

BARGATE MURRAY – EMPLOYMENT FOCUS



New statistics from the Tribunal Service show a significant increase in the amount of Employment Tribunal claims.

Philip Henson, Partner in the City of London law firm **Bargate Murray** highlights 5 tips to reduce the risk of employment tribunal claims and also how to control your legal budget.

Many HR practitioners will have felt under extreme pressure over the last 12 months. As the country has crawled out of a recession, an unfortunate consequence has been that many positions have been made redundant - leading to an increase in grievances and claims.

The amount of claims lodged at the Employment Tribunal has recently been published by the beleaguered Tribunals Service¹ for the period 1 April 2009 – 31 March 2010². The statistics show that there has been a massive **56% increase** in claims to the employment tribunal, from 151,000 claims for the period 2008/2009 to **236,100**³ claims in 2009/2010.

To put this figure into context it is the highest amount of claims ever received by the employment tribunal service.

Here are some specific examples:

Unfair Dismissal claims up from 52,700 to **57,400**.

Unauthorised deduction claims have increased significantly from 33,800 – **75,500**.

Redundancy pay claims up from 10,800 – **19,000**.

Breach of contract claims up from 32,800 to **42,400**.

Age discrimination claims up from 3,800 to **5,200**.

Equal pay claims down from 45,700 – **37,400**.

Redundancy – failure to inform and consult – down from 11,400 – **7,500**.

It is worthy of note that 73,000 claims were withdrawn, and 70,600 were ACAS conciliated.

Do you agree with the results of the employment tribunal satisfaction questionnaire?

Many HR practitioners reading this note will no doubt have received a satisfaction questionnaire from the Tribunal Service following the conclusion of a case. **71.4%** said that they were satisfied with the overall service of the employment tribunal. We are already

¹ http://www.tribunals.gov.uk/Tribunals/Documents/Publications/TS_AnnualStatisticsReport0910.pdf

² The new statistics Service includes claims to the Social Security and child support agency, the Tribunals Service, immigration and asylum and the employment tribunal. For the purposes of this document we concentrate exclusively on the employment tribunal service.

³ Although there were many multiple claims.

seeing the scythe cutting the public sector and we anticipate that the employment tribunal service (which is an executive agency of the Ministry of Justice) will have to bear the burden of future cuts; a direct consequence may be a reduction in satisfaction due to further delays, or perhaps a more streamlined specialised employment judiciary.

Bargate Murray HR Predictions

Specialist employment judges

We predict that we will see routine day to day tribunal cases/hearings being handled by a team of generalist employment judges, similar to Masters in the High Court - which may speed up the current backlog of cases.

We also predict that some employment judges will only hear cases exclusively in one area, such as sex discrimination.

Religion or Belief claims to continue to rise

There has been a gradual increase in the amount of claims accepted by the Employment Tribunals since the Employment Equality (Religion or Belief) Regulations came into force – with:

- 486 accepted in 2005/6,
- 648 in 2006/7,
- 709 in 2007/8⁴,
- 830 in 2008/2009, and,
- 1000 in 2009/2010.

When the government carried out the initial Regulatory Impact Assessment they used the current number of race discrimination to estimate the approximate number of future claims under the Religion or Belief Regulations; which at the time was just over 3,180 in 2001/2002.⁵ Our employment team has specialist expertise in this important developing area of employment law⁶.

HR Tips from Bargate Murray

1. **Review your Existing HR policies/contracts** – Many organisations have HR policies and employment contracts which are now out of date. These are often admitted in evidence before an employment tribunal. Are you in need of a HR health check?
2. **Consider HR Training for managers** – If your company has experienced an increase in the amount of complaints/grievances in one particular area of employment law, such as race discrimination, consider whether managers could benefit from

⁴ http://www.employmenttribunals.gov.uk/Documents/Publications/EmploymentTribunal_and_EAT_Statistics_v9.pdf

⁵ <http://webarchive.nationalarchives.gov.uk/tna/+http://www.dti.gov.uk/er/equality/reliqria.pdf>

⁶ Philip Henson has recently presented a guest lecture at the University of Leicester, LL.M Employment Law (Distance learning) course, and has written columns for the Guardian Newspaper about the leading cases - <http://www.guardian.co.uk/profile/philip-henson>

bespoke training, to raise awareness and address any concerns or questions they may have.

3. **Can a potential dispute be nipped in the bud?** – Workplace mediation is becoming increasingly popular as a way to resolve disputes. It is often cheaper and more importantly quicker – all HR practitioners will have experienced the frustration of the current backlogs of cases. Mediation can also allow the parties to explore underlying conflict between the parties.
4. **Embrace social media for free legal updates**– Many lawyers, such as Bargate Murray, have embraced Twitter and LinkedIn as a way to update their business contacts about proposed changes in the law, and key decisions. Follow **PHBARGATEMURRAY** and **QBBARGATEMURRAY** for regular free updates and tips.
5. **Can you control your legal spend by using a monthly retainer?** – We understand that companies of all sizes are under pressure to control their legal budget. Please speak to Bargate Murray to see if we can better control your annual legal spend by using a monthly retainer.

Philip Henson

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Bargate Murray

If we can be of any assistance please let us know; thank you.

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