

# **An Analysis of the Rationale for the Introduction of a Unified Appeals System in Ireland**

*Nicola Commins*

August 2007

A dissertation submitted to the National University of Ireland, Galway in  
accordance with the requirements of the degree of Master of Economic  
Science.

Head of Department: Mr. Brendan Kennelly  
Supervisor: Professor K. Vela Velupillai

## **Abstract**

This report examines, using four key indicators, whether the separate appeals boards in Ireland are meeting the standards of efficiency and best practice, as set by some of those countries which are considered to be the leaders in this area internationally.

This analysis provides a framework for the discussion of potential reforms, through the introduction of a common appeals board.

The current system, in which the decisions of government departments are reviewed by a wide range of separate offices, has been criticised for its perceived lack of independence and inefficient operations.

This dissertation examines the speed, independence, simplicity and costs involved in appeals procedures in Ireland. These are compared with data from the United Kingdom and Australia, in which a variety of appeals are carried out under a unified system, overseen by a general administrative body.

It concludes that international systems process cases more quickly than Irish boards, while also operating under a more clearly independent body. Although Ireland has only been shown to definitively lag in two key areas, there is scope for much improvement in this system. This could be provided by a reformed structure, which balances the independence of a unified system with some of the efficiencies and expertise of the current Irish appeals boards.

## **Acknowledgements**

Firstly, I would like to thank my supervisor, Professor Velupillai, for his expert advice and guidance throughout the composition of this dissertation. It was of great assistance.

I must also express my gratitude to Dan Kavanagh, Brian Flynn, Vincent Long and Jack O'Shea for their support and direction. They, along with all the staff of the Social Welfare Appeals Office, made my time there both interesting and enjoyable.

Last but not least, a special thank you to my family- my parents, Denise and Damian, and brothers Mark, Barry and Niall, as well as my friends, for their constant support and encouragement. It is sincerely appreciated, as always.

## **Declaration**

This dissertation is submitted to the National University of Ireland, Galway in accordance with the requirements of the degree of Master of Economic Science. It is entirely my own work and has not been submitted to any other University or higher education institution, or for any other academic award in this University.

Signature: \_\_\_\_\_

Nicola Commins (August 2007)

## Table of Contents

<b>Abstract</b> .....	i
<b>Acknowledgements</b> .....	ii
<b>Declaration</b> .....	iii
<b>Introduction</b> .....	1
<b>1: Theoretical Framework: Public Administration Theory</b> .....	4
<b>2: Current Irish Appeals System</b> .....	6
2.1: Structure .....	7
2.2 Appeals process .....	8
2.3 Rules .....	9
2.4 Summary.....	10
<b>3: International Approaches</b> .....	12
3.1 United Kingdom .....	12
3.2 Australia .....	15
<b>4: Empirical Analysis</b> .....	17
4.1 Simplification of Procedures .....	19
4.2 Economic Costs .....	20
4.3 Speed of Appeals Procedures .....	21
4.4 Independence .....	22
4.5 Analysis of results .....	23
4.6 Summary.....	27
<b>5: Conclusion</b> .....	28
5.1 Results .....	28
5.2 Policy arguments .....	29
5.3 Potential structure of reformed system.....	31
5.4 Summary.....	33
<b>Bibliography</b> .....	35

## **Introduction**

The general objective of this report is to examine, under the framework of Public Administration Theory, whether a unified appeals system in Ireland would be more capable of meeting the standards of best practice for appeals services, as set by international systems, than the current separate structures allow. This will analyze whether this alternative could lead to greater public sector allocative efficiency by reducing costs, improving appeal times and simplifying practices.

Over recent years, numerous reports and internal reviews have highlighted problems within the current separate appeals system, which appear to exist across almost all of the individual government departments, regardless of their size or area of appeal. These include: lengthy delays in processing appeals, unnecessary duplication of procedures, cost inefficiencies, as well as a perceived lack of independence from the departments whose decisions are the subject of appeal. The inconsistency of rules and practices across these appeals boards is also a cause for concern, leading to significant confusion among the public.

The suggestion of combining the administrative functions of these separate appeals systems into one unified structure has been raised on several occasions throughout the literature in this area. Sean Barton, of McCann FitzGerald, recently commented that “the government should establish a single appeals body to hear all technical challenges to decisions by public bodies in order to reduce costs and improve regulatory efficiency” (Inside Government, 2006). This was reiterated by the Government White Paper, ‘Regulating Better’, which suggested that such a single appeals panel could “facilitate a more expedient and cost effective alternative to judicial review” (Dept. of the Taoiseach, 2004).

However, no comprehensive review of the efficiency of the different Irish appeals systems has been undertaken to date, which would give an indication of the need for reform. There is also a need to discuss what constitutes best practice in terms of government administration in general, and more specifically relating to appeals services.

This report aims to do just that. It will assess the efficiency levels currently being achieved in a selected number of the appeal offices in the Irish system. This is measured in terms of

independence from political interference, effective use of resources, level of simplification of appeals processes and speed of service delivery. These criteria are based on issues highlighted by customers and government officials, who have expressed dissatisfaction with practices which give rise to “delays in giving decisions and confusion and poor customer service” (Social Welfare Appeals Office, 2007). They also follow the theory of public administration, which focuses on the importance of streamlined and coordinated organisational activities.

These indicators from Ireland will be compared with similar data from unified appeals systems in the United Kingdom and Australia. This will help to identify the scope for improving governmental practice, and to investigate the feasibility of introducing an alternative approach to appeals in this country.

For the purpose of my analysis, efficiency will refer to a situation in which the structure, functions, and processes of the appeals system meets the best practice standards set by the international leaders in this area. This would be observed by the achievement of low costs per appeal, speedy decision-making and balanced levels of coordination and independence.

The main focus of this report is on four selected appeals bodies - these being the Social Welfare Appeals Office (SWAO), the Agriculture Appeals Office, the Refugee Appeals Tribunal and the Employment Appeals Tribunal. They are some of the most well-established boards, or hear the greatest amount of appeals annually. These are all permanent and independently established bodies, which provide an appeals service against the decisions of their respective government departments.

Statistics relating to the smaller, more ad-hoc appeals boards proved more difficult to obtain, so they will only be examined in minor detail. These boards often operate on a part time basis, in the event of an appeal arising in their particular field, and so are not directly comparable with the permanently established offices. In many cases they hear little or no appeals in a year, meaning that data relating to average appeal times or the percentage of favourable outcomes provides no useful source of information. Some of these offices, which will be briefly discussed, include the Aquaculture Licences Appeals Board, the School Suspension and Expulsion Appeals, the Censorship of Films Appeals Board and the Valuation Tribunal.

While the Regulatory Appeals bodies are not explicitly examined in this dissertation, it would be expected that these too could be incorporated into the proposed state appeals board. The findings from the main appeals organisations in this report, and possible suggestions for a general unified system, could be extended and adapted to fit the requirements of these regulatory appeals boards in the future.

It is hoped that this report will contribute towards a clearer understanding of the potential administrative efficiency gains to be achieved through consistency of procedures, economies of scale, and concentration of expertise which could result from the introduction of a common state appeals board. This would help to highlight the need for policy reform in this area, and could be further explored in order to make definite policy recommendations. This is necessary in order to ensure that limited government resources are not being wasted on an appeals system which could function much more competently and efficiently under an alternative structure.

The remaining paper will be structured as follows:

Section 1 outlines the general theoretical framework of public administration theory, under which the efficiency of the appeals system will be analysed.

Section 2 discusses the current government appeals systems in Ireland, and highlights areas in need of reform. It focuses on four selected appeals boards, looking at smaller additional bodies in minor detail.

Section 3 examines international approaches to appeals proceedings, in particular the UK and Australia. This discusses methods through which best practice is being achieved, and the potential for similar efficiency savings in Ireland.

Section 4 contains an empirical analysis of the efficiency of the Irish appeals system, in comparison with international standards. This uses best practice or efficiency indicators to analyse whether the current Irish system could operate more efficiently under a unified appeals body.

Section 5 concludes and discusses potential policy recommendations.

## **1: Theoretical Framework: Public Administration Theory**

The issue of efficiency in government administration is a long standing one in numerous fields such as economics, sociology and business administration. Public Administration Theory represents a combination of these disciplines. This multidisciplinary framework, which forms the theoretical backdrop to this dissertation, discusses efficiency and equity arguments for introducing centralised approaches to organisations and government structures.

The Theory of Public Administration is a study of the structure and processes of governmental and private institutions. It highlights the importance of simplified structures for decision-making, which achieve efficiency without the introduction of excessive bureaucracy or concentration of power in one area. This theory was developed by Herbert Simon and his associates at Carnegie-Mellon University from the 1940's onwards, and continues to be an area of strong debate. Its primary focus is on the structure of organisations-both public and private, and how they make decisions. Their aim is to achieve efficiency in supplying goods and services, under constrained information and bounded rationality.

How do we define government efficiency and identify best practice procedures? As there is no single ideal government structure, it must continually adapt to changing economic and demographic trends and take account of complex relationships. Efficiency in general is defined as the optimal use of scarce resources to achieve given ends. However, this theoretical framework focuses on efficiency in terms of an "organizations ability to coordinate complex activities efficiently". (Simon, 2000)

Public Administration Theory argues that organisations must often be content with "satisficing". They must often settle for the best available choices, which reduce the complexity of their operations and meet the requirements of their customers and society as a whole.

Traditional economic theories tend to argue in favour of decentralisation of governments, as these benefit from more localised information. They also remove power from the hands of a few, by distributing an organisation's influence more evenly. However, bureaucracy

and democracy must be reconciled. A large number of separate operations may be more democratic, but in many cases inconsistent procedures creates confusion among customers and ultimately leads to inequitable service provision.

Simon's approach recognises that information is a scarce resource, and the collection of information is constrained by complex systems. Organisations and governments must strive for the best structure and division of work, given these information processing limitations. It is argued that the concentration of expertise in one area allows for shared learning and increased efficiency. Near-decomposability is a key issue highlighted in this theory, which involves balancing the benefits of coordination with the appropriate division of labour. "Specialization effects arise, which go hand in hand with the need for qualitative coordination of complementary activities. Hence (dynamic) efficiency requires that these rights and claims be perfectly partitioned." (Reinstaller, 2006)

For this reason, Simon has analysed organisational operations and routines designed to simplify the complexity of making choices. He seeks to reduce the intricacy of decision-making and emphasises the need for the streamlining of various decisional and organisational structures and procedures. The main step in designing an effective organisation is to determine "what kinds of interdependencies in its activities will benefit from coordination, and then to minimize the amount of coordination by partitioning activities" through division of work among different hierarchical levels. (Simon, 2000)

Essentially, efficiency under this theory is defined by an organisation which maintains a "reasonable balance between the effectiveness that large organizations can sometimes provide and an avoidance of concentration of power in a few places." (Simon, 2000)

## **2: Current Irish Appeals System**

At present, there is no dedicated structure or guidelines for government appeal proceedings in Ireland. There are numerous appeals bodies, each with their own rules and processes, dealing with cases from several of the different government departments.

These function at varying quality standards, some dealing with large numbers of appeals in a cost effective manner, others merely established on an ad-hoc basis, to deal with cases as they arise. For this reason these separate appeals systems have been criticised for lacking a consistent approach to the review of decisions made by government departments and officials.

Some of the bodies which have been established on a permanent and independent basis include:

- The Social Welfare Appeals Office
- The Agriculture Appeals Office
- The Refugee Appeals Tribunal
- The Employment Appeals Tribunal

Each of these deals with their own area of expertise, spanning a variety of issues covered by different government departments. There is also a proliferation of smaller appeals bodies including the Censorship of Films Appeal Board, the Valuation Tribunal, the Schools Suspensions and Expulsion Appeals, the Garda Síochána Complaints Appeals Board and the Aquaculture Licences Appeals Board.

This dissertation has selected to focus primarily on the four largest, permanently established organisations, as listed above.

- The Social Welfare Appeals Office reviews the decisions of the Department of Social and Family Affairs as well as specific cases from the Health Service Executive (HSE). These topics range from disability allowance, child benefit, state pensions and entitlements to certain supplementary welfare allowances.
- The Agriculture Appeals Office hears appeals from farmers who are unhappy with decisions made regarding entitlements under Dept. of Agriculture and Food schemes.

- The area of expertise of the Employment Appeals Tribunal relates to disputes in employment rights under various forms of legislation.
- The Refugee Appeals Tribunal specialises in the review of decisions made by the Refugee Applications Commissioner that applicants should not be declared to be refugees.

The general organisational structures of these bodies tend to be quite similar, which could provide a rationale for their amalgamation under one combined administrative board. They also have the same function of reviewing decisions made by government departments. However, there appears to be many disparities in the rules and some of the administrative procedures operated among these separate appeals bodies.

## **2.1 Structure**

The longest established of these boards is the Social Welfare Appeals Office, which has been in operation on a formally independent basis since 1991, and which dealt with 14,006 appeals last year. This body is headed by the Chief Appeals Officer, who has responsibility for the overall administration of appeals. There is also a Deputy Chief Appeals Officer, an Office Manager, and approximately 52 other staff members, including 18 Appeals Officers. (Social Welfare Appeals Office, 2007)

The administrative structure is divided into sections, based on the functions performed in each area. Appeals cases move through these sections as the appeal is progressed. In this way, there is a division of labour among administrative staff which allows specialisation in one aspect of the appeals process, such as registration or control. Deloitte and Touche (2002) state that this structure “represents the most well organised means of resource management”, as it avoids duplication of processes, uses the lowest staff numbers possible and allows for the concentration of expertise in each area.

This organisational structure appears to have been followed by some of the more recently established boards. The Agriculture Appeals Office, The Refugee Appeals Tribunal and the Aquaculture Licences Appeals Board also operate under one main independent Chairperson or Director, with cases distributed out among numerous Appeals Officers or members. Administrative support is usually provided by a separate secretariat or

administration section. The Refugee Appeals Tribunal, among others, is similarly divided into a number of business units, dealing with individual functions of the appeals process.

The Employment Appeals Tribunal differs in that it operates in Divisions. Each of these consists of either the chairman or a vice-chairman and two other members, one drawn from the employee's side of the panel and the other from the trade union side. Its main administrative functions however, are carried out in the same way by a secretariat unit.

## **2.2 Appeals process**

The appeal application and decision-making process can be quite complex, and is an area that would benefit from greater coordination across government departments. While the four selected bodies in this report do not differ greatly in this regard, the procedures of some of the smaller organisations are inconsistent with this general approach to appeals.

In the SWAO, any individual wishing to make an appeal must send a notice of appeal to the Chief Appeals Officer within 21 days of notification of the original decision. The Appeals Office must then wait for a statement on behalf of the Deciding Officer, outlining the reasons for the original unfavourable decision. If a revised decision is not possible, the case is referred to an Appeals Officer for determination. Appeals can then be decided either on the basis of the documentary evidence alone, or following an oral hearing.

The Agriculture Appeals Office, established in 2002, appears to have followed the lead of the Social Welfare Appeals Office, as their underlying appeals process is almost the same. A notice of appeal is sent in by an appellant, whose case is then assigned to an Appeals Officer on receipt of the relevant file from the Department. Renewed decisions are then made either summarily or by an oral hearing, where the original decision may be upheld, amended or overturned.

The Refugee Appeals Tribunal requires that an official notice of appeal form be submitted to the Tribunal within the allowed time. Cases are assigned to Members of the Tribunal by the Chairperson. The Member examines each case and decides if it is necessary for further inquiries to be made to the Refugee Applications Commissioner. Where applicants do not request or are not entitled to an oral hearing, the appeal is considered on the papers and

documents supplied. In other cases, an informal oral hearing will take place. Appellants are then notified of the decision in writing.

In the case of the Employment Appeals Tribunal, a claim form is submitted, stating all relevant information. The details are then sent to a respondent, against whom the claim is being made. They are given 14 days to respond. Following the hearing of the case, the Tribunal makes a determination, which is final apart from the opportunity of judicial appeal to the High Court or Circuit Courts.

There is less consistency among the ad-hoc organisations. Appeals are generally heard by a small board or panel of members, rather than an individual appeals officer. Decisions are then voted on by each member, and a decision made depending on the specific majority rules of each body. In the case of the Censorship of Films Appeal Board, there are 9 board members, with a majority of 4 or more required for a decision. The Censorship of Publications Appeal Board only requires a simple majority of its member for a decision. The Valuation tribunal also makes determinations on the basis of board member decisions, with the number of members appointed to the board left to the discretion of the Minister for Finance.

### **2.3 Rules**

These government bodies also differ more widely in some general operational rules, such as the time limit for lodging an appeal. Although it can be argued that each appeal area has greatly varying needs, and so require different policies, the lack of standardised or streamlined rules is a barrier to the efficiency of appeals services in Ireland. This has been highlighted by Public Administration Theory, which recognises this form of inconsistency as a hindrance to the knowledge accumulation and decision-making of organisations.

There is a 21 day time limit from the date of notification of a decision, to submit an application for appeal to the Social Welfare Appeals Office. This differs again amongst some of the other organisations responsible for government appeals. The Refugee Appeals Tribunal allows a 15 working days to lodge a substantive appeal case, 10 working days for an accelerated appeal case, 5 working days for appeals under the Dublin Convention and 15 working days under the Dublin II Regulation. In the Agricultural Appeals Office, there is a 3 month time rule. However, the greatest disparity is in the time limits of the

Employment Appeals Tribunal. Their limits range from 21 days for Redundancy Payments Act appeals, to 6 months for various other direct claims to the Tribunal. Other bodies such as An Bord Pleanala allow one month for appellants to make submissions, while the Valuation Tribunal allows 28 days, and the Schools Suspension and Expulsion Appeals allows 42 days.

Neither is the issue of appeal processing fees streamlined in any way among the separate Irish government departments. While the four main selected bodies do not charge for their services, this is not true of all appeals organisations. There are a range of fees payable to the Valuation Tribunal, depending on the “rateable valuation of property as stated on the Valuation Certificate” (Valuation Tribunal, 2007). This ranges between €95 and €190. Similar fees are applicable in appeals to the Censorship of Publications Appeal Board. However, in these cases, the fee of €6.35 is returnable if the appeal is considered to be a serious one, and in practice all fees are returned. (Citizens Information Board, 2007a) Appeal fees to An Bord Pleanala range between €60 and €1,900.

Finally, the targets and performance measures set by the separate appeals organisations also follow no reliable pattern. Some, such as the Agriculture Appeals Office, aim to deal with the average case within a 3 month timeframe, while others, such as the Valuation Tribunal have a target of 6 months for the finalisation of each appeal. Others still, especially the small, part-time boards have no official targets at all.

## **2.4 Summary**

These are just a few instances of the ways in which the separate appeals systems in Ireland at present provide inconsistent approaches to delivering appeals services. Most of the disparities in areas such as fees, time limits and appeals procedures are unnecessary. These do little to aid the simplicity of appeals. For this reason among many others, it has been questioned on numerous occasions whether the Irish appeals systems meet the requirements of simple and accessible governmental services, which coordinate activities under the most efficient structure.

While the underlying structures and appeals processes are the same in most of these individual bodies, and could potentially allow for much greater coordination of services across government departments, this is not currently being achieved. The advantages that

the proposed unification could allow, such as economies of scale, shared knowledge and speedier appeals procedures, are currently being lost out on. Instead there is a more disjointed approach, whose one main advantage is the subject-specific expertise gained by the localised nature of these agencies.

The issue of independence must also be examined, in order to explore the scope for improving the autonomy levels of these organisations from their parent departments. While many of the appeals offices have made great efforts to establish themselves as impartial sources of review of government decisions, there is still an indication that this is not being adequately portrayed to appellants. A recent review of the SWAO states that “while we are aware that Appeals Officers (AO’s) make decisions independently and without interference from any source, the findings from our research and consultations demonstrate that there are strongly held perceptions regarding a lack of independence” (Deloitte and Touche, 2002). This is equally true of the other appeals bodies, particularly those ad-hoc smaller boards which are not statutorily independent of their relative government departments. This can lead to significant distrust among appellants and undermines the efficiency of appeals systems as a whole.

These problems necessitate the comparison of these Irish systems with international approaches, particularly those which are considered to be setting standards for best practice. This would help to identify whether there are potential efficiency savings to be achieved under an alternative structure which would outweigh the advantages provided by the current separate appeals organisations.

### **3: International Approaches**

The United Kingdom and Australia are considered as the leaders in terms of best practice approaches to appeals procedures internationally. A unified structure for appeals was uniquely adopted by Australia in the 1970's and, since then, its reputation has "attracted attention from jurists and academics around the world" (Philip Ruddock, 2006). It also significantly influenced the recent reforms in the UK Tribunals Service, which has been seen to be making noteworthy achievements in the short time since its introduction.

This section outlines the structure and processes operated by these countries, in an attempt to compare Irish appeals approaches with the leaders worldwide. However, it must be noted that the Australian and UK systems can never be directly comparable to those in operation in Ireland. These countries are significantly larger than Ireland, both geographically and in terms of population size. Therefore they have greater potential to benefit from extensive economics of scale.

The caseloads of Irish organisations are relatively light in comparison. However, the success of these countries in meeting the requirements of such wide ranges of individuals, and in standardising procedures on such a scale, indicates the relative ease with which similar reforms could potentially be implemented in a smaller country such as Ireland.

#### **3.1 United Kingdom**

There have been calls for the reform of appeals arrangements in the UK in recent years. Like Ireland, many of the UK appeals bodies had developed and adapted over time in an informal manner, with no streamlining of rules and procedures. For this reason, a review was commissioned and undertaken by Sir Andrew Leggatt in 2001, entitled "Tribunals for Users: One System, One Service". This outlined problems within the UK system and areas in need of reform.

Sir Andrew's report proposed the introduction of a unified tribunals service, which would coordinate the disjointed activities of various appeals bodies. He concluded that having all tribunals supported by a common administrative service, independent of those bodies whose decisions the tribunals were reviewing, was the only way to achieve independence and coherence. However, there were a number of criteria that this unified body would need

to meet, in order for it to represent a worthwhile improvement in the existing services which were being provided at the time. He stated that:

“The Tribunals System must have a coherent structure to enable the effective management of workload, encourage consistency and further a common approach in decision-making and cases handling and management. The structure, however, must preserve the expertise of members and support staff within the current individual tribunals.” (Sir Andrew Leggatt, 2001)

These virtues were the primary reasons for the suggested transformation, and so are the criteria by which its success is judged. A similar challenge is currently being faced by Irish appeals bodies.

This report was followed by a Government White Paper “Transforming Public Services: Complaints, Redress and Tribunals” (Department for Constitutional Affairs, 2004), which in turn led to the introduction of the newly established Tribunals Service. The reformed body came into operation in the UK in April 2006. This brought together 23 separate tribunals across the government into a single organisation, with the intention of incorporating even more tribunals as time goes on. It provides administrative support for a wide variety of appeals, from benefits and immigration, to employment and educational appeals cases. This was considered the most feasible option of reform, which would satisfactorily meet the needs of a broad range of users and make efficiency savings, without leading to a more complicated appeals process.

The Tribunal is now a separate executive agency under the Ministry of Justice. This agency operates under a two-tier structure, to which most jurisdictions have been transferred, with judicial expertise shared across the system. Procedures have become relatively more simplified, and more general administrative rules have replaced the previous inconsistent approaches. It is headed by a Chief Executive and all appeals are administrated under a single secretariat body, or central corporate services. Cases are then separated into jurisdictions, depending on the issues they deal with. Tribunal members work across jurisdictions where they are qualified to do so. There is also a joined-up approach to resource management, as IT-systems have become integrated and venues for appeals are shared across all appeal areas. This has brought together the areas of best

practice from all individual tribunals, allowing for shared knowledge while reducing unnecessary costs.

This UK system can now be seen as a benchmark against which Irish appeals processes can be judged. They faced many similar problems while operating separate organisations, and have managed to deal with them in the most effective manner, given the constraints faced by all forms of public administration. In its first year alone, this new structure managed to achieve efficiency savings of £15m, which are largely attributed to “economies of scale and removing duplication across corporate functions.” (Tribunals Service, 2007)

This restructuring is considered as a significant success, and has resulted in a streamlined, coherent, independent organisation, which provides a single point of contact for users. This balances the most desirable elements of both unified processes and area-specific expertise. Many of the problems previously experienced by UK appellants have been reduced, and future projections look set to continuously improve efficiency levels, as additional tribunals are incorporated under this unified structure.

It has been suggested on several occasions that a similar structure could relatively easily be adopted by Irish appeals boards. McCann FitzGerald indicated that these new reforms “have much to recommend themselves and that, with careful drafting, many could inform closely reforms in Ireland also.” (McCann FitzGerald, 2006)

Significant improvements have been observed in the UK upon the introduction of this Tribunals Service, including “delivering a clearly independent decision”, “providing greater consistency in practice and procedure and making better use of existing tribunal resources” (Department for Constitutional Affairs, 2006). There is no reason why similar benefits could not be aimed for and achieved in this country also.

### **3.2 Australia**

The UK reform followed broadly the structure of the Australian Administrative Appeals Tribunal (AAT), which has been providing a unified appeals system since 1976. They considered this organisation to be “the only tribunal system in any common law jurisdiction that is in important respects well in advance of our own.” (Sir Andrew Leggatt, 2001)

This tribunal is an independent organisation which reviews a wide range of decisions made by government authorities, as well as the decisions of some non-government bodies. It hears appeals against the merits of the original decisions and can affirm, vary or set aside this ruling. This covers cases relating to social security, tax, employee compensation and immigration among others.

The structure of the Australian tribunal is uncomplicated, lead by a president, who is responsible for its overall management, along with 91 current members who hear appeals and an additional 152 administrative staff. The organisation is separated into regional districts, each with their own Territory Coordinator responsible for case management, which allows the benefits of localised knowledge to be retained. Members of the Tribunal often have a range of expertise in different areas, enabling them to hear cases across numerous jurisdictions in their region. There are also common rules, such as time standards and application fees relating to all appeals. An application fee of \$639 AUD is payable in almost all cases, unless appellants are exempt on certain grounds. This will be refunded if the review is decided in the individual’s favour.

All appeals follow a simple process from application stages to reaching a final decision. Cases are accepted following the submission of a letter or application form to the Tribunal. Preliminary hearings usually take place within 6-10 weeks, followed by additional conferences or hearings where required. Huge simplification of procedures can be observed in the Australian tribunal, particularly due to the fact that there is a single application form covering all jurisdictions, as well as a very limited number of rules.(There are “just 46 rules covering 26 pages...these rules are supplemented by regulations which govern fees and charges” – Paul Stockton, 2006).

The Australian system has also developed several methods of Alternative Dispute Resolution such as mediation and conferring. These make the appeals process more accessible and resource efficient, while reducing the number of cases that go to formal hearings.

One of the most admirable qualities of this tribunal is its evident independence from political interference, or the lack of excessive power held by any individual area. It recognises that “the very existence of administrative review is undermined; unless the public are confident that administrative decision-makers and the institutions to which they belong are competent and independent” (Justice Deirdre O’Connor, 2001). Thus the tribunal strives to maintain all aspects of its operations, from recruitment and reappointment, to funding and remuneration, separate from general government operations. This ensures its reliability as an independent and unbiased source of appeal.

This tribunal is rated highly not only by government officials, but also, more importantly, by the public. A 2005 user survey found that customer’s perception of the organisations independence scored 3.5 on a scale of 1-5, while 65% felt the tribunal dealt fairly with their review. Representatives of departments and agencies also rated all aspects of the service higher than 4 out of a possible 5. (Administrative Appeals Tribunal, 2006)

The efficient, simplified and equitable service provided by the AAT in Australia is the most obvious example of best practice for appeals systems internationally. This suffers very few of the problems being faced by the separate appeals bodies in Ireland, such as lengthy appeal processing times, inconsistent rules and lack of perceived independence. For this reason, the standards set in Australia are something to be aspired to, and provide indicators of the greatest potential efficiencies which Ireland could hope to achieve.

#### **4: Empirical Analysis**

It would be expected that the proposed unified appeals system in Ireland has the potential to meet the standards set by UK and Australian appeals tribunals. This could be accomplished through cost and time savings, balanced with a simplified structure for decision-making and service provision. Such an achievement could represent significant improvements on the efficiency levels currently being observed under separate appeals boards in Ireland.

This empirical analysis involves a simple comparison between the current separate appeals bodies in Ireland and the unified structures operating in the United Kingdom and Australia. It is hoped that this would allow a greater vision of where we stand in terms of international standards of appeals, and would identify the rationale for, and potential methods of, reform.

Costs alone cannot determine whether a government is achieving its objective in the most efficient and equitable manner. Therefore, the success of the Irish appeals system, in comparison to its international counterparts, is measured by four key indicators of efficiency or best practice. These take account of the general economic definition of efficiency- the optimal use of scarce resources to achieve given ends. They also follow the theory of public administration, as developed by Herbert Simon among others. This argues that simplistic procedures and the least amount of bureaucracy possible are equally, if not more important, than low costs and prompt delivery of services, for the achieving the optimal government structure.

The most appropriate best practice indicators are thus taken to be:

- Simplification of processes
- Economic costs
- Speed of appeals procedures
- Independence

These are based on the issues highlighted in recent literature in this area, which suggest areas considered as most important by both customers and members of the appeals boards, for ensuring an efficient organisation. Sir Andrew Leggatt's report in particular strove to

identify and recommend a system that would be “independent, coherent, professional, cost-effective and user-friendly” (Sir Andrew Leggatt, 2001)

The key indicators for Irish appeals are compared with similar data from the UK and Australia. This report has examined whether the separate appeals boards, as they presently operate in Ireland, are achieving the same or greater levels of efficiency as these international benchmarks. These international systems are highly respected for their efficiency and, as stated by Justice Deirdre O’Connor (2001), in a paper in which she investigates the key elements of well-functioning administrative review systems, they are “in many ways, an example of world’s best practice”. Therefore, it would be expected that these more unified structures, which share resources, costs, rules and IT systems among all appeal areas, would be able to benefit from significant economies of scale. It is likely that the Irish system, or lack thereof, is significantly lagging behind these standards. This analysis will indicate the potential for efficiency savings from the proposed reform of combining the administrative functions of the majority of Irish appeals offices into one state appeals board.

It would be expected that both the UK and Australian systems would benefit from lower operational costs and a greater percentage of appeals finalised in a year, than the separated approaches of Irish bodies achieves. They can also be predicted to display a reduced average processing time compared with Ireland.

The expectations for independence are somewhat more ambiguous. In some cases, in organisations which have a concentration of power at the top of the structural hierarchy, there may be excessive control in the hands of a few. This can lead to corruption and inequitable decisions. However, in this case, a large unified system would also be separate from the influence of individual government departments, which is the main reason for the lack of perceived independence in Ireland currently.

Data for this analysis was obtained from official publications, financial statements and annual reports from current Irish appeals offices, as well as from the UK Tribunals Service and Australian Administrative Appeals Tribunal. In some cases 2006 information was unavailable, and so the most up-to-date information as could be collected is substituted. Unfortunately, some statistics from the UK could not be obtained, as well as cost

information from the Employment Appeals Tribunal. These omissions from certain indicators are signified in the results tables below.

This recent data is also compared with 1999 figures from Sir Andrew Leggatt’s review of UK tribunals. It relates to the performance of four selected individual tribunals, prior to the establishment of the Tribunals Service, which now deals with 23 appeals bodies under one administrative structure. These four bodies were the largest of the UK tribunals. They are: The Social Security Appeals Tribunal, The Pensions Appeal Tribunal, The Employment Appeal Tribunal and the Mental Health Review Tribunal. This enables the evaluation of any efficiency savings made by the UK following the introduction of a more unified structure. It could also indicate the potential for similar gains in Ireland.

#### **4.1 Simplification of Procedures**

The level of simplification is difficult to measure quantitatively, as it is based on the streamlining of various aspects of appeal application and processing actions throughout the organisation. However, an approximation can be made using the percentage of total appeals finalised in a year as an indicator. This suggests that a simple structure would allow applications to flow through the system with greater ease, and so result in more cases heard annually. The higher the percentage of appeals finalised in a year, the more simplified and standardised the system.

##### Simplification in unified systems:

	<b>% of Appeals Finalised Annually</b>
<b>Australia</b>	50%
<b>United Kingdom</b>	Information unavailable

##### Simplification of current separate Irish systems:

	<b>% of Appeals Finalised Annually</b>
<b>Social Welfare Appeals Office</b>	72%
<b>Agriculture Appeals Office</b>	84%*
<b>Refugee Appeals Tribunal</b>	47%
<b>Employment Appeals Tribunal</b>	91%
<b>Average:</b>	73%

\*- 2005 data

Simplification in the UK system, prior to reforms:

	<b><u>% of Appeals Finalised Annually</u></b>
<b>Separate UK system (average of 4 main tribunals)</b>	62.5%

#### 4.2 Economic Costs

Economic costs consist of the yearly operational expenses involved in the running of a Tribunal or individual Appeals Office, from staff salaries to office and administration expenses. This represents the general costs involved in administering each appeals system, and the economies of scale being achieved.

Costs in unified systems:

	<b><u>Yearly Operational Expenses</u></b>	<b><u>Number of Cases Finalised</u></b>	<b><u>Cost per Appeal</u></b>	<b><u>Cost per Appeal (€)</u></b>
<b>Australia</b>	\$30,161,000 AUD	8,091	\$3,728 AUD	€2,319*
<b>United Kingdom</b>	£314,520,000 GBP	566,461	£555 GBP	€822*

\*- Exchange rate source: [www.centralbank.ie](http://www.centralbank.ie) as at August 5<sup>th</sup> 2007.

Costs in current separate Irish systems:

	<b><u>Yearly Operational Expenses</u></b>	<b><u>Number of Cases Finalised</u></b>	<b><u>Cost per Appeal</u></b>
<b>Social Welfare Appeals Office</b>	€2,980,000	14,006	€213
<b>Agriculture Appeals Office</b>	€1,050,000	913*	€1150
<b>Refugee Appeals Tribunal</b>	€5,902,256	2183	€2,704
<b>Employment Appeals Tribunal</b>	Information unavailable	3169	Information unavailable
<b>Total:</b>	€9,932,256	17,102	€581

\*- 2005 data

### Costs in the UK system, prior to reforms

	<u>Average Cost per Appeal</u>	<u>Average Cost per Appeal (€)</u>
<b>Separate UK system (average of 4 main tribunals)</b>	£278	€412

It should however be taken into account that, although the costs of the Australian Appeals Tribunal appears to be excessively high, this body earns income through the receipt of fees for appeals. In reality, their income exceeded expenditure by \$541,000 AUD (€336,484) in 2006 (Administrative Appeals Tribunal, 2006). Most of the Irish appeal bodies are solely funded through government resources and so earn no additional income. If this income were taken account of, Australia could be seen to earn a profit of €42 per average appeal heard.

### **4.3 Speed of Appeals Procedures**

Speedy procedures represent another potential gain from large organisational structures, due to shared knowledge and resources. This is estimated using the average appeal processing time, which signifies the appeals boards' ability to deal with their relative workloads in a timely and expedient manner. This average appeal processing time is measured as the mean weeks taken to carry out a review, from the receipt of an appeal to a decision being made. Quickest possible processing of an average case corresponds to optimal levels of time efficiency.

### Speed in unified systems:

	<u>Average Appeal Processing Time</u>
<b>Australia</b>	13 weeks
<b>United Kingdom</b>	16 weeks*

\* - Average of the 4 selected main tribunals, as a complete average for all 23 tribunals was unavailable

Speed in current separate Irish systems:

	<b><u>Average Appeal Processing Time</u></b>
<b>Social Welfare Appeals Office</b>	21 weeks
<b>Agriculture Appeals Office</b>	12 weeks
<b>Refugee Appeals Tribunal</b>	15 weeks
<b>Employment Appeals Tribunal</b>	27 weeks (Dublin), 44 weeks (Provincial) =35.5 week average
<b>Average:</b>	22 weeks

Speed in the UK system, prior to reforms:

	<b><u>Average Appeal Processing Time</u></b>
<b>Separate UK system (average of 4 main tribunals)</b>	44 weeks

#### **4.4 Independence**

The percentage of favourable appeal decisions is used as a proxy for independence. This refers to the proportion of finalised appeals in a year that resulted in the original departmental decision being overturned, favouring the appellant. The Report of the Commission on Social Welfare suggested that a high level of reversal of the original Deciding Officers decisions would “indicate that the Appeals Officers’ decisions are, in fact, made on an independent and impartial basis” (Commission on Social Welfare, 1986).

Independence in unified systems:

	<b><u>% of Favourable Decisions</u></b>
<b>Australia</b>	32%
<b>United Kingdom</b>	35%*

\*Average of 6 tribunals, as additional information was unavailable

Independence in current separate Irish systems:

	<u>% of Favourable Decisions</u>
<b>Social Welfare Appeals Office</b>	46%
<b>Agriculture Appeals Office</b>	36%*
<b>Refugee Appeals Tribunal</b>	12%
<b>Employment Appeals Tribunal</b>	23%
<b>Average:</b>	29%

\*- 2005 data

Independence in the UK system, prior to reforms:

	<u>% of Favourable Decisions</u>
<b>Separate UK system (average of 4 main tribunals)</b>	21%

It should be noted that the four Irish appeals bodies are formally independent organisations, so the expected results of the overall Irish systems would be a much lower average independence level, if data from the smaller more ad-hoc appeals bodies were taken account of.

#### **4.5 Analysis of results**

Do the actual results obtained from recent data correspond to the expectations of the performance of Irish appeals boards? The general consensus among the literature, both from public opinion and the suggestions of those at the highest levels in appeals boards, is that Irish structures are not meeting their highest potential efficiency levels. There have been numerous calls for the reform of these separate structures, to match international approaches. However, would a common appeals board, similar to the unified structures in operation in the UK and Australia solve some of the problems currently faced in this country?

Until now, these potential efficiency savings were merely conjectural, as no comprehensive comparison of Irish performance with alternative systems had been undertaken. The empirical evidence from this analysis is outlined in the table below.

Key indicator results across appeals systems:

<u>Appeals System</u>	<u>Simplified Procedures (%)</u>	<u>Costs per appeal (€)</u>	<u>Speed (weeks)</u>	<u>Independence (%)</u>
UK	Information unavailable	€822	16 weeks	35%
Australia	50%	€2,319	13 weeks	32%
Ireland	73%	€581	21 weeks	29%
UK prior to reforms	62.5%	€412	44 weeks	21%

As can be observed, unified appeals systems, either in the UK or Australia, only outstrip Ireland in two of the four indicators for best practice above. These international approaches score highly in terms of speed of appeals procedures and independence. However, the results for the average cost per appeal, as well as the simplification levels, are surprising and do not conform to expectations.

It should, however, be considered that areas where Australia appear to be underperforming, such as costs per appeal and simplification levels can be explained by problems with the choice of indicator, or by cost information which is not truly representative, as income from fees has been omitted. In reality, with more complete information, it may be shown that Australia is in fact leading the way in each of the best practice areas outlined.

**Independence:**

Recent reviews and customer surveys have indicated that many Irish appeals bodies are not considered to be truly impartial sources of review of government decisions. Would this be the case if the separate boards were unified under one main administrative body? Both forms of unified systems perform better in terms of independence than the Irish appeals boards. This indicates that there is potential for improvements of between 3% and 6% under a single appeals board, if the same results from abroad were achieved here. Perceptions of independence could be further boosted due to definitive lack of association between government departments and appeals bodies.

There may have been concerns that a centralised approach would lead to excessive concentration of power in the hands of a few. However this doesn't appear to have materialised, or had any adverse effects on the independence of international appeals

systems, as measured above. The introduction of similar reforms in the UK improved independence levels by 14%. This indicator changed from 21% of decisions in favour of appellants in 1999, up to a 35% turnaround in the original decisions under the 2006 unified system.

### **Costs:**

Potential cost savings from a single appeals body are not immediately obvious from the above data. Australia in particular seems to be underperforming in this area; however their large income from fees has not been taken account of. When this is factored in, they appear to make a profit of €42 per appeal. However, the practicalities of introducing a similar system of fees for some of the appeal areas in this country, in order to achieve the same cost efficiencies, would require further investigation.

There is a very negative result portrayed by information from the UK. The previous separated approach appeared to be achieving a respectable level of efficiency, with average costs being €412 per case. Once reforms were undertaken, costs have surprisingly almost doubled to €822. This is higher than the present levels achieved in Ireland's separate appeals boards.

This forces us to question whether a unified system would actually provide economies of scale which would result in a reduction of average costs. However, as the UK system has only been established since April 2006, they are still undergoing large reforms in the structure of this system. One of their main objectives throughout this transformation was to ensure that "the quality of the service provided to our customers must not be allowed to suffer as a consequence" (Tribunals Service, 2007). Cost savings in the short-run may have been sacrificed in order to ensure that standards were maintained and to allow for a smoother reform. Sir Andrew Leggatt (2001) noted that "clearly, setting up the Tribunals Service will result in some initial costs. But we would expect a unified Tribunals Service to provide efficiencies and economies of scale for Departments and authorities which will in due course offset these initial costs". Average costs in the coming years, following the completion of this Tribunals Service, may indicate more clearly the potential efficiency savings to be made.

### **Speed:**

In the area of speed, the separate appeals boards in Ireland once again appear to lag behind their counterparts abroad in terms of best practice. Speed is a key issue for the efficiency of appeals procedures. A review of the Social Welfare Appeals Office found that “the length of time taken to process appeals is a major source of frustration for appellants” (Deloitte and Touche, 2002).

Ireland’s average appeal processing time, from receipt of a case to its finalisation, is 22 weeks. This is 6 weeks behind the UK average, and 9 weeks behind Australia. These long waiting times are causing inconvenient and possibly unnecessary delays for Irish appellants. Given that the comparative countries deal with a much larger number and wider variety of cases, they could be expected to involve longer processing times. However, it is clear that these unified systems, with reduced bureaucratic delays and administrative duplication, have managed to achieve much greater levels of time efficiency than the separate Irish organisations.

### **Simplification:**

Ireland’s figure of 73% for simplification is surprisingly high. It would have been expected that these separate boards, with their varied practices and procedures, would be less capable of finalising a large percentage of appeals on a yearly basis than its international equivalents, who have streamlined rules. This suggests that a unified appeals system will not necessarily contribute to greater simplification. It may be the case that combining a wide variety of appeal areas under one administrative body causes a more complex process for decision-making, due to the difficulty involved in coordinating so many different cases. However, from the speed indicator it is observed that the unified structures internationally have faster average appeal processing times. This is at odds with the simplification indicator results.

It is perhaps more likely that the percentage of appeals finalised is not an accurate measure of the level of complexity of an organisation. The higher percentage of appeals finalised in Ireland could also be attributed to the relatively small workload of these individual boards, as compared with the number of appeals dealt with in the UK and Australia. The selected individual Irish bodies may also represent the most well organised of the Irish boards. The inclusion of data from smaller, less efficient boards would be likely to significantly reduce

this simplification average. Unfortunately, information for this indicator from the new structure in the UK was unavailable, so it is not possible to demonstrate whether potential simplification gains from a unified system have been observed there.

#### **4.6 Summary**

To summarise, the separate Irish appeals systems, as represented by the above four organisations, score relatively well in terms of cost efficiency and simplification. However, they are not meeting the standards for speed and independence set by similar bodies internationally. Ireland's average appeal processing time is much longer than best practice standards. There is also a problem in relation to the independence of these boards operations from the influence of their individual government departments.

This indicates that there are a number of areas which would benefit from the introduction of a unified appeals system, which amalgamates the separate organisations under a common administrative board. However, in order for this to be a definite improvement in efficiency levels, some of the problems relating to the measurement of costs and simplification would have to be further investigated. This would help to establish for certain whether the below expectations performance of unified international bodies in these indicators is due to inefficiencies in the system or, as expected, can be attributed to problems with the data currently available.

## **5: Conclusion**

The general objective of this dissertation was to examine whether the separate appeals organisations in Ireland were achieving the same efficiency levels as those which are considered to be operating under best practice structures and procedures internationally. This was hoped to identify whether there were potential gains to be made from the unification of these boards under a single administrative structure.

From previous reviews of different aspects of the separate Irish appeals systems, it was discovered that they appeared to be facing difficulties in a number of areas. This was particularly true in relation to their perceived lack of independence from their parent departments, as well as the length of time taken to process the average appeal.

This led to the hypothesis that the Irish approach to appeals is significantly lagging behind the best practice standards set by countries such as the UK and Australia. The Administrative Appeals Tribunal in Australia has been regarded as an innovative, unique and “sophisticated system of administrative justice” (Justice Garry Downes, 2007). Therefore, the Australians are recognised as leaders in this area, having developed a system which is thought to represent an ideal balance between speed, cost efficiencies, independence and accessible appeals services for a wide range of individuals and areas of review. Although the UK system had developed in an ad-hoc manner in the past, it has now been reformed under one administrative system, the Tribunals Service. There have been great hopes for significant cost and time savings under this system, compared with the previous separate tribunals. Both of these unified systems were expected to perform much more efficiently than the current Irish appeals bodies, in terms of several key indicators.

This was analysed using data from these three countries, as well as previous statistics from the UK, prior to the introduction of its unified Tribunals Service. Independence, simplification, costs and speed of procedures were adopted as comparative measures of best practice.

### **5.1 Results**

From this data, it emerged that the separate appeals systems in Ireland were indeed underperforming in two areas. They have the longest average appeal processing time, and

the lowest degree of independence of all three countries, according to this analysis. As well as processing cases more quickly than Irish bodies, it was also clearer that the international unified systems operated on a truly independent basis. This is attributed to the explicit existence of one large body which could be easily viewed as impartial from government departments and their influence. This indicator gives much hope to appeal organisations in this country, as the suggestions for their coordination under a single state appeals board looks like a viable solution to their independence problems. This is one of the areas of dissatisfaction most frequently reported by customers and government officials.

However, the results relating to the simplification of Ireland's appeals systems did not conform to expectations. It was predicted that unified systems would be much more straight-forward in their rules and proceedings, thus having a higher percentage of total appeals finalised. Conversely, Australia's results score the lowest of all systems under this indicator, although this may relate to specification problems in the choice of indicator. The cost indicator also produced some surprising results. While more joined-up approaches to administration would have been expected to help reduce the average cost of dealing with an appeal case, this has not been portrayed by the data. This may however be explained by the omission of income from fees for Australia, and in the case of the UK, by the short term costs imposed by the reform of the Tribunals Service.

## **5.2 Policy arguments**

Therefore, the arguments for reform are not as clear-cut as previously anticipated. Although there does appear to be large potential efficiency savings in terms of the speed of appeals and the levels of independence, the same cannot necessarily be said for costs and simplification of procedures.

From the data it has emerged that unified appeals systems could impose higher costs per appeal on the organisation, and result in a less cost efficient service, at least in the short run. This is unexpected, as streamlining of appeals processes should result in economies of scale, but this does not seem to have been the case in the UK. However, as previously stated, this may be due to the fact that this system is not operational at its highest potential efficiency level as yet, as it is still in the process of reform. Future data may indicate that the newly amalgamated tribunals system will indeed have managed to reduce the average costs below that previously achieved by the separated approaches in the UK.

Whether or not the hypothesis in general can be considered to be upheld by the data, and whether the proposed reform can still be recommended, is dependent upon which issues are considered as most important for the delivery of an appeals service. If cost is a major deciding factor, then it would be suggested that the current Irish system remain in place, at the risk of increasing short-term governmental costs. However, if an independent and time efficient system of appeals for customers is considered to be more important, the proposed reforms should still be considered to be a viable option for enabling the Irish appeals boards to meet the standards of international systems.

As independence has been highlighted most frequently in the literature in this area, the original hypothesis that Ireland is not meeting international standards can most likely be considered to be upheld. An equitable and fast service for appellants should, by most opinions, come before possible cost savings. This is particularly true if these costs would be expected to be redeemed, either through fees as in Australia, or future efficiency savings as predicted in the UK. A review of the previous UK system highlighted that while tribunals should be independent, accessible, prompt, expert, informal and cheap, the “most important of these qualities is independence” (Sir Andrew Leggatt, 2001).

This problem is in line with the main issues of Public Administration Theory, which recognises that agents must be “satisficing”. They must be willing to accept the best option available to them, rather than the one which is most efficient from all points of view, as this is rarely available. Neither the separate nor unified systems are fully efficient in all indicators. However, reforms which strike the ideal balance of the speed and independence efficiencies of the international systems, with the costs observed in Ireland’s present system, could still be put in place.

However, there are some areas of weakness in this study, which it may be necessary to revisit before definitive policy recommendations for this single appeals board can be made. These are mainly due to time restrictions for this project and limited availability of data relating to some Irish appeals bodies. Firstly, it would be worthwhile to modify the simplification indicator if possible, in order to obtain a more reliable measure of the level of complexity of appeal organisations procedures.

Given more data, it would also be useful to include a greater number of appeals boards into the analysis for the separate Irish systems. This dissertation focused on the four largest organisations, omitting the more ad-hoc bodies as well as the regulatory appeal boards. These may be seen to be operating much less efficiently than the four selected organisations. Their inclusion in a future analysis would indicate more clearly the extent of current processing delays and inefficient use of resources, particularly in the smaller appeals boards. More information relating to Ireland's efficiency in comparison with international standards may also have been obtained by adopting different comparative countries, which were more similar in size to this country, geographically and demographically. They may have been more directly comparable than the larger UK and Australia, although not regularly cited as examples of world's best practice.

Finally, a greater understanding of the true benefits of a reformed system could be gained through the monitoring of cost, time and simplification levels achieved in the new UK system over the next four or five years. At this stage the initial costs of reform would be expected to be outweighed by much greater benefits than are currently being observed.

Consultation should be carried out with all existing appeals bodies, as well as the regulatory appeals boards, in order to obtain a more complete analysis of the rationale for this transformation of the appeals system. This would also highlight any country specific issues which are unique to Ireland that would require the international approaches to be adapted before introducing similar systems here.

### **5.3 Potential structure of reformed system**

Should this policy reform be carried out, there are a number of issues that must be carefully considered. The most important of these is the structure and operational practices of the new common state appeals board. The appeal boards to be included and the management structure to be adopted must be properly planned in order to achieve the greatest potential efficiency levels and avoid wasting government resources.

Without further consultation, it is not practical to outline a detailed plan of reform. However, as the UK has recently carried out similar transformations, it would be expected that they could provide useful guidelines to be followed. The best practices from both this

system and that of the much more experienced Australia could be adapted to Irish conditions, to provide a framework for the restructuring.

The requirement of a balance between the efficiencies achieved by the unified systems, and those already being observed in terms of costs in some Irish appeal bodies is no easy task. However, several suggestions have already been provided for the potential structure of this reformed system. Sean Barton of McCann FitzGerald outlined that “the single appeal body should have a support team trained in appeals procedures, with the panel members selected to decide the appeal based on their expertise” (Inside Government, 2006). This was also a suggestion made by the ‘Regulating Batter’ White Paper, which discusses a single appeals board which “could call on a number of expert panellists with relevant knowledge and experience of sector specific issues” (Dept. of the Taoiseach, 2004).

It is of the utmost importance that any new appeals system be clearly established as an independent organisation. All unnecessary links with government departments, such as for the staffing and funding of this appeals board, should be eliminated. From the examination of international systems, a more independent structure than that currently in place would appear to be one which is administered by a single secretariat body. Through this all appeal applications would be processed. This ensures that it is immediately evident to appellants that the organisation is not influenced by the government departments whose decisions are under review. These cases could then be allocated to individual divisions under this common appeals board, where they would be dealt with by appeals officers who have an expertise in that particular area of appeal. This would combine the general know-how on the conduct of appeals from those bodies which are operating most efficiently, while retaining the specific knowledge of appeals officers in their individual fields.

Speed is another issue which needs to be addressed within Irish appeals boards. Reduced bureaucracy and duplication in unified appeals systems have been shown to achieve a more prompt delivery of decisions in the average appeals case. The introduction of a common route for the review of decisions made by government departments could achieve some of the time efficiency savings made in the UK and Australia. The proposed board should adopt common time limits and rules as well as a single IT system, which would contribute towards a speedier and more easily accessible service for appellants.

Although the current Irish approach has not been shown to lag behind in terms of cost efficiencies, there is still potential for the achievement of greater economies of scale in some of the smaller appeals boards. The sharing of appeals venues, application processing and staffing costs across all appeal areas may ensure that consistent costing levels are achieved.

It would be suggested that the proposed unified appeals board be headed by those organisations which have the greatest experience in this area. Those structures which are operating most efficiently, in comparison with others in the current Irish system, could be taken as the core divisions of this new system. The Social Welfare Appeals Office is one such body. This is the longest established of the Irish appeals boards, and has the largest intake of cases annually. The present administrative structure of this organisation, which has already been followed by some of the more recently established bodies, could be used as the basic template. The new common appeals board could be structured around this, while also incorporating the best practices from the UK and Australia. This would help to minimize confusion among appellants caused by the introduction of the reformed system. Such core divisions could be established to deal with the largest areas of appeal, with less frequent cases from other areas assigned to appeals officers from these divisions, based on their respective areas of competence. This too was discussed by Sean Barton who considered that “because of the frequency of appeals in areas such as welfare and revenue, these need their own permanent appeal management structures, but the secretariat could help to pool know-how on the conduct of appeals” (Sean Barton, 2006).

As stated by Sir Andrew Leggatt, this system should also be able to incorporate additional appeals bodies relatively easily, if further areas of review were required in the future. He suggested that tribunals “should be grouped by subject-matter into Divisions in a structure that is at once apparent to a user, and into which any new tribunal may be expected to fit” (Sir Andrew Leggatt, 2001).

#### **5.4 Summary**

To summarise, the efficiency levels achieved by international appeals organisations have been shown to result in greater levels of independence and more speedy delivery of appeals services than those which currently exist in Ireland. However, Ireland has displayed stronger results in relation to costs and simplification. This is most likely due to problems

with the data or a lag in the efficiencies displayed by the newly established UK Tribunals Service, rather than a result of particularly innovative or efficient practices in place in Ireland.

It is apparent that there are a number of areas which would benefit from the introduction of a unified appeals board. The allocation of appeals to specific divisions, dependent on their particular area of appeal, would retain the expertise of appeals officers which currently operate in separate organisations, while also allowing for speedier appeals and a more reliable and independent service. Time efficiencies should also be achieved through greater coordination of activities and resources. Although it has not been definitively observed in the data, there may also be potential for cost savings in the long-term, once the initial costs of reform are completed. This would be due to economies of scale and coordination of the use of appeals venues and staff across all areas of review.

The UK Tribunals Service Business Plan describes the previous UK appeals system as “an incoherent set of institutions which, despite the efforts of the thousands of people who work in tribunals, provided a service which falls short of that which they might provide if operated collectively” (Tribunals Service, 2006). From the above analysis, it is evident that the same can be said for Ireland. This report suggests that, on the whole, a common appeals board, led by the most efficient of the current Irish appeals bodies, would provide a balance between the efficiencies of a large organisation and the independence currently achieved by the leaders in terms of best practice internationally.

This suggests that there may be a rationale for the reform of the present separate systems, assuming that independence and speed are ranked most highly as essential aspects of an efficient appeals service. However, future research may be required in order to more accurately measure the levels of simplification with which a unified system in Ireland would operate. This would help to ascertain whether the independence and time savings, along with potential cost reductions provided by a common appeals board, would truly outweigh the benefits as provided by the present separate appeals bodies in Ireland.

## **Bibliography**

- Administrative Appeals Tribunal (2006). Administrative Appeals Tribunal Annual Report 2005-2006 [Online]. Australia: Attorney-General's Department. Available at [www.aat.gov.au](http://www.aat.gov.au). Accessed on July 6<sup>th</sup> 2007.
- Agriculture Appeals Office (2007). Agriculture Appeals Office [Online] Available at [www.agriappeals.gov.ie](http://www.agriappeals.gov.ie) Accessed on 5<sup>th</sup> June 2007.
- An Bord Pleanala (2007) An Bord Pleanala [Online]. Available at [www.pleanala.ie](http://www.pleanala.ie) Accessed on June 12<sup>th</sup> 2007.
- Aquaculture Licences Appeals Board (2007). Aquaculture Licences Appeals Board [Online] Available at [www.alab.ie](http://www.alab.ie) Accessed on 6<sup>th</sup> June 2007.
- Barton, Sean (2006). Appeals. Unpublished letter to Kavanagh, D; Social Welfare Appeals Office. 3<sup>rd</sup> November 2006.
- Central Bank and Financial Services Authority of Ireland (2007). Euro Exchange Rates [Online]. Available at [www.centralbank.ie](http://www.centralbank.ie) Accessed on August 5<sup>th</sup> 2007.
- Citizens Information Board (2007a). Censorship of Publications Appeal Board [Online]. Available at [www.citizensinformation.ie/categories/travel-and-recreation/recreational-activities-in-ireland/censorship-in-ireland/censorship\\_of\\_publications\\_in\\_ireland](http://www.citizensinformation.ie/categories/travel-and-recreation/recreational-activities-in-ireland/censorship-in-ireland/censorship_of_publications_in_ireland) Accessed on June 11<sup>th</sup> 2007.
- Citizens Information Board (2007b) Censorship of Films Appeal Board [Online]. Available at [http://www.citizensinformation.ie/categories/travel-and-recreation/recreational-activities-in-ireland/censorship-in-ireland/censorship\\_of\\_films\\_in\\_ireland](http://www.citizensinformation.ie/categories/travel-and-recreation/recreational-activities-in-ireland/censorship-in-ireland/censorship_of_films_in_ireland) Accessed on June 11<sup>th</sup> 2007.
- Commission on Social Welfare (1986). Report of the Commission on Social Welfare. Dublin: Commission on Social Welfare.

- Cousins, Mel (1995). *The Irish Social Welfare System*. Dublin: The Round Hall Press Ltd.
- Deloitte and Touche (2002). *Department of Social and Family Affairs: Review of the Social Welfare Appeals Office*. Dublin: Deloitte and Touche.
- Department for Constitutional Affairs (2004). *Transforming Public Services: Complaints, Redress and Tribunals* [Online]. London: Department for Constitutional Affairs. Available at [www.dca.gov.uk/pubs/adminjust/adminjust.htm](http://www.dca.gov.uk/pubs/adminjust/adminjust.htm). Accessed on August 14th, 2007.
- Department for Constitutional Affairs (2006) “New Tribunals Service Will Deliver Better Justice for the Disadvantaged” [Online]. London: Department for Constitutional Affairs. Available at: <http://www.gnn.gov.uk/environment/fullDetail.asp?ReleaseID=193954&NewsAreaID=2&NavigatedFromDepartment=True> Accessed on July 16<sup>th</sup> 2007.
- Department of the Taoiseach (2004). *Government White Paper – ‘Regulating Better’* [Online]. Dublin: Department of the Taoiseach. Available at [www.taoiseach.gov.ie](http://www.taoiseach.gov.ie) Accessed on June 28<sup>th</sup> 2007.
- Department of the Taoiseach (1996). *Delivering Better Government: Second Report to Government of the Co-ordinating Group of Secretaries- a Programme of Change for the Irish Civil Service* [Online]. Dublin: Department of the Taoiseach. Available at [www.taoiseach.gov.ie](http://www.taoiseach.gov.ie) Accessed on July 13<sup>th</sup> 2007.
- Downes, Justice Garry (2007). “The State of Administrative Justice in Australia” [Online]. Paper presented at the Canadian Council of Administrative Tribunals Fourth International Conference, World Report #1, Vancouver, Canada. 7<sup>th</sup> May 2007. Available at [www.aat.gov.au/SpeechesPapersAndResearch/SpeechesAndPapers.htm](http://www.aat.gov.au/SpeechesPapersAndResearch/SpeechesAndPapers.htm). Accessed on August 8th 2007.

- Employment Appeals Tribunal (2007). Employment Appeals Tribunal [Online] Available at [www.eatribunal.ie](http://www.eatribunal.ie) Accessed on June 13<sup>th</sup> 2007.
- Garda Siochana Complaints Appeal Board (2007). Garda Siochana Complaints Appeal Board [Online] Available at [www.gscb.ie](http://www.gscb.ie) Accessed on June 5<sup>th</sup> 2007.
- Inside Government (2006). “Government Should Establish Single Body To Hear Appeals Of Decisions By Public Bodies”. Inside Government June/July 2006. Dublin: Derryshalagh Publishing Ltd.
- Leggatt, Sir Andrew (2001). Tribunals for Users: One System, One Service [Online]. Available at [www.tribunals-review.org.uk](http://www.tribunals-review.org.uk) Accessed on June 22<sup>nd</sup> 2007.
- McCann FitzGerald (2006). Response by McCann FitzGerald to the Consultation Paper on Regulatory Appeals published by the Department of the Taoiseach in July 2006. Dublin: McCann FitzGerald.
- O’Connor, Justice Deirdre (2001). Administrative Decision-Making in Australia: The Search for Best Practice. [Online]. Paper delivered to the 2<sup>nd</sup> International Conference on Administrative Justice, Quebec. 17-20<sup>th</sup> June, 2001. Available at [www.aat.gov.au/SpeechesPapersAndResearch/SpeechesAndPapers.htm](http://www.aat.gov.au/SpeechesPapersAndResearch/SpeechesAndPapers.htm) Accessed on August 3<sup>rd</sup> 2007.
- Reinstaller, Andreas (2006). The Division of Labour, organizational control and the labour process: Near-decomposability and the Babbage principle [Online]. European Network on the Economics of the Firm. Available at [www.enef.group.shef.ac.uk/papers/Reinstaller.pdf](http://www.enef.group.shef.ac.uk/papers/Reinstaller.pdf) Accessed on July 27<sup>th</sup>, 2007.
- Refugee Appeals Tribunal (2007). Refugee Appeals Tribunal [Online] Available at [www.refappeal.ie](http://www.refappeal.ie) Accessed on July 4<sup>th</sup> 2007.

- Ruddock, Phillip (2006). AAT 30<sup>th</sup> Anniversary 1976-2006 “Remarks by the Attorney-General”. Speech delivered to the Administrative Appeals Tribunal’s 30<sup>th</sup> Anniversary Dinner, Canberra. 2<sup>nd</sup> August 2006 [Online]. Available at [www.aat.gov.au/SpeechesPapersAndResearch/30thAnniversary/AAT30thRuddock2006.htm](http://www.aat.gov.au/SpeechesPapersAndResearch/30thAnniversary/AAT30thRuddock2006.htm) Accessed on August 3rd 2007.
- Simon, Herbert (2000). Public Administration in Today’s World of Organizations and Markets. Political Science and Politics 33(4) p749-56.
- Social Welfare Appeals Office (2007). Social Welfare Appeals Office Annual Report 2006. Dublin: Social Welfare Appeals Office 2007.
- Stockton, Paul (2006). “Some Lessons from Australia”. Adjust newsletter, August 2006 [Online]. Available at [www.council-on-tribunals.gov.uk/adjust/06-3.htm](http://www.council-on-tribunals.gov.uk/adjust/06-3.htm) Accessed on July 27th 2007.
- Tribunals Service (2006). Tribunals Service Business Plan 06/07 [Online]. London: Tribunals Service  
Available at [www.tribunals.gov.uk/publications.htm](http://www.tribunals.gov.uk/publications.htm) Accessed on July 16th 2007.
- Tribunals Service (2007). Tribunals Service Annual Report and Accounts 2006-07 [Online]. London: Tribunals Service.  
Available at [www.tribunals.gov.uk/publications.htm](http://www.tribunals.gov.uk/publications.htm) Accessed on July 24th 2007.
- Valuation Tribunal (2007). Valuation Tribunal [Online]  
Available at [www.valuation-trib.ie](http://www.valuation-trib.ie) Accessed on June 27<sup>th</sup> 2007.