

THE ROLE OF THE NATIONAL JUDGE



A Focus on Judicial Practice.
Philip Rostant, Employment Judge,
Employment Tribunals of England and
Wales.

A Fair Trial Leads to a Just Result

- 3 Overriding objective
- (1) The overriding objective of these Regulations and the rules is to enable tribunals and Employment Judges to deal with cases justly.
- (2) Dealing with a case justly includes, so far as practicable:—
 - (a) ensuring that the parties are on an equal footing;
 - (b) dealing with the case in ways which are proportionate to the complexity or importance of the issues;
 - (c) ensuring that it is dealt with expeditiously and fairly; and
 - (d) saving expense.
- (3)....
- (4) The parties shall assist the tribunal or the [Employment Judge] to further the overriding objective.
- Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (SI 2004/1861)

Case Management (1)

Identify the issues

Claims

Legal Issues

Factual issues

Preliminary Issues

Case Management (2)

Other Factors Significant for the Fair Hearing of the Case.

Disability

Language

Culture and religion

Case Management (3)

Managing the Case

Amendment

Length and date of Hearing

Timetable for preparation

Avoid Delay

The Hearing

Control the Hearing

Issues

Procedure

Timetable

Judicial intervention

Alternative Dispute Resolution

“Discourage litigation. Persuade your neighbours to compromise whenever they can. As a peacemaker the lawyer has superior opportunity of being a good man. There will still be business enough”

Abraham Lincoln

“Mediation can provide a cost-effective and quick extrajudicial resolution of disputes in civil and commercial matters through processes tailored to the needs of the parties. Agreements resulting from mediation are more likely to be complied with voluntarily and are more likely to preserve an amicable and sustainable relationship between the parties.”

Recital 6 Directive 2008/52/EC of the European Parliament and of the Council