



# MINUTES OF THE EMPLOYMENT TRIBUNALS (SCOTLAND) NATIONAL USER GROUP

**DATE OF MEETING: Thursday 10<sup>th</sup> April 2025**

<b><u>ATTENDEES</u></b>	
<b><u>Name</u></b>	<b><u>Organisation</u></b>
Laurie Anderson	Jackson Boyd
Olivia Brown	Brodies Solicitors
Katie Buchanan	Thomson Reuters
Samer Cheaitou	Just Employment Law
Raymond Farrell	Glasgow City Council
Kelly Anne Fraser	Citizen's Advice
Arran Hart	Burness Paull
Kirsteen Henderson	NHS Scotland
Hannah Howden	Dallas McMillan
Matt Jackson	Cloisters
Sarah Judge	CMS Cameron McKenna Nabarro Olswang LLP
Taranveer Kaur	Legal Services Agency
Zoe Kerr	NHS Scotland
William Lane	Worknest
Marie MacDonald	Miller Samuel Hill Brown
Anne McFarlane	Glasgow City Council
Steve McLaren	Kippen Campbell LLP
Jillian McLaughlin	Thorntons Law
Holly McLean	MCM Solicitors
Kim Miller	Harper MacLeod
Lindsey Miller	Scottish Engineering
Graham Mitchell	Clyde & Co
Haley Newton	Glasgow City Council
Claire Pender	Police Scotland
Amy Scott	Burges Salmon
Katy Sharpe	Aberdeen Considine
Katie Sloan	Valla
Mark Wallace	Glasgow City Council
Katie Wedderburn	Gunner Cooke

## **Also, in Attendance**

Judge Susan Walker KC (hon), President of Employment Tribunals (Scotland)

Judge Frances Eccles, Vice President Employment Tribunals (Scotland)

Louise Hird, Deputy Director, Central Operations and Tribunals Scotland

Claire Storey, Senior Operations Manager ET (Glasgow)

Mark Lewis, Employment Tribunals Service Manager  
Emily Caine, Policy Advisor, Department for Business and Trade  
Rachel Price, Policy Advisor, Department for Business and Trade  
Bill Dowse, Head of Administrative Justice Policy, MOJ  
Helen Nolan, HMCTS  
Nicola Young, HMCTS  
Scott Mackell, ACAS

## **Welcome and Introductions**

The President, Judge Walker KC, welcomed users to the meeting via Microsoft Teams and introduced speakers from HMCTS, DBT, MOJ and ACAS.

## **Item 1 – President’s Update**

### **Performance and workload**

The President confirmed that we are listing the first Case Management Preliminary Hearing for open track cases about 8-10 weeks after the claim is received and are offering (in April) a listing period for final hearings in June, July and August. We can also fit in urgent hearings where necessary.

The President reported the retirement of Employment Judge Jane Porter in January, and that Employment Judge Ian McFatridge will retire at the end of April. Two long standing fee paid judges – Jim Young and Sandy Meiklejohn have also retired. The President also confirmed that Employment Judge Brian Campbell has started as a full time salaried judge based in Glasgow and Employment Judge Jacqueline McCluskey will now be based in Edinburgh.

We are waiting until we get a better idea of the final form of the Employment Rights Bill and the potential impact on our case load before making a case for further recruitment. We need to ensure we have adequate judicial resource to deal with the expected increase in case load. In the meantime, approval has been given for Jane Porter to sit in retirement for 2 years and the President hopes this will be approved for Ian McFatridge too.

However, there will be some pressure in the interim, particularly in the northeast. This makes it even more important that users let us know about settlements as soon as possible as we may be sending judges some distance

to cover cases. Even knowing that discussions are taking place is useful intelligence and may avoid cases going off.

As trailed at the last user group meeting, we have stopped listing the fast track cases on service for a hearing on receipt. This was because many of these claims were undefended meaning the hearings had to be cancelled leading to additional administrative work and, if defended, they were more complex than could be dealt with in the 2 hour listing so the hearing notice had to be amended. Our legal officers are also intervening in the defended cases. We are not aware of that causing any issues.

## **Reform**

Technically Reform is over and further development and improvement sits with our business as usual IT team.

The President indicated this time last year that we would be issuing a practice direction as mandated by the rules that, if approved, will remove the possibility of submitting a response by email, except in circumstances where the system is down. The practice direction drafted relates to the presentation of both claims and responses and so the option of presenting a claim by email, in these exceptional circumstances, will be new, with the position equalised for both parties.

The draft is still with the Lord Chancellor. Assuming it is approved, users will be given some notice before it is implemented but the President urged users to get used to using the new system to ensure there are no problems when it becomes the only digital option.

## **Rules**

### **2024 ET Procedure Rules**

The new rules apply to all cases whether new or existing. There is little substantive change, the changes are to update and meet new drafting standards that the Tribunals Procedure Committee work to. Unfortunately, the effect is to renumber most of the rules. With a few exceptions, the intention is not to change the meaning of any rule and so we expect that any existing case law that related to the old rules should continue to apply.

For existing Practice Directions and Presidential Guidance, Judge Walker together with Barry Clarke, the President in England and Wales have taken a pragmatic approach of simply putting a note on both Employment Tribunal

websites at ([www.judiciary.uk](http://www.judiciary.uk)) that where there is reference to a rule, it should be taken to be the corresponding rule in the 2024 rules. REJ David Franey produced a useful comparison table that has also been uploaded to the website.

If an order has been issued under the old rules, e.g. a rule 50 order, we have said to the judges that there is no need to go back and reissue it under rule 49.

### **Rule Changes**

Provisions about legal officers' powers are now in the Rules (rule 7) with the Senior President of Tribunals (SPT) being given general power to authorise them to carry out functions of a judicial nature. The SPT issued a practice statement that extended the legal officers' powers. The main change is that they can make and vary orders on their own initiative rather than only in response to an application in most cases. They can also issue orders where no party has objected rather than where all parties consent.

We are fortunate in ET (Scotland) to have very experienced and dedicated legal officers that are providing great support to the judges. The President reassured users that the legal officers are provided with intensive and ongoing training. However, it is still a developing role and heavily dependent on being able to recruit and retain enough of them.

### **Signature.**

Another change to the 2024 rules is that the requirement for a signature is removed. So, judgments, orders or written reasons only need to be approved.

### **Transfer**

The Vice President and Regional Employment Judges (REJ) are now able to consent to transfers into the jurisdiction rather than that being done by the Presidents which should speed up and simplify the process.

### **Prescribed Forms**

Will now be prescribed by Presidential Practice Direction and will not require ministerial approval. It is hoped this will speed up the process. However, Practice Directions still need to be approved by the Senior President of Tribunals and the Lord Chancellor.

## **Panel composition**

We are beginning to see some reduction in the overall use of members at final hearing, but it is not consistent, and it is too early to assess the scale of the change. Partly because many longer hearings were already listed with members. It is hoped that we will have a better idea of the scale of the change by before the next user group meeting.

The President reminded users that that the decision on panel composition is made by a judge either at initial consideration or, where a Case Management Preliminary Hearing (CMPH) has been listed, at that CMPH. That is when parties' views will be taken into account. Occasionally it may be made later if, for example a case has been sisted. The decision is made for each individual hearing, so it may be that if a remedy or costs hearing is required, that Employment Judge Sitting Alone is suggested, even if the liability hearing was before a full panel. This will not always be the case but sometimes it may be appropriate.

Anecdotally, some judges are reporting parties saying, they don't want members as that may delay having the final hearing listed. The President assured users that is not be the position in Scotland and if there was a difficulty in getting members for a particular case, consideration would be given to proceeding without.

The President confirmed that, while England and Wales are planning a recruitment exercise for more non legal members, there are no such plans for Scotland at present.

## **Written Reasons**

The Tribunal Procedure Committee (TPC) issued a further consultation on written reasons that has now closed, and a response is expected soon. That consultation related to all tribunals, not just ET. For ET there were 2 main proposals – restricting the right to request written reasons, where reasons have been given orally to the losing party (in whole or in part) and introducing the possibility of giving short form reasons that would not need to meet the requirements of rule 62(5) (now rule 60(7)). If either of these proposals are adopted, Judge Walker will say more about them at the next User Group meeting.

**The TPC have now issued a further consultation on some more changes. These include;**

formalising the dispute resolution appointment process that has been developed in E&W. This involves the judge having an appointment with the parties in cases with hearings of between 6 -10+ days and is dependent on witness statements being provided so that the judge can make an evaluation of prospects. There is also an option of this being done by judges from other regions. Judge Walker is not sure how that would work in Scotland since it is dependent on witness statements being provided so that the judge is able to make an evaluation of the prospects. We also do a lot of judicial mediation and can offer hearings fairly quickly. Judge Walker is open to considering it, if users think it is a good idea and is interested to hear from users, particularly those who may have experience of it in E & W.

We expect further proposals from the TPC in due course.

Judge Walker thanked Katie Buchanan of Thomson Reuters, for pointing out that the gov.uk website that hosted the last two TPC consultations suggested these were applicable only to England and Wales. Judge Walker confirmed that is incorrect as is clear from the consultation documents itself, we have had a response from the secretary of the TPC apologising and the website has been corrected.

**Taking evidence from abroad.**

Users should be aware that the new Presidential Guidance was issued in January. As previously explained, this is different for Scotland from England and Wales because of the difference in the practice in the civil courts in each jurisdiction. The previous Lord President approved the wording of the new guidance. However, if the civil courts or the new Lord President take a different approach in future, then our guidance would need to change.

**Open Justice (including live tweeting and remote observation) and/remote hearings.**

The President confirmed that she is planning to issue something on open justice. This would cover things like remote observation of hearings, access to documents and live tweeting. At a recent hearing over 900 people were viewing remotely. This almost crashed the video hearing system for the whole of Great Britain and led to remote access to that hearing being restricted. The President may need to review and revise the Practice Direction and guidance as that was very pandemic focused.

In the interim, there will be a more formal method of remote observation where a judge will decide on each case whether remote observation will be permitted and there will be a number of conditions, including the behaviour expected and that links should not be shared. Although if a hearing is fully remote and remote observation is the only means of public access, then it will be permitted but this may still be subject to limitations as to numbers (as would be the case in an in person hearing).

## **ET Register**

At the last meeting the President advised that discussions were ongoing about a possible move of the ET judgment register to the National Archives where it would still be publicly accessible, under licence, but a smaller subset of judgments – the more interesting and important would be published by the national archive on their Find Case Law service (FCL), and would be more readily available to the wider public. These discussions are ongoing (and any change is subject to budgetary constraints).

A pilot is underway where a small number of ET judgments from Scotland and E&W are selected to go into FCL. This will give a better understanding of the numbers of judgments that we will be asking them to publish, and it also gives us a chance to develop a robust process for identifying them. For the time being this will run in parallel alongside the existing online register. A cross-border committee has been set up to recommend judgments for publication and it is expected that these “starred” judgments will start to appear on FCL in the next few months.

The criterion for publication is “those judgments in which the public interest in publication is thought to be strongest”.

The President invited the Vice President, Judge Eccles, to give an update on work that has been undertaken to improve the accessibility of our communications.

Judge Eccles explained that - in advance of the introduction of the new Rules we had to update all our standard letters. This took some time and included, in addition to changing rule numbers, making some changes to simplify the content of the letters.

We are now looking at the letters in more detail to identify where we might make more changes to ensure that the letters are more user friendly and not unnecessarily complex.

We are working with an HMCTS initiative known as Human Voice for Justice which has subject matter experts who can provide advice and recommendations for improving communication between the Tribunal and parties – in particular unrepresented parties.

We selected a couple of the more complex letters that include procedural and legal matters (acknowledgement of claim letter and notice of a preliminary hearing) as they contain information about what a party has to do to prepare for the hearing and what might be discussed at the hearing.

We are reviewing the suggestions made by Human Voice for Justice as to how we might simplify the letters and avoid confusion about the Tribunal process.

It's a balancing exercise between wanting to use straightforward language and not compromising on the accuracy of how the legal process of Tribunal proceedings is explained.

Judge Eccles encouraged users to bring to our attention any correspondence that causes confusion or is unclear.

### **Questions sent prior to the meeting:**

**Stephen Miller asked whether there could be a cut off time for sending judgments on a Friday.**

Judge Walker said that when judgments were mostly sent by post, they would not be sent out on a Friday to try to ensure that parties received them at the same time. She asked if users would welcome similar procedure now that judgments are sent digitally. One suggestion was that judgments would not be issued after 4pm on Monday to Thursday and after 12pm on a Friday. Judge Walker confirmed that she would consult with administrative colleagues and will inform users when a plan is agreed.



**Katie Buchanan (Thomson Reuters) asked whether, given the recent ET rule changes and the likely reforms expected this year, do you think there is any appetite for a member of the TPC attending a future User Group meeting to discuss these?**

Judge Walker confirmed that David Franey, Regional Employment Judge in the Northwest, is the judicial representative on the committee for both jurisdictions. He provides updates to both Presidents and has indicated that he would be happy to give an update at a future user group meeting. Judge Walker invited users to let us know if they would welcome that.

## **Agenda Item 2 – ET (Scotland) update**

**Claire Storey, Senior Operations Manager**

### **Performance**

Claire reported that the volume of correspondence being received across all offices has continued to increase.

All remote hearings are now taking place via CVP and judiciary conduct these from tribunal buildings.

The number of single receipts has remained steady, but the number of multiple claims received is fluctuating each month.

Successful judicial mediations continue to provide savings on hearing days. There has been a decrease in the number of cases received compared to the same period last year and the live local authority equal pay cases continues to reduce.

### **Administrative Update.**

Work to increase stability within the admin teams includes 9 former agency members of staff becoming fixed term following a fixed term appointment recruitment campaign. A further fixed term appointment campaign is currently running.

Workloads remain steady across all teams meaning administrative targets such as the 10-day correspondence target are met in most cases.

To date, approximately 3,815 have been progressed via the reformed service and staff are now confident in using the reformed processes.

The number of telephone calls and webchat enquiries received via the customer contact centre has remained steady with an average waiting time of 30 seconds.

Claire advised users that a national digital support service, operated by 'We Are Group', was launched in December 2024. This service is for ET litigants who do not have access to the internet or who have access but do not feel confident using. Contact details can be found on the ET landing page on Gov.uk or callers can be transferred through by a customer contact centre agent.

Claire also reported that a data gathering exercise has taken place to identify the most common queries received from users and this will be reviewed to improve guidance available to staff to help them better support users for the CitizenUI portal.

#### **Agenda Item 4 – HMCTS Reform Update, Mark Lewis, Employment Tribunals Service Manager**

##### **Statistical information**

Mark confirmed that the national picture has seen a rise in the number of claims, there has also been a rise in the number of disposals but that is not keeping pace with intake, so the outstanding caseload is up slightly on the previous year. Statistical information is still limited because information is held on two separate databases. Work is underway to migrate legacy cases onto the new 'Manage Cases' (reform) database. When that work is complete the data available will be more accurate. However, that is unlikely to be before the end of the year.

##### **Reform**

The litigant in person response journey was released in February and the ability for those litigants in person to make digital applications was released in w/c 7<sup>th</sup> April. This means that all user types (claimant, respondent, represented or unrepresented) can now make digital entry onto the system and make digital applications via MyHMCTS for professionals and the Citizen Portal for non-professionals.

Mark confirmed that new questions about panel composition will be added to the ET1 and ET3 when the new practice direction is issued.

## **Digital Audio recording**

Funding has been secured to install new digital audio recording kit throughout the estate in Scotland, England and Wales. So, most hearings should be able to be recorded.

## **Improvements to Digital System**

Work to improve the digital (Reform) system is ongoing. Changes are being made to the notice of change process because it's not working as intended at the moment. There are also a lot of accessibility issues to resolve for the online journey which have been identified by an accessibility audit. We are prioritising these issues to improve the system for users.

## **Migration of Legacy cases to Reform system**

Single claims should be transferred to the reformed system by the end of May. Multiple claims will remain on the legacy system.

## **Employer Contract Claims**

Work is being done on design and build of the Employer Contract Claims (ECC) process. Currently, 2 claims are created (the original claim and the ECC), but it is likely that in the future there will only be one claim which will be managed internally as 2 separate claims. This will mean a change for professional users/respondents, but information and guidance will be provided to users when it goes live.

## **Multiples**

The other major task is how to deal with multiples internally and externally. The biggest problem is how to interact with users, if there are hundreds/thousands of users within the multiple, and maintain data security. This is at the design stage and our user teams have consulted with some external users to run through the process. When that feedback is received the design team will pass it on the technical team to build.

Finally, Mark confirmed that they will be hosting a final webinar with the ELA when the practice direction on claims and responses is issued.

## **Question:**

Katy Wedderburn (Gunner Cooke) explained that on a number of occasions she had been unable to lodge responses through the portal and when she sought support via MyHMCTS had received an automated response

promising a reply within 5 days. In those instances, she had submitted the response via e mail. So, she is concerned that won't be possible once the new practice direction is in force. A number of other users confirmed that they had experienced similar problems.

Judge Walker expressed concern about users' experience of using the portal and said she would send a message to users asking for details of any problems they have had with the portal so that further investigations could be carried out. She and Mark agreed that a further meeting could be arranged.

## **Agenda item 5**

### **Update from Department for Business and Trade**

**Rachel Price, Policy Advisor**

**Emily Caine, Policy Advisor**

Emily confirmed that the second reading for the Employment Rights Bill took place on the 27th of March and the committee stage is due to commence on 29<sup>th</sup> April 2025. She advised users that a number of fact sheets can be found on Gov.UK [here](#)

Ahead of the report stage in the House of Commons, a number of amendments to the bill have been made following consultation with business groups, unions and stakeholders. Alongside tabling the amendments, the government also published responses to five consultations.

It is not anticipated that the reforms will take effect until 2026. This is mainly because of continuing extensive consultation on the implementation of the legislation.

Emily also confirmed that DBT will shortly issue an Employment Rights Bill implementation road map which will give more details on timings to help employers, workers and unions plan and prepare for the changes.

Rachel Price confirmed that DBT are mindful that the Employment Rights Bill and the measures in Make Work Pay are going to increase demand on Employment Tribunals. They are working with the Ministry of Justice to consider ways to help mitigate that impact. At this stage, they are gathering as many views as possible from ET users and other interested parties that work in the dispute resolution. They are keen for users to get in touch to

discuss ways to improve the system and to prevent escalation to the point where an employee starts litigation against their employer. They are also reconsidering ways that cases in the tribunals can be diverted or settled without the need for a judicial hearing. Rachel invited users to contact herself, Emily or Richard Boyd at:

[Rachel.Price@businessandtrade.gov.uk](mailto:Rachel.Price@businessandtrade.gov.uk)

[Emily.Caine@businessandtrade.gov.uk](mailto:Emily.Caine@businessandtrade.gov.uk)

[Richard.Boyd@businessandtrade.gov.uk](mailto:Richard.Boyd@businessandtrade.gov.uk)

Emily then made users aware of a 12 week call to evidence launched on 7<sup>th</sup> April for evidence on existing equality legislation and possible equality law reform. That can be found [here](#)

## **Agenda item 6**

### **ACAS update – Scott Mackell, Conciliation Manager.**

#### **Case receipts**

Scott reported that there had been an approximate 28% rise in ET case receipts for the operational year ending on 31<sup>st</sup> March 2025. There has also been a rise of approximately 19 percent in early conciliation (EC) and ECX (section 18 claims – employer led claims). This has had an impact on the service and the conciliators providing that service. The rise is mainly in discrimination (significantly disability discrimination) and public interest disclosure cases.

#### **Case outcomes**

Resolution rates over the last 3 operational years have remained consistent. In operational year 2025, approximately 79% of Employment Tribunal cases and 38% of early conciliation cases were resolved.

## **Other Developments**

**Tribunal- ACAS Interface** –Live information has been successfully shared between ET and ACAS, but the process was slow so some modifications have been made and testing will continue. It is expected that there will be an early summer roll out of the system. Scott anticipates that this will be a benefit to ACAS, he reported that they receive ET1s and ET3s in good time, but other relevant documents may not be received as quickly. Scott hopes that once information is shared automatically the conciliation process will improve.

**Staffing** – ACAS continue to operate rolling recruitment of conciliators. While it is not known what impact the Employment Rights Bill will have on ACAS or the service they provide, conciliator numbers are rising in anticipation of that impact. Additional conciliators joined in Scotland in September, November and February. Further national recruitment is planned for April and June 2025. A new collective conciliator, Marie Young, has been appointed in Scotland so, there will be a new phase of collective conciliation in Scotland.

**Team Working** – In light of the increasing case numbers, ACAS are continually looking at new ways of dealing with caseloads. Team working is one way being explored to deal with cases more efficiently. This appears to be doing well and is producing excellent resolution rates.

**The next meeting of the Scottish National User Group will be on  
1<sup>st</sup> October 2025 at 11am**

**The meeting will be held remotely Via Microsoft Teams**