Discrimination Law Association

The Discrimination Law Association
response to

Employment Appeal Tribunal Rules and Practice Direction June/July 2023 Consultation

The Discrimination Law Association is grateful for the opportunity to respond to the consultation paper. The organisation's provenance will be familiar to those considering the response. The Association's website gives further details (https://discriminationlaw.org.uk/)

Amendments to the Employment Appeal Tribunal Rules 1993 SI 1993/2845 ("EAT Rules")
(C) The Proposed Amendments to the EAT Rules

Documents to be lodged to institute an appeal

Q1. Do you agree with these proposed amendments to the EAT Rules relating to the documents that are required to be lodged to institute an appeal?

A. Yes.

Q2. Do you consider that any difficulties might arise from these changes? If so, what?

A. Given the solution proposed via the PD, no. However, we consider that it would be important that the EAT's standard response to receipt of an appeal should provide a checklist for appellants in the form suggested below.

Q3. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. We suggest that on receipt of an appeal, in addition to having the information contained in the practice direction, an appellant should be supplied with a checklist of the documents which are expected which should emphasise the need for the documents deemed unnecessary for the institution of the appeal by the proposal (and the need for an explanation, should the documents not be supplied). We also consider that some sanction ought to be available (such as the appeal not proceeding to the sift) if the documents are not supplied (with the ultimate sanction of striking out the appeal as having not been actively pursued).

(ii) Extensions of time

Q1. Do you agree with this proposed amendment to the EAT Rules?

A. Yes. It is important that this type of flexibility be apparent on the face of the rules, which otherwise gives rise to needless hearings.

Q2. Do you consider that any difficulties might arise from this change? If so, what?

It will be necessary to develop guidance via case law on "minor error" but this should be possible quite rapidly.

Q3. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The EAT could consider introduction of a more general "relief from sanctions" rule of a similar nature in rule 39; this would have a broader relief from sanctions role and would enable the EAT to seek correction of minor errors by appellants and respondents.

(iii) Declaration when lodging an appeal, application or response

Q1. Do you agree with this proposal?

A. Yes

Q2. Do you consider that any difficulties might arise from this change? If so, what?

A. We foresee no difficulties from the change but recommend that the consequences of non-compliance are spelled out very clearly if the intention is to deter abusive, etc. behaviour.

Q3. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No.

(D) The Proposal for the New PD

(E) Reading and complying with the New PD

Q4. Do you agree that there should be an expectation on all parties that they will read and comply with the New PD insofar as they are able? If not, or you agree subject to some reservation, please explain?

A. Agree with reservations. The imposition of an additional hurdle appears disproportionate to the problem identified by the consultation, and there ought to be other ways in which the mischief identified can be addressed. If imposed at the point of instituting the appeal the requirement may act as a deterrent to appellants to institute their appeal until they can confirm this point. Unless it is spelt out very clearly that parties cannot make use of the allegation of non-compliance, that may well be an unintended consequence, which may form a barrier to the less confident litigant.

Q5. Do you consider that any difficulties might arise from these proposals? If so, what?

A. See above. We think the risk of use against litigants in person in particular is high, and it may constitute an irritating (if not vexatious) litigant's charter. Even if the EAT makes clear that misuse will not be condoned, the amount of administrative time taken up with dealing with such allegations may be higher than the time taken dealing with the minority identified in the consultation paper.

Q6. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The problem appears to be there is a minority of litigants who do not read the PD. For most litigants in person the PD is not currently written in an accessible way, and the way in which people absorb information has changed over the past few decades. The PD ought to

include passages which directly address the problem identified in the consultation paper if this is the problem that the change is aimed at. Thus, if the issue is the conduct of the litigants in relation to the staff and judges of the EAT, a clear rule/PD provision explaining that such behaviour, regardless of the other merits of the litigation will, save in exceptional circumstances, result in sanctions (which can be spelled out). Such provision will have to permit exceptions to deal with situations in which a person with a disability's condition results in facial behaviour which would result in the sanctions in the case of a person without that disability. However, we believe this can be done by inclusion of a reference to exceptional circumstances. At the moment there is not sufficient clarity.

We consider that the introduction of a simple (non-mandatory) form for applications would assist litigants in person. We consider that a similar approach to the practice of some regions of the tribunals of setting out a certain amount of guidance to litigants in relation to matters that would assist the tribunal (for example in relation to the definition of disability) would assist in this regard. The form could indicate the types of factor which should be addressed by the applicant, etc.

(F) The Overriding Objective and conduct of appeals in the EAT

Q7. Do you agree with this clarification of the Overriding Objective?

A. Yes.

Q8. Do you consider that any difficulties might arise from this change? If so, what?

A. We take the view that the difficulty lies in the way the PD is (and may be in the future) presented. It is essential that the PD be expressed and laid out in a manner that is simple and intelligible to litigants in person. Thus, references to "allotting to it an appropriate share of the EAT's resources" is not as clearly intelligible as it might be. It could mean the allocation of time, personnel, copying or other aspects. Consideration could be given to reframing in a less abstract way in order to reach a wider audience.

We consider that the clarification of the overriding objective in relation to conduct needs to be explicit otherwise it stands less prospect of being understood and being effective. Thus, the PD should state that helping the EAT to achieve the overriding objecting requires the parties and participants to behave respectfully and appropriately when addressing or communicating with each other and the EAT or its staff.

Q9. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. In order to avoid any such clarification in relation to conduct being "weaponised" by the parties, it should be made clear in the PD that it is only for the EAT to take up and police breaches of this standard.

(G) Adjustments, including for people with disabilities

Q10. Do you agree with the proposed approach to adjustments?

A. Yes

Q11. Do you consider that any difficulties might arise from this change? If so, what?

A. We consider that there is a risk that too rigid an approach to requiring medical evidence will result in more administrative time being used to determine such applications rather

than less. We suggest what we consider to be better approaches below. However, we consider it is important to keep the emphasis on the adjustment rather than the reason for the adjustment as this is a better way of dealing with the proportionality of adjustments that are most commonly going to be sought, and which involve little or no additional administrative burden on the EAT and which have little impact on the other parties' rights to a fair hearing.

Q12. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The Forms should make clear that the participants (including representatives) can apply for adjustments to be made (a) to pre-hearing procedure and (b) to the hearing. In most cases the adjustment needed and the reason for it will be obvious. If the other party (if one is involved at the stage the adjustment is sought) does not object, no further inquiry should be made unless the adjustment is facially disproportionate.

The ET has a box which permits litigants to suggest adjustments they may need for disabilities in the tribunal process. As there is no equivalent of a ground rules hearing in the EAT (save where this can be dealt with on Directions), it is sensible to have a part of the appeal form (or Answer) whereby the litigant can indicate any needed adjustments for the EAT process. Plainly adjustments may be required prior to a hearing and may relate to medium of communication, etc.

If an objection is made to the adjustment, medical evidence can be sought.

Finally, we consider that this is better dealt with via a system (which may under consideration for other HMCTS estate) of permitting litigants to ask for adjustments as part of the process of having electronic access to (here) the appeal system.

(H) Repeat applications

Q13. Do you agree with the proposed approach to repeat applications?

A. Up to a point.

Q14. Do you consider that any difficulties might arise from this change? If so, what?

A. The proposal is likely to disadvantage certain disability groups, and litigants in person in particular. Whilst maintaining a reasonable control over its workload, the EAT cannot lose sight of the fact that it aims to be a tribunal in which a person can represent themselves. The requirement to set out full grounds attaching supporting evidence will, unless there is further guidance, prevent applications from litigants in person being properly considered.

We consider that in relation to applications for reviews of EAT decisions, there is a need to have all of the grounds set out and the supporting evidence if any. However, the PD or rules should make it clear that in exceptional circumstance (which would account for cases in which adjustments are needed for persons with disabilities) additional information may be considered.

We think that the introduction of too rigid a rule would result in applications which ought to be considered, not being considered properly.

Q15. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The problem that has been identified is the making of the same application repeatedly whilst more evidence is provided. One suggestion that may mitigate this problem is to provide (a) a form for making applications as suggested and (b) guidance as to the factors which will be considered by the EAT and which ought to be addressed by the person making the application; (c) if something like the proposal is adopted, it is essential that a very clear warning about what the consequences are of not including all of the information on which the application is founded.

(I) Institution of appeals

(i) Documents to be submitted with the appeal

Q16. Do you agree with the proposed changes?

A. Yes

Q17. Do you consider that any difficulties might arise from these changes? If so, what?

A. The proposal will move the influx of disproportionate documentation to a later point in the process (and hence take up administrative time). This can be avoided by the steps of mitigation mentioned below.

Q18. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The most effective sanction for failure to provide the documentation would be to impose an automatic stay on the proceedings, if not provided by a certain point in time. There would need to be a default longstop strike-out if the material, or an explanation for its absence, is not provided by a particular later point in time. This would have a proportionately motivating effect on the defaulting party and would avoid the need for the EAT to have to be proactive in making directions.

(ii) Access to the employment tribunal case management system

Q19. Do you agree with the proposed approach?

A. We consider that this can be done, but it requires caution to balance open justice with the efficiency it offers. In principle we consider that this would have substantial advantages if the restrictions noted below are in place. It would enable the parties to refer to documents by page number in an electronic bundle or one which has been uploaded to the case management system, and this would lessen the administrative burden on the EAT staff appropriately.

We agree with removal of the requirement for stamping proposal at para 55.

Q20. Do you consider that any difficulties might arise from this approach to obtaining additional documents? If so, what?

A. The risk is that if the ET judge's notes, for example, are on the case management system, there may be access which the parties do not have to materials that might be considered relevant. If the access is restricted solely to the bundle documents which the parties plainly had access to, there can be no objection to this. However, access to other documents such as material which lies on the file of the tribunal but not forming part of the bundles might create opacity in the process.

Q21. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No.

(iii) **Encouraging parties to adopt e-filing**

Q22. Do you agree with these proposals?

A. In the case of represented parties, the proposal is welcome. We have more misgivings in relation to unrepresented parties.

Q23. Do you consider that any difficulties might arise from this approach? If so, what?

A. There is increasing concern among some age organisations and disability organisations that a form of digital exclusion may affect the older demographic and disabled persons. The process of encouragement should not lose sight of the fact that some litigants may need to have alternative forms of access, and the EAT should not make alternative means of access obscure. Whilst the group of digitally excluded people may be diminishing and small, we suggest that the EAT needs, as a public body in relation to the administrative functions it exercises, to have due regard to the needs of these groups which are different to those of other groups. Proper consideration under s149 of the Equality Act 2010 ought to be given to the impact of administrative processes that encourage particular types of behaviour.

Q24. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. As addressed above, alternative means should be readily available and where encouragement is given, the existence of the alternative should be given proportionately equivalent emphasis.

(iv) Explanation for not providing reasons for decision appealed

Q25. Do you agree with the proposal?

A. Subject to the point made below, Yes as it does not rely on an interpretation of the rule, but gives an example of a conclusion that **may** be drawn from the failure.

Q26. Do you consider that any difficulties might arise from this approach? If so, what?

A. It is essential the needs of those with disabilities, where relevant to this, are safeguarded in any such process. Thus, whilst there should be no expectation that the EAT will require the ET to provide reasons outside the time limit, it should be plain that in an appropriate case this could be an adjustment that the EAT would provide. Such a qualification to the point that there should be no such expectation would in our view strengthen the exceptional nature of the circumstances in which the EAT would require the ET to do so. However, we also anticipate that the EAT would not want to bind itself too much by issuing a statement about expectations or by being prescriptive concerning the circumstances in which discretion would be operated in favour of an appellant.

Q27. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. The problem is the failure to provide acceptable or good reasons for the failure to provide the ET reasons. The current rule has an existential approach (there is or is not an explanation), but the proposal gives an evaluative approach. It may be that the better way

of dealing with such cases is to use the failure to comply with the duty to co-operate with the overriding objective.

(v) Concise grounds of appeal

Q28. Do you agree with the proposal?

A. No, for the following reasons:

(a) the proposal to require the parties to confirm when submitting the appeal that they have specifically considered the requirements in the New PD concerning grounds of appeal, and that the grounds of appeal comply with the requirement, will not have the desired impact on litigants in person who seek to reason their whole appeal;

(b) we consider that there is a better method that could be adopted, albeit it is one which has not traditionally been tried.

Q29. Do you consider that any difficulties might arise from this approach? If so, what?

A. The difficulty we foresee is that there are many cases, often picked up by ELAAS representatives or by the judge at a preliminary hearing, where the rambling home-made grounds do identify a point. Such cases are likely to be filtered out by this proposal. The EAT may or may not have statistics on the numbers of cases involving litigants in person whose grounds after refinement go on to succeed at appeal, but we consider that it is important that meritorious appeals should not be ruled out. We nevertheless recognise that the current process places an administrative burden particularly on the judges that have to deal with the sift. We therefore make our proposal below.

Q30. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. We consider that the problem arises primarily from litigants in person who are anxious to ensure that they present what they regard as their best case and are concerned that they may miss out the crucial point. They do this without any real guidance on how to present these claims.

We suggest that the EAT, in a manner similar to the Presidential Guidance (https://www.judiciary.uk/wp-content/uploads/2013/08/presidential-guidance-general-case-management-20180122.pdf) on general case management, provides some guidance to which litigants' attention should be drawn when the ET's decisions, etc. are promulgated. The aim would be to provide some chance for the litigant in person to educate themselves as to the type of conciseness that is useful and the type of prolixity that is not. The guidance could, for instance, contain examples. We consider that something along these lines would be a much more effective method of curtailing lengthy grounds of appeal.

The second aspect which such guidance could cover is the difference between a skeleton argument and the grounds of appeal. It could encourage the appellant to set out their reasoning; summarise that reasoning in a series of concise headlines (the grounds of appeal) and then separate the reasoning (for use in a skeleton argument) from the grounds. An approach along these lines would work with the reality of the anxiety of litigants in person over the contents of their appeal grounds (which ought to be simply the headlines) and their desire to say everything at once (without much relevance control being applied). Such guidance could, in addition, provide some guidance on how to set out a skeleton argument

and the degree of detail that a litigant in person would be encouraged to include. The guidance could again give examples of good (and bad) style in this regard.

(vi) identifying the decision appealed against

Q31. Do you agree with the proposal?

A. Yes

Q32. Do you consider that any difficulties might arise from this approach? If so, what?

A. No.

Q33. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No, save that the Appeal form might be modified to indicate that a separate part is to relate to a different appeal item (e.g. having a field for the number of the case appealed from in each case).

(vii) Bias and/or procedural impropriety

Q34. Do you agree with the proposal?

A. Yes

Q35. Do you consider that any difficulties might arise from this approach? If so, what?

A. No as the formulation of the proposal leaves room for cases where discretion may be applied to achieve a fair outcome (e.g. if an adjustment for disability were to be necessary).

Q36. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No

(viii) Parties to the appeal

Q37. Do you agree with the proposal?

A. Yes

Q38. Do you consider that any difficulties might arise from this approach? If so, what?

A. No

Q39. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No

(J) The sift process

Q40. Do you agree with the proposals?

A. Para 62. Yes. 62.3, the amount of space for disputing the reasons should be restricted, and litigants should be encouraged to give the headlines for disagreement only. We consider otherwise this will stimulate more lengthy documents contrary to the overall intent of these reforms. 62.4, we agree to this proposal if the proposal concerning guidance on

grounds of appeal is adopted, which we consider to be a more effective way of tackling the underlying problem. We do not consider that the approaches are mutually exclusive.

63.2. There is a tension between this suggestion and the suggestion we make about the distinction between grounds and a skeleton argument when the appeal is instituted. This tension could be avoided by indicating at the stage of instituting the appeal that a skeleton argument should not also be served, but may be relied upon should the matter be rejected at a rule 3(7) stage for the purposes of a rule 3(10) hearing. Whilst it can be pointed out that there is no requirement for a skeleton argument, the EAT may find that the benefit of shorter grounds at the institution of appeal stage, and the attrition rate after 3(7) decisions may mean that the overall burden is reduced even if skeleton arguments are not discouraged when needed.

64. We agree with these proposals, the first of which is a matter of the practice of the EAT judges and we consider is already within their case management powers. The guidance on presentation of the strongest points first is welcome and we suggest that it could also form part of the suggested guidance referred to above in respect of grounds of appeal.

More generally the EAT will be aware of existing very effective court guides such as the **Administrative Courts Judicial Review Guide** which appears to come out on an annual basis and which covers many of the points that litigants find difficult in bringing such cases. Whilst not recommending something of that depth, we consider that a guide to the practice of the EAT including the points which are raised as points of concern on the consultation may be an effective solution to the problem of educating litigants, often at short notice, as to acceptable practice in the EAT.

Section 29(2)(c) of the Employment Tribunals Act 1996 provides that the EAT has in relation to all other matters incidental to its jurisdiction, the same powers, rights, privileges and authority (in England and Wales) as the High Court and (in Scotland) as the Court of Session. We consider that the production of a guide outside the formal structure of the Practice Direction falls within the matters incidental to the jurisdiction of the EAT.

Q41. Do you consider that any difficulties might arise from the adoption of these proposals? If so, what?

A. save for those referred to above, no.

Q42. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. See above.

(K) Preliminary hearings

Q43. Do you agree with the proposals?

A. Yes, save for having concerns about the implication of 66.3.

Q44. Do you consider that any difficulties might arise from these proposals? If so, what?

A. We are concerned that 66.3 may require a procedure to be developed in cases where the appellant seeks to appeal to the Court of Appeal. The reasoning of the EAT, whilst often not determinative of the subsequent appeal, can be important. We also have concerns about the detail of the exception to the requirement to pay the fee, as the consultation document does not give that type of detail. We would want to hear in what circumstances the fee

would not be required to be paid. We cannot comment on whether the proposal is a good or bad one in the absence of that detail.

Q45. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. We consider that some of the problems could be pre-empted in part by educative guidance such as we have suggested for litigants.

(L) Full Hearing

Q46. Do you agree with the proposals?

A. Yes.

Q47. Do you consider that any difficulties might arise from these proposals? If so, what?

A. We consider that without guidance on issues such as the amount of time it takes to get through a written submission of any length and clear guidance on the likely time that a judge would take to deliver a judgement orally, the new PD will have little impact on litigants in person.

Specific reference to the power to limit time for oral submissions is welcome, but it should be accompanied by proactive management of cases in which litigants in person are involved at the point at which directions for the full hearing are given. Thus, for example the directions should give a litigant in person an indicative timetable for the amount of time that the judge considers their submissions are likely (or possible ought) to take; the litigant should be allowed to make representations as to whether that is likely to be enough and should also have the right to indicate where longer is likely to be needed and why it will be needed.

Q48. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. see above.

(M) General

Postponement

Q49. Do you agree with the proposals?

A. Yes.

Q50. Do you consider that any difficulties might arise from these proposals? If so, what?

A. We do consider that these proposals are likely to give rise to difficulties for persons with fluctuating disabilities. In such cases their ability to attend a hearing may fluctuate at short notice and if medical evidence is required, then inevitably this will come in piecemeal. As the use of the form and its layout and content is largely an administrative matter, we recommend that the EAT considers and makes an impact assessment of these proposals. In so far as this relates to the rights of persons with disabilities we make the point that the provisions of the UN Convention on the Rights of Persons with Disabilities would also require an assessment of its impact on accessibility to court procedures or to a fair hearing to be evaluated, even if the matter of the design of the procedure is considered to be a matter of judicial (as opposed to administrative) action. In short, a proper assessment should be

carried out of the impact of these proposals on the rights of persons with disabilities, and the process must include sufficiently accessible routes for reasonable accommodations to be made to the procedure for asking for postponements.

Q51. Do you have any other suggestions as to how the problems identified above might otherwise be addressed?

A. No.

(ii) Open Justice

Q52. Do you agree with the proposals?

A. Yes. We welcome the proposal that applications for derogations should be by application supported by evidence. These should be made at the earliest opportunity as it may be necessary for a Directions hearing to be called to determine whether this course will be adopted (and to hear from interested third parties such as the media).

Q53. Do you consider that any difficulties might arise from these proposals? If so, what?

A. The difficulties which may arise, such as the need for derogations parallel to those recognised in the ET rules are already dealt with in the EAT rules, 23 and 23A and 29.

Q54. Do you have any other suggestions as to how Open Justice issues might otherwise be addressed?

A. No

(iii) Remote attendance

Q55. Do you agree with the proposals?

A. In general terms Yes. However, we take the view that the default position, particularly in relation to an appeal, is unnecessary.

Q56. Do you consider that any difficulties might arise from these proposals? If so, what?

A. The proposal does not give details of the process, but any process must not create a procedural barrier for those who are likely to be disadvantaged by the default position (e.g. those with some disabilities and women with childcare responsibilities)

Q57. Do you have any other suggestions about the appropriate way to deal with remote attendance and/or observation?

A. The parties should have the right to ask for a video hearing by indicating necessary details on the appeal or response form. The EAT should only refuse such an application where there is disagreement between the parties after considering representations.

(iv) Permission to appeal

Q58. Do you agree with the proposal?

A. No

Q59. Do you consider that any difficulties might arise from this proposal? If so, what?

A. In the absence of guidance (and even if such guidance was given) we consider that, given the stress of dealing with an oral hearing, litigants in person should not have to comply with

this requirement. We agree that it should apply where the party seeking permission is represented.

Q60. Do you have any other suggestions about the appropriate way to deal with applications for permission to appeal?

A. The problem for which the proposal is the solution is that applications made after the hearing result in a greater amount of paperwork. One solution to this would be for the EAT as a matter of course (where a party is unrepresented) to indicate the tribunal's position on permission to appeal at the end of the hearing or to pro-actively invite specifically any application for permission to appeal. This would remove the burden from the litigant to know the procedure and would ensure that the litigant received the opportunity to make the application.

(v) Costs

Q61. Do you agree with these proposals?

A. Yes, however the same point is made as is made in response to Q60. Where a party is unrepresented and has been successful, the EAT should indicate (a) the nature of the cost rule (b) that the litigant should, if they are going to make an application for costs, make it now.

The EAT should include provisions permitting pro-bono costs orders to be dealt with.

Q62. Do you consider that any difficulties might arise from such proposals? If so, what?

A. This is another area in which, in the absence of educative guidance such as an EAT guide, litigants are likely to lose their rights simply because they are not familiar with the practice. Where parties are represented, a firm expectation could be indicated that such applications must be made at the end of the oral hearing.

Q63. Do you have any other suggestions about the appropriate way to deal with applications for costs?

A. We again recommend an educative guide if this proposal is to be adopted or if the variant we have mentioned above is taken up.

(vii) Appeals from decision of ET Legal Officer

Q64. Do you agree with this proposal?

A. Yes.

Q65. Do you consider that any difficulties might arise from this proposal? If so, what?

A. No.

Q66. Do you have any other suggestions about the appropriate way to deal with such appeals?

A. No.

(vii) Appeals where a claim has been rejected by the ET or where a respondent failed to respond to a claim in the ET

Q67. Do you agree with the proposal?

A. Yes

Q68. Do you consider that any difficulties might arise from this proposal? If so, what?

A. No.

Q69. Do you have any other suggestions as to how such appeals might otherwise be addressed?

A. No.

(N) Other proposals

Q70. Do you have other suggestions for changes in the New PD that would simplify EAT procedures?

A. We have made our suggestions in response to the earlier questions.

Q71. Do you have other suggestions for changes in the New PD that would increase the efficiency of EAT procedures?

A. If the mechanism for changes needs to be the New PD, then either the guidance which we recommend should be constructed outside that framework (in the way that the other court guides have been) or as an appendix to the PD.

Q72. Do you have other suggestions for changes in the New PD that would improve access to justice in the EAT?

A. The rule concerning extension of time for instituting appeals should be reviewed as the current case law has created too restrictive a set of circumstances for extension of time. The extension principle should be more flexible, enabling properly meritorious cases where there is a good explanation for the appellant's delay in presenting the appeal to be considered.

Finally, the form attached to the consultation should in reality be several different forms or should enable easy access to the relevant section, if in electronic format. In hard copy, there should be a front page which gives the locations of the different applications that can be made using it if it is to be one form.

FOR DISCRIMINATION LAW ASSOCIATION
20 JULY 2023