu’r mwy ym Mharch 2008. Mae hyn yw enghraifft o waith y barnwrol ar hynny.

Yn y cyfamser, rhoddwyd baich trymach o waith achos barnwrol ar Comisiynwyr a Dirprwyyn ar adeg (oherwydd raglen diwygio’r tri-bwnlysoedd a mentrau eraill) pryd y mae llwyth cynyddu o waith gweinyddol gan y Comisiynydd. Gwnaed trefniant â’r Tribiwnlys Apeliadau Nawdd Cymdeithasol a Chynnal Plant, sy’n galluogi cadeiryddion bydd hefyd yn Ddirprwy Comisiynwyr i eistedd am gyfnodau maith yna’r cyngoth hwn i helpu gyda’r gwaith. Yr wyf yna’r ddiolchgar dros ben i Lywydd Dros Dro’r tribiwnlys am y cymorth mawr hwn sydd wedi rhoi’r amser sy’n ei hyn.

(iii) Mae hefyd wedi bod yn anffodus, yn ystod y cyfnod anodd hwn i’r Comisiynwyr, nad wyf wedi gallu rhoi’r amser i fy swydd fel Prif Comisiynydd y byddwn yn hoffi bod wedi’i roi, a’r amser sy’n

Y Comisiynwyr Nawdd Cymdeithasol A Chynnal Plant

Adroddiad Blynyddol 2006-7

RHAGAIR
Yr wyf yn hynod ddiolchgar i'r holl Comisiynwyr hynny sydd wedi dirprwyo drosof tra'r wyf wedi bod yng Nghymru. Mae llawer wedi gwneud rhywbeth a rhai wedi gwneud llawer iawn, ond heb mwy na Mr Comisiynydd Rowland sydd wedi gwneud llwyth o waith ychwanegol, yn enwedig ar y rhaglen diwygio’r tribiwnlysoedd. Mae dyled y Comisiynywr yn gyffredinol (ond myf y hun yn enwedig) yn drwm iawn iddo.

Yr wyf yn falch bod trefniadau yn awr wedi cael eu gwneud i ddychwelyd at fy swydd fel Prif Comisiynydd ym llawn amser o’r 1 Ionawr 2008 ymlaen, ac edrychaf ymlaen at arwain yr awdurdodaeth i'r oes dribiwnlysoedd newydd y sonnai amdani isod.

(iii) 
Yn olaf, dros y pedair blynedd diwethaf mae profiwl gwaith y Comisiynywr wedi newid. Mae rheolaeth achosion – gan gynnwys dull mwy cadarn o ddelio â cheisiadau am yr hawl i apelio – a phenderfyniadau o ansawdd gwell fel y nodir isod (sydd ynddo’n gyffredinol) wedi golygu bod yr apeliadau sy’n cael eu gwneud yng Nghymru, ar y cyfan, yn fwy cymhleth nag oeddent yn hanesyddol. Mae cyfran yr achosion sy’n seiliedig ar ‘ffeithiau a rhesymol’ cymharol syml, er yn mynd yn uchel, wedi lleihau – gyda mwy o achosion sy’n seiliedig ar faterion mwy cymhleth. Mae hyn yn galonogol – ond mae hefyd wedi golygu bod achosion unigol yn cymryd mwy o amser i gael eu hystyried.

Mae’r ffactorau hyn oll wedi cyfrangu at gynnydd, o un mis i’r llall, yn y gwaith sydd ar ei hanner dros y ddwy flynedd diwethaf, wedi’r bwyd gwneud i gael eu hystyried, ac er y bydd drwy droi’r duedd hon yn yr holl hanner dros y 12 mis nesaf.

Rhadlen Diwygio’r Tribiwnlysoedd

Gwelodd yr holl diwygio’r tribiwnlysoedd. Ar ddechrau’m i gyfenw, mae’r unigolion y byddai digon o amser i gynnal yr ystyried o Mesur: ond yr holl tuedd sydd wedi’r bwyd gwyddonol, nid oedd sail i’n hollol iawn. Achubwyd yr holl tuedd ym 2008 i gyflawni Mesur, a derbynwyd yr Cydsyniad Brenhinol ar gyfer Deddf Tribiwnlysoedd, Llysoedd a Gorffodi 2007 yng Nghymru a De Cynllun bydd yr ystyried yno.

O dan yr holl diwygio, mae’r Adroddiad Blynyddol 2006–7 yn dangos’r holl principaethau sy’n cael eu hystyried, a chytgynnwys yr holl principaethau sy’n cael eu hystyried. Erbyn hynny, mae’n fwy bwyd a chynhyrchu gan y ddwy flynedd diwethaf. Mae’n golygu bod yr ystyried yno’n debyg wedi’r bwyd gwyddonol, nid oedd sail i’n hollol iawn. Achubwyd yr holl tuedd ym 2008 i gyflawni Mesur, a derbynwyd yr Cydsyniad Brenhinol ar gyfer Deddf Tribiwnlysoedd, Llysoedd a Gorffodi 2007 yng Nghymru a De Cynllun bydd yr ystyried yno.

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FORWARD

Adroddiad Blynyddol 2006-7

Y Comisiynwyr Nawdd Cymdeithasol A Chynnal Plant

RHAGAIR

O dan yr Uwch Lywydd Tribiwnlysoedd, bydd y tribiwnlys newydd yn cydlynu o’r newydd y gyfraith a'r gweithdrefnau gweinyddol a ddefnyddir gan dribynlysosedd, ac mae’r Comisiynwyr yn croesawu hyn yn fawr iawn ac yn gwbl ymrwymedig i’w lwydiant. Mae’r Ddeddf yn deyrnged i’r cydweithrediad rhwng y gwahanol randdeiliaid, gan gynnwys barnwriaeth y tribiwnlysoedd sydd wedi cyfrannu mewn bwna sylwedol i’r egwyddorion y tu ôl i’r darparaethau statudol. Er i’r gwaith fod yn llafurus, mae’r cynnyrch ar ei ddiweddi i’w gannol. Mae’n mwynhau cefnogaeth lwyr y Comisiynwyr, ac yn wir barnwriaeth y tribiwnlysoedd yn gyffredinol. Yr wyf yn ffyddiog y bydd hyn yn parhau unwaith y daw’r Ddeddf i rym: a, gyda’r Comisiynwyr eraill, edrychaf ymlaen at sialensiau a chyffrediodd y cyfrnod newydd hwn.

Datblygiad y Gyfraith

Fel y dywedais uchod, un o brif rolau’r Comisiynwyr yw datblygu corff cydlynol o gyfraith fudd-daliadau. Yn fy absenoldeb yng Nghymru, mae’r Comisiynwyr wedi parhau i wneud penderfyniadau i’r perwyl hwn, ac mae ansawdd a nifer yr achosion yn dystiolaeth y hynny.

Fodd bynnag, ers fy mhenodi i Gymru, ychydig iawn o Dribiwnlysoedd Comisiynwyr sydd wedi cael eu galw i ddelio â materion arbennig o anodd. Yn fy marn i, byddai sawl maes o’r gyfraith fudd-daliadau (gan gynnwys y darparaethau ar gyfer y lluoedd arfog) yn elwa o eglurder ac arweiniad gan dribynlys Comisiynwyr: a bwriadaf alw ar dribynlysosedd i’i dechrau delio â’r rhain ar ôl i mi ddychwelyd ym mis Ionawr.

Miss Comisiynydd Christine Fellner


Nid yw ond yn iawn fy mod yn achub ar y cyfle hwn i dalu teyrnog i’r gwasanaeth a roddodd Christine Fellner fel barnwr tribiwnlys. Yn ogystal â’i harbenigedd cyfreithiol, daeth â chryn brofiad a synnwyr cyfrefin i’n hawdur. Mae’n chwith iawn ar ôl Christine, nid yw unig gan y Comisiynwyr, ond gan bawb sy’n gweithio yn a chydha’n hawdur. Anfonwn ein cydymdeimlad a’n dymuniadau gorau oll i’w theulu.

Mr Comisiynydd Robert Angus


Roedd taith Robert Angus i fod yn Comisiynydd yn debyg i un Christine Fellner sef drwy’r tribiwnlysoedd isod, er ei fod yn dwrne yn yr Alban cyn dod yn farnwr tribiwnlys yn Lloegr, ac yn dystiolaeth fyw o hyblygrwydd sy’n nodweddiad o farnwriaeth y tribiwnlysoedd. O’r herwydd, mae wedi’i fendithio â nodweddiad twnne Albanaid da, a synnwyr drigwch sy’n nodweddiad Albanaid y byddwn i gyd yn ei golli. Dymunwn ymdeoliad hir a hapsus iddo yn ei hoff fro yn Northumberland.

Ei Anrhydedd y Barnwr Gary Hickinbottom
Prif Comisiynydd Nawdd Cymdeithasol a Chynnal Plant Pryda
Medi 2007
Introduction

This is the fifth Annual Report of The Commissioners’ Office (formerly known as The Office of Social Security and Child Support Commissioners) for the period April 2006 to March 2007 and is written jointly by the Tribunal Secretaries in London and Edinburgh. Within this report you will find an analysis of our performance over the past twelve months profiled against the offices’ yearly targets.

By way of introduction it may be helpful at the outset to explain how the jurisdiction operates judicially and administratively, as well as give an overview of the different types of cases that the Commissioners have jurisdiction to deal with. The Commissioners have two offices where appeals can be registered and processed, in London and Edinburgh. The London office is managed under the Tribunals Service, part of the newly formed Ministry of Justice; the Edinburgh office is managed by the Justice Department of the Scottish Government. 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 Social Security and Child Support Appeal 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. Additionally Commissioners now hear appeals relating to Pensions Appeal Tribunals decisions in War Pensions Scheme cases (except assessment decisions) and Armed Forces Compensation Scheme cases.

An appeal to a Commissioner may 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 15 salaried British Commissioners, including the Chief Commissioner. The Commissioners have diverse legal backgrounds being drawn from practising Queen’s Counsel, senior advocates, barristers and solicitors, academic lawyers and former Social Security and Child Support Appeal Tribunal chairmen. In addition to the Commissioners, 14 part-time Deputy Commissioners sat in the year 2006-2007, generally for 3-4 weeks.

As well as their work in this jurisdiction, some Commissioners continue to sit on other tribunals (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.
INTRODUCTION

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 video-conference facilities, which are used, for hearings with each party being linked through facilities convenient for them.

The tribunal has continued to develop its website, which has become increasingly important means of communication with those who appear before the 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.

The year has brought many challenges to both the office and judiciary and we hope that this report will give an accurate picture of this. We would also like to give thanks to Clare Zubler, who became the newly appointed Tribunal Secretary for the London office during the year and has since moved to a new post within the department. Clare has worked within the Commissioners’ Office for a number of years, working in many different capacities. We would like to pass on thanks to her for the hard work and commitment she has given the tribunal in that time and give her our best wishes for the future.

We think it would be only right for us to also thank the efforts of the administrative staff who offer an invaluable service to the Commissioners and our customers. Their work and continued support during last year is very much valued.

Jane White
TCO Secretary (London)

Susan M. Niven
TCO Secretary (Edinburgh)
The Commissioners’ Office 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 Tribunals Service Business Plan.

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 Commissioner’s decisions within 5 working days of receipt from the Commissioner.
• Telephone to be answered weekdays between 9am and 5pm.
• Telephone to be answered within 5 rings.

In addition to the above a customer can expect:

• All details and information to 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.
• Oral hearings 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 Welsh at the claimant’s option.
Workload and Performance

As demonstrated in the tables below, the workload of the London Office showed an increase in receipts for the year 2006-2007, by a total of 423. The office disposed of 5689 cases during the year compared to 5573 in the year 2005-2006. Total outstanding cases stood at 1699 at the end of March 2007.

Receipts and Disposals

Applications

3915 applications were received between April 2006 and March 2007, compared with 3813 the previous year. The number of applications disposed of also rose over the same period, from 3619 to 3812.

![Applications received 2005/06 v 2006/07](image)

![Applications disposed - 2005/06 v 2006/07](image)
Appeals
Receipts of appeals increased from 1864 to 2185 in the period April 2006 and March 2007, while appeals disposed decreased from 1854 to 1844 in the same period.
Average Waiting Times
During the year 2006-2007 the average waiting time from application to ruling was 11.1 weeks compared with an average of 7.9 weeks in the previous year.

The increase was due to unforeseen issues surrounding judicial and staff availability and steps are in place to rectify this in the coming year.

The average waiting time for appeal to final decision was 20 weeks, which was the same as last year’s average and in line with our 20 week target.
Disposal of Cases - Application to Ruling

The average percentage of cases dealt with within 10 weeks over the year stood at 75.6% against a target of 80%. The reason we have not met this target is set out in the explanation above.

Application to Ruling

Cases issued from 1 April 2006 to 31 March 2007 - breakdown by age

Cases sorted by no of weeks to decision and categorised as % of total cases decided
Disposal of Cases – Leave granted/new appeal to decision

The average percentage of all cases dealt with within 20 weeks was 74.2% against a target of 70%.

Leave Granted/New Appeals to Decision

cases issued from 1 April 2006 to 31 March 2007 - breakdown by age

Cases sorted by no of weeks to decision and categorised as % of total cases decided
Disposal of Cases- Receipt to Disposal (End-to-end)

The average percentage of all cases dealt with within 30 weeks was 92.9% against a target of 85%.
Since May 2006 the percentage achieved has consistently been at 90% or above each month

**Total of All Cases Disposed Of**
cases issued from 1 April 2006 to 31 March 2007 - breakdown by age
Cases sorted by no of weeks to decision and categorized as % of total cases decided

<table>
<thead>
<tr>
<th>% of cases</th>
<th>Apr-06</th>
<th>May-06</th>
<th>Jun-06</th>
<th>Jul-06</th>
<th>Aug-06</th>
<th>Sep-06</th>
<th>Oct-06</th>
<th>Nov-06</th>
<th>Dec-06</th>
<th>Jan-07</th>
<th>Feb-07</th>
<th>Mar-07</th>
</tr>
</thead>
<tbody>
<tr>
<td>% issued 0-20 weeks old (0-100 days)</td>
<td>82%</td>
<td>86%</td>
<td>86%</td>
<td>88%</td>
<td>91%</td>
<td>90%</td>
<td>92%</td>
<td>89%</td>
<td>92%</td>
<td>84%</td>
<td>84%</td>
<td>79%</td>
</tr>
<tr>
<td>% issued 21-25 weeks old (101-125 days)</td>
<td>3%</td>
<td>3%</td>
<td>4%</td>
<td>4%</td>
<td>2%</td>
<td>5%</td>
<td>2%</td>
<td>4%</td>
<td>6%</td>
<td>6%</td>
<td>8%</td>
<td></td>
</tr>
<tr>
<td>% issued 26-30 weeks old (126-150 days)</td>
<td>2%</td>
<td>1%</td>
<td>4%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
<td>4%</td>
<td>6%</td>
<td>6%</td>
<td>5%</td>
</tr>
<tr>
<td>% issued 31-35 weeks old (151-200 days)</td>
<td>5%</td>
<td>4%</td>
<td>3%</td>
<td>4%</td>
<td>2%</td>
<td>7%</td>
<td>3%</td>
<td>5%</td>
<td>6%</td>
<td>9%</td>
<td>6%</td>
<td>7%</td>
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<tr>
<td>% issued 36-40 weeks old (201-250 days)</td>
<td>2%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>% issued 41-45 weeks old (251-300 days)</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
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<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>% issued 46-50 weeks old (301-350 days)</td>
<td>3%</td>
<td>2%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>% issued 51-55 weeks old (351-400 days)</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
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</tbody>
</table>

Work Targets for 2007/2008

Key Performance Indicator
- 75% of all cases to be disposed of within 30 weeks.

Supporting Indicators
- 75% of applications to be disposed of within 10 weeks.
- 75% of appeals to be disposed of within 20 weeks.

Note: The Key Performance Indicator has been altered to bring into line with a standardisation of Key Performance Indicators across the Tribunal Service.
Financial Performance

The 2006-2007 financial allocation provided to The Commissioners’ Office was £4,054,640 to cover its business for the year. There was an underspend of 2% for the year due to efficiency savings that were applied across the Tribunal Service.

<table>
<thead>
<tr>
<th>Budget Head</th>
<th>Budget £’s</th>
<th>Expenditure £’s</th>
<th>Variance £’s</th>
<th>Variance %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries*</td>
<td>1,062,439</td>
<td>1,047,738</td>
<td>14,701</td>
<td>1%</td>
</tr>
<tr>
<td>Administrative Costs**</td>
<td>143,963</td>
<td>137,589</td>
<td>6,374</td>
<td>4%</td>
</tr>
<tr>
<td>Programme Costs***</td>
<td>2,848,238</td>
<td>2,770,769</td>
<td>77,469</td>
<td>3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>4,054,640</td>
<td>3,956,096</td>
<td>98,544</td>
<td>2%</td>
</tr>
</tbody>
</table>

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

- Implementation of a staff rotation plan and cross training on job skills across the tribunal.
- Learning and Development Day for all staff.
- Creation of a new Diary Managers post to manage the use of hearing rooms. The objective being to increase hearing room utilisation and improve availability of facilities.
- Improvements to hearing facilities at Harp House in response to customer feedback. This includes the availability of a consultation room for parties on the day of the hearing and redecoration of the waiting area and hearing room.
- IT Refit of all judicial and staff workstations, including introduction of PC into the hearing room for use of the Commissioner during the hearing.

Objectives for 2007-2008

- Planned introduction of new management team.
- Undertake review of all Standards and Processes with a view to enhancing case management.
- Achieve reaccredidation of Charter Mark award along with the other Procession House Tribunals.
The Commissioners’ Office in Scotland

Objectives
The intention of the 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 Friday between 9am – 4pm.

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

<table>
<thead>
<tr>
<th></th>
<th>2004 – 05*</th>
<th>2005 – 06*</th>
<th>2006 – 07*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications**</td>
<td>3.9</td>
<td>4.5</td>
<td>3.4</td>
</tr>
<tr>
<td>Appeals***</td>
<td>14.5</td>
<td>17.2</td>
<td>12.5</td>
</tr>
</tbody>
</table>

* 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

Waiting times for both applications and appeals have improved this year. It should be noted in this context that there has been a decrease in the numbers and the absence of blocks of cases, such as Gillies, awaiting a decision in a leading case before the Court or the Commissioner. Prompt lodging of submissions and responses from the various Departments, the Representatives and claimants has meant that this office has been able to deal expeditiously with our case load. This contribution by parties appearing before the Commissioners is acknowledged and appreciated.

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

**Moving**

In early July 2006, after nearly 58 years, The Commissioners’ Office in Scotland moved from Melville Street into a new Court and tribunal centre in central Edinburgh along with five other organisations. The move went smoothly, allowing the Office to be up and running within a day of the actual move date.

**The Unified User Group for Scotland**

A joint user group with the Tribunal Service and the Pensions Appeal Tribunal was held in Glasgow in February. Disappointingly, attendance by representatives and other organisations was lower than could have been expected. However, several issues were raised at the meeting and for those attending these proved useful. The frequency of the user group meetings was also discussed and as a result a further user group meeting will take place later this year in Dundee.

**Visitors**

The Advocate General for Scotland visited the Commissioners at their new offices in George House.
Workload and performance

The workload of The Commissioners’ Office in Scotland fell at the beginning of the 2006/07 financial year; particularly the number of applications received. This trend continued for the rest of the year, with the exception of January 2007, when a total of 73 applications were lodged. The grants of leave were also down. The number of appeals received remained relatively steady throughout the year, though still down on previous figures. The total outstanding caseload stood at 68 cases at the end of March 2007.

In addition, to the above caseload the Commissioners’ and Deputy Commissioners’ in Scotland disposed of 90 appeals forwarded by The Commissioners’ Offices in London and Northern Ireland.

Receipts and Disposals

Applications

The number of applications received during April 2006 and March 2007 fell from 808 to 625. The number of applications disposed of also decreased from 806 to 640.

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<tbody>
<tr>
<td>2005/06</td>
<td>66</td>
<td>61</td>
<td>83</td>
<td>71</td>
<td>46</td>
<td>56</td>
<td>63</td>
<td>56</td>
<td>76</td>
<td>68</td>
<td>78</td>
<td>84</td>
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<tr>
<td>2006/07</td>
<td>51</td>
<td>54</td>
<td>52</td>
<td>53</td>
<td>53</td>
<td>49</td>
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<td>55</td>
<td>48</td>
<td>73</td>
<td>39</td>
<td>44</td>
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Applications disposed – 2005/06 V 2006/07

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<tr>
<td>2005/06</td>
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<td>56</td>
<td>80</td>
<td>81</td>
<td>54</td>
<td>40</td>
<td>61</td>
<td>64</td>
<td>48</td>
<td>90</td>
<td>69</td>
<td>92</td>
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<tr>
<td>2006/07</td>
<td>61</td>
<td>51</td>
<td>51</td>
<td>59</td>
<td>48</td>
<td>48</td>
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<td>53</td>
<td>50</td>
<td>77</td>
<td>43</td>
<td>49</td>
</tr>
</tbody>
</table>
Appeals

As with the applications, both the number of appeals received and disposed of in 2006/07 fell in comparison to the previous year. The number of receipts fell from 424 to 357, while the disposals reduced from 449 to 393.

### Appeals received – 2005/06 V 2006/07

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<tbody>
<tr>
<td>2005/06</td>
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<td>25</td>
<td>43</td>
<td>49</td>
<td>32</td>
<td>24</td>
<td>31</td>
<td>29</td>
<td>29</td>
<td>34</td>
<td>50</td>
<td>38</td>
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<tr>
<td>2006/07</td>
<td>29</td>
<td>25</td>
<td>26</td>
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<td>33</td>
<td>29</td>
<td>28</td>
<td>27</td>
<td>42</td>
<td>26</td>
<td>32</td>
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</tbody>
</table>

### Appeals disposed – 2005/06 V 2006/07

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<th></th>
<th>Apr</th>
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<tbody>
<tr>
<td>2005/06</td>
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<td>36</td>
<td>33</td>
<td>36</td>
<td>40</td>
<td>31</td>
<td>44</td>
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<td>2006/07</td>
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<td>25</td>
<td>34</td>
<td>36</td>
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<td>20</td>
<td>37</td>
<td>25</td>
<td>47</td>
<td>32</td>
<td>28</td>
<td>43</td>
</tr>
</tbody>
</table>
Average Waiting Times

Applications
The average waiting times for applications fell this year from 4.5 weeks in 2005/06 to 3.4 weeks in 2006/07.

<table>
<thead>
<tr>
<th></th>
<th>Apr</th>
<th>May</th>
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<td>2.9</td>
<td>3.6</td>
<td>2.1</td>
<td>15.1</td>
<td>9.5</td>
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<tr>
<td>2006/07</td>
<td>3.2</td>
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<td>3.3</td>
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<td>3.1</td>
<td>3.3</td>
<td>4.3</td>
<td>2.6</td>
<td>3.4</td>
<td></td>
</tr>
</tbody>
</table>

Average Waiting Times

Appeals
The average waiting times for appeals fell in 2006/07. The average waiting time figure for 2005/06 was 17.2 weeks and for the same period in 2006/07 the figure was 12.5

<table>
<thead>
<tr>
<th></th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
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<th>Oct</th>
<th>Nov</th>
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<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>13.6</td>
<td>12.1</td>
<td>14.8</td>
<td>7.7</td>
<td>11.5</td>
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<td>9.8</td>
<td>21.1</td>
<td>8.4</td>
<td>59.0</td>
<td>37.8</td>
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<tr>
<td>2006/07</td>
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<td>12.3</td>
<td>17.3</td>
<td>10.8</td>
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<td>18.4</td>
<td>9.4</td>
<td>8.3</td>
<td>9.5</td>
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</tr>
</tbody>
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Financial Performance

Now that The Commissioners’ Office in Scotland shares Court and tribunal premises at George House, in Edinburgh the budget for this office is managed centrally along with four other organisations. It is for this reason we are no longer able to provide a breakdown of the financial performance for this Office.
Contact Details
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

Tele: 020 7029 9850
Fax: 020 7029 9819
Minicom: 020 7029 9820
Email: osscsc@tribunals.gsi.gov.uk

Specific Contact Numbers
Tribunal Manager
Jane White 020 7029 9850

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

Tele: 0131 271 4310
Fax: 0131 271 4398

Email: ossc@ossc-scotland.org.uk
The Social Security and Child Support Commissioners of Great Britain (with dates of appointments)

The Chief Commissioner of Great Britain
His Honour Judge Gary Hickinbottom 29 September 2003

COMMISSIONERS
Douglas May QC 4 May 1993
Mark Rowland 27 September 1993
John Mesher 1 October 1993
Patrick Howell QC 19 September 1994
Robert Angus 3 April 1995, retired 1 April 2007
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, died 1 April 2007
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
Elizabeth Ovey 6 August 1997
Robin White 6 August 1997
Godfrey Cole 1 October 1997
Ann Ramsay 1 October 1997
David Burns QC 23 July 1998
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
His Honour Judge John Martin QC 1 December 2005
Moya Brown 1 December 2005