

NEWCASTLE EMPLOYMENT TRIBUNAL USERS GROUP

MINUTES OF THE MEETING HELD

on Saturday 21st May 2016

at The Law Courts, Quayside

Newcastle upon Tyne

Present

Jane Callan	Trinity Chambers
Max Winthrop	Short Richardson & Forth LLP
David Reed	Regional Employment Judge
Donna Anderson	Sinton & Co
Jamie Anderson	Trinity Chambers
Dave Cartwright	NETMA
Laura Daniels	Bond Dickinson LLP
Sara Devennie	Beecham Peacock LLP
Milan Dulovic	EEF
Shirley Hall	Eversheds
Deborah Henning	
Anu Kaura	Collingwood Legal
Sally Lomas-Fletcher	Samuel Phillips & Co
Anna Lovett	CLR Law Ltd
Norman McDermott	Norman McDermott Employment Law
Michael McFetrich	McFetrich & Co
Shona Morton	Burnetts
Malcolm Phillips	ACAS Conciliation Manager
Claire Rolston	CLR Law Ltd
Elizabeth Hunter	HMCTS

1. Apologies for Absence

Apologies for absence were received from:

Pamela Arullendran	HMCTS
Paul Curtis	NETMA
Lisa Kelly	Muckles
Sharon Langridge	Northumbria Law School
Paul McGowan	Collingwood Legal
Jennifer Rogers	Durham County Council
David Thompson	Sunderland City Council
Philip Warnes	Peninsula Business Services

2. Minutes of the previous meeting

The minutes of the meeting on 16 January 2016 were approved.

3. Matters arising

There are no matters arising from previous minutes

4. Members Report.

David Cartwright gave the report on behalf of NETMA. He reported that the move to North Shields was made without any problems affecting non-legal members. The training schemes continue although there has been no increase in the number of sittings involving non-legal members.

5. Regional Employment Judge's Report

Concerns before and at the meeting were evident in relation to remarks reported to have been made at the National User Group. Regional Employment Judge (REJ), David Reed, assured the meeting that work in the Newcastle Upon Tyne region continues as usual. Because of the arrangements of the Regional Employment Judge at Leeds he, REJ Reed, gives cover for Leeds when the Leeds REJ is not available. Whatever the future might hold, the present position is that the regions continue and will do so for the foreseeable future.

The removal from Newcastle Upon Tyne to the premises in North Shields has proved to be less problematic than might have been anticipated. Tribute was paid to the very hard work of staff and the co-operation of users which have made the move and the continuation of work in the region very successful. As for any decision in relation to the location of the premises for the Newcastle Upon Tyne region it is obvious that the background of public spending has to be borne in mind. Nonetheless, it seems that a return to the centre of Newcastle is likely and will take place within the next couple of years. Newcastle Centre will be much to the benefit of users for the region covers a large geographical area and access to Newcastle Centre is, beyond doubt, easier than to North Shields.

Developments in the use of electronic equipment and information technology proceed apace. Judges in general, including Employment Judges, have been or are being issued with laptops. The possibility of greater efficiencies through the use of electronic equipment is coming to the fore. Communications can be made between administrative staff and Judges electronically and between the base at North Shields and wherever an individual Judge may be working. Instead of paper law reports and text material access is being given to material in electronic format. What is more, the possibilities for development in training through information technology are seen as many and varied.

The REJ explained that there are proposals with the backing of the President to develop alternative dispute resolution within the Employment Tribunals. It is likely, in the future, that possibilities will be raised at private preliminary hearings. An Employment Judge conducting such a hearing may consider whether Early Neutral Evaluation should be discussed with the parties if it is requested. Any such discussion will depend upon the agreement of the parties or their representatives and if any particular view is expressed by a Judge as to the merits of a case or any part of a case, then that Judge will have no further dealings if matters have to proceed to a hearing.

Early Neutral Evaluation will be on a confidential/without prejudice basis. It may be of assistance to focus minds and thoughts as to the merits of claims and the reality of expectations for money awards.

A question was raised as to the use of judicial office holders for case management, that consideration is being given to such officers was acknowledged but could not be taken further.

The future of judicial resource was raised with some concern by the meeting. It was noted that it seems that in the medium or short term cross-ticketing will be developed to meet any lack of judicial resource in any particular jurisdiction. Obviously, cross-ticketing cannot provide a long-term solution for the preservation of a pool of Judges

cannot be maintained indefinitely. Inevitably, such a pool will be depleted by retirements etc.

The sudden death of Mr SR Abbas, a non-legal member was reported. Mr Abbas was hugely committed to public service and will be a big miss in the Region. It was agreed that the Chairman should write a letter of condolence to Mr Abbas's family.

Although the number of non-legal members has fallen to about 50, that number does not currently cause problems - indeed it has some advantages in that it ensures a sufficient number of sittings for non-legal members are available and thus skills can be maintained.

There are 22 salaried and fee paid Judges available to the Region, although there is little chance of fee paid Judges sitting in the current financial year. The Region has been particularly hard hit by the fall off in number of cases after the introduction of fees, and this in turn has impacted on the use of fee paid Judges. The Regional Employment Judge noted that the previous week the tribunal resources had been particularly stretched but there was no possibility of assistance by way of fee paid Judges.

6. Delivery Manager's Report

Liz Hunter reported that in the first three months of 2016, 168 new claims had been accepted. The figures for the equivalent period in 2015 was 177. The figure for multiples is higher: 475 have been accepted this year compared to 116 last year. The live case load shows a significant drop to 12,592 for March 2016 compared with 19,584 for last year. These figures must be seen in context and comparisons with other regions are unhelpful. In this region efforts have been made to 'clear off' cases that have been completed. Failure to effect such clearance gives the impression of a larger 'live' caseload than exists. Comparisons with other regions can only be properly made if every other region has cleared off its completed cases.

For Local Authority and NHS Equal Pay Claims again there is a drop in numbers. In January 2015 17,313 such cases were ongoing. In January 2016 the figure became

9,768. In February 2015, the figure was 17,204. In February 2016 it was 9,425 and in March 2015 it was 17,097 whilst in March 2016 it was 9,390.

7. Any Other Business

It was noted that Members of the administrative staff are working in other areas and jurisdictions. Three members of staff have been temporarily assigned to television licence work involving the Magistrates Court. Others sit as clerks in the Social Security Tribunal and others, again, help with the Asylum and Immigration work.

It was noted that a high percentage of what might be called ordinary unfair dismissal cases fails to reach a hearing. A greater percentage of unfair dismissal cases, including detriment cases relating to public interest disclosure and discrimination, proceed to a hearing.

As for speed and efficiency, it was noted that there are still problems with fee remissions which hampers efforts to achieve targets.

8. ACAS Report

Malcolm Phillips explained that ACAS, like most public bodies has been under pressure to reduce costs whilst maintaining service levels. This has been led by an increased use of IT and the utilisation of personnel regardless of geographical location.

With the introduction of Early Conciliation a different procedure or approach has had to be adopted. Conciliation Officers have to work with far less information than would be or would have been the case when there is an ET1. Conciliation Officers therefore have to work with very limited information.

Many EC claims are settled informally between the parties rather than by means of a COT3. The result is that the ACAS figures are distorted.

ACAS is also now bearing the brunt of vexatious claims as there is no filtering mechanism before contact with a Conciliation Officer.

Users described difficulties in building up relationships with Conciliators since local Conciliators are no longer the norm. Further, the difference of approach between Conciliation Officers varies from region to region. Malcolm Phillips explained that some of these differences have been driven by the Early Conciliation process. Dealing with Early Conciliation claims is almost a different job to the skills required to deal with conventional conciliation after the ET1 and ET3 has been issued. It was noted that it is possible to name individual Conciliation Officers where contact has been made before Early Conciliation (EC) has started if continuity is felt to be important in particular cases.

It is likely that the application form for EC may be amended to include more details to assist in giving an understanding of the issues. Although those details would remain confidential to the Conciliation Officer and would be helpful to avoid jurisdictional problems which might arise, if it could be argued that Early Conciliation only applied to a specified cause of action.

8. Date of next meeting

The next meeting will be held at 10.00 am on Saturday 24 September 2016 at Newcastle Law Courts, Quayside, Newcastle upon Tyne.