STRENGTHENING THE ADMINISTRATIVE COURT IN WALES

A joint paper by Public Law Wales and the Standing Committee on Legal Wales

October 2006

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A. Purpose

1. The purpose of this paper is:

    i) to state the case for strengthening the Administrative Court in Wales;

    ii) to set out ways in which this can be achieved.

B. Origins of the paper

2. This paper has been prepared jointly on behalf of the Committee of Public Law Wales (the Wales Public Law and Human Rights Association) and the Standing Committee on Legal Wales.[1]

C. Summary

3. The Administrative Court in Wales, established in parallel with devolution to Wales in 1999, is an important element in satisfying what Lord Bingham has described as "..the need for the Principality of Wales to have its own indigenous institutions operating locally and meeting the needs of the citizens here."

4. The case for not only maintaining but indeed strengthening the Court, particularly in view of the further development of devolved government marked by the Government of Wales Act 2006, is overwhelming.

5. Yet although the operation, to date, of Administrative Court in Wales has been a great success, it has so far failed to achieve its full potential. It is not yet fully pre-eminent as the forum for the testing the legality of administrative action on the

[1] The membership of the Committee of Public Law Wales is set out in Appendix 1 and that of the Standing Committee in Appendix 2. Where individuals are identified as having a connection with an organisation the views expressed in this paper do not necessarily represent the view of that organisation.

part of devolved and local government in Wales. Many cases suitable for hearing in Wales continue to be heard in London.

6. The reasons for this failure to achieve the full potential of the Administrative Court in Wales (which are likely to be equally relevant to any move to decentralise the work of the Administrative Court in England) appear to be a mixture of conservatism and lack of knowledge on the part of some lawyers and their clients together with real practical difficulties revolving around the separation of the management of cases (which remains with the Administrative Court in London) from the listing and hearing of cases, which are dealt with on circuit. The ability to fix early and accurately predictable hearing dates for cases to be heard in Cardiff (or elsewhere in Wales) is often lacking.

7. The suggested use of video links for substantive hearings, which has recently been raised as a means of reconciling conflicting views as to whether a case should be heard in London or in Wales, is not a satisfactory solution to the problem. As well as the many practical objections to such an arrangement, it would undermine the growth of Cardiff (and other centres in Wales) as the natural venue for the hearing of Administrative Court cases relating to Wales.

8. The conclusions to which the paper comes are that in order to strengthen the Administrative Court in Wales so as to enable it to achieve its full potential and face a growing need for the service which it provides:

    - The Civil Procedure Rules should be amended to create a presumption that Administrative Court cases suitable for hearing in Wales should in fact be heard in Wales;

    - The management, including arrangements for the listing, of cases in the Administrative Court in Wales should be under the control of judges and court officials in Cardiff rather than split between London and Cardiff;

- That there should be encouragement of the hearing of cases which do not involve Welsh devolved or local government but which it are otherwise appropriate for hearing in Wales (e.g. challenges to action on the part of the UK government which relate specifically to some individual or locality in Wales).

D. History

9. Prior to 1999 Crown Office List business could only be commenced, under the then Rules of the Supreme Court, in the Crown Office in London. Whilst there was no formal restriction on where judges could hear Crown Office List business, all such business (other than under exceptional circumstances such as applications of the utmost urgency) was disposed of by judges sitting in London.

10. On the 30th June 1999 Lord Bingham CJ issued a Practice Direction making provision for a number of matters arising out of, or associated with, the creation of the National Assembly for Wales under the Government of Wales Act 1998.

11. Paragraphs 14.1 to 14.4 of the Practice Direction modified the existing practice in relation to judicial review proceedings where those proceedings involved:

    a) a devolution issue arising out of the Government of Wales Act 1998; or

    b) any issue concerning the Welsh Assembly, the Welsh executive or any Welsh public body (including a Welsh local authority).

12. On 20th July 2000 Lord Woolf CJ issued a Practice Direction re-constituting the Crown Office List as the Administrative Court with effect from the 2 October 2000.

13. The Practice Direction of 30th June 1999 has now been further superseded by Practice Direction 54 (Judicial Review) corresponding to Part 54 of the Civil Procedure Rules 1998. This provides for judicial review proceedings to be brought

in the Administrative Court in Wales rather than the Administrative Court in London under the same circumstances as those referred to in the 1999 Practice Direction (devolution issues or other issues concerning the National Assembly for Wales, the Welsh executive or any Welsh public body including a Welsh local authority).

14. Although the 1999 Practice Direction and PD 54 relate specifically to judicial review proceedings and so do not relate directly to other Administrative Court business such as statutory challenges to planning decisions under sections 288 and 289 of the Town and Country Planning Act 1990 a practice has been adopted whereby documents relating, for example, to challenges to decisions made by the Assembly or its Planning Inspectors on appeal from local authorities may be filed in the Administrative Court in Wales and hearings held in Wales.

E. The purpose of the establishment of the Administrative Court in Wales

15. The establishment of the Administrative Court in Wales is an expression of the principle that the organisation of the courts in Wales should meet that which Lord Bingham CJ described as:

> "..the need for the Principality of Wales to have its own indigenous institutions operating locally and meeting the needs of the citizens here." (speech by Lord Bingham when opening the Mercantile Court at Cardiff, May 2000).

16. This principle, namely that Wales, as a national community within the England and Wales legal jurisdiction, should have its own indigenous legal institutions, is also recognised in the DCA consultation paper "Focusing judicial resources appropriately" (October 2005) which (paragraph 78) recognises that Cardiff's claim to be treated as a major centre for focusing High Court judicial resources should be based on its status as a capital city. It is also acknowledged by the fact

that the Court of Appeal (both criminal and civil divisions) now sits regularly in Cardiff.

17. Since 1999 the need for the development of indigenous legal institutions in Wales has increased further. The National Assembly for Wales has developed patterns of local and national governance which reflect a distinctively Welsh approach. Legislation which relates to fields as diverse as child care, education, the organisation of the National Health Service and town and country planning has developed along different lines from England.

18. There has been an upturn in the fortunes of the Welsh language, with the 2001 census revealing the first increase in the proportion of Welsh speakers since records began, a greater entrenchment of the principle of equality of treatment for the two languages in the conduct of public affairs, including the work of the courts (see for example the HMCS Welsh language scheme under the provisions of the Welsh Language Act 1993) and a consequent emphasis on development of the use of Welsh in the courts.

19. A major landmark was reached in 2006 with the enactment of a new Government of Wales Act under which the Assembly will be able, in relation to specific matters within devolved fields, to make legislation (Assembly Measures) having the same effect as Acts of Parliament. The Act also provides for the creation of an officer of state, Counsel General to the Welsh Assembly Government, a member of the Welsh Assembly Government, whose role will include ensuring effective representation for the Assembly Government in the courts.

20. The opening of this new chapter in the development of devolved government will coincide with the reconfiguration of Her Majesty's Court Service so that Wales is no longer part of a Wales and Cheshire region. This will mean that organisation of the courts in Wales along lines which reflect purely Welsh needs will be possible

for the first time since Wales was integrated into the English system of courts by abolition of the distinctively Welsh Court of Great Session in 1831.

21. All these developments amply vindicate the vision of Lord Bingham in initiating the process of creating an Administrative Court in Wales. They lead to the inescapable conclusion that the Court must not only be maintained but indeed must be further strengthened.

F. Relationship to the proposals set out in "Focusing judicial resources appropriately"

22. A key proposal set out in the consultation paper was that a number of centres (including Cardiff) should be developed as major centres for the High Court judiciary where there would be greater emphasis on an ability to use judicial resources efficiently by enhanced team working. There would be greater co-ordination of the listing of work requiring the skills of the High Court judiciary across the criminal, civil (including chancery, mercantile and TCC) and family jurisdictions, so that work could be allocated with the minimum delay to a judge qualified to hear it. As part of such a development it is suggested that a greater variety of work could be handled by High Court judges outside London. A particular example cited is that of Administrative Court work.

23. Subject to one caveat, these proposals are entirely consistent with and complementary to the principle that Wales should have its own indigenous legal institutions. To the extent that there is already an Administrative Court in Wales, Wales has already moved in the direction mooted for the larger English provincial centres. The experience of the operation of the Administrative Court in Wales should be invaluable in enabling the proposals for decentralising Administrative Court work in England to work effectively.

24. The one note of caution which must be sounded in relation to the effect on Wales of the decentralisation of Administrative Court work in England is that effective

precautions are needed to avoid a weakening of the Administrative Court in Wales by the hearing of cases originating in North and Mid Wales in Manchester, Liverpool and Birmingham. For historical reasons the pattern of communications in Wales has developed on East-West rather than North-South lines and whilst the establishment of the National Assembly has begun to address this anomaly, it remains a fact, and will to some extent always be the case, that Manchester and Liverpool are significantly more accessible from many parts of North Wales than Cardiff and that the same is true in relation to Birmingham for many parts of Mid Wales.

25. The organisation of the legal profession has naturally been influenced by ease of communication and by the pre-eminent position which the organisation of the courts has, since the middle ages, accorded to a centre in the North-West of England (Chester) in the administration of justice in North and Mid Wales. For these practical and historical reasons there would be an inevitable temptation for solicitors in North and Mid Wales, if faced with a choice between a hearing in Cardiff or one in Manchester, Liverpool or Birmingham, to prefer one of the latter.

26. At present the choice is between a hearing in Cardiff and a hearing in London. For reasons which will be discussed below, many solicitors in Wales continue to prefer their Administrative Court cases to be handled in London. An effective solution to this existing problem is likely also to solve any similar problem which a future development of Administrative Court sittings in England outside London might generate. If no effective solution to the problem of leakage to London of Administrative Court work suitable for handling in Wales is put in place, then the proposal to decentralise Administrative Court work to centres in England outside London could well lead to a weakening of the Administrative Court in Wales.

G. Has the Administrative Court in Wales been a success?

27. There are two possible criteria for measuring the success of the Court, depending on how one formulates its aim.

28. If one sees the aim of the Court as being the modest one of providing a facility for the hearing of Administrative Court business in Wales then its success cannot be denied. It has demonstrated the practicability of handling such work outside London. It has avoided the constitutional impropriety of the Welsh government and other Welsh public authorities having to appear before the courts in England to defend the legality of their actions, which would have been the case had it not been created. Although not something capable of objective proof, the authors of this paper believe that the improvement of accessibility which flows from the hearing of Administrative Court cases in Wales leads to a better understanding and acceptance by litigants of the reasons for the decisions of the courts, even where adverse.

29. The benefits of greater accessibility extend also to the public, who usually have a major interest in the outcome of Administrative Court cases. Hearings in Cardiff or at other locations in Wales are often well attended and reported, with the result that the general public are able to understand the function of the courts in relation to challenges to administrative action. Where cases are heard in London it is extremely rare for the general public to be able to attend, and media coverage is usually limited and superficial.

30. The authors would go so far as to say that the judiciary are also assisted in reaching a just conclusion by the fact that a hearing takes place within the environment in which the action under scrutiny was taken, which is also the environment in which the consequences of their judgements will be felt.

31. If on the other hand on sees the aim of the Administrative Court in Wales as being to provide the natural forum in which all Administrative Court work in arising in Wales should be heard then it cannot be claimed to have succeeded. The authors

do not have access to any relevant statistics measuring the number of Administrative Court cases heard in Wales since 1999 nor to the proportion of cases which could be heard in Wales but which are nevertheless heard in London.[2] In the absence of such statistics the authors have to fall back on their own individual experience. This suggests, firstly, that there is not the growth in the work of the Administrative Court in Wales which would be anticipated and, secondly, that this is explained by the fact that a large proportion of the work which could be heard in Wales continues to be heard in London. Appendix 3 gives details of a number of cases of which the authors are aware which should have been heard in Wales but which were actually listed in London.

H. Factors limiting the development of the Administrative Court in Wales

32. What are the factors which lead to the hearing in London of Administrative Court cases which could be heard in Wales?

33. For a case to be regarded as pending in the Administrative Court in Wales it must have been commenced in that court. It does not inevitably follow of course that even if commenced in London it cannot be heard in Wales (or of course vice versa) but if litigants choose to commence their cases in London it is not surprising if the Administrative Court in London assumes that that they prefer the case to be heard there. Yet a decision to issue proceedings in London rather than in Cardiff is almost always based on nothing more than ignorance of the alternative possibility[3] or conservatism of habit.

34. Litigants may be represented by solicitors based outside Wales who may more understandably be unaware of the existence of the Administrative Court in Wales.

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[2] When researching a paper on the Administrative Court in Wales in 2004 one of the authors made a request for such statistics but was told they were not available.

[3] The Law Society and the Welsh Local Government Association recently circulated their members reminding them of the facility of issuing proceedings in the Administrative Court in Wales and this led to a considerable number enquiries made to the Civil Justice Centre in Cardiff about the matter, suggesting a significant level of previous lack of awareness by practitioners.

If those solicitors are based in London they may of course wish, for their own convenience, to keep the handling of the case there. Solicitors in Wales who might otherwise be quite happy for their cases to be commenced and heard in Cardiff may be influenced by the preferences of counsel based in London. There is also the geographical issue alluded to above. The relative attractions of having a case heard in Cardiff rather than London will appear quite different to litigants and their advisers if they are based in Wrexham rather than in Pontypridd.

35. These factors contribute to cases which should from the outset have been identified as Administrative Court in Wales cases never achieving that status, with the result that unless a special effort is made to arrange for them to be heard in Wales they will naturally be heard in London. There are however, the authors believe, significant numbers of cases commenced in the Administrative Court in Wales but which are nevertheless heard in London. How does this come about?

36. At present the Administrative Court in Wales is essentially a post box enabling documents to be filed at the Civil Justice Centre in Cardiff as an alternative to filing them at the Royal Courts of Justice in London. Management of a case, once commenced, takes place in London, by the staff and judiciary there. Although the presumption will be that a case commenced in the Administrative Court in Wales will be heard in Wales it is entirely possible for it to be directed for the case to be heard in London instead.

37. Where a case has been commenced by a claimant in Cardiff, and that claimant prefers that the case be heard in Wales, the defendant may take a different view and prefer the case to be heard in London, praying in aid questions of convenience, etc.. The court then has a discretion as to whether to accede to the defendant's preference. Unless such requests are firmly resisted by the party who would prefer the case to be heard in Wales then there is a real danger that they will succeed. A party may lack the confidence to take a stand on the matter in the

absence of any over-riding presumption that Welsh cases should be heard in Wales.

38. A more fundamental problem than the preferences of legal advisers is that of the lack of control which those managing the case in London have over the listing of cases in Wales. The facility to discuss with parties the earliest date at which a case can be conveniently listed for hearing and ultimately to decide when a case should be listed would appear to be a fundamental feature of any effective system of case management. The Administrative Court in London is directly in control of the listing of work before the judges sitting there and so has this facility. This is not the case in relation to cases to be heard in Wales. The listing of cases in Wales is in the hands of the listing officers at the various court centres, who have to juggle a number of competing demands on the time of those High Court judges sitting in Wales who are qualified to hear Administrative Court cases. Such demands include the need to list heavy criminal work which may, in view of the needs of witnesses etc. have to take priority.

39. The result is that when managing a case, the Administrative Court in London will be able to predict with reasonable certainty when a judge will be available to hear a particular case in London and a date can be fixed accordingly, but will not be able to do so in relation to cases listed in Wales, even after consulting the local listing officer. Faced with a choice between accepting a definite date for a hearing in London or an indefinite arrangement for a case to be heard in Wales, possibly at a significantly later date than if it were heard in London, it is hardly surprising if parties are prepared not to insist on a hearing in Wales. Obviously pressures to accept hearing in London may be cumulative. The hand of a party who would prefer the case, for reasons of that party's convenience, to be heard in London, is strengthened immeasurably if there is an apparent risk that a hearing in Wales will lead to delay.

I. The lessons

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40. The authors believe therefore that the two factors which are holding back the development of the Administrative Court in Wales are:

    i) the absence of any rule of practice that cases which qualify to be heard in Wales should, other than in exceptional cases, be heard in Wales; and

    ii) the separation of the function of managing Administrative Court in Wales cases from that of listing them for hearing.

41. These factors are obviously very relevant to any move to decentralise the work of the Administrative Court in England. Such a decentralisation will not achieve its potential unless it is underpinned by a clear policy that where cases are appropriate for hearing at a provincial centre outside London they should in fact be heard there and by robust arrangements for ensuring that the management of cases and in particular the identification of early convenient hearing dates is at least as effective as would be the case of the hearing were to be heard in London.

J. Objections to requiring qualifying cases to be heard in Wales

42. Both the 1999 Practice Direction authorising judicial review cases to be commenced in Wales and the present PD 54 make it clear that an applicant may choose whether to commence proceedings in Wales or in London. Any move to discourage the commencement or hearing of cases in the Administrative Court in London if they could, instead, be commenced in the Administrative Court in Wales would no doubt generate some opposition on the grounds that it would;

    a) reduce choice;

    b) inconvenience litigants or lawyers based in London;

    c) inconvenience parties and lawyers who at present find it more convenient to travel from some parts of Wales to London than to Cardiff.

43. Such weight as these objections may warrant is far exceeded by the benefits of developing the Administrative Court in Wales as a genuine Administrative Court *for* Wales, something which cannot be achieved if substantial quantities of work which should be handled in Wales continue to be dealt with in London. The continuing development of devolved government means that the work of the Administrative Court in Wales will increasingly require a degree of appreciation of the working of Welsh governance which judges sitting in London hearing almost exclusively English cases will not be able to acquire. An Administrative Court responsive to the needs of Wales also calls for the development of a cadre of lawyers based in Wales who specialise in administrative law, and are fully versed in the growing body of specifically Welsh constitutional and administrative law. The near monopoly which London still holds over Administrative Court work inhibits such a development .

44. Objections based on difficulties of travel to Cardiff will diminish with time as communications between North and South are improved. In any event, arrangements for hearings to take place at venues such as Caernarfon or Mold will be able to be made by the Administrative Court in Wales in appropriate cases.

K. The issue of video links

45. Faced with the need, in the absence of any presumption in the Civil Procedure Rules as to where a case should be heard, with the need to weigh up conflicting preferences of the parties, and labouring under the difficulty of being unable to fix early hearing dates in Cardiff with certainty, the Administrative Court has inevitably sought some means of reconciling these competing interests. Collins J, as lead judge of the Administrative Court has, recently, suggested on more than one occasion.[4]

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[4] See the notes relating to D.W.Greaves v. NAW and M. A. and A. C. Reynolds v. NAW and Gilfillan D.R. and B.F. in Appendix 3.

46. NAW has expressed itself as fully supportive of the use of video links in the case of preliminary hearings and reserved judgements but has opposed them in the case of substantive hearings, an approach which the authors of this paper fully support. There are inevitable practical difficulties associated with video links. The free flow of argument is interrupted. A dedicated fax machine can cope with individual A4 documents but not the handing around of bulky maps and plans which often play a part in Administrative Court work.

47. The main objection however is that such an arrangement inevitably gives the appearance of an inequality of arms. One party is in the same room as the judge and able to communicate with him or her directly. The other is some hundreds of miles away and can only communicate with the judge via a telephone line and a camera. Whilst lawyers may be able to accept that this lack of symmetry has no practical effect on the outcome, a losing client whose case has been presented via a video link may very well feel that this is why the case was lost and deep sense of grievance will have been unnecessarily created.

48. These objections apply to the use of video links for substantive hearings whether the judge is sitting in London with a link to Cardiff or sitting in Cardiff with a link to London. In practice however the arrangement has been suggested in order to avoid listing Administrative Court cases in Cardiff. It is unavoidable that it should be seen as a suggestion which, if adopted, would fundamentally weaken the Administrative Court in Wales. This is particularly so because those faced with the choice of attending a substantive hearing in London or participating via a video link form Cardiff will almost always prefer the former. So to avoid the use of video links parties will, in practice, be forced to forego the facility of having their cases heard in Wales. The rationale of the Administrative Court in Wales would therefore be fatally undermined.

L. How to strengthen the Administrative Court in Wales

49. The authors propose:

a) that the present Practice Direction (PD 54 Judicial Review) should be revised so that claims for judicial review which may, under paragraph 3.1, be brought in the Administrative Court in Wales, should be required to be brought and heard in that Court and that if brought in the Administrative Court in London, should immediately be transferred to the Administrative Court in Wales. (The corresponding revision should be made to the practice relating to other Administrative Court business appropriate to be handled in Wales – primarily statutory challenges under the Town and Country Planning Act 1990). Provision should of course be made for exceptions to the rule (for example where a common issue arises in cases proceeding simultaneously in the Administrative Court in Wales and in the Administrative Court in London) but the presumption should be that cases suitable for hearing in Wales should be heard in Wales.

b) that the management, including the listing for hearing, of cases pending in the Administrative Court in Wales should in future be the function of officers of that Court in Cardiff and of judges sitting in Wales. To achieve the maximum benefit it would appear that close co-ordination of the listing of work across the criminal, civil (including chancery, mercantile and TCC as well as Administrative Court work) and family work would be needed. Such a proposal therefore has implications for the listing of other specialist work such as chancery, mercantile and TCC work also, and would involve some loss of autonomy in the listing of work in such areas. This, however, already seems to be implicit in the "Focusing judicial resources appropriately"

proposals and is unavoidable if the benefits of increased coordination and pooling of High Court judicial resources are to be achieved.

c) encouragement should also be given to the listing for hearing in Wales of cases against the UK government arising out of actions relating to Wales. If the work of the Administrative Court in England is to be decentralised to major English provincial centres such as Manchester and Birmingham this will require a commitment on the part of the UK government (via the Law Officers and the Treasury Solicitor) to having cases in which they are involved listed outside London. It should be possible to take advantage of this to encourage the UK government to adopt a similar practice in relation to the hearing of cases in Wales in non-devolved fields but where there is a strong Welsh connection.

Public Law Wales (The Wales Public Law and Human Rights Association)

The Standing Committee of Legal Wales

2nd October 2006

APPENDIX 1

Public Law Wales

PUBLIC LAW WALES (The Wales Public Law and Human Rights Association) was founded in 1998 and is one of the specialist associations established as part of the legal profession in Wales' response to devolution. It currently has over a hundred individual and corporate members representing lawyers in private practice, the public sector and academia. It hold regular meeting and contributes to consultations on public law issues. In February 2003 the Association arranged a seminar on legal profession's experience of the Government of Wales Act 1998 for the Richard Commission.

The current members of the Committee of the Association are:

Dianne Bevan is a solicitor and Deputy Clerk to the National Assembly for Wales.

Keith Bush is a barrister practising from 30 Park Place, Cardiff and is former Legislative Counsel to the Welsh Assembly Government and, previously, head of the Transport, Planning and Environment legal team.

Nicholas Cooke Q.C. is leading counsel practising from 9 Park Place, Cardiff, a major part of whose practice is in the fields of public law. He has ben the chair of Public law Wales since 1998.

David Daycock is Head of legal Services and Monitoring Officer of the Council for the City and County of Swansea. He has a particular interest in licensing law. He also teaches Public Law in the Department of Law at the University of Swansea.

Milwyn Jarman Q.C. is leading counsel practising from 9 Park Place, Cardiff. His practice is predominantly in the field of public law and he has frequently acted for the Welsh Assembly Government of the National Assembly for Wales in the Administrative Court. He is also Chair of the Wales Specialist Bar Association.

Tim Jones is Professor of Public Law at Swansea University and is Treasurer of Public Law Wales

David Lambert is former Legal Adviser to the Welsh Office.

Tessa Shellens is a consultant to the firm of Morgan Cole, solicitors, at their Cardiff office. She specialises in advising public sector bodies in relation to health law issues, having previously worked for 16 years as a solicitor in the Welsh Office.

Rhodri Williams is a barrister practising from 30 Park Place. He is a member of the Welsh Assembly Government's panel of counsel and has often acted for the Welsh Assembly Government in the Administrative Court.

Huw Williams is the partner in charge of public law (principally planning, compulsory purchase, local government and public sector governance) at Geldards LLP, based at their Cardiff office. He was Treasurer of the Association from 1998 to 2005 and gave evidence to the Richard Commission on behalf of both the Law Society and the Association.

APPENDIX 2

THE STANDING COMMITTEE ON LEGAL WALES was established in 2002 on the initiative of the then Counsel General for Wales (Winston Roddick Q.C.) as a forum to bringing together the various strands of legal life in Wales and provide a forum "...for the discussion and formulation of views and proposals for action on issues affecting the administration of justice, the teaching and researching of law and the provision of legal services a they affect Wales". The Committee is recognised consultee on legal affairs by the National Assembly, the Welsh Assembly Government and the Department for Constitutional Affairs. The bodies currently represented on the Committee are:

Wales and Chester Circuit

The Law Society of England and Wales

Associated Law Societies of Wales

Public Law Wales (The Wales Public law and Human Rights Association)

The Wales Commercial Law Association

The Wales Criminal Lawyers Association

The Law School, Cardiff University

The Law School, University of Glamorgan

The Law School, University of Wales, Swansea
The Law School, University of Wales, Aberystwyth
The Law School, University of Wales, Bangor
Her Majesty's Courts Service
Director of legal Services, Welsh Assembly Government
Crown Prosecution Service
Tribunal Service in Wales
Solicitors in Local Government Group
Eversheds LLP
Morgan Cole
Geldards LLP
Hugh James
Sedan House Chambers
9 Park Place Chambers
30 Park Place Chambers
Members of the Judiciary of England and Wales also attend meetings of the Committee by invitation.

APPENDIX 3

Jones v Ceredigion CC [2004] EWHC 1376 (education);
This was a case concerned with the provision of free transport by Ceredigion CC for a pupil to a Welsh-medium secondary school.

C D v Isle of Anglesey CC [2004] EWHC 1635 (children);

X and X v Caerphilly CBC [2004] EWHC 2140;

Cummings v Cardiff CC [2004] EWHC 2295 (taxi licensing);

R (Carmarthenshire CC) v West Wales Valuation Tribunal [2004] EWHC 223 (council tax);

R (Tracy) v Bangor MC [2004] EWHC 172 (magistrates' court procedure);

Community Power Limited v NAW and Neath and Port Talbot CBC [2004] EWHC 2186 Admin (planning).

This case was apparently listed in London through an oversight on the part of the Administrative Court Office and a promise was made that procedures would be tightened.

Condron v. NAW and Miller Argent (South Wales) Ltd. [2005] EWHC 3007 Admin (planning)

This was a very high profile case involving an allegation of an appearance of bias on the part of the Minister for the Environment, Planning and Countryside. Representations on the part of NAW that it should be listed in Cardiff were unsuccessful. The judge hearing the case required considerable assistance to understand the impact of devolution on the operation of the planning system in Wales.

D.W.Greaves v. NAW (highways)

It proved impossible to list this case in Wales at an early date, due, apparently, to difficulty in identifying a judge to hear it. Since the challenge was to a Compulsory Purchase Order, delay in hearing the case meant potential delay to an important road improvement scheme. Mr. Justice Collins, as lead judge of the Administrative Court, suggested a hearing in London with a video link to Cardiff. NAW did not feel such an arrangement was satisfactory but in the end were forced to accept it rather than suffer further delay although, as it happened, the case then settled.

Following this experience NAW wrote to Evans J as Presiding Judge setting out the difficulties which had been encountered in listing this and a number of other cases in Wales. This led to discussions between Davis J, as Presiding Judge, the

Administrative Court in London and the Civil Justice Centre in Cardiff, with a view to strengthening liaison.

M. A. and A. C. Reynolds v. NAW and Gilfillan D.R. and B.F.

This case is current and the issue of where it should be heard is under consideration. NAW has asked that it be listed in Cardiff. The Claimants have asked that it be listed in London, on the grounds that one of the Claimants is in poor health. No decision has yet been taken but Collins J has again made the suggestion that the case could be heard by a judge in London but with a video link to Cardiff, a suggestion with which the Claimants agree but to which NAW is opposed.