

TRIBUNAL REFORM

ALL FOR ONE

Alison Wetherfield on the new tribunal rules

This summer's white paper on transforming public services acknowledges the need to reform mechanisms for challenging state decision-making and red tape.

In it, the government promises "an independent, accessible, flexible and authoritative dispute resolution system" in five years' time.

The small print says that the newly formed Department of Constitutional Affairs will oversee not only every conceivable tribunal designed for dispute resolution, but also the employment tribunal service.

The justification for clustering tribunals designed to regulate relationships between employees and employers together with bodies policing state power is that they all have justice as a common aim. Whatever employers and employees make of this, they will no doubt be hoping that the restructuring will not interfere with reforms recommended two years ago by the Employment Tribunal System Taskforce.

The new rules come into force on 1 October. Major changes include:

- enhancing an early intervention role for Acas by setting a compulsory conciliation period of 7 to 13 weeks, during which no hearings will be scheduled (except in

discrimination, whistleblowing and other complex cases);

- introducing new mandatory forms for all parties from April 2005, requiring applicants to provide more information about financial losses;
- establishing a strict assessment of jurisdiction by tribunals before claims may be filed;
- introducing new rules on costs that tribunals can use to police and deter misconceived claims.

Although the Employment Lawyers' Association is concerned about how some of these provisions may operate, in general, it considers the changes to be in the interest of its members, whether representing claimants or respondents.

The white paper states, rather ominously, that a separate identity for employment tribunals will only be maintained if in the interests of the public and other users. Exceptions from carefully designed standardised processes for all tribunals "will have to be justified," it says.

So, just as employees and employers settle into the new rules, yet more change may be on the way.

Alison Wetherfield is chair of the legislative and policy committee at the Employment Lawyers' Association and a partner at McDermott Will & Emery. awetherfield@europe.mwe.com