

# The Jersey Advisory and Conciliation Service 2009



Annual Report 2009

# The Jersey Advisory and Conciliation Service

## ANNUAL REPORT 2009

<b>Page 3</b>	<b>Board members and staff</b>
<b>Page 4</b>	<b>“Year 2009 in numbers”</b>
<b>Page 5</b>	<b>Chairman’s Foreword</b>
<b>Page 7</b>	<b>Director’s Report</b>
<b>Page 20</b>	<b>About JACS</b>

# Annual Report 2009

## The Board

<b>Chair</b>	Tom Slattery (from 29 <sup>th</sup> January; Michael Berry retired)
<b>Deputy Chair</b>	Ed Daubeney (from 29 <sup>th</sup> January)
<b>Board members</b>	Julie Crabtree John Moulin Lorna Pestana Kevin Keen David Warr

## The JACS Team

<b>Director</b>	David Witherington
<b>Team members</b>	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 – 2009

(2008)

<b>8927</b>	(8575)	Enquiries received in total
<b>4721</b>	(4521)	Employee enquiries (or others on their behalf)
<b>4206</b>	(4054)	Employer enquiries
<b>1725</b>	(1985)	Enquiries from employers employing less than 50 staff, 52% of these employing less than 10 staff.
<b>1500</b>	(1138)	Attendees at 52 workshops, training courses and seminars
<b>307</b>	(299.5)	Thousand pounds received as annual States Funding (£7,500 [2.5%] increase from 2008 funding level).
<b>141</b>	(153)	Requests for advice or conciliation in respect of collective disputes and trade union recognition.
<b>163</b>	(127)	Claims passed to JACS by the Tribunal
<b>102</b>	(96)	Tribunal claims resolved, 72 (70.8%) by conciliation
<b>24</b>	(22)	Thousand visits made to our website <a href="http://www.jacs.org.je">www.jacs.org.je</a>
<b>7</b>	(7)	Board members
<b>4</b>	(4)	Staff members, including 1 part-time advisor/administrator
<b>1</b>	(1)	Website: <a href="http://www.jacs.org.je">www.jacs.org.je</a>
<b>0</b>	(1)	New employment law in force in Jersey during 2009.

## Chairman's Foreword

I am delighted to introduce the 2009 Annual Report of the Jersey Advisory and Conciliation Service, my first Foreword since taking over as Chairman from Mike Berry in January.

Mike was the founding Chairman in 2001 and on behalf of the Board I should like to acknowledge the outstanding contribution he made during his eight years in office, where his guidance and commitment were key factors in the development of the JACS we have today.

2009 has seen the impact of the world recession progressively hitting Jersey. For the first time for many people the spectre of redundancy has become a reality not only in the retail sector, where Woolworths was a highly publicised example, but also in the banking, financial services and legal sectors. As David Witherington notes in his Report, requests for advice on redundancy and layoffs from employers and employees more than doubled in 2009.

The lack of appropriate redundancy legislation was highlighted early in the year by the Woolworths' closure. It is disappointing that while draft legislation on redundancy has been with the States for a considerable period it is unlikely to be on the Statute book before Spring 2010. JACS has however been proactive in advising employers to adopt good practice as envisaged in the new law.

In our 2008 Report it was also anticipated that the Discrimination Law would commence implementation in 2009 and JACS has continued to develop and undertake training programmes to support this. Again however legislation has been delayed and while it is understandable that the States want to make sure that new legislation meets the needs of the Island, continual delay makes planning a difficult process for JACS and also for employers.

A key role for JACS is assisting in the education of employers and employees as regards best practice and helping in explaining new employment related legislation before and after enactment. We appreciate the logistical difficulties in drafting and implementing new legislation but equally we feel that a more robust programme should be built into the States planning process so that bodies like ourselves can plan our priorities in a complementary fashion. To assist in this we are working with Social Security Department, the source of JACS funding, to prepare rolling plans which will better match our priorities with ongoing legislation timetables.

During 2009 we have continued to see a growing demand for all our services as the "Year in Numbers" section emphasizes. There has been a particular focus on helping employers and employees address the problems raised by the recession. It is encouraging to note that the source of queries continues to be fairly evenly balanced between employers and employees indicating that we are providing unbiased support. The confidence placed in JACS is also reflected in the growth in the number of attendees at our training courses which rose in the year by over 30% to 1500. Finally it is reassuring to see that the significant majority of cases referred to the Employment Tribunal continue to be resolved through JACS.

These successes are wholly attributable to David Witherington and his team and I should like to thank them all for their commitment, enthusiasm and consistently positive approach especially when dealing with increasingly difficult issues over the year.

Julie Crabtree and John Moulin joined the Board in January 2009 and Ed Daubeney also became Deputy Chairman at that time. I would like to express my sincere thanks to them and to all the Board members for their enthusiastic involvement and constructive input throughout the year.

Finally I would like to thank the Social Security Minister, Deputy Ian Gorst, and his colleagues for their ongoing support in sustaining JACS as an increasingly significant part of employment relations in Jersey.

**Tom Slattery**

**Chairman**

## Director's Report

2009 has been a year of economic turbulence, with official confirmation of Britain's first major recession since the 1990s. And the consequences for many employers and workers have been clear: job insecurity; disputes over pay; and tensions in the workplace. JACS has been seeing the real human costs of this economic change. Our advice-line, which is a good indicator of the state of the workplace, has shown that calls for advice on redundancy and lay-offs, from employers and employees alike, increased by 130% over the previous year's total. We know that recessions stimulate a rising trend in Employment Tribunal cases and this has certainly been the case over the past year with the Tribunal passing 28% more cases to JACS for conciliation.

It's against this particular backdrop that JACS has shown its real worth both reassuring and advising people concerned about their livelihoods and conveying tough messages when necessary. These messages have included urging employers to do the right thing when considering redundancies or restructuring and reminding trade unions and their members to follow 'due process' when advancing their interests. The Employment Relations (Jersey) Law 2007, which has been in force since early 2008, while not welcomed by all, has introduced an important structure to collective issues, including what is reasonable in furthering a dispute.

While the States of Jersey reacted with special provisions to help those employees affected by the closure of Woolworths just over a year ago, it is a sad fact that at the time of writing Jersey still has yet to introduce legislation on redundancy, which is to be enacted as soon as possible following Privy Council approval, hopefully by March 2010. Despite this lack of a legal framework, we have worked hard to encourage employers to adopt good practice as set out in the draft legislation. In particular we have seen some success in our efforts to encourage employers to consult meaningfully with their staff in an attempt to identify alternatives to redundancy including job sharing, part-time working, reductions in the working week and even reductions in pay while maintaining the same working hours. We have not always been successful but, where such alternatives have been adopted, numbers of jobs have been protected at least for the time being.

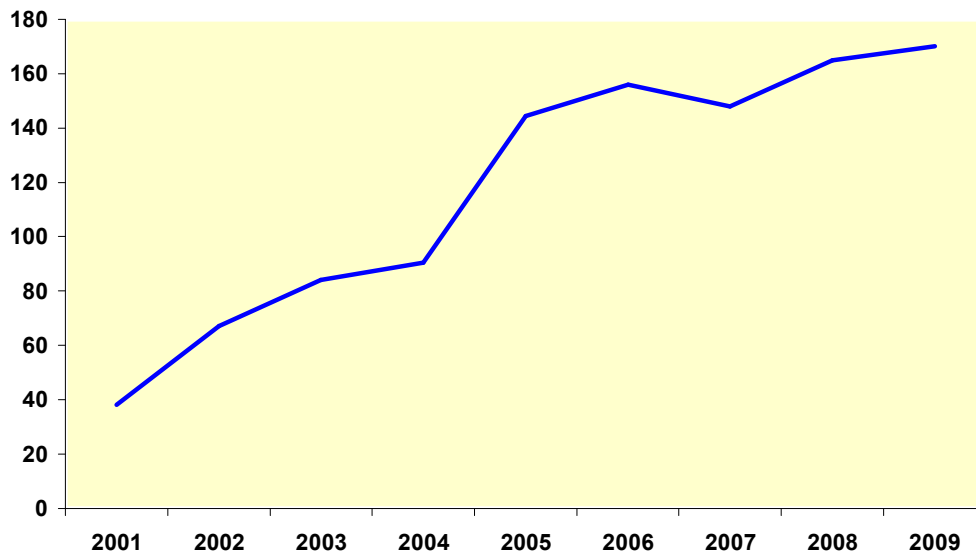
In anticipation of redundancy and restructuring problems during 2009 we decided to augment our free training provision by the introduction of a half-day module 'Redundancy Procedure and the Law' early on in the year. This training was designed with the anticipated legislation in mind but, as importantly, it focused on the encouragement of good practice. So far we have repeated the module 7 times, in addition to our regular training courses, and have spoken on the same subject at a number of conferences, seminars and workshops organised by others or for special interest groups such as the Jersey Personnel Management Group.

While on the subject of anticipated legislation, last year ended as had 2007 with the expectation that we would see the introduction of the first part of the Discrimination Law, namely Race Regulations in the near future. Once again this legislation has been delayed and the indications are that it is unlikely to be implemented next year. While it is understood that there are cost implications as well as high demands on law draughtsmen, there is little doubt in our view that this legislation is much needed. Despite this delay, during 2009 we have further developed our understanding of how discrimination legislation can impact employment relations and again we have been running another new training module, 'Draft Discrimination Law and Employment' during the latter part of 2008 and throughout 2009. Our public program repeated this module 6 times and with a further 3 'in-house' sessions for specific businesses,

a total of 160 delegates have begun to develop their understanding of the draft law, allowing them to help their organisations prepare for this far-reaching legislation when it eventually is in force.

Demand on our services, measured in terms of client contacts, has continued at a high level with approaching 9,000 individual contacts. Given the increasing complexity of cases that we deal with, we are pleased that the increase in workload was only 4%, enabling our small team of conciliators and advisers to keep up with demand and maintain our published standards of service.

### Client Contacts Per Week in 2009



Though still important, resolving disputes is the tip of the iceberg when it comes to what we do. Much of our work is aimed at stopping damaging confrontation in the first place. We 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. But whilst numbers of settlements are important, successful outcomes are also achieved when we help parties to re-establish a direct dialogue between themselves, as we have found this is the best way to improve employment relations in the long term.

With difficult economic times, it is easy for organisations to focus entirely on the needs of their market, on winning and keeping new business but those who ignore the needs of good employment relations do so at their peril. Business is often won or lost on the back of exemplary customer service and that is what organisations pay their staff to deliver. It makes sense, therefore, even in times when it is hard to reward staff by increasing pay or benefits, to make sure that communication lines are open; that staff are treated fairly and with respect; and that those who fail in some way to deliver the quality of work or service that is expected



have these failures pointed out to them and are set realistic targets to achieve within reasonable timescales before the knee-jerk reaction of discipline or dismissal.

Our website [www.jacs.org.je](http://www.jacs.org.je) and 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 free, half-day training courses which remain in high demand. If required, we can provide a 'health check' of an organisation's existing procedures to make sure they comply with the law and with good practice.

Despite the best efforts of employers and employees, disputes do arise in the workplace and dispute resolution occupies a great deal of our time. Employment Tribunal claims are not necessarily the inevitable end result of workplace disputes - the majority of such problems can be resolved satisfactorily without the need for a Tribunal claim to be lodged providing one or both of the parties gets in touch with JACS at an early enough stage. Hundreds of potential claims are dealt with in this way, providing that both parties are willing to compromise to an extent. Of the remaining disputes that do result in Tribunal claims, whether JACS has been involved previously or not, around 70% of these are settled by one of our Conciliation Officers working with the parties in dispute to resolve matters before the date the Tribunal claim is due to be heard.

### **Conciliation in potential Tribunal Cases**

Conciliation and mediation are now well established in the Island as dispute resolution tools and we continue to see success in our efforts to encourage employers, employees and trade unions to request conciliation services when employment disputes arise, whether individual or collective disputes. Indeed, our primary aim is to help employers and employees avoid disputes in the workplace and to assist by conciliation when disputes do occur. If an employee contacts JACS with a problem then, with the employee's permission, we normally contact the employer by telephone or in writing to hear the employer's point of view. This helps us to establish whether we believe there is an issue that may result in a Tribunal claim. If there is, then we encourage the employer and employee to resolve it themselves or, if that proves impossible, we offer to conciliate. This 'pre-claim' conciliation has been a constant feature of our work since our early days and it is interesting to note that only last year, the UK Government required that Acas adopted a similar approach in order to reduce the backlog of Tribunal claims on the mainland.

Third party intervention of this nature is often very helpful and settlements via conciliation can be as simple as the employer issuing proper written terms of employment or clarification of why a particular decision has been made. Not all disputes are resolved so easily - when the dispute has resulted in more serious consequences such as unfair dismissal or constructive dismissal, the solution may well involve significant financial compensation to the employee if the employer agrees that actions he had taken were likely to lead to a successful Tribunal claim. When disputes are settled in this way, with or without compensation, there is no need for either party to attend a public Tribunal Hearing.

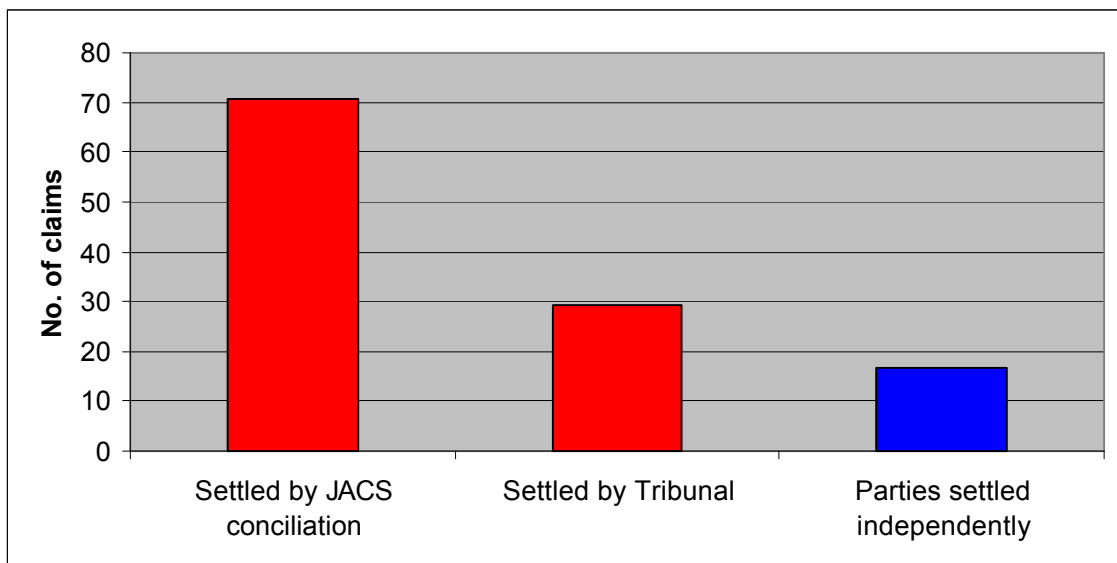
The quality and consistency of our preventative and supportive work continues to go from strength to strength and year on year it has proved possible to settle the majority of potential disputes without the need for litigation. However, it is not always possible to reach a settlement and the employee may elect to submit a formal claim to the Tribunal. On occasions

an employee will have submitted a claim without first coming to JACS. We have a statutory duty to try to promote the settlement of almost every kind of claim to the Employment Tribunal, therefore 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. The economic downturn has led to a rapid and sustained increase in the number of cases passed to JACS for conciliation and we received 28% more individual claims from the Employment Tribunal in 2009, compared with 2008.

In the calendar year 2009 (the Tribunal's figures are slightly different as its annual report covers the period July 2008 to June 2009) the Tribunal forwarded 163 new cases to JACS. Of these, 119 were resolved by one means or another and, at year-end, 44 cases were subject to ongoing conciliation or awaiting resolution. Of the 119 claims that were resolved in 2009, 17 were settled or withdrawn by the parties themselves, often after they had taken advice from their lawyers and/or had discussed matters with JACS.

Of the remaining 102 claims, 72 (70.6%) were settled by JACS conciliation and 30 were settled by the action of the Tribunal.

**Claims resolved in 2009**



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 and not been properly compensated for working on public holidays or been denied some other contractual right. An analysis of the claims received last year shows that they included 189 separate heads of claim.

As in previous years, Unfair Dismissal remains the most significant of the claims made, featuring in 75% of all claims, followed by claims about wages or salaries, and rest periods/annual leave.

In last year's report I reiterated that some employers had felt obliged to settle claims, even when the employee behaved badly or performed poorly, if the claim is based solely on a

procedural fault simply because they saw little point in putting forward the reasons for dismissal as the Tribunal award was based on a set formula to calculate the amount of compensation, irrespective of the behaviour of the employee. This has now been addressed by an amendment to the Law giving the Tribunal the power to reduce the compensation where an employee has contributed to his or her own dismissal. Hopefully, those employers who had expressed a concern about vexatious claims made on the basis that “there is nothing to lose” will see this as a positive step forward. The amendment also gives the Tribunal the power to order the re-employment of an unfairly dismissed employee instead of a financial award in certain circumstances – although it is expected that this will be a rare occurrence.

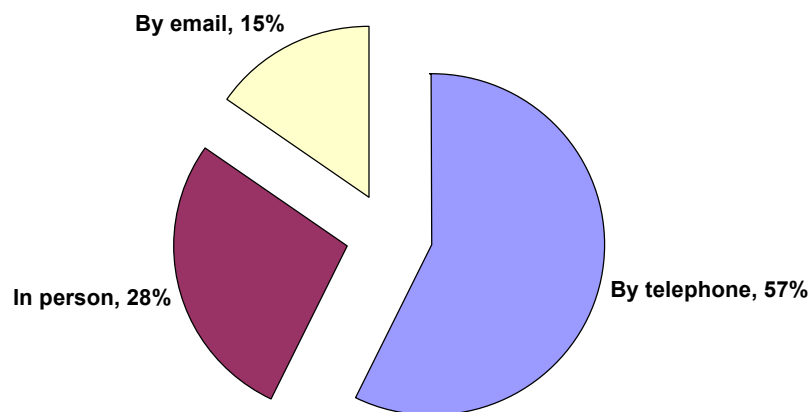
Our website [www.jacs.org.ie](http://www.jacs.org.ie) contains a great deal of useful information, including a model process for redundancy consultation and selection; model disciplinary, capability and grievance procedures as well as a host of other guidelines on dealing with such allegations of bullying or harassment. If employers follow similar procedures to those described then they can reduce the likelihood of a claim being made against them.

Bearing in mind that unfair dismissal claims are still the most numerous and are certainly the most expensive if the claim succeeds, employers should concentrate on ensuring that they adopt fair processes in dealing with matters of discipline or poor performance. The Code of Practice on Disciplinary and Grievance Procedures clearly sets out what is expected of an employer and can also be found on our website.

### Contacting JACS

Our website provides a valuable source of assistance to employers and employees, with individuals making more than 24,000 visits. This often generates an email request for further information or advice.

**Ways in which clients made contact**



Without this facility our workload would increase enormously. However, many clients like to discuss their needs by telephone or on a face-to face basis as can be seen above.

JACS' offices are conveniently located in West's Centre and around 2,500 clients are personal callers, either by appointment or by "drop-in", but our main point of contact remains our advice line (730503) with more than 5,000 clients contacting us by telephone. Our advice line is available from 08.30 to 17.00, Monday to Friday.

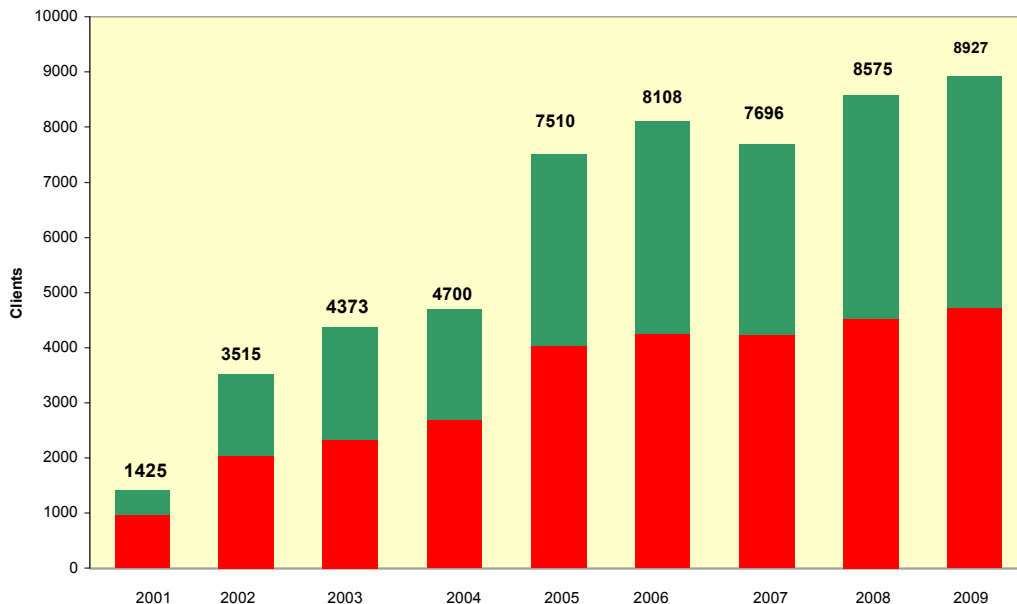
In addition to the website and verbal advice, we have continued to update, develop and add additional model policies and procedures in hard copy and electronic format. Demand remains strong for the A to Z of Work and our guidelines to good practice, particularly among smaller organisations or new businesses and while we will continue to provide printed documents, these are only economic for the basic information that changes little. As a result, our up to date information that is available electronically plays a very important part 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

Since the start of the recession there have been changes to the nature of calls to the JACS advice line. For a period of weeks, queries relating to 'redundancy, lay-offs and business transfers' became the most common call topic and the number of calls recorded addressing more than one subject increased showing a greater demand for our service.

Throughout the year, 172 clients contacted us on average each week which was a relatively modest 4% increase compared to the 2008 level of 165 per week. Nevertheless, last year was our busiest since JACS was opened in 2001. Employees and those persons acting on their behalf accounted for 53% of client contacts (4721).

**Client contacts 2001 - 2009: Employer and Employee**

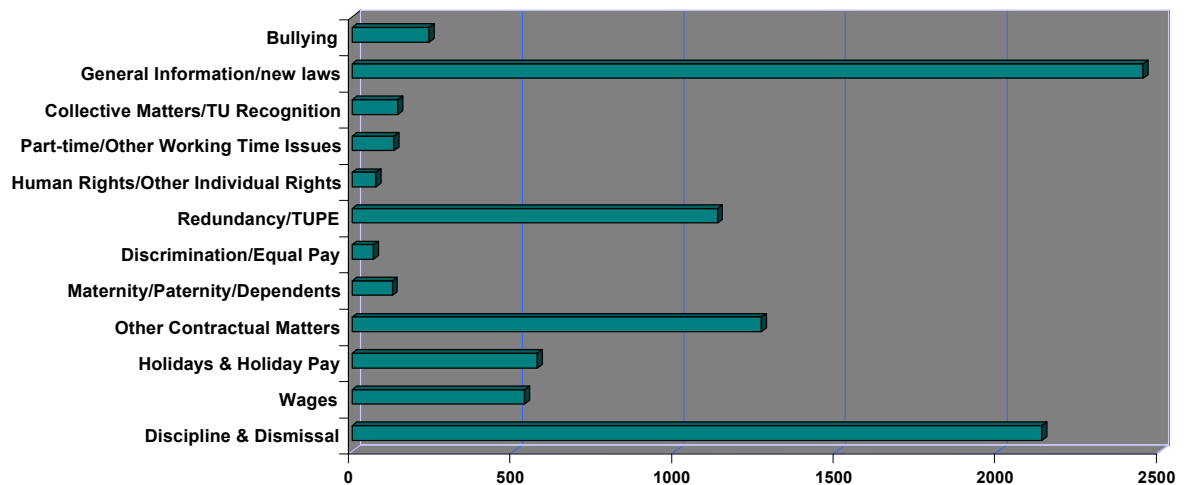


Over the years the complexity of problems with which we become involved has increased markedly particularly those linked to organisational restructuring and the need for meaningful consultation with employees at risk of redundancy. A number of employers appear reticent in

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. The benefits of consultation became clear to many businesses that faced economic pressures, 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.

We advise on a very wide range of employment matters and, in addition to general advice, the predominant issues remain disciplinary and grievance, contractual disputes, redundancy, holiday pay and wage disputes.

**Enquiry Subject Volume January to December 2009**



## Ongoing concerns

In my report for 2008 I expressed regret that, in the absence of any legislation, many employees who are made redundant are only entitled to receive their contractual or statutory notice. One year on and the situation remains the same although it is probable that statutory redundancy payments will be introduced in the first half of 2010. While this will offer some financial buffer to those unfortunate enough to suffer redundancy, thereby providing a breathing space while they seek alternative employment or retraining, it will be too late for many.

While a headlong rush to introduce further employment legislation would be unwise, I would like to see a greater 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. In particular, I believe that Jersey needs to set minimum legal standards covering maternity/paternity, flexible working, discrimination and business transfers in order to offer adequate safeguards to all.

For the previous three years I have expressed my concern and that of my colleagues at JACS at the number of staff that allege they have been harassed, bullied or discriminated against at work. At the end of the first quarter of 2009 we began to record 'bullying' as an issue in its own right, rather than including it within a generic discrimination or human rights category. Bearing in mind that we only see the tip of the iceberg, it is worrying to report that we received 206 complaints from employees or their representatives alleging bullying at work and a further 31 contacts from employers seeking advice about dealing with such complaints. The problem extends to all races and genders, right across the employment spectrum. One of the major problems, even for those organisations that take the matter very seriously, is the inordinate time taken to investigate allegations of bullying, the poor standard of investigation in some cases and the reluctance to deal with "bullies in high places".

Part of our plans for 2009 put forward in my previous Annual Report was the introduction of a half-day training course based around the video "Bully Beware" which we hoped to offer on a free of charge basis. I am pleased to report we have achieved this, with the first course being offered in June 2009 and repeated three times subsequently. The training module has been well received with a total of 84 delegates from local businesses, comprising managers, supervisors and staff representatives.

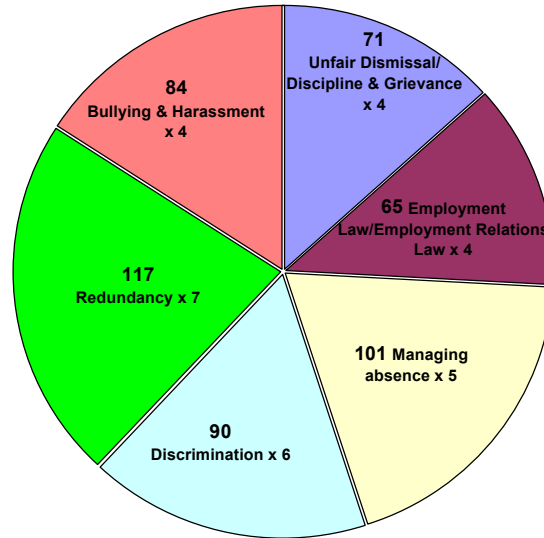
While bullying and discrimination are separate issues, there is often considerable overlap with employees being bullied because of their sex, race, disability or sexual orientation. We had hoped that 2009 would have seen the introduction of the Discrimination Law in Jersey as this, we feel, would have been a first step to tackling this problem in that it would have further encouraged the introduction of policies to deal with discriminatory practices and put in place penalties where the law was broken. Unfortunately for a number of reasons not least financial, there has been little visible progress and it appears unlikely that the first set of regulations dealing with race discrimination will be in place until 2011 at the earliest. Unless the previously published program of intended legislation is revised (race regulations, followed by sex, disability and age regulations at one year intervals) it seems that Jersey employees will not have the protection afforded to their counterparts in the UK and Europe until mid way through this decade.

## **Training**

Early on, when talk of recession was in its infancy, we developed a course on redundancy and restructuring. It examines options available to businesses facing a downturn in activity and includes how to consult with employees at the earliest possible stage. Where redundancies are inevitable, it shows how to implement these in line with obligations as an employer, managing remaining employees to maximise future success. In 2009 we ran this course seven times, providing training to 117 delegates.

Despite the ongoing delay in the introduction of Discrimination Law we have continued to offer a training course in order to build awareness. To their credit, many organisations have supported this course and by so doing have ensured that their managers begin to explore the positive benefits of ensuring a non-discriminatory approach to the employment of their staff. The training has led these businesses to review their policies and procedures in the light of anticipated legislation and to begin educating their own workforce in ways to ensure that discrimination, whether intentional or not, is eradicated from their business. As a result they will be better prepared and will cope more easily with the Discrimination Law when it is introduced, hopefully within the next year or two.

### Number of training modules delivered/delegates attending



As well as the new training modules mentioned above we continued to run our 'old favourites', having redesigned and refreshed the content to reflect changes to legislation and the findings from various Tribunal cases. In total, 528 delegates attended our 30 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' and thanks once again to the support of the Economic Development Department, we have been able to continue our policy of making no charge for attendance, thereby ensuring the availability of quality training to all businesses.

In addition we 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; recruitment agencies; Highlands College and presented topics at various employment conferences and seminars organised by others. In total, 22 such sessions were delivered by the JACS team and 972 delegates attended, bringing the number of course delegates for all of our training to 1,500.

### Resolving collective disputes and improving relationships

The introduction of the Employment Relations (Jersey) Law 2007 requires trade unions (and employers) to act "reasonably" in collective matters, including the use of secret ballots and an independent ballot scrutineer. JACS is frequently called upon to perform this role and, as part of that process, we vet ballot questions and the security of ballot papers, ensure as far as possible that only those entitled to vote do so but that no-one who is entitled to vote is missed out, that only papers returned in accordance with the ballot requirements and by the closing date are counted and that the counting is done accurately. This gives the parties involved the confidence that the outcome of the ballot is fair. During 2009, we acted as scrutineer in 8 major ballots in both public and private sectors.

Our role in helping to resolve collective disputes extends way beyond ballot scrutiny and we have regularly assisted 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 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).

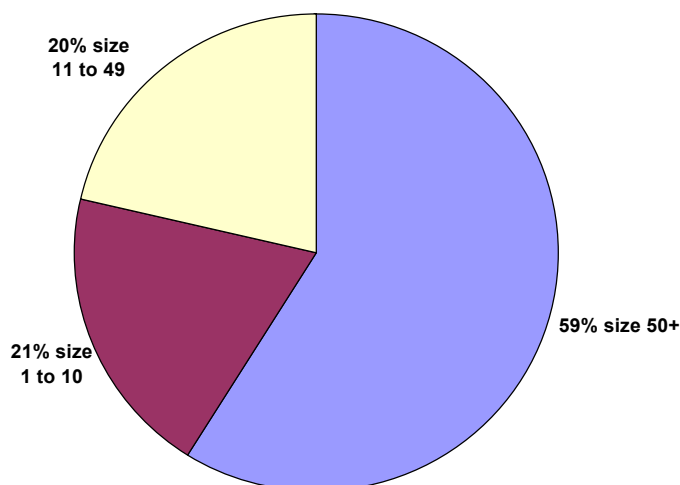
In 2009, the number of requests for advice or assistance decreased marginally to 141 compared to 153 in the previous year. Areas covered included pay disputes, recognition agreements, consultation and negotiation arrangements, grading claims, transfer of undertakings, redundancy, contractual disputes and workplace ballots.

The role we adopt depends on the needs of the parties. On occasions this is limited to discussions with one or other of the parties, clarifying issues and acting as a ‘sounding board’ so that normal negotiations could resume. At other times we undertook full, day-long mediation, involving both parties, where we proposed potential solutions and moved between separate meetings until a point was reached where the parties accepted a particular proposal. While not always successful in terms of reaching a binding agreement, it is rare that mediation fails to move the parties towards a greater understanding of the others point of view, often allowing a solution to be reached at a later date without recourse to damaging confrontation.

### **Organisations working with JACS**

Last year the number of employer contacts increased once again to 4206. While some of these contacts were JACS-initiated, following requests from employees that we contact their employer in an attempt to resolve issues, many more were employer-initiated requests for advice and guidance over a very wide range of subjects, with restructuring and redundancy featuring strongly.

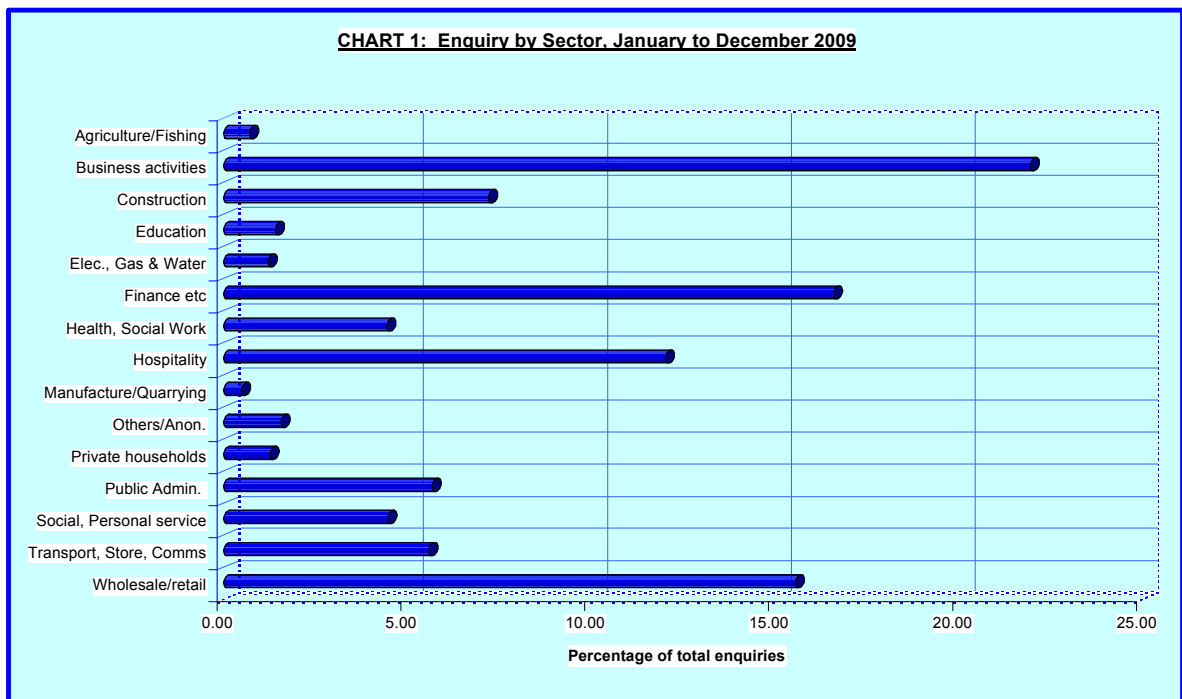
**Organisation size in terms of headcount**





JACS welcomes all requests for advice, irrespective of organizational size, but we are particularly pleased when smaller organisations contact us as we believe this demonstrates 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. We believe that our service is valued by those businesses too small to employ a specialist HR function which will certainly be the case for the 21% of business clients employing 10 staff or less (around 900 contacts) and probably applies to the 20% employing less than 50 staff.

A full analysis of the enquiries from the various sectors that make up our diverse economy is given in the following bar chart.



The most marked change over the previous year is a 50% increase in the volume of contacts in the Finance Sector due to increased activity in business restructuring and redundancy.

### Staffing

Our small team remains as three full-time advisor/conciliators and a part-time advisor/administrator and, 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.

At times we have struggled to release team members to undertake necessary training which normally takes place in the UK but this remains an important part of staff development so that we can offer the professional service expected of us. A greater emphasis will be placed on ensuring that essential training takes place in the coming year.

## **Managing our Finances**

In 2009, the total cost of running JACS was approximately £320,000 compared to budgeted expenditure of £322,000. Expenditure included all operational costs, for example rent, rates, insurance, utility services, printing and publications, upgrading of 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 £307,000 under a medium/long-term funding agreement reached in 2005. Together with other income derived from providing bespoke, in-house training for businesses and a grant from Economic Development Department to help maintain our program of free public training, this has allowed JACS to meet all the demands placed on services and to maintain and improve service levels.

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

## **Future Plans**

While proposals to introduce new legislation have been delayed, over the next year or two we expect to see the introduction of a number of new laws, or amendments to the Employment Law, covering Redundancy and Transfer of Businesses (TUPE) legislation as well as the proposed Discrimination, Maternity, Paternity and Family Friendly Laws. 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.

We reiterate our commitment to helping to avoid and resolve disputes and we shall continue to raise awareness of the important issues through a comprehensive free training programme focused on existing and new legislation, via the media and through our everyday role in dispute resolution and the provision of advice. In addition we will do our utmost to help employers manage fairly any restructuring of their businesses that is necessary, as they cope with the continued economic uncertainty.

We will continue our focus on the needs of smaller businesses, recognising the difficulties that exist for organisations that face economic challenges and an increasing raft of legislation and do so in the absence of dedicated human resources functions. We have achieved a successful dialogue with smaller businesses and will continue to ensure we support their needs and those of their employees, in addition to that of larger organisations.

## **Summary**

Redundancy has been a grim feature of 2009 and will, I believe, continue to feature throughout 2010. The next 12 to 18 months will be critical to Jersey's future prosperity and those businesses or organisations that adapt to the new demands and shape their structures accordingly will benefit immensely when the economy improves. More and more employers, employees and trade unions have asked JACS to assist in dispute resolution in an attempt to avoid damaging industrial relations confrontation. This is essential if Jersey is to make the most of opportunities that do arise and in 2009 we have seen a willingness by many to resolve problems by consultation, conciliation and mediation rather than by litigation or industrial

action.

Effective communication, sound employment policies and procedures and a joint effort between management and staff to work together to resolve differences is far more productive than confrontation and is even more essential as organisations struggle to contain or reduce costs. We encourage all employers to continue 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 yet we only have the very minimum foundation of employment law in the island. Despite the economic shocks experienced in the past year we understand that the States of Jersey will progress their 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 hope that the States will set out a timescale of planned legislation that will inform and advise JACS, employers and trade unions so as to facilitate proper preparation and training.

Finally, I would like to record my sincerest appreciation for the support provided by Patricia Rowan, Trish Weston and Chrissie Hennessy who have coped admirably with an ever-increasing and more complex workload. Thanks also to my Chairman, Tom Slattery, who has continued to offer sound advice and guidance 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**

**28<sup>th</sup> January 2010**

## **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](http://www.jacs.org.je)

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