

# Reasons for instituting tribunals law employment essay

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 Royal Coat of Arms of the United Kingdom (Scotland). svgEmployment  
 TribunalsLarge Image (© 2012 Bates Communications Inc.)Smaller Image  
 (Wikimedia Foundation, Inc.)Report by: Elliot Chalmers NicolSubmission date:  
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## **1. Introduction – Terms of reference**

This report was requested by Sarah Scott on the 11th December 2012. I have prepared a report explaining the nature and role of an Employment tribunal in detail. I have also explained: The reasons for instituting statutory tribunals. The functions of the AJTC. An explanation on the composition, role and powers of the Employment tribunal.

## **2. Procedures**

The following report information has been gathered and researched by: 2. 1 Gathering information through using the internet. 2. 2 Also going to the Public Library and researching using books.

## **3. Statutory Tribunals - Findings**

" Statutory tribunals are institutions that have the authority to judge, adjudicate on or determine any claims or disputes that are brought to attention." These tribunals are necessary because they ensure justice is given to the person who deserves it and the person in the wrong is punished. They also help in solving conflicts and resolving crimes. (Wikimedia Foundation, Inc.)" For example, an advocate appearing before a court on which a single judge was sitting could describe that judge as 'their tribunal'." (Wikimedia Foundation, Inc.)Employment Tribunals are bodies set up to hear specific employment disputes between employers and employees." The term is originally derived from the tribunes, magistrates of the Classical Roman Republic. " Tribunal" originally referred to the office of the tribunes, and the term is still sometimes used in this sense in historical writings". (Wikimedia Foundation, Inc.)The tribunal system in Scotland is part the national system of administrative justice.

### **3. 1 Reasons for instituting Tribunals**

Given the increase of state intervention in the lives of the general public over recent years, scope for conflict between the state and its subjects over matters of public administration has increased. It would be impractical to try to resolve the huge range of disputes through the time consuming and

expensive court process. This has given rise to a host of tribunals specifically designed to ensure the speedy and cost effective resolution of disputes relating to administrative matters. Examples of tribunals are: Social Security Appeals National Health Service Immigration and Employment. It would be a mistake to assume these special courts and tribunals deal solely with disputes between private citizens and the state. Original legislation for the creation of the tribunal system contained within the Tribunals and Inquiries Act 1958. Now regulated by the Tribunals, Courts and Enforcement Act 2007, this received Royal Assent on the 9th July 2007. The Act provides a new judicial and legal framework, bringing together individual Tribunals into a new, unified tribunal structure.

#### **4. Advantages of Tribunals**

The advantages of tribunals are clearly explained and are as followed. When you are entering a tribunal an advantage would be: Expertise - Specialist skills and knowledge is readily available for speedy resolution of the case. Time - In theory the case is heard quicker as case load in tribunals is not as heavy as for civil court. Cost - There is currently no charge for bringing an application to the tribunal system, although this may change in the future. Accessibility - Tribunals operate in all major industrial centres, making them easily accessible. For example there are 31 permanent centres at which Employment Tribunals are heard. Informality - Less formal than the civil and criminal court system. There are no wigs and gowns and the hearing rooms are less imposing than many courtrooms. In higher courts the parties are expected to present their case and challenge the case of the opposite side.

<http://www.jerseyemploymenttribunal.org/theme/Main%20Room%201>.

JPGHere is an example of an Employment tribunal hearing room.

#### **4. 1 Layout of the hearing room**

JudgeLay MemberWitnessClaimant's RepresentativeRespondent's

RepresentativePublic and other witnesses employment tribunal(© Trevor

Gilbert & Associates Limited)Judge – " A tribunal chairman or tribunal judge is

responsible for the overall running of the hearing. Tribunals hear cases with

both legal representatives, and people representing themselves. They are

used to explaining how the system works to unrepresented individual

claimants." Lay member – " Represent the employee and employer sectors.

The lay members use their experience to bring balance to proceedings."

Witness – " Likely to be the Appellant, the Respondent and/or their respective

supporters. Expert witnesses may also be called to give evidence on behalf

of either the Appellant or the Respondent." Claimant's Representative – " The

person, usually a lawyer, who represents the Appellant (the person making a

claim or who has a grievance against the Respondent, usually an

organisation)." Respondent's Representative – " The person, usually a

lawyer, who represents the Respondent (usually an organisation) defending

the claim made against them." Public and other witnesses – " Part of the

general public are there to witness the court, or witnesses waiting to give

evidence, or have given evidence."(© Trevor Gilbert & Associates Limited)

#### **5. AJTC – Administrative Justice and Tribunal Council**

The AJTC was established by the Tribunals and Enforcement Act 2007. The

purpose of the Act is to help make administrative justice and tribunals

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increasingly accessible, fair and effective by: Playing a pivotal role in the development of the coherent principles and good practice. Promoting understanding, learning and continuous improvement. Ensuring that the needs of users are central. The AJTC's vision for administrative justice and tribunals is a system where: those taking administrative decisions do so on soundly-based evidence and with regard for the needs of those affected; people are helped to understand how they can best challenge decisions or seek redress at least cost and inconvenience to themselves; grievances are resolved in a way which is fair, timely, open and proportionate; There is a continuous search for improvement at every stage in the process. The values the AJTC seeks to promote in administrative justice and tribunals are: Openness and transparency Fairness and proportionality Impartiality and independence Equality of access to justice The functions performed by the AJTC are: Advisory - " Provide advice and make recommendations to changing legislation, make recommendations to changes in practice and procedure which are going to improve the workings of the administrative Justice system." Consultative - " Different departments have an obligation to consult the AJTC on proposals for certain subordinate legislation relating to tribunal and inquiry procedures and it is desirable that they consult the AJTC on proposals for other primary and subordinate legislation affecting tribunals, inquiries and administrative justice generally." The Administrative Justice and Tribunals Council keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. The AJTC seek to ensure that the relationships between the courts, tribunals,

ombudsmen and alternative dispute resolution providers satisfactorily reflect the needs of users."(AJTC Ministry of Justice ND)

## **6. Employment Tribunals**

Employment Tribunals are tribunal non-departmental public bodies in England and Wales and Scotland which have statutory jurisdiction to hear many kinds of disputes between employers and employees. Employment Tribunals were created as Industrial Tribunals by the Industrial Training Act 1964. Industrial Tribunals were judicial bodies consisting of a lawyer, who was the chairman, an individual nominated by an employer association, and another by the Trades Union Congress (TUC). These independent panels heard and made legally-binding rulings in relation to employment law disputes. Under the Employment Rights (Dispute Resolution) Act 1998, the name was changed to Employment Tribunals from 1st August 1998. (Wikimedia Foundation, Inc.) Employment Tribunals continue to perform the same function as Industrial Tribunals. Employment Tribunals hear claims about matters to do with employment. These include:

### **Unfair Dismissal**

" Unfair dismissals are those due to discrimination in terms of race, disability, political opinion, sexual orientation, as well as dismissals that arise from trade union activities. Any termination of employment that does not give any valid and fair reason is automatically assumed unfair."

## **Redundancy payments**

Redundancies occur when employees are dismissed because their job no longer exists, this may occur when: New technology makes a job unnecessary An employer needs to cut costs and reduce the number of staff The employer needs to close the business.

## **Discrimination**

" Employment discrimination (or workplace discrimination or labour market discrimination) is discrimination in hiring, promotion, job assignment, termination, and compensation. It includes various types of harassment."(Wikimedia Foundation, Inc.)The layout of the Employment tribunal hearing room is clearly demonstrated on page 6. The outcomes of an Employment Tribunal Compensation -The judge at the hearing awards you with a certain amount of compensation (Money). Reinstatement -Go back to the same job. Re-engagement -Go back to the same employer but with a different job.

## **7. Appeals Procedure**

" An Employment Appeals tribunal is a superior court and has its headquarters in Edinburgh. It hears appeals from the Employment Tribunal. There is a further right of appeal on a point of law to the Court of Session and possibly the Supreme Court." The Employment appeals procedure is as follows: Employment Tribunals Employment Appeal Tribunal Court of session/Court of appeal Supreme court" When making an appeal you must appeal within 42 days of the date. If the respondent makes a claim and the claimant replies they may be asked to go to a meeting with the judge to



decide on:" The date and time of the hearingHow long the hearing should takeIssues about your case (Open Government Licence)

## **8. Conclusion**

8. 1 The aim of the statutory tribunal is to make sure that tribunals are a quicker way of resolving issues and less costly than going through the normal courts procedure which can be a lengthy and costly procedure and it is less formal than the usual. 8. 2 The Administrative Justice and Tribunal Council (AJTC) keeps the justice system under review making it accessible, most efficient and fair. 8. 3 The Employment tribunal is there to uphold people's rights in the workplace and to make sure employer are running their business/businesses correctly and are abiding by the rules and regulations of employment law.