

To all members of the Employment Tribunals Scottish National User Group

First of all, Happy New Year to all those interested, in whatever capacity, in the work of Employment Tribunals in Scotland. In 2020 the employment judiciary, HMCTS staff and our system users showed remarkable resilience, flexibility and creativity in working together to ensure that we were able to continue to deliver employment justice in Scotland, despite the hurdles we faced as a result of the Covid-19 pandemic. Clearly it was not 'business as usual' - how could it be given the challenges we have all faced - but I am extremely grateful to everyone who played a part in helping us to achieve what we did manage to deliver.

I had hoped that 2021 might prove to be rather less challenging for all of us but it looks like those hopes are in vain, certainly for the first few months of this year. However, I want to reassure you that the work of Employment Tribunals will continue, despite the new Covid-19 restrictions that have been put in place. That is as it should be: justice remains a key public service. Providing access to justice and preserving the rule of law are critical functions of the state. Currently there are thousands of people in Scotland who need access to employment justice as quickly as possible, not least because of the impact of the pandemic on the labour market.

As things stand, all Scottish Employment Tribunal Offices will remain open and staffed. Judicial Office Holders and HMCTS staff are key workers. The position remains that attending a hearing in person, whether as a party, representative or witness, is permitted under the relevant legislative provisions in Scotland. System users should proceed on the basis that any in-person hearings scheduled to take place will take place unless they hear to the contrary from the relevant ET office. HMCTS, who are responsible for the provision of the premises in which hearings take place, confirm that stringent

measures remain in place in all ET offices which are designed to protect the health and safety of those who enter the building, for whatever purpose.

This having been said I am very aware of the increased transmission rate of Covid 19 and its overall level in the community. I fully appreciate the need to conduct hearings as safely as possible and to minimise the number of people having to enter Employment Tribunal Offices. All Scottish Employment Judges will be doing whatever they can to facilitate fully (or, if need be, partly) remote hearings in as many cases as possible over the next few months. The decision about how a hearing is to be conducted remains a judicial one although judges will of course take into account any particular factors drawn to their attention by parties which are relevant to such a decision. In some instances, in cases where the hearing is already fixed to be in-person, they may revisit with parties whether an in-person hearing is absolutely necessary to achieve justice. As our experience of remote hearings has increased so the initial, understandable, scepticism about whether it was possible to conduct hearings in this way has declined. Parties who may previously have expressed strong views about the need for a hearing to be conducted in person may take a rather different view now. They should not hesitate to inform the tribunal if their position has changed in this regard, particularly if that hearing is scheduled to take place between now and the end of May 2021.

There is one very practical step you can take to assist us to make what progress we can, despite the current restrictions. As you may be aware, in Scotland a case management hearing by telephone is arranged 7-10 days before any in person hearing. This is to discuss, in particular, the social distancing measures in place to ensure the safety of participants. This is also an opportunity to discuss whether all or part of the hearing should be converted to video: it would be extremely helpful if representatives could ensure they have instructions on that issue and also email addresses for all participants to hand at that hearing.

I have every confidence that those who appear before Employment Tribunals in Scotland will continue to cooperate with me and my judicial colleagues to ensure that we hear as many cases as we can in the safest manner possible, commensurate with the interests of justice. My heartfelt thanks to all of you who will assist us in this endeavour.

Judge Shona Simon President, Employment Tribunals (Scotland)

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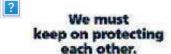
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