



COMPETITION APPEAL TRIBUNAL

Annual Report and Accounts

2021/2022



Competition Appeal Tribunal and Competition Service

Annual report and accounts 2021-2022

For the period 1st April 2021 to 31st March 2022

Presented to Parliament pursuant to Schedule 3,
Paragraph 12(4) of the Enterprise Act 2002.

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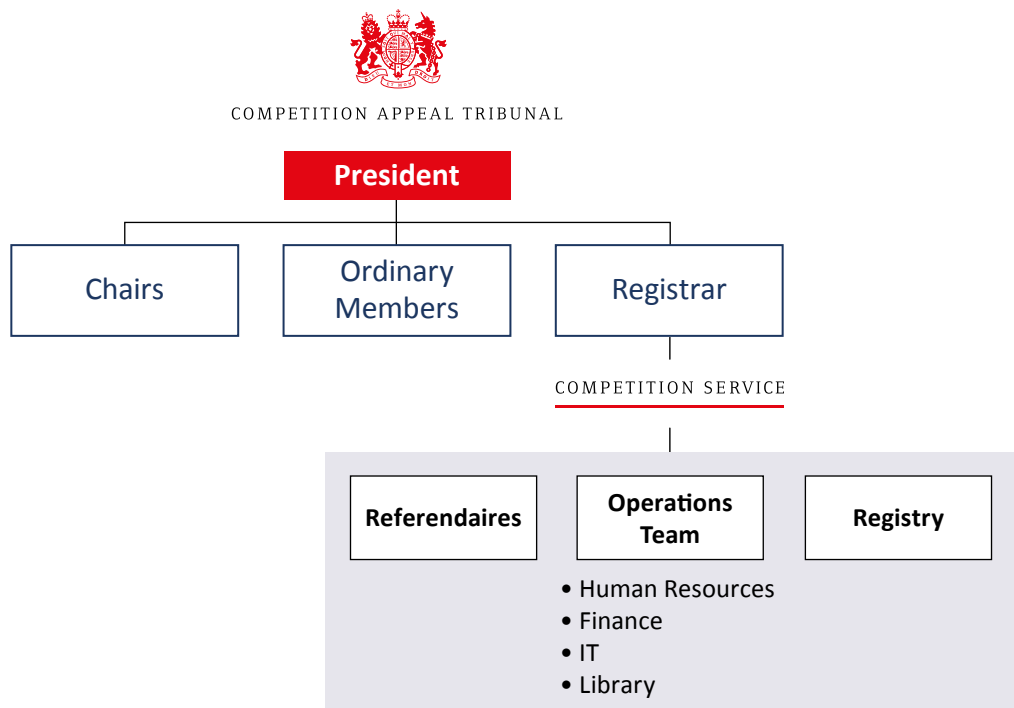
Contents	Page
Introduction	2
President's Statement	5
Performance Report	11
Membership as at 31 March 2022	16
Annual Report Case Summaries 2021/22	26
Overall Case Activity within the period 1 April 2021 to 31 March 2022	43
Accounts 2021/2022	44

Introduction

The Competition Appeal Tribunal (Tribunal) and the Competition Service (CS) were established by the Enterprise Act 2002 (2002 Act). The Tribunal plays an important role along with the Competition & Markets Authority and sectoral regulators in the UK Competition Regime by contributing to the Department of Business, Energy and Industrial Strategy (BEIS) objective on Markets: *“To create markets that serve businesses and consumers’ long-term interest.”*

The Tribunal is a specialist judicial body with cross-disciplinary expertise in law, economics, business and accountancy whose function is to hear and decide cases involving competition or economic regulatory issues. The role of the CS, which is an executive non-departmental public body, is to fund and provide support services to the Tribunal in order to facilitate the delivery of its statutory functions.

Although the Tribunal and the CS are in formal terms separate entities and treated as such for accounting purposes, in practical terms they are different elements of one integrated organisation.



Principal Functions of the Tribunal

The Tribunal hears appeals against: decisions taken under the Competition Act 1998 (1998 Act) and (prior to 31 December 2020) Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by the Competition and Markets Authority (CMA) and by designated sector regulators with concurrent powers¹; certain decisions of the Office of Communications (Ofcom) regarding the communications and broadcasting sectors under the Communications Act 2003 (2003 Act); and decisions of the CMA or the Secretary of State for Business, Energy & Industrial Strategy (BEIS) on merger and market investigations under the 2002 Act.

The Tribunal may also hear appeals in respect of decisions taken by Ofcom pursuant to the: Mobile Roaming (European Communities) Regulations 2007; Authorisation of Frequency Use for the Provision

¹ The sector regulators with concurrent powers are set out in section 54(1) of the Competition Act 1998 (as amended) and include: (1) the Office of Communications; (2) the Gas and Electricity Markets Authority; (3) the Water Services Regulation Authority; (4) the Office of Rail and Road; (5) the Northern Ireland Authority for Utility Regulation; (6) the Civil Aviation Authority; (7) the Payment Systems Regulator; and (8) the Financial Conduct Authority.

of Mobile Satellite Services (European Union) Regulations 2010; and the Communications (Access to Infrastructure) Regulations 2016.

The Postal Services Act 2011 provides for an appeal to the Tribunal in respect of certain decisions taken by OFCOM in relation to the regulation of postal services.

Further powers have been given to the Tribunal to hear appeals under the Payment Services Regulations 2009. Under the Financial Services (Banking Reform) Act 2013 and the Payment Card Interchange Fee Regulations 2015, the Tribunal has jurisdiction to hear appeals from some types of enforcement and penalty decisions of the Payment Systems Regulator.

Under the Energy Act 2010, the Tribunal has jurisdiction to hear appeals in relation to decisions taken by the Gas and Electricity Markets Authority in respect of the application of a market power licence condition to types of exploitative behaviour in electricity markets.

The Civil Aviation Act 2012 affords a right of appeal to the Tribunal in respect of various decisions and determinations of the Civil Aviation Authority including market power determinations, the imposition, modification and revocation of certain enforcement orders, the revocation of licences and the imposition of penalties.

Under the 1998 Act as amended by the Consumer Rights Act 2015, the Tribunal can hear any claim for damages in respect of an infringement of competition law. Furthermore, the Tribunal can hear collective actions for damages on both an “opt-in” and “opt-out” basis and also (except in Scottish cases) has powers to grant injunctive relief in order to prevent or curtail infringements of competition law.

The Subsidy Control Act 2022 gives the Tribunal jurisdiction to hear judicial reviews of subsidy decisions of public authorities.

Each case within the statutory jurisdiction of the Tribunal is heard and decided by a panel consisting of the President or a Chairman and two Ordinary Members.

Decisions of the Tribunal may (with permission) be appealed on a point of law or as to the amount of any penalty to the Court of Appeal in relation to cases in England and Wales, the Court of Session in respect of Scottish cases or, with regard to Northern Irish cases, the Court of Appeal in Northern Ireland.

Appointments

The President and Chairs are appointed by the Lord Chancellor for a fixed term upon the recommendation of the Judicial Appointments Commission and following an open competition. In addition, the Heads of the Judiciary in each of the three jurisdictions comprising the UK may nominate Judges to be Chairs of the Tribunal for as long as they hold judicial office.

Ordinary Members are recruited in open competition according to the guidelines of the Office of the Commissioner for Public Appointments and are appointed by the Secretary of State for BEIS for a term of eight years.

The Registrar is also appointed by the Secretary of State.

Governance

The President, the Registrar, and a number of other non-executive members appointed by the Secretary of State are the membership² of the Competition Service; they essentially constitute its Board, whose function is to ensure the funding and provision of support services to the Tribunal. During the period of this review, there were two non-executive members, Jeremy Mayhew (who also chairs the CS Audit and Risk Assurance Committee) and Peter Freeman KC (Hon) (formerly a Chairman of the Tribunal).³

Register of Interests

The CS maintains a Register of Interests detailing any directorships or other significant interests held by the members of the CS Board. A copy of the register is published on the Tribunal's website.

Premises

The Tribunal and the CS operate from premises in Salisbury Square House, 8 Salisbury Square, London, EC4Y 8AP. When cases involve matters pertaining to a specific part or region of the UK, the Tribunal may hear those cases at a location outside London. Past cases concerning Scottish, Welsh and Northern Irish undertakings have been heard in Edinburgh, Cardiff and Belfast respectively.

Funding

The work of the Tribunal is financed entirely through Grant-in-Aid from BEIS and administered by the CS. The Registrar is the designated Accounting Officer and is responsible for the proper use of these funds.

² The term used by paragraph 1 of Schedule 3 of the 2002 Act.

³ Peter Freeman has since retired and Ben Tidswell has been appointed in his place.

President's Statement

I took over as President of the Competition Appeal Tribunal on 5 November 2021, succeeding Sir Peter Roth, whose term as President expired on 4 November 2021. Peter has presided over the Tribunal's business for over eight, eventful years, including the challenges of the Covid-19 pandemic, and the Tribunal and the competition world generally owe him a significant debt of gratitude for his dedication and leadership. He leaves the Tribunal in excellent good order. Peter, and his predecessors as President (Sir Christopher Bellamy and Sir Gerald Barling), have set extremely high standards, and I will do my best to maintain those standards in what promises to be a busy and interesting future for the Tribunal.

A. Workload

The year covered by this review proved to be extremely busy. Although reliance on statistics is never to be blind, the trend is upwards in terms of hearing days, judgments handed down and orders made. As in 2020-21, the distribution of cases continues to show the extent to which the Tribunal is now – in addition to its staple of regulatory appeals – the major court of first instance for the hearing of private competition and market actions, including a number of cases transferred from the High Court.

There are a number of specific points to be made in relation to workload.

(i) *“Generic” private actions, often transferred from the High Court*

Since the Court of Appeal's decision in *Sainsbury's Supermarkets Ltd v. MasterCard Inc*, [2018] EWCA 1536 (Civ) at [356]ff, there has been a steady and significant transfer of generically similar competition cases to the Tribunal (Trucks, interchange fees, etc). These generic cases are now housed under the Tribunal's single, jurisdictional, roof. The challenge for the Tribunal is to ensure that the common issues that arise out of these otherwise distinct cases are resolved consistently. In the Trucks litigation, the approach has been to use “lead” cases. The first such case (“Trucks I”) was heard over 10 weeks, before a tribunal panel chaired by Mr Justice Michael Green. Trucks II (a 24 week trial listed for 2023) and Trucks III (a 28 week trial listed for 2024) will follow. It remains to be seen how far these lead cases resolve issues arising in the following litigation, which comprise over 500 distinct cases. In the interchange fee litigation, a different approach has been adopted, seeking to try cases on an “issue by issue” basis, as described in the Tribunal's ruling in *Dune Group Ltd v. MasterCard Inc*, [2022] CAT 14 and as formalised in the Tribunal's Practice Direction 2/2022 on “umbrella proceedings”. Again, the extent to which consistent outcomes in different cases can be achieved fairly, proportionately and consistently is a work in progress, which I am keeping carefully under review.

The volume of these cases is large (several hundred in the case of Trucks, several thousand in the interchange fee litigation) and the amount of time and resource devoted by the Tribunal to the efficient resolution of these cases is considerable.

(ii) *Individual private actions*

There are, additionally, a number of “non-generic” private disputes. In contrast to competition and regulatory appeals, private actions (including generic actions, even if viewed as “disaggregated” cases) involve a great deal more work at the interlocutory stages. Appeals/judicial reviews of competition and regulatory decisions do not involve disclosure, and the issues on appeal are identified in the notice of appeal. Pleadings and disclosure are significantly more burdensome in private actions and the trials themselves seem to be longer: whereas most competition and regulatory appeals can be dealt with maximally in 5 weeks or less, 5 weeks seems to be the starting point for estimates of trial length in private actions.

(iii) Collective proceedings

The Tribunal has a unique jurisdiction in regard to collective actions under section 47B of the Competition Act 1998 (as amended). After a slow start, the number of such proceedings has ballooned. Although at this stage the jurisdiction is still evolving (most of the hearings before the Tribunal have concerned certification, and most of these decisions are appealed to the Court of Appeal, as the parameters of the process are articulated), I am satisfied that within the next few years we will have an established regime that will enable mass claims to be brought against tortfeasors in circumstances where such claims could never have been contemplated as individual proceedings. In terms of the rule of law, that can only be a good thing.

Collective proceedings are, intrinsically complex. Most of the certification applications concern digital or financial markets (as well as trucks), and are also technically exceedingly difficult. Even before trials are listed, collective proceedings involve a good deal of Tribunal resource. Applications for certification, for instance, take days, not hours. I anticipate that, as the jurisdiction beds down, these hearings will become more streamlined. There is some evidence for this: two recent applications for certification have been substantially agreed between the parties, subject of course to the Tribunal's oversight.

(iv) Competition Act appeals

Competition Act appeals continue – as they always have done – to be a very important aspect of the Tribunal's business, and the fact that I have listed them last is a reflection of the fact that there is less change to report here than in other types of case. However, both the CMA and the Tribunal are conscious that these cases (including the investigation and decision-making processes before the CMA; and any appeals from the Tribunal) need to be as swift as possible. I am conscious that the process is one which involves great expertise and significant dedication on the part of all actors – the CMA and the Tribunal in particular – and so there are no “easy” answers to improving the process. I have engaged with the interim chair of the CMA, Jonathan Scott, in seeking to explore (in a manner entirely divorced from specific cases) our respective processes, and I hope and anticipate that this process will continue under Marcus Bokkerink, the CMA's newly appointed chair.

In a series of pharmaceutical appeals, the Tribunal has, on its own initiative, sought to improve quality of process through the use of “ambulatory drafts”, which are documents compiled by the parties under the Tribunal's hand-on direction intended to identify with more than usual specificity the common ground and (again in great detail) the areas of dispute. The intention is to reduce work before the hearing, hearing length and post-hearing judgment writing time. The process is – emphatically – an experimental one, and the Tribunal's users have (entirely understandably) viewed the process with a degree of misgiving, which may be entirely well-founded. The process will be persisted with, and we will learn from experience. The Tribunal's over-arching intention is to take an incremental, but imaginative, approach to striving to resolve all disputes – including appeals – in accordance with the ideals articulated in the overriding objective: see the ruling in the Hydrocortisone and Liothyronine appeals at [2022] CAT 2.

(v) Future work-streams

With the passage of the Subsidy Control Act 2022, the Tribunal has assumed jurisdiction over subsidy control (state aid, as it was known under the old dispensation). The implications of this important new jurisdiction have yet to be felt – for obvious reasons – and it is difficult to predict what these might be. An increase in workload is inevitable, and it is important that these cases be resolved quickly. But quite how many cases will have to be resolved is anybody's guess, and I do not propose to venture one.

B. Working practices

There are a number of matters that I should mention. As was described by Peter in his statement last year, the Tribunal has survived the pandemic and emerged having learned a number of lessons and developed in a number of ways. We have learned that the Tribunal is an extremely resilient organisation, and – although it is well after the event – that is a point worth repeating and my thanks to all of the staff should be added to those of Peter. Like most other courts, the Tribunal was forcibly introduced to remote hearings. Although the Tribunal is now back to “in person” hearings, the capacity to deal with matters remotely is one that we use as and when appropriate. Remote hearings include either completely remote hearings or hybrid hearings, where most, but not all, protagonists are present in court, but some are attending remotely.

Both physical courtrooms can be re-configured for remote/hybrid hearings, and one of our consultation rooms has been re-purposed (at minimal cost) as a third courtroom intended only for completely remote hearings. The level of the Tribunal's workload has rendered this development both necessary and desirable, and it underlines the fact that the Tribunal's outstanding infrastructure is in need of expansion in the short and medium term. That is a matter that has been taken up with our sponsoring department, who take a critical but sympathetic and helpful approach to the Tribunal's on-going needs.

Related to remote/hybrid hearings is the livestreaming of, presumptively, all proceedings before the Tribunal. This was a necessary feature of the Covid-19 environment, as the only means of ensuring open justice. Now that more normal working practices have resumed, livestreaming continues (see SI 2022/156). This development is entirely to be welcomed: even our largest courtroom – Court 1 – is usually full of persons directly interested in the case, leaving little space for the public. The public can now view hearings remotely and access to justice has correspondingly been improved. Equally, it is no longer necessary for all of a party's team to be physically present in court: it is perfectly possible to attend remotely and (as necessary) communicate electronically with the team in court. At present, it is not possible (unlike in the case of the Supreme Court) to view past hearings. The desirability of this is something we will keep in mind, and would welcome any views one way or the other.

Even before the pandemic, the Tribunal was moving more towards electronic than paper based processes. The pandemic accelerated this, and we are now in the process of embedding electronic processes in the Tribunal's existing working practices. Since those practices have, in the past, served us extremely well, the Tribunal is conscious that it meddles with what works at its peril, and a careful, incremental, approach is being adopted. That said, it is important that the Tribunal reflects dependable, but nevertheless cutting-edge, best practice and the first signs of what is colloquially referred to by the Registrar as “electrification” will be manifested during 2023.

As I write a process of reviewing the Tribunal's rules of procedure is about to begin. This will be a major undertaking, and it is important that the changes to the Tribunal's jurisdiction over time, as well as the new practices that I have touched upon, be fully integrated in this next iteration.

C. People and the organisation

The Tribunal relies, first and foremost, on the people it employs to deliver its services. Since I was appointed a chair in 2009, I have been conscious of how excellently the Tribunal delivers its services; and now, as President, I have seen at first hand the hard-work that this delivery entails. My appreciation goes out to the entire team, who are a credit to the organisation and their leadership in the form of the Registrar (Charles Dhanowa) and the Director of Operations (Edward Brockman).

Within the organisation, there are four groups of people I want specifically to mention

(i) Referendaires

Referendaires are outstanding lawyers, expert in competition procedure and substance, who assist the Tribunal and the panels constituted in particular cases on a day-to-day basis. Contrary to what is sometimes said by persons ill-informed about the Tribunal's operations (it is surprising what one hears, *en passant*, at academic and legal functions), they do not play a role in writing the judgments of the Tribunal. This is the responsibility of the panel appointed to any given case, the chair in particular, and that responsibility is a heavy one. But they do provide a vital support in the day-to-day case management of what are – almost without exception – complex and heavy proceedings. Referendaires deal with the parties and (under the directions of the President, the Registrar and/or the chair in any given case) the outward-facing conduct of the Tribunal, and it is because of the referendaires that the Tribunal has its reputation as an efficient and “can-do” court.

Two referendaires are assigned to each case (to provide redundancy) and they are expected to know the substance of each such case in detail, and be able not merely to conduct, under supervision, the party-facing communications I have described, but to assist the panel in resolving the litigation. Such assistance will range from identifying references, providing notes on limited points, and acting as a sounding board on difficult points. The role is, in this regard, similar to that of a judicial assistant in the Supreme Court.

As the Tribunal's work-load has increased, so too has its need of a larger referendaire team. In 2009, that team comprised three; in 2022, it should amount to six, and we are presently significantly below that number. A recruitment process has successfully been completed, and I look forward to welcoming several new referendaires in late 2022/early 2023 for what is a challenging and exciting role for any competition lawyer.

(ii) Ordinary members

The Ordinary Members provide critical economic and business/markets expertise to every panel. I am hugely grateful to them all for the time they give. I am conscious that as the volume and average size of cases before the Tribunal increases, so the demands of the Tribunal increase. It is one thing for a member to be available for a three or four week case; it is quite another to subject oneself to the intensity of a 10 plus week case, and I am particularly grateful to those who have, generously and ungrudgingly, given of their time and expertise.

The casework of the Tribunal is increasingly technical and economically focussed. Although all of the Tribunal's Chairs are well-versed in the economics of competition law, the expert economists who form a major part of the panel of ordinary members continue to be a vital part of the Tribunal's delivery.

Ordinary Members are appointed for an eight-year term, and a new recruitment exercise commenced in September. With the volume of case work before the Tribunal, the number of persons on the panel of Ordinary Members needs to be significantly increased if the Tribunal is to continue dealing with its workload as efficiently as it has done in the past. There are only so many cases to which a single Ordinary Member can be allocated, and I am keen to ensure that finding two appropriate ordinary members for each case does not become a bottleneck. I am attracted by the idea of removing the eight-year term limit (which, in relation to a judge, is difficult to justify) and replacing it with a retirement age, and that is something I have taken up with the Tribunal's sponsoring department and will continue to press.

(iii) Chairs

In last year's statement, Peter welcomed the appointment of Andrew Young QC as a new fee-paid Chair of the Tribunal. Andrew has now been appointed as a judge of the Outer House of the Court of Session in Scotland, an outstanding appointment deserving of our congratulation. It does mean that

Andrew has been obliged to relinquish his appointment as a fee-paid chair, but we are fortunate that the now Lord Young has been nominated by the Lord President to sit as a Chair, together with Lord Richardson.

From Northern Ireland, the Lady Chief Justice of Northern Ireland nominated Mr Justice Mark Horner and Mr Justice Ian Huddleston as Chairs of the Tribunal. Mr Justice Horner has since been appointed to the Court of Appeal in Northern Ireland.

The Tribunal is emphatically a United Kingdom tribunal, and I am hugely grateful both to the nominating judges (the Lord President of the Court of Session and the Lady Chief Justice of Northern Ireland) and the judges they have nominated for their willingness to serve.

Andrew Lenon, KC is a long-serving Chair, whose eight-year term expired late last year. Because Andrew sits as a section 9 Deputy High Court Judge, it has been possible for the Lord Chief Justice of England and Wales to nominate Andrew as a chair, so that we do not lose the benefit of his expertise, and I am grateful to Andrew in continuing in this role.

The assistance that the Tribunal receives from the Chancellor of the High Court, the President of the King's Bench Division and Mrs Justice Cockerill (and now Mr Justice Foxton) as the judge in charge of the Commercial Court in making available High Court Judges who are also chairs in the Tribunal is greatly appreciated.

The efforts of all of the Chairs is critical to the continued work of the Tribunal, and I am grateful to all.

(iv) The Competition Service

The President is responsible for the Chairs and Ordinary Members. Delivery of "support services" is the function of the Competition Service, which also provides critical oversight of the operation of the Tribunal. Both functions are important. The Competition Service operates through a "board", chaired by the President, the other members being the Registrar and two independent members, one of whom is drawn from present or former fee-paid chairs. The two independent members are Jeremy Mayhew, who took over from Susan Scholefield, and Ben Tidswell who has taken over from Peter Freeman, (who retired in October). Susan and Peter depart with our gratitude for all their efforts, and Jeremy is very welcome. He took over from Susan as the chair of the Competition Service Audit and Risk Assurance Committee. A process involving the present and recently past fee-paid chairs of the Tribunal, to find a successor for Peter, is underway.

D. Outreach

The Tribunal takes its wider responsibilities extremely seriously. The President, Chairs and Ordinary Members regularly engage in conferences, seminars and talks in the competition field. The Tribunal's User Group, under the leadership of Ben Tidswell, has been newly invigorated and serves as a conduit between the competition law community and the Tribunal.

E. The near-term future

A report on the state-of-play regarding the Tribunal's affairs is, inevitably, a backward looking matter. However, it is appropriate to identify significant issues on the near horizon, and my approach to them:

(1) The Tribunal's work-load is steadily increasing, and I am pleased to say that the Tribunal is rising to the challenge. Output, in terms of speed of judgment and process, is not suffering. But my sense is that the Tribunal is coming to the limits of what it can deliver whilst maintaining its (very high) standards, and a process of expansion is partly in train and partly being discussed with our sponsoring department. A third, physical, courtroom (at least), and corresponding scaling up of staff, Ordinary Members and fee-paid chairs is going to be necessary.

(2) Linked with this, the Tribunal is actively considering how processes can be streamlined, whilst either maintaining or improving existing standards. The process of “electrification”, mentioned above, is the prime example of this, but the Tribunal’s rules are actively being considered so that justice fit for the 22nd century is delivered.

Sir Marcus Smith

President

19 January 2023

Performance Report

Cases

During the year, the Tribunal issued 47 judgments and made 237 orders. Details of the Tribunal's judicial work during the year can be found in the Cases section of this report; in addition, the President's statement mentions some of the noteworthy points that emerged from proceedings before the Tribunal. As at 31 March 2022, 7 judgments were pending and 122 cases were carried forward to the next year (121, excluding stayed cases).

Covid-19 Pandemic

The first part of the year was characterised by the ongoing Covid-19 lockdown and associated restrictions, but the Tribunal was well positioned to continue operating effectively and efficiently during this period. Building upon the processes implemented in the previous year during the initial lockdown, procedures to improve the rapid and innovative deployment of remote working technologies and the livestreaming of hearings were improved and refined, thus ensuring that the Tribunal was able to remain fully operational throughout. As in the previous year, no hearings were postponed during this time.

The Government's Roadmap out of Lockdown provided a timetable for the Tribunal to transition back to a more normal routine of in-person hearings from the autumn. Since then the Tribunal has had the flexibility to conduct hearings in-person, remotely or via hybrid arrangements.

Other Tribunal Activities

In addition to its judicial work, during the year under review and in spite of the restrictions imposed by the response to the Covid-19 pandemic, the Tribunal was involved in a number of other activities that were related to or arose out of its role in the UK competition law system. Generally, such activities encompassed: speaking at seminars in the UK and abroad (virtually); participating in the work of the Association of European Competition Law Judges (AECLJ) and acting as its secretariat; liaising with BEIS and other Government departments on various policy issues relating to the competition and regulatory framework (some of which concerned preparation for the Subsidy Control Act 2022); working on legislative changes that related to the work of the Tribunal; running a training programme for Tribunal members and other members of the judiciary who deal with competition law issues; and liaising with stakeholders in the Tribunal's work through the Tribunal's User Group or other fora.

Competition Service Staff

As at 31st March 2022, the CS staff team comprised 19 individuals⁴ a number of whom multi-task across several roles. The staff absence rate was 0.6 per cent.

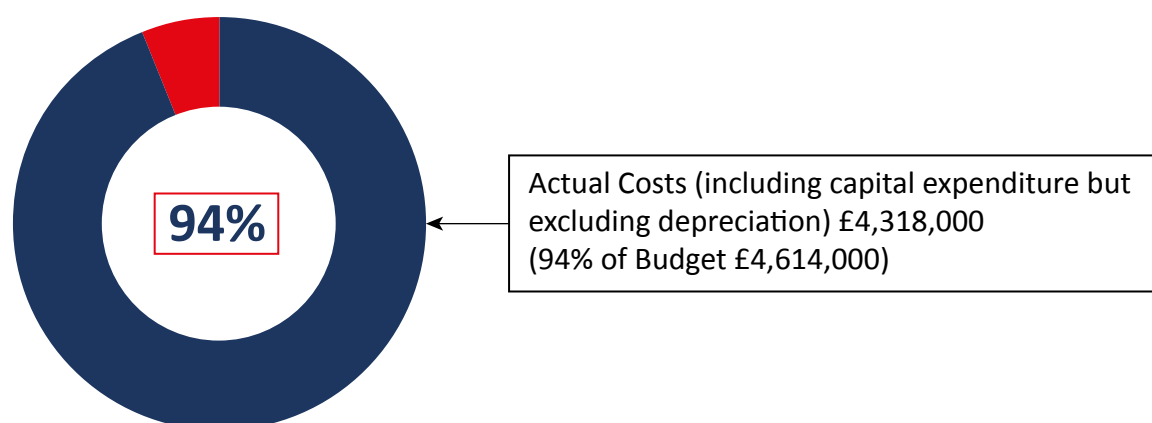
CS Staff turnover for the year was relatively high, at 21 per cent and included the departure of members of staff from across the workforce, including two long serving members – Sam Buyoya (Referendaire) who has joined Ofcom and Megan Limbert (Registry) who is pursuing a career in social care. We wish them all the best in their new roles.

⁴ 19 plus the Registrar; with one individual working part-time.

Financial

The programme and administration funding allocation from BEIS for 2021/22 was £4,614,000, including £4,559,000 for resource expenditure (net of any income from other sources) and £55,000 for capital expenditure. In addition, funding of £1,299,000 was allocated for rent liability for the premises occupied at 8 Salisbury Square. The adoption of IFRS 16 meant that the budget has now been removed from resource funding. Therefore, the total funding was for £5,913,000.

Actual v Budget



In 2021/22 grant-in-aid received from BEIS was £5,650,000 (4% less than £5,913,000 total funding) (2020/21: £3,800,000); actual resource expenditure of the Tribunal/CS was £5,547,000 (2020/21: £4,715,000) split between the Tribunal's actual expenditure of £1,092,000 (2020/21: £655,000) and the CS's actual expenditure of £4,455,000 (2020/21: £4,060,000).

Accommodation costs excluding rent, but including VAT on rent (mainly service charges, facilities management and business rates) comprised £1,257,000 (23 per cent of the total resource expenditure of £5,547,000).

The main changes in the CS's costs compared to the prior year are set out in the table below. Full details are set out in the Statement of Comprehensive Net Expenditure on page 78.

(Decrease)/increase in costs	2021/22 £'000
Members' remuneration (increase in case workload)	61
Chairs' historic employer pension contributions (Cost from date of appointment to September 2021 for the Judicial Pension Schemes)	365
Chairs' historic judicial service award (Cost from date of appointment to September 2021 for the Judicial Pension Schemes)	49
HMRC refund of tax and NI on travel (for last four years and NI for last six years). See note 4 page 69 of the Tribunal accounts	(47)
Members Travel & Subsistence and Training	9
Total increase in Tribunal cash costs	437
Members' remuneration (full attendance of virtual meetings by Audit and Risk Assurance Committee members)	2
Staff costs (decrease in untaken leave accrual and time gap between staff leaving and new staff starting)	(35)
Accommodation and lease	(517)

(Decrease)/increase in costs	2021/22 £'000
IT service fee	38
Travel, subsistence and hospitality	4
Other administration including case related expenditure	72
Audit fees	(3)
Total decrease in CS's cash costs	(439)
Total decrease in cash costs	(2)
Depreciation for full year of 8 Salisbury Square and IT assets, ROU asset under IFRS16 (increase)	834
Total increase in operating costs	832

As a non-departmental public body, the CS records grant-in-aid as financing received from BEIS. Therefore, any imbalance between grant-in-aid received and expenditure during the year results in a movement in the CS's reserves on the balance sheet.

The Tribunal's statement of financial position shows only those liabilities at 31 March 2022 relating to the activities of the Tribunal. Those liabilities are paid by the CS. The liabilities in the CS's Statement of Financial Position therefore include liabilities that relate to the activities of the Tribunal and the CS.

Capital expenditure during the year amounted to £83,000 and was mainly related to the purchase of additional IT equipment for converting a consultation room to a remote court, supply and fit of fire extinguishers, MS teams and Enterprise licences and the finalisation of the setup of audio-visual equipment for the Tribunal/CS's premises at 8 Salisbury Square which, also included assets under construction from 2020/21.

The book value of the CS's non-current assets increased to £8,153,000 from £3,110,000. The total assets of the CS increased to £11,083,000 from £5,125,000. This is primarily as a result of bringing assets onto the Statement of Financial Position pursuant to IFRS 16. The closing cash balance was £2,843,000 (2020/21: £1,893,000). The tax payers' equity constituting the CS' general fund (which represents the total assets of the CS less its liabilities, but not any other reserves and financing items) increased to £1,649,000 from £1,053,000.

The annual accounts, set out later in this report, record the detailed expenditure of grant-in-aid during the year.

Pension arrangements and liabilities for the President and the Registrar are mentioned separately in the Remuneration Report. Tribunal Chair appointments are pensionable;

Ordinary Member appointments are non-pensionable. Note 5 on page 86 in the CS's accounts provides information on the pension provisions relating to CS staff.

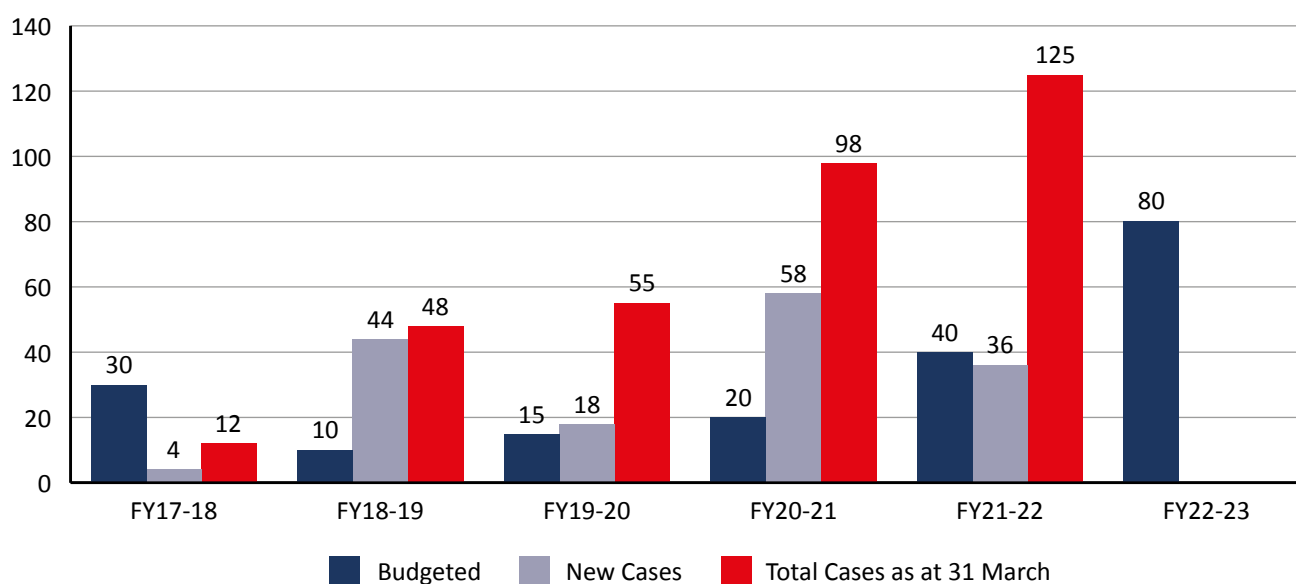
As required by statute, separate accounts have been prepared for the Tribunal and the CS in accordance with the Accounts Directions issued by the Secretary of State for BEIS under section 12 and Schedule 2 of the 2002 Act. The accounts are prepared so as to give a true and fair view of the state of affairs of the Tribunal and the CS at the year end and provide disclosures and notes to the accounts in compliance with the accounting principles and disclosure requirements issued by HM Treasury and included in the Government Financial Reporting Manual (FReM) in force for financial year 2021/22.

The future financing of the Tribunal/CS's liabilities is to be met by grants of supply and the application of future income, both approved annually by Parliament. Confirmation of the allocation in respect of the year to 31 March 2023 was received in March 2022. The allocation was though £809,000 less than the funding bid submissions made in August 2021 for the three years from 2022/23 for the

Government Comprehensive Spending Review. It has been considered appropriate to adopt a going concern basis for the preparation of the Tribunal/CS financial statements, in accordance with the FReM.

For financial year 2022/23, grant-in-aid from BEIS amounts to £5,282,000 split between £4,742,000 of resource expenditure and £540,000 of capital expenditure. In addition, grant-in-aid of £1,299,000 for the rent payable for the year ending 31 March 2023 will be given by BEIS. The spend for 2022/23 is expected to be in the region of £6,581,000. Nearly 75 per cent of the Resource Departmental Expenditure Limit (RDEL) is constituted by fixed costs. Costs for the specialised courtrooms and associated facilities excluding rent constitute 24 per cent of the RDEL.

Case Workload



Early projections indicate that over the next 2-3 years, the forecast number of cases that the Tribunal may receive is likely to double in comparison to cases received in 2021/22, as well as the number of employees needed to front the increased pressures and workload. In 2022/23, we are planning to recruit one Referendaire and one Assistant Referendaire. By the end of financial year 2022/23, Tribunal/CS costs could therefore increase by approximately 3% of its total forecasted spend of £6,581,000 (i.e. £197,000).

Governance

The CS Board is responsible for ensuring that effective arrangements are in place to provide assurance on governance, risk management, financial management and internal control. During 2021-22, the CS Board met on four occasions with full attendance.

The subordinate CS Audit and Risk Assurance Committee (ARAC) chaired by the Independent non-Executive member⁵ also met on four occasions. Further information on the activity of the CS Board and ARAC can be found in the Corporate Governance Statement later in this report.

The main interface with Government is through the Department of Business, Energy & Industrial Strategy (BEIS), and in particular the Market Frameworks Group. Throughout the year, regular meetings took place with senior Officials to maintain a close working relationship.

Data security

There were no incidents involving loss of data or personal data during the year.

Charles Dhanowa OBE, KC (Hon)

Registrar and Accounting Officer

19 January 2023

5 Susan Scholefield until October 2021 and Jeremy Mayhew from February 2022.

Membership as at 31 March 2022

President



Sir Marcus Smith was called to the Bar in 1991 and was appointed Queen's Counsel in 2010. He was appointed as a Chair at the Competition Appeal Tribunal in 2009, and has sat regularly since that date, hearing cases across the full range of work at the Tribunal. In 2017, he was appointed to the High Court (Chancery Division). He hears cases across the whole range of Business and Property Courts work, as well as sitting in the Upper Tribunal (Tax and Chancery), the Administrative Court, and the Patents Court. He is one of the judges authorised to sit as a judge of the Financial List. Between 2019 and 2021, Sir Marcus was the Supervising Judge for the Business and Property Courts of the Midland and Western Circuits and Wales.

Chairs

The Chairs of the Tribunal comprise Justices of the High Court and of the Courts of Scotland and Northern Ireland who have been appointed as Chairs, as well as Chairs appointed specifically to the Tribunal.

The Honourable Mr Justice Morris
The Honourable Mr Justice Zacaroli
The Honourable Mr Justice Fancourt
The Honourable Mr Justice Hildyard
The Honourable Mr Justice Saini
The Honourable Mrs Justice Falk
The Honourable Mr Justice Trower
The Honourable Mr Justice Miles
The Honourable Mr Justice Meade
The Honourable Mr Justice Bryan
The Honourable Mr Justice Butcher
The Honourable Mrs Justice Cockerill
The Honourable Mr Justice Foxton
The Honourable Mr Justice Jacobs
The Honourable Mr Justice Waksman
The Honourable Mrs Justice Bacon
The Honourable Mr Justice Adam Johnson
The Honourable Mr Justice Michael Green
The Honourable Lord Ericht
The Honourable Mrs Justice Joanna Smith
The Honourable Lord Young
The Honourable Mr Justice Mellor
The Honourable Mr Justice Edwin Johnson
The Honourable Mr Justice Leech
The Honourable Mr Justice Roth
The Honourable Mr Justice Mark Horner
The Honourable Mr Justice Ian Huddleston

Andrew Lenon KC



Andrew Lenon was called to the Bar in 1982 and was appointed Queen's Counsel in 2006. A member of One Essex Court Chambers, his practice covers the full range of company and commercial litigation, arbitration and advisory work. He has been involved in many leading cases involving banking and financial services, company and insolvency matters and the insurance, reinsurance and energy industries. He sits as a Deputy High Court Judge, assigned to the Chancery Division and has been nominated by the Lord Chief Justice pursuant to section 12(2)(aa) of the Enterprise Act 2002 to sit as a Chairman of the Competition Appeal Tribunal.

Hodge Malek KC



Hodge Malek was called to the Bar in 1983 and appointed Queen's Counsel in 1999. He is a member of 3 Verulam Buildings and his practice has covered many areas of commercial law and dispute resolution including banking and financial services, fraud, professional disciplinary cases, energy, insurance and reinsurance and procurement. He is the General Editor of the leading book on the law of evidence, Phipson on Evidence (20th edition, 2022), and the joint author of Disclosure (5th edition, 2017). He is also a contributor to Mithani, Directors Disqualification (Human Rights chapters), and various volumes of Atkins Court Forms (Financial Services, Human Rights, Disclosure and Information Requests and Administrative Court). He was a member of the Commercial Court working party chaired by Lord Justice Cresswell on Electronic Disclosure. He is a Bencher of Gray's Inn. He was a member of the Inns of Court Conduct Committee and acted as a Chairman of the Bar Disciplinary Tribunal. He is an acting Deemster of the High Court in the Isle of Man. He sits as a Recorder in both civil and criminal cases.

Bridget Lucas KC



Bridget Lucas was called to the Bar of England and Wales in 1989 and appointed Queen's Counsel in 2018. A member of Fountain Court Chambers, her practice has covered a wide range of company and commercial litigation, arbitration and advisory work. Her cases have included civil fraud matters; company, restructuring and insolvency matters; regulatory and investigations (including financial services), and disputes involving the insurance, telecommunications and energy sectors.

Justin Turner KC



Justin Turner was called to the Bar of England and Wales in 1992 and appointed Queen's Counsel in 2009. A member of 3 New Square, he specialises in all aspects of intellectual property litigation with a particular interest in the pharmaceutical and biotechnology sectors. In addition to the UK courts he has appeared before the European Patent Office and the Court of Justice of the European Union and is an editor of *Terrell on the Law of Patents*. Prior to being called to the Bar he obtained a PhD in immunology and virology. He is a former member of GTAC (the Gene Therapy Advisory Committee) and a former director of UK Anti-Doping.

Ben Tidswell



Ben Tidswell was admitted as a barrister and solicitor in New Zealand in 1988 and joined City firm Ashurst in 1993, becoming admitted to the roll of solicitors in England & Wales in 1994 and a solicitor advocate in 1999. A partner in the London Disputes practice at Ashurst since 2000, he has worked on a wide range of commercial litigation and regulatory matters, including several cases before the Tribunal over a period of almost 20 years. He was the Global Chairman of Ashurst from 2013 to 2021. He was appointed as a non-executive director of Post Office Limited on 27 July 2021.

Ordinary Members

Peter Anderson



Peter Anderson has been a solicitor in Scotland. He was a partner in Simpson & Marwick, Solicitors, Scotland, from 1978 and, after the firm merged with Clyde & Co Solicitors, a partner there from 2015 to 2018. He has over 40 years' experience in general insurance litigation, specialising in complex and high value personal injury claims, professional negligence, commercial litigation and aviation disputes. He has lengthy experience as Chairman and Managing Partner of a law firm, is a part-time judge in the Sheriff Court, Scotland, and a non-executive director of a small Lloyds' Insurance Syndicate, MGA. He has been Chair of the Disciplinary Tribunal of the Institute of Chartered Accountants of Scotland for 12 years and he was Legal Adviser to the Royal Incorporation of Architects in Scotland for 25 years, until 2018.

Dr Catherine Bell CB



Catherine Bell has wide non-executive experience at board level in the public, private and regulated sectors. She has been a non-executive director at Cadent Gas Limited and Horder Healthcare since 2016. Her past roles include non-executive directorships at the Civil Aviation Authority, United Utilities plc, National Grid Gas Ltd, National Grid Electricity Transmission Ltd and the Department of Health.

Dr William Bishop



William Bishop was formerly a Senior Advisor at Charles River Associates and is Professor of Economics of Competition Law at the College of Europe. His parliamentary and governmental experience includes being an adviser to the UK Government on drafting the UK Competition Act and adviser to the European Commission on its Market Definition Notice and on Remedies in Merger Control. His professional experience includes many cases concerning European and UK merger control and UK monopoly investigations. A former career academic (mainly at the London School of Economics and Political Science), he is the author of numerous papers on the economics of law.

Jane Burgess



Jane Burgess was with the John Lewis Partnership since 1993 first starting as Staff and Training Manager and her last position was as Partners' Counsellor on the board, before her retirement in October 2017. Her current appointments are as a Lay Member on the House of Commons Committee on Standards and a Commissioner for the Civil Service Commission.

Professor John Cubbin



John Cubbin is Emeritus Professor of Economics at City University in London where he was previously Head of Economics and Director for Competition and Regulatory Policy. Previously, he was also: an Associate Director with NERA; Professor of Economics at the University of Manchester Institute of Science and Technology; Visiting Senior Research Fellow at London Business School; Reader in Economics at Queen Mary University of London; Lecturer in Economics at Warwick University; and a Member of the Competition Commission.

Michael Cutting



Michael Cutting was from 1988 to 2018 a competition lawyer at Linklaters LLP, including terms leading its London and global competition practices. He also served terms on the Board of Linklaters and Co-chair of the Joint Working Party on Competition Law of the Bar and Law Society. His experience in private practice included UK and EU merger control, cartels, abuse of dominance and utility regulation. He is also a member of the London Magistrates Advisory Committee.

Paul Dollman



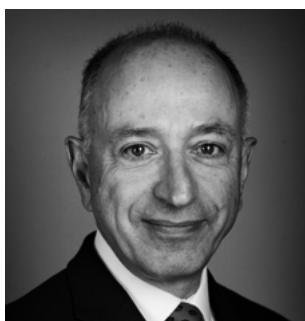
Paul Dollman was Group Finance Director at John Menzies PLC, between 2002 and 2013. He is currently Audit Committee Chairman for Wilmington PLC, Verastar and Arqiva. He is also a non-executive director of Scottish Amicable, a Member of the Audit Committee of the National Library of Scotland, Honorary Teaching Fellow at the University of St Andrews Business School and Governor of the Edinburgh Academy of St Leonards School.

Eamonn Doran



Eamonn Doran spent 30 years working at Linklaters LLP, the international law firm, latterly as a partner and consultant. Specialising in competition law and EU law, he had particular experience of banking and financial services inquiries and is a former head of the London competition group. He sits as a JP in the Family Court, is a trustee of Missio, a Catholic aid & mission charity and is a founding trustee of the Grow Edo Support Group, developing projects to combat human trafficking from Nigeria. He chairs the Remuneration Committee of Magdalen College, Oxford.

Tim Frazer



Tim Frazer was a partner at Arnold & Porter LLP (now Arnold & Porter Kaye Scholer LLP) from 1999, during which time he advised on both conduct and merger cases in the EU and UK, and on compliance and audit processes in various jurisdictions worldwide that have adopted the EU approach to competition law. He was previously at Newcastle University, between 1980 and 1997, as Lecturer in Law, Dean of Law and Professor of Law. He is the author of a number of textbooks on competition law and is a director of an educational charity in the North East of England (the Percy Hedley Foundation).

Simon Holmes

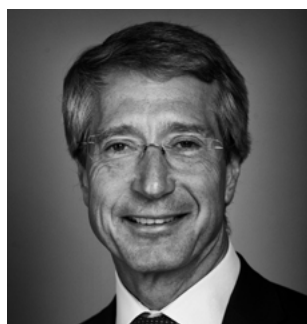


Simon Holmes advised on competition law for some 35 years before joining the CAT. He was latterly head of competition at SJ Berwin and then King & Wood Mallesons – first in the UK and Europe and then on a global basis.

He is a Visiting Professor at Oxford University where he teaches competition law. He is also an adviser to the NGO, ClientEarth; a strategic Adviser to SustainablePublicAffairs in Brussels; a member of the competition commission of the International Chamber of Commerce (ICC); a member of the international advisory board of the LDC (Insituto de derecho de la competencia); and an associate member of the UCL Centre for Law, Economics, and Society (CLES).

He writes and speaks regularly on competition and regulatory issues (most recently on the relationship between climate change, sustainability and competition law).

Paul Lomas



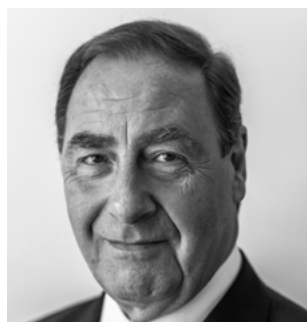
Paul Lomas is a litigation practitioner who was a partner at Freshfields Bruckhaus Derringer for 25 years. He led a number of their practice areas and specialised in EU and competition litigation, regulatory litigation and a wider range of general litigation. He was the author/editor of a text book on global investigations. He also holds an MBA from INSEAD. He is chair of REDRESS, was chair of Local Giving (and on-line web giving platform for local charities), and helped create the Bingham Centre for the Rule of Law where he is a Bingham Fellow.

Professor Robin Mason



Robin Mason is Pro-Vice-Chancellor (International) at the University of Birmingham; Chair of the Commonwealth Scholarship Commission; and Officer of the Order of the Rio Branco, for his contribution to academic co-operation between Brazil and the UK. He was previously Pro-Vice-Chancellor and Executive Dean (Business School) at the University of Exeter, as well as Professor of Economics. His area of expertise is industrial organisation in general, and in particular the economics of regulation and competition. He has provided expert advice for a number of regulators, in the UK and internationally, on competition matters and spectrum auctions. He served for eight years on the Competition Commission and Competition and Markets Authority. He is currently a panel Member at the Financial Conduct Authority and the Payment Systems Regulator.

Sir Iain McMillan CBE, FRSE, DL



Sir Iain McMillan spent twenty-three years with the TSB Group prior to joining the Confederation of British Industry (CBI) in 1993. He held the position of Director, CBI Scotland for nineteen years until 2014. Sir Iain is currently Chairman of the University of Strathclyde Business School Advisory Board; a Member of the Audit & Risk Assurance Committee of the Competition Service; and Honorary Patron and former Chairman of the Scottish North American Business Council (SNABC).

Other appointments have included: Membership of the Boards of the Scottish Qualifications Authority, the NHS Scottish Ambulance Service; the British American Business Council; and the Teaching Awards Trust. Over the years, he has served on other Boards and public policy groups, including the Commission on Scottish Devolution (Calman Commission). He also chaired the Independent Commission for Competitive and Fair Taxation in Scotland. In 2003, Sir Iain was appointed CBE for services to the business community and lifelong learning in Scotland. In 2015, Sir Iain was knighted for services to the Scottish economy and, in 2018, was appointed a Deputy Lieutenant of Stirling and Falkirk. Sir Iain is also a Fellow of The Royal Society of Edinburgh and a Freeman of the City of Glasgow.

Professor Anthony Neuberger



Anthony Neuberger is currently Professor of Finance at Cass Business School at City University of London, where he is Head of the Faculty of Finance. He was previously at the University of Warwick as Professor of Finance and at the London Business School as Associate Professor of Finance. He also has experience of working for the Department of Energy and the Cabinet Office, between 1973 and 1983.

Derek Ridyard



Derek Ridyard is an economist with expertise in the economics of competition, regulation and intellectual property. He holds an MSc in economics from the London School of Economics. He spent 30 years as an economist working in private practice. Derek was one of the co-founders of economic consulting firm RBB Economics, prior to which he worked for 15 years establishing and heading up the European competition practice at NERA, and for five years in the UK Government Economic Service. He is also a member of the UK's Regulatory Policy Committee.

Timothy Sawyer CBE



Timothy Sawyer is an executive with expertise in turnaround, start-up and growth opportunities having both a UK and international perspective. He was CEO of Bank of Maldives until July 2022 and is currently CEO of Lexim and Chair of Folk2Folk Ltd. He was formerly Chief Investment Officer at Innovate UK and CEO of Start-Up Loans. He was awarded a CBE for services to Government and small business in the Queen's Birthday Honours 2016. He has been executive director of Cahoot and Ivobank and non-executive director of Banque Dubois, China PNR, Visa UK, Link, Eftpos UK and Card Payment Group.

Professor David Ulph CBE, FRSE



David Ulph has been Professor of Economics at the University of St Andrews since 2006. He was Director of the Scottish Institute for Research in Economics from 2010 to 2017. Between 2001 and 2006, he was Chief Economist and Director of Analysis at Inland Revenue (subsequently HM Revenue & Customs). He is currently a Commissioner of the Scottish Fiscal Commission and was a member of the NHS Pay Review Body from 2015 to 2021.

Anna Walker CB



Anna Walker is currently Chair at South West Academic Health Science Network, Deputy Chair and non-executive director at South London and the Maudsley NHS Foundation Trust and a lay Member of the Nursing and Midwifery Council. She is also Chair of St George's Hospital Charity.

Anna's background is in competition, regulation, performance improvement and consumer policy. She was Chair of the Office of Rail and Road (2009 and 2015), Chief Executive of the Healthcare Commission (2004 to 2009) and Deputy Director General at the Office of Telecommunications. She was a Deputy Chair of the Council of Which? and a non-executive director at Welsh Water.

Anna was a civil servant at the Department of Trade and Industry with roles including competition policy and Director General Energy. She was also Director General Rural Affairs at Defra from 2002 to 2004.

Professor Michael Waterson



Michael Waterson is Emeritus Professor of Economics at the University of Warwick where he has been a professor since 1991 and has previously been a professor at the University of Reading and lecturer at the University of Newcastle upon Tyne. He was a member of the Competition Commission for nine years and has also undertaken various consultancy activities for organisations including the Office of Fair Trading, National Economic Research Associates, Oxera and Frontier Economics in relation to various aspects of the energy industry and retail competition.

Professor Pauline Weetman



Pauline Weetman is Professor Emerita of Accounting at the University of Edinburgh. She is a Member of The Institute of Chartered Accountants of Scotland and has held previous professorial posts at the Universities of Stirling, Heriot-Watt, Strathclyde and Glasgow. Her research interests in accounting cover corporate communications and international comparisons. She holds a Distinguished Academic Award of the British Accounting and Finance Association and is a Fellow of the Royal Society of Edinburgh. She is currently a Member of the Accounts Commission in Scotland, which is responsible for the audit of all Scottish local authorities, and is a Member of the Finance Committee of the International Academy at the University of London. Previous public appointments have included the Pay Review Body for Nurses and Midwives and the Scottish Solicitors Discipline Tribunal. She has edited a leading academic journal and continues to provide editorial guidance for journal papers.

Stephen Wilks



Stephen Wilks is Emeritus Professor of Politics at the University of Exeter where he also served for four years as Deputy Vice Chancellor. From 2001 to 2005, he was a member of the Economic and Social Research Council and chaired its Research Strategy Board. He has written extensively on the politics, administration and enforcement of UK and European competition policy and His most recent book is “The Political Power of the Business Corporation” published by Edward Elgar in 2013. From 2001 to 2009, he was a member of the Competition Commission and served on 12 merger inquiries.

CS Non-Executive Member

Jeremy Mayhew OBE



Jeremy Mayhew became, in February 2022, a Non-Executive Board Member of the Competition Service. In the past, he has held a wide range of public appointments, for example, on: the UK Government’s Regulatory Policy Committee; the British Transport Police Authority; the Legal Services Board; the Mayor of London’s Office for Police & Crime; the London Development Board; and the Strategic Rail Authority. For over 25 years, Jeremy served as an Independent Member on the City of London Corporation, the local government for the City of London – where, amongst many other roles, he was Chairman of its Finance Committee for 5 years. He was previously a Board Director of BBC Worldwide and worked, for many years, as a strategy consultant, largely advising clients in the media sector. He read PPE at Balliol College, Oxford University and, subsequently, graduated with an MBA with High Distinction from Harvard Business School.

Cases 2021/22



Annual Report Case Summaries 2021/22

Note: The details set out below are only intended to be brief summaries of the judgments. There is no intention to add to, interpret or otherwise gloss the judgment. The definitive text of each judgment can be found in the Competition Appeal Tribunal Reports or on the website of the Competition Appeal Tribunal (www.catribunal.org.uk).

Judgment	Tribunal	Subject matter
1		
Roland (U.K.) Limited and Another v Competition and Markets Authority [2021] CAT 8 19 April 2021	Andrew Lenon KC Michael Cutting Professor Pauline Weetman	<p>Judgment of the Tribunal in relation to an appeal against a decision of the CMA entitled: “Online resale price maintenance in the electronic drum sector” issued on 29 June 2020 (“the Decision”).</p> <p>In the Decision, the CMA found that Roland (UK) Limited had infringed the prohibition in section 2(1) of the 1998 Act and/or Article 101 TFEU by engaging in online resale price maintenance (“RPM”) relating to electronic drumkits and associated products with a single UK distributor in the period from 7 January 2011 to 17 April 2018. The CMA imposed a penalty of £4,003,321 on Roland (UK) Limited jointly and severally with its ultimate parent company Roland Corporation (together “Roland”).</p> <p>Roland filed a notice of appeal with the Tribunal raising two grounds of appeal.</p> <ol style="list-style-type: none"> 1. The 19% starting point for the calculation of the penalty was excessive. The CMA (i) overstated the seriousness of RPM generally, imposing a penalty that is on a par with the penalties it imposes for much more serious horizontal infringements, and (ii) failed to take account of the very narrow scope of the RPM that it actually found in the Decision. 2. A 20% discount for leniency given by the CMA was inadequate. The discount for leniency given by the CMA was too low. <p>The CMA applied to revoke the settlement discount of 20% discount for the period 1 January 2013 to 17 April 2018.</p> <p>The Tribunal unanimously rejected Roland’s appeal and granted the CMA’s application. The penalty paid by Roland without the 20% settlement discount was £5,004,141.</p>
2		
Generics UK Limited v Competition and Markets Authority [2021] CAT 9 10 May 2021	The Honourable Mr Justice Roth Hodge Malek KC Dermot Glynn	<p>Supplementary judgment of the Tribunal in relation to five appeals brought by six entities: GlaxoSmithKline PLC (“GSK”), Generics (UK) Ltd (“GUK”), Xellia Pharmaceuticals ApS and Alpharma LLC (“Xellia/ALLC”), Actavis UK Ltd (“Actavis”) and Merck KGaA (“Merck”) (together “the Appellants”).</p> <p>The appeals were brought against a decision of the CMA issued on 12 February 2016 (“the Decision”). In the Decision, the CMA determined that: GSK had infringed both the Chapter I prohibition and Chapter II prohibition under the 1998 Act; the other appellants had all infringed the Chapter I prohibition; and GSK, GUK and Merck had also infringed Article 101 TFEU.</p>

Judgment	Tribunal	Subject matter
		<p>The five appeals were heard together, and a judgment was handed down on 8 March 2018 ([2018] CAT 4) (“the CAT Judgment”). By the CAT Judgment, certain grounds in the appeals were dismissed but in respect of others the Tribunal decided to make a reference to the CJEU under Article 267 TFEU. The Tribunal also decided that as regards the grounds of the appeals challenging the penalties, it would be inappropriate to determine those grounds until after the judgment of the CJEU.</p> <p>The CJEU issued its judgment on 30 January 2020: Case C-307/18 Generics (UK) Ltd v Competition and Markets Authority, EU:C:2020:52.</p> <p>In its judgment, the Tribunal unanimously:</p> <ol style="list-style-type: none"> 1. Dismissed all of the outstanding grounds against liability in each of the five appeals. 2. Allowed GSK’s appeal as regards the imposition of a penalty for breach of the Chapter II prohibition. 3. Allowed all of the appeals against penalty for breach of the Chapter I prohibition (and of Article 101(1) TFEU as regards the GUK Agreement) and substituted the penalties imposed by the CMA with the following penalties: <ol style="list-style-type: none"> a. GSK: £22,200,602. b. GUK-Merck: £3,894,191: <ol style="list-style-type: none"> i. of which Merck was liable for £3,894,191; and ii. GUK was jointly and severally liable for £2,049,574 c. Alparma: £1,028,574: <ol style="list-style-type: none"> i. Actavis was jointly and severally liable for £1,028,574. ii. Xellia was jointly and severally liable for £1,028,574. iii. Alparma was jointly and severally liable for £1,028,574.
3		
(T) Royal Mail Group Limited v DAF Trucks Limited and Others [2021] CAT 10 13 May 2021	The Honourable Mr Justice Roth The Honourable Mr Justice Fancourt Hodge Malek KC	<p>Judgment of the Tribunal in connection with applications by DAF Trucks Limited and Others (the “DAF Defendants”) to: (1) adduce expert evidence on supply pass-on; and (2) amend their defences in the Royal Mail and BT proceedings (Case 1284/5/7/18(T) and Case 1290/5/7/18(T) to contend that the claimants mitigated any overcharge by reducing the costs which they paid to their suppliers.</p> <p>In relation to (1), the Tribunal refused the DAF Defendants’ application. To allow the additional expert evidence and order the disclosure which the expert would require to conduct his regression analysis would not be a proportionate approach.</p> <p>As regards (2), the Tribunal held that it is not sufficient for a defendant in the position of DAF to plead a defence of mitigation on the basis of broad economic theory and nothing more, where the effect of that would be to place a heavy onus on a claimant to disclose and explain its financial procedures and operations during the period of the operation of the cartel. There must be some plausible basis in fact for alleging that the claimant would have reduced the amount of the overcharge loss in a manner which amounts to mitigation.</p>

Judgment	Tribunal	Subject matter
4		
Sabre Corporation v Competition and Markets Authority [2021] CAT 11 21 May 2021	The Honourable Mr Justice Morris Michael Cutting Professor Robin Mason	<p>Judgment of the Tribunal on the application of Sabre Corporation ("Sabre") for review under section 120 of the 2002 Act of the decision of the CMA in its Final Report dated 2020 in respect of Sabre's anticipated acquisition of Farelogix Inc ("the Merger").</p> <p>In the Final Report, the CMA found that it had jurisdiction to consider the proposed merger under the 2002 Act on the basis of the share of supply test set out in section 23(2)(b). The CMA further found that the proposed merger may be expected to give rise to a substantial lessening of competition ("SLC") in two markets: the supply of merchandising solutions to airlines and the supply of distribution solutions to airlines, both of which are worldwide markets. On that basis, the CMA decided to prohibit the Merger in its entirety.</p> <p>On 1 May 2020, the parties announced that the Merger had been terminated.</p> <p>By its application ("the Application"), Sabre challenged the Final Report on the following grounds:</p> <p>Ground 1: The CMA erred in law in that its Relevant Description of Services ("RDS") is not a lawful basis on which to apply the share of supply test to two highly disparate supplies in the absence of any underlying rationale.</p> <p>Ground 2: The CMA erred in its approach to the requirement "supply in the UK", by conflating supply to an American airline of "FLX Services" (as defined by the CMA) with a direct supply to British Airways plc.</p> <p>Ground 3: The CMA erred in its application of the share of supply test, in that it (i) misconstrued section 23 of the 2002 Act in relying upon an increment that was both hypothetical and vanishingly small, and (ii) irrationally and in error of law applied different, and inconsistent, methodologies in respect of Sabre and Farelogix and so failed to compare like with like.</p> <p>Ground 4: The CMA erred in its calculation of the total supply of RDS services in the UK by failing to apply its own definition of RDS consistently or rationally to third party providers.</p> <p>Ground 5: On a correct application of the standard of proof and a proper assessment of the evidence, the CMA could not lawfully have found a SLC in the merchandising market.</p> <p>Ground 6: The CMA's SLC finding in relation to distribution was irrational and unsupported by the evidence.</p> <p>Grounds 1 to 4 related to the CMA's assertion of jurisdiction over the Merger under section 23 of the 2002 Act. On 20 November 2020, Sabre informed the Tribunal that it no longer wished to pursue Grounds 5 and 6, which challenged the CMA's findings in relation to a SLC. Accordingly, the Application was limited to the issue of jurisdiction only.</p> <p>The Tribunal unanimously dismissed all four grounds of the Application.</p>

Judgment	Tribunal	Subject matter
5		
(T) Westover Group Limited & Others v Mastercard Inc. & Others [2021] CAT 12 7 June 2021	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	Judgment of the Tribunal on a preliminary issue in Cases 1349-1350 ("the Westover claims") and 1383-1384 ("the Alan Howard claims"). Thirty-four of the Westover Claimants and four of the Alan Howard Claimants are Italian companies. Those Italian claimants contended that they could base their claims on English law. The Visa and Mastercard Defendants argued that the claimants were not entitled to do so and that their claims were governed by Italian law. The Tribunal unanimously determined that: 1. The claims by the Italian Claimants in respect of Italian domestic multilateral interchange fees ("MIFs") were governed by Italian law, pursuant to Art 6(3)(a) of Regulation 864/2007 on the law applicable to non-contractual obligations ("Rome II"). 2. The claims by the Italian Claimants in respect of EEA MIFs and Inter-regional MIFs fell within Art 6(3)(b) of Rome II and those claimants were therefore entitled to choose to base them on English law.
6		
Dawsongroup plc and Others v DAF Trucks N.V. and Others [2021] CAT 13 6 May 2021	The Honourable Mr Justice Roth The Honourable Mr Justice Fancourt Hodge Malek KC	Ruling of the Tribunal in relation to an application by Daimler for specific disclosure of documents from Dawsongroup, primarily in respect of supply pass-on categories.
7		
(T) Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) & Others v NTN Corporation & Other [2021] CAT 14 18 June 2021	The Honourable Mr Justice Jacobs Professor John Cubbin Eamonn Doran	Judgment of the Tribunal granting the Stellantis Claimants' application for summary judgment to strike out from the NTN Defendants' Amended Defence a plea of mitigation through reduction of other costs and refusing permission for the NTN Defendants to file voluntary further particulars.
8		
(T) Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) & Others v NTN Corporation & Other [2021] CAT 15 18 June 2021	The Honourable Mr Justice Jacobs Professor John Cubbin Eamonn Doran	Ruling of the Tribunal on the NTN Defendants' application for specific disclosure. One part of the application was granted, and the remaining parts were refused.
9		
Asda Stores Limited and Others v Mastercard Incorporated and Others [2021] CAT 16 28 June 2021	The Honourable Mr Justice Roth Tim Frazer Simon Holmes	Judgment of the Tribunal concerning the Claimants' objections to parts of the Defendants' proposed pleaded case in respect of the quantum proceedings. The Defendants were not permitted to pursue certain parts of their existing defences and certain of the Defendants' proposed amendments were permitted.

Judgment	Tribunal	Subject matter
10 Sainsbury's Supermarkets Ltd v Visa Europe Services LLC and Other [2021] CAT 17 28 June 2021	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	Judgment of the Tribunal granting the Claimants' application that the Defendants were not permitted to pursue the asymmetric counterfactual in the quantum proceedings.
11 Rest & Play Footwear Ltd v Geroge Rye & Sons Ltd [2021] CAT 18 10 June 2021	The Honourable Mrs Justice Bacon	Ruling of the Tribunal refusing the Claimant's application for fast-track designation of the claim and not dismissing the Claimant's application to strike out the Defendant's counterclaim.
12 JD Sports Fashion plc & Others v Competition and Markets Authority [2021] CAT 19 5 July 2021	Peter Freeman CBE KC (Hon)	Ruling of the Tribunal in connection with an application by the Second and Third Appellants for their costs of the appeal. The Tribunal ordered that the CMA pay the Second and Third Defendants the sum of £82,516.95 within 28 days of the date of the Ruling.
13 Generics UK Limited v Competition and Markets Authority [2021] CAT 20 16 July 2021	The Honourable Mr Justice Roth Hodge Malek KC Dermot Glynn	<p>Ruling of the Tribunal regarding the CMA's application for costs. The Tribunal decided the Appellants' respective liability for the CMA's costs.</p> <p>All the Appellants were jointly and severally liable for 80% of 85% (68%) of the CMA's costs and GSK was liable for 50% of 15% (7.5%) of the CMA's costs. The Tribunal also ruled that the CMA should recover 90% of the additional costs of its submissions on costs from all the Appellants.</p> <p>All the costs were to be subject to a detailed assessment by a Costs Judge of the Senior Courts of England and Wales, unless agreed.</p>
14 Asda Stores Limited and Others v Mastercard Incorporated and Others [2021] CAT 21 23 July 2021	The Honourable Mr Justice Roth Tim Frazer Simon Holmes	Ruling of the Tribunal refusing Mastercard permission to appeal the Tribunal's judgment ([2021] CAT 16).
15 Sainsbury's Supermarkets Ltd v Visa Europe Services LLC and Other [2021] CAT 22 23 July 2021	The Honourable Mr Justice Roth Tim Frazer Simon Holmes	Ruling of the Tribunal refusing Visa permission to appeal the Tribunal's judgment ([2021] CAT 17) and awarding Sainsbury's its costs.

Judgment	Tribunal	Subject matter
16 BGL (Holdings) Limited & Others v Competition and Markets Authority [2021] CAT 23 19 July 2021	The Honourable Mr Justice Marcus Smith Bridget Lucas KC Professor David Ulph CBE	Ruling of the Tribunal rejecting the CMA's application to adduce additional expert evidence.
17 (T) Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) & Others v NTN Corporation & Others [2021] CAT 24 26 July 2021	The Honourable Mr Justice Jacobs	Ruling of the Tribunal ordering costs in the case in respect of the Defendants' application for specific disclosure.
18 (T) Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) & Others v NTN Corporation & Others [2021] CAT 25 26 July 2021	The Honourable Mr Justice Jacobs Professor John Cubbin Eamonn Doran	Ruling of the Tribunal refusing the Defendants' application for permission to appeal the Tribunal's judgment of 18 June 2021 ([2021] CAT 14) and awarding costs of £65,000 to the Claimants.
19 Allergan plc v Competition and Markets Authority [2021] CAT 26 26 July 2021	The Honourable Mr Justice Roth	Ruling of the Tribunal refusing an application by Allergan plc for an extension of time to file its notice of appeal.
20 (T) Westover Group Limited & Others v Mastercard Inc. & Others [2021] CAT 27 30 July 2021	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	Ruling of the Tribunal granting each of the Visa and Mastercard Defendants 50% of their costs of the preliminary issue ([2021] CAT 12).
21 Walter Hugh Merricks CBE v Mastercard Incorporated and Others [2021] CAT 28 18 August 2021	The Honourable Mr Justice Roth Jane Burgess Professor Michael Waterson	<p>Judgment of the Tribunal on Mr Merricks' application for a collective proceedings order ("CPO").</p> <p>By a judgment given on 21 July 2017, the Tribunal decided that Mr Merricks satisfied the authorisation condition but that the claims did not meet the eligibility condition and therefore dismissed the application for a CPO: [2017] CAT 16.</p> <p>The Court of Appeal, in a judgment issued on 16 April 2019, allowed Mr Merricks' appeal and held that the Tribunal had failed properly to apply the eligibility condition, as well as criticising the approach the Tribunal had taken to the certification hearing: [2019] EWCA Civ 674 ("the CA Judgment").</p>

Judgment	Tribunal	Subject matter
		<p>On a further appeal to the Supreme Court by the respondents ("Mastercard"), the Supreme Court in its judgment issued on 11 December 2020: [2020] UKSC 51 ("the SC Judgment"), dismissed the appeal, while rejecting the criticisms made in the CA Judgment of the Tribunal's approach in the certification hearing.</p> <p>As regards the eligibility of the claims, following the SC Judgment, certification was no longer opposed by Mastercard but there were still some outstanding disputes (a) as to whether Mr Merricks could amend the claim form to extend the class to include persons who had died before the claim form was issued ("the deceased persons issue") and (b) whether these collective proceedings could include a claim for compound interest ("the compound interest issue").</p> <p>As regards the deceased persons issue, the original collective proceedings claim form issued by Mr Merricks excluded people who were no longer alive. Mr Merricks now sought to amend the claim form to include deceased persons. The Tribunal held (i) a claim by an individual for loss caused by Mastercard's infringement of competition law will, on their death, vest in their estate; and (ii) a claim for damages could not be brought in the name of a deceased person under s.47B of the 1998 Act. The Tribunal therefore refused Mr Merricks' application to amend the claim form. The Tribunal stated that a claim could be made on behalf of the estates of deceased persons by their personal representatives, but that was not the form of amended class definition sought by Mr Merricks.</p> <p>Further, the Tribunal held that, even if it was possible to have claims by deceased persons included in collective proceedings, the application to amend was made after the limitation period had expired and an amendment to the class definition to add persons who were deceased before the claim form was issued could not be allowed.</p> <p>In relation to the compound interest issue, the Tribunal considered that it was not sufficient for a claim for compound interest to show that an individual had borrowing and/or savings. It was necessary to show, on the balance of probabilities, how they funded the additional expense or what they would have done with the additional money if there had been no overcharge. The Tribunal concluded that, in the absence of a credible or plausible method of estimating what loss by way of compound interest was suffered on an aggregate basis, this head of claim was not suitable for an aggregate award. Therefore, the claim for loss by way of compound interest could not be fairly resolved in collective proceedings.</p> <p>The Tribunal decided that Mr Merricks should be authorised as the class representative under s.47B(8) of the 1998 Act provided that a suitable undertaking as to liability for costs was given by his litigation funder.</p>
22 Forrest Fresh Foods Limited v Coca-Cola European Partners Great Britain Limited [2021] CAT 29 7 September 2021	The Honourable Mrs Justice Bacon Sir Iain McMillan CBE FRSE DL Anna Walker CB	Judgment of the Tribunal granting the Defendant's application to strike out or summarily dismiss the Claimant's claim and providing reasons for striking out the claim in its entirety.

Judgment	Tribunal	Subject matter
23		
Justin Le Patourel v BT Group PLC [2021] CAT 30 27 September 2021	The Honourable Mr Justice Waksman Eamonn Doran Derek Ridyard	<p>Judgment of the Tribunal on two applications. The first, made by the Proposed Class Representative ("PCR"), was for a Collective Proceedings Order ("CPO") within the meaning of section 47B of the 1998 Act (the "CPO Application"). The case concerned a claim that the proposed Defendants, BT Group Plc and British Telecommunications Plc (collectively "BT") abused their dominant position in two telecommunications markets by imposing unfair prices, contrary to section 18 of the 1998 Act. The claim was brought by the PCR in respect of approximately 2.3m affected BT customers. Subject to the question of merits BT did not resist the making of a CPO on an "opt-in" basis. However, the PCR sought a CPO on an "opt-out" basis exclusively, which BT did resist.</p> <p>The second application, made by BT, was a cross-application (a) to strike out the claim pursuant to Rule 41(1)(b) of the Tribunal Rules on the basis that there were no reasonable grounds for making it and/or (b) for summary judgment to dismiss the claim pursuant to Rule 43 (1) (a) of the Tribunal Rules on the basis that it had no real prospect of success.</p> <p>The Tribunal decided that the PCR's application for a CPO should succeed and BT's cross- application to strike out and/or summarily dismiss the putative claim must fail.</p>
24		
Justin Gutmann v First MTR South Western Trains Limited and Another [2021] CAT 31 19 October 2021	The Honourable Mr Justice Roth Simon Holmes Professor Robin Mason	<p>Judgment of the Tribunal in connection with two applications by the Applicant, Mr Justin Gutmann, for a collective proceedings order ("CPO") pursuant to s.47B(4) of the 1998 Act. One case concerns the practice of the train operating companies ("TOC") on the south-western rail franchise ("the SW franchise" or "SWF") and the other concerns the practice of the TOC on the south-eastern rail franchise ("the SE franchise" or "SEF"), in both cases during the period 1 October 2015 to the date of final judgment or earlier settlement of the claims.</p> <p>Since there was a change in the TOC operating the SW franchise in the relevant period, there were two respondents to the first application: First MTR South Western Trains Ltd ("First MTR"), which had held the franchise since 20 August 2017, and Stagecoach South Western Trains Ltd ("Stagecoach"), which had held the franchise from 4 February 1996 to 20 August 2017. The SE franchise has been held since the start of the relevant period until the date of the application by London & South Eastern Railway Ltd ("LSER") and it is accordingly the sole respondent to the second application.</p> <p>In both cases, the Applicant alleged that the Respondents had abused a dominant position, contrary to the Chapter II prohibition of the 1998 Act, by failing to make so-called boundary fares sufficiently available and/or to use their best endeavours to ensure general awareness among their customers of boundary fares, so that customers who held Transport for London ("TfL") Travelcards and took journeys beyond the outer zone covered by their Travelcard would not purchase a fare covering the totality of their journey (i.e. from point of origin to point of destination, referred to as a "full journey" fare), but only a boundary fare to supplement their Travelcard. A boundary fare is a form of extension ticket for use in conjunction with a Travelcard for travel from the outer boundary covered by the Travelcard to the destination.</p>

Judgment	Tribunal	Subject matter
		<p>The Tribunal: (i) rejected the summary judgment/strike out applications made by the Respondents; (ii) authorised the Applicant to act as the class representative in both proceedings; and (iii) found that the claims raised common issues and were suitable to be brought in collective proceedings.</p> <p>In relation to (i), the Tribunal held that the Applicant's case on abuse of dominant position was reasonably arguable. If the charging of unfair and excessive prices, or the use of unfair trading terms, by a dominant company can constitute an abuse, the Tribunal did not regard it as an extraordinary or fanciful proposition to say that for a dominant company to operate an unfair selling system, where the availability of cheaper alternative prices for the same service is not transparent or effectively communicated to customers, may also constitute an abuse.</p> <p>In respect of (ii), having regard to the considerations set out in rule 78 of the Tribunal Rules, the Tribunal was satisfied that it is just and reasonable for the Applicant to act as the class representative in the two actions. He accordingly satisfied the authorisation condition.</p> <p>Finally, in relation to (iii), the Tribunal concluded that the following common issues arise in the claims of the proposed class members against each Respondent:</p> <ol style="list-style-type: none"> 1. whether the Respondent held a dominant position at the relevant time; 2. if it held a dominant position, whether it abused that position: <ol style="list-style-type: none"> a. to the extent that boundary fares were not available from the Respondent outlets; b. to the extent that boundary fares were not available for all discounted fares, in particular advance fares; c. to the extent that where boundary fares were available, there was a widespread failure to mention or explain this to customers; 3. whether if boundary fares were available for all the Respondent's outlets and/or made known more widely, independent third party sellers would themselves have offered Boundary Fares and/or made them known to customers; 4. whether a customer who was aware of boundary fare and had the opportunity to purchase it, would have done so; and 5. whether a customer failed reasonably to mitigate their loss by not purchasing a point-to-point fare from the last station covered by their Travelcard to their destination. <p>As regards the additional hurdle under rule 79(1), the Tribunal held that the claims are brought on behalf of an identifiable class of persons, and that overlaps substantially with the consideration under rule 79(2)(e). Accordingly, this requirement was satisfied. Subject to the question of passengers purchasing season tickets, the Tribunal did not consider that the class is defined too broadly save for one qualification. Since the class is defined in terms of rail fares purchased, it should exclude point-to-point fares purchased for use in conjunction with a Travelcard.</p> <p>The Tribunal also said that it would hear submissions as to the appropriate domicile date and the wording of the CPOs at a further hearing.</p>

Judgment	Tribunal	Subject matter
25		
Justin Le Patourel v BT Group PLC [2021] CAT 32 25 October 2021	The Honourable Mr Justice Waksman Eamonn Doran Derek Ridyard	Ruling of the Tribunal on consequential matters, including: (i) awarding costs of £450,000 to the Class Representative; (ii) refusing the Defendants' application for permission to appeal the Tribunal's judgment of 27 September 2021 ([2021] CAT 30); and (iii) refusing the Defendants' application for a stay of proceedings.
26		
BGL (Holdings) Limited & Others v Competition and Markets Authority [2021] CAT 33 4 November 2021	The Honourable Mr Justice Marcus Smith Bridget Lucas KC Professor David Ulph CBE	Ruling of the Tribunal regarding the confidential treatment of evidence in appeals before the Tribunal.
27		
(T) Ryder Limited and Another v MAN SE and Others [2021] CAT 34 19 November 2021	Hodge Malek KC	Ruling of the Chairman on the Ryder Claimants' application for disclosure of an extract from the Iveco Defendants' Statcom system regarding trucks sold in the United Kingdom from 1995 to 2004.
28		
(T) H & H Retail Limited & Others v Mastercard Inc & Others [2021] CAT 35 26 November 2021	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	<p>Judgment of the Tribunal in relation to: (a) the Claimants' application for summary judgment in respect of their claims that throughout the relevant claim periods the rules of Mastercard and Visa payment schemes in respect of commercial and consumer domestic MIFs, EEA MIFs and inter-regional MIFs infringed Article 101(1) TFEU; and (b) Visa's application for permission to amend its Defences served in the proceedings against it to add a contention as to the appropriate counterfactual which should apply in respect of the period after 9 December 2015.</p> <p>In respect of (a), the Tribunal:</p> <ol style="list-style-type: none"> 1. Granted summary judgment against Visa and Mastercard as regards UK and Irish domestic and intra-EEA MIFs (and insofar as relevant, the Gibraltar and Malta domestic MIFs) to 8 December 2015. 2. Refused summary judgment as regards the period after 9 December 2015 and as regards the inter-regional consumer MIFs, the MIFs for commercial cards and the Italian domestic MIFs. <p>In relation to (b), the Tribunal granted permission for Visa to amend its Defence to plead the post Interchange Fee Regulation counterfactual referred to as the "UIFM".</p> <p>The Tribunal further concluded that Visa had no real prospect of success in defending the claims based on the acquisition of Visa Europe by Visa Inc. or on the basis that the inter-regional MIF was set by Visa Inc..</p>
29		
Justin Gutmann v First MTR South Western Trains Limited and Another [2021] CAT 36 3 December 2021	The Honourable Mr Justice Roth Simon Holmes Professor Robin Mason	Ruling of the Tribunal: (1) refusing the Respondents' application for permission to appeal the Tribunal's CPO judgment ([2021] CAT 31); and (2) awarding the Class Representative his costs of the CPO application.

Judgment	Tribunal	Subject matter
30 Dr. Rachael Kent v Apple Inc. and Apple Distribution International Ltd [2021] CAT 37 3 December 2021	The Honourable Mr Justice Morris Ben Tidswell Dr William Bishop	Ruling of the Tribunal on certain disputed issues concerning disclosure of the Proposed Class Representative's funding arrangements.
31 David Courtney Boyle & Edward John Vermeer v Govia Thameslink Railway Limited & Others [2021] CAT 38 16 December 2021	Sir Marcus Smith Eamonn Doran Professor John Cubbin	Ruling of the Tribunal: (1) refusing the Proposed Defendants' application that the proceeding be stayed pending any appeal of the Tribunal's judgment in the <i>Gutmann</i> proceedings (Cases 1304 and 1305/7/7/19); (2) rejecting the Secretary of State for Transport's application to intervene in the proceedings at the pre-certification stage; and (3) setting the timetable in the run-up to the application for a collective proceedings order.
32 (T) Ryder Limited and Another v MAN SE and Others [2022] CAT 1 13 January 2022	Hodge Malek KC	Tribunal Ruling in connection with an application by the Ryder Claimants for an order that the 17th to 20th Defendants ("the DAF Defendants") carry out a search of the records of the 17th ("PACCAR") and 18th ("DAF NV") Defendants for communications between or within any of the DAF Defendants relating to the sales prices for actual or potential transactions with the Ryder Claimants.
33 Allergan plc v Competition and Markets Authority [2022] CAT 2 31 January 2022	Sir Marcus Smith Simon Holmes Professor Robin Mason	Ruling of the Tribunal in relation to the progression and case management of the Hydrocortisone Proceedings and the Liothyronine Proceedings through the use of ambulatory draft documents.
34 (T) H & H (Retail) Limited & Others v Mastercard Inc & Others [2022] CAT 3 2 February 2022	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	Ruling of the Tribunal refusing the Visa Defendants' application for permission to appeal the Tribunal's judgment of 26 November 2021 ([2021 CAT 35]).
35 Airwave Solutions Limited & Others v Competition and Markets Authority [2022] CAT 4 2 February 2022	Sir Marcus Smith Jane Burgess Eamonn Doran	Judgment of the Tribunal on an application by Airwave Solutions Limited and Others (together, "the Applicants") for a review under section 179 of the 2002 Act of the decision of the CMA to make a market investigation reference (the "Reference") under section 131 of the 2002 Act into the supply of land mobile radio network services for public safety in Great Britain contained in a report published by the CMA on 25 October 2021 entitled "Mobile radio network for the police and emergency services: Final report and decision on a market investigation reference" ("the Decision"). The Applicants challenged both (1) the decision to make the Reference, and (2) the timetable by which the Reference was to be determined. The Applicants advanced three grounds in support of the first challenge, which were, in summary:

Judgment	Tribunal	Subject matter
		<p>Ground 1: The CMA proceeded on the basis of a flawed understanding of the contractual position.</p> <p>Ground 2: The CMA's approach to the investment rate of return under the contract was irrational and contrary to established literature.</p> <p>Ground 3: The CMA had adopted an irrational approach to the market.</p> <p>The Applicants' second challenge, in relation to the administrative timetable, was on the basis that "the process by which the timetable was determined was unfair, the timetable is unfair, and the CMA's decision on the timetable was unreasoned".</p> <p>The Tribunal unanimously rejected each of the Applicants' Grounds 1 to 3. The Applicants' challenge to the administrative timetable was also unanimously rejected.</p>
36		
(T) H & H (Retail) Limited & Others v Mastercard Inc & Others [2022] CAT 5 3 February 2022	The Honourable Mr Justice Roth Tim Frazer Paul Lomas	Ruling of the Tribunal in relation to the parties' applications for costs following the Tribunal's judgment issued on 26 November 2021.
37		
Elizabeth Helen Coll v Alphabet Inc. and Others [2022] CAT 6 3 February 2022	Bridget Lucas KC Tim Frazer Professor Michael Waterson	Ruling of the Tribunal on certain disputed issues concerning disclosure of the Proposed Class Representative's funding arrangements.
38		
Dr. Rachael Kent v Apple Inc. and Apple Distribution International Ltd [2022] CAT 7 4 February 2022	The Honourable Mr Justice Morris	Reasoned Order of the Chairman granting an application by a non-party for access to non-confidential versions of the Proposed Class Representative's amended claim form and her witness statement which were both referred to in open court at the case management conference on 14 December 2021.
39		
CityFibre Limited v Office of Communications [2022] CAT 8 11 February 2022	Ben Tidswell Dr Catherine Bell CB Professor Michael Waterson	Ruling of the Tribunal providing reasons for granting permission to British Telecommunications plc and refusing permission to Sky UK Limited and a group of alternative network infrastructure providers ("Altnets") to intervene in the appeal.

Judgment	Tribunal	Subject matter
40		
Achilles Information Limited v Network Rail Infrastructure Limited [2022] CAT 9 11 February 2022	Andrew Lenon KC Michael Cutting Jane Burgess	<p>Judgment of the Tribunal on the quantum of the claimant's damages following the Tribunal's judgment as to liability ([2019] CAT 20) ("the Judgment").</p> <p>The Claimant's case at the trial of the damages claim was that, as a result of the infringement of competition law found by the Tribunal in the Judgment, it had been prevented from providing supplier assurance which it was entitled to provide and that it had consequently lost profits and would continue to do so. The Claimant sought damages in the sum of £12,061,968.</p> <p>The Defendant accepted that the Claimant had suffered some losses which it quantified at between £581,081 and £1,817,704. The differences between the parties' calculations of the Claimant's losses were largely a reflection of the differing assumptions made concerning the counterfactual scenario which would have existed, but for the infringement.</p> <p>The Tribunal awarded the Claimant damages in the sum of £3,874,077.</p>
41		
Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others [2022] CAT 10 18 February 2022	The Honourable Mrs Justice Falk Dr William Bishop Eamonn Doran	<p>Judgment of the Tribunal regarding the application by Mark McLaren Class Representative Limited ("the Applicant") for a collective proceedings order ("CPO") under s.47B of the 1998 Act to bring opt-out collective proceedings for UK-domiciled consumers and businesses who purchased or financed in the UK new or new lease cars and light and medium weight commercial vehicles, excluding those of excluded brands ("the CPO Application").</p> <p>The proposed collective proceedings seek to combine follow-on claims for damages caused by the Respondents' breach of statutory duty in infringing Article 101(1) of the TFEU and Article 53 of the EEAA, as determined by the European Commission in an infringement decision adopted on 21 February 2018 (Case AT.40009 – Maritime Car Carriers) following settlement discussions with the First to Twelfth Respondents.</p> <p>The First to Eleventh Respondents resisted the CPO Application on various grounds, which included that there were fundamental flaws in the Applicant's proposed methodology and the CPO Application should therefore be struck out. In the event that a CPO is granted on an opt-out basis, it was argued that the CPO should not include "Large Business Purchasers" as it would be more appropriate for collective proceedings on behalf of Large Business Purchasers to be brought on an opt-in basis. The First to Third, Fifth and Sixth to Eleventh Respondents further argued that the CPO Application did not deal adequately with class members who were deceased individuals or dissolved companies; that compound interest should not be certified as a common issue; and that the Applicant should not be authorised until it had rectified defects in its relationships with its sole director and sole member, Mr Mark McLaren, and the litigation funder.</p>

Judgment	Tribunal	Subject matter
		<p>The Tribunal unanimously concluded that:</p> <ol style="list-style-type: none"> 1. The Applicant met the authorisation condition. 2. The claims sought to be combined met the eligibility condition. 3. The First to Eleventh Respondents' strike out application was refused. 4. The collective proceedings should be brought on an opt-out basis, and there should be no sub-division of the class such as to require Large Business Purchasers to participate on an opt-in basis. 5. The CPO Application did not extend to the estates of persons who died before the collective proceedings claim form was issued and cannot be amended to add the personal representatives of those deceased persons. 6. Compound interest should be certified as a common issue for class members who acquired new vehicles using a personal contract purchase or hire purchase arrangement.
42		
BGL (Holdings) Limited & Others v Competition and Markets Authority [2022] CAT 11 21 February 2022	Sir Marcus Smith Bridget Lucas KC Professor David Ulph CBE	Ruling of the Tribunal regarding excisions for confidentiality in a future judgment with respect to confidential information of third parties.
43		
Sportradar AG and Another v Football DataCo Limited and Others [2022] CAT 12 16 February 2022	Sir Marcus Smith	Ruling of the Tribunal regarding the appropriate degree of read across between matters currently before the Tribunal and separate proceedings (in which there are overlapping competition issues) in the High Court.
44		
Walter Hugh Merricks CBE v Mastercard Incorporated and Others [2022] CAT 13 9 March 2022	The Honourable Mr Justice Roth Jane Burgess Professor Michael Waterson	<p>Judgment of the Tribunal specifying the domicile date, which is the date specified in a collective proceedings order ("CPO") for the purposes of determining whether a person is domiciled in the United Kingdom. The domicile date operates to determine which persons who fall within the class definition are automatically included in the proceedings unless they opt out, and which persons will only be included if they opt in.</p> <p>Mr Merricks sought a determination that the domicile date should be 6 September 2016, the date on which the claim form was issued (the "Claim Form date"). Mastercard submitted that the domicile date should be 18 August 2021, the date when the Tribunal held that a CPO would be granted: [2021] CAT 28 ("<i>Merricks 2</i>") ("the CPO date"). If the domicile date was the Claim Form date, then all individuals who would otherwise meet the class definition and were alive at that date would be within the class. But if the domicile date is the CPO date, then those who were alive on 6 September 2016 but had died before 18 August 2021 would be outside the class.</p>

Judgment	Tribunal	Subject matter
		<p>Mr Merricks sought specification of the Claim Form date because some three million people with valid claims when these proceedings were started would have died by 2021 and would otherwise be excluded.</p> <p>The Tribunal held that the domicile date should be specified as the Claim Form date, i.e. 6 September 2016. However, the Tribunal noted that it had reached this decision on the particular circumstances of this case. Moreover, the Tribunal considered that for CPO applications in the future, it would be undesirable for the class definition to depend on the domicile date: the two concepts should be kept separate, and the domicile date limited to its particular statutory purpose.</p>
45		
H & H (Retail) Limited & Others v Mastercard Inc & Others [2022] CAT 14 16 March 2022	Sir Marcus Smith Ben Tidswell Andrew Young KC	Ruling of the Tribunal regarding the future conduct of interchange fee cases.
46		
Euronet 360 Finance Limited & Others v Mastercard Incorporated & Others [2022] CAT 15 18 March 2022	The Honourable Mr Justice Butcher	Ruling of the Chairman on the Claimants' application for a split trial. The application was refused, and the issues of liability and quantum will be heard together in the trial scheduled to commence in October 2023.
47		
Michael O'Higgins FX Class Representative Limited v Barclays Bank PLC and Others [2022] CAT 16 31 March 2022	Sir Marcus Smith Paul Lomas Professor Anthony Neuberger	<p>Judgment of the Tribunal regarding the separate applications (together, "the Applications") by Michael O'Higgins FX Class Representative Limited ("O'Higgins PCR") and Mr Phillip Evans ("Evans PCR") (together, "the Applicants") for a collective proceedings order ("CPO") under s.47B of the 1998 Act to combine follow-on claims for damages arising from two separate infringement decisions of the European Commission (Case AT.40135 FOREX (Three Way Banana Split) and Case AT.40135 FOREX (Essex Express)) (together, "the Decisions") on an opt-out basis. The Decisions were both adopted on 16 May 2019 pursuant to the settlement procedure and found that certain major banking groups (together, "the Respondents and Proposed Objectors") had variously infringed Article 101 of the TFEU and Article 53 of the EEA by participating in a single and continuous infringement covering the whole EEA in foreign exchange spot trading of G10 currencies.</p> <p>The Applicants sought certification on an opt-out basis and contended, contrary to the Respondents/Proposed Objector's submissions that the proceedings should only be certified on an opt-in basis, that the Tribunal could only certify on the basis sought in the Applications (the Opt-in v. Opt-out Issue).</p> <p>Should the Tribunal have been minded to grant a CPO on an opt-out basis, the Tribunal would also have had to consider which of the Applicants would be most suitable to act as class representative (the "Carriage Issue").</p>

Judgment	Tribunal	Subject matter
		<p>Although there was no application by the Respondents to strike out either of the putative claims, the Tribunal considered: (i) whether it was open to the Tribunal to consider the question of strike out at all; and (ii) if the Tribunal had jurisdiction, whether it should – of its own initiative – consider the question or whether it should refrain from doing so (the “Strike-out Question”).</p> <p>The majority concluded that:</p> <p>(i) Considering the express wording of rule 41(1) of the Tribunal Rules, the Tribunal may, of its own initiative, strike out a claim and the wording of rule 79(4) does not preclude the Tribunal, on the hearing of an application for a CPO, from acting on its own initiative.</p> <p>(ii) The Tribunal is obliged to consider of its own initiative whether the Applicants have reasonable prospects for making the claims they do. The concerns of the majority relate entirely to the question of causation. The litigation of these issues of causation is going to involve all parties in enormous expenditure of cost and time, and considerable court time. It would be irresponsible, in these circumstances, not to at least consider the Strike-out Question.</p> <p>Considering the cases advanced by the Applicants and the pleaded cases on market-wide harm, the majority concluded that due to the level of generality or abstraction contained in the pleadings that both Applications could be struck out under rule 41(1)(b). The majority stated that they were satisfied that the averments in both Applications lack the specificity to enable them to be tried, and that would be both unfair to the Respondents and an impossible burden on the Tribunal. However, the majority decided that this is a jurisdiction the Tribunal should not – at this stage – exercise as the Applications raised novel and difficult questions. It was right that the strike-out jurisdiction should not be exercised in an area of law that is subject to some uncertainty and is in a state of on-going development, and not without the Applicants having the opportunity to address the concerns articulated in the judgment.</p> <p>On the Opt-in v Opt-out Issue, the Tribunal considered that s.47B of the 1998 Act does not simply oblige the Tribunal to record the nature of an applicant’s application for a CPO, without exercising any form of control at all. Rule 79(3) expressly articulated a discretion in the Tribunal as to whether a CPO that it is minded to grant is on an opt-in or opt-out basis. The Tribunal concluded that there can be no doubt that the power, and so the discretion, exists to find opt-in collective proceedings more appropriate, even where an applicant only seeks certification on an opt-out basis (or vice versa). The majority concluded that a number of factors pointed weakly in favour of opt-in, rather than opt-out, collective proceedings, including: (i) neither the O’Higgins PCR or the Evans PCR are a pre-existing body; (ii) the level of funding available to the Applicants; and (iii) the existence of the Allianz proceedings. Cumulatively, these pointed away from certifying on an opt-out basis, but they were all by themselves pretty marginal. However, they were reinforced by the two specific factors articulated in the legislation as being especially relevant to the Opt-in v. Opt-out Issue (“strength” and “practicability”). Both of these matters point clearly and strongly away from certifying on an opt-out basis.</p>

Judgment	Tribunal	Subject matter
		<p>Given the conclusion by the majority that certification on an opt-out basis is not appropriate, it was not necessary to determine the Carriage Issue. However, the majority stated that if it was minded to certify on an opt-out basis, the carriage of the proceedings should be granted to the Evans PCR.</p> <p>The majority concluded that each Application – if it were the only application in issue – could and should be certified as collective proceedings because each met the Authorisation and Eligibility Conditions. However, for the reasons given, the Applications were both stayed, and the Applicants were given permission to submit a revised application for certification on an opt-in basis within three months of the date of the Tribunal’s judgment.</p> <p>For the reasons specified, Mr Lomas dissented from the majority in relation to the Opt-in v. Opt-out Issue and considered that the CPO should be granted on an opt-out basis.</p>

Overall case activity within the period 1 April 2021 to 31 March 2022

01/04/2021 to 31/03/2022	2021/22	2020/21	2019/20	2018/19
Appeals, applications and claims received of which:	36	58	18	44
section 46 Competition Act 1998 ¹	10	3	1	1
section 47 Competition Act 1998 ²	-	1	-	-
section 47A Competition Act 1998 ³	16	45	9	34
section 47B Competition Act 1998 ⁴	7	2	3	4
section 114 Enterprise Act 2002 ⁵	-	3	-	1
section 120 Enterprise Act 2002 ⁶	1	4	4	1
section 179 Enterprise Act 2002 ⁷	1	-	-	1
section 192 Communication Act 2003 ⁸	1	-	1	2
section 317 Communications Act 2003 ⁹	-	-	-	-
section 49B Competition Act 2003 ¹⁰	-	-	-	-
applications for interim relief ¹¹	-	-	-	-
Applications to intervene	7	3	3	8
Case management conferences held	45	23	13	8
Hearings held (sitting days):	10 (48)	13 (31)	13 (44)	13 (35)
Judgments handed down of which:	47	25	30	20
Judgments disposing of main issue or issues	18	6	11	6
Judgments on procedural and interlocutory matters	18	13	9	9
Judgments on ancillary matters (e.g. costs)	11	6	10	5
Orders made	237	231	137	77

Notes:

1. An appeal by a party to an agreement or conduct in respect of which the CMA (or one of the other regulators with concurrent powers to apply the 1998 Act) has made an "appealable decision".
2. An appeal against an "appealable decision" made by the CMA or other regulator with concurrent powers to apply the 1998 Act and made by a third party with a sufficient interest in the decision not otherwise entitled to appeal the decision pursuant to section 46 of the 1998 Act.
3. A claim for damages or any other claim for a sum of money or, in proceedings in England, Wales or Northern Ireland, a claim for an injunction by a person who has suffered loss or damage as a result of an infringement or an alleged infringement of the 1998 Act or of EU competition law (if prior to 31 January 2020).
4. Proceedings brought before the Tribunal combining two or more claims to which section 47A applies (collective proceedings).
5. An appeal by a person on whom a penalty has been imposed pursuant to section 110(1) or (3) of the 2002 Act
6. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a reference or possible reference in relation to a relevant merger situation or special merger situation under the 2002 Act.
7. An application by "any person aggrieved" by a decision of the CMA or the Secretary of State in connection with a market investigation reference or possible market investigation reference under the 2002 Act.
8. An appeal by "a person affected" by a decision of OFCOM or of the Secretary of State in relation to matters concerning telecommunications and data services in the UK.
9. An appeal by "a person affected" by a decision of OFCOM to exercise its Broadcasting Act power for a competition purpose (pursuant to Section 317 of the 2003 Act).
10. Proceedings brought before the Tribunal for approval of a collective settlement where a collective proceedings order has not been made.
11. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.

Accounts 2021/2022



Contents	Page
Competition Appeal Tribunal and Competition Service:	
Accountability Report of the Tribunal and CS for the year ended 31/03/2022	46
Competition Appeal Tribunal:	
Tribunal's Audit Report	60
Tribunal's Statement of Comprehensive Net-Expenditure for the year ended 31/03/2022	65
Tribunal's Statement of Financial Position as at 31/03/2022	66
Tribunal's Statement of Cash Flows for the year ended 31/03/2022	67
Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2022	67
Notes: Tribunal accounts	68
Competition Service:	
CS's Audit Report	73
CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2022	77
CS's Statement of Financial Position as at 31/03/2022	78
CS's Statement of Cash Flows for the year ended 31/03/2022	79
CS's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2022	80
Notes: CS accounts	81

Accountability Report of the Tribunal and CS for the year ended 31/03/2022

Report of the Accounting Officer

In law, the Tribunal and the CS are two separate bodies. In practice, the CS provides the means by which the Tribunal manages itself: the CS's entire staff, premises and other resources being fully deployed in the daily work of the Tribunal.

The Tribunal's membership comprises: the President, Sir Marcus Smith; the members of the panel of Chairs; the members of the panel of Ordinary Members; and the Registrar, Charles Dhanowa.

The President, the Registrar, and other non-executive members appointed by the Secretary of State constitute the membership of the CS; they constitute its Board, whose function is to ensure the funding and provision of support services to the Tribunal. Currently, there are two non-executive members, Jeremy Mayhew (who also chairs the CS Audit and Risk Assurance Committee) and Ben Tidswell who has taken over from Peter Freeman following Peter's retirement in October 2022.

The CS maintains a Register of Interests detailing any directorships or other significant interests held by CS Board members. This is published on the Tribunal's website.

The work of the Tribunal/CS is financed entirely through grant-in-aid from BEIS and administered by the CS. The Registrar is the Accounting Officer and is responsible for the proper use of these funds.

Statement of the board and Accounting Officer's responsibilities in respect of the Tribunal and the CS

Under Paragraph 12 of Schedule 3 of the Enterprise Act 2002 (2002 Act), the CS is required to prepare a statement of accounts for the Tribunal and the CS for each financial year on the basis set out in the Accounts Direction. Each set of accounts is prepared on an accruals basis and it must give a true and fair view of: a) the state of affairs of the Tribunal and the CS at the year end; and b) operating costs, cash flows and total recognised gains and losses for the financial year.

In preparing the accounts for the Tribunal and the CS, the CS is required to:

- observe the accounts directions issued by the Secretary of State, including relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards have been followed and disclose and explain any material departures in the financial statements; and
- prepare the financial statements on a going concern basis.

The Accounting Officer for BEIS has designated the Registrar of the Tribunal as Accounting Officer for both the Tribunal and the CS (the Accounting Officer). The responsibilities of the Accounting Officer (which include responsibility for the propriety and regularity of the public finances and for the keeping of proper records) are set out in the Accounting Officer's Memorandum issued by HM Treasury and published in "Managing Public Money".

Disclosure of relevant audit information

So far as the Accounting Officer is aware:

- there is no relevant audit information of which the Tribunal/CS's external auditors are unaware;
- the Accounting Officer has, to the best of his knowledge, taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to ensure that the Tribunal/CS's external auditors are aware of that information; and
- this annual report and accounts, as a whole, is fair, balanced and understandable. The Accounting Officer takes personal responsibility for this annual report and accounts and the judgement required for determining that it is fair, balanced and understandable.

Governance Statement

The Governance Statement is intended to provide a clear picture of the structure of control systems in place in the Competition Service for the management of risk. The Accounting Officer has been assisted in this by the Competition Service Board and the Audit and Risk Assurance Committee to which reports and updates are regularly made.

The Accounting Officer has ensured that a system of governance and internal controls is in place to support the delivery of the Tribunal's statutory functions, whilst safeguarding the public funds and departmental assets for which he is responsible. He is directly responsible to the BEIS Accounting Officer and, ultimately, to Parliament.

Competition Appeal Tribunal/ Competition Service Governance Framework

The Competition Service Board is responsible for taking forward the statutory responsibilities and strategic objectives of the Competition Service to support the Competition Appeal Tribunal and monitoring performance of the tasks in the Business Plan. Formal membership of the Board comprises the following:

• President of the Competition Appeal Tribunal (Chair)	Sir Marcus Smith
• Registrar of the Competition Appeal Tribunal	Charles Dhanowa OBE KC (Hon)
• Independent Non-Executive Member	Jeremy Mayhew OBE
• Non-Executive Member	Ben Tidswell

The President, Registrar and Ben Tidswell have a detailed knowledge of the working of the Tribunal and the CS, whilst Jeremy Mayhew provides the Board with wider knowledge and experience of strategic organisational and corporate governance matters.

The Board met on four occasions during the year 2021-2022, at which all members were in attendance⁶, and when reports and updates on the Tribunal's workload, financial and administrative matters and the work of the Audit and Risk Assurance Committee were reviewed and discussed. The Minutes of CS Board meetings are published on the Tribunal's website.

⁶ Jeremy Mayhew was appointed in January 2022. Prior to his appointment Susan Scholefield CMG was the Independent Non-Executive Member in attendance at Board meetings. Ben Tidswell replaced Peter Freeman CBE KC (Hon) who retired in October 2022.

The Competition Service Audit and Risk Assurance Committee (ARAC) is a sub-committee of the CS Board and is responsible for providing independent advice, support and assurance to the CS Board and Accounting Officer on governance arrangements, financial matters and, risk assessment and mitigation. Membership of the committee comprises the following:

• CS Board Non-Executive Member (Chair)	Jeremy Mayhew OBE
• CS Board Non-Executive Member	Peter Freeman CBE KC (Hon)
• CS ARAC Member	Sir Iain McMillan CBE FRSE DL
• CS ARAC Member	Timothy Sawyer CBE

The membership of the committee includes two Ordinary Members of the CAT with considerable Audit Committee experience. In addition, representatives from the BEIS Sponsor Team and the internal and external auditors (the Government Internal Audit Agency (GIAA) and the National Audit Office (NAO) respectively) provide advice and guidance on risk management, governance and accountability issues to ensure that the CS properly accounts for and uses its financial resources effectively and efficiently.

The Committee met on five occasions this year, to review the financial performance of the Tribunal/CS and to examine the Annual Report and Accounts prior to publication⁷.

At each meeting, committee members and auditors are offered the opportunity of a 'closed session' without CS staff present so that management performance can be discussed.

Board's Performance/Review of Effectiveness

The Accounting Officer is responsible for reviewing the effectiveness of the CS's governance, risk management and internal control systems and their compliance with the HM Treasury/Cabinet Office "Code of Good Practice".

The review is informed by the work of the internal auditors and the relevant CS managers, advice from the ARAC and external auditors' reports. The review is also informed by the CS Board's review of its own effectiveness, which is carried out on an annual basis.

The Accounting Officer's overall conclusion is that the CS has established a solid and resilient governance structure and put in place a range of supporting management systems and processes. Periodic review takes place to ensure that any new emerging issues are dealt with promptly.

Account of Corporate Governance

The CS has a clear strategy which is focused on the delivery of its statutory requirement, to fund and provide support services to the CAT. This strategy is implemented through the CS Business Plan, which is produced annually, approved by the CS Board and copied to BEIS for awareness. The plan includes key business objectives for the year and is published on the CAT's website.

Quarterly Grant-in-Aid requests provide BEIS with detailed information on the CS's financial position. In addition, members of the CS's senior management team meet BEIS at regular intervals during the year to discuss governance matters, priorities, challenges and financial information.

The majority of CS contractors are selected from the Crown Commercial Service (CCS), an executive agency sponsored by the Cabinet Office, that provides centralised commercial and procurement services to the Government and the UK public sector.

The internal auditor's report on the adequacy and effectiveness of the CS's systems of internal control provides recommendations for improvement to senior management who undertake to respond

⁷ Prior to January 2022 the ARAC was chaired by Jeremy Mayhew's predecessor, Susan Scholefield CMG.

within agreed timescales. As stated above, internal audit services are provided by the GIAA and their work complies with Public Sector Internal Audit Standards.

Data Quality

The CS operates management, information and accounting systems, which provide accurate data to enable it to review its financial and non-financial progress against its budget and annual business plan in a timely and effective manner.

Risk and internal control framework

The CS ensures that risks are dealt with in an appropriate and proportionate manner, in accordance with relevant aspects of best practice in corporate governance. A Risk Register is maintained, which articulates the major strategic, financial, security/fraud, reputational and operational risks faced by the CAT/CS. The associated risk profile refers to the threats to which the organisation is exposed. The register is managed and kept under regular assessment by the Registrar and the Director of Operations, supported by input/mitigation plans from the nominated Risk Owners. It is reviewed at each ARAC meeting. There have been no new major risks identified during the period and no significant lapses of protective security.

How CAT/CS has dealt with demands imposed by Covid-19 restrictions

The impact of Covid-19 restrictions forced the CAT/CS to adapt its operations. Through the acquisition of additional resources and the implementation of new processes to enable hearings to be conducted remotely, the CAT continued to deliver its statutory functions throughout the period. No undue delay in proceedings occurred as a result of the pandemic.

Remuneration and Staff Report for the Tribunal and the CS for the year ended 31/03/2022

Remuneration policy

The remuneration of the President and the Registrar is determined by the Secretary of State under Schedule 2 of the 2002 Act.

The President is a High Court Judge and his salary is set at the applicable level in the judicial salaries list. The one-year public sector pay freeze was applicable to the President's salary for 2021/22. The President's salary is paid by the Ministry of Justice (MoJ) and invoiced to the CS.

The salary of the Registrar is linked to Group 7 of the judicial salaries scale as determined by the Secretary of State. For 2021/22, the salary of the Registrar was also subjected to one-year public sector pay freeze.

The salary costs of the President are charged to the Tribunal's Statement of Comprehensive Net Expenditure. The salary costs of the Registrar are charged to the CS's Statement of Comprehensive Net Expenditure.

Fee-paid Tribunal Chairs (i.e. those Tribunal Chairs who do not hold full-time judicial office) are remunerated at a rate of £600 per day (2020/21: £600 per day), a rate which was set at the inception of the Tribunal in 2003. Ordinary Members are remunerated at a rate of £400 per day (2020/21: £400 per day). The cost of remuneration of fee-paid Tribunal Chairs and Ordinary Members is charged to the Tribunal's Statement of Comprehensive Net Expenditure.

The two non-executive Members of the CS are remunerated at a per diem rate of £400 (2020/21: £350 per day, the rate that had prevailed since 2003, and which was increased to £400 w.e.f. September 2020), as determined by the Secretary of State pursuant to Schedule 3 of the 2002 Act. The remuneration costs of the two CS Members are charged to the CS's Statement of Comprehensive Net Expenditure.

The following sections provide details of the contracts, remuneration and pension interests of the President, Registrar and Members of the CS.

CS contracts

The President is appointed by the Lord Chancellor under Schedule 2 of the 2002 Act. The Registrar is appointed by the Secretary of State pursuant to section 12(3) of the 2002 Act. The Registrar's appointment must satisfy the requirements of Rule 5 of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648).

The two Members of the CS are appointed by the Secretary of State under Schedule 3 of the 2002 Act. Their appointments carry no right of pension, gratuity or allowance on their termination.

Remuneration (audited)

Single total figure of remuneration (Tribunal)

1 April 2021 to 4 November 2021	Salary (£'000)		Pension benefits (to nearest £'000) ⁸		Total (£'000)	
	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21
President (outgoing)	110 – 115	190 – 195	34	108	145 – 150	300 – 305
	190 – 195 (FTE)					

The incoming President is in-scope of the McCloud remedy, therefore disclosure is made for the legacy pension scheme and the current scheme.

Judicial Pensions Retirement Act (legacy scheme)

5 November 2021 to 31 March 2022	Salary (£'000)		Pension benefits (to nearest £'000) ⁸		Total (£'000)	
	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21
President (incoming)	75 – 80	0	39	0	115 – 120	0
	190 – 195 (FTE)					

Judicial Pension Scheme 2015 (current scheme)

5 November 2021 to 31 March 2022	Salary (£'000)		Pension benefits (to nearest £'000) ⁸		Total (£'000)	
	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21
President (incoming)	75 – 80	0	30	0	105 – 110	0
	190 – 195 (FTE)					

Single total figure of remuneration (CS)

	Salary (£'000)		Non-Consolidated Award (£'000)		Pension benefits (to nearest £'000) ⁸		Total (£'000)	
	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21
Registrar (Highest Paid Officer)	115 – 120	115 – 120	5 – 10	5 – 10	-12	46	110 – 115	170 – 175

⁸ The value of pension benefits accrued during the year is calculated as (the real increase in pension multiplied by 20) plus (the real increase in any lump sum) less (the contributions made by the individual). The real increases exclude increases due to inflation or any increases or decreases due to a transfer of pension rights.

Pay multiples

Reporting bodies are required to disclose the relationship between the remuneration of the highest paid officer in their organisation and the median remuneration of the organisation's workforce. For 2021/22 and 2020/21 (as shown in the table above), as required by HM Treasury guidance, the mid-point of the banded remuneration of the highest paid officer has been used. For 2020/21, as there was an even number of employees, the median total remuneration was calculated as the average of the middle two employees' total remuneration.

In 2021/22, the fair pay ratio was 2.42 (2020/21: 2.48); this ratio excludes pension. In the year ended 31 March 2022, remuneration ranged from £25,000 to £120,000 – £125,000 (2020/21: £27,173 to £120,000 – £125,000).

Total remuneration includes salary, non-consolidated performance-related pay and benefits in kind. It does not include severance payments, employer pension contributions and cash equivalent transfer value of pensions. The non-consolidated awards reported in 2021/22 and 2020/21 relates to project work completed in those years. The non-consolidated performance-related pay for 2021/22 and 2020/21 is based on performance reports from financial years 2020/21 and 2019/20 respectively.

The table below shows the ratios between the highest paid officer's remuneration and the pay and benefits of the employee at the 25th percentile, the median and the 75th percentile

	Total pay & benefits (£)	Salary (£)	Pay ratio	Total pay & benefits (£)	Salary (£)	Pay ratio
	2021/22			2020/21		
25 th percentile	31,463	29,500	3.89:1	30,834	28,750	3.97:1
Median	50,625	49,000	2.42:1	49,347	48,000	2.48:1
75 th percentile	65,263	64,300	1.88:1	65,178	64,300	1.88:1

There has been a decrease in the 25th percentile and median ratios. The decrease is attributable to an increase in the number of staff workforce in 2021/22.

Percentage change in pay

There has been no change to salary and allowances, or performance pay and bonuses for the highest paid officer, from 2020/21.

There has been an average percentage increase to salary and allowances of 0.56% since 2020/21 for all employees, excluding the highest paid officer. There has been an average percentage decrease of 4.13% to performance pay and bonuses.

The change to salary and allowances is as a result of the increase in number of people employed across grades A2, G6 equivalent, which has increased the average salary.

The decrease in performance pay and bonuses is due to new joiners during the year who were not eligible for performance pay and bonuses and some staff in receipt of performance pay and bonuses leaving before implementation.

On the basis that fee-paid Tribunal Chairs and Ordinary Members are only paid when engaged in Tribunal work and the two Members of the CS are paid on an ad-hoc basis, they are excluded from the calculation above.

Members of the CS are remunerated at the rate of £400 (2020/21: £350 per day, the rate that prevailed since 2003, and which was increased to £400 w.e.f. September 2020). In 2021/22, Jeremy Mayhew's total remuneration was £2,200 (2020/21: £0); Susan Scholefield's total remuneration was £4,200 (2020/21: £5,525); Peter Freeman's total remuneration was £6,514 (2020/21: £5,125).

Benefits in kind

The CS does not provide any allowances or benefits in kind to the President, Registrar and its Members.

Pensions applicable to the Tribunal and the CS

Judicial pensions

The Judicial Pensions Scheme (JPS) is an unfunded public service scheme, providing pensions and related benefits for members of the judiciary. Participating judicial appointing or administering bodies make contributions known as Accruing Superannuation Liability Charges (ASLCs) to cover the expected cost of benefits under the JPS. ASLCs are assessed regularly by the Scheme's Actuary, the Government Actuary's Department (GAD).

Eligible judges could accrue pension benefits under a number of different pension schemes: the Judicial Pensions and Retirement Act (JUPRA) 1993, the Fee-Paid Judicial Pension Scheme (FPJPS) 2017, the New Judicial Pension Scheme (NJPS) 2015. However, from 31 March 2022, these schemes closed to future accrual.

Judicial Pension Scheme (JPS) 2022 was established under the Public Service Pensions Act 2013, with the rules of the scheme set out in the Judicial Pensions Regulations 2022.

From 1 April 2022 it is the only scheme in which eligible judges are able to accrue benefits for future service. JPS 2022 is a tax-unregistered pension scheme. This means that the annual allowance and the lifetime allowance do not apply. The annual allowance is the limit on the amount that you can save into your pension each year while still receiving tax relief. The lifetime allowance is the limit on the amount of pension benefits that can be built up in pension schemes. Member contributions to the scheme will also not receive any tax relief.

The contribution rate for financial year 2021/22 has been assessed at 51.35 per cent of the relevant judicial salary. This includes an element of 0.25 per cent as a contribution towards the administration costs of the scheme. Details of the Resource Accounts of the Ministry of Justice (MOJ) JPS can be found on the MOJ's website.

Further eligible judicial offices were added to the scheme with effect from 1 April 2021 by the Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2021, to include the Tribunal. All the current six Tribunal fee-paid Chairs have opted into the judicial pension. Pension contributions deductions commenced from 1 October 2021 to the JPS.

The Judicial Pension Scheme 2015 (JPS 2015), which came into effect on 1 April 2015, applies to all new members appointed from that date onwards and to those members and fee-paid judicial office-holders who are currently in service and who do not have transitional protection to allow them to continue as a member in the previous scheme. Four fee-paid Tribunal Chairs have opted into the JPS 2015.

During 2021/22, transitional protection allowance of 51.10 per cent was paid to one of the Tribunal fee-paid Chairs. Provisions for historic employer contributions from the date of appointment of 51.35 per cent and long service award of 15 per cent of the employer contributions have been made for the fee-paid Chairs eligible for the Fee Paid Judicial Pension Scheme (FPJPS).

All the current six Tribunal fee-paid Chairs will move to the JPS 2022 scheme, a non tax registered scheme from 1 April 2022.

The majority of terms of the judicial pension arrangements are set out in (or in some cases are analogous to) the provisions of two Acts of Parliament: the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993.

Civil Service pensions

Staff pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or alpha, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS). The PCSPS had four sections: three providing benefits on a final salary basis (classic, premium or classic plus) with a normal pension age of 60; and one providing benefits on a whole career basis (nuvos) with a normal pension age of 65.

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012 remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 switched into alpha sometime between 1 June 2015 and 1 February 2022. Because the Government plans to remove discrimination identified by the courts in the way that the 2015 pension reforms were introduced for some members, it is expected that, in due course, eligible members with relevant service between 1 April 2015 and 31 March 2022 may be entitled to different pension benefits in relation to that period (and this may affect the Cash Equivalent Transfer Values shown in this report – see below). All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes.) Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a defined contribution (money purchase) pension with an employer contribution (partnership pension account).

Employee contributions are salary-related and range between 4.6% and 8.05% for members of classic, premium, classic plus, nuvos and alpha. Benefits in classic accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years initial pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per classic and benefits for service from October 2002 worked out as in premium. In nuvos a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is an occupational defined contribution pension arrangement which is part of the Legal & General Mastertrust. The employer makes a basic contribution of between 8% and 14.75% (depending on the age of the member). The employee does not have to contribute, but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.5% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of classic, premium and classic plus, 65 for members of nuvos, and the higher of 65 or State Pension Age for members of alpha. (The pension figures quoted for officials show pension earned in PCSPS or alpha – as appropriate. Where the official has benefits in both the PCSPS and alpha the figure quoted is the combined value of their benefits in the two schemes, but note that part of that pension may be payable from different ages.)

Further details about the Civil Service pension arrangements can be found at the website www.civilservicepensionscheme.org.uk

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies.

The figures include the value of any pension benefit in another scheme or arrangement which the member has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their buying additional pension benefits at their own cost.

CETVs are worked out in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

For the President, a member of the JPS, the pension figure shown below relates to the benefits that the post holder has accrued since being appointed as President of the Tribunal in November 2013. For the Registrar, a member of the PCSPS, the pension figure shown below relates to the benefits that the individual has accrued as a consequence of his entire membership to the pension scheme, not just his service in the senior capacity to which disclosure applies.

Real increase in CETV (audited)

The real increase in CETV reflects the increase in CETV that is funded by the employer. It does not include the increase in accrued pension due to inflation or contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation and other actuarial factors for the start and end of the period.

(d) President's pension benefits (Tribunal)

The President (outgoing) is a member of the JPS. For 2021/22, employer contributions of £59,000 from 1 April 2021 to 4 November 2021 (2020/21: £99,000) were paid to the JPS at a rate of 51.35 per cent (2020/21: 51.35 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

President (outgoing)	Accrued pension as at 4 November 2021 and related lump sum £'000	Real increase in pension and related lump sum as at 4 November 2021 £'000	CETV at 4 November 2021 £'000	CETV at 31 March 2021 £'000	Real increase in CETV £'000
Pension	35 – 40	0 – 2.5	787	729	31
Lump sum	85 – 90	2.5 – 5			

The President (incoming) is a member of the JPS. For 2021/22, employer contributions of £40,000 5 November 2021 to 31 March 2022 (2020/21: £0) were paid to the JPS at a rate of 51.35 per cent of pensionable pay. The member accrued benefits for this office in JPS 2015 but has previous service as a fee paid judge from 2009 to 2017 which could put the member in scope for the McCloud remedy. The EPN 647 notes published on PCSPS are unclear as to what benefit accrual disclosure should be applied in this instance i.e. whether the benefit accrual and CETV should be based on the member's current position in terms of pension scheme membership or whether benefits should be based on the scheme that the member would be in had they not been subject to the McCloud remedy. Therefore, the member's potential benefit accrual and CETV assuming that he has only accrued pension benefits under the Judicial Pensions and Retirement Act 1993 (JUPRA) <https://www.legislation.gov.uk/ukpga/1993/8/contents> or under JPS 2015 for the period from 5 November 2021 to 31 March 2022 are disclosed.

The following part of the Remuneration Report has been audited.

Judicial Pensions Retirement Act

President (incoming)	Accrued pension from 5 November 2021 as at 31 March 2022 and related lump sum £'000	Real increase in pension and related lump sum from 5 November 2021 as at 31 March 2022 £'000	CETV from 5 November 2021 as at 31 March 2022 £'000	CETV at 31 March 2021 £'000	Real increase in CETV £'000
Pension	0 – 2.5	0 – 2.5	34	0	31
Lump sum	2.5 – 5	2.5 – 5			

Judicial Pension Scheme 2015

President (incoming)	Accrued pension from 5 November 2021 as at 31 March 2022 and related lump sum £'000	Real increase in pension and related lump sum from 5 November 2021 as at 31 March 2022 £'000	CETV from 5 November 2021 as at 31 March 2022 £'000	CETV at 31 March 2021 £'000	Real increase in CETV £'000
Pension	0 – 2.5	0 – 2.5	20	0	14
Lump sum	0	0			

Registrar's pension benefits (CS)

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2021/22, employer contributions of £36,000 (2020/21: £36,000) were paid to the PCSPS at a rate of 30.3 per cent (2020/21: 30.3 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

Registrar	Accrued pension as at 31 March 2022 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2022 £'000	CETV at 31 March 2022 £'000	CETV at 31 March 2021 £'000	Real increase in CETV* £'000
Pension	55 – 60	0	1,331	1,290	-12
Lump sum	165 – 170	0			

* Member is over their normal pension age. The factors used to calculate the CETV are such that the value of pension that could have been taken at normal pension age decreases as the member gets older.

Staff Report (audited)

Tribunal

- (a) Remuneration costs for the fee-paid Tribunal Chairs are shown in the table below. Pension contributions commenced to the JPS from 1 October 2021 and provisions were made from date of joining to 30 September 2021 for historic contributions.

	Fees 2021/22 £	Employer Pension contributions 2021/22* £	Fees 2020/21 £	Employer Pension contributions 2020/21* £
Heriot Currie QC*, **	0	0	1,500	–
Peter Freeman CBE, KC (Hon)*, ***	10,500	0	41,273	–
Andrew Lenon KC*	22,884	11,751	15,900	8,165
Bridget Lucas KC*	30,343	14,602	3,173	1,586
Hodge Malek KC*	17,844	8,967	24,922	12,735
Benjamin Tidswell*, ****	14,287	7,336	–	–
Justin Turner KC*	4,072	2,091	258	132
Andrew Young KC*	3,472	1,860	344	132

* In 2021/22, Heriot Currie and Peter Freeman opted out of JPS; Andrew Lenon contributed to the Fee Paid Judicial Pension Scheme (FPJPS 2017); transitional protection allowance was paid to Hodge Malek; Bridget Lucas, Ben Tidswell, Justin Turner and Andrew Young contributed to the JPS 2015.

** Heriot Currie deceased – 20 April 2021.

*** In 2021/22, Peter Freeman retired as fee-paid Chairman on 31 July 2021.

**** In 2021/22, Ben Tidswell was newly appointed fee-paid Chairman on 1 August 2021.

Fee-paid Tribunal Chairs are remunerated at a rate of £600 per day (2020/21: £600 per day) or pro rata. Salary costs of those Judges who hold full-time judicial office and have been appointed or nominated to sit as Tribunal Chairs are paid by the MOJ (in respect of Judges of the High Court of

England and Wales), the Supreme Courts of Scotland (in respect of Judges of the Court of Session), or the Northern Ireland Courts and Tribunals Service (in respect of Judges of the High Court of Justice in Northern Ireland).

- (b) Ordinary Members are remunerated at a rate of £400 per day (2020/21: £400 per day). Total remuneration of £184,609 paid to Ordinary Members in 2021/22 (2020/21: £146,642) is included in the table in note (d) below.
- (c) In 2021/22, benefits in kind (travel and subsistence) of £1,150 were paid to Andrew Young and £84 for Andrew Lenon. The Tribunal paid no tax on benefits in kind in 2021/22 for the Chairs. The Tribunal presented a case to HMRC and has agreement allowing the Tribunal to claim tax relief under s.338, for travel from a members' home to the the Tribunal's premises, where the members spend less than 40% of their working time at Tribunal's premises, thereby classing that location as temporary and home as permanent workplace. In 2020/21 as there were no benefits in kind paid to fee-paid Chairs, no tax was payable.
- (d) The total cost of Tribunal Members' remuneration is shown in the table below.

	2021/22 £'000	2020/21 £'000
Members' remuneration (including the President, fee-paid Chairs and Ordinary Members)	481	426
Social security costs	56	49
Pension contributions for the President (outgoing and incoming)	99	99
Pension contributions and transitional protection allowance for fee-paid Chairs	388	23
Total Members' remuneration	1,024	597

CS

(a) Staff costs are shown in the table below. No temporary staff were employed in the year.

	Total 2021/22 £'000	Total 2020/21 £'000
Wages and salaries	910	946
Social security costs	106	106
Other pension costs	247	246
Total employee costs	1,263	1,298

- (b) The average number of staff employed during the year (full-time and part-time) was 17 (2020/21: 17), including the Registrar of the Tribunal.
- (c) One member of staff is a SCS equivalent.
- (d) The Tribunal/CS operates a fair recruitment policy which is based on merit and open to all, including those with a disability.

Parliamentary Accountability Report (audited)

In 2021/22, there were no losses, special payments or remote contingent liability.

Charles Dhanowa OBE, KC (Hon)

Registrar and Accounting Officer

19 January 2023

Tribunal's Audit Report

The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

Opinion on financial statements

I certify that I have audited the financial statements of the Competition Appeal Tribunal for the year ended 31 March 2022 under the Enterprise Act 2002. The financial statements comprise the Competition Appeal Tribunal's

- Statement of Financial Position as at 31 March 2022;
- Statement of Comprehensive Net Expenditure, Statement of Cash Flows and Statement of Changes in Taxpayers' Equity for the year then ended; and
- the related notes including the significant accounting policies.

The financial reporting framework that has been applied in the preparation of the financial statements is applicable law and UK adopted International Accounting Standards.

In my opinion, the financial statements:

- give a true and fair view of the state of the Competition Appeal Tribunal's affairs as at 31 March 2022 and its total expenditure for the year then ended; and
- have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State directions issued thereunder.

Opinion on regularity

In my opinion, in all material respects, the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Basis for opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK), applicable law and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate.

Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2019. I have also elected to apply the ethical standards relevant to listed entities. I am independent of the Competition Appeal Tribunal in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

In auditing the financial statements, I have concluded that the Competition Appeal Tribunal's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Competition Appeal Tribunal's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

My responsibilities and the responsibilities of the Board and the Accounting Officer with respect to going concern are described in the relevant sections of this certificate.

The going concern basis of accounting for the Competition Appeal Tribunal is adopted in consideration of the requirements set out in International Accounting Standards as interpreted by HM Treasury's Government Financial Reporting Manual, which require entities to adopt the going concern basis of accounting in the preparation of the financial statements where it anticipated that the services which they provide will continue into the future.

Other Information

The other information comprises information included in the annual report, but does not include the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's certificate thereon. The Board and the Accounting Officer is responsible for the other information.

My opinion on the financial statements does not cover the other information and except to the extent otherwise explicitly stated in my certificate, I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated.

If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

Opinion on other matters

In my opinion the part of the Remuneration and Staff Report to be audited has been properly prepared in accordance with Secretary of State directions issued under the Enterprise Act 2002.

In my opinion, based on the work undertaken in the course of the audit:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002; and
- the information given in the Performance and Accountability Reports for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

In the light of the knowledge and understanding of the Competition Appeal Tribunal and its environment obtained in the course of the audit, I have not identified material misstatements in the Performance and Accountability Report.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- I have not received all of the information and explanations I require for my audit; or
- adequate accounting records have not been kept by the Competition Appeal Tribunal or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Accountability Report subject to audit are not in agreement with the accounting records and returns; or
- certain disclosures of remuneration specified by HM Treasury's Government Financial Reporting Manual have not been made or parts of the Remuneration and Staff Report to be audited is not in agreement with the accounting records and returns; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Responsibilities of the Board and Accounting Officer for the financial statements

As explained more fully in the Statement of the Board and Accounting Officer's Responsibilities, the Board and the Accounting Officer, is responsible for:

- maintaining proper accounting records;
- the preparation of the financial statements in accordance with the applicable financial reporting framework and for being satisfied that they give a true and fair view;
- internal controls as the Board and the Accounting Officer determine is necessary to enable the preparation of financial statement to be free from material misstatement, whether due to fraud or error.
- ensuring that the Annual Report and accounts as a whole is fair, balanced and understandable;
- assessing the Competition Appeal Tribunal's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Board and the Accounting Officer anticipates that the services provided by Competition Appeal Tribunal will not continue to be provided in the future.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002.

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue a certificate that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Extent to which the audit was considered capable of detecting non-compliance with laws and regulations including fraud

I design procedures in line with my responsibilities, outlined above, to detect material misstatements in respect of non-compliance with laws and regulations, including fraud. The extent to which my procedures are capable of detecting non-compliance with laws and regulations, including fraud is detailed below.

Identifying and assessing potential risks related to non-compliance with laws and regulations, including fraud

In identifying and assessing risks of material misstatement in respect of non-compliance with laws and regulations, including fraud, we considered the following:

- the nature of the sector, control environment and operational performance including the design of the Competition Appeal Tribunal's accounting policies, key performance indicators and performance incentives.
- Inquiring of management, the Competition Appeal Tribunal's head of internal audit and those charged with governance, including obtaining and reviewing supporting documentation relating to the Competition Appeal Tribunal's policies and procedures relating to:
 - identifying, evaluating and complying with laws and regulations and whether they were aware of any instances of non-compliance;
 - detecting and responding to the risks of fraud and whether they have knowledge of any actual, suspected or alleged fraud; and
 - the internal controls established to mitigate risks related to fraud or non-compliance with laws and regulations including the Competition Appeal Tribunal's controls relating to the Competition Appeal Tribunal's compliance with the Enterprise Act 2002 and Managing Public Money;
- discussing among the engagement team regarding how and where fraud might occur in the financial statements and any potential indicators of fraud.

As a result of these procedures, I considered the opportunities and incentives that may exist within the Competition Appeal Tribunal for fraud and identified the greatest potential for fraud in the following areas: revenue recognition, posting of unusual journals, complex transactions, bias in management estimates. In common with all audits under ISAs (UK), I am also required to perform specific procedures to respond to the risk of management override of controls.

I also obtained an understanding of the Competition Appeal Tribunal's framework of authority as well as other legal and regulatory frameworks in which the Competition Appeal Tribunal operates, focusing on those laws and regulations that had a direct effect on material amounts and disclosures in the financial statements or that had a fundamental effect on the operations of the Competition Appeal Tribunal. The key laws and regulations I considered in this context included the Enterprise Act 2002, Managing Public Money, employment law, pensions legislation and tax Legislation.

Audit response to identified risk

As a result of performing the above, the procedures I implemented to respond to identified risks included the following:

- reviewing the financial statement disclosures and testing to supporting documentation to assess compliance with provisions of relevant laws and regulations described above as having direct effect on the financial statements;
- enquiring of management, the Audit and Risk Committee concerning actual and potential litigation and claims;
- reading and reviewing minutes of meetings of those charged with governance and the Board and internal audit reports;
- in addressing the risk of fraud through management override of controls, testing the appropriateness of journal entries and other adjustments; assessing whether the judgements made in making accounting estimates are indicative of a potential bias; and evaluating the business rationale of any significant transactions that are unusual or outside the normal course of business;

I also communicated relevant identified laws and regulations and potential fraud risks to all engagement team members including internal specialists and remained alert to any indications of fraud or non-compliance with laws and regulations throughout the audit.

A further description of my responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: www.frc.org.uk/auditorsresponsibilities. This description forms part of my certificate.

Other auditor's responsibilities

I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Report

I have no observations to make on these financial statements.

Gareth Davies
Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Date: 20 January 2023

Tribunal's Statement of Comprehensive Net-Expenditure for the year ended 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Members' remuneration costs	3(b)	(1,024)	(597)
Other operating charges	4(a)	(68)	(58)
Total expenditure		(1,092)	(655)
Net Expenditure for the financial year		(1,092)	(655)

There is no other comprehensive net expenditure. The notes on pages 68 to 72 form part of these accounts.

Tribunal's Statement of Financial Position as at 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Non current assets:			
Trade receivables and other receivables	5(a)	457	122
Total non current assets		457	122
Current assets:			
Trade receivables and other receivables	5(a)	555	105
Total current assets		555	105
Total assets		1,012	227
Current liabilities:			
Trade payables and other payables	6(a)	(555)	(105)
Total current liabilities		(555)	(105)
Total assets less current liabilities		457	122
Non current liabilities:			
Provisions	7(b)	(132)	(122)
Other liabilities	7(c)	(325)	–
Total non current liabilities		(457)	(122)
Assets less liabilities		–	–
Taxpayers' equity:			
General fund		–	–
Total taxpayers' equity		–	–

The notes on pages 68 to 72 form part of these accounts.

Charles Dhanowa OBE, KC (Hon)

Registrar and Accounting Officer

19 January 2023

Tribunal's Statement of Cash Flows for the year ended 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Cash flows from operating activities:			
Net expenditure		(1,092)	(655)
(Increase)/decrease in receivables	5	(785)	63
Increase/(decrease) in payables	6 & 7	775	(84)
Increase/(decrease) in long term provisions	7(b)	10	21
Net cash (outflow) from operating activities		(1,092)	(655)
Cash flows from financing activities:			
Grant-in-aid	2	1,092	655
Increase/(decrease) in cash in the period		—	—

The notes on pages 68 to 72 form part of these accounts.

Tribunal's Statement of Changes in Taxpayers' Equity for the year ended 31/03/2022

	General Fund £'000
Balance at 31 March 2020	0
Net operating cost for 2020/21	(655)
Net financing from BEIS for 2020/21	655
Balance at 31 March 2021	0
Net operating cost for 2021/22	(1,092)
Net financing from BEIS for 2021/22	1,092
Balance at 31 March 2022	0

Notes: Tribunal accounts

1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2021/22 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRSs) as adapted or interpreted for the public sector.

The Tribunal does not enter into any accounting transactions in its own right as the CS has a duty, under the Enterprise Act 2002, to meet all the expenses of operating the Tribunal.

The Tribunal prepares its accounts on the basis that it has directly incurred the expenses relating to its activities. On that basis, therefore, the accounts of the Tribunal include those assets, liabilities and cash flows of the CS which relate to the Tribunal's activities.

Where the FReM permits a choice of accounting policy, the one which has been judged to be the most appropriate to the particular circumstances of the Tribunal, for the purpose of giving a true and fair view, has been selected. The Tribunal's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Going concern

The financing of the Tribunal's liabilities is to be met by future grant-in-aid and the application of future income, both approved annually by Parliament. In March 2022 BEIS provided allocation amounts required in respect of the year to 31 March 2023. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these accounts.

(b) Accounting convention

The financial statements have been prepared under the historic cost convention.

(c) Grant-in-aid

The FReM requires non-departmental public bodies to account for grant-in-aid received as financing. The CS draws down grant-in-aid on behalf of the Tribunal to fund Tribunal's activities. The receivable balance of £555,000, shown in note 5a below, is of equal amount to the liability of £555,000, shown in note 6a below, which represents the amount that the CS shall transfer to meet those liabilities.

(d) Pensions

Pension arrangements for the President and one of the fee-paid Tribunal Chairs are mentioned separately in the Remuneration Report. Fee-paid Tribunal Chairs' appointments are pensionable; Ordinary Members' appointments are non-pensionable. Judicial pension contribution provisions have been included in relation to fee-paid Tribunal Chairs who have opted into the relevant judicial pension arrangements.

In accordance with accounts directions issued by the Secretary of State, with the approval of HM Treasury, the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Corporate Governance Statement.

2. Government grant-in-aid

Total grant-in-aid allocated in financial year 2021/22 was £1,092,000 (2020/21: £655,000).

3. Members' remuneration

- (a) The President and Chairs are appointed by the Lord Chancellor upon recommendation of the Judicial Appointments Commission. In addition, Judges of the High Court of England and Wales, the Court of Session of Scotland and the High Court in Northern Ireland can be nominated (by the head of the judiciary for the relevant part of the UK) to sit as Tribunal Chairs. The appointments of Tribunal Chairs (other than those nominated by a head of Judiciary) are for a fixed period of eight years. Ordinary Members are appointed by the Secretary of State for a fixed term of eight years. The membership of the Tribunal as at 31 March 2022, is set out in the Introduction to this report.
- (b) Members' remuneration costs are shown in the table below.

	2021/22 £'000	2020/21 £'000
Members' remuneration (including the President, fee-paid Chairs and Ordinary Members)	481	426
Social security costs	56	49
Pension contributions for the President (outgoing and incoming)	99	99
Pension contributions and transitional protection allowance for fee-paid Chairs	388	23
Total Members' remuneration	1,024	597

4. Other operating charges

- (a) Other operating charges are shown in the table below.

	2021/22 £'000	2020/21 £'000
Members' travel and subsistence	5	1
Members' PAYE and National Insurance on travel and subsistence expenses*	(47)	1
Members' training	44	39
Long service award	60	11
Audit fees**	6	6
Total other operating charges	68	58

* HMRC has refunded the last four years of tax and six years of NI, as tax relief is being made available under s.338 to the Tribunal, in respect of travel by members from home to the Tribunal's premises in circumstances where members spent less than 40% of their working time at the Tribunal location.

** Audit fees relate to statutory audit work. No fees were paid to the external auditors in relation to non-audit services.

- (b) The long service award is explained in note 7(b) below.

5. Trade receivables and other receivables

Analysis by type

	2021/22 £'000	2020/21 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS*	555	122
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	457	105
Total trade receivables and other receivables	1,012	227

* The trade receivables and other receivables with the CS is explained below in Note 6 below.

6. Trade payables and other payables

Analysis by type

	2021/22 £'000	2020/21 £'000
Amounts falling due within one year:		
Taxation and social security	13	10
Trade Payables	57	–
Accruals*	485	95
Total trade payables and other payables	555	105

* Further eligible judicial offices were added to the Judicial Pension Scheme with effect from 1 April 2021 by the Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2021, to include the Tribunal. This entitles the fee-paid Chairs (Judicial Office Holders – JOH) to be able to accrue a Fee Paid Judicial Pension Scheme 2017 (FPJPS2017)/ Judicial Pension Scheme 2015 (JPS2015) pension in respect of this office. As well as being able to accrue pension from 1 April 2021 onwards, any past service in this judicial office(s) (potentially back as far as 7 April 2000, depending on any limitations that apply) will also count as pensionable service towards a FPJPS2017/JPS2015 pension. Contributions commenced from December 21 for work done in the months for October and November 21.

The historic employer contributions from date of appointment have been accrued (for both FPJPS2017 and JPS2015 schemes) and the Judicial Pay Award (for FPJPS2017) payable to members have been provided for and included in the provisions Note 7 page 71.

The payables balance represents the total liabilities outstanding at the balance sheet date that directly relate to the activities of the Tribunal. The CS meets all expenses relating to the Tribunal's activities.

7. Provisions

(a) Pension-related provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2021	122
Provided in the year	10
Balance at 31 March 2022	132

(b) Analysis of expected timing of pension-related provisions

	2021/22 £'000	2020/21 £'000
No later than one year	–	–
Later than one year, and not later than five years	132	122
Later than five years	–	–
Balance at 31 March	132	122

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and is to be met by the CS. The liability has been calculated by the Government Actuary's Department (GAD) and is based on the President's judicial grade and length of service.

Both the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 are not registered schemes for the purposes of the Finance Act 2004. As a result, lump sum benefits payable from the schemes and members' contributions payable to the schemes do not attract income tax relief. Judges therefore receive a service award which becomes payable when they near retirement. The level of the award, which is a proportion of the lump sum, reflects their years of service and judicial grade and ensures their net position is maintained. The level of the long service award is dependent on the tax paid by the member of the JPS on his retirement lump sum. For this year's disclosures, the GAD has assumed that tax is paid on the lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2022. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The Value of the long service award payable to the current President is £73,000. A further provision of £59,000 for long service award's payable for seven fee-paid Tribunal Chairs.

(c) The other liabilities include legal hearing costs of £325,000 held in a Legal Funds account on behalf of parties.

8. Contingent Liability

The current President accrued benefits for this office in JPS 2015 but has previous service as a fee paid judge from 2009 to 2017 which could put the member in scope for the McCloud remedy. The EPN 647 notes published on PCSPS are unclear as to what benefit accrual disclosure should be applied in this instance i.e. whether the benefit accrual and CETV should be based on the member's current position in terms of pension scheme membership or whether benefits should be based on the scheme that the member would be in had they not been subject to the McCloud remedy. There is a potential liability of £4,000 for the long service award if it is assumed that the current President has only accrued pension benefits under the Judicial Pensions and Retirement Act 1993 (JUPRA)

<https://www.legislation.gov.uk/ukpga/1993/8/contents> for the period from 5 November 2021 to 31 March 2022.

9. Related party transactions

The President, Chairs and Ordinary Members did not undertake any material transactions with the Tribunal during the year. Their salaries are reflected in the Remuneration Report. Due to the nature of their relationship, the Tribunal has had material transactions with the CS.

10. Events after the reporting period

There were no events to report after the reporting period. These financial statements were authorised for issue on the same day as the date of certification by the Comptroller and Auditor General.

CS's Audit Report

The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

Opinion on financial statements

I certify that I have audited the financial statements of the Competition Service for the year ended 31 March 2022 under the Enterprise Act 2002. The financial statements comprise the Competition Service's

- Statement of Financial Position as at 31 March 2022;
- Statement of Comprehensive Net Expenditure, Statement of Cash Flows and Statement of Changes in Taxpayers' Equity for the year then ended; and
- the related notes including the significant accounting policies.

The financial reporting framework that has been applied in the preparation of the financial statements is applicable law and UK adopted International Accounting Standards.

In my opinion, the financial statements:

- give a true and fair view of the state of the Competition Service's affairs as at 31 March 2022 and its net expenditure for the year then ended; and
- have been properly prepared in accordance with the Enterprise Act 2002 and Secretary of State directions issued thereunder.

Opinion on regularity

In my opinion, in all material respects, the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Basis for opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK), applicable law and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate.

Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2019. I have also elected to apply the ethical standards relevant to listed entities. I am independent of the Competition Service in accordance with the ethical requirements that are relevant to my audit of the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

In auditing the financial statements, I have concluded that the Competition Service's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Competition Service's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

My responsibilities and the responsibilities of the Board and the Accounting Officer with respect to going concern are described in the relevant sections of this certificate.

The going concern basis of accounting for the Competition Service is adopted in consideration of the requirements set out in International Accounting Standards as interpreted by HM Treasury's Government Financial Reporting Manual, which require entities to adopt the going concern basis of accounting in the preparation of the financial statements where it anticipated that the services which they provide will continue into the future.

Other Information

The other information comprises information included in the annual report, but does not include the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's certificate thereon. The Board and the Accounting Officer is responsible for the other information. My opinion on the financial statements does not cover the other information and except to the extent otherwise explicitly stated in my certificate, I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

Opinion on other matters

In my opinion the part of the Remuneration and Staff Report to be audited has been properly prepared in accordance with Secretary of State directions issued under the Enterprise Act 2002.

In my opinion, based on the work undertaken in the course of the audit:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Enterprise Act 2002; and
- the information given in the Performance and Accountability Reports for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

In the light of the knowledge and understanding of the Competition Service and its environment obtained in the course of the audit, I have not identified material misstatements in the Performance and Accountability Report.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- I have not received all of the information and explanations I require for my audit; or
- adequate accounting records have not been kept by the Competition Service or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Accountability Report subject to audit are not in agreement with the accounting records and returns; or
- certain disclosures of remuneration specified by HM Treasury's Government Financial Reporting Manual have not been made or parts of the Remuneration and Staff Report to be audited is not in agreement with the accounting records and returns; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Responsibilities of the Board and Accounting Officer for the financial statements

As explained more fully in the Statement of the Board and Accounting Officer's Responsibilities, the Board and the Accounting Officer, is responsible for:

- maintaining proper accounting records;
- the preparation of the financial statements in accordance with the applicable financial reporting framework and for being satisfied that they give a true and fair view;
- internal controls as the Board and the Accounting Officer determine is necessary to enable the preparation of financial statement to be free from material misstatement, whether due to fraud or error.
- ensuring that the Annual Report and accounts as a whole is fair, balanced and understandable;
- assessing the Competition Service's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Board and the Accounting Officer anticipates that the services provided by Competition Service will not continue to be provided in the future.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Enterprise Act 2002.

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue a certificate that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

Extent to which the audit was considered capable of detecting non-compliance with laws and regulations including fraud

I design procedures in line with my responsibilities, outlined above, to detect material misstatements in respect of non-compliance with laws and regulations, including fraud. The extent to which my procedures are capable of detecting non-compliance with laws and regulations, including fraud is detailed below.

Identifying and assessing potential risks related to non-compliance with laws and regulations, including fraud

In identifying and assessing risks of material misstatement in respect of non-compliance with laws and regulations, including fraud, we considered the following:

- the nature of the sector, control environment and operational performance including the design of the Competition Service's accounting policies, key performance indicators and performance incentives.
- Inquiring of management, the Competition Service's head of internal audit and those charged with governance, including obtaining and reviewing supporting documentation relating to the Competition Service's policies and procedures relating to:
 - identifying, evaluating and complying with laws and regulations and whether they were aware of any instances of non-compliance;
 - detecting and responding to the risks of fraud and whether they have knowledge of any actual, suspected or alleged fraud; and
 - the internal controls established to mitigate risks related to fraud or non-compliance with laws and regulations including the Competition Service's controls relating to the Competition Service's compliance with the Enterprise Act 2002 and Managing Public Money;
- discussing among the engagement team regarding how and where fraud might occur in the financial statements and any potential indicators of fraud.

As a result of these procedures, I considered the opportunities and incentives that may exist within the Competition Service for fraud and identified the greatest potential for fraud in the following areas: revenue recognition, posting of unusual journals, complex transactions, bias in management estimates. In common with all audits under ISAs (UK), I am also required to perform specific procedures to respond to the risk of management override of controls.

I also obtained an understanding of the Competition Service's framework of authority as well as other legal and regulatory frameworks in which the Competition Service operates, focusing on those laws and regulations that had a direct effect on material amounts and disclosures in the financial statements or that had a fundamental effect on the operations of the Competition Service. The key laws and regulations I considered in this context included the Enterprise Act 2002, Managing Public Money, employment law, pensions legislation and tax Legislation.

Audit response to identified risk

As a result of performing the above, the procedures I implemented to respond to identified risks included the following:

- reviewing the financial statement disclosures and testing to supporting documentation to assess compliance with provisions of relevant laws and regulations described above as having direct effect on the financial statements;
- enquiring of management, the Audit and Risk Committee concerning actual and potential litigation and claims;
- reading and reviewing minutes of meetings of those charged with governance and the Board and internal audit reports;
- in addressing the risk of fraud through management override of controls, testing the appropriateness of journal entries and other adjustments; assessing whether the judgements made in making accounting estimates are indicative of a potential bias; and evaluating the business rationale of any significant transactions that are unusual or outside the normal course of business; and

I also communicated relevant identified laws and regulations and potential fraud risks to all engagement team members including internal specialists and remained alert to any indications of fraud or non-compliance with laws and regulations throughout the audit.

A further description of my responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: www.frc.org.uk/auditorsresponsibilities. This description forms part of my certificate.

Other auditor's responsibilities

I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Report

I have no observations to make on these financial statements.

Gareth Davies
Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

Date: 20 January 2023

CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Income:			
Other income	7	2	4
Expenditure:			
Funding the activities of the Tribunal		(1,092)	(655)
CS and Audit and Risk Assurance Committee Members' remuneration	3(a)	(20)	(18)
Staff costs	4(a)	(1,263)	(1,298)
Other expenditure	6	(1,862)	(2,268)
Depreciation	6	(1,310)	(476)
Total expenditure		(5,547)	(4,715)
Net expenditure		(5,545)	(4,711)
Net expenditure after interest		(5,545)	(4,711)
Net expenditure after taxation		(5,545)	(4,711)

All activities were continuing during the year. The notes on pages 82 to 95 form part of these accounts.

CS's Statement of Financial Position

as at 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Non current assets:			
Right of use asset	8	5,468	–
Property, plant and equipment	8	2,675	3,096
Intangible assets	9	10	14
Total non current assets		8,153	3,110
Current assets:			
Trade receivables and other receivables	10	87	122
Cash and cash equivalents	11	2,843	1,893
Total current assets		2,930	2,015
Total assets		11,083	5,125
Current liabilities:			
Trade payables and other payables	12(a)	(1,554)	(1,304)
Financial liabilities	12(a)	(1,062)	(271)
Total current liabilities		(2,616)	(1,575)
Total assets less current liabilities		8,467	3,550
Non current liabilities:			
Financial liabilities	12(a)	(6,156)	(1,845)
Provisions	13(b)&(c)	(662)	(652)
Total non current liabilities		(6,818)	(2,497)
Assets less liabilities		1,649	1,053
Taxpayers' equity:			
General fund		1,649	1,053
Total taxpayers' equity		1,649	1,053

The statement of financial position shows a positive balance on the general fund because of timing differences between consumption and payment. The CS draws grant-in-aid to cover its cash requirements. The notes on pages 82 to 95 form part of these accounts.

Charles Dhanowa OBE, KC (Hon)
Registrar and Accounting Officer
19 January 2023

CS's Statement of Cash Flows

for the year ended 31/03/2022

	Note	2021/22 £'000	2020/21 £'000
Cash flows from operating activities:			
Net expenditure after interest		(5,545)	(4,711)
Adjustment for non-cash (income)	8	–	–
Adjustments for non-cash expenditure	6	1,310	476
Decrease/(increase) in receivables	10(a)	35	(44)
Increase in payables	12(a)	5,352	1,362
Increase /(decrease) in long term provisions	13	10	21
Net cash inflow/(outflow) from operating activities		1,162	(2,896)
Cash flows from investing activities:			
Property, plant and equipment purchases	8	(69)	(129)
Intangible asset purchases	9	(14)	(22)
Net cash used in investing activities		(83)	(151)
Cash flows from financing activities:			
Grant-in-aid from BEIS	2	5,650	3,800
Capital element of payments in respect of right of use asset	8	(5,779)	–
Net cash generated from/(used in) financing activities		(129)	3,800
Net Increase/(decrease) in cash and cash equivalents in the period			
	11	950	753
Cash and cash equivalents at the beginning of the period	11	1,893	1,140
Cash and cash equivalents at the end of the period	11	2,843	1,893

The figure for purchase of assets represents the cash paid in the year. The cumulative figures for right of use asset, lease liability and depreciation represent the lease for 8 Salisbury Square, following adoption of IFRS16 on 1 April 2021. The notes on pages 82 to 95 form part of these accounts.

CS's Statement of Changes in Taxpayers' Equity

for the year ended 31/03/2022

	General Fund £'000
Balance at 31 March 2020	1,964
Net operating cost for 2020/21	(4,711)
Net financing from BEIS for 2020/21	3,800
Balance at 31 March 2021	1,053
Adjustment to net operating cost resulting from adoption of IFRS 16	491
Restated Balance at 31 March 2021	1,544
Net operating cost for 2021/22	(5,545)
Net financing from BEIS for 2021/22	5,650
Balance at 31 March 2022	1,649

Notes: CS accounts

1. Statement of accounting policies

These financial statements have been prepared in accordance with the FReM. The accounting policies contained in the FReM apply IFRSs as adapted or interpreted for the public sector.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be the most appropriate to the particular circumstances of the CS, for the purpose of giving a true and fair view, has been selected. The CS's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

(a) Going concern

On the basis that in March 2022 BEIS provided allocation amounts which are required by the CS in respect of the year to 31 March 2023 a going concern basis has been adopted for the preparation of these accounts.

(b) Accounting convention

The financial statements have been prepared according to the historic cost convention. Depreciated historical cost is used as a proxy for fair value as this realistically reflects consumption of the assets. Revaluation does not cause a material difference.

(c) Basis of preparation of accounts

The statutory purpose of the CS is to fund and provide support services to the Tribunal; all relevant costs related to these activities are included in the CS's accounts. Direct costs specifically attributable to the Tribunal are incurred initially by the CS but shown in the Tribunal's accounts.

Schedule 3 of the Enterprise Act 2002 requires the CS to prepare separate statements of accounts in respect of each financial year for itself and for the Tribunal.

In accordance with accounts directions issued by the Secretary of State for BEIS (with the approval of HM Treasury), the Tribunal and the CS have prepared a joint Statement of Accounting Officer's Responsibilities and Corporate Governance Statement.

(d) Grant-in-aid

The CS is funded by grant-in-aid from BEIS. In drawing down grant-in-aid, the CS draws down sums considered appropriate for the purpose of enabling the Tribunal to perform its statutory functions.

The FReM requires non-departmental public bodies to account for grant-in-aid received as financing which is credited to the general reserve as it is regarded as contributions from a sponsor body.

(e) Non current assets

All assets are held by the CS in order to provide support services to the Tribunal. Items with a value of £500 or over in a single purchase or grouped purchases, where the total group purchase is £500 or more, are capitalised.

(f) Depreciation

Depreciation is provided for all non current assets using the straight line method at rates calculated to write off, in equal instalments, the cost of the asset over its expected useful life. Non current assets are depreciated from the month following acquisition and are not depreciated in the year of disposal. The expected useful life relating to the fit-out asset of 8 Salisbury Square ends on termination of the lease in January 2029.

(i) Useful lives of property, plant and equipment assets:

Laptops and printers	3 years
Servers and audio visual equipment	5 years
Office equipment	5 years
Furniture	7 years
8 Salisbury Square fit-out and Dilapidations	9.25 years
8 Salisbury Square Lease	10 years

(ii) Useful lives of intangible non current assets:

Software Licences	1 to 3 years
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(g) Taxation

- (i) The CS is liable for corporation tax on interest earned on bank deposits.
- (ii) The CS is not registered for VAT and therefore cannot recover any VAT. Expenditure in the income and expenditure account is shown inclusive of VAT. VAT on the purchase of non current assets is capitalised.

(h) Pension costs

Present and past employees are covered by the provisions of the PCSPS. The CS pays recognised employer pension contributions for all its employees, for the entire duration of their employment. Liability for payment of future benefits is a charge on the PCSPS.

In respect of the defined contribution element of the schemes, the CS recognises contributions payable in the year. The PCSPS is therefore treated as a defined contribution scheme and the contributions are recognised as they are paid, each year.

(i) Income

The CS's main source of income is from publication licensing (see note 7). The income is recognised when the service is provided.

(j) Leases

The Tribunal /CS moved to 8 Salisbury Square on 18 November 2019, pursuant to a 10 year lease which commenced on 25 January 2019 with an initial 25 month rent-free period (see note 12).

(k) Financial instruments

Financial instruments play a limited role in creating and managing risk. The majority of the financial instruments for the CS relate to the purchase of non financial items and therefore pose little credit, liquidity or market risk.

(i) Financial assets

The CS holds financial assets which comprise cash at bank and in hand and receivables. These are non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances are expected to be realised within 12 months of the reporting date, there is no material difference between fair value, amortised cost and historical cost.

(ii) Financial liabilities

The CS has financial liabilities which comprise payables and non-current payables. The current payables are expected to be settled within 12 months of the reporting date. There

is no material difference between fair value, amortised cost and historical cost for both current and non-current payables.

(l) Changes to IFRSs

The IFRS 16 standard replaced the IAS 17 – Leases, introducing a single lessee accounting model, eliminating the current ‘off-balance sheet’ treatment of operating leases under IAS 17. This results in a more accurate representation of a lessee’s assets and liabilities.

IFRS 16 requires the recognition of leased assets, representing the right to use the leased item, and lease liabilities, representing the respective future lease payments, on the Statement of Financial Position (SoFP) for all applicable lease agreements. The rental expense on operating leases under IAS 17 is replaced by a depreciation charge and a finance charge within the Statement of Comprehensive Net Expenditure (SoCNE). The initial value of the right of use asset will consist of the present value of the minimum lease payments, adjusted for: any lease payments made prior to the commencement of the lease; and any lease incentives received less accruals and prepayments associated with the lease, discounted in accordance with HM Treasury direction. If the underlying right of use asset is of low value (less than £10,000 or a short lease term of 12 months or less) payments will be expensed as they are made.

IFRS 16 Leases became effective for accounting periods beginning on or after 1 January 2019; for the public sector. The implementation of IFRS 16 was deferred to 1 April 2022, although the CS adopted IFRS 16 early with an initial application date of 1st April 2021, following approval from HM Treasury. The CS have applied the standard, using the modified retrospective transition method adjusting the opening balance of retained earnings and not restating comparatives to prior periods, as per HM Treasury guidance. The CS has elected to present right-of-use assets, separate to the property, plant and equipment and included the lease liabilities in the short-term liabilities and long-term finance liabilities on the SoFP.

The CS has only one lease of premises, for the 7th Floor, 8 Salisbury Square and has recognised the cumulative effects of applying IFRS 16 standard. These changes have a material impact on the CS’s financial statements. The present value of future lease payments for the “Right of Use Building” is measured at HM Treasury 2021 discount rates of 0.91% for leases promulgated in PES papers, as the lease started in January 2019 and transitioned to IFRS 16 on 1 April 2021.

Following the adoption of IFRS 16, the deferred income figures under IAS 17 have been reversed in these accounts as at 1 April 2021. The difference in the liability amounts as per IAS 17 and as per IFRS 16 is the interest expense on the lease liability under IFRS 16.

The CS leases photocopiers, a franking machine and a water cooler machine, where the lease is either low value or short term for which the payments have been expensed.

(m) Reserves

The general fund represents the total assets less liabilities of the CS, to the extent that the total is not represented by other reserves and financing items.

(n) Provisions

The CS makes provision for legal or constructive obligations, which are of uncertain timing or amount as at the balance sheet date, on the basis of the best estimate of the expenditure required to settle the obligation that is probable that will be transfer of economic benefit. Specific assumptions are given in note 13.

(o) Policy for accounting judgements and for key sources of estimation uncertainty

The key areas of estimation uncertainty are accruals in respect of which there are no accounting judgements as these are based purely on goods and services received but not invoiced in the accounting year reported. There is key accounting judgement and estimation uncertainty for the

8 Salisbury Square lease, as the present value of future lease payments is measured at HM Treasury discount rates for leases, that change each year, as promulgated in PES papers.

The long service award provision is estimated on the basis that tax is paid on the retirement lump sum at a rate of 45 per cent.

2. Government grant-in-aid

	2021/22 £'000	2020/21 £'000
Allocated by BEIS	4,614	4,390
Allocated for 8 Salisbury Square lease rent liability	1,299	–
Total Allocated	5,913	4,390
Total drawn down	5,650	3,800

3. The CS and ARAC Members' remuneration

- (a) The total cost of the CS and Audit and Risk Assurance Committee Members' remuneration is shown in the table below.

	2021/22 £'000	2020/21 £'000
CS and ARAC Members' remuneration	20	18
Social security costs	–	–
Total CS and ARAC Members' remuneration	20	18

- (b) The President's and the Registrar's salary costs are mentioned in the Remuneration and Staff Report.
- (c) Other Members of the CS are remunerated at a rate of £400 (2020/21: £350 per day remaining unchanged since 2003, increased to £400 w.e.f. 1 September 2020). In 2021/22, Jeremy Mayhew's total remuneration was £2,200 (2020/21: £0); Susan Scholefield's total remuneration was £4,200 (2020/21: £5,525); Peter Freeman's total remuneration was £6,514 (2020/21: £5,125).

4. Staff related costs and numbers

Information on staff related costs is shown in the table below.

	Total (£'000) 2021/22	Permanently employed staff (£'000) 2021/22	Total (£'000) 2020/21	Permanently employed staff (£'000) 2020/21
Wages and salaries	910	910	946	946
Social security costs	106	106	106	106
Other pension costs	247	247	246	246
Total employee costs	1,263	1,263	1,298	1,298

5. Pension costs

The PCSPS is an unfunded multi-employer defined benefit scheme and the CS is therefore unable to identify its share of underlying assets and liabilities. Further information can be found on the resource accounts of the Cabinet Office Civil Service Pensions website: www.civilservicepensionscheme.org.uk.

For 2021/22, employer contributions of £247,002 (2020/21: £246,428) were payable to the PCSPS at one of the four rates available in the range of 26.6 to 30.3 per cent (2020/21: 26.6 to 30.3 per cent) of pensionable pay, based on salary bands. The schemes actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the schemes.

Employees can opt to open a partnership pension account, which is a stakeholder pension with an employer contribution. There were no employers' contributions paid to Legal and General, the PCSPS appointed stakeholder pension provider in 2021/22 or 2020/21. Employer contributions are age-related and ranged from 3.0 to 12.5 per cent of pensionable pay until 30 September 2015 and from 8.0 to 14.75 per cent of pensionable pay from 1 October 2015. Employers match employee contributions of up to 3 per cent of pensionable pay.

6. Other expenditure

	2021/22 £'000	2020/21 £'000
Hire of plant and machinery	5	4
Other operating leases*	–	1,028
Non case related expenditure including internal audit fees	22	23
IT service fees	152	114
Accommodation, interest expense on lease liability and utilities**	1,303	746
Travel, subsistence and hospitality	7	3
Other administration including case related expenditure	334	308
Audit fees***	39	42
Non cash item		
Depreciation and loss on disposed right of use asset, property, plant and equipment	1,310	476
Total other expenditure	3,172	2,744

Amounts recognised in the SOCNE

	2021/22 £'000	2020/21 £'000
Interest on lease liabilities**	38	3

* The Tribunal/CS moved to its premises at 8 Salisbury Square in November 2019 under a terms of occupation agreement (TOA) with the Government Property Agency. The 10 year lease commenced on 25 January 2019 with an initial 25 months rent free period.

** It is the CS's policy not to charge other government bodies for using Tribunal/CS's court facilities. The accommodation, interest expense and utilities costs include the finance cost of servicing the 8 Salisbury Square lease.

*** Audit fees relate to statutory audit work. The audit fee of £42,000 include £38,500 for 2020/21 and £3,500 for the increase in the fee for 2019/20 from £21,500 to £25,000.

7. Tribunal/CS's income and interest received

	2021/22 £'000	2020/21 £'000
Website and publication licensing income	2	1
Professional fees income	–	3
Gross interest received	–	–
Total income	2	4

LexisNexis Butterworths are paying an annual fee for inclusion of information from the Tribunal's Guide to Proceedings in one of their publications.

8. Right of use asset, property, plant and equipment

Right of use asset

	8 Sal Sq ROU £'000
Cost or valuation:	
At 31 March 2021	8,018
Additions	–
At 31 March 2022	8,018
Depreciation:	
At 31 March 2021	1,748
Charged in the year	802
At 31 March 2022	2,550
Asset financing:	
Net book value at 31 March 2021	6,270
Leased	6,270
Asset financing:	
Net book value at 31 March 2022	5,468
Leased	5,468

Property, plant and equipment

	Information Technology (IT) £'000	Assets under construction £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	8 Sal Sq Fit-out & Dilapidations £'000	Total £'000
Cost or valuation:						
At 31 March 2021	661*	16	401*	27	2,830	3,935
Additions	62	–	1	6	–	69
Disposals	(37)	–	(7)	(3)	–	(47)
Transfer of assets under construction	16	(16)	–	–	–	–
At 31 March 2022	702	–	395	30	2,830	3,957
Depreciation:						
At 31 March 2021	257	–	185	15	382	839
Charged in year	139	–	39	6	306	490
Disposals	(37)	–	(7)	(3)	–	(47)
At 31 March 2022	359	–	217	18	688	1,282
Asset financing:						
Net book value at 31 March 2021	404	16	216	12	2,448	3,096
Owned	404	16	216	12	2,448	3,096
Asset financing:						
Net book value at 31 March 2022	343	–	178	12	2,142	2,675
Owned	343	–	178	12	2,142	2,675

* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £195,896 and F&F assets with a value of £128,850 which have been fully written down but are still in use.

	Information Technology (IT) £'000	Assets under construction £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	8 Sal Sq Fit-out & Dilapidations £'000	Total £'000
Cost or valuation:						
At 31 March 2020	244*	326	396*	16	2,824	3,806
Additions	91	16	5	11	6	129
Disposals	–	–	–	–	–	–
Transfer of assets under construction	326	(326)	–	–	–	–
At 31 March 2021	661*	16	401*	27	2,830	3,935
Depreciation:						
At 31 March 2020	160	–	146	11	76	393
Charged in year	97	–	39	4	306	446
Disposals	–	–	–	–	–	–
At 31 March 2021	257	–	185	15	382	839
Asset financing:						
Net book value at 31 March 2020	84	326	250	5	2,748	3,413
Owned	84	326	250	5	2,748	3,413
Asset financing:						
Net book value at 31 March 2021	404	16	216	12	2,448	3,096
Owned	404	16	216	12	2,448	3,096

* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £40,972 and F&F assets with a value of £126,210 which have been fully written down but are still in use.

9. Intangible assets

	Purchased software licences £'000	SharePoint £'000	Total £'000
Cost or valuation:			
At 31 March 2021	58	31	89
Additions	14	–	14
At 31 March 2022	72	31	103
Amortisation:			
At 31 March 2021	47	28	75
Charged in the year	16	2	18
At 31 March 2022	63	30	93
Net book value at 31 March 2021	11	3	14
Net book value at 31 March 2022	9	1	10

	Purchased software licences £'000	SharePoint £'000	Total £'000
Cost or valuation:			
At 31 March 2020	36	31	67
Additions	22	–	22
At 31 March 2021	58	31	89
Amortisation:			
At 31 March 2020	27	18	45
Charged in the year	20	10	30
At 31 March 2021	47	28	75
Net book value at 31 March 2020	9	13	22
Net book value at 31 March 2021	11	3	14

10. Trade and other receivables

Analysis by type

	31 March 2022 £'000	31 March 2021 £'000
Amounts falling due within one year:		
Deposits and advances	10	3
Other receivables	0	2
Prepayments and accrued income	77	117
Total trade receivables and other receivables	87	122

There were no balances falling due after one year.

11. Cash and cash equivalents

	2021/22 £'000	2020/21 £'000
Balance at 1 April	1,893	1,140
Net change in cash balances	950	753
Balance at 31 March	2,843	1,893
The following balances were held at 31 March:		
Cash in Government Banking Service (GBS)	2,843	1,893
Balance at 31 March	2,843	1,893

12. Trade payables and other current/ non-current liabilities

(a) Analysis by type

	31 March 2022 £'000	31 March 2021 £'000
Amounts falling due within one year:		
Payables representing activities of the Tribunal at 31 March	555	105
Taxation and social security	45	48
Trade Payables	567	23
Accruals	319	1,048
Untaken leave accrual	68	80
Deferred income rent free and operating lease liability		271
8 Salisbury Square lease liability*	1,062	
Total amounts falling due within one year	2,616	1,575
Amounts falling due after more than one year:		
Deferred income rent free and operating lease liability	–	1,845
8 Salisbury Square lease liability*	5,831	–
Legal Funds Liability	325	–
Total amounts falling due after more than one year	6,156	1,845

* The lease liability is the rent payable by the Tribunal/CS for the time lapsed in the initial 25 month rent-free period for its premises at 8 Salisbury Square.

The difference in the actual cash lease liability payable and the lease liability shown in the table above is the interest expense on the lease liability under IFRS 16, recognised in the SOCNE and referred to in Note 6.

(b) Deferred income and operating lease liability

In accordance with the principles of International Accounting Standard (IAS) 17 (Leases) and the supplementary guidance specified by the Standing Interpretation Committee (SIC) in SIC 15 (Operating leases incentives), the Tribunal/CS has spread the value of the initial 25 month rent-free period for 8 Salisbury Square over the expected full 10 year term of the CS's TOA with the GPA.

The operating lease liability in note 12(a) represents obligations under operating leases for the full cost of the operating lease spread on a straight line basis over the 10 year term of the TOA arrangement, from 25 January 2019. Following the adoption of IFRS 16 on 1 April 2021, the deferred income in 2020/21 has been reversed.

13. Provisions

(a) Pension-related provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2021	122
Provided in the year	10
Balance at 31 March 2022	132

(b) Analysis of expected timing of pension-related provisions

	2021/22 £'000	2020/21 £'000
No later than one year	–	–
Later than one year, and not later than five years	132	122
Later than five years	–	–
Balance at 31 March	132	122

The provision made in the year relates to the expected cost of the President's long service award which becomes payable on retirement and will be met by the CS. The liability has been calculated by the Government Actuary's Department (GAD) and is based on the President's judicial grade and length of service.

Both the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993 are not registered schemes for the purposes of the Finance Act 2004. As a result, lump sum benefits payable from the schemes and members' contributions payable to the schemes do not attract income tax relief. Judges therefore receive a service award which becomes payable when they near retirement. The level of the award, which is a proportion of the lump sum, reflects their years of service and judicial grade and ensures their net position is maintained. The level of the long service award is dependent on the tax paid by the member of the JPS on his retirement lump sum. For this year's disclosures, the GAD has assumed that tax is paid on the lump sum at a rate of 45 per cent, the prevailing tax rate as at 31 March 2022. However, if the President is required to pay tax on the lump sum at a different rate, the long service award would differ.

The Value of the long service award payable to the current President is £73,000. A further provision of £59,000 in respect of the long service award relates to seven fee-paid Tribunal Chairs.

(c) Provisions

	31 March 2022 £'000	31 March 2021 £'000
Dilapidations for 8 Salisbury Square	530	530

The CS has made a provision for dilapidations costs payable to reinstate 8 Salisbury Square to its original condition at the end of the 10 year lease, in January 2029. The CS benchmarked the per square feet estimate provided by GPA against its dilapidations experience with its previous premises at Victoria House including an inflationary increase of 0.91 per cent, as promulgated by HM Treasury in its Public Expenditure System (PES) papers.

There is some estimation uncertainty regarding the dilapidations provision and the final amount payable may differ from the figure currently provided. The dilapidations provision will be reviewed,

should other information become available in the future that enables a more reliable estimate of expected restoration costs to be funded. There is no discount applied to the provision on the grounds of materiality.

14. Commitments under leases

Commitments under leases show the rentals payable during the year following the year of these accounts; these rentals are given in the table below.

	31 March 2022 £'000	31 March 2021 £'000
Obligations under leases comprise:		
Buildings:		
Not later than one year	1,243	1,028
Later than one year and not later than five years	4,911	4,113
Later than five years	2,180	2,899
Other:		
Not later than one year		4
Later than one year and not later than five years		2
Total obligations under leases	8,334	8,046
Finance cost not later than one year	48	
Finance cost later than one year and not later than five years	284	
Finance cost later than five years	177	
Total finance cost under leases	509	
Total cash obligations under leases	8,843	

15. Financial instruments

IAS 32 (Financial Instruments Presentation) requires disclosure of the role that financial instruments have had during the period in creating or changing the risks that an entity faces in undertaking its activities. The CS has limited exposure to risk in relation to its activities.

The CS has no borrowings, relies on grant-in-aid from BEIS for its cash requirements and is therefore not exposed to liquidity, credit and market risks. The CS has no material deposits other than cash balances held in current accounts at a non-commercial bank. As all material assets and liabilities are denominated in sterling, the CS is not exposed to interest rate risk or currency risk. There was no difference between the book values and fair values of the CS's financial assets. Cash at bank was £2,843,000 as at 31 March 2022.

16. Contingent Liability

The current President accrued benefits for this office in JPS 2015 but has previous service as a fee paid judge from 2009 to 2017 which could put the member in scope for the McCloud remedy. The EPN 647 notes published on PCSPS are unclear as to what benefit accrual disclosure should be applied in this instance i.e. whether the benefit accrual and CETV should be based on the member's current position in terms of pension scheme membership or whether benefits should be based on the scheme that the member would be in had they not been subject to the McCloud remedy. There is a potential liability of £4,000 for the long service award on the assumption that the President has only accrued pension benefits under the Judicial Pensions and Retirement Act 1993 (JUPRA) <https://www.legislation.gov.uk/ukpga/1993/8/contents> for the period from 5 November 2021 to 31 March 2022.

17. Related party transactions

During the year, the CS had various material transactions with the GPA relating mainly to the occupancy of 8 Salisbury Square.

The CS received grant-in-aid from its sponsor department, BEIS, with whom it also had various other material transactions. In addition, the CS had material transactions with the MoJ, JPS and the Cabinet Office to which accruing superannuation liability charges and employee contributions were paid for the President and permanent staff respectively. Salary and national insurance for the current President and a sum in regard of the long service award for the former President were also paid to the MoJ. Employer pension contributions for the current President were paid to the JPS.

No CS member, key manager or other related party has undertaken any material transactions with the CS during the year.

18. Events after the reporting period

There were no events to report after the reporting period. These financial statements were authorised for issue on the same day as the date of certification by the Comptroller and Auditor General.



Competition Appeal Tribunal

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