

# The Jersey Advisory and Conciliation Service

## ANNUAL REPORT 2015



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# Annual Report 2015

## The Board

<b>Chair</b>	Sarah Beirne
<b>Board members</b>	Alison Mellor Zoe Blomfield Craig Channing (Resigned August 2015) Lynda Vautier Jimmy McCormack Donna Abel

## The JACS Team

<b>Director</b>	Patricia Rowan
<b>Team members</b>	Martin Buckland Deputy Director Patricia Weston Advisory and Conciliation Officer Sharon Timoney Advisor and Outreach Bruno Sousa Administration Officer

# Chairman's Foreword

I am pleased to introduce the 2015 Annual Report of the Jersey Advisory and Conciliation Service.

During 2015 we have continued to see some improvement in the economic outlook, across most employment sectors. We have continued to support the excellent initiatives established by the Social Security team in assisting unemployed people to re-enter the workforce. Statistics show a steady decline in the figures although the Island still has more than 1390 people registered as actively seeking work as at the end of December 2015.

The number of contacts recorded by JACS has increased this year from 2014. The number of queries relating to redundancies has increased slightly over the year with businesses mainly looking to re-structure. However the nature of the queries has become more detailed and complex as the basic knowledge employers and employees have of Employment Law is growing. As a result the basic queries regarding minimum wage and annual leave have decreased. Additionally the JACS website remains a strong and much used resource which is demonstrated by the increased numbers of users along with many new contacts registering for the JACS newsletter in the last quarter of 2015

Throughout 2015 the focus for JACS was on Sex Discrimination legislation which was introduced on 1 September. The public training sessions were amended and additional sessions put on to reflect this important piece of legislation. Additionally JACS saw an increase in requests for in-house training sessions on discrimination issues as a whole. The early production of guidance notes, leaflets and newsletters provided information that was freely available for everyone to access and allowing time for training and any company documentation changes to be made in a timely fashion.

The Outreach service which has been running since September 2013 has presented JACS with the opportunity to engage more proactively with smaller organisations and to ensure they are aware of the services JACS offer. This has led to even better relationships with employers who do not have a dedicated HR function. They can now access the services that JACS offers at a time and place that is more suitable to them rather than being constrained to regular 'office hours'. The engagement with smaller business means they receive an understanding of the statutory requirements under the legislation and also of the importance of having such documentation in place. I wish to extend my thanks to the Social Security Minister and her team for the additional funding in 2015 JACS have received to enable this valuable business resource to continue beyond the initial pilot project. Furthermore Outreach support has now been incorporated in to JACS funding from 2016 which allows this valuable service to be retained.

Understandably individual workplace disputes do arise and those that cannot be resolved unfortunately often result in claims to the Employment Tribunal. However there has been an increase in the number of Tribunal claims passed through to JACS by the end of the year.

Conciliation of Tribunal claims plays a very important part in our work. Tribunal claims can be a stressful process for both parties involved as well as time-consuming and costly. Again this year many new claims were resolved without the need for a Tribunal Hearing due to the intervention of JACS conciliating with both parties and achieving resolution. In real terms 85 cases were resolved by 3 JACS conciliators.

The Board has ensured that JACS continues to meet its statutory obligations set out in a revised Service Level Agreement with Social Security and this now includes the Outreach Services. In addition the Board has met on a quarterly basis reviewing comprehensive activity reports produced by the Director of JACS in order to enable it to monitor activity and operational expenditure against agreed budgets. This ensures that States funding is effectively used in a proper manner and we are satisfied that JACS has achieved its' objectives.

Craig Channing retired from the Board in August 2015. Craig had sat on the Board for 3 years his contribution over this time cannot be overstated and I and the Board will certainly miss his practical guidance, input and wholehearted commitment to JACS.

I am very grateful to all the Board members who have served during 2015 and thank them for their continued support and for freely giving of their time and experience. On behalf of the Board I would also like to express our appreciation to the Social Security Minister Deputy Susie Pinel for her support and to her team in the Department for their help in sustaining a positive and constructive relationship with JACS.

Finally I would like to extend the Board's thanks to Patricia Rowan and her team for their enthusiastic commitment during 2015 thus helping JACS continue to achieve its prime objective of improving industrial relations on the Island.

**Sarah Beirne**  
**Chairman**

# Director's Report

## Overview

JACS have had a busy 2015 and following 2 years of decline in the number of queries we received, the figures have increased again this year. It appears that some of the previous difficult trading conditions across all sectors of the economy have started to ease. However, there are still some redundancies and/or re-structuring taking place and once again 2015 has seen a slight increase in the numbers of enquiries relating to such processes.

Our data shows that we have received 9469 enquiries in 2015, but is important to look at this number along with the other services JACS provides such as training events and dealing with Tribunal claims. It is also important to recognize that by its very nature, advisory work becomes ever more complex when dealing with queries in respect of changed or new legislation. The data alone cannot truly reflect the amount of time advisory work demands and the service clients have come to expect from our organization.

The type of enquiry JACS receives now is usually far more complex than the basic employment issues around annual leave or how much notice is due as employers and employees have become far more aware of the legislation. Also such queries are often sought via our website ([www.jacs.org.je](http://www.jacs.org.je)) which we update regularly as well as the newsletters we send out periodically.

## Pre-claim conciliation (PCC)

As in previous years we have also seen a number of pre-claim conciliations (PCC) taking place. PCC is used when there is potential for a claim to be lodged at the Tribunal, and JACS are requested to assist prior to it reaching the claim stage. This free service offers impartial conciliation and advice to employers and employees to assist in reaching a solution without the cost, time and stress a Tribunal claim can bring. Furthermore without PCC it is likely that far more claims would be lodged with the Tribunal.

JACS had always offered PCC as an alternative resolution to workplace disputes, and often the outcomes reached cannot be provided under the Tribunal process. PCC can often allow for the employment relationship to continue rather than end if a resolution can be reached via mediation and both parties receiving advice before the contract is closed. In 2015 the number of PCCs we successfully helped employers and employees achieve was 240, an increase from 2014 of 61.

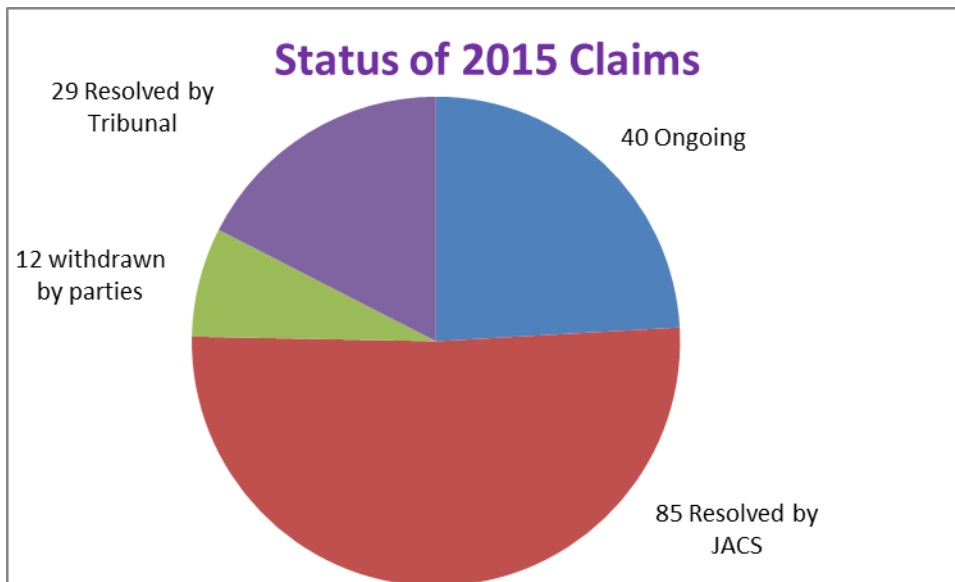
## Conciliation in lodged Tribunal Cases

In 2015 the number of claims received from the Employment and Discrimination Tribunal for conciliation was 166 (an increase of 25 from 2014). Whilst the JACS Pre-Claim conciliation service does prevent additional claims being lodged not all workplace disputes are able to be resolved at an earlier stage, therefore result in a formal claim being lodged.

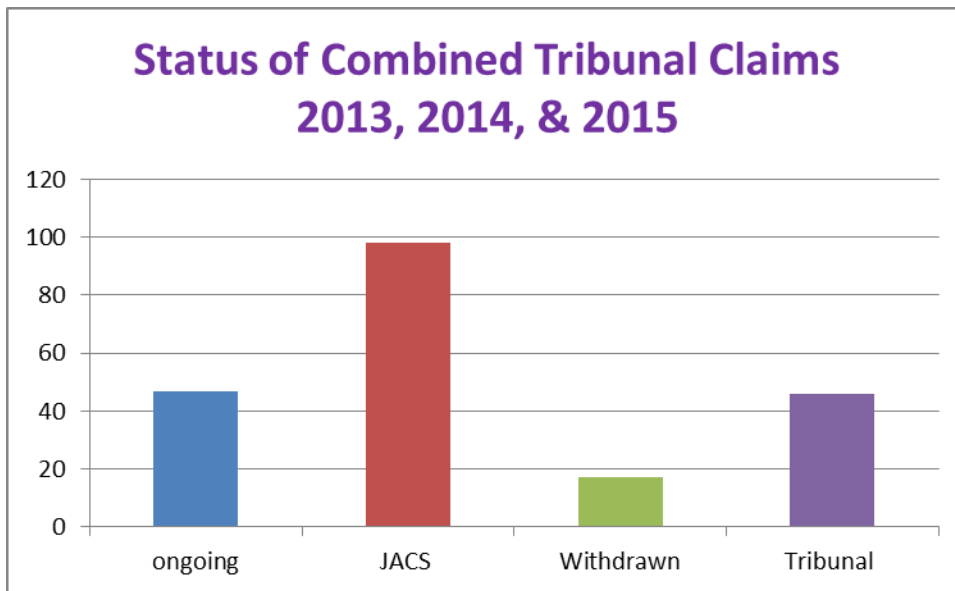
The claim process and transition is now well established and once a claim has been submitted, the Tribunal set a date for a Case Management Meeting (CMM) with the parties involved in attendance. A CMM will often help in determining what the claim concerns, and the Directions issued by the CMM Chair enable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

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

Of the 166 new cases JACS have received from the Tribunal Registrar a total of 126 of these have been resolved – leaving 40 with ongoing conciliation. Of these 126, JACS have resolved 85; with 29 resolved by the Tribunal; and 12 were withdrawn or settled by the parties themselves.



Additionally 41 claims were carried forward from 2014 (and 1 from 2013). This gives a combined figure of 208 claims being active throughout 2015. Of the historic claims 7 still remain active. Combining the three years a total of 161 were resolved as set out in the following chart:



Race Discrimination legislation has been in place since 1 September 2014 and JACS have received 6 claims from the Tribunals Service Registrar, 4 of which were submitted with separate claims for unfair dismissal and have been settled. There are 2 claims outstanding for Race Discrimination (and again unfair dismissal) and these also include the second protected characteristic of Sex Discrimination as part of the claim as well – (the Regulations for Sex Discrimination were introduced on 1 September 2015)

#### **Resolving collective disputes and improving relationships**

Throughout 2015 JACS assisted with the counting of 4 ballots. A number of collective issues were raised throughout the year but were resolved swiftly and without further action being taken.

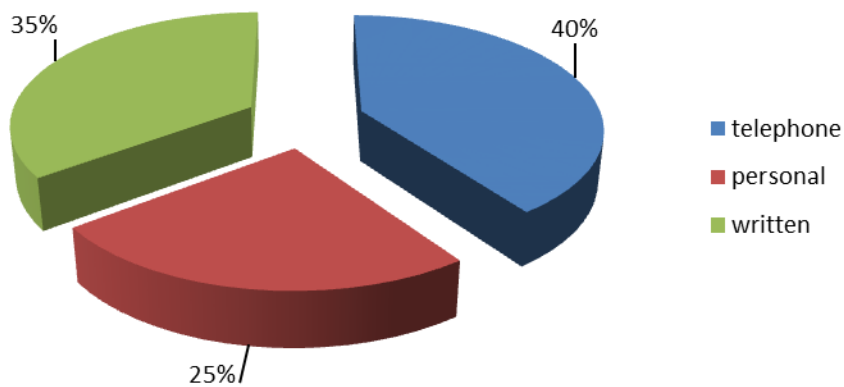
JACS undertook several union density checks in 2015 at the request of both the Union and the Employer ahead of successfully agreeing on recognition agreements. The framework for recognition is set down in the Codes of Practice and fall under the Employment Relations (Jersey) Law 2007, and as long as the union density check for the proposed bargaining unit demonstrates the union has sufficient employees as members of the union then the next step is for both parties to negotiate a recognition agreement.

#### **Contacting JACS**

The central location of JACS' offices means that a number of contacts JACS receives are from personal callers either with or without an appointment. In 2015 we welcomed 2339 (25%) personal callers to our offices. However, it is our advice line 730503 that remains the main point of direct contact, with 3798 (40%) of our clients contacting us via telephone between the hours 08.30 to 17.00, Monday to Friday. The percentage of email/written queries remains lower, but has shown an increase when compared to last year with 3332 (35%) of clients contacting us via this route.

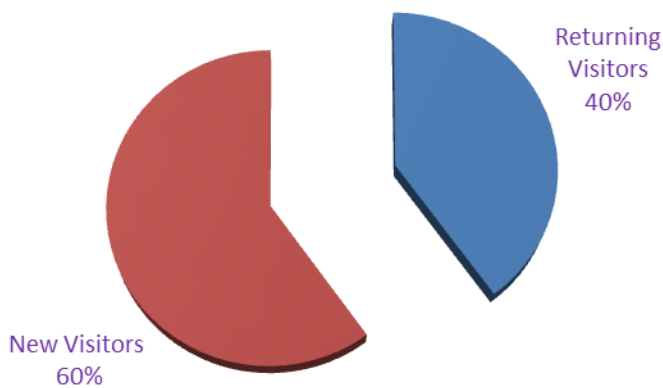


## How Clients Contacted JACS 2015



The JACS website contains more than just interpretation of the legislation and again this year has demonstrated that this is a valuable tool and resource to employers and employees utilizing the site.

## JACS Website Visitors 2015



The top 5 most viewed topics in 2015 were:

- Maternity
- Redundancy procedures and payments
- General employment legislation
- Unfair dismissal
- Zero hour terms of employment and guide

We periodically send out newsletters to those who have signed up to receive them (via our website). The newsletters are sent either when there are changes to the legislation or

consultation documents have been released that are seeking views regarding potential changes to the legislation. The newsletters also contain additional information that JACS feel may be of interest, and one of the most viewed documents of this nature was in relation to vaping/e-cigarettes.

During 2015 the topic of zero hour contracts has regularly been reported in the media, and indeed there is an ongoing Scrutiny Panel Review looking at this topic. JACS produced a guidance booklet which went on our website in April therefore it is not surprising to see this as one of the top 5 subjects for the year.

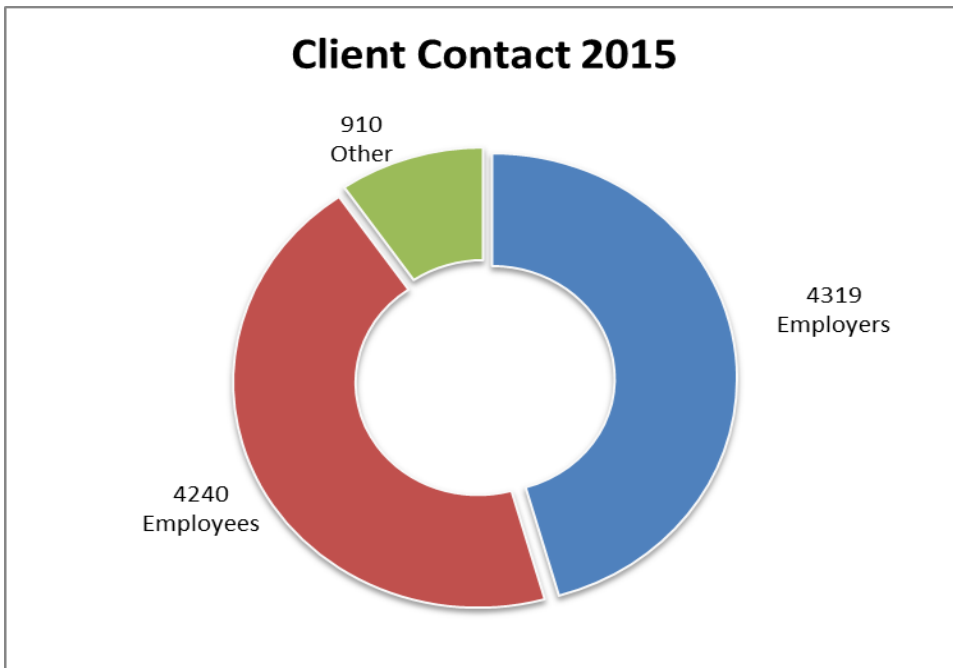
### **Outreach Service**

Additional funding for the Outreach Service was given for 2015 due to the success of this function. The Outreach Service is available at times and places to suit the employer, such as out of town workplaces, either within or outside normal office hours, and is offered proactively to employers, typically those employing ten or fewer employees. The owners of these smaller businesses or those starting new businesses find the information particularly helpful in terms of understanding their obligations as employers.

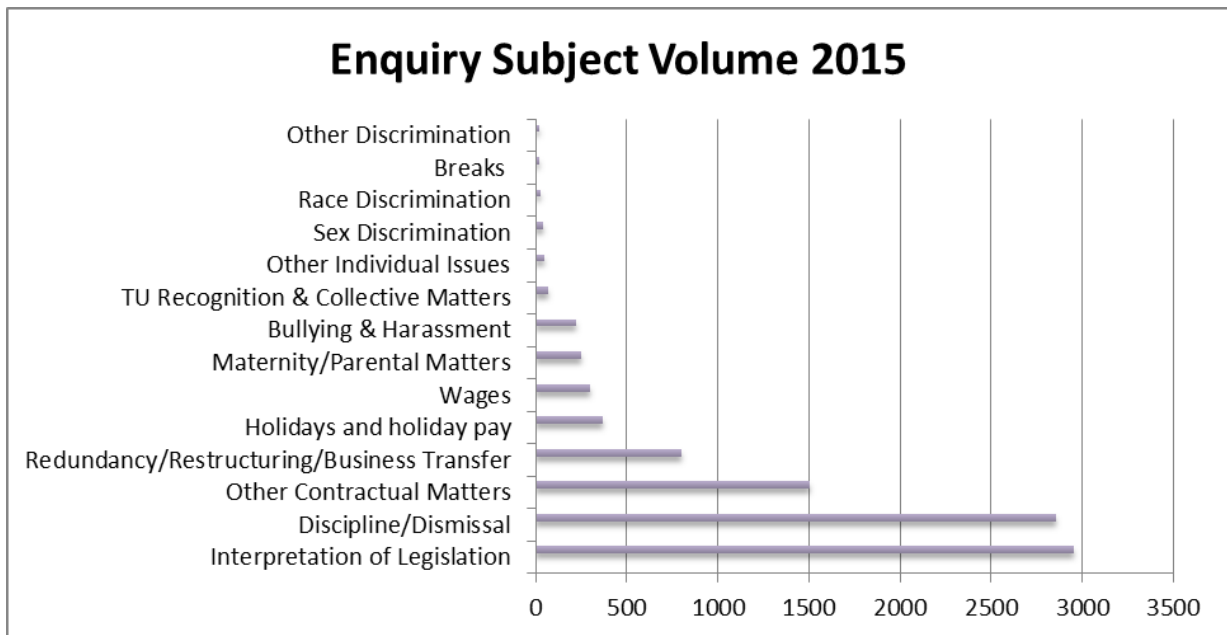
The Outreach Service gives straightforward and practical advice to employers and helps them develop an essential toolkit of employment documents, including discussions around ensuring the correct terms of employment appropriate for the business are in place as well as pay slips and policies and processes, such as disciplinary and grievance procedures.

### **Information, advice and conciliation**

Throughout the year 182 clients contacted us on average each week, and for the first time the majority of contacts were from employers.



As previously mentioned the nature of the enquiries JACS receives has evolved as awareness of the Employment Law increases and this is reflected in the subject volume chart below.



The trends have changed from previous years with disciplinary and dismissal dropping back from the most queries. However it is not surprising to see that the majority of queries relate to the interpretation of the legislation as we have seen the introduction of Maternity and Family Friendly legislation as well as Sex Discrimination along with some other amendments to the law. There is also an upturn in the number of queries in respect of redundancy and restructuring.

### Training and Other Support Services

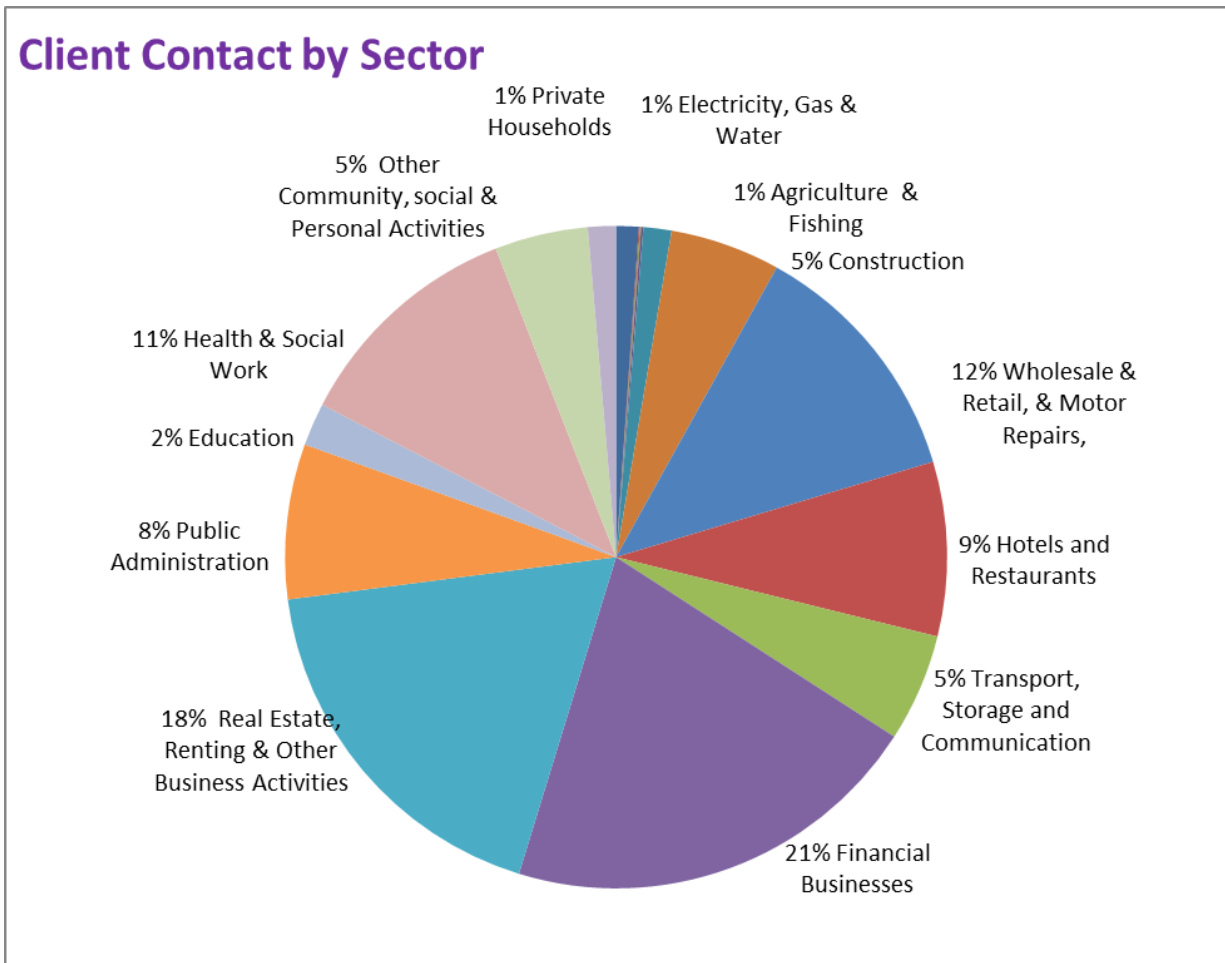
For JACS the main emphasis remains with assistance in the prevention of disputes and problems, and although the early resolution of disputes and Tribunal matters are an important part of our work, much of this only occurs once the employment relationship has broken down. JACS believe that having well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

Throughout 2015, JACS ran 34 half-day public training courses, attended by 468 delegates. With the introduction of further Discrimination Law in September 2015 we continued to offer a "Discrimination in Employment" course which along with Maternity & Family Friendly Rights (which we have run since September 2014) free of charge to delegates thanks to special funding from Social Security.

During 2015 we ran an additional 59 training sessions. These were for in-house sessions requested by various businesses and whilst many of these were for sessions on the new Discrimination legislation; other companies requested the full range of the subjects covered in the public sessions which are run on a cost recovery basis. Over the year 1360 delegates attended these additional sessions.

**Working with employers**

As seen above this year we have dealt with 4319 employer contacts with the majority of these being initiated by employers themselves.



The chart above shows the percentage by sector of the enquiries from the various sectors that make up our business community. By way of definition it should be noted that the Real Estate, Renting & Businesses is a general category for organizations that do not fit into more clearly defined sectors.

**Legislation**

The Discrimination (Jersey) Law 2013 was enacted on 1 September 2014 bringing in the first protected characteristic of Race. The protected characteristics of Sex, Sexual Orientation, Gender Reassignment, Pregnancy and Maternity were enacted by Regulations on 1

September 2015. JACS have been advising on Discrimination Legislation for many years and it is encouraging to see so few claims (to date) coming through. It is envisaged that Age Discrimination Regulations will be introduced in 2016.

A number of amendments to the Employment Law were also enacted in 2015, starting on 1 January with a change to the unfair dismissal qualifying period. The change meant that any employee starting work with an employer will have to accrue 52 weeks' continuous service in order to qualify for the right not to be unfairly dismissed instead of 26 weeks'.

From 1 April 2015 the definition around rest periods and the interruption of such days was more clearly set out to provide for greater clarity. Also on this date changes were made to the termination of employment articles to put in a notice period of 1 week due to an employer for employees with more than 1 week but less than 26 weeks of service.

On 1 September 2015 Maternity and Family Friendly rights were introduced these rights cover parental leave and adoption leave as well as maternity leave and the right to request flexible working. Additionally the 8 hour rule was also removed, which means that the right to claim for unfair dismissal applies to anyone covered by a contract of employment regardless of the number of hours they are contracted to work each week.

It is envisaged that 2016 will see not only the introduction of Age Discrimination but also rights to protect Armed Forces Reservists when they are called up for active service. Additional changes to the Employment Law include the removal of the 2/3rds rule in fixed term contracts and compensation levels of up to 4 weeks pay for an employee who does not receive statutory entitlements in respect of written terms of employment, pay slips and/or rest periods. Finally a Procedures Order for the Tribunals Service will be put in place during the first half of the year, which sets down the procedures that will be followed once a claim has been lodged with the Tribunal.

### **Staffing and Standards of Service**

The JACS team consists of five full time staff, and during 2015 with the ongoing financial support of the Social Security Minister and her team our Outreach Officer was able to remain in post beyond the initial 12 months pilot project to continue.

We continue to monitor our service standards and have again issued a client satisfaction questionnaire to employers and employees whose Tribunal cases had been referred to us for conciliation. Of the total returned, 100% reported they were 'very satisfied' or "satisfied" with the service they received, the information provided and the time taken to deal with their case.

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

## **Managing our Finances**

The total cost of running JACS for the calendar year to 31 December 2015, based on its unaudited management accounts was in line with the overall budget for the year. Key operating costs comprise staff costs, rent, rates and insurance, utilities, IT support and audit fees.

Our basic annual grant from the Social Security Department was £335,800 plus an additional grant of £50,000 to enable us to run the Outreach Service both sums remained at the same level as for 2014.

Nominal fees (based on a cost recovery basis) charged to attend our public training courses and in-house training courses, to cover the costs of these events, contributed around a further £26,000 towards our income.

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

## **Future Plans**

As always our commitment remains to help and assist in avoiding and resolving disputes. We will continue to raise awareness of important issues through our comprehensive training program (which has been completely overhauled for 2016) which will continue to focus on existing and new legislation - via the media and through our everyday role in dispute resolution and the provision of advice. As such we will continue to assist employers, trade unions and employees to understand their obligations and rights under the legislation.

We remain committed in our support of all of our clients in respect of advice and dispute resolution in relation to existing legislation and good employment practice whilst continuing to offer training and advice in regard to forthcoming changes to the legislation. The Outreach Service has now been included in the general remit for JACS and through this service we will ensure that the owners of businesses are able to understand and comply with their statutory obligations.

We have an ongoing commitment to ensuring that the skills and knowledge of the JACS team are up to date with developments in employment law in Jersey, as well as in other jurisdictions, so that we can respond effectively to proposals locally. With a sound knowledge base that is well maintained and developed we believe we can best serve the needs of the clients that contact us.

## **Summary**

JACS is here to assist employers, employees and trade unions with impartial, professional and friendly advice. The training we deliver has been developed to help employers in their understanding and practical application of the existing legislation, whilst also preparing them

for new upcoming legislation and the impact (if any) this may have on organizations.

For some organizations changes are still afoot and businesses will need to manage such changes and any re-structure in order to align themselves with the markets/sectors they operate within. JACS encourage organizations to continue to consult fully with their employees and to employ good practice and operate with transparency throughout such changes.

I must offer my thanks for the support and loyalty shown by the team at JACS; members have worked extremely hard to meet the expectations of our clients and have risen to meet the challenges presented to them via new legislation and I am very fortunate to have such a team.

As an organization JACS is very privileged to have a Board of honorary members who we are able to call upon and who willingly give their time to the organisation throughout the year. Craig Channing stepped down from his position on the Board in August after giving JACS 3 years of his time. I would like to express my thanks to him for his work with us and to wish him well for the future. I would also like to extend my heartfelt and sincere thanks for the assistance and support that JACS receives from the Board Members under the Chairmanship of Sarah Beirne, and I consider our organisation to be very fortunate in having an approachable and passionate group of people who comprise of our Board.

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

**Patricia Rowan**  
**Director**

6 January 2016

## **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 organizations.**

### **Our values**

Our role is to seek to resolve conflict, maximize agreement and encourage employment policies and practices that contribute to improvements in performance, organizational 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 organizational 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 organizations 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)