SOCIAL SECURITY

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Opinion

Last month we mentioned the increasing tendency of the Department of Social Security to veto decisions of Social Security Appeals Tribunals: see 33 *SSR* 413.

A few figures, drawn from the DSS quarterly returns of SSAT appeals, illustrate this change in outcomes. These figures present a graphic picture of the relationship between the SSATs and the DSS - a relationship which is presently characterized by suspicion and distrust of the Department on the part of the Tribunals.

In the 3 months to 30 September 1984, the DSS vetoed 9% of the favourable SSAT decisions in medical appeals (invalid pension, sickness benefits and handicapped child's allowance) and 23% of those decisions in other appeals. In the same period to 30 September 1985, the veto rates remained at much the same levels - 9% and 19%. But in the 3 months to 30 September 1986, the veto rates jumped to 32% for medical appeals and 45% for other appeals.

In order to understand these figures, one must grasp the simple point that the SSATs do not, despite their name, have the power to 'decide' appeals: they are permitted to dismiss an appeal but may only *recommend* that an appeal be upheld, leaving that recommendation to be accepted or rejected by the DSS. The Administrative Review Council has recommended that the SSATs be given true decision-making power: see (1984) 20 *SSR* 226; but Social Security Minister Howe declined to act on that recommendation, although he indicated that he supported it 'in principle': see (1985) 28 *SSR* 355.

The increase in DSS vetos of SSAT recommendations has coincided with the introduction of a new Departmental system for processing SSAT recommendations: formerly, only the Department's central office had the power to reject an SSAT recommendation; but during the course of this year, that veto power has been delegated, in most matters, to State offices. The dramatic increase in DSS vetos (a trebling in medical appeals and a doubling in other appeals) may have been caused by this change in system - placing ultimate responsibility for reviewing a decision close to the location where the original decision was made could reduce the prospect of genuine review - or it may be no more than a coincidence.

Whatever the immediate cause, this increase has several worrying implications. It is certain to damage public confidence in the appeal system - 'What', a claimant might ask, 'is the point in appealing when the Department is so unwilling to accept the Tribunal's decision?' It cannot assist in the development of a constructive approach by the SSATs to their task - they might reasonably ask themselves much the same question as claimants. It is likely to add to the number of appeals to the Administrative Appeals Tribunal (whose jurisdiction is confined, for practical purposes, to those matters where SSAT appeal has failed to satisfy the claimant) - a point which has already been raised by the Administrative Review Council: see [1986] *Admin Review* 156.

This increase in DSS vetos raises yet again the curious status (or non-status) of SSATs and emphasizes the urgent need for adoption of the Administrative Review Council's 1984 recommendations for an independent, effective appeal system. And it brings into sharp focus the failure of the Minister (a person who professes a commitment to social security rights) to transcend the narrow interests of the bureaucrats who staff his Department and act on the Council's recommendations.

P.H.

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