

The Jersey Advisory and Conciliation Service

ANNUAL REPORT 2016



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Annual Report 2016

The Board

Chair	Sarah Beirne
Board members	Alison Mellor Zoe Blomfield Lynda Vautier Jimmy McCormack Donna Abel

The JACS Team

Director	Patricia Rowan
Team members	Martin Buckland Deputy Director (Resigned April 2016) Patricia Weston Advisory and Conciliation Officer Sharon Timoney Advisor and Outreach Bruno Sousa Administration Officer

Chairman's Foreword

I am pleased to introduce the 2016 Annual Report of the Jersey Advisory and Conciliation Service.

The number of contacts recorded by JACS has decreased slightly when compared to the 2015 statistics, however the nature of these queries has become more detailed and complex. This is because the basic knowledge of Employment Law that employers and employees have developed over the years continues to grow. The result of this is that the basic queries regarding minimum wage and annual leave have continued to decrease. The JACS website remains a strong and much used resource which is demonstrated by the increased numbers of users along with many new contacts registering for the JACS newsletter throughout the year.

During 2015 the focus for JACS was on Sex Discrimination legislation. In 2016 this focus shifted to Age Discrimination with the Regulations for this protected characteristic being introduced on 1 September 2016. The public training sessions were amended and additional sessions put on to reflect this important piece of legislation. The early production of guidance notes, leaflets and newsletters provided information that was freely available for everyone to access and allowing time for training and any company documentation changes to be made in a timely fashion.

Since September 2013 JACS Outreach Service has presented JACS with the opportunity to engage more proactively with smaller organizations and to ensure they are aware of the services JACS offer. This has led to even better relationships with employers who do not have a dedicated HR function as they now access the services that JACS offers at a time and place that is more suitable to them rather than being constrained to regular 'office hours'. The engagement with smaller business means they receive an understanding of the statutory requirements under the legislation and also of the importance of having such documentation in place. I wish to extend my thanks to the Social Security Minister and her team for the continued support JACS receive to enable this valuable business resource to continue.

Individual workplace disputes understandably do arise and those that cannot be resolved unfortunately often result in claims to the Employment and Discrimination Tribunal. The process of conciliation in Tribunal claims plays a very important part in our work. Tribunal claims can be a stressful process for both parties involved as well as time-consuming and costly. Again this year many new claims were resolved without the need for a Tribunal Hearing due to the intervention of JACS conciliating with both parties and achieving resolution.

The Board met on a quarterly basis to review comprehensive activity reports produced by the Director of JACS in order to enable it to monitor activity and operational expenditure against agreed budgets. This ensures that States funding is effectively used in a proper manner and we are satisfied that JACS has achieved its objectives. As part of the States Medium Term Financial Plan (MTFP) savings, 2016 saw a reduction of 2% to the annual grant received from Social Security and there will be further reductions in the coming years. The role of JACS Board is to ensure operational expenditure is kept within the agreed budget. The Board's input into the preparation of a balanced budget at the end of each year is crucial. Additionally the Board ensured that JACS continued to meet its statutory obligations which were set out in a revised Service Level Agreement with Social Security, and met the service standards that are expected from the JACS team.

I am very grateful to all the Board members who have served during 2016 and thank them for their continued support and for freely giving of their time and experience. On behalf of the Board I would also

like to express our appreciation to the Social Security Minister Deputy Susie Pinel for her support and to her team in the Department for their help in sustaining a positive and constructive relationship with JACS.

Finally I would like to extend the Board's thanks to Patricia Rowan and her team, for their enthusiastic commitment during 2016 thus helping JACS continue to achieve its prime objective of improving industrial relations on the Island.

Sarah Beirne
Chairman

Director's Report

Overview

I am pleased to present the JACS Annual Report for 2016, which gives me the opportunity to give an overview of JACS performance and workload in what was a challenging year for us. Our overall enquiries figure of 8977 show a slight decrease (approximately 500) in the number of enquiries we received during the year when compared to 2015, however the figures are just the top of the ice-berg when looking at the other services JACS provides. Our training events continue to be well subscribed and a significant number of in house sessions were delivered in 2016 primarily due to the new Age Discrimination Regulations being introduced in September. Along with the tribunal claims and other advisory work JACS undertakes the use of figures alone cannot reflect the complexity and diversity of the work we undertake, nor the service clients have come to expect from our organization.

Additional legislation for discrimination and amendments to employment legislation means that the enquiries JACS now receive are more complex than previously and therefore require greater time and consideration in order to advise as effectively as possible.

Pre-claim conciliation (PCC)

During 2016, we were approached to assist in a large number of pre-claim conciliations (PCC). This process is used to resolve matters without the need for Tribunal claims to be lodged. JACS is approached to assist in the settlement of such matters, by offering impartial advice and conciliation to the parties to assist in reaching a solution without the cost, time and stress of bringing a Tribunal claim. Without employers looking to use the PCC service that JACS offer there would undoubtedly be a greater number of claims being lodged with the Tribunal.

PCC is seen as an alternative dispute resolution process which JACS have always offered. The very nature of this process allows for outcomes that cannot be achieved at Tribunal, and can allow the employment relationship to continue rather than end, if a resolution can be reached via mediation. In 2016 we successfully assisted employers and employees in achieving a resolution to their disputes using PCC on 186 occasions.

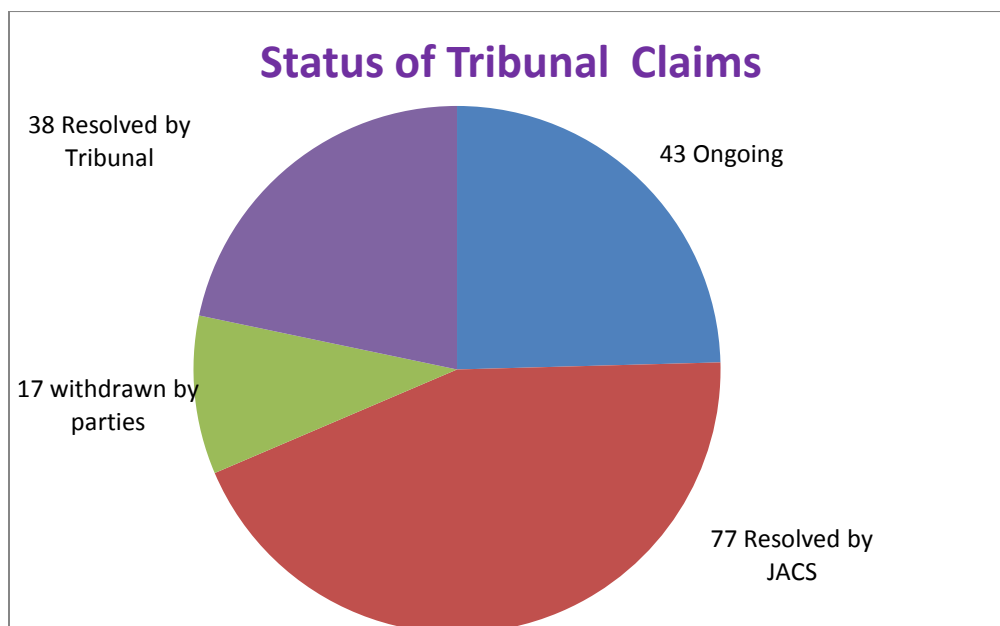
Conciliation in lodged Tribunal Cases

The number of claims JACS received from the Employment and Discrimination Tribunal during 2016 was 175 claims with 47 additional claims being carried forward from 2015. JACS PCC process does prevent claims being lodged if the parties wish to attempt to resolve matters this way. However, for many, consideration may not have been given to this process; or it maybe that the employment relationship has broken down, and ultimately that the parties are unable to reach agreement in their dispute.

The claim process and transition is now well established and the Employment and Discrimination Tribunal (Procedure) Order 2016 sets out this process very clearly. Once a claim has been submitted, the Tribunal will look to set a date for a Case Management Meeting (CMM) with the parties involved in attendance. A CMM will often help in determining what the claim concerns, and the Directions issued by the CMM Chair enable the parties to prepare and provide the information and evidence that a full Tribunal Hearing will require in order to determine the claim. The inclusion of CMMs in the Tribunal process continues to be successful and effective in encouraging the parties in the dispute to enter into conciliation with a JACS officer, which can then result in a conciliated settlement being reached or the claim withdrawn from the Tribunal.

Whilst the conciliation process can be lengthy and can – in some cases – still be ongoing until the actual Tribunal Hearing date, we believe that if conciliation is considered early in the Tribunal process outcomes can be achieved with less stress and expense being incurred.

Of the new cases JACS have received from the Tribunal Registrar a total of 132 of these have been resolved. Of these 132, JACS have resolved 77; with 38 resolved by the Tribunal; and 17 were withdrawn or settled by the parties themselves.



Of the additional 47 claims carried forward from 2015, only 5 remain outstanding, with JACS and the Tribunal both settling 16 claims each, the 10 claims not accounted for were either settled or withdrawn by the parties themselves.

Discrimination claims in employment for Race, Sex or Age have not greatly contributed to the number of claims being lodged. During 2016, 11 claims were lodged (6 for Race Discrimination and 5 for Sex Discrimination) and only 2 are ongoing. This small number of

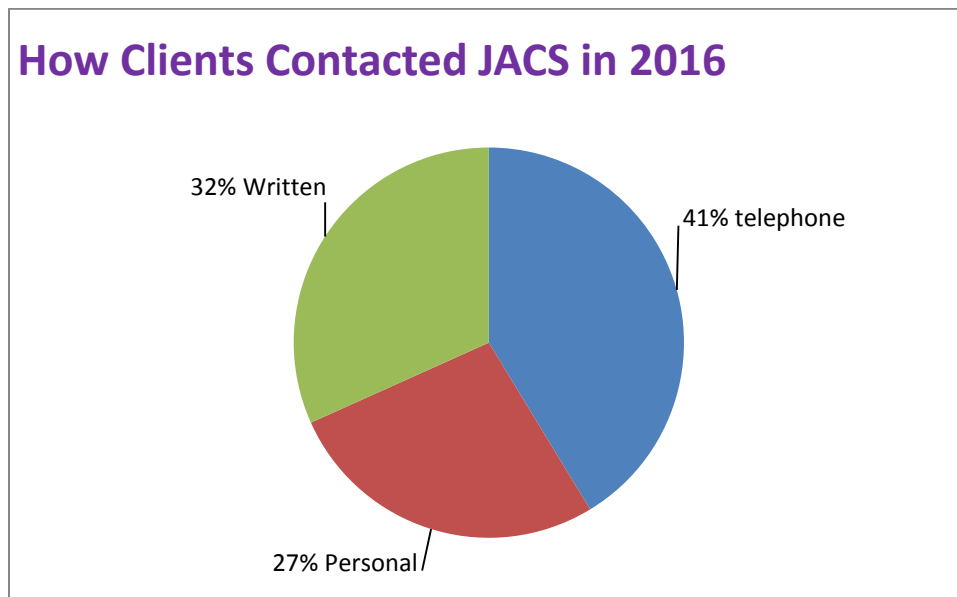
claims is substantially lower than in the UK, where the Ministry of Justice regularly reports that the majority of cases heard in Employment Tribunals involve discrimination claims.

Resolving collective disputes and improving relationships

A number of collective issues were raised in 2016 and whilst the majority of these were resolved swiftly without further action being required, there are some issues (in relation to historic matters) that will be carried forward into 2017. Additionally, JACS counted 10 ballots for different organizations in relation to pay as well industrial action and other matters. Collective disputes are dealt with under the Employment Relations (Jersey) Law 2007 which functions using three Codes of Practice that clearly set out the process and expectations both parties in the dispute need to adhere to. This element of JACS workload differs from others and due to the complexity of the work it also requires significantly more time to resolve issues.

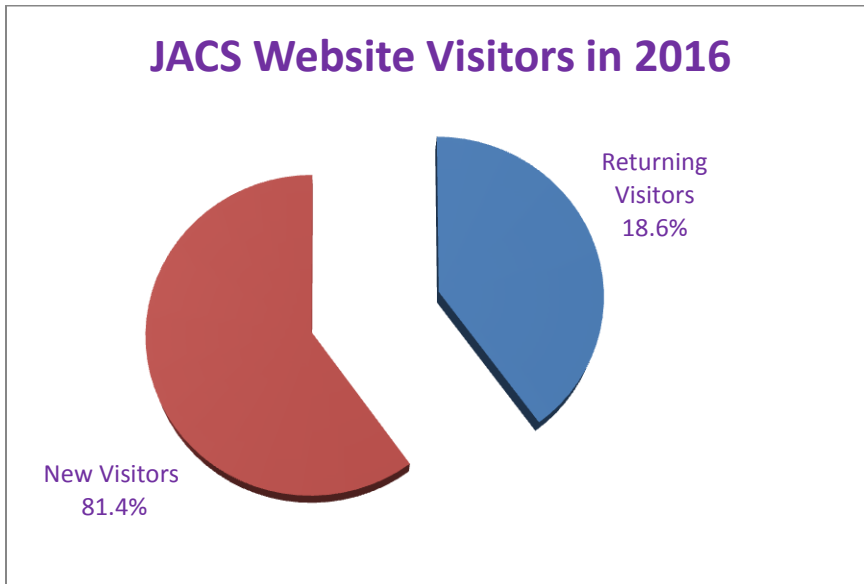
Contacting JACS

The number of clients calling into JACS in person during 2016 was 2,415, which is an increase of 2% from 2015. The central position of the JACS' offices enables callers (whether they have an appointment or not) to drop in and to easily locate us, which along with a slight extension of our opening hours (from 8.00am) means clients can access our services easily. It is however our advice line that remains the main point of contact for clients with 3,708 callers contacting us via telephone on 730503. The final direct contact with us is in writing via email (or occasionally letters) and in 2016, 2828 of our clients made use of this method.



The JACS website is regularly revised with changes to the legislation and the public training sessions that we run. However we strive to constantly update the website with policies, procedures, general information and guides to assist clients further. JACS have developed

application forms for maternity leave, flexible working and parental leave which have proven to be a useful addition. Those clients who have signed up to receive the JACS newsletter are directed to the website to see the recent additions and information



The top 5 most viewed topics in 2016 were:

- Model Policies and Procedures/Pro Forma Letters/Zero Hour
- Maternity Rights
- Minimum Rest Periods and Annual Leave
- Discrimination
- Unfair Dismissal

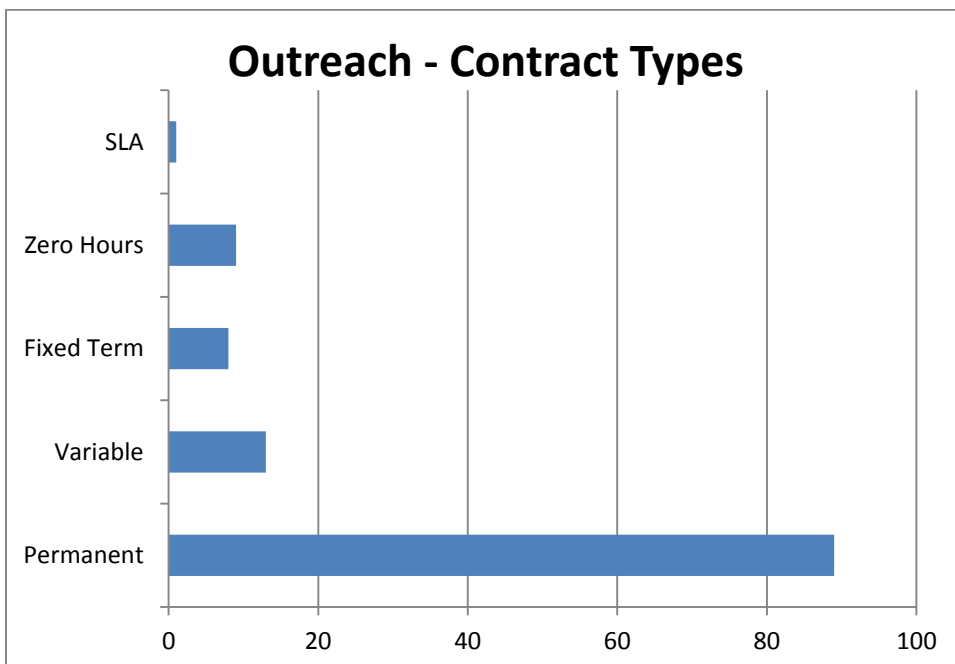
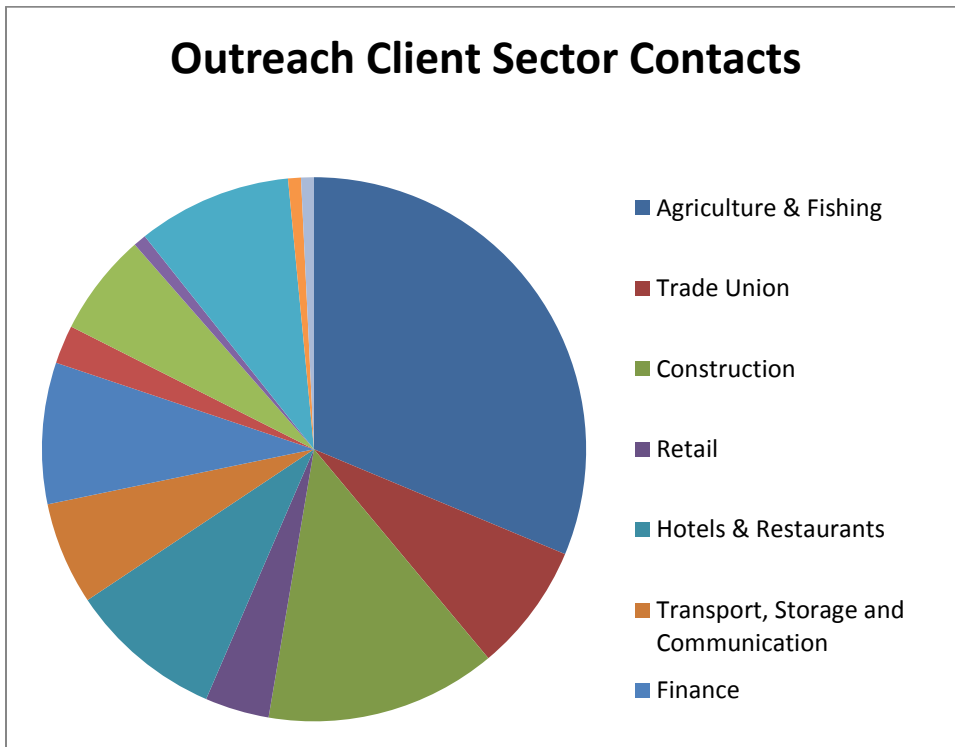
Again during 2016 the topic of zero-hour contracts was discussed in the States Assembly and reported in the media. The 2015 guidance booklet on zero-hour contracts available on the JACS website was updated during 2016, and during November the Social Security Minister agreed to look at zero-hour contracts (without limiting this to the matter of exclusivity) as the next priority following the completion of the family friendly review.

Outreach Service

JACS Business Liaison Officer has continued to provide the Outreach Service – a service that is available at times and places to suit the employer, such as out of town workplaces, either within or outside normal office hours - proactively to employers, typically those employing ten or fewer employees. This service gives practical assistance and advice to employers to help them set up and develop the range of employment documents that are required under the legislation, from terms of employment to pay slips.

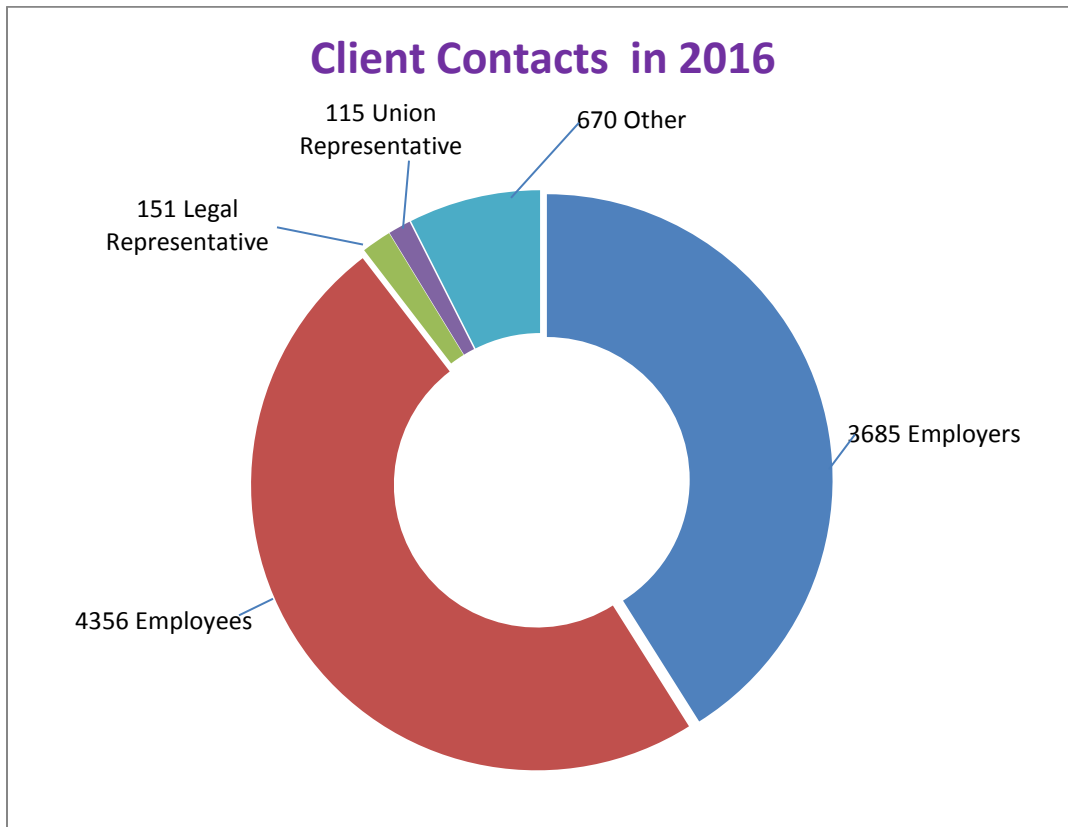
The owners of these smaller businesses or those starting new businesses find the service/information helpful in terms of understanding their obligations as employers, particularly as they can ensure that they are using an appropriate type of contract for their business and employees.

In 2016 132 clients were assisted under the Outreach Service with an average of 11.5 employees.

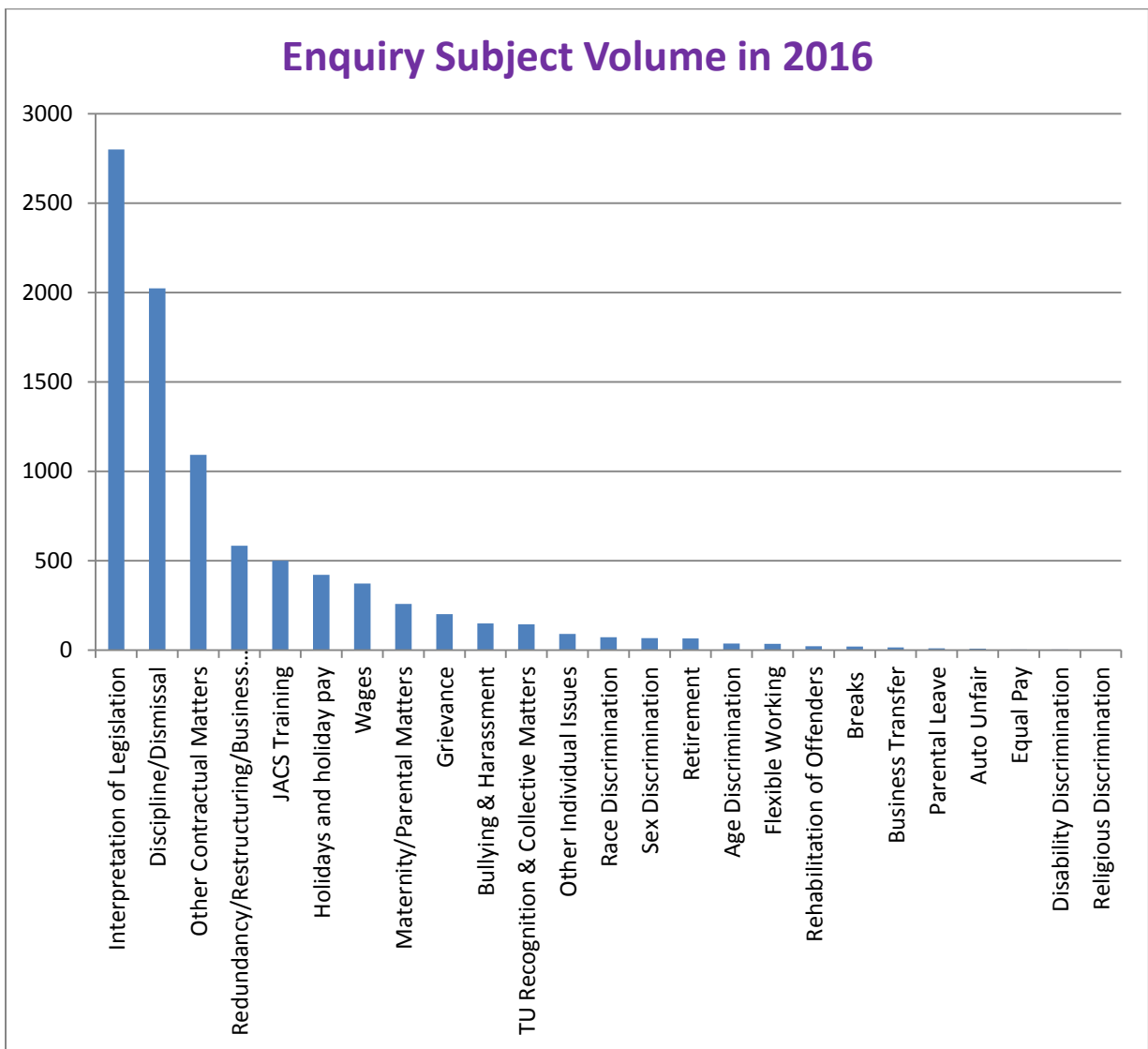


Information, advice and conciliation

An average of 172 clients contacted JACS each week throughout 2016 and, as can be seen below, the majority of these contacts were from employees. The category of 'other' (shown below) captures those who call on behalf of someone else, e.g. a parent, or who represent clients for a Tribunal claim.



The subject volume chart below shows the generic categories that JACS uses to record the type of queries that have been received throughout 2016. As can be seen, the highest number of queries relates to interpretation of legislation that is in place for both employment and discrimination as well as any incoming or proposed changes that are due. Despite there being changes in these trends over the years, disciplinary and dismissal still remains the second highest number of queries - by a considerable margin - that JACS receives, and remains the main head of claim for the majority of Tribunal cases.



Training and Other Support Services

For JACS, the main emphasis remains with assistance in the prevention of disputes and problems, and although the early resolution of disputes and Tribunal matters are an important part of our work, much of this only occurs once the employment relationship has broken down. JACS believes that having well trained managers, supervisors and staff representatives in an organization is an important factor towards ensuring good employment relations operate across the business. As in previous years our public training sessions remain well attended both with individuals who maybe new to management responsibilities as well as others seeking to update their knowledge in respect of new legislation or just their skills generally.

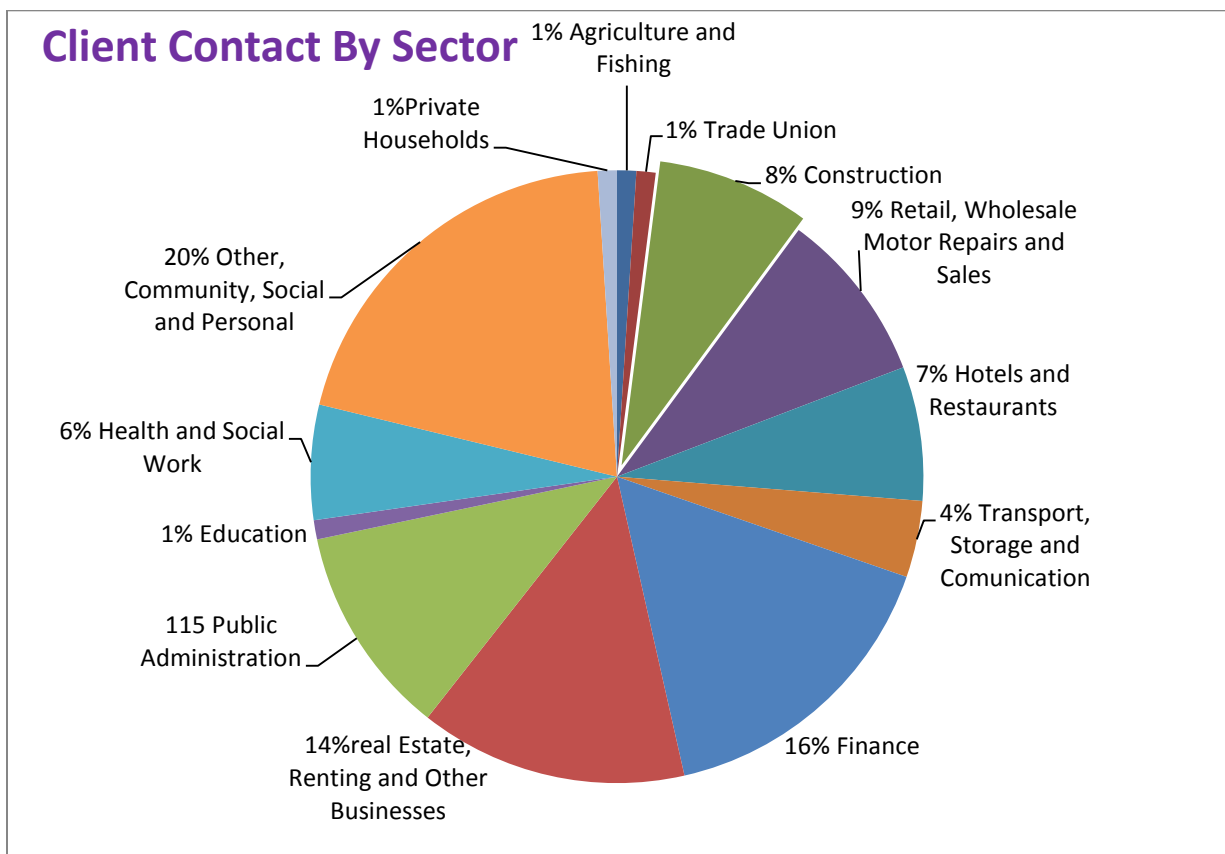
Throughout 2016, JACS ran 34 half-day public training courses, attended by 468 delegates. With the introduction of further Discrimination Law in September 2015 and 2016 we continued to offer

“Discrimination in Employment” sessions (which we have run since September 2014) free of charge to delegates thanks to special funding from Social Security.

During 2016 we ran an additional 59 training sessions. These were for in-house sessions requested by various businesses and whilst many of these were for sessions on the new Discrimination legislation; other companies requested the full range of the subjects covered in the public sessions which are run on a cost recovery basis. Over the year, 1360 delegates attended these additional sessions.

Working with employers

In 2016, JACS received 3685 contacts from employers seeking advice and guidance. As can be seen in the breakdown below the queries are from all types of employment sectors. It is the ‘other, community, social and personal’ sector that posed the majority of queries. This sector is wide ranging and includes charities along with organizations that offer personal services.



It should be noted that Real Estate, Renting & Businesses is a general category for organizations that do not fit into more clearly defined sectors.

Legislation

Following the first protected characteristics under the Discrimination (Jersey) Law 2013 (Race in 2014 and Sex, Sexual Orientation, Gender Reassignment, Pregnancy and Maternity in 2015), the protected characteristic of Age was introduced on 1 September 2016. I am grateful to the Social Security Minister for her continued support and funding which allows JACS to run public training sessions on the discrimination legislation free of charge to the attendees. It therefore is encouraging to note that so few claims for discrimination in employment have been lodged with the Tribunal.

Along with the aforementioned introduction of Age Regulations under the Discrimination Law, there were also a few minor amendments made to the Employment Law. February 20 was the date Amendment 9 clarified the procedure for making Appeals to the Royal Court against decisions of the Tribunal.

Amendment 10 introduced other changes to the Employment Law including the removal of the 2/3rds rule in relation to fixed term contracts, meaning that any employee will (ordinarily) need to have been employed for 52 weeks before claiming for unfair dismissal. This change was effective from 28 October as was the widening of reasons for family friendly absence where the dismissal of replacement employees to cover such absence would be considered to be fair.

There remains two other parts of Amendment 10 to be enacted on 1 April 2017. The first is the protection of employment rights for Armed Forces Reservists and in a press statement the Social Security Minister advised:

"Current Ministry of Defense strategy aims to increase the number of reservists by 2020, potentially doubling the numbers in the Jersey Field Squadron to around 80. Reserve service can be disruptive for the employer, particularly in a small business. However, these rights are vital to encourage sufficient numbers of people - with all types of skills and backgrounds - to commit to reserve service."

The second of these outstanding parts will give employees the right to claim up to 4 weeks' pay as compensation for any breaches of statutory rights in relation to written terms of employment, uninterrupted rest day and pay slips.

Staffing and Standards of Service

For the majority of 2016 the JACS team consisted of 4 members, and throughout the year we continued to monitor our service standards. The client satisfaction questionnaire sent to both employers and employees whose Tribunal cases had been referred to us for conciliation show that of the total returned, 100% reported they were 'very satisfied' or "satisfied" with the service they received.

Published standards of service were maintained or exceeded and we fully met the requirements of the Service Level Agreement that we have developed, together with officers of the Social Security Department, to ensure that JACS continues to deliver value for money.

Managing our Finances

The total cost of running JACS for the calendar year to 31 December 2016, based on its unaudited management accounts was below the budget set for the year. This underspend was primarily down to the staffing shortages following the resignation of the Deputy Director in April. Key operating costs comprise staff costs, rent, rates and insurance, utilities, IT support and audit fees.

Our basic annual grant from the Social Security Department was £378,100.00 which is a 2% reduction from 2015 as per the agreement with Social Security as part of the MTFP savings that need to be made.

Nominal fees (based on a cost recovery basis) charged to attend our public training courses and in-house training courses, to cover the costs of these events, contributed around a further £20,565 towards our income.

Our accounts will be audited by our incumbent auditors, BDO Limited, in due course and presented to the Social Security Minister, as required by the Jersey Advisory and Conciliation (Jersey) Law 2003.

Future Plans

It remains JACS commitment to offer assistance in avoiding and resolving disputes, by continuing to raise awareness of new legislation and other important issues and best practice through the training sessions we offer, and readily available information on our website which is regularly updated.

Our commitment is also one of support to all our clients in respect of advice and dispute resolution. The Outreach Service will continue to provide a service accessible to all businesses to ensure there is an understanding of the statutory obligations that employers need to meet.

Summary

JACS offers employees, trade unions and employers impartial, professional and friendly advice. Training sessions JACS offer have been devised to assist employers in the understanding of the legislation whilst offering practical application to the legislation and preparation for incoming legislation.

There are some organizations that are facing a period of change and as such businesses will need to manage these changes and any re-structuring necessary in order to align themselves with the markets/sectors they operate within. JACS encourage organizations to continue to consult fully with their employees and to employ good practice and operate with transparency throughout such changes.

JACS is both very fortunate and privileged to have a Board of honorary members who we are able to call upon and who willingly give their time to the organization throughout the year. I would also like to extend my heartfelt and sincere thanks for the assistance and ongoing support that JACS receives from our Board Members under the Chairmanship of Sarah Beirne.

I must offer my thanks for the support and loyalty shown by the team at JACS; members have again worked extremely hard to meet the expectations of our clients whilst rising to meet the challenges presented to them via new and changing legislation.

I must finally thank the Social Security Minister Deputy Susie Pinel and her Assistant Minister Deputy Graham Truscott along with the Social Security Officers for all their support of the work that we undertake. I look forward to continuing to work with Deputy Pinel and her Team as the implementation of the planned legislation moves forward.

Patricia Rowan
Director

21 January 2017