

The Jersey Advisory and Conciliation Service 2010



Annual Report 2010

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ANNUAL REPORT 2010

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Annual Report 2010

The Board

Chair	Tom Slattery
Deputy Chair	Ed Daubeney
Board members	Julie Crabtree John Moulin Lorna Pestana Kevin Keen David Warr

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

JERSEY ADVISORY & CONCILIATION SERVICE

YEAR IN NUMBERS – 2010

(2009)

8018	(8927)	Enquiries received in total
4492	(4721)	Employee enquiries (or others on their behalf)
3526	(4206)	Employer enquiries
1692	(1725)	Enquiries from employers employing less than 50 staff, 48% of these employing less than 10 staff.
1194	(1500)	Attendees at 49 workshops, training courses and seminars
314.7	(307)	Thousand pounds received as annual States Funding (£7,700 [2.5%] increase from 2009 funding level).
165	(141)	Requests for advice or conciliation in respect of collective disputes and trade union recognition.
160	(163)	Claims passed to JACS by the Tribunal
84	(102)	Tribunal claims resolved, 64 (76%) by conciliation
22	(24)	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
0	(0)	New employment law in force in Jersey during 2010.

Chairman's Foreword

I am delighted to introduce the 2010 Annual Report of the Jersey Advisory and Conciliation Service.

The impact on Jersey of the world economic downturn has continued to be felt especially in the finance industry with its contagion effects on the rest of the economy. Although our Year in Numbers appears to show a fall enquiries this has been distorted by a temporary glitch in our data base system in the year and the reality is that 2010 has been one of our most demanding years.

Redundancy, or the threat of redundancy, continues to be a significant source of enquiries and it is disappointing to note that for a variety of reasons the Redundancy legislation has still to be enacted. This lack of progress in introducing legislation, including Discrimination Laws, as previously planned continues to be a matter of concern and it is to be hoped that the States can find the opportunity to meet its previously approved objectives.

It is appreciated that new legislation has a cost not only in its enactment but also for employers in its implementation. JACS does exist however to help minimize the impact with a particular focus on assisting small employers and we continue to take a proactive approach to encourage best practice even where the legislation is still to be enacted.

One of the effects of the down turn has been the reduction in States income resulting in the need to review expenditure and this has inevitably impacted on pay awards in the public sector with consequent threats of industrial action. JACS has been very actively involved in helping resolve such collective disputes. Negotiations have taken up a significantly increasing proportion of David Witherington and his team's time. The value of JACS' role cannot be easily quantified in absolute terms but without JACS input it is not unreasonable to assume that the resulting costs and inconvenience from industrial actions would have been considerable.

Similarly our continuing role in resolving over 75% of claims referred to the Employment Tribunal has helped avoid the cost of full hearings by encouraging more constructive dialogue between the parties.

In addition we continue to see training as a key aspect of JACS' role, believing that educating employers and employees is the best way to help avert confrontations and improve relations in the work place. Providing such training is costly however and historically we have been helped by a grant from the Economic Development Department. Unfortunately this was halved in 2010 and may well be reduced further in future years. Inevitably the States spending review is likely to impact also on our annual funding. This will confront JACS with the very real dilemma of how to continue to sustain and enhance current service levels in the face of potentially reduced income.

Recognising the difficulties faced by the States in the current environment the Board has undertaken a comprehensive review of JACS' role and its expenditure. This has concluded that JACS' current focus and direction is fully in line with the original remit as stated in the 2003 Employment Law and the Island is best served by building on its reputation as an

impartial advisor respected by both employers and employees. We believe that our strength lies in the experience and expertise of our staff and have therefore sought to limit all other costs and in real terms non-staff costs are now lower than when JACS was formed in 2002.

The Board has also sought to benchmark the role of JACS with that undertaken by its counterparts in Guernsey, Isle of Man and the main elements of this are noted in the Director's Report. In all key aspects the service provided by JACS exceeds or at the very least matches the best offered in these other jurisdictions and at a favourable cost.

One other option open to the Board is to generate income by charging for certain of our services, in particular training courses. On balance the Board believes that as a States funded entity its role is a social one and it would prefer not move down a route of charging. On a trial basis, however, we have introduced a nominal charge for attendance at courses in 2011 and we will review the impact of this during the year.

JACS hard won reputation is very much attributable to David Witherington and his team and on behalf of the Board I wish to thank them for their continued enthusiasm and commitment and their undoubted expertise in dealing with what have been, on occasion in 2010, extremely complex and time consuming issues.

There have been no changes in Board membership over the year and I would once again wish to express my sincere thanks to my fellow Board members for their positive and constructive input and for freely giving of their time and their advice.

Finally, but no less importantly, I would like to express the Board's appreciation for the continuing support of the Social Security Minister, Deputy Ian Gorst and his colleagues in helping to sustain JACS in a difficult climate and hope that this support will continue to benefit the Island through ongoing improvements in employment relations.

Tom Slattery

Chairman

Director's Report

Overview

2010 has proved to be a very tough year for Jersey business and this has impacted heavily upon business owners, managers and their employees. Looking at the bare statistics in "Year in Numbers" it may appear that our services have been called upon less frequently (around a 10% reduction in client contacts). Unfortunately in the latter part of the year our client database malfunctioned incurring us in both delays and expenditure and for a period of weeks client contacts were significantly under-recorded. Nevertheless, the reality has been that each issue with which we have dealt has been more time-consuming, of greater complexity and more critical to the clients involved than we have previously experienced.

Enquiries and Dispute Resolution.

In 2009 we reported that calls for advice on redundancy and lay-offs, from employers and employees alike, increased by 130% over the previous year's total. In 2010 there has been some reduction in the volume of redundancy-related calls, but these still represent more than 10% of all issues that we have handled.

The number of Employment Tribunal claims has remained much the same as the previous year and the conciliated settlement rate has been above our target of 70% with 76% of Tribunal claims being settled without the need for a Tribunal Hearing and a further 8% withdrawn or settled between the parties following advice on the merits of the claim.

Even more pleasing is the number of individual disputes that we have settled without the need for a Tribunal claim to be submitted at all. In the UK, ACAS has offered this service, called Pre-Claim Conciliation (PCC) since April 2009. JACS has always offered PCC to employers and employees in the strong belief that early prevention is better than litigation and it has proved to be a popular service with the number of settlements far exceeding the claims forwarded to us by the Tribunal. Very often such settlements are reached in a way that allows the employment relationship to continue, for example disputes about holidays, pay or disciplinary matters. In terms of financial settlements arrived at in PCC – financial settlements invariably follow a dismissal - we recorded 76 during the year which would otherwise have almost certainly have resulted in a claim to the Tribunal.

During the year we issued a client satisfaction questionnaire to those employers and employees whose Tribunal cases had been referred to us for conciliation. More employers returned their questionnaires (87%) than did employees (54%) and 97% reported they were either 'very satisfied' or 'satisfied' with the service they received; 94% either 'very satisfied' or 'satisfied' with the information available; 90% either 'very satisfied' or 'satisfied' with the time taken to deal with their case.

Collective Disputes

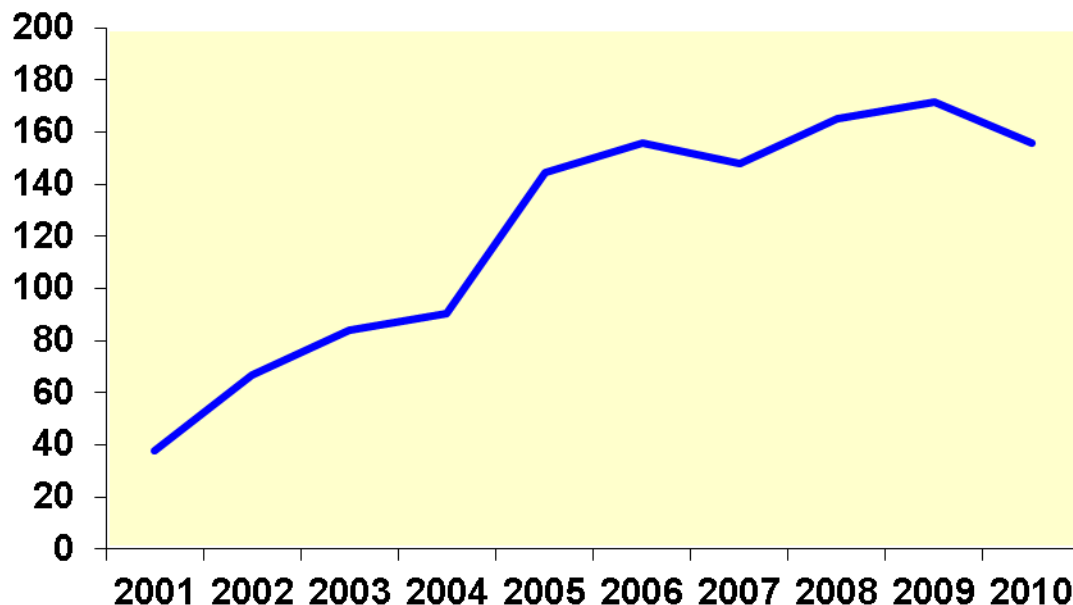
Much of our work has been to promote the adoption of good practice and to encourage employers, trade unions and employees to follow due process rather than rely on the 'knee jerk' reaction to dismiss on the one hand or take industrial action in furtherance of a dispute on the other.

This has been most evident in the area of collective disputes, that is, those involving groups of employees rather than individuals. Throughout the year we have been very active in helping

trade unions and employers to resolve difficulties largely brought about by the recession and the perceived need for employers to cut costs. All disputes were eventually resolved without major industrial action, which can be very damaging to both parties and to the economy.

Demand for our services, measured in terms of client contacts, exceeded 8,000 individual contacts despite the under-recording. Many of these contacts resulted in lengthy discussions or multiple meetings particularly when the advice sought was associated with restructuring or redundancy. Published standards of service were maintained or exceeded.

Client Contacts Per Week in 2010



Training and Other Support Services.

The majority of our work is focused on preventing problems reaching the stage of a Tribunal claim, rather than settling claims once the employment relationship has broken down, and we continue to put significant resource into developing our good practice training courses and business support services to ensure employers and managers recognise the benefits good employment relations can bring to building successful organisations. Dismissal is damaging to employees and is a waste of trained resources for employers and the most rewarding and successful outcome of the assistance we provide is seen when we help parties to re-establish a direct dialogue and to resolve their differences in a way that allows the employment relationship to move forward.

Our website www.jacs.org.ie is continually updated to reflect changes in legislation and up to the minute advice. This, together with our guide (the A to Z of Work) and other publications provide employers with a great deal of helpful information, particularly small or medium sized employers who have said they found the section providing model policies and procedures very useful. In addition, we offer our services to employers who wish to review and update their contracts of employment, application forms or staff handbooks and encourage them to attend our series of half-day training courses which remain in high demand.

Conciliation in potential Tribunal Cases

Inevitably disputes do arise in the workplace and dispute resolution is an important service offered by JACS. While hundreds of potential claims are dealt with by means of pre-claim conciliation, 160 Tribunal claims were forwarded to us by the Tribunal to allow us to offer conciliation.

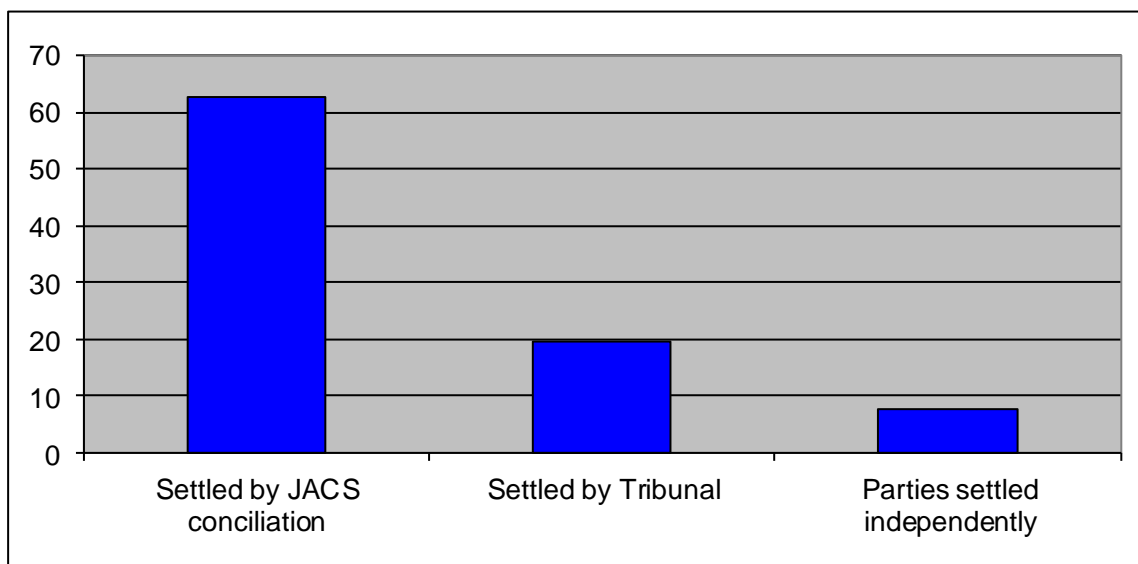
This can often be a drawn out process as in many instances there is an initial reluctance to engage in conciliation until the potential Tribunal date approaches. While it is recognised that there is often a lengthy delay between a claim being received and the case being scheduled for a hearing, from our experience 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.

We have a statutory duty to try to promote the settlement of almost every kind of claim to the Employment Tribunal, thereby avoiding the need for a full hearing of the case. To enable us to do so, unless one of the parties expressly refuses to consider conciliation, details of all relevant cases are copied to us by the Tribunal Secretariat.

In the calendar year 2010, of the 160 new cases forwarded to JACS by the Tribunal, 8 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; 84 were resolved by one means or another and, at year-end, 68 cases were subject to ongoing conciliation or awaiting resolution.

Of the 84 claims that were resolved in 2010, 64 (76%) were settled by JACS conciliation and 20 were settled by the action of the Tribunal.

Number of claims resolved in 2010



A Tribunal claim often covers a number of different issues, each issue being a different head of claim that first has to be identified. For example, an employee may have been dismissed

unfairly, been denied their contractual notice (breach of contract) and not been properly compensated for working on public holidays (Rest Periods and Annual Leave). Each of these has to be identified, investigated and dealt with.

Unfair dismissal claims are still the most numerous (featuring in 75% of all claims) and are certainly the most expensive if the claim succeeds, as employees with 5 or more years' service are awarded 26 weeks' pay. 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.

Our website www.jacs.org.ie contains a great deal 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 which clearly sets out what is expected of an employer) 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 a successful claim being made against them is much reduced.

Contacting JACS

The majority of our clients prefer to discuss their needs by telephone or on a face-to face basis, although general advice is often sought by email enquiry. The convenient location of JACS' offices in West's Centre encourages personal callers and around 2,200 clients visit our offices either by appointment or by "drop-in". Our main point of contact remains our advice line (730503) with 4,400 clients contacting us by telephone between the hours 08.30 to 17.00, Monday to Friday.

Due to the differences in the way in which employment advisory services operate in different jurisdictions, it is difficult to benchmark JACS' service provision against that of others. For example JACS, the Isle of Man and Acas all offer pre-claim conciliation, whereas Guernsey does not due to differences in legislation. Nevertheless, some benchmarking can be carried out in very broad terms, as below Jersey (JACS), UK (Acas), Isle of Man (I of M) and Guernsey (Gsy):

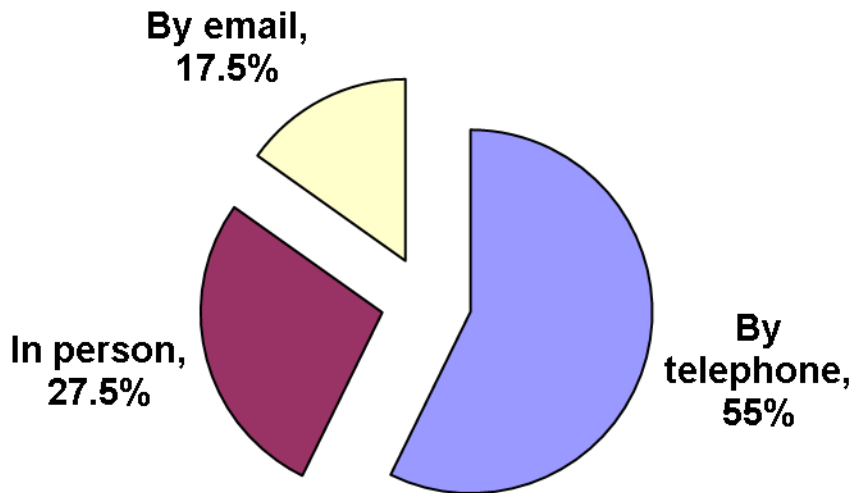
	JACS	Acas	I of M	Gsy
Client contacts per 000 working pop.	152*	35	156	56
Target for Tribunal Claim conciliation	70%	70%	70%	70%
Actual rate of conciliation success	76.2%	70.8%	74.6%	64%
Manpower resources FTE	3.6	extensive	2.6	3.5**
Seminars, workshops, training courses	49	extensive	0	6

* Under-recorded due to database failure

** Includes legislative role

It is appreciated that this can only be a broad-brush comparison, particularly in regard to manpower as JACS is a stand alone service, undertaking the full responsibilities of the employer whereas Guernsey and the Isle of Man receive administrative resources from Civil Service Departments in terms of office accommodation, I.T., payroll, accounting, and telephony/reception.

Ways in which clients made contact



Our website www.jacs.org.ie continues to provide a valuable source of assistance to employers and employees, with individuals making more than 22,000 visits last year. In particular, owners of small businesses find it helpful in understanding their obligations as employers and the model policies and procedures help them to put in place the fundamental building blocks necessary as a basis of their employment practice. Without this facility there is little doubt that our workload would increase enormously.

Coupled with this, regular users of JACS' services can sign up on-line to receive our newsletters. These are only sent out when required, for example when a change to legislation is introduced or when particular events, such as the swine flu epidemic or bad weather merits the issuing of general guidance to assist employers and employees in dealing with a situation.

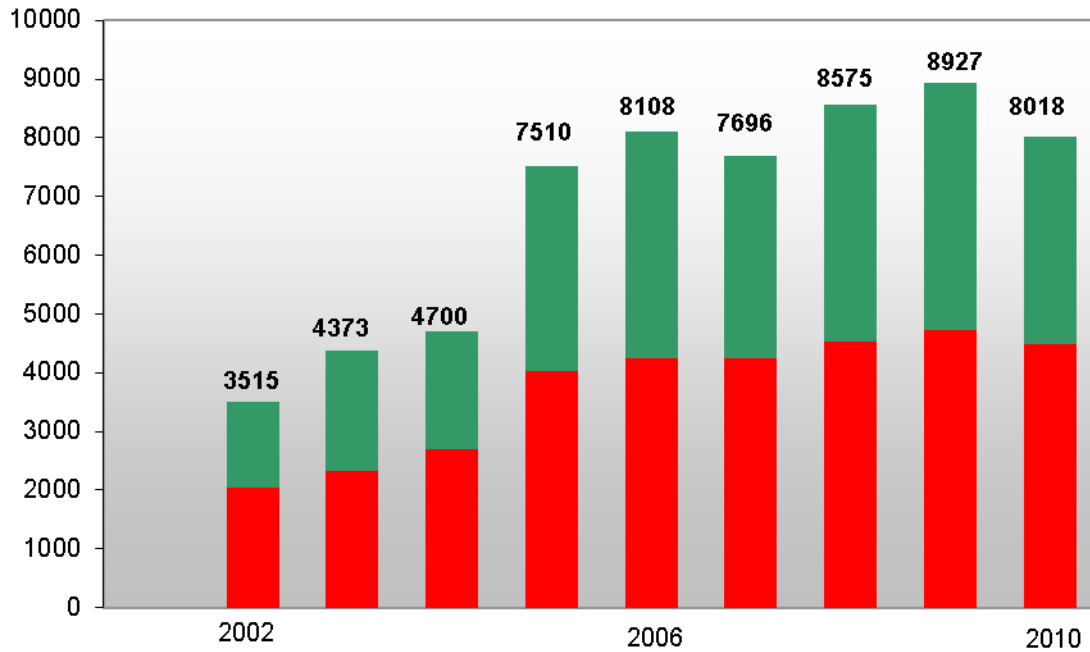
Up to date information that is available electronically plays a very important part in general advisory work and we will increase the use of the internet to give more wide-ranging advice and to provide specific up-to-the-minute news on developments in employment law.

Information, advice and conciliation

The ongoing economic climate predictably impacts upon the nature of many of the questions that we deal with. Queries relating to 'redundancy, lay-offs and business transfers' still feature strongly and total more than 10% of all matters dealt with.

Throughout the year, 154 clients contacted us on average each week, around the average number seen each year since the Employment Law was introduced. Employees and those persons acting on their behalf accounted for 56% of client contacts (4492).

Client contacts 2002 - 2010: Employer and Employee

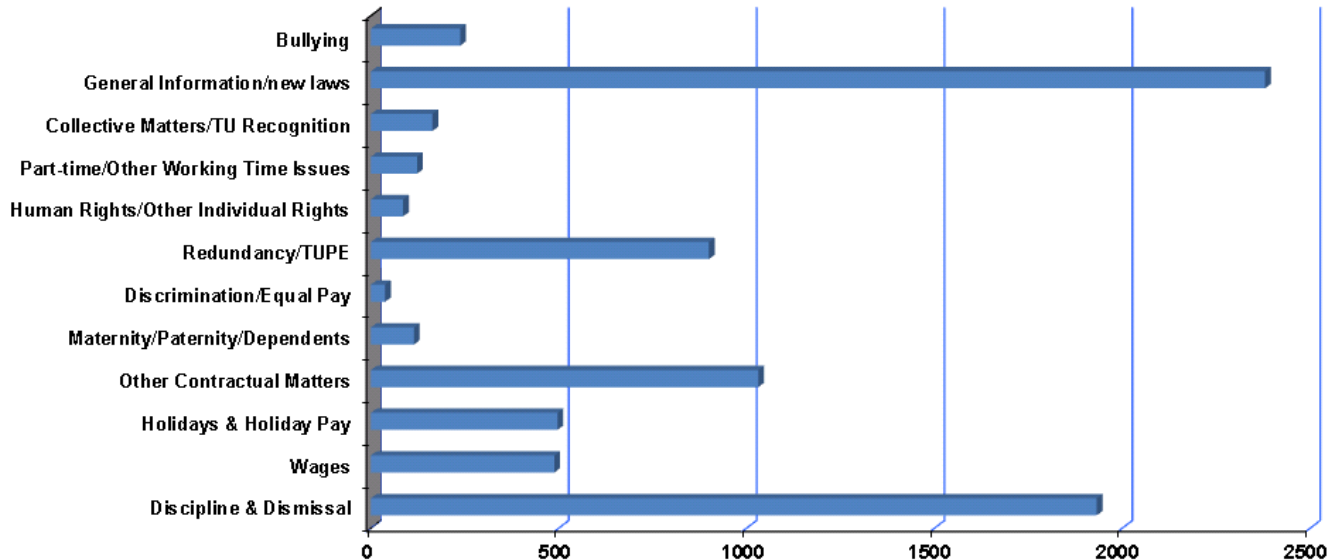


We find that we no longer have to deal with so many minor queries, such as statutory holiday entitlement or minimum wage, as employers and employees are much more aware of their obligations and rights having lived with the Employment Law for more than 5 years.

Many of the issues brought to JACS by employers and employees are now very complex, particularly those linked to organisational restructuring and the need for meaningful consultation with employees at risk of redundancy. Some employers still appear reticent in regard to consulting, believing it could damage the morale of those employees not 'at risk'. However, without proper consultation, full consideration of alternatives to redundancy and a transparently fair process of redundancy selection, employers run the risk of successful claims against them for unfair dismissal. This will assume even greater importance in the future, with proposals on collective consultation and financial penalties for failure to comply set to be added to the statutory procedures in the next year or so. As in the previous year, the benefits of consultation were seen in a number of businesses, with some employees agreeing to pay cuts, job sharing and shorter working weeks as an alternative to a number of their colleagues being made redundant.

The range of employment matters on which we advise increases steadily although the predominant issues remain disciplinary and grievance, contractual disputes, redundancy, holiday pay and wage disputes, as shown in the following bar chart.

Enquiry Subject Volume January to December 2010



Legislation

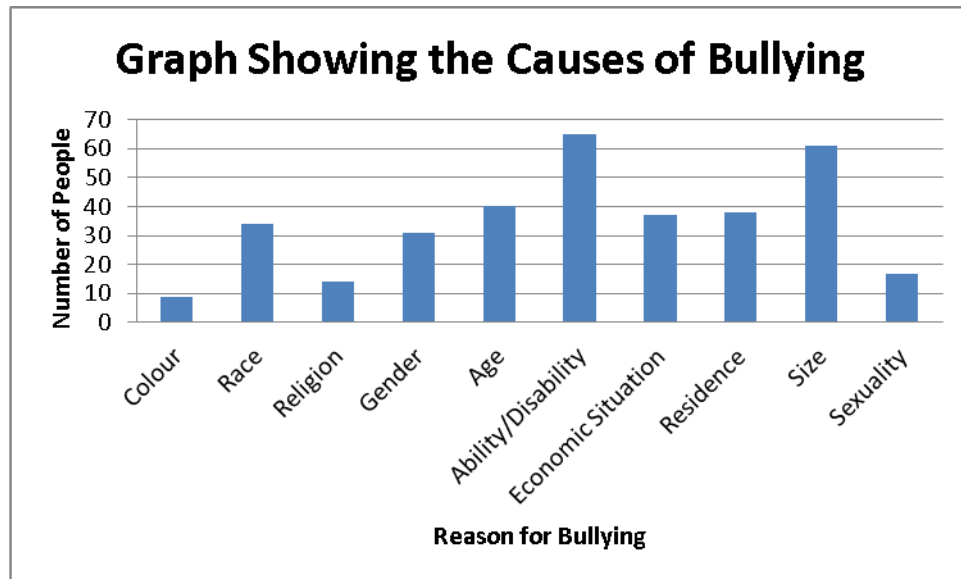
We have been disappointed with the lack of progress by the States in bringing forward what we believe is necessary legislation if Jersey is to be seen as a fair jurisdiction in which to work. While special provisions are still in force to help those employees affected by the collapse of businesses, to eventually be replaced by a properly funded Insolvency Scheme, the long anticipated Redundancy Legislation was delayed once again, Maternity/Paternity provisions have yet to be fully developed and consequently are some years away from implementation and the Discrimination Law, first proposed in 2006, has been shelved due to the spending review.

While the requirement to reduce public spending is appreciated, we do not believe this should be at the expense of a fair and just society and it is very disappointing that in 2010 a wealthy, internationally-recognised jurisdiction such as Jersey does not provide these basic protections to all employees.

Despite this lack of a legal framework we have worked hard to encourage employers to adopt good practice and many set a high standard that is reflected in their profitability, low staff turnover and their overall success. While Jersey may not be willing to adopt the 'gold standard' in relation to European employment practices, to provide so little to the most vulnerable employees is, in our view, not acceptable.

In regard to the need for specific legislation, we were pleased to see that the Bullying Survey undertaken by the Jersey Community Relations Trust fully supported the concerns that JACS has raised in recent years in regard to workplace bullying. While we provide advice and

guidance to employees and employers on this issue, we fully support the Trust's intention to appoint a trained counsellor to work in this difficult area. However, it is our belief that until Jersey introduces Discrimination Law the extent of and damage caused by bullying will not be tackled. Courtesy of the Community Relations Trust, shown below are the causes of bullying identified in their recent survey.



It can be seen that the 'attributes' proposed in the draft Discrimination Law, namely race; sex, disability and age feature strongly in the bar chart.

Once again it has been a traumatic year for many more employees who have been made redundant, with the volume of cases dealt with by JACS only showing a small reduction on the peak reached the previous year. While we expressed the hope in 2009 that statutory redundancy payments would be introduced in 2010, the year passed without the necessary amendments coming into effect and many redundant employees received no financial compensation from their employers other than their contractual or statutory notice. Late in 2010 the amendments to the Employment Law were approved by Privy Council and the States agreed that statutory redundancy payments would be introduced on 1st January 2011.

Further amendments to the Employment Law will be necessary to bring in to force the remaining measures that are intended to ensure fair redundancy procedures, in particular those amendments that will require collective consultation when numbers of employees are at risk of redundancy in an organisation. For the time being at least those who suffer redundancy in the coming months will be entitled to some additional compensation, thereby providing a breathing space while they seek alternative employment or retraining.

There is still a great deal to do in regard to employment law in order to meet the basic standards expected of a fair society. Despite the necessary drive in both the public and private sectors to reduce spending, I reiterate my comment from my last report that Jersey still needs to set minimum legal standards covering maternity/paternity, flexible working and discrimination in order to offer adequate safeguards to all. It is appreciated that further legislation will be seen as an unnecessary burden by some but JACS believes there should be a clear government commitment to a specific, timed program of necessary legislation that

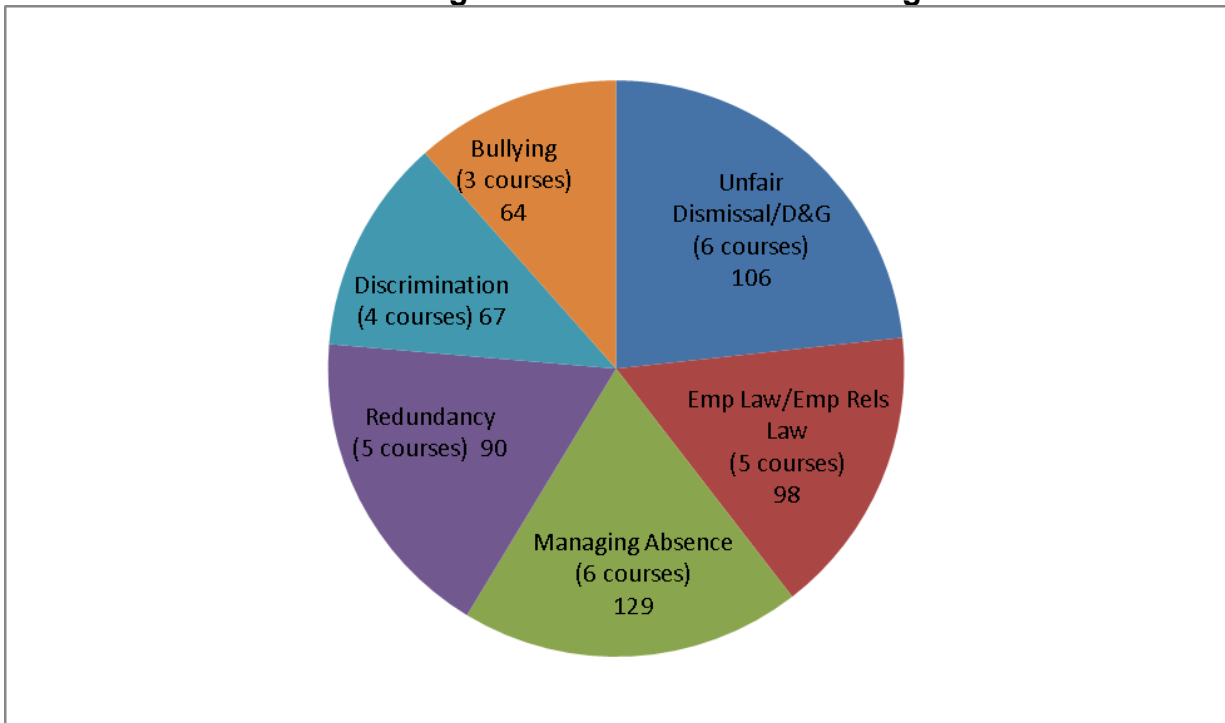
would give reassurance to employees that progress will be made in a reasonable timescale while providing time for employers to plan for its implementation.

Training

Our public training, which in 2010 remained free of charge to all organisations and individuals, focused on those issues that appeared to cause disharmony in the workplace or had the greatest potential to 'trip up' employers in their management of people. Absence management has long been a difficult area for some and, irrespective of the fact that many hundreds of individuals have attended this session over the years, take-up is still strong whenever this program is offered.

Some of our training is offered in advance of, or in anticipation of, legislation e.g. discrimination and bullying. These subjects featured in 7 of our courses throughout the year and to their credit, many organisations have supported these courses by putting forward more than 130 delegates. By so doing have ensured that their managers have an opportunity to explore the positive benefits of a non-discriminatory approach to the employment of their staff. As well as a comprehensive set of training notes, delegates are encouraged to use JACS' website which provides examples of model policies that organisations find useful. Very often delegates return to their businesses and introduce or review their policies and procedures in the light of anticipated legislation and begin educating their own workforce to ensure that discrimination, whether intentional or not, is eradicated from their business.

Public training courses 2010: total 554 delegates



In total, 554 delegates attended our 29 courses, including business owners, line managers, supervisors, human resource specialists and trade union representatives from a whole range of organisations, large and small. Feedback continues to be very positive with all delegates rating the training as 'good' or 'excellent'. St Paul's Centre has proven to be an excellent facility for our training over the years as it offers the space for 20 or more delegates as well as

break-out areas, allowing us to split the delegates into smaller groups of 5 or 6 to work on the case studies that form an integral part of JACS' training. While St Paul's Centre charges room hire fees these are fairly modest compared to other facilities and we have been fortunate as Economic Development Department has provided a grant to cover these fees. We again are grateful to have received support from EDD in 2010 but, unfortunately, the cost-cutting made necessary by the economic climate resulted in our grant being reduced by 50% and, as a result, our ability to provide free training in the future is in doubt.

In addition JACS senior team members have provided free training, workshops or seminars to a variety of interest groups including: Jersey Business School; Chartered Institute of Personnel and Development; States Departments; schools; Institute of Law and the Jersey Farmers' Union. In total, 20 such sessions were delivered by the JACS team and 640 delegates attended, bringing the number of course delegates for all of our training to around 1200.

Resolving collective disputes and improving relationships

The economic uncertainty and the resultant decision by a number of employers to freeze pay or to severely limit any increases led to a very busy year in terms of our involvement in collective disputes and workplace ballots.

In line with the requirements of the recently introduced Employment Relations (Jersey) Law we acted as independent ballot scrutineer for 14 major ballots, the majority within the public sector but a few within large, commercial organisations. As part of that 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.

The requirement to administer a ballot usually follows our prior involvement in negotiations once the parties have reached an impasse in their attempts to settle their dispute. We have assisted a number of employers, groups of staff and trade unions with a range of alternative dispute resolution procedures such as conciliation (informal assistance to help both parties reach their own solution), mediation (which is more formal 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).

Last year saw the number of requests for advice or assistance increase to its highest level yet, with 165 contacts recorded compared to 141 in the previous year. Very often a single dispute 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.

The needs of the parties are paramount in determining the approach we take. While the majority of disputes involved JACS acting as conciliators or mediators with both parties present, on occasions one or other of the parties simply wanted to meet to talk through the issues that they faced. This role as an impartial third party allowed various ideas to be explored before they are put forward as a proposal to settle whatever dispute had arisen.

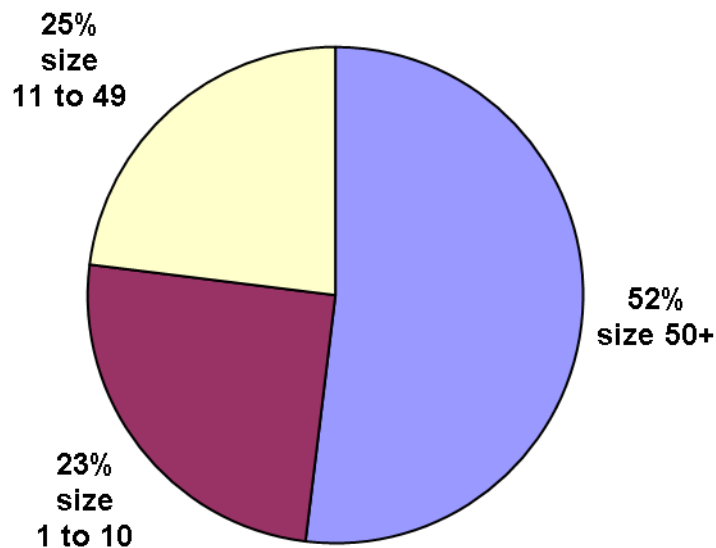
While not always successful in terms of reaching a binding agreement immediately, we have again found that conciliation or mediation helps employers and employee representatives to focus on the reality of the approach that each party is taking in a dispute and provides an

opportunity for one side to reflect on the pressures or restrictions faced by the other. As a result it is frequently the case that 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. All the collective disputes with which we were involved were settled without industrial action, either as a direct result of a settlement being agreed on the day or following further discussions that built on solutions discussed during mediation.

Organisations working with JACS

During the year we dealt with 3526 employer contacts, some of which 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 time-consuming being those associated with restructuring and redundancy.

Organisation size in terms of headcount

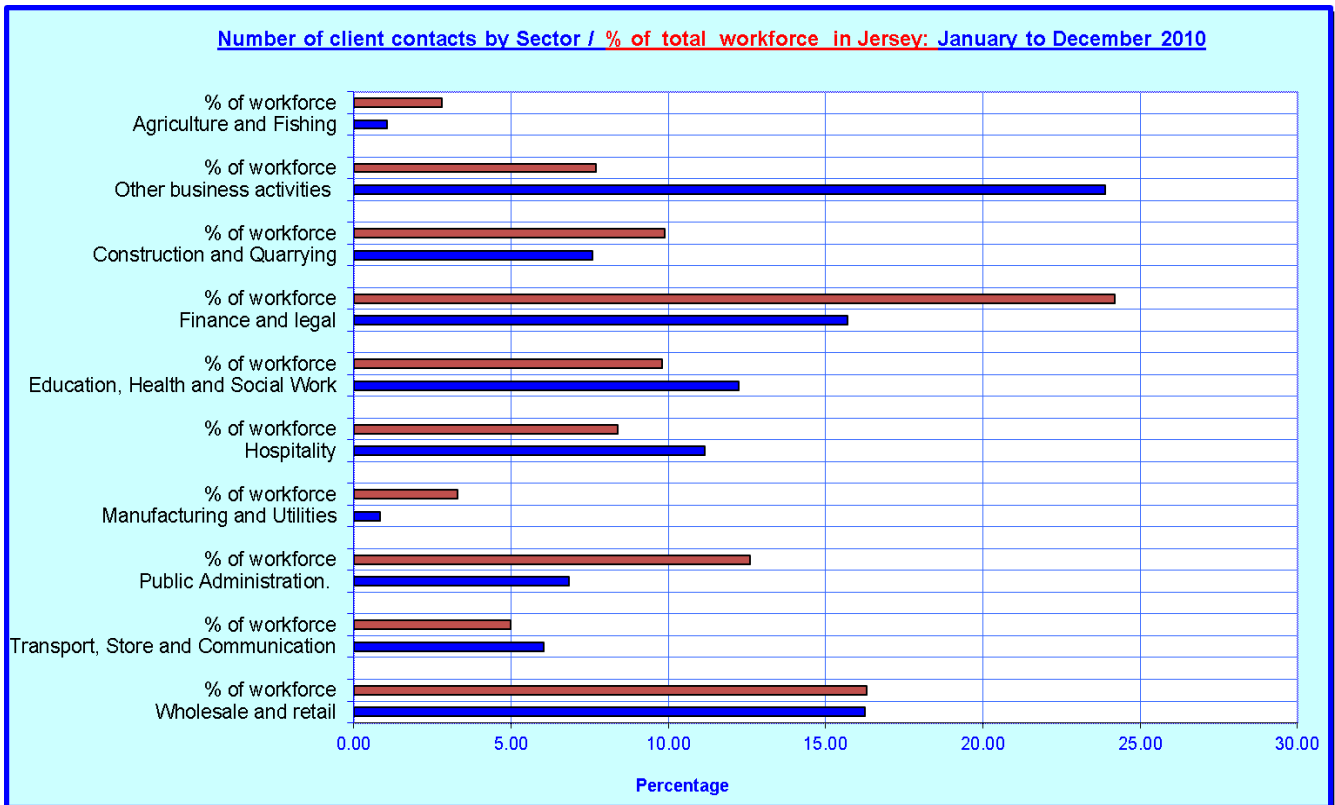


As can be seen, our contacts from employers are fairly evenly divided between those larger employers with 50 or more employees, and those employers with up to 49 employees. Feedback suggests that our service is particularly valued by those businesses too small to employ a specialist HR function which will be the case for the 23% of business clients employing 10 staff or less (around 800 contacts) and probably applies to the remaining 25% employing less than 50 staff.

It is now 5 years since the States implemented the Employment (Jersey) Law 2003 and the number of claims associated with the most basic employment rights has reduced, demonstrating a growing recognition of the importance of sound employment relations and an acknowledgement that all businesses, irrespective of size, have obligations and responsibilities under the Employment Law. Nevertheless, we regularly hear from employees who, for example, believe they have not been paid correctly and when we ask to see their contract it becomes clear that they have not been given written terms of employment. Even

when these cases are progressed to a Tribunal and the correct payment is awarded it is disappointing that the Tribunal is unable to enforce the fine set out in the Employment Law as a deterrent to those employers who flout the Law.

A full analysis of the enquiries from the various sectors that make up our diverse economy is given in the following bar chart, together with an indication of the proportion of the workforce employed in each sector. The category covering 'Other business activities' stands out as having a disproportionately high number of client contacts compared with the percentage of total workforce employed. It is probable that this is due to the magnitude of the effect of the recession on general business and the sheer volume of problems that this has given rise to for employers and employees alike.



Staffing

Our team comprises 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. We have coped with the new legislation and complexity of issues raised because, thankfully, we now deal with fewer 'routine' issues and our website, which had 22,000 separate 'visits' in 2010, enabled a great many individuals to obtain the information they required without the need to contact us directly. While stretched at times, the team has continued to deliver an effective service and has met or exceeded the published standards of service, despite the complexity and volume of matters referred to us.

It has again proven difficult to release team members to undertake necessary training which normally takes place in the UK, although we recognise the necessity of JACS advisors and conciliators being up to date and knowledgeable in all employment matters so that we can

offer the professional service expected of us. It has been possible for a team member to attend Acas Collective Conciliation training, while others have attended relevant training courses on redundancy and discrimination in the UK and locally.

Managing our Finances

Over the year the total cost of running JACS was on budget at approximately £339,000. At the beginning of 2010 (having drawn up the budget in 2009) we had hoped to operate under budget in anticipation of harder times to come. However, we faced un-planned costs during 2010 to replace failed I.T. equipment and to enable JACS' contribution to the expensive renovation of the lift that serves the office building in which we have a top floor location. This unbudgeted expenditure meant that, while we were successful in cutting back on other expenditure, the end result was that JACS remained within overall budget. Expenditure included all operational costs, for example rent, rates, insurance, 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.

Our grant from Social Security Department increased by 2.5% to £314,700 under the last stage of a medium-term funding agreement reached in 2005. Regrettably our bank interest income has been negligible, following the rapid decline in bank base rate, and the grant to assist in the provision of free public training which we had previously received from Economic Development Department was cut by 50%. Together, these amounted to a reduction in anticipated income of more than £8000 requiring a greater use of reserve funds than had been anticipated. In addition we were advised that the Comprehensive Spending Review covering the years 2011 to 2013 would inevitably result in a reduction in the real value of our grant during the next few years.

For the future, the level of funding we are likely to receive presents a serious concern and the Board is considering the implication for JACS' operation, services and staffing levels. The complexity and volume of employment legislation that we are required to deal with and advise upon will certainly increase further and the number and complexity of conciliations we undertake, whether pre- or post-Tribunal claim, is expected to increase in direct proportion. While we are well aware of the necessity for careful cost control and reduction in expenditure, there is a high degree of friction between an increase in demand for JACS' services and a further reduction in our income.

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

Future Plans

Proposals to introduce new legislation have been delayed as previously reported. In part these delays appear to be related to decisions reached by Ministers in relation to the Comprehensive Spending Review (for example the delay in the introduction of Discrimination Law, the basis of which was consulted upon publicly in 2006); other delays (for example in introducing Redundancy legislation) appear to be due to the time taken for legislation to receive Privy Council approval. If this situation is likely to continue, we believe that the use of Regulations should be explored rather than continual changes to primary legislation.

Despite the above, over the next few years we expect to see the introduction of a number of new laws, or amendments to the Employment Law. Certainly in the immediate future there will be amendments dealing with further aspects of Redundancy, namely collective consultation and in the medium term we expect to see further proposals for Discrimination and Maternity,

Paternity and Family Friendly Laws as well as the introduction of a formal Insolvency Fund. Despite there being some uncertainty over the timescale for legislation, we shall continue to develop the skills and knowledge of the JACS team to ensure that we keep 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.

I regret the need to introduce a minimum charge for attendance at our training courses, necessitated by a reduction in income, but 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 2011 will be another difficult year economically and we will do our best to help employers, trade unions and employees to manage fairly any restructuring of within their businesses that is necessary, as businesses cope with the continued economic uncertainty.

Smaller businesses are key to developing employment opportunities and we will continue to provide advice and assistance to such businesses. We recognise that such organisations may not welcome the increased legislation that we believe is necessary and which we understand will be introduced, as it is often difficult for business owners or managers to cope in the absence of dedicated human resources functions. While we will continue to support all organisations and their employees, irrespective of size, we will focus on the needs of smaller organisations, ensuring they have ready access to model policies, to necessary procedures and to guidelines which will help them to deal with the employment issues that will arise.

Summary

In my last report I stated we expected that redundancy would continue to feature throughout 2010 and this has proven to be the case. My expectation is that 2011 will not see a great deal of improvement in the conditions that we face and the challenges these present, at least during the first half of the year. When employers are forced to tighten their belts or to reduce their workforce, it appears inevitable that disputes will erupt. Many employers, employees and trade unions have asked JACS to assist in dispute resolution in 2010 in an attempt to avoid damaging industrial relations confrontation. While any dispute between employees and their employer is regretted, as disputes do not create the environment in which an organisation can thrive, we have seen a willingness to try to resolve problems by consultation, conciliation and mediation rather than by litigation or industrial action.

Change, though necessary, is rarely comfortable and the next 12 months will be critical to Jersey's future prosperity. I believe those organisations that work hard to encourage their staff to embrace change, and those staff that work with the employer to limit the negative reactions that change can create, will be the ones that will benefit as the economy improves. This approach of working together is essential if Jersey is to make the most of opportunities that do arise.

We continue to encourage all employers to seek advice to ensure that their policies and actions conform to good employment practice and to employment legislation. 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.

As stated elsewhere in my report, in the medium term we expect States of Jersey to progress its stated intention to move forward to Phase II of the employment legislation program which will have significant implications for employers of all size in every employment sector. We encourage those in authority to set out a timescale of planned legislation that will inform and advise employers and trade unions so as to facilitate proper preparation and training which JACS will fully support.

Finally, I once again record my sincerest appreciation for the support provided by Patricia Rowan, Trish Weston and Chrissie Hennessy, all of whom have worked tirelessly to exceed the expectations of our clients, as evidenced by the many letters of thanks they receive.

My thanks also to my Chairman, Tom Slattery, who has again offered his time willingly whenever advice and guidance is requested, as have his fellow Board Members. JACS is fortunate to be able to call on the time of Board Members who provide their services willingly in an honorary capacity.

David Witherington
Director

22nd February 2011

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.