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Department of Social Security

Research Report No 129

Housing Benefit and the Appeals Service

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A report of research carried out by the Social Security Unit, Centre for Research in
Social Policy, Loughborough University on behalf of the
Department of Social Security

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First Published 2001.

ISBN 1 84123 294 7

Views expressed in this report are not necessarily those of the Department of Social Security or any other Government Department.

Printed by The Charlesworth Group (Huddersfield, UK).

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ACKNOWLEDGEMENTS

We would like to thank the 20 respondents who participated in this study for their time and hospitality.

Thanks are also due to Kirby Swales (the project liaison officer) and Gill Laishley at the Department of Social Security, and Teresa Cox and Mike Watson at the Appeals Service for their advice and support. Within the Centre for Research in Social Policy we wish to acknowledge the help of Angela Waite for organising transport and accommodation for the fieldwork visits and to both Sharon Walker and Julie Birch who helped to produce this report.

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SUMMARY

1 Introduction The review system, also known as appeals, allows Housing Benefit and Council Tax Benefit claimants to challenge the determinations made by local authorities. There are two stages to the review process: the first stage, known as an 'internal review', is conducted by local authority officers; the second stage, known as a 'further review', consists of a hearing conducted by a 'Review Board' which comprises local authority councillors. Throughout this report, the terms 'appeals' or 'appeals cases' refers to requests for an internal review or further review.

To bring the review system into line with arrangements for decision making and appeals in child support and social security, it is intended that the second stage of the review process will transfer from local authority Review Boards to the Appeals Service (Section 1.2).

The Centre for Research in Social Policy was commissioned by the Department of Social Security to conduct a study of current Housing Benefit/Council Tax Benefit appeals activity in local authorities (Section 1.3). The aim of the research was to inform the transfer of the second stage of the review process from local authorities to the Appeals Service.

The research involved nine local authority case studies. There were three elements to the research design: depth interviews with Housing Benefit managers and appeals officers (or equivalent); recording of details from cases which went to a Review Board hearing during the period April 1999 to March 2000; and collection of data on the volume of appeals activity. The fieldwork took place in August 2000.

The nine local authorities were selected to provide a range of local authority types, locations and experience of appeals activity (Section 2.2).

2 Organisation of appeals Within the nine case studies, a variety of staff structures for dealing with appeals was found. These ranged from local authorities with full-time designated appeals officers for both stages of the review process, to authorities with no designated appeals officers. The key difference between the different models of working was the amount of time that staff were able to dedicate to processing appeals cases. In the case studies without full-time appeals officers, work on appeals had to be fitted around other tasks, which for some authorities was problematic (Section 2.3).

There were similarities and differences in how each of the case studies administered appeals (Section 2.4). The key differences between the case studies were:

- The extent to which extra information was sought from appellants at the internal review stage – three of the case studies would sometimes invite appellants for an interview at this stage (Section 2.4.3).
- The extent to which extra information was sought from appellants at the further review stage (Section 2.4.5). This was done to prevent the problem of new information being presented by the appellant at the Review Board hearing, which, had the local authority known about beforehand, may have enabled them to revise their decision in favour of the appellant. All of the case studies operated an informal second internal review procedure when a request for a further review was received, but at one of the case studies it had been introduced as a formal procedure.

The case studies varied on the extent to which they publicised the review system – five out of the nine case studies went beyond their statutory requirements and produced explanatory leaflets (Section 2.5).

Some of the case studies were also more proactive than others in encouraging appellants to seek independent advice from welfare rights organisations (Section 2.6).

3 Appeals activity

Appeals cases, both internal reviews and further reviews, represent a very small proportion of all Housing Benefit claimants. However, the volume of appeals activity in a local authority cannot be accurately predicted solely from the size of the caseload (Section 3.2).

Other factors than caseload size can increase or decrease the recorded volume of appeals (Section 3.3). These include:

- tenancy type – 60 per cent of the case records were from private tenants (Section 3.3.1);
- changes to the Housing Benefit and Council Tax Benefit regulations could generate appeals (Section 3.3.2);
- local authority initiatives – two of the case studies were chasing up outstanding overpayments (Section 3.3.3);
- publicity and welfare rights organisations could lead to more appeals (Section 3.3.4);
- the quality of the administrative process – minimising errors at the benefits assessment stage, explaining fully to appellants the reasons why their internal review was refused, and ensuring that all the relevant information about a case has been gathered could minimise the number of appeals (Section 3.3.5); and
- how ‘internal review’ appeals are defined – two of the case studies did not include appeals against benefit assessment errors (Section 3.3.6).

Very few cases which are appealed at internal review proceed to a Review Board hearing (Section 3.4). The main reasons for this are that appellants succeed at the internal review stage (around 40–50 per cent) or appellants who are unsuccessful at internal review accept the decision. Of those that request a further review not all are taken to a Review Board hearing. There is a ‘whittling down’ process at this point where, for various reasons, the local authority may decide to revise its earlier decision. Five of the case studies considered the cost-effectiveness of taking a case to a Review Board hearing (Section 3.4.2).

The type of further review cases that were heard at a Review Board were:

- roughly divided between new and renewal claims;
- predominantly from private tenants (60 per cent); and
- roughly divided between appellants on Income Support/Jobseeker’s Allowance and those not (Section 3.5).

Appellants were thought to be more likely to be private tenants because there were more areas of discretion in the assessment of benefits for this group (Section 3.5.2).

The three main reasons why people appealed were: overpayments; date of entitlement (backdating); and contrived tenancies (Section 3.5.4). These areas were considered by respondents to be those where staff had most discretion.

4 Review Board hearings

The scheduling of Review Board hearings was largely determined by caseload size. Case studies with a large number of cases held them more frequently than those with few cases. Apart from one case study, hearings were held in the evening in council committee rooms. On average three Review Board members sat on each hearing. All of the case studies offered Review Board members some form of training. Half provided this internally and half used external training providers. Most of the case studies wrote very comprehensive decision letters, which contained detailed accounts of what was said at the hearing and how the Review Board came to their decision (Section 4.2).

Half of all Review Board hearings (49 per cent) were attended by the appellant and a fifth of hearings (22 per cent) were attended by a professional representative. However, in almost a third of cases (30 per cent) neither the appellant nor their representative attended the hearing (Section 4.3).

Local authorities’ decisions were upheld in the majority (59 per cent) of Review Board cases. A quarter (23 per cent) were overturned by the appellant and 17 per cent of hearings were adjourned. The presence of the appellant or a representative at the hearing did not affect the final

outcome of the case. Non-attendance of the appellant was the main reason given for adjournments. In turn adjournments contributed to delays and backlogs of cases. As a result, three of the case studies took extra measures to find out whether the appellant would be attending. One case study had introduced a policy for appeals to be heard in an appellant's absence (Section 4.4).

5 Meeting time targets

Under the Regulations, local authorities and appellants are given time targets for each stage of the appeals process. Not all of the case studies determined internal reviews within the 14 day time target. The main difficulty with meeting this target was a lack of staff resources, especially at the case studies which did not have designated officers for processing internal review requests (Section 5.2).

The case studies also accepted further review requests outside of the four week time target (Section 5.3).

The most problematic time target for local authorities was holding Review Board hearings within six weeks of receiving a further review request (Section 5.4). All of the case studies exceeded the time target in the majority of cases, and three of the case studies had not held any Review Board hearings within the six week time limit. The main difficulty in meeting this time target was the availability of Review Board members for hearings. At three of the case studies this was partly because there was only a small pool of members. Local elections also caused delays because once elected any new Review Board members then had to be trained (Section 5.5).

Four of the nine case studies had a backlog of cases waiting to go to a hearing. Numbers ranged from five to 30 (Section 5.6).

The key factors which appeared to influence how quickly Review Board hearings were held were: caseload size, the availability of councillors and local authority staff structures (Section 5.7).

6 The handover

Respondents were aware that the handover would be taking place but were not aware of the details of how the new set-up would work in practice (Section 6.2).

There was unanimous support for the handover (Section 6.3). The main perceived advantages were:

- independence from the local authority – there was thought to be a conflict of interest between being a councillor and being a Review Board member;
- the Appeals Service Judicial Officers' knowledge of the regulations – Review Board members were thought to lack the necessary expertise;
- consistent outcomes within a region and across the country; and
- less work for local authorities because they would not have to organise the hearings.

Only a few minor criticisms of the handover were voiced (Section 6.4): a loss of local context to appeals cases; a loss of staff time if not held locally; extra travel costs and time for appellants.

Most respondents thought that, on balance, the handover would not impact on the volume of further review cases. Having said that, a few respondents thought the handover might either increase or decrease the number of hearings (Section 6.5).

There were many areas on which respondents wanted more information about the practicalities of the handover (Section 6.7). These included:

- the format of case paper submissions;
- who would take on responsibility for ‘clerking’ hearings;
- the format of submissions – written representations or oral presentations;
- background on the Appeals Service and who would be sitting on the panel;
- how hearings would be scheduled;
- the cut-off date for transfer of cases to the Appeals Service;
- the set-up of hearings under the Appeals Service;
- publicity and who would produce it; and
- a contact point for help and advice with initial teething problems.

7 Conclusions

The research findings found parallels with those of Sainsbury and Eardley’s research on Housing Benefit Reviews in 1990 (Sainsbury and Eardley, 1991). For instance, that smaller authorities tended to have lower levels of appeals activity but that the volume of appeals cannot be accurately predicted from the size of the caseload (Section 7.2).

The research highlights several areas of best practice for local authorities (Section 7.3):

- the use of designated appeals officers;
- a focus on getting benefit assessments correct in the first instance; and
- the importance of informing appellants about the details they need to supply with their appeal request.

The handover of Review Board hearings to the Appeals Service also raises several new issues for local authorities (Section 7.3):

- a loss of staff time if hearings are held during the day; and
- possible renegotiations of contracts for local authorities where the administration of Housing Benefit has been contracted out to an external contractor.

Current practices and problems found in the case studies raises some issues for the Appeals Service that will need to be addressed (Section 7.4):

- adjournments of hearings because of non-attendance of appellants or representatives;
- new information arising at hearings; and
- some local authorities may need assistance with publicising the handover.

The research team believes that, on balance, the Appeals Service could expect to receive the same number of cases as at present. However, any changes to the backdating regulations could cause some fluctuations.

Overall, the handover to the Appeals Service was seen as a positive move. However local authorities will, for planning purposes, need detailed guidance on how the handover will work in practice (Section 7.5).

I INTRODUCTION

1.1 Overview

The Government is proposing to change how Housing Benefit and Council Tax Benefit appeals are dealt with. From April 2001 the intention is that the Appeals Service should have responsibility for most second tier or Review Board stage appeals. The Department of Social Security commissioned the Centre for Research in Social Policy to investigate local authorities' current practices in administering Housing Benefit and Council Tax Benefit appeals.

This chapter outlines the policy background to the research (Section 1.2). The research objectives and research design are then briefly discussed (Section 1.3). The chapter concludes by outlining the structure of the report (Section 1.4).

1.2 Background

1.2.1 Policy background

Housing Benefit and Council Tax Benefit are national welfare benefits administered by local authorities. Both benefits are payable to people who rely on social security benefits and to those in work who are on low incomes. This includes the elderly, lone parents and the unemployed.

The Housing Benefit/Council Tax Benefit review system enables claimants (or other affected persons¹) to challenge the determinations (or decisions) made by local authorities. The current review system, introduced in the Social Security and Housing Benefit Act 1982, operates in two stages. The first stage, known as an 'internal review', is conducted by local authority officers. Where differences are not resolved at internal review, there is a second stage of appeal, known as a 'further review'. Further reviews are conducted by a 'Review Board' which comprises local authority councillors.

In order to modernise the review system and to bring it into line with arrangements for decision-making and appeals in child support and social security (introduced under the Social Security Act 1998), it is intended that responsibility for conducting the second stage of the review process will transfer from local authority Review Boards to the Appeals Service.

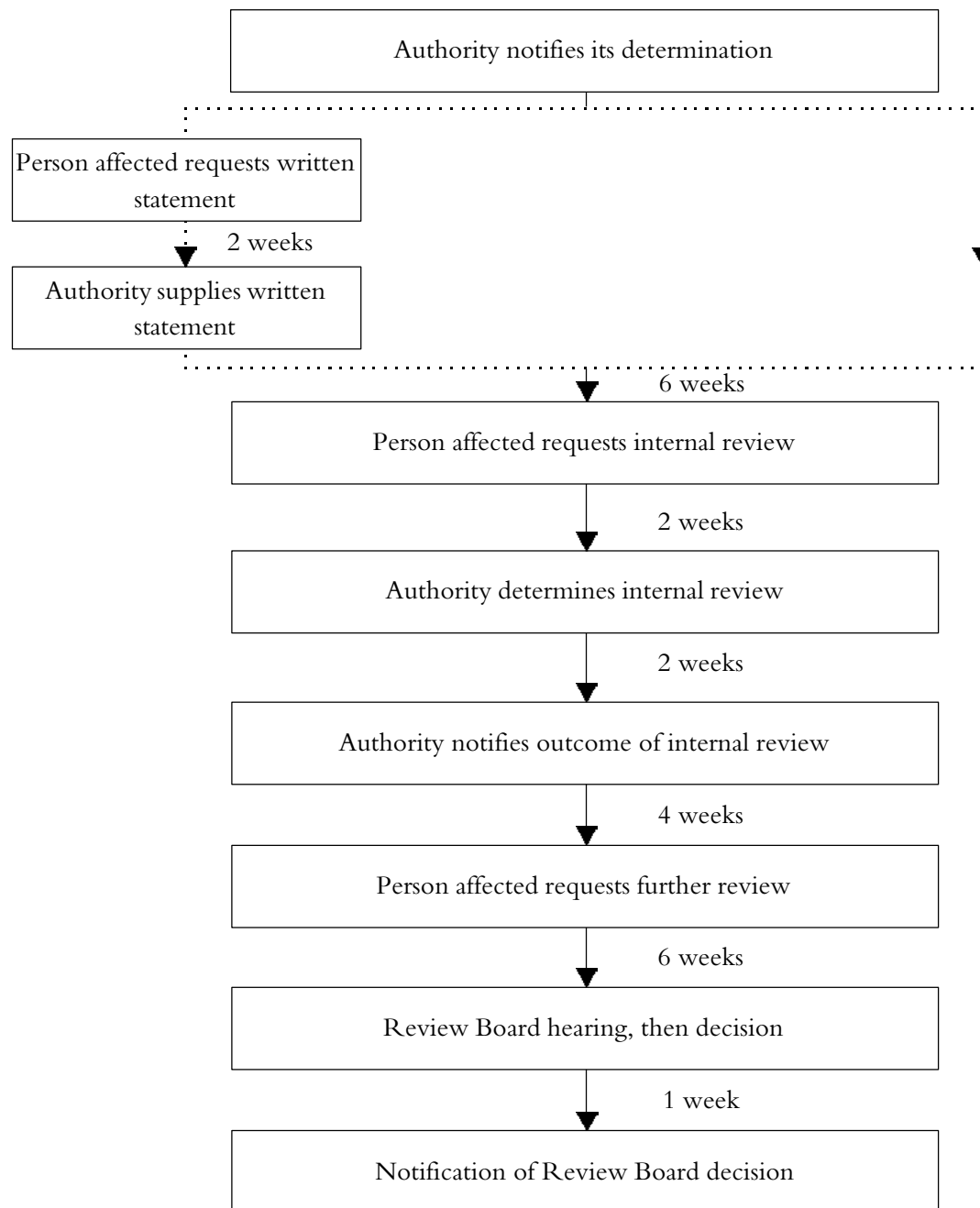
There will still therefore be a first tier stage in the appeals process when local authority officers review their decision. When the appeal cannot be resolved however it will be passed to the Appeals Service to be heard by an independent tribunal.

¹ Other affected persons can include a landlord, or a landlord's agent.

1.2.2 The Appeals Service The Appeals Service is an executive agency of the Department of Social Security which arranges and hears appeals on: Social Security; Child Support; Vaccine Damage; Tax Credit and Compensation Recovery. The Service is divided into two bodies: an executive agency responsible for the administration of appeals, headed by a Chief Executive who reports to the Secretary of State for Social Security; and an independent tribunal responsible for the judicial functioning of appeals tribunals, consisting of Judicial Officers, who are appointed by, and responsible to, the Lord Chancellor.

1.2.3 The appeals process Figure 1.1 shows the process for appealing against Housing Benefit/ Council Tax Benefit determinations under the current local authority system.

Figure 1.1 Housing Benefit and Council Tax Benefit appeal procedures and timetable



Source: Zebedee and Ward (1999)

The appeals procedure is governed by Housing Benefit Guidance Regulations 77 to 87 and Council Tax Benefit Regulations 67 to 76. The following are some of the main points contained within the regulations (full details of the appeals process is given in Zebedee and Ward, 1999 (pages 347–361):

- At any time a claimant or affected person can ask for a written statement from the local authority of the reasons for a determination.
- Requests for both appeal stages must be made in writing and written requests for second stage appeals must also state the appellants' grounds for appeal.
- The local authority (at internal review) or the Review Board (at further review) may extend the time limit within which written requests must be received for 'special reasons'. However, refusals to extend time limits are not open to appeal.
- Local authorities' notification letters to appellants of the internal review determination should inform appellants of their right to request a further review.
- The Review Board must comprise at least three local authority Councillors, or two if all parties agree.
- In the interests of justice any person affected may request a Review Board to set aside their decision if a relevant document was not received, or if an affected person was absent from the hearing.

1.2.4 Volume of appeals

Statistical information on the number of internal reviews and further reviews is limited. The statistical information that is available is shown in Table 1.1.

Table 1.1 Number of internal reviews and further reviews of Housing Benefit claims in Great Britain: 1994/95 to 1998/99

	1994/5	1995/6	1996/7	1997/8	1998/9*
No. of internal reviews requested (000s)	140	140	93	100	104
No. of further reviews requested (000's)	8.8	9.7	6.4	8.4	7.4

* provisional

Source: DSS

Table 1.1 shows a downward trend for both the number of internal reviews requested and the number of further reviews requested. The number of internal reviews requested has fallen by 26 per cent since 1994/5 and the number of further reviews requested by 16 per cent. However, it should be noted that any changes should be treated with caution because of the quality of the data.

The volume of appeals accounts for a very small proportion of the total Housing Benefit and Council Tax Benefit caseload size. The Housing

Benefit caseload size for February 2000 was 4.09 million (DSS, National Statistics, Press Release No. 00/244). Assuming that the volume of appeals for 1999/2000 is the same as for 1998/9 (as shown in Table 1.1), the number of requests for internal reviews would be equivalent to just 2.5 per cent, and the number of requests for further reviews less than 0.2 per cent of the total Housing Benefit caseload.

1.3 Research objectives and design

The transfer of the second stage of the appeals process from local authorities to the Appeals Service, is a complex and large-scale administrative change. To inform the transfer, the Department of Social Security commissioned the Centre for Research in Social Policy in July 2000, to conduct a study of current Housing Benefit/Council Tax Benefit appeals activity in local authorities.

1.3.1 Research objectives

More specifically the key objectives of the research were:

- to provide information on current levels and types of appeals activity;
- to identify good practice for the transition of the second review stage from local authorities to the Appeals Service; and
- to design questions for the Department of Social Security Omnibus Survey which will provide national estimates of the total number of appeals to be passed on to the Appeals Service.

1.3.2 Research design

The research involves nine local authority case studies. A sample of nine local authorities was selected to provide a range across four key variables:

- Local authority type (metropolitan and non-metropolitan).
- Region - to include London, Scotland and Wales.
- Political control.
- Number of Review Boards held.

The sample profile is shown in Appendix A.

The research involved three elements: qualitative in-depth interviews; collection of information from Review Board case papers; and collection of data on the volume of appeals activity. Fieldwork was conducted during August 2000.

The depth interviews were the main component of the research. Interviews were conducted with Housing Benefit managers and appeals officers (or equivalent). Appeals officers were members of staff who dealt with requests for internal reviews and/or further reviews. Some of the case studies had designated appeals officers, whilst at others internal reviews/further reviews were dealt with by team leaders. In local authorities where there were no appeals officers (or equivalent), substitutions were made where possible. In total, interviews were conducted with: nine Housing Benefit managers; seven appeals officers (or equivalent); two clerks to Review Boards; and two solicitors.

The interviews were based around a topic guide (see Appendix B) which explored:

- the administrative processes for dealing with appeals (internal review and further review);
- the timescales for administering appeals;
- reasons for the volume of appeals at internal review and further review;
- views towards the transfer of the second review stage to the Appeals Service in April 2001; and
- question areas for collecting quantitative data in the Department of Social Security Omnibus Survey.

The advantage of a qualitative approach is that it provides a depth and richness of understanding about behaviour and attitudes, and provides flexibility to explore in greater depth issues particular to a respondent. The main drawback is that sample sizes are often small.

At each local authority, details from case records, which went to Review Board hearing during the period April 1999 to March 2000, were recorded onto a pro-forma for quantitative analysis. At two local authorities which had each held 100 or more Review Boards during the time period, details were recorded for a random selection of records only. At one local authority the pro-forma for each case record was completed by the Housing Benefit manager. At all other authorities case record details were recorded by the research team. The information recorded included:

- case type;
- reason for appeal;
- appeal timings;
- hearing attendees; and
- hearing outcome.

Further details are given in Appendix D. In total, details were recorded for 182 case records.

A pro-forma was sent to Housing Benefit managers prior to the interview visit to collect data on the volume of appeals activity during the last financial year (April 1999 to March 2000). Housing Benefit managers were asked to record:

- the number of internal reviews requested;
- the number of internal reviews where the determination was reviewed within 14 days;
- the number of internal reviews where the determination was revised;
- the number of further reviews requested; and
- the number of Review Boards held.

Not all of the local authorities were able to provide this information.

1.3.3 Data analysis The analysis of the depth interviews is based on notes and transcriptions of the taped interviews. Qualitative data analysis involves looking for continuities and discontinuities in respondents' statements. This analysis looks at similarities and differences across the nine local authorities.

Verbatim quotes are included in this report to illuminate the views and accounts of respondents. Where appropriate the quotes have been 'smoothed' to make them more readable. This has been done by amending punctuation and removing some speech (signified by three dots '...'), and inserting words (identified by square brackets *[insertion]*). The meaning or sense of respondents' quotes has not, of course, been altered.

The data collected from the case records was analysed using SPSS. Descriptive statistics are presented. The data has not been weighted. Statistical tests have not been applied to the data as it is not drawn from a random sample of local authorities.

1.4 Structure of the report A background to the case studies, their staff structures and administration of the review process is presented in Chapter 2. In Chapter 3, data on the volume of appeals activity and type of appeals is presented, with a discussion of the factors which influence the volume of appeals activity at internal and further review stages. Chapter 4 focuses on the Review Board hearings, their set up, the attendees and outcomes. The timing of internal reviews and Review Board hearings is presented in Chapter 5 with a discussion of the reasons why delays occurred. In Chapter 6, respondents' views on the handover of Review Boards to the Appeals Service and the Human Rights Act are examined, with a discussion of the areas of guidance required by local authorities. Some conclusions based on the research are considered in Chapter 7.

1.4.1 Ensuring anonymity All of the respondents were promised anonymity and confidentiality by the researchers. Accordingly, only limited details are given about each of the respondents in both attributing the quotes and in Appendix A. At the end of each quote the respondent is given a number as a unique identifier, together with details of their job title. To preserve the anonymity of the participating local authorities, each local authority has been given an identifier letter from 'A' to 'I'.

2 ORGANISATION OF APPEALS

2.1 Overview

This chapter provides background information on the case studies (Section 2.2); a description of how staff structures are organised to process appeals requests (Section 2.3); and an outline of how the appeals process operates in practice (Section 2.4). A description of how local authorities publicised the review process is at Section 2.5, and the involvement of welfare rights organisations (Section 2.6) provides an insight into routes of public access to the appeals process.

2.2 A description of the nine case studies

The nine local authorities were selected to provide a range of local authorities in which the Housing Benefit/Council Tax Benefit review system operates. To preserve the anonymity of the participating authorities, only a brief outline of their main characteristics is given as follows:

Table 2.1 The nine case studies

Case study	Type	Location	Housing Benefit caseload 1998/99
A	Large urban	Scotland	15,000-20,000
B	Small outer London Borough	London	10,000-20,000
C	Large non-metropolitan	North of England	15,000-20,000
D	Large Metropolitan	Midlands	More than 30,000
E	Small non-metropolitan	South of England	Less than 10,000
F	Small non-metropolitan	North of England	15,000-20,000
G	Medium non-metropolitan rural	Midlands	Less than 10,000
H	Large urban	Wales	20,000-25,000
I	Large inner London Borough	London	More than 30,000

2.3 Models of working

Local authorities have discretion in how they organise the administration of the appeals process. Within the case studies there was a variety of staff structures for dealing with appeals. These ranged from authorities with full-time designated appeals officers responsible for all appeals at both internal and further review stages, to authorities with no designated appeals officers. The types of staff structures did not apply to any one particular type of authority. Nevertheless, four models of working were found:

- 1 Designated full-time officers at internal review and further review stages** – two of the case studies had designated full-time appeals officer(s) who dealt with all internal reviews and further reviews.
- 2 Designated part-time officers at internal review and further review stages** – one authority had separate officers designated to deal with internal reviews and further reviews, but none of whom worked full-time on appeals.

- 3 Designated part-time officers for further review stage only** – two of the case studies had designated appeals officers for dealing with further reviews which was part of a wider job remit. Appeals at internal review stage were dealt with by any one of a number of team leaders.
- 4 No designated appeals officers** – three of the case studies did not have any designated appeals officers. However, at two of these internal reviews were allocated to team leaders and further reviews were dealt with by benefit managers. In the third case study, which had a relatively small appeals caseload, both stages of appeal were dealt with by the benefits manager. Thus, even where an authority did not have designated appeals officers, appeals were processed by only a small number of usually more senior staff, such as team leaders.

As benefit assessments were usually made by junior members of staff and appeals dealt with by senior members of staff, each of the models of working met the guidance requirement that a different member of staff to the person who assessed the original claim, considers the appeal. In case studies where a team leader had assessed a benefit claim a different team leader was allocated to consider the appeal.

The key difference between the various models of working is the amount of time that staff were able to dedicate to processing appeals. In the case studies without full-time appeals officers, appeals work had to be fitted around other workloads and in some cases was not given priority over other work (such as the assessment of new claims) which was felt to be more important. This was recognised as a problem by some respondents from authorities without designated appeals officers, who felt that there was not enough time to allocate to appeals. A respondent from one of the case studies with designated appeals officers for both stages of the appeals process felt appeals officers had time to focus on appeals cases, even though they did not work full-time on appeals cases:

‘... they’ve got more time to give it [internal review cases] a thorough review ... whereas before it was intermingled with other work and it was difficult to give it the time it deserved.’

(16, Appeals Officer)

An advantage considered by one respondent of having full-time appeals officers was a more consistent approach to the processing of appeals and the development of expertise among the officers:

‘... we found it a lot better to have a common approach with three officers rather than a number of supervisors. They get to know case histories and ... can relate back to previous cases to help them with their decisions.’

(2, Benefits Manager)

Two of the case studies had client/contractor splits, whereby the administration of processing benefit claims was contracted out. In one of these case studies the in-house local authority team had won the contract

and appeals were divided into two areas: ‘discretionary’ appeals which were dealt with by the local authority officers and ‘non-discretionary’ areas which were dealt with by the in-house contractor. In the other case study the contractor was an external company. Under this structure the contractor could only make recommendations to the local authority to revise or uphold decisions at internal review stage or whether to take forward requests for further reviews to a Review Board. It was felt by the benefit manager (from the external contractor company) that this complicated and slowed down the appeals process.

2.4 Administration of appeals

2.4.1 *Requesting an appeal*

Under the regulations, appeals against a Housing Benefit or Council Tax Benefit must be made in writing at both internal review and further review stages. The regulations, however, do not define the form in which written requests must be made. Whilst all local authorities accepted a written letter, respondents at three of the case studies said they also accepted statements which are taken ‘over the counter’ by benefits advisors and then signed by the appellant. Some respondents were concerned that this represented a conflict of interest as a local authority could be accused by the appellant at a Review Board hearing of not recording all of the facts correctly. However, ‘over the counter’ statements were the easiest method of registering an appeal for people with poor literacy skills. At one of the case studies signed statements were estimated to account for around 80 per cent of all requests for appeal.

Other alternatives to a written letter of request included: one case study which produced an appeals information leaflet that included a standard form, which appellants could tear off and complete; and another authority which had recently started accepting e-mail requests.

2.4.2 *Acknowledgement of appeals requests*

Requests for internal reviews tended not to be acknowledged by local authorities in writing. Three of the case studies would only acknowledge a request if they were experiencing delays in processing requests, and just one case study acknowledged requests for internal reviews as part of an authority-wide system applied to all post. Most of the case studies acknowledged requests for further reviews, which was done by either the officers who dealt with further reviews or by the clerk to the Review Board.

2.4.3 *Processing requests for internal reviews*

At internal review the role of appeals officers or team leaders was to check that the claim had been assessed correctly and to consider the appellant’s reasons for appeal e.g. whether they had shown good cause for having a claim backdated and supplied sufficient evidence. Three of the case studies at this stage might invite an appellant to an interview to discuss their case. This provided the local authority with an opportunity to obtain more information from the appellant in support of their appeal, and to explain to the appellant how a claim had been assessed and the regulations upon which it was based.

2.4.4 Notification of internal review outcomes

Appellants were notified in writing of the internal review outcome. The letter was written by the officer or team leader who conducted the review and was then signed either by the appeals officer or benefit manager, and in two of the case studies by the finance director. Some respondents emphasised the amount of time and care taken to ensure that a detailed and comprehensive explanation of why an appeal had been refused was given. Some of the case studies attached copies of, or quoted sections of, the regulations pertaining to the appeal.

2.4.5 Processing requests for further reviews

Although formally there is only one internal review stage, in practice an informal second internal review procedure operated when a request for a further review was received. A case would be re-examined, either afresh by a further review officer or benefit manager, or again by the officer who determined the internal review, to assess whether the determination made at the internal review should be upheld and the case taken to a Review Board hearing or revised. Decisions made at this stage by appeals officers were passed to a benefits manager for approval.

Many respondents mentioned that alongside a request for a further review new information/evidence is often submitted by the appellant or an independent advice agency to support the appeal. A case will then be reviewed again in light of this new information and the decision made whether to proceed with the case to a Review Board hearing.

A few of the case studies might at this stage invite an appellant to an interview to ensure that all relevant information and evidence had been obtained. This is conducted to avoid the situation of the appellant providing new information/evidence at the Review Board hearing, which, if known, would have enabled the council to revise the case in favour of the appellant. This was a problem mentioned by many respondents. At one of the case studies, the ubiquity of this problem prompted them to introduce a formal second internal review procedure. Appellants were sent a form with the (first) internal review determination letter that gave them a choice of three options: to attend an interview; to supply further written evidence in support of their case; or to proceed directly to a Review Board hearing.

2.4.6 Organisation of Review Board hearings

Once the decision had been made by the benefit manager to proceed with an appeal to a Review Board hearing, the clerk to the Review Board was notified and the appeals officer or benefit manager (depending on the staff structure) prepared the case papers. The case papers passed to the clerk included: a summary of the case; copies of all correspondence and relevant documents; and copies of the relevant regulations. Some respondents emphasised the amount of work involved in ensuring that the case papers were of a high standard. They had to produce a detailed summary of the case history and ensure that there were no missing documents.

The role of the clerk prior to the hearing was to: schedule a time, date and venue; notify the appellant, any representatives and the Review Board members of the hearing; and send them copies of the case papers.

2.5 Publicity

Local authorities are statutorily required to include in a Housing Benefit or Council Tax Benefit determination notice a statement of the right to appeal. Similarly, notification letters of internal review outcomes must include a statement of the right to request a further review. The research investigated the extent to which local authorities went beyond the minimum statutory requirements of informing claimants (or other affected persons) of their right to appeal.

Five case studies went beyond the statutory requirements and produced an appeals leaflet. The leaflets informed people of their right to appeal and outlined the appeals procedure. The view of one respondent was that leaflets also made people feel more comfortable about appealing against a decision. At one of the case studies the leaflet also acted as an appeals request form. Leaflets were made generally available at reception areas in council offices and two of the case studies included them in internal review determination letters to appellants. Of these five case studies, two also produced a poster. There was no variation in the type of authority that published appeals leaflets. They included large as well as small authorities across each region.

2.6 Welfare rights organisations

Welfare rights organisations were another route of access to the appeals process. All of the case study areas had experience of local organisations, such as Citizens Advice Bureau (CAB), Shelter, or the local authority's own welfare rights unit being involved in appeals cases. However, three of the case studies were particularly pro-active in recommending appellants or potential appellants seek their advice. Respondents at two of the case studies described their relationships with local advice agencies as being very good and suggested people seek their advice if they were visiting the authority in person for 'over the counter' advice. One of the case studies was very pro-active in encouraging people to seek advice from the authority's own welfare rights unit. Leaflets about the welfare rights unit were included with internal review notification letters. When requests for further reviews were received a letter about the unit, with a form, was sent to appellants by the Review Board clerk. Appellants were asked to return the form if they wanted advice.

Respondents who had developed strong links with local advice agencies believed that because such bodies were independent this avoided the potential conflict of interest when a local authority advised an appellant:

'We would obviously prefer that a client writes a [review board request] letter themselves or went to an advice agency ... because when it goes to the review board hearing it can be difficult ... if the client says, 'I also said this and I also said that' and it isn't in the statement that our advisor took.'

(3, Benefits Manager)

2.7 Conclusion A variety of models of working, administration processes, and promotion of the appeals system was found across the case studies. The main differences between the case studies were: whether or not they had designated appeals officers; whether or not they sought additional supporting information from appellants through interviews; and the extent to which they promoted access to the appeals system through publicity and links with welfare rights organisations. The differences found did not apply to any one particular type of local authority.

3 APPEALS ACTIVITY

3.1 Overview This chapter presents the data collected on the volume of appeals activity in each of the case studies (Section 3.2) and provides an insight into the factors that may influence the volume of appeals at internal review and further review (Sections 3.3 and 3.4). The chapter concludes with an analysis of the types of cases that went to a Review Board hearing between April 1999 and March 2000 (Section 3.5). These present a picture of the types of cases which the Appeals Service could expect to receive from April 2000.

3.2 Level of appeals Table 3.1 shows the level of appeals activity in each of the case studies during the period April 1999 to March 2000. The number of internal reviews requested and the number of Review Boards held are shown together with the size of the Housing Benefit caseload in 1998/99.

Table 3.1 Volume of appeals

Local Authority	Housing Benefit caseload 1998/99 (000)	No. of internal reviews requested	No. of review boards held
A	15-20	..	1
B	10-15	389	25
C	15-20	379	9
D	30+	1,104	100
E*	<10	0	0
F	15-20	1,250	63
G	<10	439	11
H	20-25	..	22
I	30+	1,004	100

Note: '..' data not available

* Local Authority 'E' reported receiving no requests for internal reviews or further reviews

In all of the case studies the volume of appeals represented a very small proportion of the Housing Benefit caseload. The volume of requests for internal reviews was equivalent to between two and eight per cent of the Housing Benefit caseload. Furthermore, of the internal reviews only a small proportion, between two and ten per cent, proceeded to a Review Board hearing (Table 3.1).

The volume of appeals cannot accurately be predicted from caseload size. For example, case studies A, C and F, which each had a Housing Benefit caseload of between 15,000 and 20,000 (1998/99), held very different numbers of Review Board hearings (1, 9 and 63 respectively). Similarly, case studies B and H held similar numbers of Review Board hearings, but had very different Housing Benefit caseload sizes (Table 3.1).

- 3.3 Drivers of appeals activity The main factors influencing the level of appeals activity are:
- caseload and tenancy type;
 - changes in benefit Regulations;
 - local authority management initiatives;
 - levels of publicity and welfare rights activity;
 - quality of the administration process; and
 - the definition of internal review.

These are discussed below.

3.3.1 *Caseload and tenancy type* Whilst the volume of appeals cannot be accurately predicted from caseload size, Table 3.1 shows that the case studies with the smallest Housing Benefit caseloads received fewer requests for internal reviews, and held fewer Review Board hearings than those with the largest Housing Benefit caseloads. This suggests that there is a relationship, albeit a relatively weak one, between caseload size and volume of appeals. Analysis of the case records (see Section 3.5) shows that the majority (60 per cent) of appeals were from private tenants. Thus it is possible that an authority with a large proportion of private rented accommodation would receive more appeals and possibly have a larger overall caseload.

3.3.2 *Changes in benefit regulations* Several respondents talked about their experience of changes to Housing Benefit regulations increasing the volume of appeals they received. These included the abolition of Regulation 11 and changes to Regulation 7. For example, changes to Regulation 7 introduced a more extensive list of people considered as not liable to pay rent on their home. Under these changes, some claimants were no longer eligible to receive benefit and therefore appealed against this.

Some respondents expected the proposed changes to the backdating regulations would reduce the number of appeals they received. It was felt that changing the maximum period for backdating from one year to three months will make appeals more straightforward, as it will be easier for claimants to demonstrate good cause for why they could not claim earlier:

‘... it’s going to be much easier for someone to demonstrate continuous good cause for a period of 3 months than it is for a year. It’s more feasible and the authorities are going to be able to grant that, whereas before they would have turned it down.’

(5, Benefits Manager)

3.3.3 *Local authority management initiatives* Two of the case studies were having internal exercises to catch up on outstanding overpayments that they had not yet sought to recover. Respondents at both of these case studies expected this to generate an increase in the volume of appeals they received as people appealed against their overpayment notice.

3.3.4 Publicity and welfare rights organisations

It appeared to the researchers that increased access to the appeals system through publicity or the promotion of the services of welfare rights organisations had an impact on the volume of appeals received. One of the case studies, through its publicity and strong links with the authority's welfare rights unit, had been so successful in encouraging appeals that it had difficulty in coping with the volume of requests it received.

Welfare rights organisations were thought by some respondents to generate appeals because they were able to challenge local authorities if they thought they had interpreted the regulations wrongly, and picked up on appeals issues if someone visited them about other financial problems.

3.3.5 Quality of the administrative process

A high quality administrative process can, at several stages, reduce the volume of appeals requests received. One respondent emphasised the importance their council placed on staff training at the benefits assessment stage, and this was thought to reduce the volume of appeals as fewer mistakes were made by benefit assessors.

In contrast, at one case study, the introduction of a new computer system had led to an increase in the number of appeals received because more errors were made during the processing of new and renewal claims.

The content of notification letters sent to appellants following an internal review was also deemed important. Several respondents felt that giving appellants a detailed and comprehensive explanation of the regulations and reasons why their internal review had been refused prevented some appellants requesting a further review:

'... the detailed explanation that we give them ... explains the decision and the reasons why. So hopefully people can really understand why that decision's been made ... [and] will think, 'well yes they have really thought about this decision and yes it's the right decision'.'

(8, Benefits Manager)

In addition, the amount of time and effort taken to ensure that all the relevant information about a case had been collected could be important. The case studies were often able to revise their decision at internal review or when a further review request was received because new supporting information was supplied, thereby reducing the number of appeals that were taken to a Review Board hearing.

3.3.6 Definition of 'internal review'

The volume of internal review requests recorded by the case studies depends on how internal reviews were defined. There was some difference across the case studies in how internal reviews were defined. Two of the case studies did not include in their definition local authority errors (that is, appeals where the local authority had made an error in assessing a benefit claim) so depressing the number of internal reviews officially recorded.

3.4 Drop-off in level of appeals between internal review and Review Board hearing

As shown in Section 3.1, very few cases at internal review stage proceed to a Review Board hearing. A variety of reasons were found to explain this and they are discussed below.

3.4.1 Outcome of internal review

Respondents estimated that at internal review appellants were successful in around 40 to 50 per cent of cases. Successful appellants, by definition, did not therefore need to request a further review of their case. Of the 50 to 60 per cent of appellants who were unsuccessful, there was a widespread view that the majority accepted the decision of the local authority. Respondents largely attributed this to the detail and comprehensiveness of their explanations as to why appeals had been refused in notification letters.

3.4.2 Local authority revises its decision

There was a general view among respondents that a Review Board hearing was an action of last resort. Each of the case studies therefore took into account a variety of criteria when considering whether to take a request for a further review to a Review Board hearing. As described in Section 2.4, a second internal review procedure operated when a request for a further review was received and the case re-examined. At this point various criteria might be applied to a case.

The reason most frequently mentioned why a request for a further review was not taken to a Review Board was that new information was supplied with the request that enabled the local authority to revise its internal review decision in favour of the appellant:

‘... when they have to set down their reasons for why they want it to go to a Review Board they will nearly always give you more information.’

(10, Benefits Manager)

As outlined in Section 2.4 new information arising at the hearing was a common problem. Some of the case studies made extra efforts to ensure that all relevant information had been obtained before deciding to take a further review request to a hearing; to ensure that only real disputes were taken.

A few respondents said that in some instances, when a case was re-considered, they might feel that they had been too severe. For example, with an appeal against backdating they might decide to give an appellant the benefit of the doubt if they said their missing claim form must have been lost in the post.

A few of the case studies would not pursue a case at a Review Board hearing if they felt the appellant was too vulnerable, for example, people who were very elderly or with mental health problems. Respondents were concerned that it would be looked upon unfavourably by the Review Board members and by the general public if it were brought to the attention of the local media.

A request for a further review may not be taken to a Review Board hearing if the case was unlikely to be upheld. A benefits manager might identify a flaw in the case that had not been considered previously and decide to revise an earlier decision. Due to the cost and time involved in taking a case to a Review Board hearing, respondents wanted to be sure that they were likely to win.

Respondents at five of the case studies said that cost-effectiveness was a criteria applied to requests for further review. Appeals against amounts of less than £50 were mentioned as not being cost-effective to take to a hearing, when the cost of convening a Review Board was estimated to be around £400. For example, the recovery of an overpayment of less than £50, or an appeal for backdating for one week's Housing Benefit, worth less than £50. Additionally, if the local authority won an overpayment case the council then had to bear the cost of recovery.

'... you're talking hundreds of pounds just to get £50 back and you don't even know if you're going to win. You're not protecting public funds if you're going to recover £50 at a pound a week and are spending £400 actually staging the review board.'

(5, Benefits Manager)

Respondents at two of the case studies said that the outcomes of previous Review Board decisions were taken into account when looking at requests for further reviews. Some types of determination would be revised if they thought that judging from previous experience they were likely to lose the case.

3.4.3 Further review request is refused

A few respondents said that requests for a further review that were made considerably outside of the four week time limit (for example, six months later) might not be accepted if the appellant was unable to provide a good reason as to why they were unable to apply sooner.

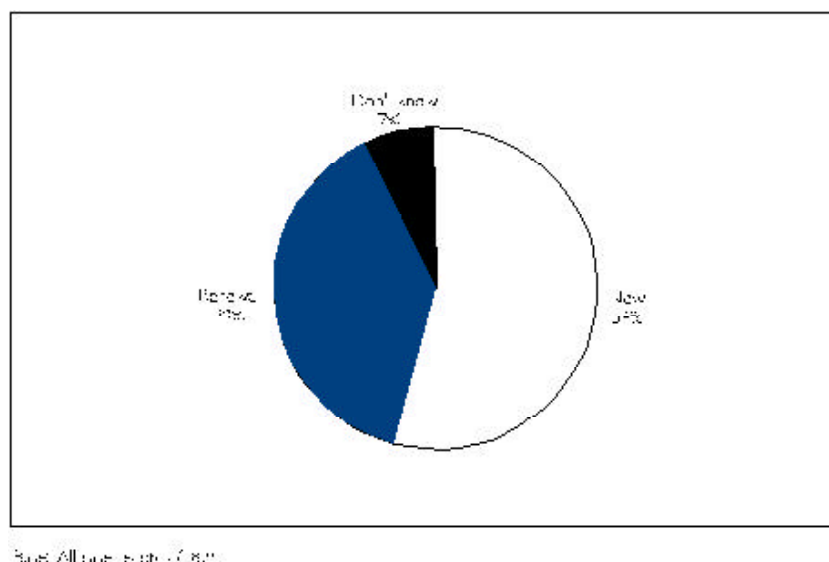
3.5 Types of appeal at Review Board hearings

Analysis of the case records provides a description of the type of appeals activity at Review Board hearings.

3.5.1 Type of claim

Figure 3.1 shows that just over half of appeals at Review Board hearings were new claims.

Figure 3.1 Type of claim



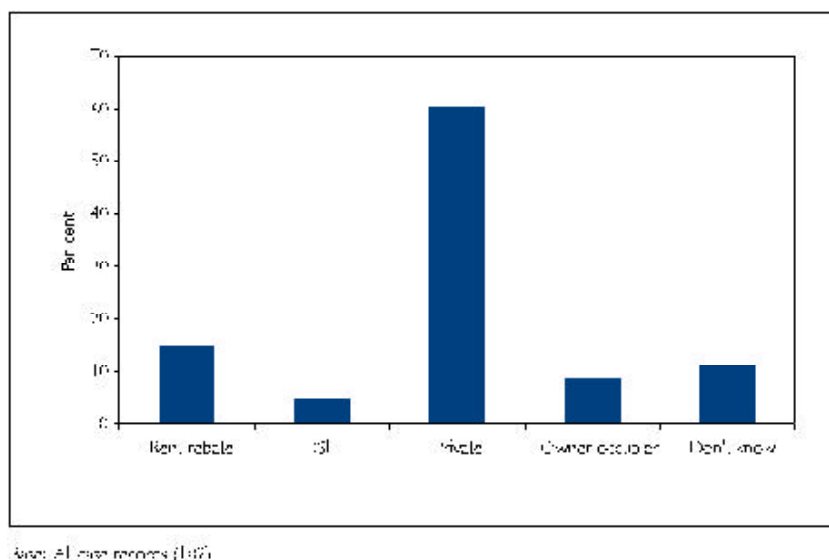
Some respondents believed that appeals were more likely to arise from new claims because some reasons for appealing, such as rent restrictions or liability to pay rent, only applied to new claims rather than renewal claims. This view was supported by the analysis of the case records, whereby of all cases where the appeal was against a rent restriction, nearly two-thirds were new claims. Where the appeal was about liability to pay rent, four-fifths were new claims.

The researchers also identified a definitional reason for the predominance of new claims: under the regulations where a claimant did not make a renewal claim within set the time limits, then a new claim with a request for backdating had to be made. Thus appeals against backdating tended to be 'new' claims even though benefits had been claimed previously.

3.5.2 Tenancy type

Figure 3.2 shows that the 60 per cent of cases at Review Board hearings were from the private rented sector with only 15 per cent from council tenants and five per cent from registered social landlords (or housing associations). This compares to a national picture of Housing Benefit claimants where: council tenants accounted for 57 per cent of claimants; private tenants 20 per cent; and registered social landlord tenants 22 per cent (Department of Social Security, February 2000). Thus private tenants accounted for a disproportionate amount of further review cases – three times as many Review Board cases were from private tenants than would be expected if tenancy type did not have an effect. Owner occupiers who accounted for nine per cent of Review Board cases were appealing against Council Tax Benefit rather than Housing Benefit.

Figure 3.2 Tenancy type



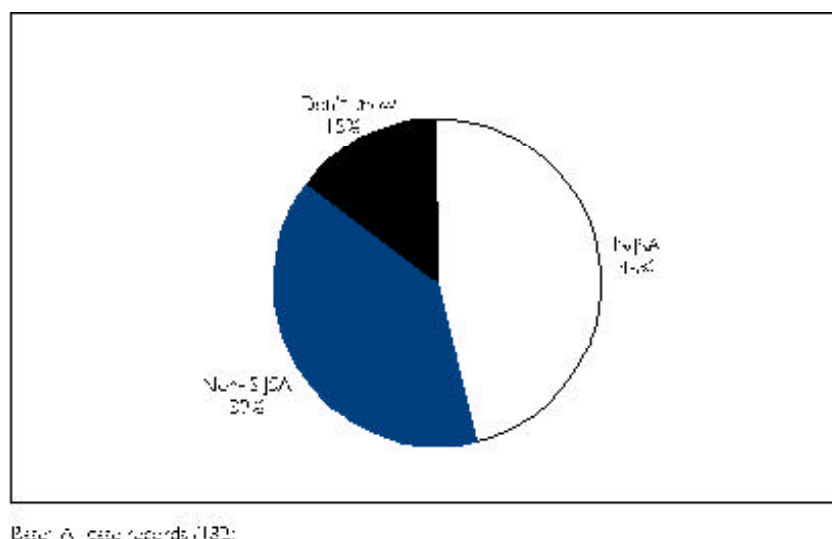
Respondents held the view that more cases were likely to come from the private rented sector because there were more areas of discretion in the assessment of private sector claims than with other tenancy types, for example contrived tenancies, rent allowances and exceptional hardship payments.

A few respondents also thought that it was very easy for private landlords to show good cause to appeal against the recovery of overpayments of Housing Benefit because they could argue that they did not know their tenant had moved out of the property.

3.5.3 Client type

Figure 3.3 shows that there was not a large difference between the proportion of cases at Review Boards from claimants on Income Support or Jobseeker's Allowance and other claimants. The researchers found some difficulty establishing the client type of cases where the landlord was the appellant, as detailed information on the claimant was often missing from the case papers. Landlords were the appellant in around ten per cent of cases which accounts for most of the 'Don't knows' in the Figure.

Figure 3.3 Client type



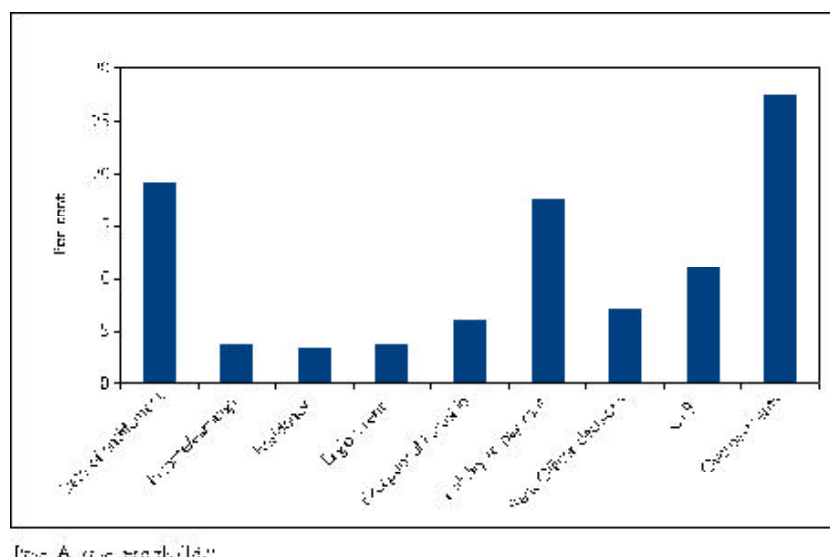
Whilst the proportion of cases at Review Board hearings from Income Support/Jobseeker's Allowance claimants and non-claimants were relatively even, the data conceal the movement of appellants on and off these benefits. It appeared to the researchers from looking at the case records that movements on and off Income Support/Jobseeker's Allowance generated appeals because claimants did not promptly notify the local authority of their change in circumstances.

For example, if a claimant moved off Income Support/Jobseeker's Allowance and failed to promptly notify the local authority of this change, they would continue to receive Housing Benefit/Council Tax Benefit, which they might not be entitled to. This generated appeals against overpayments when the local authority sought to recover the overpaid Housing Benefit/Council Tax Benefit. Similarly, if a claimant moved onto Income Support/Jobseeker's Allowance and failed to make a claim for Housing Benefit/Council Tax Benefit at the time of their status change, they would request backdating of Housing Benefit/Council Tax Benefit. This generated appeals against backdating because the local authority refused the backdating request as they did not consider the claimant had shown good cause for making a late claim. Thus appeals often resulted from a change in Income Support/Jobseeker's Allowance status, so that although at the time of appeal an appellant might have been claiming Income Support or Jobseeker's Allowance they may not have been prior to the appeal request being made.

3.5.4 Reason for appeal

The main reasons why people appealed are given in Figure 3.4. The three principal reasons were: overpayments (28 per cent), disputes over date of entitlement (for instance, backdating) (19 per cent) and liability to pay rent e.g. contrived tenancies (18 per cent).

Figure 3.4 Main reason for appeal



Appeals against overpayments often occurred because the claimant failed to notify the local authority of a change in income which affected their entitlement to Housing Benefit/Council Tax Benefit. Where the benefit was paid direct to the landlord, landlords also appealed against the repayment of a benefit overpayment. For example if the income of their tenant had changed or if the tenant had moved out of the property. Landlords who were overpaid Housing Benefit/Council Tax Benefit often claimed that they did not know their tenant had moved out or was no longer entitled to benefit.

In one instance a backdating appeal arose because the claimant did not return their renewal claim form for Housing Benefit/Council Tax Benefit within the required time period. The claimant claimed that they were too ill to complete and return the form, but did not have sufficient proof via a doctor's certificate to support their case. The claimant therefore disputed the local authority's decision that they did not have good cause for making a late claim.

Liability to pay rent refers to whether the claimant has a legal obligation or duty to pay rent for the property. The most common reason for appeals against liability to pay rent involved contrived tenancies, where the claimant was related to their landlord and was therefore not considered by the local authority to be liable to pay rent.

Respondents considered these areas to be those where staff had the most discretion and decisions on benefit assessments were consequently less clear-cut. Whether an appellant could have known they had received an overpayment, or whether an appellant has shown due good cause for a backdating request, were some of the discretionary areas mentioned.

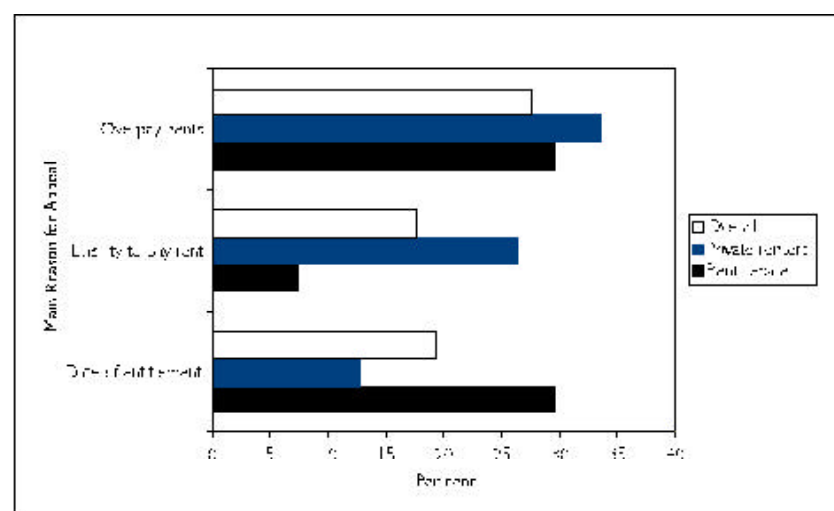
Appeals against Council Tax Benefit (11 per cent) were mainly appeals for backdating of the benefit, with a few appeals against overpayments of Council Tax Benefit.

The analysis suggests that the Appeals Service can expect to inherit the majority of Review Board appeals activity. Appeals against rent officer decisions and refusal of exceptional hardship accounted for only a small proportion of appeals (seven per cent and six per cent respectively). These types of appeal will stay with local authorities and will not proceed to the Appeals Service.

Some appeals which proceeded to a Review Board hearing were thought by respondents to be more complex cases, for example, involved fraud investigations or where the interpretation of the regulations was less straightforward.

Figure 3.5 shows the three main reasons for appeal by tenancy type. The data shows that liability to pay rent (for instance, contrived tenancies) was a greater problem for private tenants than for council tenants, and that date of entitlement, for example, backdating was a greater issue for council tenants. Appeals against overpayments were made from similar proportions of council and private tenants.

Figure 3.5 Main reason for appeal by tenancy type



Source: HM Revenue & Customs

It was thought by one respondent that council tenants were particularly poor at returning benefit claim renewal forms compared to private tenants, and so generated proportionately more appeals for backdating. Possible reasons for this may be that private landlords pressed their tenants to make their claims on time in order to avoid rent arrears, and/or that as council tenants' benefits were paid direct to the council they did not feel any sense of urgency to renew their claims promptly.

3.6 Conclusions An overview of appeals activity at each of the case studies showed that the volume of appeals activity cannot be accurately predicted from Housing Benefit caseload size, as there were many other factors which also influenced the volume of internal reviews and further reviews. These drivers of appeals activity worked in both directions – increasing as well as decreasing the volume of appeals.

Only a small proportion of internal review cases proceeded to a Review Board hearing. Of those appellants that did request a further review (the majority did not) there was a ‘whittling down’ process operated by the case studies to ensure that only cases where the local authority felt confident of winning, and which were considered to be cost-effective, were determined at a Review Board hearing. This ‘whittling down’ process also operated to prevent new information being presented at the hearing which was a problem mentioned by many respondents.

The majority of cases which were heard at Review Boards were from private tenants and the main reasons why people appealed were: overpayments; date of entitlement (backdating) and liability to pay rent (contrived tenancies).

4 REVIEW BOARD HEARINGS

4.1 Overview This chapter provides an introduction to Review Boards and the hearing process (Section 4.2), and presents a descriptive analysis of Review Board hearings – of the attendees (Section 4.3) and of outcomes (Section 4.4).

4.2 The Review Board Review Board hearings were organised by the Clerk to the Review

4.2.1 Set-up of the Review Board Board who at most of the case studies, was based within the Legal Services Department. Prior to the hearing the role of the clerk was to: arrange a hearing date convenient both to the Chair of the Review Board and the appellant; and to send copies of the case papers to Review Board members, the appellant and their representatives and any other affected persons.

The scheduling of Review Board hearings was largely determined by caseload: hearings were held weekly or monthly in authorities with a large number of Review Board cases; and on an ad hoc basis in the case studies with a small Review Board caseload. Between one and three cases were scheduled per Review Board sitting, usually with 30 to 45 minutes allocated to each case. However, many respondents had attended hearings which lasted longer than the allocated time. The longest mentioned was two hours for a particularly complex case. In a very few exceptional circumstances, subsequent cases were postponed if previous hearings over-ran. Alternatively, some cases finished very quickly if it was based on written representations or if the appellant failed to attend. Only one of the case studies scheduled an amount of time for each case, based on its expected complexity and duration.

Review Board hearings tended to be held in the evening, because it was thought to be more convenient for both councillors, who worked during the day, and appellants who worked or who might have had to arrange childcare. Only one of the case studies held them during the day. All of the case studies held their Review Board hearings in council committee rooms, though respondents varied as to whether they described their committee rooms as being formal or informal settings. Some respondents felt that the whole hearing process could be a daunting and overwhelming experience for appellants, although councillors were commended for their efforts to put appellants at their ease:

‘I think the surroundings could be quite intimidating for our tenants. Although the members of the Review Board do try to treat the case informally and try to relax them [the tenants].’

(19, Appeals Officer)

Respondents at all of the case studies described a very similar order of

proceedings:

- the Chair opened the proceedings with introductions of the Review Board members;
- the Chair or legal adviser explained the order of proceedings and said when notification of the Review Board's decision could be expected;
- the local authority representative (in most, but not all of the case studies) presented their case first;
- there was then an opportunity for questions from the Review Board members and appellants or their representatives;
- the appellant or their representative presented their case second;
- again followed by an opportunity for questions from the Review Board members or the local authority;
- both parties concluded the hearing by summing up the main points of their case;
- both parties left the room whilst the Review Board made its decision.

4.2.2 Review Board members

On average, three Review Board members sat on each Review Board hearing, although in two of the case studies it was not uncommon for up to six members to attend. Several of the case studies did not allow Review Board members to attend a hearing if they were from the same ward as the appellant. One of the case studies also ensured that the political make-up of the Review Board reflected the overall political make-up of the council, by always having one non-ruling party member attend.

Review Board members at all of the case studies were offered some form of training, although take-up was said to vary. The amount and type of training offered varied across the case studies. Half of the case studies provided in-house training given by members of the legal department and the rest used external professionals. At most of the case studies training consisted of one-day courses or several short sessions. The courses covered the process of appeal at a Review Board, the powers and duties of Review Board members, as well as the Housing Benefit regulations on issues that were most commonly disputed at Review Board hearings. One of the case studies also provided practice hearings for new Review Board members and tours of the benefits office to give members an understanding of the earlier stages of the appeals process.

4.2.3 Notification of Review Board decisions

The regulations stipulate that the Review Board must notify appellants and the local authority of its decision in writing within seven days. In addition, at four of the case studies the Review Board notified appellants and the local authority of its decision verbally after the hearing. At another, appellants could telephone the clerk the next day for the outcome.

Written notifications of the Review Board's decision were usually prepared by the clerk and signed by the Chair of the Review Board. Notification letters were required to include:

'the findings of fact; the interpretation of the law applying to those facts; the Review Board's reasoning; and the decisions which flow from this.'

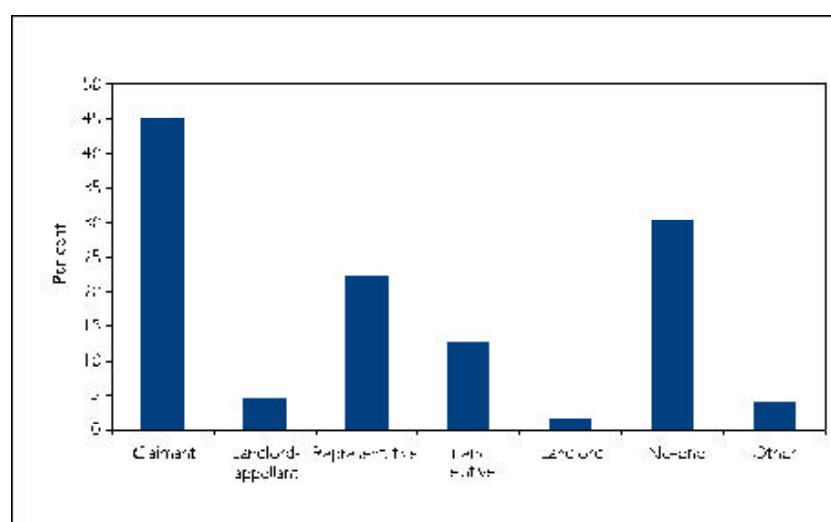
(Zebedee and Ward, 1999, p357).

It is the view of the researchers from looking at the case records that the quality of notification letters varied across the case studies. Notification letters at most of the case studies contained detailed accounts of what was said at the hearing; the background to the appeal; the legislation; and how the Review Board came to its decision. At a few of the case studies only a few sentences of explanation accompanied the decision.

4.3 Attendees at Review Board hearings

Figure 4.1 shows who on the appellants' side attended the hearings. Landlords who were appealing have been shown separately to claimants who were appealing.

Figure 4.1 Hearing attendees (first hearing)



Base: All case records (167)

In half of all cases (49 per cent) the appellant attended the hearing; 45 per cent of whom were claimants; and four per cent of whom were landlords. In total, a fifth (22 per cent) of cases were attended by a professional representative and a tenth of hearings were attended by a friend or relative of the appellant (13 per cent). Of claimants who attended, 42 per cent were professionally represented and a quarter (26 per cent) were accompanied by a friend or relative. In only one case did a landlord accompany an appellant.

In almost a third of cases (30 per cent) nobody from the appellant's side attended the hearing.

Landlords who were making an appeal attended four per cent of cases and landlords (who were not appellants) attended just two per cent of the cases.

‘Other’ attendees comprised mainly interpreters.

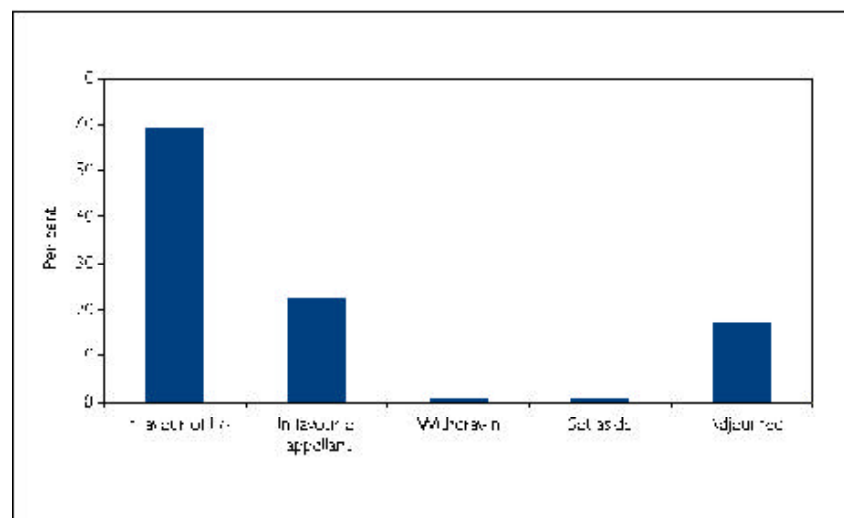
Review Board hearings were also attended by the Clerk to the Review Board (whose role was to take notes of the hearing and to assist in writing the notification letter) and by legal advisers. The role of legal advisers was to give the Review Board members independent advice on any legal issues relating to the case. Legal advisers were based in the Legal Services Department of the local authority. At three of the case studies the legal adviser also performed the role of clerk.

4.4 Hearing outcomes

4.4.1 Outcomes of the case records

Figure 4.2 shows that the majority of Review Board hearings (59 per cent) were decided in favour of the local authority, compared to a quarter (23 per cent) which were in favour of appellants. Seventeen per cent of hearings were adjourned and very few were withdrawn or set-aside (half a per cent each). Where hearings were adjourned and re-scheduled, the outcomes of the second hearings showed a similar pattern to first hearing outcomes (see Figure 4.3; and Section 4.4.3).

Figure 4.2 Hearing outcome (first hearing)



Base: All cases recorded 1992

The relative success local authorities enjoyed in winning cases might reflect several aspects of the ‘weeding out’ process that occurred when requests for further reviews were received. This process means only requests where the local authority felt they had a concrete case were taken to a Review Board; and some authorities did not pursue certain types of cases that judging from previous decisions they thought they were likely to lose:

‘I would say we win 70 per cent [of Review Board hearings] because we’re very careful with what we take.’

(8, Benefits Manager)

Local authorities might also be in a strong position to win Review Board hearings because they were always represented by an officer who was experienced in presenting cases, and who was knowledgeable about the regulations and their interpretation.

Figure 4.3 Hearing outcome (second hearing)

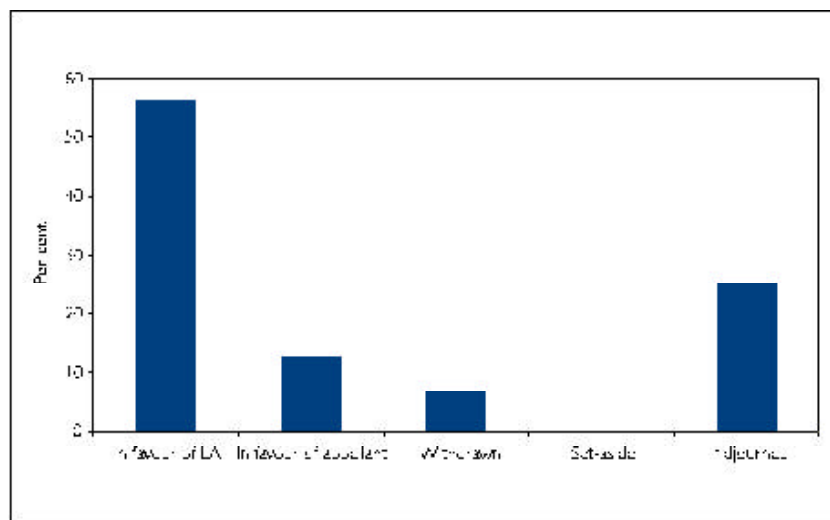


Figure 4.3: hearings which were adjourned (31)

At the second hearing, in comparison to the outcomes of first hearings, more were adjourned than were decided in the appellant's favour, and the number of cases withdrawn increased from less than one per cent to six per cent.

4.3.2 Impact of attendees on hearing outcomes

Figure 4.4 Hearing outcome by attendees

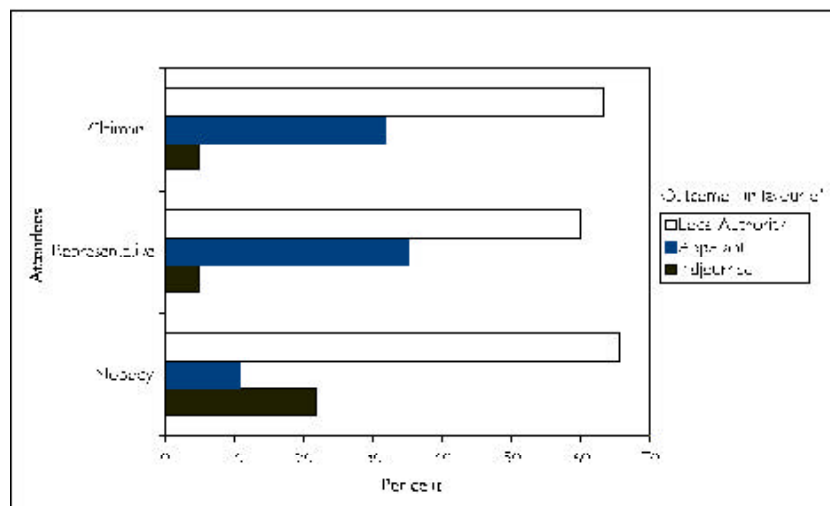


Figure 4.4: case results (162)

The analysis of the case papers shows that the presence of the claimant or a representative did not affect the final outcome of a case (Figure 4.4). The outcomes of Review Board hearings were broadly similar no matter who attended. Only where nobody attended did the outcome differ,

whereby the hearing was more likely to be adjourned than found in favour of the appellant. This confirms the views of respondents, who thought that whilst representation helped to ensure that all the main points of the case were put forward, it did not influence the decision of the Review Board members:

'At the end of the day if you've got a good case it makes no difference who's representing their [the appellant's] side.'

(20, Appeals Officer)

4.4.3 *Adjournments of Review Board hearings*

As shown in Figure 4.2, one in six hearings (17 per cent) were adjourned. Non-attendance of the appellant was the main reason given by respondents for hearings being adjourned. Respondents were of the opinion that the Review Board members did not like hearing a case if the appellant did not turn up, and adjourned hearings were to give appellants a second chance to attend. From the respondents' perspective, adjourning cases contributed to delays and backlogs which was especially a problem for the cases studies that held a large number of Review Boards. This issue was an annoyance and frustration to some respondents:

'You get adjournments if it's the first hearing as they give them [the appellant] the benefit of the doubt ... which makes it a bit awkward if your first case is adjourned because you can be sitting there waiting 45 minutes for your next one.'

(1, Appeals Officer)

'... if they don't turn up our members are very reluctant to hear a case in their absence. Usually it's adjourned and that's such a waste of time when we're always trying to fit in more and get up to date with hearings.'

(6, Appeals Officer)

In one of the case studies, a case had been adjourned five times because the appellant never turned up, although the majority of cases that were adjourned were so only once.

Due to the extent of non-attendance three of the case studies, including two that had a large number of Review Board hearings, had taken steps to try and reduce the number of cases being adjourned. One of the case studies sent the details of the hearing to appellants by recorded delivery to ensure that they knew about the hearing. Another sent appellants a form asking whether they would be attending and, if not, whether the case could be heard in their absence. If the form was not returned the appellant would be telephoned, or in some instances visited in person, to find out whether or not they would be attending. The third case study telephoned appellants prior to the hearing (if they had not heard from them) to check whether they would be attending. It had also introduced a policy whereby appellants were informed in writing that if they did not attend the hearing the case would be heard in their absence. If the appellant was unhappy with the outcome they could request the decision be set aside.

Other, but less common reasons mentioned as to why hearings were adjourned included:

- The production of new information at the hearing from either the appellant or their representative. Under these circumstances the adjournment was often requested by the local authority to give them time to respond to the new evidence.
- Where information was missing from the case papers, Review Board members would request an adjournment.
- Non-attendance of key witnesses.
- In a few instances, welfare rights representatives had requested an adjournment because the appellant had only sought their help at the last minute and they needed more time to go through the case with the appellant.
- It was not known prior to the hearing that the appellant required an interpreter.

4.4.4 Withdrawals, set-asides and judicial reviews

Very few Review Board hearings were withdrawn or set aside. The reason most often mentioned for a withdrawal was the provision of new information at the hearing that would enable the local authority to revise its previous decision. The main reason why a decision made by the Review Board was set aside was because the appellant did not attend the hearing. Regulations give an appellant 13 weeks in which to ask for the decision to be set aside and to request a second hearing. Judicial reviews were very rare. Respondents could only recall a couple of cases that had gone to a Judicial Review. Requests for Judicial Review had been received but most appellants did not take the matter further.

4.5 Conclusion

The main differences between the case studies in their organisation of Review Board hearings were:

- the frequency of hearings which was largely determined by caseload size;
- the training offered to Review Board members – half used external training providers and half provided in-house training;
- whether or not the Review Board notified appellants and the local authority of the hearing outcome verbally after the hearing; and
- the steps taken to minimise the number of adjourned hearings.

Over half of Review Board hearings were decided in favour of the local authority, with appellants being successful in less than a quarter. This could reflect the caution the case studies took over which cases they pursued at a Review Board hearing. Hearing adjournments, because of non-attendance of the appellant, was a problem for many of the case studies, although only three had introduced measures to try and reduce their occurrence.

5 MEETING TIME TARGETS

5.1 Overview

The regulations stipulate timescales within which different stages of the appeals process should occur (c.f. Figure 1.1). This chapter compares the achieved timings of the case studies at each of the different stages of the appeals process (Sections 5.2, 5.3 and 5.4) and the extent of the backlog of Review Board hearings (Section 5.6). The causes of delays of Review Board hearings and key factors influencing their timing are discussed in Sections 5.5 and 5.7.

5.1 Timing of internal review determinations

Under the regulations, local authorities should determine internal reviews within 14 days of receiving a request. Only four of the case studies were able to provide data on the proportion of internal review requests which were determined within 14 days. The results are shown in Table 5.1.

Table 5.1 The proportion of internal review requests determined within 14 days (April 1999 to March 2000)

Local Authority	No. of internal reviews requested	Internal reviews
		determined within 14 days %
A
B	389	24
C	379	100
D	1,104	70
E*	0	-
F	1,250	..
G	439	99
H
I	1,004	..

Note: '..' data not available

'-' category not applicable

* Local Authority 'E' reported receiving no requests for internal reviews.

Case studies C and G determined all or almost all internal reviews within 14 days; case study D determined over two-thirds (70 per cent) within 14 days; and case study B determined only a quarter (24 per cent) within 14 days (Table 5.1).

Where case studies had problems meeting the 14-day time target, the main reason given by respondents was a lack of staff resources to manage the volume of requests received. At case study B, which did not have designated appeals officers for internal reviews, team leaders had to fit internal review determinations around the rest of their workload:

'We've only got six people that can do them [internal review cases] ... and those people are also team leaders or supervisors and they've got huge amounts of other work to do as well.'

(6, Appeals Officer)

The appointment of designated officers was considered by respondents at case study B to be the solution to their delays.

Reasons for the relatively good performance of case studies C, D and G are probably attributable to their staff structures: case studies C and D both had designated officers for processing requests for internal reviews; and at case study G internal reviews were determined by the Benefits Manager, where internal review requests were given priority over other work. In addition case studies C and G both had contingency plans for ensuring that appeals requests were still dealt with if the Appeals Officer or Benefit Manager was away.

The need to obtain further information from appellants, such as proof of income or doctor's certificates was also mentioned as a reason for why some internal review determinations were delayed.

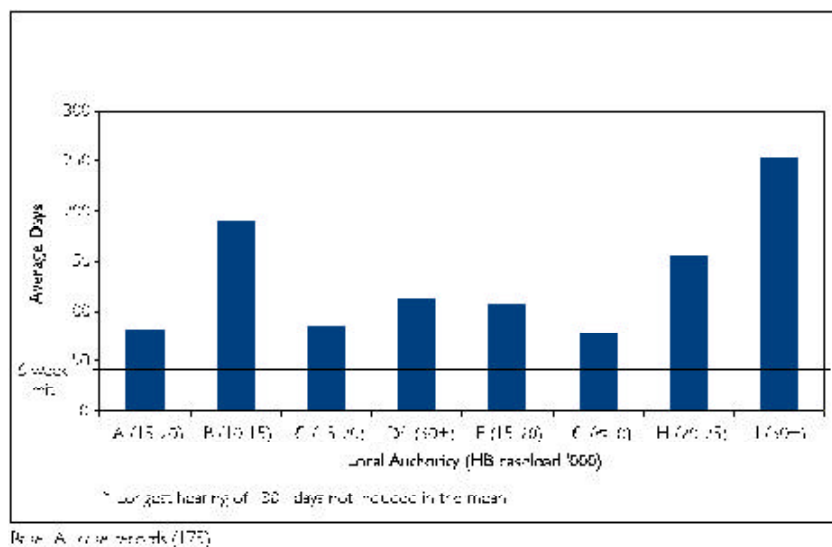
5.3 Timing of Review Board requests

The regulations stipulate that appellants should make a request for a further review within four weeks of the date of notification of the internal review outcome. However, analysis of the case records showed that only three-quarters of appellants (74 per cent) requested a further review within this time limit, with 93 per cent of requests being received within three months. The maximum time recorded for a request being received was one year and five months (510 days) after the internal review was determined. All of the case studies accepted further review requests outside of the four week time target, suggesting that it was not a time target that was generally enforced.

5.4 Timing of Review Board hearings

Under the regulations local authorities should convene a Review Board hearing within six weeks of the further review being requested. Figure 5.1 shows the average number of days for each case study between a request for a further review being received and the first Review Board being held. Table 5.2 shows the average number of days, the minimum, maximum and the range for each of the case studies.

Figure 5.1 Average days between request for Review Board and hearing (first hearing)



Best Average (175)

Table 5.2 Average and range of days between request for Review Board and first hearing

Local Authority	Average days	Minimum days	Maximum days	Range	No. of cases
A	81	81	81	0	1
B	189	89	413	324	25
C	85	29	350	321	8
D	112*	36	1,301	1,265	35
F	106	27	442	415	54
G	77	33	238	205	10
H	154	42	292	250	17
I	252	69	595	526	25

* Longest hearing of 1,301 days not included in the mean

The average time within which the first Review Board was held considerably exceeded the time target of six weeks at all of the case studies (Figure 5.1 and Table 5.2). The longest average time was at case study 'I' where on average hearings were held over eight months after being requested.

In total, only five per cent of cases were heard within six weeks of the further review request being made and half of all cases (50 per cent) were heard within 16 weeks (113 days). Three of the case studies (A, B and I) did not convene any hearings within six weeks. Thus, all of the case studies to a greater or lesser extent experienced delays at this stage of the appeals process.

5.5 Causes of delays in Review Board hearings

5.5.1 Convening Review Board members

Failure to meet the six week target was predominantly attributed to difficulties encountered in convening sufficient Review Board members.

At three of the case studies, two of which were London Boroughs, a small pool of available Review Board members was the main cause of hearing delays. Councillors were thought to be too busy with work commitments or ‘other committees that look a bit more appetising’ (18, Benefit Manager) to be able to be a Review Board member. Even though these case studies held Review Board hearings in the evening, councillors were said to be unable to get back from work in time to attend. A few respondents also thought that councillors were simply not interested:

‘... the biggest problem is the reluctance of members to sit on the panels. Most of the member have full-time jobs and do their council work on a voluntary basis and it is difficult to get them involved in Housing Benefit Review Boards.’

(7, Clerk to Review Board)

Rules on Review Board members not being able to sit on hearings where the appellant is from their ward was mentioned by one respondent as being an additional constraint on an already small pool. A small pool of available members also made it more difficult to schedule additional hearings to reduce backlogs:

‘... a lot of them work and if we do have additional hearings they tend to be during the day, rather than in the evening, so there’s only a limited number of councillors that are available during the day.’

(9, Appeals Officer)

Delays caused by local elections were a problem mentioned by respondents at five of the case studies. Review Board hearings stopped during local elections and did not re-start until several months later. Any new councillors serving on Review Boards required training, and this could further delay arranging hearings.

5.5.2 Other causes of delays in Review Board hearings

Respondents also mentioned several other difficulties:

- Adjournments of hearings added to delays especially at case studies that held a large number of Review Board hearings.
- Availability of welfare rights representatives was mentioned as being a problem at one of the case studies that encouraged appellants to use their services. Welfare rights representatives tended to work part-time and accordingly could not always attend a hearing. This could lead to adjournments or delays in setting up hearings.
- A surge in the number of further review requests also led to delays in cases being heard because additional hearings were difficult to schedule.

- Respondents at two of the case studies said that the need to obtain further information when a request for a further review was received could delay the Review Board hearing. Further information was sometimes needed from the appellant or from third parties such as the Benefits Agency or the rent officer.
- A lack of staff was mentioned as a problem at only one of the case studies, which held a large number of Review Boards but did not have full time appeals officers for dealing with Review Board cases. Staff resources appeared to be less of a cause of delays with Review Board hearings as five of the case studies had designated officer(s) for this stage of the appeals process.
- At the Welsh case study, changes to the council's committee structures following the establishment of the Welsh Assembly had created delays, as they had had to wait for directives from the Welsh Office on how to set up their committees. (This might also have been a problem for local authorities in Scotland but was not mentioned by the Scottish case study in the sample.)

5.6 Extent of backlogs

Current backlogs of Review Board hearings at the case studies ranged from zero to 30 cases. Table 5.3 shows the number of cases at each of the case studies waiting to be heard at a Review Board.

Table 5.3 Review Board hearing backlogs (August 2000)

Local Authority	No. of review boards held (March 1999-April 2000)	No. of cases waiting to be heard
A	1	0
B	25	18
C	9	0
D	100	..
E*	0	-
F	63	30
G	11	0
H	22	5
I	100	10-12

Note: '..' data not available

'-' category not applicable

* Local Authority 'E' reported receiving no requests for further reviews

5.7 Timing differences across the case studies

It is the researchers' view that the research findings point towards three key factors which influenced how quickly Review Board hearings were held: caseload size; the availability of councillors; and local authority staff structures.

- Caseload size: the case studies with the quickest average time between receipt of the further review request and the Review Board hearing, case studies A, C and G, were those which held the least Review Boards. This suggests that problems with the current Review Board system might have been exacerbated by a large volume of Review Board hearings.

- Availability of councillors: the two case studies with the longest average time between receipt of the further review request and the Review Board hearing, case studies B and I both suffered delays resulting from a small pool of Review Board members. In comparison, case study D, which held the same number of Review Boards as case study I, did not have difficulties convening a Review Board.
- Staff structures: case study I, which had the longest average time between receipt of the further review request and the Review Board hearing, did not have designated officers for dealing with Review Boards and was the only authority where a lack of staff resources was mentioned as one of the causes of delays. In comparison, case studies D and F, which both held a large number of Review Board hearings but had average times more than half that of case study I, both had designated officers at the Review Board stage.

5.8 Conclusions

Time targets at each stage of the appeals process were not met by all of the case studies in all cases. The ability of the case studies to determine internal review determinations and hold Review Board hearings within the time targets, appeared to partly depend on the staff structures in place. Those with designated officers seemed to be better equipped to meet the time targets than those without.

Under the Appeals Service some of the problems associated with meeting Review Board hearing time targets will no longer be applicable. For example, delays caused by local elections or by a small pool of Review Board members. However, some causes of delays may still apply. Delays at local authorities in processing further review requests may still occur because of insufficient staff resources, or because of the need to obtain further information from the appellant. A surge in the number of requests could also stretch local authority staff resources and lead to delays.

Once further review requests have been processed by local authorities and submitted to the Appeals Service, delays in hearing cases may still arise if welfare rights representatives request an adjournment because they are unable to attend, or if any other parties (the local authority or the appellant) request an adjournment. A surge in the volume of requests being submitted by local authorities could also cause delays if the Appeals Service was unable to schedule additional hearings.

Some of the case studies did have hearing backlogs. The difficulty of scheduling extra Review Board hearings may hinder local authorities from clearing their backlogs before April 2001.

6 THE HANDOVER

6.1 Overview This chapter presents respondents' awareness of (Section 6.2) and views, both positive and negative (Sections 6.3 and 6.4), towards the handover and their expectations of the handover on the volume of appeals (Section 6.5). Respondents' awareness of and reactions to the implications of the Human Rights Act (Section 6.6) are also presented. Finally the chapter examining the areas of guidance respondents required on the practicalities of the handover (Section 6.7).

6.2 Awareness of the handover Whilst respondents were aware that responsibility for most second stage appeals was to pass to the Appeals Service, they were not aware, and in some instances were confused, about the details of how the new set-up was going to work in practice. Respondents' main sources of information about the handover were Government circulars, the Local Government Chronicle and the Department of Social Security's website. Respondents expressed a clear need for more information as soon as possible.

6.3 Perceived advantages of the handover There was unanimous support for the handover. All respondents thought, for varying reasons, that it was a positive move.

6.3.1 Independence The main perceived benefit of the Appeals Service taking over Review Board hearings was its independence from the local authority. Councillors who sat on Review Board hearings were heavily criticised for sometimes being biased in their decisions in favour of appellants. It was felt that there was a conflict of interest between being a councillor and being a Review Board member. Councillors were seen as trying to help people, whilst Review Board members needed to adopt a more neutral or objective stance. A more cynical view expressed was that it was in Review Board members' interests to decide in favour of appellants because appellants were their electorate:

'... they do at times find it difficult to separate wearing their councillor hat and being a member of a Review Board ... their role in life after being elected is to help people and they do find it difficult at times to say no.'

(3, Benefits Manager)

This was felt more likely to happen where the case was not clear cut:

'... if it's not 100 per cent down the line in our favour, I think they would err on the side of the claimant ... they'll give them the benefit of the doubt.'

(20, Appeals Officer)

It was felt that Review Board members often took a sympathetic and emotional view of a case and did not always base their decisions on the facts and regulations:

‘... if the claimant’s sat there in front of them crying or pleading poverty ... I think they do tend to take that on board a bit more than they ought to.’

(9, Appeals Officer)

In addition, some officers, notably those who were less critical of the current system, said that appeals hearings would be seen to be more independent and fairer by appellants. Respondents thought that whilst the Review Board was separate to and independent from the local authority Housing Department, appellants did not make this distinction:

‘... it will be seen to more independent ... sitting in the civic centre with three Councillors doesn’t necessarily appear to be particularly independent.’

(7, Clerk to Review Board)

6.3.2 Expertise

Respondents expected that the people hearing appeals for the Appeals Service would be professionals with expertise in Housing Benefit and Council Tax Benefit regulations. A perceived weakness of the current system was that Review Board members were not always sufficiently knowledgeable about the regulations to be able to make informed decisions:

‘I don’t mean to criticise the council members ... but it is an experienced benefit person that will be able to deal with the regulations far better than council members.’

(2, Benefits Manager)

This view was based on respondents’ experiences of the complexity of the regulations.

It was felt that where Review Board members lacked knowledge and understanding of the regulations they were more likely to make ‘subjective’, even incorrect, decisions.

6.3.3 Consistency

It was thought that both within a local authority area and nationally decisions made by the Appeals Service would be more consistent than those made by Review Boards:

‘I don’t think you could take the same case to three Review Boards and get the same decision.’

(20, Appeals Officer)

‘... hopefully no matter where you are in the country if you’re presenting exactly the same facts, the same circumstances and everything, the decisions should be the same.’

(3, Benefits Manager)

Inconsistent outcomes were felt to occur because Review Board Members were not independent and were not knowledgeable about the Regulations (c.f. Sections 6.3.1 and 6.3.2 above).

6.3.4 Less work Among respondents who were clerks and solicitors based in local authority Legal Departments, the handover of Review Board hearings to the Appeals Service was particularly welcomed because they would no longer have to organise or attend the hearings. This would give them more time for other work.

6.4 Perceived disadvantages of the handover There were few negative views towards the handover. Those that were expressed were seen as less significant than the perceived benefits of the change.

6.4.1 Loss of local context Two respondents had experience of Review Board cases where the local knowledge of the Review Board members was an advantage. There was regret that this aspect of the appeals process would be lost under the new system. One example given was that if an appellant claimed that they couldn't get to a housing office to submit a claim form, the members of the Review Board knew whether or not there was in fact adequate access in that area.

6.4.2 Loss of staff time Some respondents believed that under the new system hearings will be held in a few regional centres, rather than locally within a local authority. A few respondents were concerned that staff time would be lost if officers had to travel to a regional centre during the working day. This was considered to be more of a disadvantage by respondents at case studies who held their Review Board hearings in the evening and paid staff overtime to attend.

6.4.3 Extra travel costs and time for appellants A few appellants thought that the new system, whereby hearings would not be held locally, was disadvantageous for appellants because they would have to spend extra time and money travelling to the hearing venue, which could put them off from appealing. However, under the new system appellants will be reimbursed for their travel expenses.

6.5 Impact of the handover on the volume of appeals activity In order to provide the Department of Social Security and the Appeals Service with an idea of the number of cases the Appeals Service could expect to inherit, respondents were asked what impact they expected the handover to have on the number of cases that went to a hearing stage. Most respondents thought that on balance the handover would have no impact on the volume of further review cases, however, some did think there could be an impact.

6.5.1 Increase the number of further review requests put forward by the local authority

A few respondents thought that they might take more requests for appeals to hearings to:

- test out the Appeals Service to see what decisions they made; and
- to pursue certain types of cases which under the current system were not taken forward (because based on previous Review Board decisions the local authority expected to lose).

One respondent who thought that the Appeals Service system would be based on written representations, said they would be more likely to take a chance with some cases that they might otherwise have revised following a request for a further review. This was because they would not have to provide staff resources for an officer to attend, and a written case might not have to stand up to such close scrutiny as currently happens at oral presentations. Another respondent thought that some local authorities might be more inclined to put requests for further review forward because they would not spend the time organising the hearing.

6.5.2 Impact on the number of requests from appellants

Views as to how appellants would respond to the handover varied. A few respondents thought that more appellants would request a further review because they would see the Appeals Service as offering a more independent service. It was also thought that under a system of written representations more appellants would request a further review because they would not have to attend.

Alternatively, a few respondents thought that there would be fewer requests for further reviews from appellants. They argued appellants would not want to travel to a regional venue. Moreover, people with poor literacy skills or with English as a second language would be deterred if the new system was based on written representation and not oral presentations.

6.6 The Human Rights Act

The Human Rights Act incorporates, from October 2000, the European Convention on Human Rights into U.K. laws. Respondents were asked about their awareness and understanding of the implications of the Act on the appeals process.

Benefit managers in all but one of the case studies were aware of the Human Rights Act and its implications in the broadest sense, namely, that between October 2000 and April 2001 appellants could legally challenge whether decisions made by Review Boards fulfilled the requirements of the Act. The general attitude of benefit managers was that whilst they were concerned about the implications, they did not feel that they had an option to stop taking appeals to a Review Board, and would continue with Review Board hearings until instructed otherwise by the Department of Social Security.

6.7 Guidance required

With regard to the practicalities of Review Board hearings passing to the Appeals Service, there were many aspects of the handover where respondents wanted more information. They wanted to start making their own internal plans and arrangements in preparation for April 2001. Respondents wanted guidance on:

- The format of case paper submissions: the level of detail required; which documents from the case file to include; the layout required; electronic or paper formats. Respondents were concerned about whether more or less work would be involved in preparing the case papers, as this would impact on demands for staff resources. This was a particular issue for the case study where the administration of Housing Benefit had been contracted out to an external contractor. Any changes in the contractor's workload would require a re-negotiation of the contract between the local authority and the contractor, which could be a lengthy and complex process.
- Responsibility for 'clerking' hearings: respondents wanted to know who they would send the case papers to and who would be responsible for notifying the appellant of the hearing. There was a general expectation that the Appeals Service would take over the role of appeal hearing 'clerk'.
- Format of submissions: expectations varied as to whether appeals would be based on oral presentations or written submissions. Clarification was needed with regard to oral presentations as to whether the local authority and the appellant would have their travel costs reimbursed and whether the local authority would need professional representation at the hearing.
- The Appeals Service: respondents wanted more background information on the Appeals Service. Several respondents who thought that the Appeals Service was the same organisation as the Benefits Agency were concerned about Housing Benefit/Council Tax Benefit further review cases being added to the existing backlog of the Benefit Agency, resulting in long delays. Some respondents also wanted information as to who would be sitting on the Appeals Service panels with regard to their expertise and knowledge of the Regulations. Several respondents wanted reassurance that they would provide a more professional service than the current system.
- The scheduling of hearings: in the case studies that held a large number of Review Board hearings, respondents wanted to know how they would be scheduled. They preferred to have several cases heard in one day, rather than having to attend on separate days for individual cases.
- The cut-off date: respondents wanted information on how the cut-off date would be applied, whether only new appeals requests would pass over to the Appeals Service or whether outstanding Review Board hearings would also be taken on by the Appeals Service. This issue was of particular interest to those case studies with a backlog of Review Board cases waiting to be heard.

- The set-up: respondents were curious to know what Appeals Service venues would be like – formal or informal, how many representatives from the Appeals Service would attend, and the order of proceedings.
- Publicity: it was expected that new publicity would be required. Respondents therefore wanted to know whether they would have to produce it themselves or whether it would be supplied by the Appeals Service or the Department of Social Security. There was some concern expressed that appellants could get very confused as to which tribunal they were going to and who they needed to contact if it were not publicised.
- Contact point: one respondent mentioned that they would like to have a contact point at the Department of Social Security to advise on any initial teething problems.

6.8 Conclusions

Respondents' views of the handover were overwhelmingly positive compared to the few disadvantages mentioned. The main perceived benefits of hearings being heard by the Appeals Service rather than Review Boards were:

- the independence of the Appeals Service, including the public perception of further review hearings being independent;
- the expertise of Appeals Service Judicial Officers;
- more consistent hearing outcomes; and
- to a lesser extent, the relinquished responsibility of having to organise the hearings.

There was speculation among some respondents that the handover could impact on the number of further review hearings, but overall most respondents expected numbers to stay the same.

Benefit managers were more aware of the Human Rights Act and its implications for the appeals process than appeals officers and team leaders, but none seemed confident about what they should be doing. There was a clear need for some guidance from the Department of Social Security on this issue. Guidance was also required on the practicalities of how the handover to the Appeals Service is going to operate, so that local authorities could start to make their own plans for the handover, especially with regard to changes in staffing requirements. Respondents were concerned as to when they would receive more information.

7 CONCLUSIONS

7.1 Overview This chapter looks at the findings of a previous study by Sainsbury and Eardley, 1991 (Section 7.2), considers the implications of the handover for both local authorities and the Appeals Service (Sections 7.3 and 7.4) and draws some overall conclusions (Section 7.5).

In considering the findings of the research it must be borne in mind that they are based on interviews with staff from nine local authorities. By definition they reflect the perspective of local officials. The views and experiences of two other key stakeholders in the appeals process – appellants and Review Board members – are not known and might differ.

7.2 The appeals system ten years ago Sainsbury and Eardley (1991) conducted their research on the appeals system in 1990; their methodology was similar to this study. The main findings from their research are shown below. Some of their results remain pertinent today, however, caution needs to be exercised when making comparisons between the two studies because neither were based on nationally representative samples.

- Drivers of appeals activity – this research supports earlier findings that smaller authorities tended to have lower levels of appeals activity but that the volume of appeals cannot be accurately predicted from the size of the caseload.
- Access to the appeals system – in contrast to the findings of this research, in 1990 most authorities were found to have supplied only the bare minimum of information to potential appellants and did not widely publicise the appeals process.
- Second internal reviews – Sainsbury and Eardley also found this practice operating in local authorities which they described as the ‘double’ internal review.
- Enforcement of time targets – Sainsbury and Eardley also found that local authorities did not insist that claimants request a hearing within the four week statutory time limit.
- Reasons for appeal – in 1990 the main reasons for appeals were backdating, overpayments and exceptional circumstances payments, as was also found in this research.
- Training of Review Board members – the case studies in this research provided more comprehensive training for Review Board members than was found in 1990, where only a minority of Review Board members had received any training.
- Timing of Review Board hearings – in 1990, as was found in this research, the majority of Review Board hearings were held outside of the time limit – only 17 per cent took place within six weeks.

- Attendance of appellants – Sainsbury and Eardley found that 70 per cent of appellants attended hearings, which is not reflected in the findings of this research.
- Review Board outcomes – Sainsbury and Eardley also found that the decisions of the Review Board were sometimes influenced by extraneous factors, such as the demeanour or deservingness of the appellant.

7.3 Local authority implications and recommendations

Within the case studies there was a variety of staff structures and procedures for dealing with appeals cases. However, this variation did not appear to apply to any one particular size or type of authority. The research suggests that the best practice involves:

- Use of designated appeals officers. The case studies with designated appeals officers for both internal review and further review/Review Board stages were more able, than those without, to meet the time targets and therefore could be considered to provide a better service for appellants. Respondents themselves saw advantages of having designated officers. The case studies with clear contingency plans for providing cover when an appeals officer was absent, were also more able to meet the time targets.
- A focus on getting Housing Benefit and Council Tax Benefit assessments correct in the first instance, perhaps through extra staff training or through improvement teams, to minimise the number of appeals cases arising from local authority errors. Some of the case studies did not record as internal reviews those that had been determined wrongly.
- Appellants need to be informed about the details they need to supply with their appeal request. Throughout the appeals process delays occurred because more information had to be sought from the appellant. It was also a common problem that appellants produced new information at the Review Board hearing, which in some instances would have obviated the need for the appeal.

The transfer of further review hearings from local authorities to the Appeals Service raises new issues for local authorities which do not apply under the current system:

- Under the current system, most of the case studies held their Review Board hearings in the evening. It is understood that hearings under the Appeals Service will take place during the day. This raises issues about staff resourcing for local authorities because one hearing/case might require a member of staff to be away from the office for a whole day if travelling time is also taken into consideration. The implications of this are greater for local authorities that have a large number of further review cases going to hearings, and also possibly for local authorities that do not have full-time designated Review Board officers. These local authorities may need to make new staffing arrangements because the staff time required to attend hearings is likely to be greater than at present. It is also believed that local authorities' travel expenses will not be reimbursed by the Appeals Service.

- Any changes that local authorities have to introduce as a result of the handover could have considerable implications for local authorities where Housing Benefit administration has been contracted out to an external contractor. Changes to the external contractor's workload may result in renegotiations of contracts which can be a lengthy process. This will need to be taken into account in any arrangements for the handover to the Appeals Service.

7.4 Appeals Service implications and recommendations

Current practices and problems in the case studies raises some issues for the Appeals Service in taking over Review Board hearings:

- Whilst the main causes of delays of Review Board hearings relate specifically to the availability of councillors, there are some causes of delay that could still apply under the new system. New information will continue to be presented at hearings which result in the local authorities revising their decision at the Review Board hearing or hearings being adjourned. The Appeals Service will therefore need to encourage local authorities to gather all of the relevant information from appellants prior to a hearing.
- The Appeals Service will need to publicise that cases will not generally be adjourned because of non-attendance of appellants. One of the case studies, for example, informed appellants that cases would be heard in their absence. A similar approach might also be required to prevent delays caused by the unavailability of appellants' representatives.
- Publicity is required to ensure appellants know about the handover. It is understood that publicity packs/guidance will be given to local authorities. This is to be welcomed because some local authorities, who do not currently produce any appeals publicity (such as leaflets or posters), may be less well equipped to produce their own materials.
- The current six week time target for holding Review Board hearings could present difficulties for the Appeals Service in meeting the target if local authorities are delayed in submitting further review requests to them. An alternative could be to set each a separate time target.
- On the basis of this research it is difficult to estimate the likely volume of cases that will be passed to the Appeals Service. Nevertheless, the 'informed guess' of the research team is that, on balance, the Appeals Service can expect to hear the same number as are held currently. Some respondents thought the number of cases might increase, but others thought it would decrease. Furthermore, changes in benefit regulations was one of the drivers of appeals activity, and the proposed changes to the regulations on backdating could alter the volume of appeals cases. It was thought by some respondents that the changes would reduce the volume of appeals cases because it would be easier for appellants to prove 'good cause' for three months than it is for a year, making decisions on backdating more clear cut.

7.5 Conclusions Overall the handover of Review Boards to the Appeals Service was viewed positively by the officers interviewed. They welcomed the independence and the expertise of Judicial Officers. They thought the change would result in more consistent case outcomes. Additionally, it would relieve local authorities of the burden of organising hearings.

Nevertheless, in preparation for the handover local authorities will, for planing purposes, require detailed guidance on how the handover will work in practice.

APPENDIX A LOCAL AUTHORITY SAMPLE

Table A.1 Types of local authority

Local Authority Type		No. in Sample
England	Non-Metropolitan	3
England	Metropolitan	2
Other		4
Total		9

Table A.2 Regions

Region	No. in Sample
England (excluding London)	5
London	2
Scotland	1
Wales	1
Total	9

Table A.3 Political control

Political control	No. in Sample
Labour	5
Conservative	2
Liberal Democrat	1
Not applicable	1
Total	9

Table A.4 Review Board hearings per year

Number of Review Board hearings per year	No. in Sample
Zero	2
1-5	3
6 +	4
Total	9

* Review Board experience was loaded in favour of local authorities who have a greater than average number of cases in order to produce a sample size of around 200 case records for quantitative analysis

Objectives

- To establish the level and type of appeals activity and the processes for dealing with appeals in each Local Authority
- To explore attitudes towards the handover and its perceived impact on the level of requests for review
- To explore question areas for the LA Omnibus Survey and the ability of Local Authorities to provide information on these questions

1. BACKGROUND OF RESPONDENT

Post held (Manager/Reviews Officer)

Length of time in post

Role in Housing Benefit appeals process

Outline of L.A. departmental structure for dealing with appeals

Establish terminology for different stages and processes

2. LEVEL OF APPEALS ACTIVITY

(Refer to the stats. collected)

Number of requests for internal reviews

Number of requests for Review Boards

Number of Review Boards held

Number of outstanding Review Boards/backlogs

Probes:

- average levels
- reasons for levels
- whether seasonal variation
- reason for difference between no. of internal reviews and no. of Review Boards

3. PUBLICITY

Publicity for different stages – internal reviews/ Review Boards

Methods – leaflets/ information sheets/ standard forms

Locations – benefits office/ welfare rights groups

Role of/links with local welfare rights groups

Level of information on appeals system in notification letters

Perceived impact/ effectiveness of publicity

General attitudes towards encouraging the right to appeal

4. INTERNAL REVIEWS

4.1 Requests

Reasons for requests for internal reviews – and why

Requests types

Probes:

- from whom – claimant (SA/Income Support, others)/landlord
- new claims/renewals
- tenancy type

Method of requests – content of letters/ standard forms

Involvement of welfare rights groups

4.2 Processing Requests

Defining/distinguishing requests for internal reviews (from queries/ other requests)

Probes:

- what is/is not included
- departments/staff involved
- guidelines
- training

Whether send acknowledgement of internal review request to appellant

Processing requests

Probes:

- departments/staff involved in administration
- extent of rent officer re-determinations – and why
- requests for further information from appellant
- departments/staff involved in decision making (same or different from original determination)

4.3 Request Outcomes

Level of determinations upheld/ revised in favour of appellant – and why

Administration of determination notifications

Probes:

- departments/staff involved in administration of notifications
- methods and timing of notifying appellants

Reasons for 'drop-off' between internal reviews and Review Boards

Extent of requests for second internal reviews – and why

5. REVIEW BOARDS

5.1 Requests

Reasons for requests for Review Boards – and why

Requests types

Probes:

- from whom – claimant (JSA/Income Support, others)/landlord
- new claims/renewals
- tenancy

Differences between types of requests at internal reviews and Review Boards

Method of requests – content of letters/ standard forms

Involvement of welfare rights groups

5.2 Processing Requests

Defining/distinguishing requests for Review Boards (from queries/ other requests)

Probes:

- departments/staff involved
- guidelines
- training

Whether send acknowledgement of Review Board request to appellant

Processing requests – departments/ staff involved in administration

5.3 Hearing Preparations

Notification and briefing of Review Board members

Probes:

- departments/staff involved in briefing members
- when notified/how notified
- preparation of documentation – comprehensive notes/ photocopies of papers
- role of legal advisors

Notification and briefing of appellants

Probes:

- departments/staff involved in briefing appellants
- when notified (statutory limit = a min. of 10 days notice – reasons for delays)
- information given (time/date/location/explanation of process/copies of papers)
- role of professional representatives/ welfare organisations

Training of Review Board members

Probes:

- amount of sessions
- internal/ external
- content – Housing Benefit regulations/ tribunals procedures

5.4 Review Board Hearings

Location

Style/ approach – formal/informal

Time taken per case

Attendees

Probes:

- number of councillors
- appellants (why not attend)
- professional representatives for appellant
- appellants' friends/relatives
- number of L.A. officers
- Local Authority's solicitors, legal advisors
- Review Board advisors

Review Board process

Probes:

- order of proceedings
- style/ approach – informal/formal

5.5 Hearing Outcomes

Level of decisions upheld/ revised in favour of appellant – and why

Extent of adjournments – and reasons why

Role of Review Board advisors in decision making

Recording of decisions

Probes:

- who records the decision – the Chair, advisor, clerk – And why
- what is recorded – the decision, facts/findings, reasons for decisions
- how – use of standard forms

Notifying appellants of decisions

Probes:

- extent of oral decisions given on the day
- departments/staff involved in administration of notifications
- timing of notification letters (statutory limit = 1 week)

Content of notification letters

Probes:

- explanation of how the decision was reached
- information on rights to apply for Judicial Review

Experience of:

- appeals being withdrawn – under what circumstances
- postponement of appeals (requested by either party)
- setting aside Review Board decisions – under what circumstances
- applications for Judicial Review – why/what happens

6. LENGTH OF TIME FOR DETERMINING CLAIMS

6.1 Timing of Internal Reviews

Proportion of requests made within the 6 week statutory limit

Extension of the 6 week limit – level of occurrence – and why

Time taken to determine an internal review – average/longest

Proportion determined outside the 2 week statutory limit – and why

6.2 Timing of Review Boards

Proportion of requests made within the 4 week statutory limit

Extension of the 4 week limit – level of occurrence – and why

Time taken to convene a Review Board hearing – average/longest

Proportion determined outside the 6 week statutory limit – and why

6.3 Timing Problems

Ease/difficulty of meeting statutory time targets?

Probe:

- most difficult target

Main factors influencing timetable

Causes of delays

Length of delays

Probe for:

- average
- longest

Problems caused by delays

Improvements/changes for meeting targets

7. HANDOVER OF REVIEW BOARDS TO APPEALS SERVICE

General views of the **current** Review Board system – and why

Probes:

- best aspects
- worst aspects
- easiest part of the administration process
- most difficult part of the administration process

Level of knowledge of the handover

Probe:

- sources of information

Level of knowledge of the Appeals Service

Probe:

- sources of information
- positive/negative views

Views towards the handover – and why

Probes:

- positive
- negative

Expectations of role in administering the handover

Concerns/problems envisaged with administering handover – and why

Probes:

- staffing
- timing
- administrative changes

Impact of Human Rights Convention in October on administration of appeals – and why

Views of welfare rights organisations towards the handover

Views of appellants towards the handover

Expected impact of handover on number of Review Boards requested/held – and why

8. OMNIBUS SURVEY

Information the DSS will need

How information on appeals activity is held

Probe:

- paper records/electronic records – name of system used

Difficulties envisaged in providing information to DSS in a telephone survey

Probe:

- ease/difficulty of providing pre-interview data

Number of Reviews in Year April 1999 – March 2000

Please complete and return this form to:

Yvette Hartree

Centre for Research in Social Policy

Fax: 01509 213409

Name of Local Authority

Form completed by (please print name)

	PLEASE WRITE IN No.
Internal Reviews	
1. Number of Internal Reviews requested (Apr '99 – Mar '00)	
2. Number of Internal Reviews where determination reviewed within 14 days (Apr '99 – Mar '00)	
3. Number of Internal Reviews where determination was revised (Apr '99 – Mar '00)	
Review Boards	
4. Number of Review Boards requested (Apr '99 – Mar '00)	
5. Number of cases where a Review Board was held (Apr '99 – Mar '00)	

Notes

1. Internal Reviews requested under HB (G) R 79(2) or CTB (G) R 69(2) -
Enter the total number of requests for reviews, in the year, made under these two regulations. This is where a person affected challenges a determination by making representations within 6 weeks of that determination (or where an extension of that time limit is allowed). Reviews initiated by the authority under HB (G) R 79(1) or CTB (G) R 69(1) (e.g. changes of circumstances) should not be included.
2. Internal Reviews under HB (G) R 79(2) or CTB (G) R 69(2) where determination reviewed within 14 days -
Enter the total number of reviews, in the year, where a determination is reviewed within 14 days. The numbers need not relate directly to the numbers in Item 1.
3. Total number of Internal Reviews where determination revised under Reg 79(2) (HB) or Reg 69(2) (CTB) -
Enter the total number of reviews, in the year, where a determination is revised. The numbers entered need not relate directly to the numbers in Item 1.
4. Further reviews requested under HB (G) R 81 or CTB (G) R 70 -
Enter the total number of requests, in the year, for a Review Board hearing after the claimant has received a confirmed or revised determination on an internal review.
5. Number of cases where a Review Board was held under HB (G) R 81 or CTB (G) R 70 -
Enter the total number of cases, in the year, where a case is actually listed or scheduled and the papers sent to Review Board members. It should include those where the case was set aside or adjourned. If the hearing of a case is postponed or adjourned, it should be included once. The numbers entered need not relate directly to the numbers in Item 4.

This form needs to be completed for every case sent to Review Board between April 1999 and March 2000.

Please return completed forms to: Yvette Hartree, Centre for Research in Social Policy, Department of Social Sciences, Loughborough University, Loughborough, LE11 3TU. Tel: 01509 223377.

Name of Local Authority (write in)

CRSP Case No. (write in)

Type of Claim (tick): ✓

New ☐

Renewal ☐

Don't know ☐

Type of tenancy (tick):

Council/Rent rebate ☐

RSL ☐

Private rented ☐

Owner occupier ☐

Don't know ☐

Client Type (tick):

IS /JSA ☐

Non-IS/JSA ☐

Don't know ☐

Dates (write in date e.g. xx/xx/xx):

Original decision made

Internal review determined

Review Board hearing requested

(1st) Review Board hearing held

(2nd) Review Board hearing held (if applicable)

Reason(s) for Review Board Request (tick):

✓
MAIN SECONDARY

Entitlement

Capital

Date of entitlement

(backdating/date of changes of circumstances)

Income/earnings

Living together as husband/wife

Non-dependent deductions

Residency (fraud/absence from home)

Rent

Eligible rent

Exceptional hardship/circumstances payments

LA rent decisions (old reg 11)

Liability to pay rent (e.g. contrived tenancies)

Rent Officer decisions (LRR, SRR)

Miscellaneous

Admin procedures (e.g. payments on account, weekly amount of overpayments, who to recover overpayments from, suspension of payment)

Asylum seekers/PFAs

CTB cases

Decision on payment direct to landlord

Overpayments (by how much/recovery of)

Supported housing (what should be included) ☐ ☐

Other (write in)

Main

Secondary

Don't know ☐ ☐

Hearing Attendees – 1st hearing (tick):

✓

Appellant (person requesting appeal)

☐

Claimant

☐

Landlord

☐

Professional representative for appellant

☐

Friend/relative of appellant

☐

Landlord

☐

No-one

☐

Other (write in)

Don't know ☐

Hearing Outcome – 1st hearing (tick):

In favour of L.A. ☐

In favour of appellant ☐

Case with drawn ☐

Case set-aside ☐

Hearing adjourned ☐

Why was the hearing adjourned? (write in)

.....

Don't know ☐

Hearing Attendees – 2nd hearing (tick):

Appellant (person requesting appeal) ☐

Claimant ☐

Landlord ☐

Professional representative for appellant ☐

Friend/relative of appellant ☐

Landlord ☐

No-one ☐

Other (write in)

Don't know ☐

Hearing Outcome – 2nd hearing (tick):

In favour of L.A. ☐

In favour of appellant ☐

Case withdrawn ☐

Case set-aside ☐

Hearing adjourned ☐

Why was the hearing adjourned? (write in)

.....

Don't know ☐

Number of times hearing adjourned

(write in number):

Claimant given an explanation in notification letter of reasons why decision was made

(tick): ✓

Yes ☐

No ☐

DK – letter not in file ☐

Please write in below any additional case notes where appropriate e.g. explanatory notes, reasons given for Review Board decision / quoting of regulations, any unusual circumstances, involvement of local welfare rights organisations.

REFERENCES

Department of Social Security (August 2000), National Statistics, Press Release No. 00/244, London.

Department of Social Security (February 2000), Housing Benefit and Council Tax Benefit Quarterly Summary Statistics, London.

Sainsbury, R. and Eardley, T., (1991), Housing Benefit Reviews, Department of Social Security Research Report No. 3, London: HMSO.

Zebedee, J. and Ward, M. (1999), Guide to Housing Benefit and Council Tax Benefit 1999-2000, Shelter.

OTHER RESEARCH REPORTS AVAILABLE:

<i>No.</i>	<i>Title</i>	<i>ISBN</i>	<i>Price</i>
1.	Thirty Families: Their living standards in unemployment	0 11 761683 4	£6.65
2.	Disability, Household Income & Expenditure	0 11 761755 5	£5.65
3.	Housing Benefit Reviews	0 11 761821 7	£16.50
4.	Social Security & Community Care: The case of the Invalid Care Allowance	0 11 761820 9	£9.70
5.	The Attendance Allowance Medical Examination: Monitoring consumer views	0 11 761819 5	£5.50
6.	Lone Parent Families in the UK	0 11 761868 3	£15.00
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8.	Working the Social Fund	0 11 761952 3	£9.00
9.	Evaluating the Social Fund	0 11 761953 1	£22.00
10.	Benefits Agency National Customer Survey 1991	0 11 761956 6	£16.00
11.	Customer Perceptions of Resettlement Units	0 11 761976 6	£13.75
12.	Survey of Admissions to London Resettlement Units	0 11 761977 9	£8.00
13.	Researching the Disability Working Allowance Self Assessment Form	0 11 761834 9	£7.25
14.	Child Support Unit National Client Survey 1992	0 11 762060 2	£15.00
15.	Preparing for Council Tax Benefit	0 11 762061 0	£5.65
16.	Contributions Agency Customer Satisfaction Survey 1992	0 11 762064 5	£18.00
17.	Employers' Choice of Pension Schemes: Report of a qualitative study	0 11 762073 4	£5.00
18.	GPs and IVB: A qualitative study of the role of GPs in the award of Invalidity Benefit	0 11 762077 7	£12.00
19.	Invalidity Benefit: A survey of recipients	0 11 762087 4	£10.75

20.	Invalidity Benefit: A longitudinal survey of new recipients	0 11 762088 2	£19.95
21.	Support for Children: A comparison of arrangements in fifteen countries	0 11 762089 0	£22.95
22.	Pension Choices: A survey on personal pensions in comparison with other pension options	0 11 762091 2	£18.95
23.	Crossing National Frontiers	0 11 762131 5	£17.75
24.	Statutory Sick Pay	0 11 762147 1	£23.75
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26.	The Effects of Benefit on Housing Decisions	0 11 762157 9	£18.50
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28.	Contributions Agency Customer Satisfaction Survey 1993	0 11 762220 6	£20.00
29.	Child Support Agency National Client Satisfaction Survey 1993	0 11 762224 9	£33.00
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40.	Changes in Lone Parenthood	0 11 7632349 0	£20.00
41.	Evaluation of Disability Living Allowance and Attendance Allowance	0 11 762351 2	£40.00
42.	War Pensions Agency Customer Satisfaction Survey 1994	0 11 762358 X	£18.00
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