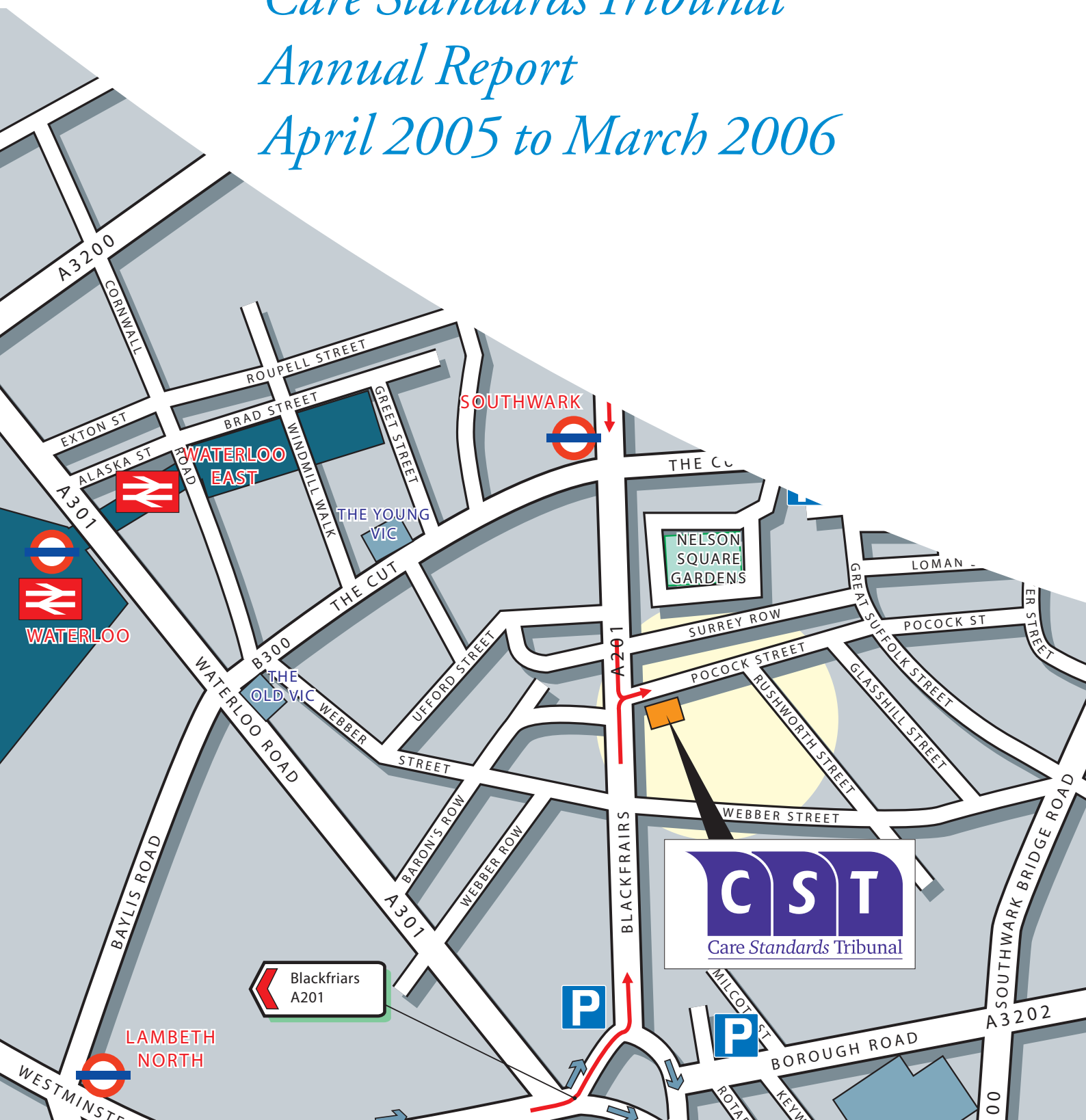


*Care Standards Tribunal
Annual Report
April 2005 to March 2006*



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Annual Report
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Foreword



I am delighted to write an introduction to the fourth annual report of the Care Standards Tribunal covering the period 1st April 2005 to 31st March 2006.

During this period, the litigation in the case of *Alternative Futures* has been concluded, by the House of Lords refusing leave to appeal from the decision of the Court of Appeal in [2005] 3 All ER 428. The complex dividing line between a “care home” and “supported living” has therefore been clarified, and a number of outstanding cases before the tribunal on this issue have accordingly been resolved.

A Digest of the Cases decided by the Tribunal is updated every six months, and is placed on the Care Standards Tribunal website, and is also available in hard copy from the Secretariat to the Tribunal. The website also has an index of all the cases so as to enable easy access to the full decision. The first series was concluded in December 2005, and a second series has been commenced with cases decided as from January 2006. A second edition of the Handbook has been published and distributed to all of our members.

The Tribunal members have attended training sessions during the year on procedural matters, and we also arranged an induction day for new medical members. We have developed a Members’ Appraisal Scheme that was introduced in October 2005. The objectives of the scheme are to maintain the confidence of users in the performance of the members of the CST, to establish and maintain consistency of standards and uniformity of practice, and to ensure that members acquire and maintain the competences necessary for their role. Another overriding objective of the Appraisal scheme is to provide a framework to gather and share members’ feedback on all areas of the CST and to use this feedback to help shape future developments.

I have lectured on and written about the work of the Care Standards Tribunal during this year at a number of venues both in the UK and abroad. I am a member of the editorial board of “Clarke Hall and Morrison on Children” and I write the chapters on Care Standards for that important practitioner text.

The CST has three Committees; the Rules Committee, the Education and Training Committee, and the General Purposes Committee. I am, as always, very grateful to the members of these Committees for devoting so much time to contributing to the work of these bodies. Many important ideas owe their origin to discussions at these Committees, such as the video/DVD on How to Appeal; and the constant improvements to the website.

The transfer of the CST from the Department of Health to the Department for Constitutional Affairs is scheduled for April 2007, and we all look forward to becoming part of the unified Tribunal service. Much of the preparatory work has been done, and the transfer promises to be smooth and straightforward.

I should also like to take this opportunity as always of thanking Barbara Erne, Andrea Gardner, Sukaynah Muhammad, Nalini Taylor, Graham Walker, Claire Brooks and the other members of staff of the CST who have all worked so hard to ensure that the Care Standards Tribunal functions so smoothly.

**His Honour Judge David Pearl,
President CST**

The Care Standards Tribunal

Annual Report – April 2004 to March 2005

Introduction

The CST has now been operational for four years. In that time, the level of appeals has steadily increased year on year. In the period covered by this report we have received more appeals from individuals included on the Protection of Vulnerable Adults List as a primary listing, and more appeals from social workers refused registration by the GSCC than previously, although such appeals have not yet reached the levels originally expected when these schemes were introduced.

The bulk of appeals continue to come from decisions of the CSCI, with Ofsted decision appeals making the next largest group of appeals.

Some of the Tribunal's jurisdictions still produce few appeals – particularly the home child care scheme and regulation of independent schools.

It remains to be seen whether increases in appeals will accelerate significantly during the coming year and beyond, but various changes in legislation are planned and these will have an impact on the Tribunal's workload. The main impact will result from the Safeguarding Vulnerable Groups Bill, going through Parliament at the time of writing this report. There are also proposed changes to the regulation of childcare contained in the Childcare Act 2006 that may result in an increase of appeals from child care providers. In addition, the GSCC, has yet to open the social care register to social care workers (currently only social workers are required to register) and when commenced, we would expect more appeals against GSCC decisions.

The President and the Secretariat have continued to make improvements to the administrative arrangements of appeals, and we are committed to providing an accessible, efficient and competent service. The production of the CST appeal video/DVD has been received well by users and other organisations and we have revised the appeal forms and the public guidance to bring more clarity to the appeals process.

The training plan and training delivered to CST members is updated regularly to ensure members are up to speed with relevant issues and have the appropriate skills to meet the exacting requirements of this jurisdiction. In addition, the appraisal scheme introduced in October 2005 is now in operation and consideration is currently being given to a mentoring scheme. We are also participating in the DCA judicial shadowing scheme aimed at providing opportunities for lawyers considering a judicial career to learn about the work of judicial bodies outside their experience.

In this last year the Tribunal also attracted the interest of the media when the issue of individuals working in schools made national news. The President gave two interviews – to BBC Newsnight and Channel Four news – about the Tribunal and appeals.

Caseload

Annex 2 provides statistical details of the case load and throughput of appeals in the year of this report. The number of appeals received increased by 17% over the previous year and increased by 35% in the period since the Tribunal became operational in April 2002.

The time between receipt of appeal and disposal of appeal in 05-06 was 90 days compared to 110 days in 04-05.

Several old appeal cases involving care homes were eventually resolved during the year. These cases, received between November 2002 and April 2003, were linked to a CST decision that was subject to an appeal from the residents by way of a judicial review to the Court of Appeal. The House of Lords has refused a further leave to appeal.

The CST procedural rules

The procedural rules under which the Tribunal operates have again needed amendment.

New, free-standing regulations have been produced to enable the Tribunal to deal with applications from people requesting revocation of their court disqualification order prohibiting working with children. This jurisdiction is contained in the Criminal Justice and Court Services Act 2000 which introduced such orders and provides for individuals to ask for a review 5 or 10 years after the order was made, depending on their age at the time. These arrangements came into force in January 2001 and therefore, juveniles disqualified from working with children at the beginning of the scheme can now apply to the tribunal for a review of the order. The new regulations came into force on 15th August 2006.

European Community Legislation, the Second General System Regulations (2002/2934), has also required an amendment to the current CST rules relating to appeals from people refused registration as child care providers by Ofsted or refused registration as social workers by the GSCC/CCW. The current rules provide a 28 day period for the submission of appeals in respect of these jurisdictions, but the regulations specify a 3 month period for appeals for EC nationals. The CST rules needed amendment to bring EC non UK nationals and UK nationals into line. These amendments came into force on 1st October 2006 and apply to all applicants irrespective of their nationality.

Membership

HH Judge Pearl remains as the President/judicial head of the Tribunal but continues to fulfil his court commitment as a sitting senior circuit judge. In addition, he was appointed to the Judicial Appointments Commission as a Commissioner in February 2006 and is responsible for the selection of all judicial appointments in England and Wales under the Constitutional Reform Act 2005. This appointment impacts on the time he can devote to his CST Presidential role and, consequently, we have bid for a new post of deputy President. At the time of going to press, the Lord Chancellor has approved the post. The JAC will advertise the post in December this year.

One legal member and one lay member have resigned during the year – Lady Charlotte Beatson and Dr Frada Eskin. Sadly, one of our lay members – David Allman – has died. This leaves the Tribunal with 19 legal members (excluding the President) and 73 lay members.

The SVG bill may have an impact on the membership of the Tribunal. During the passage of the Bill through the House of Lords, Lord Adonis said that the regulations specifying the constitution of the Tribunal may be amended to include any additional expertise necessary for the Tribunal to fulfil its extended remit.

Publicity and user info

The CST Legislation Handbook has again been updated in the year to include all the legislation relevant to the jurisdictions of the CST. Unfortunately, it has not been possible to include the Welsh legislation. However, the Secretariat is currently compiling a Welsh version of the Legislation Handbook, which will be available on the CST web site.

The Digest of Cases – 2002-2005 – is updated twice a year and can be accessed on the web site. The Digest has now expanded to more than 80 pages, and thus a decision has been taken to produce a second series of cases commencing from those decided after January 2006.

The future

Two changes will have a big impact on the Tribunal in the next two or three years. Firstly, the transfer of the CST to the Tribunals Group in the DCA in April 2007, which will have implications for the administrative management of the Tribunal. Secondly, the introduction of the Safeguarding Vulnerable Groups Bill, when it becomes law, will significantly alter the tribunals' jurisdiction in respect of appeals from people banned from working with children and vulnerable adults.

The project to transfer the CST to the Tribunals Service of the DCA is underway and a project board is taking the various budgetary, personnel, membership, IT etc elements forward to ensure a smooth transition.

Although the Safeguarding Vulnerable Groups Bill has yet to receive royal assent, it seems clear that appeal provisions in the Act will be very different from the current appeal arrangements under POCA and the CSA in respect of people prohibited from working with children or vulnerable adults. It is difficult to calculate the impact on the workload of the tribunal at this stage. The new scheme will cover a much larger workforce (about 6 million workers) than the current scheme.

Our understanding is that the provisions of the SVG Bill will not come into force until 2008, but clearly the CST will be a very different body in the future.

The tribunal will retain its other jurisdictions – appeals against decisions of the CSCI/HC, Ofsted and the GSCC. We expect appeals in relation to CSCI and Healthcare Commission decisions to remain about the same level but the Childcare Act 2006 that recently received Royal Assent, and the opening of the GSCC register to social care workers, planned from 2007, could also have an impact on the workload of the tribunal.

Annex 1 – Jurisdiction and legislation

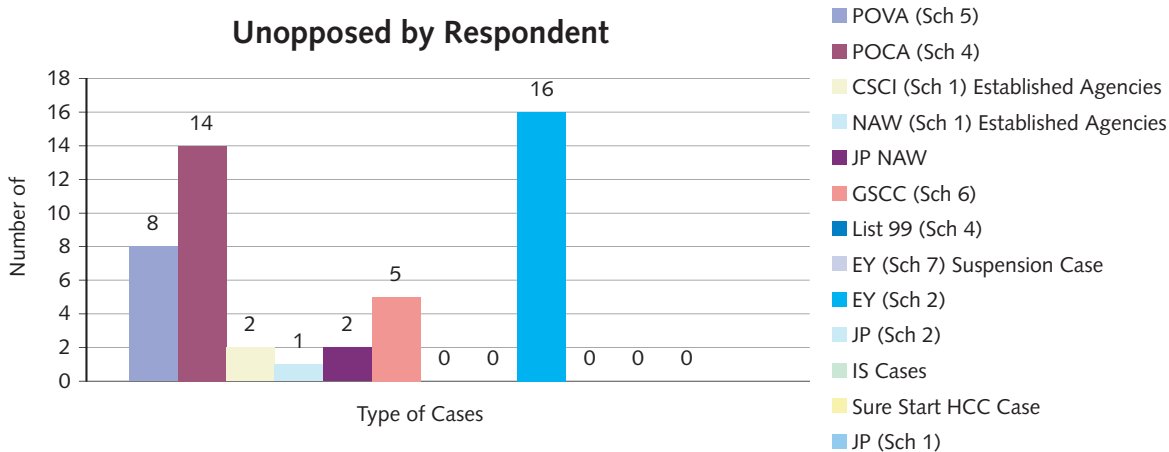
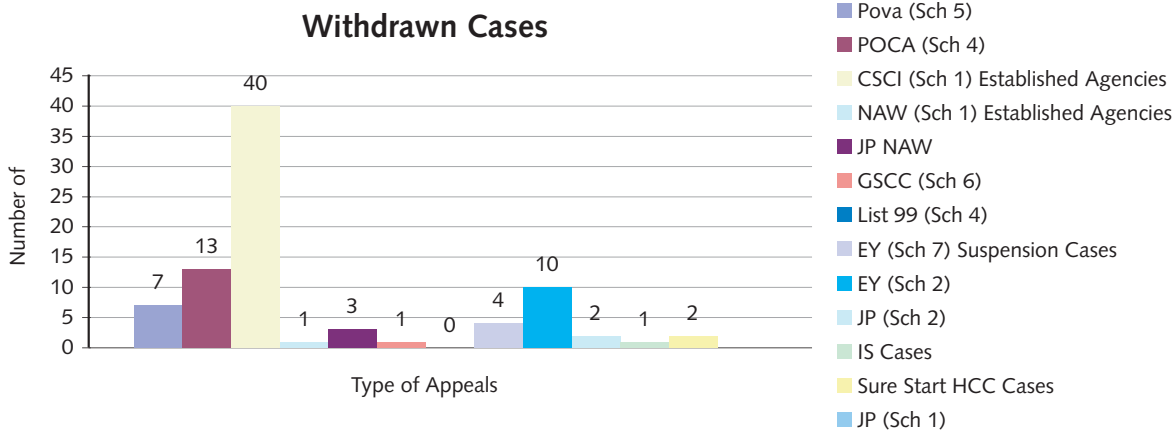
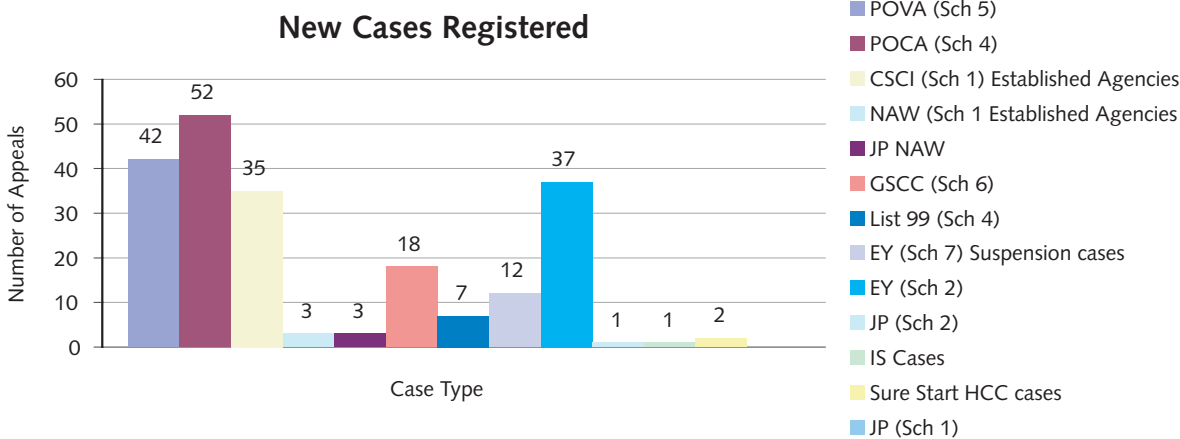
JURISDICTION	APPEALS PROVISION IN LEGISLATION	COMMENCEMENT
Protection of Children Act List	Protection of Children Act 1999 – Section 4	2 Oct 2000 under previous Tribunal arrangements, superseded by the CST
Prohibition or restriction of employment in schools on grounds of misconduct or health	Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 1184) and Education (Prohibition from Teaching or Working with Children) (Amendment) Regulations 2004 (SI 1493 made under the Education Act 2002. (Previously the Education (Restriction of Employment) Regulations 2000 (SI 2419) made under the Education Reform Act 1988.	As above.
Care/Children's Homes; Private and Voluntary Healthcare and independent medical agencies; Domiciliary Care/Nurses/Foster Agencies; Voluntary Adoption Agencies; Residential Family Centres	Part II Care Standards Act 2000 – Section 21	1 April 2002
Refusal to waive disqualification from involvement in children's home	Children Act 1989 – Section 65 as amended by Care Standards Act	1 April 2002
Registration of child minders and early years' providers	Part VI of Children Act 1989 – Section 79M as inserted by CSA 2000	1 April 2002
Suspension of registration of child minders and early years' providers	Part VI of Children Act 1989 – Section 79H as inserted by CSA 2000	1 April 03 – England. 20 Dec 04 – Wales
Social Care Register of social workers	Part IV of Care Standards Act 2000 – Section 68	1 April 03
Protection of Vulnerable Adults List	Part VII Care Standards Act 2000 – Section 86	26 July 2004
Home Child Carer Approval Scheme	The Tax Credits (Approval of Home Child Care Providers) Scheme 2005 made under Section 12 of the Tax Credits act 2002 (previous Scheme April 03)	1 April 03 but extended scheme commenced 6 April 05
Registration of Early Years Child Care Inspectors	Para 10(1A) of Sch 26 to School Standards and Framework Act 1998	30 April 03 – but repealed Sept 05
Registration of Nursery Education Inspectors	As above as amended by Para 5 of Schedule 14 to Education Act 2002	As above
Registration of independent schools	Education Act 2002 section 166	1 Sept 03
Disqualification from registration as early years provider or refusal to waive such disqualification	Children Act 1989 amended by the Education Act 2002 Schedule 13	3 Oct 2005 (England only)
Application for removal from Protection of Children Act List or Protection of Vulnerable Adults List; lifting of prohibition or restriction from employment in schools; revocation of court orders disqualifying individual from working with children on basis of change in circumstances	Protection of Children Act 1999; Education (Prohibition from Teaching or Working in Schools) Regulations 2003 made under the Education Act 2002; Care Standards Act 2000; Criminal Justice and Court Services Act 2000	Provisions commenced at different dates but first possible January 06 because of time limits imposed for the making of applications

Annex 2 – Activity

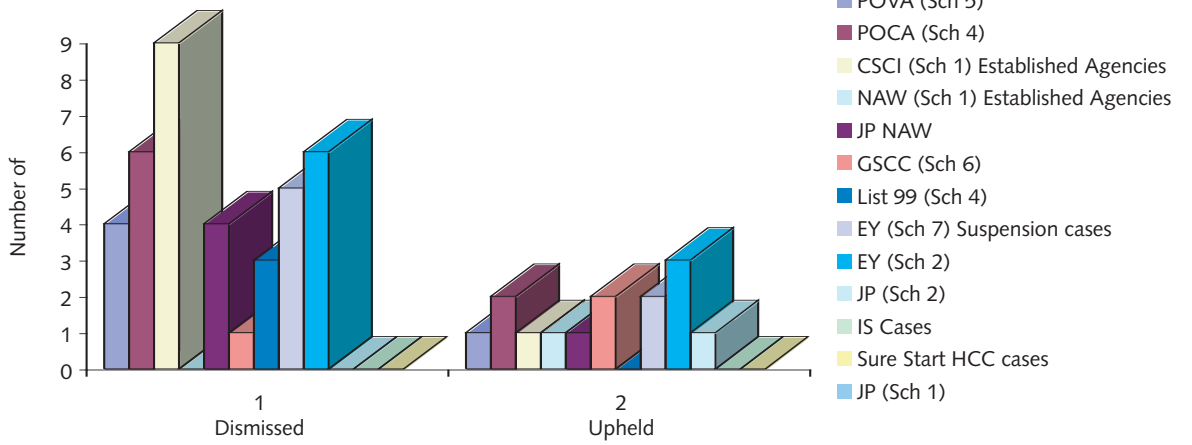
Number of Appeals received and dealt with – 1st April 2005 to 31st March 2006

(1) Series	(2) B/Forward	(3) New Cases	(4) Total (2) + (3)	(5) With- drawn by Appellant	(6) Unopposed by Respondent	(7) Struck out	(8) Total Heard	(8a) Dismissed	(8b) Upheld	O/S
1	Decisions of SofS (Sch 5) POVA List	7	42	49	7	8	5	4	1	24
2	Decision of SofS (Sch 4) POCA List	17	52	69	13	14	8	6	2	30
3	Decision of CSCl (Sch 1) Established Agencies	29	35	64	40	2	10	9	1	10
4	Decision of NAW (Sch 1) Established Agencies	2	3	5	1	1	1	0	1	2
5	Appeal of Decision of JP (Sch 1) NAW	8	3	11	3	2	5	4	1	1
6	Appeal of Decision of JP (Sch 1)	2	18	20	1	5	3	1	2	11
7	Decision of GSCC (Sch 6)	0	7	7	0	0	3	3	0	2
8	Decision of SofS (Sch 4) List 99	1	12	13	4	0	7	5	2	0
9	Decision of CI to suspend EY Providers (Sch 7)	9	37	46	10	16	9	6	3	6
10	Decision of CI Schools (Sch 2) EY providers	2	1	3	2	0	1	0	1	0
11	Appeal of Decision of JP (Sch 2)	0	1	1	1	0	0	0	0	0
12	Decisions of CI Schools IS	0	2	2	2	0	0	0	0	0
13	Decision of Sure Start HCC	99								
14	Number of Prelims	14								
15	Number of Cost Hearings	2								
16	Number of High Court Appeals	89								
17	Number of days appeals heard	4.4 months								
18	Average time of disposal of cases	77	213	290	84	48	52	38	14	86

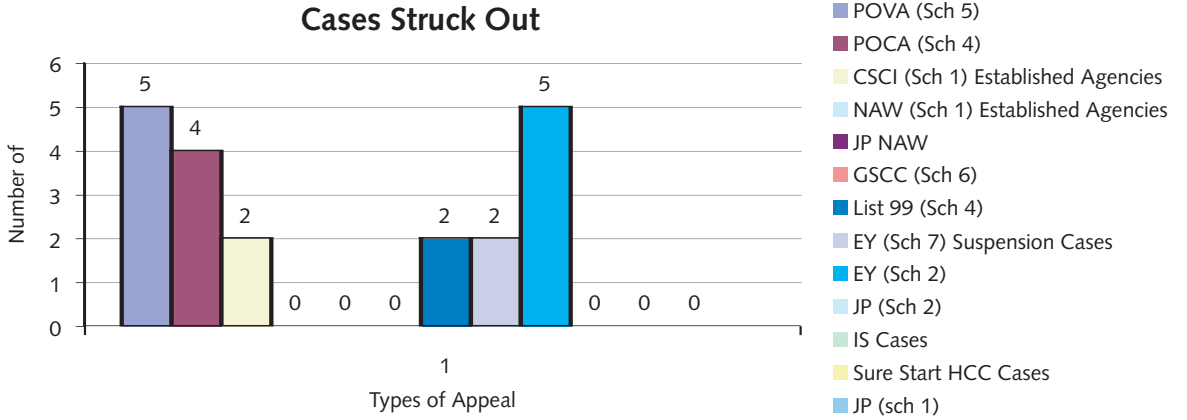
Key:
 CSCl = Commission for Social Care Inspection PVH = Private/voluntary healthcare CI = Chief Inspector of Schools PoVA = Protection of Vulnerable Adults GSCC/CCW = General Social Care Council/Care Council Wales
 EY = Early years' PoCA = Protection of Children Act NAW = National Assembly for Wales JP = Justice of the Peace



Cases Heard



Cases Struck Out



Annex 3 – Costs

Breakdown of CST costs for financial year 2005/6

ITEM	COST (£)
Accommodation related costs (includes rent, rates, services charge, building maintenance, cleaning and security)	449k
Services for CST premises (includes provision of utilities, postal costs, catering, vending machines and telephones)	27k
Appeal related costs (including Members fees and expenses, venue hire, professional costs, training and conference costs and contribution to President salary)	306k
Miscellaneous costs (includes publications, printing, reprographics translation costs and stationery)	88k
TOTAL COSTS	870k

Annex 4 – Membership

Legal Members of the Care Standards Tribunal Panel

Askham, Tony
Bennett, Laurence
Clarke, Helen
Goldthorpe, Liz
Hughes, Lady Rosemary
Hunter, Stewart
Irving, Gillian
Lewis, Melanie
Lindqvist, Andrew
Oliver, Simon
Pearl, HH Judge David – President
Reddish, John
Rivers, Andrea
Robertson, Ian
Roberts, Rev Maureen
Rowland, Mark
Singleton, Carolyn
Swift, HH Judge David
Tudur, Meleri
Wadling, Tony

Lay Members of the Care Standards Tribunal Panel

Adolphe, Marilyn
Alford, Carole
Ariyanayagam, Dr Sati
Beeden, Richard
Black, James
Braybrook, David
Cairns, Brian
Caporn, Carol
Chatfield, Bez
Churchill, James
Clark, Professor Charles
Cochran, Dr David
Cohen, Jeff
Coleman, Ken
Cook, David
Cross, Jenny

Derrick, Sally
Diamond, Margaret
Donovan, Mike (resigned September 06)
Elliot, Linda
Flynn, Mike
Fowler, Elena
Freeman, Dr Howard
Funnell, Janice
George, Peter
Gilhespie, Susan
Gladwin, Lydia
Graham, Bridget
Grassie, Diana
Greenacre, Tim
Griffiths, David
Halstead, Margaret
Harper, Graham
Harris, Maxine
Howell, Susan
Hutchinson, John
Hyland, Helen
Jobbins, Mike
Joffe, Caroline
Kumar, Dr Surendra
Last, Susan
Leigh, Dr Peter
Lim, Jim
Lorimer, Dr James
Lowcock, Jenny
Low, Dr Jill
MacGregor, Gillian
Martin, Marilyn
Geraldine Matthison
McLoughlin, Pat
Merali, Dr Nizar
Prewett, Sallie
Rabbetts, Denise
Radley, Ron
Redford, Linda
Reid, Heather
Sarll, Peter
Sharma, Dr Suraj
Stafford, Wendy
Thompson, Paul
Tomlinson, David
Trencher MBE, Claire

Treves Brown, Dr Christopher
Tynan, Michele
Wade, Judith
Wakefield, Chris
Walsh-Heggie, Dr Elizabeth
White, Dr Keith
Wiggin, Christa
Williams, John
Williams, Margaret
Wilson, Andrew
Winn, Raymond

Annex 5 – Secretariat

The CST Secretariat

Secretary: Barbara Erne (020 7 960 0664)

Responsible for all administrative aspects of the Tribunal including: management of secretariat support; public guidance and provision of web site; liaison with sponsor department on administrative and regulatory issues relating to appeals; secretariat compliance with relevant legislation and regulations.

Deputy Secretary: Andrea Gardner (020 7 960 0665)

Supports Secretary; responsible for day-to-day finance issues, accommodation and services provided to the premises; liaison with members, President and DH finance on fees and expenses. Line management responsibilities.

Case Officers: Graham Walker and Nalini Tailor (020 7 960 0666/0667)

Responsible for registering appeals and processing and progressing all paperwork and arrangements connected to an appeal; liaising with President and Tribunal members about appeals and; maintenance of appeals database and statistical information on appeals.

PA/Admin Officer: Sukaynah Muhammad (020 7 960 0673)

PA support for the President, covering amongst other things, members' training, appraisal and meetings. Liaison with members on issues other than finance. General administrative support for Secretary and Secretariat.

General Support Officer: Claire Brooks

General clerical support, including support for processing appeals and some clerking.

General office enquiries: 020 7 960 0660/0668

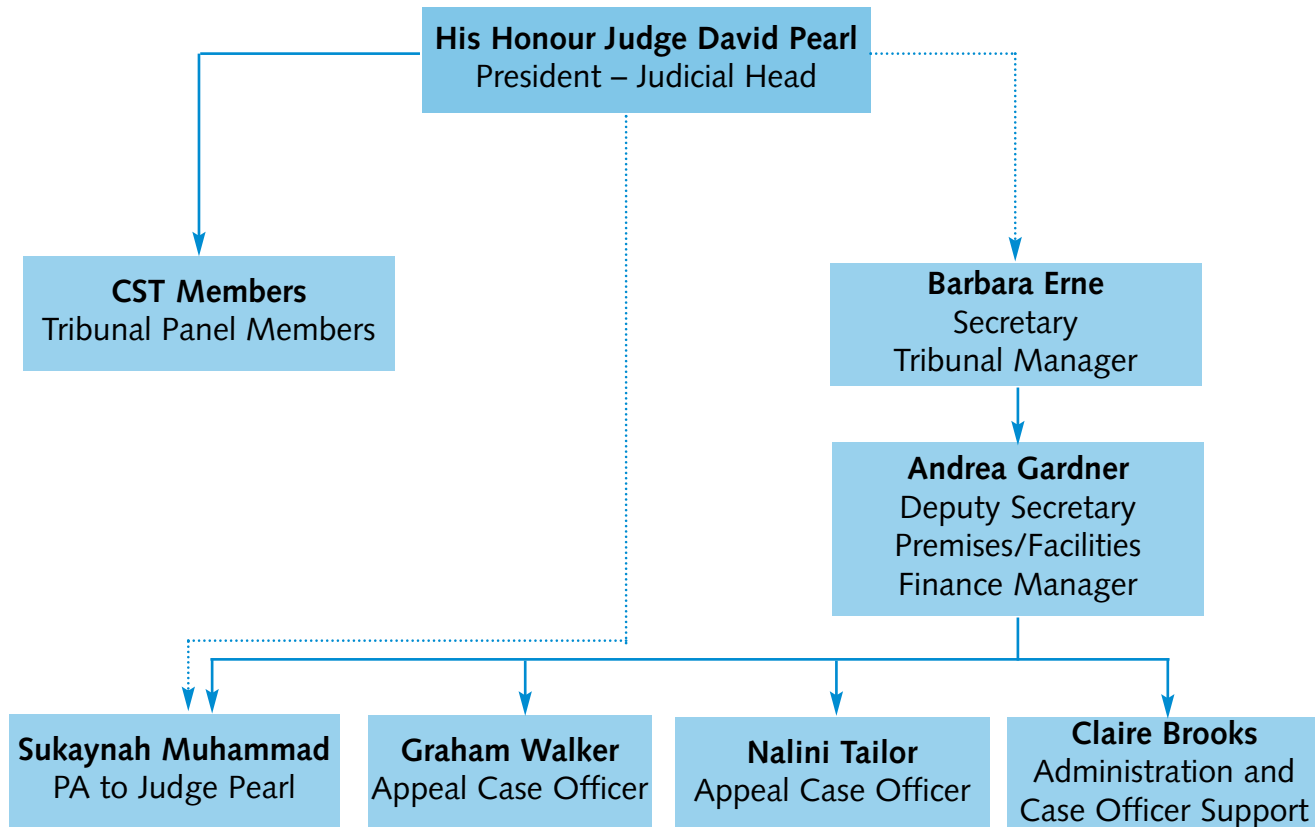
Fax: 020 7 960 0661/0662

Office email: cst@cst.gsi.gov.uk

CST address: Care Standards Tribunal,
18 Pocock Street, London SE1 0BW

CST Website: www.carestandardstribunal.gov.uk

Organisation Chart



Annex 6 – Premises

CST premises and facilities

The CST premises are located in central London close to Waterloo and Southwark tube station. The premises occupy one floor of a building separate from the main Department of Health estate.



The accommodation consists of two hearing rooms each with an accompanying retiring room for the tribunal members to discuss appeals they hear in private. There are four waiting rooms for the use of parties to appeals and a separate room fitted with a video link to the main hearing room to enable the Tribunal to hear evidence from children or vulnerable adults where considered appropriate.

The premises are compliant with the provisions of the Disability Discrimination Act 1995 and suitable for wheelchair access. The hearing rooms are fitted with an induction loop for people with hearing appliances.



Limited refreshment facilities are available by means of vending machines dispensing hot and cold drinks and snacks. There are a number of cafes and restaurants in the immediate area.

There is no free parking outside the premises but there are parking meter spaces immediately outside the building and parking sites close by.

Annex 7 – Publications

CST Publications

The Care Standards Legislation Handbook (Fourth Edition)

Published by Jordans

Provides statues and statutory instruments relating to the regulatory system and appeals processes for care services in England and Wales

Public Guidance

Produced by CST Secretariat

A Guide to the Appeals Process and Procedures of the Care Standards Tribunal. The guidance provides advice on how to appeal, the appeal process and arrangements prior to the hearing and information about the hearing itself. This Guidance is also produced in Welsh

(Available from the CST website and on application to the Secretariat).

Care Standards Tribunal Members Handbook

Produced by the President of the Tribunal

Provides practical guidance to CST members on various procedural aspects of their work

(Available on the CST website)

Secretariat Handbook

Produced by Secretary to the Tribunal

Provides detailed advice on the processing of appeal applications.

(Available on the CST website)

Clerk's Handbook

Produced by Secretary to the Tribunal

Provides background on the Tribunal and advice for clerks in respect of their duties in clerking a hearing.

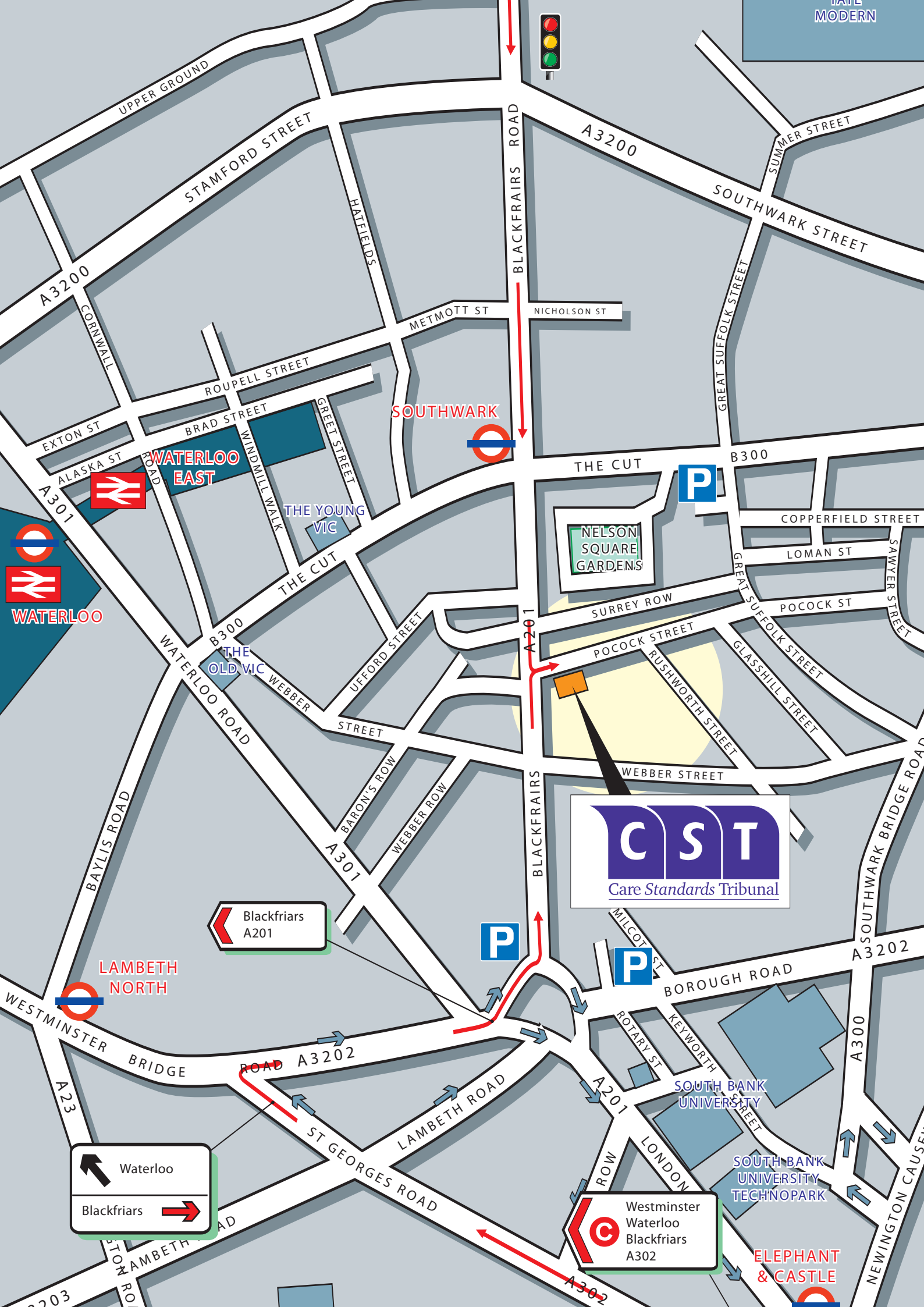
(Not publicly available)

The CST Publication Scheme

The CST has produced a publication scheme that sets out the classes of information in relation to the running of the Tribunal but not in relation to individual appeal cases, that are available to the public. This scheme is available on the CST website.

The Digest of Cases Issue 6

This document was updated by the President in January 2006. Series Two was produced in September 2006 for cases decided after January 2006. The Digest is available in hardcopy and is also on the CST website.



SOUTHWARK

WATERLOO EAST

WATERLOO



CST
Care Standards Tribunal

Blackfriars
A201

LAMBETH NORTH

Waterloo
Blackfriars

Westminster
Waterloo
Blackfriars
A302

ELEPHANT & CASTLE



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Website: www.carestandardtribunal.gov.uk

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can also be made available on request in braille, on audio cassette tape, on disk,
in large print, and in other languages on request.