



EMPLOYMENT
LAWYERS
ASSOCIATION

www.elaweb.org.uk

Annual Report
2011 - 2012



Employment Lawyers Association
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Honorary Presidents of ELA

The Honourable Mr Justice Langstaff
President
Employment Appeal Tribunal England & Wales
(from February 2012)

David Latham
President
Employment Tribunals England & Wales

Shona Simon
President
Employment Tribunals Scotland

Lady Anne Smith
Chair
Employment Appeal Tribunal Scotland

The Honourable Mr Justice Underhill
President
Employment Appeal Tribunal England & Wales
(to December 2011)

ELA Management Committee 2010 - 2012

Chair
Joanne Owers

Deputy Chair
Richard Fox

Treasurer
Jane Amphlett

Secretary
Richard Linskill

Editor, ELA Briefing
Alex Lock

Chair, Training Committee
Gareth Brahams

Chair, Legislative & Policy Committee
Bronwyn McKenna

ELA Management Committee 2010 - 2012 cont.

Chair, International Committee

Christopher Walter

Chair, Pro Bono Committee

Paul Daniels

Representative of the Bar

Seán Jones

Regional Representatives

London & South East – Anna Henderson and Dijen Basu

Midlands – Tariq Sadiq

North East – Louise Bloomfield

North West – Naeema Choudry

Scotland – Paul Brown

South Wales – Damian Phillips

South West – David Major

Members at Large

Merrill April

Fiona Bolton

Henry Clinton-Davis

Jane Mulcahy

Katharine Newton

ELA Law Society Council Seat

Tom Flanagan

In-house Representatives

Ming Henderson Vu-Thi (to October 2011)

Michael Grisenthwaite

Life Vice Presidents

Dame Janet Gaymer DBE QC

Jane Mann

Fraser Younson

Vice President

Suzanne McKie

Chair

Joanne Owers, Fox Williams LLP

Deputy Chair

Richard Fox, Kingsley Napley LLP

Head of Operations

Lindsey Woods



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CHAIR'S REPORT

I am delighted to introduce the ELA Annual Report for 2011/2012 to all ELA Members in my second and final year as Chair. The Report contains all the highlights of yet another active year for the Management Committee and for all our sub-committees who have produced their own informative individual reports for the benefit of members. 2012 will be a landmark year in many ways, not least for our own organisation which reaches its 20th anniversary later this year. With that in mind, it is pleasing to know that our membership numbers remain healthy and growing (at just under 6,000). The level of participation and involvement by Members in all ELA's various initiatives is positive and encouraging.

During the tenure of this Management Committee from 2010 to 2012, we have made communication with Members and the transparency and relevance of our activities a priority. To that end, we have reached out to Members on a number of occasions, taking soundings on matters as varied as a rigorous assessment of our own organisation and its priorities, together with a number of the critical changes ongoing in our field from a legislative perspective, including the Red Tape Challenge and the review of the Employment Tribunal Rules of Procedure. The responses we have had, in particular, to our Membership Survey indicates a pleasing level of engagement and interest by Members which I hope will continue in the future.

The Survey we conducted provided very useful insight into the priorities of ELA Members and, taking the results into account, we have targeted resource to the regions and regional training events and have increased our spend on PR, resulting in increased public profile for our representation activities in particular, not least the extensive efforts of our Legislative and Policy Committee under the expert stewardship of Bronwyn McKenna in these interesting times. It is clear from the invitations we receive from the Department for Business, Innovation and Skills (and latterly the Ministry of Justice) just how high a regard ELA is held in with regard to our expert input into proposals for employment law reform. This has culminated in our invitation to participate in the Expert User Group established by Nicholas Underhill, who is leading the Fundamental Rules Review. As Bronwyn outlines in her Report, we have taken full advantage of this and are well positioned to undertake a detailed review of the new Rules once they are open for public consultation.

CHAIR'S REPORT cont.

As Chair, I have been greatly impressed by the continuing energy and enthusiasm of Members around the country advising a variety of clients to participate in ELA's work, in particular to responding to the multitude of consultation papers which have emerged in the last year (at the latest count 19!), and participating in the extensive and impressive training programme and the 100 day pro-bono project. To my mind, these activities, along with the invaluable contribution made by the Publishing Committee in consistently producing diverse and informative articles in ELA Briefing and our International Committee in reaching out to our colleagues in the US and Europe in particular, demonstrates the value and breadth of our expertise and work. I have every confidence that the new Committee under the Chairmanship of the current Deputy, Richard Fox, will continue this excellent work.

I would like to end by personally thanking all those who have participated in ELA's activities over the last two years, not least to my fellow Members of the Management Committee and all Members of the Sub-Committees for their dedication and support, which has been greatly welcomed and appreciated.

Finally, I would like to warmly thank our Head of Operations, Lindsey Woods, and the team at Byword for their fantastic work and support, which has been invaluable.

Joanne Owers
ELA Chair

Treasurer

Jane Amphlett, Finers Stephens Innocent LLP

Finance Team

Angela Gordon, Credit Control

Jayne Jefferson, Book-keeper



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TREASURER'S REPORT

The underlying financial affairs of ELA continue to be good and I am pleased to report that ELA made a surplus, after taxation, of £1,759 in 2011, against a budgeted deficit of £15,500.

Membership subscription income has continued to rise, with an increase of £20,000 on 2010 subscription income. However, we experienced a decrease in training income of approximately £30,000 compared to 2010; due to the fact that, whilst achieving a very respectable number of bookings, a small number of our national training events were below the level of bookings for the equivalent training events in 2010. In addition, some of the regions have struggled to arrange as many training sessions as we would like to offer. To help address this issue, we have increased the resources and level of central support we give to this important element of ELA's services and are delighted that Charlotte Masarati has, since the autumn of 2011, agreed to head up our regional training programmes, working closely with our Regional Representatives.

Expenditure has remained stable, at a level similar to 2010. The exception was that in 2011, as trailed in last year's annual report, we invested in a new administrative and finance system to enable a more efficient delivery of ELA's administrative functions. We took the opportunity, whilst designing the new system, to undertake a full review and overhaul of ELA's administrative and financial processes. The whole project cost just over £60,000, and is shown under Expenditure as web-site development. The technical team who built the new system have now been appointed to support ELA's website and IT system going forward.

As at 31 December 2011, ELA's reserves stood at £477,777. £250,000 of this comprises ELA's Emergency Fund. The remaining £227,777 forms ELA's Development Fund, the purpose of which is to enable future management committees to plan for the growth of existing membership services and allow innovation of new services and one-off projects.

TREASURER'S REPORT *cont.*

I am particularly grateful to the following for their help during the year:

- Our auditors, Bartfields (UK) Ltd;
- Jayne Jefferson, our book-keeper;
- Byword, who are responsible for dealing with and managing all income received by ELA;
- Angela Gordon, our credit controller; and
- Lindsey Woods, who among other matters, manages and verifies all of the expenditure occurred on ELA's activities, including training and conferences.

Jane Amphlett
Treasurer

SUMMARY OF ACCOUNTS

Income & expenditure account for the year ended 31 December 2011

	2011	2010
	£	£
Income		
Subscriptions	319,761	299,666
Training and annual events	456,659	487,272
Other income	13,000	17,045
Bank interest	2,842	1,957
	<u>792,262</u>	<u>805,940</u>
Expenditure		
Training		
Room hire & catering	228,721	229,151
Speakers' expenses	11,656	5,350
Other training costs	73,610	63,714
Administration expenses and staff costs	141,909	145,320
Social Events	8,141	5,779
PR	5,500	-
Employment tribunal survey	-	12,500
Professional and consultancy fees	78,673	73,952
Web-site hosting	14,514	12,788
Web-site development	60,134	-
Auditors remuneration	5,600	5,600
Publishing	119,107	108,987
Pro bono project	40,000	40,000
Bank charges	2,363	2,367
	<u>789,928</u>	<u>705,508</u>
Excess of Income over Expenditure (before taxation)	<u>2,334</u>	<u>100,432</u>

Secretary

Richard Linskill, Speechly Bircham LLP

ELA Administration - Byword

Sandra Harris

Charley Masarati

Emily Masarati

Jeanette Masarati

Claire Paley



Website Manager

Cynthia Clerk

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SECRETARY'S REPORT

The membership figures for the year to December 2011 was an all-time record of 5,981 (made up of 5,681 full members and 300 Associate members), which was an increase from the previous year and has now made up all of the fall since the peak in 2009 of 5,927. The fall last year followed a decision of the Management Committee to terminate the membership of a minority of members who had still failed to pay their membership fees over the course of the year. This process led to those members being excluded from the website and other ELA services. This "data cleanup" exercise at least gave us an accurate picture of the membership. As of 18 April in the current year, the membership has shown a small fall to 5,786 but the deficit should be made up by the end of the year.

Since last year's report, there have been no changes to the constitution and no further changes are currently proposed. One area that may be worth reviewing in the coming year is whether two-year terms for Management committee members helps by giving continuity or deters people from standing because of the two-year commitment

The elections this year have again been run on the basis of electronic voting only and, as at the time of writing, appear to have gone smoothly.

Last year I reported on some of the findings from the membership survey we conducted. The most frequent comment was a request for more regional training and social events as well as a higher public profile for ELA's representation activities. As a direct result of these comments, the Management Committee decided to provide more resources to support regional training events and I am pleased to say that this appears to be bearing fruit with a much more active regional training programme now available.

A new Secretary will be taking over next year although I will continue as a member of Management Committee. I would like to take the opportunity to thank the ELA administration team of Byword and Head of Operations, Lindsey Woods, whose continued dedication, hard work and efficiency mean that ELA runs so smoothly and all those on ELA committees can undertake their voluntary work for ELA with the minimum disruption to their professional life

Richard Linskill
Secretary

Legislative & Policy Committee Chair
Bronwyn McKenna, UNISON

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LEGISLATIVE & POLICY COMMITTEE REPORT

Committee

Elaine Aarons, Withers LLP

Sue Ashtiany, Ashtiany Associates

Trevor Bettany, Speechly Bircham LLP

Emma Burrows, Trowers & Hamlins LLP

Jonathan Chamberlain, Wragge & Co LLP

Paul Daniels, RJW Solicitors

James Davies, Lewis Silkin LLP

Robert Davies, Dundas & Wilson LLP

John Evason, Baker & McKenzie LLP

Richard Fox, Kingsley Napley LLP

Peter Frost, Herbert Smith LLP

Dame Janet Gaymer, DBE QC

Sarah Gregory, Baker & McKenzie LLP

Sarah Gregory, Baker & McKenzie LLP

Howard Hymanson, Harbottle & Lewis LLP

Richard Isham, Wedlake Bell LLP

Anthony Korn, No 5 Chambers

Stephen Levinson, RadcliffesLeBrasseur

Brona Reeves, Barclays Wealth PLC

Paul Statham, Pattinson & Brewer Solicitors

Ellen Temperton, Lewis Silkin LLP

Maeve Vickery, Pardoes Solicitors

Alison Weatherfield, McDermott Will & Emery LLP

David Widdowson, Abbiss Cadres LLP

John Wiggins, Mary Ward Legal Centre

Fraser Younson, Berwin Leighton Paisner LLP

2012 marked another busy year for L&P. In addition to undertaking responses to an unprecedented number of legislative consultations, the Committee has, over the last 12 months, met with a wider range of Government policy leads, broadened its policy role, sought to raise our media profile and improve our communication with members regarding the Committee's work.

None of this would have been possible without the hard work and enthusiasm of Committee members who have given so generously of their time. Thanks are as ever also due to Lindsey Woods whose superb organisational skills are vital to the smooth operation of L&P.

Committee membership

This year, Jonathan Chamberlain of Wragge & Co was welcomed on to the Committee.

Consultation responses

Responses were submitted to 19 separate consultation exercises throughout the year – a greater number than in the two preceding years. These ranged from comparatively narrow areas of law and practice such as tweeting from court to vast subjects such as the entire range of employment law regulation in the Red Tape Challenge focus on employment

LEGISLATIVE & POLICY COMMITTEE REPORT cont.

legislation. The number and variety of consultations provided an opportunity to involve large numbers of ELA members including many members who had not previously contributed to L&P working parties. The Committee felt that it was important to keep members informed of this aspect of L&P's work particularly on those consultations dealing with contentious issues. For this reason, communications were sent to the membership on ELA's responses on the Red Tape Challenge focus on Employment Law and on the "Flexible, Effective Fair: promoting economic growth through a strong and efficient labour market" document. Currently, the Committee is working on its input to Mr Justice Underhill's Fundamental Review of the Employment Tribunal rules. Members' views have been surveyed to gauge those aspects of the rules which are of greatest concern to practitioners. The public consultation on the rules will afford a further opportunity for ELA members to express their views.

A full list of all ELA's responses and the working party members who undertook the work is included at the end of my report.

[Collaboration with comparable organisations](#)

We have where appropriate collaborated with peer organisations including ELBA and the Law Reform Committee of the Bar Council e.g. on our consultation on Employment Tribunal Fees and will seek to continue such collaboration over the next 2 years.

[Policy development](#)

A new standing sub-committee of L&P has been established and considerable thanks are due to Stephen Levinson of RadcliffesLeBrasseur – the driving force behind this development. The Employment Law Oversight sub-committee will act as ELA's in-house "Law Commission", scanning the employment law horizon to identify from a strictly non-partisan perspective those areas of employment law which are poorly drafted, little used, or overly complex. The preliminary recommendations on candidates for reform from the Employment Law Oversight sub-committee will be referred to the incoming Management Committee for consideration.

[S.147 \(5\) Equality Act 2010](#)

Concerns raised by L&P in 2011 on the drafting of s.147 (5) of the Equality Act 2010 finally bore fruit this year when the Government announced its intention to legislate to iron out

LEGISLATIVE & POLICY COMMITTEE REPORT cont.

some of the difficulties with the statutory wording. Special thanks are due to Richard Fox and Stephen Levinson who led on this issue for the committee and to Paul Goulding QC and Diya Sen Gupta from Blackstone Chambers who provided timely and helpful advice.

The Equality Act 2010 (Amendment) Order 2012 came into effect on 6 April 2012, amending s.147 to confirm that an employee's lawyer can be an independent advisor for purposes of preparing a compromise agreement.

[Media coverage](#)

The 2011 membership survey confirmed the value to members of ELA's efforts to influence Government. A number of responses commented that more needed to be done to get the Committee's work into the media spotlight and this has been a key priority during the past 12 months. L&P responses to consultation documents have featured in New Law Journal, Personnel Today, Employment Law Journal, HR Director, The Barrister and the Law Society Gazette. Getting media coverage of L&P's work will remain a priority for the next 2 years.

[Meetings with Government Departments and other organisations](#)

There has been regular contact with BIS during the last 12 months. Meetings have also taken place between L&P representatives and DWP, the Government Equality Office, the Equality and Human Rights Commission and HMCTS. These meetings have allowed L&P to set out members' views on the workability of government proposals.

Finally, I would like to place on record my gratitude to all Committee members and those in the wider membership who have contributed to responses and to surveys. Every single response has exhibited the vast range of expertise and experience which can be found in ELA. My job as Chair has been made much easier by the support and advice so readily provided by Richard Fox, my predecessor and Joanne Owers, outgoing ELA Chair.

Bronwyn McKenna
[Chair, Legislative & Policy Committee](#)

ELA Consultation Responses May 2011 to May 2012

[ELA's response to the Executive Pay: Shareholder Voting Rights Consultation](#) 26 April 2012

Paul Harrison, Baker & McKenzie LLP & Alison Wetherfield, McDermott Will & Emery UK LLP
(Co-chairs)
Bettina Bender, C M Murray LLP
Clare Fletcher, Slaughter and May LLP
Sarah Franklin, BG Group Plc
Sinead Hall, BG Group Plc
Kathleen Healy, Freshfields Bruckhaus Deringer LLP
Stefan Martin, Allen & Overy LLP
Gemma Parker, Linklaters LLP
Julian Roskill, RJW Solicitors
Caroline Stroud, Freshfields Bruckhaus Deringer LLP
Andrew Taggart, Herbert Smith LLP
Alistair Woodland, Clifford Chance LLP

[ELA's Response to the Call for Evidence on EU Data Protection Proposals](#) 6 March 2012

Ellen Temperton, Lewis Silkin LLP (Chair)
Andrea Ward, McGuireWoods London LLP

[ELA's response to the Ministry of Justice Consultation on Charging Fees in Employment Tribunals and the Employment Appeal Tribunal](#) 29 February 2012

Working Party Chairs:
Paul Statham, Pattinson & Brewer Solicitors
Peter Wallington QC, 11 KBW

Group 1
Option 1 - covering questions 2-5, 15 and time limits
Paul Daniels, RJW Solicitors (Group Chair)

ELA Consultation Responses May 2011 to May 2012

Andrew Berk, Lovell Chohan Solicitors
Susan Dennehy, The Newspaper Society
Rupert Farr, Blake-Turner & Co
Rebecca Johns, Fasken Martineau LLP
Özlem Mehmet, Fox Williams LLP
Georgina Rowley, Dechert LLP

Group 2

Option 1 - criteria for remission

Peter Wallington QC, 11 KBW (Group Chair)
Minal Backhouse, Backhouse Solicitors Ltd
Joanna Cowie, HR Insight Ltd
Peter De Maria, Doyle Clayton Solicitors Ltd
Jamie Hamnett, Addleshaw Goddard LLP
Carrie Pearson, Withy King LLP
David Rintoul, Addleshaw Goddard LLP
Nicola Walker, Taylor Wessing LLP
Barbara Zeitler, Three Dr Johnson's Buildings

Group 3

Option 1 - fees for stages other than claiming and setting down for trial; recovery of fees paid from the other party; and refunds

John Wiggins, Mary Ward Legal Centre (Group Chair)
Adrienne Brown, MPM Legal LLP
Simon Cheetham, Old Square Chambers
Lydia Christie, Finers Stephens Innocent LLP
Susan Doris, Freshfields Bruckhaus Deringer LLP
Sarah Garth, Gateley (Manchester) LLP
Eleena Misra, Littleton Chambers

ELA Consultation Responses May 2011 to May 2012

Group 4
Option 2

Paul McFarlane, Weightmans LLP (Group Chair)
Tamsin Wallace, Eversheds LLP
Sarah Edwards, Minster Law Ltd
Michael-Jon Andrews, Barlow Robbins LLP
Andrew Workman, Temple Square
Kylie Morsley, Thomas Eggar LLP
David Scott, Minster Law Ltd

Group 5
EAT

Claire Darwin, Matrix Chambers (Group Chair)
Mark Bestley, SAS Daniels LLP
Caroline Field, Fox
Rachel Irwin, Leigh Day & Co
David Sorensen, Morrish Solicitors LLP

Group 6
Equality Impact Questions

Paul Statham, Pattinson & Brewer Solicitors (Group Chair)
Paul Callaghan, Taylor Wessing LLP
Cyril Dennemont, Harold Benjamin Solicitors
Fiona McLellan, Hempsons Solicitors
Ben Patrick, UNISON
Victoria von Wachter, 5 Essex Court

ELA Consultation Responses May 2011 to May 2012

ELA's response to the Fees in the High Court and Court of Appeal Division Consultation
7 February 2012

David Widdowson, Abbiss Cadres LLP (Chair)
James Davies, Lewis Silkin LLP
Caroline Field, Fox
Lisa Judd, Thackray Williams LLP

ELA Response to Call for Evidence on Effectiveness of Current TUPE Regulations
31 January 2012

Fraser Younson, Berwin Leighton Paisner LLP (Chair)
Michael Bradshaw, Charles Russell LLP
Bernadette Daley, Mayer Brown International LLP
Shantha David, UNISON
Jane Farrell, Pattinson & Brewer Solicitors
Adrian Hoggarth, Prolegal Ltd
Adam Leith, Suffolk County Council
Robert McCreath, Archon Solicitors Ltd
Adrian Martin, Burges Salmon LLP
Deborah Nathan, Russell-Cooke LLP
Julian Parry, Lewis Silkin LLP
Caroline Stroud, Freshfields Bruckhaus Deringer LLP
Grant Spooner, Barclays Bank PLC
Mark Taylor, Jones Day

ELA's response to BIS Collective Consultation call for evidence
31 January 2012

John Evason & Paul Harrison, Baker & McKenzie LLP (Co-chairs)
Sue Ashtiany, Ashtiany Associates
Sophia Catchpole, Suffolk County Council
Emma Clark, Fox
Felicia Epstein, Pattison & Brewer Solicitors

ELA Consultation Responses May 2011 to May 2012

Philip Farrar, Hill Dickinson LLP
Jane Fielding & Siobhan Bishop, Wragge & Co LLP
Sarah Harrop, Addleshaw Goddard LLP
Richard Kenyon, Field Fisher Waterhouse LLP
Nigel Mackay, Squire Sanders (UK) LLP
Helen Mason, Helen Mason & Co
Chris Thompson, Gately LLP
Heidi Watson, Clyde & Co LLP
Alistair Woodland, Clifford Chance LLP

[ELA's response to the Open Justice Consultation
6 January 2012](#)

Michael Reed, Free Representation Unit (Chair)
Robin Allen QC, Cloisters
Binder Bansel, Pattinson and Brewer
Jasmine van Loggerenberg, Russell, Jones and Walker
Tariq Sadiq, St Philips Chambers

[ELA's response to the Migration Advisory Committee: Call for evidence on the level of the
2012/13 annual limit on tier 2 and associated policies
21 December 2011](#)

Robert Davies, Dundas & Wilson LLP (Chair)
Sue Ashtiany, Ashtiany Associates
Laura Darnley, Addleshaw Goddard LLP
Cyril Dennemont, Harold Benjamin Solicitors
Colin Godfrey, Veale Wasbrough Vizards
Rizwana Ishaq, Gateley (Manchester) LLP
Elaine McIlroy, Dundas & Wilson LLP
Annabel Mace, Squire Sanders (UK) LLP
Faranak Moshir, Wragge & Co LLP
Georgina Porter, Weightmans LLP
Ilda de Sousa, Kingsley Napley LLP

ELA Consultation Responses May 2011 to May 2012

Consultation on Public Sector Equality Duty – Revised Draft Regulations - Scotland
25 November 2011

Paul Brown, Biggart Baillie LLP (Chair)
Jill Bell, Anderson Strathern LLP
Sophie Cameron, PLC Public Sector
Laurence G Cunningham, Westwater Advocates
Valerie Dougan, Dundas & Wilson LLP

Executive Remuneration Discussion Paper
23 November 2011

John Evason & Paul Harrison, Baker & McKenzie LLP (Co-chairs)
Stefan Martin, Allen & Overy LLP
Andrew Taggart, Herbert Smith LLP
Julian Roskill, RJW Solicitors
Caroline Stroud & Kathleen Healy, Freshfields Bruckhaus Deringer LLP
Sinead Hall & Sarah Franklin, BG Group Plc
Alistair Woodland, Clifford Chance LLP
Clare Fletcher, Slaughter and May LLP
Bettina Bender, C M Murray LLP
John Murphy, Else Solicitors LLP
Gemma Parker, Linklaters LLP

ELA's response to Red Tape Challenge: Focus on Employment Law and
ELA's response to "Flexible, effective, fair: promoting economic growth through a strong
and efficient labour market"
19 October 2011

Bronwyn McKenna, UNISON (Chair)
Jonathan Chamberlain, Wragge & Co LLP
Paul Daniels, RJW Solicitors
Robert Davies, Dundas & Wilson LLP
Michael Elks, RadcliffesLeBrasseur

ELA Consultation Responses May 2011 to May 2012

Richard Fox, Kingsley Napley LLP
Peter Frost, Herbert Smith LLP
Anna Henderson, Herbert Smith LLP
Stephen Levinson, RadcliffesLeBrasseur
C J Kingsley
Anthony Korn, No5 Chambers
Richard Lister, Lewis Silkin LLP
Sean McHugh
Jemma O'Reilly, Wragge & Co LLP
Joanne Owers, Fox Williams LLP
Ellen Temperton, Lewis Silkin LLP
Peter Wallington QC, 11 Kings Bench Walk
Chris Wellham, Hogan Lovells International LLP
Fraser Younson, Berwin Leighton Paisner LLP

[ELA's response to Migration Advisory Committee: Analysis of settlement of migrants using tiers 1 and 2 of the points based system: Call for Evidence](#)
31 August 2011

Robert Davies, Dundas & Wilson LLP (Chair)
Laura Allner, Dundas & Wilson LLP
Sue Ashtiany, Ashtiany Associates
Laura Darnley, Eversheds LLP
Cyril Dennemont, Harold Benjamin Solicitors
Ilda de Sousa, Kingsley Napley LLP
Colin Godfrey, Veale Wasbrough Vizards
Natasha Gya Williams, Nicholas Moore
Nick Hobson, Speechly Bircham LLP
Rizwana Ishaq, Gateley (Manchester) LLP
Annabel Mace, Squire Sanders (UK) LLP
Faranak Moshir, Wragge & Co
Annabel Porter, Weightmans LLP
Porter, Weightmans LLP
Gloria Troke, Sainsburys

ELA Consultation Responses May 2011 to May 2012

ELA's response to consultation on modern workplaces

26 July 2010

Chair of working party:

James Davies, Lewis Silkin LLP

Members of the Working Parties:

Part i) – Flexible Parental Leave

Ellen Temperton, Lewis Silkin LLP (Group Chair)

Hester Briant, Lewis Silkin LLP

Susan Dennehy, The Newspaper Society

Felicia Epstein, Pattinson & Brewer Solicitors

Rebecca McAlees, Lewis Silkin LLP

Deepa Nathan, Allen & Overy LLP

Jennifer Platt, Kuit Steinart Levy LLP

Helen Rice Birchall, Eversheds LLP

Anne Sammon, Herbert Smith LLP

Sarah Takun, Abbey Legal Protection

David Tyme, Webster Dixon LLP

Part ii) – Flexible working

David Widdowson, Bevan Brittan (Group Chair)

Emma Burns, Geldards LLP

Esther Fagbemi, Abbey Legal

Heather Grant, Kuit Steinart Levy LLP

Vanessa Hogan, Hogan Lovells International LLP

Adrian Hoggarth, Norton Rose LLP

Tom Kerr-Williams, Baker & McKenzie LLP

Joanna Lada-Walicki, Barlow Robbins LLP

Part iii) – Working Time Regulations

Trevor Bettany, Speechly Bircham LLP (Group Chair)

Ranjit Dhindsa, Hill Hofstetter LLP

Sheila Fahy, Allen & Overy LLP

Anna Henderson, Herbert Smith LLP

Colin Leckey, Baker & McKenzie LLP

ELA Consultation Responses May 2011 to May 2012

Jennifer McGrandle, Mayer Brown International LLP
Katy Meves, Shoosmiths LLP
Sejal Raja, RadcliffesLeBrasseur
Simon Rice-Birchall, Eversheds LLP

Part iv) – Equal Pay

Brona Reeves, Barclays Wealth PLC (Group Chair)
Sue Ashtiany, Ashtiany Associates
Shubha Banerjee, Unite
Chris Benson, Leigh Day & Co
Jo Broadbent, Hogan Lovells International LLP
Adame Crème, UNISON
Fiona McLellan, Field Fisher Waterhouse LLP
Melanie Stancliffe, Pritchard Englefield LLP

Solving disputes in the county courts; creating a simpler, quicker and more proportionate system

30 June 2011

John Wiggins, Mary Ward Legal Centre (Chair)
Holly Dobson, Wake Smith LLP
Helen Buczynsky, UNISON

ELA's response to submissions on the Equality Act in response to the Red Tape Challenge

30 June 2011

Stephen Levinson, RadcliffesLeBrasseur (Chair)
Richard Fox, Kingsley Napley LLP
Paul Harrison, Baker & McKenzie LLP
Anna Henderson, Herbert Smith LLP
Kim Sartin, Baker & McKenzie LLP

ELA Consultation Responses May 2011 to May 2012

ELA's to response to Consultation: Building a fairer Britain: Reform of the Equality and Human Rights Commission

15 June 2011

Susan Belgrave, 9 Gough Square & Bronwyn McKenna, UNISON (Co-chairs)
Samira Ali, Rebian Solicitors
Sue Ashtiany, Ashtiany Associates and Nabarro LLP
Emma Burrows, Trowers & Hamlins LLP
Sophie Cameron, PLC Public Sector
Mugni Islam-Choudhury, Eversheds LLP
Richard Kenyon, Field Fisher Waterhouse LLP
Samantha Mangwana, RJW Solicitors

ELA's response to Consultation on treatment of pensions on compulsory transfer of staff from the public sector

15 June 2011

Emma Burrows, Trowers & Hamlins LLP (Chair)
David Major, Workforce Relations Services Ltd
Mark Serby, Wake Smith LLP
David Wilman, SJ Berwin LLP
Nick Sheppard, G4S Care and Justice Services (UK) Ltd
Mark Walker, & CS LLP
John Clinch, Sharpe Pritchard
Jessica Baden-Daintree, Weightmans LLP

ELA's response to Review of Certain Aspects of the Regulation of Takeover Bids

27 May 2011

Sarah Gregory, Baker & McKenzie LLP (Chair)
Stephen Ratcliffe, Baker & McKenzie LLP
Elizabeth Slattery, Hogan Lovells International LLP
Christine Young, Herbert Smith LLP
Alistair Woodland, Clifford Chance LLP
Suzanne Horne, Paul Hastings Janofsky & Walker (Europe) LLP
Steven Cochrane, Allen & Overy LLP
Jean Lovett, Linklaters LLP

Pro Bono Committee Chair

Paul Daniels, RJW Solicitors (part of Slater & Gordon Lawyers)

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PRO BONO COMMITTEE REPORT

Committee

Ruth Badrick, Stewarts Law LLP

Susan Belgrave, 9 Gough Square

Andrew Berk, Lovell Chohan Solicitors

Anna Corrigan, BPP Law School

Tom Croxford, Blackstone Chambers

Francesca Debenham, Treasury Solicitors Dept

Cyril Dennemont, Harold Benjamin Solicitors

Emily Gibbs, North Kensington Law Centre

Sally Gill, The College of Law

Karen McKay, FRU

Nicola McMahon, Charles Russell LLP

Katharine McPherson, Lewis Silkin LLP

Julie Morris, RJW Solicitors

Lisa Moses, LawWorks

Laura Rowland, BPP Law School

Roisin Overton, Islington Law Centre

Victoria Speed, BPP Law School

Caroline Stroud, Freshfields Bruckhaus Deringer LLP

John Wiggins, Mary Ward Legal Centre

Rebecca Wilkie/Lindsey Poole, Bar Pro Bono Unit

Emma Wilkinson, Citizens Advice

This has been another busy year for the ELA Pro Bono Committee. The ELA 100 days project which matches up ELA members keen to obtain experience in doing advocacy and representation in employment tribunals with suitable cases needing pro bono assistance has developed positively. In the last 12 months to March 2012 we have already recorded 54 days of representation and advice in employment tribunals for pro bono cases, with 15 volunteers still to report back on the conclusions of their matter. This means we are likely to hit 70 to 75 days of pro bono assistance for the year when all of the calculations are complete. Not quite 100 days, but getting closer...

We have covered a range of cases from Case Management Discussions and half or one day cases, to longer cases with more complex involvement. Can I thank on behalf of the Committee everyone who has volunteered this year as not only have you no doubt learnt from the process but you have also really helped those who have needed your assistance. The names of this year's volunteers and their organisations are listed at the bottom of this report.

There is, however, room for more volunteers to put themselves forward and for anyone who is not already on the 100 day "pledgee list" (the list of ELA members who get emailed direct about ELA pro bono opportunities) I would be extremely grateful if you could send a quick email to 100days@elaweb.org.uk in order to advise of your interest. This does not involve a promise to do a case but just ensures you will receive information of cases which you might wish to sign up for.

PRO BONO COMMITTEE REPORT cont.

Another development this year has been broadening the members of the Committee in order to ensure joined-up thinking across the pro bono sector. We have co-opted senior representatives from Fru, the Bar Pro Bono Unit, BPP and the College of Law in order to build knowledge of the sector and how we can best go about our projects. This additional support from these organisations has been very helpful. At the same time a number of our more senior solicitors and barristers have found it a little more difficult to be involved in the Committee so the time is now ripe for people with an interest in pro bono, both solicitors and barristers to express an interest in helping the Committee. Meetings are held quarterly and your assistance would be very much appreciated. Please just email me if you'd like to be involved at Pdaniels@rjwslatergordon.co.uk

Mentoring project

In the next 12 months we plan an interesting and exciting new project around mentoring for those doing 100 days cases. We identified a gap in the sense that some solicitors and more junior barristers who take on employment cases haven't had much experience of employment tribunals. Indeed, this is the whole essence of the scheme, to help those who are relatively green in this area build up confidence. To address this issue the Bar Pro Bono Unit have suggested accessing their database in order to try to match up experienced barrister mentors for 100 days volunteers to pass on knowledge and experience of the employment tribunal process. This could be through just a one hour discussion with the mentor partly to put the volunteer's mind to rest and deal with any process or practical issues. The barrister will not be asked to advise on the case as such but give tips and experience on the process and "craft" of advocacy. Further news on this project will follow shortly.

We are also looking into a project where ELA members acting for respondents may have the opportunity to refer their opponents to fast track pro bono coverage in order that they can understand more about their case. This is obviously a judgment call for the respondent in each case but it does seem to be something where we could add value to our members. For those interested in this project please email me.

One case Project

Another venture we plan to introduce is a new project, to work hand in hand with the 100 days project, called "One Case". So far, there has been a rather disappointing take-up in advocacy and representation on the 100 days project by the larger firms and the top

PRO BONO COMMITTEE REPORT cont.

employment tribunals and who would, by doing a “100 days” case, develop skills and confidence which could be invaluable in their role going forward. We are therefore planning a new project aiming for 20 firms/sets to sign up for the “One Case” project which will involve someone in their team (or a team of people) doing one case, in total, per year on a pro bono basis. Just one case. This could be just a one day case even. We are not talking about a large commitment here. If 20 firms/set signed up for 2012/2013 we believe we would make the 100 days target this year. We are excited about this project and believe it is a good way of improving take-up of 100 day volunteers from firms who should be able to help. Hand in hand with the new mentoring project we also believe that there will be plenty of assistance available for those who sign up. This project is aimed at those who are at an earlier stage in their career and who would value the extra confidence and knowledge that a volunteering opportunity brings.

Many thanks again to the members of the Committee and to all of those who have volunteered this year. We really appreciate your help.

Paul Daniels
Chair, ELA Pro Bono Committee

100 Days Pro Bono Scheme

We are grateful to the following ELA members who have taken pro bono work under this scheme since it started in March 2010.

(The volunteers were at the organisation listed next to their name at the time of volunteering)

Volunteers year beginning March 2010

William Addis, Clarkson Wright & Jakes Ltd

Andrew Berk, RWP Solicitors

Jonathan Bertram, 7 Bedford Row

Eunyoung Cho, Metcalfe Harveys Solicitors

Paul Daniels, RJW Solicitors

Aiyub Denath, Davis & Co

Susan Dennehy, The Newspaper Society

Morayo Fagborun Bennett, Hardwicke

Kate Guilding, Cobbetts LLP

Lee Harding, Field Fisher Waterhouse LLP

Adam Heppinstall, Henderson Chambers

Shobana Iyer, Swans Chambers

Grenville Jay, Regent Chambers

Shirley Jones, Thompsons Solicitors

Alexis Lane, The Head Partnership Solicitors

Joanne Leach, Lawrence Graham LLP

David Ludlow, Barlow Robbins LLP

Kevin Lynch, Davis & Co

Stephanie McKeon, Working Families

Hari Menon, Park Lane Plowden

Jennifer Millins, Mishcon de Reya Solicitors

Victoria Moffatt, Taylor Bracewell LLP

Richard Mumford, 1 Crown Office Row

Clodagh Maguire, 11 KBW

Tara Newsome, Hill Hoftstetter LLP

Craig Oldale, Bernetts Solicitors

Pia Padfield, RJW Solicitors

Javed Patel, Blackstone Solicitors Ltd

Temitope Peters, Abbey Legal Protection

Martin Pratt, Kingsley Napley LLP

Bill Smith, Bond Pearce LLP

Paul Stewart, Lamb Chambers

Anna Thomas, Devereux Chambers

Susan Treen, Cobbetts LLP

Sarah Urmston, Gorvins Solicitors

Marina Vincent, Harold Benjamin

Paul Whitaker, Moore Blatch LLP

Lee Whiting, Andrew Jackson

Martin Young, 9 Stone Buildings

100 Days Pro Bono Scheme cont.

Volunteers year beginning March 2011

Armen Acemoglu, Levenes Solicitors

Andrew Berk, Aston Bond LLP

Nicholas Buckland, Field Fisher Waterhouse LLP

Rob Childe, Gateley (Manchester) LLP

Samantha Cooper, Fenner's Chambers

Sally Cowen, Cloisters

James Dixon, No 5 Chambers

Lee Harding, Field Fisher Waterhouse LLP

John Horan, Cloisters

Amy Jones, Queens Square Chambers

Nawraz Karbani, Pump Court Chambers

Keith Knight, 4KBW

Stephen Levinson, RadcliffesLeBrasseur

David Ludlow, Barlow Robbins LLP

Stephanie McKeon, Working Families

Kevin McNerney, St John Buildings

Katherine McPherson, Lewis Silkin LLP

Annabel Mackay, Addleshaw Goddard LLP

Gavin Mansfield, Littleton Chambers

Hafsah Masood, Chambers of James Dingemans QC

Andrew Morgan, Thomson Snell & Passmore

Laura Neighbour, Harvey Ingram Borneos

Adam Ohringer, Cloisters

Javed Patel, Blackstone Solicitors Ltd

Sejal Raja, RadcliffesLeBrasseur

Catherine Richmond, Cloisters

Joanna Sanderson, Wrigleys Solicitors LLP

Paul Sangha, EAD Solicitors LLP

Monika Sobiecki

Rebecca South-Allen, Averta Employment Lawyers LLP

Richard Stubbs, Trinity Chambers

Robert Talalay, 5 Essex Court

Alex Ustych, 5 Essex Court

Sean Walsh, Weightmans LLP

Alfred Weiss, Zenith Chambers

Lee Whiting, Andrew Jackson

Barbara Zeitler, Clarendon Chambers

Volunteers year beginning March 2012

Andrew Berk, Lovell Chohan Solicitors

Paul Jennings, Bates Wells Braithwaite Solicitors

Editor/Publishing Committee Chair
Alex Lock, DAC Beachcroft LLP

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The publishing committee ensures that ten months of the year ELA Briefing is published and arrives on members' desks. It must contain readable, informative and incisive articles on employment law.

This is no mean feat, particularly where the pace of legislative change has slowed. Readers want articles that not only reflect the latest decisions of the Employment Appeal Tribunal and the appellate courts, but also want articles that are wider ranging and more thoughtful.

We rely on employment practitioners to give up their time to write articles that get pulled about, poked and chopped, with the only reward being publication of the photo they supplied and the grudging respect of their peers. If your article has been published in ELA Briefing it has gone through the most rigorous scrutiny and testing.

Principal thanks are therefore due to the authors, to those that put their efforts out for examination by both the editorial board and the readership. Without them ELA Briefing would not exist.

PUBLISHING COMMITTEE REPORT cont.

Next up for thanks is the editorial board itself. Ten times a year they read, scrutinise and argue about what is submitted, always ensuring only the highest quality articles make it through.

Thanks also to the team at IDS for producing ELA Briefing and ensuring it does actually end up on members' desks, following excellent work by Matt, our typesetter, who edits, formats and designs.

It is a collective effort by all these individuals that has ensured that ELA Briefing remains one of the best employment law journals over the past 12 months.

Alex Lock
Chair, Publishing Committee

Training Committee Chair

Gareth Brahams, Stewarts Law LLP

www.elaweb.org.uk

TRAINING COMMITTEE REPORT

Committee

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Anna Henderson, Herbert Smith LLP – London & SE Rep

Ellie Hibberd, Winckworth Sherwood LLP

Penny Hunt, DAC Beachcroft LLP

Mhairi Letcher, The British Museum

Lisa Lewinsohn, Withers LLP

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Catriona Moffatt, Olswang LLP – Thames Valley Rep

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Charles Piggot, Mills & Reeve LLP

Tariq Sadiq, St Philips Chambers – Midlands Rep

Diya Sen Gupta, Blackstone Chambers

Khurram Shamsee, DAC Beachcroft LLP

Nicholas Squire, Freshfields Bruckhaus Deringer LLP

Nicola Tager, Harbottle & Lewis LLP

Susan Thomas, Charles Russell LLP

James Warren, Field Fisher Waterhouse LLP

Anna West, Travers Smith LLP

The remit of the Training Committee is very extensive. In particular, we devise the following programmes:

- The annual conference (a plenary and 18 break-out sessions);
- The national programme of six or so (often multi-day) courses at introductory, intermediate and advanced level;
- 11 London evening sessions a year; and
- numerous regional evening sessions.

TRAINING COMMITTEE REPORT cont.

This is all achieved by a committee of volunteers who have busy day-jobs as employment lawyers but who make the time to innovate, push forward, chair and develop sessions with the invaluable help of Lindsey Woods, Charley Masarati and their team.

Every month we also review all the feedback from training sessions and wherever possible act on it. Please keep it coming. We cannot operate a programme of continuous improvement without it.

Our reliance on volunteerism does not stop there, of course, because each of those sessions have speakers (often several) who also give up considerable amounts of their time preparing and presenting courses for free.

Moreover, we rely on member firms to provide us with venues, again without charge.

It is only because of these acts of generosity of time and resources and the dedication and effectiveness of the staff of ELA that we are able to deliver so much training at such low cost.

Not only have we frozen our prices for the last three years – a real terms decrease of 9% - but we have introduced “early bird discounts” to encourage members to book before the last minute which is a great help in planning venues etc. Despite a drop in training income compared to 2010 of £30,000, which is largely owing to the annual conference taking place outside London which always reduces numbers, our training programme remains highly popular, with most sessions and courses achieving very high numbers of bookings. Training income continues to account for well over half of ELA's income.

2011 was not an active year for legislative developments in employment law. As I said in the interim report, we used this as an opportunity to offer skills based training which has transpired to be extremely popular. There is clearly a demand from members that we focus on these areas in addition to hard law.

TRAINING COMMITTEE REPORT cont.

On the theme of hard law, 2012 is certainly looking like a year in which major substantive and procedural changes to employment regulation will take place. We will of course be delivering cutting edge training as the changes take effect but this will not be at the expense of running the practical training that has proved so popular in these past months which have been unusually fallow for generating legislative changes to employment law.

Gareth Brahams
Chair, Training Committee

International Committee Chair

Christopher Walter, Covington & Burling LLP

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INTERNATIONAL COMMITTEE REPORT

Committee

Allison Brown, Google

Juliet Carp, Speechly Bircham LLP

Henry Clinton-Davis, Arnold & Porter LLP

Adam Crème, UNISON

Robert Davies, Dundas & Wilson LLP

Declan O'Dempsey, Cloisters

Susanne Foster, CM Murray LLP

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Hilary Schrader, NBCUniversal

Fraser Younson, Berwin Leighton Paisner LLP

2011 was an eventful and rewarding year for the International Committee. The Committee organised the second joint ELA/American Bar Association cross-border employment law event and introduced new “think-tank” training sessions, affording international employment specialists opportunities to discuss the employment laws of non-EU countries with visiting experts from those countries. In addition, Juliet Carp made significant progress in developing links with the heads of ELA-equivalents across Europe, and Stephen Levinson led a group of committee representatives in a meeting with the European Commission.

As usual, the International Committee owes Lindsey Woods and her team a huge debt of gratitude for their tremendous support - and patience - throughout the year.

Developing Relationships Overseas

ELA's International Committee has been working to develop closer links with other countries' national employment lawyers associations (initially Spain, Italy, Netherlands, France, Germany and the U.S.), all of whom are enthusiastic to build closer links.

Juliet Carp led discussions at the EELA conference in Helsinki in May 2011. There was particular enthusiasm for establishing a new website as a forum for sharing information about forthcoming events (e.g. conferences, seminars) and about national organisations (e.g. providing links to websites, explanations of what each organisation does and contact details, perhaps in a little more detail than is currently given on our current ELA website).

INTERNATIONAL COMMITTEE REPORT cont.

The International Committee believes that, in the longer term, developing closer links with other countries' associations should benefit all employment lawyers, particularly those from firms without established international networks in Europe or globally.

The availability of resources was a particular concern for the Helsinki participants. We concluded that EELA would not be willing to host a site, since US and other non-European lawyers are not permitted to join EELA, and EELA resources are for EELA members only. Fortunately, Tim Darby of BNA Books attended the Helsinki meeting as observer for the American Bar Association and demonstrated both enthusiasm for the project and a degree of technical know-how that far exceeded that of other participants. Tim has since confirmed that the ABA could set up and run the site efficiently, at its cost. Since the project will likely require considerable commitment and resources in the early stages, the International Committee has concluded that the best solution is to invite Tim and the ABA to take the lead in establishing a website for the benefit of national associations - though there has been no official ABA approval of this approach and Tim would need to consult internally before a decision is made by the ABA.

The Committee is very grateful to Juliet for the huge amount of time and energy she has invested in this project.

[ELA/ABA Event](#)

On 3 October 2011 the International Committee hosted a joint ELA/ABA one-day conference on cross-border employment law. Issues discussed included FCPA/Bribery Act compliance and cross-border investigations; a comparative session on age discrimination laws in the US and Europe; pay governance in the financial services sector; whistleblowing; and employee monitoring and data privacy concerns. In addition, delegates were offered two plenary sessions: one on US/UK enforcement of equal opportunities laws (speakers included Chai Feldblum, an EEOC Commissioner, and John Wadham, EHRC's legal director); the other on alternative dispute resolution.

The event was well attended, attracting nearly 90 delegates and 45 speakers, and subsequent feedback has been very positive. It would not have been such a success without the considerable support of several International Committee members, many of whom spoke on the day, including in particular Allison Brown, Juliet Carp; Declan O'Dempsey and Ed Gelsthorpe.

INTERNATIONAL COMMITTEE REPORT cont.

The International Committee is considering a further joint conference in 2013.

Training Programme

Henry Clinton-Davis chaired a panel discussion regarding the employment and benefits aspects of international mergers and acquisitions at the ELA annual conference in May 2011.

The first international non-EU think-tank breakfast meeting concerned Indian employment law and was hosted by Toni Lorenzo (Partner, Lewis Silkin LLP). Manishi Pathak (Partner, Kochhar & Co) spoke very engagingly for over an hour on law and practice across India, for the benefit of approximately 12 experienced attendees, including senior employment counsel at Barclays and other banks/corporates.

The next international think-tank meeting concerned employment law in the Arabian Gulf and was presented by Sarah Khoja (Partner, Clyde & Co LLP) on 27 March at Clyde & Co's offices in London. We expect to host two further think-tank sessions this year.

Europe

International Committee representatives met with EU Commission representatives on 28 November, 2011. Stephen Levinson, Ming Henderson-Vu Thi and Juliet Carp met with the new Head of the Labour Law Unit; the Director of Employment Policies and the acting Head of the Equal Treatment Unit, among others. They also had a constructive meeting with Isabelle Schömann, of ETUC, topics discussed ranging from collective redundancy to paternity leave.

Christopher Walter
Chair, International Committee



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