

## Employee claims rise for the second year running – July 2019

**The latest round of Employment Tribunal statistics has now been released – giving employers a full year picture to compare against the year prior.**

The report by the Ministry of Justice gives us the statistics for the period January to March 2019, compares the figures against the same quarter from the previous year, and also provides annual data for 2018/19.

### So, what's the damage?

Well, broadly speaking, the findings are as expected, with the overall claims trajectory continuing in much the same way as it has been since Tribunal fees were abolished back in 2017. While this claims culture is understandably concerning for employers, it's nothing new. These latest statistics, then, mainly serve to remind employers of the importance of taking proactive steps to minimise the risk of claims being brought.

The salient points for employers are summarised below.

### Volume of claims

The bottom line is that Employment Tribunal claims are up 26% year on year:

- There were **27,916** single claim receipts lodged between April 2017 to March 2018.
- There were **35,429** single claim receipts lodged between April 2018 to March 2019.

Unfortunately for employers, we're still feeling the effects of the Supreme Court's decision to scrap Employment Tribunal fees back in 2017. With it now easier than ever for disgruntled employees to bring a claim, it's hardly surprising that we're seeing these kinds of figures.

That said, it's now almost two years since fees were abolished, and some may have expected the situation to have levelled out by now. Evidently, this isn't the case.

### Types of claims

In terms of the nature of claims brought, **sex discrimination** has seen the biggest rise in claim numbers, from **5,522** in FY18 to **9,336** in FY19 – an increase of **69%**.

At first glance, this seems to suggest that the issue of harassment and the #MeToo movement may have gained real traction. However, in reality, this figure is skewed by the receipt of over 2,700 sex discrimination claims in the Scottish Tribunal in August 2018 – a huge number when you consider that the average for that claim type is about 300 per month. Take that out and sex discrimination claims are actually up 20%.

Other types of claim where numbers have risen include:

- Breach of contract, up 15.07%;

- Race discrimination, up 17.75%;
- Unfair dismissal, up 19.97%;
- Disability discrimination, up 24.54%; and
- Redundancy (failure to inform and consult), up 35.76%.

Conversely, claims for age discrimination, equal pay and part-time workers regulations are down.

### **Outcomes**

A total of **93,817** claims were disposed of (completed) in FY19, with **9,383** of these claims being heard before an Employment Tribunal (and others disposed of in other ways).

Of those 9,383:

- **8,445** claims were successful (won by the employee).
- Only **938** claims were successfully defended by the employer, putting the employer national average win rate at just 10%.

This highlights the importance of receiving professional support from an Employment Law specialist in order to increase your chances of success.

### **Where we're headed**

In terms of future outlook, there's still no sign of the number of claims slowing down – and no indication that this will change any time soon.

By way of background, Employment Tribunal fees were introduced in July 2013. In the 12 months prior to this, **53,487** single claims were received. With that in mind, there's still potential for a further for a **further 50% increase** in claim numbers if we're headed back to the kinds of claim levels we saw in the original pre-fee era.

While we can only speculate on future claim numbers, what we do know for certain is that the Tribunal system is bursting at the seams. More claims plus an under-resourced system equals delays, and that usually means higher costs to employers who find themselves embroiled in these claims.

### **Dramatically reduce your risk**

At Ellis Whittam, we're consistently high achievers when it comes to defending claims.

Owing to our unrivalled quality of service and the expertise of our advisers, our employer win rate for FY19 was **82%**. With a dedicated adviser in your corner to guide you through the process, you're **over eight times more likely** to win a Tribunal claim if advised by Ellis Whittam.

For trusted legal advice on any employment law matter, contact Ellis Whittam on 0345 226 8393 or email Howard Trafford on [howardtrafford@elliswhittam.com](mailto:howardtrafford@elliswhittam.com).