

# **MANX INDUSTRIAL RELATIONS SERVICE**

## **ANNUAL REPORT TO TYNWALD FOR 2009**

### **INTRODUCTION**

The worldwide economic difficulties led to 2009 being very challenging year for everyone involved in the employment market, including ourselves. The consequences for many employers and employees have been concerns over job security, reduced or nil pay increases and tensions arising from changes that have been necessary for businesses to cope with the market conditions. We have seen an increase in the number of enquires and a greater depth and complexity in many of these enquires has been quite apparent. Obviously in the climate that prevailed finding satisfactory solutions to the difficulties that arise is in many cases more difficult. However it is not all doom and gloom, while many employers have found trading conditions difficult some have reported seeing an increase in level of business, especially later in the year with an increased demand for extra staff with the right experience and qualifications. Some employers have had to make difficult decisions, with one or two closing down altogether, but in the majority of cases some sort of restructure or realignment to current market demands. This often leads to some sort of reduction of staff and redundancies or redeployments. Many find the process difficult both emotionally and practically. We have sought to give employers information and advice as to comply with the legislation and how to follow fair and reasonable procedures. In our last year we anticipated that 2009 would be a challenging year all round and it certainly was.

Industrial Relations Officers are appointed by the Governor in Council and it has always been recognised that the credibility of the service depends, amongst other things, on its independence and impartiality. We continue to work hard to preserve this stance which is essential for our effective operation. Clearly this requires a level of detachment from Government in our operations, and our being free from political input or interference which could undermine our position.

### **WHO WE ARE**

The staff in the office comprises of two Industrial Relations Officers who are able to respond readily to the issues that do arise. The office has part-time secretarial/ administrative support which is providing an effective backup to the running of the office. This gives a total staff of 2.68 FTE and total expenditure for the year ending April 2009 was £146,590.

### **A REVIEW OF THE YEAR**

Dealing with the number of enquires that we receive continues to be a significant challenge. In 2009 we dealt with some 5759 enquires and an increase of about 250 over the previous year. Details of the subject matter can be seen on the attached chart, unsurprisingly subjects such as redundancies and dismissal showed increases in volumes. The number of enquires received year on year has steadily increased, we expected an increase in 2009 due to the difficult circumstances in which many people found themselves. Whilst 10 years ago we received 60 claims to the Employment Tribunal, last year there were 107 which was a decrease on the previous year's figure of 137. Many more potential claims were dealt with informally as can be seen below.

#### **(1) Staffing**

The staffing of the office remains unchanged at 2.68 full-time equivalent staff; given 2 operational Industrial Relations Officers and a part-time administrative/clerical reception staff. Currently this suits the needs and demands placed upon the office, however given the increasing number of enquires received and the increasing amount of administration that is required to be undertaken this will need to be kept under review.

## (2) **Trade Disputes**

While much of our work is aimed at preventing or stopping confrontation which can have longer term damaging effects during the year we dealt with four trade disputes that were raised with us. There were other issues raised with us of a collective nature, which were resolved more informally. The subjects covered included annual pay settlements and changes to terms and conditions of employment. Earlier in the year action taken by one group resulted in the first industrial action being taken on the island for many years, the last being in 1999. On this occasion it involved a relatively small group and the actions taken were of a limited nature, the issue was ultimately resolved.

## (3) **Pay Negotiations**

Given the wider economic environment, pay negotiations were always going to be difficult. Some groups had ongoing multi-year deals, these were generally quite favourable for them. On the other hand those groups involved in negotiations tended to find, little or nothing was 'on the table'. It has been well published that on the island Civil Servants were offered a proposal which included a zero percent pay raise. This was an issue that was ultimately taken to an Independent Arbitration through their internal agreed procedures and resulted in an award in respect of the 2009/10 of a non consolidated lump sum payment of £200 for Civil Servants.

## (4) **Employment Opportunities**

Despite the wider economic gloom that appears to cast its shadow, we have noticed that there are still areas where employers have sought to recruit, and on occasions still say they can find it quite difficult to recruit the calibre of worker that they are looking for with relevant qualifications, experience and a positive work ethic. There is a balance between rights and responsibilities for both parties in an employment relationship. Employees, especially those who may be entering the labour market for the first time need to understand what will be expected of them in a working environment and how they can reasonably respond to this. Employees who don't do so can often find that the patchy employment record that tends to flow from this will badly affect their future prospects, especially in a tighter labour market. Conversely we sometimes find that potential employees who have criminal convictions in the distant past can find that this can be a hurdle that is very difficult to get over in respect of certain employment. While in today's world there is a tendency to avoid all possible risks we would hope that reasonable consideration would be given to those who have made sustained efforts to live and work responsibly.

We have also had enquires from one or two new employers who are setting up and have notice that the people we are speaking to who have lost their employment have in some occasions obtained new employment relatively speedily.

## (5) **Employment Tribunal Claims**

Our primary aim is to help employers and employees to avoid or resolve disputes in the workplace. Where claims are proposed we can assist through conciliation either prior to a formal claim or afterwards. During the year we received 107 claims to the Employment Tribunal as opposed to 137 in the year before. A total of 167 issues were raised within the 107 claims. The legislation does provide for us to act prior to a formal claim to the Tribunal being made, in these cases we try to resolve potential claims at an early stage. In 2008 we dealt with 79 such cases in 2009 that had risen to 165, more than double the previous figure, which would in some part explain the reduction in the number of formal claims made. As we reported previously this is a relatively informal approach which is appreciated by many employers and employees as it can result in a more speedy and informal resolution that the parties find less stressful and time-consuming. It is interesting that in the UK that Advisory Conciliation & Arbitration Service, ACAS, have recently been promoting this way of resolving disputes as an alternative to going through the formalities of the Employment Tribunal which are ever increasingly

more legalistic and complex. The UK also saw this as a way of addressing the backlog of Tribunal claims they have in some areas.

This gives an overall of 216 cases in 2008 and 262 in 2009. A sizeable increase of this sort is not particularly surprising given the economic climate in a year which was very difficult for many employers and employees alike. During the year 73 formal claims were either settled or withdrawn prior to them being heard and 165 potential claims to the tribunal were resolved without the need to progress. We would not expect such a high number in future years.

#### **(6) Information and Booklets**

Our aim is to try and prevent issues and problems arising rather than provide a cure, and part of providing good practice in industrial relations is that we give a number of talks on a wide range of subjects such as; disciplinary procedures, performance management, deductions from pay, dealing with absence and other general employment legislation topics. Our talks and presentations are very much designed with a practical emphasis, and delivered in such a way that it is easily understood and hopefully transferred into working practice by the participants. I am pleased to report that the feedback indicates that participants find these presentations to be of assistance and we do repeat requests on a fairly regular basis. We are always happy to consider requests from groups or organisations that feel such presentations may be of assistance to them or their members, and we always appreciate that not everyone finds the provisions of the employment legislation to be easy and straightforward to understand. We continue to have information booklets available, which are updated as appropriate on one or two of the more popular subjects. On our website we maintain links to the information provided by the DTI, on employment legislation and the various booklets and guides that they publish.

#### **(7) Enquiries**

As detailed above, we have dealt with a record number of enquiries on a wide range of employment topics. Whilst many of these were connected to redundancy and reorganisation, it is obvious that in relation to holiday and holiday pay, particularly maternity absence, it is still an issue which both employers and employees find difficult to understand. It is to be fair, a technically, difficult subject and we aim to provide information on a case by case basis.

#### **(8) Mediation update**

The overriding aim of workplace mediation is to restore and maintain the employment relationship wherever possible. This means the focus is on working together to go forward, not determining who was right or wrong in the past. Many kinds of dispute can be mediated if those involved want to find a way forward. It can be used at any stage in a dispute but is most effective before positions become entrenched.

We have one accredited Mediator, we are able to offer Mediation as a free service to any public or private sector organisation. During the period of this report, we have undertaken 4 separate Mediation cases, 3 of which were progressed through the full mediation process. In these 3 cases, we helped the parties to formulate a written agreement on the way forward.

#### **(9) Service Delivery**

We are a relatively small office with 3 staff. We get a large number of enquires each year by telephone, emails and personal callers. Over 90% of telephone calls are responded to immediately and those that leave a message we aim to return them within that working day, but the majority are responded to within an hour. Wherever possible we encourage callers to make an appointment so that we can ensure that someone is available to see them at the appointed time to deal with their enquiry. However wherever possible we see people who call on a casual basis at the time, and it is only in a very small number of cases people have to be asked to return with an appointment. Given the high volumes of work, maintaining standards in the last year has been particularly challenging and workload has to be

prioritised at times to maintain frontline services. We continue to do a sample questionnaire, sent out to various contacts, so we can get an evaluation of our service. I am pleased to report the majority of these indicate that our service is rated as excellent and most people have indicated that they are in any event happy with the service provided. We believe this is quite an achievement given the difficult situation that we can operate at times where parties tend to be unhappy or displeased at the issue causing them to contact us initially.

## **2010 – The Year Ahead**

After what was a difficult year in 2009 hopefully the signs of improvement and growth that have started to emerge towards the end of the year, will continue through into 2010. We do appreciate that many smaller firms in particular find trading conditions very difficult and this will continue for some time. I have no doubt that 2010 will again be a challenging year especially for the smaller firms. We will continue to seek to provide timely and practical assistance to those that have queries or find themselves in difficulty in employment relationships, in what will no doubt be a challenging time.

Finally it never ceases to surprise us as to how many employees that we come into contact with still do not have a written statement of the terms and conditions of their employment. While it is a legal requirement for employers in most circumstances to issue a statement we hope they would see it as a benefit in helping to avoid time-consuming misunderstandings and disputes about contractual terms.

Ian Cochrane  
Industrial Relations Officer