



**EMPLOYMENT TRIBUNALS
(England & Wales)**

43rd MEETING OF NATIONAL USER GROUP

**Minutes of the National User Group meeting
held via Cloud Video Platform (CVP) on 5 May 2021**

In attendance:

Judge Barry Clarke	President, Employment Tribunals (England & Wales)
Judge Joanna Wade	Regional Employment Judge (London Central)
Judge Andrew Freer	Regional Employment Judge (London South)
Judge George Foxwell	Regional Employment Judge (South East)
Judge Lorna Findlay	Regional Employment Judge (Midlands West)
Judge David Franey	Regional Employment Judge (North West)
Natalie Mountain	Acting Deputy Director of Tribunals, HMCTS
Mark Lewis	Employment Tribunals Service Manager, HMCTS
Richard Boyd	BEIS
Nicole Clarke	Acas
Mary Towers	TUC
Tim Sharp	TUC
Caspar Glyn QC	Employment Lawyers Association (“ELA”)
Shantha David	Law Society’s Employment Law Committee
Philip Thornton	Lexis Nexis
Andrew Willis	Croner Group Limited
Daniel Barnett	Barrister
Michael Reed	Free Representation Unit
Simon Pender	Make UK
Paman Singh	Law at Work
John Sprack	Law Works
James Potts	Peninsula
Matthew Bradbury	Citizens Advice
Colin Davidson	Discrimination Law Association
Laura Garner	Thomson Reuters

Apologies

Judge Shona Simon	President, Employment Tribunals (Scotland)
Nigel Edgington	Jurisdictional support team, HMCTS
Marie Mannering	Jurisdictional support team, HMCTS

Tony Lowe	Acas
Katie Miller	CBI
Bob Matheson	Protect (formerly Public Concern at Work)
Diya Sen Gupta QC	Employment Law Bar Association

Item 1 Welcome & introductions

The President welcomed members to the 43rd meeting of the Employment Tribunals (England & Wales) National User Group, held via the HMCTS Cloud Video Platform.

Item 2 Agree minutes from last meeting

The minutes were agreed.

Item 3 Employment Tribunals – President’s report

3.1 People

The President welcomed the appointment of two new Regional Employment Judges, [Judge Lorna Findlay](#) (Midlands West region) and [Judge Sian Davies](#) (Wales), who commenced their new roles on 19 April 2021. They had both spent substantial periods of time performing the roles on an “acting” basis. Having done so during the pandemic, they were well placed to support the recovery of the jurisdiction.

3.2 Road map and recovery

The President updated attendees on the response to the Covid-19 pandemic. He reminded those present of the [2021-22 road map](#) that he had issued on 31 March 2021 jointly with the President of Employment Tribunals in Scotland, Judge Shona Simon. It set out the views of the two Presidents on the next stage of recovery of the Employment Tribunals from the pandemic’s impact.

The road map contained a detailed section on the future of video hearings in the Employment Tribunals, which the President encouraged all users to read. Subject to judicial discretion and to differential speeds of regional recovery, the road map identified default platforms (telephone, video or in-person) for various types of hearing over the next year. It introduced system users to the “virtual region” in England and Wales, which launched on 19 April 2021, and spoke about proposals for the temporary assignment of judges into the Employment Tribunals. The President suggested that the road map was the best place to start for any users or observers interested in the current position.

The President described the position in England and Wales as variable between regions, reflecting the fact that the distribution of resources between regions was not uniform. He addressed those resources in turn: judicial, administrative, technological, and physical (i.e., the estate).

Judicial resource was lacking in all regions of the Employment Tribunals but, relative to workload size, it was especially lacking in London and the South East of England. This geographical area (comprising four ET regions) held about 60% of the outstanding caseload of single claims in England and Wales but only a third of the judicial resources available to the system. The London South region (administered from Croydon) and South East England region (administered from Watford) were especially short of salaried judges.

Some rebalancing would result from the appointment of new salaried Employment Judges in 2021 but, regrettably, not to the extent required. The President had reported at the national user group meetings in [June 2020](#) and [December 2020](#) that the [2020-21 JAC competition](#) sought to secure 25 full-time equivalent (“FTE”) salaried judges for the Employment Tribunals in England and Wales. This figure chiefly represented the shortfall in the number of salaried judges that the system had sought to recruit in 2019; the intention had always been to focus further appointments in the London South and South East England regions. Given the popularity of fractional working arrangements, 25 FTE judges might have required the appointment of 30-33 individuals. Unfortunately, the competition had fallen short on numbers. About 16 FTE judges, which is 19 individuals, would be publicly announced on the [relevant pages of the judiciary website](#) in the coming weeks and months. This meant, unfortunately, that some ET regions which had hoped to recruit new judges would not be recruiting at all.

The President said that, following discussions with the new appointees over several weeks, about two-thirds of them would be deployed to support the work in the London South and the South East England regions. The first four would commence their new roles on 7 June 2021 and would be announced shortly. Although fewer than he had hoped for, he was delighted to welcome all 19 to the cohort of salaried judges across England and Wales. After their arrival, and after taking account of recent retirements and promotions, that cohort would increase to about 140 individuals.

The imbalance of judicial resources would be mitigated to some degree by the virtual region, which commenced operation on 19 April 2021. The President emphasised that the virtual region was not a “silver bullet” because, by itself, it did not result in the appointment of new judges or the redeployment of existing judges. It only generated additional sitting capacity because, in his view, fee paid Employment Judges would be likely to offer more sitting dates to support the work in London and the South East if they could do so remotely, i.e., sitting from home or a nearby HMCTS venue without the need to travel and stay overnight. The virtual region operated as a brokerage system; it brought together the cases at risk of postponement for want of a judge with the judges who, if they could hear them via video, could sit on them. About 100 of the fee paid Employment Judges in England and Wales, nearly half of the current number, had joined the virtual region. HMCTS had supported the project with planning arrangements, guaranteed sitting days, three administrators and its own CVP rooms. The President was keen, nonetheless, to manage

expectations; there would still be cases postponed for having no judge available, even if they might reduce in number.

In its early days, the virtual region was limited to cases on which judges could sit without non-legal members, such as claims for unpaid wages and for unfair dismissal. This was to ensure that it did not offend the principle established by the House of Lords in [Lawal v. Northern Spirit Ltd \[2003\] UKHL 35](#), by which the fairness of a hearing would be imperilled if an advocate appeared before non-legal members having previously sat alongside them as a fee paid judge. However, the President said he had plans to create a panel of “*Lawal*-proof” judges within the virtual region so that some of them could be allocated to discrimination and whistleblowing cases alongside non-legal members; that panel would be drawn from those fee paid judges who were no longer in professional practice and would never appear in any ET region as a representative. The President would update the user group in due course. He explained that, while all regions in England and Wales could use the virtual region, its present aim was to deliver support to London and the South East. To ensure that the virtual region was utilised, it was likely that there would be greater reliance on video hearings in London and the South East.

As for further judicial resources, a JAC competition for new fee paid Employment Judges was reaching its conclusion. Recommendations for appointment were expected in the summer of 2021. Additionally, the President was in the advanced stages of planning an exercise by which judges in other jurisdictions with suitable employment law expertise and experience could apply for temporary assignment to act as Employment Judges, using the powers now available under the [amended regulation 8](#) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. Individuals appointed by this route would be inducted alongside the new fee paid Employment Judges due for appointment in the summer of 2021.

The President said that, although he was in regular discussions with the relevant workforce planning team in HMCTS about the prospects of recruiting more salaried and fee paid judges, he recognised the pressures on all parts of the justice system. He would update the user group as soon as he had more information, including providing links to JAC competitions once they went “live”. (Anyone interested in applying for such a role could sign up for the JAC’s monthly [“Judging Your Future” e-newsletter](#).)

Administrative resource, in terms of sufficient HMCTS staff, was lacking in all regions. While staff attendance and turnover levels varied between regions, the challenges had been greatest in the London regions due to the need for staff to commute during the pandemic, aggravated by the fact that, until very recently, the ET case management software could only be accessed from within the building. The region most adversely affected by limited staff resources had been London Central. Users were familiar with the delays in dealing with correspondence in that region, and the Regional Employment Judge would update the user group later.

Mark Lewis of HMCTS reported that there had been high level discussions within HMCTS to deliver better staffing systems. He said that 1,600 new staff members had been recruited across the court and tribunal system.

Technological resource was also variable. The ET leadership judiciary had worked closely with HMCTS and MoJ in an effort to secure increased provision of hardware to support video hearings (such as monitors, laptops, cameras, microphones etc) and software (such as PDF editing and reading software and functionality improvements to the Cloud Video Platforms), as well as funds to train judges and members in their use. While this had mostly been effective, some venues were short of additional monitors for the bench (such as Birmingham and Leeds) while others were short of the larger screens that support hybrid hearings (such as Cardiff).

Estate resource was limited in most regions, with some regions worse affected than others. This was because of the continued impact of distancing measures. Those measures required HMCTS staff to spread out, which, in turn, meant that many had to occupy hearing rooms in order to perform their work safely. With a greatly reduced number of physical hearing rooms at the jurisdiction's disposal, the options were to reduce the number of hearings held or to move as many as possible to video. The President had taken the latter approach in an effort to minimise delays. There was a continued need in all regions to rely on video hearings for so long as social distancing measures were in place, even though some in-person hearings were possible in all regions. As those distancing measures eased, and as more hearing rooms came back into use, in-person hearings could resume more frequently across parts of the country, in accordance with the plans set out in the 2021-22 road map. The situation was made worse by the lack of administrative resource referred to above, and the unreliability of Ethos, the case management system, which crashed regularly with the loss of work. Each region, to varying degrees, faced a backlog of work and difficulties with unanswered correspondence.

The estate position was especially challenging in Victory House on Kingsway, the home of the London Central ET region. Victory House had closed between 17 December 2020 and 26 April 2021, following problems with its mechanical air ventilation system. These problems rendered the building unsafe for occupation and required remedial works by the landlord. Strenuous efforts were made by the judiciary to keep hearings going with no access to the building or files, and with minimal access to the case management system. HMCTS colleagues worked hard to lift and drop the Ethos server into a nearby venue at Fox Court on Gray's Inn Road; thanks were due to the judges and staff of the Social Entitlement Chamber and the War Pensions and Armed Forces Compensation Chamber for making space available. The regrettable consequence of this disruption, as many users were aware, was that telephone calls and emails to the regional office had gone unanswered. Thankfully, upon re-entry to the building at the end of April, HMCTS produced a rapid recovery strategy to reduce the very large number of outstanding emails in the inbox to a more manageable level. The President acknowledged that service levels in London Central remained unacceptable, but he assured

users that efforts were underway to improve the situation. Regional Employment Judge Wade would update the user group later in the meeting.

The closure of Victory House had also impacted on the staff of the President's Support Office, who were located there.

The President apologised to users for these issues and expressed his regret that he could not provide more positive news. He acknowledged that his office received many complaints from users each week, the majority of which concerned system delays. He was doing his best to respond to these complaints as time allowed. He reaffirmed his admiration for the resilience and adaptability of the jurisdiction's judges and non-legal members in responding to the pandemic, his gratitude for the efforts of the Regional Employment Judges and for the patience and stoicism of professional users, and his determination to continue working with HMCTS to improve the situation.

3.3 Replacement of Ethos with ECM

Essential to the system's recovery was a successful migration from Ethos to Employment Case Management ("ECM"), the new case management system. ECM had been designed as a cloud-based replacement for Ethos which would facilitate remote access to case information but otherwise replicate its functionality. Each region in England and Wales (as well as Scotland) had been migrating to the new system in stages over weekends between March and May 2021. This process had been long in the planning, although it had been delayed while the system was tested. The last two administrative offices, Manchester and Newcastle, would migrate this weekend.

The President congratulated HMCTS on what had so far been a successful, albeit delayed, roll-out of the new system. He emphasised to users that ECM was not the "end product", but the foundation stone for a process of reform that would, he hoped, lead to a properly digital working environment and, at least in terms of internal working practices, paperless files. The President described how the need to print and link each item of correspondence to a physical file resulted in complication and delay. It was not a sustainable way of working in 2021.

Mark Lewis from HMCTS said that the speed and scope of the ECM roll-out had been ambitious; it had been a huge project. Staff had been asked to climb a steep learning curve, but he was confident that they would respond well and that it would lead to more flexible administration and more efficient working.

The wider HMCTS reform process would apply to Employment Tribunals in 2021-22. The two ET Presidents in Britain had set up a cross-border working group of leadership judges who would work alongside HMCTS to explore in greater detail the preferred new ways of working. The Presidents would update their respective national user groups as this process continued. Natalie Mountain of HMCTS agreed, describing ECM as a "tactical solution" that would advance the Employment Tribunals to their desired destination point: an effective process for fully online case management.

3.4 Performance and statistics

The President had reported at previous user group meetings the increasing backlog of single cases. The figure for England, Wales and Scotland combined had stood at about 10,000 cases in March 2017, but it had been steadily rising since fees were abolished in July 2017: to about 19,000 in March 2018; to about 27,000 in March 2019; and to about 33,000 later in 2019. The President's view was that the arrival of new salaried judges in 2019 had begun to have an impact, because the outstanding caseload had reduced to 31,000 by March 2020.

Then Covid-19 happened. It resulted in a three-month pause in most full hearings (from the end of March 2020 until the return of hearings by video in June 2020) and an increase in receipts (especially between September and December 2020). The previous all-time high for the outstanding caseload of single claims had been about 36,000 in 2009-10, in the aftermath of the credit crisis. That figure was surpassed in June 2020. By January 2021, the figure of outstanding single claims had reached about 45,000.

The rate of increase had been slowing towards the end of 2020 and, prior to the start of migration to ECM in early March 2021, the figure for outstanding cases had actually fallen very slightly to about 44,000. The main explanation for this, in the President's view, was the successful adoption of the Cloud Video Platform. By the end of the calendar year, the Employment Tribunals had become the main jurisdictional user of CVP, regularly "clocking up" well over 3,000 hours of CVP use per week. The "virtual" estate was self-evidently larger than the "physical" estate and, subject to the availability of enough judges, and enough staff to support the progression of cases, it allowed many more hearings to proceed.

The picture in respect of multiples was more complex. The President described the multiples caseload of the Employment Tribunals as more dynamic; it was not an accurate barometer of pressures on the jurisdiction. It included ongoing equal pay claims, public sector pension claims and holiday pay claims, which did not correlate with the economic cycle, as well as the sort of collective consultation/protective award claims that might be expected to rise during a period of labour market disruption. The number of outstanding multiple cases had risen from about 5,000 in March 2020 to about 6,300 in March 2021. The individual claimants within those 6,300 multiple cases numbered about 500,000.

The data about cases received and disposed of had previously been extracted from Ethos. As the migration to ECM started, HMCTS suspended publication of these data. During the migration period, [the additional transparency data published online](#) by HMCTS was accompanied by an explanation that ET-specific data would be reinstated as soon as possible. The President said that he had been assured that such data would be available by the end of June 2021. He accepted that the period of "data silence" was frustrating, but he said that he had agreed that bad data would

be worse than no data. It was important that staff were used to the new system and properly closing down “disposed” cases so that the figures for the backlog of outstanding single and multiple claims, when they reappeared later in 2021, were robust and accurate.

3.5 Waiting times

Prior to the national user group meeting, the President had surveyed the Regional Employment Judges so that he could pass on to users current waiting times. The result was that, as at 5 May 2021, most regions were able to list 1-2 day cases in the second half of 2021, 3-5 day cases in the first half of 2022 and 5-10 day cases in the second half of 2022. Some had shorter waiting times, and some had longer, but this was the general picture. Even for cases longer than 10 days, no region was yet routinely listing into 2023.

The President emphasised that this reflected aggressive listing practices to maximise the number of cases heard; if cases were only listed to available judges, regardless of settlement rates, waiting times would be very much longer. He also acknowledged that there would be cases where the waiting time may be longer for reasons such as party or witness availability, the need for multiple preliminary hearings, intervening postponement decisions that pushed cases into the future, or an intervening appeal. He suggested that professional advisers bear in mind the likely significant delay that a postponement of a hearing would cause, and to consider carefully, before applying for a postponement, whether it really would further the overriding objective.

One procedure that delayed matters was the need for a preliminary hearing for case management purposes in respect of claims involving allegations of discrimination or whistleblowing detriment. This was because the decision on the duration of the hearing would be taken at the preliminary hearing after clarifying the issues in dispute and after taking into consideration, to the extent needed to give effect to the overriding objective, the views of the parties and their availability. If there was a delay in listing that preliminary hearing, it would in turn delay the full hearing. To keep such delays to a minimum, it was possible to list the preliminary hearing and the full hearing (for a provisional three days) at the same time, either when serving the claim form on the respondent or upon initial consideration under rule 26. The Midlands East region had long taken this approach, and it was now being trialled in the South East, in the North West and in Wales. Some other regions were also investigating the feasibility of this approach. The President did not wish to impose such an approach on all regions, as listing policies were delegated to Regional Employment Judges who knew and understood their regions best.

3.6 Developments in video hearings

The President confirmed that, while the Cloud Video Platform remained the default platform for video hearings, it was an “out of the box” product that had been released to assist with pandemic recovery. It was a prototype for the full video hearing service (“VHS”), which was to accompany the HMCTS reform

programme. The President had asked Regional Employment Judge Pirani to pilot VHS in the South West England ET region. The pilot had been underway since July 2020, with CVP as a back-up platform if it failed.

In the last ten months, VHS had been used in the South West in all types of remote hearings, including multi-day, full-panel cases. The pilot had recently been extended to hybrid hearings. Judges and users had continued to make suggestions for improvements. During a VHS hearing, specially trained video hearing officers (or “VHOs”) provided support. Further improvements were due to be implemented shortly.

Regional Employment Judge Pirani asked the President to convey his thanks to the judges and users in the South West England region who had assisted in the development of this platform. Although it was not yet ready for deployment nationally, that time was drawing closer with every improvement. (Users can see a [demonstration of the VHS interface online](#).)

3.7 Paper and electronic bundles and the Document Upload Centre

The President described the Document Upload Centre (“DUC”) as an interim or “tactical” solution for the secure transmission of electronic bundles in several court and tribunal jurisdictions, which had been developed by HMCTS. It was currently available for professional users only. By reducing the burden on email systems, which would otherwise be used for sending data-heavy electronic bundles split as attachments across multiple messages, it improved system efficiency and facilitated the conduct of remote hearings. The expectation was that, in due course, the DUC would be replaced by a longer-term “strategic” solution as part of the HMCTS reform programme.

Shantha David of the Law Society and Caspar Glyn QC of the ELA raised concerns on behalf of their respective members about inconsistent adoption of the DUC across ET regions. The President said that the intention had been that, following the successful pilot of the DUC in Wales ET, it would be rolled out nationally; however, this depended upon HMCTS staff being properly trained in its use. Mark Lewis of HMCTS and the President undertook to investigate regional usage and report back.

(**Update:** this investigation revealed that the DUC was not yet being used in four regions: London Central, London South, London East and South West England. All other regions were using the DUC, although the North West England region had additionally set up a separate mailbox for receipt of electronic bundles. London East was planning to start using the DUC in June 2021. HMCTS would endeavour to train staff in the three remaining regions in use of the DUC as quickly as possible. HMCTS’s position was that WeTransfer and similar services like Google Docs and Mimecast were not secure or supported platforms and that their use for bundle transmission and storage should be discouraged. In the meantime, [an HMCTS guidance document on using the DUC had been placed online](#), although not specific to the Employment Tribunals.)

There were additional questions from Shanta David, Caspar Glyn QC and Simon Pender about whether it was still necessary for represented parties to send in printed copies of the electronic bundle in accordance with paragraph 25 of the [Presidential Guidance on remote and in-person hearings](#). The President said that he would consider whether that requirement could be relaxed, so that paper bundles would only need to be provided where the tribunal so ordered, with electronic bundles being the default.

(**Update:** enquiries of the Regional Employment Judges indicated that paper bundles remained popular with enough judges and non-legal members to merit retaining the [Presidential Guidance](#) in its present form for a little longer. Moreover, at the moment, staff did not have time to print electronic bundles manually for onward transmission to judges and non-legal members. The President will keep the matter under review, which will include seeking advice from HMCTS about safe procedures for paper handling. The approach may also change as Covid restrictions are eased.)

3.8 Pilot on compulsory ADR

The President asked Regional Employment Judge Findlay to update the national user group on a pilot in the Midlands West region concerning compulsory alternative dispute resolution (“ADR”).

Judge Findlay explained that the pilot was an effort to bring about the earlier resolution of the more intractable, difficult disputes. The basic principles of the scheme as it operated in Birmingham were: (a) it was applied to cases listed for hearings with a duration of six days or longer; (b) if directed in a particular case, it was compulsory; (c) it was confidential; (d) if it did not result in settlement of the case, the judge who had conducted the ADR hearing would not sit on the final hearing; (e) it was listed to take place after exchange of witness statements, so that the judge had the benefit of seeing the parties’ evidence-in-chief; and (f) the judge, assisted by a small selection of relevant documents, would give the parties a neutral evaluation of the merits of the claim and the response.

Between July and December 2020, 11 cases settled following an ADR hearing, 13 settled shortly before the ADR hearing and 20 did not settle. A net saving of 180 hearing days resulted from the intervention.

The President reported that other regions were investigating the potential for compulsory ADR hearings. A similar pilot would soon be underway in North West England and Wales. Regional Employment Judges were free to tweak the principles (such as the length of hearings that would prompt an ADR intervention) depending on their local resources.

In due course, the [Presidential Guidance on ADR](#) would be updated to reflect this new approach.

3.9 Legal officers

The road map referred to 16 new legal officers who had been recruited earlier in the year and most of whom had started work on 26 April 2021. 12 had been allocated to England and Wales and four to Scotland.

The two ET Presidents had made clear their ambitions for the role and their desire to deploy the legal officers not just in respect of their delegated decision-making powers but also to make them the principal agents of case progression in the Employment Tribunals. As stated in the road map, the intention was for the legal officers to look towards the cases in the list in the weeks ahead, to check that correspondence had been answered, that the tribunal's orders had been sent to the parties, that the allocated time remained appropriate and a host of other issues that, hitherto, had tended to be considered at the last minute.

The legal officers of the Employment Tribunals in England and Wales are:

- Ms Georgia Boyle and Mr Mohammed Ali (London Central)
- Ms Karen Bennett (London East)
- Mr Ashley Goatham (London South)
- Mr Faisal Khan (South East) plus one further position vacant
- Mr Thomas Holt (South West)
- Mr Richard Metcalf (Midlands West)
- Ms Bianca Parmar (Midlands East)
- Ms Lynn Higgins (North West)
- Mr Adam Rose (North East)
- Ms Leanna Conradson (Wales)

The two ET Presidents, together with Vice-President Walker in Scotland and Regional Employment Judge Wade in England and Wales, had designed an induction training programme lasting from April to September 2021, with contributions from numerous judges. Each legal officer also had a judicial mentor. The President reported that a business case had been submitted to recruit more. (**Update:** that business case has been approved. Recruitment will shortly commence for 16 further legal officers, as well as two ET-specific senior legal officers, to work across England, Wales and Scotland.)

3.10 Region-specific updates

Usually, it was left to regional user groups to provide updates but, because of concerns that had been raised in advance on behalf of members of the ELA by Mr Glyn QC, the President had asked the Regional Employment Judges for three regions, London Central, London South and South East England, to address the national user group.

Regional Employment Judge Wade informed the meeting that many staff and judges were now back at Victory House and, despite the four-month closure of the building, no hearings had been lost. She said that the capabilities of Victory House were still being explored and that, although it had been assessed as safe for occupation, the "footfall" had to be kept to a minimum and very few in-person hearings could be held. Staff were now

occupying space on the higher floors of the building, which had previously been let to other tenants. If an in-person hearing could be held in one of the four or five usable hearing rooms, the windows would have to be kept open to ensure adequate ventilation. She emphasised that HMCTS had been asked to have contingency plans in place for appropriate cooling and heating to deal with the extremes of both summer and winter, although a difficulty was that excessive demand on the building's electricity system, caused by using electricity-powered coolers and heaters, might cause it to fail. The success of CVP meant that it was feasible in most cases to run hearings, even complex multi-day hearings, remotely, and Judge Wade praised judges and non-legal members for their adaptability in this regard, and for coping with a far from pleasant working environment. She recognised that this was not sustainable and reported that she and the President were in confidential discussions with HMCTS about options for the longer term. Regrettably, staff were so busy catching up with delayed work, caused by the closure of the building, that HMCTS could still not adequately cover the telephone system. Judge Wade said that, for that reason, she wished to discourage telephone calls and said that it was better for the parties to email the regional office at londoncentralet@justice.gov.uk with their enquiries. The automated reply would provide a general status update. Judge Wade said that, to facilitate the effective triaging of such emails, it would be very helpful if parties could provide their case details, the hearing date (if any) and the name of the judge (if allocated). At the moment, limited staff resources were such that only emails dealing with hearings in the next two weeks were being systematically answered, with most others going without a response. Judge Wade recognised that this was not desirable and said that she was liaising with HMCTS regionally to ensure better systems. (**Update:** Regional Employment Judge Wade now reports that the ability to respond to all emails has greatly improved.)

Regional Employment Judge Freer informed the meeting that Montague Court in Croydon had faced similar challenges in terms of staff numbers and administration. HMCTS had been able to overcome ventilation concerns with the building's landlord through the installation of new air ducts on the London Road side of the building and, similar to London Central, by keeping windows open on the rear side of the building to facilitate circulation of air. Judge Freer explained that the London South region was especially short of salaried judges and this meant that many cases had to be turned away. He recognised and acknowledged the criticisms made by ELA members of the high number of late postponements. He explained, however, that it was difficult to postpone cases at an earlier point; this was because other cases would frequently settle at the last moment and free up a slot for a hearing that might otherwise have been lost; parties whose cases went ahead often did not know how close they had come to having the hearing postponed. Judge Freer hoped that the number of cases turned away would reduce following the appointment of new salaried judges in 2021 and by effective use of the virtual region. He said that he was working hard with regional HMCTS managers to review the listing system to see what improvements could be made.

Regional Employment Judge Foxwell informed the meeting that the challenges faced by the South East England region were similar to London South, in that the region was afflicted by a chronic shortage of salaried judges in the regional office in Watford and to a slightly lesser degree in Cambridge and Bury St Edmunds. The difficulties faced by the region had other causes, unique to the South East. It was the biggest region in England and Wales, with nearly a fifth of all single claims; it took in areas west of Reading, as far south as Guildford, some of the North London boroughs, the universities of Oxford and Cambridge, the home counties, the docks of the east coast and included the large agricultural areas of Anglia. It had five hearing centres and dispersed administration systems, a legacy of being “stitched together” from 2½ previous ET regions. He was reviewing the listing arrangements to identify areas where efficiencies could be found. He acknowledged that there were particular problems in administration in Watford. This was because the recruitment of staff depended on the recruitment of judges. He was aware that this resulted in the sorts of errors and delays that had caused ELA members to complain. He said that he was working hard alongside HMCTS to improve processes. Ultimately, the difficulty was a lack of resources. At the moment, staff were being heavily used to support CVP hearings, which reduced their time to engage in other work. He hoped that the appointment of the region’s legal officers would support efforts at effective case progression, although one of the legal officer roles was unfortunately still vacant.

Regional Employment Judge Franey, who was also present, informed the meeting that the North West region did not face quite the same challenges as some others in terms of judicial resource, having 19 salaried judges and 20 fee paid judges, but the case load was still such that hearings over five days in length were already being listed in late 2022. In an effort to improve timeliness, the region was moving forward with listing complex cases, upon service of the claim, for both a case management hearing and a (provisional) three-day final hearing. The pilot of compulsory ADR hearings was also being adopted.

The President thanked the Regional Employment Judges for their contributions. He emphasised that all leadership judges within the Employment Tribunals understood the resource constraints within which HMCTS worked and the funding challenges across the justice system, and he paid tribute to the outstanding efforts made by so many members of staff. He said that, while the ET’s leadership judges were sympathetic to the frustrations of users, they also acknowledged that HMCTS staff were working under very great pressure.

The President said that it would greatly assist the efficient administration of justice, and reduce pressures on HMCTS, if parties only wrote to the Employment Tribunals when they needed to do so, such as to make an application requiring judicial attention. The nature of that application should be made clear in its opening paragraph. Very many parties needlessly copied the regional tribunal office handling their case to their correspondence with their opponent. HMCTS staff would not know if that correspondence required judicial attention unless they read it and, in cases of doubt, they would refer it

to a judge to read. The President said that, in future, correspondence between parties that was needlessly copied to a regional tribunal office would not be placed on file or receive a response.

The President concluded his report by referring to the closing section of the road map, which had attempted to strike a tone of realistic optimism. He fully recognised the concerns and dissatisfaction of many system users. The review of listing systems, the prospect of ET reform influenced by judicial thinking, the arrival of ECM, the recruitment of new salaried and fee paid judges, the inward deployment of judges from other jurisdictions with employment law expertise, the launch of the virtual region and the deployment of legal officers were all part of a recovery and improvement strategy that would hopefully yield dividends over the next two years.

Item 4 HMCTS

The separate contributions by Natalie Mountain and Mark Lewis have been incorporated in the President's report for ease of reading.

Item 5 BEIS report

The President asked Richard Boyd of the Department for Business, Energy and Industrial Strategy ("BEIS") to update the meeting on the Government's response to the Law Commission report. Richard was able to say only that BEIS had sent a response to the Law Commission addressing the recommendations that were relevant to BEIS. He thought that response would be published after the election period. There would be separate responses from the Government Equalities Office and the Ministry of Justice to address the recommendations that were relevant to them.

Richard Boyd said that BEIS, Acas and the MoJ continued to work together to consider how best to address the current backlog and future challenges to the ET system. He said he was open to views from users as to what changes they may like to see implemented by Government.

John Sprack asked for more precision as to when the BEIS response to the Law Commission report would be published. Richard Boyd confirmed that it would be placed on the web and, as soon as that had been done, he would ask the President's office to circulate a link to the national user group's members.

Item 6 Acas report

Nicole Clarke reported that Acas had seen high levels of early conciliation notifications of large multiple groups in 2021 when compared to 2020. She reminded the meeting of the legislative changes that had been made to the Early Conciliation Rules of Procedure and which had taken effect on 1 December 2020 (see regulations 18 to 22 of [SI 2020/1003](#)). She said that Acas anticipated an increase in cases in the summer of 2021 when the

furlough scheme was closed. The Acas annual report for 2020-21 would be published in the coming weeks.

Item 7 Date of next meeting

The President said that the next national user group meeting would be held remotely in the Autumn, probably in late September or early October 2021. Members would be notified in due course.