

The Jersey Advisory and Conciliation Service 2012



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ANNUAL REPORT 2012

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Annual Report 2012

The Board

Chair	Tom Slattery
Deputy Chair	Ed Daubeney
Board members	Sarah Beirne Zoe Blomfield (from 1 st March 2012) Craig Channing (from 1 st January 2012) Julie Crabtree Lorna Pestana (until 29 th March 2012) Alison Mellor

The JACS Team

Director	David Witherington
Team members	Patricia Rowan, Senior Advisory and Conciliation Officer Patricia Weston, Advisory and Conciliation Officer Chrissie Hennessy, Administration and Advisory Officer (until 30 th September 2012)

JERSEY ADVISORY & CONCILIATION SERVICE

YEAR IN NUMBERS – 2012

(2011)

9720	(9817)	Enquiries received in total
5035	(5441)	Employee enquiries (or others on their behalf)
4685	(4376)	Employer enquiries
2286	(2220)	Enquiries from employers employing less than 50 staff, 49% of these employing less than 10 staff.
893	(827)	Attendees at 51 workshops, training courses and seminars
322.75	(316.2)	Thousand pounds received as annual States Funding (£6,550 [2.0%] increase from 2011 funding level).
183	(183)	Claims passed to JACS by the Tribunal
150	(97)	Requests for advice or conciliation in respect of collective disputes and trade union recognition.
156	(94)	Tribunal claims resolved, 104 (66%) by conciliation
31	(27)	Thousand visits made to our website www.jacs.org.je
7	(7)	Board members
4	(4)	Staff members, including 1 part-time advisor/administrator
1	(1)	Website: www.jacs.org.je
1	(1)	New employment law in force in Jersey during 2012.

Chairman's Foreword

I am pleased to introduce the 2012 Annual Report of the Jersey Advisory and Conciliation Service.

Economic conditions have seen no significant improvement during 2012 with continuing job losses adversely impacting on the employment market and the unemployed total exceeding 1800 at the end of 2012. While initiatives by the States, both to help create jobs and to assist unemployed individuals in obtaining work, are welcome it is unlikely that we will see any significant uplift in the short to medium term economic conditions and the closure of a number of high street names in the early weeks of 2013 reflects this.

Against this backdrop JACS has dealt with a total of 9720 queries in the year which although marginally down on 2011 still represents over 186 contacts per week with almost an equal split between employer and employee queries. Reflecting the difficult employment market the percentage of contacts relating to redundancy rose to 17% compared to 11% in 2011. There has also been a noticeable 50% increase in collective disputes referred to JACS which in turn have taken a disproportionate amount of resources to help resolve. The fact that only one dispute led to industrial action reflects the value of the contribution by the JACS team.

JACS' role in relation to claims referred to the Employment Tribunal continues to be an important aspect of its work and the high percentage of referrals that were resolved helped to avoid the need for many time consuming and sometimes expensive hearings.

The revisions to the Employment legislation intimated in 2011 were implemented in the year, including amendments to the collective redundancy consultation process. The anticipated introduction of draft legislation on discrimination was unfortunately delayed but it is reassuring that the Minister for Social Security has confirmed that he will introduce a draft law in early 2013. It had previously been anticipated that sex and age would be covered initially but the new proposal is for race to be first with the other areas to follow in future years. It is to be hoped that Jersey will now make real progress in meeting its long outstanding commitment to adhere to international conventions. New legislation inevitably impacts on businesses and often disproportionately on small businesses; JACS will continue to update its data bases and training programmes to help both employers and employees in interpreting the Laws.

The Board is conscious of its responsibility to make sure that JACS continues to meet its objectives as prescribed by law and which are reflected in the Service Level Agreement which was agreed with the Department of Social Security in 2011. This Agreement will be reviewed in 2013 to ensure its continuing relevance. In addition the Board closely monitors operational expenditure against agreed budgets to ensure that

the States funding is properly and effectively utilised. It has done this against a continued reduction in the real value in its annual grant in line with the States spending review.

I make no apologies for emphasising each year how JACS hard won reputation is very much attributable to David Witherington and his team. 2012 has been a particularly difficult one, however, with one member being absent for a prolonged period of medical treatment, which thankfully has been successful. Inevitably however this has placed considerable extra workload on the other members of the team which they have taken on only too willingly. On behalf of the Board I wish to thank the whole team for their continued enthusiasm and commitment and for continuing to demonstrate their expertise in dealing complex and time consuming issues. The difficulty which a small team faces due to an absence has however meant that the Board have reviewed staffing levels and with effect from 2013 the part time position is being revised to a full time one bringing the establishment to four full time members including the Director. This is the first increase since 2006 and we will continue to monitor resource needs in line with the possible impact of new legislation.

Lorna Pestana retired from the Board after serving two periods and on behalf of the Board I thank her for conscientious and always practical and constructive input. Advocate Zoe Blomfield joined the Board in April and I am confident we have a balanced representation on the Board combining expertise from both the employer and employee perspective.

I am extremely grateful to all members who have served during the year and thank them for their continued support and for freely giving of their time and experience.

Finally on behalf of the Board I would like to express our appreciation to Senator Francis Le Gresley, the Minister for Social Security for his support and to his colleagues in the Department for their helping to sustain a positive and constructive relationship with JACS.

Tom Slattery

Chairman

Director's Report

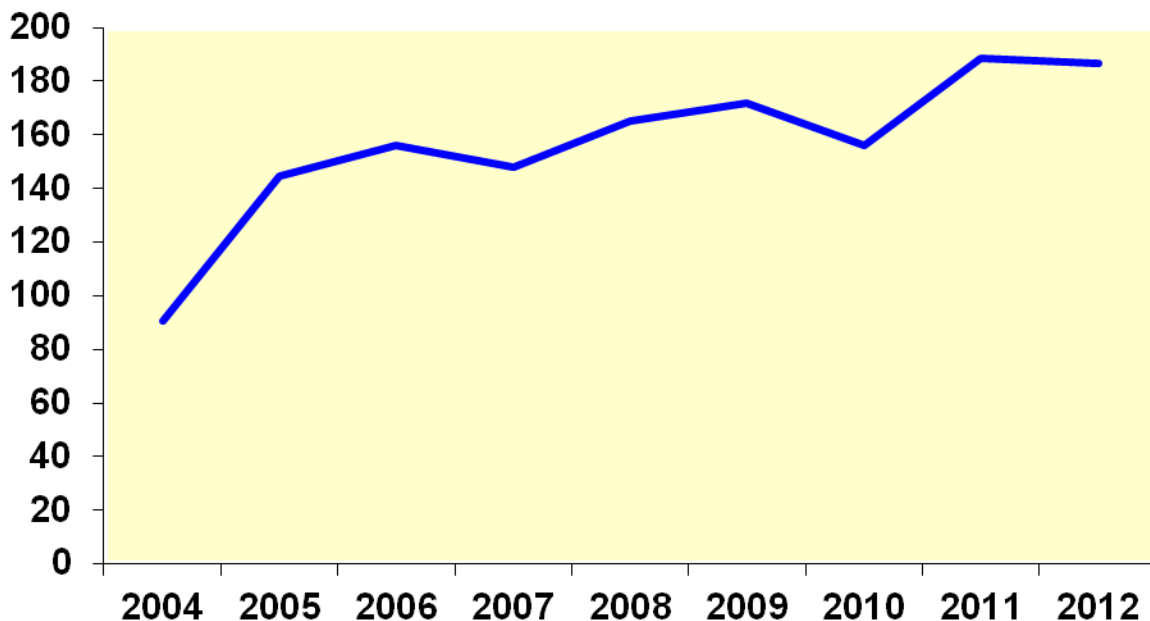
Overview

Redundancy and restructuring have continued to dominate employment relations throughout 2012. Trading conditions for many businesses have been extremely difficult, leading to real concerns about security of employment even within those organisations that have not declared redundancies among the workforce. The introduction of the final stages of redundancy legislation, primarily the need for collective consultation in certain circumstances, has led to a significant increase in the number of employers contacting us for advice and has encouraged active exploration of alternatives to redundancy; although those employees affected have often had to agree to a reduction in wages in order to protect jobs.

The requirement to make statutory redundancy payments for those with two or more years' continuous service has provided a buffer for many redundant employees, although the general "belt-tightening" by employers has meant that, as a consequence, the availability of new job opportunities for those made redundant has reduced.

While the statistics in "Year in Numbers" show that 2012 has been almost on a par with our busiest year ever, with 9720 client contacts, the advisory work related to redundancy, or its avoidance, has become more time-consuming, of greater complexity and is more critical to the employers and employees involved than in previous years.

Client Contacts Per Week to 31st December 2012



Enquiries and Dispute Resolution.

Over the two-year period January 2010 to December 2011, the percentage of calls relating to redundancy and lay-offs had remained consistent at 11% of total client contacts. However, in 2012 this has increased to almost 17%, equating with more than 1600 enquiries, 52% of which were from employees.

Besides offering an advisory service JACS also offers a Pre-Claim Conciliation (PCC) service as we believe that early resolution of disputes is far preferable to litigation and usually allows both parties to resolve their differences or to part company in a way which avoids damage to either party. This has once again proven to be a well used service with the number of settlements far exceeding the claims forwarded to us by the Tribunal; 299 PCCs were completed during the year, many of which would otherwise almost certainly have resulted in claims to the Tribunal. Thankfully many more settlements were also reached that allowed the employment relationship to continue, for example disputes about holidays, pay, contractual terms, disciplinary actions and grievance issues.

We monitor our service standards and have again issued a client satisfaction questionnaire to those employers and employees whose Tribunal cases had been referred to us for conciliation. The rate of return was 34%, with more employers returning their questionnaires than employees. Of the total returned, 73% reported they were 'very satisfied' with the service they received and the remaining 27% were 'satisfied'.

Collective Disputes

With the continuing economic uncertainty, in the majority of organisations pay rises have been at a level below that of inflation – indeed in many cases wages and salaries have been frozen or even reduced. This has led to a sharp increase in collective disputes, that is, those involving groups of employees rather than individuals. We received 150 requests for advice and assistance in respect of collective issues (a 50% increase on the previous year) and with the exception of the bus service dispute, all were resolved without industrial action.

Much of our collective dispute activity has focused on helping various parties to resolve difficulties which arose from the need for employers to cut costs, a direct impact of the economic downturn. Many of our recorded client contacts resulted in multiple meetings and involved lengthy discussions, particularly when the advice sought was associated with restructuring or redundancy.

We continue to work hard to promote the adoption of good practice and to encourage employers, employees and trade unions to follow due process rather than take precipitate action, such as the implementation of unilateral changes to terms and conditions of employment by the employer, or unlawful "wildcat" industrial action by groups of employees.

Conciliation in potential Tribunal Cases

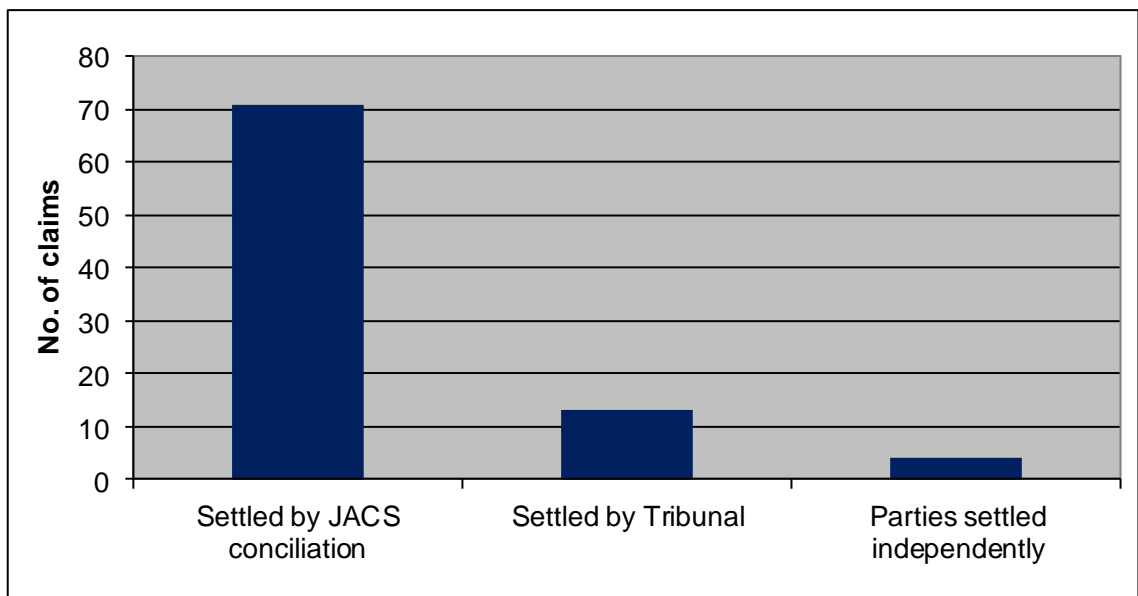
The number of Employment Tribunal claims passed to JACS for conciliation in 2012 has decreased compared to the previous year and we believe pre-claim conciliation (PCC) has largely contributed to this reduction. However, disputes still arise in the workplace and dispute resolution is an important service offered by JACS. While PCC prevents many hundreds of potential claims from being made, not all matters can be dealt with at an early stage. During the year 157 claims were forwarded to us by the Tribunal to allow us to offer conciliation, compared to 183 in the previous year.

Conciliation is often a lengthy process and may stretch over many weeks or months until the actual date when that claim is to be heard by the Tribunal. While the parties are sometimes reluctant to engage in conciliation until the potential Tribunal date approaches, we firmly believe the sooner matters are dealt with then the easier it is for the parties to resolve issues

without the time and expense involved in preparing the documentation that bringing or defending a claim requires. The Tribunal now operates a policy that involves a “pre-Hearing” meeting between the parties in order to set out clearly the information and evidence that a full Tribunal Hearing will require. This approach is very helpful, in that it focuses the thoughts of the parties to the dispute and often encourages them to seek a conciliated settlement or to withdraw a claim altogether.

In 2012, of the 157 new cases forwarded to JACS by the Tribunal, a total of 88 have been settled: 71 (80.7%) were settled by JACS conciliation, 13 (14.8%) were settled by the action of the Tribunal and 4 (4.5%) were subsequently settled or withdrawn by the parties themselves, often after they had taken advice from their lawyers and/or had discussed matters with JACS. At year-end, 69 cases were subject to ongoing conciliation or awaiting resolution.

Number of new claims resolved in 2012



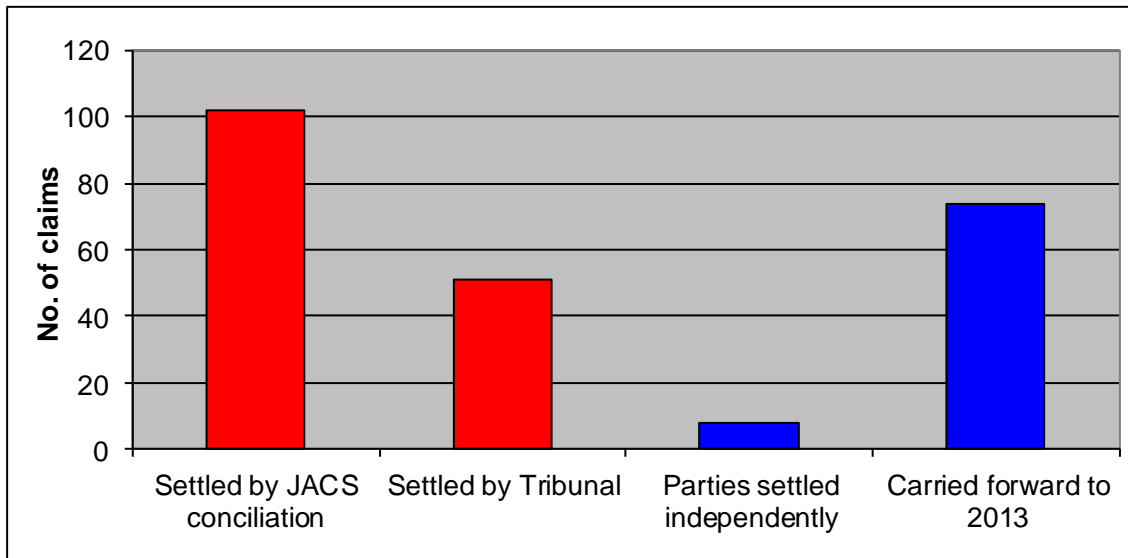
In addition to dealing with new claims, we and the Tribunal have been busy dealing with the claims carried forward from 2011. These claims have proven most resistant to conciliation and, as a consequence, a greater proportion has required a full Tribunal Hearing in order to resolve them.

At the start of this year, 82 claims were brought forward from 2011. Of these, 76 have now been resolved: 33 have been resolved by JACS; 39 by the Tribunal and 4 claims have “self settled” or been withdrawn, leaving 6 to be carried forward yet again.

As in previous years, unfair dismissal remains the most significant of the claims made, followed by breach of contract, wages or salaries, and rest periods/annual leave.

Combining 2011 and 2012 claims, a total of 239 were active in 2012 and during the year 164 cases have been resolved one way or another, as shown in the following chart:

Combined Settlements: those 2011 claims carried forward plus new claims in 2012



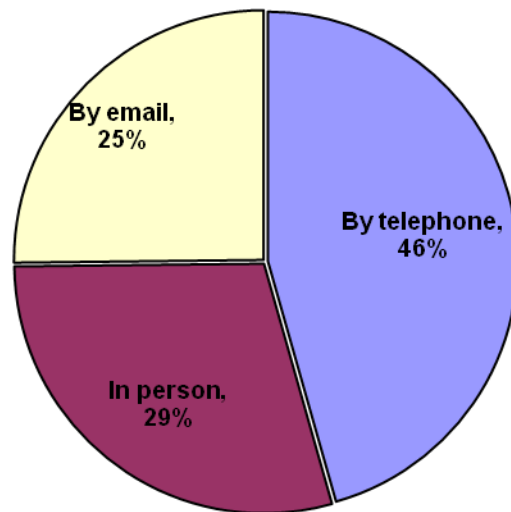
As well as being the most prevalent claim, unfair dismissal is the most expensive if the claim succeeds, resulting in an award of 26 weeks' pay for employees with 5 or more years' service. All of our training and advice stresses that employers should ensure that they adopt fair processes in dealing with matters of discipline or poor performance and investigate any allegations of misconduct or poor work thoroughly before considering any disciplinary action.

We encourage all employers to speak to us before taking severe disciplinary sanctions or to use our website www.jacs.org.ie which contains a large amount of useful information, including a model process for redundancy consultation and selection; model disciplinary, capability and grievance procedures (including the Code of Practice on Disciplinary and Grievance Procedures) as well as a wide variety of other guidelines on dealing with such issues in the workplace. If employers follow similar procedures to those described then the likelihood of resolving a problem without resorting to dismissal increases greatly; if dismissal is necessary, then evidence of having followed best practice will mean that the risk of a successful claim being made is much reduced.

Contacting JACS

The central location of JACS' offices in West's Centre encourages personal callers - over 2,800 clients visited our offices either by appointment or by "drop-in". While our main point of contact remains our advice line (730503) with almost 4,400 clients contacting us by telephone between the hours 08.30 to 17.00, Monday to Friday, the number of email queries (over 2,400) has increased year on year and now represents 25% of client contacts.

Ways in which clients made contact



The steady increase in the number of issues with which we deal, and the increasing complexity of these, would doubtless have required an increase in manpower resources were it not for our website, www.jacs.org.je. This has proved yet again to be an invaluable tool and a source of assistance to employees and employers. Individuals made more than 31,100 visits to our website in 2012. While we continue to receive good feedback on the content, in the final quarter of the year work began on reviewing and updating the website, with the emphasis on ease of use for our clients. The new version will also be available to view on modern, hand-held technology, ensuring it meets the needs of the future. Owners of small businesses or those starting new businesses find the information particularly helpful in terms of understanding their obligations as employers. The section on model policies and procedures helps them to put in place the framework of their employment practice. Without this facility there is little doubt that our workload would increase enormously.

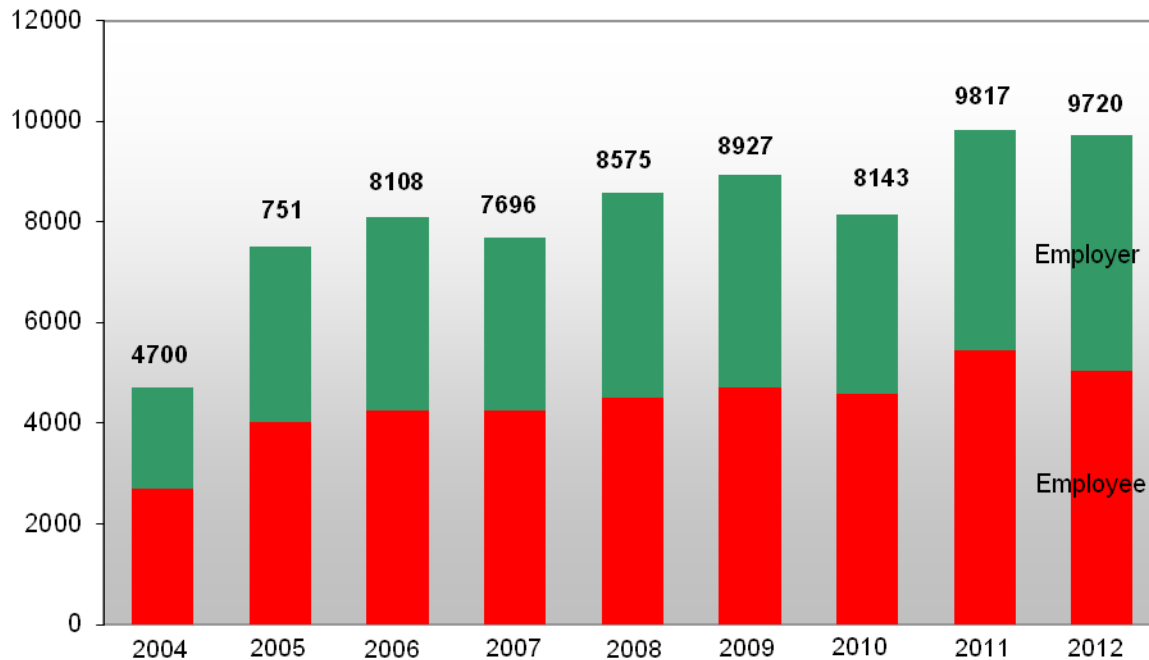
For the past few years we have produced a periodic newsletter whenever there are significant developments in employment relations, training or employment legislation that we feel should be highlighted. We now have over 790 regular users of JACS' newsletter service and clients can sign up on-line to receive these free updates which cover important issues.

Due to the costs of printing and the need for a continually up to date information service we provide more and more information electronically. We have increased the use of the internet to give more wide-ranging advice and to provide specific up-to-the-minute news on developments in employment law and will continue to do so, while still ensuring that basic information is available in the form of printed guidelines.

Information, advice and conciliation

Throughout the year 186 clients contacted us on average each week, almost the same number as in 2011 (188).

Client contacts 2004 - 2012: Employer and Employee



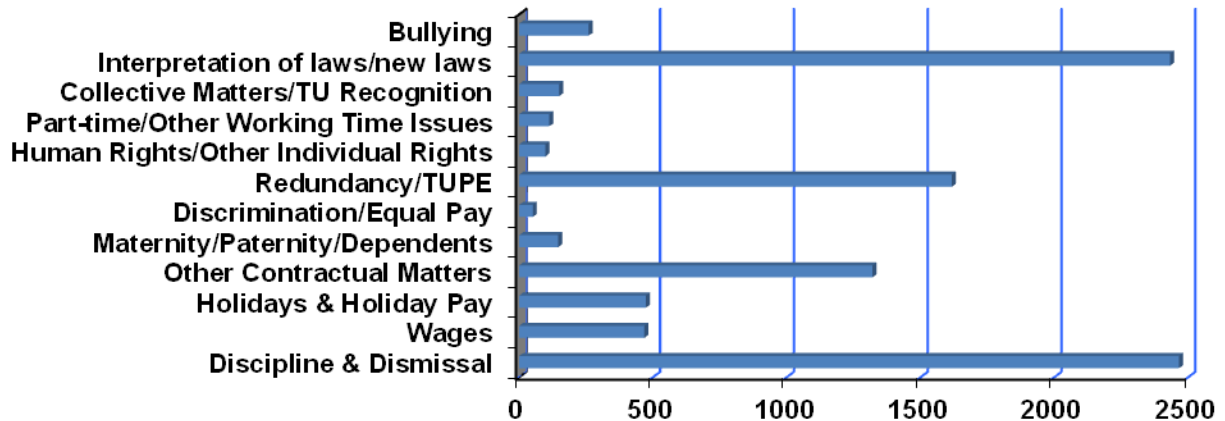
The proportion of employer/employee contacts has increased from 45%/55% in 2011 to 48%/52%, such that 2012 saw the greatest number of employers using our services since the Employment Law was introduced. This increase appears to be due not only to the increasing complexity of legislation but also to the economic uncertainty and the high level of change that this necessitated.

Of necessity we still deal with a number of basic issues such as statutory holiday entitlement or minimum wage, but increasingly employers and employees are much more aware of their obligations and rights and many of the more fundamental answers can be found on our website. Instead of the need for basic information, the queries brought to JACS by employers and employees are more often linked to organisational restructuring and the need for meaningful consultation with employees at risk of redundancy.

In order to help protect jobs, we actively encourage employers to consult with their staff about alternatives to redundancy, such as agreement to a cut in the hourly rate of pay or a reduction in working hours, as an alternative to redundancy. Indeed, the Tribunal has made it clear that consideration of such alternatives is a prerequisite of a fair redundancy process. Thankfully, the agreement of staff to such reductions has prevented many employees from being declared redundant but sometimes the cost savings generated are insufficient for the business to maintain staff numbers in the longer term. Regrettably, when this is the case and, despite their sacrifices, such employees are made redundant, their compensation is based on the reduced remuneration that they have agreed – in some cases this has reduced the value of notice pay and redundancy pay by as much as 25%. In order to overcome this barrier to reaching agreement to save jobs, we have encouraged some employers to guarantee the “old” wage rate for calculation of redundancy payments for at least 6 months after a reduction has been agreed. By encouraging such arrangements, we have been able to help employers and employees agree alternatives to redundancy in the knowledge that retention of skills will

benefit businesses in the future and will greatly assist employees in these very difficult times.

Enquiry Subject Volume 1st January to 31st December 2012



With the exception of the increase in redundancy enquiries, the general trend remains fairly consistent from year to year and the predominant issues remain disciplinary and grievance, redundancy and contractual disputes, as well as interpretation of legislation as shown in the bar chart above.

Particular problems:

Each year an issue arises that gives particular cause for concern - in 2012 it was a repeat of the problems surrounding the misuse of zero hour contracts.

Zero Hour contracts - zero or variable hour contracts consist of arrangements where people agree to be available for work as and when required but no particular number of hours or times of work are specified. These contracts are entirely appropriate for Temporary Staff Agencies that supply employees to other organisations but where there is no guarantee that work will be available or for “bank” employees in nursing or care homes, who provide essential cover for staff holidays or sickness. We constantly advise employers that in a zero hours contract there should be no obligation on the part of the employer to offer work and no obligation on the worker to accept.

Problems arise when an employer uses zero hour contracts for work that is regular in the belief that they offer protection from claims of unfair dismissal, the need to give notice or from the obligation to make redundancy payments. When such employers no longer require the same number of staff, they simply tell them that no work is available, giving no notice or redundancy payments.

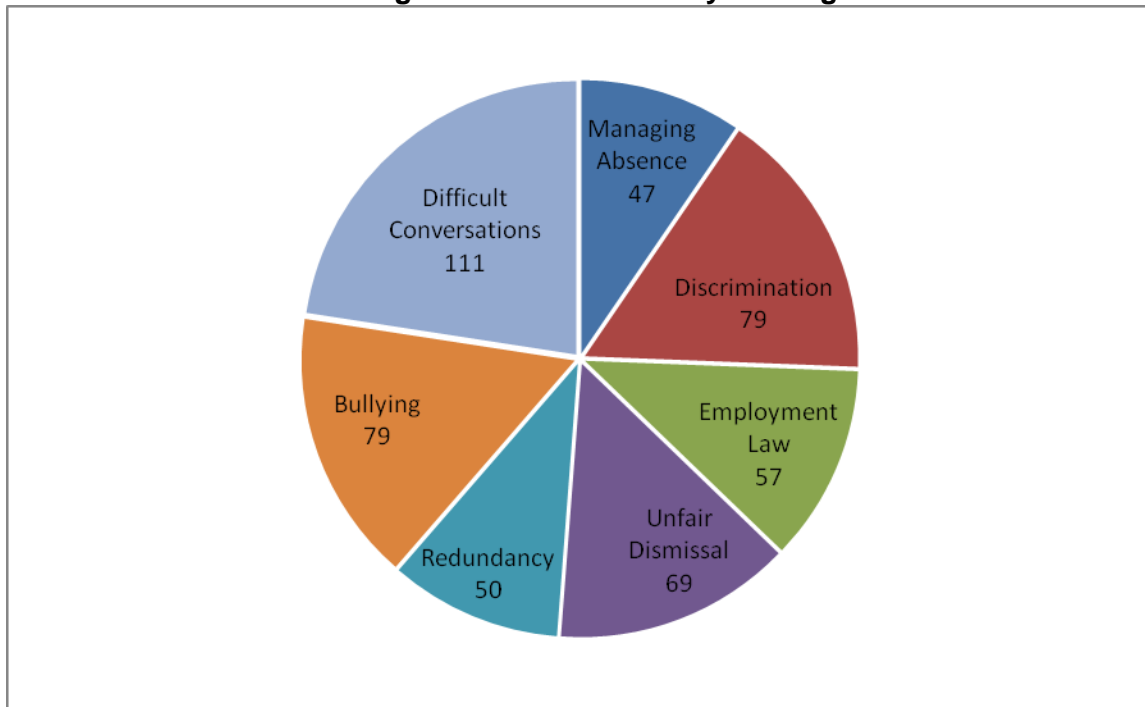
Problems also occur in regard to holiday entitlements. While employees on zero hour contracts usually have “rolled up holiday pay” included as a 4% supplement in their weekly

wage (equivalent to the minimum two weeks annual holiday), over the Christmas and New Year period we had dozens of enquiries from employees on zero hours contracts who had been working 5 or 6 days a week all year, only to find that they were unpaid for the three public holidays because their employer had closed on those days. As a result, employees who are treated in this way only have the equivalent of two weeks paid holiday per year compared to 28 days in England. In our view it would be much fairer if the Employment Law was amended to remove any reference to Public or Bank holiday entitlement and the minimum statutory annual holiday entitlement was increased to a more realistic level, i.e. a minimum of 20 or 21 days per year. If this was to be done, employers could simply include in their written terms of employment a statement that the annual holiday entitlement is inclusive of Public and Bank holidays. All employees would then be entitled to reasonable time off with pay whether they were employed on zero hour contracts or on regular contracts of employment.

Training and Other Support Services.

While settling Tribunal claims or resolving disputes is an important part of our work, our main emphasis remains helping to prevent problems arising in the first place, rather than settling claims once the employment relationship has broken down. To this end we continue to put significant resource into developing our business support services to ensure that employers and managers recognise the benefits that good employment relations can bring to building successful organisations. Our program of public training courses remains very popular and is particularly appreciated by individuals who are new to the responsibilities of management as well as the seasoned professionals who want to update their knowledge or learn about new legislation that has either come into effect in recent months or is anticipated in the near future.

492 delegates attended half-day training courses



During the year we ran 30 half-day public training courses, attended by 492 delegates. We continue to focus on those issues that appear to cause most problems in the workplace or have

the greatest potential to trip up employers in their management of people. The harsh economic climate has added to the problem; employees whose performance remains unchanged or whose under-performance has been put up with in the past may be subjected to more rigorous performance management or may feel singled out by employers who are struggling with declining revenues. Dealing with poor performance, absenteeism and allegations of bullying have always been difficult areas for employers, with reluctance by many to have the difficult conversation necessary to deal with the problem. In 2012 we ran 6 courses dealing with this issue, attended by 111 delegates.

Some of our training is offered in anticipation of legislation e.g. discrimination and bullying. These subjects featured in 10 of our courses throughout the year and many businesses have supported these sessions by putting forward more than 140 delegates.

In addition to our public training we delivered a further 21 training courses or seminars to various interest groups or, on a cost-recovery basis, to in-company groups for those organisations that wanted training delivered specifically tailored to their management and supervisory teams. Over 400 delegates attended these seminars, in addition to those attending the public courses.

These training sessions, together with our guide (the A to Z of Work), our other publications and our website www.jacs.org.ie provide good sources of advice and information and are useful to small or medium sized employers who find the model policies and procedures particularly helpful. The website is continually updated to reflect changes in legislation and up to the minute advice often developed following particular decisions in Tribunal Hearings

Legislation

In 2012 the redundancy legislation was finally completed with the introduction of amendments dealing with collective redundancy consultation and the opportunity was taken to clear up some anomalies in the original redundancy provisions.

The Social Security Minister has also confirmed that he will bring forward a draft Discrimination Law in early 2013 which will include the first attribute of Race. It is intended that this will be followed by a series of successive Regulations in respect of Sex, Age and Disability discrimination.

JACS welcomes the fact that it appears progress will now be made and Jersey will soon meet its obligations under a number of international conventions to ensure protection from discriminatory behaviour.

In previous reports I have commented on the number of clients we see who believe they are suffering from bullying or harassment at work. In 2010 we dealt with 238 bullying-related issues; in 2011 this increased to 280 and while in 2012 the number of clients concerned about bullying or harassment reduced to 260, this is simply not acceptable in modern society in our view. While bullying or harassment is not necessarily linked to discrimination, in many cases it appears to be linked to an employee's race, sex, age or disability. In addition to these 260 complaints of bullying, we recorded a further 47 client contacts where the employee specifically claimed they were discriminated against; 9 issues were recorded as race discrimination, 10 as sex discrimination and the remaining 28 were recorded as "general" which includes discrimination on other grounds, including age, disability and religion.

Our experience appears to be backed up by other agencies which also gather some statistics. For example, during 2012 Citizens Advice Bureau recorded 46 issues related to discrimination, the majority of which were employment-related. Surveys have been undertaken by the States Statistics Unit (2012 Jersey Annual Social Survey JASS) and by the Jersey Community Relations Trust (2011 JCRT). Both of these surveys indicated that discrimination was a matter that legislation should address, with the JASS finding that 25% of adults reported having been discriminated against in the previous 12 months. While we understand that legislation can weigh heavily on businesses, it was enlightening to learn that of the 60 organisations that responded to the JCRT survey, 82% believed there is a need for discrimination legislation and supported its introduction.

In anticipation of the legislation, we will continually update and further promote our training courses in order to help employers and employees understand their new obligations and to meet them as effectively as possible. To help employers, the Social Security Minister has allocated funds so that we can provide our public discrimination law course at no cost to delegates during the next two years.

We will continue to encourage employers to adopt good practice in anticipation of these changes. Since 2008 over 750 delegates have attended one of our 45 public courses dealing with discrimination and bullying/harassment. When we include, in-company and group training in this area the total number of delegates substantially exceeds 1000. Many employers, particularly the larger organisations, have adopted a zero tolerance policy in respect of discrimination and bullying and their high standards continue to be reflected in their profitability, low staff turnover and their overall success.

In addition to discrimination legislation we also welcome the Minister's commitment to introducing maternity and family friendly legislation which we understand may be brought to the States for debate in late 2013. Bearing in mind Jersey's heavy reliance on its female workforce (45% of the workforce are women), it seems remarkable that in the 21st century we do not yet have statutory provisions for either maternity leave or flexible working that would help individuals to cope with children and other dependants, while still pursuing their career.

Despite the fact that our first Employment Law was introduced in 2005, employment legislation is still a relatively new concept in Jersey. While legislation must be appropriate to the size of Jersey and the economic constraints that we face, JACS supports the intention of the Minister for Social Security to give a clear commitment to a specific, timed program of necessary legislation that will give reassurance to employees that progress will be made in a reasonable timescale while providing time for employers to plan for its implementation.

Resolving collective disputes and improving relationships

Last year was also busy in terms of JACS' involvement in collective disputes. JACS officers administered/acted as Returning Officer in 9 pay and conditions ballots in accordance with the requirements of the Employment Relations (Jersey) Law 2007.

As part of any ballot process we vet ballot questions, which must comply with the Code of Practice and ensure as far as possible that only those entitled to vote do so, that only papers returned in accordance with the ballot requirements and by the closing date are counted and that the counting is done accurately.

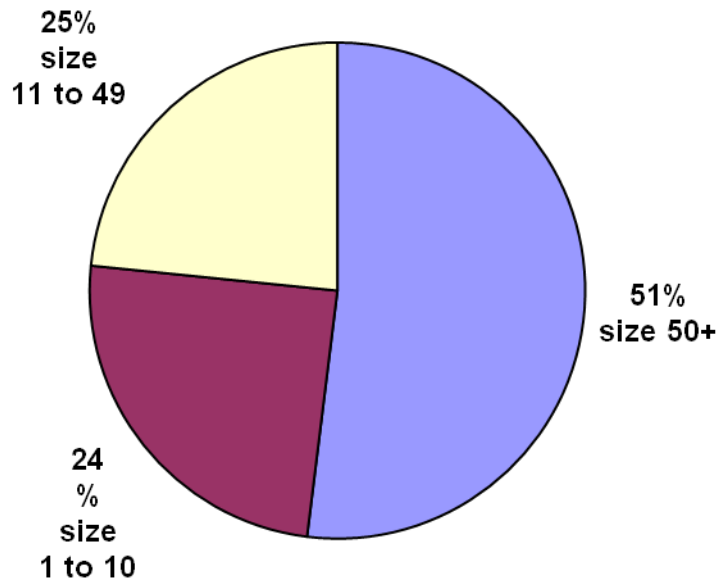
Prior to administering a ballot, we have usually been involved in negotiations during which we help the parties in dispute to reach a settlement, if possible, by means of conciliation (informal

assistance to help both parties reach their own solution). If the parties reach an impasse then we routinely offer a range of alternative dispute resolution procedures such as mediation (which is more formal than conciliation and may lead to non-binding recommendations being made by the mediator) and as a last resort, arbitration (a formal hearing, usually chaired by an employment relations expert selected from the same list of arbitrators used by Acas – arbitration leads to a binding award). We organized two arbitration hearings with Professor Roy Lewis, a former Judge of Southampton Region Employment Tribunals and Deputy Chairman, Central Arbitration Committee, acting as arbitrator. JACS officers also chaired 4 collective mediations for private sector employers.

Not all our collective work involves JACS acting as conciliators or mediators with both parties present. Very often one or other of the parties simply wanted to meet with JACS to talk through the issues that they faced. This is an important, impartial role as it allows various ideas to be explored before they are put forward formally as a proposal to settle whatever dispute had arisen. Whereas in 2011 the frequency of requests for advice or assistance was on a par with most other years (97), in 2012 it increased to 150 contacts recorded. Of course this does not imply we dealt with 150 disputes as each dispute normally gives rise to a series of contacts as discussions progress. Our involvement covered pay disputes, transfer of undertakings, trade union recognition, changes to terms and conditions of employment and consultation and negotiation arrangements.

Conciliation or mediation helps employers and employee representatives to focus on the key issues and provides an opportunity for one party to consider the requirements and restrictions faced by the other in a relatively informal environment. Even if a solution to a dispute is not quickly found, experience suggests that conciliation or mediation helps the parties to move towards a greater understanding of the others point of view, allowing a solution to be reached at a later date.

Organisations contacting JACS by size (headcount)

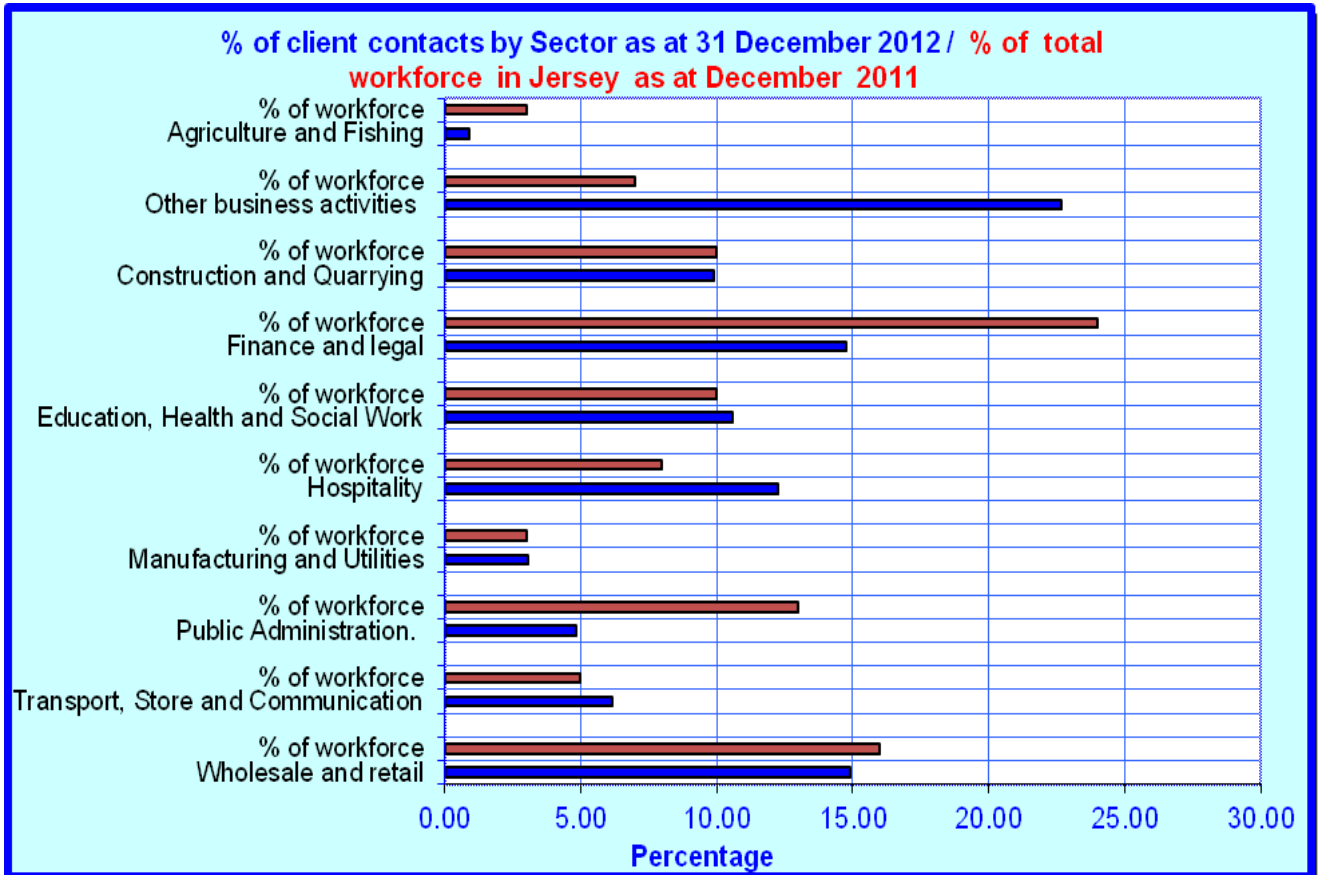


During the year we dealt with 4685 employer contacts, an increase of 309 on the previous year. While some of these contacts were JACS-initiated, following requests from employees that we contact their employer in an attempt to resolve issues, the majority were employer-initiated requests for advice and guidance over a wide range of subjects, the most complex being those associated with terms and conditions negotiations and with restructuring and redundancy.

As will be seen in the previous pie chart, our dealings with employers are fairly evenly divided between those larger employers with 50 or more employees, and those employers with up to 49 employees. We are particularly pleased to have contact with the smaller employers as they are particularly vulnerable in terms of Employment Tribunal claims as they are unlikely to employ a specialist HR function.

The bar chart below provides an analysis of the enquiries from the various sectors that make up our diverse economy, together with an indication of the proportion of the workforce employed in each sector. Despite the economic problems faced it will be seen that, as in 2011, a number of traditionally lower paid sectors, in particular agriculture and retail, do not generate a disproportionately large number of issues for JACS to deal with.

While “Other business activities” stands out as having a high number of client contacts compared with the percentage of total workforce employed, this tends to be a catch-all category of organisations that do not fit in one of the other, more easily defined categories and, therefore, is not an industrial sector that is easily identified.



Staffing

For the past 5 years, our team has comprised three full-time advisor/conciliators and a part-time advisor/administrator and, since the formation of JACS in 2001 has only increased by the part-time member. While we would not usually report on staff absence, in 2012 one of the team suffered a serious illness, necessitating absence from work for the first 6 months of the year. This clearly stretched our resources and highlighted the vulnerability of such a small team in trying to provide an efficient service to almost 10,000 client contacts. Despite staff shortages the remainder of the team met the published standards of service and my thanks go to them for their hard work and the long hours they have endured. We continued to cope with the new legislation and complexity of issues because our website, which recorded 31,000 visits, allowed a great many individuals to obtain the information they required without the need to contact us directly.

It has again been difficult to release team members to undertake necessary training which normally takes place in the UK, but via the occasional seminar and web-based learning we have ensured that JACS advisors and conciliators have maintained and improved their knowledge and skills across all employment matters in order that we can offer the professional service expected. In October JACS was due a year three review to ensure that the organisation still met the standard for accreditation as an Investor in People. The review was successfully completed and recommendations by the assessor for further improvement will be examined and, where necessary, implemented during 2013.

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 Social Security Department, to ensure that JACS delivers value for money.

Managing our Finances

The total cost of running JACS measured in terms of annual income against expenditure was marginally in excess of budget (0.2%) at approximately £355,000 although this figure will be subject to audit adjustment. Expenditure included all operational costs, for example rent, rates, insurance, audit fees, utility services, printing and publications, I.T. facilities, website development, staff salaries and related costs such as pension contributions, Social Security contributions and staff training plus the unbudgeted cost of employing a further part-time administrator on a temporary basis, to cover for the long-term illness already mentioned.

Our grant from Social Security Department increased to £322,755 and, like all grant aided organisations, we were subject to the reduction necessary under the Comprehensive Spending Review before receiving a small increase to off-set some inflationary costs in 2012.

For the future, the level of funding we are likely to receive presents an ongoing concern and the Board regularly considers the implications for JACS' operation, services and staffing levels. Employment legislation and, as a consequence, the complexity and breadth of matters with which JACS deals will inevitably increase further when discrimination, maternity, paternity and family friendly legislation is addressed. The number and complexity of conciliations, whether pre- or post-Tribunal claim is expected to increase in direct proportion to increased legislation and the Board has carefully reviewed future needs in order to present a robust budget each year. We have agreed with Social Security officers that in 2013 our part-time administrator/information officer will be replaced by a full-time employee, allowing the three more senior staff to concentrate on their primary roles.

Our accounts will be audited by BDO Limited and presented to the Social Security Minister as required by the Jersey Advisory and Conciliation (Jersey) Law 2003.

Future Plans

We are committed to supporting all our clients in respect of their needs for advice and dispute resolution in relation to existing legislation and good employment practice and to offer training and advice in regard to the forthcoming Discrimination Law and, Maternity, Paternity and Family Friendly Law that we anticipate will follow.

We shall continue to develop the skills and knowledge of the JACS team to ensure that we are up to date with developments in employment law in Jersey, as well as in other jurisdictions, so that we can respond effectively to proposals locally. By ensuring that our knowledge base is maintained and developed we believe we can best serve the needs of employers, employees and trade unions.

In cooperation with Social Security Department senior officers and as part of good corporate governance we previously drafted and agreed a comprehensive Service Level Agreement (SLA) between JACS and the Department. We are committed to reviewing the SLA in early 2013 to ensure it is still fit for purpose.

I reiterate our commitment to helping to avoid and resolve disputes and we shall continue to raise awareness of the important issues through a comprehensive training programme focused on existing and new legislation, via the media and through our everyday role in dispute resolution and the provision of advice. It appears that the economic difficulties experienced since 2008/2009 will continue throughout 2013 and we will do our best to help employers, trade unions and employees to cope with the continued economic uncertainty.

To ensure that JACS continues to offer the service expected, during 2013 the issue of succession planning will be further discussed with the Board as I will be retiring within the next 12 months or so. The Board are strong supporters of the development of people within the organisation and we have been working to that end for the past year.

Summary

My last three annual reports stated that we expected redundancy and restructuring to continue throughout the following year and this has proven to be the case. While some sectors of the economy are showing signs of a recovery, it is probable that 2013 will continue to be challenging.

In response to the pressures faced, organisational restructuring will continue as businesses realign to meet the needs of their market. This will inevitably require changes to be accepted by the employees within those organisations and we encourage employers to adopt good practice and to consult fully with their staff – while change is often uncomfortable, experience has shown that an informed and engaged workforce will commit more readily to the changes that are necessary. While there is little doubt that Jersey will see further job losses, we will encourage employers, employees and trade unions to carefully consider all steps that can be taken to avoid redundancies before the final decisions are made.

We encourage all employers to seek advice to ensure that their policies and actions conform to good employment practice and to employment legislation and to take timely action to

prepare for new legislation that will be introduced over the next two to three years. We reiterate the need to deal fairly with the consequences of change and JACS will continue to provide a professional, impartial advisory service to employers, employees and trade unions.

While those in charge of leading their organisations understandably believe they need to take swift and decisive actions, there is no doubt in our view that that the leaders who work hard to encourage staff to accept necessary change, rather than trying to force change upon them, will find the benefits are worth the effort. Employers, employees and trade unions working together are an essential feature of a successful economy.

Finally, I once again record my sincerest appreciation for the support provided by the small team at JACS, all of whom have worked extremely hard to meet and often to exceed the expectations of our clients.

My thanks also to my Chairman, Tom Slattery, who has again offered his time willingly whenever advice and guidance is requested and to Lorna Pestana, who has now left the Board after a number of years. I join my Chairman in thanking the remaining Board Members and welcoming those who have recently joined. JACS is very fortunate to be able to call on the time of Board Members who provide their services willingly in an honorary capacity.

Finally I thank Senator Frances Le Gresley for his encouragement and support as the Social Security Minister and his officers at Social Security Department.

David Witherington

Director

29th January 2013

About JACS

To assist in the building of harmonious relationships between employers and employees, both collectively and individually and thereby help improve the performance and effectiveness of organisations.

Our values

Our role is to seek to resolve conflict, maximise agreement and encourage employment policies and practices that contribute to improvements in performance, organisational effectiveness and quality of working life. We are committed to helping employers and employees to develop positive ways of working together, to their mutual benefit. We will promote employee involvement and we will:

- act independently and impartially, with integrity and professionalism
- respect confidentiality
- be accessible to all and respond promptly to all requests for information or assistance
- use resources cost effectively within budgets
- continue to develop a highly motivated and committed workforce able to deliver our services courteously, efficiently and effectively.

Activities

In working towards our mission we will provide a number of key services such that we shall seek to:

- prevent and resolve industrial disputes
- resolve individual disputes over employment rights
- provide impartial information and advice on employment matters
- improve the understanding of industrial relations.

In providing any of our key services we will be ready to identify other ways in which JACS' involvement might improve industrial relations.

Service standards

Preventing and resolving collective disputes

JACS assists parties seeking settlement of collective disputes on employment issues by way of conciliation, mediation or arbitration. JACS can also assist in preventing and resolving problems at work by providing advisory mediation. JACS is not able to insist on the acceptance of its assistance or to impose any solution for an issue in dispute. Before providing assistance JACS encourages parties to make full use of any agreed procedures they may have for negotiation and the settlement of disputes.

Advisory mediation

Advisory mediation enables JACS to work jointly with employers, employees and employee representatives to help overcome problems which threaten to damage the employment relationship or which constitute a major obstacle to organisational effectiveness.

We will:

- acknowledge all requests for assistance within five working days
- discuss fully the nature of the problems and what help might be provided and, where appropriate, be ready to suggest alternative sources of assistance
- explain our role and working methods and agree clear terms of reference
- provide advisory mediation only when there is joint participation of the employer, employees and/or their representatives.

Collective conciliation

This is a voluntary process whereby employers, trade unions, and worker representatives can be helped to reach mutually acceptable settlements of their disputes by the involvement of an impartial and independent third party.

We will:

- acknowledge all requests for assistance within 24 hours, whether made separately or jointly, and seek to reach agreement on how and when we should assist
- offer assistance where no request has been made where we consider it appropriate
- provide appropriate assistance for as long as a dispute continues
- explain to the parties that they alone are responsible for their decisions and any agreements reached

Arbitration and mediation in disputes

Arbitration involves the parties jointly asking a third party to make an award that they undertake to accept in settlement of the dispute. Mediation involves the third party making recommendations as a basis for settlement. JACS will normally agree to mediate or to arrange arbitration only when it has not been possible to produce a conciliated settlement.

We will:

- maintain access to a panel of independent, impartial and skilled arbitrators and mediators from whom we make appointments
- assist parties to agree clear terms of reference for arbitration or mediation
- explain to parties that arbitration is to settle the issue between them and they are committed to accepting an award
- provide parties with a nominated arbitrator/mediator and details of any hearing arrangements within five working days
- arrange for reports and awards to be provided simultaneously to both parties within 3 weeks of the hearing.

Resolving individual disputes

JACS conciliation officers have a duty to attempt to conciliate settlements of disputes where complaints have been or could be made to a court or tribunal under relevant employment protection legislation. Conciliators offer to assist both parties involved in a dispute to reach a voluntary settlement without the need to go to a formal hearing.

We will:

- write to or telephone applicants and (as necessary) respondents, or their named representatives, giving information about the conciliation process together with a named contact and an offer to conciliate. We will do this either:
 - within five working days of receiving copies of a formal complaint from the offices of a relevant body, or
 - within five working days of receiving directly from an employer or employee, or their named representatives, a claim that a formal complaint could be made to a relevant body and where no settlement has already been reached
- take prompt further action as soon as requested by either party or, if no request is received, when it is useful to do so
- keep the parties informed about the options open to them and their possible consequences whilst not expressing an opinion on the merits of a case
- seek to promote reinstatement or re-engagement, if the complaint is of unfair dismissal, before any other form of settlement
- not disclose information, given to a conciliation officer in confidence, to any other party unless required to do so by law
- encourage the parties to consider the consequences of proposed settlement terms and to seek further advice if necessary
- encourage the parties to record the terms of a settlement in writing as quickly as possible.

Providing information and advice and promoting good practice

We provide a telephone enquiry service ready to respond to queries from individuals on virtually all employment matters (other than job vacancies and health and safety), including the rights, protections and obligations which employment law provides. We do not provide legal advice for particular cases.

We can provide more extensive advisory assistance and we also publish advice and promote good employment relations practice.

Enquiry point (Trinity House, West's Centre, Bath Street, St. Helier, Jersey, JE2 4ST)

We will:

- respond to all telephone queries promptly, courteously and accurately
- identify ourselves by name to all enquirers
- answer written enquiries within five working days
- see personal callers promptly or make an appointment with a named member of staff.

Advisory assistance

Where an enquiry is too complex to deal with in a telephone conversation, we will:

- suggest an appropriate JACS or other publication, or
- suggest an appropriate JACS conference, seminar, or workshop, or
- arrange a meeting at a mutually agreeable time and place, or
- suggest other sources of help, such as trade unions, employers associations and the Citizens Advice Bureau.

Publishing advice and promoting good practice

We will use our experience of working with organisations and the results of any research we carry out to promote good employment relations practice. In particular we will provide:

- conferences
- seminars
- small firms workshops
- advisory booklets, handbooks, occasional papers and other publications.

Written material will be readily available, in hard copy or electronic format, and provide practical, accurate guidance. Material will be available on our website www.jacs.org.je

In order to recover costs there may be a charge for some publications, conferences, workshops and seminars.