



**EMPLOYMENT TRIBUNALS
England & Wales**

35th MEETING OF NATIONAL USER GROUP

**Minutes of the National User Group meeting
held at Victory House on 22nd May 2018**

In attendance:

Judge Brian Doyle	President, Employment Tribunals E&W
Judge Shona Simon	President, Employment Tribunals Scotland
Marie Mannering	HMCTS
Sukvinder Phillips	HMCTS
John Sprack	Law Works
Richard Boyd	BEIS
Omar Khalil	EEF
Michael Reed	Free Representation Unit
Alan Philp	Mentor Services
Emma Wilkinson	Citizens Advice
Andrew Willis	Peninsula Business Services
Hannah Reed	TUC
Matthew Smith	Equality & Human Rights Commission
Philip Thornton	Lexis Nexis
Paul McFarlane	Employment Lawyers Association
Andrew Lingard	Pro Bono Unit
Sophie McGuinness	Thomson Reuters
Andrew Pepper-Parsons	Public Concern at Work
Tony Lowe	Acas
Noel Lambert	Acas
Jackie Hunsley-Wilson	HMCTS (minutes)

Apologies:

Max Winthrop	Law Society Employment Law Committee
Roger Easy	Public Concern at Work
Emily Gordon Walker	Employment Law Bar Association
Cathy Gallagher	Law Centres
Rosemary Lloyd	Equality Human Rights Commission
Simon Carr	Senior President's Office
Nigel Edgington	HMCTS
Daniel Flury	HMCTS
Michael Newman	Discrimination Law Association

Item 1 Welcome & introductions

The President welcomed members to the 35th meeting of the Employment Tribunals National User Group (England & Wales).

Item 2 Agree minutes of the meeting of 17th January 2017

The minutes of the previous meeting were approved and accepted.

Item 3 Action points and matters arising

Any matters arising and action points are dealt with in the President's report below.

Item 4 Employment Tribunals – President's report

The President informed the members that there had been a continuing increase in single claims following the abolition of ET fees. The latest quarterly statistics published by the Ministry of Justice indicated a 90% increase.¹ The President said that comparing the monthly increase over a 12 months period the increase was of the order of 100-110%. By whatever measure, the increase is marked and consistent.

The President advised the meeting that the Judicial Appointments Commission (JAC) would launch an exercise in June 2018 to recruit 54 new salaried Employment Judges in England & Wales.² The exercise would be open to those without previous judicial experience, but substantial employment law experience would be a requirement of appointment.

The President said that he expected about 400 applications. There would be an online qualifying test in July 2018 designed to reduce the field to a shortlist of about 130 candidates who would be taken forward to the selection days in October 2018. The timetable might suggest decisions on appointment being taken in December 2018, with offers being made and accepted in January 2019. Taking account of varying and lengthy notice periods that successful candidates might be subject to, the President and his National Training Committee were planning on three separate start dates in April, May and September, each of which would involve a week-long induction and training programme.

The recruitment of salaried judges would no doubt result in a reduction in the numbers of fee-paid judges who had stepped up to salaried appointments. The Tribunal had agreement in principle to recruit an extra 50 fee-paid Employment Judges, but as yet a date and timetable had not been set with the JAC. The President was working to the assumption that this exercise

¹ The latest statistical release was published on 14 June 2018 at:
<https://www.gov.uk/government/statistics/tribunals-and-gender-recognitions-certificates-statistics-quarterly-january-to-march-2018>.

² See: <https://www.judicialappointments.gov.uk/vacancies/122>.

would launch in early 2019, with new fee-paid judges available to sit in late 2019.

As reported in the Senior President of Tribunal's latest Annual Report,³ the President confirmed that as at 31 March 2018 in England & Wales there were 11 Regional Employment Judges (including 2 who were acting up and 1 on secondment to another tribunal), 101 salaried Employment Judges (89.1 FTE), 186 fee-paid Employment Judges and 750 non-legal members.

The President expected that in future there would be a fixed cycle of judicial recruitment rounds, with salaried EJs being refreshed every 3 years (and fee-paid judges being recruited half way through that cycle).

A question was raised as to the recruitment of non-legal members. The President confirmed that the Presidents for both England & Wales and Scotland had put forward a joint case for the recruitment of 350 members and said that this had been positively received. Again, there was as yet no timetable for this exercise and no decision as to whether it would be run by the JACE or in-house by HMCTS.

The President was asked about the provision of increased training budgets for the additional recruitment. The President replied that the budgets for training were set by the Judicial College and had been agreed for the salaried recruitment exercise.

The President was also asked about administration staff resources. He confirmed that this budget was managed by each Regional Delivery Director and was set in accordance with a formula that took account of caseload. The President understood that additional staff resources would follow the increasing caseload.

A discussion took place concerning new venues for ET hearings. The President advised that no new venues would be opening solely for the use of Employment Tribunals. What was more probable would be an increasing use of other courts and tribunals premises and ad hoc hearing venues. The President cited the example of the Watford Employment Tribunals, where two hearing rooms were now being used by and shared with the County Court. In Cambridge, the Employment Tribunals were also sharing hearing rooms within the County Court. The way forward was the sharing of facilities between Civil, Family and Tribunals (and to a much lesser extent, with Crime).

The President announced that a new Regional Employment Judge would be in place in the South West region by July 2018.

Item 5 HMCTS Update

Marie Mannering reported on the outcome of the latest HMCTS User Survey. There had been 630 responses, with a 66% satisfaction rate. Solicitors were the highest group responding. The positive results indicated appreciation of the on-line applications system; helpful staff and judges; and professionally-

³ <https://www.judiciary.uk/wp-content/uploads/2018/05/spt-annual-report-2018-v3.pdf>.

run ET systems. The negative results were: the delay in processing applications and responding; delay in phones being answered; teething problems of the original on-line ET1 form; cancellations/postponements; and change of venues.

Marie explained to the members that the results would be “drilled down” from the Employment Tribunal Jurisdictional Board to regional level. The cascade of information would be passed to users via the NUG members list and via the Government website. The plan was to put the points together and then notification to users by end of June 2018. It had been noted that the results from the HMCTS Survey had been compared to those of the ELA Survey and it was found there had been very similar outcomes.

Following the abolition of ET fees as a result of the *Unison* decision, it seemed that the take-up of either historical claims or claimants seeking reinstatement of their claims had been extremely low.

Marie also reported that as at 31 March 2018, 7,500 refund applications had been processed, with an approximate monetary value in excess of £6.5m. 9,028 applications had been received, of which 8,399 had been accepted and 7,770 refunds made, with a total value of £6,613,474.04.

Item 6 BEIS report

Richard Boyd informed members that as a result of the Taylor Review, four consultations had been published.⁴ A total of 75 responses had been received on the enforcement of employment rights consultation and 400 responses had been received on the agency workers consultation. The closing date for the increasing transparency in the labour market was 23 May 2018 and the closing date for responses to the insolvency and corporate governance consultation deadline would be 11 June 2018.

In view of the recommendations, stakeholder events had been planned. Analysis would take place as to where the recommendations crossed over with one another.

The consultation on the Parental Bereavement (Leave & Pay) Bill closes on 8 June 2018⁵ and the Bill would then enter the House of Lords.⁶

Item 7 Acas report

Tony Lowe reported on the latest draft figures on Acas workload.⁷ Since the removal of ET fees, Acas had been receiving 2,000 enquiries per week. Up to March 2018 this had increased to 2,400 enquiries and by the end of the year the figure would be in the region of 109,000 enquiries. He reported that there

⁴ See: <https://www.gov.uk/government/publications/government-response-to-the-taylor-review-of-modern-working-practices>.

⁵ See: <https://www.gov.uk/government/consultations/parental-bereavement-leave-and-pay>.

⁶ See: <https://services.parliament.uk/Bills/2017-19/parentalbereavementleaveandpay/stages.html>.

⁷ See: <http://www.acas.org.uk/index.aspx?articleid=6564>.

had been an increase of 27% from 2017-18 and that 25% were moving onto ET claims.

Overview of Acas Conciliation Notifications Process Project

Noel Lambert updated the members on the progress of the project. BEIS had been included at regular stages to ensure that the new system was user-friendly. There has been a requirement of an 18 point check list which had been incorporated into each stage of the project to ensure that the general public would fully understand the process in layman terms. The findings had found that claimants were struggling to fill in the on-line form and did not understand the legal framework. Richard Boyd from BEIS had attended the testing of the prototype. Noel said he would appreciate any feedback the stakeholders could give.

The project had reached its regular 6 week interval where a break had been taken before the progression to the next stage. The next stage would start on 2 July 2018 and would be the Beta stage.

The naming of the correct employer on the ET1 form had been particularly problematic. It was suggested that a link to Companies House would make the process easier. It was felt that this would not solve the problem of locating an employer if when inputting the company name the spelling was slightly different and could result in unnecessary pages of similarly named companies to go through.

Noel said that Acas had received an increased budget, but found it difficult in recruiting additional staff. It would require 30 additional staff dealing solely with explaining the procedures. He had found that a delay of 3 weeks would eat into the resolution process. It was thought that there should be more pre-action protocol in civil procedure.

Item 9 Any other business

There was no further business.

Item 10 Date of next meeting

The President suggested the next meeting be in the Autumn in either September or October. Members agreed. He informed the meeting that members would be notified of the date by e-mail.