



Report to: Professional Standards Committee
Agenda item: 6
Date: 17 January 2013
Subject: Employment Tribunal and Grievance (Resolution) Update
Sponsor: Director of Corporate Resources. Authored by Clare Conaghan
For: Information

1. PURPOSE OF PAPER

1.1 This paper is presented to update the Professional Standards Committee on the latest position in respect of Employment Tribunal (ET) and Grievance (Resolution) cases.

2. EMPLOYMENT TRIBUNALS

2.1 From 1st January 2012 to 31st December 2012 there were 14 ET claims submitted. This compares with 24 submitted during the 12 month period 1st January 2011 to 31st December 2011.

2.2.1 The table below shows the current Employment Tribunal status for this quarter to 31 December 2012.

ET STATUS	This quarter	Last quarter
No. of Live ET's (at end of quarter)	7	7
No. of New ET's (during quarter)	3	2
No. of Closed ET's (during quarter)	4	4
No. of Live ET Appeals (at end of quarter)	0	0
No. of New ET Appeals (during quarter)	0	1
No. of Closed ET Appeals (during quarter)	0	1



2.2.2 The table below shows the breakdown of Allegation Type, by Area for this quarter to 31 December, including comparative data, as requested.

Allegation Type	HQ	LN	LS	LU	NE	NW	SC	WW	Grand Total (Jan 12 to Dec 12)	Grand Total (Jan 10 to Dec 11)	Indicator Column
	% of Force Staff¹	23	14	12	21	8	8	6			
Sex (including pay) discrimination	1	2	0	0	0	0	0	1	4	5	-1
Disability discrimination	2	0	0	0	0	0	0	0	1	4	-3
Sexual orientation discrimination	0	2	0	0	0	0	0	0	2	1	-1
Race discrimination		3	0	1	0	0	0	0	4	9	-5
Religion or belief discrimination	0	0	0	0	0	0	0	0	0	0	0
Age discrimination	1	2	0	1	0	0	0	0	4	4	0
Unfair dismissal (including constructive dismissal)	6	0	0	1	0	0	0	0	7	4	+3
Whistleblowing	2		0	0	0	0	0	0	2	1	+1
Other payments owed	1		0	0	0	0	0	0	1	4	-3
Other complaints	1	1	0	0	0	0	0	1	3	10	-7
Allegations TOTAL (Cases TOTAL)	14 (8)	10 (2)	0 (0)	3 (2)	0 (0)	0 (0)	0 (0)	2 (2)	26 (14)	42 (24)	-16
% of ET Cases	51	14	0	14	0	0	0	14			

Please note, this total will differ from the overall number of claims submitted, as some claimants sight more than one allegation.

2.3. There have been no ET hearings in the reporting period.

2.4 The 15 day hearing that was listed for 15th October 2012 for Constructive Unfair Dismissal and 'Other Complaints' following a protected disclosure, has been re-listed for 25th February 2013 to 18th March 2013, following an error on the tribunals part. The Disability Discrimination hearing listed for 13 and 14 December 2012, was converted to a PHR, at which BTP were hoping to get the claim 'struck out'. The claimant failed to attend on the day, then withdrew his claim, therefore judge agreed to dismiss the claim.



2.5 In summary, 2012 saw a large reduction in overall claims. Six claimants withdrew their claims following BTP's rebuttal of their claim, 2 were settled via ACAS, a further 2 are under negotiation for settlement on a commercial basis, with 4 likely to go to trial this year.

3. GRIEVANCES

3.1 The last paper presented looked at the second quarter in 2012/13. The decision was previously taken for future reporting to review the data on a rolling 12 months period with the previous 12 months in line with the PSD quarterly report to the Committee. This means that larger data sets are available to be analysed and trends identified.

3.1.1 This paper does not include ethnicity / gender data as it was agreed with the Committee that this will be reported annually, rather than quarterly for PSD.

3.1.2 This paper therefore looks at the period from 1st January 2012 to 31st December 2012 and compares this against the previous 12 months from 1st January 2011 to 31st December 2011. Some comparisons are also drawn with last quarter's report.

3.1.3 It should be noted however that due to the various changes in policy and how the information is recorded on Centurion, we are not able to provide comparable data on all of the sections. This will be rectified when the rolling dates commence at the 1st April 2011.

3.2 Grievance Analysis

3.2.1 For the period 1st January 2012 to December 2012, 70 grievance cases were recorded compared to 129 grievances for the period 1st January 2011 to 31st December 2011. This is a reduction of 59 grievances. The total number of allegations is slightly higher than cases as some grievances have multiple allegations attached to them.

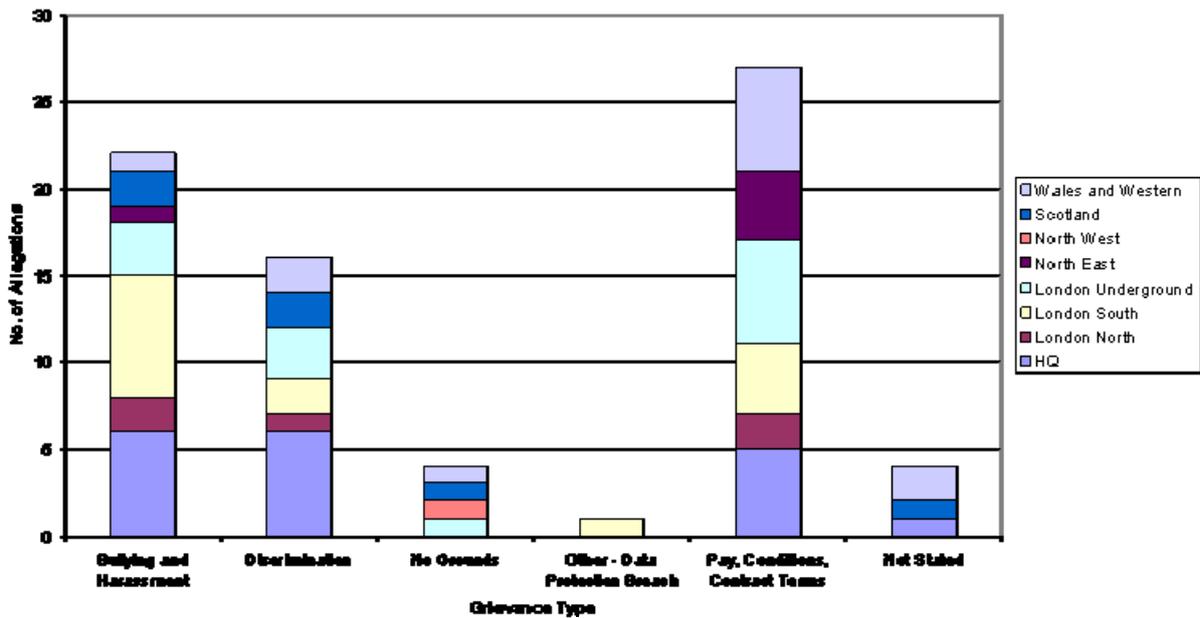


Recorded Grievances

Allegation Type	HQ	LN	LS	LU	NE	NW	SC	WW	Grand Total (Jan 12 to Dec 12)	Grand Total (Jan 11 to Dec 11)
% of Force Staff	23	14	12	21	8	8	6	8		
Pay, Conditions, Contract Terms	5	2	4	6	4	0	0	6	27	36
Bullying and Harassment	6	2	7	3	1	0	2	1	22	33
Discrimination	6	1	2	3	0	0	2	2	16	17
No Grounds (rejected)	0	0	0	1	0	1	1	1	4	0
Other	0	0	1	0	0	0	0	0	1	9
Not Recorded	1	0	0	0	0	0	1	2	4	37*
Allegations TOTAL (Cases TOTAL)	18 (18)	5 (5)	14 (12)	13 (13)	5 (5)	1 (1)	6 (5)	12 (11)	74 (70)	132 (129)
% of Grievance Cases	24	7	19	18	7	1	8	16		

*Centurion change to how cases are recorded – cases are now recorded with a specific allegation however prior to this it was free text.

**Grievance Allegations Recorded by Type and Area
Jan 12 - Dec 12**





-
- 3.2.2 Compared to the last report, the North East Area has reduced the number of grievances proportionate to the numbers of staff. The North East Area accounted for 8% of staff in both reports but their proportion share of all grievances has dropped from 16% to 7%.
- 3.2.3 The two Areas that were disproportionately over represented when comparing their proportion share of grievances to staff levels were Wales and Western (16% share of grievances from only 8% of force staff) and London South Area (19% share of grievances from 12% of force staff). London North and North West however show the converse with staff (14%, 8%) being higher than cases (7%, 1%).
- 3.2.4 The majority of allegations (36%) relate to pay, conditions and contract terms in this rolling year. Excluding the allegations which didn't have a type recorded, in the previous period pay, condition and contract terms was again the highest (38%).
- 3.2.5 The number of bullying and harassment allegations also continue to be of concern (30%) but this has decreased from the proportion of specified allegations in the previous period (35%) and has decreased from the previous quarterly report (35%).
- 3.2.6 Proportionally, discrimination allegations have increased from the previous year (18%) to this year (22%).
- 3.2.7 There were four grievances (5%) that were not accepted, as there were 'no grounds' for the grievance in this rolling year compared, to none for the previous year.
- 3.2.8 Looking at the allegation types, pay, conditions and contract terms grievances were raised the most in London Underground and Wales and Western Areas (each with 22%), followed by Headquarters with 19%. This is of particular relevance for Wales and Western Area as they only had an 8% share of Force staff. Both North West and Scotland Areas had no grievances raised relating to pay, conditions and contract terms. In the previous report, North East Area had a 32% share of pay, condition and contract related grievances but this has dropped to 15% for the recent twelve month period.
-



3.2.9 London South accounted for almost a third (32%) of all bullying and harassment grievances from only a 12% share of Force staff. Headquarters had the second largest share accounting for 27%. Both of these Areas have increased as they each had a 23% share of bullying and harassment grievances in the previous report.

3.2.10 For Discrimination, Headquarters accounted for a 38% share of all discrimination grievances from only a 23% share of Force staff. This is high but is an improvement on the last quarter report (50%).

3.2.11 Looking at the Areas, 80% of grievances raised in the North East Area were pay, conditions and contract terms related. Other points of note were that 50% of the grievances in Wales and Western were pay, conditions and contract terms related and 50% of grievances in London South Area were for bullying and harassment.

3.2.12 North West Area had only one grievance for this period (1% of all grievances). Breaking down by both BTP Area and type of grievance, the single highest share of grievances were bullying and harassment grievances in London South Area, accounting for 9% of all 74 allegations.

3.3 Closed Grievance Cases

3.3.1 The following table shows all the closed grievances for the two periods and is broken down into the various stages at which a case is closed. It should be noted that the reference to "result not in category" refers to the historic case recording practices which have now been revised. Furthermore, "grievance rejected" is now recorded as "no grounds" in the allegation field and will be closed at stage one.

3.3.2 There was one case from London Underground Area that was classed as 'de-recorded'. This has not been included in this analysis or the totals as it was technically not accepted as a grievance. For the purposes of this analysis, grievances withdrawn at any given stage will be classed as resolved at that stage as they have not progressed further. The two grievances rejected from 2011 are also left out of the 2011 total.



Case Result Type	HQ	LN	LS	LU	NE	NW	SC	WW	Grand Total (Jan 12 to Dec 12)	Grand Total (Jan 11 to Dec 11)
% of Force Staff	23	14	12	21	8	8	6	8		
Stage1	7	0	1	0	2	1	1	6	18	12
Stage1 Withdrawn	1	0	0	2	0	0	0	0	3	5
Stage2	9	4	7	6	7	1	2	2	38	33
Stage2 Withdrawn	0	0	0	0	0	0	0	0	0	3
Stage3	1	3	2	6	1	0	0	2	15	14
Stage3 Withdrawn	0	0	0	1	1	0	0	0	2	3
Grievance Rejected	0	0	0	0	0	0	0	0	0	2
Result Not In Category	0	4	0	0	0	0	0	0	4	30
Cases TOTAL	18	11	10	15	11	2	3	10	80	100

3.3.3 The current period has seen 26% of grievances resolved at stage 1, 48% resolved at stage 2, 21% resolved at stage 3 and 5% where the result was not in a category.

3.3.4 Excluding grievances that were classed as ‘result not in category’, it is possible to compare the proportions of grievances resolved at each of the three stages from the previous rolling twelve months to the current period. This shows that grievances resolved at stage one have increased slightly (24% in 2011 to 28% in 2012), stage two have remained roughly the same (51% for 2011 and 50% for 2012) and those resolved at stage three decreased slightly (24% in 2011 to 22% in 2012).

3.3.5 Looking at the breakdown by ‘stage resolved’ of the grievances for the current 12 month rolling period, Headquarters had the greatest share of stage one resolved grievances (38%) followed by Wales and Western with (29%).

3.3.6 The Areas that accounted for the greatest shares of stage two resolved grievances were Headquarters (24%) and North East (18%). North West, Scotland and Wales and



Western Areas all had comparatively low numbers of grievances that were resolved at stage two.

3.3.7 London Underground Area had the highest share of all stage three resolved grievances (41%). London North Area had no cases resolved at stage one and 18% of all cases that were resolved at stage three. Headquarters only accounted for 6% of stage three resolved grievances (even though they had a 24% share of all grievances raised) and both North West Area and Scotland Area each had no grievances that developed to stage three.

3.3.8 All grievances where the result was not in a category (4 grievances) were from London North Area and this accounted for over a third (36%) of all London North grievances.

3.3.9 Looking at the breakdown by BTP Areas, the Areas that were resolving the majority of their grievances at stage one were Wales and Western Area (60%), North West Area (50%) and Headquarters (44%). These three were well above the average for stage one resolution (26%). London North Area did not resolve any of their grievances at stage one. London South and North East Areas had a high proportion of their grievances resolved at stage two (70% and 64% respectively).

3.3.10 The Areas that were above the average (21%) for stage three resolutions were London Underground (47%) and London North Area (27%). Headquarters only had 6% of their grievances resolved at stage three and North West Area and Scotland Area had no stage three grievances.

3.3.11 These percentages cannot be compared directly to the last quarters report as the percentages of cases 'closed' at each stage were worked out for the previous report not including those grievances that were 'withdrawn' at each given stage. It should also be noted that this data is distorted due to the volume of cases closed as "result not in category" in the previous rolling year (only 5% this rolling year compared to 30% last rolling year).



3.4 Closed cases

3.4.1 The table below shows the number of cases closed for the two periods and is based on working days inclusive of bank holidays. Four of these cases each involved two allegations.

Working Days to Close	HQ	LN	LS	LU	NE	NW	SC	WW	Grand Total (Jan 12 to Dec 12)	Grand Total (Jan 11 to Dec 11)
Less than 40 Days	12	3	4	8	3	1	1	6	38	54
40 - 70 Days	3	1	1	3	2	1	2	0	13	18
Over 70 Days	3	7	5	5	6	0	0	4	30	31
Cases TOTAL	18	11	10	16	11	2	3	10	81	103
% of cases over 70 days	17	64	50	31	55	0	0	40	37	30

3.4.2 The data shows that 47% of cases were closed in less than 40 days. Cases closed within 40 to 70 days accounted for 16% of the total, and 37% of cases took over 70 days to close. Compared to the previous rolling 12 months, a lower proportion of cases were closed within 40 days (47% in 2012 compared to 52% in 2011). Additionally, a higher proportion of cases took more than 70 days to close (37% in 2012 compared to 30% in 2011).

3.4.3 Breaking this data down by BTP Area allows comparisons between each area. Headquarters closed the largest proportion of their grievances in less than 40 days (67%), followed by Wales and Western Area (60%). London North and North East Areas each only closed 27% of their grievances within 40 days, well below the overall average of 47%.

3.4.4 North West and Scotland Areas each had no grievances that took more than 70 days to close. Conversely, London North had 64% of their grievances that took more than 70 days to close. This follows in line with the previous quarter report (76%). The 64% this rolling year included seven grievances, four of which are explained later. These seven grievances accounted for 23% of all grievances that took over 70 days to close, and is of



particular note as London North Area accounted for only 7% of all grievances raised overall. This was followed by North East Area with 55% and London South Area that had 50% of grievances taking more than 70 days to close. These three were all above the average of 37% of grievances closed in over 70 days.

3.4.5 As of 31 December 2012 there are 18 ongoing grievances that have taken more than 70 days to close. An update on these will be provided at the meeting.

3.5 Closed cases – Three Monthly Breakdown

3.5.1 There were 81 grievances that were closed for the rolling twelve month period 01/01/2012 to 31/12/2012. From these 81, the table below shows a breakdown by BTP Area, in three monthly blocks of how long these cases took to close.

Working Days to Close (3 Month Blocks)	HQ	LN	LS	LU	NE	NW	SC	WW	Grand Total (Jan 12 to Dec 12)	Percentage of Total
Within 3 months	16	6	6	12	5	2	3	6	56	69%
3 - 6 months	1	0	2	3	5	0	0	2	13	16%
6 - 9 months	1	2	1	1	1	0	0	2	8	10%
9 - 12 months	0	3	1	0	0	0	0	0	4	5%
Cases TOTAL	18	11	10	16	11	2	3	10	81	n/a

3.5.2 The majority of cases (69%) were closed within three months and a further 16% were closed within six months.

3.5.3 Four cases (5%) took between nine months and twelve months to close. One of these was a grievance raised in London South that took 350 days to close. This case was a discrimination grievance that was ‘stage three initiated’. The other three cases were all London North grievances that were classed as miscellaneous (all three were first recorded in the last quarter of 2010 and all three were finalised on 20th January 2012). There was also a further fourth London North grievance that was ‘miscellaneous’ and took 272 days to be closed.



-
- 3.5.4 Looking at BTP Areas, North West and Scotland Areas resolved all of their cases within three months and each had no cases taking longer than three months to close. Headquarters resolved 89% of their cases within three months and London underground resolved 75%. Headquarters and London Underground also each only had 6% of their grievances that took more than six months to close.
- 3.5.5 North East Area resolved the lowest proportion of their grievances closed within three months (45%), but they resolved 90% of their grievances within six months. London North Area took six to twelve months to resolve 45% (5 cases) of their grievances. This was three times the overall average of 15% (for six to nine months), but four out of these five cases were the historic miscellaneous cases mentioned earlier.
- 3.5.6 In the last quarter report, we highlighted inconsistencies by the HR Advisers when closing down grievances, this has now been addressed. We have now agreed and set working procedures for the team to ensure consistency.
- 3.5.7 The new Resolution SOP has now been launched, therefore going forward, BTP will not record grievances resolved informally.

4. RECOMMENDATIONS

- 4.1 It is recommended the Committee members note the content of this report.