

Solicitors Disciplinary Tribunal Performance Statistics: January - December 2010/January - June 2011

Performance Measure 1 - Issue of Proceedings

Target: In 85% of cases, proceedings to be issued or notification of non-certification sent to the Applicant within 10 calendar days of date of receipt of Originating Application at the SDT (figures in brackets represent number of cases received)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Half year	Yearly
2011	90% (10)	92% (14)	77% (18)	55% (9)	76% (13)	70% (15)							76% (79)	
2010	5% (20)	14% (27)	47% (36)	14% (21)	65% (29)	70% (17)	52% (21)	67% (24)	63% (22)	90% (21)	78% (23)	53% (17)	35% (150)	52% (278)

Commentary

When a Rule 5/Rule 8 Statement initiating proceedings is received from the SRA or a lay applicant, it must first be certified by a solicitor member/three member panel as showing a case to answer, or otherwise, on its face, before being issued and served on the respondent. This is a task for which solicitor members do not receive payment, although papers may take some hours to read. Performance measurement /target 1 refers to the administrative process. The Tribunal has disappointingly fallen just short of the target for January to June 2011, having issued proceedings or otherwise within 10 calendar days of receipt in 60 out of 79 cases (76%) rather than 67 out of 79 cases (85%). It is also right to say that the number of cases received by the Tribunal when compared with the equivalent period in 2010 has fallen by 53% which should have made the target easier to achieve, albeit that the Tribunal's workload has not decreased because at least 50% of cases received now result in hearings listed for longer than one day, and in many cases 3 days or more.

Analysis of the reasons for the failure to meet the target reveals that the target itself is fair and reasonable and capable of being achieved and improved upon. It is notable that the lowest percentage in 2011 to date was 55% in April explained in part by the extended Easter holiday period and the absence from their offices of solicitor members. The lowest percentage in 2010 was 5% in January. Further, apart from April 2011, percentages have consistently been at 70% and above, a standard achieved only three times during 2010. The consolidated figures for the first 6 months of 2011 when compared to 2010 show a dramatic improvement. Proceedings were customarily sent by post/DX by the Tribunal administration on the day of receipt to solicitor members for certification and then served on the respondent by the Tribunal on the day of receipt from the solicitor member. Delay has been creeping in to the process where solicitor members have been away from their offices for personal or professional reasons without letting the Tribunal know before papers were sent to them under the rota allocation system, resulting in a time gap before proceedings were certified. As a result of this data collection exercise, a new certification system was introduced in September 2011. Statements are now considered by Tribunal members either immediately before or after hearings at the Tribunal's offices so that whenever possible they can be issued and sent to the respondent one or two days after receipt. The rota system has been abandoned. This should improve the figures for the balance of the year significantly. Further Tribunal members are required to inform the administrative team in advance if they are to be away from their offices for any reason.

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Performance Measure 2 - Determination by Hearing

Target: In 70% of cases determination of application, by substantive hearing or otherwise, to take place within 6 months from the date of issue of proceedings (figures

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Half Yearly	Yearly
2011	45% (24)	29% (17)	40% (27)	0% (7)	41% (22)	28% (14)							30% (111)	
2010	13% (17)	25% (20)	43% (23)	7% (13)	25% (12)	50% (18)	53% (15)	16% (6)	46% (39)	23% (30)	62% (32)	31% (32)	27% (103)	33% (257)

Adjournment Analysis

Applications		51												
Applicant	15	29%		Granted	14		Refused	1						
Respondent	35	68%		Granted	19		Refused	16						
Tribunal	1	1%		Granted	1		Refused	0						
Total	51	100%			34	67%		17	33%					

Reasons	Ill health of Respondent	14	27%
	Unavailability of SRA witness	6	12%
	Service difficulties	6	12%
	Other regulatory matters pending	6	12%
	Criminal proceedings pending	8	15%
	Respondent not ready	5	10%
	Discussions with SRA	3	6%
	Case over run	2	4%
	Inadequate time estimate	1	2%

Commentary

Commentary provided on next page under tab **PM 2**.

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Commentary On Performance Measurement/Target 2

It is no surprise that the Tribunal has fallen short of this target when the figures for 2010 are considered. In that year 278 cases were received. In the same year only 257 cases were heard. This meant that at a bare minimum in 2011 the Tribunal started with a backlog 21 cases. Whilst fewer cases might have been received in the first half of 2011 than in 2010, cases appear to be more complex and time estimates longer in consequence. It is those cases that can prove difficult to list due to availability of parties and advocates (see below). In addition in the first 6 months of 2011 at least 40 court days were lost due to unavoidable adjournments, the reasons for which are provided on the previous page. Time estimates provided to the Tribunal by advocates/parties in person can be inaccurate. For example, a case may be listed for 3 days but for some very good reason an allegation of dishonesty is withdrawn on the day of the hearing, with the result that the hearing takes one day. There is then no opportunity to fill the empty court for the remaining two days. Several 2/3 day cases were adjourned in January and February 2011, and, when part-heard cases were taken into account, this created a "bottle-neck" which is now being addressed by heavy listing in September. Problems also arise if time estimates provided are too short. During April a complex substantive hearing was due to take place over 15 working days. However it was not completed during that period due to reasons beyond the control of the Tribunal, and has been re-listed for hearing to completion for a further 15 days in November 2011. This immediately reduces the capacity of the Tribunal to hear other cases in November due to lack of court room space and pressure on finances. Finally but crucially, the Tribunal does its best to accommodate the availability of advocates on both sides and respondents in person when fixing substantive hearing dates. The pool of advocates working in this area of law is relatively small, particularly when counsel becomes involved. Working round the diaries of advocates and respondents when fixing dates results in the Tribunal missing its own listing target, but does ensure fairness and that principles of natural justice are adhered to.

We are analysing the existing listing system in detail to identify areas for improvement. We will be assisted in this by the employment of two full time deputy clerks who are London-office based and who are currently undergoing induction. We are compiling data of all cases waiting to be listed so that we can identify how many courts will be required in the first 6 months of 2012. For this purpose all SRA advocates are now required to provide a worst case scenario time estimate with the Rule 5/Rule 8 Statement so that we can ensure that we have sufficient courts planned to help us to meet our target during each month. This involves more forward planning than the Tribunal has been used to doing in the past. It should also help us to budget more accurately in 2013. Active case management will be introduced in 2012 once final details have been agreed, and this too should assist. It may be that the Tribunal is too generous in its accommodation of unavailable dates on both sides when listing, and management of expectations in this area is also being considered. The introduction of a warned list system might assist in filling gaps caused by late adjournments. We are also short of space, court room 3 being small and better-suited to case management, rather than substantive, hearings. The full time clerks are currently hot desking in retiring rooms. Acquisition of the 4th floor of Gate House, the costs of which are included in the budget application, would address this issue. In short, this target may require adjustment at the end of 2011 once further data has been analysed, if it is to remain achievable and realistic. What was not factored in when the target was agreed was just how much its achievement depends on the cooperation of all concerned, including the parties, and for very good and understandable reasons that cooperation is not always forthcoming.

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Performance Measure 3 - Average Cost Per Court

A maximum of 3 courts can be run on a single day because the Tribunal has access to only 3 court rooms. 3 courts running each day for one week equates to 15 courts. The figures below represent the cost per court and include a proportion of all office overheads (figures in brackets represent total number of courts run in each month). The Tribunal has already run 147 courts in the first 6 months of 2011, compared with only 103 during the same period in 2010. The projected total for 2011 is 311 compared with 272 in 2010. This represents a 15% increase reflected in the reduced average cost per court.

2010

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	YEARLY TOTAL
No. of courts	17	20	16	12	21	17	16	6	43	44	34	26	
Quarterly total			53			50			65			104	272
Monthly Spend	£122,324.00	£127,176.00	£126,312.00	£146,861.00	£153,219.00	£177,168.00	£158,381.00	£116,143.00	£190,689.00	£204,622.00	£182,599.00	£209,534.00	£1,915,028.00
Cost per court	£7,195.52	£6,358.80	£7,894.50	£12,238.41	£7,296.14	£10,421.64	£9,898.81	£19,357.16	£4,434.62	£4,650.50	£5,370.55	£8,059.00	
Quarterly average cost per court			£7,090.79			£9,544.96			£7,157.12			£5,738.02	£7,040.54

2011

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	YEARLY TOTAL
No. of courts	22	18	33	26	23	25							
Quarterly total			73			74			0			0	147
Monthly Spend	£149,515.00	£146,762.00	£167,382.00	£181,794.00	£80,897.00	£167,468.00							
Monthly cost per court	£6,796.13	£8,153.44	£5,072.18	£6,992.07	£3,517.26	£6,698.72							
Quarterly average cost per court			£6,351.49			£5,812.95							

PROJECTED SITTINGS - JUL - DEC 2011

	Aug	SEP	OCT	NOV	DEC	TOTAL
Jul	27	7	42	34	34	20
						164

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Performance Measure 4 - Production of Judgment (Previously Findings and Decision)

Target: In 80% of cases the Judgment (previously Findings and Decision) to be served on the parties within 7 weeks of the final determination of the application
(figures in brackets represent number of cases heard)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Half year	Yearly
2011	58% (24)	94% (17)	67% (27)	71% (7)	95% (22)	50% (14)							72% (111)	
2010	0% (17)	5% (20)	8% (23)	23% (13)	25% (12)	39% (18)	6% (15)	66% (6)	25% (39)	16% (30)	6% (32)	31% (32)	16% (103)	21% (257)

2011 Only													Half Year
≤ 3 weeks	4	3	1	0	3	1							11%
3-4 wks	2	5	2	2	8	0							17%
4-5 wks	3	2	7	2	6	3							21%
5-6 wks	3	6	2	0	3	1							14%
6-7 wks	2	0	6	1	1	2							11% (74% - figures rounded up)
7-8 wks	4	0	4	1	0	2							10%
8-9 wks	0	0	2	1	0	1							4%
9-10 wks	6	0	0	0	0	3							8%
10-11 wks	0	0	0	0	0	0							0%
11-12 wks	0	1	0	0	0	0							1%
12-13 wks	0	0	0	0	0	1							1%
13-14 wks	0	0	1	0	0	0							1%
14-15 wks	0	0	0	0	0	0							0%
15-16 wks	0	0	1	0	0	0							1%
16-17 wks	0	0	0	0	0	0							0%
17-18 wks	0	0	0	0	0	0							0%
18-19 wks	0	0	0	0	0	0							0%
19-20wks	0	0	0	0	1	0							1% (26% - figures rounded up)

Solicitors Disciplinary Tribunal Performance Statistics: January - December 2010/January - June 2011**Commentary On Performance Measurement/Target 4**

This target has been missed by a margin of 8% i.e. 9 out of 111 cases, but that failure should not distract from the enormous improvement made by the Tribunal over the last 6 months. In 2011 72 %, i.e. 80 out of 111 Judgments were sent out within 7 weeks of the last day of the hearing. In 2010 the comparative figure was 16% i.e. 16.5 out of 103 Judgments. Month on month the improvement has been dramatic. It is of course disappointing that we have not been able to exceed the target every month. This is primarily a reflection of the percentage of long and/or complex cases that have been listed in particular months. Staff changes, including the departure of two part-time deputy clerks and the recruitment of two full time deputy clerks , should produce further improvement in the last 3 months of the year. More significantly, the approval of draft Judgments online became effective in July 2011. Following a settling in period the new system will make further inroads into delays. The Clerk is also trialling a voice recognition dictation system, which will cut down production times if it is approved for introduction to all deputy clerks in 2012.

This target is being kept under review to see whether there is scope to reduce it to 6 weeks in 2012 without any reduction in the quality of Judgments produced.

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Performance Measure 5 - Appeals

Number of SDT decisions appealed by either the Applicant or the Respondent or both, and outcome. This data has been provided by the SRA and contains cases from 2010. At this 6 month stage the data is informative as an educative tool, but less meaningful as a performance measurement, because the outcome of the majority of the appeals listed below has not yet been determined.

Tribunal reference	Respondent	Comments
9340-2005	Obi	Awaiting hearing date
9697-2007	Thaker	Respondent's appeal allowed, remitted to SDT for rehearing
9877-2008	Ward Dewhurst	Awaiting hearing date
9942-2008	Dennison	SRA appeal allowed, Respondent struck off
9952-2008	Okoro	Awaiting hearing date
9989-2008	Wilson	Awaiting hearing date
9993-2008	Ellis-Carr	Appeal against refusal to restore to the Roll awaiting hearing date
10000-2008	Field	Appeal against costs order only, awaiting hearing date
10049-2008	Rahman	Awaiting hearing date
10055-2008	Iqbal	Awaiting hearing date
10069-2008	Respondent X	Respondent's appeal allowed, remitted to Tribunal for rehearing
10090-2008	Hazleburst et al	Respondents' appeal allowed.
10099-2008	Aaronson	Awaiting hearing date
10104-2008	Kontor	Awaiting hearing date
10115-2008	Spence	Awaiting hearing date
10140-2008	Ghanti	Respondent's appeal dismissed
10177-2010	Suleman	Awaiting hearing date
10218-2009	Davis & McGlinchey	SRA appeal dismissed
10311-2010	Faniyi	Awaiting hearing date
10324-2009	Gurpinar	Awaiting hearing date
10336-2009	Javed	Awaiting hearing date
10359-2009	Rocha-Afodu	Appeal and cross-appeal awaiting hearing date
10376-2009	Pabla & Pabla	Awaiting hearing date
10393-2009	Hayward & Tinkler	Awaiting hearing date

10414-2010	Harris	Respondent's appeal dismissed
10443-2010	Adeeko	Awaiting hearing date
10454-2010	Robinson and Crompton	Awaiting hearing date
10464-2010	Slater	Awaiting hearing date
10502-2010	Levy	Respondent's appeal Dismissed
10511-2010	Patel	Awaiting hearing date
10594-2010	Maistry	Awaiting hearing date
10606-2010	Ali	Appeal against decision to revoke S.43 Order awaiting hearing date
10608-2010	Rahman	Awaiting hearing date
10631-2010	Agim	Awaiting hearing date