

## audit 2000/2001

# Employment Tribunals

Metropolitan Police Authority

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DISTRICT AUDIT

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## Introduction

Claims and cases reaching employment tribunals have risen considerably in recent years. Preparing and presenting cases at employment tribunal is expensive, regardless of the outcome. However, there is considerable variation in the number of employment tribunals faced by different public bodies with similar staff profiles. This suggests there is scope to review approaches to employment tribunals and relevant elements of people management and human resource policy.

The Employment Rights (Dispute Resolution) Act 1998 has introduced several key reforms, which have:

- introduced alternative, streamlined methods of presenting cases to employment tribunals
- created a direct link between the existence and use of internal employee relations procedures and the level of compensation awarded
- provided a quicker, cheaper alternative to employment tribunals for arbitrating on unfair dismissal

These changes and possible future changes make a review of the Metropolitan Police Service's (MPS)'s approach to employment tribunals and relevant elements of human resource and people management policies particularly timely.

There has been an increase in the number of new tribunal cases in recent years. Substantial restructuring has occurred across the organisation in recent years. There is a history of high profile Employment Tribunals and settlements prior to the Tribunal stage.

## Scope and objectives

The principal objective of the audit was to help support the development of a people management framework, which minimises the likelihood of employment tribunals but incorporates a cost-effective procedure for preparing and presenting cases where they arise.

The audit aimed to help to:

- provide a clearer understanding of the sources and outcomes of employment tribunal cases
- develop a comprehensive, integrated policy framework
- identify scope to develop a more cost-effective approach to preparing and presenting employment tribunal cases.

## Audit approach

The audit comprised two stages shown in the exhibit below.

### Diagnostic

1. Review of recent employment tribunal trends across the service
2. Review of policy framework
3. Identification of divisions and policy areas for further work

### Policy implementation

1. Fieldwork within targeted divisions to assess effectiveness of, and support for, day to day management of staff by managers
2. File review of recent employment tribunal cases in targeted divisions to assess the cost-effectiveness of the approach taken to prepare, present and learn from cases

The diagnostic stage involved two diagnostic tools, which were used to collect data on recent employment trends and the existing policy framework.

The completed diagnostic work was then used to identify divisions and policy areas for further work.

## Main conclusions

The number of ETs received by the MPS is increasing with 39 applications being received in the first three months of 2001. See Exhibit Two in the attached appendix.

The costs of settlements and awards are increasing considerably, with a small number of difficult cases accounting for most of these costs. See Exhibit One. However, this trend has been altered in the later part of 2001 turning the trend.

A number of survey respondents have not received training in a number of key HR areas. See Exhibit Thirteen.

Examples of good practice were evident in the following of areas:

- quarterly newsletter distributed by the Employment Tribunal, Grievance and Advice Unit, DCC8(7)
- robust preparation of case files
- meetings with colleagues from other Metropolitan Services.

Our recommendations are outlined in the attached action plan. Our key findings are summarised below. The appendix includes a series of graphs based on the data we have collected while undertaking the audit and some example quotes from our survey of managers in the organisation.

## Diagnostic

The Service employs approximately 40,000 employees and as such is one of the largest individual public sector employers. The annual salary bill is approximately £1.6 billion. The number of ET applications received by the MPS has increased over the last three years. In the first quarter of 2001, thirty-nine applications were received, indicating a sharp increase over previous years; this is in-line with other organisations. The majority of cases received are concerned with sex and/or race discrimination. The slow pace of the internal grievance system may result in a number of ET applications, due to frustration with the speed with which the initial complaint is being investigated.

The number of applications received has shown a slight variation between locations but this is not of any real significance. The number of outstanding cases was 115 as at 30/6/01. Delays are due to a number of reasons, delays with internal disciplinary investigations and available allocation from the Employment Tribunal Services.

A large number of cases are either settled or withdrawn, one hundred and three cases were withdrawn between 1999 and 2001 and 55 cases settled in the same time period. Whilst these cases do not go to a full tribunal, the MPS incurs the cost of preparation and administration.

The costs of settlement and awards were rising considerably with a small number of difficult cases contributing a large proportion of the overall amount paid out. However, recent data suggests that overall payments are coming down against previous years.

The MPS has a number of policies and procedures in place covering key areas of people management. A number of special notices have been issued covering specific issues or changes to these policy areas. There is also a Directorate dedicated to diversity issues, which has published two documents titled *Protect and Respect* which deal with diversity issues.

Guidance and advice is available to line managers through a variety of sources, local personnel units, DCC8(7), a number of policy guidance documents and line managers.

## People Management

The effectiveness with which staff are managed on a day to day basis is a significant factor in the potential for tribunal applications. A questionnaire survey of a sample of line managers across the service, (civil and police 224 responses) found understanding of key HR policy objectives and procedures to be clear in most areas although suggested scope to improve understanding around capability/inefficiency and discipline civil staff and police procedures.

A range of sources of guidance and advice on HR matters are utilised by line managers, including written information and informal/formal advice. Where non-professional advice is used, the MPS needs to ensure consistent and up to date guidance is provided. Line managers surveyed found most sources of advice to be useful.

The line managers' survey asked about the training received on key HR issues. The majority of respondents had received formal training, however, a number of respondents have only received on-the-job training and a small number have received no training in a number of key HR issues. The risk of poor line management decisions, and the potential for Employment Tribunal applications, is likely to be greater when relying on informal training or not providing training at all.

## File Review

Consistent, comprehensive record keeping helps to ensure decisions can be clearly justified and an audit trail is in place. A review of a sample of files from recent tribunal cases found clear documentary evidence where cases went to a full hearing, were withdrawn and were settled. This suggests that file preparation for all applications is robust and consistent, in one case the Chair of the Tribunal had praised the thoroughness of the bundle prepared by the MPS.

However, evidence from the file review also suggests there may be scope to improve paperwork and record keeping of local management action and intervention. In a number of cases paper records from the grievance procedures were either not in existence or were poorly completed. The need for strong written documentation throughout the process is essential in supporting robust decision making and these decisions standing up to scrutiny at a later date. There is a risk that the MPS will be forced to settle cases where records are of a poor quality.

Settlement of Employment Tribunal cases can have an important symbolic impact. In considering whether to settle, the MPS needs to weigh-up the potential financial loss with employees' (and their representatives) perception of the vigour with which Employment Tribunal claims are pursued. Evidence from the file review suggests that there is a clear audit trail, clearly justifying reasons for any decision made or where advice from Counsel has not been followed. Discussions with both legal and personnel staff indicated that cost-effective decisions were made in most cases.

Cases are settled and lost due to breaches in employment law and/or inconsistent or weak procedural processes. In the majority of cases, the outcomes of tribunal cases provide valuable learning opportunities. Failure to address weaknesses identified through the tribunal processes may well result in further cases being brought against the MPS.

Evidence from the file review suggests that learning from cases is strong in that, a standard proforma is used which outlines the following areas from the case:

- summary
- outcome
- tribunal comments
- key learning points
- individual learning points.

DCC8 (7) unit produce a quarterly newsletter, (Getting it Right) which includes updates on recent cases and outcomes, frequently asked questions and general advice and guidance on tribunal/grievance matters.

Legal Services and DCC8 (7) have met with colleagues from other Metropolitan Forces to discuss themes of ETs, best practice and to share knowledge. This is likely to happen on a quarterly basis.

## Acknowledgement

District Audit would like to thank MPS staff for their friendly and helpful co-operation during the audit.

## Graphs from Diagnostic and Survey Work

*Note data for 2001 is for the first three months only*

### EXHIBIT ONE – COSTS OF EMPLOYMENT TRIBUNAL CASES (AWARDS & SETTLEMENTS)

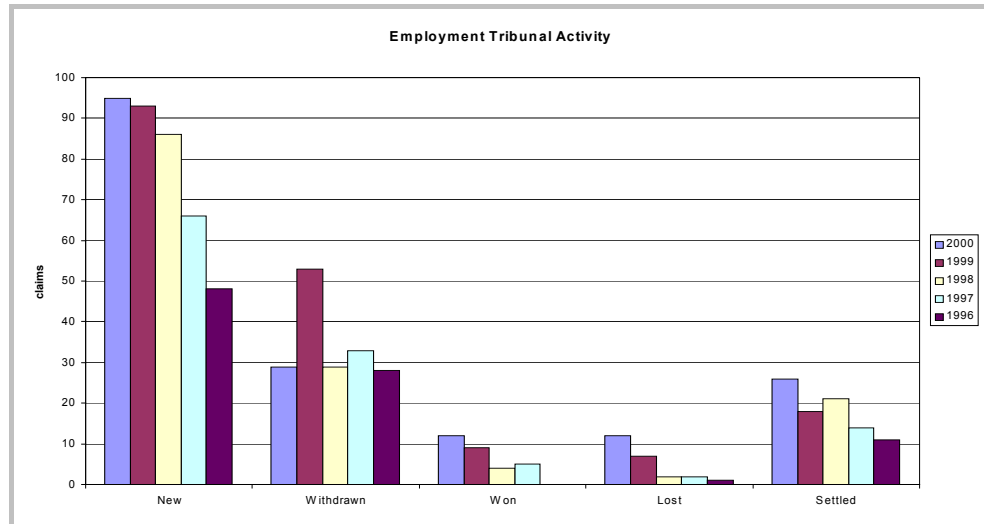
*There has been a large increase in the amount paid for settlements*



*Source: Metropolitan Police Service*

**EXHIBIT TWO – EMPLOYMENT TRIBUNAL ACTIVITY**

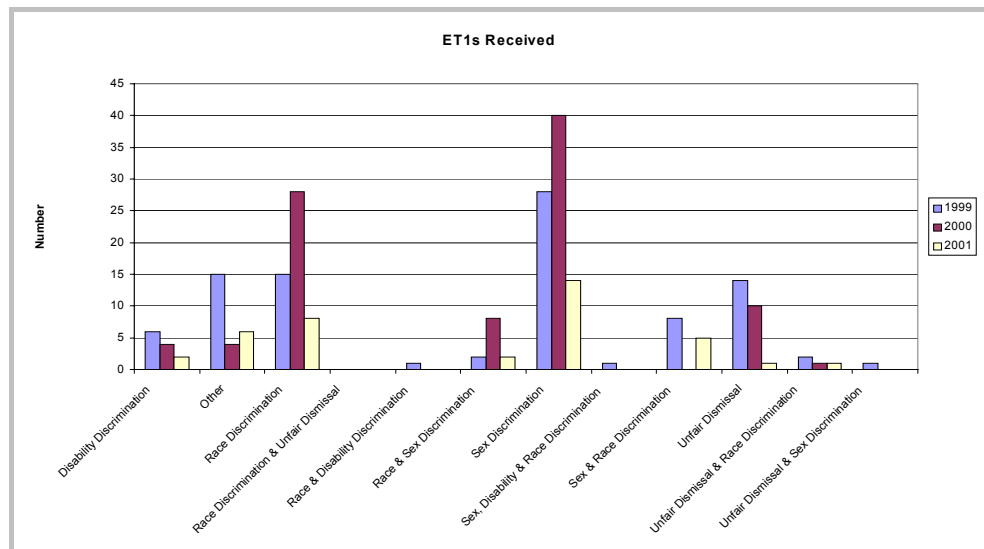
*There has been a significant growth in new applications over five years*



Source: Metropolitan Police Service

**EXHIBIT THREE – EMPLOYMENT TRIBUNAL APPLICATIONS RECEIVED BY SOURCE OF APPLICATION**

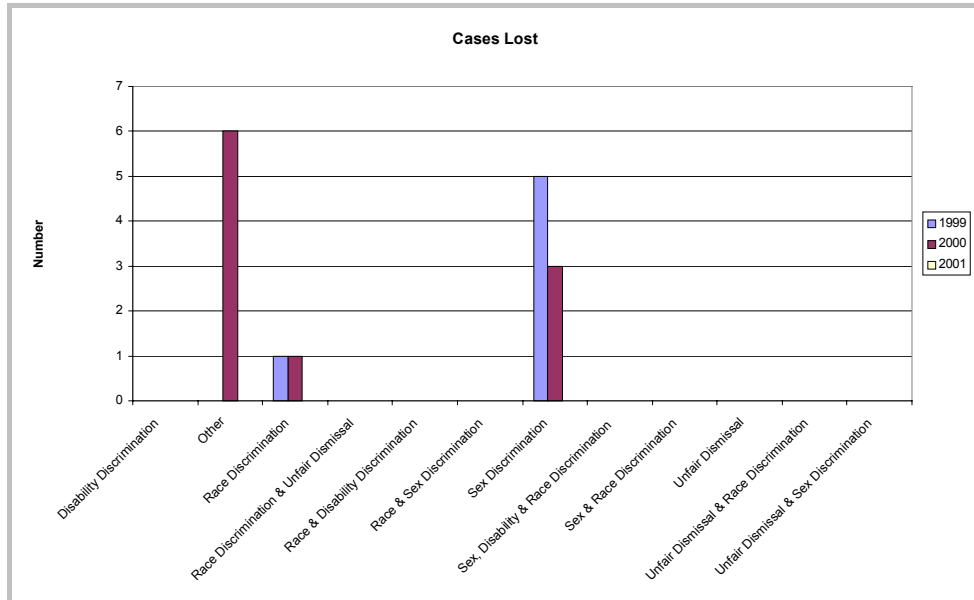
*Sex and Race Discrimination cases account for a large number of total applications*



Source: Metropolitan Police Service

**EXHIBIT FOUR - EMPLOYMENT TRIBUNAL CASES LOST BY SOURCE OF APPLICATION**

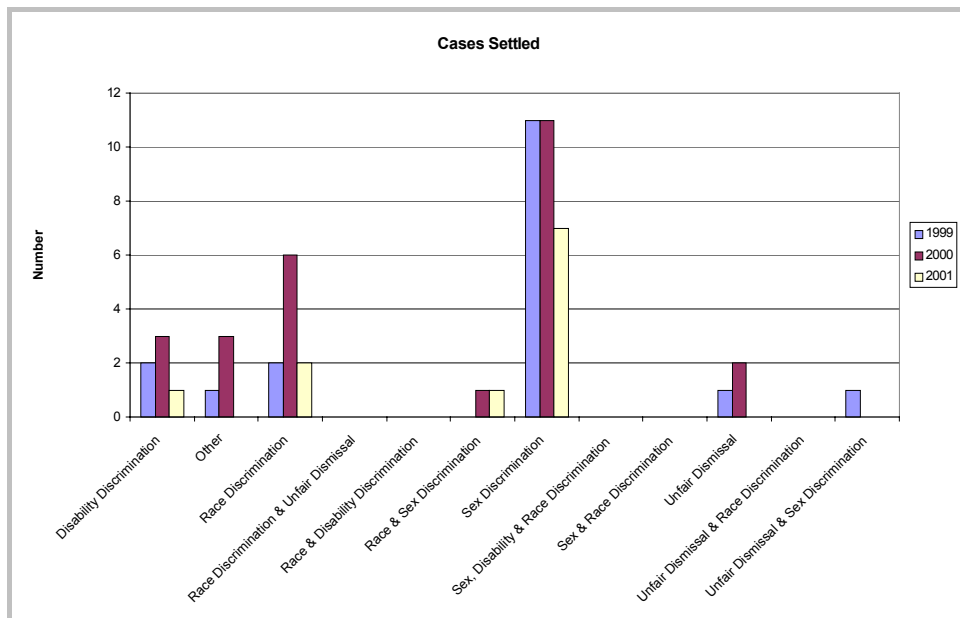
*Fifty percent of cases lost were for Sex Discrimination*



Source: Metropolitan Police Service

**EXHIBIT FIVE - EMPLOYMENT TRIBUNAL CASES SETTLED BY SOURCE OF APPLICATION**

*There has been a growth in the number of cases settled over three years*

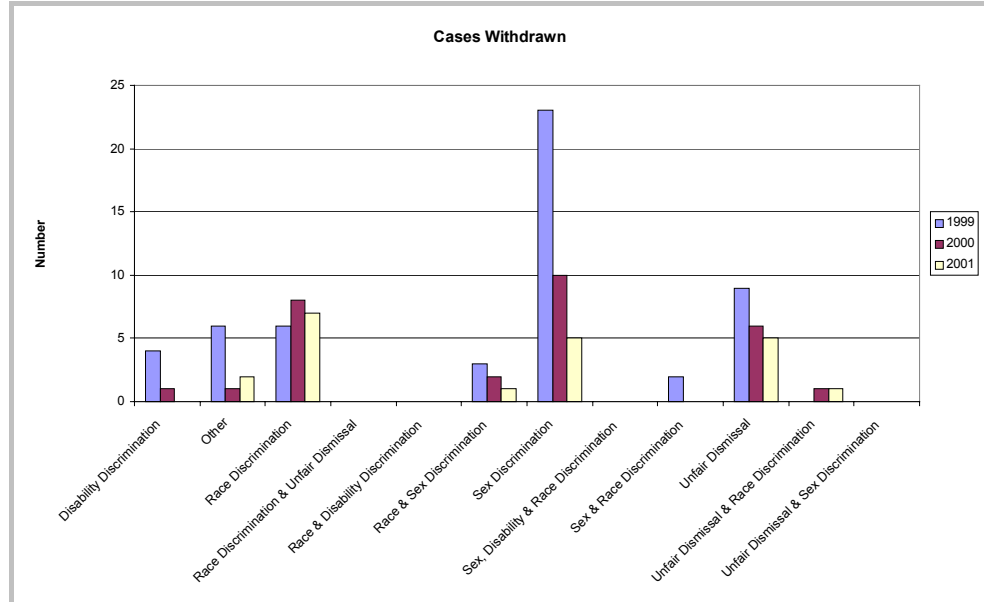


Source: Metropolitan Polices Service



**EXHIBIT SIX - EMPLOYMENT TRIBUNAL CASES WITHDRAWN BY SOURCE OF APPLICATION**

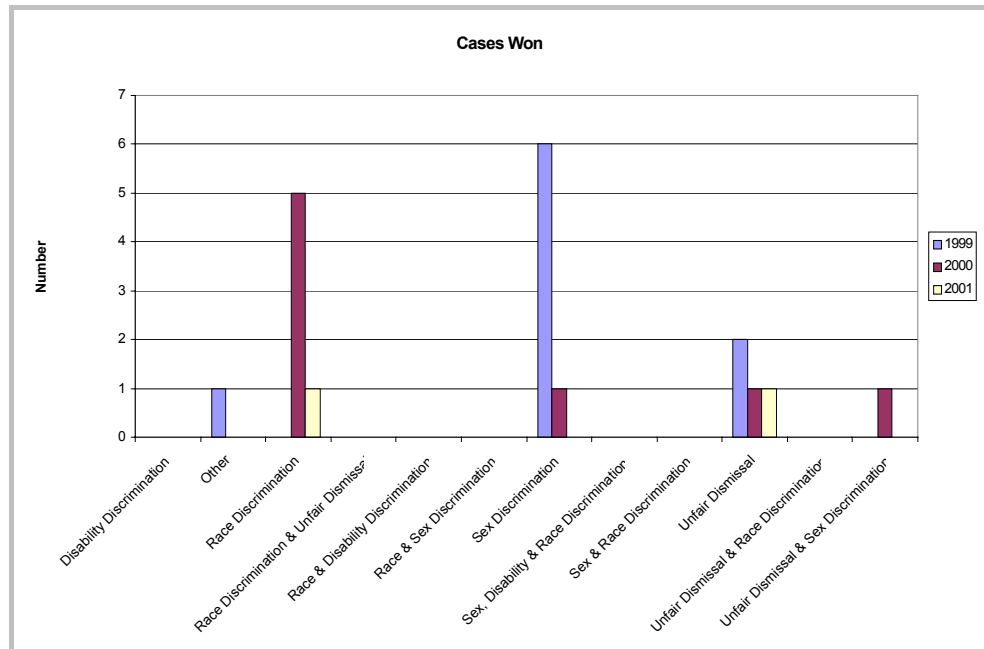
*A high percentage of applications are withdrawn*



Source: Metropolitan Police Service

**EXHIBIT SEVEN - EMPLOYMENT TRIBUNAL CASES WON BY SOURCE OF APPLICATION**

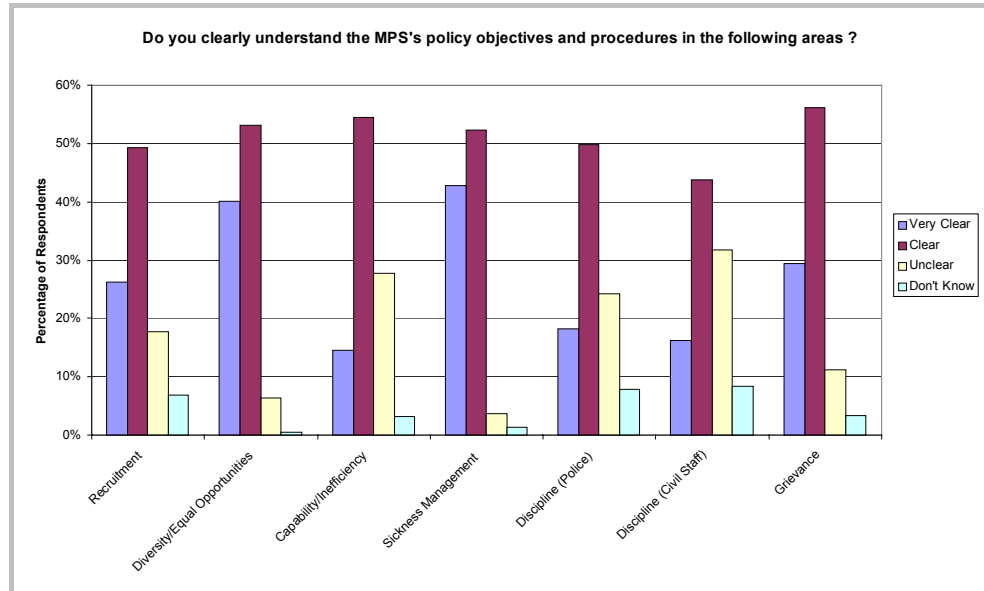
*The majority of cases won are for Sex and Race Discrimination*



Source: Metropolitan Police Service

**EXHIBIT EIGHT – UNDERSTANDING OF POLICY AND PROCEDURES**

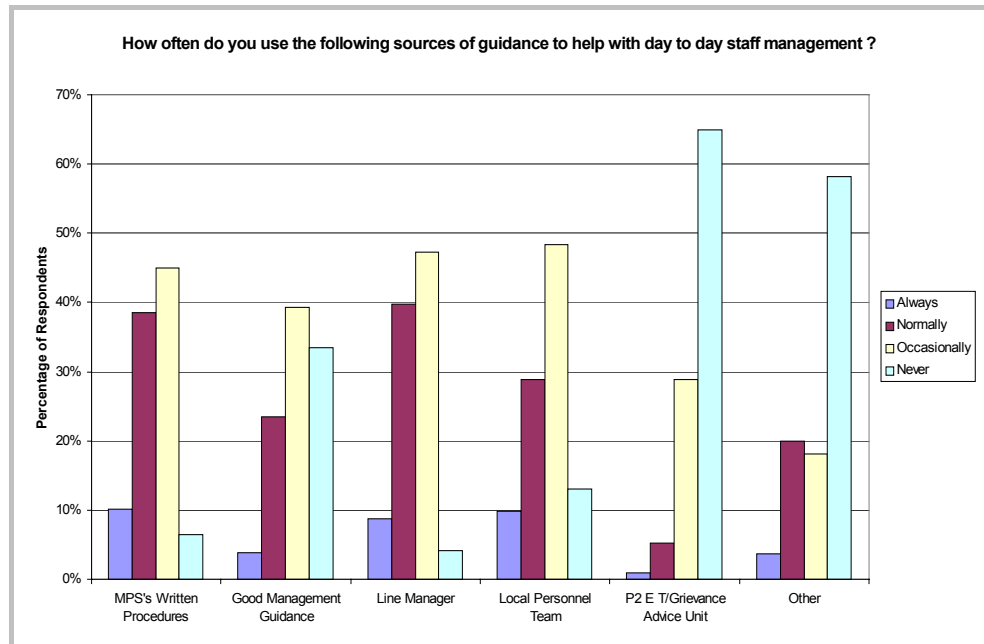
*There is some variance in degree of understanding*



Source: Staff Survey Completed by District Audit

**EXHIBIT NINE – SOURCES OF GUIDANCE**

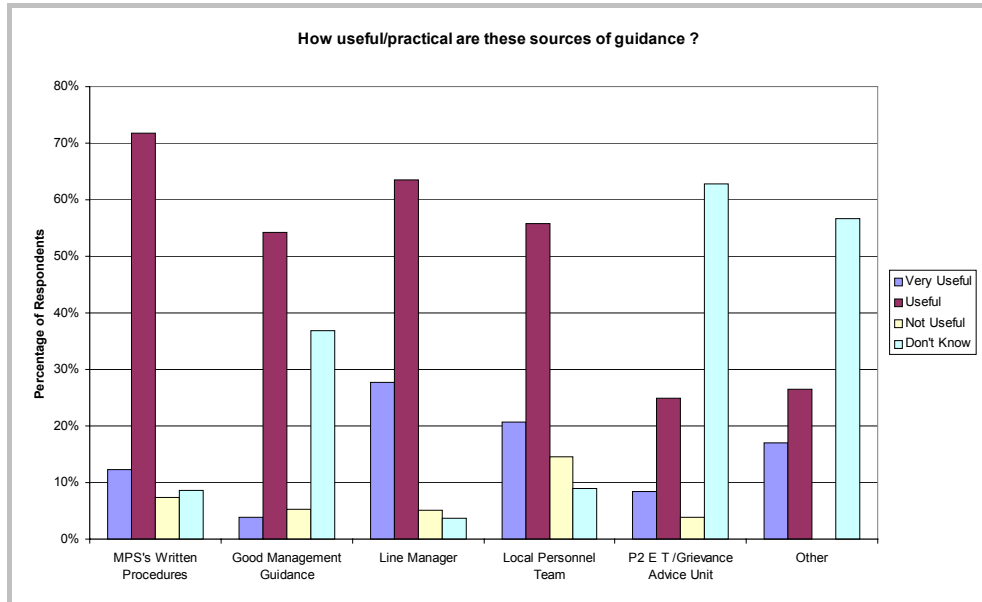
*Survey respondents utilise a range of source of guidance*



Source: Staff Survey Completed by District Audit

**EXHIBIT TEN – SOURCES OF GUIDANCE**

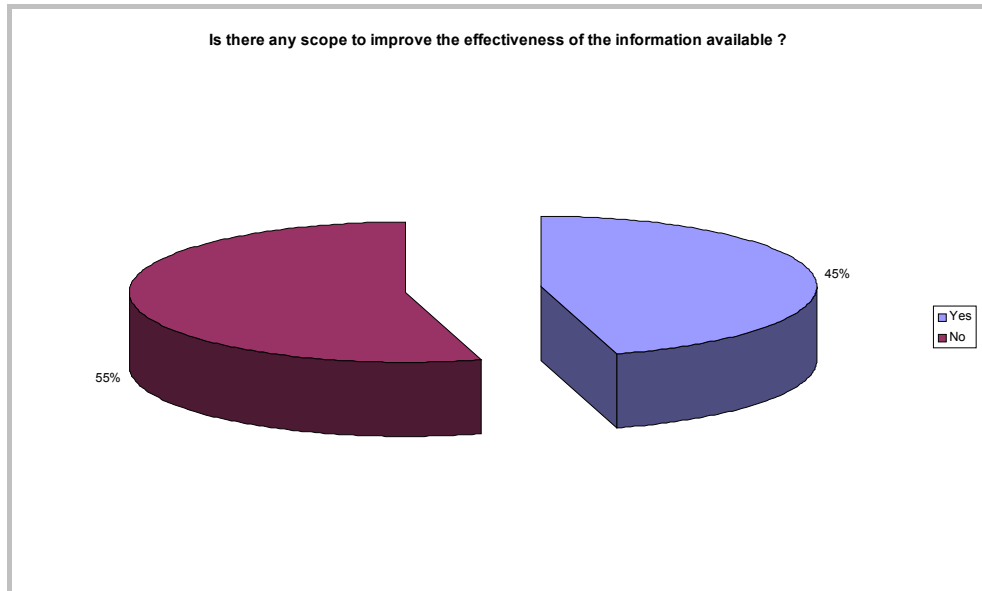
*Most source of guidance are considered to be useful*



Source: Staff Survey Completed by District Audit

**EXHIBIT ELEVEN – SCOPE TO IMPROVE INFORMATION**

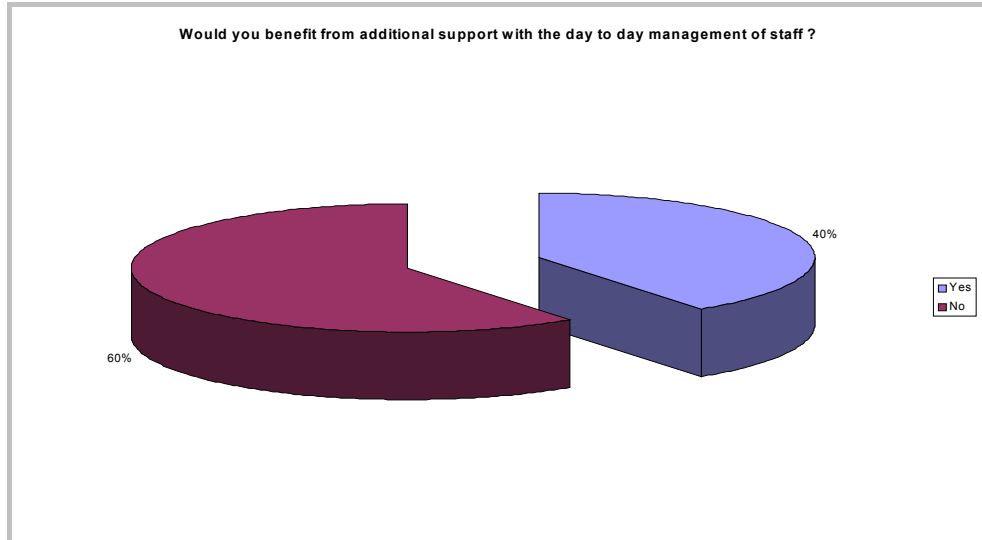
*A high number of respondents believe there is scope to improve guidance*



Source: Staff Survey Completed by District Audit

**EXHIBIT TWELVE – ADDITIONAL SUPPORT**

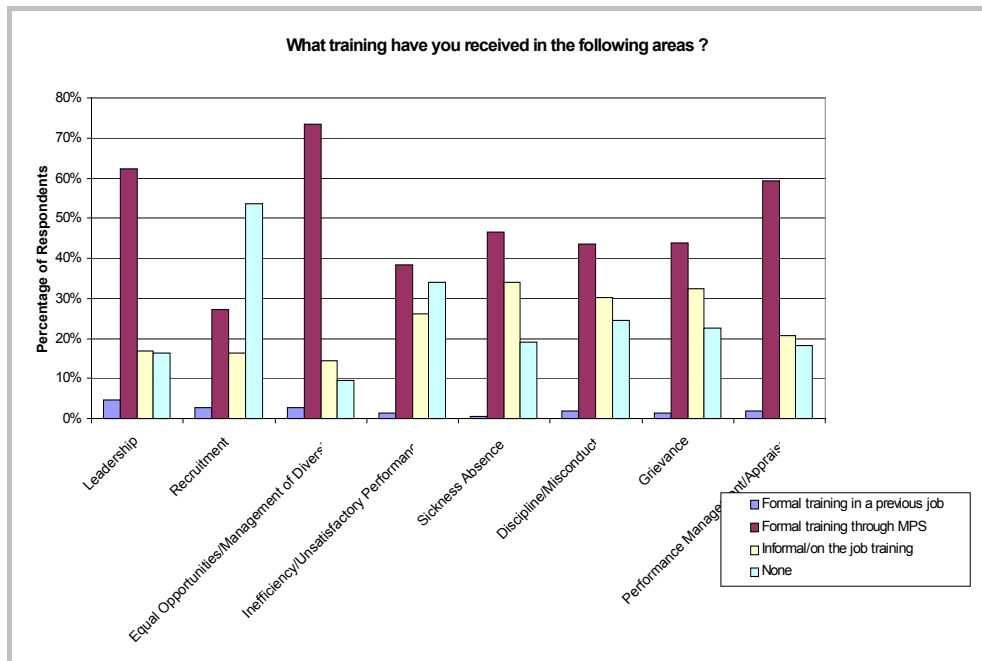
*A high number of respondents believe they would benefit from additional support*



Source: Staff Survey Completed by District Audit

**EXHIBIT THIRTEEN - TRAINING**

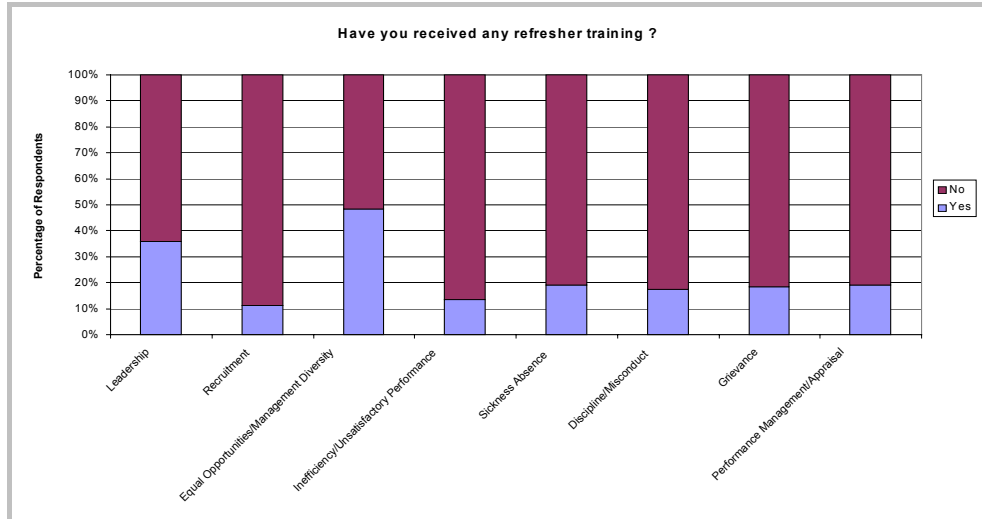
*Training received is low in a number of key areas*



Source: Staff Survey Completed by District Audit

**EXHIBIT FOURTEEN – REFRESHER TRAINING**

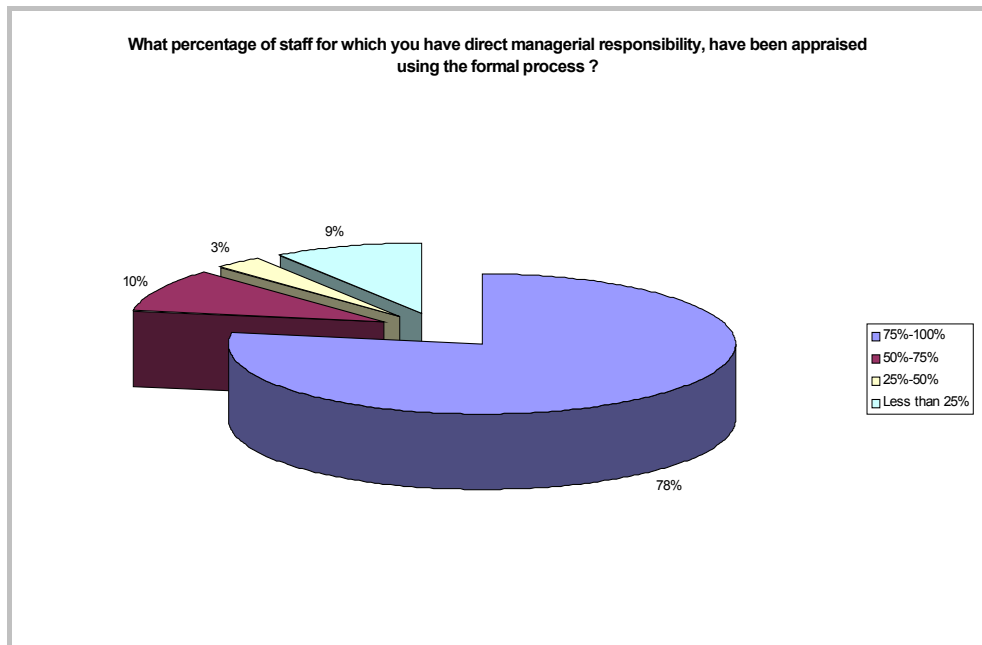
*A high number of respondents have not received refresher training in key areas*



Source: Staff Survey Completed by District Audit

**EXHIBIT FIFTEEN - APPRAISAL**

*A number of employees have not received formal appraisals in the last twelve months*



Source: Staff Survey Completed by District Audit

**Sample of comments from Line Managers' Survey  
(230 Responses)**

In general management training is very poor in the MPS- Civil Staff

I should make more use of P2, I never think of this as a resource - Supt

No formal training given at corporate or local level, however local support is very good - Civil Staff

Civil Staff manual of little use.

The MPS does not make information access "user friendly" - Supt

Up to date Personnel Manuals should be available through the intranet - Civil Staff – frequent comment

Actively promote good practice - DS

Too many areas to source advice, there should be a point of contact - Civil Staff

Does refresher training exist in the MPS for the subjects listed - Civil Staff

Use of flow charts to explain procedures - CI

Lack of training - Supt

There is insufficient training within the MPS on employment issues - CI

P2 should attend Borough SMT to do a presentation on common problems - CI

Employment Tribunals

**Metropolitan Police  
Authority**

ACTION PLAN



**DISTRICT AUDIT**

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<b>Reference:</b>	MIL08ME07301ap
<b>Author:</b>	Gordon Ball
<b>Date:</b>	July 2002

Ref.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Authority's response	Officer responsible	Timescale
<b>Report section</b>					
R1	<p><b>Review training available and received for all newly promoted or appointed line managers.</b></p> <p>A number of respondents from the survey have indicated that they are either unclear or don't know the MPS's objectives across a number of line management responsibilities. Further to this, a number indicated that they have had no formal training in a number of key line management functions. One of the most frequent causes of Employment Tribunals is the lack of early intervention by good line management, which often diffuses situations resulting in fewer applications and reduced costs.</p>	<b>2</b>	<p><i>Mr Martin Tiplady (Director of Human Resources) has stated that recommendation one and two falls within the remit of the Policy &amp; Training Liaison Unit within the Directorate of Training &amp; Development.</i></p>		
R2	<p><b>Review process for refresher training in people management issues.</b></p> <p>The benefits of training need to be backed up with refresher training to keep managers informed of major changes to policies and legislation. This training also helps to keep individual's confidence high which supports them, as they feel comfortable dealing with everyday situations. There is a risk that managers who are not comfortable with the processes or are using out of date practices will make early mistakes that inevitably lead to Employment Tribunal applications where the MPS is in a losing position.</p>	<b>3</b>	<p>See Above</p>		
R3	<p><b>Develop a "hints &amp; tips" and "frequently asked questions" section for the intra-net.</b></p> <p>Often it is the obvious questions that cause the greatest dilemma for line managers. By developing a "hints &amp; tips" and "frequently asked questions" section for the intra-net the MPS will aid circulation of good practice and also support those line managers who are unwilling to ask the obvious question.</p>	<b>2</b>	<p>DCC8(7) (the Employment Tribunal and Grievance Advice Unit) has developed these and regularly updates them.</p>		Complete



Ref.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Authority's response	Officer responsible	Timescale
R4	<p><b>Consider the benefits of DCC8 (7) running periodic sessions to brief local managers on the tribunal process, outcomes and encourage early prevention.</b></p> <p>There is a need to publicise the overall benefits of good line management and the cost both financial and human of poor line management decisions. This process would be best developed by P2 due to their knowledge in this area and links with the newsletter, which is already produced.</p>	<b>2</b>	This recommendation is accepted as desirable, however there is some doubt whether capacity exists within current resources. Will deliver what is possible within existing resources.	Simon Bray	June 2003
R5	<p><b>Develop a mechanism to ensure and monitor all staff receive an annual appraisal using the formal process in place.</b></p> <p>From the survey results 78% of line managers stated that staff have been appraised in the last twelve months using the approved system. There is a need for continuous development of staff, an annual appraisal is often used as a vehicle for this process.</p>	<b>3</b>	The appraisal system is currently under review. The appraisal must be delivered within the time scale that the policy suggests.	Simon Bray	June 2003
R6	<p><b>Develop a good management aide memoir with easy to follow flow diagrams.</b></p> <p>A range of sources of guidance and advice on HR matters are utilised by line managers. Line Managers are the most frequent source of advice. Where "non-professional" advice is used, the MPS needs to ensure consistent and up to date advice is provided. There is a risk that poor advice up front may lead to decision later being challenged by a Tribunal.</p>	<b>3</b>	There is considerable overlap between this recommendation and the proposed quick reference guides to HR Policy that are envisaged as a result of the imminent HR Policy Review within the MPS. This recommendation will therefore be actioned as part of the HR Policy Review, which is due for completion at the end of 2002.	Martin Tiplady	December 2002

Ref.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Authority's response	Officer responsible	Timescale
R7	<p><b>Up to date policies and procedures need to be publicised and available through the intra-net.</b></p> <p>A common statement within the survey was, the size and availability of policies and procedures were seen as a barrier to use. The MPS's written procedures were the second most used method of guidance when dealing with staff management. Having these documents accessible through the intra-net may lead to increased use and a consistent, up to date source of guidance. Thus reducing the risk of employment tribunal applications and robust defence for decision made at an early stage of the process.</p>	<b>3</b>	This recommendation is accepted in full.	Simon Bray	June 2003
R8	<p><b>Consider a central support and advice role within DCC8(7).</b></p> <p>There is a need for up to date advice and guidance for all line managers. This is best owned from a central point to ensure consistency of information. This process should be delivered to line managers via Local Personnel Managers.</p>	<b>3</b>	This recommendation is accepted in full.	Simon Bray	June 2003