



**Courts and  
Tribunals Judiciary**

# **Senior President of Tribunals’ Annual Report**

2023



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# Tribunals structure chart

**Key:**

- 1 United Kingdom. 2 Great Britain. 3 England and Wales.
- 4 England only. 5 Scotland only.

## Court of Appeal, Court of Session, Court of Appeal (NI)

Upper Tribunal and First Tier Tribunal Presided over by Senior President: The Rt. Hon. Sir Keith Lindblom.

### Upper Tribunal

**Administrative Appeals Chamber**  
 President: Mrs Justice Heather Williams  
 (First instance jurisdiction: forfeiture cases and safeguarding of vulnerable persons. It has also been allocated some judicial review functions).  
 Also hear appeals from: PAT (Scotland), PAT (NI) ('assessment' appeals only), MHRT (Wales), SENT (Wales).

**Tax and Chancery Chamber**  
 President: Mrs Justice Bacon  
 (First instance jurisdictions: Financial Services and Markets and Pensions Regulator).  
 Hears appeals from: Taxation Chamber and from the Charity jurisdictions in the General Regulatory Chamber. It has also been allocated some judicial review functions.

**Immigration and Asylum Chamber**  
 President: Mr Justice Ian Dove.

**Lands Chamber**  
 President: Mr Justice Edwin Johnson.

**Employment Appeal Tribunal 2**  
 President: Mrs Justice Eady.

### First Tier Tribunal

**War Pensions and Armed Forces Compensation Chamber**  
 President: Judge Fiona Monk.  
 England and Wales appeals only 3

**Social Entitlement Chamber**  
 President: Judge Kate Markus KC.  
 Jurisdictions:  
 Social Security and Child Support 2  
 (Except NHS charges in Scotland)  
 Asylum Support 1  
 (No onward right of appeal)  
 Criminal Injuries Compensation 2

**Health, Education and Social Care Chamber**  
 President: Judge Mark Sutherland Williams.  
 Jurisdictions:  
 Mental Health 3  
 Special Educational Needs and Disability 3  
 Care Standards 3  
 Primary Health Lists 3

**General Regulatory Chamber**  
 President: Judge Mark O'Connor.  
 Jurisdictions include:  
 Charity (onward appeals to Tax & Chancery) 3  
 Animal welfare 1  
 Estate Agents 1  
 Transport (Driving Standards Agency Appeals) 2  
 Information Rights 1  
 Pensions, Professional Regulation 3  
 Gambling 2  
 Immigration Services 1  
 Environment 3

**Tax Chamber**  
 President: Judge Greg Sinfield.  
 Jurisdictions include:  
 Direct and indirect taxation 1  
 MPs Expenses 1

**Immigration and Asylum Chamber**  
 President: Judge Melanie Plimmer.  
 Immigration and Asylum 1

**Property Chamber**  
 President: Judge Siobhan McGrath.  
 Residential property 4  
 Agricultural lands and drainage 4  
 Land Registration 3

**Employment Tribunal (England and Wales) 3**  
 President: Judge Barry Clarke.  
**Employment Tribunal (Scotland) 5**  
 President: Judge Susan Walker.

# Introduction

## The tribunals in 2023

2023 has been a year of both successes and challenges for the tribunals. With the pandemic now behind us, attention has turned to ensuring that the tribunals are running as efficiently and effectively as possible to deliver timely justice to our users. We are also having to adapt to significant changes in policy and legislation, which bring increased scrutiny to our ways of working.

The strategic objectives I set for my term as Senior President – ensuring efficient and effective access to justice in the tribunals, improving equality, diversity and inclusion, and promoting “One Judiciary” – remain. Now more than ever they are essential to ensuring that the tribunals judiciary continues to provide the best possible service for our users, and that we have a judiciary whose composition reflects our modern society.

Through the Tribunals Action Group, we continue to identify and test ways to make the work undertaken by judges and members in the tribunals both more efficient and more enjoyable. Our Diversity and Inclusion Taskforce has continued to promote the Judicial Diversity and Inclusion Strategy in the tribunals, and to encourage shared learning throughout the courts and tribunals. And the renewed commitment which I share with the Lady Chief Justice to progress “One Judiciary” will bring us closer to achieving a single judicial family.

This year’s Annual Report comprises of my introduction together with a review of the jurisdictions within my remit, prepared by each Chamber and Tribunal President themselves.

## Efficient and effective access to justice

One of the main areas of activity in the tribunals in the last 12 months, and no doubt for the next year as well, is the work we are doing to ensure that the tribunals run as efficiently and effectively as possible. This is necessary not only because it will enable our users to receive justice and gain access to justice more swiftly, and make the best use of valuable judicial time, but also because it will create more fulfilling jobs for our judiciary.

The Tribunals Action Group continues to explore opportunities to strengthen and expand the use of legal officers in all tribunal jurisdictions, support the greater use of oral decisions where they are appropriate, build on best practice in the writing of decisions, and make the most effective use of the new technology available to us.

The group also continues to build on the success of the Employment Tribunals “Virtual Region” by introducing this in other jurisdictions. I must again thank our chamber and tribunal Presidents for their support in realising these necessary changes.

Modernisation under the current HMCTS programme of reform has also continued in some of the tribunal jurisdictions. While there has been progress on digitisation, many manual methods of working remain in place while we wait for digital methods to be introduced and made to function as they should.

In the Social Security and Child Support Chamber (“SSCS”), 95% of appellants can now submit their appeal and evidence, and can track the progress of their case, online. SSCS was also the first jurisdiction to test the integration of the “Scheduling and Listing” service in March 2023. Although progress in the regions of Wales and the Southwest – which have been chosen as the first to adopt the new systems – has not been smooth, the judiciary has continued to do what it can to help HMCTS improve the service. In the Employment Tribunals, further progress in the introduction of the digital service continues, but there is still much to do before the current reform project ends in March 2024. In the First-tier Tribunal (Immigration and Asylum Chamber), more than 67,000 appeals have now been received online. The FtTIAC is the first jurisdiction across Civil, Family and Tribunals to use “Work Allocation” functionality for all its internal users; with all judiciary and staff using the digital service. The introduction of the digital service for bail applications is also well underway and is live for the judiciary and staff in all hearing centres.

However, this good news is tempered by our disappointment that most of the “Special Tribunals” part of the project has been removed from the programme – the Criminal Injuries Compensation tribunal being the only jurisdiction that remains. We shall, of course, continue to work with HMCTS to ensure that existing systems are improved while they await reform after this project has concluded.

## **Equality, diversity, and inclusion**

The Judicial Diversity Statistics for 2023<sup>1</sup> show that 52% of all tribunal judges are women, and that women occupy more than half of the most senior judicial roles (chamber and tribunal Presidents). A higher proportion of non-legal members than judges in the tribunals are women, or from an ethnic minority background. Women represent over a half (56%) of all non-legal members and people from ethnic minorities 18%.

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<sup>1</sup> [Diversity of the judiciary: Legal professions, new appointments and current post-holders – 2023 Statistics – GOV.UK](#)

Much has already been done, but there is still much to achieve, particularly to increase the representation of people from black ethnic groups and to support those from ethnic minority backgrounds to enter the ranks for the senior judiciary.

People from ethnic minorities were 13% of all tribunal judges, which falls short of the proportion in the national population, and only 2% of all tribunal judges are black. However, it is encouraging to see that younger entrants to the judiciary are generally more diverse; 17% of tribunal judges aged under 50 are from an ethnic minority background.

I established the Diversity and Inclusion Taskforce in February 2021, chaired by SEC Chamber President Judge Kate Markus, to support and progress the four key objectives of the Judicial Diversity and Inclusion Strategy in tribunals. The Taskforce itself was formed of tribunals judiciary, from the First-tier and Upper Tribunal, Employment Tribunal and the Employment Appeal Tribunal, from Scotland as well as England and Wales, judges and non-legal members. Through an Expressions of Interest exercise, we have been able to recruit from a wide range of backgrounds, bringing a variety of experiences and perspectives.

The strength of the Taskforce lies in the energy, commitment and expertise of not only our members but of the tribunals judiciary as a whole. It is because of value of the contribution of the judiciary that the Taskforce has prioritised providing encouragement and resources to support diversity and inclusion activity throughout the tribunals communities.

The Taskforce established an informal network of tribunal diversity and inclusion leads which has enabled them to share best practice, learn and gain inspiration from each other. During 2023, through the network, the Taskforce has collated the main initiatives within tribunals. The document highlights the key features of each initiative which could be picked up and adapted by other jurisdictions. It has been circulated amongst leads and Presidents and will be added to as new initiatives are undertaken. These initiatives include: reviewing expressions of interest exercises to ensure that they are fair and non-discriminatory; taking quarterly “temperature checks” within jurisdictions to assess and measure diversity and inclusion issues and the progress that is being made; a judicial recruitment support scheme and outreach events to target groups who are underrepresented in the judiciary; support for judiciary in understanding and obtaining workplace adjustments; development of mentoring arrangements; reviewing case allocation to promote equitable distribution.

One of the Judicial Diversity and Inclusion Strategy objectives is to support and develop the career potential of existing judges. That has particular importance to tribunal judges. The tribunal career structure is relatively flat as compared to the courts and many tribunal judges have found it difficult to advance their careers in the courts. The Taskforce has developed a Career Development and Progression Scheme for tribunal judges. The Scheme matches tribunal judges with judges from tribunals and courts, to provide tribunal judges with mentors who can support them in developing their careers. The Scheme is very flexible, allowing the judges to work out what support can be provided and the way in which they will work together. We launched a pilot of the Scheme in March 2023 and received a strong response from tribunal judges who wished to be mentored, and from court and tribunal judges who wished to provide support and guidance to them. The pilot will be reviewed later in 2023 and will be rolled out if proven successful.

### **“One Judiciary”**

“One Judiciary” is a shared ambition to create a properly united judicial family encompassing all courts and tribunals judiciary. It is a comprehensive project, which will lead both to legislative reform and to changes in judicial culture and ways of working.

In May this year we took an important step towards realising this ambition, with the consultation on reform of the office of Senior President of Tribunals. The proposals involve replacing the existing office of Senior President, which sits outside the England and Wales judicial structure, with a reconfigured one under the leadership of the Lady Chief Justice of England and Wales, so that tribunals and courts judges alike are part of a single judicial structure. Under the proposals, the Senior President will continue to lead the reserved tribunals under separate statutory powers. It is clear that we must continue to work closely with the Lord President and Lady Wise in Scotland and the Lady Chief Justice in Northern Ireland to ensure that the interests of the reserved tribunals judiciary are protected. I look forward to the Government’s response to the consultation, and continuing to work with it to realise our shared ambition.

The “One Judiciary” project will also bring increased opportunities for cross-deployment. Within the civil jurisdiction, in December 2022, an expression of interest exercise was run for up to 20 First-Tier Tribunal judges and Employment Tribunal judges (salaried and fee paid) to sit in the County Courts within the London and South-East region. Training of the successful applicants took place in March 2023, and the judges started sitting from April 2023. Further exercises for cross-deployment are already under way in the Health, Education and Social Care Chamber, as well as in the Employment Appeal Tribunal.

This year I also renewed many of the assignments made following the 2018 tribunals-wide expressions of interest exercise. Increasing the appropriate use of cross-assignment will also provide additional capacity and flexibility in the tribunals.

I thank my colleagues on the Judicial Executive Board, and those on the Tribunals Judicial Executive Board, for their continued support in bringing forward these important changes, without which we would not be able to make the progress we need towards true unity in the courts and tribunals judiciary.

## **Recruitment**

Between April 2022 and August 2023, 206 legal and 207 non legal Judicial office holders were appointed to the First-tier Tribunal, Upper Tribunal, Employment Tribunals and Employment Appeal Tribunal.

Since 2017, there has been regular recruitment into salaried and fee-paid roles within the First-tier Tribunal, with both campaigns forming part of the 'Rolling Programme' of recruitment. Each campaign has been generic, seeking appointments to the First-tier Tribunal with deployment of the successful candidates across the chambers undertaken by the Chamber Presidents under delegated responsibility from me. Generally, recruitment into the First-tier Tribunal has been successful with Vacancy Requests being met. Furthermore, the last two fee-paid Judge of the First-tier competitions have had more success having generated a larger field of selectable candidates than originally sought. In general recruitment across the First-tier Tribunal continues to be positive, although we are beginning to see some shortfalls. The Judicial Office are working with the judiciary and the JAC to address these shortages, including reviewing the timing and frequency of campaigns.

While the 2022/23 programme of recruitment was dominated by the launch of large-scale campaigns for salaried and fee-paid Judges of the First-tier Tribunal and Employment Tribunals; the 2023/24 recruitment programme includes several specialist non-legal member campaigns as well as exercises to recruit salaried and fee-paid Judges of the Upper Tribunal Immigration and Asylum Chamber. The vacancy requests partly reflects the expected increase in appeals generated by the Illegal Migration Act 2023.

New Entrant Data from the Diversity of the Judiciary Statistics<sup>2</sup> details that between 2020 and 2023 there was an overall increase of new entrants that were women from 54% to 58%. The overall new entrants that were from ethnic minorities also rose from 9% to 30% - although it is worth noting that in 2023 only half of the new entrants declared their ethnicity. Data from 2022 might be more reliable as 94% of the respondents took part, but is still positive with an increase in the number of new entrants from ethnic minority backgrounds to 21%.

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<sup>2</sup> New Entrants not included were from combined Courts and Tribunal exercises, or other Tribunals that are not within the remit of HMCTS or the Senior President.



The Judicial Appointment Commission's Targeted Outreach Programme was established to continue to improve the diversity of the judiciary. As of July 2023, the Targeted Outreach programme is working with around 280 potential candidates as they make applications for a range of judicial roles. Early outcomes are promising, with female ethnic minority solicitors on the programme appointed at rates more than three times higher than the comparator group over the last three years. Female white solicitors on the programme were appointed at rates twice as high than the comparator group over the last three years.<sup>3</sup>

Thirteen Tribunal judges have been appointed who participated in the programme.

## **Appointments and retirements**

There have been several changes in tribunals leadership since my last report. Mrs Justice Farbey's term as President of the Administrative Appeals Chamber of the Upper Tribunal concluded at the end of December 2022, as did Mr Justice Lane's as President of the Immigration and Asylum Chamber of the Upper Tribunal. I thank them both for their effective and enlightened leadership, and for their unfailing support to me as Senior President.

We welcomed Mrs Justice Williams to our leadership team in January 2023 as the new President of the Administrative Appeals Chamber. She brings a wealth of judicial experience to the role. Mr Justice Dove has also joined us as President of the Immigration and Asylum Chamber of the Upper Tribunal. His previous experience in the jurisdiction and the leadership skills acquired during his time as Presiding Judge on the Northern Circuit will serve him well.

July 2023 saw the retirement of Judge Clements, President of the First-tier Immigration and Asylum Chamber since 2011. His commitment to the tribunals and dedication to ensuring access to justice for some of the most vulnerable in our society have been exemplary. Judge Plimmer was appointed as his successor. She has already shown herself to be a strong leader, determined to ensure that the chamber embraces the changes planned for it.

Lady Wise has succeeded Lord Stephen Woolman as President of the Scottish Tribunals, and Sir Gary Hickinbottom has followed Sir Wyn Williams as President of the Welsh Tribunals. I look forward to working with them.

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<sup>3</sup> [Targeted Outreach programme – Further information](#) – Judicial Appointments Commission

## Training

The Judicial College is responsible for helping me to fulfil my statutory duty for the training of the tribunals judiciary. The College has six objectives in its [2021-2025 strategy](#), including playing its part in ensuring the judiciary has the right skills and knowledge, preparing for innovation and change, effective leadership and high-quality support for modern training. The overall direction for the College is set by the College Board. Tribunal representatives on the Board are Employment Judge Philip Rostant, Director of Training for Tribunals, and Chamber President Judge Melanie Plimmer, Chair of the Tribunals Training Committee.

The College provides training for all chambers of the First-tier Tribunal, the Employment Tribunals in England and Wales, the Employment Appeal Tribunal and the Upper Tribunal Immigration and Asylum Chamber. Between October 2022 and the end of September 2023, the College delivered more than 300 tribunals and cross-jurisdictional training events for around 11,500 participants.<sup>4</sup> This included 53 induction seminars for 1,652 delegates who were new to judicial office or authorised in new jurisdictions or areas of responsibility.

New training on inclusion and change leadership was delivered to leadership judges between November 2022 and March 2023. Inclusion training for all other salaried and fee-paid judges and tribunal members was rolled out from April 2023. The training was delivered as part of my commitment to fostering a more inclusive culture throughout the judiciary. It focuses on understanding, identifying and responding to exclusionary behaviours and promoting a positive and respectful working environment for all who work in and with the judiciary. Training will continue into the 2024-25 training year for tribunal members where necessary, reflecting differences in continuation training cycles.

In April 2023, the College published an interim update to the Equal Treatment Bench Book, which is an important resource for judges and members and aims to increase understanding of the different circumstances of those who come before the tribunals. A number of tribunal judges contributed to the publication as part of the editorial panel. The next comprehensive review of the Equal Treatment Bench Book began in March 2023 and will conclude in 2024. The College also published three editions of the Tribunals Journal during the period this report covers. The Journal brings together a range of information relevant to tribunal judges and members to support judicial learning, cohesion and collaboration.

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<sup>4</sup> All training figures are bespoke figures produced for this report. Further information on training is published in the College's annual activities reports.

## Conclusion

It will be clear from this report how much excellent work is being done in the tribunals in all parts of the country. We would not be able to achieve this without the dedication and support of all judges and members, the Judicial Office, and the HMCTS staff who help us. To all of them I am grateful. Without their hard work and loyalty we would not be able to provide the justice and access to it that users of the tribunals are entitled to expect.



*Keith Lindblom*

**The Rt Hon Sir Keith Lindblom**

# Upper Tribunal

## Administrative Appeals Chamber

### **President: The Honourable Mrs Justice Heather Williams DBE**

I became President of the Upper Tribunal, Administrative Appeals Chamber (UTAAC) on 1 January 2023, succeeding Dame Judith Farbey. I am very grateful to her and to all of the judges and staff of the Chamber for the support and assistance that they have provided.

### **The jurisdictional landscape**

The bulk of UTAAC's caseload continues to comprise appeals on points of law from decisions of the First-tier Tribunal (F-tT) Social Entitlement Chamber relating to social security benefits administered by the Department for Work and Pensions (DWP) and HM Revenue and Customs (HMRC). UTAAC also hears second-tier appeals on points of law in multiple jurisdictions including information rights, mental health and Special Educational Needs (SEN).

Appeals from decisions of the Disclosure and Barring Service ("DBS") are currently one of UTAAC's two initial appeal jurisdictions, in which the Chamber deals with matters of fact as well as law. The volume of these appeals has increased substantially, with double the number of new cases received in year 1 April 2022 – 31 March 2023 in comparison with the prior 12 month period. UTAAC's other mixed fact and law jurisdiction relates to appeals from Traffic Commissioner's decisions. In 2024 the Chamber's first-tier appellate jurisdiction is due to expand significantly to include OFCOM enforcement decisions under the Online Safety Act, and, subject to the Parliamentary process, appeals from determinations of the Secretary of State overturning Parole Board decisions to release 'top tier' prisoners, contained in the Victim and Prisoners Bill.

A new Practice Direction introduced from 30 May 2023 streamlines the procedure for dealing with applications for permission to appeal in respect of decisions made by the DBS. Litigants are encouraged to file their documents on the CE filing system and from later this year a new UTAAC Practice Direction will mandate the use of CE-File for legally represented parties and judicially reviewable bodies.

The Chamber continues to employ a flexible approach to its hearings; holding both face-to-face and remote hearings, as the interests of justice require.

Rotherham MBC v Harron [2023] UKUT 22 (AAC) was the first case to address the Upper Tribunal's new powers in respect of contempt of court, added to s.61 Freedom of Information Act (FOIA) by Schedule 19(1), para 60 Data Protection Act 2018.

Appeals relating to universal credit are on the increase and give rise to a range of complex issues. AM v SSWP (UC) [2022] UKUT 242 (AAC) considered whether a claim for universal credit must (explicitly or implicitly) be made for the one month period prior to the date of claim for the purposes of reg. 26 Universal Credit etc. (Claims and Payments) Regulations 2013. HMRC v SSWP and SA (TC) 350 (AAC) was an appeal from the termination of tax credits after the appellant claimed universal credit. The three-judge panel addressed the circumstances in which tax credits would cease under the pre-25 July 2022 version of reg. 8 Universal Credit (Transitional Provisions) Regulations 2014. In R (Bui) v Secretary of State for Work and Pensions [2022] UKUT 189 (AAC) the Upper Tribunal considered whether the Secretary of State was entitled to withhold payment of universal credit where an individual did not yet have a National Insurance number. The Court of Appeal partly upheld and partly reversed UTAAC's decision at [2023] EWCA Civ 566.

Brexit-related issues continue to arise. In SSWP v AT [2022] UKUT 330 (AAC) a three-judge panel held that an EU national with pre-settled status but no qualifying right to reside for the purposes of universal credit was entitled to rely upon the EU Charter of Fundamental Rights after the Brexit transition period and that the Secretary of State was required to carry out an individualised assessment of whether the refusal of benefit would leave her unable to live in dignified condition.

The information rights jurisdiction involves significant Freedom of Information Act (FOIA)-related questions. Smith v Information Commissioner [2022] UKUT 261 (AAC) upheld the FtT's conclusion that in an appeal against a decision notice issued under section 50, it had no jurisdiction to consider a response by the public authority under Part 1 of FOIA which post-dated the decision notice and was not the subject of the s.50 complaint.

Appeals from the FtT Health, Education and Social Care Chamber (HESC) are also a source of important issues. GP v The Lime Trust [2023] UKUT 77 (AAC) concluded that the FtT had not been required to determine whether the school had been in breach of the s.149 public sector equality duty when considering a claim for disability discrimination under s.15 and s.85(2) of the Equality Act 2010. Westminster CC v Ft-T (HESC) [2023] UKUT 177 (AAC) held that the provision of autism mentoring support during non-term time could come within special educational provision.

In the DBS case, Re a Teacher (Rule 14 Order): [2023] UKUT 39 (AAC), it was decided that an order under rule 14(1)(b) of the Tribunal Procedure (Upper Tribunal) Rules preventing disclosure or publication of any matter likely to lead members of the public to identify individuals connected with the proceedings, only restricted their identification as connected with the proceedings and could not be relied upon to restrict publication of a decision by a regulator operating under a different statutory regime over which the Upper Tribunal had no jurisdiction.

## **Diversity, inclusion and wellbeing**

UTAAC has started a scheme for salaried First-tier Tribunal judges to spend two days shadowing a UTAAC salaried judge, which has proved very popular.

## **People and places**

Several salaried judges have retired from office since April 2022 and will be much missed by the Chamber. Upper Tribunal Judge Alison Rowley retired on 1 September 2022; Upper Tribunal Judge Richard Poynter on 31 January 2023; Upper Tribunal Judge Phyllis Ramshaw on 12 May 2023; and Upper Tribunal Judge Mark Hemingway on 22 September 2023. Upper Tribunal Judge Moira Macmillan resigned with effect from 18 September 2022 to take up a Circuit Judge appointment. Former salaried judge, Deputy Upper Tribunal Judge Mark Rowland, fully retired from judicial office on 20 July 2023. The following fee paid specialist members retired: Andrew Guest and Sallie Prewett.

We have been delighted to welcome some new colleagues. Upper Tribunal Judge Edell Fitzpatrick joined UTAAC as a salaried judge on 3 April 2023. The appointment of additional new salaried judges will be announced later this year, following a recent JAC recruitment exercise. Sophie Buckley, Tim Buley KC, Stephen Hocking and Louise Price have been appointed as Deputy Upper Tribunal Judges. Sir Gary Hickinbottom, President of Welsh Tribunals, has been appointed as an Upper Tribunal Judge (sitting in retirement) to sit on UT appeals from Wales. An additional 12 judges were recently 'ticketed' to hear appeals in DBS cases and/or from FtT (HESC) decisions in SEN and disability discrimination in schools cases. Their number includes both existing Deputy Upper Tribunal Judges (Kate Brunner KC, Joanne Clough, Stephen Hocking, Louise Price, Fiona Scolding KC and Alice Sims) and those eligible to sit in UTAAC by virtue of their salaried office elsewhere or prior authorisation (HHJ Simon Oliver; Regional Employment Judges Andy Freer and Sian Davies; Chamber President of the FtT War Pensions and Armed Forces Compensation Chamber, Fiona Monk; and Deputy Chamber Presidents of the FtT Health, Education and Social Care Chamber Sarah Johnston, Mental Health, and Meleri Tudur, SEND/CS/PHL).

## Tax and Chancery Chamber

### President: The Honourable Mrs Justice Bacon DBE

#### The jurisdictional landscape

The Upper Tribunal, Tax and Chancery Chamber (UT TCC) decides cases on all UK taxes, with huge variations in the amounts at stake, and often decides appeals which impact a large number of other taxpayers. In [HMRC v NHS Lothian Health Board \[2022\] UKSC 28](#), the Supreme Court decided that an NHS Board was entitled to make a claim for VAT overpaid dating back to the 1970s. Other similar claims by NHS bodies amounted to £38 million. The Court of Appeal had rejected the claim on the basis that the NHS Board had not provided adequate evidence of the amounts claimed. However, the Supreme Court overturned that decision and restored the decision of the UT TCC which allowed the claim, in full agreement with the UT TCC's reasoning.

In [HMRC v Jason Wilkes \[2022\] EWCA Civ 1612](#), the Court of Appeal upheld the ground breaking decision of the UT TCC that HMRC could not issue tax assessments outside the normal statutory time limits to taxpayers who were liable for the High Income Child Benefit charge, but had not delivered a tax return or been notified by HMRC that they had to do so.

The UT TCC does not only deal with appeals relating to companies and individuals. Far-reaching and previously undecided issues of partnership law and tax were raised in [HMRC v Bluecrest Capital Management LP \[2022\] UKUT 198 \(TCC\)](#). A variation of the arrangements was also considered in [HFFX LLP v HMRC \[2023\] UKUT 73 \(TCC\)](#) and [BCM Cayman LP v HMRC \[2022\] UKUT 198 \(TCC\)](#). The issues included whether individual partners in a limited partnership could be liable to income tax on profits allocated to a corporate partner, the liability to tax of a general partner in a limited partnership on profits ultimately received by other partners, and whether a partnership could obtain a tax deduction for borrowing to acquire an interest in a limited partnership. Both Bluecrest decisions have gone to the Court of Appeal.

An important part of the UT TCC's role is, where appropriate, to give guidance on recurring procedural issues. One such area relates to "new" arguments or grounds of appeal. In [CF Booth v HMRC \[2022\] UKUT 217 \(TCC\)](#) the UT TCC decided that the fact that permission to appeal had been granted for a ground which had not been considered by the FtT Tax did not necessarily mean that the ground was suitable for determination in the appeal to the UT TCC, particularly where it raised new issues of fact and evidence. The UT TCC set out the principles to be applied in such a situation.

In *Shinlock v HMRC* [2023] UKUT 107 (TCC) the UT TCC considered when the FtT's duty to ascertain the correct amount of tax in an appeal justified a decision based on arguments which had not been raised before the hearing, but were raised during the hearing either by the parties or by the tribunal of its own volition. The position is more flexible than in the civil courts, but it always remains necessary to safeguard procedural fairness, and the decision sets out guidance in that area.

### **Diversity, inclusion and wellbeing**

A very positive change has been the move of our judges from the main RCJ building to the Rolls Building. We are now co-located with colleagues in UT AAC and the EAT with all of our judges and staff under one roof, which has greatly improved the working conditions and administration of our chamber.

### **People and places**

There have been considerable changes in the UT TCC this year. In January 2023 Judge Richards was appointed as a High Court Judge in the Chancery Division, and at the end of September 2023 Judge Herrington, the longest-serving salaried judge in UT TCC, will be retiring to take up a position as President of the Financial Markets Tribunal of the Dubai Financial Services Centre. He will continue to sit in retirement on financial services cases, to support the chamber as we recruit two more salaried judges to bring the chamber up to the full complement of four.

To that end a JAC competition launched earlier this year for the appointment of salaried judges to both UT TCC and FtT Tax, with candidates given the option to apply for either or both positions. It is hoped that the appointed candidates will be in post by spring 2024.

As reported in last year's report, following Brexit, the UT TCC is the destination of appeals from decisions of the Trade Remedies Authority, as specified in the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019. No appeals have yet been received, but in anticipation of appeals arriving we have completed, this year, a JAC recruitment competition for economists. We have also recruited four new financial services members, taking account of the recent increase in financial services work and potential retirements of some of our existing members over the next years; their appointments took effect from April 2023.

In addition to the appointment of Mr Justice Richards to the Chancery Division, since the last annual report, two other new High Court Judges have been appointed to the Chancery Division, Mr Justice Richard Smith and Mr Justice Rajah, both of whom have been assigned to the Chamber. We were also delighted at the elevation to the Court of Appeal of Lady Justice Sarah Falk, who started her judicial career as a judge of the UT TCC.



## Immigration and Asylum Chamber

### President: The Honourable Mr Justice Dove

#### The jurisdictional landscape

It is the perennial experience of those who practice in the field of immigration and asylum law that the only constant is change. Following the preparation and training for the implementation of the Nationality and Borders Act 2022, several of the new procedures which this legislation enacted have yet to be implemented, and it appears that Upper Tribunal Immigration & Asylum Chamber (UTIAC) will retain the jurisdiction in relation to age assessment cases for the foreseeable future. At the start of 2023 we were advised of the intention to introduce what is now the Illegal Migration Act 2023. The provisions in this legislation will require UTIAC to receive, process and determine an unprecedented volume of cases within unprecedented timescales. The preparations to meet this challenge have been extensive, and working in partnership with HMCTS colleagues the need for expanded premises and enlarged administrative resources have been the subject of lengthy and detailed planning work. In particular, a large number of judges from the FtTIAC have been recruited to deal with this work, alongside the running of an ambitious programme of recruitment for both Salaried Judges and Fee-Paid Deputy Judges of UTIAC. An intensive programme of training has been put in place to equip the judiciary and those who support us to be ready for this new work.

The current caseload in UTIAC is manageable, but we await the upturn in work which is anticipated when the Home Office address the backlog which they have in respect of outstanding cases. There continues to be a significant volume of cases related to the EU Settlement Scheme which is likely to persist during the coming year. UTIAC has also dealt with a significant number of cases involving decisions to deprive a person of their British Citizenship, a jurisdiction which has required clarification following the Supreme Court decision in [Begum v Secretary of State for the Home Department \[2021\] UKSC 7](#). In particular, further analysis of the implications for this decision in deprivation cases was provided in [Chimi v Secretary of State for the Home Department \[2023\] UKUT 00115](#). Other themes of the caselaw currently in UTIAC include the need for procedural rigour in the conduct and management of appeals, as well as the encouragement of focused and issued based decision making.

## **Diversity, inclusion and wellbeing**

The judges in UTIAC have a keen commitment to the pursuit of diversity and inclusion through a variety of initiatives. We continue to host students at Field House from a number of different academic institutions and welcome the chance to introduce students to the important work that is undertaken in UTIAC. As part of the preparation for the recruitment of Salaried and Fee-Paid Deputy Judges we undertook a sequence of outreach events both in London and in many of the locations outside London in which we regularly sit. These were well-attended and will hopefully support a successful selection exercise by the JAC. The co-ordination of this diversity and inclusion work is supervised by UTJ Bruce.

UTIAC is actively engaged in promoting the welfare and well-being of the judiciary. The judges have a group which meets regularly, led by UTJ Norton-Taylor, to identify and work on these issues. One recent initiative has been the creation of support groups for judges, to enable concerns and problems which are affecting welfare and well-being to be reported and tackled. I conduct an annual programme of one-to-ones, and regular consultation through Town Hall style meetings to foster improvements in judge's working environment.

The welfare and well-being of our Deputy UTJs is supported by a programme of assigning mentors to help and support these judges in their UTIAC work. This work is supervised by UTJ Gleeson who has responsibility for the Deputy UTJs in this jurisdiction. We also have a comprehensive programme for appraisal for our Deputies which is now in full swing and is co-ordinated by UTJ McWilliam.

## **People and places**

Considerable effort by both judges and HMCTS colleagues has been devoted to attempting to expand the amount of work which UTIAC undertakes outside London and in the Regions. In Scotland, UTIAC has been provided with new premises, and we have been greatly helped by the HMCTS staff who have assisted in equipping our new base in Edinburgh. There is a need to expand the amount of work which is being undertaken outside London, and to that end a protocol has been agreed to guarantee UTIAC court facilities on a regular basis in the Regional centres. Increasing access to justice outside London will remain a key element of our agenda for the coming year.

As judges, we are extremely grateful for all of the hard work, dedication and professionalism of all of our HMCTS staff in Field House and outside London. A particularly important initiative which has been brought to fruition is the implementation of mandation, which will require our professional users to directly file papers at UTIAC without the extensive need for staff to process the paperwork before it is introduced onto our case management system.

We are also extremely fortunate as judges to have the support of a team of talented and resourceful lawyers who provide invaluable assistance in case managing and progressing the appeals which we decide. The need for this support will expand as our caseload increases. UTIAC also benefits greatly from the work of the Legal Research Unit, which is vital in keeping us up to date in the fast-moving area of law in which we work.

The judicial business that has been dealt with by UTIAC over the past year could not have been accomplished without the support of all the judges who play a critical role in the ensuring effective and efficient operation in all the places where we sit. We shall miss the contribution to the work of UTIAC made by our recently retired colleagues UTJ Allen and UTJ Grubb, who both were very substantial figures in our jurisdiction and key members of the team. We are delighted that we shall continue to benefit from their expertise on our Editorial Board.

In particular, it is important to place on record the tireless and invaluable dedicated work undertaken by the Vice President of UTIAC and our Principal Resident Judge UTJ Blum. Very many of our judges have specific responsibilities for important issues which are vital to the health of our operations and specifically, beyond those already identified, the following judges have successfully supported important specific areas of activity: UTJs Frances and O'Callaghan (Training); UTJs Rintoul and Smith (Practice and Procedure); UTJs Kamara and Pitt (JAC competitions); and UTJs Keith and Smith (IT). We have very reason to believe that the strength of UTIAC depends upon this team approach across the board, and the essential individual contributions of all of our judges to our collective endeavour in this jurisdiction.

## **Lands Chamber**

### **President: The Honourable Mr Justice Edwin Johnson**

#### **The jurisdictional landscape**

The year 2022-23 has been the busiest experienced by the Lands Chamber since its creation in 2010. 737 new cases were registered, more than 20% up on the previous year which had seen a return to pre-pandemic levels. Almost a third of these new cases were references under the Electronic Communications Code, a complex piece of legislation which has presented a significant challenge since its introduction in 2018. The management of the new jurisdiction has been a notable achievement for the Chamber. Cases decided under the new Code have rapidly established coherent legal and valuation principles and have contributed to the swift settlement of most disputes.

When the telecommunications jurisdiction was moved from the County Court to the tribunal system, and assigned initially to the Lands Chamber, the intention was that after its complexities had been worked through and clear principles established at Upper Tribunal level and above, responsibility would pass to the Property Chamber of the First-tier Tribunal. That point has been reached and while cases continue to be issued in significant numbers very few raise points of principle and few have required determination. As a result, most new cases are now being transferred to the Property Chamber. The ability to transfer cases between the First-tier and the Upper Tribunals (in both directions) is a key tool in enabling the Tribunal system to deal flexibly and proportionately with proceedings. In the telecommunications field it has been invaluable in ensuring the early resolution of key issues in a new jurisdiction and the efficient management of what is expected to be a substantial continuing case load.

Appeals from the Property Chamber made up about a quarter of the Lands Chamber's case load, with a high proportion of these being concerned with "rogue landlord" jurisdictions involving rent repayment orders, civil financial penalties and debarring orders. It has fallen to the Chamber to develop the principles which should be applied when setting the appropriate level of these different forms of penalty. It has taken some time to achieve consistency, but we believe that sensible benchmarks have now been established. We anticipate that any reduction in cases of this type will be compensated by a new source of appeals under the Building Safety Act 2022.

Appeals from Valuation Tribunals on business rating matters have still not recovered to their pre-pandemic levels, but references for the determination of compensation following compulsory purchase were more numerous in 2022-23. They have all contributed to what has been a very busy year in the Lands Chamber.

## **Diversity, inclusion and wellbeing**

Training has received increased attention this year, notably in preparation for the arrival of Building Safety Act work. A long overdue innovation was what we hope will be the Lands Chamber's first annual conference, which was organised in conjunction with the Property Chamber and included a number of bi-cameral sessions which provided an invaluable opportunity to share experience and to discuss topics of importance to judges and members in both Chambers.

## **People and places**

The use of digital case management has become second nature to our staff and judiciary and the gradual process of introduction and acclimatisation is now complete. Public access to the CE-File platform was made available in June 2021 and at first professional users were encouraged rather than compelled to use the new system. Its earliest adopters were the largest firms of solicitors who were already familiar with similar systems used in the High Court. Long before digital filing became mandatory for professional users in October 2023 its use had become the norm in the most commercial sectors of our work, with telecommunications cases leading the way. Although only professional users are required to file new cases on-line, many litigants in person find it convenient to do so; the cooperation of the Tribunal's users in making use of our digital systems has enabled us to handle the unprecedented number of cases received this year without any noticeable increase in waiting times.

Digital case management has also facilitated a wider use of the "special" procedure, in which cases are managed from the start by the Judge or Tribunal Member who will eventually preside at the final hearing. Direct access to the case file from the judge's desk is indispensable for this, as is the ability to conduct case management hearings using video conferencing. Thankfully, the days when large professional teams would assemble in London for routine case management appointments are long gone. The Tribunal's preference remains that almost all case management business will be conducted on-line, while in-person hearings continue as the default option for final or substantive hearings. Exceptions are occasionally made, where either the Tribunal or the parties and their representatives would have to travel long distances for a short hearing, but we remain committed to the principle that cases should be determined at a hearing at which the parties and the Tribunal gather in the same place. The organisation and administration of video hearings was formerly undertaken by the Tribunal's own staff, but in the course of this year we have begun to rely on HMCTS's centralised Video Hearing Service to whom we are grateful.

This year the Tribunal has seen the departure of valued members of our administrative team. Their dedicated service to the work of the Tribunal is a reminder that, while technology may make us more efficient, access to justice for those without professional representation also requires patient, knowledgeable and experienced support from Tribunal staff.

# First-tier Tribunal

## Social Entitlement Chamber

### President: Judge Kate Markus KC

The Social Entitlement Chamber comprises three jurisdictions, Social Security and Child Support (SSCS), Criminal Injuries Compensation (CIC) and Asylum Support (AS). The jurisdictions of SSCS and CIC are Great Britain-wide and that of AS is UK-wide. SSCS is divided into seven regions, each led by a Regional Tribunal Judge. CIC and AS are each led by a Principal Judge. We are one of the largest Chambers, presently with around 1800 judicial office holders (JOHs) but with a number of vacancies to be filled in forthcoming competitions.

In the period since the last report, we have continued to build on the lessons learned during the pandemic, taken new initiatives which have had a significant positive impact on performance and continued to engage with the HMCTS Reform programme. As ever, the judiciary, legal officers and administrative staff have shown great flexibility in adjusting to change. Everyone has worked extremely hard to address our growing caseload, and the Chamber is indebted to them.

### The jurisdictional landscape

In SSCS receipts and disposals have increased significantly as compared to the period covered by the last report. The liveload has increased but the average age of live load has decreased. The tribunal has worked closely with the administrative teams to improve performance, including more effective listing of appeals and introducing measures to reduce the adjournment rate.

In AS, the tribunal has returned to listing in-person hearings whilst making full use of remote hearings where appropriate. We have continued to operate with the slightly extended timeframe introduced during the pandemic as this resulted in better compliance with directions and fairer outcomes.

In CIC the tribunal has introduced several processes which have improved performance. The role of Legal Officers has been enhanced, improving the efficacy of Case Management Discussions in resolving some appeals. There has also been a change to the composition of panels, allowing certain cases to be determined by a single judge sitting alone.

Appeals before the SCS tribunals frequently raise complex points of law and procedure. The administration of universal credit (UC) continues to pose challenging issues, including as to whether a claim for UC can be treated as made on an earlier date than the date the claim was submitted. This has been addressed by the Upper Tribunal in AM v SSWP [2022] UKUT 242 (AAC), and the SSWP's appeal to the Court of Appeal is due to be heard shortly.

Right to reside continues to generate difficult points, notwithstanding the implementation of the UK's decision to leave the EU, including as to the application of the EU Charter of Fundamental Rights which remains applicable in the light of the terms of the Withdrawal Agreement (see SSWP v AT (Aire Centre and IMA Intervening) [2022] UKUT 330 (AAC)).

Tribunals have continued to determine appeals against SSWP decisions following a LEAP exercise (Legal Entitlement and Administrative Process). SSWP started an exercise in 2018 to reconsider historic entitlement decisions about personal independence payment claims where they failed to apply binding caselaw of the Upper Tribunal. These raise complex issues as when historic entitlement decisions may be revised or superseded, the grounds for doing so, and time limits.

In CIC, the Court of Appeal recently overturned the First-tier and Upper Tribunal decisions in R (RN) v FtT [2023] EWCA Civ 882, finding the scheme can apply to a victim of online grooming where at the point of apprehension of a threat of violence there was a fear of violence at some time not excluding the immediate future and that they did not need to know the exact form of the threatened violence.

### **Diversity, inclusion and wellbeing**

The Chamber's first Diversity and Inclusion Plan was reviewed at the end of 2022 and a progress report and Plan for the second year published. Almost all of the initial 28 goals were achieved with a small minority being "work in progress". Among those achievements were the creation of Exit Questionnaires for all JOHs leaving the Chamber, a Diversity Monitoring form for all EOI exercises, and raising awareness of the right to request occupational health and/or workplace assessments for workplace adjustments. Diversity and inclusion is addressed at most leadership, regional and jurisdictional meetings, in internal bulletins and at almost every training event. Members of the Committee have been working with the Judicial Appointments Commission, Judicial Office and external groups such as the Black Lawyers Association to further its goals.

Judges have been collaborating with the National Justice Museum on a project for schools outreach events, enabling students from socially deprived areas to attend real hearings rooms and meet JOHs. This project was runner up at the Museums and Heritage Awards.

This year the Chamber is focusing on career development, workplace adjustments, raising awareness of how to report and be supported where there are diversity and inclusion concerns and more targeted outreach work.

### **People and places**

Ita Farrelly was appointed as Principal Judge for CIC in April 2023, after 17 months as Acting Principal Judge.

SSCS has welcomed two new Regional Tribunal Judges (RTJs) during the period. Judge Rosemary Lloyd became RTJ for the North West region, replacing RTJ Mary Clarke. I thank Judge Kim Kneale who had been joint Acting RTJ along with Judge Lloyd during the 6 months between Judge Clarke's retirement and Judge Lloyd's appointment. Helen Pritchard is RTJ in the Midlands, replacing RTJ Adrian Rhead. Dr Laleh Morgan has been appointed as the Chief Medical Member (CMM), following a period as acting CMM. Judges Lloyd and Pritchard and Dr Morgan are experienced members of the SSCS judiciary and all three are welcome additions to the judicial leadership team.



## **Health, Education and Social Care Chamber**

### **President: Judge Mark Sutherland Williams**

The Health, Education and Social Care chamber (HESC) comprises of 4 jurisdictions: Mental Health (MH), Special Educational Needs and Disability (SEND), Care Standards (CS) and Primary Health Lists (PHL).

#### **The jurisdictional landscape**

Challenges have arisen this year through the number of appeals, claims and applications received and registered, which continues apace in all HESC jurisdictions (the total number registered in SEND during the 2022-23 financial year was close to 14,000, a further year on year increase).

The level of receipts has necessitated HESC to continue to work flexibly and liaise closely with HMCTS administration. In SEND, the result of this has been that the majority of transfer appeals were heard before the end of the academic year, with some hearings continuing into the October half term (partly to deal with late decisions made by local authorities). Increasing the fee paid judge and member cohort during 2022-23 has also allowed a significant number of SEND cases to be given an earlier hearing date during the autumn/winter of 2023, rather than the first quarter of 2024.

The SEND jurisdiction also renewed its offer to parties that if they could agree a date for an oral hearing in August 2023, then that would be accommodated by the tribunal. There was a good response, with some 468 oral hearings listed during August, as well as paper hearings.

Appeal numbers in Care Standards have not only returned to but now exceed the 2019/20 peak. Further, new appeals following the implementation of changes to Welsh legislation, enforcement of monetary penalties on universities, and urgent closure of residential children's homes are yet to reach the tribunal.

In November 2022, the Mental Health jurisdiction returned to some in-person hearings, whilst maintaining the advantages of remote hearings. HESCs approach reflects an approach which facilitates increased patient choice, leaving the decision on the form of hearing to the patient and their representative. From a survey HESC conducted on patient-choice, approximately 60-65% opted to have their hearing dealt with remotely via video, with a smaller number opting to have their hearing conducted in person in hospitals. Results showed more patients were anxious about in-person hearings than remote hearings; and that over 80% of community patients selected a remote hearing, giving their primary reason as not wanting to return to a clinical setting.

Similarly, HESC operates a video hearing service alongside in-person hearings in courts throughout England in SEND appeals, and in England and Wales in CS and PHL cases. Over 95% of SEND hearings continue to be conducted online, with high levels of user satisfaction. Final hearings in both CS and PHL are listed as hybrid hearings. Decisions about the appropriate form of hearing are made judicially, balancing several factors including party preference and individual needs. Discussions at annual user group meetings reveal an appetite for more video hearings due to the advantages of remote participation, such as avoiding the need for travel and preventing late adjournments and postponements.

Most legal professionals will be familiar with having hearings recorded. Following the successful introduction of recording Cloud Video Platform (CVP) hearings in SEND in January, the intention is to extend recording to the MH jurisdiction. The practicalities are being developed and we plan to issue revised guidance later this year.

The Chamber has also refocused on case management and forward planning. Positive steps have been taken to address listing and adjournment difficulties by regularly reviewing older cases and those that have been adjourned on multiple occasions. HESC continues to identify legally complex cases, which are then actively case managed to ensure they are ready to be heard.

This year guidance was issued on open justice in the MH jurisdiction, following the decision in *Maher v FtT (Mental Health)* and *Ors [2023] EWHC 34 (Admin)* ('Maher'). The intention is to ensure that in future victims' representations are considered as part of the open justice framework identified in that judgement. While the guidance focusses on MH and the victims of offenders, the open justice principle applies across this Chamber and reflects a growing trend towards greater transparency in the legal process.

In MH, SEND and Disability Discrimination cases, the presumption of privacy (rules 26(2) and 38(1)) remains the starting point. However, the court in *Maher* found that the mental health privacy exception is not an absolute rule. It has to be weighed against the open justice principle and the discretion to disclose under rule 14 of the HESC Procedural Rules. We shall need to see how the guidance<sup>5</sup> beds in before we determine any further steps required to assist with open justice across the Chamber more widely.

### **Diversity, inclusion and wellbeing**

HESC is committed to ensuring better information on the tribunal is available and appropriate reasonable adjustments are made for parties with either seen or unseen disability. We continue to expand its profile on the public facing Judiciary website, and we have also developed an option for easy read decisions for those with intellectual disability.

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5 [Procedures concerning handling representations from victims – judiciary.uk](#)

Initiatives have also included presentations to schools and hosting visits at the Royal Courts of Justice for students considering law or medicine as a career. Outreach training for Mental Health Trusts continues to be delivered by our judiciary to improve the quality of evidence presented, help reduce adjournments and improve patient experience. This year this was extended to clinicians who appear in Restricted Patient cases and trainee mental health professionals. The Chamber has continued to work with research projects over the year: including the Nuffield Foundation looking at ["Delivering administrative justice after the pandemic"](#) and the Administrative Justice Council's report on [Improving Local Authority Decision-making in Special Educational Needs and Disabilities](#).

### **People and places**

We were delighted this year to announce the appointment of Judge Jane McConnell MBE to the post of President of the Education Tribunal for Wales. Judge McConnell remains our lead judge in SEND, and she will combine this with her Welsh role, helping ensure the two jurisdictions work productively together. Our congratulations to her.

We lost a good friend and a dedicated public servant to retirement this year. Judge Duncan Birrell retired in June 2023. He served the Mental Health jurisdiction for almost 20 years. Judge Birrell was that rare combination of being an excellent lawyer, able colleague and valued friend, who will be greatly missed. His legacy will be the new Mental Health Benchbook, which he helped co-author.

I am struck by the progress we have made over the past three years. The one thing, however, that has remained constant is the resilience of the judicial office holders within this Chamber who continue to demonstrate, in circumstances where work pressures are often unabated and the difficulties of limited resources remain, the best qualities of a modern, forward thinking judiciary.

My thanks therefore to the dedicated judicial office holders in this Chamber, my two Deputy Chamber Presidents, Judge Meleri Tudur and Judge Sarah Johnston, together with the Chief Medical Member, Dr Joan Rutherford; the members of my private office and the Judicial Office, the Senior President, Sir Keith Lindblom, and his office; and to the courts and tribunals staff around the country whose professionalism allows us to continue delivering justice to some of the most vulnerable in society.

## War Pensions and Armed Forces Compensation Chamber

### President: Judge Fiona Monk

#### The jurisdictional landscape

In my report last year, I said that I 'very much hope that in next year's report I will actually be able to say that we have achieved Direct Lodgement' and I am delighted to in fact be able to say just that. It has been a momentous year for us as we have, finally, seen the introduction of direct lodgement to the Chamber for our appeals. We hear appeals from former or serving members of the Armed Forces who are seeking compensation for injury or illness which can be attributed to Service in some way. They make a claim under one of two compensation schemes administered by Veterans UK for the Ministry of Defence. Until April any appeal against a decision had to be lodged with Veterans UK who would prepare their response to the appeal and then lodge the appeal with the Tribunal. That was an unsatisfactory position not least because it failed to adhere to principles of natural justice and led to a perception that we were not wholly independent. It also meant that the Tribunal had very limited control over the process and there were often delays before we would receive the appeal.

For well over ten years the Chamber has been pushing for direct lodgement of all appeals to correct such an anomalous situation. It has taken a great deal of joint working between the Judiciary, HMCTS, MOJ Policy, the SPT's Office and the Ministry of Defence to finally get us to a position where the principle was agreed and committed to. There was a public consultation and then there was the hard work getting it implemented in a relatively short time period. Our administrative processes were completely reviewed and updated, and our Procedural Rules were redrafted and we used that opportunity to impose some stricter timescales on the Secretary of State for preparing the response to the appeal. These rules<sup>6</sup> came into effect on 6 April 2023 and any appeal against a decision made on or after that date must now be lodged directly with the Tribunal.

We have since had a small but steady stream of appeals directly lodged with the Tribunal and our first directly lodged appeal was heard by the Tribunal at the beginning of August. This shows the potential for a significant reduction in timescales for getting cases to final hearing which is encouraging and will ensure more timely access to justice for members of the Armed Forces Community. I would like to record my gratitude to all those whose collaborative hard work led to us achieving this very significant milestone for the Chamber.

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6 [The Tribunal Procedure \(First-tier Tribunal\) \(War Pensions and Armed Forces Compensation Chamber\) Rules 2008](#)

There may well be further significant changes on the horizon as the Government has just published its [Quinquennial Review into the Armed Forces Compensation Scheme](#). The Chamber provided input into the review and it will be interesting to see whether some of the far-reaching changes that are proposed come into effect.

In last year's report I said that the Chamber's progress in HMCTS Reform programme had been put on hold and the future was very unclear. Regrettably, the position is now clear, and the Chamber is no longer part of the modernisation programme. Despite this, collaborative and joint working with our HMCTS team in Leicester and our Jurisdictional Support Team is developing better ways of working where we can. We are introducing electronic referrals to Judges and Legal Officers, putting in place resource for bulk scanning, and have a 'new to us' case management system which we hope will come on stream next year and be far more flexible. In addition, we continue to work with Veterans UK on the production of digital bundles for hearings.

As a Chamber we have wholeheartedly embraced the benefits of remote video hearings – our appellants who are often vulnerable or frail prefer them, with over 80% opting for a remote hearing over a face-to-face hearing. We have maintained the increased listing capacity which remote hearings give us, and as a result our outstanding caseload is 60% lower than the post pandemic peak – it is now at the lowest that it has been since May 2016.

A very small percentage of our cases are successfully appealed to the Upper Tribunal and beyond and so there is considerable excitement that the Court of Appeal have just given permission to appeal in [Christopher Pearson v Secretary of State for Defence CA-2023-001072](#). It will give us some guidance on the interpretation of what amounts to a severe or moderate disablement caused by a mental health condition in the context of the ability to work.

### **Diversity, inclusion and wellbeing**

Our recruitment for new Service Members will launch in November when we will be looking for ten new members who have recent senior experience of serving in the Armed Forces. We are keen to encourage as wide a pool of applicants possible, and as they are a hard-to-reach target audience Dr Laleh Morgan, our Chief Medical Member and diversity and inclusion lead, and I have contacted many of the diversity networks and organisations that tap into our likely pool to ensure that our pre-launch outreach is as effective as possible. We sent out a flyer to all those organisations and have had an article published in the Soldier Magazine about the Chamber's work which should reach a large readership in the Army. The Judicial Appointments Commission had over 400 interested potential applicants sign up for alerts so far and our online pre-application seminar had over 60 attendees.

Other outreach work includes working with the charity Migrant Leaders to offer mentoring opportunities to students who are first and second generation migrants. As a Chamber, we offer mentoring to those interested in both the legal and medical professions. We have also acted as guides for the Judicial Appointment Commission's Targeted Outreach Programme, mentored on the MOJ's Social Mobility Programme and done several talks to school age students for the National Justice Museum at the Royal Courts of Justice.

We have introduced exit interviews for all leavers from the Chamber and are just about to launch our first Diversity & Inclusion check.

### **People and places**

We have said goodbye to a number of longstanding and valued colleagues over the last year: Judge John Traynor (22 years), Deputy Upper Tribunal Judge Mark Rowland (3 years), Dr Vincent Nathan, who very sadly passed away in May of this year – only a year after he retired (17 years), Dr Mair Bourne (4 years), Mr Colin Eames (15 years), Judge Verity Jones (7 years), Dr Ian Jack (31 years), Dr Phillip Powell (9 years), Judge Anthony Metzger (5 years), and Dr Patricia Moultrie (17 years). All of those colleagues gave dedicated service to the work of the Chamber and are greatly missed by us all.

Also on the horizon is the Chamber's long planned for move to new premises in Central London which we hope will be happening towards the end of 2024. The new building will have the advantages of having been purposefully designed for us and is in a great location just next to the Old Bailey. A huge amount of work has been put into designing flexible and accessible hearing and office space for us and our users and we really look forward to moving in along with our colleagues from the Social Entitlement Chamber and the Employment Tribunal.

## **Tax Chamber**

### **President: Judge Greg Sinfield**

#### **The jurisdictional landscape**

In my last report I mentioned that we finished the year to 31 March 2022 with a considerably higher caseload than we had at the start and I must do so again. On 31 March 2023, the number of appeals in the Tax Chamber was (and remains at the time of writing) at an all time high.

The reason is that our caseload includes some 28,000 mini umbrella company (MUC) appeals which were lodged in bulk lots over the last couple of years. The MUC appeals concern an alleged VAT and NICs avoidance scheme. Although the MUC appeals are administered as a group, the demands on the administrative resources of the Tax Chamber have been considerable. It is hoped that they will all be dealt with during the first half of 2024. Five appeals are due to be heard in January 2024 using the lead case procedure under rule 18 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ('Tax Tribunal Rules') which should determine the other appeals as related cases.

Excluding the MUC appeals, our live caseload at the end of March 2023 was lower than at the beginning of April 2022. The reason for the fall in active cases is that we received fewer new appeals than we received before the pandemic. I had expected the reduction in new appeals to be reversed in 2022/23 and, in the last few months, numbers of new appeals have indeed reached the low end of historic figures. I am now reasonably confident that 2024 will see a return to pre-covid numbers of new appeals and perhaps exceed them.

We have seen a welcome return to face to face hearings as the default for all cases categorised as Complex or Standard under rule 23 of the Tax Tribunal Rules. All Basic category cases and applications are listed for hearing by video unless a party asks for a face to face hearing or a judge considers that it is necessary. We also now use video hearings for all penalty cases formerly dealt with on paper. This innovation allows judges to ask questions and appellants, usually unrepresented, to present their cases more effectively than was possible on paper. The use of video technology for such cases seems to have been welcomed with very few appellants requesting an in person hearing. In May 2022, I revised the Tax Chamber Practice Direction on the allocation of cases to categories to align it more closely with the new listing practice and make the criteria clearer.

We also have a small but growing number of hybrid hearings. Those are any hearings where someone is in the hearing room and someone else is attending from elsewhere by video. The 'elsewhere' might be another country, another town or another room. We have also successfully used the video technology to live stream proceedings in one of our hearings rooms to another hearing room in the same building to enable us to accommodate observers when there were more people than the 'live court' could accommodate. We are looking to use this technology more to remove the need for hearings with large numbers of participants and observers to be listed in the Rolls Building or the Royal Courts of Justice, which have bigger court rooms than Taylor House. Perhaps one day, it might even be possible to live stream tax appeal hearings to the public at large.

There is a growing number of requests for witnesses or appellants to give evidence remotely from abroad. In such cases, the Tribunal must be satisfied that the country concerned has no objection, but many countries will only consider requests on a case by case basis. The result is that it is simply not possible to guarantee that an appeal can proceed if evidence is to be given from abroad without many months' notice. In July 2022, I issued updated guidance on the procedure to be followed when a party in proceedings in the Tax Chamber wished to rely on evidence given by video or telephone from outside the United Kingdom. The guidance reflected changes in the procedure and stated explicitly that permission was not required from someone to give evidence by video from another country in the UK or any Crown Dependency or British Overseas Territory.

### **Diversity, inclusion and wellbeing**

To aid recruitment for salaried and fee paid positions, we have introduced a Tax Chamber Judicial Recruitment Support Scheme to encourage tax practitioners from all backgrounds to apply to become judges and increase the diversity of the Chamber. The scheme offers prospective candidates for judicial appointment the opportunity for a private discussion with a judge about the role and the available support, flexible shadowing (remotely or in-person), work experience and the option of being paired with a tax judge who will be their judicial guide throughout the application process. It has been a notable success and we currently have 39 candidates on the scheme.



Other work in the chamber includes temperature check surveys to assess and measure the diversity and inclusion progress of the Chamber and to gain a better understanding of diversity and inclusion issues within the Chamber. Diversity and Inclusion is a standing agenda item for all regular Tax Chamber judges and members meetings and the Chamber's Diversity and Inclusion Steering Group, with representation from salaried and fee paid judges, holds quarterly meetings to discuss survey results and consider whether the Chamber is meeting its strategic objectives, targets and delivery plans. An interactive Diversity and Inclusion online session, which focused on the Statement of Expected Behaviour, was recently held for all judges and members within the Chamber.

### **People and places**

At the time of writing this report, the Tax Chamber has 10 salaried judges, 49 fee-paid judges and 39 members, including one authorised presiding member. Until last August, we had 11 salaried judges but one, Peter Kempster, retired. He had been a judge since the beginning of the Tax Chamber in 2009. Peter's wisdom and experience, as well as his sense of humour, are very much missed.

I am pleased to say that we are hoping to recruit four new salaried judges in a Judicial Appointments Commission competition which is ongoing. I hope that we will be able to welcome some new salaried colleagues in the spring of 2024.

During the period covered by this report, five fee-paid judges have retired or resigned and two new ones, David Harkness and Sue Turner, have joined. They were both sworn in by the Senior President of Tribunals at a ceremony in the Royal Courts of Justice in May 2023.

The decline in the number of members is something that I continue to monitor and I hope to run an Expression of Interest exercise later this year to attract new members from other jurisdictions to sit in Tax.

In summary, we are currently coping notwithstanding the MUC appeals and I am optimistic that with more judges, particularly salaried judges, and members, we will continue to handle the increasing numbers of appeals and manage our caseload.

## General Regulatory Chamber

**President: Judge Mark O'Connor**

### The jurisdictional landscape

The work of the Chamber is currently split into 15 jurisdictions: Charity, Community Right to Bid, Environment, Electronic Communications, Postal Services and Network Information Systems, Estate Agents, Exam Boards, Food Safety, Gambling, Immigration Services, Information Rights (Data Protection & Freedom of Information), Pensions, Licensing and Standards, Transport, Welfare of Animals and Individual Electoral Registration.

New rights of appeal are received into the Chamber on a regular basis and in the period covered by this report, the Chamber saw the introduction of new appeal rights, inter alia, relating to collective defined contribution occupational pension schemes, the supply of electric vehicle smart charge points, the regulation of social landlords obligations in relation to smoke and carbon monoxide alarms, and heat meter accuracy for customers on heat networks.

The Chamber's caseload has increased in the past year, with a significant driver being the Information Rights jurisdiction, in which the number of Decision Notices issued by the Information Commissioner's Office (ICO) have more than doubled over the period covered by this report, which has led to a concomitant increase in appeals. The Environment jurisdiction is incredibly broad and is tasked with considering well over 100 appeal rights including appeals relating to the Registration, Evaluation, Authorisation and Restriction of Chemicals, the Carbon Emissions Trading Scheme, Nitrate Vulnerable Zones, ivory dealing, toxic waste and geographical indicators. The coming months will see the introduction of legislation under the Environment Act 2021, to protect existing habitats and ecosystems in new development schemes.

The Chamber is currently in the midst of undergoing a root and branch reform of its administrative and judicial working practices. At the heart of this reform is the close collaborative working environment between the Chamber's judiciary and HMCTS, with the Ministry of Justice's 'NS Change Team' guiding this collaborative effort.

In short, the HMCTS administrative teams, which currently work in jurisdictional silos, are reorganising upon Chamber workflow lines. The administrative processes, which differ between jurisdictional silos, are being redesigned and aligned. There has been cross deployment of Tribunal Members - where a member meets the 'specialist' requirements under the Tribunal, Courts and Enforcements Act 2007 in more than one of the Chamber's jurisdictions, and the introduction of cross jurisdictional judicial training with the aspiration that all judges will be ticketed to all areas of the Chamber's work within the next two years.

Cross jurisdictional working of the Chamber's judiciary not only supports judges' career development, enabling them to broaden their skills in different areas of law, but also improves the Chamber's ability to deploy judges with the right expertise more flexibly to meet fluctuating caseloads and supports the exchange of experience between jurisdictions.

There were many notable decisions of the Chamber throughout the year. The decision in [Mermaids v The Charity Commission for England and Wales and LGB Alliance \[2023\] UKFTT 563 \(GRC\)](#), which attracted significant social media attention, addressed the issue standing in an appeal against a decision of the Charity Commission to register a charity. In [Maurizi v Information Commissioner and Crown Prosecution Service \[2023\] UKFTT 00442 \(GRC\)](#), the Tribunal considered a Freedom of Information request made by an Italian journalist for correspondence between the Crown Prosecution Service, the Ecuadorian authorities, the US authorities and the Swedish Prosecution Service in relation to Julian Assange. In [Euro Quality Lambs Limited v Food Standards Agency \[2023\] UKFTT 630 \(GRC\)](#) consideration was given to whether non-stunned Halal slaughter of animals, complied with the requirements of the Welfare of Animals at the Time of Killing (England) Regulations 2015. In [DSC Retail Limited v Information Commissioner \[2022\] UKFTT 00048 \(GRC\)](#) the Tribunal considered an appeal against a Money Penalty Notice, relating to a cyber-attack in which over 5.5 million payment cards were affected.

### **Diversity, inclusion and wellbeing**

The focus of training has not solely been on jurisdictional knowledge. In the expert hands of Lynn Griffin, the lead training judge, the Chamber has also delivered training on, amongst other things, fairness, unconscious bias, diversity and inclusion, judicial conduct, decision writing, tribunal craft, electronic working and digital upskilling, and good case management techniques.

### **People and places**

During the period covered by this report, the Chamber welcomed the appointments of judges Simon Heald and Penrose Foss as fee paid judges of the Chamber, and Gilda Kiai, Svitlana Shlapak and Jo Renshaw as Tribunal Members assigned to the Immigration Services jurisdiction.

This year the Chamber bid farewell to both Judge Sally Lister and Tribunal Member Andrew Guest, upon their retirements. Sally initially sat in the Chamber's Local Government Standards in England jurisdiction, until its abolition. Thereafter, Sally was ticketed to, and sat with distinction in, the Environment jurisdiction. Andrew was appointed to the Chamber in 2012 and sat regularly as a 'specialist' member in the Transport jurisdiction, where his expert insight has proven to be invaluable.

As this report is going to press, the Chamber is also to lose Judge Margo Ford to retirement. Margo was appointed as an Immigration Adjudicator in 2002 and an Immigration Judge and Deputy District Judge in 2005. She was subsequently assigned part time to the General Regulatory Chamber in 2020. Margo was ticketed to the Chamber's Welfare of Animals and Environment jurisdictions and heard wide range of complex appeals including those relating to the Climate Change Agreement Scheme. Her retirement will be a great loss to the Chamber.

It would not be appropriate for me to leave this section of the report without reference to David Marks KC. Although David retired prior to my time in the Chamber, the news that he had passed away in February of this year was met with great sadness amongst those staff and judicial officer holders who had worked alongside him, with universal recognition of his kind and conscientious nature, and his incisive decision making.

I would also like to record my personal thanks to Judges Lynn Griffin and Joe Neville who have each taken on a significant number of extra duties to help lead the Chamber through this time of change.

This has been a period of increased workload for the Chamber but also an exciting period of change. Many challenges have raised their heads, but these have been met with enthusiasm by the Chamber's judicial officer holders, legal officers, registrars and HMCTS staff.

I have no doubt that this time next year, due the conscientious work of all involved in the GRC, I will be reporting about a Chamber that is has evolved and is flourishing in its new skin.

## **Immigration and Asylum Chamber**

### **President: Judge Melanie Plimmer**

#### **The jurisdictional landscape**

The First-tier Tribunal (Immigration and Asylum Chamber) ('FtTIAC') deals with appeals against decisions of the Secretary of State relating to international protection, deportation, the EU Settlement Scheme, deprivation of citizenship and human rights. These often involve vulnerable appellants and detailed evidence addressing what is often difficult evidence including torture, persecution and family separation. Appeals must be determined pursuant to a changing and complex legal landscape, often in the public eye.

The year started with the passing of the Nationality and Borders Act 2022 ('NABA'), albeit as the months progressed the implementation of many parts of NABA, including the age assessment appeals highlighted in last year's report, have been paused. The year ended with the passing of the Illegal Migration Act 2023 ('IMA'), which upon implementation will have far reaching consequences for all IAC work. This has required and continues to demand intense preparation and planning on the part of leadership judges.

Over the next two to three years, it is anticipated that notwithstanding the IMA requirements, the numbers of asylum appeals will increase consistent with the Home Office's commitment to reduce and eventually clear the substantial backlog pre-dating the implementation of the IMA. It is anticipated that in the short term, as a consequence of the IMA duty placed upon the Secretary of State to remove illegal entrants, there will be a substantial increase in the number of bail hearings dealt with by the FtTIAC. Planning for these expected developments is well underway.

The year has seen the introduction and implementation of the new FtTIAC President's "Programme for Change" through which there have been significant changes to ways of working with the overarching aim to re-focus preparation, hearings and written decisions through a more "issues-based" and structured lens, consistent with the manner in which Reform is expected to work in FTTIAC. This has involved a 360-degree approach which has benefitted from the support and guidance of other Presidents in the Senior President's Tribunals Action Group: re-training of salaried and fee-paid judges; realignment of mentoring and leadership on the part of Assistant Resident Judges; judicial training of legal officers to case manage through narrowing issues in advance of the hearing; judicial support for pro-active case management by legal officers in a Birmingham pilot; more comprehensive and up to date jurisdictional support for judges through the maintenance of online checklists, templates and sample judgments for each cohort of work. The latter could not have been achieved without the hard work and dedication of judicial subject leads under the supervision and unstinting dedication of the training team, which continues to be led by Resident Judge Julian Phillips and his deputies Resident Judge Holmes and Assistant Resident Judge Landes. Whilst it is anticipated that this enhanced 360-degree support package will lead to more concise decisions where possible, it is also hoped that the overall quality of decision-making will increase with a consequent reduction in the number of successful onward appeals, whilst simultaneously making the work of the FtTIAC judge more enjoyable.

An integral part of the Programme for Change is the foundation of an Improvement Group which works closely and collaboratively with the UTIAC, whose focus is on procedural rigour in the IAC through collaboration with relevant stakeholders such as the Home Office and the Immigration Law Practitioners Association (ILPA). In addition, in time, the production of an IAC User Guide similar to the successful Administrative Court User Guide, will bear down on poor litigation conduct inconsistent with the reformed process in FtTIAC, as well provide further support in an easily accessible format for busy judges. The requirement for procedural rigour has been emphasised and supported by recent case law (see below) and the feedback on the effects of this initiative is already very positive. The emphasis upon procedural rigour has also been addressed at training events, together with the need for this to be applied and enforced politely and respectfully, consistent with the Statement of Expected Behaviour.

Work has recently commenced on a FtTIAC Virtual Region pilot with the object of corralling appeals that can be heard and dealt with in a just and effective way by remote means. For appeals within scope, it may be possible to shorten the time usually taken between inception of the appeal and delivery of the judgment, leading to greater efficiency and making best use of the available UK-wide judicial resource, with deployment to virtual lists not necessarily tied to a particular hearing centre or region.

Two of the more important reported decisions this year concern the need for procedural rigour and the constructive engagement required from the parties in the context of the reform in FtTIAC. In [Lata \(principal controversial issues\) \[2023\] UKUT 163 \(IAC\)](#), the UT gave clear guidance on the reformed appeals procedures and the essential focus on identifying the issues. In [TC \(PS compliance “issues-based” reasoning\) \[2023\] UKUT 164 \(IAC\)](#) a panel of the Presidents of the FtTIAC and the UTIAC emphasised the need for procedural rigour at every stage of proceedings and the importance of the FtTIAC’s Practice Statement as consistent with reform and a modern application of the overriding objective in the relevant Procedure Rules to deal with cases fairly and justly.

A salient feature of the work over the past year has been the substantial increase in the number of deprivation of citizenship appeals in the FtTIAC. These are difficult and complex cases, and guidance from the higher courts is still emerging.

### **Diversity, inclusion and wellbeing**

The Chamber has run a series of focus groups for fee-paid and salaried judges to develop an action plan mirroring the aims of the Diversity & Inclusion Strategy which has provided a useful platform to engage judges on issues which matter to them. The focus groups have focused on topics such as career progression in the judiciary. A national lecture was also held on the Judicial Appointments Commission process.

The Chamber has also promoted diversity & inclusion through (i) its training programme such as inviting an external speaker to deliver interactive training to get judges to engage, challenge and think about their own potential prejudices and (ii) establishing a dedicated Diversity & Inclusion page on the IAC website.

### **People and places**

Chamber President Michael Clements retired after more than a decade at the helm. Judge Clements led FtTIAC during some tumultuous times, including the covid pandemic and the recovery which followed, and oversaw and managed the introduction of the online appeals process, the first of its kind in courts and tribunals, and the early years of Reform.

Judge Melanie Plimmer has been the new Chamber President since November 2022. Judge Plimmer has designed and implemented the Programme for Change and launched several initiatives to drive up standards and improve efficiency, whilst ensuring that judicial well-being and diversity and inclusion run as golden threads throughout. Judge Plimmer has made it a priority to meet the FtTIAC judiciary and legal officers at hearing centres and training venues across the UK-wide jurisdiction and to engage with the challenges facing the jurisdiction in the coming months and years.

Judge Neil Froom has been appointed as the new Resident Judge at the Hatton Cross London hearing centre. Judges Sean O'Brien and Roxanne Frantzis were appointed acting Resident Judges in Manchester on a job share basis, pending the outcome of a JAC competition. Both the Manchester and Taylor House Resident Judge JAC selection exercises which are currently underway include (for the first time) the option of salaried part-time working and job-share arrangements. Judge Jonathan Holmes who held the role of Resident Judge at Hatton Cross has relocated to take on the role of Resident Judge North East, based in Bradford and Newcastle.

Thirty new fee-paid judges were appointed in April 2023 and are now sitting having completed induction training and panel lists with experienced mentor judges. JAC competitions are currently underway for further fee-paid and salaried judges and these are expected to result in appointments next year.



## Property Chamber

### President: Judge Siobhan McGrath

#### The jurisdictional landscape

Housing, landlord and tenant and property law and practice are complex, challenging and of immense importance. This is reflected in significant governmental policy initiatives some of which have taken effect during the past 18 months and others which are proposed over the next several years. In this contribution I will reflect on the changes these developments have brought to the Property Chamber and will detail the work we are doing to improve access to justice in property cases.

During the covid pandemic our caseload contracted but has now recovered in all three Divisions of the Chamber: Residential Property, Land Registration and Agricultural Land and Drainage. In Residential Property the impact of the cost of living crisis has seen a gradual increase in our leasehold management work, in particular we are dealing with more challenges to service charge costs. Our mobile homes caseload has also seen a significant rise notably because park-home owners are challenging pitch fee rises in far greater numbers. Finally, we are also receiving more applications for Rent Repayment Orders.

This year there have been two Supreme Court decisions relating to our work and a number of Court of Appeal decisions. In [Aviva Investor Ground Rent GP Ltd v Williams \[2023\] UKSC](#) the extent of our jurisdiction under section 27A of the Landlord and Tenant Act 1985 was clarified and in [Rakusen v Jepsen \[2023\] UKSC 9](#), it was decided that a Rent Repayment Order may only be made against an immediate and not against a superior landlord.

The Building Safety Act 2022 came into force at the end of March last year. The stated objectives of the Act were to learn the lessons from the Grenfell Tower fire and to “remedy the systemic issues identified by Dame Judith Hackitt by strengthening the whole regulatory system for building safety.” The Act is very substantial, and the vast majority of the dispute resolution lies with the Property Chamber. Part 5 of the Act was commenced first, restricting the liabilities of lessees in certain buildings to pay for remediation work (including the replacement of cladding) and giving the Tribunal the power to make Remediation Orders and Remediation Contribution Orders. The conceptual basis for the new law differs entirely from the usual understanding of landlord and tenant relationships. When dealing with the cases we focus on close and detailed case management to identify urgency and clarify issues. In April 2023 Part 4 of the Act was commenced dealing with higher risk buildings and over the next 18 months the remaining provisions will be brought into force.

In the summer of 2020, the Law Commission published a trio of reports recommending reform in the spheres of Right to Manage, Enfranchisement and Commonhold. Other reforms to leasehold have also been canvassed. It is possible that over the next 18 months a new Home Ownership Bill will be introduced in Parliament and if so then this is likely to propose further and amended jurisdictions for the Chamber.

The Renters Reform Bill has had its first reading in the House of Commons. If enacted it will effect the most significant change in the private rented sector since the Housing Act 1988. Notably, there is a proposal to abolish a landlord's automatic right to possession facilitated by section 21 of the 1988 Act. For the Chamber this is likely to have a significant impact on the level of market rent referrals that we receive.

The Telecommunications Infrastructure Leasehold Property Act 2021 was brought into force at the end of 2022 and with the help of Judge Nikki Carr we designed a sophisticated and streamlined system to accommodate these very complex applications.

This year, work to enhance access to justice in property cases has included important discussions with the Deputy Head of Civil Justice on the drafting of a CPR Pilot Practice Direction which will make judicial deployment of judges to the courts and tribunals to determine property cases easier and more effective.

Additionally, we have been able to train additional mediators in the jurisdiction. Our aim is to integrate mediation within some of our main case types so that it becomes a mainstream tool for dispute resolution in the Chamber. We have appointed mediation leads in each of our Regions and have a programme of awareness raising for parties, staff and judiciary. We are working with the Ministry of Justice to improve and deliver evaluation of the project over the next 24 months.

Finally, we have been working with the Property Ombudsman to provide signposting for complainants and claimants to ensure that they are able to access the appropriate forum to determine disputes between landlords and lessees or tenants. We hope to extend this initiative to other Ombudsman organisations in due course.

## **Diversity, inclusion and wellbeing**

The Property Chamber baseline reflects less representative diversity than other tribunals in terms of gender balance, with a 70:30% male:female ratio. Ethnic minority representation is 7%. To some extent the relative lack of diversity is explained by the demographic make up of property lawyers and professionals. With a view to further improving diversity within the Chamber, the focus for 2022/23 has been on outreach in advance of any recruitment by way of events for lawyers and property professionals aimed at underrepresented groups. The first event was held in person at Alfred Place and the second remotely, to improve access across all of the regions. Both events were well attended and the Chamber hopes they will culminate in improved diversity for the future.

## **People and places**

We send all our best wishes to Regional Judge Michael Tildesley who retired on 2 October 2023. Michael was Regional Judge for our Southern region for 10 years but before that had been a judge and chief executive to justices for about 30 years. In 2005 he was awarded the OBE for service to the Administration of Justice. He will be very much missed in the Tribunal.

However, we congratulate Judge David Whitney who has been appointed as the new Regional Judge for the South. We also welcome Robert Brown and Laura d'Cruz who have been appointed as salaried judges in our Land Registration Division.

This year we were informed that we would not be included in the HMCTS Reform project. However, I am pleased to say that in the Residential Property Division our aging Case Management System is being re-platformed under the DLRM scheme. The plan is to provide the same (high quality) functionality that we now enjoy but on a modernised system which will have the potential for development and improvement as we go forward. The Land Registration Division IT system ALD2000 will also be replaced, but this time with Glimmer which we hope will ultimately be able to provide much needed improvements.

As ever, I am very grateful for the work and dedication of the salaried and fee-paid judiciary. It has been an interesting year with some fascinating developments in the law and they have continued to work with enthusiasm and stamina. I would also very much like to thank our staff who have continued to manage our caseload.

In conclusion, we are looking forward to another exciting and constructive year in the Property Chamber.

# The Employment Tribunals

## Employment Appeal Tribunal

**President: The Honourable Mrs Justice Eady DBE**

### **The jurisdictional landscape**

The Employment Appeal Tribunal (“EAT”) is an independent tribunal which determines legal disputes relating to employment law throughout Great Britain; it is a superior court of record. Most of the EAT’s work relates to appeals against decisions made by the Employment Tribunal; an appeal lies to the EAT against a decision of the Employment Tribunal on any question of law (section 21 Employment Tribunals Act 1996). The EAT also hears appeals and applications about decisions made by the Certification Officer and the Central Arbitration Committee and has a limited original jurisdiction.

The EAT sits principally in London and Edinburgh.

The EAT Rules 1993 have been amended: (i) to remove the requirement to lodge the ET1 and ET3 in order to institute an appeal to the EAT; and (ii) to provide greater flexibility to extend time for the lodgement of appeals where the delay arose from a minor omission in lodging the required documents and this was promptly rectified. As the majority of those responding to the EAT’s consultation on these amendments identified, these are changes that will improve access to justice in this jurisdiction.

At the same time, a new Practice Direction was introduced. Consistent with the objectives of the Tribunals Action Group (and HMCTS’s Reform programme more generally), this will better enable the EAT to manage proceedings in this jurisdiction in a way that is just, proportionate and accessible. HHJ James Tayler has taken a lead role on this work and has done a remarkable job in drafting the new Practice Direction, for which the EAT is very grateful.

The EAT has now largely moved away from paper files and electronic filing of documents is the norm. Although the introduction of the digital case management system initially led to a delay in the processing of appeals, the back-log has now been addressed. Consideration is being given to mandating digital filing by all professional representatives.

Pro bono legal advice schemes - the Employment Law Appeal Advice Scheme (ELASS) in London and Scottish Employment Law Appeal Legal Assistance Scheme (SEALAS) in Scotland - continue to operate successfully at the EAT. We also benefit from the contribution of professional representatives appearing pro bono on full appeal hearings, generally acting through the Free Representation Unit and Advocate.

The EAT continues to maintain contact with a wide range of judicial and legal organisations. There are regular meetings with the Presidents of the ETs in both England and Wales (Judge Barry Clarke) and Scotland (Judge Susan Walker). A user group, chaired by Deshpal Panesar KC, meets the judges of the EAT twice yearly to discuss issues of concern.

Appeals to the EAT continue to raise a wide variety of issues, many of which have a social interest and impact beyond the realms of employment law. Some highlights this year include the EAT's adjudication on whistleblowing at [Sellafield \(McDermott v Sellafield \[2023\] EAT 60\)](#); laying down guidance on how an employee's beliefs are to be accommodated in the workplace when these are seen to be in conflict with the beliefs or characteristics of others ([Higgs v Farmor's School \[2023\] EAT 89](#)); the disapplication of the "family worker exemption" in the National Minimum Wage Regulations ([Thukalil v Puthveetil \[2023\] EAT 47](#)); grappling with the implications of Brexit for European Works Councils in the UK ([Easyjet plc v Easyjet European Works Council \[2023\] IRLR 147](#)); and ruling on the latest part-time worker case brought by Judges ([Ministry of Justice v Dodds \[2023\] 31](#)).

### **Diversity, inclusion and wellbeing**

HHJ Auerbach is the EAT's training lead judge. He has overseen the induction training of the new EAT Judges this year and organised a one-day training event for EAT Judges and Lay Members in June, which included diversity and inclusion training for all.

External engagements include speeches at the Industrial Law Society, the Employment Law Bar Association and Employment Lawyers' Association and at judicial recruitment events in England and Scotland, as well as ad hoc events at various schools, colleges and community organisations.

In the past year, the EAT has placed a particular emphasis on encouraging greater diversity in applications for judicial posts and a number of outreach events have taken place with this focus. The EAT continues to work with relevant professional associations to support and encourage judicial applications from those from underrepresented groups.

## **People and places**

The EAT has three permanent Judges: the President, and two Senior Circuit Judges, HHJ Auerbach and HHJ Tayler. The EAT is otherwise dependent upon its visiting Judges, both salaried and fee-paid, who (consistent with the aims of One Judiciary) are drawn from both the judiciary of both the Courts and Tribunals.

This year we welcomed Andrew Burns KC, Bruce Carr KC, Sarah Crowther KC, and Caspar Glynn KC as additional Deputy High Court Judges. We were also delighted to be joined by Deputy Upper Tribunal Holly Stout (who continues to sit as a salaried Employment Judge as well), and by Judge Susan Walker, President of Employment Tribunals in Scotland (for the first time in the EAT's history, both Employment Tribunal Presidents are now sitting in this jurisdiction). In Scotland, Lord Stuart has also been assigned as an additional Judge of the EAT.

Judges of the EAT contribute to the training of employment judges and attend the Council of Employment Judges' annual conference. We are also delighted to welcome Employment Judges who attend the EAT on a rota basis to observe proceedings.

The high calibre of all the Judges assigned to the EAT reflects the complexity and importance of the cases we hear. We are grateful for the work and commitment of all those sit with us.

The EAT has a long tradition of sitting with lay members with special knowledge and experience of industrial relations and, after a decline in lay member sittings following the reduction in appeals resulting from fees, we have seen a larger number of hearings involving lay members in recent years.

The efficient, effective and well-managed operation of the EAT has continued this year and I take this opportunity to thank all our staff for their hard work, commitment and professionalism: the EAT is very lucky to have them.

## Employment Tribunals in England & Wales

### President: Judge Barry Clarke

#### The jurisdictional landscape

Our outstanding stock of single claims in the Employment Tribunals is sometimes referred to as the “backlog”. At the end of December 2022, quarterly statistics published by HMCTS identified 45,000 single claims awaiting determination. In recent of quarterly statistics published by HMCTS, the number had reduced to 37,000 by March 2023 and to 35,000 by June 2023.

While it would be tempting to say that the reduction in outstanding caseload reflects the efforts of the Employment Tribunals judiciary, it must be acknowledged that the figure has been steadily revised downwards due to improvements in data collection by HMCTS. I explained in a previous annual report that the Employment Tribunals had moved in the first half of 2021 to a new case management system. It seems that a large number of cases were not closed down properly upon their conclusion, so the outstanding stock of cases was overstated. The commendable and ongoing efforts by HMCTS to ensure a proper “cleanse” of the transferred data are principally responsible for the reduction in the outstanding stock of single claims.

However, further data is needed. In the last annual report, I stated that operational and strategic decision-making had been impaired by the absence of management information since March 2021. That data began to appear in the summer of 2022. While we now have better data on the number of claims received (known as “receipts”), the number of claims brought to an end at a hearing or via settlement (known as “disposals”), and the size of our outstanding caseload, we still lack data on what is known as “timeliness”. This concept refers – among other things – to the average length of time to serve a claim after it has been received and the average length of time between service of a claim and the disposal of that claim (whether by settlement or at a hearing). At the moment, I collect anecdotal information about waiting times from the Regional Employment Judges and I share what I learn with the members of the national user group. However, it is no substitute for rigorous and audited data about timeliness that can inform resource-planning and facilitate effective oversight and governance.

I am acutely aware of the continuing problem of excessive waiting times across parts of England and Wales, and most especially in venues such as Croydon, Watford and Reading. Even in the absence of audited data about waiting times, the problem is clear. The reasons for these delays have been discussed in detail in the published minutes of the meetings of the national user group.

Regrettably, the imbalance of judicial resources in this country – a principal cause of delay in London on the South East of England – remains a problem. London and South East of England together generates half of the national caseload in Great Britain; holds 60% of the outstanding stock of single claims; and has about a third of the judges. We are not the only jurisdiction that has a critical need to recruit salaried judges in those locations. This imbalance is likely to remain the case for some time to come.

That said, waiting times would be even longer in London and the South East were it not for the success of the “virtual region”, a concept first developed by this jurisdiction but now being utilised in other tribunals and in the civil and family courts. As originally envisaged, the virtual region describes a cohort of fee paid Employment Judges who are able to sit on cases on a fully remote basis. It takes advantage of video technology to maximise flexibility in listing. Acting as an intermediary, it links cases that lack judges in one region with judges in a different region who may be available to sit remotely. Although any Employment Tribunal office can use the fee paid judges in the virtual region, it principally supports London and the South East. In doing so, it provides a vital degree of rebalancing. It is now much rarer for a short track case (concerning unpaid monies) or a standard track case (unfair dismissal) to be postponed because there is no judge available to hear it.

An inevitable consequence of the success of the virtual region is that the Employment Tribunals remain heavy users of video. By taking advantage of video, we can hear many more cases than would be possible if we were limited to our physical estate. Video is here to stay; it will become a permanent feature of our toolkit for administering justice. Looking to the future, we are giving careful thought to the types of cases best suited to remote or hybrid determination.

By the time this report is published, the Employment Tribunals will have moved more closely into line with the civil courts in respect of the routine recording of hearings and a system for applying for recordings to be transcribed. There will be a Practice Direction and Presidential Guidance on this topic, issued jointly with the Employment Tribunals in Scotland.

When promulgated, the Practice Direction and Presidential Guidance will be available on the [Employment Tribunals website](#). I would encourage readers of this annual report to spend time looking at this website, which has been revamped over the last year. It is a rich source of information about our jurisdiction.

In July 2023, I promulgated a [Presidential Guidance on ADR](#). As well as restating our ADR offering in respect of judicial mediation, it heralded a new form of hearing known as a Dispute Resolution Appointment. This has been rolled out nationally following a successful pilot in Birmingham.



A Dispute Resolution Appointment is a confidential process. An Employment Judge will use their skills and experience, based on the information available at the time, to offer the parties a view on the merits of each party's case and the possible outcomes. To ensure that the evaluation is as helpful to the parties as possible, the appointment will be held after witness statements have been exchanged. The appointment is also non-consensual; put simply, the parties are required to attend, even if the appointment does not have a mandatory outcome. Evidence suggests that the appointment focuses minds at an earlier stage, increasing the number of cases in which the parties are able to reach an agreement.

The Employment Tribunals continue to deal with an enormous variety of cases, reflecting the enormous variety of work undertaken by those in the British workplace. The Employment Tribunals receive about 30,000 single claims a year and many more so-called "multiple" claims.

Examples of cases heard during the period covered by this annual report are: the Stage 2 equal pay hearing involving thousands of Tesco employees, worth many millions of pounds ([Ms K Element and Others v Tesco Stores Ltd: 3304495/2018 and Others](#)); the continued conduct of the similar litigation involving thousands of Asda employees ([Ms S Brierly and Others v Asda Stores Ltd: 2406372/2008 and others](#)); another multiple claim involving over 1,200 claimants concerning an allegation of inducements relating to collective bargaining ([Ms N Jiwanji and others v East Coast Mainline Company Ltd and others: 1802527/2018](#)); the remitted liability hearing and the subsequent remedy hearing in the high-profile Forstater litigation ([M Forstater v CGD Europe and others: 2200909/2019](#)); the liability hearing in the equally high-profile Bailey litigation ([Ms A Bailey v Stonewall Equality Ltd and others: 2202172/2020](#)); and the high-value remedy judgment in the long-running Jhuti litigation ([Ms K Jhuti v Royal Mail Group Ltd: 2200982/2015](#)). To these can be added claims involving the aftermath of the pandemic, such as the fairness of health and safety-related dismissals and the status of objection to vaccination as a "protected belief".

### **Diversity, inclusion and wellbeing**

The Employment Tribunals in England and Wales have a Diversity and Inclusion Committee which comprises leadership and non-leadership judges and is led by Judge Sian Davies. The committee advises the President on D&I matters and oversees D&I strategy.

The popular mentoring scheme in the Employment Tribunals continues to expand. It is principally aimed at newly appointed salaried and fee-paid Employment Judges, but mentoring is encouraged for any Employment Judge who requests it, regardless of experience. Mentors offer support to judges sitting in the innovative Virtual Region, helping to support its effectiveness.

The Employment Tribunals undertake outreach work to encourage professionals to apply to JAC recruitment campaigns. The outreach efforts include webinars aimed at attracting applications from the widest possible pool of applicants and work observation opportunities for legal professionals and law students (A level and undergraduate) to observe a hearing and meet with a judge.

With the support of leadership judges, the D&I Committee created a workplace attitudes survey. This was issued to all judges in September 2023. This was the first survey of its kind in the Employment Tribunals and will be repeated annually to review progress against D&I goals.

Many Employment Judges have also been appointed as DCRJs (21 in total); their work in the wider community is aligned with and supports the D&I strategy. They work collaboratively with other jurisdictions to present as One Judiciary to the public.

### **People and places**

During the period covered by this annual report, two Regional Employment Judges retired: Carol Taylor (London East) and Joanna Wade (London Central). Andrew Freer transferred as Regional Employment Judge from London South to London Central. The resulting REJ vacancy in London South was filled by Employment Judge Nike Balogun for a year, but it remains vacant following her recent appointment to the Circuit Bench. Two Employment Judges, Omar Khalil and Kate Andrews, will perform the role on a temporary basis until a substantive appointment is made.

The new Regional Employment Judge in London East is Benjimin Burgher. I am grateful to him, and also to Employment Judge Alison Russell, for undertaking that leadership role on an acting basis for a year.

29 new salaried Employment Judges were appointed during the period covered by this annual report: Nasreen Akhtar; Dilbaag Bansel; Beyzade Beyzade; Louise Brown; Lise Burge; Gemma Cawthray; Robert Childe; Kate Edmonds; Idris Evans; Eoin Fowell; Alison Frazer; Jonathan Gidney; Emily Gordon Walker; Mark Graham; Stephen Heath; Timothy Kenward; Adam Leith; Peter McTigue; Steven Povey; Kathryn Ramsden; Helen Rice-Birchall; Naomi Shastri-Hurst; Stephen Shore; Gurparshad Singh; Garry Smart; Suraj Sudra; Paula Volkmer; Richard Woodhead; and Jennifer Young.

Seven salaried Employment Judges retired during the period covered by this annual report: Sherrilyn Warren; Christa Christensen; Gillian Sage; Stephen Bedeau; Pauline Feeney; Gerald Johnson; and Harjit Grewal. Judges Warren, Christensen, Bedeau and Feeney wished to sit in retirement on a fee paid basis and were duly appointed to do so.

Employment Judge Tony Hyams-Parish was appointed to the Circuit Bench. Via her appointment as a Deputy Judge of the Upper Tribunal, Employment Judge Holly Stout became a Visiting Judge of the Employment Appeal Tribunal.

This jurisdiction also recruited 40 new fee paid Employment Judges in 2023.

As at July 2022, this jurisdiction comprised one President; eight Regional Employment Judges; 156 salaried Employment Judges (equating to 133 full-time equivalent Employment Judges); 365 fee paid Employment Judges (including 30 judges cross assigned from other tiers of the First-tier Tribunal); and 823 non-legal members.

## **Employment Tribunals (Scotland)**

### **President: Judge Susan Walker**

#### **The jurisdictional landscape**

Much of the statistical data for employment tribunals is still not available due to migration to a new case management system. In addition, because of the operational differences between the old and new systems, care has to be exercised when making comparisons between the figures before and after migration. However, official statistics indicate that across Great Britain case receipts have increased from last year and have returned to close to pre-pandemic levels and that disposals have increased at a higher rate than the rate of increase in receipts and so the outstanding caseload has reduced.

Although official data about timeliness is still not available, in Scotland, hearings that are listed automatically on receipt of a claim (final hearings for simple money claims and the first case management hearing in a case involving discrimination or whistleblowing) are being listed for around 9 weeks after receipt of the claim. This is comparable to pre-pandemic listing periods for such hearings in Scotland. For other hearings, we are usually offering a listing period for about 2-3 months ahead although there is space in the lists if a hearing is required earlier. Such a listing period is comparable to the position pre-pandemic. Many cases, of course, take longer to come to a final hearing because of parties' availability or the amount of preparation required.

Judge Simon reported last year on the successful introduction of legal officers into the employment tribunals. Legal officers continue to provide significant support to employment judges in Scotland. In particular, they "triage" all correspondence coming into the central office in Glasgow and they are able to deal with a significant proportion of the correspondence themselves without referring it to a judge. This frees up judges to undertake other work, including hearings.

This year, the legal officers in Scotland are taking part in a pilot. They will be intervening in appropriate "short track" money claims in an effort to ensure that the areas of dispute are clarified and to encourage the early exchange of any documentary evidence. It is hoped that this intervention will result in some claims being resolved without the need for a hearing.

If a hearing is still required, this intervention is expected to assist an employment judge to determine the claim effectively and reduce the need for adjournments. We are liaising with Acas to ensure that this intervention works effectively alongside conciliation. If the pilot is considered successful, it is expected to be rolled out to the Employment Tribunals in England and Wales.

In Scotland, the majority of substantive hearings have returned to being held in person. However, video is still utilised where appropriate and is the effective default where a hearing is listed for a day or less. All Scottish ET offices have equipment which allow a witness to give evidence by video and so many in person hearings are, in fact, "hybrid", with one or more witnesses giving evidence remotely.

Where a claimant is unrepresented, case management hearings now usually take place by video rather than by telephone. Judges believe that a litigant in person is able to participate more effectively in these complex procedural hearings when they can be seen as well as heard. It is hoped that this will reduce the need for further case management hearings in most cases.

A significant focus for employment judges in ET(Scotland) in the last year has been on ensuring that cases are dealt with in a way that is proportionate. Judges are encouraged to have careful regard for the individual factors when managing any case and to consider carefully whether any intervention is going to be effective to an extent that outweighs the delay that may be caused. Judges are encouraged only to list additional case management hearings where it is considered they will add real value. The emphasis is on achieving real progress while the parties are present rather than issuing directions to be complied with in writing. It is recognised that complying with such directions may be challenging for many litigants in person.

In last year's report, Judge Simon reported on the emerging issue that permission had to be sought from a foreign state before evidence could be led by video from a party who is based there. Joint Presidential Guidance was issued on this topic and is continually under review as the understanding of the issue develops. The latest Presidential Guidance on [taking oral evidence by video or telephone from persons located abroad](#) can be found on the Judiciary.uk website.

Since the pandemic, all remote hearings have been recorded in ET (Scotland) and many in person hearings have also been recorded by utilising the video equipment that is in most hearing rooms. The terms of a Joint Presidential Practice Direction and Joint Presidential Guidance have been agreed that will put recording of hearings on a more formal footing and set out the mechanism by which parties (or non-parties) can obtain a transcript, usually at cost. These should be issued once the governance process is completed.

During the pandemic, the use of witness statements in Scotland increased. This was largely because of a wish to reduce the time spent on video hearings with the witness statements replacing evidence in chief. Concerns were expressed by a number of users and judges at this development which was seen as diluting the “best evidence” principle that had previously applied in Scotland. The previous President, Judge Simon, carried out a consultation with users and judges. The prevailing view was that there should be a return to the established Scottish practice of witnesses giving oral evidence in chief. Nonetheless, it was recognised by many that, in appropriate cases, the use of witness statements was in accordance with the overriding objective, but it was felt that more guidance was required in relation to the format of such statements and the procedure to be employed if they were to be used. Following the consultation, a [Practice Direction](#) and [Presidential Guidance on the Use of Witness statement](#) were issued and can be found on the [Judiciary.uk](https://www.judiciary.uk) website.

Section 35 of the Judicial Review and Courts Act 2022 provides that powers over panel composition in the employment tribunal may be passed to the Senior President of Tribunals. He has carried out a consultation seeking views on how he should exercise these powers, but he has decided to defer consideration of the responses until the powers have been delegated to him.

The impact of Brexit on employment tribunals is still uncertain but there will, inevitably, be an impact on employment law. As part of the consultation on The Retained EU Law (Revocation and Reform) Bill, the government consulted on changes to holiday pay entitlement and to consultation rights.

The Scottish government has indicated that it does not intend to take forward the devolution of functions of the employment tribunal in the current parliamentary term. That means that devolution will not take place before May 2026.

ET (Scotland) continues to deal with a wide range of complex and high-profile cases. Examples include one of the first decisions to find that long covid could be a disability and therefore attract the protection of the Equality Act 2010 and a case in which the judge found that the claimant’s allegiance to Rangers Football Club was not a protected belief under the Equality Act. Dealing with multiple claims arising out of the insolvency of employers has also, unfortunately, been a feature of the last year.

ET (Scotland) continues to manage over 50,000 equal pay claims involving local authorities. This has been feature of the caseload for over 15 years although the 50,000 remaining claims are not all long-standing claims. Many thousands of claims have been disposed of over that period but new claims continue to be received. In the last year there have been some large-scale settlements resulting in thousands of claims being withdrawn and dismissed.

Such an exercise results in significant administrative work to process the withdrawals. With the co-operation of the parties, it has been possible to agree a procedure that utilises the skills and existing powers of the legal officers to deal with this work under the supervision of the Vice-President. This is work that otherwise would have had to be done by employment judges.

### **Diversity, inclusion and wellbeing**

ET (Scotland) now includes a diversity and inclusion update on the programme at every training event. There are also a number of external outreach efforts being made, such as the opportunity to observe a hearing (either in person or online) for all Scottish Universities who offer the LLB, lunch-time webinars to encourage applications from a wide range of applicants for upcoming vacancies and judges being invited to become mentors by the charity The Lawscot Foundation. Through this mentoring work, judges have provided work shadowing opportunities to students who have an interest in employment law.

### **People and places**

Following the retirement of Judge Shona Simon in July 2022, Judge Susan Walker, the previous Vice-President, was appointed as President. Judge Walker had been the Vice-President for 12 years.

Judge Frances Eccles was appointed as the Vice-President, replacing Judge Walker in September 2022. Judge Eccles has been an Employment Judge for over 20 years and has had significant areas of responsibility over that time, in particular as the lead judge managing the mass public sector equal pay litigation.

The Dundee Employment Tribunal moved into new premises following a period in temporary accommodation. This is the latest in a series of major office moves for ET(Scotland) over the last few years and has often involved a period in temporary accommodation and the use of alternative premises for hearings. It is a credit to the staff and judges involved that the service has continued to function effectively with minimal disruption to service users over these periods.

Despite the many challenges, ET (Scotland) has been dealing with its caseload effectively. We will continue to monitor the way that we manage cases to ensure that these are dealt with effectively and promptly and to work closely with our colleagues in ET (England & Wales) on areas of common concern while always having mutual respect for the differences between the jurisdictions.

The next year promises to be challenging. However, I have every confidence that the constructive working relationships that have been established will support the jurisdiction to continue to provide a good service to our users.



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