

## **New “provisional” statistics show a 51% decrease employment tribunal claims – but what about the missing data?**

The [Tribunals Service](#) has recently published [quarterly statistics](#) for 1 October to 31 December 2010 for all types of tribunals - including Employment Tribunals.

The figures show that the number of [Employment Tribunal](#) receipts (i.e. claims) between 1 October and 31 December 2010 was 39,900 – a **fall of 51%** compared with the same quarter of 2009-10, but 2% higher than for the third quarter of 2008-09.

Many busy practitioners like myself will be very surprised at this purported decline. However, if you delve a little deeper (most notably in the footnotes) there would seem to be substantial chunk of data missing - as such many practitioners may be reaching to put their copies in the recycling bins.

### **“Multiple claims” down**

By way of explanation claims to the Employment Tribunal are classified into two broad categories – singles and multiples. Multiple cases are where two or more people bring cases, involving one or more jurisdiction(s) usually against a single employer but not necessarily so, for instance in [TUPE](#) cases, and always arising out of the same or very similar circumstances. As a multiple, the cases are processed together.

The majority of the recent drop in receipts was for those multiple claims, which went **down by 62%** between the third quarters of 2009-10 and 2010-11 (although 13% higher than for 2008-09). The number of single claims fell by **11%** - from 17,400 between 1 October and 31 December 2009 to 15,500 for the same period in 2010-11.

### **A cautionary note on the new statistics**

The new statistics have to be seen in the context of last year seeing a huge peak in employment tribunal claims (indeed the highest amount ever recorded) and also the very high (and variable) numbers of resubmitted airline cases in the third quarter of 2009-10.

However, the statistics must also be viewed in reference to these caveats:

1. The statistics themselves are described as being “provisional” (by a lower case p in the statistical charts – which is notably absent elsewhere!); and,
2. There appears to be substantial chunk of data missing.

As such the figures themselves may be of limited use.

### **Breakdown of jurisdictional mix**

#### **On the up**

- Age discrimination went up significantly - from 1,100 to 2,900;
- Those for suffering a detriment/unfair dismissal – up by 47%;
- pregnancy and sex discrimination up by 27%;
- Discrimination on the grounds of religion or belief continues to gradually rise over the last three quarters – Q.1 200; Q.2 – 210; Q-3 - 240.

#### **Those in decline:**

- [Working Time Directive](#) - down 60%;
- Equal Pay - down 15%; and,
- Redundancy, breach of contract and unfair dismissal -down 15%.

### **“Outstanding Case Loads”**

The statistics also include a brief analysis of outstanding case loads, which indicates the extensive level of pressures on the Tribunal system (it is assumed that this is the entire Tribunal system and not just Employment Tribunals although this is not made clear). At 31 December 2010, the caseload outstanding was 722,400, with **58%** of the current caseload outstanding being multiple ET claims.

It would be interesting to compare the statistics from [ACAS](#) (and their pre-claim conciliation service) for the same period.

### **Leicester and Nottingham Employment Tribunals – Missing Data?**

The statistics explain that historically, Employment Tribunals statistics have been extracted from the ETHOS case management system. However, a pilot replacement system was developed (Caseflow). The Caseflow system has now ceased and a reversion is taking place to the former ETHOS system – it is not clear why this is, or how much the trial actually cost.

The report states that *“for a short period, complete data has not been available for Nottingham and Leicester”*. Hidden in a footnote is this statement: *“The number of jurisdictional claims for the first and second quarters of 2010-11 exclude Nottingham and Leicester ET data - data for Nottingham and Leicester contained within Q3 figures for 2010/11 may be incomplete”*.

The missing data should be the biggest caveat to the reliability of the statistics (which should be emphasised now before they seized upon for political purposes); as figures from two of the top 15 cities in the [UK](#) by size are bound to make a significant difference.

The full breakdown of jurisdictional claims can be found on page 26 – and I would recommend that all practitioners have a look at the charts to see how the levels of claims fluctuate throughout the year.

**Philip Henson, Partner, Bargate Murray**

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