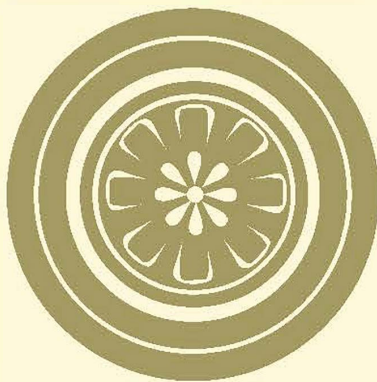




COMPETITION APPEAL TRIBUNAL

# Annual Report and Accounts 2023/2024



# **Competition Appeal Tribunal and Competition Service**

## **Annual Report and Accounts 2023-2024**

For the period 1st April 2023 to 31st March 2024

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

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HC 652



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# Annual Report and Accounts 2023/2024

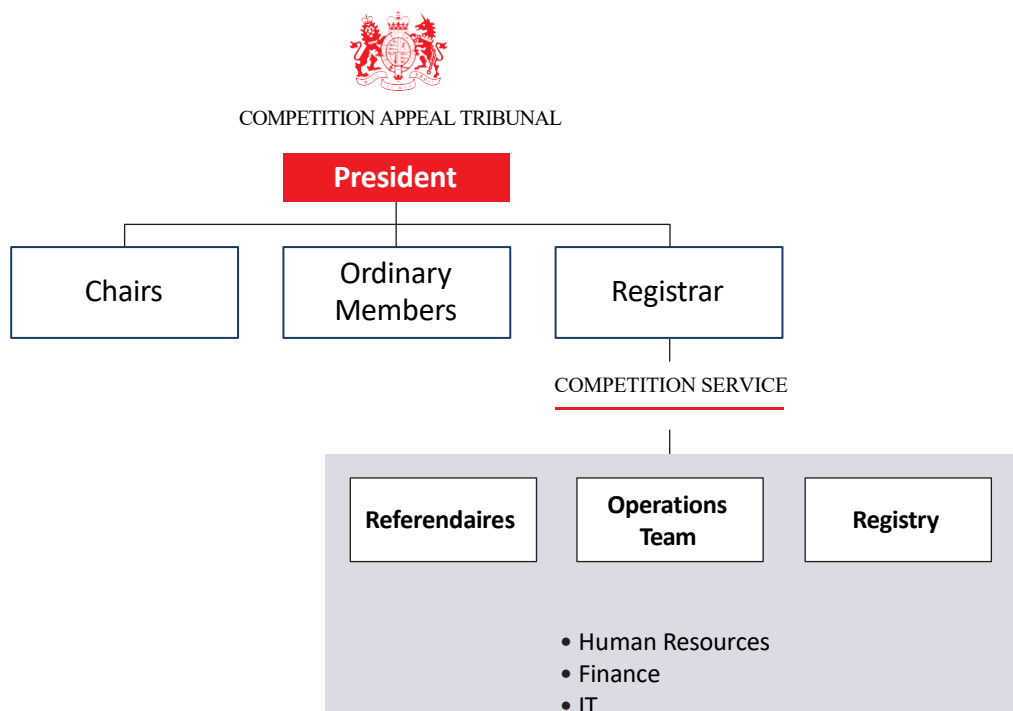
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## Introduction

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 and Markets Authority (CMA) and sectoral regulators in the UK Competition Regime by contributing to the Department for Business and Trade (DBT) 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 a 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 CMA and by designated sector regulators with concurrent powers; 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 and Trade on merger and market investigations under the 2002 Act.

Under the 1998 Act as amended by the Consumer Rights Act 2015, the Tribunal may hear any claim for damages in respect of an infringement of competition law. Furthermore, the Tribunal may 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.

In January 2025 (and therefore outside the period under review) the Tribunal was given jurisdiction to hear appeals under provisions of the Digital Markets, Competition and Consumers Act 2024.

The Tribunal may also hear appeals pursuant to a number of other economic sector specific legislative provisions which are listed on the Tribunal website.

Each case within the statutory jurisdiction of the Tribunal is heard and decided by a panel consisting of the President or a Chair 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.

## Governance

The President, the Registrar, and a number of other non-executive members appointed by the Secretary of State are the membership 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 report, there were two non-executive members, Jeremy Mayhew (who also chairs the CS Audit and Risk Assurance Committee) and Ben Tidswell (a Chair of the Tribunal).

## 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 Business & Trade for a term of eight years.

The Registrar is also appointed by the Secretary of State.

## 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

On 7<sup>th</sup> February 2023, the Prime Minister announced a major machinery of government change which redistributed the activities of several existing government departments and created three new departments including the Department for Business and Trade. The Department for Business and Trade was designated to the CAT and CS with accounting officer responsibilities formally transferred from 1 April 2023.

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

## President's Statement

During the period covered by this Report, the President of the Tribunal was Sir Marcus Smith. However, Sir Marcus' statutory term came to an end in November 2024, and I am serving as acting President until a new President is appointed.

### A. Workload

The workload of the Tribunal continued to grow in terms of the number of cases, their substance, complexity and, in certain cases, their duration.

Detailed data for the period April 2023 to March 2024 can be found below in this Annual Report and Accounts and detailed information with regard to all cases before the Tribunal is available on our website ([www.catribunal.org.uk](http://www.catribunal.org.uk)). Therefore, I will not set out detailed statistics here and it is sufficient to state that during the year under review the Tribunal handed down 78 judgments, which was a 25% increase on the year before.

Although many concerned interim and procedural matters, they included a number of substantive judgments on applications for collective proceedings orders (CICC 1 v Mastercard; Gutmann v Apple Inc; Alex Neill Class Representative Ltd v Sony; Lovdahl v Meta); two judicial review judgments in merger case, each rejecting a challenge to the decisions of the Competition and Markets Authority (Dye & Durham Ltd v CMA; Cérélia Group v CMA); and a judgment on a judicial review of a charge control imposed by the CMA on the supply of communications for the emergency services (Airwaves Solutions Ltd v CMA). In addition, I should highlight the following cases of significance:

- **First collective settlement judgment**

The first collective settlement occurred in *Mark McLaren Class Representative Ltd v MOL (Europe Africa) Ltd* [2023] CAT 75 (6 December 2023). In accordance with the Tribunal's guide, a separate panel from the panel conducting the case management and trial was convened to consider the proposed settlement. This was a partial settlement by one of several defendants, a feature which gave rise to particular challenges. The settlement Tribunal approved a joint application by the Class Representative and Twelfth Defendant for a collective settlement approval order, subject to the case management and trial Tribunal's approval of the Class Representative's funding arrangement. The settlement figure was £1.5 million, broken down into three parts: (1) the damages sum of £1.12 million; (2) the costs of the application for approval of the settlement, £100,000; and (3) the costs generally of £280,000.

- **Important funding judgment**

In *Gutmann v Apple Inc.* [2024] CAT 18 (12 March 2024), the Tribunal gave an important ruling in connection with the Proposed Class Representative's revised litigation funding agreement. The issue was whether the costs or a funder's fee could be paid out of damages. The Tribunal held that it could. The Tribunal considered s. 47C of the Competition Act 1998, which grants to the Tribunal a power in opt-out proceedings to



make orders in relation to unclaimed damages. It noted that s. 47C is silent as to whether damages may be paid by the class representative to the funder. The Tribunal considered that if the legislature had intended that costs or a funder's fee could not be paid out of damages, it would have said so. This interpretation was consistent with s. 47C(3)(b) which enables the Tribunal to order the payment of damages "to such other person as it thinks fit." Given the significance of this decision, the Tribunal gave permission to appeal to the Court of Appeal.

- **First judgment involving an application for the review of a subsidy control decision under the Subsidy Control Act 2022**

*The Durham Company Ltd v Durham County Council* [2023] CAT 50 (27 July 2023) was the first judgment on an application for the review of a subsidy control decision under s. 70 of the Subsidy Control Act 2022 ("SCA"). The case involved a private company, The Durham Company Ltd, which competes with Durham County Council ("the Council") in relation to waste management services. The company argued that the Council took a decision on 31 March 2023 to grant a subsidy to its own 'commercial waste business' by using employees and assets from its 'household waste business' for less than the market rate. It was alleged that the prices of small and medium sized commercial enterprises operating in the market would therefore be undercut.

The Tribunal addressed two key issues: (1) whether the decision under review constituted a 'subsidy' within the meaning of s. 70 SCA; and (2) whether the decision under review was capable in law of amounting to a 'decision' within the meaning of s. 70. The SCA states that a subsidy "*must involve financial assistance given by a public authority so as to confer an economic advantage on one or more enterprises*" (s. 2). The Tribunal concluded that there was no 'subsidy' within the terms of that definition. The giver of the subsidy (the Council) was the same person as the person on whom the subsidy was conferred, and so the "economic benefit" simply circulated within one entity. As to whether there was a 'decision' within the meaning of s. 70, the Tribunal concluded that there was: the Council had made a series of decisions, culminating in the decision of 31 March 2023, which were "decisions" within the meaning set out in the statute.

- **First judgment to consider the effect of the Brexit legislation on competition law claims and the compatibility of the English limitation rules with developing EU jurisprudence**

The Tribunal is conducting Umbrella Proceedings bringing together multiple claims by merchants against Visa and Mastercard based on the banks' multilateral interchange fees ("MIFs"): the *Umbrella Interchange Fee* proceedings. But because limitation issues were raised in those proceedings which also arose in the collective proceedings for a consumer class based on the EEA MIFs (*Merricks v Mastercard*), these issues were heard and determined for all those cases together by a panel of the Tribunal comprising three chairs: Sir Marcus Smith, Ben Tidswell and myself: [2023] CAT 49 (26 July 2023). The issues arose because a post-Brexit judgment of the Court of Justice of the EU appeared

to go further than earlier EU case law in the determination of when a national limitation period failed to comply with the EU principle of effectiveness and was therefore to be disapplied. The Tribunal held that although the proceedings alleging infringement of the EU competition rules had been started before the UK's withdrawal from the EU, the domestic statute giving effect to that withdrawal did not mean that the cases were governed by EU law as that law continued to develop. Only EU law as it stood at the end of the implementation period for the UK's withdrawal applied. And the Court of Appeal had previously held that the English limitation legislation was not incompatible with the general principle of effectiveness under EU law.

The Tribunal's conclusion on the general operation of the EU withdrawal legislation was considered by the Supreme Court in *Lipton v BA Cityflyer Ltd* [2024] UKSC 24, which reached the same conclusion (albeit by different reasoning). The Tribunal's specific conclusion on the compatibility of the English statutory limitation regime with the EU principle of effectiveness pre-Brexit was upheld by the Court of Appeal in *Umbrella Interchange Fee Claimants v Umbrella Interchange Fee Defendants* [2024] EWCA Civ 1559.

The increasing workload has had an impact on the Tribunal's resources, specifically, the number of Referendaires and courtroom availability. Enhancements in both of these areas are being considered so as to reduce the risk to the Tribunal's operations in the future.

## B. Working practices

The review of the Tribunal's Rules was well underway, informed by the need for certain rules consequential upon the Digital Markets, Competition and Consumers Bill. However, the timing of the General Election meant that the timeline had to be adjusted and the approach to the production of revised procedural rules and guidance reviewed. Further details will emerge in due course.

## C. People and the organisation

Tribunal membership increased over the course of the year as a number of new Ordinary Members were appointed in early 2023, in anticipation of the requirement that those Ordinary Members who have been in post for the past seven years will have to step down during 2025. We are extremely grateful to all the Chairs and Ordinary Members for their work and commitment on the cases that they are involved in.

I particularly wish to record thanks to all the staff of the Tribunal. The fact that the Tribunal was able to function efficiently and maintain its high standard of service despite an increased workload, was due to the dedication of the staff, under the leadership of Edward Brockman as Director of Operations and, of course, the Tribunal's widely respected Registrar, Charles Dhanowa.

## D. Outreach

Once again this was an extremely busy period in terms of speaking engagements and other outreach activities carried out by the then President, Chairs and Ordinary Members.

## President's Statement

Since this is the first report since the end of Sir Marcus Smith's tenure, I wish to acknowledge the extensive work which he undertook to drive forward the Tribunal during his presidency. I believe that no president has shown greater industry, and several initiatives which he introduced, such as the Bellamy lecture and 'umbrella' proceedings bringing together multiple cases concerning the same infringement, will become a permanent feature of the Tribunal's operations. I take this opportunity to thank him for his service to the Tribunal over the years. The competition to select the next President, undertaken by Judicial Appointments Commission, commenced in late November.

**Sir Peter Roth**

Acting President

11 February 2025

## Performance Report

### Cases

During the year to 31st March 2024, the Tribunal issued 76 judgments and made 475 orders. Details of the Tribunal's judicial work during that period can be found in the Cases section of this report. As at 31 March 2024, 14 judgments were pending and 268 cases were carried forward to the next year.

### Other Tribunal Activities

In addition to its judicial work, during the year under review, 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; participating in the work of the Association of European Competition Law Judges (AECLJ) and acting as its secretariat; liaising with DBT and other Government departments on various policy issues relating to the competition and regulatory framework (some of which concerned legislative changes in the Digital Markets, Competition and Consumers Bill that related to the work of the Tribunal), running the rolling 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

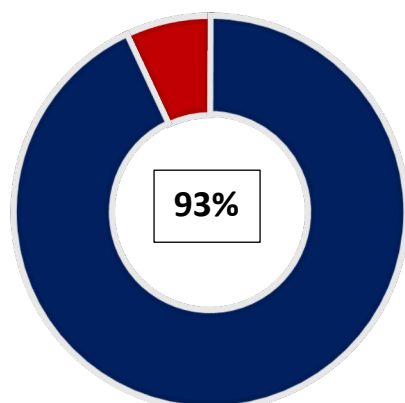
As at 31st March 2024, the CS staff team comprised 21 individuals, a number of whom multi-task across several roles. The staff absence rate was 0.7 per cent.

CS Staff turnover for the year was relatively high, at 23 per cent and included the departure of five members of staff from across the workforce.

### Financial

The grant in aid allocation from DBT for 2023/24 was £5,526,000 to include £5,283,000 for resource expenditure and £243,000 for capital expenditure. The maximum allocation was £6,993,000 to include IFRS 16 rent lease liability for the premises occupied at 8 Salisbury Square. The total grant in aid drawn was £6,600,000.

## Actual v Budget



The actual costs for 2023-24 were £5,131k, 93% of Budget £5,526k)

Annual Managed Expenditure Budget Classification	2023/24 Budget £'000	2023/24 Outturn £'000	2022/23 Outturn £'000
Resource	5,233	4,943	4,077
AME	50	29	162
Capital	243	159	165
<b>Total DEL</b>	<b>5,526</b>	<b>5,131</b>	<b>4,404</b>

The annual management expenditure in the table above does not include depreciation, a non-cash expenditure, whereas the actual resource expenditure in the table below includes depreciation.

Description	2023/24 £'000	2022/23 £'000
Tribunal expenditure	1,136	1,220
CS expenditure	5,162	4,312
<b>Total Tribunal and CS expenditure</b>	<b>6,298</b>	<b>5,532</b>
<b>Total grant-in-aid incl. 8 Salisbury Square lease liability</b>	<b>6,600</b>	<b>4,672</b>

Accommodation costs excluding rent, but including VAT on rent (mainly service charges, facilities management and business rates) comprised £1,184,000 (19% of the total resource expenditure of £6,298,000).

Performance Report

The main changes in the CAT/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 pages 103 and 118.

<b>(Decrease)/increase in costs</b>	<b>2023/24 £'000</b>	<b>Reasons for (decrease)/increase</b>
President's and Members' remuneration	14	A 7% judicial pay increase to the President's salary
Chairs' historic judicial service award	(133)	In the previous year, the judicial service award was provided from appointment date to September 2021, as were bereavement allowances and compensation of an interest like nature, which resulted from late payment from the Judicial Pension Schemes.
Members Travel & Subsistence, Tax on Members Travel & Subsistence, Training	34	Case hearings necessitating members to travel to CAT courts and Member training events and conferences
<b>Total decrease in Tribunal cash costs</b>	<b>(85)</b>	
Members' remuneration	(2)	Fewer meetings of the Audit and Risk Assurance Committee
Staff costs	323	More members of legal staff, staff promotions, a 5% increase in pay, and a cost of living payment to staff.
Accommodation and lease	385	Increase in business rates, service charges and facilities management costs.
IT service fee	76	Increase in Webhosting, AVMI maintenance and pen test costs.
Other administration including case related expenditure	40	Increase in the transcript costs for more hearings, legal library subscriptions, staff training costs for legal courses.
<b>Total increase in CS's cash costs</b>	<b>822</b>	
<b>Total increase in cash costs</b>	<b>737</b>	
Depreciation	28	Increase in depreciation for assets under construction now fully functional.
<b>Total increase in operating costs</b>	<b>765</b>	

As a non-departmental public body, the CS records grant-in-aid as financing received from DBT. 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 2024 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 £154,000 and was mainly related to the purchase of AVMI upgrades, Court 3- remote court bench and furniture and Accounting System upgrades.

The book value of the CS's non-current assets decreased to £5,851,000 from £7,025,000. The total assets of the CS decreased to £8,379,000 from £9,175,000. This is mainly due to Right of Use and other assets depreciation. The closing cash balance was £2,388,000 (2022/23: £1,542,000). The tax payers' equity constituting the CS's general fund (which represents the total assets of the CS less its liabilities, but not any other reserves and financing items) increased from £791,000 from £1,095,000.

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

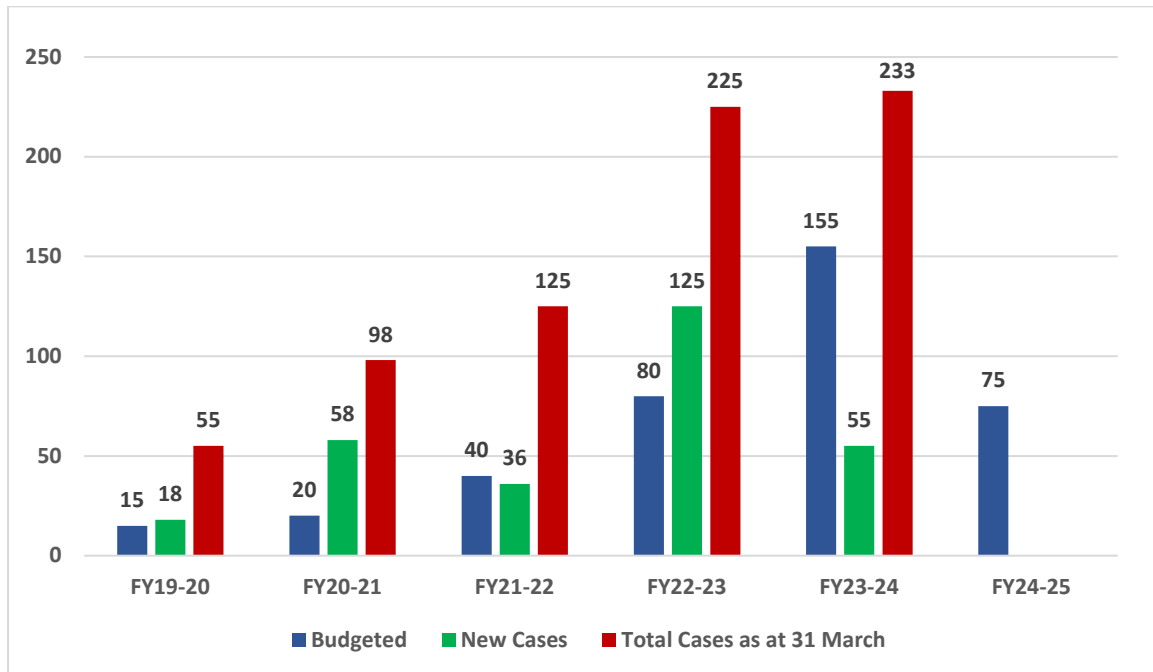
Pension arrangements and liabilities for the President and the Registrar are mentioned separately in the Remuneration Report. Tribunal Chair appointments are pensionable; Ordinary Member appointments are non-pensionable. Note 5 on page 126 in the CS's accounts provides information on the pension provisions 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 DBT 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 (FRM) in force for the financial year 2023/24.

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. The indicative allocation in respect of the year to 31 March 2025 was received in April 2024 through the DBT's EPM Clear Line of Sight (CLOS) portal. The allocation of £5,437,000, does not consider an increase in business rates and the Facilities Management contract managed by the GPA, nor VAT on the rent liability expensed off as per IFRS 16. DBT has agreed to the increased FM contract costs. It has been therefore considered appropriate to adopt a going concern basis for the preparation of the Tribunal/CS financial statements, in accordance with the FRM.

For financial year 2024/25, grant-in-aid from DBT amounts to £5,437,000 split between £5,257,000 of resource expenditure and £180,000 of capital expenditure. In addition, grant-in-aid of £1,083,000 for rent payable will also be provided by DBT. The spend for 2024/25 is expected to be in the region of £6,900,000. Nearly 68 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 22 per cent of the RDEL.

## Case Workload



The number of cases that the Tribunal may receive during 2025/26 is forecasted to be in the region of 75 (similar to 2024/25). An increase in the number of employees during 2025/26 is forecasted to deal with the growing caseload. By the end of financial year 2025/26, Tribunal/CS costs may therefore increase by approximately 12% of its total forecasted spend of £7,761,000 (i.e. £861,000).

## Sustainability Reporting

The CAT / CS is committed to meeting the Greening Government Commitment targets set out to reduce water consumption, greenhouse gas emissions, minimise waste and ensure sustainable procurement of products. As an organisation with fewer than 50 full-time equivalent (FTE) staff, there is a case for exemption from the Greening Government Commitments. However, whilst physical attendance in court for hearings is the preferred modus operandi, alternative options using technology (such as the use of MS Teams) to conduct the shorter and administrative aspects of cases have been adopted, where this has been possible without impeding access to justice.

The CAT/CS is an occupant of a multi-tenanted building and utility services and waste management are handled by the landlord. A co-ordinated programme to capture the annual consumption readings is under development.



Costs	2023/24 £	2022/23 £
Electricity	51,780	56,003
Paper	1,216	741
Catering	12,279	8,940
Travel	23,434	17,756

## 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 2023-24, the CS Board met on four occasions.

The subordinate CS Audit and Risk Assurance Committee (ARAC) chaired by the Independent non- Executive member 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 DBT and in particular the Market Frameworks Group. Throughout the year, regular meetings took place with senior officials to maintain a close working relationship.

## Internal Whistleblowing

The Competition Service encourages a free and open culture in its business and operations and in particular recognises that effective and honest communication is essential to the success of both the Tribunal and the Service.

It acknowledges that employees have the right to raise issues with someone in confidence, where they believe malpractice may be occurring or might occur; this could include: criminal offences, miscarriages of justice, failures to comply with legal obligations or matters of Health & Safety.

The policy is made available to all staff on the intranet and is highlighted to new staff during their induction programme. There have been no whistleblowing complaints received during 2023/24.

## Data Security

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

**Charles Dhanowa CBE, KC (Hon)**

Registrar and Accounting Officer

11 February 2025

## Membership as at 31 March 2024



### President

Sir Marcus Smith was called to the Bar in 1991 and was appointed Queens 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 Smith 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 the following Justices of the High Courts and 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 Adam Johnson
The Honourable Mr Justice Zacaroli	The Honourable Mr Justice Michael Green
The Honourable Mr Justice Fancourt	The Honourable Lord Ericht
The Honourable Mr Justice Hildyard	The Honourable Mrs Justice Joanna Smith
The Honourable Mr Justice Saini	The Honourable Lord Young
The Honourable Mr Justice Trower	The Honourable Mr Justice Mellor
The Honourable Mr Justice Miles	The Honourable Mr Justice Edwin Johnson
The Honourable Mr Justice Meade	The Honourable Mr Justice Leech
The Honourable Mr Justice Bryan	The Honourable Mr Justice Roth
The Honourable Mr Justice Butcher	The Honourable Mr Justice Ian Huddleston
The Honourable Mrs Justice Cockerill	The Honourable Lord Richardson
The Honourable Mr Justice Foxton	The Honourable Mr Justice Jonathan Richards
The Honourable Mr Justice Jacobs	The Honourable Mr Justice Richard Smith
The Honourable Mr Justice Waksman	The Honourable Mr Justice Rajah
The Honourable Mrs Justice Bacon	



### 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 (20<sup>th</sup> edition, 2022), and the joint author of Disclosure (6<sup>th</sup> edition, 2024). 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 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. He is a Chairman of the Competition Appeal Tribunal Rules Advisory Committee. He is the Chairman of the Appeal Committee of the Human Fertilisation and Embryology Authority.



### **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 8 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.

## Ordinary Members



### Professor Pinar Akman

Professor Pinar Akman is a Professor of Law specialising in competition at the University of Leeds. She is a prize-winning academic and an internationally renowned expert in competition law with over fifteen years of experience. She has presented her research all around the globe and provided expertise to numerous organisations including the IMF, OECD, European Parliament, House of Lords and World Economic Forum. She is a Member of the Financial Conduct Authority's Innovation Advisory Group. She is a Non-Governmental Advisor to the United Kingdom and Turkey at the International Competition Network.



### John Alty

John Alty has held a number of senior civil service roles dealing with competition, intellectual property, business sectors and trade, culminating in setting up the UK's trade policy capability after the EU referendum as Director General for Trade Policy. He left the civil service in 2021 and is now a visiting professor in practice at the London School of Economics, an adviser on trade to Pagefield Communications, and a trustee Director of the Institute of Export and International Trade.



### Peter Anderson

Peter Anderson has been a solicitor in Scotland since 1975 and a Solicitor Advocate in Scotland since 1994. He was a partner in Simpson & Marwick, Solicitors, Scotland from 1978 and since the firm merged with Clyde & Co Solicitors, has been a partner there since 2015. He has over 40 years' experience in general insurance work, 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 sizeable law firm.



### Charles Bankes

Charles Bankes was a partner at Simmons & Simmons LLP from 1998 to 2022. He advised on all aspects of contentious and non-contentious competition law and utility regulation. In 2000 to 2001 he was seconded to Ofgem as General Counsel. He is the joint author of a textbook on UK merger control.



### Carole Begent

Carole Begent qualified as a solicitor in 1989. Following private practice, where she specialised in commercial and company law, she was a public lawyer specialising in competition and regulatory law, holding policy and legal advisory positions at OFWAT, ORR, Department of Transport, the Competition Commission, the Competition and Markets Authority and the Payments System Regulator. Carole is currently a member of the Independent Panel on Procurement and Patient Choice for the NHS.



### 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.



### 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, which she relinquished in October 2017. Her current appointments are as a Lay Member on the House of Commons Committee on Standards, a Commissioner for the Civil Service Commission and a member of the Business Advisory Board at Surrey Business School.



### 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 as 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.





### Professor Eyad Maher Dabbah

Professor Eyad Maher Dabbah holds the Chair in Competition Law and Policy at Queen Mary University of London, where he is also the Director of the Institute for Competition and Consumers (ICC). Eyad has published widely and has advised on abusive dominance, cartels, vertical restraints and mergers in his capacity as special counsel and consultant to businesses, governments and international bodies. Eyad also has expertise in trade disputes and anti-dumping and has handled a number of high-profile matters in these areas.



### John Davies

John Davies is an economist with 30 years' experience in the economics of competition and regulation. He has worked as a consultant in the private sector, most recently at Compass Lexecon, and in the public sector he has been Chief Economist at the UK Competition Commission, Chief Executive of the Competition Commission of Mauritius and Head of Competition Policy at the OECD.



### Keith Derbyshire

After a career in NHS finance, Keith Derbyshire joined the Government Economic Service in 1992, and worked as a Senior Economic Adviser for twenty-five years, ending his career as the Chief Economist and Chief Analyst at the Department of Health and Social Care. At DHSC he specialised in resource allocation, policy appraisal and the development of incentives and regulations to overcome market failure in health care delivery. In 2017 he was made honorary professor of health economics at the Centre of Health Economics at the University of York, where he acts as an independent advisor to their Policy Research Unit.



### 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.



### Lesley Farrell

Lesley Farrell qualified as a solicitor in 1991 and has over 20 years' experience in competition law, covering both contentious and non-contentious areas of practice. She was a partner in the EU and Competition teams of S J Berwin LLP between 2002 and 2012, and Eversheds Sutherland LLP, between 2013 and 2022.



### Ian Forrester KC

Ian Forrester KC has experience of competition law controversies in Europe, Asia and North America, having argued cases on behalf of government agencies, the European Commission, large and small companies, trade associations and private individuals. He has also handled ECtHR cases on behalf of prisoners, journalists and others. A visiting professor at Glasgow University, he has written about due process, sport, cartels, compulsory licensing and procedural reform. He established the pro bono practice of White & Case. He was nominated by the UK to be a judge in the General Court of the European Union in 2015, and served till his mandate was ended by Brexit. He has returned to the Bar as a practitioner and arbitrator. He is an Assembly Trustee of the Church of Scotland and from 2019 to 2024 was President of the Franco-British Lawyers Society.





### 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).



### Robert Herga

Robert Herga was General Counsel at Gatwick Airport Limited from March 2010 to April 2022 and prior to that had been General Counsel at airport owner and operator BAA plc where he worked for 20 years. Robert was a Non-Executive Director at The Pension Regulator from 2017 until April 2022.



### 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).



### Professor Pablo Ibáñez Colomo

Professor Pablo Ibáñez Colomo is Professor of Law at the London School of Economics. He is also a Visiting Professor at the College of Europe (Bruges), where he delivers the core competition law module, and a Joint General Editor of the Journal of European Competition Law & Practice.



### Rosalind Kellaway

Rosalind qualified as a solicitor in 1984 and has advised on competition law for more than 30 years. She was a partner in Eversheds Sutherland International LLP from 1989 to May 2024 and the International Co-Chair of the Competition, EU and Trade team there from 1994 to 2023. Her experience in private practice included cartels, abuse of dominance, vertical agreements, market investigations and merger control across a wide range of businesses. She has been a long standing member of the Joint Working Party on Competition Law of the Bar and Law Society and is a member of the Advisory Board of the University of Sussex Business School.



### Hugh Kelly

Hugh is an accountant with 20 years' experience in regulatory and competition finance, particularly in the application of financial accounting data to answer economic questions relating to costing, pricing and profitability. He currently works as an independent consultant, and as a Non-Executive Board Member of the Single Source Regulations Office.



### Professor Ioannis Kokkoris

Ioannis Kokkoris is a Professor of Competition Law and Economics and the Head of School at the Centre for Commercial Law Studies, Queen Mary University London. He previously worked at the Office of Fair Trading (and briefly at the European Commission and US Federal Trade Commission) and has been involved in numerous capacity building and law reform projects in various countries. He publishes on all areas of competition law and economics with a main focus on merger control (including on aspects of national security).



### Professor Ioannis Lianos

Ioannis Lianos is Professor of Global Competition Law and Public Policy at University College London, Faculty of Laws, where he has been teaching since 2005. He was President of the Hellenic Competition Commission from August 2019 to December 2023. Ioannis was elected a member of the Bureau of the OECD Competition Committee in 2021 and re-elected in 2022 and 2023.



### 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.



### Dr Maria Maher

Maria Maher is an economist with over thirty years' experience in competition and regulatory matters. She holds a PhD in economics from the University of California at Berkeley. Between 2006 and 2023, Maria worked in private practice and held senior positions with several economic consultancies. Prior to her career in economic consultancy, she was a Senior Economist with the Organisation for Economic Cooperation and Development. She started her career as an academic and has held positions at the University of Cambridge, where she was also a Fellow of Christ's College, and at Birkbeck College.



### 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.



### 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 Rachael Mulheron KC (Hon)

Professor Rachael Mulheron KC (Hon) FBA is Professor of Tort Law and Civil Justice at Queen Mary University of London, where she has taught since 2004. Her areas of teaching, research and publication focus upon Tort Law; Medical Negligence Law; Class Actions jurisprudence; and Civil Procedure more generally. Rachael has advised and/or assisted government entities, law reform commissions, charities, rules-making bodies, NGOs, and others across a range of Civil Procedure and Tort Law issues since 2005.



### Professor Anthony Neuberger

Professor Anthony Neuberger is currently Professor of Finance at Cass Business School at the City University of London where, since 2016, he has also been the Deputy Head of the Finance Faculty. He was previously at the University of Warwick as Professor of Finance and 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.



### Greg Olsen

Greg practised as a solicitor specialising in merger control and EU and UK behavioural competition law from 1995 to 2024. He led the UK competition practice of Jones Day from 2001 to 2007 and was a partner with Clifford Chance from 2007 to 2024, latterly as head of the UK competition team. Greg is a member of the Advisory Board of the Centre for Competition Policy, Director of the South East London Catholic Academy Trust and past trustee of the NZUK Link Foundation.



### 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.



### Paula Riedel

Paula qualified as a solicitor in 1996 and practised as a competition lawyer for 28 years, as associate and partner at Linklaters LLP and subsequently partner at Kirkland & Ellis International LLP, advising on all aspects of competition law and merger control and on utility regulation. From 1999-2001 she was seconded to the Department of Trade and Industry, working in particular on the development of the UK's merger control system. She was also a long-standing tutor on the King's College Postgraduate Diploma in EU Competition Law, author of a number of competition law related publications and a participant in several competition law committees.



### 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 formerly the Chief Investment Officer at Innovate UK, CEO of the Bank of the Maldives, CEO of Start-Up Loans, and the Chair of Governors at the University of Bedfordshire. He currently serves as the Chair of Lexim, Ripple UK EMI, and Folk2Folk. 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, Card Payment Group.



### Professor Alasdair Smith

Alasdair Smith is an economist specialising in international trade. He has been a professor (now Emeritus) at the University of Sussex since 1981. He was a Deputy Chair of the Competition Commission then an Inquiry Chair at the Competition and Markets Authority, from 2012 to 2017. He has also been a member of the Scottish Fiscal Commission and of the Determinations Panel of the Pensions Regulator, and a senior adviser at the Payment Systems Regulator.





### Andrew Taylor

Andrew is a former Senior Director at the UK Competition Commission, and a former Director of the Cooperation and Competition Panel for NHS-funded services. Prior to these roles, Andrew advised internationally on utilities sector reform after starting his career as an economist for the Australian Government. More recently, Andrew has been a partner, advising on competition matters, at Aldwych Partners. His experience includes merger inquiries, market investigations and conduct-related issues. Andrew is currently Chair of the Independent Panel on Procurement and Patient Choice for the NHS as well as an Ordinary Member of the Competition Appeal Tribunal.



### Professor David Ulph CBE

David Ulph is Emeritus Professor of Economics at the University of St Andrews where he has been a professor 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.



### **Professor 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.





### Antony Woodgate

Antony studied science and law at Monash University, Melbourne, Australia, followed by postgraduate studies in the UK. He entered private practice in EU, competition and regulatory law with a focus on litigation and agency enforcement. He then pursued studies in physics, nanotechnology and renewable energy.

## 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.

## Annual Report Case Summaries 2023/24

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](http://www.catribunal.org.uk)).

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
1. Dr. Rachael Kent v Apple Inc. and Apple Distribution International Ltd  [2023] CAT 22 5 April 2023	Ben Tidswell  Dr William Bishop  Tim Frazer	<p>Ruling of the Tribunal in relation to the applications by the Class Representative ("CR") and Defendants ("Apple") to adduce expert evidence.</p> <p>Subject to the Tribunal's approval, the parties had agreed that permission should be given to adduce evidence from two experts each in competition economics, one expert each in accounting, and one expert each with regard to IT/mobile/internet security. The Tribunal granted permission for the parties to call evidence from these experts.</p> <p>Apple resisted the CR's application to call expert evidence in relation to the app industry and the payment systems industry on the basis of the admissibility of the evidence. The Tribunal gave permission for the CR to call expert evidence in relation to the app industry and the payment systems industry. It stated that both are areas of some technicality, where the Tribunal anticipates there will be individuals with recognised expertise. Once the CR had proposed the experts, the Tribunal would consider whether their experience and approach qualifies their evidence as admissible.</p> <p>The CR resisted Apple's application to call expert evidence in relation to the economics of digital markets (resisted on the grounds of overlap with the areas to be covered by the competition economists), intellectual property (resisted on the grounds that there is no properly pleaded</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		issue in the Defence), and a second IT/mobile/internet security expert, should that prove necessary. The Tribunal refused permission for Apple to call an expert in the economics of digital markets, on the grounds that the expert's proposed work would not be materially different to the work of the two competition economists that Apple already had permission to call. The Tribunal gave permission for Apple to call an expert in relation to the valuation of intellectual property. In relation to the second IT/mobile/internet security expert, the Tribunal set out that the parties should, if they consider that it will be necessary to use two experts in this area after they have identified potential experts, list the issues, provide details of the expert, and the Tribunal would then consider the proposed issues and expert allocation.
2. Justin Gutmann v First MTR South Western Trains Limited and Another	The Honourable Mr Justice Roth  Simon Holmes	Judgment of the Tribunal granting the Secretary of State for Transport permission to intervene in the proceedings by way of written submissions on the framework for regulation of the railways and the arrangements made thereunder.
[2023] CAT 23 6 April 2023	Professor Robin Mason	
3. The Durham Company Limited v Durham County Council	Sir Marcus Smith	Reasoned Order of the President granting the Respondent, Durham County Council, permission to appeal the Tribunal's cost capping Judgment of 21 March 2023 ([2023] CAT 14).
[2023] CAT 24 6 April 2023		
4. Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others	Sir Marcus Smith  The Honourable Mrs Justice Cockerill DBE  Bridget Lucas KC	Ruling of the Tribunal giving directions for trial in respect of the McLaren Proceedings (Case No. 1339/7/7/20) and the Volkswagen Proceedings (Case No. 1528/5/7/22 (T)).
[2023] CAT 25 6 April 2023		

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
5. PSA Automobiles SA & Others v Autoliv AB & Others [2023] CAT 26 29 March 2023	Justin Turner KC Professor Anthony Neuberger Sir Iain McMillan CBE FRSE DL	Ruling of the Tribunal directing disclosure to the Claimants of certain documents provided by the Defendants to the US Department of Justice and the Brazilian Competition Authority.
6. PSA Automobiles SA & Others v Autoliv AB & Others [2023] CAT 27 19 April 2023	Justin Turner KC Professor Anthony Neuberger Sir Iain McMillan CBE FRSE DL	Ruling of the Tribunal refusing the Eleventh Defendant's application to strike out the Claimants' claim and for summary judgment of its Defence.
7. Cérélia Group Holding SAS and Cérélia UK Limited v Competition and Markets Authority [2023] CAT 28 13 April 2024	Hodge Malek KC	Ruling of the Tribunal refusing a request for specific disclosure by the Applicant, Cérélia.
8. Apple Inc. & Others v Competition and Markets Authority [2023] CAT 29 3 May 2023	Sir Marcus Smith Michael Cutting Anna Walker CB	Reasoned Order of the Tribunal refusing the Competition and Markets Authority's application for permission to appeal the Tribunal's judgment dated 31 March 2023 ([2023] CAT 21).
9. Cérélia Group Holding SAS and Cérélia UK Limited v Competition and Markets Authority [2023] CAT 30 10 May 2023	Hodge Malek KC	Reasoned Order of the Chair granting the Respondent, the Competition and Markets Authority, an extension of time in which to file and serve its amended defence.

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
10. Royal Mail Group Limited v DAF Trucks Limited and Others	The Honourable Mr Justice Michael Green	Ruling of the Tribunal in relation to: (i) the Defendants' application for permission to appeal the Tribunal's judgment dated 7 February 2023 ([2023] CAT 6); and (ii) the Claimants' application for costs.
[2023] CAT 31 16 May 2023	Sir Iain McMillan CBE FRSE DL	
	Derek Ridyard	
11. Dye & Durham Limited and Dye & Durham (UK) Limited v Competition and Markets Authority	Hodge Malek KC	Ruling of the Chair on the admissibility of two witness statements and an expert report that the Applicants had sought to adduce.
[2023] CAT 32 15 May 2023		
12. Walter Hugh Merricks CBE v Mastercard Incorporated and Others	The Honourable Mr Justice Roth	Ruling of the Tribunal dismissing the parties' applications for permission to appeal the Tribunal's judgment dated 21 March 2023 ([2023] CAT 15).
[2023] CAT 33 25 May 2023	The Honourable Lord Ericht	
	Jane Burgess	
13. Ad Tech Collective Action LLP v Alphabet Inc. & Others	Sir Marcus Smith	Judgment of the President ordering that the question of which of the Applicants in Cases 1572/7/7/22 (Caludio Pollack) and 1582/7/7/23 (Charles Maxwell Arthur) would be the most suitable to act as the class representative (referred to in the Judgment as a "carriage dispute") be heard in advance of any hearing relating to application for certification.
[2023] CAT 34 26 May 2023		

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
<p>14. Mr Justin Gutmann v Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited</p> <p>[2023] CAT 35 2 May 2023</p>	<p>Justin Turner KC</p> <p>Jane Burgess</p> <p>Derek Ridyard</p>	<p>Judgment of the Tribunal made at the certification hearing on 2 May 2023. The Tribunal declined to make a collective proceedings order at the hearing. The Tribunal, of its own accord, raised questions as to the factual basis of the Proposed Class Representative’s (“PCR”) abuse of dominance claim at the outset of the hearing. During the course of submissions, the Tribunal invited the PCR to make an application for disclosure in order that he may have an opportunity to plead his case with more particularity. On his accepting this invitation, the Tribunal adjourned the question of certification and provided directions for the hearing of that disclosure application. The Proposed Defendants’ application for summary judgment was also adjourned.</p>
<p>15. JH Enterprises Limited (trading as ValueLicensing) v Microsoft Corporation and Others</p> <p>[2023] CAT 36 9 May 2023</p>	<p>Justin Turner KC</p>	<p>Ruling of the Chair setting out the format of trial and refusing the Defendant’s application for a split trial in the proceedings.</p>
<p>16. Instaplanta (Yorkshire) Limited v Leeds City Council</p> <p>[2023] CAT 37 5 June 2023</p>	<p>Ben Tidswell</p>	<p>Ruling of the Chair in connection with the Defendant’s application for security for its costs.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
<p>17.</p> <p>Commercial and Interregional Card Claims I Limited (“CICC I”) v Mastercard Incorporated &amp; Others</p> <p>[2023] CAT 38 8 June 2023</p>	<p>Ben Tidswell</p> <p>Dr Catherine Bell CB</p> <p>Dr William Bishop</p>	<p>Judgment of the Tribunal in connection with four applications for collective proceedings orders (“CPOs”) under s.47B of the Competition Act 1998 (“CA 1998”) by two Proposed Class Representatives, Commercial and Interregional Card Claims I Limited and Commercial and Interregional Card Claims II Limited (“CICC I” and “CICC II” respectively or, together, “the PCRs”) to combine standalone claims for damages in regard of the Proposed Defendants’ alleged breaches of statutory duty in infringing Chapter I of CA 1998 and/or Article 101 of the Treaty on the Functioning of the European Union by reason of the way in which commercial and interregional multilateral interchange fees (“MIFs”) had been set in the Proposed Defendants’ respective card schemes.</p> <p>CICC I sought two CPOs, each against the Mastercard and Visa Proposed Defendants, on an opt in basis on behalf of a class of merchants with average annual turnover of £100 million or more per annum in the period 2016-2019 who had paid a merchant service charge (“MSC”) in respect of interregional and/or commercial card transactions which had taken place (a) in the EU (including the UK) after 1 June 2016 and prior to 1 January 2021 or (b) in the UK on or after 1 January 2021.</p> <p>CICC II sought two CPOs, each against the Mastercard and Visa Proposed Defendants, on an opt out basis on behalf of a class of merchants with average annual turnover of less than £100 million per annum in the period 2016-2019 who had paid a MSC in respect of interregional and/or commercial card transactions which had taken place in the UK after 1 June 2016.</p> <p>The Mastercard and Visa Proposed Defendants opposed the granting of the</p>

Judgment	Tribunal	Subject matter
		<p>CPOs on the grounds of eligibility, authorisation and methodology:</p> <ol style="list-style-type: none"> <li>1. Methodology – the Proposed Defendants contended that significant elements of the PCRs’ cases contained no information at all about the methodology for important aspects, such as the issues of infringement, acquirer pass on and merchant pass on.</li> <li>2. Eligibility – the Proposed Defendants submitted that: <ul style="list-style-type: none"> <li>• there were real difficulties in determining whether a merchant was or was not a member of the proposed classes in the opt in and opt out proposed collective proceedings;</li> <li>• in respect of both types of proposed collective proceedings, the lack of methodology made it impossible to identify the extent and nature of common issues or to determine the most appropriate way of dealing with them; and</li> <li>• in light of the existence of the Merchant Interchange Fee Umbrella Proceedings (Case No. 1517/11/7/22 (UM)) and its features, the cost and benefit analysis weighed against the proposed collective proceedings and individual proceedings were in fact a more appropriate means of redress.</li> </ul> </li> <li>3. Authorisation – the Proposed Defendants raised questions about the experience and control of the PCRs’ sole director in respect of the proposed collective proceedings.</li> </ol>

The Tribunal unanimously concluded that all four proposed collective proceedings did



Judgment	Tribunal	Subject matter
		<p>not meet the requirements set out in the CA 1998, the Competition Appeal Tribunal Rules 2015 and the case law, and it was unable to grant any of the applications for CPOs. In particular:</p> <ol style="list-style-type: none"> <li data-bbox="815 472 1394 853">1. The Tribunal was unable to grant the CPO applications for the proposed opt out proceedings in their current forms due to a defect in relation to the identification of the class, the absence of methodology for infringement and its counterfactual, and concerns about the practicality and proportionality of the methodology advanced for resolving acquirer and merchant pass on issues.</li> <li data-bbox="815 898 1394 1167">2. The Tribunal was unable to grant the CPO applications for the proposed opt in proceedings in their current forms due to issues which flowed from the class definition and there being no adequate methodology for infringement and its counterfactual.</li> </ol> <p>The Tribunal stayed all four CPO applications and granted the PCRs a period of eight weeks from the date of the Tribunal's judgment to notify the Tribunal and the Proposed Defendants of any intention to present revised proposals for any of the proposed collective proceedings.</p>
<p>18. Walter Hugh Merricks CBE v Mastercard Incorporated and Others</p> <p>[2023] CAT 39 12 June 2023</p>	<p>The Honourable Mr Justice Roth</p>	<p>Judgment of the Chair ([2023] CAT 39) setting out his reasons for granting Mr Merricks permission to adduce certain factual and industry expert evidence.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
19. Microsoft Corporation v Competition and Markets Authority	Sir Marcus Smith Professor Anthony Neuberger	Ruling of the Tribunal in connection with applications for the admission of expert evidence adduced by the Applicant. In the special circumstances of the case, the
[2023] CAT 40 12 June 2023	Ben Tidswell	Tribunal admitted the expert evidence <i>de bene esse</i> .
20. Microsoft Corporation v Competition and Markets Authority	Sir Marcus Smith Professor Anthony Neuberger	Ruling of the Tribunal in connection with the streaming of the proceedings.
[2023] CAT 41 12 June 2023	Ben Tidswell	
21. Dye & Durham Limited and Dye & Durham (UK) Limited v Competition and Markets Authority	Hodge Malek KC Dr William Bishop Paul Lomas	Ruling of the Tribunal on the admissibility of a witness statement that the Intervener had sought to adduce.
[2023] CAT 42 23 June 2023		
22. Microsoft Corporation v Competition and Markets Authority	Sir Marcus Smith Professor Anthony Neuberger	Ruling of the Tribunal refusing an application by the Competition and Markets Authority for an adjournment of the substantive hearing.
[2023] CAT 43 29 June 2023	Ben Tidswell	
23. Volkswagen AG and Others v MOL (Europe Africa) Ltd and Others	The Honourable Mrs Justice Cockerill DBE	Ruling of the Chair determining certain disputed disclosure requests.
[2023] CAT 44 6 July 2023		

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
24. Airwave Solutions Limited & Others v Competition and Markets Authority	Bridget Lucas KC	Ruling of the Chair granting the Home Office's application for permission to intervene in the proceedings.
[2023] CAT 45 7 July 2023		
25. Dye & Durham Limited and Dye & Durham (UK) Limited v Competition and Markets Authority	Hodge Malek KC Paul Lomas Dr William Bishop	On 8 July 2021, Dye & Durham Limited (“D&D”), through its subsidiary Dye & Durham (UK) Limited (together, the “Applicants”) acquired the entire allotted and issued share capital of TM Group (UK) Limited (“TMG”) (“the Merger”). The Respondent, the Competition and Markets Authority (“CMA”), was not notified of the acquisition and no clearance had been sought from the CMA for the acquisition.
[2023] CAT 46 10 July 2023		
		<p>The CMA commenced a Phase 1 and 2 investigation and concluded in its final report dated 3 August 2022 (the “Final Report”) that the Merger would result in a substantial lessening of competition (“SLC”) in the market for property search report bundles (“PSRBs”). The Final Report found that full divestiture of TMG was the only effective solution to the SLC.</p> <p>Both the Applicants and the Intervener made a number of submissions on the proposed remedies. The Applicants gave a final set of undertakings on 13 October 2022, which stipulated that they would divest ownership of TMG (the “Final Undertakings”) to a purchaser whom the CMA had prior approved. Annex 3 to the Final Undertakings contained the Purchaser Approval Criteria.</p> <p>On 23 February 2023, roughly half-way through the six-month divestment period, the Applicants submitted a paper titled “Proposal Paper – Twin Track Divestment Process” to the CMA (the “Proposal</p>

Judgment	Tribunal	Subject matter
		<p>Paper”). That paper set out a twin-track approach to the fulfilment of the Final Undertakings, which would “see a process for the proposed admission of TMG’s Ordinary Shares to trading on AIM...in parallel to the current private company sale process” (the “AIM Proposal”).</p> <p>The CMA issued a provisional decision on 8 March 2023 (the “Provisional Decision”) rejecting the AIM Proposal. The Applicants responded to that decision on 13 March 2023 (the “PD Response”).</p> <p>In its final decision of 29 March 2023 (the “Decision”), the CMA concluded, in summary, that:</p> <ol style="list-style-type: none"> <li>1. The AIM Proposal would require a variation to the Final Undertakings. The Applicants had not justified such a variation. Further, the CMA did not consider that a review of the Final Undertakings was appropriate at the current stage of the remedies implementation process;</li> <li>2. The AIM Proposal would not be an acceptable means of the Applicants complying with their obligations under the Final Undertakings. The terms of the Final Undertakings clearly made provision for the disposal of TMG to a single purchaser via a private sale process - in particular, the Final Undertakings required divestment of the shares in TMG to a purchaser approved by the CMA; and</li> <li>3. The CMA could not be satisfied that the AIM Proposal would result in divestment to a suitable purchaser with the characteristics required to restore competition in the relevant market, namely independence, capability and</li> </ol>

Judgment	Tribunal	Subject matter
		<p data-bbox="863 237 1385 309">commitment as set out in the Purchaser Approval Criteria.</p> <p data-bbox="810 353 1378 618">The Decision rejected the AIM Proposal considering that it involved a capital reorganisation of TMG which would result in TMG’s entire issued share capital being transferred to the ultimate shareholders of the Applicants who would be able to trade their interests in TMG on AIM.</p> <p data-bbox="810 667 1390 1010">Further, the Decision found that the timetable for remedies implementation was not intended to accommodate new, complex proposals which were not foreseen, or proposed, at the time of the Final Report. The AIM Proposal could require extension of the divestiture period, prolonging uncertainty around TMG’s future ownership.</p> <p data-bbox="810 1055 1374 1240">On 21 April 2023, the Applicants filed an application for review pursuant to s.120 of the Enterprise Act 2002 of the Decision, under four grounds of review. These grounds were:</p> <ol data-bbox="810 1285 1394 1942" style="list-style-type: none"> <li data-bbox="810 1285 1394 1397">1. The CMA had erred in law in finding that the AIM Proposal would require a variation to the Final Undertakings.</li> <li data-bbox="810 1442 1394 1592">2. The CMA had erred in finding that the Purchaser Approval Criteria (as defined in the Final Undertakings) were not met, in particular:</li> <li data-bbox="810 1637 1394 1942">3. The CMA had erred in considering the Purchaser Approval Criteria by reference to TMG itself, or the shareholders of the Applicants. The Applicants argued that under the AIM Proposal, it would be a holding company of TMG (“SpinCo”) which would be listed on AIM;</li> </ol>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		<ul style="list-style-type: none"> <li>i) The CMA had failed to take into account material considerations and was disproportionate because it failed to balance the perceived risk of the AIM Proposal against its advantages;</li> <li>ii) The CMA had erred in law in failing to avoid undue detriment to the Applicants' shareholders; and</li> <li>iii) The CMA had been wrong to conclude that the AIM Proposal did not meet the independence, capability and commitment criteria contained in the Purchaser Approval Criteria.</li> <li>iv) The CMA had erred in law in finding that no variation to the Final Undertakings should be made (in the event that Ground (1) failed but Ground (2) were successful). The CMA had been wrong to conclude that there had been no sustainable basis for such variation.</li> </ul>
		<p>4. The fourth ground of review, regarding the refusal of the CMA to extend the deadline for divesting TMG, fell away at the start of the proceedings following the CMA's agreement to such an extension.</p>

The Tribunal unanimously dismissed each ground of challenge.

The Tribunal held that the CMA had made no error of law in not appreciating that D&D had, in effect, amended its application for approval in the PD Response to add, as an alternative to a direct transfer of shares to the multiple D&D shareholders of TMG shares, their acquiring the shares through a

Judgment	Tribunal	Subject matter
		<p>SpinCo which would issue shares in itself to those shareholders as part of a transaction whereby TMG's shares would be transferred to SpinCo. The AIM Proposal as set out in the Proposal Paper did not fall within the Final Undertakings. The Tribunal considered that, even on the assumption that SpinCo had been part of the AIM Proposal, it did not fall within the Final Undertakings which contemplated a private sale to a single purchaser. Further, the Tribunal did not find that there had been any unfairness in the CMA's approach or that it was acting outside any margin of appreciation in its consideration of the PD Response.</p> <p>The Tribunal found no basis for finding that the CMA had been unreasonable in its assessment that there had not been any sufficient change in circumstances to justify a variation to the Final Undertakings. The Tribunal explained that when parties merge without seeking CMA clearance in advance, they take the risk that the CMA will ultimately find that the merger should be unwound on competition grounds and that the shares in the company acquired should be subject to a compulsory process of divestiture. In such circumstances, a purchaser will usually, ultimately, be in the position of being a forced seller under an obligation to dispose of its shareholding within a fixed period.</p> <p>Finally, the Tribunal found that the CMA had not stepped outside the bounds of reasonableness in its application of the Purchaser Approval Criteria.</p>
<p>26. Elizabeth Helen Coll v Alphabet Inc. and Others</p> <p>[2023] CAT 47 12 July 2023</p>	<p>Bridget Lucas KC Tim Frazer</p> <p>Professor Michael Waterson</p>	<p>Ruling of the Tribunal in relation to expert evidence and disclosure, following a case management conference held on 21 June 2023.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
<p>27. Microsoft Corporation v Competition and Markets Authority</p> <p>[2023] CAT 48 17 July 2023</p>	<p>Sir Marcus Smith</p>	<p>Ruling of the President conditionally granting an application to adjourn the hearing made jointly by the Competition and Markets Authority and Microsoft Corporation.</p>
<p>28. Merchant Interchange Fee Umbrella Proceedings</p> <p>[2023] CAT 49 26 July 2023</p>	<p>Sir Marcus Smith</p> <p>The Honourable Mr Justice Roth</p> <p>Ben Tidswell</p>	<p>Judgment of the Tribunal on the implications of the European Court of Justice decision dated 22 June 2022 in Case C-267/20 Volvo AB and DAF Trucks NV v RM (the “Volvo Decision”) regarding:</p> <ul style="list-style-type: none"> <li>• Question 1: As a matter of EU law, was it the case that limitation periods applicable to a claim for damages for infringements of provisions of EU competition law and/or of national competition law provisions of EU Member States by reason of MIFs set for payment card schemes began to run from the time when the infringement of competition law had ceased?</li> <li>• Question 2: As a matter of EU law, was it the case that such limitation periods could not begin to run before the claimant knew, or could reasonably be expected to know, the information necessary to bring the claim?</li> <li>• Question 3: Should the Tribunal follow the judgment of the CJEU in the Volvo Decision, pursuant to section 6 of the European Union (Withdrawal) Act 2018 (the “2018 Act”) and/or because the claims concerned accrued EU law rights? If not, to what extent should the Tribunal have had regard to the Volvo Decision?</li> <li>• Question 4: As regards claims referred to in question 1, what was the effect of the answers to the questions above on:</li> </ul>



Judgment	Tribunal	Subject matter
		<p>(i) the limitation regime applicable to such claims governed by English law?;                      (ii) the prescription regime applicable to such claims governed by Scots law?</p>
		<ul style="list-style-type: none"> <li>• Question 5 (which was advanced on behalf of the Merricks Class at a late stage): Did the different positions of Merricks class members under Scottish prescription and English limitation law amount to inconsistent treatment of persons in the same position, requiring less favourable English law limitation periods to be disapplied to put all members of the Merricks Class in the same position (being the treatments applying under Scottish law)?</li> </ul>
		<p>The Tribunal unanimously decided that:</p>
		<ul style="list-style-type: none"> <li>• The Volvo Decision was not authority for the proponent that, as a matter of EU law, limitation periods for competition law infringements could not start to run before the time when the infringement of competition law had ceased. Question 1 was therefore answered in the negative.</li> <li>• The Tribunal declined to answer Question 2, on the basis that it did not understand the parties to assert that the Volvo Decision amounted to a distinct expansion of the law of limitation regarding knowledge.</li> <li>• Given the Tribunal’s answers to Question 1, Question 3 did not really arise. However, on the assumption that the answer to Question 1 had been ‘Yes’, then the answer to Question 3 would have been that the Tribunal was not bound by the Volvo Decision, nor should it have been followed in this respect.</li> </ul>

Judgment	Tribunal	Subject matter
		<ul style="list-style-type: none"> <li>• Noting the Tribunal’s answer to Question 2, the Tribunal’s answers to Questions 1 and 3 meant that there was no effect on either the English law limitation regime nor the Scots law prescription regime.</li> <li>• The Tribunal rejected the proposition that the principles of equal treatment and non-discrimination required consistent application of the same limitation law, in the context of the devolved constitutional structure of the United Kingdom. Question 5 was therefore answered in the negative.</li> </ul> <p>In its consideration of Question 1, the Tribunal concluded that the question of the cessation of the infringement could not be regarded as an essential foundation or indeed a foundation at all, of the operative part of the Volvo Decision. To the extent that the CJEU had expressed a view on the significance of cessation of the infringement in the context of the effectiveness of national limitation laws, it was not binding.</p> <p>In the Tribunal’s consideration of Question 3, it rejected the merchant claimants’ contention that the Volvo Decision was binding on UK courts in just the same way as it would have been binding prior to the UK’s exit from the EU. The merchant claimants had contended that that: (i) there was a distinction between retained EU law and accrued EU law rights; (ii) their claims did not form part of retained EU law but constituted accrued EU law rights; and (iii) their accrued EU law rights were governed by EU law incorporated into UK law by virtue of the European Communities Act 1972 and protected by section 16 of the Interpretation Act 1978. As such, these rights remained subject to EU law unaffected by the withdrawal legislation</p>

Judgment	Tribunal	Subject matter
		<p data-bbox="810 237 1362 309">and would develop organically as part of the development of EU law within the EU.</p> <p data-bbox="810 353 1394 1630">The majority of the Tribunal reasoned that, following the UK's exit from the EU, sections 2, 3 and 4 of the 2018 Act replaced the 'gateway' under the European Communities Act 1972 for EU law to flow into the UK legal system with the translation into domestic law of the relevant body of EU law as it stood immediately before the UK's exit from the EU. Section 4 of the 2018 Act, which extended to past rights, powers, liabilities, obligations, restrictions, remedies or procedures, had sufficiently wide wording to transfer enforceable EU rights and causes of action that arose out of enforceable EU rights, which had accrued before IP completion day, so that they continued to be recognised and available under UK law on and after IP completion day. Although the 2018 Act left substantive rights unchanged, it fundamentally had altered the procedural manner in which such rights are enforced. By section 6 of the 2018 Act, Parliament had made it clear that, following the UK's exit from the EU, the development of such substantive rights becomes a matter not for the CJEU but for UK courts. The requirements of section 16 of the Interpretation Act 1978 were met by this and other provisions which dealt with the changes to the procedure for bringing and maintaining claims accruing before the UK's exit.</p> <p data-bbox="810 1675 1394 2018">In a concurring judgment as regards the effect and application of the Volvo Decision, Mr Justice Roth set out his minority reasoning that the statutory scheme as a whole had converted or translated rights accrued under EU law into rights under retained law through adopting the entire body of EU law in all its manifestations in domestic law, subject only to very specific</p>

Judgment	Tribunal	Subject matter
		<p>exceptions, while giving the Government broad powers to remove or adapt specific provisions of that new domestic law by secondary legislation. The body of EU law adopted into domestic law or maintained as part of domestic law had been designated compendiously by section 6(7) as “retained EU law”. The conversion of accrued rights under EU law into rights under retained EU law may have had the effect of modifying some of those rights and parts of the 2018 Act make that clear, in accordance with section 16 of the Interpretation Act 1978. Section 6 of the 2018 Act was engaged as regards the application of the decisions of the CJEU after the UK’s exit from the EU, which meant that the Tribunal may have regard to, but is not bound by, the Volvo Decision</p> <p>The Tribunal also unanimously rejected the card scheme defendants’ secondary contention that the putative effect of the Volvo Decision could be avoided by virtue of section 60A of the Competition Act 1998 (the “1998 Act”). Like the original (now repealed) section 60 of the 1998 Act, section 60A did not extend to Articles 101 and 102 TFEU, irrespective of whether those provisions had been converted into retained EU law by the 2018 Act.</p>
<p>29. The Durham Company Limited v Durham County Council</p>	<p>Sir Marcus Smith  Professor David Ulph CBE</p>	<p>Judgment of the Tribunal on the first application for the review of a subsidy decision under section 70 of the Subsidy Control Act 2022 (the “2022 Act”).</p>
<p>[2023] CAT 50 27 July 2023</p>	<p>The Honourable Lord Young</p>	<p>The Respondent, Durham County Council (the “Council”), is the unitary authority for the non-metropolitan county of Durham (“County Durham”). The Council is the sole “Waste Collection Authority” and sole “Waste Disposal Authority” for County Durham. The Council has various duties in relation to waste, namely:</p>

Judgment	Tribunal	Subject matter
		<ol style="list-style-type: none"> <li>1. The household waste collection duty. The Council is under a duty (pursuant to section 45(1)(a) of the Environmental Protection Act 1990) to arrange for the collection of household waste in County Durham. The Council may not charge for the collection of household waste, save in certain limited circumstances.</li> <li>2. The commercial waste collection duty. The Council is under a duty to arrange for the collection of commercial waste if requested by the occupier of premises in its area to collect any commercial waste from the premises.</li> </ol> <p>The Council does not collect any type of waste outside County Durham. So far as the collection and disposal of household and commercial waste is concerned:</p> <ol style="list-style-type: none"> <li>1. The Council performs the function of the collection of household and commercial waste itself and does not outsource this function. The Council uses the same vehicles and the same employees to collect all household waste and the majority of commercial waste collected by it. The Council is generally not entitled to charge for the former service, but is obliged to charge for the latter.</li> <li>2. The disposal of waste so collected is not done by the Council itself. These functions are carried out by third parties, and the Council pays for these services on a per tonne basis.</li> </ol> <p>The Council charges for its commercial waste collection services as follows:</p> <ol style="list-style-type: none"> <li>1. It seeks to recover the actual cost of employing staff that deal with only commercial waste.</li> </ol>

Judgment	Tribunal	Subject matter
		<p>2. It seeks to recover proportions of the actual cost of costs common to household and commercial waste (namely, staff, disposal costs and overheads) in accordance with a “formula” based upon an approximation of the total commercial waste as a proportion of the total (household plus commercial) waste.</p> <p>3. Charges are set to individual businesses “based on bin size and number of lifts”. Charges are not set by reference to the weight of the refuse collected and are charged annually. The level of commercial charges is set annually by the Council and was last done on 31 March 2023.</p> <p>The Applicant, the Durham Company Limited, trades under the name “Max Recycle”. Max Recycle is a provider of waste collection services in North East England, North West England, Southern Lakes and Southern Scotland. It is active in County Durham and competes with the Council in regard to the services provided by the Council as described above.</p> <p>Max Recycle contended that a subsidy decision had been made on 31 March 2023 and that, contrary to their duties under section 12 of the 2022 Act, the Council had failed to consider the subsidy control principles before making that decision.</p> <p>The Council accepted that if a subsidy decision had been made on 31 March 2023, then they had not considered the subsidy control principles. However, the Council contended that there had been no subsidy decision on 31 March 2023. Rather, the Council had made what would have been a decision to put in place a subsidy scheme, had that decision been made when the 2022 Act was in force.</p>

Judgment	Tribunal	Subject matter
		<p>The main hearing took place on 3 and 4 July 2023 and was confined to three stages:</p> <ol style="list-style-type: none"> <li>1. Whether the decision under review was capable in law of amounting to a “decision” within the meaning of section 70 of the 2022 Act.</li> <li>2. Whether the decision under review constituted a “subsidy” within the meaning of section 70 of the 2022 Act.</li> <li>3. Whether the subsidy control principles, to which section 12 of the 2022 Act refers, had been satisfied.</li> </ol> <p>Max Recycle contended that the Council was subsidising as between its household waste and commercial waste collection operations. The essence of the point was that the Council were permitting the household waste collection operation to subsidise their commercial waste collection operation, thereby permitting the Council to charge individual businesses at less than the rate that they would or could have charged had they run the commercial waste collection operation as an altogether separate, self-standing and independent operation. The point was one of economies of scale.</p> <p>The Tribunal noted that it was not possible for Max Recycle to identify any person, other than the Council itself, implicated in the provision of waste collection or waste disposal services. As a result, the giver of the subsidy was the same person as the person on whom the subsidy was conferred. Accordingly, there had been no “subsidy” within the meaning of s.2 of the 2022 Act: (i) the advantage did not involve subsidisation, because the “economic benefit” simply circulated within one entity; (ii) the natural reading of the definitions of</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		<p>“public authority” and “enterprise” meant that when a person had been designated a “public authority” that person could not also be an enterprise in relation to the advantage under consideration; and (iii) the language of the 2022 Act supported the Tribunal’s conclusion.</p> <p>The Tribunal noted further that there was no use of the term “undertaking” in the 2022 Act, and so there was a clear difference between the EU state aid and UK subsidy control regimes.</p> <p>The Tribunal concluded that there had been a “decision” within the meaning of the 2022 Act: the Council had made a series of decisions, culminating in the decision of 31 March 2023, which were “decisions” within the meaning of the 2022 Act.</p>
<p>30. Consumers' Association v Qualcomm Incorporated [2023] CAT 51 31 July 2023</p>	<p>The Honourable Mrs Justice Bacon  Professor Robin Mason  Justin Turner KC</p>	<p>Ruling of the Tribunal giving reasons for its decision that certain proposed amendments to the Class Representative's Re-Amended Claim Form in relation to allegations of abuse of dominance by the Defendant on the 3G CDMA chipset market be deemed to be (effectively) a new claim made on 26 June 2023.</p>
<p>31. Hg Capital LLP v Competition and Markets Authority [2023] CAT 52 8 August 2023</p>	<p>Andrew Lenon KC  Tim Frazer  Professor Michael Waterson</p>	<p>Judgment of the Tribunal in relation to an appeal against a decision of the Competition and Markets Authority dated 29 July 2021 concerning excessive and unfair pricing in relation to Liothyronine tablets. The Tribunal unanimously dismissed the appeals, and reduced the penalty imposed on five of the Appellants (The Cinven Appellants and the HG Appellant).</p>



<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
32. Walter Hugh Merricks CBE v Mastercard Incorporated and Others	The Honourable Mr Justice Roth  The Honourable Lord Ericht	Ruling of the Tribunal in respect of the parties' applications for costs following the Tribunal's judgment dated 21 March 2023 ([2023] CAT 15).
[2023] CAT 53 9 August 2023	Jane Burgess	
33. C�r�lia Group Holding SAS and C�r�lia UK Limited v Competition and Markets Authority	Hodge Malek KC  Michael Cutting  Derek Ridyard	Judgment of the Tribunal on an application by C�r�lia Group Holding SAS and C�r�lia UK Limited (together, "C�r�lia") for a review under s.120 of the Enterprise Act 2002 of the Final Report of the Competition and Markets Authority ("CMA") dated 20 January 2023 concerning the completed acquisition by C�r�lia of certain assets relating to the UK and Ireland dough business (Jus-Rol) of General Mills, Inc (the "Decision"). In the Decision, the CMA had found that the merger had given rise to a substantial lessening of competition ("SLC") in the UK market for the wholesale supply of DTB products to grocery retailers, and determined that C�r�lia should be required to divest the entire Jus-Rol UK business.
[2023] CAT 54 1 September 2023		<p>C�r�lia sought an order quashing the Decision on four grounds:</p> <ul style="list-style-type: none"> <li>• Ground 1: the Decision was irrational; the SLC finding was unsupported by evidence, and the CMA's investigation into the merger was irrational.</li> <li>• Ground 2: the divestment remedy had no rational basis and was disproportionate.</li> <li>• Ground 3: the CMA had conducted a procedurally unfair investigation.</li> <li>• Ground 4: the CMA's eight-week extension of the enquiry period for "special reasons" was unjustified, and</li> </ul>

Judgment	Tribunal	Subject matter
		<p>the CMA's decision to extend the enquiry period was ultra vires.</p> <p>The Tribunal unanimously decided that:</p> <ul style="list-style-type: none"> <li>• Ground 1: the CMA's analysis and conclusions in relation to the SLC were reasonable, and did not contain any errors of fact or law. There was nothing irrational about the process by which the CMA had investigated the merger.</li> <li>• Ground 2: the CMA's decision on the appropriate remedy was not made without reasonable foundation or irrational.</li> <li>• Ground 3: there was no unfairness arising from the investigation.</li> <li>• Ground 4: the CMA had "special reasons" for extending the enquiry period; however, even if it had not, the Tribunal has a discretion as to the appropriate remedy and would not grant relief to Cérélia.</li> </ul> <p>Accordingly, Grounds 1 to 4 were dismissed.</p>
<p>34. Hg Capital LLP v Competition and Markets Authority</p> <p>[2023] CAT 55 7 September 2023</p>	<p>Andrew Lenon KC</p>	<p>The Chair's ruling in respect of the Hg Appellant's application to amend its Notice of Appeal.</p>
<p>35. Allergan plc v Competition and Markets Authority</p> <p>[2023] CAT 56 18 September 2023</p>	<p>Sir Marcus Smith Professor Simon Holmes Professor Robin Mason</p>	<p>Judgment of the Tribunal in relation to an appeal against a decision of the Competition and Markets Authority dated 15 July 2021 concerning excessive and unfair pricing in relation to hydrocortisone tablets. The Tribunal unanimously dismissed the appeals, except in regard of the penalty imposed on one of the Appellants (Allergan plc), which it set aside.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
36. Allergan plc v Competition and Markets Authority	Sir Marcus Smith  Professor Simon Holmes	Judgment of the Tribunal on Cartel Infringements (the “Cartel Infringements Judgment”), which followed on from the Tribunal’s Judgment (Abuse of Dominance Infringements) at [2023] CAT 56.
[2023] CAT 57 29 September 2023	Professor Robin Mason	<p>The Tribunal explained that the Cartel Infringements Judgment must be read in light of the Tribunal’s later judgment at [2024] CAT 17 (Due Process).</p> <p>The Cartel Infringements Judgment provisionally upheld the findings of Cartel Infringement in the Competition and Markets Authority’s (“CMA”) Hydrocortisone Decision and found that all the grounds of appeal failed. These conclusions were expressed to be provisional because of a concern, expressly articulated in the Cartel Infringements Judgment, that the CMA’s conduct of the proceedings had so fundamentally failed to observe certain requirements of due process that the provisional conclusions could not (as a matter of natural justice) stand. The Tribunal’s later judgment [2024] CAT 17 (Due Process) found that the provisional findings made against witnesses called in the Cartel Infringements Judgment were unsafe because of a failure, on the part of the CMA, to observe fundamental principles of due process, and for that reason they could not stand, and were repudiated by the Tribunal.</p> <p>The Cartel Infringements Judgment was handed down as a “closed” judgment on 29 September 2023, pending determination of the due process question. Following the Tribunal’s judgment [2024] CAT 17 (Due Process) and the Order of the Tribunal dated 8 March 2024, the Cartel Infringements Judgment was made public.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
<p>37. Commercial and Interregional Card Claims I Limited (“CICC I”) v Mastercard Incorporated &amp; Others</p> <p>[2023] CAT 58 2 October 2023</p>	<p>Ben Tidswell</p> <p>Dr Catherine Bell CB</p> <p>Dr William Bishop</p>	<p>Reasoned Order of the Tribunal refusing permission for the Visa and Mastercard Defendants to appeal the Tribunal's Judgment of 8 June 2023 ([2023] CAT 28) regarding certification of the proceedings.</p>
<p>38.</p> <p>Merchant Interchange Fee Umbrella Proceedings</p> <p>[2023] CAT 59 5 October 2023</p>	<p>Sir Marcus Smith</p> <p>Ben Tidswell</p> <p>Professor Michael Waterson</p>	<p>Ruling of the Tribunal on the disclosure of material by the Payment System Regulator in the proceedings.</p> <p>No ruling requiring disclosure was made, but the Tribunal indicated that it would be willing to make an order if an application were made by the parties for disclosure under Rule 63 of the Competition Appeal Tribunal Rules 2015.</p>
<p>39.</p> <p>Merchant Interchange Fee Umbrella Proceedings</p> <p>[2023] CAT 60 5 October 2023</p>	<p>Sir Marcus Smith</p> <p>The Honourable Mr Justice Roth</p> <p>Ben Tidswell</p>	<p>Judgment of the Tribunal concerning to the approaches proposed by the parties to the gathering of evidence to be adduced in order for the Tribunal to resolve questions of pass-on.</p> <p>The Tribunal declined to adopt any of the three approaches presented by the parties, which it said failed to articulate the issues and/or factors that were and were not relevant to determination of the fact or extent of pass-on.</p> <p>Citing the dissenting judgment of Mr Derek Ridyard in <i>Royal Mail Group Ltd v. DAF Trucks Ltd and others</i> ([2023] CAT 6), the Tribunal unanimously decided that the crucial element of the exercise was to identify the factors that had a causative connection to pass-on rates as a preliminary step. The Tribunal made a number of directions setting out the process by which</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		the exercise to identify relevant issues and factors was to be undertaken.
40. Commercial and Interregional Card Claims I Limited (“CICC I”) v Mastercard Incorporated & Others	Ben Tidswell Dr Catherine Bell CB Dr William Bishop	Reasoned Order of the Tribunal requiring the Proposed Class Representatives to pay the Proposed Defendants their costs of, and incidental to, the collective proceedings order applications heard in April 2023 and determined in the Tribunal’s judgment dated 8 June 2023 ([2023] CAT 28).
[2023] CAT 61 12 October 2023		
41. Competition and Markets Authority v Another	Sir Marcus Smith The Honourable Lord Ericht	Judgment of the Tribunal in connection with an application for a warrant permitting the Competition and Markets Authority (the “CMA”) to enter and search business and domestic premises for the purposes of an investigation under section 25 of the Competition Act 1998.
[2023] CAT 62 7 December 2023	Professor Rachael Mulheron	
42. David Courtney Boyle v Govia Thameslink Railway Limited & Others	Sir Marcus Smith Eamonn Doran Professor Anthony Neuberger	Ruling of the Tribunal in relation to the modality of the trial in these proceedings and future case management.
[2023] CAT 63 19 October 2023		
43. Consumers' Association v Qualcomm Incorporated	The Honourable Mrs Justice Bacon Professor Robin Mason	Reasoned Order of the Tribunal refusing the Class Representative’s application for permission to appeal the Tribunal’s Ruling made on 31 July 2023 ([2023] CAT 51) in relation to an application by the Class Representative dated 26 July 2023 to amend its Re-Re-Amended Claim Form.
[2023] CAT 64 20 October 2023	Justin Turner KC	
44. Ad Tech Collective Action LLP v Alphabet Inc. & Others	Sir Marcus Smith	Reasoned Order of the President in connection with an application by the Proposed Class Representatives to amalgamate their claims.
[2023] CAT 65 26 October 2023		

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
45. PSA Automobiles SA & Others v Autoliv AB & Others  [2023] CAT 66 2 November 2023	Justin Turner KC  Sir Iain McMillan CBE FRSE DL  Professor Anthony Neuberger	Ruling of the Tribunal granting the Defendants permission to rely on one joint expert in the field of competition economics.
46. Mr Justin Gutmann v Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited  [2023] CAT 67 1 November 2023	Justin Turner KC  Jane Burgess  Derek Ridyard	<p>Judgment of the Tribunal on an application by the Proposed Class Representative (“PCR”) for a collective proceedings order (“CPO”), pursuant to section 47B of the Competition Act 1998 (the “1998 Act”). The CPO application sought to combine, on an opt-out basis, the claims of consumers and business entities who had purchased, or were gifted, certain Apple iPhone models in particular iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, 7 Plus (“Affected iPhones”). The PCR’s complaint concerned the way Apple addressed the problem of unexpected power offs (“UPOs”) in affected iPhones from 2016.</p> <p>The PCR’s case was that the members of the Proposed Class had suffered loss as a result of the Proposed Defendants’ (“Apple”) breaches of statutory duty by infringing: (i) the Chapter II prohibition on abuse of dominance in section 18 of the 1998 Act; and (ii) until 31 December 2020, the EU prohibition on abuse of dominance in Article 102 of the Treaty on the Functioning of the European Union.</p> <p>Apple made applications for reverse summary judgment or to strike out: (i) the claim in its entirety on the ground that the affected iPhones were substandard or fell short of advertised expectations; and (ii) the claim insofar as it related to acts which took place after 28 December 2017.</p> <p>The Tribunal decided that the requirements of a CPO were met in this case, subject to</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		the resolution of the terms of the PCR's funding arrangements. Apple's application to strike out the claim was dismissed, and the Tribunal declined to strike out the allegation of abuse after 28 December 2017.
47. Competition and Markets Authority v Another  [2023] CAT 68 6 November 2023	Sir Marcus Smith  The Honourable Lord Ericht  Professor Rachael Mulheron	Judgment of the Tribunal on whether a "closed judgment", given by the Tribunal in respect of an application by the Competition and Markets Authority ("CMA") for four warrants to enter and search business and domestic premises of certain defendants for the purposes of an investigation under section 25 of the Competition Act 1998, should be made public.
48. PSA Automobiles SA & Others v Autoliv AB & Others  [2023] CAT 69 13 November 2023	Justin Turner KC  Sir Iain McMillan CBE FRSE DL  Professor Anthony Neuberger	Ruling of the Tribunal refusing the ZF and Autoliv Defendants' application for permission to appeal the Tribunal's Ruling granting Defendants permission to rely on one joint expert in the field of competition economics.
49. Sky UK Limited v Office of Communications  [2023] CAT 70 15 November 2023	The Honourable Mr Justice Morris  Jane Burgess  Anna Walker CB	Judgment of the Tribunal in relation to an appeal by Sky UK Limited ("Sky") against a confirmation decision of the Office of Communications ("Ofcom") under section 96C of the Communications Act 2003 (the "2003 Act") dated 19 August 2022 entitled "Investigation into Sky's compliance with the obligation to provide end-of-contract notifications" (the "Decision").
50. Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others  [2023] CAT 71 14 November 2023	Bridget Lucas KC	Ruling of the Chair refusing the First to Third, Fifth and Sixth to Eleventh Defendants' application for permission to write to large fleet owners ("LFOs") in the form of a draft letter provided to the Tribunal. The Tribunal concluded that the threatened applications for an order requiring disclosure contained in the proposed draft letters were premature at this stage, and that the logical first step was

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		for the Defendants to write to the LFOs seeking information that would enable the Defendants to establish the relevant data and documentation.
51. Elizabeth Helen Coll v Alphabet Inc. and Others	Bridget Lucas KC  Tim Frazer	Ruling of the Tribunal on disclosure, following a case management conference held on 10 November 2023.
[2023] CAT 72 16 November 2023	Professor Michael Waterson	
52. Alex Neill Class Representative Limited v Sony Interactive Entertainment Europe Limited; Sony Interactive Entertainment Network Europe Limited; and Sony Interactive Entertainment UK Limited	Ben Tidswell  The Honourable Lord Richardson  Derek Ridyard	<p>Tribunal judgment in relation to: (i) an application by the Proposed Class Representative (“PCR”) for a Collective Proceedings Order (“CPO”) in relation to proposed collective proceedings against the Proposed Defendants (“Sony”); and (ii) Sony’s application to strike out and/or obtain summary judgment against the PCR in respect of part of the PCR’s claim.</p> <p>Sony identified four areas which it argued meant the claim was unsuitable under the Eligibility Condition for the grant of a CPO:</p> <ol style="list-style-type: none"> <li>1. The PCR’s case ignored the well-established consensus that console gaming takes place in a two sided market, leading to direct and indirect network effects (the “Two Sided Market Issue”).</li> <li>2. The PCR had failed in its analysis of the excessive pricing abuse to take account of the likely counterfactual response of Sony and publishers to a reduction in Sony’s commission and the consequent impact on prices to consumers (the “Excessive Pricing Issue”).</li> <li>3. The PCR’s expert had adopted a selective and partial approach to presenting his expert opinions (the “Expert Report Issue”).</li> </ol>
[2023] CAT 73 21 November 2023		



Judgment	Tribunal	Subject matter
		<p>4. The class definition put forward by the PCR was defective. Sony criticised the inclusion in the PCR’s proposed class definition of PlayStation users who had purchased games after the date of the claim form, on the basis that the claims needed to be extant at the time the collective proceedings were issued (the “Class Definition Issue”).</p>
		<p>In relation to the Two Sided Market Issue, the Tribunal was satisfied that the PCR met the requirement for a sufficiently credible and plausible methodology, as far as necessary for the grant of a CPO. The Tribunal noted that these proceedings are at an early stage and there is a degree of asymmetry between the knowledge of the PCR and its team and the knowledge of Sony, as owner of the PlayStation system.</p>
		<p>In respect of the Excessive Pricing Issue, the Tribunal was satisfied that the PCR had met the requirement for an adequate methodology in relation to this point, at least as far as necessary for the grant of a CPO.</p>
		<p>As regards the Expert Report Issue, the Tribunal considered the criticisms which Sony made of the expert’s approach were not sufficient to affect its decision about the Eligibility Condition.</p>
		<p>In relation to the Class Definition Issue, the Tribunal agreed with Sony that the present class definition was not adequate for the purposes of the Eligibility Condition - particularly the suitability requirement in Rule 79(1)(c). The Tribunal directed that the PCR should amend the class definition so that the Relevant Period terminated as at the date of filing of the Claim Form.</p>
		<p>In relation the Authorisation Condition, the Tribunal was satisfied that it was just and</p>

Judgment	Tribunal	Subject matter
		<p data-bbox="812 237 1374 383">reasonable for the PCR to act as class representative in the proposed proceedings, having considered the factors set out in Rule 78(2).</p> <p data-bbox="812 434 1385 501">There were four strands to Sony’s summary judgment and/or strike out applications:</p> <ol data-bbox="812 553 1390 2018" style="list-style-type: none"> <li data-bbox="812 553 1390 1200">1. Sony argued that the PCR’s allegations of abuse in relation to exclusive dealing and tying were in substance allegations of a refusal to allow access to Sony’s PlayStation Network (“PSN”), which was a proprietary system involving Sony’s intellectual property rights. As a consequence, the PCR needed to plead, and to meet, the test established in a line of cases, commencing with Case C-7/97 Oscar Bronner GmbH v Mediaprint, which concerned a refusal to grant access to essential facilities (the “Bronner Conditions”). Given the PCR’s failure to address this issue, the claims of exclusive dealing and tying should be struck out.</li> <li data-bbox="812 1252 1378 1554">2. As an alternative, Sony said that the inevitable consequence of the PCR’s arguments, if successful, was to require Sony to grant access to the PSN. In setting out its counterfactual, the PCR had failed to advance any admissible factual material which explained how this might be achieved.</li> <li data-bbox="812 1606 1385 1863">3. Sony also argued that the PCR could not prove to the requisite standard for the purposes of its pleaded tying abuse that the tied product (the PlayStation Store) and the tying product (the PlayStation Console or system software) were distinct.</li> <li data-bbox="812 1915 1374 2018">4. Sony also applied to strike out that part of the PCR’s claim which sought to define the class by reference to people</li> </ol>

Judgment	Tribunal	Subject matter
		<p>who had not yet purchased PlayStation products. This matter was considered in relation to the Eligibility Condition.</p>
		<p>In relation to (1), the Tribunal considered the exercise of properly characterising the abuse in question would involve resolving the application of potentially competing policy considerations – the effective implementation of Article 102/Chapter II on the one hand, and the protection of property rights. The Tribunal determined that in order properly to resolve the dispute between the PCR and Sony about the existence of an exclusive dealing or tying abuse which was principally independent of any refusal to supply, it was not necessarily appropriate simply to apply the Bronner Conditions and further detailed factual inquiries, potentially involving expert evidence on technical matters, was required to resolve that question. The Tribunal concluded that the PCR’s case was properly pleaded and not liable to be struck out and the Tribunal was not in a position to answer the question at this stage, where such facts had only been partially explored and a trial of the matter was the appropriate mechanism to determine the dispute.</p>
		<p>As regards issues (2) and (3), the Tribunal stated that seeking summary judgment against the PCR on this issue was artificial and misconceived. Further evidence from the parties was likely to be necessary and helpful in determining the issues and such matters should properly be explored at trial.</p>
		<p>On 26 July 2023, the Supreme Court handed down its judgment in <i>R (PACCAR Inc and others) v Competition Appeal Tribunal and others</i> [2023] UKSC 28 (the “PACCAR Judgment”) in which the Supreme Court held that litigation funding agreements</p>

Judgment	Tribunal	Subject matter
		<p data-bbox="812 237 1378 427">("LFAs") pursuant to which the payment to the funder was calculated as a percentage of the damages award were unenforceable insofar as they relate to opt out collective proceedings.</p> <p data-bbox="812 472 1390 663">Following the <i>PACCAR</i> Judgment, the PCR had entered into an amended Litigation Funding Agreement ("LFA") on 4 September 2023 and a further amended LFA on 31 October 2023.</p> <p data-bbox="812 707 1209 739">The Tribunal determined that:</p> <ul data-bbox="812 784 1390 2024" style="list-style-type: none"> <li data-bbox="812 784 1390 1285">• The words "only to the extent enforceable and permitted by applicable law", as inserted into in the amended LFA, operated with a contingency, such that they had no legal effect until the contingency (legislation by Parliament to reverse the effect of the <i>PACCAR</i> Judgment) eventuated. There was therefore no logical possibility that section 58AA of the Courts and Legal Services Act 1990 could be engaged to make the provisions unenforceable.</li> <li data-bbox="812 1330 1390 1440">• Section 58AA had no application to the wider provisions of the amended LFA so as to make it unenforceable.</li> <li data-bbox="812 1485 1390 1639">• The funding arrangements did not create unacceptable risks of perverse and unmanageable incentives at this time.</li> <li data-bbox="812 1684 1390 2024">• Prior to the hearing on 9 October 2023 the Tribunal had satisfied itself that the PCR was aware of and able to discharge its responsibilities adequately for the purposes of the Authorisation Condition. The Tribunal did not consider that any of the issues that arose from the relevant features of the amended LFA justified it reaching a different</li> </ul>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
		<p>conclusion. Those issues, to the extent they arose, should be able to be managed adequately by the PCR, its sole director and its advisers, recognising their duties to the class, and with the oversight of the Tribunal.</p> <p>Save in respect of the Class Definition Issue, the Tribunal was satisfied that the Authorisation Condition and the Eligibility Condition had been met and, subject to the revision of the class definition, the Tribunal granted the PCR's application for a CPO.</p> <p>Aside from the Class Definition Issue, the applications by Sony for strike out/reverse summary judgment were dismissed.</p>
<p>53. Mr Justin Gutmann v Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited</p> <p>[2023] CAT 74 27 November 2023</p>	<p>Justin Turner KC Jane Burgess Derek Ridyard</p>	<p>Ruling of the Tribunal refusing the Proposed Defendant's application for permission to appeal the Tribunal's certification judgment of 1 November 2023.</p>
<p>54. Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others</p> <p>[2023] CAT 75 6 December 2023</p>	<p>Hodge Malek KC William Bishop Eamonn Doran</p>	<p>Judgment of the Settlement Tribunal approving a joint application by the Class Representative and Twelfth Defendant for a collective settlement approval order, subject to the Case Management and Trial Tribunal's approval of the Class Representative's funding arrangement.</p> <p>The settlement figure was £1.5 million, broken down into three parts:</p> <p>(1) a sum in respect of damages of £1.12 million;</p> <p>(2) the costs of the application for approval of the settlement, £100,000; and</p> <p>(3) costs generally of £280,000.</p>

Judgment	Tribunal	Subject matter
55. Airwave Solutions Limited & Others v Competition and Markets Authority [2023] CAT 76 22 December 2023	Bridget Lucas KC Tim Frazer Robert Herga	<p>The Settlement Tribunal was satisfied that the terms of the settlement were reasonable and that the damages and costs sums were fair and reasonable.</p> <p>Judgment of the Tribunal in relation to an application under section 179 of the Enterprise Act 2002 (the “2002 Act”) by (1) Airwave Solutions Limited (2) Motorola Solutions UK Limited, and (3) Motorola Solutions, Inc., (together “Motorola”) for review of the decision set out in the Competition and Markets Authority’s (“CMA”) Final Report on “Mobile radio network services” dated 5 April 2023 (“Decision”).</p> <p>The Decision concerned the supply of communications network services for emergency personnel via the “Airwave network” by Airwave Solutions Limited (“ASL”), a subsidiary of Motorola Solutions, Inc. It determined that there were features of the relevant market which caused an “adverse effect on competition” (“AEC”) within the meaning of section 134 of the 2002 Act and imposed a charge control remedy that would reduce the price payable by the Government for the services significantly below the contractually agreed price.</p> <p>Motorola sought an Order that the Decision be quashed and remitted to the CMA, and for payment of its costs, on the following grounds:</p> <ul style="list-style-type: none"> <li>• Ground 1: The CMA had erred in its approach when finding that there was an AEC, and had failed to take its own findings on competitive constraints into account when conducting its competitive assessment.</li> </ul>

Judgment	Tribunal	Subject matter
		<ul style="list-style-type: none"> <li>• Ground 2: The CMA had relied on an unlawful "profitability analysis" in reaching its conclusions on both the existence of an AEC and its proposed remedy.</li> </ul> <p>The Tribunal unanimously decided that:</p> <ul style="list-style-type: none"> <li>• Ground 1: There had been no failure by the CMA to take into account a relevant consideration, nor had there been any inconsistency between its findings on market definition and those made in its competitive assessment.</li> <li>• Ground 2: The CMA had been entitled to a degree of latitude in how it approached its profitability assessment; the approach it adopted had not been irrational or inconsistent.</li> </ul> <p>Accordingly, both grounds of review were dismissed.</p>
<p>56. OT Computers Limited (in liquidation) v Micron Europe Limited</p> <p>[2023] CAT 77 29 December 2023</p>	<p>Andrew Lenon KC</p>	<p>Ruling of the Chair refusing the Micron Defendant's application for security for costs in the amount requested of £3.9 million.</p> <p>The Chair considered that if the Claimant could afford to provide some additional security it may be appropriate to do so. However, he considered he was not in a position to determine, on the basis of the evidence before him, whether the Claimant could afford to provide additional security and, if so, how much. The Claimant was ordered to provide further information about its financial position and the Micron Defendant was permitted to renew its application.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
<p>57. OT Computers Limited (in liquidation) v Micron Europe Limited</p> <p>[2023] CAT 78 29 December 2023</p>	<p>Andrew Lenon KC</p>	<p>Ruling of the Chair refusing: (1) the Claimant’s application for disclosure in relation to the Defendant’s worldwide sales data; (2) the Claimant’s application for further disclosure as against the Part 20 Defendant; and (3) the Defendant’s application for disclosure of certain documents relating to the LCD Proceedings (which comprised a claim for follow-on damages arising from a price-fixing cartel relating to sales of liquid crystal display).</p> <p>The Tribunal granted the Claimant’s application for disclosure in relation to the Defendant’s File and 15 boxes of hard copy documents described in the Defendant’s disclosure report.</p>
<p>58. Alex Neill Class Representative Limited v Sony Interactive Entertainment Europe Limited; Sony Interactive Entertainment Network Europe Limited; and Sony Interactive Entertainment UK Limited</p> <p>[2024] CAT 1 5 January 2024</p>	<p>Ben Tidswell</p> <p>The Honourable Lord Richardson</p> <p>Derek Ridyard</p>	<p>Ruling of the Tribunal on the Defendants’ application for permission to appeal the Tribunal’s Judgment dated 21 November 2023 ([2023] CAT 73).</p>
<p>59. Arla Foods AMBA and Others v Stellantis N.V. (formerly Fiat Chrysler Automobiles N.V.) and Another</p> <p>[2024] CAT 2 9 January 2024</p>	<p>Sir Marcus Smith</p> <p>The Honourable Lord Ericht</p> <p>The Honourable Mr Justice Huddleston</p>	<p>Ruling of the Tribunal regarding the future conduct and case management of the Second Wave Trucks Proceedings.</p>



<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
60. Commercial and Interregional Card Claims I Limited ("CICC I") v Mastercard Incorporated & Others  [2024] CAT 3 17 January 2024	Ben Tidswell  Dr Catherine Bell CB  Dr William Bishop	Judgment of the Tribunal regarding the enforceability of the funding arrangements of the Proposed Class Representatives.  The Tribunal was asked to consider challenges to the funding arrangements of the Proposed Class Representatives following the judgment of the Supreme Court in <i>R (on the application of PACCAR Inc and others) v Competition Appeal Tribunal and others</i> [2023] UKSC 28. The Tribunal found that the funding arrangements were enforceable for the purposes of s 58AA of the Courts and Legal Services Act 1990.
61. Walter Hugh Merricks CBE v Mastercard Incorporated and Others  [2024] CAT 4 16 January 2024	The Honourable Mr Justice Roth  The Honourable Lord Ericht  Jane Burgess	Ruling of the Tribunal granting Mastercard permission to rely on 276 publicly available documents.
62. Dr. Rachael Kent v Apple Inc. and Apple Distribution International Ltd  [2024] CAT 5 19 January 2024	Ben Tidswell  Dr William Bishop  Tim Frazer	Ruling of the Tribunal refusing the Defendants' challenges to the Class Representative's revised Litigation Funding Agreement.  The Tribunal granted the Defendants permission to appeal this Ruling.
63. Mr Justin Gutmann v Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited  [2024] CAT 6 30 January 2024	Justin Turner KC  Jane Burgess  Derek Ridyard	Ruling of the Tribunal on the costs of certification and related matters.

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
64. Airwave Solutions Limited & Others v Competition and Markets Authority  [2024] CAT 7 30 January 2024	Bridget Lucas KC  Tim Frazer  Robert Herga	Ruling of the Tribunal refusing the Applicants' application for permission to appeal the Tribunal's judgment of 22 December 2023 ([2023] CAT 76).
65. Julie Hunter v Amazon.com, Inc. and others  [2024] CAT 8 5 February 2024	Sir Marcus Smith  Charles Bankes  Carole Begent	Judgment of the Tribunal in relation to the preliminary issue of "carriage dispute" - determining which of the Applicants was most suitable to act as the proposed class representative for the purposes of Rule 78(2)(c) of the Competition Appeal Tribunal Rules 2015.
66. Up and Running (UK) Limited v Deckers UK Limited  [2024] CAT 9 6 February 2024	Ben Tidswell	Ruling of the Chair ordering that the case should remain subject to the fast-track procedure, and that there should be a split trial, with Trial 1 to deal with questions of liability under the Chapter I prohibition contained in the Competition Act 1998, injunctive relief and causation, and Trial 2 to deal with questions of the assessment of loss or damage suffered by the Claimant, if it is successful in Trial 1.
67. Mark McLaren Class Representative Limited v MOL (Europe Africa) Ltd and Others  [2024] CAT 10 7 February 2024	Bridget Lucas KC  The Honourable Mrs Justice Cockerill DBE  Dr Maria Maher	Ruling of the Tribunal finding that the Class Representative's ("CR") Revised Litigation Funding Arrangement addressed the issues raised in the <i>PACCAR</i> Supreme Court Judgment was not a damages based agreement for the purposes of section 58AA Courts and Legal Services Act 1990; and was not unenforceable pursuant to section 47C Competition Act 1998. Accordingly, the Tribunal was satisfied that the CR and its funding arrangements continued to meet the authorisation criteria set out in Rule 78 of the Competition Appeal Tribunal Rules 2015.

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68. Dr Liza Lovdahl Gormsen v Meta Platforms, Inc. and Others  [2024] CAT 11 15 February 2024	Sir Marcus Smith  Derek Ridyard  Timothy Sawyer CBE	<p>Judgment of the Tribunal in respect of a revised application by Dr Liza Lovdahl Gormsen, as proposed class representative (“PCR”), for a collective proceedings order (“CPO”) pursuant to section 47B of the Competition Act 1998 (“the Act”).</p> <p>The PCR had applied to commence opt-out proceedings on 11 February 2022. At a hearing which took place during the period 30 January – 1 February 2023, the Tribunal declined to permit the PCR to commence those proceedings ([2023] CAT 10) and offered a stay to the PCR to enable her to file additional evidence setting out a better blueprint to trial.</p> <p>The Tribunal held that the PCR’s amendments should be allowed, and the case be certified to proceed as a collective action. The abuses articulated by the PCR were arguable and triable, namely that (i) Meta’s collection of Off-Facebook Data was an abuse of dominance because it was a condition imposed on users pursuant to a “take-it-or-leave it” offer for the social network services which Facebook provided, and (ii) Meta’s collection of Off-Facebook Data involved the imposition of an unfair price within the meaning of <i>United Brands</i>. These alleged abuses could be causally linked to a pleadable loss.</p> <p>The judgment also considered two issues relating to the PCR’s class definition, (i) the relevant period, and (ii) the exclusion of “business users” from the class – the Tribunal was satisfied with the PCR’s proposed changes to her class definition.</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
69. Merchant Interchange Fee Umbrella Proceedings	Sir Marcus Smith	Ruling of the Tribunal seeking to provide non-binding guidance on the values and considerations that would inform the Tribunal when exercising its costs jurisdiction in issue-based proceedings.
[2024] CAT 12 16 February 2024		
70. Alex Neill Class Representative Limited v Sony Interactive Entertainment Europe Limited; Sony Interactive Entertainment Network Europe Limited; and Sony Interactive Entertainment UK Limited	Ben Tidswell  The Honourable Lord Richardson  Derek Ridyard	Ruling of the Tribunal in relation to the Class Representative's application for its costs further to the Tribunal's CPO Judgment dated 21 November 2023 ([2023] CAT 73).
[2024] CAT 13 23 February 2024		
71. Walter Hugh Merricks CBE v Mastercard Incorporated and Others	The Honourable Mr Justice Roth  Jane Burgess  Professor Michael Waterson	Judgment of the Tribunal on two issues: (1) whether the domestic interchange fees ("IFs") and multilateral interchange fees ("MIFs") charged in the UK were as a matter of fact caused by the EEA MIFs which were the subject of the European Commission decision dated 19 December 2007, which had found that the Defendants had infringed Article 101 of the Treaty on the Functioning of the European Union based on the rules and decisions concerning the cross-border intra-EEA fallback MIFs to be charged by banks issuing Mastercard consumer credit and debit cards to merchants' acquiring banks ("the Decision"); and (2) the value of commerce to which the UK IFs and MIFs applied.
[2024] CAT 14 26 February 2024		The proceedings were concerned with UK interchange fees during the period 22 May

Judgment	Tribunal	Subject matter
		<p>1992 to 21 June 2009 (“the relevant period”).</p> <p>The Tribunal rejected the Class Representative’s allegations that the EEA MIFs which had been set in the infringement period (i.e. May 1992 to June 2008) had any significant causative influence, as alleged, on the level of interchange fees, whether bilateral or multilateral, that applied to UK domestic transactions.</p> <p>The Tribunal did not make any findings as to whether the position would have been the same in a counterfactual where the levels of EEA MIFs were zero throughout, or very significantly lower than they were. That would have depended on the various assumptions made about the counterfactual.</p> <p>Finally, the Tribunal found that “on-us” transactions should be included in the Value of Commerce (“VoC”) for the purpose of the proceedings. The VoC throughout the relevant period was as set out in the agreed table produced by the parties’ experts.</p>
<p>72. Airwave Solutions Limited &amp; Others v Competition and Markets Authority</p> <p>[2024] CAT 15 28 February 2024</p>	<p>Bridget Lucas KC</p>	<p>Ruling of the Chair in relation to the Competition and Markets Authority's application for costs further to the Tribunal’s Judgment dated 22 December 2023 ([2023] CAT 76).</p>

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
73. Commercial and Interregional Card Claims I Limited (“CICC I”) v Mastercard Incorporated & Others	Ben Tidswell Tim Frazer Dr William Bishop	Ruling of the Chair granting the Visa and Mastercard Defendants permission to appeal the Tribunal's Judgment of 17 January 2024 ([2024] CAT 3) regarding the enforceability of the funding arrangements of the Proposed Class Representative.
[2024] CAT 16 1 March 2024		
74. Allergan plc v Competition and Markets Authority	Sir Marcus Smith Professor Simon Holmes Professor Robin Mason	Judgment of the Tribunal finding that the appeals against the findings of Cartel Infringement in the Hydrocortisone Decision had succeeded; and that the provisional findings in the Judgment (Cartel Infringements) [2023] CAT 57 upholding those findings could not stand. This was because of a failure, on the part of the CMA, to put the adverse findings in the Hydrocortisone Decision in regard to the Cartel Infringements to two witnesses who had been expressly called, by the Appellants, to refute those very findings of Cartel Infringement. This failure of due process fatally undermined the conclusion, otherwise open to the Tribunal (and the basis for the provisional findings in the Judgment (Cartel Infringements)) that there had been sufficient material to uphold the Hydrocortisone Decision when considering (in substance) the documentary evidence alone.
[2024] CAT 17 8 March 2024		
75. Mr Justin Gutmann v Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited	Justin Turner KC Jane Burgess Derek Ridyard	Ruling of the Tribunal in connection with the Proposed Class Representative’s revised litigation funding agreement.
[2024] CAT 18 12 March 2024		

<b>Judgment</b>	<b>Tribunal</b>	<b>Subject matter</b>
76. Professor Carolyn Roberts v (1) Severn Trent Water Limited and (2) Severn Trent PLC  [2024] CAT 19 19 March 2024	Sir Marcus Smith  Ian Forrester KC  Professor Alasdair Smith	Ruling of the Tribunal on the future conduct of the proceedings.
77. Infederation Ltd v Google Inc and Others  [2024] CAT 20 26 March 2024	The Honourable Mr Justice Roth	Ruling of the Chair in connection with an application for specific disclosure by the Claimant.
78. Merchant Interchange Fee Umbrella Proceedings  [2024] CAT 21 21 March 2024	Sir Marcus Smith  Ben Tidswell  Professor Michael Waterson	Ruling of the Tribunal on an application by the Visa Defendants (supported by the Mastercard Defendants) to strike out passages in the Claimants' pleadings relating to causation in regard to pass-on of merchant interchange fees.

## Overall Case Activity within the period 1 April 2023 to 31 March 2024

01/04/2023 to 31/03/2024	2023/24	2022/23	2022/22	2020/21
<b>Appeals, applications and claims received of which:</b>	55	148	36	58
section 46 Competition Act 1998 <sup>1</sup>	2	6	10	3
section 47 Competition Act 1998 <sup>2</sup>	-	-	-	1
section 47A Competition Act 1998 <sup>3</sup>	26	124	16	45
section 47B Competition Act 1998 <sup>4</sup>	19	14	7	2
section 114 Enterprise Act 2002 <sup>5</sup>	-	1	-	3
section 120 Enterprise Act 2002 <sup>6</sup>	2	1	1	4
section 179 Enterprise Act 2002 <sup>7</sup>	1	-	1	-
section 192 Communication Act 2003 <sup>8</sup>	-	1	1	-
section 317 Communications Act 2003 <sup>9</sup>	-	-	-	-
section 49B Competition Act 2003 <sup>10</sup>	-	-	-	-
section 70 Subsidy Control Act 2022 <sup>11</sup>	-	1	-	-
applications for interim relief <sup>12</sup>	1	-	-	-
applications for warrants <sup>13</sup>	4	-	-	-
<b>Applications to intervene</b>	1	4	7	3
<b>Case management conferences held</b>	48	49	45	23
<b>Hearings held (sitting days):</b>	29 (146)	14 (82)	10 (48)	13 (31)
<b>Judgments handed down of which:</b>	78	62	47	25
Judgments disposing of main issue or issues	20	20	18	6
Judgments on procedural and interlocutory matters	41	24	18	13
Judgments on ancillary matters (e.g. costs)	17	18	11	6
<b>Orders made</b>	475	367	237	231



**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. An appeal made in respect of decisions made by public authorities to give a subsidy or make a subsidy scheme.
12. Applications for interim relief pursuant to Rule 24 of the Tribunal Rules 2015.
13. Applications made by the CMA to issue warrants.

# Accounts 2023/2024

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## Accountability Report of the Tribunal and CS for the year ended 31/03/2024

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.

During the period of this review the Tribunal's membership comprised: 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 (a Tribunal Chair).

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 DBT 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 detailing the resources acquired, held or disposed of during the year and the use of resources during the year. 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, Statement of Financial Position and cash flows for the financial year.

In preparing the accounts for the Tribunal and the CS, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular 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 as set out in the Government Financial Reporting Manual 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 DBT 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 DBT 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. During the period of this review formal membership of the Board comprised the following:

President of the Competition Appeal Tribunal (Chair)	Sir Marcus Smith
Registrar of the Competition Appeal Tribunal	Charles Dhanowa CBE 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 2022-2023, at which all members were in attendance, 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.

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 ARAC comprises the following:

CS Board Non-Executive Member (Chair)	Jeremy Mayhew OBE
CS Board Non-Executive Member	Ben Tidswell
CS ARAC Member	Sir Iain McMillan CBE FRSE DL
CS ARAC Member	Timothy Sawyer CBE
CS ARAC Member	Robert Herga

The membership of the ARAC includes three Ordinary Members of the CAT with considerable Audit Committee experience. In addition, representatives from the DBT 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 ARAC met on four occasions this year, to review the financial performance of the Tribunal/ CS and to examine the Annual Report and Accounts prior to publication.

At each meeting of the ARAC 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 DBT 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 DBT with detailed information on the CS's financial position. In addition, members of the CS's senior management team meet DBT 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 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.

## Implementation of Government Functional Standards

The Government Functional Standards (GFS) refer to a published suite of management standards developed by the Cabinet Office, which have been mandated for use since September 2021. The purpose of the GFS is to create a coherent, effective, and standardised approach to undertake business within government and to provide a stable basis for capability building and continuous improvement.

The CS's assurance framework provides clear roles and accountabilities for those engaged in delivery and related corporate oversight, and the use of each relevant GFS has been embedded into the organisation.

The CS's governance, risk, and control framework for complying with the GFS and spend controls is operating as intended, although there are opportunities to improve and strengthen the control environment in relation to the GFS, to ensure the CS remains compliant. The CS has established a protocol for conducting systematic annual assessments of compliance with GFS, ensuring regular reporting to the Audit and Risk Assurance Committee.

The CS is also implementing the recommendations set by the Government Internal Audit Agency (GIAA) Report in April 2024 and expects to have fully implemented the GIAA management recommendations during 2024/25.

## Remuneration and Staff Report for the Tribunal and the CS for the year ended 31/03/2024

### 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. There was a 7% increase applied to the President's salary for 2023/24. 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 2023/24, the salary of the Registrar was also increased by 7%.

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 (2022/23: £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 (2022/23: £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 (2022/23: £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)

### Gender Demographics

	Male	Female	Remarks
CS Board Directors	3	0	President, Independent Non Executive Director, CS Board Member
CS Board Director (SCS)	1	0	Registrar
Chairs (Fee Paid)	3	1	
Ordinary Members	31	8	
CS Staff	12	9	
<b>Total</b>	<b>50</b>	<b>18</b>	

### Staff Composition

The composition of CS staff engaged on a contract of employment, as at 31 March 2024 by grade:

	2023/24		2022/23	
	Male	Female	Male	Female
SCS	1	0	1	0
Grade 6	4	5	3	6
Grade 7	1	1	1	0
SEO	0	0	0	1
HEO	3	1	3	0
EO	1	0	0	1
AO	2	2	2	2
AA	1	0	2	0
<b>Total</b>	<b>13</b>	<b>9</b>	<b>12</b>	<b>10</b>



### Off-payroll engagements

Off-payroll worker engagements, earning £245 per day or greater, as at 31 March 2024.

Number of existing engagements as of 31 March 2024	
Of which, no. that existed:	3
Less than 1 year	
For between 1 and 2 years	1
For between 2 and 3 years	
For between 3 and 4 years	1
For 4 or more years	1

Off-payroll workers are typically engaged either through commercial contracts to deliver specialist training and policy expert advice services.

Under the Enterprise Act 2002, the President of the Tribunal has a statutory duty to provide training to members of the Tribunal. Although it is the President who has the duty to provide training, the daily reality is that someone else must design, organise and run it. The relevant training material is of a highly complex nature reflecting the complicated, specialist and commercially sensitive cases with which the Tribunal deals. Furthermore, it is imperative that the provider has a deep practical understanding of the role and function of judges in such cases.

Within the EU and in the three UK regions, substantive competition law and communications law as well as the economics of regulation, case law, procedure guidance and best practice evolve. Members have to be kept up to date with these changes. Therefore, there is an ongoing need for training providers to facilitate this specialised judicial training and to help the Tribunal to develop its own corporate memory bank of past decisions and procedural precedents.

Senior members of the Tribunal are often asked to represent the Tribunal at meetings, conferences etc. and to give speeches to learned groups or to assist with delegations from overseas. There are too many of these tasks for the President and others to undertake alone and so whoever is appointed as a training provider will also be asked to provide support for these activities too.

The training provider needs to have expert knowledge of the Tribunal's jurisdiction, its case history, its accumulated insights and have teaching or training experience.

The training provider arranges training seminars which necessitate organising guest speakers to speak on various topics, on recent Court of Appeal and Competition Appeal Tribunal landmark judgments.

There were one off-payroll engagements of Board members and/or senior officials with significant financial responsibility.

There were three individuals on payroll that have been deemed Board members and/or senior officials with significant financial responsibility.

### Single total figure of remuneration (Tribunal)

The President is in-scope of the public service pension remedy and the default option provided by that remedy is a return to Judicial Pensions Retirement Act (JUPRA) 1993 scheme for pre 2022 accrual. The first pension disclosure for 2022/23 for the President is in relation to the JUPRA 1993 scheme, where the accrual for the period from 1 April 2022 to 31 March 2024 is zero. Real increase in pension, lump sum and CETV reflects the updated salary, the April 2024 pension increase, the change to the cash equivalent transfer value basis, and the member's age as at 31 March 2024. The second pension disclosure below for 2023/24 is in relation to the Judicial Pension Scheme (JPS) 2022 scheme.

### Judicial Pensions Retirement Act (in respect of period of service 5 November 2021 to 31 March 2022) – JUPRA 1993 Scheme

	Salary (£'000)		Pension Benefits (to nearest £'000)		Total (£'000)	
	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23
President	210-215	0	0	-3	210-215	-3

### Judicial Pension Scheme 2022 (in respect of service for 2023/24) – JPS 2022 Scheme

	Salary (£'000)		Pension Benefits (to nearest £'000)		Total (£'000)	
	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23
President	210-215	195-200	97	98	305-310	295-300

### Single total figure of remuneration (CS)

	Salary (£'000)		Non-Consolidated Award (£'000)		Pension Benefits (to nearest £'000)		Total (£'000)	
	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23
Registrar (Highest Paid Officer)	130-135	120-125	5-10	5-10	52	-44	185-190	80-85

	Fees (£'000)		Non-Consolidated Award (£'000)		Pension Benefits (to nearest £'000)		Total (£'000)	
	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23	2023/24	2022/23
Peter Freeman CBE KC (Hon)	0	0-5	0	0	0	0	0	0-5
Jeremy Mayhew OBE	5-10	5-10	0	0	0	0	5-10	5-10
Ben Tidswell	0-5	0-5	0	0	0	0	0-5	0-5

### Pay multiples (audited)

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 2023/24 and 2022/23 as required by HM Treasury guidance, the mid-point of the banded remuneration of the highest paid officer has been used.

In 2023/24, the fair pay ratio was 2.25 (2022/23: 2.23); this ratio excludes pension. In the year ended 31 March 2024, remuneration ranged from £29,000 to £135,000 – £140,000 (2022/23: £26,750 to £125,000 – £130,000).

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 2023/24 and 2022/23 relate to project work completed in those years. There was a cost of living payment of £1,500 or pro rata paid in 2023/24 to all staff in post as at 31 March 2023 except SCS. The non-consolidated performance-related pay for 2023/24 and 2022/23 is based on performance reports from financial years 2022/23 and 2021/22 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
	2023/24			2022/23		
25 <sup>th</sup> percentile	40,750	37,500	3.37:1	38,500	36,000	3.31:1
Median	61,085	58,000	2.25:1	57,125	55,400	2.23:1
75 <sup>th</sup> percentile	78,000	76,000	1.76:1	70,000	70,000	1.82:1

There have been small increases in the pay ratios at the 25th percentile and the median but

a decrease in the 75th percentile ratios and an increase in the total pay and allowances. These differences are attributable to the cost of living payment, a 2022/23 pay flexibility pay award for Tribunal legal staff, and a 5% increase for the 2023/24 pay award, which resulted in the total pay and allowances at the 25th percentile, the median and the 75th percentile all being higher than 2022/23.

## Percentage change in pay (audited)

There has been a 7% increase to salary and performance pay and bonuses but no changes to allowances for the highest paid officer, from 2022/23.

There has been an average percentage increase to salary and allowances of 7.33% since 2022/23 for all employees, excluding the highest paid officer, mainly due to 5% pay award for 2023/24 and pay flexibility increases in 2022/23 for the legal staff based on rates in the public sector for similar roles.

The change to salary and allowances is as a result of the 5% pay award increase and cost of living payment to staff employed across grades A2, G6 equivalent, which has increased the average salary.

There has been an average percentage increase of 116.22% to performance pay and bonuses mainly due to cost of living payment of £1,500 or prorate to staff except SCS.

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 (2022/23: £400 per day).

## 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 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.

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 can be saved into a 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 2023/24 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 chairs of the Tribunal. All the current five Tribunal fee-paid Chairs have opted into the judicial pension. Pension contribution deductions in relation to the Judicial Pension Scheme commenced from 1 October 2021.

The Judicial Pension Scheme 2015 (JPS 2015), which came into effect on 1 April 2015, applied 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 opted into the JPS 2015.

Provisions for historic employer contributions from the date of appointment of 51.35 per cent and long service award of 2.25 times of pension and 45 percent tax thereon have been made for the fee-paid Chairs eligible for the Fee Paid Judicial Pension Scheme (FPJPS).

The current five Tribunal fee-paid Chairs moved 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. Prior to 1 April 2015, 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. 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.

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.

When the Government introduced new public service pension schemes in 2015, there were transitional arrangements which treated existing scheme members differently based on their age. Older members of the PCSPS remained in that scheme, rather than moving to alpha. In 2018, the Court of Appeal found that the transitional arrangements in the public service pension schemes unlawfully discriminated against younger members.

As a result, steps are being taken to remedy those 2015 reforms, making the pension scheme provisions fair to all members. The public service pensions remedy is made up of two parts. The first part closed the PCSPS on 31 March 2022, with all active members becoming members of alpha from 1 April 2022. The second part removes the age discrimination for the remedy period, between 1 April 2015 and 31 March 2022, by moving the membership of eligible members during this period back into the PCSPS on 1 October 2023. This is known as “rollback”.

For members who are in scope of the public service pension remedy, the calculation of their benefits for the purpose of calculating their Cash Equivalent Transfer Value and their single total figure of remuneration, as of 31 March 2023 and 31 March 2024, reflects the fact that membership between 1 April 2015 and 31 March 2022 has been rolled back into the PCSPS. Although members will in due course get an option to decide whether that period should count towards PCSPS or alpha benefits, the figures show the rolled back position i.e., PCSPS benefits for that period. 2023.

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](http://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 2021. 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.

### President's pension benefits (Tribunal)

The President is a member of the JPS. For 2023/24, employer contributions of £109,000 (2022/23: £102,000) were paid to the JPS at a rate of 51.35 per cent of pensionable pay. The member has previous service as a fee paid Chair of the Tribunal from 2009 to 2017 which could put him in scope for the public service pension remedy. The default option for a member to choose in the immediate choice exercise established by the Remedy is that members will return to JUPRA 1993 for pre 2022 accrual. The member's potential benefit accrual and CETV have been calculated assuming that they have only accrued pension benefits under the JUPRA 1993 for the period from 5 November 2021 to 31 March 2022. Benefits accrued after 31 March 2022 are assumed to be in the JPS 2022 Scheme.

The following part of the Remuneration Report has been audited.

### Judicial Pensions Retirement Act (in respect of period of service 5 November 2021 to 31 March 2022) – JUPRA 1993

	Accrued pension as at 31 March 2024 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2024 £'000	CETV at 31 March 2024 £'000	CETV at 31 March 2023 £'000	Real increase in CETV £'000
President					
Pension	0 – 2.5	0	44	36	6
Lump sum	2.5 – 5	0			

### Judicial Pension Scheme 2022 – JPS 2022

	Accrued pension as at 31 March 2024 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2024 £'000	CETV at 31 March 2024 £'000	CETV at 31 March 2023 £'000	Real increase in CETV £'000
President					
Pension	10 – 12.5	2.5– 5	193	80	99
Lump sum	0	0			

JPS 2022 does not offer automatic lump sum.



### Registrar's pension benefits (CS)

The Registrar's pension benefits are provided through the Civil Service Pension arrangements. For 2023/24, employer contributions of £40,000 (2022/23: £37,000) were paid to the PCSPS at a rate of 30.3 per cent (2022/23: 30.3 per cent) of pensionable pay.

The following part of the Remuneration Report has been audited.

	Accrued pension as at 31 March 2024 and related lump sum £'000	Real increase in pension and related lump sum as at 31 March 2024 £'000	CETV at 31 March 2024 £'000	CETV at 31 March 2023 £'000	Real increase in CETV £'000
Registrar					
Pension	65 – 70	2.5 - 5	1,583	1,384	42
Lump sum	180 – 185	0 – 2.5			

\* Final salary member (classic/classic plus/premium) who has transitioned to alpha. The final salary pension of a person in employment is calculated by reference to their pay and length of service. The pension will increase from one year to the next by virtue of any pay rise during the year. Where there is no or a small pay rise, the increase in pension due to extra service may not be sufficient to offset the inflation increase – that is, in real terms, the pension value can reduce, hence the negative values.

## 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 2022 from 1 October 2021 and provisions were made from date of joining to 30 September 2021 for historic contributions.

	Fees 2023/24 (£)	Employer Pension contributions 2023/24 (£)	Fees 2022/23 (£)	Employer Pension contributions 2022/23* (£)
Andrew Lenon KC*	41,486	21,303	54,645	28,060
Bridget Lucas KC*	35,297	18,125	37,557	20,265
Hodge Malek KC*	25,973	13,337	13,478	6,921
Benjamin Tidswell*	66,053	33,919	38,150	19,590
Justin Turner KC*	30,023	15,417	9,943	5,106
Andrew Young KC*, **	0	0	321	88

\* For 2022/23, all the chairs contributed to the JPS 2022 on fees paid for work done from 1 April 2022 onwards.

\*\* In 2022/23, Andrew Young was appointed Court of Session judge on 16 May 2022 and all payments ceased from that date.

Fee-paid Tribunal Chairs are remunerated at a rate of £600 per day (2022/23: £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 (2022/23: £400 per day). Total remuneration of £265,797 paid to Ordinary Members in 2023/24 (2022/23: £225,323) is included in the table in note (d) below.
- (c) In 2023/24, there were benefits in kind (travel and subsistence) of £859 that were paid for Hodge Malek and £2,170 were paid for Ben Tidswell mainly in relation to attendance to conferences, but no tax was payable. The Tribunal has an agreement with the HMRC allowing the Tribunal to claim tax relief under s.338, for travel from a members' home to 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 the permanent workplace. In 2022/23, no benefits in kind were paid to the Tribunal Chairs.
- (d) The total cost of Tribunal Members' remuneration is shown in the table below.

	2023/24 £'000	2022/23 £'000
Members' remuneration (including the President, fee-paid Chairs and Ordinary Members)	677	577
Social security costs	79	71
Pension contributions for the President	109	102
Pension contributions for fee-paid Chairs	102	202
<b>Total Members' remuneration</b>	<b>967</b>	<b>952</b>

### Competition Service

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

	Permanently employed staff		Permanently employed staff	
	Total (£'000)	(£'000)	Total (£'000)	(£'000)
	2023/24	2023/24	2022/23	2022/23
Wages and salaries	1,377	1,377	1,142	1,142
Social security costs	164	164	138	138
Other pension costs	369	369	307	307
<b>Total employee costs</b>	<b>1,910</b>	<b>1,910</b>	<b>1,587</b>	<b>1,587</b>

- (b) The average number of staff employed during the year (full-time and part-time) was 22 (2022/23: 20), including the Registrar of the Tribunal.
- (c) One member of staff is an 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)

The CS complies with all the relevant Government Functional Standards as outlined in the Governance Statement 2023/24 under the heading of the Implementation of Government Functional Standards on page 83.

In 2023/24, there were no exit packages.

In 2023/24, there were no losses, special payments or remote contingent liability.

**Charles Dhanowa CBE, KC (Hon)**

Registrar and Accounting Officer

11 February 2025

## Tribunal's Audit Report

### Opinion on financial statements

I certify that I have audited the financial statements of the Competition and Appeal Tribunal for the year ended 31 March 2024 under the Enterprise Act 2002.

The financial statements comprise the Competition and Appeal Tribunal

- Statement of Financial Position as at 31 March 2024;
- 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 Competition and Appeal Tribunal 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 and Appeal Tribunal's affairs as at 31 March 2024 and its net operating cost 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 (UK) (ISAs UK), applicable law and Practice Note 10 Audit of Financial Statements and Regularity of Public Sector Bodies in the United Kingdom (2022). 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 am independent of the Competition and 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 and 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 and 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 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 and Appeal Tribunal is adopted in consideration of the requirements set out in HM Treasury's Government Financial Reporting Manual, which requires entities to adopt the going concern basis of accounting in the preparation of the financial statements where it is 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 financial statements and my auditor's certificate. 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.

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 HM Treasury 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 subject to audit have been properly prepared in accordance with HM Treasury directions issued 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 and is in accordance with the applicable legal requirements.

## Matters on which I report by exception

In the light of the knowledge and understanding of the Competition and Appeal Tribunal and its environment obtained in the course of the audit, I have not identified material misstatements in the Statutory Other Information, which includes the parts of the Accountability Report, Governance Statement and Remuneration and Staff Report subject to audit.

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

- adequate accounting records have not been kept by the Competition and Appeal Tribunal or returns adequate for my audit have not been received from branches not visited by my staff; or
- I have not received all of the information and explanations I require for my audit; 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 Accounting Officer for the financial statements

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

- maintaining proper accounting records;
- providing the C&AG with access to all information of which management is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;

- providing the C&AG with additional information and explanations needed for his audit;
- providing the C&AG with unrestricted access to persons within the Competition and Appeal Tribunal from whom the auditor determines it necessary to obtain audit evidence;
- ensuring such internal controls are in place as deemed necessary to enable the preparation of financial statements to be free from material misstatement, whether due to fraud or error;
- preparing financial statements which give a true and fair view, in accordance with Secretary of State directions issued under the Enterprise Act 2002;
- preparing the annual report, which includes the Remuneration and Staff Report, in accordance with Secretary of State directions issued under the Enterprise Act 2002; and
- assessing the Competition and 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 Accounting Officer anticipates that the services provided by the Competition and 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, I:

- considered the nature of the sector, control environment and operational performance including the design of the Competition and Appeal Tribunal's accounting policies, key performance indicators and performance incentives.
- inquired of management, the Competition and Appeal Tribunals head of internal audit and those charged with governance, including obtaining and reviewing supporting documentation relating to the Competition and Appeal Tribunal's policies and procedures on:
  - o identifying, evaluating and complying with laws and regulations;
  - o detecting and responding to the risks of fraud; and
  - o the internal controls established to mitigate risks related to fraud or non-compliance with laws and regulations including the Competition and Appeal Tribunal's controls relating to the Competition and Appeal Tribunal's compliance with the Enterprise Act 2002 and Managing Public Money
- inquired of management, the Competition and Appeal Tribunal's head of internal audit and those charged with governance whether:
  - o they were aware of any instances of non-compliance with laws and regulations;
  - o they had knowledge of any actual, suspected, or alleged fraud,
- discussed with 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 and Appeal Tribunal for fraud and identified the greatest potential for fraud in the following areas: revenue recognition, posting of unusual journals, complex transactions and bias in management estimates. In common with all audits under ISAs (UK), I am required to perform specific procedures to respond to the risk of management override.

I obtained an understanding of the Competition and Appeal Tribunal's framework of authority and other legal and regulatory frameworks in which the Competition and Appeal Tribunal operates. I focused 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 and Appeal Tribunal. The key laws and regulations I considered in this context included Enterprise Act 2002, Managing Public Money, employment law, pensions legislation, and tax legislation.



### Audit response to identified risk

To respond to the identified risks resulting from the above procedures:

- I reviewed 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;
- I enquired of management, the Audit and Risk Committee concerning actual and potential litigation and claims;
- I reviewed 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 by testing the appropriateness of journal entries and other adjustments; assessing whether the judgements on 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 communicated relevant identified laws and regulations and potential risks of fraud to all engagement team members 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](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my certificate.

### Other auditor's responsibilities

I am required to obtain sufficient appropriate audit evidence to give reasonable assurance that the expenditure and income 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.

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 I identify during my audit.

### Report

I have no observations to make on these financial statements.

**Gareth Davies**

**11 February 2025**

**Comptroller and Auditor General**

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

## Tribunal’s Statement of Comprehensive Net Expenditure for the year ended 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
Members’ remuneration costs	3(b)	(967)	(952)
Other operating charges	4(a)	(169)	(268)
<b>Total expenditure</b>		<b>(1,136)</b>	<b>(1,220)</b>
<b>Net Expenditure for the financial year</b>		<b>(1,136)</b>	<b>(1,220)</b>

There is no other comprehensive net expenditure. The notes on pages 107 to 111 form part of these accounts.

## Tribunal's Statement of Financial Position as at 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
<b>Non current assets:</b>			
Trade receivables and other receivables	5	570	563
<b>Total non current assets</b>		<b>570</b>	563
<b>Current assets:</b>			
Trade receivables and other receivables	5	870	790
<b>Total current assets</b>		<b>870</b>	790
<b>Total assets</b>		<b>1,440</b>	1,353
<b>Current liabilities:</b>			
Trade payables and other payables	6	(717)	(659)
Provisions	7(b)	(153)	(131)
<b>Total current liabilities</b>		<b>(870)</b>	(790)
<b>Total assets less current liabilities</b>		<b>570</b>	563
<b>Non current liabilities:</b>			
Provisions	7(b)	(170)	(163)
Other liabilities	7(c)	(400)	(400)
<b>Total non current liabilities</b>		<b>(570)</b>	(563)
<b>Assets less liabilities</b>		<b>–</b>	–
<b>Taxpayer' equity</b>			
<b>General fund</b>		<b>–</b>	–
<b>Total taxpayers' equity</b>		<b>–</b>	–

The notes on pages 107 to 111 form part of these accounts.

**Charles Dhanowa CBE, KC (Hon)**

Registrar and Accounting Officer

11 February 2025

## Tribunal's Statement of Cash Flows for the year ended 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
<b>Cash flows from operating activities:</b>			
Net expenditure		(1,136)	(1,220)
(Increase)/decrease in trade and other receivables	5	(87)	(341)
Increase/(decrease) in trade and other payables	6&7(c)	58	179
Increase/(decrease) in short term provisions	7(b)	22	131
Increase/(decrease) in long term provisions	7(b)	7	31
<b>Net cash (outflow) from operating activities</b>		<b>(1,136)</b>	<b>(1,220)</b>
<b>Cash flows from financing activities:</b>			
Grant-in-aid	2	1,136	1,220
<b>Net cash inflow from financing activities</b>		<b>1,136</b>	<b>1,220</b>
<b>Increase/(decrease) in cash in the period</b>		<b>-</b>	<b>-</b>

The notes on pages 107 to 111 form part of these accounts.

## Tribunal's Statement of Changes in Taxpayer's Equity for the year ended 31/03/2024

	General Fund £'000
<b>Balance at 31 March 2022</b>	<b>0</b>
Net operating cost for 2022/23	(1,220)
Net financing from DBT for 2022/23	1,220
<b>Balance at 31 March 2023</b>	<b>0</b>
Net operating cost for 2023/24	(1,136)
Net financing from DBT for 2023/24	1,136
<b>Balance at 31 March 2024</b>	<b>0</b>

## Notes: Tribunal accounts

### 1. Basis of preparation and statement of accounting policies

These financial statements have been prepared in accordance with the 2023/24 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.

Accounts are prepared for the Tribunal 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 April 2024 DBT provided indicative settlement amounts required in respect of the year to 31 March 2025 on their EPM Clear Line of Sight (CLOS) portal. 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 £870,000, shown in note 5 below, is of equal amount to the liability of £717,000, shown in note 6 below and that of £153,000 shown in 7b below, which represents the amount that the CS shall transfer to meet those liabilities.

#### (d) Pensions

Pension arrangements for the President and 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 those 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 2023/24 was £1,136,000 (2022/23: £1,220,000).

## 3. Member's remuneration

(a) The President and Chairs are appointed by the Lord Chancellor upon the 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 of Northern Ireland may 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 2024, is set out in the Introduction to this report.

(b) Members' remuneration costs are shown in the table below.

	2023/24 £'000	2022/23 £'000
Members' remuneration (including the President, fee-paid Chairs and Ordinary Members)	677	577
Social security costs	79	71
Pension contributions for the President	109	102
Pension contributions and transitional protection allowance for fee-paid Chairs *	102	202
<b>Total Members' remuneration</b>	<b>967</b>	<b>952</b>

\* Transitional protection allowance was payable to one Chair on fees payable in respect of work done prior to 31 March 2022, paid in 2022/23.

## 4. Other operating charges

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

	2023/24 £'000	2022/23 £'000
Members' travel and subsistence	51	31
Members' PAYE and National Insurance on travel and subsistence expenses*	15	15
Members' training	67	53
Long service award	29	162
Audit fees**	7	7
<b>Total other operating charges</b>	<b>169</b>	<b>268</b>

\* Tax relief is being made available by the HMRC 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's

premises.

\*\* 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

	2023/24 £'000	2022/23 £'000
Amounts falling due within one year:		
Trade receivables and other receivables with the CS*	870	790
Amounts falling due after more than one year:		
Trade receivables and other receivables with the CS	570	563
<b>Total trade receivables and other receivables</b>	<b>1,440</b>	<b>1,353</b>

\* Trade payables and other payables with the CS are explained below in Note 6 below.

## 6. Trade payables and other payables

Analysis by type

	2023/24 £'000	2022/23 £'000
Amounts falling due within one year:		
Taxation and social security	31	26
Trade Payables	7	4
Accruals*	679	629
<b>Total trade payables and other payables</b>	<b>717</b>	<b>659</b>

\* 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 fee-paid Chairs of the Tribunal. This entitles the fee-paid Chairs to be able to accrue a FPJPS 2017/ JPS 2015 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 FPJPS 2017/JPS 2015 pension. Contributions commenced from December 2021 for work done in the months for October and November 2021.

Historic employer contributions from the date of appointment have been accrued (for both FPJPS 2017 and JPS 2015 schemes) and is payable to the JPS and the Judicial Pay Award (for FPJPS 2017) payable to members has been included in the provisions (Note 7 page 110).

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 2023	294
Provided in the year	29
<b>Balance at 31 March 2024</b>	<b>323</b>

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

	2023/24 £'000	2022/23 £'000
No later than one year	153	131
Later than one year, and not later than five years	80	73
Later than five years	90	90
<b>Balance at 31 March</b>	<b>323</b>	<b>294</b>

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 2024. 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 previous President is £80,000 and current President is £4,000. There is a further provision of £239,000 for long service awards payable to several fee-paid Tribunal Chairs.

### (c) The other liabilities include legal hearing costs of £400,000 held in Escrow in a Legal Funds account on behalf of parties in a case pending before the Tribunal.

## 8. 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 the statutory relationship between the two bodies, the Tribunal has had material transactions with the CS.

## 9. 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

### Opinion on financial statements

I certify that I have audited the financial statements of the Competition Service for the year ended 31 March 2024 under the Enterprise Act 2002.

The financial statements comprise the Competition Service

- Statement of Financial Position as at 31 March 2024;
- 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 Competition Service 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 2024 and its net operating cost 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 (UK) (ISAs UK), applicable law and Practice Note 10 Audit of Financial Statements and Regularity of Public Sector Bodies in the United Kingdom (2022). 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 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 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 HM Treasury's Government Financial Reporting Manual, which requires entities to adopt the going concern basis of accounting in the preparation of the financial statements where it is 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 financial statements and my auditor's certificate. 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.

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 HM Treasury 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 subject to audit have been properly prepared in accordance with HM Treasury directions issued 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 and is in accordance with the applicable legal requirements.

### 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 Statutory Other Information, which includes the parts of the Accountability Report, Governance Statement and Remuneration and Staff Report subject to audit.

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

- 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
- I have not received all of the information and explanations I require for my audit; 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 Accounting Officer for the financial statements

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

- maintaining proper accounting records;
- providing the C&AG with access to all information of which management is aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;

- providing the C&AG with additional information and explanations needed for his audit;
- providing the C&AG with unrestricted access to persons within the Competition Service from whom the auditor determines it necessary to obtain audit evidence;
- ensuring such internal controls are in place as deemed necessary to enable the preparation of financial statements to be free from material misstatement, whether due to fraud or error;
- preparing financial statements which give a true and fair view, in accordance with Secretary of State directions issued under the Enterprise Act 2002;
- preparing the annual report, which includes the Remuneration and Staff Report, in accordance with Secretary of State directions issued under the Enterprise Act 2002; and
- 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 Accounting Officer anticipates that the services provided by the 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, I:

- considered 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.
- inquired of management, the Competition Services head of internal audit and those charged with governance, including obtaining and reviewing supporting documentation relating to the Competition Service's policies and procedures on:
  - o identifying, evaluating and complying with laws and regulations;
  - o detecting and responding to the risks of fraud; and
  - o 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
- inquired of management, the Competition Service's head of internal audit and those charged with governance whether:
  - o they were aware of any instances of non-compliance with laws and regulations;
  - o they had knowledge of any actual, suspected, or alleged fraud,
- discussed with 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 and bias in management estimates. In common with all audits under ISAs (UK), I am required to perform specific procedures to respond to the risk of management override.

I obtained an understanding of the Competition Service's framework of authority and other legal and regulatory frameworks in which the Competition Service operates. I focused 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 Enterprise Act 2002, Managing Public Money, employment law, pensions legislation, and tax legislation.

### Audit response to identified risk

To respond to the identified risks resulting from the above procedures:

- I reviewed 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;
- I enquired of management, the Audit and Risk Committee concerning actual and potential litigation and claims;
- I reviewed 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 by testing the appropriateness of journal entries and other adjustments; assessing whether the judgements on 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 communicated relevant identified laws and regulations and potential risks of fraud to all engagement team members 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](http://www.frc.org.uk/auditorsresponsibilities). This description forms part of my certificate.

### Other auditor's responsibilities

I am required to obtain sufficient appropriate audit evidence to give reasonable assurance that the expenditure and income 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.

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 I identify during my audit.

### Report

I have no observations to make on these financial statements.

**Gareth Davies**

**11 February 2025**

**Comptroller and Auditor General**

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



## CS's Statement of Comprehensive Net Expenditure for the year ended 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
<b>Income:</b>			
Other income	7	2	2
<b>Total income</b>		<b>2</b>	<b>2</b>
<b>Expenditure:</b>			
Funding the activities of the Tribunal		(1,136)	(1,220)
CS and Audit and Risk Assurance Committee Members' remuneration	3(a)	(15)	(18)
Staff costs	4	(1,910)	(1,587)
Other expenditure	6	(1,916)	(1,414)
Depreciation and profit/(loss) on disposal of assets	6	(1,321)	(1,293)
<b>Total expenditure</b>		<b>(6,298)</b>	<b>(5,532)</b>
<b>Net expenditure</b>		<b>(6,296)</b>	<b>(5,530)</b>
<b>Net expenditure after interest</b>		<b>(6,296)</b>	<b>(5,530)</b>
<b>Net expenditure after taxation</b>		<b>(6,296)</b>	<b>(5,530)</b>

All activities were continuing during the year. The notes on pages 122 to 136 form part of these accounts.

## CS's Statement of Financial Position as at 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
<b>Non current assets:</b>			
Right of use asset	8	3,860	4,666
Property, plant and equipment	8	1,917	2,314
Intangible assets	9	74	45
<b>Total non current assets</b>		<b>5,851</b>	<b>7,025</b>
<b>Current assets:</b>			
Trade receivables and other receivables	10	140	608
Cash and cash equivalents	11	2,388	1,542
<b>Total current assets</b>		<b>2,528</b>	<b>2,150</b>
<b>Total assets</b>		<b>8,379</b>	<b>9,175</b>
<b>Current liabilities:</b>			
Trade payables and other payables	12(a)	(1,203)	(1,321)
Financial liabilities	12(a)	(1,036)	(1,032)
Provisions	13(b)	(153)	(131)
<b>Total current liabilities</b>		<b>(2,392)</b>	<b>(2,484)</b>
<b>Total assets less current liabilities</b>		<b>5,987</b>	<b>6,691</b>
<b>Non current liabilities:</b>			
Financial liabilities	12(a)	(4,192)	(5,207)
Provisions	13(b)&(c)	(700)	(693)
<b>Total non current liabilities</b>		<b>(4,892)</b>	<b>(5,900)</b>
<b>Assets less liabilities</b>		<b>1,095</b>	<b>791</b>
<b>Taxpayers' equity:</b>			
General fund		1,095	791
<b>Total taxpayers' equity</b>		<b>1,095</b>	<b>791</b>

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 122 to 136 form part of these accounts.

**Charles Dhanowa CBE, KC (Hon)**

Registrar and Accounting Officer

11 February 2025

## CS's Statement of Cash Flows for the year ended 31/03/2024

	Note	2023/24 £'000	2022/23 £'000
<b>Cash flows from operating activities:</b>			
Net expenditure after interest		(6,296)	(5,530)
Adjustments for non-cash expenditure	6	1,321	1,293
Decrease/(increase) in receivables	10(a)	468	(521)
(Decrease)/increase in payables	12(a)	(118)	(158)
Increase/(decrease) in short term provisions	13	22	131
Increase/(decrease) in long term provisions	13	7	31
<b>Adjustments for non-cash expenditure</b>		<b>(4,596)</b>	<b>(4,754)</b>
<b>Cash flows from investing activities:</b>			
Property, plant and equipment purchases	8	(83)	(113)
Intangible asset purchases	9	(71)	(52)
<b>Net cash used in investing activities</b>		<b>(154)</b>	<b>(165)</b>
<b>Cash flows from financing activities:</b>			
Capital element of payments/Remeasurement in respect of right of use asset	8	7	–
Capital payments against leases	12(a)	(1,011)	(1,054)
Grant-in-aid from DBT	2	6,600	4,672
<b>Net cash generated from/(used in) financing activities</b>		<b>5,589</b>	<b>3,618</b>
<b>Net increase/(decrease) in cash and cash equivalents in the period</b>			
	<b>11</b>	<b>846</b>	<b>(1,301)</b>
Cash and cash equivalents at the beginning of the period	11	1,542	2,843
<b>Cash and cash equivalents at the end of the period</b>	<b>11</b>	<b>2,388</b>	<b>1,542</b>

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 122 to 136 form part of these accounts.

## CS's Statement of Changes in Taxpayer's Equity for the year ended 31/03/2024

	General Fund £'000
<b>Balance at 31 March 2022</b>	<b>1,649</b>
Net operating cost for 2022/23	(5,530)
Net financing from DBT for 2022/23	4,672
<b>Balance at 31 March 2023</b>	<b>791</b>
Net operating cost for 2023/24	(6,296)
Net financing from DBT for 2023/24	6,600
<b>Balance at 31 March 2024</b>	<b>1,095</b>

## 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 April 2024 DBT provided indicative settlement amounts required in respect of the year to 31 March 2025 on their EPM Clear Line of Sight (CLOS) portal, 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

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.

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.

In accordance with accounts directions issued by the Secretary of State for DBT (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 DBT. 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 Civil Service pension arrangements. 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 pension schemes with the Civil Service pension arrangements.

In respect of the defined contribution element of the schemes, the CS recognises contributions payable in the year. The Civil Service pension arrangements are 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) IFRS 16 – Leases

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.

The CS has only one lease of premises, for the 7th Floor, 8 Salisbury Square. The CS uses the historical cost model in IFRS 16 as a proxy for current value in existing use or fair value as the lease agreements contain regular rent review periods which is expected to minimize the divergence between cost and fair value. 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 Public Expenditure System (PES) papers, as the lease started in January 2019 and transitioned to IFRS 16 on 1 April 2021.

The CS leases photocopiers, a franking machine and a water cooler machine, where the lease is either low value or short term and 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

Recognition and valuation of provisions rely on the application of professional judgement, historical experience, and other factors expected to influence future events. A provision is recognised where the likelihood of a liability crystallising is probable and where such provision can be measured with reasonable certainty. Provisions are based on valuations, supplemented by management judgement. 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

	2023/24 £'000	2022/23 £'000
Allocated by DBT	5,526	5,282
Allocated for 8 Salisbury Square lease rent liability*	1,299	1,299
Total Allocated	6,825	6,581
<b>Total drawn down</b>	<b>6,600</b>	<b>4,672</b>

\*8 Salisbury Square lease rent exclusive of irrecoverable VAT is £1,083,000 and inclusive of VAT is £1,299,000.



### 3. The CS and ARAC Member's remuneration

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

	2023/24 £'000	2022/23 £'000
CS and ARAC Members' remuneration	14	17
Social security costs	1	1
<b>Total CS and ARAC Members' remuneration</b>	<b>15</b>	<b>18</b>

(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 (2022/23: £400 per day). In 2023/24, the total remuneration for Peter Freeman was £0 (2022/23: £2,800) as he retired; Jeremy Mayhew's total remuneration was £5,614 (2022/23: £6,500) and Ben Tidswell's total remuneration was £4,400 (2022/23: £2,200).

### 4. Staff related costs and numbers

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

	Permanently employed staff		Permanently employed staff	
	Total (£'000)	Total (£'000)	Total (£'000)	Total (£'000)
	2023/24	2023/24	2022/23	2022/23
Wages and salaries	1,377	1,377	1,142	1,142
Social security costs	164	164	138	138
Other pension costs	369	369	307	307
<b>Total employee costs</b>	<b>1,910</b>	<b>1,910</b>	<b>1,587</b>	<b>1,587</b>

### 5. Pension costs

The Civil Service pension arrangements are unfunded multi-employer defined benefit schemes 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](http://www.civilservicepensionscheme.org.uk).

For 2023/24, employer contributions of £369,065 (2022/23: £307,333) were payable to the Civil Service pension arrangements at one of the four rates available in the range of 26.6 to 30.3 per cent (2022/23: 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 Civil Service appointed stakeholder pension provider in 2023/24 or 2022/23. 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

	2023/24 £'000	2022/23 £'000
Hire of plant and machinery	5	4
Non case related expenditure including internal audit fees	29	30
IT service fees	262	194
Accommodation, interest expense on lease liability and utilities*,**	1,184	799
Travel, subsistence and hospitality	21	19
Other administration including case related expenditure	369	327
Audit fees***	46	41
<b>Non cash item</b>		
Depreciation and loss on disposed right of use asset, property, plant and equipment	1,321	1,293
<b>Total other expenditure</b>	<b>3,237</b>	<b>2,707</b>

Amounts recognised in the Statement of Comprehensive Net Expenditure.

	2023/24 £'000	2022/23 £'000
<b>Interest on lease liabilities**</b>	<b>57</b>	<b>48</b>

\*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.

## 7. Tribunal/CS's income and interest received

	2023/24 £'000	2022/23 £'000
Website and publication licensing income	2	2
Gross interest received	—	—
<b>Total income</b>	<b>2</b>	<b>2</b>

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

### Right of use asset

	8 Sal Sq ROU £'000
<b>Cost or valuation:</b>	
At 31 March 2023	8,018
Remeasurement	(7)
Additions	–
<b>At 31 March 2024</b>	<b>8,011</b>
<b>Depreciation:</b>	
At 31 March 2023	3,352
Impairments	(2)
Charged in the year	801
<b>At 31 March 2024</b>	<b>4,151</b>
<b>Asset financing:</b>	
Net book value at 31 March 2023	4,666
Leased	4,666
<b>Asset financing</b>	
<b>Net book value at 31 March 2024</b>	<b>3,860</b>
<b>Leased</b>	<b>3,860</b>

	8 Sal Sq ROU £'000
<b>Cost or valuation:</b>	
At 31 March 2022	8,018
Additions	–
<b>At 31 March 2023</b>	<b>8,018</b>
<b>Depreciation:</b>	
At 31 March 2022	2,550
Charged in the year	802
<b>At 31 March 2023</b>	<b>3,352</b>
<b>Asset financing:</b>	
Net book value at 31 March 2022	5,468
Leased	5,468
<b>Asset financing</b>	
<b>Net book value at 31 March 2023</b>	<b>4,666</b>
<b>Leased</b>	<b>4,666</b>

## Property, plant and equipment

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	8 Sal Sq Fit- out & Dilapidations £'000	Total £'000
<b>Cost or valuation:</b>					
At 31 March 2023	810*	393*	9	2,830	4,042
Additions	63	20			83
Disposals	(1)				(1)
<b>At 31 March 2024</b>	<b>872</b>	<b>413</b>	<b>9</b>	<b>2,830</b>	<b>4,124</b>
<b>Depreciation:</b>					
At 31 March 2023	476	253	5	994	1,728
Charged in year	134	39	1	306	480
Disposals	(1)				(1)
<b>At 31 March 2024</b>	<b>609</b>	<b>292</b>	<b>6</b>	<b>1,300</b>	<b>2,207</b>
<b>Asset financing:</b>					
Net book value at 31					
March 2023	334	140	4	1,836	2,314
Owned	334	140	4	1,836	2,314
<b>Asset financing:</b>					
<b>Net book value at 31</b>					
<b>March 2024</b>	<b>263</b>	<b>121</b>	<b>3</b>	<b>1,530</b>	<b>1,917</b>
<b>Owned</b>	<b>263</b>	<b>121</b>	<b>3</b>	<b>1,530</b>	<b>1,917</b>

\* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £250,997, F&F assets with a value of £128,850 and Office Machinery assets with a value of £1,854 which have been fully written down but are still in use.

## Notes: CS accounts

	Information Technology (IT) £'000	Furniture and Fittings (F&F) £'000	Office Machinery £'000	8 Sal Sq Fit- out & Dilapidations £'000	Total £'000
<b>Cost or valuation:</b>					
At 31 March 2022	702*	395*	30	2,830	3,957
Additions	113				113
Disposals	(5)	(2)	(21)		(28)
<b>At 31 March 2023</b>	<b>810</b>	<b>393</b>	<b>9</b>	<b>2,830</b>	<b>4,042</b>
<b>Depreciation:</b>					
At 31 March 2022	359	217	18	688	1,282
Charged in year	122	38	1	306	467
Disposals	(5)	(2)	(14)		(21)
<b>At 31 March 2023</b>	<b>476</b>	<b>253</b>	<b>5</b>	<b>994</b>	<b>1,728</b>
<b>Asset financing:</b>					
Net book value at 31					
March 2022	343	178	12	2,142	2,675
Owned	343	178	12	2,142	2,675
<b>Asset financing:</b>					
Net book value at 31					
<b>March 2023</b>	<b>334</b>	<b>140</b>	<b>4</b>	<b>1,836</b>	<b>2,314</b>
<b>Owned</b>	<b>334</b>	<b>140</b>	<b>4</b>	<b>1,836</b>	<b>2,314</b>

\* Included in the cost of fixed assets, shown in the table above, are IT assets with a value of £200,011, F&F assets with a value of £126,986 and Office Machinery assets with a value of £1,854 which have been fully written down but are still in use.

## 9. Intangible assets

	Purchased software licences £'000	Assets under construction £'00	SharePoint £'000	Total £'000
<b>Cost or valuation:</b>				
At 31 March 2023	97	27	–	124
Additions	71		–	71
Transfer of assets under construction	27	(27)	–	–
Disposals	–	–	–	–
<b>At 31 March 2024</b>	<b>195</b>	<b>–</b>	<b>–</b>	<b>195</b>
<b>Amortisation:</b>				
At 31 March 2023	79	–	–	79
Charged in the year	42	–	–	42
Disposals	–	–	–	–
<b>At 31 March 2024</b>	<b>121</b>	<b>–</b>	<b>–</b>	<b>121</b>
Net book value at 31 March 2023	18	27	–	45
<b>Net book value at 31 March 2024</b>	<b>74</b>	<b>–</b>	<b>–</b>	<b>74</b>

	Purchased software licences £'000	Assets under construction £'00	SharePoint £'000	Total £'000
<b>Cost or valuation:</b>				
At 31 March 2022	72	–	31	103
Additions	25	27	–	52
Disposals	–	–	(31)	(31)
<b>At 31 March 2023</b>	<b>97</b>	<b>27</b>	<b>–</b>	<b>124</b>
<b>Amortisation:</b>				
At 31 March 2022	63	–	30	93
Charged in the year	16	–	–	16
Disposals	–	–	(30)	(30)
<b>At 31 March 2023</b>	<b>79</b>	<b>–</b>	<b>–</b>	<b>79</b>
Net book value at 31 March 2022	9	–	1	10
<b>Net book value at 31 March 2023</b>	<b>18</b>	<b>27</b>	<b>–</b>	<b>45</b>

## 10. Trade and other receivables

Analysis by type

	31 March 2024 £'000	31 March 2023 £'000
<b>Amounts falling due within one year:</b>		
Deposits and advances	8	8
Other receivables	–	2
Prepayments and accrued income	132	598
<b>Total trade receivables and other receivables</b>	<b>140</b>	<b>608</b>

There were no balances falling due after one year.

## 11. Cash and cash equivalents

	2023/24 £'000	2022/23 £'000
Balance at 1 April	1,542	2,843
Net change in cash balances	846	(1,301)
<b>Balance at 31 March</b>	<b>2,388</b>	<b>1,542</b>
The following balances were held at 31 March:		
Cash in Government Banking Service (GBS)	2,388	1,542
<b>Balance at 31 March</b>	<b>2,388</b>	<b>1,542</b>

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

### (a) Analysis by type

	31 March 2024 £'000	31 March 2023 £'000
<b>Amounts falling due within one year:</b>		
Payables representing activities of the Tribunal at 31 March	717	659
Taxation and social security	43	52
Trade Payables	66	127
Accruals	324	417
Untaken leave accrual	53	66
8 Salisbury Square lease liability*	1,036	1,032
<b>Total amounts falling due within one year</b>	<b>2,239</b>	<b>2,353</b>
<b>Amounts falling due after more than one year:</b>		
8 Salisbury Square lease liability*	3,792	4,807
Legal Funds Liability	400	400
<b>Total amounts falling due after more than one year</b>	<b>4,192</b>	<b>5,207</b>

\* 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 Statement of Comprehensive Net Expenditure and referred to in Note 6.



## 13. Provisions

### (a) Pension-related provisions for liabilities and charges

	Long service award costs £'000
Balance at 31 March 2023	294
Provided in the year	29
<b>Balance at 31 March 2024</b>	<b>323</b>

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

	2023/24 £'000	2022/23 £'000
No later than one year	153	131
Later than one year, and not later than five years	80	73
Later than five years	90	90
<b>Balance at 31 March</b>	<b>323</b>	<b>294</b>

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 2024. 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 previous President is £80,000 and current President is £4,000. There is a further provision of £239,000 for long service awards payable to a few fee-paid Tribunal Chairs.

### (c) Provisions

	31 March 2024 £'000	31 March 2023 £'000
<b>Dilapidations for 8 Salisbury Square</b>	<b>530</b>	<b>530</b>

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 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. Lease Liabilities

A maturity analysis of lease liabilities within scope of IFRS 16 – Leases, based on undiscounted gross cashflows, is reported in the table below.

	2023/24 £'000	2022/23 £'000
<b>Maturity analysis – contractual cashflows: undiscounted</b>		
Not later than one year	1,103	1,089
Later than one year and not later than five years	4,130	4,330
Later than five years		882
<b>Total lease liabilities: undiscounted</b>	<b>5,233</b>	<b>6,301</b>

Amounts recognised in the Statement of Financial Position

	2023/24 £'000	2022/23 £'000
<b>Lease liabilities: discounted</b>		
Lease Liabilities: current liabilities	1,036	1,032
Lease Liabilities: non-current liabilities	3,792	4,807
<b>Total lease liabilities: discounted</b>	<b>4,828</b>	<b>5,839</b>

## 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 DBT 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 £2,388,000 as at 31 March 2024.

## 16. Related party transactions

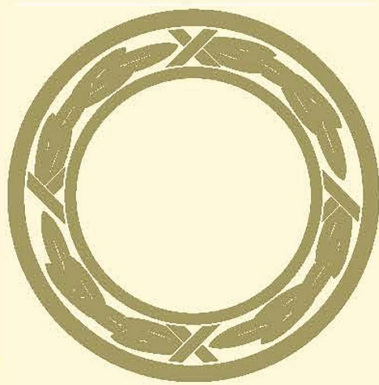
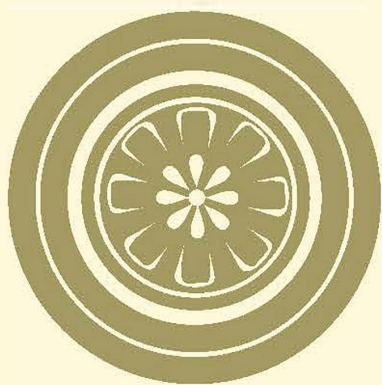
During the year, the CS had various material transactions with the GPA relating mainly to the occupancy of 8 Salisbury Square.

The CS received grant-in-aid from its sponsor department, DBT, 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 Ministry of Justice. Employer pension contributions for the current President were paid to the JPS.

Except for remuneration found in the Remuneration Report section of the Accountability Report, no Board member, key manager or other related party has undertaken any material transactions with the CS during the year.

## 17. 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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