

**EMPLOYMENT RELATIONS  
RESEARCH SERIES NO. 107**

Findings from the Survey of  
Employment Tribunal Applications  
2008

MARCH 2010

EMPLOYMENT RELATIONS RESEARCH SERIES NO. 107

# **Findings from the Survey of Employment Tribunal Applications 2008**

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BMRB SOCIAL RESEARCH

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## About this publication

The project manager for this report was Hulya Hooker in the EMAR branch.

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# Foreword

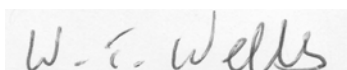
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This report is funded under EMAR's research programme. It provides the findings of the 2008 Survey of Employment Tribunal Applications (SETA), which is the fifth in a series dating back to 1987. The series aims to provide information on the characteristics of the parties and key features of a representative sample of Employment Tribunal cases.

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A handwritten signature in black ink that reads "W. E. Wells". The signature is written in a cursive style and is positioned above the printed name and title.

**Bill Wells**

Director, Employment Market Analysis and Research

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# Glossary

Abbreviations	Description
SETA	Survey of Employment Tribunal Applications
BIS	The Department for Business Innovation and Skills
Acas	The Advisory, Conciliation and Arbitration Service
TS	The Tribunal Service
ET	Employment Tribunal
LFS	Labour Force Survey
SOC	Standard Occupation Group
PCC	Pre-Claim Conciliation

# Executive summary

## Key Message

*The characteristics of parties involved in Employment Tribunal applications have not changed much since the 2003 survey. Claimants were more likely to be men, managerial workers or aged 45 or over. The private sector<sup>1</sup> accounted for 72 per cent of cases with small workplaces (1-24 employees) over-represented.*

*As in 2003, employers were still significantly more likely than claimants to report that workplace dispute resolution procedures were in place and followed. However, there has been an increase in the proportion of both parties who claim such procedures were in place, and were followed. Use of mediation reported by parties was relatively low (nine per cent of claimants and seven per cent of employers). Solicitors were also still the most common source of representation, though their use was significantly higher among employers. However, since 2003, there has been a marked decline in the proportion of claimants who have received representation (either with the day-to-day handling of the case or at the tribunal hearing) and an increase in the proportion of claimants receiving no advice or representation. There has also been a marked decrease since 2003 in the proportion of parties that received unsolicited calls to provide legal advice from around four in ten in 2003, to four per cent of claimants and 14 per cent of employers in 2008.*

*SETA outcome in the 2008 survey broadly resembles that reported in 2003, although there has been a slight decrease in the proportion of cases which were resolved without a need for judicial determination (73 per cent in 2008 compared with 76 per cent in 2003). Overall satisfaction with the system remains high, more so among claimants (74 versus 65 per cent). However, in line with 2003, employers were more likely to be satisfied with the outcome of the case (69 versus 56 per cent). There has been an increase in the amount of time spent on the case since 2003, particularly amongst claimants (seven days in 2008 compared with four in 2003).*

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<sup>1</sup> For the purposes of this report, the private sector excludes the non-profit sector, which is treated separately.

## About the survey

- The 2008 Survey of Employment Tribunals (SETA) is the fifth in a series. The first SETA was undertaken in 1987, with subsequent surveys undertaken in 1992, 1998 and 2003. The series aims to provide information on the characteristics of the parties in, and key features of, Employment Tribunal cases.

Additional aims of the SETA 2008 were:

- to update the *Findings from the 2003 Survey of Employment Tribunal Applications*;
- providing an assessment of the impact of the 2004 Dispute Resolution Regulations;
- assessing the parties' knowledge and evaluation of the role of Acas and its involvement; focussing on the role of Acas's conciliators;
- providing a benchmark to measure the impact of any changes in legislation and regulations arising from the Government's response to the Gibbons Review;
- assessing the parties' awareness of and attitudes towards alternative dispute resolution and mediation;
- involvement of Employment Tribunals and parties' expectations of and satisfaction with the Employment Tribunal system.
- The findings presented in this report are based on a random sample of 4,027 ET cases (2,020 claimant cases and 2,007 employer cases).
- The samples of claimants and employers were drawn from tribunal cases across all jurisdictions with a promulgation date from the start of February 2007 to the end of January 2008. The findings are statistically representative of cases completed in Great Britain during this period.
- As in 2003, the data was collected using Computer Assisted Telephone Interviewing (CATI). The response rate was 66 per cent for claimants and 59 per cent for employers.
- Where applicable, comparisons are made between the 2008 findings and those reported in earlier SETA studies (particularly 2003); however, modifications to methodological approach over time mean that such comparisons should always be interpreted with some caution.

## Characteristics of the parties (Chapter 2)

- Sixty per cent of claimants were men, which is somewhat higher than the proportion employed in the workforce as a whole (51 per cent), as given in the Labour Force Survey (LFS, Q4, 2008). Men brought the majority of applications across most jurisdictions, although 82 per cent of sex discrimination cases were brought by woman. This broadly reflects the patterns found in 2003.
- Eight-six per cent of claimants were white, slightly lower than for the workforce in general (91 per cent). However, only 15 per cent were white in race discrimination cases. This is similar to the pattern found in 2003.
- Reflecting the findings in 2003, in comparison with the workforce as a whole, ET applicants were more likely to be aged over 45 and less likely to be aged 16 to 34.
- Forty-six per cent of claimants regard themselves as belonging to a religion. Forty per cent of claimants overall regarded themselves as Christian, with six per cent belonging to another religion. This figure increased to 12 per cent in discrimination cases, reflecting the overall pattern found in 2003.
- Of cases involving claimants who were current or former employees, 95 per cent were brought by those in permanent positions. Of these claimants in permanent positions, 87 per cent were full-time and 14 per cent were part-time. These findings closely resemble those in 2003.
- When compared with employees in the workforce as a whole, claimants were much more likely to be in managerial occupations, somewhat more likely to be in the occupational group within process, plant and machine operatives and skilled trades, and less likely to be in professional occupations.
- The median pay for claimants in full time permanent positions was £20,000 compared with £17,500 in the 2003 survey. This increase broadly reflects the increase in average earnings of full time employees over the equivalent period. Claimant's median pay was slightly lower than for full time employees nationally (around £22,984).
- A quarter (25 per cent) of claimants were a member of a trade union, this is in line with employees nationally (27 per cent).
- A comparison of the employer survey data with those from the LFS indicates that ET claimants are disproportionately found in hotels and restaurants and in finance. However, they were under-represented in: wholesale and retail, transport, communication and utilities, and other services and public administration.

- Twenty-seven per cent of cases from the employer survey were from organisations with fewer than 25 employees. Nine per cent had 25-49 employees, 19 per cent 50-249 and 45 per cent with 250 or more. This is broadly in line with 2003. In line with 2003, large employers were disproportionately involved in discrimination cases.
- The private sector accounted for 72 per cent of ET cases, the public sector for 19 per cent and the non-profit sector for eight per cent. This is a change from 2003, where 82 per cent of ET cases were accounted for within the private sector, 12 per cent in the public sector and six per cent in the non-profit sector.
- In line with 2003, 59 per cent of employer respondents had personally dealt with an application to an employment tribunal in the past.
- For 41 per cent of employers, the case under discussion was the only one in which the organisation had been involved within the previous two years. This is in line with 2003.

### Written statements and procedures (Chapter 3)

- As in the 2003 survey, employers were more likely than claimants to say that the employee had been provided with a written statement of terms and conditions after joining the organisation (89 per cent and 64 per cent respectively). The proportion of employers mentioning this has increased from 83 per cent in 2003.
- Employers were also more likely than claimants to say that they had written disciplinary and grievance procedures (91 per cent and 50 per cent respectively). The proportion of both parties mentioning these procedures has increased since 2003 (84 per cent of employers and 41 per cent of claimants mentioned these in 2003).
- Where there were written procedures, 62 per cent of claimants reported that they had been followed to some extent, and of these 61 per cent said that they had been followed all the way through. This is an increase from 2003, where the equivalent figures were 42 per cent and 52 per cent.
- For employers, where there were written procedures, 79 per cent of employers reported that the procedures had been followed to some extent, and of these 82 per cent reported that they had been followed all the way through. There has been an increase in the proportion of employers reporting that procedures have been followed to some extent (64 per cent), but there has been no change in the proportion claiming that procedures were followed all the way through (83 per cent).
- Sixty-nine per cent of claimants said that they (or their representative) had put their concerns to the employer in writing before they submitted their ET application compared to 57 per cent of employers.

This is an increase for both parties since 2003, where the equivalent figures were 59 per cent and 40 per cent respectively.

- Sixty-seven per cent of employers said that they had written to the claimant (or their representative), however only 47 per cent of claimants claimed to have received a letter.
- Among claimants who had discussed the dispute face-to-face with their employer, 69 per cent (30 per cent of all claimants) said a formal meeting had taken place, compared to 85 per cent of employers who said that there had been face-to-face discussion (37 per cent of all employers). When combined, the figures suggest that a formal meeting took place in 33 per cent of all cases, which is an increase from 25 per cent in 2003.
- Sixty per cent of claimants said that they had informed their employer that they were considering applying for an Employment Tribunal, although only 21 per cent of employers said they had been informed. Whilst the proportion of employers reporting this remains unchanged since 2003, the proportion of claimants reporting this has increased from 53 per cent.
- Employers involved in cases where the claimant had been successful at a tribunal hearing were less likely to have provided employees with a written statement of their terms and conditions, compared to those where the claimant had been unsuccessful at a tribunal hearing. Additionally, employers involved in cases where the claimant was successful at the tribunal hearing were more likely to have not followed disciplinary and grievance procedures all the way through.
- In line with 2003, the provision of written statements and procedures and the compliance with them, and communication with the claimant prior to the application were more commonly reported by large employers and those in the public and non-profit sectors. For claimants, these were more commonly reported by those in permanent jobs and trade union and staff association members.

## Mediation (Chapter 4)

- Twenty-three per cent of claimants reported that before they put in the ET application someone suggested that they should use mediation to help resolve the dispute, compared with 15 per cent of employers.
- Eighteen per cent of claimants reported that they had discussed the possibility of mediation with the other party. Employers were less likely to say they had done this (12 per cent). A similar pattern was found for whether parties had discussed the possibility with a solicitor (16 per cent and 13 per cent respectively).
- The initial discussion of the possibility of the use of mediation was most common in large employers and those in the private sector.

- Nine per cent of claimants and seven per cent of employers reported that they had undertaken mediation in their case.
- The most commonly cited reason for not taking part in mediation was that the other party did not want to (mentioned by 45 per cent of claimants and 40 per cent of employers who had received the suggestion of mediation but did not use it).
- Sixty-three per cent of employers who took part in mediation sought legal advice before doing so, compared with 49 per cent of claimants.
- The most commonly cited mediator by claimants was a solicitor in a private practice (20 per cent), and for employers was an in-house mediator (27 per cent).
- Around half of employers (52 per cent) and 44 per cent of claimants reported that the mediation was provided free of charge. Thirty-nine per cent of employers reported that they had paid, although only 13 per cent of claimants reported that the employer had paid for mediation. One per cent of employers reported that claimants had paid, however this figure rose to 16 per cent amongst claimants.
- Amongst employers who mentioned that they had paid for the mediation, the mean payment figure was £4,192. Amongst claimants the equivalent figure was £1,999. However it should be noted, the mean figures are inflated by survey respondents who gave particularly high figures, and therefore the median scores will provide a more reliable indicator here. The employer's median amount was £2,000, compared with £1,200 for claimants.
- Claimants and employers who took part in mediation expressed mixed views as to whether they thought mediation had been helpful in resolving their dispute. Thirty-three per cent of claimants agreed it had been helpful, as did 39 per cent of employers. Forty-eight per cent of claimants disagreed, as did 38 per cent of employers.
- Claimants and employers who experienced mediation were no more likely for their case to be privately settled or withdrawn than any other outcome.
- The majority of both employers and claimants said that they would consider using mediation in a future dispute, irrespective of whether they had used it in the past (88 per cent of employers and 80 per cent of claimants). Employers in the public and non-profit sectors were more likely to consider using mediation in the future. Amongst claimants, members of a trade union/staff association were less likely to say they would consider using mediation in the future, as were those aged 55 or over.



## Advice and Representation (Chapter 5)

- A third (32 per cent) of claimants nominated a professional representative on the ET1 form, compared with 54 per cent of employers on the ET3. This represents a large decrease from 2003, particularly for claimants when 40 per cent and 55 per cent respectively nominated a representative. The most common source of help for both parties when completing the claim and response forms was a solicitor, barrister or some other kind of lawyer (mentioned by 45 per cent of claimants and 78 per cent of employers who received help). These findings are in line with those reported in 2003 and show an increase in the proportion of employers who nominated a solicitor, barrister or some other kind of lawyer.
- Forty-six per cent of claimants and 60 per cent of employers used a representative to help with their case on a day-to-day basis. This represents a marked decline from the proportion of claimants who used a representative in 2003 (55 per cent). As in 2003, employers were much more likely than claimants to be represented at a full tribunal hearing (73 versus 34 per cent).
- Solicitors, barristers and other kind of lawyer were the most common type of representative used, both on a day-to-day basis and at tribunal. Other sources varied between the parties, with a smaller proportion of claimants using a trade union, for instance. A smaller proportion of employers also used an internal legal specialist or employment rights advisor.
- Over one in ten claimants (12 per cent) and employers (14 per cent) had no day-to-day representative, but did seek advice and guidance about the case. In contrast, 40 per cent of claimants and 29 per cent of employers neither had a day-to-day representative nor sought additional advice. The proportion of claimants who received no representation or advice has risen compared with 2003 (when it was 34 per cent).
- A quarter of claimants would have liked advice from sources not previously mentioned, and 42 per cent of these desired the advice of a solicitor. As in 2003, the main reason why claimants did not use a solicitor (or other sources) was cost or affordability.
- Compared with 2003, parties were much more likely to have used websites (e.g. Acas and TS websites) to get further information to help with the case.
- In line with data reported in 2003, representation was linked to both outcome and jurisdiction: cases where the claimant was unsuccessful at tribunal were most likely to involve parties (both claimant and employer) that had received representation and advice (55 per cent). Sixty per cent of privately settled cases also involved represented

parties, whilst two thirds of cases which involved discrimination claims involved representation.

- Reflecting the findings reported in 2003, a third of claimants and over half of employers received some form of legal representation or advice after submission of their claim or response forms. As specifically with levels of general representation, cases where the claimant was unsuccessful at a tribunal hearing and privately settled cases were most likely to involve legal representation, as were claimants involved in unfair dismissal and discrimination claims.
- The proportion of claimants that had an arrangement with a legal adviser, by which they had to pay their bill only if they won their case, has fallen since 2003. The data show a marked decline since 2003 in the proportion of claimants and employers that received unsolicited calls or letters offering legal advice in the case (four per cent of claimants and 14 per cent of employers had received such advances, compared with 43 and 41 per cent respectively in 2003).
- Of those who received advice and representation, the mean amount paid for legal and professional fees was £4,123 for claimants and £8,009 for employers. The median amounts were £2,000 and £2,500 respectively. As in 2003, discrimination claims were the most expensive for both parties. In contrast to 2003 (when privately settled cases were the most expensive), cases where the claimant was unsuccessful at tribunal were the most expensive outcome for both parties.

## Use of Acas (Chapter 6)

- Seventy-six per cent of claimants recalled receiving the introductory letter from Acas explaining the services they offered, as did 78 per cent of employers.
- Around half of all claimants (48 per cent) and two-fifths of employers (41 per cent) reported having direct contact with an Acas conciliator. Around a fifth of all claimants and employers (18 per cent and 19 per cent respectively) said that someone acting on their behalf had some form of contact with an Acas conciliator.
- Fifty-seven per cent of claimants and a third of employers (33 per cent) who had not personally had direct contact with an Acas conciliator would have liked to have had direct contact.
- Half of both claimants and employers (49 per cent and 48 per cent respectively) described the support they received from the Acas conciliator as a combination of advice and information.
- Claimants and employers generally expressed similar views as to whether or not they trusted the information given by the Acas conciliator, with two thirds (66 per cent) of employers and 64 per cent

of claimants reporting that they completely trusted the information given to them.

- Ratings of the Acas conciliation officer were positive, and views were generally consistent between claimants and employers. Four-fifths of claimants and employers (80 per cent and 79 per cent respectively) rated the Acas conciliator's explanation of outlining the Employment Tribunals procedures as 'good' (a combination of both very and fairly good), and 75 per cent of both claimants and employers rated the conciliator as good at outlining the (employment) law as it applied to their case. Sixty-eight per cent of claimants and 70 per cent of employers said that they were good at helping them understand the strengths and weaknesses of their case, and 65 per cent of claimants and 66 per cent employers said that they were good at helping them to consider the pros and cons of settling their case without going to a full tribunal hearing. However, employers were more likely than claimants to feel that the Acas conciliator was good in terms of relaying proposals and offers to and from the other party (79 versus 70 per cent).
- Claimants were more likely than employers to view Acas' involvement in their case as important in helping them to decide how to proceed with the case (63 per cent compared with 45 per cent).
- The majority of respondents who had any form of contact with Acas said that if a friend or relative (for claimants) or their organisation (for employers) got involved in a similar case, they would recommend the services of Acas. Eighty-five per cent of claimants and 83 per cent of employers responded 'yes'.
- Answers were generally positive for both claimants and employers who had any form of contact when asked whether they felt that the involvement of Acas was helpful: 75 per cent of claimants and 71 per cent of employers responded 'yes'.
- The majority of claimant and employers who had any contact with an Acas conciliator reported that they were satisfied in general with the service they had received from Acas (77 per cent of claimants and 79 per cent of employers).

## Role of Employment Tribunals (Chapter 7)

- Three-fifths of all claimants (58 per cent) were aware, before they put in their application, that a worker could apply for an Employment Tribunal (ET) if they believed their employer was not respecting their legal rights. Only seven per cent of claimants had made a previous ET application.
- Three-fifths of all employers (59 per cent) said they had personally dealt with an application to an Employment Tribunal before the case in question. Two-fifths of employers (41 per cent) reported that their

organisation had not been involved in any tribunal cases in the last two years.

- Similar proportions of claimants (71 per cent) and employers (73 per cent) believed that the ET hearing gave each party a fair chance to make their case.
- Three quarters of claimants (74 per cent) and two-thirds of employers (65 per cent) were satisfied with the workings of the ET system in general.

## Tribunal Hearings (Chapter 8)

- Four-fifths of all respondents (80 per cent) reported that there had not been any hearings with the tribunal *before* the full tribunal hearing for the case in question took place (or if the case did not go to a full hearing, any hearings at any stage of the case).
- Nine in ten employers involved in cases that went to tribunal attended the full tribunal either in person or someone else from the organisation was present (90 per cent). Four-fifths of claimants personally attended the full tribunal hearing (80 per cent).
- Tribunal cases were often presented by solicitors, barristers or other kinds of legal advisors; two-fifths of employers (38 per cent) and one-third of claimants (32 per cent).
- Just over a third of claimants presented the case themselves (34 per cent), whilst 22 per cent of employers presented the case either themselves or had someone from their organisation present their case for them.
- The mean number of days spent on cases that involved a decision at tribunal was 1.7 and the median number of days was one.
- An appeal to the Employment Appeal Tribunal (EAT) was made in one seventh of cases which involved a decision at a full tribunal hearing (14 per cent). Where such an appeal was made, almost three-fifths were by claimants (57 per cent) and two-fifths were by employers (40 per cent).

## Outcome (Chapter 9)

- Overall, three-fifths (58 per cent) of cases were settled, two-fifths (39 per cent) through Acas and one-fifth (19 per cent) privately. Twelve per cent of claimants were successful at tribunal and eight per cent were unsuccessful. Fifteen per cent of cases were withdrawn. The remaining eight per cent of cases were dismissed or disposed of or had another outcome.

- SETA outcome in the 2008 survey broadly resembles that reported in 2003, although there has been a slight decrease in the proportion of cases which were resolved without a need for judicial determination (73 per cent in 2008 compared with 76 per cent in 2003).
- Ninety-three per cent of settled cases included some kind of financial settlement. The mean settlement amount in cases involving money was £5,431, while the median was £2,000.
- The main reason employers tried to settle were to keep costs down (51 per cent) and because it was convenient to do so (25 per cent). Where the claimant did not accept the employer's offer to settle, the main reason given was that not enough money was offered (29 per cent).
- Claimants withdrew their case for a range of different reasons. For example, they were advised to do so (21 per cent) and there was too much expense involved in continuing (19 per cent).
- Nine in ten (89 per cent) of tribunal awards were financial. The mean amount awarded was £12,052. However, this figure was inflated by survey respondents who gave particularly high figures. The median was £2,163.
- Three-fifths (59 per cent) of claimants were satisfied with the outcome of their case. The equivalent figure for employers was seven in ten (69 per cent).
- The tribunal did have some impact on employer policies. Most commonly, employers said that they would ensure existing procedures were followed in future (51 per cent said this).

## Costs and Benefits (Chapter 10)

- Fifty-five per cent of claimants incurred personal financial costs as a result of the case, a decrease from the figure reported in 2003 (64 per cent).
- The mean number of days claimants spent on the case was 42, although the median number was only seven (compared with 25 and four respectively in 2003). Most time was spent in cases where the claimant was unsuccessful at a tribunal hearing or where the case was dismissed. Cases where a discrimination claim was the primary jurisdiction also involved more time than other cases.
- The mean and median number of people involved in the case for employers was four and three respectively. The mean number of

days spent on the case was thirteen, whilst the median was five.<sup>2</sup> The same sub-group differences found among claimants were relevant here.

- Thirty-six per cent of claimants said that the case had caused them stress and depression. These were the most common non-financial negative effects mentioned by claimants.
- The two most commonly mentioned negative effects for employers were low staff morale (11 per cent) and 'interrupted business/increased stress levels' (six per cent).
- Two-thirds (67 per cent) of employers and 44 per cent of claimants were aware of the costs regime, whereby the losing party can be required to contribute to the other side's costs if their conduct during the case was considered by the tribunal to have been vexatious.
- In one-quarter (26 per cent) of cases the employer was warned by the claimant, or someone on their behalf, that the tribunal might order them to contribute to the claimant's costs. A similar proportion of claimants (23 per cent) said that the employer had warned them that they might be ordered to contribute to the employer's costs.
- Eighteen per cent of those who privately settled, and one-quarter (25 per cent) of those who settled through Acas, said that the risk of having to pay costs had made them more likely to do so. Of those who withdrew (claimants only), 37 per cent said that this risk had had a bearing on their decision.
- By the time of the interview, around three-quarters (73 per cent) of claimants were in new work and eight per cent were still working for the employer against whom they had made the application. One in nine (11 per cent) were unemployed and looking for work and the remainder were not working and not looking for work. Where claimants had moved into new work, the average time it had taken to find this work was 15 weeks, whilst the median was eight weeks.
- Among those who had found new work, experiences were mixed in terms of how their new job compared with the old one, with some saying that aspects of the new job were better and others that they were worse. For instance, whilst two-fifths (41 per cent) said that their current job paid better than the job related to their application, the same proportion said that it was more poorly paid. Sixteen per cent said that it was about the same.

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<sup>2</sup> The mean figure is inflated by survey respondents who gave particularly high figures (191 claimants said that they spent 100 or more days on the case).

## CHAPTER ONE

# Introduction

### 1.1 Background to the SETA series

The origins of this study can be traced back to Courtney's survey of Unfair Dismissal applications, commissioned by the then Department of Employment (1975). This was followed by a survey of Unfair Dismissal applications carried out by the ESRC Industrial Relations Unit, University of Warwick (1978). The initiation of this series of surveys of Employment Tribunal Applications (SETA), however, can be traced back to a Rayner Efficiency Review in the mid 1980s. The Review recommended that it would be more cost effective to collect information on items such as the characteristics of claimants and employers using sample surveys rather than collecting them through administrative means. The Scrutiny also pointed out that sample survey methods would provide an opportunity to collect other relevant information for policy research purposes.

The first SETA was undertaken in 1987, with subsequent surveys undertaken in 1992, 1998 and 2003. Over the lifetime of the SETA series, changes have been made to the survey design, driven by the increasing number of jurisdictions and of multi-jurisdiction cases, changing policy needs and methodological and cost considerations.

Among these changes have been:

- increases in the number of jurisdictions covered in the survey;
- a shift from simple random sampling to stratified sampling in 1992 and a disproportionate sample in 1998;
- a move in 1998 from a matched case sampling approach to independent sampling of claimants and employers;
- a focus on 'main jurisdiction' as the principal unit of analysis;
- the introduction of CATI and the adoption of a modular questionnaire design in 1998.
- a simplification of design in 2003, focusing on all ET cases rather than five main jurisdictions, and the use of a generic research instrument rather than one tailored according to jurisdiction.

### 1.2 Aims and objectives of the study

The fifth Survey of Employment Tribunal Applications (SETA 2008) retained the core aim of the SETA series to provide information on the characteristics of the

parties and key features of employment tribunal cases. In addition the survey also had a number of other aims reflecting specific policy concerns:

- providing an assessment of the impact of the 2004 Dispute Resolution Regulations;
- providing a benchmark to measure the impact of any changes in legislation and regulations arising from the Government's response to the Gibbons Review;
- assessing the parties' knowledge and evaluating of the role of Acas and its involvement; focussing on the role of Acas conciliators;
- assessing the parties' awareness of and attitudes towards alternative dispute resolution and mediation;
- involvement of Employment Tribunals and parties' expectations of and satisfaction with the Employment Tribunal system.

## 1.3 Methodology and Fieldwork

### ***Design of SETA 2008***

The SETA 2008 design essentially followed the approach employed in SETA 2003. It was again based on a simple random sample of cases<sup>3</sup> and the research instrument used in 2008 was largely identical to the one used in 2003. The only notable difference was the deletion of a small number of questions to make way for the insertion of new questions to evaluate the role of Acas and to reflect recent policy developments, particularly around the use of mediation. It should be noted however, that the survey took place before the implementation of the enhanced Acas Helpline and the Pre-Claim Conciliation (PCC) service, as the interviews for the survey were carried out between 8th September 2008 and 31st January 2009.

### ***Details of the sample, data collection and analysis***

The findings presented in this report are based on a random sample of 4,027 ET cases (2,020 claimant and 2,007 employer cases)<sup>4</sup>. The sample for each survey

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<sup>3</sup> Although in 2008 a small sample of matched cases – those brought under the jurisdiction of unfair dismissal but with no element of discrimination – was incorporated into the design. In total, 308 matched cases were achieved. Full details of this are included in the SETA 2008 Technical Report (Chapter 4).

<sup>4</sup> This report disregards the small sample of matched cases, where data was obtained from both employer and claimant. It treats the data as though there are 4,027 independent cases, rather than 3,719 with 308 matched observations. Therefore, the small number of tables where data for claimants and employers were combined and findings reported on the combined cases should be treated with caution. The findings based on combined cases would have a small proportion of the same cases appearing twice and might not be strictly comparable to those reported in SETA 2003.



was drawn across all jurisdictions from tribunal cases with a promulgation date<sup>5</sup> between the start of February 2007 and the end of January 2008. The findings are statistically representative of cases completed in Great Britain during this period. As in 2003, the data was collected using Computer Assisted Telephone Interviewing (CATI). The response rate was 66 per cent for claimants and 59 per cent for employers.

It should be noted that the key jurisdiction analysis variable in 2003 was 'main jurisdiction'. However, as the TS no longer records (or therefore determines) a main jurisdiction, the equivalent key jurisdiction analysis variable in 2008 has been termed 'primary jurisdiction'. This is the 'first' jurisdiction recorded in the TS database. Additionally, the number of jurisdictions under which a case may fall has expanded in the period between 2003 and 2008. Therefore, although, as far as possible, the jurisdictions in the 2008 primary jurisdiction variable have been banded together in the same way as in the 2003 main jurisdiction variable, it is the case that the two variables are not strictly comparable and this needs to be borne in mind when comparing findings between 2003 and 2008.

In comparison with the SETA 2003 report, the SETA 2008 report includes more analysis by track. This analysis compares 'short conciliation period' cases with 'standard conciliation period' cases. These terms are used to describe cases which are fixed period cases. The table below shows the relationship between *primary* jurisdiction and track. As mentioned earlier, many cases have more than one jurisdiction. The conciliation period is determined by the jurisdiction which falls under the longest period. For example, a case which lists unfair dismissal, followed by sex discrimination would be an open period case.

**Table 1.1: Relationship between 'primary jurisdiction' and 'track'**

Track	Primary Jurisdiction					
	Unfair dismissal	Breach of contract	Wages Act	Redundancy payments	Discrimination	Other
Short (Fast Track) Period cases		37%	95%	69%		29%
Standard Period Cases	100%	47%	5%	30%		56%
Open Discrimination Period Cases		16%		1%	100%	15%

Based on all cases

It should also be noted that some improvements have been made to the weighting procedures for the 2008 survey to ensure that the final achieved

<sup>5</sup> 'Promulgation date' refers to the date when the case was actually closed. SETA 2008 includes cases that had closed between the start of February 2007 and end of January 2008. In terms of duration of cases, most had a registration year of 2007 (around 75 per cent) and almost a quarter had a year of 2006 (23 per cent). However, the remaining two per cent had registration years going back to as far as mid-90s.

employer sample better reflects the survey population. To ensure comparability with the 2003 data a retrospective weight that incorporates the 2008 improvements was derived for the 2003 data; this was applied when making analytical comparisons between the two surveys in the report. However, it was found that the 2008 improvements only had a marginal effect on the overall respondent profile (the only notable exceptions being employer size and sector), so differences between the two sets of data in this respect are not substantial. Therefore this report quotes the 2003 published figures where relevant. Further details about the weighting procedures are provided in the separate Technical Appendix.

As with the previous surveys in the series, the Department for Business, Innovation and Skills (BIS) will place a copy of the SETA 2008 dataset in the UK Data Archive for use by academics and *bona fide* researchers. A detailed account of the survey methodology and fieldwork is provided in the SETA 2008 technical report and user guide (which will also be deposited at the UK Data Archive). This provides background information about the survey; a commentary on the development and piloting of the survey instruments; details of the sampling frame, sampling method and weighting procedures; a full analysis of response rates; copies of the questionnaires; a data dictionary; and the syntax files for derived variables presented in this report.

This report presents the main descriptive findings from 2008 SETA and updates the findings from the 2003 survey. It is hoped that this report will inform the ongoing discussion on dispute resolution in Britain.

## 1.4 Format and outline of the report

The detailed findings from the 2008 SETA are provided in tables, which can be found at Annex A. The main body of the report aims to provide a brief context to aid the interpretation of the findings and to draw some of the main findings of interest from those tables.

Chapter 2 begins by providing detailed information on the characteristics of the parties involved in Employment Tribunal cases. These findings provide the basis for the comparison with the earlier surveys in the series.

The following eight chapters cover:

- The provision of written statements of terms and conditions of employment and the use of procedures for dealing with grievances and disciplinary action (Chapter 3);
- Experience of mediation (Chapter 4);
- Sources of advice and patterns of representation (Chapter 5);
- The extent and nature of the parties' contact with Acas (Chapter 6);

- The parties' prior knowledge of the ET system and their perceptions of the service provided by the TS (Chapter 7);
- Details of any hearings that took place and the parties' perceptions of these hearings (Chapter 8);
- Analysis of outcomes, reasons for settling and withdrawal, satisfaction with the outcome and perceptions of the fairness of the process, and changes in employer policies and practices resulting from the case (Chapter 9);
- The direct cost to parties, both financial and non-financial, as well as other employment-related effects; and awareness and impact of the new costs regime, as described earlier in this chapter (Chapter 10).

A conclusions chapter at the end of the report draws together some of the key findings and implications of the research.

In the report, differences are only reported when they are statistically significant at the 95 per cent confidence level.

## 1.5 Limitations of the methodology

In presenting the findings from the 2008 SETA, some important methodological caveats need to be recognised. These are in line with those evident in the 2003 SETA data.

There are limitations associated with asking parties to talk about the dispute that led up to the ET application and the subsequent progress of the case. When people are asked to talk about social processes that happened in the past, they have a tendency both to post-rationalise their behaviour and to forget details of their experience. Their responses may therefore be subject to selective recall or social desirability effects. This problem is generic in research that requires people to recall past events, but is exacerbated in this study, because parties involved in employment tribunals can find the experience highly emotive and traumatic. This is especially true for claimants, but can be so for both parties, particularly where they are engaging with the ET system for the first time or feel dissatisfied with the outcome of the case.

Problems of recall are likely to be exacerbated for parties who are represented, because they have had less direct involvement in the tribunal process than unrepresented parties. Again, this is particularly likely to be a problem for claimants who are, arguably, less likely than employers to be consulted by their representatives about the legal, administrative and procedural detail involved in conciliation and dispute resolution.

## 1.6 Employment tribunal system

### ***Origins***

Employment Tribunals (ETs) are a distinctive feature of the British system of administrative law that aim to provide speedy, accessible justice. They play an integral part in the provision of fairness at work and the enforcement of individual employment rights. For people concerned that their employment rights have been infringed they are the place where, when other methods fail, they can be finally resolved. Employment Tribunals are widely recognised for their independence and impartiality.

Employment Tribunals acquired their present role, to adjudicate on disputes arising between individual employers and employees, with the Redundancy Payment Act in 1965. Previously, legislation to safeguard the rights, duties and obligations of employees at work was limited to the common law of the contract of employment, where the only legal remedy was to the County Court. However, with the Industrial Relations Act (1971), Employment Tribunals acquired jurisdiction over Unfair Dismissal, which in terms of the volume of applications has proved to be the most important jurisdiction.

The introduction of statutory protection against Unfair Dismissal followed up a recommendation by the Royal Commission of Inquiry into Trade Unions and Employers Associations, under the chairmanship of Lord Donovan (1968). The Commission, asked to analyse the state of industrial relations and what was required to reform them, focused on the role of collective bargaining and the rights of trade unions. Its work followed increasing public concern about workplace disruption brought about by largely unofficial industrial action. However, in its report, the Commission acknowledged that there were large numbers of employees who were not trade union members and that disputes relating to individual contracts (and statutory rights) do not easily lend themselves to settlement through collective bargaining. In this context it accepted the principle that Employment Tribunals should be expanded: to provide a procedure which is easily accessible, informal, speedy and inexpensive: this, it was felt, would give the parties the best possible opportunity of arriving at an amicable settlement to resolve their differences.

### ***Employment Tribunals and the Tribunals Service (TS)***

Employment Tribunals are independent judicial bodies supervised by a President, supported by Regional Judges. Each Employment Tribunal includes a legally qualified Judge, appointed by the Lord Chancellor in England and Wales, and in Scotland by the Lord President of the Court of Sessions. Employment Tribunal Judges have an important dual role: to ensure due legal process and to ensure that people without legal representation are given full opportunity to present their case in an investigative non-adversarial setting.

The Employment Tribunal Judge, in most cases, sits with two lay members, one typically with an employer interest and one typically with an employee interest.

Their role is impartial: they are not there to represent an interest group but to apply common sense and bring to the Tribunal a practical knowledge of employee relations guided, of course, by Acas Codes of Practice. Decisions of Employment Tribunals are binding upon the parties. Appeals can only be made upon points of law to the Employment Appeals Tribunal (EAT). The enforcement of Employment Tribunal awards lies with the County Court.

Employment Tribunals sit and carry out their judicial functions in most major towns and cities in England, Wales and Scotland. Their work is supported by the Tribunals Service (TS), which is an executive agency that provides premises and administrative support. The cost of the Employment Tribunals is borne by the Exchequer, administered by the Ministry of Justice (MoJ).

## 1.7 Acas

The Advisory, Conciliation and Arbitration Service (Acas) is an integral part of the Employment Tribunal system. Acas is an independent tripartite body, which was created in 1974 and put on a statutory footing in 1975 under the Employment Protection Act 1975. Acas has a statutory duty to conciliate in actual or potential complaints to Employment Tribunals arising from most employment law jurisdictions. This duty is carried out by Acas conciliators who try to help parties to settle their dispute, if they wish to, without the necessity of a full merits Tribunal hearing; henceforth referred to as Employment Tribunal hearings. Since April 2009, the statutory duty to conciliate in *potential* complaints has been changed to a statutory power.

## 1.8 Initiation and TS handling of disputes (ET processes)

### ***Initiation of disputes***

Employment Tribunal applications have to be initiated by the claimant (or their representative). The process is usually triggered by the completion of an ET1, an official form that provides details of the employer, the dispute and, where the claimant is represented, contact details of their representative. The ET1 has to be sent to a Regional Office of the TS.

On the basis of the information provided on the ET1, the TS then determines both whether the application meets judicial requirements, and the jurisdiction under which the case will be heard. In cases involving more than one jurisdiction, the TS no longer determines the main jurisdiction, as there is no official hierarchy of jurisdictions. All this information is then registered on the TS administrative database (ETHOS). In order to count cases, one of the jurisdictions is designated 'principal jurisdiction' but this is for administrative purposes only for the classification on jurisdictional reporting in ET statistics. A copy of the ET1 is then sent to the employer with a blank ET3, another tribunal form, on which the employer is required to respond to the claim presented on the ET1 and provide specific factual information, including contact details of their representative, where appropriate. A copy of the ET1 is also sent to the nearest Acas Regional

Office for allocation to an Acas conciliator for conciliation. Copies of the completed ET3 are sent to the claimant and to Acas. Any correspondence relating to the case which is received by the TS is also copied and sent to all the parties involved and to Acas.

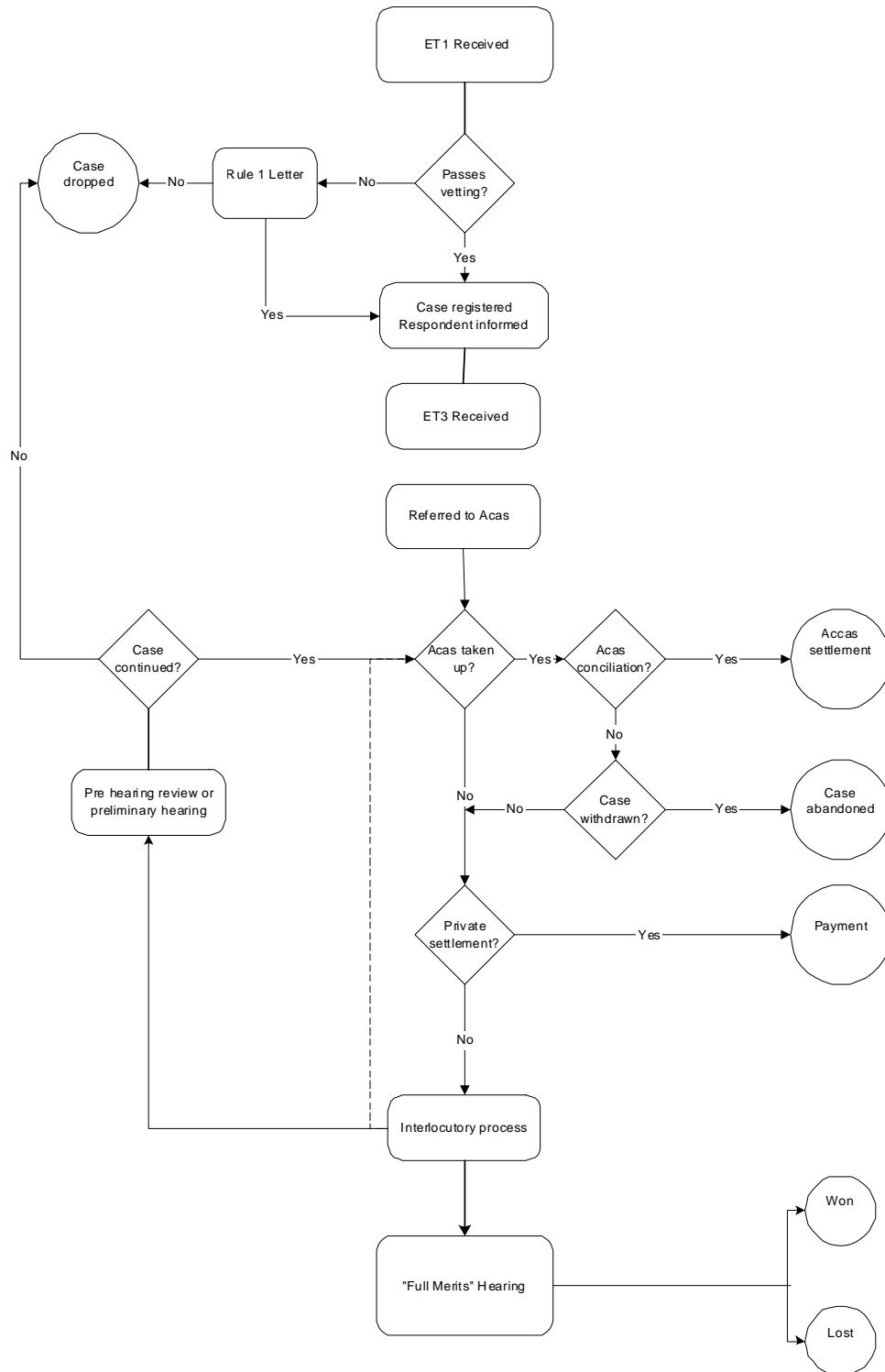
### ***Processing ET applications and administrative outcomes***

Figure 1.1 provides a flow analysis of how ET applications were processed within the TS at the time of the survey. This shows that, once an application has entered the system, there were effectively six possible outcomes:

- the claimant may withdraw the application (this may follow contact with Acas or advice from their representative);
- the Chairman may dismiss the application because it is not in the scope of the legislation or because a Pre-Hearing Assessment found that there was insufficient evidence to progress the case;
- the parties may reach an Acas conciliated settlement, where Acas is involved in ratifying the final settlement. This is recorded as an Acas settlement;
- the parties may reach a private settlement outside Acas either on the basis of a legally binding Compromise Agreement or an 'informal agreement'. These are known as 'private settlements';
- the application may result in a full merits Tribunal hearing, which may be upheld (claimant wins) or dismissed by the Employment Tribunal (claimant loses).

Compromise agreements were introduced under Section 39 of the Trade Union Reform and Employment Rights Act 1993. They provide for the parties involved in employment rights disputes to settle on the basis of a legally binding agreement in which the claimant waives his or her right to take the claim to an employment tribunal provided the claimant has received independent advice from a bona fide independent adviser (a trade union officer or advice centre worker accredited for this purpose, or a qualified lawyer). 'Private agreements' which have been reached without a compromise agreement do not put a bar on tribunal proceedings.

**Figure 1.1: ET Flow Analysis**



In the case of private settlements there is no requirement on either of the parties to inform the TS of the outcome beyond the claimant withdrawing the case. TS statistics, therefore, record these cases as having been withdrawn. This is a weakness in the TS statistics that SETA attempts to remedy by collecting information from the parties about any private settlements; including the use of Compromise Agreements. The collection of this information is, however, not unproblematic, especially, when it comes to represented parties whose knowledge of the settlement (and the extent of Acas conciliator involvement) may be limited by the extent to which their representative involved them in the case. This problem is probably more acute in the case of claimants.

Throughout this report, and in the accompanying tables, the sixfold SETA classification of outcomes is used to refine the TS statistics, which conflate applications which were withdrawn and those which were privately settled<sup>6</sup>.

## 1.9 Role of the Acas Conciliator

Acas conciliators have a statutory duty to promote a settlement through conciliation. In this capacity they discuss the issues of the case with parties, explain the ET process, the law and case law where appropriate. They provide both parties with information on the options available to them and pass information between the parties, including details of any offers of settlement. By encouraging each party to consider the strengths and weaknesses of their case, the conciliator seeks to narrow the gap between them and bring them to a stage where a settlement can be negotiated. Acas officers can help to clarify issues, but they do not give advice. Acas is not part of the Employment Tribunal Service and conciliation cannot be used as evidence at a tribunal hearing.

Acas policy requires that information given to conciliators by a party or their representative is in confidence and is not divulged to the other party or their representative without permission. Where the party is represented, Acas conciliators liaise directly with the representative. In these cases, Acas Officers will not necessarily have any direct contact with the party. Again, it is important to bear this in mind when it comes to interpreting represented parties' sometimes restricted views of the workings of ET system, especially Acas involvement (see Chapters 6 and 9 respectively).

## 1.10 Policy context

The workload of employment tribunals grew rapidly in the 1990s, with a threefold increase in claims to tribunals between 1991 and 2001, when the number of applications peaked at over 130,000<sup>7</sup>. Although the number of applications was

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<sup>6</sup> Allowing for the fact that the SETA outcome provides a distinction between withdrawn and privately settled cases, The SETA outcome matched the ETHOS outcome in 95 per cent of cases. Further information about the extent of the difference between the SETA and ETHOS outcomes can be found in the SETA 2008 Technical Report.

<sup>7</sup> Routes to Resolution, Government Consultation Paper, DTI, 2001



lower than this in subsequent years, it increased from 86,000 in 2004-05 to 115,000 in 2005-06, and to a new peak of 133,000 in 2006-07<sup>8</sup>.

The reasons for the increase in the number of claims to tribunals are manifold. They reflect the increasing complexity of employment legislation, the introduction of new jurisdictions and changes in the structure of the economy and composition of the labour market. However, there is also evidence that they reflect an increase in problems occurring in the workplace and in the propensity of employees to resort to litigation when workplace disputes arise<sup>9</sup>. The significant growth in applications over the past two years (a 55 per cent increase) is explained largely by an increase in the number of multiple cases, which more than doubled year-on-year in 2005-06 and increased by a further 26 per cent in 2006-07. Multiple cases made up 60 per cent of cases received in 2006-07, compared with 36 per cent in 2004-05<sup>10</sup>. This increase has been to a large extent occasioned by a huge rise in equal pay claims against the NHS and local authorities.<sup>11</sup>

Employment tribunals provide access to justice in situations where employment disputes cannot otherwise be resolved and, as such, play a critical role in protecting employment rights and ensuring fairness at work. However, the costs that tribunal cases impose on both claimants and employers, as well as on the taxpayer, mean that there is a continuing policy focus on encouraging and enabling employment disputes to be resolved before they go to tribunal.

### ***Employment disputes resolution review***

In June 2001, the Government announced a Review of the process of employment dispute resolution, with the main aim of identifying steps that could be taken to promote resolution within the workplace as an alternative to parties having to go through the tribunal system. A consultation paper, *Routes to resolution: Improving dispute resolution in Britain* was published in July 2001, setting out proposals for a programme of reform. Following the consultation process, the Government announced that there would be light-touch legislation binding both employees and employers that would build on existing good practice and recognise the particular needs of small businesses.

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<sup>8</sup> Employment Tribunal Service Annual Report and Accounts 2005-06; Employment Tribunal and EAT Statistics (GB) 1 April 2006 to 31 March 2007  
<http://www.employmenttribunals.gov.uk/Documents/Publications/AnnualStatistics0607.pdf>

<sup>9</sup> Dispute Resolution in Britain – A background paper, DTI, 2001

<sup>10</sup> Employment Tribunal Service Annual Report and Accounts 2005-06; Government News Network 3/9/2007

<sup>11</sup> If more than one case had been brought against an employer, one such case was randomly chosen and the others excluded from the sample for selection (as it was not possible to interview the same employer more than once); however, the 2008 design weight corrected for this, thereby ensuring large employers, in particular, were not under represented in the final achieved sample.

## ***Employment Act 2002***

This model for dispute resolution was laid out in primary legislation, forming part of the Government's Employment Act 2002<sup>12</sup>, which came into force in October 2004, requiring all employers and employees in Great Britain to follow statutory minimum dispute resolution procedures in the event of an employment dispute<sup>13</sup>.

### ***Fixed conciliation periods***

Until 2004, Acas' statutory duty to conciliate subsisted up to the point where all matters of liability and remedy had been determined by an employment tribunal. In October 2004 new Regulations placed time limits on the conciliation periods in the majority of cases. The purpose of these fixed conciliation periods was to prompt parties and representatives to engage in conciliation at an early stage rather than, as had often been the case, in the last few days before a scheduled tribunal hearing, which can cost time and money to all concerned, including the tribunals. Cases were divided into three categories according to the jurisdictions involved in the claim:

- those allocated a '**Short**' seven week conciliation period - in the main, jurisdictions which concern unpaid statutory or contractual entitlements, or the granting of time off in specified circumstances.
- those allocated a '**Standard**' thirteen week period - more complex cases, primarily those involving claims for unfair dismissal.
- those allocated an unrestricted '**Open**' period for conciliation - the most complex and sensitive claims, such as those concerning discrimination or equal pay in which there are no set time limits.

In March 2006, Acas adopted differential service standards to prioritise reduced conciliation resources more effectively. Broadly speaking, the service standard for standard period cases reflected existing practice. However, a more streamlined approach was adopted for conciliation in short period cases seeking to make the best of the narrow window of opportunity available to resolve these cases.

SETA 2008 was carried out after the Employment Act 2002 came into effect in 2004, the implementation of Tribunal Regulations<sup>14</sup>, introducing fixed period conciliation and after Acas introduced differential service standards to conciliation in March 2006. The changes in the policy and delivery contexts should be borne in mind when comparing findings from SETA 2003 and SETA 2008.

When interpreting the findings of this report, it is also important to bear in mind that the fieldwork for SETA 2008 took place before the Dispute Resolution Reforms, which are discussed in the following section, were implemented in April 2009.

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<sup>12</sup> The Employment Act 2002 (Dispute Resolution) Regulations

<sup>13</sup> Findings from the Survey of Employment Tribunal Applications 2003

<sup>14</sup> The Employment Tribunals (Constitution and rules of Procedures) Regulations 2005.

## ***The Gibbons Review and the future of dispute resolution***

In December 2006, having monitored the impact of the 2004 legislation, and in following concerns raised about the 2004 regulations by employers, unions and lobbying organisations such as the CBI<sup>15</sup>, the then DTI Secretary of State Alistair Darling launched a Review of Government support for resolving disputes in the workplace, appointing Michael Gibbons to review the options for simplifying and improving all aspects of employment dispute resolution, to make the system work better for employers and employees.

The Gibbons Review<sup>16</sup> looked at all aspects of the system, including the existing legal requirements, how employment tribunals work, and the scope for new initiatives to help resolve disputes at an earlier stage.

Gibbons found that, while the 2004 statutory dispute resolution procedures had brought some benefits, for example providing clarity about the steps that employers and employees have to follow when pursuing disciplinary or grievance issues, they were burdensome for both parties and had had unintended negative consequences. In particular, Gibbons found evidence that the new legislation tended to focus employers and employees on the dispute process rather than on early resolution of the dispute, and that the very existence of a formal procedure had often led to its unnecessary use in circumstances where informal solutions might have been achievable and sometimes created adversarial situations and an expectation that a tribunal case would follow. Gibbons also put forward the view that the new legislation had led to the tribunal process focusing too much on adherence to procedure rather than the merits of the case and that the complexity of the system was potentially a deterrent to vulnerable workers accessing justice.

In relation to Acas, Gibbons found that the efficacy of the Acas conciliation service was threatened by the tendency of parties in a dispute to get caught up in procedure and had been adversely affected by funding reductions and by the introduction of fixed conciliation periods, and that these factors were impacting negatively on opportunities to resolve disputes at an early stage through mediation.

Gibbons made a number of recommendations to the Government as a result of the Review, primary among which was that the statutory dispute resolution procedures set out in the 2004 Dispute Resolution Regulations should be repealed, to be replaced by simpler, less prescriptive guidelines on grievance and disciplinary issues, with better quality advice made available to claimants and respondents, and a strong focus on using mediation as a route to resolving disputes at an early stage and without recourse to tribunals. Other key recommendations included allowing employment tribunals to take into account

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<sup>15</sup> A matter of confidence: Restoring faith in employment tribunals  
[http://www.cbi.org.uk/ndbs/Press.nsf/0/33f9830ed75f765b8025708800523621/\\$FILE/Tribunals%20Brief%20-%20CBI.pdf](http://www.cbi.org.uk/ndbs/Press.nsf/0/33f9830ed75f765b8025708800523621/$FILE/Tribunals%20Brief%20-%20CBI.pdf)

<sup>16</sup> Better Dispute Resolution: A Review of employment dispute resolution in Great Britain  
<http://www.berr.gov.uk/files/file38516.pdf>

parties' attempts at early resolution in making awards and costs orders; introducing a new simple process to settle monetary disputes without the need for tribunal hearings; and abolishing the fixed Acas conciliation periods.

### ***Employment Act 2008 and changes since 6 April 2009***

The Government welcomed the review and published 'Resolving disputes in the Workplace - A consultation' which set out measures for taking the Gibbons Review forward. Responses to the consultation enabled the Government to identify key legislative reforms for inclusion in the 2008 Employment Act. Details of all these measures are set out in the Government response to the consultation.

On 6 April 2009 the Employment Act 2002 (Dispute Resolution) Regulations 2004, which laid down a mandatory "three-step" procedure were repealed and replaced by a new framework based on the provisions of the Employment Act 2008 in Great Britain.

The new framework for resolving employment disputes in Great Britain emphasises the importance of the early resolution of dispute in the workplace. The two key elements are i) legislative and ii) non-legislative measures. As a result of these measures, employees and employers have greater flexibility to deal with workplace discipline and grievance issues in a way which suits them best.

### ***Legislative measures***

The legislative measures are based on the Employment Act 2008. The Act paved the way for a new Acas statutory Code of Practice on discipline and grievance, which sets out the principles that employers and employees should follow when dealing with disputes at work.

The foreword to the Code highlights that employers and employees should always seek to resolve disciplinary and grievance issues informally. However, where an issue cannot be resolved informally, then it may be pursued formally. According to the Code, employers and employees should behave fairly and reasonably when taking formal action to resolve their dispute.

The Acas Code provides guidance on what employers and employees should do to achieve a reasonable standard of behaviour in handling grievance and disciplinary/dismissal situations at work. However, sometimes it will not be practicable for all employers and employees to take all of the steps set out in the Acas Code of Practice: what is classed as reasonable behaviour will depend on the circumstances of each case and is ultimately a matter for employment tribunals to decide.

Whenever a disciplinary or grievance process is being followed, the basic principles of fairness set out in the Acas Code should still be observed. For example, issues (both employer's and employee's) should be raised and dealt with promptly and there should not be unreasonable delays in meetings,

decisions or confirmation of those decisions. Employees should be informed of the allegations against them and should be given an opportunity to put their case in response before decisions are reached. Employers should allow employees to have the right to request to be accompanied at any formal disciplinary or grievance meeting and should be provided with a right to appeal before a decision is reached.

Although a failure to follow the Code does not, in itself, make a person or organisation liable to proceedings, employment tribunals are legally required to take the Code into account when considering relevant cases. The employment tribunal will consider whether a failure to follow the Code was unreasonable and may take into account factors such as the size of business. Then the tribunal will have discretion to adjust any awards made to either party by up to 25 per cent for unreasonable failure to comply with any provision of the Code. This means that if the tribunal considers that an employer has unreasonably failed to follow the guidance set out in the Code they can increase any award they have made by up to 25 per cent. Conversely, if they feel an employee has unreasonably failed to follow the guidance set out in the code they can reduce any award they have made by up to 25 per cent.

### ***Non-legislative measures***

The Government is also investing a significant amount of resources into providing new services to help employers and employees resolve their disputes earlier.

### ***Acas Helpline***

The Government is providing the Advisory, Conciliation and Arbitration Service (Acas) with significant levels of funding over three years to provide an enhanced helpline with extended opening hours. The enhanced Acas helpline will offer guidance to employers and employees on the most appropriate way to deal with their disputes as well as offer free, confidential and impartial advice on all employment rights issues.

### ***Acas Pre-Claim Conciliation (PCC)***

The Government is also providing Acas with funding to boost its ability to offer employers and employees early conciliation for problems which are potential employment tribunal claims. This early conciliation service (or “Pre-Claim Conciliation”, or PCC for short) is a free service for both employers and employees in appropriate circumstances. It is delivered via a network of Acas conciliators across Great Britain. Disputes that employees and employers have been unable to resolve through internal procedures and which are likely to give rise to an employment tribunal claim, may be suitable for early conciliation. The Acas helpline advisors will be able to identify whether a particular case is suitable for referral to the pre-claim conciliation service, and if so, will put the parties in touch with a conciliator.

## ***Mediation***

The Government has been working closely with the workplace mediation community to encourage the use of mediation, where this is appropriate. The foreword to the Acas Code makes clear the benefits of using mediation in helping to resolve workplace disputes. A number of workplace mediation providers are registered members of the Civil Mediation Council (for England and Wales) or are on the Scottish Mediation Register managed by the Scottish Mediation Network (for Scotland). These providers declare that they meet certain standards covering training, practice development, codes of conduct, complaints handling and indemnity insurance.

The dispute resolution reforms have taken place subsequent to the resolution of the cases in the SETA 2008 sample and the findings from this survey may serve as a useful benchmark against which to assess some of the changes.

## CHAPTER TWO

# Characteristics of the parties

In this Chapter, information is provided about the characteristics of the parties involved in Employment Tribunal cases. Where possible, characteristics are compared with those found in the 2003 SETA and with the profile of the employed workforce in Great Britain, based on data from the Winter 2008 Labour Force Survey (LFS).

The characteristics covered for claimants (Tables 2.1 and 2.3) include:

- sex
- ethnicity
- age
- disability
- religion
- marital status
- having children
- caring responsibilities
- housing tenure
- educational qualifications
- nationality
- country of origin
- and a range of employment-related characteristics.

The characteristics covered for employers (Table 2.5) include:

- sector<sup>17</sup>
- the size of the workforce and workplace
- whether they are single or multi-site organisations
- whether they have human resources and legal departments
- whether they have unions or staff associations in the workplace
- membership of trade associations
- and previous experience in dealing with ET cases.

Data for the employed workforce of Great Britain, based on data from the Winter 2008 Labour Force Survey, are shown in Tables 2.2 and 2.4.

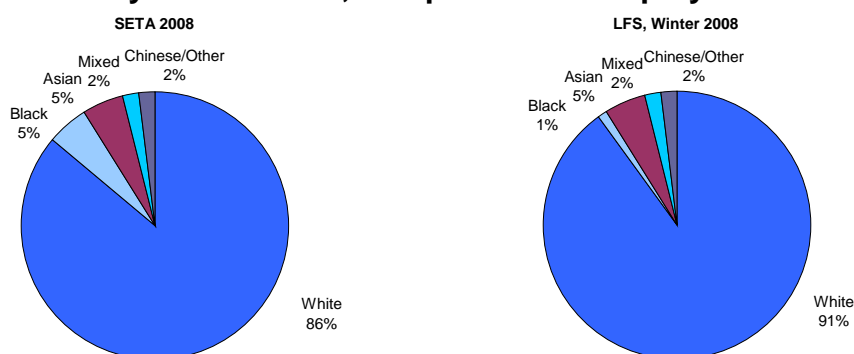
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<sup>17</sup> Note, the sector categories asked about were: private sector, public sector, and non-profit/voluntary sector. However the non-profit/voluntary sector is referred to as the 'non-profit' sector for the rest of the report.

## 2.1 Personal characteristics of claimants

- Three-fifths (60 per cent) of claimants were men. This is similar to the proportion found in 2003 (61 per cent) and somewhat higher than the proportion of the employed workforce as a whole (51 per cent), as given in the LFS (Table 2.2). Men brought the majority of employment claims across most jurisdictions, however, 82 per cent of sex discrimination cases were brought by women. This pattern closely resembles that found in 2003, where men also brought the majority of employment claims across most jurisdictions. However in 2003, an even higher proportion of sex discrimination cases were brought by women (91 per cent).
- As presented in Figure 2.1, eighty-six per cent of claimants were white, a slightly lower proportion than in 2003 (90 per cent) and lower than the workforce in general (91 per cent). However, the proportion was much lower in race discrimination cases<sup>18</sup>, where only eight out of the 57 claimants (15 per cent) were white, with 20 black (34 per cent) and 20 Asian (34 per cent). This is a similar pattern to that found in 2003 (Tables 2.1 and 2.2).

**Figure 2.1: Ethnicity of claimants, compared with employees in GB**



Unweighted Base: SETA 2008: 2,020 (Based on all claimants); LFS, Winter 2008: 44,771 (Based on GB employees in the LFS).

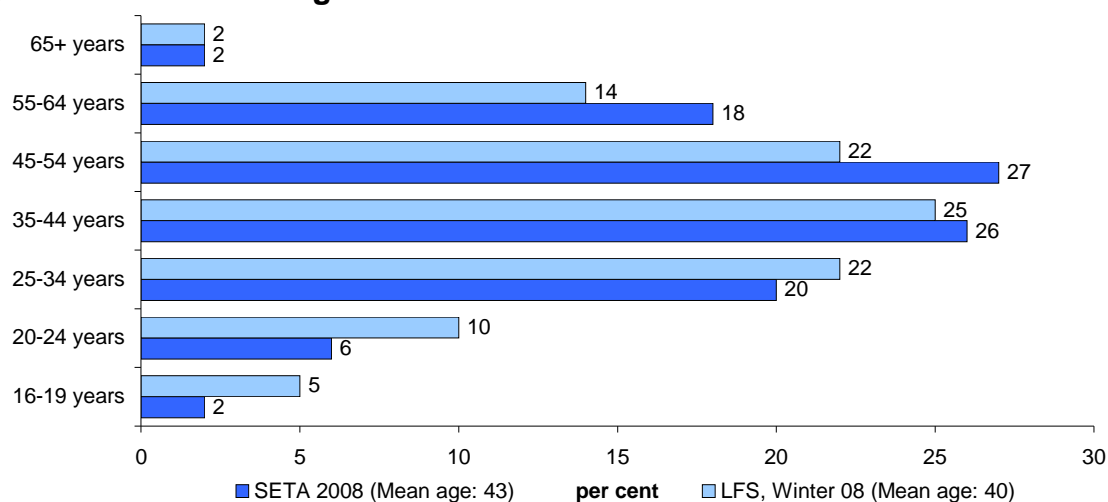
Source: SETA 2008 and LFS, Winter 2008

- The age profile of claimants, shown below in Figure 2.2, is similar to that found in SETA 2003. In comparison with the workforce as a whole, ET claimants are more likely to be aged 45 or over (47 per cent of ET claimants, against 38 per cent of all employees) and less likely to be aged 16-34 (27 per cent versus 38 per cent) (Tables 2.1 and 2.2).

<sup>18</sup> N = 57



**Figure 2.2: Claimants' age**



Unweighted Base: SETA 2008: 2,020 (Based on all claimants); LFS, Winter 2008: 44,771 (Based on GB employees in the LFS).

Source: SETA 2008 and LFS, Winter 2008

- The age profile varies by primary jurisdiction. Those aged 25-34 were disproportionately more likely to have brought a case under the Wages Act: whilst 20 per cent of all claimants were aged 25-34, 29 per cent of those involved in Wages Act cases fell into the age group (Table 2.1).
- Twenty-two per cent of claimants had a long-standing illness, disability or infirmity at the time of their employment claim, which is the same as the proportion among employees in general (22 per cent)<sup>19</sup> and is a slightly higher proportion than in 2003 (18 per cent). Fifteen per cent had a long-standing illness, disability or infirmity that limited their activities in some way, a higher proportion to that found in the workforce as a whole (10 per cent) and a higher proportion than in 2003 (10 per cent) (Tables 2.1 and 2.2).
- As in 2003, the proportion of claimants who had a long-term disability or limiting long-term disability was, as would be expected, considerably higher in Disability Discrimination Act (DDA) cases<sup>20</sup> (84 per cent and 74 per cent respectively). Looking at primary jurisdiction the proportion of claimants who had a long-term disability was highest in discrimination cases (45 per cent) and lowest in Wages Act cases (10 per cent) and redundancy payment cases (eight per cent) (Table 2.1).
- Just under half (46 per cent) of claimants regarded themselves as belonging to a religion which is in line with the findings from 2003. The

<sup>19</sup> These figures are not strictly comparable, since the LFS asks about health problems lasting more than one year, whilst SETA asks about 'any long-standing illness, disability or infirmity ... I mean something that had troubled you over a period of time or that is likely to affect you over a period of time'

<sup>20</sup> N=145

large majority of these (40 per cent of all claimants) regarded themselves as Christian. Six per cent of all claimants regarded themselves as belonging to a religion other than Christianity, although this proportion rose to 12 per cent among those involved in discrimination cases generally<sup>21</sup>, and to 39 per cent among those involved in race discrimination cases<sup>22</sup>. This overall pattern is the same as that found in 2003, although the number of claimants who regard themselves as Christian has reduced slightly from 2003 (44 per cent) and the number of claimants belonging to a religion other than Christianity has increased slightly from 2003 (four per cent). Because of differences in question wording, the SETA data are not comparable with those from the LFS<sup>23</sup> (Table 2.1).

- Sixty-four per cent of claimants were married or living with a partner at the time of the employment claim, which is slightly less than the proportion in 2003 (68 per cent). Around half (49 per cent) of claimants in SETA 2008 were married which is again less than in 2003 (55 per cent) and slightly less than the proportion in the workforce as a whole (52 per cent) (Table 2.1).
- Thirty-five per cent of claimants had dependent children aged under 16 at the time of their employment claim, similar to the proportion in the workforce as a whole (36 per cent), and the SETA 2003 survey (37 per cent) (Tables 2.1 and 2.2).
- At the time of their employment claim, 14 per cent of claimants looked after family members or friends who had a long-term illness or had problems related to old age at the time of their employment claim (Table 2.1).
- In terms of tenure, 15 per cent of claimants at the time of their employment claim owned their household outright. Just under half (48 per cent) were buying a property with a mortgage, a quarter (25 per cent) were renting a property and seven per cent were living rent free (Tables 2.1). In comparison to 2003, the number of claimants buying on a mortgage has decreased (55 per cent in 2003) as has the number living rent free (10 per cent in 2003). The number of claimants renting has increased (19 per cent in 2003). In comparison with the LFS, more employees in the workforce as a whole are buying a property with a mortgage (56 per cent), or own their property outright (19 per cent). Around the same number are renting (24 per cent); less are living rent free

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<sup>21</sup> The Discrimination variable in the table headings covers all forms of discrimination, including sex, race and disability.

<sup>22</sup> N = 57

<sup>23</sup> LFS asks 'What is your religion, even if you are not currently practising?' and 'Do you consider that you are actively practising your religion?'. SETA asks 'Do you regard yourself as belonging to any particular religion? IF YES: To what religious faith would you say you belong?'

(one per cent). However, differences in question wording between SETA and LFS mean that comparisons should be treated with caution<sup>24</sup>.

- Twenty-three per cent of claimants were qualified to degree level or higher at the time of their employment claim, and 11 per cent had other higher education qualifications. This is in line with the workforce as a whole (although differences in question structure and wording between SETA and LFS mean that comparisons should be treated with caution) (Tables 2.1 and 2.2). In comparison with 2003, the number of claimants educated to degree level has increased (from 20 per cent in 2003), and the number with other higher education qualifications has decreased (from 15 per cent in 2003).
- A quarter (24 per cent) of claimants had no qualifications at the time of their employment claim as in 2003. This is significantly higher than among the employed population generally (eight per cent), although this may reflect the older age profile of ET claimants (Tables 2.1 and 2.2). The proportion with no qualifications increased with age, ranging from 13 per cent of those aged under 25 to 48 per cent of those aged over 65.
- Nine in ten (91 per cent) claimants reported their nationality as being UK, British, one per cent as Irish Republic and seven per cent reported a different nationality. The other nationalities are under-represented in the survey as the LFS data reports 12 per cent of the workforce being from a different nationality. The proportion of claimants who were not British or Irish was disproportionately high in race discrimination cases, where 25 per cent of claimants were not of British or Irish nationality. Looking at primary jurisdiction, the proportion of claimants who were not British or Irish was highest in cases where the primary jurisdiction was discrimination (10 per cent, or the Wages Act (11 per cent). It was lowest in unfair dismissal cases (five per cent) (Tables 2.1 and 2.2).
- Eighty-six per cent of claimants were born in the UK, and one per cent were born in the Irish Republic, whilst thirteen per cent were born outside of the UK. This is broadly in line with the workforce as a whole. Looking at country of origin and jurisdiction, unsurprisingly a similar pattern emerges compared with that of nationality and jurisdiction. In race discrimination cases, the proportion of claimants born outside the UK and Ireland rises to 53 per cent. In terms of primary jurisdiction, claimants born outside the UK and Ireland were most likely to be involved in discrimination cases generally (19 per cent) and Wages Act cases (17 per cent) (Tables 2.1 and 2.2).

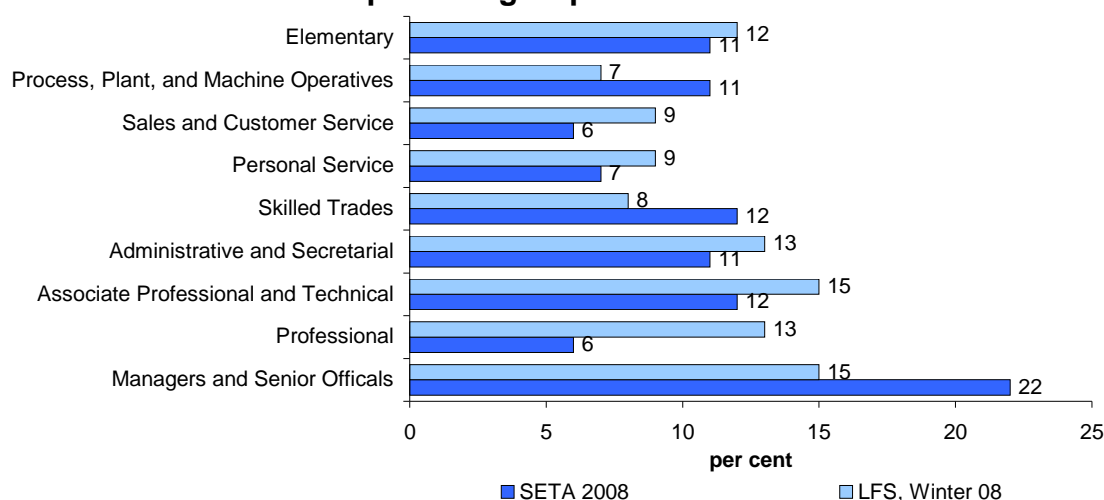
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<sup>24</sup> LFS asks 'In which of these ways do you occupy this accommodation'. SETA asks 'Thinking about the home you lived in, at that time, did you own it outright, were you buying it on a mortgage, renting it from a private or public landlord or did you have some other arrangement?'

## 2.2 Employment-related characteristics of claimants

- Almost all claimants (97 per cent) were current or former employees of the organisation against whom they brought their employment claim. This is in line with 2003. One per cent were job applicants, although this proportion rose to five per cent in discrimination cases (Table 2.3).
- Of cases involving claimants who were current or former employees, 94 per cent were brought by claimants who were employed in permanent jobs. Eighty-two per cent of cases were brought by full-time permanent employees and 13 per cent by part-time permanent employees. These findings closely resemble those in 2003. The proportion of claimants working in permanent part-time positions (13 per cent) is lower than in the workforce as a whole (23 per cent) (Tables 2.3 and 2.4).
- As presented in Figure 2.3, when compared with employees in the workforce as a whole, claimants were much more likely to be in managerial occupations (SOC Group 1), somewhat more likely to be within the occupational groups of process, plant and machine operatives (SOC Group 8) and skilled trades (SOC Group 5) and less likely to be in professional occupations (SOC Group 2) (Tables 2.3 and 2.4).

**Figure 2.3: Claimants' occupational group**



Unweighted Base: SETA 2008: 2,020 (Based on all claimants); LFS, Winter 2008: 44,771 (Based on GB employees in the LFS).

Source: SETA 2008 and LFS, Winter 2008

- Professional, associate professional and technical, and administrative and secretarial occupations, whilst accounting for 30 per cent of all cases, accounted for 42 per cent of discrimination cases. This is broadly in line with the pattern found in 2003. Manager and senior official occupations accounted for 22 per cent of all cases, although they only accounted for 15 per cent of Wages Act cases. Conversely skilled trade occupations accounted for only 12 per cent of all cases but accounted for 18 per cent of Wages Act cases and were also disproportionately involved in

redundancy payment cases, where they accounted for 25 per cent of these.

- The median annual pay for claimants in full-time permanent jobs was £20,000 compared with £17,500 in the 2003 survey, an increase of 14 per cent. Labour market statistics indicate that average earnings of full-time employees increased by around 18 per cent between 2003 and 2008<sup>25</sup>. Allowing for a degree of error in the SETA estimates, these figures suggest that the pay levels of SETA claimants have remained relatively stable over time. Claimants' median pay was slightly lower than for full time permanent employees nationally (around £22,984) (Tables 2.3 and 2.4). This was also found to be the case in 2003, where the median annual pay for SETA respondents was £17,500 and for full time permanent employees nationally was £19,500.
- Median pay among full-time employees was highest amongst those involved in discrimination cases (£21,597) and lowest in those involved in redundancy payment cases (£16,784) (Table 2.3). This is a change from 2003, where median pay was highest among those involved in breach of contract cases (£20,350) and lowest in those involved in Wages Act cases (£15,600).
- Claimants' mean number of years of service with their employer was six years but only three years in cases brought under the Wages Act. This remains unchanged from 2003. Redundancy payment cases and discrimination cases showed the highest mean number of years of service (eight years respectively). This is a change from 2003, where redundancy payment cases alone showed the highest mean number of years (nine years), and discrimination cases had a mean number of seven years (Table 2.3).
- Around a quarter (25 per cent) of claimants were members of a trade union or staff association at the time of their employment claim, in line with employees nationally (27 per cent). In line with 2003, the proportion who were trade union or staff association members was highest in discrimination cases (46 per cent), however this proportion is significantly larger than 2003, when the equivalent figure was 35 per cent. The proportion was lowest in breach of contract cases (13 per cent) and redundancy cases (15 per cent) (Tables 2.3 and 2.4).

## 2.3 Characteristics of employers

- A comparison of the employer survey data with that from the LFS indicates that ET cases were disproportionately found in following industries: hotels and restaurants, and finance. However, ET cases are under-represented in the following industries: wholesale and retail, transport, communication and utilities, and other services and public

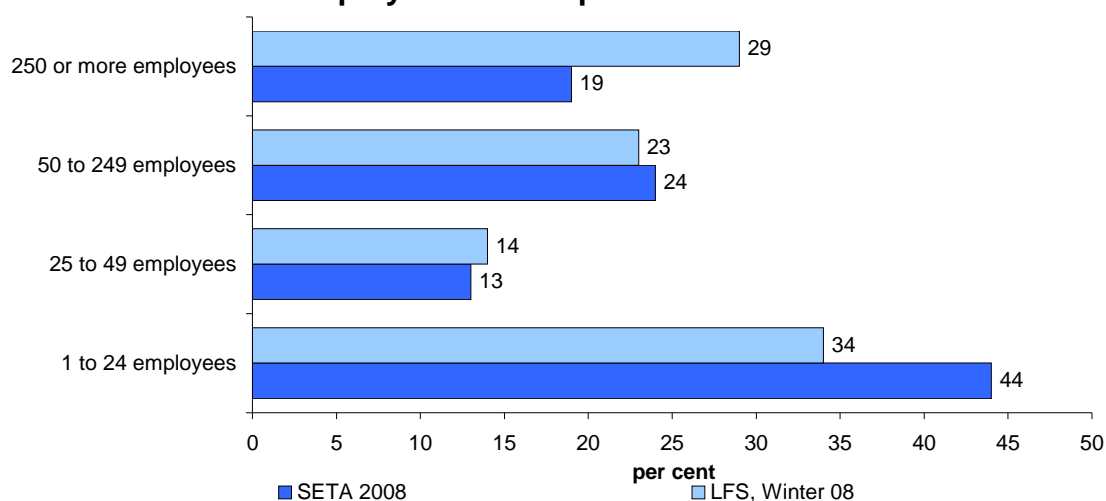
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<sup>25</sup> Average weekly earnings of full-time employees in Great Britain, were £487.10 in 2003 and £574.30 in 2008 (Source: Monthly Digest of Statistics, Table 18.12, C7Q5; available on the National Statistics website (<http://www.statistics.gov.uk>)).

administration (Tables 2.4 and 2.5). In comparison to 2003, a lower proportion of ET cases are now found in manufacturing (13 per cent in 2008, compared with 22 per cent in 2003), and transport communication and utilities (6 per cent in 2008 compared with 11 per cent in 2003). However a higher proportion are found in finance (9 per cent compared with 6 per cent in 2003), and in other services and public administration (46 per cent compared with 33 per cent in 2003).

- Twenty-seven per cent of cases from the employer survey were from organisations with less than 25 employees. Nine per cent had 25-49 employees, 19 per cent 50-249 and 45 per cent with 250 or more. These findings are in line with those found in 2003 (Table 2.5). This question is not included in the LFS, so comparisons can not be made.
- In line with 2003, large employers were disproportionately involved in discrimination cases. Forty-five per cent of all cases were brought against employers with 250 or more employees, compared with 60 per cent of discrimination cases. Smaller employers were disproportionately involved in breach of contract cases: 27 per cent of all cases were brought against employers with less than 25 employees, compared with 37 per cent of breach of contract cases (Table 2.5). This is a change from 2003, where small employers were disproportionately involved in redundancy payment cases.
- As shown in Figure 2.4, ET cases are disproportionately found in workplaces with under 25 employees. Forty-four per cent of cases in the employer survey were found in workplaces with less than 25 employees, which according to the LFS accounts for 34 per cent of workplaces. ET cases are particularly under-represented in workplaces with 250 or more employees. Nineteen per cent of cases in the employer survey had 250 or more employees, which according to the LFS accounts for 29 per cent of workplaces (Tables 2.4 and 2.5). This reflects the findings from 2003.

**Figure 2.4: Number of employees at workplace**



Unweighted Base: SETA 2008: 1,932 (Based on all employers, except missing values for this question); LFS, Winter 2008 44,771 (Based on GB employees in the LFS). Source: SETA 2008 and LFS, Winter 2008

- The private sector accounted for 72 per cent of ET cases, the public sector for 19 per cent and the non-profit sector for eight per cent (Table 2.5). These figures have changed since 2003, where 82 per cent of ET cases were accounted for within the private sector, 12 per cent in the public sector and six per cent in the non-profit sector. In comparison, LFS data indicates that 72 per cent of employees work in the private sector, 25 per cent in the public sector and three per cent in the non-profit sector. However, differences in the way in which sector is established in LFS and SETA mean that these findings should be treated with caution.
- The private sector had a lower share of discrimination cases (51 per cent) than of ET cases as a whole, the public sector a higher share of these cases (36 per cent) (Table 2.5). The same was found in 2003. However, the distributions have changed (65 per cent of discrimination cases were in the private sector, and 27 per cent in the public sector). Conversely, the public sector had a disproportionately low share of breach of contract cases (11 per cent compared with 81 per cent in the private sector) and Wages Act cases (13 per cent compared with 80 per cent in the public sector).
- Sixty-two per cent of employers had an internal human resources or personnel department that dealt with personnel issues, although this proportion varied considerably with the size of the organisation, ranging from 17 per cent of organisations with under 25 employees to 95 per cent of those with 250 or more. These findings are in line with those observed in 2003. Just under two-fifths (38 per cent) of employers used an external person or company for personnel issues (Table 2.5).
- One-fifth (20 per cent) of employers had an internal legal department that dealt with personnel or employment issues. This is an increase since 2003, where 15 per cent had an internal legal department (Table 2.5). However, as in 2003 this proportion varied with the size of the organisation, ranging from eight per cent of organisations with under 25 employees to 33 per cent of those with 250 or more.
- Just under a third of employers (32 per cent) had a trade union or staff association at the workplace at the time of the employment claim, compared with 24 per cent in 2003. Again, this proportion varied with the size of the organisation; three per cent of employers with less than 25 employees had a trade union/staff association, rising to 59 per cent amongst employers with 250 or more employees. In the large majority of these cases (96 per cent), there was a trade union or staff association that someone doing the claimant's job *could* join. This is an increase from 2003, where the equivalent figure was 91 per cent (Table 2.5).
- Thirty-one per cent of employers were members of an Employer's or Trade Association, which gave advice on personnel or industrial relations matters at the time of their employment claim. This is a reduction since

2003, where 35 per cent of employers were a member of such an association.

- In line with 2003, 59 per cent of employer respondents<sup>26</sup> had personally dealt with an employment claim to an employment tribunal in the past (Table 2.5). Again this varied with organisation size, with employer respondents of larger organisations more likely to have personally dealt with an employment claim previously.
- For 41 per cent of employers, the case under discussion in the interview was the only one in which the organisation had been involved in the previous two years. The mean number of cases that employers had been involved in over the past two years was six, rising to ten among employers who had experience of other ET cases in the previous two years. These findings broadly match those observed in 2003.

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<sup>26</sup> Where the term 'respondent' is used in the report, this refers to the survey respondent, rather than the party responding to the ET claim.



## CHAPTER THREE

# Written statements and procedures

This Chapter presents findings on the provision by employers of written statements of terms and conditions of employment, including details of grievance and disciplinary procedures and the use of workplace procedures in trying to resolve employment rights disputes.

Employees who have worked for an employer for a month or longer should be provided with a written statement of their employment particulars. This should include not only details of their terms and conditions but also set out the employers' disciplinary rules and grievance procedures. The issuing of written terms and conditions, alongside workplace rules and procedures, is recognised as playing an important role in clarifying the basis of the employment relationship. Together they codify employers' and employees' mutual expectations and obligations in relation to the performance of the employment contract. Providing information that establishes clear expectations and boundaries for the employee should, in theory, help employers to avoid workplace grievances and disputes.

It would not be feasible for employers to codify all contractual terms and conditions and workplace rules or expectations concerning 'implied' contractual terms and conditions and what is reasonable in terms of worker or management behaviour. It is, therefore, almost inevitable that issues emerge in the workplace that require expectations to be clarified. It is here that workplace grievance and disciplinary procedures come into play.

Grievance procedures, in theory, provide a mechanism for employees to raise any concerns they have about their contractual terms and conditions; unreasonable employers' expectations with respect to the performance of their contract; management or other worker behaviour; or any other relevant workplace issue. Disciplinary procedures fulfil a similar set of functions for employers.

The use of formal procedures with clear escalating stages and time limits that allow for employee representation is recognised as playing a role in preventing individual and collective issues from developing into fully blown disputes. Acas provides advice and guidance on the design and operation of procedures and the Employment Tribunals take into account the existence and use of workplace procedures in coming to their decisions.

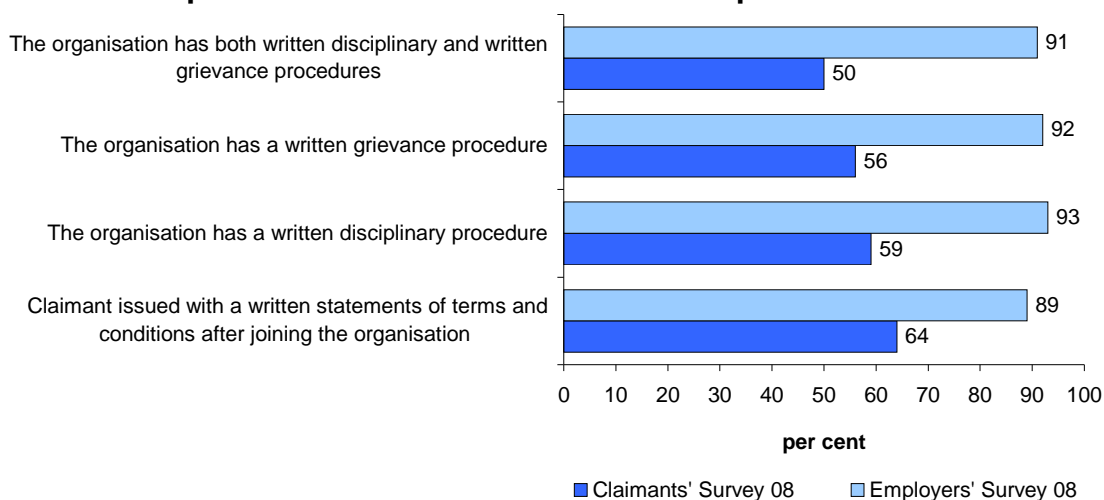
Detailed information is collected in SETA on the existence of written statements and the use of workplace grievance and disciplinary procedures, reflecting the importance of their role in relation to workplace disputes.

The findings for claimants and employers are presented by primary jurisdiction and outcome in Tables 3.1 to 3.15. These show that claimants and employers have different perceptions about the events that occurred in a particular case. It is important that these are understood as differences in perception, rather than actual differences in practice between the claimant and employer samples. It is also important to bear in mind that these findings are not based on matched cases where claimants and employers talk about the same case. Only a small proportion in the samples constitutes matched cases and there is no analysis carried out for this report which was based on the matched cases.

### 3.1 Provision of written statement of terms and conditions

- As in the 2003 survey, employers were more likely than claimants to say that the employee had been provided with a written statement of terms and conditions after joining the organisation. Nine in ten employers (89 per cent) reported that the employee had been provided with such a statement, compared with 64 per cent of claimants (Figure 3.1). In comparison to 2003, whilst the proportion of claimants reporting this remains the same, the proportion of employers reporting this has increased from 83 per cent in 2003. (Tables 3.1 and 3.2).

**Figure 3.1: The provision of written statements and procedures**



Unweighted Base: Claimants' Survey 2008: 1,962 (Based on all former and current employees); Employers' Survey 2008: 1,939 (Based on all employers where claimant was current or former employee).

Source: SETA 2008

- The proportion of claimants saying they had received a written statement of terms and conditions varied by primary jurisdiction, ranging from 53 per cent in Wages Act cases to 78 per cent in discrimination cases (Table 3.1). A similar pattern was found in 2003.

- Among employers, the equivalent proportion varied to a lesser extent (ranging from 76 per cent in redundancy payment cases to 93 per cent in unfair dismissal and discrimination cases). As also found in 2003, these differences are related to the size of the organisation (Tables 3.2 and 3.4).
- As in 2003, there is a relationship between the provision of a written statement of terms and conditions and the outcome of cases that go to a full tribunal hearing. In the claimants' survey, around half (48 per cent) of claimants who were successful at the tribunal hearing reported being provided with a written statement, compared to 69 per cent of those who were unsuccessful at the tribunal hearing. In the employer survey, the findings showed that 81 per cent of the claimants who were successful and 91 per cent of those who were unsuccessful had been issued a written statement of terms and conditions (Tables 3.1 and 3.2).
- There was also found to be a relationship between the provision of the written statement and claimant age in the claimant survey. Claimants aged 35 or over (at the time of employment claim) were more likely to report receiving a statement (67 per cent), compared with those aged under 35 (58 per cent). However, such a relationship was not found in the employer survey.
- The extent to which claimants reported that they had been issued with a written statement of terms and conditions varied according to the characteristics of their job (Table 3.3):
- Claimants who worked full time were more likely to have been provided with a written statement (65 per cent) than those who worked part time (58 per cent). The same was true for those in permanent jobs (65 per cent) compared with those in non-permanent jobs (54 per cent), and for trade union/staff association membership (78 per cent) compared with non-members (60 per cent). Additionally those in Managerial, Professional and Associate Professional/Technical Operations were more likely to have been provided with a written statement (72 per cent), than those in other occupations (59 per cent). These subgroup differences are broadly in line with those found in 2003.
- The extent to which employers reported that claimants had been issued with a written statement of terms and conditions varied according to characteristics of the employing organisation (Table 3.4):
- The proportion of employers who said they had issued written terms and conditions to the claimant increased with the size of the organisation, ranging from 74 per cent of those with fewer than 25 employees to 96 per cent of those with 250 or more employees. Whilst this pattern is in line with 2003, it should be noted that the proportion of employers with fewer than 25 employees providing a written statement has increased from 66 per cent in 2003, to 74 per cent in 2008.

- Organisations in the non-profit sector (94 per cent) and public sector (93 per cent) were more likely than those in the private sector (87 per cent) to say that they had given the claimant written terms and conditions. Again, this pattern broadly reflects the 2003 findings.

## 3.2 Presence and use of grievance and disciplinary procedures

- As presented above in Figure 3.1, the large majority of employers claimed that they had written disciplinary procedures and grievance procedures (93 per cent and 92 per cent respectively). Ninety-one per cent said that they had both (Table 3.2). Claimants were much less likely to say that their employer had written procedures, with six in ten (59 per cent) saying that disciplinary procedures had been in place and 56 per cent that grievance procedures had existed. Half (50 per cent) said that both types of procedure had been in place (Table 3.1). In comparison with 2003, whilst employers were also more likely than claimants to report that they had written disciplinary and grievance procedures in place, both the number of employers and claimants mentioning these procedures has increased. In 2003, 84 per cent of employers reported that they had both written disciplinary and grievance procedures in place as did 41 per cent of claimants<sup>27</sup>.
- The presence of written documentation again appeared to have a bearing on the outcome of cases decided at full tribunal hearings. As in 2003, in the claimant survey, more than half (55 per cent) of claimants who were unsuccessful at a full tribunal hearing said that both disciplinary and grievance procedures were in place, compared with 32 per cent of those who were successful. In the employer survey, the findings showed that 96 per cent of claimants who were successful and 88 per cent who were unsuccessful reported both disciplinary and grievance procedures being in place. This is a marked increase as the equivalent figures were 89 and 77 per cent in 2003. (Tables 3.1 and 3.2).
- As found with the provision of a written statement of terms and conditions, there was found to be a relationship with the provision of written disciplinary and grievance procedures and claimant age in the claimant survey, with claimants aged 35 or over (at the time of employment claim) more likely to report both statements were in place (52 per cent), compared with those aged under 35 (46 per cent). However, such a relationship was not found in the employer survey.
- In line with the provision of a written statement of terms and conditions, the provision of written disciplinary and grievance procedures varied in the same pattern according to the following characteristics of the claimant's job: the permanence of the job, membership of a trade union/staff association, and whether they worked full or part time. The provision of

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<sup>27</sup> Please note that the presence of procedures is based only on the respondent's knowledge and recall; evidence of the existence of procedures was not asked for.

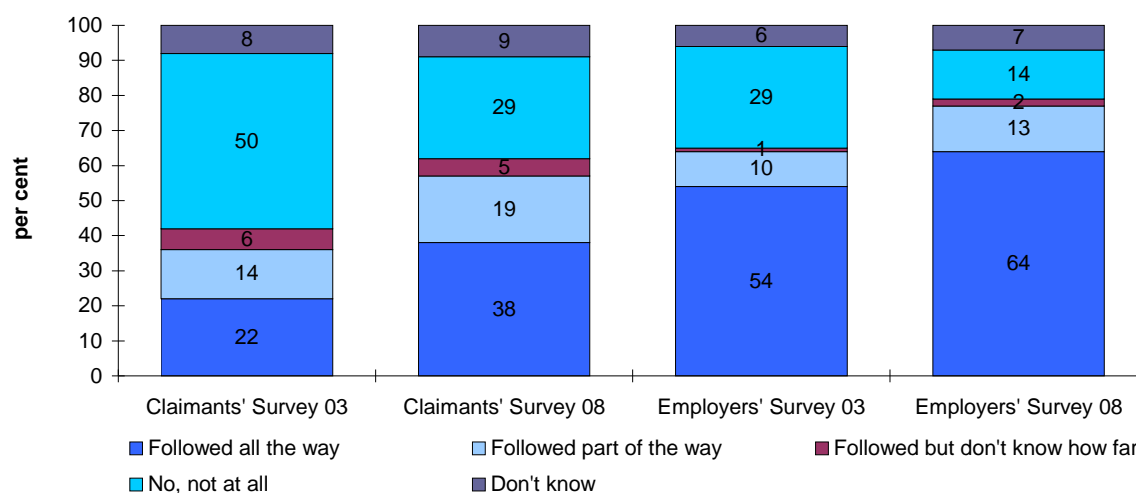
written disciplinary and grievance procedures also varied in the same way according to the size and sector of the employing organisation (Tables 3.3 and 3.4).

### 3.3 The use of procedures

When employers have procedures in place, it does not always mean that they are followed, or followed through correctly or through all relevant stages. Claimants and employers who acknowledged that written disciplinary and/or grievance procedures were in place to deal with the issue that gave rise to the Employment Tribunal claim were probed about the extent to which the procedures were followed (Tables 3.5 and 3.6).

- As presented in Figure 3.2, six in ten (62 per cent) claimants who acknowledged that written procedures were in place said that the procedures had been followed to some extent (Table 3.5). This is equivalent to 41 per cent of all claimants who worked or had worked for the employer against whom they had brought the employment claim. Of those who said that procedures had been followed, 61 per cent said that they had been followed all the way through. Compliance with workplace procedures (as reported by claimants) has increased since 2003. In 2003, 42 per cent of claimants who said procedures were in place had been followed to some extent (which was equivalent to 25 per cent of all claimants who worked or had worked for the employer), and of these claimants 52 per cent said that they had been followed all the way through.

**Figure 3.2: Whether procedures were followed**

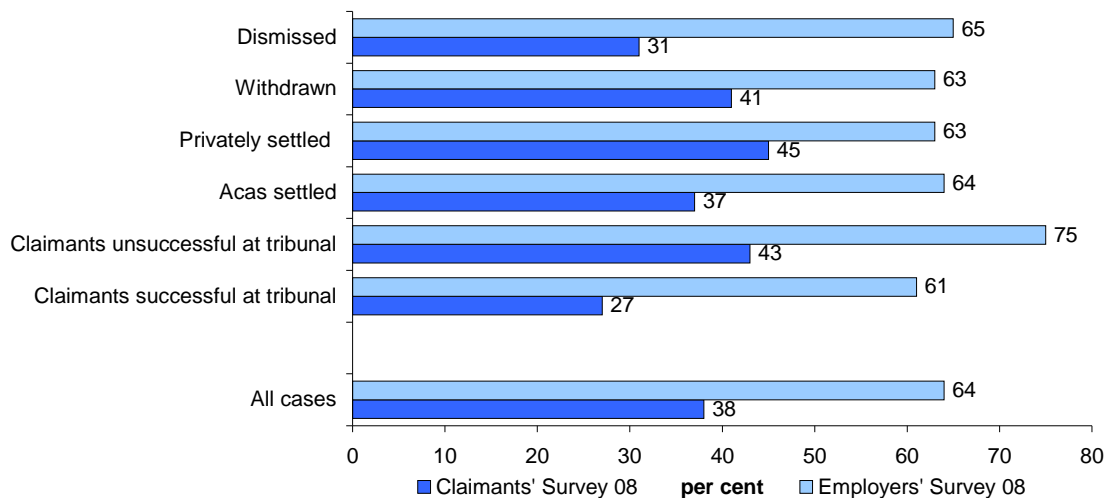


Unweighted Base: Claimants' Survey 2003: 1,290; Claimants' Survey 2008: 1,290 (Based on all claimants who said written disciplinary or grievance procedures were in place); Employers' Survey 2003: 1,834; Employers' Survey 2008: 1,536 (Based on all employers who said written disciplinary or grievance procedures were in place and had personal responsibility for the case).

Source: SETA 2003/SETA 2008

- Among employers, eight in ten (79 per cent) of those who said that procedures were in place said that they had been followed to some extent. (Table 3.6). This is equivalent to 63 per cent of all employers who employed or had previously employed the claimant. Among those who said that procedures had been followed, 82 per cent said that they had been followed all the way through. In comparison to 2003, there has been an increase in the number of employers reporting that the procedures have been followed (64 per cent of employers who said procedures were in place reported that they had been followed to some extent, which was the equivalent of 53 per cent of all employers who employed or had previously employed the claimant). However, there has been no change in the proportion of employers who followed the procedures all the way through (83 per cent of those employers who reported that the procedures had been followed to some extent said that they had been followed fully).
- In contrast to the 2003 findings, there was no relationship between not following procedures at all, and whether the claimant was successful at the tribunal. However, as shown in Figure 3.3, what did emerge was that employers in cases when the claimant was unsuccessful at the hearing were more likely to have followed their procedures all the way through (75 per cent), than those in cases where the claimant had been successful at hearing (61 per cent).

**Figure 3.3: Whether procedures were followed all the way through, by outcome of the case**



Unweighted Base: Claimants' Survey 2008: 1,290 (Based on all claimants who said written disciplinary or grievance procedures were in place); Employers' Survey 2008: 1,536 (Based on all employers who said written disciplinary or grievance procedures were in place and had personal responsibility for the case).

Source: SETA 2008

- The extent to which claimants reported the procedures had been followed also varied according to the characteristics of the claimant's job. Claimants who were members of a trade union/staff association were more likely to report that procedures had been followed to some extent (70 per cent), than non-union members (58 per cent), as were claimants who

worked full time (64 per cent) compared to their part time counterparts (51 per cent) (Table 3.7).

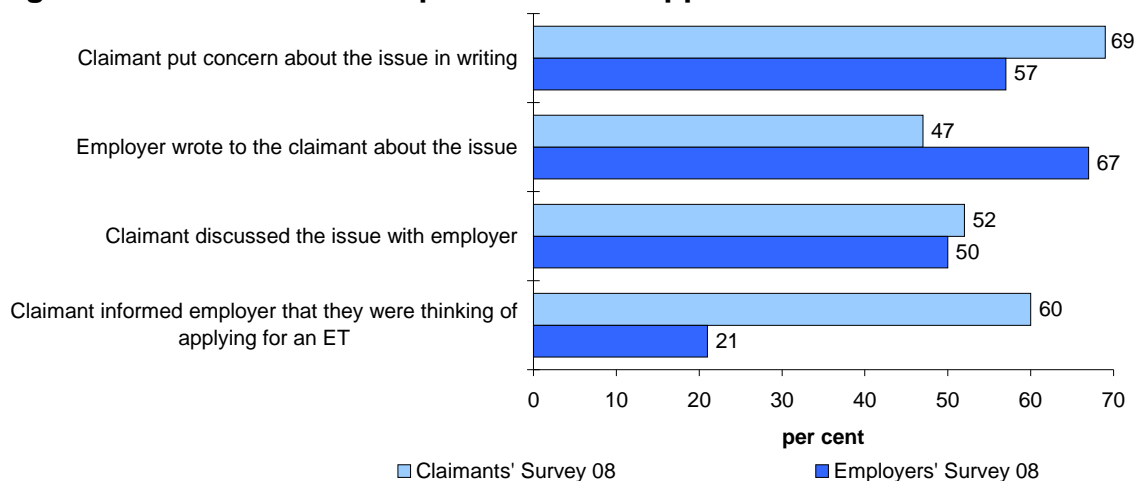
- The extent to which employers reported the procedures had been followed again varied by the sector and size of the employing organisation (Table 3.8).

### 3.4 Communication prior to the employment claim

Both claimants and employers were asked a series of questions to establish what oral and written communication had taken place between the parties before the employment claim was submitted. Findings in this section are reported separately for claimants and employers and combined figures are also given, which represent an approximate ‘average’ between the perceptions of the two parties.

- As presented in Figure 3.5, seven in ten claimants (69 per cent) said that they (or someone acting on their behalf) had put their concerns to their employer in writing before they submitted their employment claim. In comparison, fewer employers (57 per cent) said that the claimant had written to them before submitting the employment claim. When combined, these findings suggest that claimants put their concerns in writing in around six in ten cases (Tables 3.9, 3.10 and 3.14).

**Figure 3.4: Communication prior to the ET application: SETA 2008**

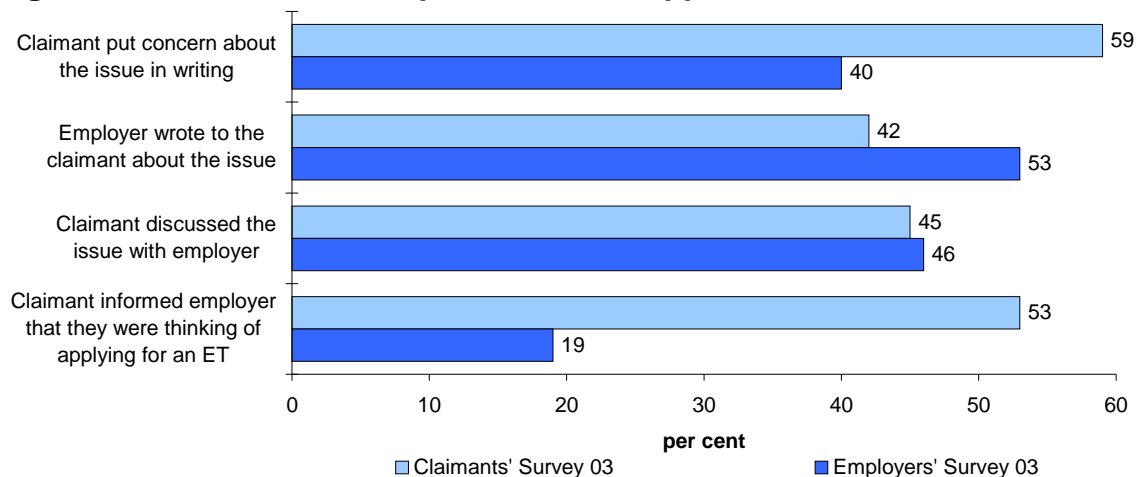


Unweighted Base: Claimants' Survey 2008: 2,020; Employers' Survey 2008: 2,007 (Based on all claimants/employers).

Source: SETA 2008

- These figures have increased since 2003, as shown in Figure 3.5, where 59 per cent of claimants said that they (or someone acting on their behalf) had put their concerns in writing, and 40 per cent of employers said the claimant had written to them. When the figures were combined in 2003, they suggested that concerns were put in writing in about half of cases.

**Figure 3.5: Communication prior to the ET application: SETA 2003**



Unweighted Base: Claimants' Survey 2003: 2,236; Employers' Survey 2003: 2,281 (Based on all claimants/employers)

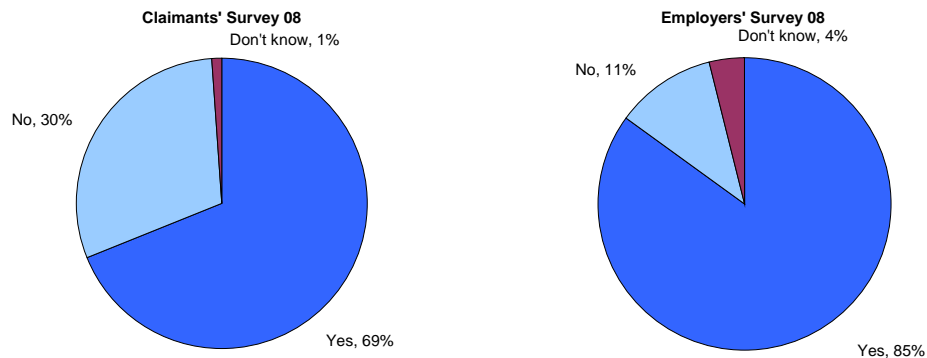
Source: SETA 2003

- Both employers and claimants reported that claimants in cases with a 'dismissed' outcome were least likely to put their concerns in writing (43 per cent according to employers, and 58 per cent according to claimants)
- Employers reported that claimants in cases involving discrimination were most likely to put their concerns in writing (64 per cent)
- Two-thirds of employers (67 per cent) said that they (or someone acting on their behalf) had written to the claimant or their representative about the dispute, although only 47 per cent of claimants claimed to have received a letter from their employer. This is an increase from 2003, where the equivalent figures were 53 per cent for employers, and 42 per cent for claimants. When the 2008 figures are combined, the findings suggest that employers wrote to claimants in 57 per cent of cases (Tables 3.9, 3.10 and 3.14). Again, this is an increase from 2003, where the equivalent figure was 47 per cent.
- Employers involved in short period cases were least likely to report that they had written to the claimant (60 per cent) compared with those in standard period cases (67 per cent), and discrimination cases (70 per cent).
- Claimants in cases who were successful at hearing or whose cases were dismissed by the tribunal were least likely to report that the employer wrote to them (36 per cent and 38 per cent respectively).
- As in 2003, in cases where the claimant had been dismissed or made redundant, claimants and employers gave very different accounts of whether there had been any warning that this might happen:



- Among claimants, 27 per cent said that they had been warned that they might face dismissal or redundancy, with 18 per cent saying that they had received a written warning. These findings are the same as those in 2003. Claimants who had been made redundant were more likely than those who had been dismissed to say that they had received a warning (40 per cent versus 18 per cent). This difference was also observed in 2003 (Table 3.11).
- Among employers, however, 74 per cent said that they had warned the claimant that they might be dismissed or made redundant, with 61 per cent saying that they had provided this warning in writing. In comparison with 2003, the number of employers providing warning has not changed, although there has been an increase in the number of employers providing this in a written format (53 per cent of employers reported that they did this in 2003, compared to 61 per cent in 2008). As in 2003, employers were slightly more likely to say that they warned claimants about redundancy (86 per cent) than about dismissal (68 per cent) (Table 3.12).
- Similar proportions of claimants and employers said that they had discussed the dispute with the other party before the employment claim was submitted. The combined findings indicate that discussions took place in 51 per cent of cases and in particular were carried out face-to-face in 43 per cent of cases (Tables 3.9, 3.10 and 3.14). These findings show an increase from 2003, where 46 per cent of respondents reported that discussions took place, and 37 per cent reported that they were carried out face to face.
- Employers were least likely to report that they discussed the issue with the claimant in cases where the primary jurisdiction was the Wages Act (40 per cent) or breach of contract (45 per cent). They were most likely to do so in discrimination cases (59 per cent).
- Employers and claimants were most likely to report that they discussed the issue in cases where the claimant was unsuccessful at the hearing (61 per cent in both surveys reported this) and cases that were privately settled (60 per cent reported by employers and 58 per cent reported by claimants).
- As shown in Figure 3.6, one in seven claimants (69 per cent) who discussed the dispute face-to-face with their employer said that a formal meeting had taken place (30 per cent of all claimants). Among employers, 85 per cent of those who said there had been face-to-face discussion (37 per cent of all employers) said that a formal meeting had been held. In comparison to 2003, the numbers of formal meetings have increased in 2008; 20 per cent of all claimants had a formal meeting in 2003, as did 30 per cent of all employers. When the 2008 findings are combined, they suggest that formal meetings took place in a third (33 per cent) of all cases (Table 3.13 and 3.14). This is an increase from a quarter of all cases (25 per cent) in 2003. In the majority of these cases, more than one meeting took place.

**Figure 3.6: Whether a formal meeting took place**



Unweighted Base: Claimants' Survey 2008: 871; Employers' Survey 2008: 863 (Based on all claimants/employers where dispute was discussed).

Source: SETA 2008

- Claimants were least likely to report that a formal meeting took place in cases where the primary jurisdiction was breach of contract (58 per cent) or the Wages Act (55 per cent). Employers were least likely to report such a meeting taking place in Wages Act cases (70 per cent).
- Fifty-seven per cent of claimants who said that they had attended a formal meeting said that they had been accompanied by someone of their choice at the meeting (Table 3.13). Twenty-seven per cent had been accompanied by a trade union or worker representative and 19 per cent by a work colleague. However, employers reported that a slightly larger number of claimants were accompanied by someone of their choice at the meeting (68 per cent) (Table 3.13). Thirty per cent reported that the claimant was accompanied by a trade union or worker representative, and 16 per cent by a work colleague. In 2003, claimants and employers expressed much more similar views. Claimant views in 2008 have stayed broadly in line with those from 2003. In contrast, the proportion of employers who said the claimant was accompanied has increased (only 60 per cent of employers in 2003 reported this).
- Claimants who were not accompanied at the formal meeting were asked why this was. The main reason that emerged was that they did not want to be accompanied (39 per cent). Seventeen per cent said that they were not allowed to be accompanied, 11 per cent said that they did not know that they could be accompanied and a further nine per cent did not think of it before hand.
- Employers were asked whether the organisation normally allows workers to be accompanied in grievance and disciplinary meetings. Virtually all employers (97 per cent) said that a work colleague could accompany an employee. Nine in ten (90 per cent) agreed that a trade union representative or worker representative could accompany and 87 per cent said a supervisor or line manager could. Looking at people outside of the

organisation, 46 per cent agreed a family member or friend and 41 per cent agreed a solicitor or legal representative. Who the employer would allow to accompany varied with characteristics of the organisation (Table 3.15):

- The larger the employer the *more* likely they were to allow a work colleague or a trade union or worker representative to accompany the claimant. Conversely, the larger the employer the *less* likely they were to allow a solicitor or other legal representative or a family member or friend.
- Private sector employers were *less* likely than those in the public or non-profit sectors to allow a trade union or worker representative to accompany. However, they were *more* likely than both to allow a solicitor or other legal representative to accompany. Public sector employers were less likely than those in the private sector and the non-profit sectors to allow a friend or family member to accompany.
- Sixty per cent of claimants said that they had informed their employer that they were considering applying for an Employment Tribunal. This is an increase from 2003, where 53 per cent of claimants reported this. Forty-two per cent said that they had done so in writing, 17 per cent face-to-face and nine per cent by telephone (Table 3.9) In comparison to 2003, correspondence by writing had increased (36 per cent in 2003), telephone contact had decreased (12 per cent in 2003) and face-to-face contact remained the same.
- Employers were much less likely to say that claimants had informed them of their intentions: only 21 per cent said that they had been informed in advance of receiving the employment claim. Thirteen per cent said that they had been informed in writing, six per cent face-to-face and three per cent by telephone (Table 3.10). These findings are in line with those reported in 2003.
- Employers who were involved in standard period cases were more likely to report that the claimant had not informed them (68 per cent) than those in short period cases (61 per cent).
- Claimants involved in Wages Act cases were most likely to report that they informed their employer (72 per cent said that they had informed their employer).
- Overall, the extent to which formal communication procedures were used before the employment claim varied, to some degree, according to the characteristics of the claimant's job. Those who were members of trade unions or staff associations were more likely to have been involved in all forms of communication prior to the employment claim. Additionally, there was also some variation with permanence of the job; with claimants in permanent jobs more likely to have received a letter from their employer and had a formal meeting prior to the employment claim (Table 3.9).

- Reflecting the findings about the prevalence of workplace procedures from the employer's point of view, the use of communication prior to the employment claim also varied with the size of the organisation and the sector of the organisation (Table 3.10).

## CHAPTER FOUR

# Mediation

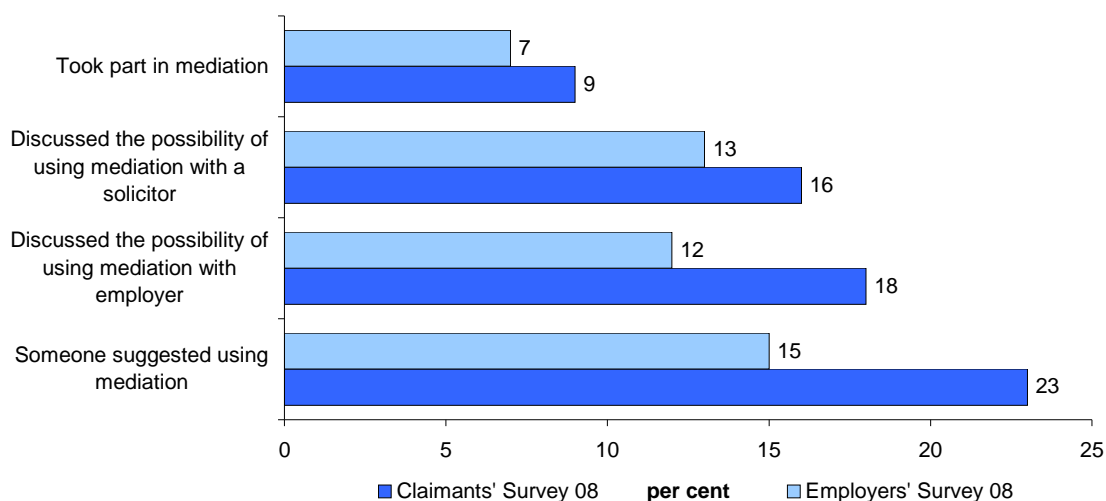
Mediation is a process in which an independent and impartial individual assists parties in working out a mutually acceptable agreement to resolve their dispute. In this chapter information is provided about parties' awareness and experience of mediation along with their attitudes towards it. These issues are new to SETA 2008 and therefore no comparisons are made to the 2003 data but they will serve as a benchmark for future surveys<sup>28</sup>.

The use of mediation as a route to resolving disputes at an early stage and without recourse to tribunals is one of the recommendations from the Gibbons Review and therefore the findings in this chapter will provide new data in this area.

### 4.1 Whether mediation suggested or considered

- As presented in Figure 4.1, twenty-three per cent of claimants reported that before they put in their employment claim, someone suggested that they should use mediation to help resolve the dispute. The equivalent figure was lower for employers; 15 per cent.

**Figure 4.1: Whether mediation was suggested or considered and take-up of mediation**



Unweighted Base: Claimants' Survey 2008: 2,020; Employers' Survey 2008: 2,007 (Based on all claimants/employers).

Source: SETA 2008

<sup>28</sup> When interpreting these data and when making judgements about mediation, it should be borne in mind that because a claimant has submitted an employment claim, any attempt at early dispute resolution has failed and therefore by definition the SETA sample are cases where mediation has failed to resolve the dispute completely.

- Claimants and employers in standard period cases were more likely to report this (25 per cent and 16 per cent respectively), than those in short period cases (20 per cent and 11 per cent respectively) (Tables 4.1 and 4.2).
- Employers from the private and non-profit sectors were more likely to mention that someone has suggested mediation (16 per cent and 18 per cent respectively) than employers from the public sector (seven per cent). Additionally, small employers were more likely than large employers to report that someone had suggested using mediation (24 per cent of employers with fewer than 25 employees decreasing to nine per cent of employers with 250 or more employees) (Table 4.3).
- Claimants and employers who mentioned that someone had suggested using mediation, were asked who this person was. The most commonly mentioned source for both parties was Acas, mentioned by 39 per cent of employers and 34 per cent of claimants. Other sources differed between the parties. Fourteen per cent of employers mentioned the owner/senior manager/general manager, 11 per cent mentioned a solicitor, barrister or other kind of lawyer and nine per cent mentioned Personnel or a human resources specialist. Focusing on claimants, 15 per cent mentioned a solicitor, barrister or other kind of lawyer, 11 per cent mentioned a trade union official and nine per cent mentioned the Citizens Advice Bureau (Table 4.4)
- Just under a fifth (18 per cent) of claimants reported that they discussed the possibility of using mediation with their employer (Figure 4.1). Employers were less likely to report that they had discussed the possibility with the claimant, with 12 per cent reporting that they had done so. The same pattern held true for whether claimants and employers had discussed the possibility with a solicitor (16 per cent and 13 per cent respectively had done so) (Tables 4.1 and 4.2). The detailed findings show that:
  - Large employers were less likely than smaller employers to have discussed the possibility of mediation with either the claimant or a solicitor (Table 4.3). This follows the pattern found with employer communication prior to the employment claim (as discussed in the previous chapter). However, employers in the private sector were generally more likely to have discussed the possibility with either the other party or a solicitor. This is a change from the previous chapter, where employers in the private sector were generally less likely to be involved in communication with the claimant prior to the employment claim.
  - Both employers and claimants involved in short period cases were also less likely to have discussed the issue with either the other party or a solicitor than those involved in standard period cases (Tables 4.1 and 4.2).

- Claimants involved in cases which were privately settled were more likely to have discussed the issue with a solicitor (25 per cent), than claimants who had experienced other case outcomes (Table 4.1).
- In terms of active participation in mediation activities, 11 per cent of respondents reported that mediation was used to help resolve the dispute. When these cases were examined however, 32 per cent of these respondents reported that this mediation had been conducted by Acas and that it was provided free of charge. Acas provides both mediation and conciliation services, with mediation provided for a fee, and conciliation free of charge. These respondents are thinking about conciliation rather than mediation, and should therefore be removed from the analysis of the mediation data. When these respondents are moved from the 'yes' code to the 'no' code (which includes those who were thinking of conciliation), nine per cent of claimants reported that they had undertaken mediation, as did seven per cent of employers (Figure 4.1). When these figures are combined this suggests that around eight per cent of cases underwent mediation (Tables 4.5 and 4.6).
- There were very few sub-group differences regarding which employers and claimants experienced mediation.
- Claimants and employers who had received a suggestion to use mediation, but did not actually use it, were asked why this was. The most commonly cited reason by respondents was that the other party did not want to (45 per cent of claimants reported that the employer did not want to, and 40 per cent of employers reported that the claimant did not want to). Around one in ten claimants and employers (eight per cent and 11 per cent respectively), said that they did not want to participate. Additionally, around two in ten claimants (18 per cent) were unsure and gave a 'don't know' response.

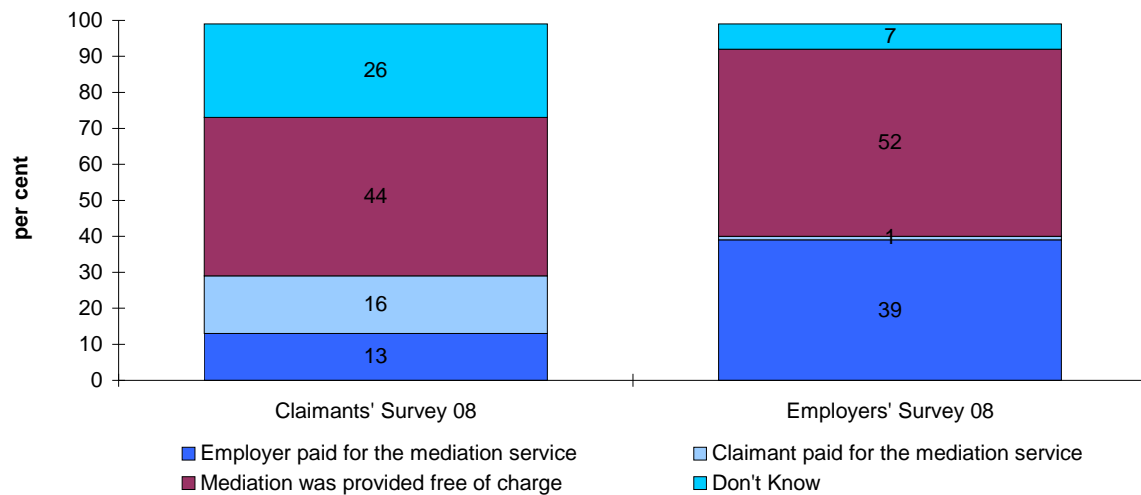
## 4.2 The use of mediation<sup>29</sup>

- Claimants and employers who experienced mediation were asked whether that had sought legal advice before proceeding with this. Sixty-three per cent of employers said that they had, although this figure decreased to 49 per cent amongst claimants. When combined, this suggests that legal advice was sought in just over half of cases (55 per cent) (Table 4.7).
- The most commonly cited mediator by claimants was a solicitor in a private practice, which was mentioned by 20 per cent of claimants, followed by Acas and a Union/Trade Union (mentioned by 16 per cent respectively). Amongst employers, the most commonly cited mediator was an in-house mediator (mentioned by 27 per cent), followed by a solicitor in a private practice (15 per cent), and then Acas (10 per cent) (Table 4.8).

<sup>29</sup> Respondents who reported that they had used mediation, but that it was conducted by Acas and provided free of charge have been excluded from analysis. As discussed in the previous section, these respondents are thinking about conciliation provided by Acas.

- When asked who paid for the mediation service, presented in Figure 4.2, the majority of claimants and employers reported that it was provided free of charge (44 per cent of claimants and 52 per cent of employers). Thirty-nine per cent of employers reported that they paid, although claimants were less likely to report this, with only 13 per cent mentioning payment. One per cent of employers reported that the claimant paid, and perhaps unsurprisingly claimants were more likely to report that they had paid, with 16 per cent mentioning this (Table 4.7).

**Figure 4.2: Who paid for mediation**



Unweighted Base: Claimants' Survey 2008: 172; Employers' Survey 2008: 143 (Based on all claimants/employers who took part in mediation (excluding those who took part in Acas conciliation)).

**Amount paid for mediation service**

Mean	£1,999	£4,193
Median	£1,200	£2,000
	(unweighted base= 28)	(unweighted base= 56)
	Based on all claimants who paid for the mediation themselves, SETA 2008	Based on all employers who paid for the mediation themselves, SETA 2008

Source: SETA 2008

- Employers and claimants who reported that they had paid for the mediation service, were asked how much they paid. As given in Figure 4.2, employers generally reported higher amounts. The mean payment amount reported by employers was £4,193, whilst the mean payment reported by claimants was £1,999. Similarly the employer's median amount was £2,000, compared with £1,200 for claimants (see Table 4.7). However it should be noted, the mean figures are inflated by survey respondents who gave particularly high figures, and therefore the median scores will provide a more reliable indicator here.



- Claimants expressed very mixed views regarding whether or not they agreed that mediation had helped to resolve their dispute. A third of claimants (33 per cent) and 39 per cent employers agreed that it had helped. Looking at disagreement, 48 per cent of claimants disagreed, as did 38 per cent of employers. Sixteen per cent of employers were unsure, neither agreeing nor disagreeing, as were 12 per cent of claimants (Table 4.7). Looking at parties who participated in mediation and the outcome of the case, claimants and employers who experienced mediation, were no more likely for their case to be privately settled or withdrawn than any other outcome (Tables 4.5 and 4.6). However, as mentioned early in this chapter, it must be borne in mind when interpreting these findings that because a claimant has submitted an employment claim, any attempt at early dispute resolution has failed and therefore by definition the SETA sample are cases where mediation has failed to resolve the dispute completely.
- All employers and claimants were asked if mediation was something they would consider using in the future<sup>30</sup>. The majority of employers and claimants said they would consider it, 88 per cent of employers and 80 per cent of claimants (Tables 4.9 and 4.10).
- Amongst both employers and claimants, there was limited variation by the outcome and primary jurisdiction of the case (Tables 4.9 and 4.10).
- Claimants who had participated in mediation were less likely than those who had not participated in mediation to say that they would consider mediation in the future (72 per cent compared to 81 per cent) (Tables 4.11 and 4.12).
- Employers in the public and non-profit sectors were more likely than those in the private sector to consider using mediation in the future (95 per cent of public sector employers, and 94 per cent of non-profit sector employers compared with 85 per cent of private sector employers) (Table 4.12). This reflects the findings in the previous chapter, where the existence and use of written procedures, and the communication prior to the employment claim was greater amongst public sector employers.
- Amongst claimants, members of trade unions/staff associations were less likely to consider using mediation in the future than non-members (76 per cent of members would consider using mediation in the future compared with 81 per cent of non-members). Additionally, respondents aged 55 or over were less likely to consider using mediation in the future (68 per cent versus 82 per cent of those aged under 55) (Table 4.11).

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<sup>30</sup> Respondents who had taken part in mediation were asked if mediation at work is something they would consider using *again* in the future.

## CHAPTER FIVE

# Advice and representation

In this chapter, the sources of advice and representation used in tribunal claims are examined. The main focus is on the use of active sources of advice and representation at different stages of the tribunal process. This includes before the claim was made (pre-submission of the ET1 claim form) and the employer's response (submission of the ET3); after the submission of the claim and the employer's response; and, for cases going to full tribunal hearing.

This report makes a distinction between active 'advice' and 'representation'. In the former, the parties talk to somebody about the case, while representation is seen to go beyond the provision of advice and is defined as giving help with the day-to-day handling of the case. Access to professional advice is considered very important in informing parties about the merits of a case and subsequent action that should be followed. Having someone to represent the case on a day-to-day basis is thought to be additionally advantageous and this is how professional representation has been operationalised throughout this section. Furthermore, as well as receiving professional representation, claimants' professional advice may have been received from other sources after submission of the claim form. This section, therefore, considers both representation and other advice.

As well as looking at the different stages where advice and representation are used, this chapter also looks at the outcomes of cases where representation is or is not present. In addition to this, it is important to highlight the characteristics of employers and claimants in such cases. Trade unions often play a vital role in the process and the use of trade unions is examined here. The chapter also looks at the costs of professional representation and advice.

## 5.1 Sources of advice and representation

### ***Before submission of claim***

- The source of the ET1 form for claimants varied; the most common places from which claimants obtained their form included a solicitor, barrister or some other kind of lawyer (20 per cent) and TS website (20 per cent). The Citizens Advice Bureau was mentioned by 13 per cent of claimants. These findings are in line with those reported in 2003, with the notable exception of the TS website, which has seen an increase in use (Table 5.1).
- There was a broadly even split between claimants who completed the ET1 form themselves (57 per cent) and those that received help with this. There has been a slight increase since 2003 in the proportion completing the form themselves (when the proportion stood at 52 per cent). A quarter

(24 per cent) claimed that someone helped them complete the form, whilst just under a fifth (18 per cent) said that someone had completed the whole form for them (Table 5.2). Nearly six in ten (56 per cent) employers said that the ET3 form was completed by them or by somebody else in their organisation, with nearly two-fifths (38 per cent) getting someone from outside the organisation to assist (Table 5.3). These findings are consistent with those reported in 2003.

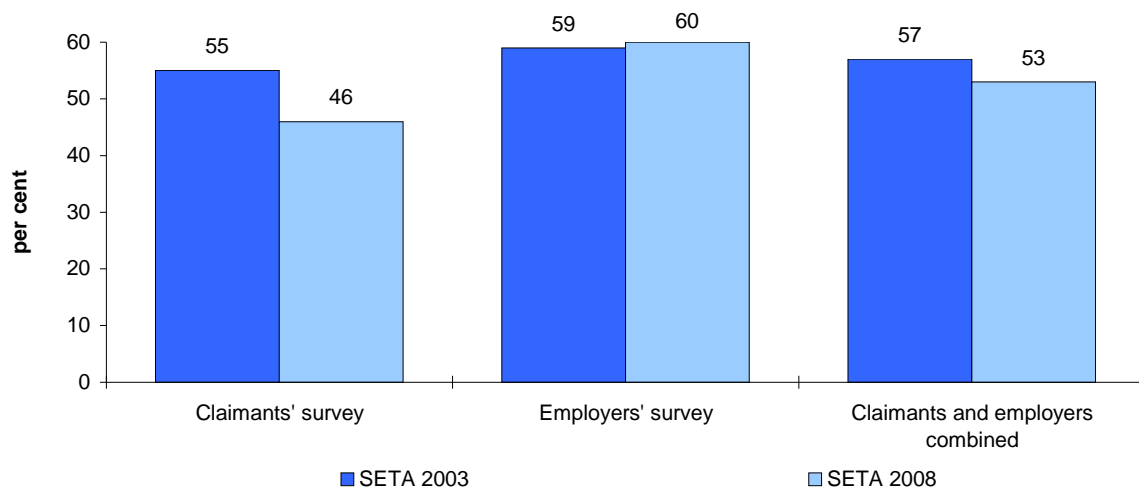
- Of those that received help, the most common source for claimants and employers was a solicitor, barrister or some other kind of lawyer. This was by far the most common source for employers (78 per cent). Although similarly the most common source for claimants (45 per cent), a number of claimants also used other sources of help. Around one in six received help from a trade union and the Citizens Advice Bureau. A further fifth sought help from family and friends. (Tables 5.2 and 5.3). These findings for claimants are consistent with those observed in 2003. Whilst employers were most likely to receive help from solicitors, there had been an increase in the proportion that had done so (rising from 71 to 78 per cent).
- A third (32 per cent) of claimants nominated a professional representative on the ET1 form, compared with 54 per cent of employers on the ET3. This represents a decrease for claimants from 2003 when 40 per cent nominated a representative. As in 2003, a solicitor, barrister or some other kind of lawyer was most often nominated for both claimants (48 per cent) and employers (55 per cent). Just under a quarter of claimants (23 per cent) nominated a trade union representative (Table 5.4).

### ***Day-to-day representation***

Claimants were asked whether they received any advice after they submitted their claim; they were asked whether anyone helped with the day-to-day handling of the case, defined as 'handling paperwork, answering letters, dealing with the Employment Tribunal Service, and dealing with the other party and so on'. They were asked not to include any assistance they may have had from Acas, as it is not possible for Acas to act in the role of formal representative.

- As presented in Figure 5.1, forty-six per cent of claimants and 60 per cent of employers used a representative to help with their case. This represents a marked decline from the proportion of claimants who used a representative in 2003 (55 per cent). In contrast, levels of representation for employers remained broadly unchanged.

**Figure 5.1: Proportion who had a day-to-day representative**

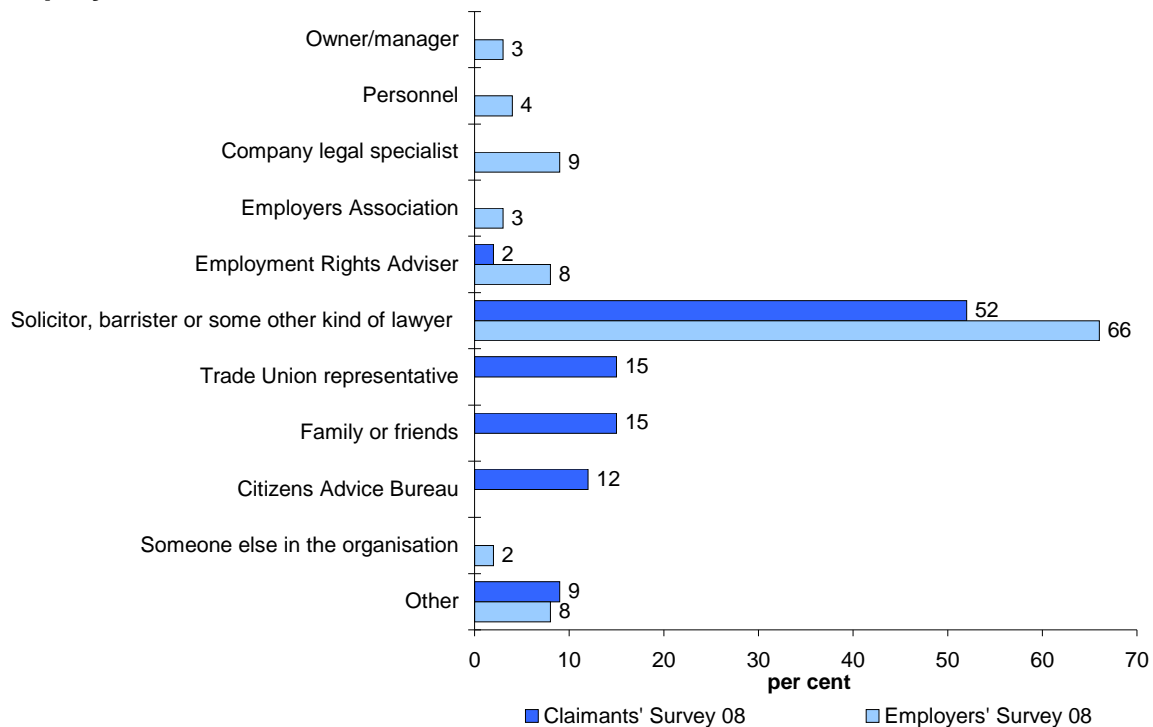


Unweighted Base: Claimants Survey in SETA 2003: 2,236; Employers' Survey in SETA 2003: 2,281 (based on all claimants/employers); combined cases in SETA 2003: 4,517 (based on all claimants and employers combined); Claimants' Survey in SETA 2008: 2,020; Employers' Survey in SETA 2008: 2,007 (based on all claimants/employers); combined cases in SETA 2008: 4,027 (based on all claimants and employers combined).

Source: SETA 2003/SETA 2008

- As presented in Figure 5.2, a solicitor, barrister or some other kind of lawyer was the most common type of professional representative used by claimants (52 per cent) and employers (66 per cent). These findings are in line with data reported in 2003. Other sources varied between the parties; fifteen per cent of claimants used a trade union representative or family and friends. Just under one in 10 employers mentioned an internal legal specialist (nine per cent) or employment rights advisor (eight per cent).

**Figure 5.2: Who acted as day-to-day representative for claimants and employers\***



Unweighted Base: Claimants' Survey 2008: 910; Employers' Survey 2008: 1,226 (Based on all claimants/employers who had a day-to-day representative).

\* = Based on multiple response where claimants and employers were allowed to provide more than one answer.

Source: SETA 2008

- Six per cent of claimants and 30 per cent of employers spontaneously reported that their day-to-day professional representative was the same person nominated on the ET1 or ET3 form<sup>31</sup>. In the case of employers, this represents a large increase (13 per cent mentioned the same person in 2003). This is also likely to be an under-estimate of the true extent of continuity in professional representation. Further research would be required to disentangle the extent of continuity and change from one type of professional representation to another.

### ***Additional sources of advice and guidance after submission of the claim and return of the ET3***

As well as receiving professional representation, parties may have also received professional advice from other sources (e.g. advice on the tribunal procedures, the strengths and weaknesses of a case, the pros and cons of settling or going to tribunal and so on).

- Fourteen per cent of claimants and 12 per cent of employers did not have a day-to-day representative, but sought additional professional advice and

<sup>31</sup> Person nominated on ET1/ET3 was a specific questionnaire pre-code in the survey.

guidance about their case after submission of the ET1 (Table 5.8). These findings are in line with data reported in 2003.

- Six per cent of claimants and eight per cent of employers had a day-to-day representative *and* sought additional advice post submission of the ET1 and return of the ET3, whilst 39 per cent of claimants and 52 per cent of employers had a day-to-day representative only (Table 5.8).
- Two-fifths (40 per cent) of claimants and 29 per cent of employers had neither a day-to-day representative nor sought additional advice (Table 5.8). The proportion of claimants who received no representation or advice has risen from the 34 per cent reported in 2003, whilst the data for employers resembles that reported in 2003.
- Solicitors were also the most popular choices for additional advice and guidance, mentioned by a third (33 per cent) of claimants and half (50 per cent) of employers (Table 5.7). These findings reflect those observed in 2003.

### ***Representation at tribunal hearing***

If the case progresses to a tribunal hearing, then this is another critical stage of the process where representation might be sought. This could be either a new representative or someone used in earlier stages of the process.

- As in SETA 2003, employers were much more likely than claimants to be represented at a full tribunal hearing (73 versus 34 per cent) (Table 5.6). As noted earlier, claimants were less likely than in 2003 to have a representative acting for them in their case. They were also less likely to be represented at a full tribunal hearing (a decline from the figure of 42 per cent reported in 2003).
- For parties who were represented at a full hearing, over six in ten had a solicitor, barrister or other kind of lawyer to represent them (62 per cent of claimants compared to 60 per cent of employers) (Table 5.6).

### ***Passive sources of information***

In addition to these 'active' sources of advice and guidance, there were more 'passive' sources that were used to help claimants and employers find out more information in relation to their case, either before or after submission of the claim, or when they were filling in the form itself.

- In 2003, Acas publications and leaflets were most frequently mentioned by the parties. In 2008, the internet has become a more popular way of gathering information; 47 per cent of claimants and 39 per cent of employers had visited the Acas website. A smaller proportion of employers (26 per cent) had visited the TS website, although 44 per cent of claimants had done so. Thirty-seven per cent of claimants had used Acas publications and 36 per cent the TS publications. A smaller

proportion of employers had referred to Acas (27 per cent) or TS (20 per cent) publications (Table 5.12).

- Over three-quarters (79 per cent) of claimants who received no representation or advice did use a passive source of information, and publications and leaflets were most often used. However, a substantial minority (22 per cent) of claimants used neither active nor passive sources of advice or representation. This was true of an even greater proportion of employers (33 per cent) (Table 5.12). These findings are in line with those reported in 2003.

## 5.2 Characteristics of the parties with a day-to-day representative

*Claimants (Table 5.14):*

- In contrast to 2003 (where no differences were apparent), women were more likely to be represented than men (49 versus 43 per cent). Black claimants were the least likely to be represented (35 per cent compared with 47 per cent of White claimants). The latter difference was also not observed in 2003. Further analysis shows that 32 per cent of Black men were represented compared to 50 per cent of white women<sup>32</sup>.
- As in 2003, managers and senior officials (52 per cent) were most likely to be represented.
- Reflecting the findings reported in 2003, claimants in Scotland were more likely than their English and Welsh counterparts to have been represented (59 versus 45 per cent).
- Again, as was also observed in 2003, trade union/staff association members were more likely to be represented (55 per cent versus 42 per cent of non-members).

*Employers (Table 5.15):*

- Two-thirds (66 per cent) of employers with 50 or more staff were represented, compared with 61 per cent of those with 25-49 and 51 per cent of those with less than 25 staff. These sub-group variations are similar to those observed in 2003.
- As in 2003, three-quarters (76 per cent) of employers in the non-profit or voluntary sector were represented, compared with 58 and 59 per cent in the private and public sectors.

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<sup>32</sup> Despite the small base size of black men (n= 66), this is a statistically significant difference.

- Employers in the manufacturing and financial sectors were most likely to have been represented (68 and 63 per cent respectively). In 2003, finance was the sector with the largest proportion of represented employers.

### ***Desired sources of advice and guidance***

Parties were asked whether there was anybody who they had not consulted whom they would have liked to help with their case. A quarter (26 per cent) of claimants said that they would have liked additional help, compared with nine per cent of employers (a decline from 12 per cent reported in 2003) (Tables 5.9 and 5.10).

- Reflecting the findings in 2003, 32 per cent of claimants who did not have any form of representation said that they would have liked additional help, compared with 20 per cent of represented claimants.
- Forty-two per cent of claimants and 16 per cent of employers said they would have liked to have used a solicitor. Acas was frequently cited by employers (two-fifths of employers said they would have liked additional help from Acas compared with a third in 2003) (Table 5.11).
- Claimants and employers whose case went to a full tribunal hearing were most likely to say that they would have liked additional help (24 per cent of unsuccessful claimants and 22 per cent of unsuccessful employers).
- Forty-seven per cent of Black claimants (in any type of case) said that they would have liked additional help, compared with a quarter of White and 36 per cent of Asian claimants (Table 5.9). These sub-group variations are similar to those observed in 2003 where Black claimants (across different cases) also expressed the greatest desire for additional help.
- Fourteen per cent of small employers (those with less than 50 staff) said that they would have liked additional help, compared with six per cent with 50 or more (Table 5.10).
- Reflecting the findings observed in 2003, just over a quarter (28 per cent) of claimants and one in ten employers (10 per cent) did not use their desired source because they could not afford to. Over half (54 per cent) of claimants who wanted to use a solicitor, barrister or some other type of lawyer did not use this desired source because they could not afford to do so (Table 5.11).

## **5.3 Representation by outcome and jurisdiction**

Access to professional advice is a factor expected to influence the outcome of the case, namely whether it is withdrawn, settled or goes to a full tribunal and whether the claim is upheld or dismissed at a hearing.



- Cases where the claimant was unsuccessful at tribunal were most likely to involve parties (employers and claimants) that had received day-to-day representation and advice. In total, 55 per cent of such cases involved parties that were represented (Table 5.13). These findings resemble those reported in 2003. In contrast to 2003, privately settled cases were more likely to involve represented parties (60 per cent). Further analysis reveals some differences between claimants and employers. Claimants involved in cases that had been privately settled were most likely to have been represented (57 per cent). In contrast, employers involved in cases where the claimant had been unsuccessful at a tribunal hearing were most likely to have been represented (68 per cent – Table 5.13b).
- The primary jurisdiction of the case is another factor that one might expect to impact on the use of representation. As in 2003, representation was most common in discrimination cases. Two-thirds of cases which involved discrimination claims involved parties (employers and claimants) that were represented. In 2003, cases which involved unfair dismissal claims were also highly likely to involve represented parties. Whilst this was still the case to a large extent in 2008, the proportion represented had declined from 66 to 56 per cent (Table 5.13). In contrast to the above, there were no differences between claimants and employers. For both, representation was most common in discrimination cases<sup>33</sup>.

## 5.4 Types of advice given by representatives

Parties who had a day-to-day professional representative or who received advice in the case were asked what type of advice or help they were given<sup>34</sup> (Table 5.16).

- Eighty-six per cent of claimants and 92 per cent of employers received advice on the strengths and weaknesses of the case.
- Eighty-four per cent of claimants and 71 per cent of employers said that they received general advice on how the tribunal process worked.

Employers were generally more likely than claimants to have received other types of advice on aspects of the case:

- The advantages and disadvantages of settling the case (87 per cent of employers compared with 80 per cent of claimants).
- What the tribunal might award (80 per cent of employers compared with 66 per cent of claimants).

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<sup>33</sup> For employers, representation was equally high in redundancy pay cases, although the small base size (see Table 5.13b) should be treated with caution.

<sup>34</sup> This excludes the types of advice that Acas conciliators gave. This is reported separately in Chapter 6.

- Help in preparing for hearings (70 per cent of employers compared with 60 per cent of claimants).

The findings above are all in line with data reported in 2003.

Represented parties were also asked whether they were advised to try to settle the case, go for a tribunal hearing or withdraw the case. A similar proportion of claimants and employers were advised to settle (46 and 47 per cent respectively) and around a fifth of each party were advised to go to hearing (20 and 18 per cent respectively). Only two per cent of claimants were advised to withdraw their case. The remainder were given different advice at different times or none of this specific advice. Again, these findings are consistent with those reported in 2003.

Claimants who were represented at a tribunal hearing or for the day-to-day handling of the case were most likely to have used a representative for their expertise or knowledge. Nearly a quarter (24 per cent) said they used a representative for their expertise and professional advice. A similar proportion (22 per cent) said they did not understand or had limited knowledge of the workings of employment tribunal claims. Furthermore, 13 per cent of claimants cited the representative's knowledge as their reason for seeking this type of help.

## 5.5 Parties' acceptance of representatives' advice

The extent to which claimants and employers accepted the advice they were given varied according to the nature of this advice. The findings below all resemble those reported in 2003:

- Sixty-nine per cent of claimants and 84 per cent of employers who were advised to settle their case went on to do so.
- A third (33 per cent) of claimants who were advised to go to hearing did so, compared to a similar proportion of employers (32 per cent).
- Fifty-eight per cent of claimants who were advised to withdraw their case did so.

Parties who were represented or received professional advice were asked whether, on reflection, they had made the right decision to involve their representative or main adviser in their case (Table 5.16):

- Eighty-five per cent of claimants and 94 per cent of employers said that they had made the right decision.
- As in 2003, case outcome was a factor affecting satisfaction. Nearly a fifth (18 per cent) of claimants in withdrawn and dismissed cases felt they had made the wrong decision (Table 5.17).

## 5.6 Use of legal representatives

Alongside the use of non-legal professional advice and representation, the use of legal representatives is considered to be possibly advantageous in influencing the outcome and duration of employment tribunal cases and hearings. An analysis of the various stages at which legal advice was sought indicates some mixed findings:

- Fifty-six per cent of claimants who received representation had a legal representative acting for them on a day-to-day basis (e.g. a solicitor, barrister or some other kind of lawyer). Of those claimants who went to a full tribunal hearing, 62 per cent employed the services of a legal representative. This is higher than the equivalent finding from the 2003 survey where 51 per cent used a legal representative. A further third (33 per cent) who sought additional advice went to a legal adviser.
- Thirty-one per cent of claimants received some form of legal representation or advice at some point after submission of the ET1.
- A larger proportion of represented employers had an external legal representative acting for them on a day-to-day basis (70 per cent). However, some employers (six per cent) also relied on the services of an internal legal specialist in the company or a company lawyer to act for them on a day-to-day basis. These findings are in line with data reported in 2003. Of those employers who went to a full tribunal hearing, 60 per cent sought the services of an external legal representative, whilst a further two per cent used an internal legal specialist. Half of employers (50 per cent) who sought additional advice went to a legal adviser, with seven per cent seeking the legal advice from within their organisation.
- Over half of employers received some form of legal representation or advice at some point after completion of the ET3, 49 per cent from an external source and seven per cent from an internal company source.

All of the above reflect the findings from 2003. There are also variations with respect to the characteristics of the parties. These are briefly summarised below:

### *Claimants (Table 5.18)*

- As in 2003, young claimants (aged under 25) were less likely than their older counterparts to seek legal representation.
- It has already been noted that professional representation was highest among Managers/Senior officials. These groups were also particularly likely to have sought legal representation. This was also the case in the 2003.

### *Employers (Table 5.19)*

- Employers in the non-profit sector were most likely to have used legal representation. Sixty-nine per cent of employers in the non-profit sector had legal representation, compared with 53 per cent in the public and 46 per cent in the private sector. Again, these differences are in line with data reported in 2003.
- Organisations with less than 25 employees were least likely to have sought external legal representation (45 per cent). Organisations with 50-249 employees and 250 or more employees were most likely (53 and 52 per cent respectively). In 2003, the largest employers (250 or more employees) were most likely to have sought legal representation.
- Fifty-eight per cent of employers in the finance sector received legal representation, compared with 41 per cent in construction and 42 per cent in wholesale/retail and hotels/restaurants. Employers in the finance sector were most likely to have received legal representation in 2003.
- Similar to the findings for general levels of representation (see earlier discussion), cases where the claimant was unsuccessful at tribunal and privately settled cases were most likely to involve legal representation. Cases involving unfair dismissal and discrimination claims were also most likely to have received this type of representation.

## 5.7 Use of trade unions

While trade unions were not the most common source of advice and representation for claimants, they nevertheless had an important role in the tribunal process for a significant number of claimants.

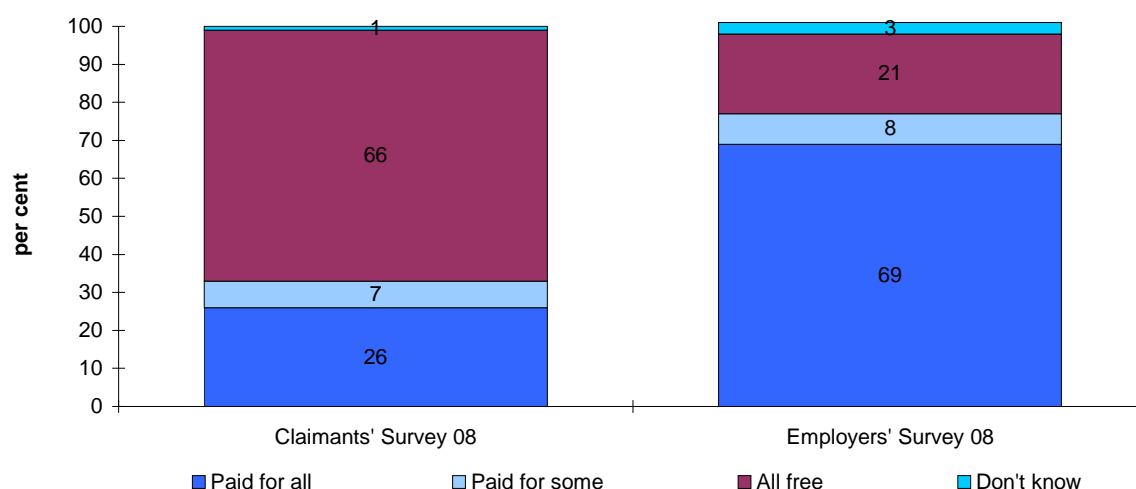
- Overall, nine per cent of claimants were represented or received advice from a trade union after submission of the ET1. This is a fall from 2003, where 13 per cent had received such representation or advice.
- Claimants involved in discrimination claims were more likely (13 per cent) to have been represented or receive advice from a trade union than those involved in short (seven per cent) or standard period cases (eight per cent).
- A quarter (25 per cent) of claimants were members of a trade union or staff association at the time they submitted their claim; less than a third (31 per cent) of these received advice or representation from their union. This is significantly less than the proportion that had done so in 2003 (49 per cent).

## 5.8 Cost of professional advice and representation

Both claimants and employers were reminded of all the various sources of advice and/or representation they had received (excluding that received from family or friends) and were asked whether and how much they paid for this.

- As presented in Figure 5.3, a quarter (26 per cent) of claimants had to pay for all of the advice they received, compared with 69 per cent of employers, whilst less than one in ten claimants and employers paid for some. Two-thirds (66 per cent) of claimants received all of their advice for free, compared with a fifth (21 per cent) of employers.

**Figure 5.3: Cost of professional advice and representation**



Unweighted Base: Claimants' Survey 2008: 1,006; Employers' Survey 2008: 1,167 (Based on all claimants/employers who had a day-to-day representative or adviser (excluding friends)).

### Amount paid for advice and representation

Mean	£4,124	£8,009
Median	£2,000	£2,500
Unweighted Base:	327	867
	Based on all claimants who paid for advice and representation (excluding those who did not know amount paid)	Based on all employers who paid for advice and representation (excluding those who did not know amount paid)

Source: SETA 2008

- Small employers were more likely than their larger counterparts to receive free advice; a quarter of employers with less than 50 staff received their advice all free of charge, compared with less than a fifth of companies with 50 or more staff (Table 5.21).
- The most common type of advice that was free (or partly free) was advice from solicitors. Over two-fifths of claimants and over a quarter of employers received free advice from a legal source. Over a fifth of

claimants received this advice from a trade union or Citizens Advice Bureau.

- Over two-fifths (44 per cent) of employers who used an internal legal specialist from within their organisation had to pay for this advice. Although not a real cost in terms of money leaving the organisation, it does represent a 'real' cost in terms of the organisation transferring funds elsewhere in the company or group. An in-house legal team, for instance, has a cost attached to it.

The above findings all closely resemble those reported in 2003.

All parties who paid for advice were asked about the information they had received on the likely costs of this. Nearly three quarters (73 per cent) of claimants said they had received an estimate of likely costs from legal advisors compared with 62 per cent in 2003. Similarly, the proportion of employers who had received such estimates had also increased since 2003 (55 versus 49 per cent).

### ***Contingent and conditional fee arrangements***

In addition to conventional methods of charging for professional legal advice (hourly rate plus disbursements and expenses), solicitors and employment law advisors can offer conditional and contingent fee arrangements. Under normal circumstances, a contingent fee arrangement, if a case is 'won', or a financial settlement is made, the solicitor receives a pre-agreed proportion of the settlement or award. Typically, this can be around one third plus disbursements, although it does vary considerably. Conditional fees are similar, except that there is usually an agreed 'success' fee rather than a proportion of any award or settlement. In the event of the case being lost or no settlement made then usually the client only pays the solicitor's disbursements (such as travel expenses or monies paid to third parties). The Legatt Report on tribunals – *Tribunals for users, one system, one service* – was published on 16 August 2001. Legatt included a suggestion that research should look into the whole area of costs in Employment Tribunals, including the use of conditional fees and contingency fees (see <http://www.tribunalsreview.org.uk/index.htm>). The SETA series addresses this important issue.

In addition, research by Moorhead and Cumming (2009)<sup>35</sup> has shown that contingency fee claimants had a slightly more positive attitude towards the level of their fees than private payers, who expressed some reservation about expense. Contingency fee clients appeared to regard their cases as analogous to being 'free' even though they often paid sizeable deductions from compensation if successful. However, on the whole, contingency claimants appeared less satisfied with the service they received. They were more likely to suggest that their funding regime had a negative impact on service quality. The authors recognise that as an exploratory study, some of the findings need to be tested on larger samples.

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<sup>35</sup> Moorhead, R and Cumming, R (2009) Something for Nothing? Employment Tribunal Claimants' Perspectives on Legal Funding, BIS Employment Relations Research Series No. 101.

The SETA findings on these issues reveal that:

- Seven per cent of claimants had an arrangement with a legal adviser, by which they had to pay their bill only if they won the case. A further 10 per cent had an arrangement where they would have had to pay whether they won or lost or their case, whilst 80 per cent had no such arrangement. Data from 2003 show that a larger proportion had some form of arrangement.
- In line with data reported in 2003, cases involving discrimination claims and standard period cases were most likely to have had one or other of such arrangements (17 and 20 per cent respectively), compared with only nine per cent of short period cases (Table 5.22).

### ***Total costs of professional advice and representation***

Claimants and employers were finally asked to state how much they had to personally pay for the professional advice and representation they received in the case<sup>36</sup>.

- The total amount paid varied, particularly between claimants and employers. As given in Figure 5.3, the mean amount for claimants who paid for representation and advice was £4,124, whilst for employers it was £8,009 (compared with £2,463 and £4,362 in 2003). The median was £2,000 for claimants and £2,500 for employers (compared with £1,000 and £2,000 in 2003).
- There were a number of sub-group differences. These are summarised below and detailed fully in Tables 5.23 and 5.24.
- Cases that involved Wages Act as the primary jurisdiction were the most expensive for claimants, incurring median costs of £5,502. Cases that involved redundancy payments as the primary jurisdiction were the most expensive for employers, incurring median costs of £7,050. In 2003, cases involving discrimination were the most expensive for both parties.
- Cases where the claimant was unsuccessful at a tribunal hearing were the most expensive outcome for both parties, incurring median costs of £3,000 for claimants and £5,197 for employers. In contrast, 2003 data show that privately settled cases incurred the greatest expenditure from claimants and employers.
- As was also observed in 2003, mean and median costs were highest for employers with 50 or more staff.

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<sup>36</sup> Respondents were asked to include all of the legal and professional fees that were paid, but exclude any fees paid by third parties such as insurance companies, trade unions or any kind of legal aid. The mean and median figures exclude don't know responses given.

The proportion of claimants who were insured against legal expenses or who were members of any organisation that would cover these costs had increased since 2003 (24 versus 18 per cent). Similarly, the proportion of employers who were insured rose from 27 to 32 per cent.

## 5.9 Unsolicited approaches made by third parties

Employers and claimants were asked whether they had received any unsolicited calls or letters from any organisation (apart from TS or Acas) offering legal services or help with the case (Tables 5.25 and 5.26).

- A small proportion of claimants (four per cent) and a significantly larger proportion of employers (14 per cent) had received such advances. These were more common in England and Wales for employers (14 per cent of employers had received approaches compared with five per cent in Scotland). They also tended to be concentrated more in private organisations. More specifically, 18 per cent of employers in the private sector had received advances compared with two per cent in the public sector.
- The above findings are in stark contrast to data reported in 2003, which show a much larger proportion of claimants and employers receiving such approaches (43 and 41 per cent respectively). The Telephone Preference Service and Privacy and Electronic Communications (EC Directive) Regulations 2004 have made it more difficult for agents to make unsolicited calls.



## CHAPTER SIX

# Use of Acas

This chapter provides information about the parties' contact with and experience of Acas. It also presents some findings about the parties' satisfaction with Acas' involvement, where applicable.<sup>37</sup>

Acas conciliators have a statutory duty to promote a settlement through conciliation, as detailed in the introduction. When considering these findings it is important to bear in mind that parties who had a representative acting for them will have had little or no direct contact with the Acas conciliator who was dealing with their case. Their knowledge and evaluation of Acas will be limited by the amount their representative involved them and kept them up to date with what was happening during the case, especially the part played by the Acas conciliator in trying to facilitate a settlement.

### 6.1 Contact with Acas

Since 2003, Acas has sent out an introductory letter to all parties and their representatives named on the ET1 and ET3.

Seventy-six per cent of claimants recalled receiving an introductory letter from Acas explaining the service that they offered, which is broadly in line with the proportion recalling receiving the letter in 2003 (74 per cent). Seventy-eight per cent of employers recalled receiving an introductory letter from Acas which is a slight decrease since 2003, where 82 per cent of employer recalled receiving the letter (Table 6.1).

- A fifth (18 per cent) of all claimants said that their representative had had some form of contact with an Acas conciliator, either in writing, by telephone or in a face-to-face meeting. This compares with a quarter (26 per cent) in 2003. Amongst employers who had a representative, a fifth (19 per cent) said that their representative had had contact. This is a decrease from 27 per cent in 2003 (Tables 6.2 and 6.3).
- Employers whose cases were settled by Acas were more likely than average to say they had a representative in contact with Acas (24 per cent) (Table 6.3).
- One half (48 per cent) of all claimants reported having direct contact with an Acas conciliator, in line with the proportion from 2003 (47 per cent). However, a smaller proportion of employers reported having contact with

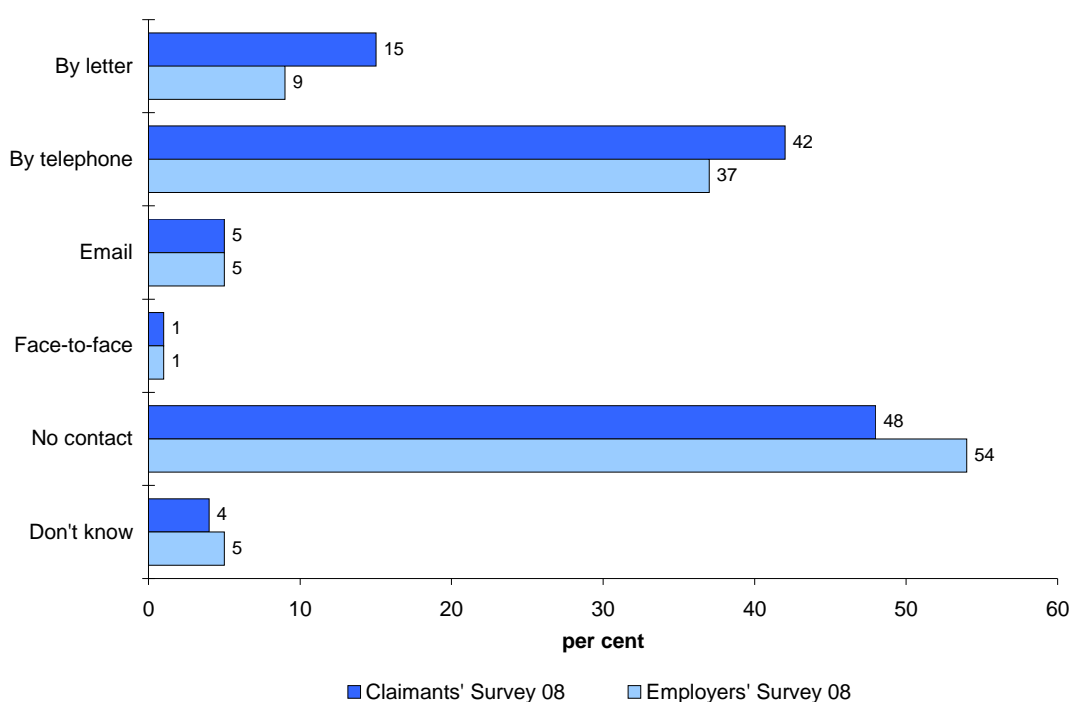
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<sup>37</sup> The research was conducted before the implementation of the enhanced Acas Helpline and Pre-Claim Conciliation Service and therefore these services have not been evaluated.

an Acas conciliator (41 per cent), and this was a decrease from the proportion found in SETA 2003 (47 per cent) (Tables 6.2 and 6.3).

- As shown in Figure 6.1, two-fifths (42 per cent) of all claimants recall speaking with an Acas conciliator over the telephone, reflecting the similar proportion observed in 2003 (39 per cent). Fifteen per cent of claimants recall having communication by letter, with only one per cent of all claimants reporting they had met with an Acas conciliator face-to-face. In 2003, these proportions were higher (20 per cent letter and six per cent face-to-face). In 2008 five per cent of claimants had also communicated via email.

**Figure 6.1: Contact with Acas\***



Unweighted Base: Claimants' Survey 2008: 2,020; Employers' Survey 2008: 2,007 (Based on all claimants/employers).

\* = Based on multiple response where claimants and employers were allowed to provide more than one answer.

Source: SETA 2008

- Nearly two-fifths (37 per cent) of employers recalled speaking with an Acas conciliator by telephone, while nine per cent recalled communicating by letter. Only one per cent reported meeting an Acas conciliator in person; five per cent recalled contact by email. The equivalent proportions from 2003 were higher: telephone (42 per cent), letter (18 per cent) and face-to-face (four per cent).
- Claimants whose case was settled by Acas were more likely than average to remember receiving an introductory letter (82 per cent), to have had personal contact with an Acas conciliator (55 per cent) and their

representative to have been in direct contact with an Acas conciliator (26 per cent). These findings broadly reflect the findings seen in 2003.

Respondents who had direct personal contact (telephone, face-to-face or email) with an Acas conciliator were asked whether they would have liked more or less contact. Claimants were more likely than employers to respond they would have liked more (30 versus 15 per cent). Four-fifths (82 per cent) of employers were happy with the amount of contact they had, compared with three-fifths (63 per cent) of claimants. Three per cent of both employers and claimants responded they would have liked less contact (Tables 6.4 and 6.5).

- Claimants whose cases were dismissed, withdrawn or unsuccessful at hearing were more likely to have liked more personal contact than those with other case outcomes (61 per cent, 41 per cent and 39 per cent respectively) (Table 6.4).
- Employers involved in cases in which the claimant was successful at the hearing were most likely to say that they would have liked direct contact with an Acas conciliator (26 per cent) (Table 6.5).
- Large employers were less likely to say that they would have liked more direct contact with Acas (eight per cent of employers with 250 or more employees compared with 18 per cent of employers with less than 250 employees) (Table 6.5).

Claimants who did not have direct personal contact with an Acas conciliator were more likely than employers with no direct personal contact to say that they would have liked to have direct contact with an Acas conciliator (57 versus 33 per cent).

- Claimants who were unsuccessful at hearing were most likely to say they would have liked direct personal contact with an Acas conciliator (74 per cent). The same was true for employers where the claimant was successful at the hearing (50 per cent).
- Claimants involved in unfair dismissal cases were more likely to say that they would have liked direct personal contact with an Acas conciliator during their case (62 per cent) than claimants involved in breach of contract cases (54 per cent) or Wages Act cases (46 per cent) cases.
- When claimants and employers were asked why Acas did not get involved in their case:
  - Eighteen per cent of employers said that they or their organisation had not wanted Acas involved in the case at the time, nine per cent of claimants reported that the employer did not want Acas to be involved.
  - Nine per cent of claimants said that they did not want Acas involvement in the case at the time whilst four per cent of employers mentioned that claimants had not wanted Acas involved.

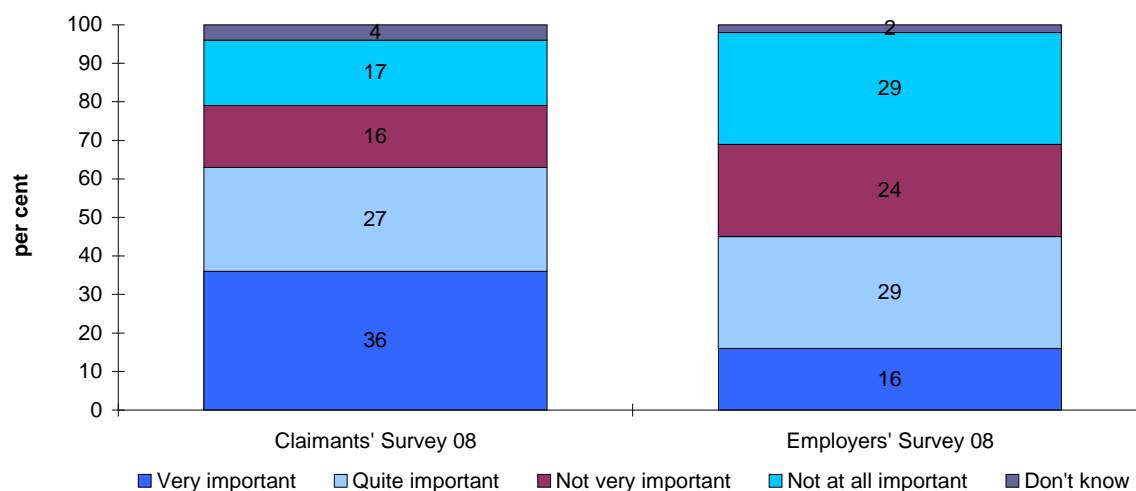
- Thirteen per cent of claimants and 17 per cent of employers said that neither side wanted Acas involved in the case.

## 6.2 Involvement of Acas

Respondents who personally had direct contact with an Acas conciliator were asked a number of questions regarding Acas' involvement in their case. These questions were new to 2008 so comparisons can not be made to the 2003 data.

- One half of both claimants and employers (49 and 48 per cent respectively) described the support they received from the Acas conciliator as a combination of advice and information. Twenty-eight per cent of both parties described it as information only and 12 per cent of both parties as advice only (Tables 6.6 and 6.7).
- Claimants were more likely than employers to say that the Acas conciliator had discussed their chances of winning the case (35 and 22 per cent respectively) (Tables 6.6 and 6.7).
- Respondents in cases that were settled were asked how likely they thought it was that they would have settled the case without Acas' involvement. Employers were more likely to say that they were likely to think that they would have settled the case without Acas' involvement (48 per cent) compared with 32 per cent of claimants (Table 6.8)
- As presented in Figure 6.2, claimants were more likely than employers to view Acas' involvement in their case as important in helping them to decide how to proceed with the case (63 versus 45 per cent).

**Figure 6.2: Whether Acas' involvement in the case was important in helping parties decide how to proceed with the case**



Unweighted Base: Claimants' Survey 2008: 873; Employers' survey 2008: 671 (Based on all claimants/employers who had direct contact with Acas conciliator).

Source: SETA 2008

- Claimants and employers expressed similar views as to whether or not they trusted the information given by the Acas conciliator. Two-thirds (66 per cent) of employers and 64 per cent of claimants completely trusted the information given to them, and a quarter (24 per cent) of both employers and claimants trusted it to a point. However, slightly more claimants than employers reported that they did not trust the information at all (8 per cent of claimants compared to 4 per cent of employers) (Table 6.9).
- Close to one half (46 per cent) of both claimants and employers recalled the Acas conciliator explaining that there was a possibility that if they lost the case they might be required to pay the other party's legal costs (Tables 6.10 and 6.11).
- Those respondents who recalled the Acas conciliator explaining that they may have to cover the cost of the other party's legal costs if they lost the case were asked how important this possibility was in deciding how to proceed with their case. Three-fifths (61 per cent) of claimants found this possibility important when deciding how to proceed with their case compared with just under a half of employers (47 per cent).
- The majority of both claimants and employers whose cases went to a hearing stated that the Acas conciliator did not discuss what the tribunal might award in similar cases (77 per cent of claimants and 80 per cent of employers) (Table 6.12).
- Finally, in relation to Acas' involvement, respondents were asked whether they felt that the Acas conciliator had been more on their side, more on the other party's side or even-handed. The majority of respondents felt that the Acas conciliator was even-handed although employers were more

likely to say this (78 per cent) than claimants (65 per cent). However, claimants were more likely to say that the Acas conciliator was on their side than employers were (12 per cent compared with three per cent) (Tables 6.10 and 6.11).

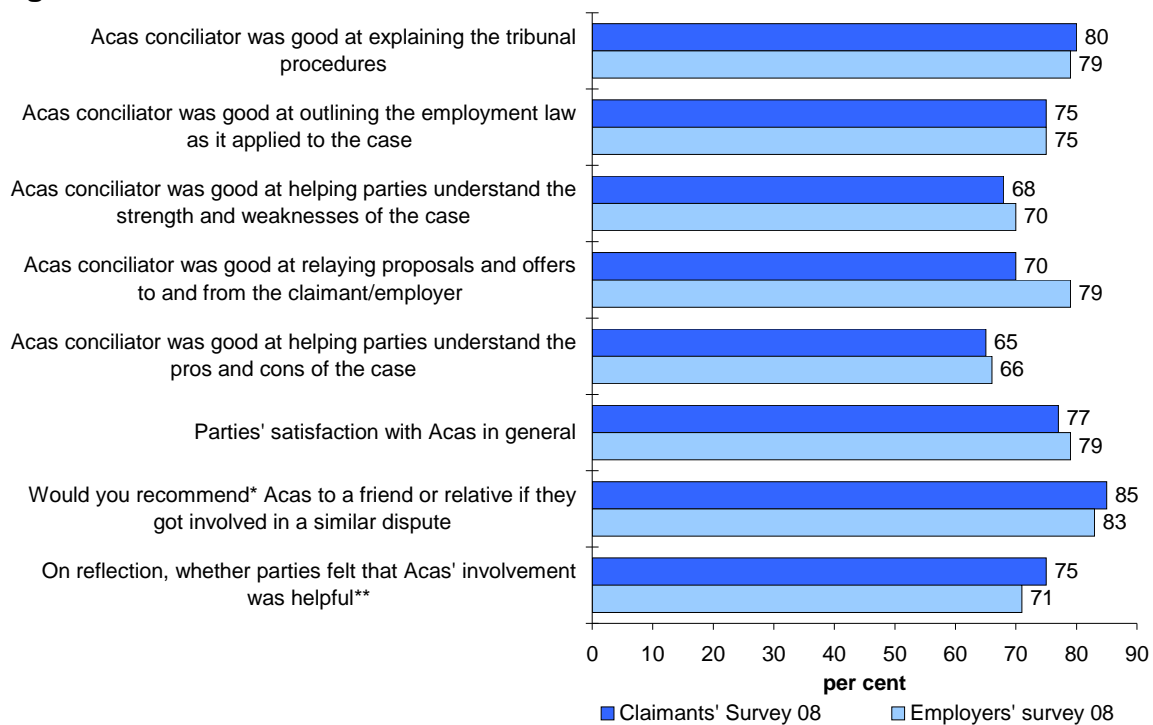
The detailed findings show that:

- Employers' views of the involvement of Acas varied by organisation size. Employers working in smaller organisations were more likely than those based in larger ones to say Acas' involvement was important in deciding how to proceed with the case and were more likely to recall that the Acas conciliator explained the possibility that if they lost the case they may have to cover the claimant's legal costs. Larger employers were more likely to feel that the Acas conciliator had been even-handed when dealing with their case than smaller employers (Tables 6.7 and 6.11).
- Claimant responses generally varied by case outcome, primary jurisdiction and whether it was a standard or short period case:
- Claimants involved in short period cases were least likely to say that they would have settled the case without Acas' involvement and most likely to say that they completely trusted the information given by the Acas conciliator.
- Claimants involved in Wages Act cases were most likely to find Acas' involvement very important in helping them to decide how to proceed in their case. Claimants involved in unfair dismissal claims were most likely to state that the Acas conciliator had explained that there was a possibility if they lost the case that they might be required to pay the employer legal costs (Tables 6.6 and 6.10).
- Claimants whose cases were settled by Acas were more likely than claimants with other case outcomes to state that the Acas conciliator had discussed their chances of winning the case if it went to a hearing and were most likely to regard Acas' involvement as important in helping them to decide how to proceed with the case. Claimants who withdrew their application were more likely than average to view the possibility of having to pay their employers' legal costs as important in deciding how they proceeded with their case. Claimants whose cases had been successful at the ET hearing were more likely than average to have felt Acas was on their side (Tables 6.6 and 6.10).

### 6.3 Satisfaction with Acas

Respondents who had direct contact with an Acas conciliator were asked to rate how good they felt Acas and the Acas conciliator were in a number of different areas. As with the questions relating to Acas' involvement, these questions were asked for the first time in 2008. The ratings are presented in Figure 6.3.

**Figure 6.3: Satisfaction with Acas**



Unweighted Base: Claimants' Survey 2008: Bases varied from 707 to 969 due to missing or N/A values in the data (Based on all claimants who had direct contact with and rated the Acas conciliator); Employers' Survey 2008: Bases varied from 472 to 725 due to missing or N/A values in the data (Based on all employers who had direct contact with and rated the Acas conciliator).

\* = This includes the responses of definitely and probably yes. \*\* = This includes those who said yes.

Source: SETA 2008

- Four-fifths of claimants and employers (80 per cent and 79 per cent respectively) rated the Acas conciliators as good<sup>38</sup> in terms of explaining the Employment Tribunal Procedures.
- Three-quarters (75 per cent) of both claimants and employers said that they would rate the Acas conciliator as good at outlining the (employment) law as it applied to their case.
- Seventy per cent of employers and 68 per cent of claimants rated the Acas conciliator as good at helping them understand the strengths and weaknesses of their case.
- Employers were more likely than claimants to feel that the Acas conciliator was good in terms of relaying proposals and offers to and from the other party (79 versus 70 per cent).
- Two-thirds of employers and claimants (66 per cent and 65 per cent respectively) rated the Acas conciliator as good at helping them to

<sup>38</sup> 'Good' is a combination of 'very good' and 'fairly good'.

consider the pros and cons of settling their case without going to a full tribunal hearing.

- Claimants were asked if a friend or relative got involved in a similar case whether they would advise them to make use of the services of Acas and employers whether they would recommend Acas' services if their organisation got involved in a similar dispute. Answers were generally positive with 85 per cent of claimants and 83 per cent of employers responding 'yes' (Figure 6.3).
- When asked on reflection whether they thought Acas' involvement was helpful, the majority of both claimants and employers answered 'yes'<sup>39</sup> (75 and 71 per cent respectively) (Tables 6.20 and 6.25).
- The majority of claimant and employers who had any contact with an Acas conciliator reported that they were satisfied in general with the service they had received from Acas in their case (77 per cent of claimants and 79 per cent of employers) (Table 6.26). Respondents who were dissatisfied with the service in general were asked why this was, 31 per cent said 'did not do anything/did not help', 25 per cent 'did not give enough information/advice' and 18 per cent 'did not have enough contact'.

The main sub-group findings that emerged were:

- Claimants whose case was settled by Acas were more likely than claimants with any other case outcome to be satisfied in general with the service they received from Acas. Amongst employers, those whose case was either settled by Acas or withdrawn were more likely to be satisfied with the service (Table 6.27 and 6.28).
- Employers' ratings of how good they felt the Acas conciliator was at explaining the Employment Tribunal procedures, outlining the employment law and explaining the strengths and weaknesses of the case tended to vary with employer size. Generally smaller employers were more likely than larger employers to rate the Acas conciliator as very good (Table 6.21-6.22)
- Unsurprisingly, employers whose case was settled by Acas were more likely than average to rate the Acas conciliator as very good in terms of relaying proposals to and from the claimant (57 per cent) (Table 6.23).
- Employers whose organisation had less than 250 employees were less likely to respond 'definitely yes' to recommending Acas in the future (52 per cent) than those whose organisation had 250 or more employees (63 per cent) (Table 6.25)

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<sup>39</sup> 'Yes' is a combination of those claimants and employers who responded definitely yes and probably yes.



- As with the findings relating to Acas' involvement, claimant results varied with case outcome, primary jurisdiction and whether it was a standard or short period case:
- Claimants involved in short period cases were most likely to rate the Acas conciliator as very good in terms of explaining the Employment Tribunal procedures, helping them understand the strengths and weaknesses of their case, relaying proposals and offers to and from an employer, helping them to consider the pros and cons of settling their case without going to a full tribunal hearing and most likely to say that they would advise a friend or relative to make use of Acas services (Tables 6.14, 6.16, 6.18, 6.20).
- Claimants whose case was settled by Acas were most likely to rate the Acas conciliator as very good at outlining the employment law as it applied to their case, in terms of relaying proposals and offers to and from an employer, helping them to consider the pros and cons of settling their case without going to a full tribunal hearing, recommend Acas to a friend or relative and say that Acas' involvement was helpful on reflection (Tables 6.13, 6.15, 6.17, 6.19).

## CHAPTER SEVEN

# Role of employment tribunals

This chapter provides information on the parties' knowledge and experience of the Employment Tribunal system (ET system) prior to the employment claim and during the case. Some findings about the parties' satisfaction with both the ET hearing and the system as a whole are also presented. Where applicable, findings are compared to those found in SETA 2003.

### 7.1 Findings from the claimants' survey

#### ***Awareness of ET system***

All claimants were asked whether, before the dispute with their employer arose and before they made an employment claim, they were aware that a worker could apply for an Employment Tribunal if they believed an employer was not respecting their legal rights. Three-fifths (58 per cent) of all claimants said that they were aware of this. In 2003 a higher proportion of claimants said that they were aware of this (65 per cent). Seven per cent of all claimants had made a previous employment claim; this proportion was in line with 2003. The detailed findings (Table 7.1) show that:

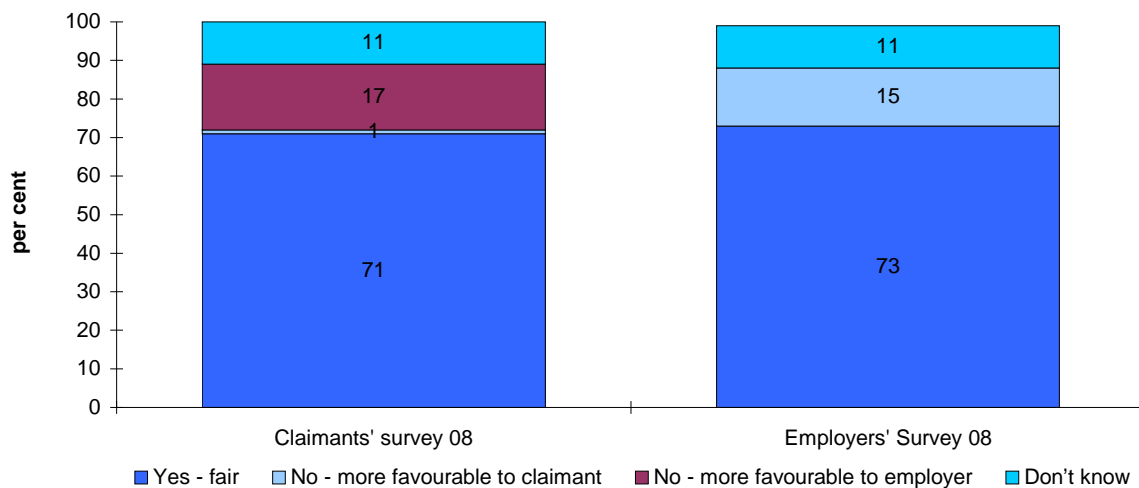
- Claimants aged 45 or over were more likely to be aware that a worker could apply for an Employment Tribunal (64 per cent) than claimants aged under 45 (54 per cent). This was also apparent in 2003 (72 versus 60 per cent) (Table 7.1).
- Unsurprisingly, claimants aged 45 or over were also more likely to have made a previous ET application (nine per cent) than claimants aged 45 and under (five per cent). These findings are in line with data reported in 2003 (Table 7.1).
- Looking at claimants who had made a previous employment claim; four-fifths (79 per cent) had made one previous claim, one eighth (12 per cent) had made two previous claims and seven per cent had made more than two previous claims.
- Eleven per cent of claimants said their current employment claim was initially rejected and re-submitted. The detailed findings show that (Table 7.2):

- Claimants whose primary jurisdiction was unfair dismissal were less likely to say their current employment claim had been rejected and resubmitted (seven per cent) than claimants whose primary jurisdiction was redundancy payments (18 per cent) or discrimination (15 per cent).
- To further explore awareness of the ET system, claimants who attended an ET hearing but were not represented were asked why this was. A variety of answers were given. Two-fifths (38 per cent) said that they thought they could handle the hearing alone, 37 per cent said that they could not afford legal representation and five per cent said that they were not aware that they could.

### Satisfaction with ET hearing

- Claimants whose case involved a decision at a tribunal were asked whether they felt that the Tribunal gave each party a fair chance to make their case. As given in Figure 7.1, seven in ten (71 per cent) claimants believed that the ET hearing gave each party a fair chance to make their case. A further one sixth (17 per cent) felt that the hearing was more favourable to the employer, and only one per cent said that it favoured the claimant. Eleven per cent of claimants responded don't know to the question.

**Figure 7.1: Whether the tribunal gave each party a fair chance to make their case**



Unweighted Base: Claimants' Survey 2008: 450 (Based on all claimants whose case involved a decision at tribunal); Employers' Survey 2008: 297 (Based on all employers with personal responsibility for case which involved a decision at tribunal).

Source: SETA 2008

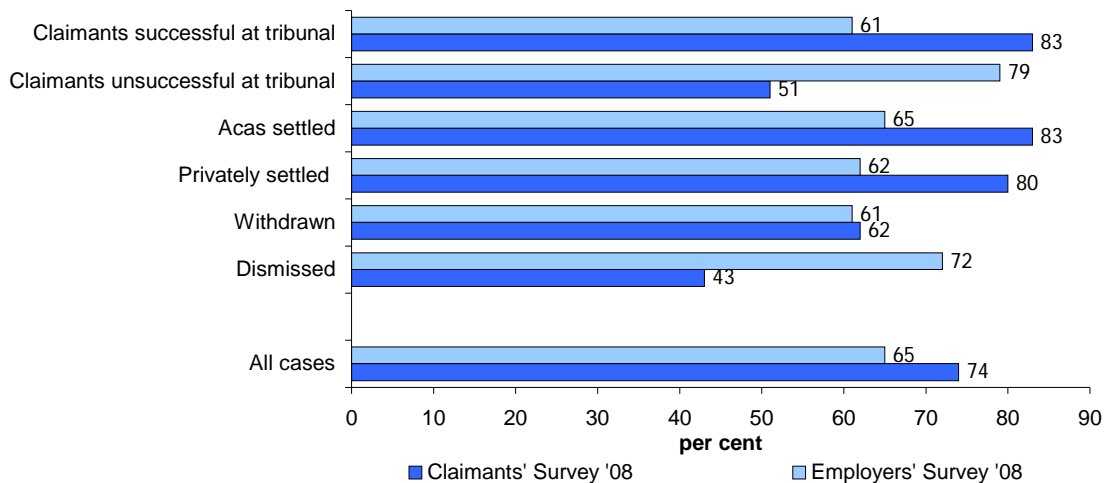
- Satisfaction is often driven by outcome. Claimants who were successful at tribunal were considerably more likely to say that the ET hearing gave each party a fair chance to make their case (80 per cent) than claimants who were unsuccessful at the hearing (52 per cent). This was also the case in 2003 (91 versus 50 per cent) (Table 7.3).

## Satisfaction with ET system

- When asked in general how satisfied they were with the workings of the ETs, three-quarters (74 per cent) of claimants said that they were satisfied, with 36 per cent very satisfied. These proportions are similar to those found in 2003 where 72 per cent of claimants were satisfied with a third (33 per cent) very satisfied. One-fifth (20 per cent) of claimants said that they were dissatisfied with the workings of the ET system compared with 23 per cent in 2003. The detailed findings (Table 7.4) show that satisfaction varied with claimant age and outcome of case:
- Unsurprisingly, as satisfaction is often driven by outcome, claimants whose cases were dismissed or were unsuccessful at the hearing were likely to be least satisfied with the workings of the ET system (43 per cent and 51 per cent respectively).
- Claimants who were dissatisfied with the workings of the ET system were asked why this was. A variety of answers were given. A quarter (25 per cent) of claimants said they wanted more information and advice about the procedures, 14 per cent because the tribunal system is unfair/failing and 12 per cent of respondents mentioned the need for a quicker timescale (Table 7.5).

Figure 7.2 compares the proportions of claimants and employers who were satisfied with the workings of the ET system, by their case outcome.

**Figure 7.2: Proportion of those who were satisfied with the workings of the ET System, by the outcome of the case\***



Unweighted Base: Claimants' Survey 2008: 2,020 (Based on all claimants); Employers' Survey 2008: 1,736 (Based on all employers with personal responsibility for case).

\* = This includes the responses of 'very' and 'quite' satisfied.

Source: SETA 2008

## 7.2 Findings from the employers' survey

### *Awareness of ET system*

As noted in Chapter 2, 59 per cent of employers had experience of personally dealing with an employment claim to an Employment Tribunal prior to the case in question. This is in line with the figure found in 2003 (57 per cent). Employers were then asked how many tribunal cases, excluding the one in question, their organisation had been involved in over the previous two years. Two-fifths (41 per cent) of employers' organisations had not been involved in any other tribunal cases in the previous two years; 13 per cent had experience of one other case during this time period; 21 per cent two to five cases; eight per cent six to ten cases; and nine per cent more than ten cases. These findings are broadly in line with those found in 2003. The detailed findings (Table 7.6) show that:

- Employers in organisations with 250 or more employees were far more likely than employers with less than 250 employees to have personally dealt with a previous employment claim to an Employment Tribunal (87 versus 37 per cent). This was also found in 2003 (84 versus 41 per cent).
- Employers who attended an ET hearing but were not represented were also asked why this was. A variety of answers were given. Forty-four per cent said that they thought the organisation could handle it alone, a fifth (21 per cent) could not afford legal representation and one in ten (10 per cent) said because they knew what the outcome would be.

### *Satisfaction with ET hearing*

- Employers who had personal responsibility for the case and whose case involved a decision at a Tribunal were asked whether they felt that the Tribunal gave each party a fair chance to make their case. As given in Figure 7.1, nearly three-quarters (73 per cent) of employers believed that the ET hearing gave each party a fair chance to make their case, while around a seventh (15 per cent) felt that the hearing was more favourable to the claimant. There were no employers that said that the process favoured their organisation. These proportions are similar to those recorded for claimant respondents and to those found in 2003 for employers. The detailed findings (Table 7.7) show that:
- Employers with 250 or more employees were more likely than those with less than 250 employees to feel that the ET hearing gave each party a fair chance to make their case (83 versus 67 per cent). This was also the case in 2003 (86 versus 70 per cent).
- Employers involved in cases where the claimant was unsuccessful at the hearing were more likely to feel that the ET hearing gave each party a fair chance to make their case (86 per cent) than those where the claimant was successful at the hearing (60 per cent).

### ***Satisfaction with ET system***

- Employers were asked how satisfied they were with the workings of the ET system in general. Two-thirds (65 per cent) of employers said that they were satisfied, with a fifth (21 per cent) saying that they were very satisfied. A quarter (25 per cent) of employers said that they were dissatisfied. These employer findings are in line with those from 2003. Employers were less likely than claimants to say that they were satisfied with the ET system in general (65 versus 74 per cent). In line with satisfaction with the ET hearing, satisfaction with the ET system was found to vary with organisation size and case outcome at the tribunal (Table 7.8):
- Employers whose organisation had 250 or more employees were more likely to say that they were satisfied (76 per cent) than those organisations with less than 250 employees (58 per cent). This was also the case in 2003 (72 versus 61 per cent).
- The outcome of the case drove satisfaction with the ET system for employers, with employers involved in cases in which the claimant was unsuccessful at the tribunal were more likely to be satisfied with the ET system in general (79 per cent) than those in which the claimant was successful at the hearing (61 per cent).
- Employers who said that they were dissatisfied with the workings of the ET system in general were asked why this was. A variety of answers were given. Two-fifths (39 per cent) of employers said because the tribunal system is unfair/failing, 15 per cent mentioned that the tribunal should assess validity of claim before proceeding and 12 per cent said that it was too easy for an employee to take a company to court (Table 7.9).

## CHAPTER EIGHT

# Tribunal hearings

This section examines the issues surrounding tribunal hearings. This includes preliminary hearings, attendance and representation at the tribunal by both parties, and the length of tribunal hearings. This section also presents some findings about the parties' use and experience of the appeals procedure.

Many of the aspects covered in this chapter are of a factual nature: the use of preliminary hearings, the length of hearings and the use of appeals. Analysis of these aspects is therefore primarily based on combined employer and claimant data (in line with the 2003 analysis). However for all aspects, comparisons between claimant and employer data were examined and cases where differences existed are reported on.

### 8.1 Preliminary hearings

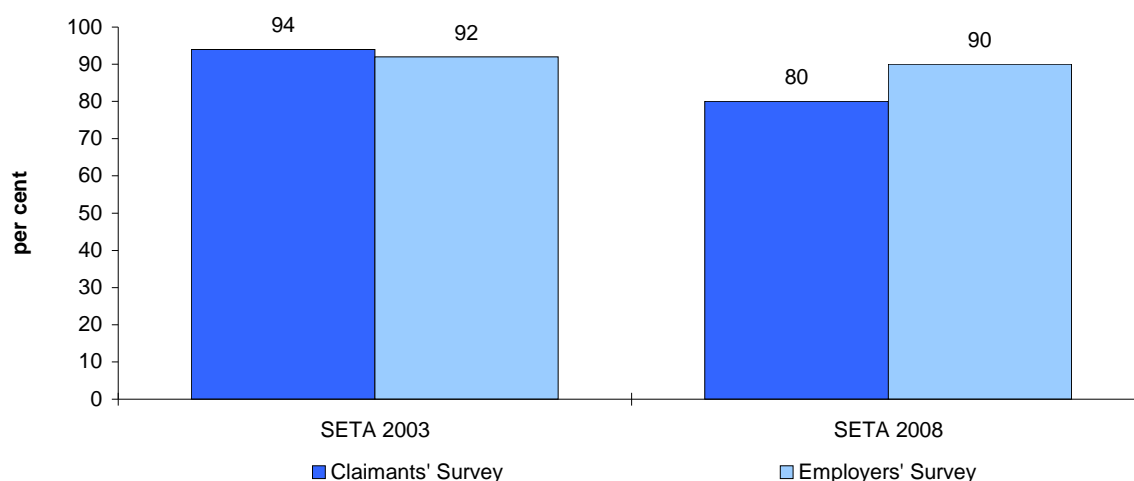
All respondents, both claimants and employers, were asked whether any hearings with the tribunal were held *before* the full tribunal hearing for the case in question took place (or if the case did not go to a full hearing whether there were any hearings at any stage).

- Four-fifths (80 per cent) of respondents reported that there had not been any preliminary hearings in their case. Twelve per cent said that there had been one preliminary hearing and just three per cent stated that there had been more than one preliminary hearing (Table 8.1). In 2003, the proportion reporting that there had not been any preliminary hearings was higher (88 per cent).
- Claimants and employers in cases where the primary jurisdiction was discrimination were most likely to report that one or more preliminary hearings took place (27 per cent).
- Claimants and employers whose cases were dismissed were most likely to say that one or more preliminary hearings took place (43 per cent).
- Similar findings were found in 2003 with claimants and employers involved in cases brought under the discrimination jurisdiction and cases which were dismissed being more likely than average to say that one or more preliminary hearings took place (16 and 30 per cent respectively).

## 8.2 Attendance and presentation of case at tribunal hearings

- As presented in Figure 8.1, the majority (80 per cent) of claimants whose cases involved a decision at a tribunal personally attended the full tribunal hearing (also shown in Table 8.2).
- Employers whose cases involved a decision at tribunal were more likely than claimants to state that either they or someone else from their organisation attended the full tribunal hearing (90 per cent) (Table 8.3).
- Figure 8.1 also shows that for both claimants and employers, the proportions found in 2008 were less than those found in 2003. In 2003, 94 per cent of claimants whose case involved a decision at a tribunal personally attended the full tribunal hearing. The equivalent figure for employers was 92 per cent.

**Figure 8.1: Proportion of those who attended the full tribunal hearing\***



Unweighted Base: Claimants' Survey in SETA 2003: 456 (Based on all claimants whose case involved a decision at tribunal); Employers' survey in SETA 2003: 395 (Based on all employers involved in a case with a decision at tribunal); Claimants' Survey in 2008: 450 (Based on all claimants whose case involved a decision at tribunal); Employers' Survey in SETA 2008: 336 (Based on all employers involved in a case with a decision at tribunal).

\* = for employers, this question includes 'whether employer or someone else from the organisation' attended the hearing

Source: SETA 2003/SETA 2008

The detailed findings show that:

- Claimants who were unsuccessful at hearing were more likely to have attended the full tribunal hearing (92 per cent) than claimants who were successful at the hearing (75 per cent) (Table 8.2)
- Employers who were involved in a case where the claimant was unsuccessful at the hearing were more likely to state that either they or someone else from their organisation attended the full tribunal hearing (94 per cent) compared with employers involved in cases where the claimant was successful (85 per cent) (Table 8.3)



- Both employers and claimants involved in short period cases were less likely to state that they attended the full tribunal hearing (80 and 61 per cent respectively) compared with those involved in open period cases involving discrimination claims (employers 93 per cent, claimants 94 per cent) and those involved in standard period cases (employers 94 per cent, claimants 94 per cent).

As mentioned in Chapter 5, employers were more likely than claimants to be represented at a full tribunal hearing (73 versus 34 per cent). Further details on both parties' use of representation at tribunal hearings can be found in the *Sources of advice and representation – Representation at tribunal hearing* section of Chapter 5.

- Tribunal cases were often presented by solicitors, barristers or other kinds of legal advisors for both employers and claimants (38 and 32 per cent respectively) (Tables 8.4 and 8.5). These figures are broadly in line with those found in 2003.
- Just over a third of claimants presented their case themselves (34 per cent), whilst 22 per cent of employers had someone from their organisation present their case or did so personally (Tables 8.4 and 8.5). These figures are similar to those found in 2003.
- Around a quarter (23 per cent) of employers did not attend the tribunal and therefore had nobody present their case. The equivalent figure for claimants was eight per cent. (Tables 8.4 and 8.5).

The detailed findings (Tables 8.4 and 8.5) show that:

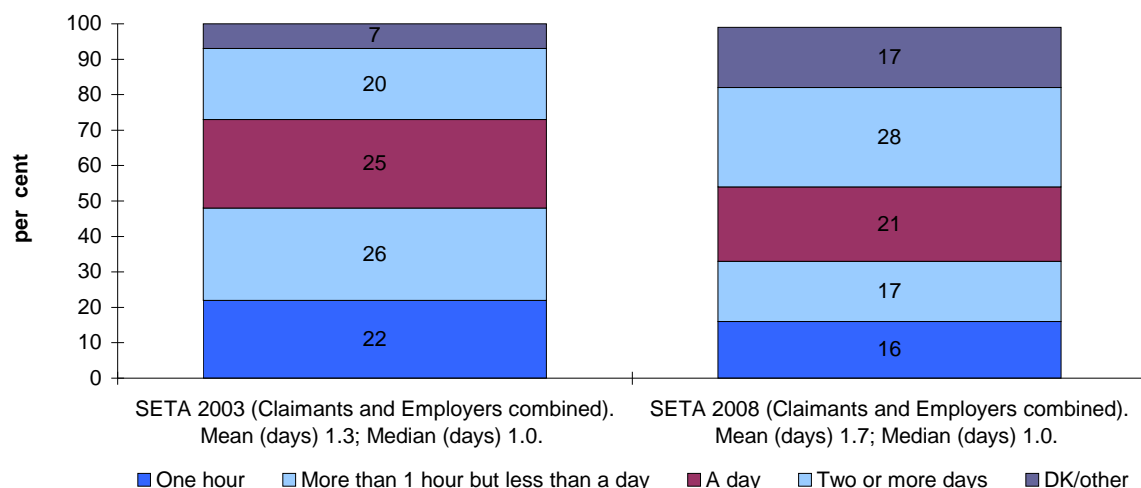
- Employers involved in cases where the claimant was unsuccessful at the hearing were more likely than those involved in a case where the claimant was successful at the hearing to have their case presented by a solicitor, barrister or some other kind of lawyer/legal advisor (66 versus 25 per cent).
- Employers involved in short period cases were more likely to have nobody present their case (40 per cent) than those employers who were involved in standard period cases (15 per cent) or open period discrimination cases (two per cent).
- Claimants whose case was unsuccessful at the hearing were more likely to have nobody present their case (12 per cent) than claimants whose case was successful at the hearing (three per cent).
- The parties were asked how well prepared they felt for the full hearing. Three-quarters (77 per cent) of employers responded that they felt very well prepared for the full hearing compared with half (49 per cent) of claimants. The more detailed findings show that (Tables 8.6 and 8.7):

- Employers were more likely to feel very prepared for the full hearing in cases where the claimant was unsuccessful at the hearing (87 per cent) compared with cases where the claimant was successful at the hearing (66 per cent) (Table 8.7).
- Large employers were also more likely to feel very prepared. Eighty-eight per cent of employers whose organisation had 250 or more employees felt very prepared, decreasing to 71 per cent for those organisations with less than 250 employees (Table 8.7).
- Claimants involved in a case brought under the unfair dismissal primary jurisdiction were less likely to feel very prepared (32 per cent) than those cases brought under Wages Act (52 per cent) or breach of contract (65 per cent) (Table 8.6).

### 8.3 Length of tribunal hearings

- As shown in Figure 8.2, sixteen per cent of cases that involved a decision at a tribunal lasted for only one hour and a further 17 per cent took longer than an hour but less than a day. Around a fifth (21 per cent) lasted a whole day and a further 28 per cent of cases took a total of two or more days (Table 8.8).
- The mean number of days spent on cases that involved a decision at tribunal was 1.8 and the median number of days was one. The median figure was the same as that found in 2003, there had been a slight increase in the mean from 1.3 in 2003.

**Figure 8.2: Length of tribunal hearings**



Unweighted Base: SETA 2003: 820 (Based on all claimants whose case involved a decision at tribunal and all employers with personal responsibility for case which involved a decision at tribunal); SETA 2008: 747 (Based on all claimants whose case involved a decision at tribunal and all employers with personal responsibility for case which involved a decision at tribunal).

Source: SETA 2003/SETA 2008

- All parties whose case involved a decision at tribunal were asked whether the date they were originally given was postponed at any time and how many times. The response given by claimants and employers were similar. The responses given by both claimants and employers were: original date was not postponed (64 per cent), postponed once (18 per cent), postponed twice (five per cent), postponed three times (three per cent) and postponed more than three times (two per cent).
- For cases where the tribunal was postponed, parties were asked who had requested the postponement. Forty-five per cent of claimants said that the employer/organisation had requested the postponement versus a quarter of employers (24 per cent). Employers were most likely to state that the claimant had requested the postponement (37 per cent); this is a higher proportion than the claimants responded themselves (nine per cent).

## 8.4 Appeals

- Fourteen per cent of cases which involved a decision at a full tribunal made an appeal to the Employment Appeal Tribunal. This is higher than the proportion found in 2003, where the comparable figure was eight per cent (Table 8.9).
- Where an appeal was made to the Employment Appeal Tribunal (EAT), 57 per cent were made by claimants and two-fifths (41 per cent) were made by employers. These figures were broadly in line with those found in 2003 (Table 8.10).
- In cases where an appeal was made to the EAT, around two-fifths of the appeals (41 per cent) resulted in a review hearing about the original decision made at the full tribunal hearing (Table 8.11). Seven in ten of these cases saw the original decision confirmed at the full tribunal hearing and three in ten resulted in the original decision being changed (Table 8.12).

It should be noted that due to the small base sizes relating to these appeal cases, these results should be treated as indicative only. Furthermore, the significant increase reported here does not seem to be consistent with the EAT statistics.

## CHAPTER NINE

# Outcome

This chapter provides information on the outcome of Employment Tribunal applications. There are six possible outcomes for an Employment Tribunal application: withdrawn, dismissed, Acas settled, privately settled, full hearing found in favour of the claimant, and full hearing not found in favour of the claimant. The main focus here is on settled and withdrawn cases, as this is where the government statistics on the outcome of Employment Tribunal applications are lacking.

SETA outcome has been used as the main outcome variable in this chapter. In the introduction to this report, the distinction was made between the SETA and ETHOS outcome. In particular, it was explained that SETA outcome enabled a distinction to be made between withdrawn and privately settled cases. A separate technical report contains further details on SETA outcome and how this compares with ETHOS outcome.

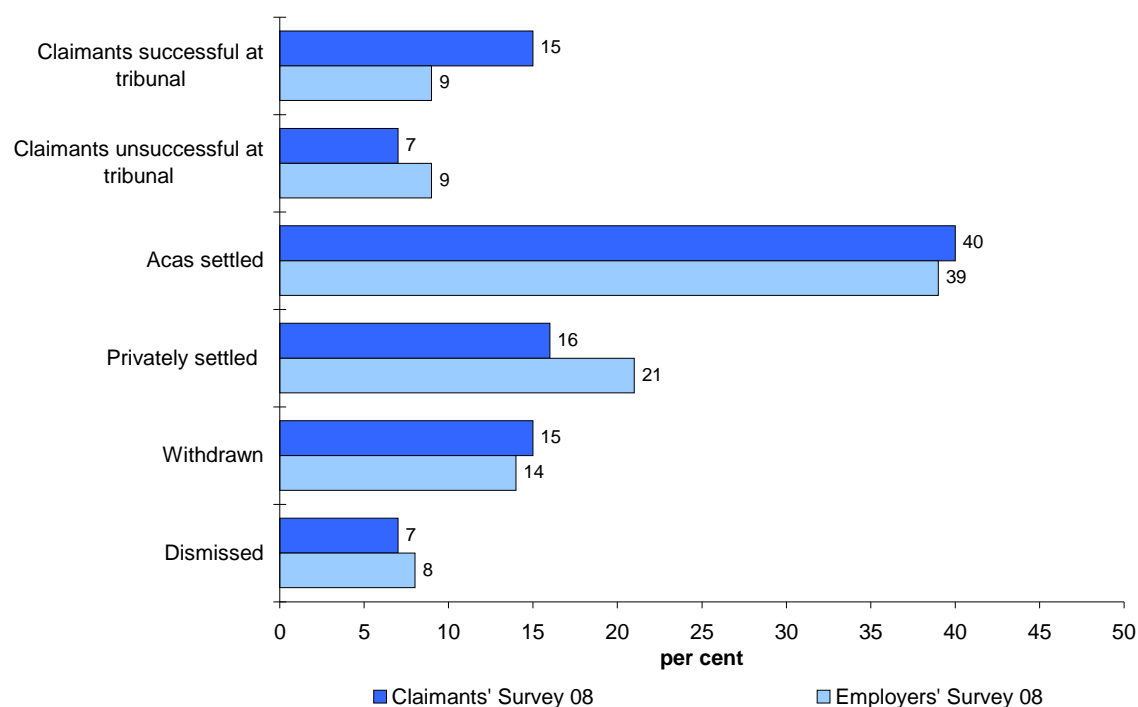
Similarly to the previous chapter, many of the aspects covered in this chapter are of a factual nature: the overview of SETA outcome, settlement details and tribunal orders and awards. Analysis of these aspects is therefore primarily based on combined employer and claimant data (in line with the 2003 analysis). However for all aspects, comparisons between claimant and employer data were examined and cases where differences existed are reported on.

### 9.1 Overview of SETA outcome

As presented in Figure 9.1, similar proportions of claimants and employers settled their cases through Acas (40 and 39 per cent, respectively). Over one in five (21 per cent) of employers and 16 per cent of claimants settled privately. Almost one in ten employers (nine per cent) and 15 per cent of claimants were successful at tribunal, whilst nine per cent of employers and seven per cent of claimants were unsuccessful. Similar proportions of claimants and employers had their cases dismissed (seven and eight per cent, respectively) or withdrawn (15 and 14 per cent, respectively).

The combined cases show that three-fifths (58 per cent) of all cases were settled, two-fifths (39 per cent) through Acas and one fifth (19 per cent) privately. In 12 per cent of all cases, claimants were successful at tribunal and in eight per cent claimants were unsuccessful. Fifteen per cent of all cases were withdrawn. The remaining eight per cent of all cases were dismissed or disposed of or had another outcome (Table 9.1).

**Figure 9.1: The outcomes of Employment Tribunal applications**



Unweighted Base: Claimants' Survey 2008: 2,020; Employers' Survey 2008: 2,007 (Based on all claimants/employers).

Source: SETA 2003/SETA 2008

SETA outcome in the 2008 survey broadly resembles that reported in 2003, although there has been a slight decrease in the proportion of cases which were resolved without a need for judicial determination (73 per cent in 2008 compared with 76 per cent in 2003)<sup>40</sup>.

A compromise agreement was used in two-thirds (66 per cent) of privately settled cases (Table 9.2). This represents a notable increase on the figure reported in 2003 (49 per cent). As in 2003, compromise agreements were more likely than average to be used in unfair dismissal (80 per cent) and discrimination cases (75 per cent), whereas they were signed in only three in ten (29 per cent) Wages Act cases (Table 9.2). It should be noted, that there were some differences between employer and claimant accounts of the use of compromise agreements. Employers were more likely than claimants to report that the claimant was required to sign a compromise agreement (73 per cent versus 59 per cent) (Table 9.3).

In line with the data reported in 2003, compromise agreements were more prevalent in cases where the employer was represented (79 per cent). However, whereas in 2003 they also were more likely to be used if the claimant was represented, no such difference was apparent in the 2008 data.

<sup>40</sup> It should be noted, cases resolved without the need for judicial determination include cases which were withdrawn. However, a claimant may not necessarily view this as 'resolved' outcome.

## 9.2 Outcomes by claimant characteristics

- Reflecting the findings observed in 2003, sex and ethnicity generally made little difference to SETA outcome. Female claimants were however more likely to have settled (including both privately settled and Acas settled) their case than male claimants (60 versus 53 per cent).
- There was a correlation between privately settled cases and age: older claimants were more likely to privately settle their case (23 per cent of those aged 65 and over decreasing to 11 per cent of those aged under 25) (Table 9.4).
- Claimants who were a member of a trade union or staff association were more likely than those who were not to privately settle (20 versus 15 per cent) or withdraw their case (24 versus 13 per cent).
- Claimants with a representative were more likely to privately settle their case (20 versus 13 per cent of those with no representative).
- As in 2003, there were only minor variations according to standard occupations (Table 9.5).

## 9.3 Outcomes by employer characteristics

- Size of enterprise had a minimal impact on whether a case was settled, withdrawn or dismissed, as was also found in 2003.
- As in 2003, claimants who brought a claim against a small organisation (with less than 25 employees) were a little more likely than those who brought cases against larger employers to be successful at a full tribunal hearing (Table 9.6). However, this finding is a feature of representation, with larger employers more likely than smaller organisations to have representation.
- Cases brought against public sector organisations were less likely than private sector cases to be settled by Acas (30 versus 42 per cent) (Table 9.6).

## 9.4 Outcome by primary jurisdiction

Settlements were common in breach of contract (60 per cent), discrimination (59 per cent) and unfair dismissal cases (58 per cent). They were slightly less common in Wages Act cases (53 per cent). Less than one half (46 per cent) of redundancy payments cases were settled (Table 9.6). Reflecting the 2003 findings, redundancy payments cases were the least likely to be Acas settled (21 per cent). However, in change from 2003, discrimination were the most likely to be Acas settled (42 per cent).

Cases with open periods were more likely than average to be Acas settled (45 versus 39 per cent standard, 34 per cent short). Primary jurisdiction had some

impact on whether a case went to tribunal. Redundancy payment (short period) cases were most likely to go to a full tribunal (33 per cent) and discrimination (open period) cases were least likely to do so (14 per cent) (Table 9.7).

In terms of the tribunal outcome, the claimants were more likely to be successful in Wages Act and redundancy payment cases. In Wages Act cases, one-quarter (23 per cent) of claimants were successful at tribunal, compared with eight per cent who were unsuccessful. Claimants were successful in three in ten (31 per cent) redundancy payment cases at tribunal and unsuccessful in only two per cent. These findings are in line with those observed in 2003.

Whether a case was withdrawn did vary slightly by primary jurisdiction. Discrimination cases were mostly likely to have been withdrawn (18 per cent). This is consistent with the findings seen in 2003. Wages Act and breach of contract cases were the least likely to be withdrawn (11 and 12 per cent respectively).

## 9.5 Settlement details

In addition to cases that were actually settled (58 per cent), a further one-quarter (27 per cent) of claimants and employers reported settlements being offered in other cases which were withdrawn, dismissed or went to a full tribunal hearing.

An offer was least likely to be made in redundancy payment cases that were not settled. An offer was made in only ten per cent of these cases that did not settle.

In non-settled cases, an offer by either party was more likely to be proposed in cases that went to full tribunal (33 per cent) than in those that were withdrawn (24 per cent) or dismissed (15 per cent). These sub-group variations amongst non-settled cases in relation to offers being proposed are similar to those observed in 2003.

In all cases where an offer was made, the initial offer was more than three times more likely to have been proposed by employers than claimants. Close to two-fifths (37 per cent) of respondents reported that the first offer came from the employer, whilst one in nine (11 per cent) said it originated with the claimant. A further quarter (27 per cent) said the employer's advisor or representative had taken the initiative, ten per cent the claimant's advisor or representative and five per cent cited Acas (Table 9.8). Looking at the separate responses from claimants and employers, claimants were more likely than employers to report that the initial offer was made by the employer (45 per cent versus 30 per cent) and the employer's representative (30 per cent compared to 25 per cent). Employers were more likely than claimants to report that it was made by the claimant's representative (13 per cent versus 6 per cent) or to report a 'don't know' response (13 per cent compared with 3 per cent) (Table 9.9).

Initial offers were most likely to have been made by employers in Wages Act cases (51 per cent), whilst employers involved in redundancy payments and discrimination cases were the least likely to have made the first offer (29 and 30 per cent respectively).

One half (49 per cent) of respondents in cases where an offer was made reported that, following the initial offer, a further offer was proposed, either by themselves, the other party in the case or their representatives. There was very little difference apparent between the figures for who proposed the final and initial offers (Table 9.10). However, not all proposals in such cases resulted in an offer actually being made. Similarly to the initial offers, there were some differences in accounts of who proposed the final settlement between employers and claimants (Table 9.11).

Reflecting the findings observed in 2003, ninety-three per cent of cases that settled involved money. The next most common settlement was a reference, provided in one fifth (19 per cent) of settled cases. Primary jurisdiction had some minor effects on the details of the settlement (Table 9.12). A reference was more likely to be included in unfair dismissal (23 per cent) and discrimination cases (22 per cent) than in Wages Act cases (five per cent). There were very few differences in the settlement details reported amongst claimants and employers (Table 9.13).

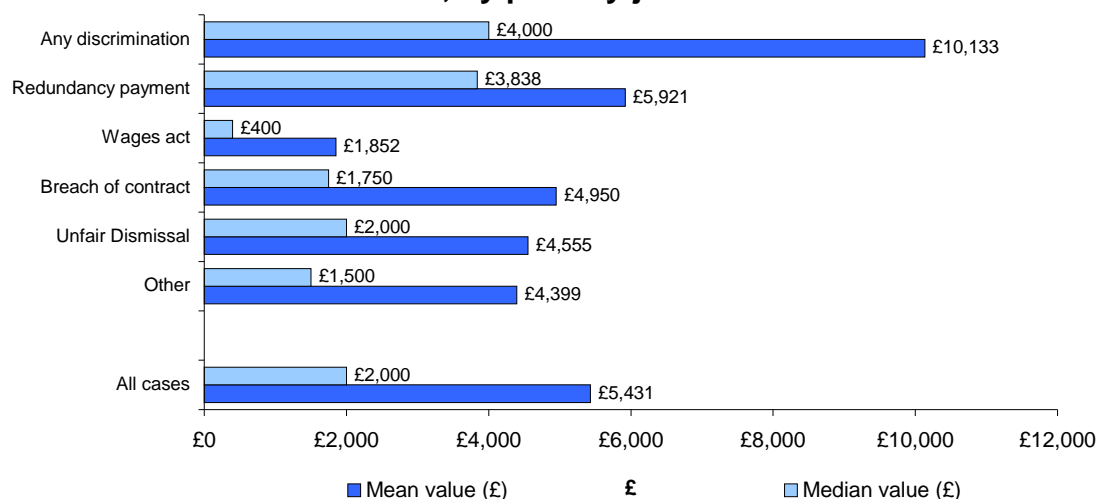
Where money was included in a settlement, this could be money owed to the claimant or compensation. In three in ten (29 per cent) financial settlements, this was money owed and in two-fifths (41 per cent) it was compensation. (This represents a reversal of the position in 2003 where the figures for 'money owed' and 'compensation' were 38 and 33 per cent respectively.) In one-fifth (21 per cent) of financial settlements it was both money owed and compensation (as was also the case in 2003).

Compensation alone was most likely in unfair dismissal (68 per cent) and discrimination cases (59 per cent). Money owed alone was most common in Wages Act cases (86 per cent). Large organisations were more likely than small ones to offer compensation alone (44 per cent of organisations with 250 or more employees decreasing to 38 per cent of organisations with less than 25 employees). Conversely, small organisations were more likely than large ones to offer money that was owed alone (29 per cent of those with less than 25 employees falling to 20 per cent of those with 250 or more employees). Again, these sub-group findings largely reflect those observed in 2003.

As presented in Figure 9.2, the mean settlement amount in cases involving money was £5,431. However, the median was much lower at £2,000. Settlement amounts were highest in discrimination cases (mean £10,133, median £4,000). Table 9.14 displays more detailed findings. They were lowest in Wages Act cases (mean £1,852, median £400). Reflecting the findings seen in 2003, by the time of the survey, 93 per cent of claimants who accepted a financial settlement in their case had been paid in full. Three per cent had been partly paid and two per cent had not been paid.



**Figure 9.2: Amount in settlement, by primary jurisdiction**



Unweighted Base: All cases in SETA 2008: 1,896 (Based on all claimants and employers whose case was financially settled); The unweighted base for each jurisdiction: Any discrimination: 355; Redundancy payment: 24; Wages Act: 189; Breach of contract: 544; Unfair dismissal: 568; Other: 216.

Source: SETA 2008

Only two per cent of claimants who had been offered money and were paid in full said that they had to take action to obtain their payment by registering at the county court. There were only fifty-eight claimants who had been offered money but had only been paid in part or not at all; of these, only five said they had taken action to try to obtain payment by registering at the county court.

At the time the final offer was made, close to one half (47 per cent) of claimants were hopeful that they would get more than was being offered if the case was decided at an Employment Tribunal, three in ten (29 per cent) thought they would receive the same as was being offered, and only four per cent less than the final offer. Conversely, employers were much less likely (13 per cent) to think that the claimant would get more than the final offer and slightly more likely (ten per cent) to believe that the other party would get less than was being offered. Only three per cent of claimants who were made an offer thought they would lose the case, compared with one third (33 per cent) of employers who believed the claimant would lose.

## 9.6 Reasons for settling

Saving money and time were the main reasons why employers favoured settling their cases. Of those who made an offer, one half (51 per cent) cited factors related to saving money (for example, keeping costs to a minimum, more cost effective to settle) and one-quarter (25 per cent) said that they had done so for convenience and to save time. These findings are similar to those observed in 2003.

For cases where no offer was made, the most common reason cited was that the employer felt that the claimant was in the wrong (22 per cent). One in nine (11

per cent) believed that they would win the case. Seven per cent felt that the claimant did not have a case.

Claimants who were made an offer, but did not accept it, were asked why this was the case. Three in ten (29 per cent) said it was because they felt that not enough money was offered. Six per cent said that their claim had never been about money or that money was not important to them.

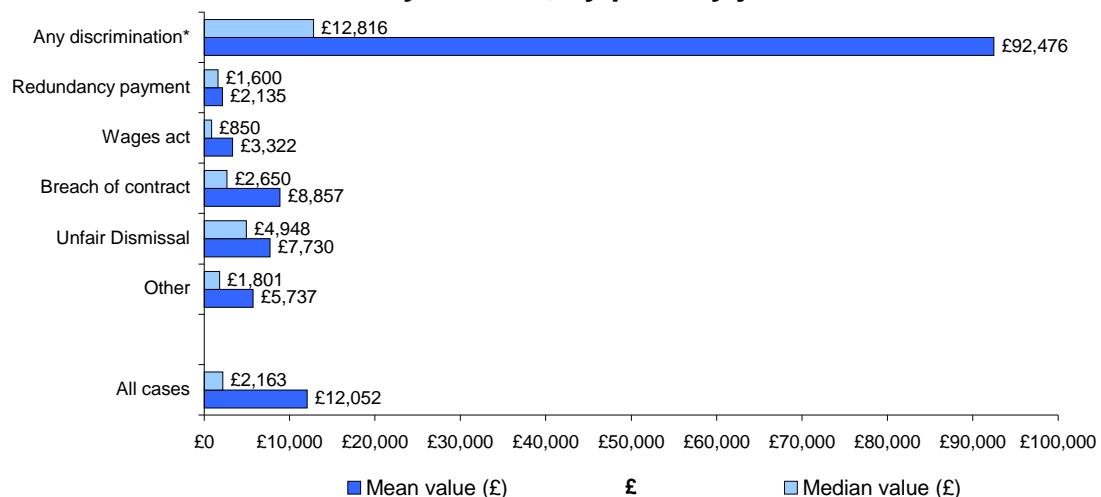
## 9.7 Reasons for withdrawing

The main reasons why claimants said they withdrew their case (Table 9.15) were because they were advised by someone to do so (21 per cent), there was too much expense involved in continuing (19 per cent) and they thought they could not win the case (16 per cent). One in nine (11 per cent) felt there would be too much stress involved and one in eleven (nine per cent) that there would be too much difficulty or fuss involved in continuing. Again, these findings closely resemble those seen in 2003.

## 9.8 Tribunal order and awards

In the majority (89 per cent) of cases where the claimant was successful at tribunal, money was awarded (Table 9.16). This is a slight decrease since 2003, where the equivalent figure was 93 per cent. As shown in Figure 9.3, the mean amount was £12,052, and the median was £2,163. The mean figure is inflated by survey respondents who gave particularly high figures, more specifically five per cent of respondents reported that they were awarded over £25,000. The amount of money awarded has increased since 2003, where the median amount was £1,500.

**Figure 9.3: Amount awarded by tribunal, by primary jurisdiction**



Unweighted Base: All cases in SETA 2008: 373 (Based on all cases where the tribunal order involved money). The unweighted base for each jurisdiction: Any discrimination: 25; Redundancy payment: 19; Wages Act: 77; Breach of contract: 149; Unfair dismissal: 66; Other: 37.

\* = This high value is due to having outliers in discrimination cases which inflates the mean value.

Source: SETA 2008

Of those cases where money was awarded, one quarter (27 per cent) were awarded under £1,000 and three in ten (29 per cent) over £5,000. There were some differences between the amounts reported between claimants and employers. Claimants tended to report higher amounts than employers (claimants had a median amount of £2,500 and employers had a median amount of £1,500) (Table 9.17).

Three-quarters (76 per cent) of claimants awarded money had received the amount awarded by the tribunal by the time of the survey, and only one eighth (13 per cent) of these claimants had to take action to obtain the payment by registering at the county court.

## 9.9 Initial expectations

### **Claimants**

Claimants' expectations about the outcome of the case at the point of initiating their claim were generally positive (Table 9.18). Close to one-half (48 per cent) of claimants thought that they were very likely to be successful at the start of their case. One-fifth (21 per cent) thought they were quite likely to be successful and one quarter (24 per cent) thought they had an even chance. Only two per cent thought they would not be successful. Claimants' expectations about the outcome of their case closely resemble those seen in 2003.

However, initial expectations did not always match with the outcome. Although three-quarters (74 per cent) of those who thought they were very or quite likely to be successful were either successful at tribunal or settled the case, 14 per cent actually withdrew their case and seven per cent went to a tribunal hearing and were unsuccessful.

Claimants' views at the start of the case on whether they would be able to resolve their case without going to a full tribunal hearing were more mixed: two-fifths (38 per cent) thought it likely and a further sixth (17 per cent) thought there was an even chance either way. However, there were also two-fifths (39 per cent) who thought it unlikely that they would be able to avoid going to a full tribunal hearing.

At the time they put in their application, three-fifths (58 per cent) of claimants were hoping to get money. Around one fifth (22 per cent) wanted to receive an apology and a similar proportion (20 per cent) justice. One sixth (17 per cent) were hoping to be re-instated in their old job and 15 per cent to have their case proven.

Three in ten (29 per cent) claimants who had expectations of receiving money at the very start of their case were hoping to gain a sum under £1,000. Around one third (35 per cent) were hoping to obtain over £5,000. The mean amount claimants hoped to receive was £14,629. However, the mean figure is again inflated by survey respondents who gave particularly high figures, and the median amount of £2000 may provide a more reliable indicator of this

expectation (Table 9.19). Despite these expectations, claimants would have been prepared to settle for lower amounts. The lowest mean amount of money that claimants said they might have been prepared to settle for at the very start of the case was £5,458 and the median was £1,500 (Table 9.20). Claimants in discrimination cases expected to receive the most money at the start of the case (mean of £28,252 and the median of £10,000) and said the lowest (mean) amount they might have settled for was £14,567 (the median value was £5,000). This was the highest figure across the different jurisdictions.

### **Employers**

Employers' views about whether they had expected to win the case were mixed, with many being optimistic (Table 9.18). Three-fifths (60 per cent) of employers thought that the case was very or quite likely to be decided in their favour when they first received the notification form. One quarter (26 per cent) thought they had an even chance of the case being decided in their favour and one in eleven (nine per cent) thought that the case was very or quite likely to be decided in favour of the claimant. Not all those who thought they were going to be successful actually were: in seven per cent of cases where the employer thought the case would be very or quite likely to be decided in their favour, it was actually decided in the claimant's favour. These findings are in line with those observed in 2003.

At the start of the case, employers were a little more optimistic than claimants that they would be able to resolve the case without going to a full tribunal hearing: one half (48 per cent) thought it likely and a further 14 per cent thought there was an even chance either way. However, there were also a third (34 per cent) who thought it unlikely that they would be able to avoid going to a full tribunal hearing.

More than four-fifths (85 per cent) of employers said that they thought claimants were hoping to receive money when they first put in their application. However, close to three-fifths (58 per cent) of these employers stated that they would not have been prepared to settle for any sum of money at the start of the case. One third (32 per cent) said the maximum amount they might have been prepared to settle for was between £1 and up to £5,000<sup>41</sup>; only one in ten (10 per cent) might have been willing to settle for over £5,000. The mean maximum amount that employers said they might have been prepared to settle for was £4,871, and the median amount was £1,588 (Table 9.21). Employers were willing to settle for the highest amount in cases relating to discrimination (mean £10,329) and redundancy payments (£7,305). Overall, it is important to point out here that these mean amounts are much lower than what claimants had expected or would have been prepared to settle for.

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<sup>41</sup> These lower amounts will generally be 'nuisance' awards.

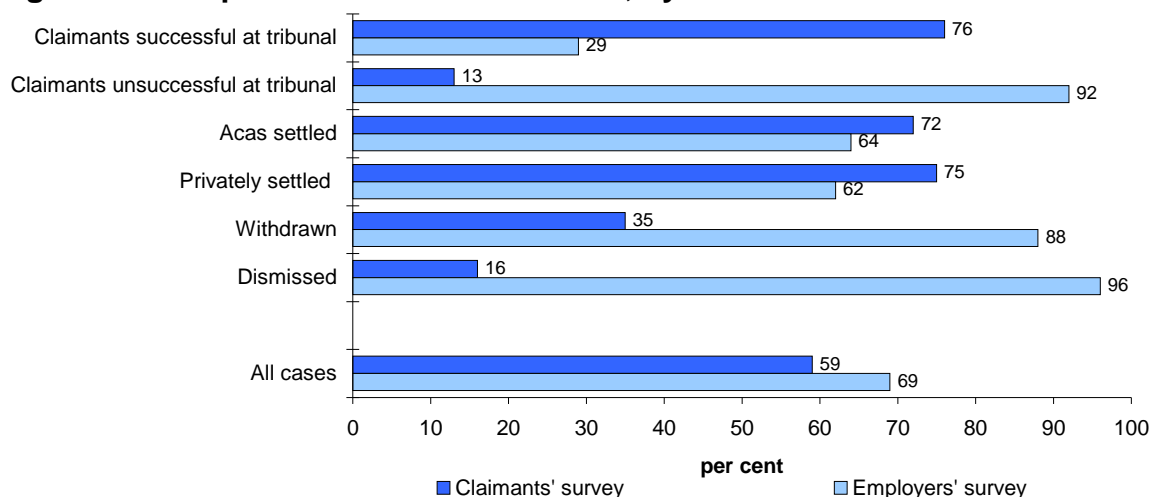
## 9.10 Satisfaction with Outcome

### Claimants

Among claimants, satisfaction with the outcome of the case was mixed: three-fifths (59 per cent) of claimants said they were either very or quite satisfied with the outcome of their case, whilst two-fifths (39 per cent) were either not very or not at all satisfied. As would be expected, satisfaction with SETA outcome was related to the actual outcome. Claimants who were successful at tribunal and those who settled their case were substantially more satisfied than other claimants. Three-quarters (76 per cent) of claimants who were successful at tribunal, a similar proportion (75 per cent) of those who privately settled and seven in ten (72 per cent) who settled through Acas were either very or quite satisfied with the outcome (Table 9.22).

Presented in Figure 9.4 is the comparison of the proportions of claimants and employers who were satisfied, by the outcome of the case.

**Figure 9.4: Proportion who were satisfied, by outcome of the case\***



Unweighted Base: Claimants' Survey 2008: 2,020 (Based on all claimants); Employers' survey 2008: 1,736 (Based on all employers, excluding missing values).

\* = This includes the responses of 'very' and 'quite' satisfied.

Source: SETA 2008

However, not all those with a positive SETA outcome were satisfied with the outcome of their case. One-fifth (21 per cent) of claimants who were successful at tribunal were not very or not at all satisfied with their case outcome and one quarter of those who settled, either privately or through ACAS were dissatisfied. Looking at the relationship with primary jurisdiction, claimants were least likely to be satisfied in discrimination and unfair dismissal cases (Table 9.23). Claimants involved in standard period cases were less likely than those involved in short period cases to be satisfied (56 versus 72 per cent). There were no differences apparent in claimant satisfaction with outcome by age. All these findings are generally consistent with those observed in 2003.

Those who were not satisfied with the outcome were asked what would have made the outcome more satisfactory. For claimants, the response most commonly given was (more) money; the proportion who said this (40 per cent) was twice as much as in 2003 (20 per cent). Other things frequently mentioned were: receiving an apology (20 per cent); receiving justice (19 per cent); to be reinstated in their old job (19 per cent); and to have proven their case (17 per cent). The most commonly mentioned answers were similar to those found in 2003. A range of other responses were also mentioned in smaller proportions (Table 9.24).

In addition to what would have made the outcome more satisfactory, dissatisfied claimants were asked why they felt that the case had not turned out well (Table 9.25). As in 2003, the most common answer was that they were not given adequate advice or representation (27 per cent). Fifteen per cent said that their employer was not truthful, the same proportion (15 per cent) that their case was not presented properly, one in nine (11 per cent) that the process was biased towards the employer and ten per cent said it cost too much/was a waste of money.

Fifteen per cent of claimants did not feel it had been worthwhile bringing the case against the employer (Table 9.26). However, 83 per cent did think it was worthwhile. As might be expected, SETA outcome did affect opinion on this issue with those whose case was dismissed or disposed of (32 per cent), lost at tribunal (33 per cent) or withdrawn (31 per cent) being most likely to say this. It was those claimants who settled their case who were most likely to say that they found it most worthwhile, with only six per cent saying it had not been worthwhile. These figures are consistent with those seen in 2003.

### ***Employers***

As presented in Figure 9.4, employers were a little more satisfied with their SETA outcome than claimants. Seven in ten (69 per cent) employers said they were either very or quite satisfied with their case outcome, compared with three-fifths (59 per cent) of claimants. As with claimants, satisfaction with SETA outcome amongst employers was related to the actual outcome. Employers involved in cases where the claimant was unsuccessful at tribunal (92 per cent) or the case was withdrawn (88 per cent) or dismissed (96 per cent) were more likely to be satisfied than other employers.

Among employers, there was also a relationship between size of organisation and SETA outcome. Employers from larger organisations were more likely than those from smaller organisations to be very or quite satisfied (82 per cent from organisations with 250 or more employees decreasing to 54 per cent from organisations with less than 25 employees). These findings are similar to those observed in 2003.

Employers not satisfied with the SETA outcome were asked what would have made it more satisfactory (Table 9.27). Around three in ten (28 per cent) mentioned giving the claimant less money, 18 per cent proving the organisation was not at fault (which was around half as many who said this in 2003) and one

sixth (17 per cent) receiving justice. When asked why the case did not turn out as well as it might have, 18 per cent said that the case cost too much, 14 per cent felt it was because the process was biased against the employer and one in ten (10 per cent) said that the claimant lied or made things up (Table 9.28). Whilst the reasons given by employers for the case not turning out as well were similar to those mentioned in 2003, the proportions citing each reason were generally lower. There was some variation by primary jurisdiction, most notably employers involved in unfair dismissal cases were least likely to respond that the claimant lied or made things up (four per cent).

## 9.11 Impact of tribunal on employer policies

Some, but not all, cases resulted in the employer changing a policy or saying that they would do things differently in future. As in 2003, in general small employers were more likely to say this than large ones. The most common thing employers said that they would do differently in future was to ensure that existing procedures were followed (51 per cent said this). This was more likely than average in cases where the claimant was successful (69 per cent) and for cases brought against small organisations (68 per cent of organisations with less than 25 employees) (Table 9.29). Employers were least likely to say that the case would affect whether procedures were followed in future where the case had been withdrawn (39 per cent), the organisation was within the public sector (38 per cent) or large in size (39 per cent of those with 250 or more employees). These sub-group patterns closely resemble those observed in 2003; however, unlike in 2003, there was only limited variation in whether employers said they would ensure procedures were followed in future by primary jurisdiction (or conciliation period) (Table 9.30).

Around three in ten (28 per cent) employers said they would seek professional advice in a future case (Table 9.29). Employers were more likely than average to say they would do so if they were a small organisation (44 per cent of those with less than 25 employees) or if they were involved in a standard period case (33 per cent). Employers were less likely than average to say this if the case was won by them (18 per cent), the employer was within the public sector (nine per cent) or it was a large organisation (14 per cent of those with 250 or more employees).

Formal disciplinary procedures were introduced or reviewed by one quarter (24 per cent) of employers as a result of the case (Table 9.29). Employers most likely to review disciplinary procedures included those involved in cases where the claimant was successful at tribunal (33 per cent), small employers (42 per cent of organisations with less than 25 employees) and those involved in standard period cases (30 per cent).

Employers less likely than average to introduce or review disciplinary procedures included: large organisations (11 per cent of those with 250 or more employees); public sector organisations (11 per cent); those who had a discrimination case brought against them (16 per cent); and those who were involved in short period cases (19 per cent). Employers involved in cases which were withdrawn (17 per cent) were also less likely than average to review disciplinary proceedings.

Around one quarter of employers (23 per cent) revised terms and conditions of employment as a result of the case (Table 9.29). This was more likely to happen as a result of Wages Act cases (32 per cent). It was also more likely to occur when the claimant was successful at tribunal (38 per cent) and in small organisations (47 per cent of organisations with less than 25 employees).

Seven per cent of employers said that they had joined an employers' association as a result of the case (Table 9.29). This was higher than average for small employers (17 per cent of organisations with less than 25 employees) and lower than average for large employers (two per cent of those with 250 or more employees).

Eight per cent had taken out insurance against future claims (Table 9.29). This was highest among small employers (17 per cent of those with less than 25 employees versus two per cent of those with 250 or more employees).

These findings largely reflect those observed in 2003.



## CHAPTER TEN

# Costs and benefits

In this chapter the costs and consequences of the case to parties are examined.<sup>42</sup> In particular, the focus is on time spent on the case by claimants and employers, any monies paid to cover the other party's costs and other non-legal costs to the parties. Non-financial costs, for example stress to claimants, are also discussed, as well as awareness of the 'costs regime'.<sup>43</sup>

### 10.1 Financial costs to claimants

A little more than one half (55 per cent) of claimants reported that they had incurred personal financial costs as a result of the case. This figure represents a decrease from that reported in 2003 (64 per cent), mainly as a result of fewer respondents experiencing communication costs. In 2008, close to two-fifths (37 per cent) had communication costs (telephone calls etc.), three in ten (31 per cent) suffered loss of earnings and one quarter (26 per cent) had travel costs (Table 10.1). Reflecting the findings seen in 2003, those involved in a discrimination case were more likely than average to have communication (42 per cent) and travel costs (32 per cent), whilst loss of earnings were most common in unfair dismissal cases (36 per cent). Claimants in short period – Wages Act and redundancy payments – cases were the least likely to experience personal financial costs (45 and 42 per cent respectively).

As might be expected, travel costs were more likely than average for cases that went to tribunal (47 per cent in cases where the claimant was unsuccessful, 39 per cent in cases where the claimant was successful). Loss of earnings were most likely in cases where the claimant was unsuccessful at tribunal (39 per cent) (Table 10.1). These findings are consistent with those observed in 2003.

All those who incurred travel or communication costs or loss of earnings were asked to specify the amounts concerned. The mean communication costs were £68, loss of earnings £2,695 and travel costs averaged at £97. The corresponding median values were £20, £2,000 and £40 respectively (Table 10.2).

Travel costs were highest in cases that were withdrawn (a mean of £180 and median of £50) and in cases where breach of contract (mean £103, median £40) or unfair dismissal (mean £102, median £40) was the primary jurisdiction. They were lowest in cases that went to tribunal (when the claimant was unsuccessful at tribunal the mean was £52, and the median £30; and when the claimant was

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<sup>42</sup> These do not include legal costs, which are covered in Chapter 4 or monies given as part of a settlement or tribunal order which are covered in Chapter 8.

<sup>43</sup> As in 2003, SETA 2008 collects estimates of costs and time, and therefore will inevitably contain some reliability biases (particularly amongst the claimant data). Therefore findings regarding cost and time estimates must be interpreted with caution and treated as indicative only.

successful at tribunal the mean was £60 and the median £20) and in Wages Act cases (mean £39, median £15) (Table 10.2).

Communication costs were highest in cases where the claimant was successful at tribunal (a mean of £95 and median of £21) and discrimination cases (£144 and £30 respectively). They were lowest in cases that were dismissed (mean £37, median £20) and in Wages Act (mean £20, median £10) and redundancy payments cases (mean £19, median £16) (Table 10.2).

Loss of earnings were highest in cases that were dismissed (a mean of £3,258 and median of £3,000) and redundancy payments cases (£3,561 and £1,825 respectively). They were lowest in cases where the claimant was successful at tribunal (mean £2,028, median £1,010) and Wages Act cases (mean £1,030, median £300) (Table 10.2).

These sub-group findings relating to personal financial costs as a result of the case varied somewhat from those observed in 2003. In 2003, unlike 2008, travel costs were highest in privately settled cases (£98 mean, £40 median), and lowest in cases where the claimant was successful at tribunal (mean £30, median £15). In terms of communication costs these were highest in withdrawn cases (£103 mean, £20 median) in 2003, however in line with 2008 these were lowest in dismissed cases (mean £29, median £19). Finally looking at loss of earnings, unlike 2008, this was highest in privately settled cases (mean £59,348, median £6,646) in 2003, this was lowest in cases where the claimant was successful at tribunal (mean £3494, median £150) in line with 2008.

As would be expected, travel and communication costs and loss of earnings in short period cases were all much lower on average than in standard period cases.

## 10.2 Time spent on the case

### ***Claimants***

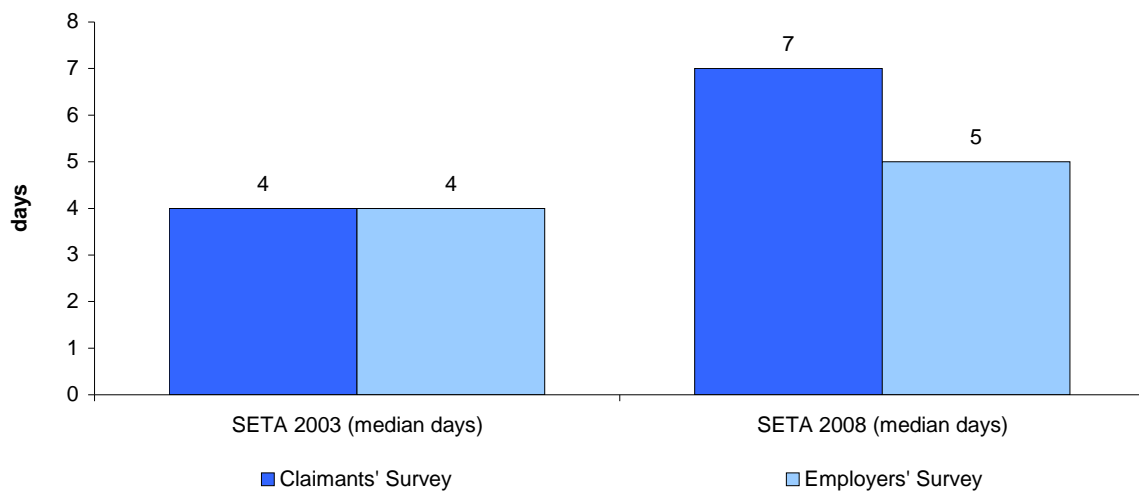
Claimants were asked to estimate the total time that they spent on the case, from when they started the application form until when the case was finished<sup>44</sup>. They could give this time in hours or days. For the purposes of analysis, all responses have been converted to days using the assumption that one day represents eight hours.

The mean number of days spent on the case was 42, although the median was only seven (compared with 25 and four respectively in 2003 (Figure 10.1).

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<sup>44</sup> Claimants were asked to include time spent travelling, at the hearings, on the telephone or writing letters. They were prompted to give the time actually spent on the case, not the total length or duration of the case.

**Figure 10.1: Time spent (in days) on case**



Unweighted Base: Claimants' Survey 2003: 1,938; Claimants' Survey 2008: 1,636 (Based on all claimants who were able to give hours or days spent on case); Employers' Survey 2003: 1,968; Employers' Survey 2008: 1,528 (Based on all employers with personal responsibility who were able to give hours or days spent on case).

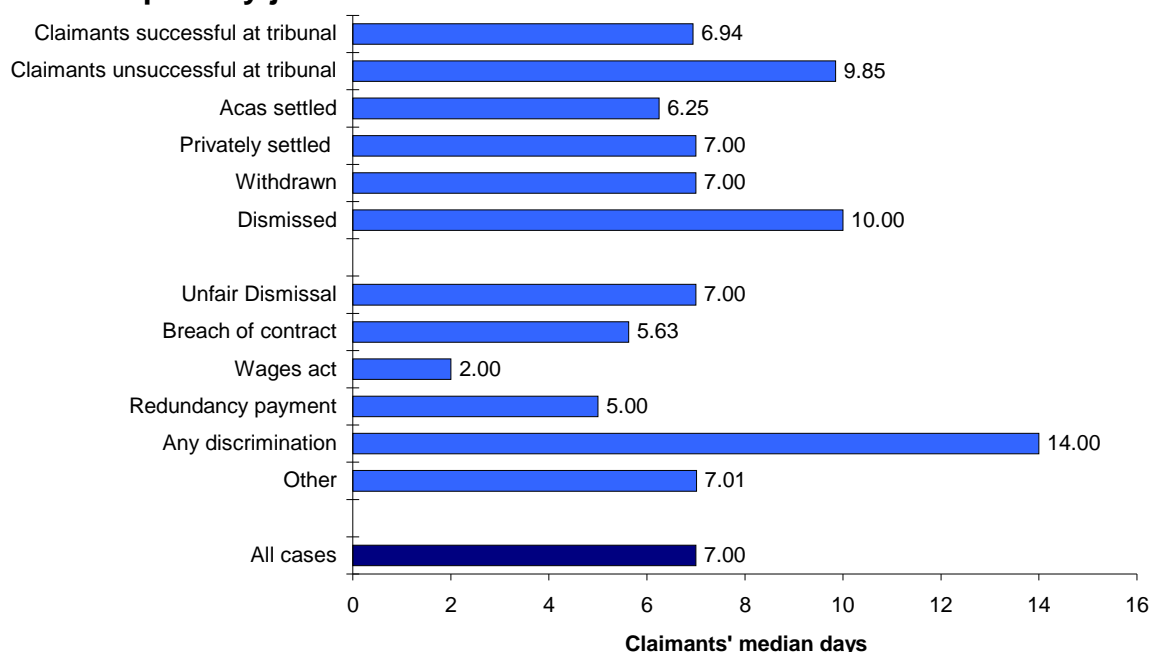
Source: SETA 2003/SETA 2008

The mean figure is inflated by survey respondents who gave particularly high figures. More specifically, 191 claimants said that they spent 100 or more days on the case<sup>45</sup>. The analysis below therefore focuses on median scores, which provide a more reliable indicator when looking at sub-group differences here (Table 10.3).

The main variations to be found were by survey outcome and primary jurisdiction of the case (Figure 10.2). As in 2003, most time was spent in cases where the claimant was unsuccessful at tribunal hearing (median of 9.85 days) or where the case was dismissed (median of 10 days). Further, reflecting the findings seen in 2003, cases where a discrimination claim was the primary jurisdiction involved more time than other cases (median of 14 days). This contrasted with Wages Act cases where the median number of days was two. As would be expected, claimants involved in short period cases spent less time than those involved in standard period cases on the case (medians of 2.50 and seven days respectively).

<sup>45</sup> In addition, 31 respondents gave 'impossible' values, where the number of days exceeded the length of the case. These claimants have been excluded from the analysis.

**Figure 10.2: Time spent (in days) by claimants on case, by outcome of the case and primary jurisdiction**



Unweighted Base: Claimants' Survey 2008: 1,636 (Based on all claimants who were able to give hours or days spent on case); The unweighted base for each outcome: Claimants successful at tribunal: 263; Claimants unsuccessful at tribunal: 117; Acas settled: 638; Privately settled: 262; Withdrawn: 254; Dismissed: 102. The unweighted base for each jurisdiction: Unfair dismissal: 454; Breach of contract: 442; Wages Act: 218; Redundancy payment: 42; Any discrimination: 284; Other: 196.

Source: SETA 2008

Claimants who were represented incurred more time than those who were not, a median of ten compared with five days. This is, however, strongly linked to the primary jurisdiction of the case. More specifically, cases involving discrimination claims were more likely to involve represented parties (see Chapter Four).

### **Employers**

Employers were also asked about the time they spent on the case, from when they received the ET3 until the point at which the case finished. Firstly, they were asked how many people were involved and spent time on the case<sup>46</sup>. The mean number of people involved in the case and who spent time on it was four and the median was three (Table 10.4). In a small minority of cases (two per cent), ten or more people were involved in and spent time on the case. These figures are consistent with those found in 2003.

As in 2003, cases where discrimination was the primary jurisdiction produced the highest mean and median number of people involved in and who spent time on the case (five and four people respectively). As might be expected, larger organisations were more likely than their smaller counterparts to have a large number of people working on the case (both the mean and median were four

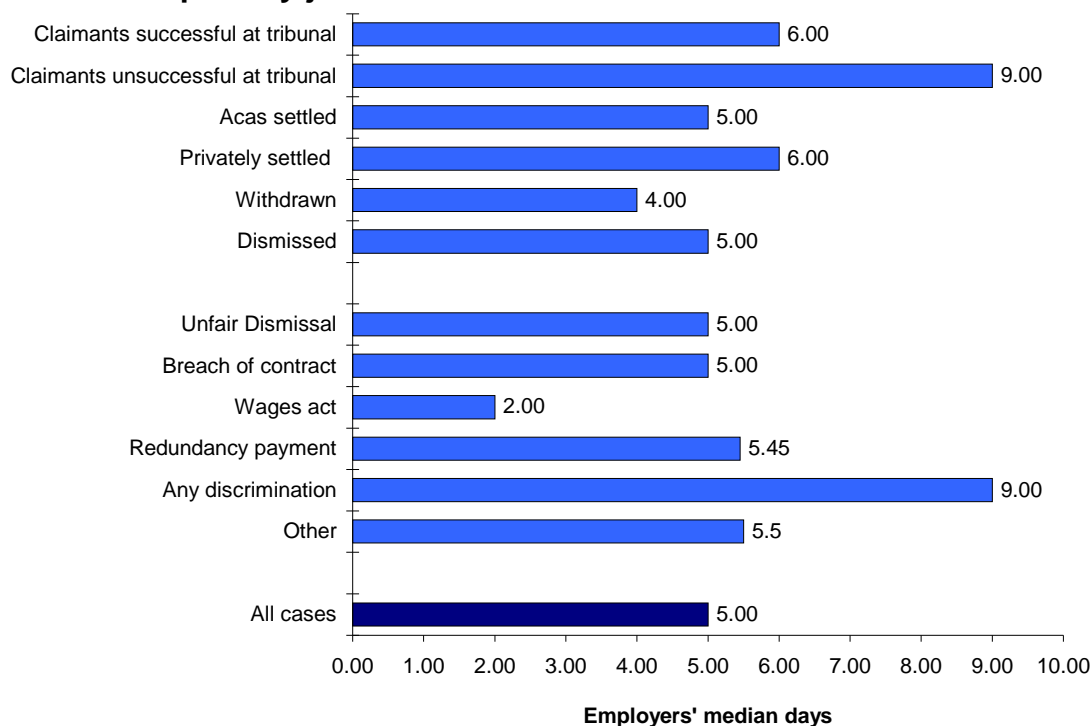
<sup>46</sup> They were asked to include themselves, other directors and senior managers and any other staff. They were also asked to only include staff in the organisation and not any time spent by representatives or advisers who may have helped with the case.

people for organisations with 250 or more employees, decreasing to a mean of three and a median of two people for those with less than 25 employees).

Employers were next asked to break down the time spent on the case so that a total figure could be derived. Time could be given in days or hours and, for the purposes of analysis, answers have been converted to days. The mean number of person days spent on the case was thirteen, whilst the median was five (figures which closely resemble those found in 2003 – ten and four respectively, Figure 10.1). As with the claimant data described above, the median figures are perhaps a more reliable guide for looking at sub-group differences. There were a small minority of employers (four per cent) who spent 50 or more days on the case.

The sub-group differences highlighted in the claimant data are relevant again here and the same patterns were observed. As shown below in Figure 10.3, most time was spent in cases where the claimant was unsuccessful at tribunal hearing, a median of nine days, compared with four days in cases that were withdrawn.

**Figure 10.3: Total time spent (in days) by employers on case, by outcome of the case and primary jurisdiction**



Unweighted Base: Employers' Survey 2008: 1,528 (Based on all employers with personal responsibility who were able to give hours or days spent on case). The unweighted base for each outcome: Claimants successful at tribunal: 122; Claimants unsuccessful at tribunal: 143; Acas settled: 623; Privately settled: 317; Withdrawn: 201; Dismissed: 122. The unweighted base for each jurisdiction: Unfair dismissal: 476; Breach of contract: 449; Wages act: 120; Redundancy payment: 14; Any discrimination: 299; Other: 170.

Source: SETA 2008

Cases where a discrimination claim was the primary jurisdiction involved more time than other cases, a median of nine days, whilst Wages Act cases involved the least time, a median of two days (Figure 10.3)

Employers with 50 or more staff spent a median of six days on the case, compared with five days among smaller organisations (Table 10.5).

The mean number of days incurred by directors and senior management on the case was ten, whilst the median number was three. The same differences in relation to tribunal outcome, primary jurisdiction and employer size were found (Table 10.6). These sub-group differences again largely reflect those observed in 2003.

## 10.3 Non-financial costs

### ***Claimants***

All claimants were asked what non-financial negative effects they had experienced as a result of the case (Tables 10.7 and 10.8). They were not prompted with a list, but allowed to express this in their own words. As in 1998 and 2003, the most commonly mentioned impacts were stress or depression, or that the claimant had found the case emotionally draining (mentioned by 36 per cent of claimants). Stressful impacts were more common if the claimant had brought a discrimination case (48 per cent) or if the claimant was a woman (46 per cent). Wages Act cases (19 per cent) and those involving redundancy payments (22 per cent) were less likely than average to be associated with stress. Also, those aged under 25 were less likely to report stress (23 per cent) than older claimants (39 per cent in the 25-44 age group; 36 per cent among those aged 45 and over). These findings closely resemble those seen in 2003.

The next most commonly mentioned negative effects on claimants were: physical health problems (ten per cent); difficulty in getting re-employed (nine per cent); and loss of confidence or self esteem (eight per cent).

### ***Employers***

One third (33 per cent) of employers felt that the case had negative effects on the organisation that were not financial (which is the same proportion as was observed in 2003) (Table 10.9). In 2003, there was some variation in experience of negative effects by primary jurisdiction and survey outcome. By contrast, in 2008, there was little such variation apparent, although employers in Wages Act cases were less likely than average to say that the case had had a negative impact (23 per cent). As in 2003, however, there was a correlation between negative effects and size of the organisation: employers in smaller organisations were more likely than those in larger ones to report negative impacts (43 per cent of employers with less than 25 employees versus 28 per cent of those with 250 or more employees). Table 10.9 shows the detailed findings.

Among those who said that their organisation had suffered non-financial negative effects, the two most commonly mentioned were low staff morale (11 per cent of

all employers) and interrupted business/increased stress levels (six per cent of all employers).

## 10.4 Awareness of the costs regime

Reflecting the findings observed in 2003, a little more than one-half of respondents (55 per cent) said that they were aware that the tribunal could penalise parties by making them pay for the other party's costs<sup>47</sup> (Table 10.10). In cases where the claimant was successful at tribunal hearing, respondents were slightly less aware of this (47 per cent) than average. In terms of primary jurisdiction, those involved in discrimination cases were more likely than others to be aware of the costs regime (66 per cent of respondents) (Table 10.11).

Awareness was also higher among employers (67 per cent) than among claimants (44 per cent) (Table 10.12). Among the former, employers from large organisations and those with previous experience of ET cases were more likely than other employers to be aware of the implications of the costs regime. Eighty-six per cent of employers from organisations with 250 or more employees and four-fifths (79 per cent) of those with previous experience of ET cases knew of the penalties. These sub-group patterns are consistent with those seen in 2003.

Respondents were asked whether the other party had warned them that they may have to pay their (the other party's) costs. Additionally, respondents were also asked whether they themselves, warned the other party that they may have to pay their costs. In one-quarter (26 per cent) of cases, the employer was warned by the claimant, or by someone acting on their behalf that the tribunal might order them to contribute to the claimant's costs. A similar proportion of claimants (23 per cent) said that the employer had warned them that they might be ordered to contribute to the employer's costs. Respondents were more likely to report that the employer had been warned by the claimant that the tribunal might order them to contribute to the claimant's costs in cases where the claimant was successful at tribunal hearing (31 versus 19 per cent claimant successful). Such warnings from both claimants and employers to the other party were also more likely in standard period cases than they were in short period cases.

## 10.5 Impact of the costs regime on case outcomes

Those aware of the costs regime were asked whether knowing about this affected their decision to settle or withdraw their case without going to tribunal. Employers and claimants expressed very similar opinions. The combined findings suggest that of those who privately settled, 18 per cent said it did make them more likely to do so; this also applied to one quarter (25 per cent) of Acas settled cases and 37 per cent of cases that were withdrawn (this last outcome applies to claimants only as employers cannot withdraw a case). Only two per cent said that awareness of the costs regime had made them less likely to settle

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<sup>47</sup> The cost regime here is whereby the losing party can be required to contribute to the other side's costs if their conduct during the case was considered by the tribunal to have been vexatious.

or withdraw (Table 10.13). These findings once more closely resemble those observed in 2003.

## 10.6 Requests for the awarding of costs

Around one-fifth (22 per cent) of claimants whose case went to a tribunal said that they asked for costs or expenses to be awarded. Of those claimants who were successful at the hearing and applied for costs, 50 per cent were awarded these. One-half (50 per cent) of claimants who were successful at the hearing and applied for costs were awarded these. Both findings are consistent with those reported in 2003.

## 10.7 Employment characteristics of claimants post-tribunal

At the time of making their application, nearly all claimants (97 per cent) were former or current employees of the organisation against which they made their application. By the time of the interview, more than four-fifths (83 per cent) of claimants had undertaken some kind of work. Two-thirds (65 per cent) of claimants were either in new work or had become self-employed since the tribunal. One in ten (10 per cent) had found new work but were not in that or in another job at the time of the interview. Eight per cent were still working for the employer against which they had made their application. This is a very similar picture to that found in 2003.

At the time of interview, around three-quarters (73 per cent) were in work, one in nine (11 per cent) were unemployed and looking for work and three per cent were unemployed and not looking for work. The remaining 16 per cent were inactive. This included those who were retired (five per cent), studying (one per cent), permanently sick or disabled (three per cent), temporarily sick or disabled (one per cent), looking after the home (one per cent) or looking after someone (less than one per cent) (Table 10.14).

Claimants involved in discrimination cases were less likely (63 per cent), and those involved in Wages Act cases more likely (80 per cent), than average to be working at the time of the interview. Tribunal outcome had relatively little bearing on whether the claimant was working at the time of the interview, although those whose cases were dismissed were less likely (64 per cent) than average to be in employment (Tables 10.14 and 10.15). This reflects the findings of the discussion paper by Drinkwater et al (2008)<sup>48</sup>

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<sup>48</sup> When It's (Mostly) the Taking Part that Counts: The Post-Application Consequences of Employment Tribunal Claims, IZA discussion paper no.3629.



## 10.8 Impact of Employment Tribunal on claimant's employment and career

Where claimants had moved into new work, the mean it had taken them to find new work was 15 weeks, whilst the median was eight weeks. When asked to compare the pay of a new job to the one they had at the time of putting in the application, two-fifths (41 per cent) said that their current job paid better and the same proportion said that it was more poorly paid. Sixteen per cent said that the two jobs paid a similar amount.

Claimants were slightly more likely than average to say that their new job paid better if their case was settled by Acas (45 per cent), but less likely to say this if the case was dismissed (33 per cent). If the claimant brought a Wages Act case they were also more likely than average to move into a job that paid more (52 per cent) (Table 10.16). Those whose job at the time of the application was as a manager or senior official were more likely than others to say they were on less money (54 per cent). Those who were in elementary occupations and sales / customer services occupations were more likely than others to say that their new job paid more (51 and 56 per cent respectively).

There was a very even split between those who said that their current job involved a longer travel time (33 per cent), a shorter travel time (32 per cent), or took about the same time (31 per cent).

Two-fifths (41 per cent) said that their new job was at a higher status or level (an increase from 31 per cent in 2003) and close to three in ten (28 per cent) said that it was at a lower status; three in ten (29 per cent) said that the two jobs were similar in terms of status or level. Those who were in sales / customer services (57 per cent), personal service (53 per cent) or elementary occupations (52 per cent) were more likely than average to say the new job was at a higher level. Two-fifths (42 per cent) who were managers or senior officials felt that the new job was at a lower level (Table 10.17).

Around three-fifths (63 per cent) of claimants felt that their current job was part of their long-term career plan, whilst one-third (32 per cent) felt that it was something to do until something better came along. Those who had brought a discrimination case were most likely to say that it was something to do for now (36 per cent). Table 10.18 provides further details.

In nearly all respects these findings closely resemble those reported in 2003 and those reported by Drinkwater et al (2008)<sup>49</sup>.

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<sup>49</sup> When It's (Mostly) the Taking Part that Counts: The Post-Application Consequences of Employment Tribunal Claims, IZA discussion paper no.3629.

## CHAPTER ELEVEN

# Conclusions

### **Overview**

The findings from SETA 2003 suggest that the characteristics of claimants and employers involved in ET applications have not changed markedly since the survey was last conducted in 2003. Of particular interest is the tendency, also identified in the previous surveys, for ET applications to be disproportionately concentrated in smaller workplaces.

### **Written statements and procedures**

As in 2003, smaller employers, when compared to their larger counterparts, were less likely to have formal mechanisms and procedures in place that might help to reduce the risk of disputes escalating, such as the provision of written terms and conditions and the use of grievance and disciplinary procedures. This may partly explain why they are more susceptible to involvement in employment tribunals. As in 2003, it is still the case that once the ET application proceeds, a claimant is less likely to be successful at tribunal if employers have written procedures in place, and if they have been followed all the way through.

It is still difficult to gauge the extent to which employers and claimants follow the dispute resolution procedures that are in place, because as in 2003, both parties tended to give differing accounts in terms of what procedures were in place, whether they were followed and whether there was communication prior to the application. The contrasting perceptions of claimants and employers is a very complex issue as found by Corby and Dennison (2005)<sup>50</sup>. Claimants were still generally less likely than employers to say that such procedures existed and that they were followed. In terms of communication, claimants were still more likely than employers to report that they had raised concerns about the dispute and given warning about the application prior to making it. As in 2003, this difference is still particularly marked in relation to whether or not employers provided advance warning of dismissal or redundancy: 74 per cent of employers, but only 27 per cent of claimants reported that they did.

However, there have been some positive changes since 2003. There has generally been an increase in the proportion of both parties who claim that written statements and procedures existed and that they are followed through. Additionally, there has also been an increase in the proportion of both parties who report communication prior to the ET application.

### **Mediation**

Awareness and use of mediation was found to be relatively low amongst both claimants and employers. Just under a quarter of claimants reported that

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<sup>50</sup> Corby and Dennison (2005). Images in the Adversarial Mirror: A Study of the Employment Tribunal System in Britain, Internal Employment Relations Review, Volume 11.

someone had suggested to them that they could use it to help resolve their dispute, decreasing to 15 per cent amongst employers. These numbers remained relatively consistent with the proportion of claimants and employers who discussed the possibility of using mediation with the other party. Discussion of the use of mediation was affected by organisation size with large employers more likely to have discussed the possibility than their smaller counterparts.

The findings suggest that when parties were asked about mediation, some were thinking about Acas conciliation, as around a third of parties who reported that they had used mediation went on to report that this mediation was provided free of charge by Acas. When these respondents are removed, overall, nine per cent of claimants and seven per cent of employers reported that they had actually taken part in mediation. In terms of case outcome, claimants and employers who experienced mediation, were no more likely for their case to be privately settled or withdrawn than any other outcome.

Overall, given the small numbers of parties that were involved in mediation, it is difficult to draw firm conclusions about its use in aiding earlier dispute resolution. However, perceptions of mediation were generally positive with the majority of both parties reporting that they would consider using mediation in the future. It should be borne in mind that the reforms from the Gibbons Review had not yet been implemented when the SETA 2008 survey took place, so these findings will serve as a benchmark for future surveys into this area.

### ***Advice and representation***

As in 2003, solicitors, barristers or some other kind of lawyers were the most common source accessed by employers and claimants. This was the case throughout the entire tribunal process, including completion of the initial TS administrative forms, day-to-day representation and representation at the tribunal hearing. However, there has been a marked decline since 2003 in the proportion of claimants that have received any representation, either with the day-to-day handling of the case or at the tribunal hearing. Similarly, the proportion of claimants that have received legal advice and representation and the proportion who received advice from a trade union have also fallen since 2003.

Comparing SETA 2008 to the previous survey (SETA 2003), the proportion of claimants receiving no advice or representation appears to have increased over the last few years.

It is important to look at this fall in representation for claimants further. Additional analysis has shown that claimants involved in cases that had been privately settled were most likely to have had day-to-day representation (57 per cent). This is in contrast to data from 2003 which revealed fewer differences in representation by jurisdiction (claimant unsuccessful at hearing - 61 per cent, Acas settled - 62 per cent, privately settled - 57 per cent). Data from 2008 show that levels of representation have fallen, except in the case of privately settled cases (as illustrated above).

In line with data reported in 2003, the quality of advice and representation is also important. This is of particular importance when reasons for dissatisfaction with case outcome are examined; the most common reasons for dissatisfaction were related to inadequate advice and representation. Reflecting the findings in 2003, whether or not claimants made the right decision to involve representatives was also closely linked to case outcome. For instance, claimants who withdrew their case or had their case dismissed were most likely to perceive they had made the wrong decision.

As in 2003, Black claimants (across all cases) expressed the greatest desire for additional help in their case. This also supports findings from other research commissioned by the former DTI<sup>51</sup>. Furthermore, Black males were the group least likely to have received representation and advice. For employers, size was an important factor: smaller employers were most likely to have said that they would have liked additional support.

Since 2003, there has also been an increase in the proportion of claimants that are using websites to obtain information. The websites of organisations including Acas and TS have become popular information and signposting tools for claimants.

The proportion of claimants that had an arrangement with a legal adviser, by which they had to pay their bill only if they won their case, has fallen since 2003. There has also been a marked decline in the proportion of claimants and employers that had received unsolicited calls or letters from any organisation (apart from TS or Acas) offering legal services or help with the case.

### **Acas**

Since 2003, Acas has sent introductory letters to *all* relevant parties *and* their representatives. Seventy-six per cent of claimants recalled receiving this letter which is broadly in line with 2003. However employer recall of the letter has reduced slightly from 81 per cent in 2003 to 78 per cent in 2008.

In 2003, 47 per cent of claimants and employers had direct contact with an Acas Officer. Whilst this figure has remained stable for claimants in 2008 (48 per cent), it has decreased for employers, with 41 per cent in 2008 reporting direct contact. When looking at whether parties would like more contact with Acas, in general claimants were more likely to report this than employers.

A series of new questions relating to Acas were added to SETA 2008, which mainly focused upon involvement of Acas in the case and respondents' satisfaction with Acas. With regard to involvement, half of both parties would describe the support they received from Acas as a combination of advice and support. Two-thirds (65 per cent) of respondents trusted the information given to them by Acas. Claimants were more likely than employers to find Acas' involvement important in the settling of their case and in deciding how to proceed with their case.

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<sup>51</sup> Brown et al. (2006). Review of Judgements in race discrimination Employment Tribunal cases, DTI Employment Relations Series No.64.

Respondents generally rated Acas positively across a variety of areas. They were particularly positive about the Acas officers' explanation of the Employment Tribunal procedures (80 per cent), outlining the employment law as it applied to their case (75 per cent) and relaying proposals and offers to and from the other party (74 per cent). Claimants tended to rate Acas and the Acas conciliator that dealt with their case higher than employers did across the different areas.

Overall, views of Acas' involvement were generally positive. The majority of claimants and employers (75 per cent and 71 per cent respectively) thought that Acas' involvement in their case was helpful. Both claimants and employers who had had any contact with an Acas conciliator reported high levels of satisfaction in general.

### ***Role of Employment Tribunals***

The findings show that the perceived awareness of claimants prior to their case that a worker could apply for an ET if they believed an employer was not respecting their legal rights had decreased slightly from 2003 but still remained high (58 per cent compared with 65 per cent). Only a small proportion of claimants had actually made a previous ET application, as was the case in 2003. By contrast, employers were much more likely to have dealt with a previous ET application, which could contribute to a greater understanding of the full workings of the ET system.

A similar proportion of both claimants and employers believed that the tribunal gave each party a fair chance to make their case, as was found in 2003. Claimants were, however, slightly more likely than employers to be satisfied with the workings of the ETs in general. Overall, in line with 2003, for both claimants and employers there were high levels of satisfaction with the ET system as a whole.

### ***Tribunal Hearings***

Generally, the prevalence of preliminary hearings was low with a high proportion of respondents reporting that there had not been any in their case.

In terms of attendance at hearings, employers were more likely to either personally attend or have someone else from their organisation attend a full tribunal hearing than claimants. The proportions found were slightly lower than those in the 2003 SETA survey. The majority of both claimants and employers did attend the full tribunal hearing.

Parties who were represented were mostly likely to be represented by a solicitor, barrister or other kind of legal advisor, as was found in 2003. Claimants were more likely to present the case themselves than employers were to have presented their case themselves or have someone from their organisation present their case. Employers were more likely than claimants to feel well prepared for the full tribunal hearing.

The proportion of cases involving a decision at a full tribunal that made an appeal to the Employment Appeal Tribunal increased from 2003, but still remains low at 14 per cent.

### ***Case outcome***

Outcomes in the 2008 survey broadly resemble that reported in 2003, although there has been a slight decrease in the proportion of cases which were resolved or withdrawn without a need for judicial determination. Sub-group variations are also broadly consistent with those observed in 2003. The proportion of privately settled cases making use of compromise agreements has increased from one half (49 per cent) in 2003 to two-thirds (66 per cent) in 2008.

In terms of tribunal awards, in the majority (89 per cent) of cases where the claimant was successful at tribunal money was awarded. However, this is a slight decrease from 93 per cent in 2003. The amount of money awarded has increased since 2003; from a median amount of £1,500 to £2,163 in 2008.

Among claimants, satisfaction with the outcome of the case was mixed and, as would be expected, was related to the actual outcome: those who were successful at tribunal and those who settled their case were more satisfied than other claimants. Employers were a little more likely to be satisfied with the outcome than claimants, and there was a relationship between size of organisation and outcome: employers from larger organisations were more likely than those from smaller organisations to be satisfied. These findings are similar to those seen in 2003.

In line with 2003, some cases resulted in the employer changing a policy or reporting that they would do things differently in the future. These were more likely to be smaller employers than larger employers. It is interesting to see that the most commonly reported change is not a change to existing procedures or the introduction of new ones, but the following of existing procedures that are already in place.

### ***Costs and benefits***

As in 2003, it is apparent from the SETA 2008 findings that discrimination cases were potentially the most complex case type, and this is also evident in the costs and time spent on the case by claimants and employers. Cases where discrimination was the primary jurisdiction resulted in higher costs for advice and representation and higher personal costs for claimants (e.g. communication). Amongst employers, discrimination cases involved more members of staff working on the case and more overall time spent. Financial settlements were also highest in discrimination cases, in line with findings from 2003.

Awareness of the costs regime was higher among employers than claimants. Respondents reported that awareness of the regime did have some impact upon how they decided to proceed with the case; the greatest impact was upon persuading some claimants to withdraw their case. These findings are consistent with those observed in 2003.

The findings suggest that there has been an increase in the amount of time spent on the case since 2003, particularly amongst claimants. The median figure for claimants in 2008 was seven days compared with four in 2003. Amongst employers, the median number in 2008 was five days, whilst in 2003 it was four.

# Annex A: Data Tables

The tables in the Annex present the findings in table format. The figures cited refer to percentages unless stated otherwise. For all tables, the weighted as well as unweighted base is included. The exception to this is for tables based on data from the Labour Force Survey, where the unweighted base only is shown. In the tables, a percentage shown as '\*\*' means 'less than 0.5%'; zero is represented by '-'.

In analyses by jurisdiction, the Discrimination jurisdiction covers all forms of discrimination, including sex, race and disability.



**Table 2.1 Claimants' survey: Personal characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Sex</b>							
Male	65	61	72	62	46	52	60
Female	35	39	28	38	54	48	40
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Ethnicity</b>							
White	91	86	82	95	75	89	86
Black	4	4	5	2	8	3	5
Asian	3	4	5	2	11	3	5
Mixed	1	2	3	2	3	2	2
Other	*	2	2	-	3	*	2
Don't know	*	*	*	-	*	-	*
Refused	*	1	2	-	1	2	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Age</b>							
16-19 years	2	1	4	2	2	2	2
20-24 years	5	8	6	2	5	5	6
25-34 years	17	19	29	18	18	21	20
35-44 years	26	24	26	31	31	25	26
45-54 years	30	28	22	28	24	29	27
55-64 years	21	28	12	18	18	17	18
65+ years	1	18	1	2	2	*	2
Mean	44	43	39	44	43	42	43
Median	45	44	39	44	43	43	43
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Disability</b>							
Long-term illness/disability	20	17	10	8	45	15	22
Long-term limiting illness/disability	12	10	5	8	8	6	15
No long-term illness/disability	80	83	87	92	54	85	78
Don't know	1	1	2	-	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Religion</b>							
Any religion	44	43	43	47	54	48	46
Christian	40	38	36	43	42	46	40
Other	4	4	6	4	12	2	6
No religion	54	56	55	53	44	51	53
Don't Know	*	-	-	-	-	-	*
Refused	1	1	3	-	2	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

**Table 2.1 (cont.) Claimants' survey: Personal characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Marital status</b>							
Married	51	48	39	53	52	52	49
Living as couple	14	15	17	15	19	19	15
Single	26	28	33	24	19	19	26
Separated	2	2	3	2	5	5	2
Divorced	6	6	3	5	4	4	5
Widowed	1	1	4	2	1	1	1
Refused	1	1	2	*	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Had dependent children (&lt;16)</b>							
Yes	36	33	32	35	38	36	35
No	64	67	66	64	62	63	64
Refused	1	1	2	2	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Housing tenure</b>							
Owned outright	12	17	13	11	18	15	15
Buying with mortgage or loan	51	44	40	55	48	50	48
Shared ownership	1	*	*	-	1	1	1
Social rented	15	9	11	5	8	10	11
Private rented	11	18	20	13	12	14	14
Lived rent-free	5	7	10	4	10	6	7
Other	4	4	2	9	2	5	4
No answer	*	*	-	-	*	1	-
Refusal	2	1	3	4	*	*	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Highest qualification</b>							
Degree, higher degree, postgraduate	19	22	22	17	30	22	23
Other higher education, below degree level	11	11	13	7	13	9	11
A-levels, vocational level 3 or equivalent	18	20	22	16	19	27	19
Other qualifications below A-level	25	18	18	31	18	18	21
Any qualifications	74	73	76	77	82	77	76
No qualifications	25	26	22	23	18	23	24
Refused	1	1	2	-	1	-	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

Based on all claimants  
Source: SETA 2008

**Table 2.1 (cont.) Claimants' survey: Personal characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Nationality</b>							
UK, British	94	91	86	95	89	91	91
Irish (Republic)	1	1	1	-	1	2	1
Other	5	8	11	5	10	7	7
Don't know	1	1	2	-	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Whether has caring responsibilities</b>							
Yes	15	11	11	14	20	17	14
No	85	89	87	86	79	82	85
Refused	1	*	2	-	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Country of birth</b>							
UK	90	85	80	95	81	88	86
Ireland	1	1	-	-	-	*	1
Other	9	13	17	5	19	11	13
Don't know	1	1	2	-	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

Based on all claimants  
Source: SETA 2008

**Table 2.2 Labour Force Survey: Personal characteristics of GB employees**

	All
<b>Sex</b>	
Male	51
Female	49
unweighted <sup>52</sup>	44,771
<b>Ethnicity</b>	
White	91
Black	1
Asian	5
Mixed	2
Chinese	1
Other	2
Missing	*
unweighted	44,771
<b>Age</b>	
16-19 years	5
20-24 years	10
25-34 years	22
35-44 years	25
45-54 years	22
55-64 years	14
65+ years	2
Mean	40
Median	40
unweighted	44,771
<b>Disability</b>	
Long-term illness/disability	22
Long-term limiting illness/disability	10
No long-term illness/disability	77
Don't know	*
unweighted	44,771
<b>Had dependent children (&lt;16)</b>	
Yes	36
No	64
unweighted	44,771
<b>Highest qualification</b>	
Degree or equivalent	24
Higher education	10
GCE A Level or equivalent	23
GCSE grades A-C or equivalent	23
Other qualifications	12
No qualification	8
Don't know/Missing	1
unweighted	44,771

<sup>52</sup> Although only the unweighted base is shown for the LFS analyses, all analyses are based on data that have been weighted, using the weighting variable *pwt07*.

**Table 2.2 (cont.) Labour Force Survey: Personal characteristics of GB employees**

	All
<b>Nationality</b>	
UK, British	87
Irish (Republic)	1
Other	12
unweighted	44,771
<b>Country of Birth</b>	
UK	90
Ireland	1
Other	10
unweighted	44,771

Based on all respondents

Source: Labour Force Survey Winter 2008 (GB employees only)

**Table 2.3 Claimants' survey: Employment-related characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Whether employed or applying for job</b>							
Employed	99	97	97	98	94	98	97
Applying for job	-	1	1	-	5	-	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Employment status</b>							
Permanent full-time	88	82	75	85	78	76	82
Permanent part-time	9	14	10	10	19	16	13
Temporary job	1	3	12	4	3	8	4
weighted	625	509	232	52	331	216	1965
unweighted	568	512	250	54	356	222	1962
<b>Occupational group</b>							
Managers and Senior Officials	26	23	15	22	18	21	22
Professional Associate	6	7	5	4	8	7	6
Professional and Technical	13	10	13	2	16	12	12
Administrative and Secretarial	12	9	5	13	18	10	11
Skilled Trades	11	14	18	25	5	13	12
Personal Service	5	8	10	6	5	9	7
Sales and Customer Service	4	6	7	9	11	4	6
Process, Plant, and Machine Operatives	11	12	15	16	8	11	11
Elementary	11	11	13	4	10	13	11
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020
<b>Annual pay (full-time permanent employees)</b>							
Median	20,323	20,000	20,800	16,784	21,597	19,748	20,000
weighted	552	417	173	44	257	163	1605
unweighted	501	420	186	47	276	167	1596

**Table 2.3 (cont.) Claimants' survey: Employment-related characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Service (years)</b>							
Mean	7	5	3	8	8	6	6
Median	4	3	1	6	5	3	3
weighted	625	509	232	52	331	216	1965
unweighted	568	512	250	54	356	222	1962
<b>Member of a trade union or staff association</b>							
Yes	25	13	23	15	46	27	25
No	74	87	77	85	53	73	74
Don't Know	1	*	-	-	1	1	1
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

Based on all claimants except Employment status; Service (All current & former employees) & Annual pay (All full-time permanent employees)  
Source: SETA 2008

**Table 2.4 Labour Force Survey: Employment-related characteristics of GB employees**

	All
<b>Employment status</b>	
Permanent full-time	72
Permanent part-time	23
Temporary job	6
unweighted	44,771
<b>Occupational group</b>	
Managers and Senior Officials	15
Professional	13
Associate Professional and Technical	15
Administrative and Secretarial	13
Skilled Trades	8
Personal Service	9
Sales and Customer Service	9
Process, Plant, and Machine Operatives	7
Elementary	12
Missing	*
unweighted	44,771
<b>Annual pay (full-time permanent employees)</b>	
Median	22,984
unweighted	9836
<b>Member of a trade union or staff association</b>	
Yes	27
No	73
unweighted	44,771
<b>SIC 2003</b>	
Agriculture/ Hunting/Forestry/Fishing	1
Mining/Quarrying	1
Manufacturing	13
Construction	6
Wholesale/Retail	15
Hotels/ Restaurants	4
Transport/Communications/ Utilities	8
Finance	5
Other services/Public administration	48
Missing	*
unweighted	44,771
<b>Number of employees at workplace</b>	
1 to 24	34
25 to 49	14
50 to 249	23
250 or more	29
Missing	1
unweighted	44,771

Based on all respondents except Annual Pay (full-time permanent employees)  
 Source: Labour Force Survey Winter 2008 (GB employees only)



**Table 2.5 Employers' survey: Characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Sector</b>							
Private sector	78	81	80	79	51	70	72
Public sector	15	11	13	16	36	21	19
Non-profit/voluntary sector	8	6	8	3	12	6	8
Don't know	1	2	1	2	1	4	1
weighted	549	551	182	28	437	259	2007
unweighted	921	577	159	22	396	232	2007
<b>SIC 2003</b>							
Agriculture/Hunting/Forestry/Fishing	1	1	2	-	*	*	1
Mining/Quarrying	1	-	-	*	-	*	*
Manufacturing	16	13	9	17	10	11	13
Construction	7	8	11	5	3	9	7
Wholesale/Retail	13	15	5	13	12	13	13
Hotels/Restaurants	6	7	5	-	4	7	6
Transport/Communications/Utilities	7	6	6	17	5	7	6
Finance	9	12	9	13	7	4	9
Other services/Public administration	41	40	53	35	59	48	46
weighted	518	531	177	27	421	247	1922
unweighted	594	556	153	21	381	219	1924
<b>Number of employees at organisation</b>							
1 to 24	23	37	32	18	15	31	27
25 to 49	11	9	10	9	6	10	9
50 to 249	20	21	22	17	19	14	19
250 or more	46	34	37	57	60	45	45
weighted	544	539	171	28	429	256	1967
unweighted	614	562	149	22	387	229	1963
<b>Number of employees at workplace</b>							
1 to 24	41	50	56	35	33	48	44
25 to 49	14	14	14	10	12	11	13
50 to 249	27	22	19	25	24	20	24
250 or more	18	13	11	30	31	21	19
weighted	532	526	159	19	421	247	1904
unweighted	609	556	143	19	380	225	1932

**Table 2.5 (cont.) Employers' survey: Characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Resources for dealing with personnel issues</b>							
Had HR or personnel department	61	54	59	73	75	60	62
Used external person/company for personnel issues	41	35	37	29	37	39	38
Had internal legal department for personnel issues	19	14	14	19	31	22	20
weighted	549	551	182	28	437	259	2007
unweighted	921	577	159	22	396	232	2007
<b>Trade union or staff association present</b>							
Yes	32	20	20	48	52	34	32
No	68	79	78	53	47	66	67
Don't know	1	1	2	-	1	-	-
weighted	543	530	175	28	391	254	1922
unweighted	615	556	153	22	363	230	1939
<b>Claimant could join union/staff association</b>							
Yes	97	89	95	95	98	98	96
No	3	10	3	-	2	2	3
Don't know	1	1	3	5	1	-	1
weighted	172	108	36	13	205	86	620
unweighted	147	87	24	8	143	59	468
<b>Member of employers/trade association</b>							
Yes	31	26	36	28	34	35	31
No	65	67	62	56	57	61	63
Don't know	4	6	3	16	9	4	6
weighted	549	551	182	28	437	259	2007
unweighted	921	577	159	22	396	232	2007
<b>Personally dealt with ET application in the past</b>							
Yes	61	50	54	76	72	56	59
No	39	51	46	24	28	43	41
weighted	549	551	182	28	437	259	2007
unweighted	921	577	159	22	396	232	2007

**Table 2.5 (cont.) Employers' survey: Characteristics by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Number of other ET cases in past 2 years</b>							
Mean	6	6	4	7	6	5	6
Median	1	0	1	3	2	1	1
weighted	549	551	182	28	437	259	2007
unweighted	921	577	159	22	396	232	2007

Based on all employers, except SIC (all except missing values), Number of employees at organisation (all except missing values), Number of employees at workplace (all except missing values), Trade Union or staff association (All where claimant was current or former employee); Claimant could join union/staff association (All that had trade union/staff association)

Source: SETA 2008

**Table 3.1 Claimants' survey: Written statements and procedures by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether claimant issued with a written statement of terms and conditions after joining the organisation</b>													
Yes	64	69	59	53	64	78	54	48	69	66	71	71	35
No	33	27	39	43	35	18	44	47	29	32	28	26	59
Don't know	3	3	2	4	2	4	2	5	2	3	2	3	7
<b>Whether the organisation have a written disciplinary procedure</b>													
Yes	59	68	48	48	47	74	53	43	66	59	62	69	58
No	34	27	44	43	35	21	39	50	29	33	30	24	37
Don't know	7	5	9	9	9	5	8	7	6	8	8	7	5
<b>Whether the organisation have a written grievance procedure</b>													
Yes	56	65	44	44	45	74	48	38	65	56	59	68	57
No	38	31	50	48	46	21	47	58	31	39	35	27	35
Don't know	5	5	6	8	9	5	5	4	4	5	6	6	8
<b>Organisation had both written disciplinary and written grievance procedures</b>													
Yes	50	27	38	37	36	67	43	32	55	50	53	61	48
weighted	1965	625	509	232	52	331	216	292	136	786	314	301	136
unweighted	1962	568	512	250	54	356	222	298	135	781	514	300	134

Based on all former and current employees  
Source: SETA 2008

**Table 3.2 Employers' survey: Written statements and procedures by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether claimant issued with a written statement of terms and conditions after joining the organisation</b>													
Yes	89	93	86	88	76	92	83	81	91	87	88	94	89
No	9	5	12	7	25	5	15	12	6	10	10	5	9
Don't know	3	2	2	5	-	3	2	7	3	2	2	2	3
<b>Whether the organisation have a written disciplinary procedure</b>													
Yes	93	94	88	94	95	97	90	90	97	91	90	97	97
No	7	5	11	5	6	3	10	10	3	8	9	4	2
Don't know	1	1	1	1	-	1	1	-	*	1	1	-	*
<b>Whether the organisation have a written grievance procedure</b>													
Yes	92	93	88	93	95	97	91	89	96	90	91	97	97
No	7	6	11	5	3	3	9	10	4	9	8	3	3
Don't know	1	1	1	2	2	*	1	1	-	1	1	*	-
<b>Organisation had both written disciplinary and written grievance procedures</b>													
Yes	91	92	86	93	92	96	89	88	96	89	89	96	97
weighted	1922	543	530	175	28	391	254	177	162	764	415	252	152
unweighted	1939	615	556	153	22	363	230	161	161	806	419	243	149

Based on all employers where claimant was current or former employee  
Source: SETA 2008

**Table 3.3 Claimants' survey: Written statements and procedures by characteristics**

	Occupational status						Union membership	
	All	Full-time	Part-time	Varied	Permanent	Non-permanent	Member of union/staff association	Not member of union/staff association
<b>Whether claimant issued with a written statement of terms and conditions after joining the organisation</b>								
Yes	64	65	58	67	65	54	78	60
No	33	32	38	28	32	43	19	38
Don't know	3	3	4	5	3	4	4	3
<b>Organisation had both written disciplinary and written grievance procedures</b>								
Yes	50	51	42	35	50	26	70	43
weighted	1965	1655	271	38	1884	80	502	1454
unweighted	1962	1648	275	39	1878	83	506	1447

Based on all former and current employees  
Source: SETA 2008

**Table 3.3 (continued) Claimants' survey: Written statements and procedures by characteristics**

		Occupational group								
		Manager/ Senior Officials	Professional	Associate Professional/ Technical	Admin/ Secretarial	Skilled Trades	Personal Service	Sales/ Customer Service	Process, Plant, Machine Operatives	Elementary
		All								
<b>Whether claimant issued with a written statement of terms and conditions after joining the organisation</b>										
Yes	64	69	78	73	64	49	64	57	63	62
No	33	28	22	25	32	48	35	40	35	32
Don't know	3	3	1	2	4	2	2	2	3	6
<b>Organisation had both written disciplinary and written grievance procedures</b>										
Yes	50	62	53	61	56	31	39	49	41	40
weighted	1965	430	120	243	224	240	132	122	222	220
unweighted	1962	425	120	243	223	241	132	125	221	220

Based on all former and current employees  
Source: SETA 2008

**Table 3.4 Employers' survey: Written statements and procedures by characteristics**

	Sector				Enterprise size			
	All	Private	Public	Non-profit	Less than 25	25 to 49	50 to 249	250 +
<b>Whether claimant issued with a written statement of terms and conditions after joining the organisation</b>								
Yes	89	87	93	94	74	87	93	96
No	9	11	4	3	22	9	5	3
Don't know	3	2	2	3	4	4	2	2
<b>Organisation had both written disciplinary and written grievance procedures</b>								
Yes	91	89	98	96	73	88	98	100
weighted	1922	1391	358	147	515	173	358	841
unweighted	1939	1483	254	176	639	219	400	642

Based on all employers where claimant was current or former employee  
Source: SETA 2008



**Table 3.5 Claimants' survey: Whether procedures were followed by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrim	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
Yes, all the way	38	37	31	39	37	47	35	27	43	37	45	41	31
Yes, part of the way	19	19	19	18	6	20	20	18	23	20	18	19	14
Yes, dk how far	5	7	4	2	3	5	4	7	3	4	4	6	8
ANY YES	62	63	54	60	47	72	60	52	69	61	66	67	53
No, not at all	29	27	36	32	47	20	33	38	20	30	27	25	32
Don't know	9	10	10	9	7	8	8	10	12	9	7	9	14
weighted	1297	473	272	126	29	271	125	144	103	514	216	229	91
unweighted	1290	430	273	136	30	292	129	146	101	508	217	228	90

Based on all claimants who said that written disciplinary or grievance procedures were in place  
Source: SETA 2008

**Table 3.6 Employers' survey: Whether procedures were followed by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrim	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
Yes, all the way	64	69	63	47	51	69	63	61	75	64	63	63	65
Yes, part of the way	13	10	12	13	25	16	13	14	8	13	17	10	9
Yes, dk how far	2	2	2	1	2	1	3	2	2	2	2	1	1
ANY YES	78	81	77	61	79	86	79	77	86	78	83	74	75
No, not at all	14	13	16	32	3	9	10	16	12	16	11	14	16
Don't know	7	6	7	7	12	6	11	7	3	6	6	13	10
weighted	1533	437	413	140	22	319	201	132	146	600	319	204	133
unweighted	1536	494	426	124	17	294	181	119	143	626	327	199	122

Based on all employers who said that written disciplinary or grievance procedures were in place and had personal responsibility for the case  
Source: SETA 2008

**Table 3.7 Claimants' survey: Whether procedures were followed by characteristics**

	Occupational status						Union membership	
	All	Full-time	Part-time	Varied	Permanent	Non-Permanent	Member	No member
Yes, all the way	38	40	33	27	38	28	41	36
Yes, part of the way	19	19	14	18	19	20	23	17
Yes, dk how far	5	5	3	9	5	-	6	5
ANY YES	62	64	51	54	62	48	70	58
No, not at all	29	28	37	42	29	40	21	33
Don't know	9	9	13	4	9	13	9	9
weighted	1297	1123	152	23	1260	30	424	867
unweighted	1290	1114	153	23	1258	31	427	857

Based on all claimants who said that written disciplinary or grievance procedures were in place  
Source: SETA 2008

**Table 3.8 Employers' survey: Whether procedures were followed by characteristics**

	Sector			Enterprise size				
	All	Private	Public	Non-profit	Less than 25	25 to 49	50 to 249	250+
Yes, all the way	64	63	37	71	55	69	66	68
Yes, part of the way	13	12	14	15	16	11	10	12
Yes, dk how far	2	2	2	1	2	2	2	1
ANY YES	79	77	84	87	73	82	78	82
No, not at all	14	16	9	10	21	14	15	10
Don't know	7	7	7	3	7	4	7	8
weighted	1533	1109	281	123	377	141	300	686
unweighted	1536	1168	200	149	465	179	355	527

Based on all employers who said that written disciplinary or grievance procedures were in place and had personal responsibility for the case  
Source: SETA 2008

**Table 3.9 Claimants' survey: Communication prior to the application by characteristics**

	All	Occupational status				Union membership		
		Full-time	Part-time	Varied	Permanent	Non-Permanent	Member	No member
<b>Whether claimant put concerns about the issue in writing</b>								
Yes	69	70	69	69	69	74	76	67
No	29	29	28	31	29	25	22	32
Don't know	2	1	3	-	2	1	2	1
<b>Whether employer wrote to the claimant about the issue</b>								
Yes	47	48	41	58	47	36	58	43
No	50	50	54	40	50	63	39	55
Don't know	3	2	5	2	3	1	4	2
<b>Whether claimant discussed the issue with employer</b>								
Yes	52	52	50	54	52	47	60	49
- face-to-face	33	34	32	29	34	22	42	30
- telephone	8	8	9	13	8	18	6	9
Both	10	10	9	12	10	7	13	9
No	47	46	48	46	46	53	38	50
Don't know	2	2	2	-	2	-	2	2
<b>Whether claimant informed employer that they were thinking of applying for a tribunal</b>								
No	35	35	35	21	35	31	64	35
Yes	60	59	61	79	60	67	60	61
- face-to-face	17	17	16	23	17	12	21	16
- telephone	9	9	9	11	9	16	9	9
- In writing	42	41	45	58	42	53	40	43
- unspecified	*	-	-	-	*	-	*	*
- other	2	2	2	2	2	3	3	1
Don't know	5	5	5	-	5	3	6	4
weighted	2020	1655	271	38	1884	80	510	1498
unweighted	2020	1648	275	39	1878	83	515	1493

Based on all claimants  
Source: SETA 2008

**Table 3.10 Employers' survey: Communication prior to the application by characteristics**

	Sector			Enterprise size				
	All	Private	Public	Non-profit	Less than 25	25 to 49	50 to 249	250+
<b>Whether claimant put concerns about the issue in writing</b>								
Yes	57	51	72	77	46	46	52	67
No	38	43	22	23	48	49	43	27
Don't know	6	6	7	1	75	45	6	6
<b>Whether employer wrote to the claimant about the issue</b>								
Yes	67	41	63	76	55	64	65	74
No	28	38	32	17	38	32	30	20
Don't know	6	21	6	7	7	4	5	6
<b>Whether claimant discussed the issue with employer</b>								
Yes	50	53	42	38	62	52	50	42
- face-to-face	32	29	41	40	21	30	31	40
- telephone	7	7	4	8	8	10	7	5
Both	12	11	12	15	9	9	12	14
No	42	46	31	34	57	48	44	31
Don't know	8	7	11	3	4	4	6	10
<b>Whether claimant informed employer that they were thinking of applying for a tribunal</b>								
No	67	69	62	63	67	71	71	65
Yes	21	22	16	25	25	19	22	19
- face-to-face	6	7	4	8	6	6	5	8
- telephone	3	3	2	5	4	3	5	2
- In writing	13	13	12	16	17	12	13	10
- unspecified	*	*	-	-	*	-	-	-
- other	1	1	*	*	1	1	*	1
Don't know	12	9	22	12	9	9	7	16
weighted	2007	1437	380	164	526	178	381	882
unweighted	2007	1525	269	186	653	225	420	605

Based on all employers  
Source: SETA 2008

**Table 3.11 Claimants' survey: Whether employer warned claimant that they might be dismissed or made redundant by reason for job separation**

	Reason for job separation		
	All	Dismissed	Made redundant
No warning	72	80	59
Any warning	27	18	40
- <i>Verbal</i>	8	5	13
- <i>Written</i>	9	7	11
- <i>Both</i>	10	6	16
Don't know	2	2	2
weighted	1123	704	433
unweighted	1098	679	432

Based on all claimants who were dismissed or made redundant  
Source: SETA 2008

**Table 3.12 Employers' survey: Whether employer warned claimant that they might be dismissed or made redundant by reason for job separation**

	Reason for job separation		
	All	Dismissed	Made redundant
No warning	22	26	12
Any warning	74	68	86
- <i>Verbal</i>	12	11	15
- <i>Written</i>	14	13	15
- <i>Both</i>	48	43	56
Don't know	5	6	1
weighted	921	633	288
unweighted	999	713	286

Based on all employers where claimant was dismissed or made redundant  
Source: SETA 2008



**Table 3.13 Claimants' and employers' survey: Formal meetings**

	Claimants	Employers
<b>Whether a formal meeting took place</b>		
Yes	69	85
<i>- one meeting</i>	26	19
<i>- more than one meeting</i>	43	66
No	30	11
Don't know	1	4
weighted	872	873
unweighted	871	863
<b>Whether claimant was accompanied at meeting</b>		
Yes	57	68
No	43	32
weighted	602	744
unweighted	598	725

Based on all claimants/employers where dispute was discussed (whether formal meeting took place); all claimants/employers where formal meeting took place (whether accompanied)  
 Source: SETA 2008

**Table 3.14 Combined sample: Communication prior to the application**

	All
<b>Whether claimant put concerns about the issue in writing</b>	
Yes	63
No	33
Don't know	4
<b>Whether employer wrote to the claimant about the issue</b>	
Yes	57
No	39
Don't know	4
<b>Whether claimant discussed the issue with employer</b>	
Yes	51
- <i>face-to-face</i>	33
- <i>telephone</i>	8
<i>Both</i>	11
No	44
Don't know	5
<b>Whether a formal meeting took place</b>	
Yes	33
No	66
Don't know	1
weighted	4027
unweighted	4027

Based on all claimants/employers  
Source: SETA 2008

**Table 3.15 Employers' survey: Who the organisation normally allows a worker to be accompanied by in grievance and disciplinary meeting by sector and enterprise size**

	Sector				Enterprise size			
	All	Private	Public	Non-profit	Less than 25	25 to 49	50 to 249	250+
Work colleague	97	96	98	99	90	97	100	100
Trade Union rep. / Worker rep.	90	87	97	97	76	84	91	99
Supervisor/ Line manager	87	87	87	83	80	91	91	89
Family or Friend	46	48	39	51	70	66	40	31
Solicitor or other legal rep.	41	47	19	35	73	67	43	15
Anyone of the worker's choosing	4	4	2	5	8	5	3	1
Other	1	*	*	3	1	*	*	1
Not answered	1	1	*	*	3	1	-	-
Don't Know	1	1	1	*	3	2	-	*
weighted	2007	1437	380	164	526	178	381	882
unweighted	2007	1525	269	186	653	225	420	665

Based on all employers  
Source: SETA 2008

**Table 4.1 Claimants' Survey: Whether mediation was suggested or considered by summary jurisdiction and SETA outcome**

	Summary Jurisdiction				SETA outcome					
	All	Cases involving any discrimination claims	Short Period cases	Standard Period cases	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether anyone suggested using mediation</b>										
Yes	23	23	20	25	27	28	22	23	22	21
No	74	75	77	72	70	71	75	73	76	77
Don't Know	3	2	2	3	3	2	3	4	2	3
<b>Whether discussed the possibility of using mediation with employer</b>										
Yes	18	20	15	18	16	22	17	18	19	17
No	80	77	83	80	81	78	80	80	78	80
Don't Know	3	3	2	3	3	1	3	2	3	3
<b>Whether discussed the possibility of using mediation with a solicitor</b>										
Yes	16	22	8	17	11	15	15	25	16	9
No	82	74	89	81	86	83	82	73	82	87
Don't Know	3	4	2	3	3	1	3	2	2	4
weighted	2020	470	540	1009	305	142	804	320	311	137
unweighted	2020	506	581	933	311	141	800	321	311	136

Based on all claimants  
Source: SETA 2008

**Table 4.2 Employers' Survey: Whether mediation was suggested or considered by summary jurisdiction and SETA outcome**

	Summary Jurisdiction				SETA outcome					
	All	Cases involving any discrimination claims	Short Period cases	Standard Period cases	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether anyone suggested using mediation</b>										
Yes	15	15	11	16	16	14	14	18	12	10
No	78	78	31	77	76	78	79	75	79	82
Don't Know	7	7	7	8	9	8	7	7	9	7
<b>Whether claimant discussed the possibility of using mediation</b>										
Yes	12	14	7	12	10	12	12	14	8	12
No	81	79	85	80	81	81	82	78	82	81
Don't Know	8	7	7	8	9	7	6	8	10	7
<b>Whether discussed the possibility of using mediation with a solicitor</b>										
Yes	13	17	6	14	8	9	15	14	77	85
No	80	77	86	79	84	85	77	80	16	9
Don't Know	7	6	8	7	9	6	8	6	7	7
weighted	2007	560	455	992	177	185	780	426	274	165
unweighted	2007	538	363	1006	171	165	823	430	258	160

Based on all employers  
Source: SETA 2008

**Table 4.3 Employers' Survey: Whether mediation was suggested or considered by enterprise size**

		Enterprise size				
		All	Less than 25	25 to 49	50 to 249	250+
<b>Whether anyone suggested using mediation</b>						
Yes	15	24	17	13	9	
No	78	69	78	79	83	
Don't Know	7	7	5	8	8	
<b>Whether employer discussed the possibility of using mediation</b>						
Yes	12	17	14	11	8	
No	81	75	79	81	85	
Don't Know	8	7	7	8	7	
<b>Whether discussed the possibility of using mediation with a solicitor</b>						
Yes	13	20	15	14	9	
No	80	73	80	81	83	
Don't Know	7	6	5	6	9	
weighted	2007	526	178	381	882	
unweighted	2007	653	225	420	655	

Based on all employers  
Source: SETA 2008

**Table 4.4 Claimants' and employers' survey: Who suggested mediation might help resolve the dispute**

	Claimants	Employers
Acas officer or Acas helpline	34	39
Solicitor, Barrister, or some other kind of lawyer	15	11
Trade Union Official	11	-
Citizens Advice Bureau	9	1
Family or Friends	6	1
Work Colleagues	3	-
Personnel or HR officer at work	3	-
Manager (not Personnel or HR) at work	3	-
Employment Rights Advisor/Employment Consultant	2	2
Worker Representative at work	1	-
Equal Opportunities Commission, the Commission for Racial Equality or the Disability Rights Commission	*	-
Owner/General Manager	-	14
Personnel/HR specialist	-	9
Legal Specialist	-	3
Employers Association	-	2
Other	12	16
Don't Know	5	7
weighted	471	391
unweighted	468	344

Based on all claimants/employers who received a suggestion to use mediation  
Source: SETA 2008

**Table 4.5 Claimants' survey: Whether took part in mediation by SETA outcome**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
Yes	8	10	9	9	10	5	9
No	91	90	88	88	88	91	89
Don't Know	-	2	3	3	2	4	3
weighted	305	142	804	320	311	137	2020
unweighted	311	141	800	321	311	136	2020

Based on all claimants  
Source: SETA 2008



**Table 4.6 Employers' survey: Whether took part in mediation by SETA outcome**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
Yes	9	5	8	7	5	6	7
No	85	92	87	88	89	87	87
Don't Know	3	6	6	6	6	7	6
weighted	177	185	780	426	274	165	2007
unweighted	171	165	823	430	258	160	2007

Based on all employers  
Source: SETA 2008

**Table 4.7 Claimants' and employers' survey: The use of mediation**

	Claimants	Employers
<b>Whether sought legal advice prior to taking up mediation</b>		
Yes	49	63
No	48	34
Don't know	3	3
weighted	174	137
unweighted	172	143
<b>Who paid for the mediation service</b>		
Employer	13	39
Claimant	16	1
Both	*	*
PAID	30	40
Was provided free of charge	44	52
Don't know	26	7
weighted	174	137
unweighted	172	143
<b>Amount paid for mediation service</b>		
Mean	1999	4193
Median	1200	2000
weighted	29	54
unweighted	28	56
<b>Whether agreed if mediation was helpful</b>		
Strongly Agree	17	23
Tend to Agree	16	15
AGREE	33	39
Neither agree nor disagree	12	16
Tend to Disagree	12	16
Strongly Disagree	36	22
DISAGREE	48	38
Don't Know	7	7
weighted	174	137
unweighted	172	143

Based on all claimants/employers who took part in mediation (excluding those who took part in Acas conciliation), except Amount paid for the mediation service (all who paid for the mediation themselves)  
Source: SETA 2008

**Table 4.8 Claimants' and employers' survey: Who carried out the mediation**

	Claimants	Employers
Solicitor in private practice	20	15
Acas	16	10
Union/Trade Union	16	1
In-house mediator	11	27
Family and friends	7	2
Independent Person (no further detail given)	5	5
Citizen's Advice Bureau	5	1
Manager/Director	4	4
Employment Consultants	4	2
Myself	3	5
Mediator (no further detail given)	2	5
Local Authority Solicitor	1	*
HR specialist/Company	1	6
The Tribunal Service	-	6
Other	6	6
Don't Know	6	12
weighted	174	137
unweighted	172	143

Based on all claimants/employers who participated in mediation (excluding those who took part in Acas conciliation)  
Source: SETA 2008

**Table 4.9 Claimants' survey: Whether would consider using mediation in the future by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
Yes	80	83	77	80	82	78	78	76	77	83	80	78	76
No	14	11	16	12	11	14	16	16	17	11	14	16	12
Don't know	7	6	7	8	7	8	6	9	6	6	7	6	13
weighted	2020	630	525	241	53	352	219	305	142	804	320	311	137
unweighted	2020	572	529	259	55	379	226	311	141	800	321	311	136

Based on all claimants  
Source: SETA 2008

**Table 4.10 Employers' survey: Whether would consider using mediation in the future by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
Yes	88	87	86	90	92	92	82	82	88	87	88	89	90
No	8	8	10	8	6	5	8	11	7	7	9	7	9
Don't know	5	5	4	3	2	3	10	6	5	6	4	4	2
weighted	2007	549	551	182	28	437	259	177	185	780	426	274	165
unweighted	2007	921	577	159	22	396	232	171	165	823	430	258	160

Based on all employers  
Source: SETA 2008

**Table 4.11 Claimants' survey: Whether would consider using mediation in the future by characteristics and whether participated in mediation**

	Union membership			Claimant Age							Whether participated in mediation	
		Member of union/staff association	Not member of union/staff association	16-19	20-24	25-34	35-44	45-54	55-64	65+	Yes	No
Yes	80	76	81	92	78	82	84	82	69	61	72	81
No	14	16	13	5	17	11	10	12	21	36	22	13
Don't know	7	8	7	3	5	7	6	7	10	3	7	7
weighted	2020	510	1498	36	115	395	527	549	364	30	174	1795
unweighted	2020	515	1493	37	115	399	529	544	361	31	172	1797

Based on all claimants  
Source: SETA 2008

**Table 4.12 Employers' survey: Whether would consider using mediation in the future by characteristics and whether participated in mediation**

	Sector			Enterprise size				Whether participated in mediation		
	Private	Public	Non-profit	Less than 25	25 to 49	50 to 249	250 +	Yes	No	
Yes	88	85	95	94	86	85	88	89	90	87
No	8	10	2	2	10	11	7	6	5	8
Don't know	5	5	3	4	5	4	4	5	6	5
weighted	2007	1437	380	164	526	178	361	882	137	1755
unweighted	2007	1525	269	186	653	225	420	665	143	1758

Based on all employers  
Source: SETA 2008

**Table 5.1 Claimants' survey: Where obtained ET1 from by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
Solicitor, barrister, other lawyer	22	22	9	4	25	20	20
Citizens Advice Bureau	12	15	21	22	7	13	13
Acas	10	10	9	9	4	10	9
Job centres	3	4	5	2	1	3	3
Trade Union	9	3	8	6	14	10	9
TS by phone	6	7	5	18	8	6	7
TS online	19	19	22	16	23	20	20
TS unspecified	3	1	3	-	2	1	2
Employment Law Centre	2	1	1	2	2	3	2
Employer Equal Opportunities Commission	*	*	1	-	*	*	*
Other website	4	4	*	4	3	4	4
Other	3	4	4	4	3	4	4
Don't know	9	11	9	15	7	5	9
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

Based on all claimants  
Source: SETA 2008

**Table 5.2 Claimants' survey: Help completing ET1**

**Whether received help with ET1**

Completed form themselves	57
Someone helped them to complete the form	24
Someone completed the whole form for them	18
Don't know	2
weighted	2020
unweighted	2020

**Who helped claimant**

Solicitor, barrister or some other kind of lawyer	45
Trade Union representative/representative at workplace	15
Citizens Advice Bureau	14
Family or Friends	20
Employment Rights Adviser	2
Work colleagues	1
Acas	*
Other	1
Don't know	1
weighted	843
unweighted	836

Based on all claimants/ all claimants who received help with ET1  
Source: SETA 2008



**Table 5.3 Employers' survey: Help completing ET3**

<b>Who completed ET3</b>	
Interviewee	38
Someone else in organisation	18
Someone outside organisation	38
Don't know	6
weighted	2007
unweighted	2007
<b>Who completed ET3 in organisation</b>	
Senior or General Manager	21
Personnel or human resources specialist	23
Legal specialist in company/company lawyer	24
Owner	11
Accountant	1
Someone else in organisation	14
Don't know	6
weighted	360
unweighted	343
<b>Who completed ET3 for organisation</b>	
Solicitor, barrister or some other kind of lawyer	78
Employment Rights Adviser	10
Employers Association/Trade Association	3
Family or Friend	*
Other	8
Don't know	1
weighted	761
unweighted	777

Based on all employers/ all employers who said someone completed ET3 in organisation/ all employers who completed ET3 for organisation  
Source: SETA 2008

**Table 5.4 Claimants' and Employers' survey: Nomination of representative on the ET1/ET3**

	Claimant	Employer	All
<b>Whether nominated someone on ET1/ET3</b>			
Yes	32	54	42
No	54	26	41
Don't know	14	20	17
weighted	1987	1630	3618
unweighted	1987	1630	3618
<b>Who nominated on ET1/ET3</b>			
Owner/Manager	-	7	4
Personnel	-	5	3
Company legal specialist	-	9	5
Employers Association	-	2	1
Employment Rights Adviser	2	8	6
Solicitor, barrister or other kind of lawyer	48	55	52
Trade Union Representative	23	-	10
Family or friends	10	*	4
Citizens Advice Bureau	8	-	3
Someone else in organisation	-	1	1
Someone outside organisation	-	4	2
Respondent	-	6	4
Other	7	2	3
Don't know	2	*	1
weighted	644	877	1521
unweighted	641	831	1472

Based on all claimants and employers who were able to say who completed the ET1/ET3/ all claimants and employers who nominated someone on the ET1/ET3  
Source: SETA 2008

**Table 5.5 Claimants' and Employers' survey: Day-to-day representative**

	Claimant	Employer	All
<b>Whether had day-to-day representative</b>			
Yes	46	60	53
No	54	38	46
Don't know	1	2	2
weighted	2020	2007	4027
unweighted	2020	2007	4027
<b>Who acted as representative</b>			
Owner/Manager	-	3	1
Personnel	-	4	2
Company legal specialist	-	9	5
Employers Association	-	3	2
Employment Rights Adviser	2	8	5
Solicitor, barrister or other kind of lawyer	52	66	60
Trade Union Representative	15	-	6
Family or friends	15	*	7
Citizens Advice Bureau	12	-	5
Someone else in organisation	-	2	1
Other	9	8	8
Don't know	1	*	1
weighted	919	1195	2114
unweighted	910	1226	2136

Based on all claimants and employers / all claimants and employers who had a day-to-day representative  
Source: SETA 2008

**Table 5.6 Claimants' and Employers' survey: Representative at a full tribunal hearing**

	Claimant	Employer	All
<b>Whether had representative at hearing</b>			
Yes	34	73	51
No	65	27	48
Don't know	1	*	1
weighted	445	358	803
unweighted	450	336	786
<b>Who acted as representative</b>			
Owner/Manager	-	8	5
Personnel	-	4	3
Company legal specialist	-	5	3
Employers Association	-	2	1
Employment Rights Adviser	1	6	4
Solicitor, barrister or other kind of lawyer	62	60	61
Trade Union Representative	7	-	3
Family or friends	13	*	5
Citizens Advice Bureau	9	-	3
Someone else in organisation	-	3	2
Other	6	9	8
weighted	151	261	412
unweighted	149	234	383

Based on all claimants and employers who went to full tribunal hearing/ all claimants and employers who had a representative acting for them at the hearing  
Source: SETA 2008

**Table 5.7 Claimants' and Employers' survey: Additional advice and guidance**

	Claimant	Employer	All
<b>Whether received additional advice</b>			
Yes	20	20	20
No	79	78	79
Don't know	*	3	2
weighted	2020	2007	4027
unweighted	2020	2007	4027
<b>Who went to for advice</b>			
Owner/Manager	-	3	2
Personnel	-	5	2
Company legal specialist	-	7	4
Employers Association	-	6	3
Employment Rights Adviser	1	6	4
Solicitor, barrister or other kind of lawyer	33	50	42
Trade Union Representative	9	*	5
Family or friends	14	3	8
Citizens Advice Bureau	18	1	10
Work colleagues	3	-	1
Acas	13	-	7
Other	13	22	17
Don't know	3	3	3
weighted	408	395	802
unweighted	407	418	825

Based on all claimants and employers / all claimants and employers who received additional advice and guidance  
Source: SETA 2008

**Table 5.8 Claimants' and Employers' survey: Levels of advice and representation**

	Claimant	Employer	All
<b>Whether received additional advice</b>			
Had a day-to-day representative and sought additional advice	6	8	7
Had a day-to-day representative and sought NO additional advice	39	52	46
No day-to-day representative, but sought advice	14	12	13
No day-to-day representative or advice	40	29	34
weighted	2020	2007	4027
unweighted	2020	2007	4027

Based on all claimants and employers  
Source: SETA 2008

**Table 5.9 Claimants' survey: Whether desired any advice from other sources not previously mentioned by SETA outcome, ethnicity and representation**

	All	SETA outcome						Ethnicity				Representation	
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Withdrawn	Privately settled	Dismissed	White	Black	Asian	Other	Represented	Not represented
Yes	26	25	44	23	29	21	38	25	47	36	39	20	32
No	68	70	52	71	65	74	56	70	50	62	53	75	62
Don't know	6	5	5	6	6	5	7	6	3	2	8	5	6
weighted	2020	305	142	804	311	320	137	1731	93	97	73	919	1101
unweighted	2020	311	141	800	311	321	136	1723	94	100	76	910	1110

Based on all claimants  
Source: SETA 2008

**Table 5.10 Employers' survey: Whether desired any advice from other sources not previously mentioned by SETA outcome, enterprise size and representation**

	SETA outcome						Enterprise size				Representation		
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Withdrawn	Privately settled	Dismissed	Less than 25	25-49	50-249	250+	Represented	Not represented
Yes	9	15	7	7	6	11	11	14	13	5	6	8	10
No	89	81	90	91	93	87	87	82	85	93	93	91	87
Don't know	2	4	3	2	1	2	2	4	2	2	1	1	4
weighted	1723	155	164	667	231	356	149	484	154	325	728	1016	706
unweighted	1736	140	157	711	220	370	138	600	193	357	551	1049	687

Based on all employers with personal responsibility for the case  
Source: SETA 2008



**Table 5.11 Claimants' and Employers' survey: Types of advice desired and reasons for not using these**

	Claimant	Employer	All
<b>Advice desired</b>			
Solicitor, barrister or some other type of lawyer	42	16	37
Acas	14	41	20
Trade Union official	13	-	10
Employers Association	-	4	1
Company Legal Specialist	-	1	*
Citizens Advice Bureau	7	1	6
Employment Rights Adviser	4	6	5
Work colleague	4	-	3
Personnel or human resources specialist	2	3	2
Worker representative	1	-	1
Owner/Senior Manager	-	*	*
Equal Opportunities Commission	4	-	3
Other	14	38	20
Don't know	10	1	8
weighted	532	150	675
unweighted	529	163	685
<b>Why did not use desired advice</b>			
Could not afford it	28	10	24
Could not find someone to ask	11	4	9
Were refused help	8	3	7
Already had someone to help/too late	9	10	9
Weren't aware/didn't think of them at the time	8	5	7
Didn't think I needed them	6	3	6
Did not approach them	2	5	3
Not a union member	2	*	1
Other	24	45	29
Don't know	12	19	14
weighted	532	150	675
unweighted	529	163	685

Based on all claimants and employers who desired additional advice  
Source: SETA 2008

**Table 5.12 Claimants' and Employers' survey: Passive sources of information used**

	Claimant	Employer	All
Acas website	47	39	43
TS website	44	26	36
BERR website	5	11	8
Other websites	24	19	22
Acas publications or leaflets	37	27	32
TS publications or leaflets	36	20	29
Don't know/None used	22	33	27
weighted	2020	1723	3743
unweighted	2020	1736	3756

Based on all claimants and all employers with personal responsibility for the case  
Source: SETA 2008

**Table 5.13 Claimants' and Employers' survey combined: Whether had a day-to-day representative by SETA outcome and primary jurisdiction**

	SETA outcome							Primary jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
Yes	53	42	55	53	60	53	45	56	48	31	50	66	51
No	48	58	45	47	41	47	55	44	52	69	50	35	49
weighted	4027	490	319	1584	747	586	302	1178	1077	423	81	790	478
unweighted	4027	476	312	1623	751	569	296	1193	1106	418	77	775	458

Based on all claimants and employers  
Source: SETA 2008

**Table 5.13a Claimants' survey: Whether had a day-to-day representative by SETA outcome and primary jurisdiction**

	SETA outcome							Primary jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
Yes	46	36	40	48	57	46	30	47	44	30	37	58	43
No	54	64	61	52	43	54	70	53	56	70	63	42	57
weighted	2020	305	142	804	320	311	137	630	525	241	53	352	219
unweighted	2020	311	141	800	321	311	136	572	529	259	55	379	226

Based on all claimants  
Source: SETA 2008

**Table 5.13b Employers' survey: Whether had a day-to-day representative by SETA outcome and primary jurisdiction**

	SETA outcome							Primary jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
Yes	60	52	68	59	61	60	57	66	53	33	73	72	58
No	40	48	32	41	39	40	43	34	47	67	27	28	42
weighted	2007	185	177	780	426	274	165	549	551	182	28	437	259
unweighted	2007	165	171	823	430	258	160	621	577	159	22	396	232

Based on all employers  
Source: SETA 2008

**Table 5.14 Claimants' survey: Whether had a day-to-day representative by personal characteristics**

	Proportion represented
<b>Sex</b>	
Male	43
Female	49
weighted	2020
unweighted	2020
<b>Ethnicity</b>	
White	47
Black	35
Asian	39
Other	41
weighted	2020
unweighted	2020
<b>Standard Occupation Classification 2000</b>	
Managers and senior officials	52
Professional occupations	45
Associate professional and technical	48
Administrative and secretarial	47
Skilled Trade	40
Personal Service occupations	43
Sales and customer service	44
Process, plant and machine operatives	41
Elementary occupations	43
weighted	2020
unweighted	2020
<b>Country</b>	
England/Wales	45
Scotland	59
weighted	2020
unweighted	2020

Based on all claimants  
Source: SETA 2008

**Table 5.15 Employers' survey: Whether had a day-to-day representative by personal characteristics**

	Proportion represented
<b>Enterprise size</b>	
Less than 25	51
25-49	61
50-249	66
250+	62
weighted	2007
unweighted	2007
<b>Public/Private</b>	
Public	59
Private	58
Other	76
weighted	2007
unweighted	2007
<b>Standard Industrial Classification 2008</b>	
Agriculture/Fishing/Mining <sup>53</sup>	40
Manufacturing	68
Construction	57
Wholesale/retail	58
Hotels and restaurants	50
Transport/Communications/Utilities	58
Finance	63
Other services and public admin	60
weighted	2007
unweighted	2007

Based on all employers  
Source: SETA 2008

<sup>53</sup> Low base size (n=15)

**Table 5.16 Claimants' and Employers' survey: Ways in which representative or main adviser helped**

	Claimant	Employer	All
<b>Ways in which advisor helped</b>			
Explain the tribunal process	84	71	77
Outline strengths and weaknesses of case	86	92	89
Outline pros and cons of settling case without tribunal	80	87	84
Discuss what tribunal might award if respondent won case	66	80	73
Helped prepare for hearings	60	70	65
weighted	1169	1233	2402
unweighted	1160	1281	2441
<b>Type of advice offered</b>			
Advised to settle	46	47	46
Advised to go to hearing	20	18	19
Advised to withdraw	2	-	1
Gave different advice at different times	11	-	5
None of the above	17	23	20
Don't know	7	9	8
weighted	1169	1233	2402
unweighted	1160	1281	2441
<b>Whether made right decision to involve representative or adviser in case</b>			
Definitely right	70	84	77
Probably right	15	10	12
Probably wrong	3	2	3
Definitely wrong	7	2	4
Not my decision	1	1	1
Don't know	5	2	3
weighted	1169	1233	2402
unweighted	1160	1281	2441

Based on all claimants and employers who had a day-to-day representative or adviser (excluding Acas)  
Source: SETA 2008



**Table 5.17 Claimants' survey: Whether made right decision to involve representative/main adviser in case by SETA outcome**

	SETA outcome						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
Definitely right	70	82	53	73	77	60	53
Probably right	15	10	20	15	12	17	16
Probably wrong	3	2	4	4	1	5	5
Definitely wrong	7	1	9	5	6	12	14
Not my decision	1	1	4	*	1	1	2
Don't know	5	3	10	4	3	5	11
weighted	1169	145	81	471	209	198	65
unweighted	1160	144	80	468	207	197	64

Based on all claimants who had a day-to-day representative or adviser (excluding Acas)  
Source: SETA 2008

**Table 5.18 Claimants' survey: Whether had a legal representative by personal characteristics**

	Proportion with legal representative
<b>Age</b>	
Under 25	18
25-44 years	31
45-64 years	34
65+ years <sup>54</sup>	20
weighted	2020
unweighted	2020
<b>Standard Occupation Classification 2000</b>	
Managers and senior officials	43
Professional occupations	36
Associate professional and technical	39
Administrative and secretarial	33
Skilled Trade	20
Personal Service occupations	22
Sales and customer service	23
Process, plant and machine operatives	26
Elementary occupations	23
weighted	2020
unweighted	2020
<b>Trade Union Member</b>	
Yes	34
No	31
weighted	2020
unweighted	2020

Based on all claimants  
Source: SETA 2008

<sup>54</sup> Low base size (n=30).

**Table 5.19 Employers' survey: Whether had an external legal representative by personal characteristics**

	Proportion with legal representative
<b>Enterprise size</b>	
Less than 25	45
25-49	48
50-249	53
250+	52
weighted	2007
unweighted	2007
<b>Public/Private</b>	
Public	53
Private	46
Non-profit/voluntary	69
weighted	2007
unweighted	2007
<b>Standard Industrial Classification 2008</b>	
Agriculture/Fishing/Mining <sup>55</sup>	60
Manufacturing	46
Construction	41
Wholesale/retail	42
Hotels and restaurants	42
Transport/Communications/Utilities	45
Finance	58
Other services and public admin	53
weighted	2007
unweighted	2007

Based on all employers  
Source: SETA 2008

<sup>55</sup> Low base size (n=15).

**Table 5.20 Claimants' and Employers' survey: Free advice and representation**

	Claimant	Employer	All
<b>Whether paid for advice</b>			
Paid for all	26	69	49
Paid for some	7	8	8
All free	66	21	42
Don't know	1	3	2
weighted	1015	1130	2145
unweighted	1006	1167	2173

Based on all claimants and employers who had a day-to-day representative or adviser (excluding friends)  
Source: SETA 2008

**Table 5.21 Employers' survey: Free advice and representation by characteristics**

	All	Enterprise size			
		Less than 25	25-49	50-249	250+
<b>Whether paid for advice</b>					
Paid for all	69	64	66	72	72
Paid for some	8	8	6	10	7
All free	21	26	24	17	19
Don't know	3	3	4	1	3
weighted	1130	270	114	234	497
unweighted	1167	348	143	263	395

Based on all employers who had a day-to-day representative or adviser (excluding friends)  
Source: SETA 2008

**Table 5.22 Claimants' survey: Payment arrangement by summary jurisdiction**

	Summary jurisdiction			All
	Cases involving discrimination claims	Short period cases	Standard period cases	
Yes – pay legal adviser only if won	8	2	8	7
Yes – pay legal adviser if won or lost	9	6	12	10
No arrangement	79	90	78	80
Don't know	4	1	2	3
weighted	298	161	557	1015
unweighted	320	173	513	1006

Based on all claimants who had a day-to-day representative or adviser (excluding friends)  
Source: SETA 2008

**Table 5.23 Claimants' survey: Total costs of advice and representation by SETA outcome and primary jurisdiction (median and mean)**

	SETA outcome							Primary jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair dismiss	Breach of Contract	Wages Act	Redund payment	Any discrim	Other
Median (£)	2000	2500	3000	1462	2690	2000	350	1759	1614	5502	1000	2500	2417
Mean (£)	4124	7208	4465	2708	4165	4999	2972	2964	3748	7333	1000	4759	7715
weighted	333	40	20	126	86	53	8	120	93	6	3	82	30
unweighted	327	38	20	123	84	54	8	109	90	6	3	88	31

Based on all claimants who paid for advice and representation (excluding those who did not know amount paid)/ Contingent fee arrangement based on all who paid for advice (excluding friends)

Source: SETA 2008

**Table 5.24 Employers' survey: Total costs of advice and representation by SETA outcome, primary jurisdiction and Enterprise size (median and mean)<sup>56</sup>**

	All	SETA outcome					Primary jurisdiction						Enterprise size				
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withd	Dismissed	Unfair dismi	Breach of Contract	Wages Act	Redund payment	Any discrim	Other	Less than 25	25-49	50-249	250+
Median (£)	2500	2596	5197	2000	3500	1950	2000	2000	2500	327	7050	3500	2000	1756	2345	2466	3500
Mean (£)	8009	19,984	10,772	3011	10,454	3566	13,000	4816	5862	2924	42,334	9588	12,020	3897	3751	11,253	9804
weighted	867	84	87	306	207	121	62	262	220	46	22	208	109	193	82	192	391
unweighted	879	69	84	337	205	114	70	298	237	40	16	194	94	245	104	207	313

Based on all employers who paid for advice and representation (excluding those who did not know amount paid)  
Source: SETA 2008

<sup>56</sup> The low base sizes above mean that high figures (or outliers) have a large impact on the mean and median values.

**Table 5.25 Claimants' survey: Whether received unsolicited approaches by country and primary jurisdiction**

	All	Country		Primary jurisdiction					
		England/ Wales	Scotland	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other
Yes	4	4	4	3	4	4	2	7	4
No	95	95	96	97	96	95	97	92	94
Don't know	1	1	-	1	*	1	2	1	1
weighted	2020	1886	134	630	525	241	53	352	219
unweighted	2020	1888	132	572	529	259	55	379	226

Based on all claimants  
Source: SETA 2008



**Table 5.26 Employers' survey: Whether received unsolicited approaches by Country, primary jurisdiction and organisation type**

	Public/Private			Primary jurisdiction						Country		
	All	Public	Private	Non-profit/voluntary	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	England/Wales	Scotland
Yes	14	2	18	15	14	19	9	6	9	15	14	5
No	80	90	76	79	79	75	86	91	84	79	79	94
Don't know	6	8	6	6	7	6	5	3	7	6	7	2
weighted	1275	344	818	99	359	297	104	21	340	154	1177	98
unweighted	1095	229	754	101	360	258	78	12	272	115	1012	83

Based on all employers with 50 or more employees  
Source: SETA 2008

**Table 6.1 Claimants' and Employers' survey : Whether received introductory letter from Acas**

	All	Employers	Claimants
Yes	77	78	76
No	12	10	14
Don't know	12	13	11
weighted	3743	1723	2020
unweighted	3756	1736	2020

Based on all claimants and employers with personal responsibility for case  
Source: SETA 2008

**Table 6.2 Claimants' survey: Contact with Acas by SETA outcome**

	SETA outcome					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn

**Whether claimant personally had any contact with an Acas Conciliator**

By letter	15	14	14	18	11	13	12
By telephone	42	44	42	50	30	39	34
Email	5	3	4	8	4	5	2
Face to face	1	*	-	1	1	2	-
ANY CONTACT	48	51	47	55	35	45	40
No contact	48	46	51	41	63	52	55
Don't know	4	4	2	4	2	3	5

**Whether representative had any contact with Acas on claimant's behalf**

Yes	18	11	13	26	16	14	5
weighted	2020	305	142	804	320	311	137
unweighted	2020	311	141	800	321	311	136

Based on all claimants  
Source: SETA 2008

**Table 6.3 Employers' survey: Contact with Acas by SETA outcome**

	SETA outcome						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether employer personally had any contact with an Acas Conciliator</b>							
By letter	9	10	6	11	11	5	10
By telephone	37	42	31	42	35	34	29
Email	5	7	2	8	4	1	1
Face to face	1	1	2	2	-	*	-
ANY CONTACT	41	48	34	46	38	37	33
No contact	54	48	57	49	57	58	62
Don't know	5	4	9	5	5	6	5
<b>Whether representative had any contact with Acas on employer's behalf</b>							
Yes	19	14	23	24	16	14	13
weighted	1723	155	164	667	356	231	149
unweighted	1736	140	157	711	370	220	138

Based on all employers with personal responsibility for case  
Source: SETA 2008

**Table 6.4 Claimants' survey: Contact with Acas by SETA outcome**

	SETA outcome						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether claimant would have liked more, less or the same amount of contact with the Acas Conciliator</b>							
More	30	21	39	25	26	41	61
Neither more nor less	63	69	53	71	64	51	31
Less	3	4	2	2	5	4	-
No answer	4	7	7	2	5	4	8
weighted	873	136	59	408	96	127	47
unweighted	873	139	58	406	97	127	46

Based on all claimants who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.5 Employers' survey: Contact with Acas by SETA outcome and enterprise size**

	SETA outcome						Enterprise size	
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Less than 250

**Whether employer would have liked more, less or the same amount of contact with the Acas Conciliator**

More	15	26	10	11	21	10	17	18	8
Neither more nor less	82	73	85	86	72	88	78	78	89
Less	3	1	5	3	6	1	4	4	2
No answer	*	-	-	*	1	1	-	1	*
weighted	654	68	50	288	125	79	43	395	248
unweighted	671	70	50	313	126	76	36	474	185

Based on all employers who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.6 Claimants' survey: Involvement of Acas in case by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>How claimant would describe the support received from the Acas Conciliator</b>													
Advice only	12	14	11	9	12	12	8	15	12	9	12	11	19
Information only	28	29	2	21	17	33	27	26	41	25	26	33	31
Both	49	45	53	56	60	42	51	44	30	55	54	45	40
<b>Whether the Acas Conciliator discussed with the claimant their chances of winning the case</b>													
Yes	35	34	36	38	36	30	38	32	31	42	24	26	35
No	61	62	60	57	64	66	55	62	64	54	73	70	61
Don't know	4	4	4	5	-	4	7	6	5	4	3	4	4
<b>Whether Acas' involvement in the case was important in helping the claimant to decide how to proceed with the case</b>													
Very Important	36	30	39	48	36	34	35	31	22	46	31	25	27
Quite important	27	28	27	25	41	21	29	26	28	29	17	25	30
Not very important	16	17	15	13	12	23	11	17	15	12	30	17	20
Not at all important	17	17	17	12	12	20	20	24	27	9	21	28	19
IMPORTANT	63	58	66	72	77	58	64	57	50	75	48	51	57
Don't know	4	8	2	2	-	2	6	3	7	5	1	5	4
weighted	873	276	242	128	16	122	88	136	59	408	96	127	47
Unweighted	873	251	245	138	17	131	91	139	58	406	97	127	46

Based on all claimants who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.7 Employers' survey: Involvement of Acas in case by enterprise size (continued)**

	Enterprise size		
	All	Less than 250	250 +
<b>How employer would describe the support received from the Acas Conciliator</b>			
Advice only	12	14	8
Information only	28	22	36
Both	48	54	38
<b>Whether the Acas Conciliator discussed with the employer their chances of winning the case</b>			
Yes	22	24	18
No	73	71	78
Don't know	5	5	4
<b>Whether Acas' involvement in the case was important in helping the employer to decide how to proceed with the case</b>			
Very Important	16	22	8
Quite important	29	32	23
Not very important	24	20	30
Not at all important	29	22	39
IMPORTANT	45	54	30
Don't know	2	3	1
weighted	654	395	248
unweighted	671	474	185

Based on all employers who had direct contact with an Acas Conciliator  
Source: SETA 2008



**Table 6.8 Claimants' and Employers' survey: Involvement of Acas in case (continued)**

	All	Claimant	Employer
<b>How likely respondent thought it was they would have settled their case without Acas' involvement</b>			
Very likely	19	14	26
Quite likely	19	18	22
Quite unlikely	15	16	13
Very unlikely	23	29	13
Even chance either way	16	12	20
LIKELY	39	32	48
Don't know	9	10	6
weighted	720	420	301
unweighted	743	418	325

Based on all respondents whose case was settled  
Source: SETA 2008

**Table 6.9 Claimants' and Employers' survey: Involvement of Acas in case (continued)**

	All	Claimant	Employer
<b>Whether trusted the information given by the Acas Conciliator</b>			
Completely trusted	65	64	66
Trusted up to a point	24	24	24
Did not trust	7	8	4
Don't know	5	4	6
weighted	1527	873	654
unweighted	1544	873	671

Based on all respondents who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.10 Claimants' survey: Involvement of Acas in case by primary jurisdiction and SETA outcome (continued)**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether the Acas Conciliator explained that there was a possibility that if they lost the case they may be required to cover the employers' legal costs</b>													
Yes	46	57	39	44	37	41	46	38	36	51	47	46	40
No	44	36	50	45	46	53	43	52	57	38	42	50	53
Don't know	10	8	10	12	17	7	11	9	4	11	11	4	6
<b>Whether the claimant felt that the Acas Conciliator was more on their side, more on the employer's side or even-handed</b>													
More on employer's side	15	19	13	7	6	18	18	7	23	14	13	23	20
More on their side	12	10	15	15	24	8	10	18	3	14	11	7	2
Even-handed	65	63	64	71	59	61	66	65	67	64	70	61	70
Don't know	8	7	8	8	12	13	7	11	6	8	6	9	8
weighted	873	276	242	128	16	122	88	136	59	408	96	127	47
unweighted	873	251	245	138	17	131	91	139	58	406	97	127	46

Based on all claimants who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.11 Employers' survey: Involvement of Acas in case by enterprise size (continued)**

	All	Enterprise size	
		Less than 250	250 +
<b>Whether the Acas Conciliator explained that there was a possibility that if they lost the case they may be required to cover the claimants' legal costs</b>			
Yes	46	59	24
No	48	33	65
Don't know	9	8	11
<b>Whether the employer felt that the Acas Conciliator was more on their side, more on the claimant's side or even-handed</b>			
More on their side	3	3	4
More on claimant's side	14	19	5
Even-handed	78	73	84
Don't know	6	5	6
weighted	654	395	248
unweighted	671	474	185

Based on all employers who had direct contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.12 Claimants' and Employers' survey: Involvement of Acas in case (continued)**

	All	Claimant	Employer
<b>Whether the Acas Conciliator discussed what the tribunal might award in similar cases</b>			
Yes	17	17	17
No	78	77	80
Don't know	5	6	4
weighted	401	239	162
unweighted	397	241	156

Based on all respondents whose case went to hearing and had direct contact with an Acas Conciliator  
 Source: SETA 2008

**Table 6.13 Claimants' survey: Satisfaction with Acas by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>How good the Acas Conciliator was at explaining the tribunal procedures to the claimant</b>													
Very good	52	50	55	64	53	40	41	47	34	60	57	37	32
Fairly good	29	28	27	22	34	36	34	32	28	25	28	36	31
Neither good nor poor	6	6	6	5	7	10	5	8	12	6	1	5	10
Fairly poor	5	4	7	-	-	6	7	2	13	3	6	8	11
Very poor	5	6	2	4	7	6	7	4	11	2	5	10	8
GOOD	80	78	83	86	87	76	75	79	62	85	85	73	64
Don't know	4	6	3	6	-	3	6	7	2	4	3	4	8
weighted	764	240	215	117	14	102	76	117	49	370	84	106	39
unweighted	765	218	218	126	15	110	78	120	48	368	85	106	38
<b>How good the Acas Conciliator was at outlining the employment law as it applied to the case to the claimant</b>													
Very good	47	44	47	54	46	44	49	44	33	54	53	34	28
Fairly good	28	30	30	25	39	23	25	32	21	26	22	33	37
Neither good nor poor	9	8	10	7	8	15	8	9	22	9	6	8	9
Fairly poor	3	4	5	2	-	4	-	3	11	2	3	3	11
Very poor	5	4	5	4	8	8	8	4	8	3	6	13	8
GOOD	75	74	76	79	85	66	73	76	54	80	75	67	66
Don't know	8	10	4	9	-	7	11	9	5	7	10	9	6
weighted	709	223	204	110	12	86	74	109	46	343	80	95	36
unweighted	709	203	207	118	13	92	76	112	45	341	81	95	35

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.14 Claimants' survey: Satisfaction with Acas by summary jurisdiction (continued)**

Summary jurisdiction				
	All	Open period discrimination cases	Short period cases	Standard period cases
<b>How good the Acas Conciliator was at explaining the tribunal procedures to the claimant</b>				
Very good	52	39	59	51
Fairly good	29	36	26	28
Neither good nor poor	6	10	6	6
Fairly poor	5	7	3	5
Very poor	5	5	3	6
GOOD	80	75	85	79
Don't know	4	3	4	5
weighted	764	142	247	375
unweighted	765	153	266	346
<b>How good the Acas Conciliator was at outlining the employment law as it applied to the case to the claimant</b>				
Very good	47	43	53	44
Fairly good	28	26	25	30
Neither good nor poor	9	13	9	8
Fairly poor	3	4	3	4
Very poor	5	10	4	5
GOOD	75	69	78	74
Don't know	8	5	7	9
weighted	709	124	233	352
unweighted	709	133	251	325

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.15 Claimants' survey: Satisfaction with Acas by primary jurisdiction and SETA outcome (continued)**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>How good the Acas Conciliator was at helping the claimant understand the strengths and weaknesses of the case</b>													
Very good	42	37	45	54	38	36	36	42	21	50	38	31	23
Fairly good	26	30	25	20	47	21	29	30	23	24	26	25	42
Neither good nor poor	11	11	10	6	-	16	16	6	21	10	13	13	6
Fairly poor	7	5	9	5	8	10	5	6	14	4	9	8	11
Very poor	8	11	6	5	8	14	9	6	18	5	7	16	14
GOOD	68	67	70	73	85	58	65	72	45	74	64	56	66
Don't know	6	7	6	12	-	3	5	11	3	6	7	7	3
weighted	687	220	190	104	12	87	73	97	44	340	74	97	36
unweighted	687	200	193	112	13	94	75	100	43	337	75	97	35
<b>How good the Acas Conciliator was at relaying proposals and offers to and from the employer</b>													
Very good	46	40	51	61	40	33	42	38	20	59	41	25	15
Fairly good	25	30	24	15	40	27	18	30	39	20	19	31	35
Neither good nor poor	9	8	7	7	-	16	15	8	9	7	12	12	24
Fairly poor	4	8	6	2	7	3	4	3	7	3	9	6	6
Very poor	8	9	6	4	7	12	10	8	11	5	5	20	9
GOOD	70	70	75	76	80	60	60	69	59	79	60	56	50
Don't know	9	8	6	12	7	9	11	12	14	6	14	6	12
weighted	723	234	201	107	14	99	68	96	43	383	70	97	35
unweighted	722	213	203	115	15	106	70	98	42	381	71	96	34

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008



**Table 6.16 Claimants' survey: Satisfaction with Acas by summary jurisdiction (continued)**

Summary jurisdiction				
	All	Open period discrimination cases	Short period cases	Standard period cases
<b>How good the Acas Conciliator was at helping the claimant understand the strengths and weaknesses of the case</b>				
Very good	42	34	53	37
Fairly good	26	23	23	29
Neither good nor poor	11	17	7	11
Fairly poor	7	8	6	6
Very poor	8	14	3	10
GOOD	68	57	76	67
Don't know	6	4	8	6
weighted	687	124	221	342
unweighted	687	133	238	316
<b>How good the Acas Conciliator was at relaying proposals and offers to and from the employer</b>				
Very good	46	33	60	42
Fairly good	25	28	17	28
Neither good nor poor	9	15	6	9
Fairly poor	4	4	4	5
Very poor	8	13	4	8
GOOD	70	62	76	70
Don't know	9	7	10	8
weighted	723	138	223	362
unweighted	722	148	240	334

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.17 Claimants' survey: Satisfaction with Acas by primary jurisdiction and SETA outcome (continued)**

	Primary jurisdiction						SETA outcome						
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>How good the Acas Conciliator was at helping the claimant understand the pros and cons of the case</b>													
Very good	42	38	43	56	45	39	35	35	24	53	34	30	21
Fairly good	23	27	24	16	37	14	29	24	24	22	27	25	24
Neither good nor poor	12	9	12	8	9	20	13	13	14	9	9	17	25
Fairly poor	7	7	7	6	-	9	10	7	12	5	11	6	18
Very poor	8	9	6	4	9	13	6	8	15	5	7	17	6
GOOD	65	65	67	72	82	53	65	59	47	75	61	55	45
Don't know	8	9	8	10	-	5	7	13	12	6	12	5	6
weighted	708	229	197	110	10	93	69	104	44	356	75	95	35
unweighted	707	208	199	118	11	100	71	107	43	354	75	94	34

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.18 Claimants' survey: Satisfaction with Acas by summary jurisdiction (continued)**

Summary jurisdiction				
	All	Open period discrimination cases	Short period cases	Standard period cases
<b>How good the Acas Conciliator was at helping the claimant understand the pros and cons of the case</b>				
Very good	42	35	53	38
Fairly good	23	17	19	29
Neither good nor poor	12	20	10	9
Fairly poor	7	8	7	8
Very poor	8	14	3	9
GOOD	65	53	72	66
Don't know	8	6	8	9
weighted	708	129	224	355
unweighted	707	139	241	327

Based on all claimants who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.19 Claimants' survey: Satisfaction with Acas by primary jurisdiction and SETA outcome (continued)**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether the claimant would recommend Acas to a friend or relative if they got involved in a similar dispute</b>													
Definitely yes	66	64	69	72	66	53	72	66	49	74	64	59	41
Probably yes	19	21	17	15	24	26	14	20	13	15	23	20	39
Probably no	5	5	7	2	-	8	4	5	12	4	2	7	5
Definitely no	8	8	8	8	5	7	8	7	24	5	7	9	12
YES	85	85	85	87	90	78	85	85	62	89	88	79	80
Don't know	3	3	*	3	5	6	3	3	2	2	4	5	3
<b>Whether in reflection claimant felt that Acas' involvement was helpful</b>													
Yes	75	75	78	81	75	64	75	74	52	86	69	66	54
No	22	23	20	17	15	32	22	25	46	12	25	31	43
Don't know	3	3	2	1	10	5	3	1	2	3	6	3	3
weighted	968	309	268	135	20	138	99	154	67	443	111	139	55
unweighted	969	281	272	145	21	148	102	158	66	440	113	138	54

Based on all claimants who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.20 Claimants' survey: Satisfaction with Acas by summary jurisdiction (continued)**

Summary jurisdiction				
	All	Open period discrimination cases	Short period cases	Standard period cases
<b>Whether the claimant would recommend Acas to a friend or relative if they got involved in a similar dispute</b>				
Definitely yes	66	55	74	65
Probably yes	19	23	14	20
Probably no	5	8	4	5
Definitely no	8	9	6	8
YES	85	78	88	85
Don't know	3	5	1	3
<b>Whether in reflection claimant felt that Acas' involvement was helpful</b>				
Yes	75	63	82	75
No	22	31	16	23
Don't know	3	6	2	2
weighted	968	191	296	482
unweighted	969	205	318	446

Based on all claimants who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.21 Employers' survey: Satisfaction with Acas by enterprise size**

	All	Enterprise size	
		Less than 250	250 +
<b>How good the Acas Conciliator was at explaining the tribunal procedures to the employer</b>			
Very good	47	49	42
Fairly good	32	31	35
Neither good nor poor	11	11	10
Fairly poor	2	3	1
Very poor	3	3	2
GOOD	79	80	77
Don't know	6	3	10
weighted	490	331	151
unweighted	533	404	120
<b>How good the Acas Conciliator was at outlining the employment law to the employer as it applied to the case</b>			
Very good	44	49	36
Fairly good	31	30	34
Neither good nor poor	10	9	12
Fairly poor	4	4	2
Very poor	3	4	2
GOOD	75	79	69
Don't know	8	5	14
weighted	467	310	146
unweighted	508	381	116

Based on all employers who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.22 Employers' survey: Satisfaction with Acas by enterprise size**

	All	Enterprise size	
		Less than 250	250 +
<b>How good the Acas Conciliator was at helping the employer understand the strengths and weaknesses of the case</b>			
Very good	38	45	25
Fairly good	32	30	37
Neither good nor poor	15	12	20
Fairly poor	4	4	3
Very poor	6	7	3
GOOD	70	74	62
Don't know	6	2	12
weighted	442	293	143
unweighted	472	351	113

**How good the Acas Conciliator was at relaying proposals and offers to and from the claimant**

Very good	47	48	44
Fairly good	33	30	38
Neither good nor poor	7	8	5
Fairly poor	4	5	4
Very poor	4	4	4
GOOD	79	78	83
Don't know	5	6	4
weighted	491	300	181
unweighted	514	365	139

Based on all employers who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008

**Table 6.23 Employers' survey: Satisfaction with Acas by SETA outcome**

	SETA outcome						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>How good the Acas Conciliator was at relaying proposals and offers to and from the claimant</b>							
Very good	47	35	25	57	40	35	31
Fairly good	33	25	37	29	35	44	41
Neither good nor poor	7	11	27	3	9	8	12
Fairly poor	4	7	3	4	5	3	4
Very poor	4	18	4	3	3	2	-
GOOD	79	60	62	87	75	79	72
Don't know	5	5	5	4	8	8	13
weighted	491	40	31	257	85	60	17
unweighted	514	46	29	279	86	58	16

Based on all employers who had direct contact with and rated the Acas Conciliator  
Source: SETA 2008



**Table 6.24 Employers' survey: Satisfaction with Acas by enterprise size**

	All	Enterprise size	
		Less than 250	250 +
How good the Acas Conciliator was at helping the employer understand the pros and cons of the case			
Very good	37	42	28
Fairly good	29	29	30
Neither good nor poor	15	14	18
Fairly poor	5	6	4
Very poor	7	7	7
GOOD	66	70	58
Don't know	7	4	12
weighted	446	297	141
unweighted	484	362	112

Based on all employers who had direct contact with and rated the Acas Conciliator  
 Source: SETA 2008

**Table 6.25 Employers' survey: Satisfaction with Acas by enterprise size**

	Enterprise size		
	All	Less than 250	250 +
<b>Whether the employer would recommend Acas if their organisation got involved in a similar dispute</b>			
Definitely yes	56	52	63
Probably yes	27	26	27
Probably no	6	7	4
Definitely no	8	12	4
YES	83	78	90
Don't know	2	2	2
<b>Whether in reflection employer felt that Acas' involvement was helpful</b>			
Yes	71	71	69
No	26	26	25
Don't know	4	3	6
weighted	704	427	267
unweighted	725	515	200

Based on all employers who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.26 Claimants' and Employers' survey: Satisfaction with Acas in general**

	All	Claimant	Employer
How satisfied respondent was with service received from Acas in this case			
Very satisfied	43	44	42
Quite satisfied	35	33	37
Not very satisfied	10	11	10
Not at all satisfied	9	9	8
No answer	*	-	*
SATISFIED	78	77	79
Don't know	3	3	3
weighted	1672	968	704
unweighted	1694	969	725

Based on all claimants and all employers who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.27 Claimants' survey: Satisfaction with Acas in general by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
How satisfied respondent was with service received from Acas in this case													
Very satisfied	44	40	50	63	47	24	43	42	27	56	45	30	9
Quite satisfied	33	36	31	21	24	45	32	36	29	30	32	33	54
Not very satisfied	11	13	8	6	19	18	13	18	12	8	12	18	21
Not at all satisfied	9	9	9	9	5	10	10	9	30	5	7	15	13
No answer	-	-	-	-	-	-	-	-	-	-	-	-	-
SATISFIED	77	76	81	83	71	69	75	77	56	86	78	63	63
Don't know	3	3	2	2	5	3	2	4	3	1	3	4	3
weighted	986	309	268	135	20	138	99	154	67	443	111	139	55
unweighted	969	281	272	145	21	148	102	159	66	440	113	138	54

Based on all claimants who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 6.28 Employers' survey: Satisfaction with Acas in general by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
How satisfied respondent was with service received from Acas in this case													
Very satisfied	42	48	42	49	90	27	40	16	31	52	35	47	44
Quite satisfied	37	35	36	31	10	48	34	44	41	36	33	39	31
Not very satisfied	10	5	13	10	-	12	9	15	8	5	18	6	16
Not at all satisfied	8	8	8	7	-	6	13	19	14	6	9	6	3
No answer	*	-	*	-	-	-	-	-	-	-	1	-	-
SATISFIED	79	83	77	81	100	75	74	60	72	88	68	86	76
Don't know	3	4	2	2	-	7	4	6	6	2	4	3	6
weighted	704	187	211	81	6	115	103	74	55	306	134	85	50
unweighted	725	206	234	75	5	111	94	75	56	334	135	83	42

Based on all employers who had any contact with an Acas Conciliator  
Source: SETA 2008

**Table 7.1 Claimants' survey: Awareness and previous experience of ET system and employment rights by claimant age**

	All	Claimant age	
		Under 45	45 or over
<b>Whether claimant was aware that a worker could apply for an Employment Tribunal before putting in employment claim</b>			
Yes	58	54	64
No	40	44	34
Don't know	2	2	3
<b>Whether claimant has ever made a previous application to an Employment Tribunal before putting in employment claim</b>			
Yes	7	5	9
weighted	2020	1073	944
unweighted	2020	1080	936

Based on all claimants  
Source: SETA 2008

**Table 7.2 Claimants' survey: Current application was initially rejected and resubmitted by primary jurisdiction**

		Primary Jurisdiction					
All		Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other
<b>Whether current employment claim was initially rejected and resubmitted</b>							
Yes	11	7	10	11	18	15	15
No	86	90	86	86	79	81	81
Don't know	4	4	4	4	4	4	4
weighted	2020	630	525	241	53	352	219
unweighted	2020	572	529	259	55	379	226

Based on all claimants  
Source: SETA 2008

**Table 7.3 Claimants' survey: Experience of Tribunal by primary jurisdiction**

	SETA outcome					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn

**Whether claimant felt Tribunal gave each party a fair chance to make their case**

Yes - fair	71	80	52	-	-	100	-
No - more favourable to claimant	1	1	1	-	-	-	-
No - more favourable to employer	17	7	40	-	-	-	-
Don't know	11	12	7	-	-	-	-
weighted	445	302	142	-	-	1	-
unweighted	450	308	141	-	-	1	-

Based on all claimants whose case involved a decision at tribunal  
Source: SETA 2008



**Table 7.4 Claimants' survey: Satisfaction with ET system by claimant age and SETA outcome**

	Claimant age			SETA outcome					
	All	Under 45	45 and over	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Levels of claimant satisfaction with the workings of the Employment Tribunal System?</b>									
Very satisfied	36	38	34	42	20	43	42	26	15
Quite satisfied	38	39	37	41	31	40	38	37	28
Not very satisfied	11	10	11	9	18	7	10	17	21
Not at all satisfied	10	8	11	7	30	4	4	13	31
SATISFIED	74	77	71	83	51	83	80	62	43
DISSATISFIED	20	18	22	16	48	11	13	30	52
Don't know	5	4	6	2	2	6	6	8	5
weighted	2020	1073	943	305	142	804	320	311	137
unweighted	2020	1080	936	311	141	800	321	311	136

Based on all claimants  
Source: SETA 2008

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**Table 7.5 Claimants' survey: Dissatisfaction with ET system**

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**Comments about the why dissatisfied with ETS**

Wanted more information and advice about procedures	25
The tribunal system is unfair/failing	14
Need for a quicker timescale	12
weighted	412
unweighted	408

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Based on all claimants who were dissatisfied with the workings of the ET system  
Source: SETA 2008

**Table 7.6 Employers' survey: Previous experience of ET system by enterprise size**

	All	Enterprise size	
		Less than 250	250 +
<b>Whether employer has ever personally had to deal with an employment claim to an Employment Tribunal before case</b>			
Yes	59	37	87
No	41	63	13
<b>Number of Employment Tribunal cases organisation has been involved in over last two years</b>			
None	41	67	10
One	13	17	8
Two-five	21	13	33
Six-ten	8	*	16
More than ten	9	1	18
Don't know	8	1	16
weighted	2007	1085	882
unweighted	2007	1298	665

Based on all employers  
Source: SETA 2008

**Table 7.7 Employers survey: Experience of Tribunal by SETA outcome and enterprise size**

	All	SETA outcome					Enterprise size		
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Less than 250	250 +
<b>Whether employer felt Tribunal gave each party a fair chance to make their case</b>									
Yes - fair	73	60	86	-	-	-	-	67	83
No – more favourable to claimant	15	28	3	-	-	1	-	20	7
No – more favourable to employer	-	-	-	-	-	-	-	-	-
Don't know	11	12	11	-	-	-	-	12	10
weighted	316	151	164	-	-	1	-	178	131
unweighted	297	139	157	-	-	1	-	202	89

Based on all employers with personal responsibility for case which involved a decision at tribunal  
Source: SETA 2008

**Table 7.8 Employers' survey: Satisfaction with ET system by SETA outcome and enterprise size**

	SETA outcome							Enterprise size		
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas Settled	Privately settled	Withdrawn	Dismissed	Less than 250	250 +	
<b>Level of employer satisfaction with the workings of the Employment Tribunal System</b>										
Very satisfied	21	16	43	17	16	21	33	18	25	
Quite satisfied	44	45	35	49	46	40	38	39	52	
Not very satisfied	13	15	8	11	16	14	20	15	11	
Not at all satisfied	12	23	6	9	14	16	7	17	5	
SATISFIED	65	61	79	65	62	61	72	58	76	
DISSATISFIED	25	37	14	20	30	30	27	32	16	
Don't know	10	2	7	14	9	9	2	11	8	
weighted	1723	155	164	667	356	231	149	963	728	
unweighted	1736	140	157	711	370	220	138	1150	551	

Based on all employers with personal responsibility for case  
Source: SETA 2008

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**Table 7.9 Employers' survey: Dissatisfaction with ETS**

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**Comments about why dissatisfied with ETS**

The tribunal system is unfair/failing	39
The tribunal system should assess the validity of a claim before proceeding	15
Too easy for an employee to take a company to court	12
weighted	432
unweighted	463

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Based on all employers who were dissatisfied with the workings of the ET system  
Source: SETA 2008

**Table 8.1 Claimants' and Employers' survey combined: Preliminary hearings by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome					
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed
<b>Whether any hearings were held with the tribunal before the full tribunal hearing</b>													
Yes – one hearing	12	9	11	7	8	20	9	11	16	8	10	11	34
Yes – more than one hearing	3	1	3	1	2	7	6	6	4	1	4	3	9
YES	15	11	14	9	10	27	15	17	20	9	14	14	43
No	80	85	81	84	85	69	80	74	74	87	82	83	52
Don't know	5	4	5	7	5	4	5	9	6	4	5	3	6
weighted	4027	1178	1077	423	81	790	478	490	319	1584	747	586	302
unweighted	4027	1193	1106	418	77	775	458	476	312	1623	751	569	296

Based on all claimants and employers  
Source: SETA 2008

**Table 8.2 Claimants' survey: Attendance at tribunal hearing**

	SETA outcome						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas Settled	Privately settled	Withdrawn	Dismissed
<b>Whether claimant personally attended the full tribunal hearing</b>							
Yes, all of hearing	79	74	91	-	-	100	-
Yes, part of hearing	1	1	1	-	-	-	-
YES	80	75	92	-	-	100	-
No	19	25	8	-	-	-	-
Don't know	*	1	-	-	-	-	-
weighted	445	142	302	-	-	1	-
unweighted	450	141	308	-	-	1	-

Based on all claimants whose case involved a decision at tribunal  
Source: SETA 2008



**Table 8.3 Employers survey: Attendance at tribunal hearing by primary jurisdiction and SETA outcome**

	Primary jurisdiction							SETA outcome				
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn
<b>Whether employer or someone else from the organisation attended the full tribunal hearing</b>												
Yes	90	98	90	72	75	92	84	85	94	-	-	100
No	9	2	9	28	25	2	14	14	5	-	-	-
weighted	358	97	97	53	4	65	44	181	177	-	-	1
unweighted	336	111	96	39	2	55	33	164	171	-	-	1

Based on all employers involved in a case with a decision at tribunal  
Source: SETA 2008

**Table 8.4 Claimants' survey: Presentation of case by SETA outcome and summary jurisdiction**

	All	SETA outcome						Summary Jurisdictions		
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Open period discrimination cases	Short period cases	Standard period cases
<b>Presentation of case for employer at the tribunal hearing, (reported by the claimant)</b>										
Solicitor, barrister or some other kind of lawyer/ legal advisor	38	25	66	-	-	100	-	80	10	50
Nobody (employer did not attend)	23	33	2	-	-	-	-	2	40	15
Employer in person / someone from employer	22	23	22	-	-	-	-	14	23	24
Employers Association Representative	3	3	1	-	-	-	-	-	4	4
Other	3	3	1	-	-	-	-	-	4	2
Don't know	11	13	6	-	-	-	-	5	20	4
weighted	445	302	142	-	-	1	-	61	181	202
unweighted	450	308	141	-	-	1	-	66	195	189

Based on all claimants whose case involved a decision at tribunal  
Source: SETA 2008

**Table 8.5 Employers' survey: Presentation of case**

	All	SETA outcome		Acas settled	Privately settled	Withdrawn	Dismissed
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal				
<b>Presentation of case for claimant at the tribunal hearing, (reported by the employer)</b>							
Solicitor, barrister or some other kind of lawyer/legal advisor	32	36	29	-	-	100	-
Claimant in person	34	35	34	-	-	-	-
Nobody (claimant did not attend)	8	3	12	-	-	-	-
Other	16	17	16	-	-	-	-
Don't know	9	10	9	-	-	-	-
weighted	316	151	164	-	-	1	-
unweighted	297	139	157	-	-	1	-

Based on all employers with personal responsibility for case which involved a decision at tribunal  
Source: SETA 2008

**Table 8.6 Claimants' survey: Preparation for tribunal hearing by primary jurisdiction**

	Primary jurisdiction						
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other
<b>Level of how prepared felt for full tribunal hearing</b>							
Very well prepared	49	32	65	52	62	43	44
Fairly well prepared	30	37	26	24	23	25	42
Not very well prepared	10	13	6	11	15	16	6
Not at all well prepared	9	16	2	9	-	14	3
Don't know	2	2	1	4	-	2	5
weighted	357	110	112	43	12	46	35
unweighted	357	100	113	46	13	49	36

Based on all claimants whose case went to (and who attended) a tribunal  
Source: SETA 2008

**Table 8.7 Employers' survey: Preparation for tribunal hearing by SETA outcome and enterprise size**

	All	SETA outcome					Enterprise size		
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas Settled	Privately settled	Withdrawn	Dismissed	Less than 250	250 +
<b>Level of how prepared felt for full tribunal hearing</b>									
Very well prepared	77	66	87	-	-	100	-	71	88
Fairly well prepared	18	23	14	-	-	-	-	22	11
Not very well prepared	2	5	-	-	-	-	-	4	-
Not at all well prepared	2	5	-	-	-	-	-	3	-
Don't know	1	2	-	-	-	-	-	1	1
weighted	233	102	131	-	-	1	-	136	93
unweighted	232	101	130	-	-	1	-	161	67

Based on all employers whose case went to (and they attended) a tribunal  
Source: SETA 2008

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**Table 8.8 Claimants' and Employers' survey combined: Length of tribunal hearings**

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Amount of time hearing lasted	
One hour	16
More than an hour but less than a day	17
A day	21
Two or more days	28
Don't know	17
Mean (days)	1.7
Median (days)	1
weighted	761
unweighted	747

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Based on all claimants whose case involved a decision at tribunal and all employers with personal responsibility for case which involved a decision at tribunal  
Source: SETA 2008

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**Table 8.9 Claimants' and Employers' survey combined: Appeals**

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<b>Was an appeal made to the Employment Appeal Tribunal?</b>	
Yes	14
No	83
Don't know	4
weighted	803
unweighted	786

---

Based on all claimants and employers whose case involved a decision at tribunal  
Source: SETA 2008

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**Table 8.10 Claimants' and Employers' survey combined: Appeals (continued)**

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<b>Who made appeal?</b>	
Claimant	57
Employer	41
weighted	109
unweighted	99

---

Based on all claimants and employers who made an appeal  
Source: SETA 2008

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**Table 8.11 Claimants' and Employers' survey combined: Appeals (continued)**

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<b>Did Employment Appeal Tribunal hold a review?</b>	
Yes	41
No	47
Don't know	13
weighted	109
unweighted	99

---

Based on all claimants and employers who made an appeal  
Source: SETA 2008

---

**Table 8.12 Claimants' and Employers' survey combined: Appeals (continued)**

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<b>Was original tribunal decision confirmed or changed?</b>	
Confirmed	69
Changed	29
Don't know	2
weighted	44
unweighted	10

---

Based on all claimants and employers whose case was reviewed by EAT  
Source: SETA 2008

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**Table 9.1 Claimants' and employers' surveys: SETA outcome**

	Claimant	Employers	All
<b>SETA outcome</b>			
Claimant successful at Tribunal	15	9	12
Claimant unsuccessful at Tribunal	7	9	8
Acas settled	40	39	39
Privately settled	16	21	19
Withdrawn	15	14	15
Dismissed/ disposed	7	8	8
Any settled	56	60	58
weighted	2020	2007	4027
unweighted	2020	2007	4027

Based on all claimants and employers  
Source: SETA 2008



**Table 9.2 Claimants' and employers' survey combined: Compromise agreement by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundanc y Payments	Any Discrim	Other	All
<b>Compromise agreement</b>							
Yes	80	64	29	56	75	59	66
No	16	24	61	44	19	31	26
Don't know	4	13	10	-	7	11	8
weighted	181	200	64	19	108	80	651
unweighted	180	199	69	15	117	85	665

Based on all claimants and employers who privately settled  
Source: SETA 2008

**Table 9.3 Claimants' and employers' survey: Compromise agreement**

	Claimants	Employers	All
<b>Compromise agreement</b>			
Yes	59	73	66
No	34	18	26
Don't know	8	9	8
weighted	320	331	651
unweighted	321	344	665

Based on all claimants and employers who privately settled  
Source: SETA 2008

**Table 9.4 Claimants' survey: SETA outcome by characteristics**

	Sex		Age				All
	Male	Female	Under 25	25-44	45-64	65 and over	
<b>SETA outcome</b>							
Claimant successful at Tribunal	16	14	19	14	15	16	15
Claimant unsuccessful at Tribunal	8	5	5	7	8	4	7
Acas settled	37	44	46	44	35	41	40
Privately settled	16	15	11	14	19	23	16
Withdrawn	17	14	10	15	17	6	15
Dismissed/disposed	6	8	9	6	7	10	7
Any settled	53	59	57	58	54	64	56
weighted	1211	809	151	922	913	30	2020
unweighted	1206	814	152	928	905	31	2020

Based on all claimants  
Source: SETA 2008

**Table 9.5 Claimants' survey: SETA outcome by occupational group**

	Managers and Senior Officials	Professionals	Associate Professional and Technical	Administrative and Secretarial	Skilled Trades	Personal Service	Sales and Customer Service	Process, plant and machine operatives	Elementary Occupations	All
<b>SETA outcome</b>										
Claimant successful at Tribunal	14	13	11	13	20	17	16	15	18	15
Claimant unsuccessful at Tribunal	5	10	10	7	8	3	8	10	4	7
Acas settled	42	36	36	41	37	39	38	39	45	40
Privately settled	20	18	21	17	12	15	16	10	12	16
Withdrawn	14	17	15	16	16	16	12	19	16	15
Dismissed/disposed	6	7	7	6	6	10	10	8	6	7
Any settled	62	54	57	58	49	54	54	49	57	56
weighted	443	128	248	230	243	136	125	228	224	2020
unweighted	439	128	249	230	244	136	128	227	225	2020

Based on all claimants  
Source: SETA 2008

**Table 9.6 Employers' survey: SETA outcome by employer characteristics**

SETA outcome	Sector			Enterprise size				All
	Public	Private	Other	Less than 25	25-49	50-250	250+	
Claimant successful at Tribunal	8	10	5	12	7	9	8	9
Claimant unsuccessful at Tribunal	10	8	11	7	8	10	10	9
Acas settled	30	42	34	44	41	36	37	39
Privately settled	25	20	21	20	23	23	21	21
Withdrawn	16	13	19	10	13	16	15	14
Dismissed/disposed	12	7	9	6	9	7	10	8
Any settled	55	62	55	64	64	59	58	60
weighted	280	1437	164	526	178	381	882	2007
unweighted	269	1525	186	653	225	420	665	2007

Based on all employers  
Source: SETA 2008

**Table 9.7 Claimants' and employers' survey combined: SETA outcome by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>SETA outcome</b>							
Claimant successful at Tribunal	8	16	23	31	10	13	12
Claimant unsuccessful at Tribunal	10	7	8	2	4	4	8
Acas settled	41	39	35	21	42	38	39
Privately settled	17	21	18	25	17	20	19
Withdrawn	14	12	11	16	18	17	15
Dismissed/disposed	10	6	6	6	8	6	8
Any settled	58	60	53	46	59	58	58
weighted	1178	1077	423	81	790	478	4027
unweighted	1193	1106	418	77	775	458	4027

Based on all claimants and employers  
Source: SETA 2008

**Table 9.8 Claimants' and employers' surveys: Who proposed initial offer by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Initial offer proposed by</b>							
Claimant	12	14	6	4	10	8	11
Employer	39	37	51	29	30	38	37
Claimant's representative	10	10	7	4	10	11	10
Employer's representative	26	27	18	45	31	30	27
Acas	4	5	6	2	4	5	5
Other/ Don't know	8	8	11	16	15	9	10
weighted	828	768	275	41	534	336	2783
unweighted	849	798	276	37	538	332	2830

Based on all claimants and employers in cases where an offer was made  
Source: SETA 2008

**Table 9.9 Claimants' and employers' surveys: Who proposed initial offer**

	Claimants	Employers	All
<b>Initial offer proposed by</b>			
Claimant	10	12	11
Employer	45	30	37
Claimant's representative	30	25	10
Employer's representative	6	13	27
Acas	5	5	5
Other	1	3	2
Don't know	3	13	8
weighted	1380	1402	2783
unweighted	1374	1456	2830

Based on all claimants and employers in cases where an offer was made  
Source: SETA 2008

**Table 9.10 Claimants' and employers' surveys: Who proposed the further (final) settlement by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Further settlement proposed by</b>							
Claimant	11	13	10	2	7	9	10
Employer	35	35	50	32	33	37	36
Claimant's representative	10	7	6	-	9	7	8
Employer's representative	28	28	15	37	32	28	28
Acas	3	5	7	2	3	5	4
Other/ Don't know	13	12	12	27	16	16	14
weighted	828	768	275	41	534	336	2783
unweighted	849	798	276	37	538	332	2830

Based on all claimants and employers in cases where an offer was made  
Source: SETA 2008

**Table 9.11 Claimants' and employers' surveys: Who proposed the further (final) settlement**

	Claimants	Employers	All
<b>Further settlement proposed by</b>			
Claimant	16	5	10
Employer	36	36	36
Claimant's representative	24	31	8
Employer's representative	10	6	28
Acas	5	4	4
Other	4	8	
Don't know	5	10	14
weighted	1380	1402	2783
unweighted	1374	1456	2830

Based on all claimants and employers in cases where an offer was made  
Source: SETA 2008

**Table 9.12 Claimants' and employers' surveys: Type of settlement by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>What offered</b>							
Reinstatement	3	1	1	-	5	3	3
Re-engagement	2	1	-	-	4	1	2
Money	93	96	95	90	88	92	93
Reference	23	18	5	17	22	15	19
Apology	4	3	2	-	7	6	4
Letter of explanation	3	5	5	7	7	7	5
Other	5	3	3	16	10	6	6
Don't know	3	2	2	-	5	3	3
weighted	682	636	225	37	466	282	2329
unweighted	700	662	231	32	463	283	2371

Based on all claimants and employers whose case had been settled  
Source: SETA 2008

**Table 9.13 Claimants' and employers' surveys: Type of settlement**

	Claimant	Employer	All
<b>What offered</b>			
Reinstatement	4	2	3
Re-engagement	1	2	2
Money	95	91	93
Reference	16	19	19
Apology	5	3	4
Letter of explanation	4	6	5
Other	5	7	6
Don't know	1	4	3
weighted	1306	1322	2329
unweighted	1300	1370	2371

Based on all claimants and employers whose case had been settled  
Source: SETA 2008



**Table 9.14 Claimants' and employers' surveys: Amount in settlement by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>How much offered</b>							
£1-£499	9	17	53	6	5	17	16
£500-£999	12	14	17	19	8	18	13
£1000-£1499	13	10	8	7	8	12	11
£1500-£1999	11	8	4	8	3	6	8
£2000-£2499	8	7	4	3	7	7	7
£2500-£2999	5	4	2	3	2	2	4
£3000-£3999	12	8	3	6	12	8	9
£4000-£4999	6	4	1	-	7	4	5
£5000-£9999	15	12	3	25	22	14	14
£10000-£24999	8	11	5	25	20	10	11
£25000+	3	3	2	-	7	3	3
Mean	4455	4950	1852	5921	10133	4399	5431
Median	2000	1750	400	3838	4000	1500	2000
weighted	552	523	182	27	350	212	1846
unweighted	568	544	189	24	355	216	1896

Based on all employers and claimants whose case was financially settled  
Source: SETA 2008

**Table 9.15 Claimants' survey: Reasons for withdrawal of case by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Reasons</b>							
Was advised to withdraw	17	17	21	23	27	25	21
Too much financial cost / expense involved in continuing	24	13	-	11	27	21	19
Believed they could not win case / did not have valid case	15	21	7	-	17	13	16
Too much stress involved in continuing	15	7	7	11	13	8	11
Too much fuss/ hassle/difficulty involved in continuing	13	4	7	25	9	11	9
weighted	87	77	29	8	70	37	305
unweighted	79	76	29	8	75	38	305

Note: Five most commonly mentioned reasons mentioned only  
Based on all claimants who withdrew their case  
Source: SETA 2008

**Table 9.16 Claimants' and employers' surveys: Amount awarded by tribunal by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>How much offered</b>							
£1-£499	4	10	30	11	4	24	14
£500-£999	3	12	25	22	3	16	13
£1000-£1499	5	13	18	11	7	12	12
£1500-£1999	11	8	5	21	-	-	7
£2000-£2499	7	5	4	5	8	5	5
£2500-£2999	10	5	9	5	-	-	6
£3000-£3999	7	15	7	11	-	7	10
£4000-£4999	4	5	1	11	3	5	4
£5000-£9999	23	13	1	5	19	12	12
£10000-£24999	25	10	1	-	36	14	12
£25000+	4	6	1	-	22	7	5
Mean	7730	8857	3322	2135	92476	5737	12052
Median	4948	2650	850	1600	12816	1801	2163
weighted	63	145	83	18	23	38	369
unweighted	66	149	77	19	25	37	373

Based on all cases where the tribunal order involved money  
Source: SETA 2008

**Table 9.17 Claimants' and employers' surveys: Amount awarded by tribunal**

	Claimants	Employers	All
<b>How much offered</b>			
£1-£499	10	21	14
£500-£999	13	15	13
£1000-£1499	12	13	12
£1500-£1999	9	3	7
£2000-£2499	6	5	5
£2500-£2999	7	4	6
£3000-£3999	10	9	10
£4000-£4999	4	3	4
£5000-£9999	12	12	12
£10000-£24999	13	11	12
£25000+	6	4	5
Mean	14009	8106	12052
Median	2500	1500	2163
weighted	247	122	369
unweighted	253	120	373

Based on all cases where the tribunal order involved money  
Source: SETA 2008

**Table 9.18 Perceived likelihood of success at start of case by SETA outcome**

**Claimants' survey**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
<b>Expectations</b>							
Very likely to be successful	52	43	49	55	41	36	48
Quite likely to be successful	24	24	21	19	21	18	21
Quite likely to be unsuccessful	1	3	1	1	1	2	1
Very likely to be unsuccessful	1	-	1	*	1	2	1
Had an even chance	19	27	22	22	29	34	24
Don't know	4	4	5	3	7	8	5
Weighted	305	142	804	320	311	137	2020
Unweighted	311	141	800	321	311	136	2020

**Employers' survey**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
<b>Expectations</b>							
Very likely to be successful	32	51	32	33	66	62	41
Quite likely to be successful	14	25	16	22	17	19	18
Quite likely to be unsuccessful	2	2	5	5	2	*	4
Very likely to be unsuccessful	10	-	7	6	2	-	5
Had an even chance	35	18	32	27	8	17	26
Don't know	7	4	7	7	5	2	6
Weighted	155	164	667	356	231	149	1723
Unweighted	140	157	711	370	220	138	1736

Based on all respondents  
Source: SETA 2008

**Table 9.19 Claimants' survey: Amount hoped to receive at start of case by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>How much hoped to receive</b>							
£0	1	-	-	-	1	1	1
£1-£499	5	12	40	7	4	25	17
£500-£999	3	13	19	17	4	19	12
£1000-£1499	4	11	11	20	5	7	9
£1500-£1999	3	7	6	10	2	4	5
£2000-£2499	7	11	4	10	5	3	8
£2500-£2999	3	3	3	5	-	3	3
£3000-£3999	11	8	6	5	2	6	7
£4000-£4999	6	2	2	10	1	2	3
£5000-£9999	19	13	4	10	19	10	12
£10000-£24999	24	12	1	5	37	13	14
£25000+	14	8	3	-	19	6	9
Mean	12892	8617	2689	3071	28252	55542	14629
Median	5000	2000	700	1600	10000	1287	2000
weighted	172	315	193	38	77	95	890
unweighted	156	322	208	40	83	99	908

Based on all claimants who hoped to win money at the start of the case  
Source: SETA 2008

**Table 9.20 Claimants' survey: Lowest amount prepared to settle for at start of case by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
Lowest amount would settle for							
£0	5	1	3	-	5	2	3
£1-£499	8	14	42	10	3	33	19
£500-£999	6	14	21	15	5	16	13
£1000-£1499	10	16	8	23	6	10	12
£1500-£1999	6	8	5	8	3	4	6
£2000-£2499	10	9	4	13	10	5	8
£2500-£2999	2	2	4	11	1	4	3
£3000-£3999	8	8	5	5	7	2	7
£4000-£4999	5	3	2	3	3	-	3
£5000-£9999	20	12	3	8	26	10	13
£10000-£24999	15	11	4	6	20	13	11
£25000+	6	3	2	-	12	2	4
Mean	6843	5059	2154	2399	14567	3972	5458
Median	3000	1600	575	1600	5000	872	1500
weighted	190	300	177	37	75	90	870
unweighted	173	306	190	39	81	94	883

Based on all claimants who hoped to win money at the start of the case  
Source: SETA 2008

**Table 9.21 Employers' survey: Maximum amount prepared to settle for at start of case by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
Maximum amount would settle for							
Not prepared to settle for any amount	61	54	54	37	60	61	58
£1-£499	3	10	24	19	2	10	8
£500-£999	3	8	10	5	5	4	6
£1000-£1499	9	4	5	-	3	6	5
£1500-£1999	2	3	1	5	1	2	2
£2000-£2499	5	5	2	-	4	4	4
£2500-£2999	2	1	1	-	1	2	2
£3000-£3999	4	4	1	5	6	2	4
£4000-£4999	1	2	-	-	1	1	1
£5000-£9999	5	6	2	-	9	3	5
£10000-£24999	4	3	-	28	5	4	4
£25000+	*	1	-	-	3	2	1
Mean	3524	4546	821	7305	10329	4202	4871
Median	2000	1500	455	4453	3000	1263	1588
weighted	360	393	135	13	242	172	1315
unweighted	421	417	115	12	239	161	1365

Based on all employers who thought claimants were hoping to receive money at the start of the case  
Source: SETA 2008

**Table 9.22 Satisfaction with outcome of case by SETA outcome****Claimants' survey**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
<b>Satisfaction</b>							
Very satisfied	50	4	27	28	11	6	25
Quite satisfied	26	9	45	47	24	10	34
Not very satisfied	10	16	16	15	14	11	14
Not at all satisfied	12	72	11	8	47	71	25
Don't know	3	-	2	2	4	3	2
weighted	305	142	804	320	311	137	2020
unweighted	311	141	800	321	311	136	2020

**Employers' survey**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
<b>Satisfaction</b>							
Very satisfied	8	72	21	20	73	72	36
Quite satisfied	21	20	43	42	15	24	33
Not very satisfied	20	2	17	14	5	1	12
Not at all satisfied	48	3	18	22	3	2	17
Don't know	4	4	3	2	4	*	3
weighted	155	164	667	356	231	149	1723
unweighted	140	157	711	370	220	138	1736

Based on all respondents  
Source: SETA 2008



**Table 9.23 Satisfaction with outcome of case by primary jurisdiction**

**Claimants' survey**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Satisfaction</b>							
Very satisfied	15	32	42	37	18	26	25
Quite satisfied	37	33	32	33	31	38	34
Not very satisfied	18	14	8	7	15	11	14
Not at all satisfied	28	19	17	14	34	23	25
Don't know	2	2	2	8	2	2	2
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

**Employers' survey**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Satisfaction</b>							
Very satisfied	38	31	49	49	38	28	36
Quite satisfied	35	32	24	42	35	34	33
Not very satisfied	12	12	9	10	12	13	12
Not at all satisfied	14	22	17	-	11	21	17
Don't know	2	3	2	-	4	3	3
weighted	467	481	155	23	372	225	1723
unweighted	533	507	138	18	337	203	1736

Based on all respondents  
Source: SETA 2008

**Table 9.24 Claimants' survey: How could have been made more satisfied with outcome by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Reasons</b>							
(More) Money	34	52	58	66	29	39	40
An apology	24	19	14	8	21	12	20
Justice	20	20	13	26	22	14	19
Re-instatement	29	17	3	8	19	5	19
Proving case / proving you were right	21	15	16	-	17	14	17
weighted	291	175	60	11	173	73	783
unweighted	264	175	64	12	186	75	776

Note: only responses mentioned by at least ten per cent of respondents shown in table  
Based on claimants not very/not at all satisfied with case outcome  
Source: SETA 2008

**Table 9.25 Claimants' survey: Reasons why the case did not turn out as well as they would have liked by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Reasons</b>							
Inadequate advice and representation	28	22	22	16	31	26	27
Other party lied, made up stories, was dishonest	14	18	13	8	16	12	15
Case was not presented properly	17	16	11	8	16	12	15
Process biased towards other party	11	12	8	-	13	9	11
Case cost too much money / waste of money	9	12	2	-	14	12	10
weighted	291	175	60	11	173	73	783
unweighted	264	175	64	12	186	75	776

Note: only responses mentioned by at least ten per cent of respondents shown in table

Based on all claimants not at all/not very satisfied with outcome

Source: SETA 2008

**Table 9.26 Claimants' survey: Whether felt worthwhile bringing case by SETA outcome**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
Yes	83	67	93	92	65	63	83
No	16	33	7	6	31	32	15
Don't know	1	1	1	2	4	4	2
weighted	305	142	804	320	311	137	2020
unweighted	311	141	800	321	311	136	2020

Based on all claimants  
Source: SETA 2008

**Table 9.27 Employers' survey: How could have been made more satisfied with outcome by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Reasons</b>							
Less money	28	33	16	41	30	24	28
Proving case / proving you were right	17	16	14	-	15	28	18
Justice	18	19	9	-	17	14	17
weighted	122	165	40	2	84	77	490
unweighted	153	186	38	3	93	74	547

Note: only responses mentioned by at least ten per cent of respondents shown in table  
 Based on employers not very/not at all satisfied with case outcome  
 Source: SETA 2008

**Table 9.28 Employers' survey: Reasons why the case did not turn out as well as they would have liked by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Reasons</b>							
Case cost too much/waste of money	24	19	7	41	20	9	18
Process biased towards other party	17	12	11	-	17	11	14
Other party lied, made up stories, was dishonest	4	14	9	-	9	13	10
weighted	122	165	40	2	84	77	490
unweighted	153	186	38	3	93	74	547

Note: only responses mentioned by at least ten per cent of respondents shown in table  
Based on not very/not at all satisfied with case outcome  
Source: SETA 2008

**Table 9.29 Employers' survey: Changes made as a result of employment tribunal by enterprise size**

	Enterprise Size				All
	Less than 25	25-49	50-250	250+	
<b>Change</b>					
Introduce / review formal disciplinary and grievance policies	42	39	23	11	24
Make sure procedures are followed	68	64	50	39	51
Revise terms and conditions in employees' contracts	47	31	23	7	23
Take insurance out against further claims	17	12	11	1	8
Join an employers association for legal services	17	6	6	2	7
Seek professional advice prior to taking disciplinary action	44	40	33	14	28
weighted	526	178	381	882	2007
unweighted	653	225	420	665	2007

Based on all employers  
Source: SETA 2008

**Table 9.30 Employers' survey: Changes made as a result of employment tribunal by primary jurisdiction**

	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Discrimination	Other	All
<b>Change</b>							
Introduce / review formal disciplinary and grievance policies	26	28	20	19	16	29	24
Make sure procedures are followed	54	54	48	36	46	53	51
Revise terms and conditions in employees' contracts	21	28	32	35	13	27	23
Take insurance out against further claims	10	9	8	-	6	8	8
Join an employers association for legal services	8	8	9	3	4	9	7
Seek professional advice prior to taking disciplinary action	31	32	27	32	19	28	28
weighted	549	551	182	28	437	259	2007
unweighted	621	577	159	22	396	232	2007

Based on all employers  
Source: SETA 2008



**Table 10.1 Claimants' survey: Financial costs by SETA outcome and primary jurisdiction**

	All	SETA outcome					Primary jurisdiction						
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
<b>Types of cost</b>													
Communication, such as telephone calls and stamps	37	39	38	37	35	36	36	37	37	30	31	42	37
Loss of earnings	31	31	39	31	29	30	25	36	32	15	12	34	29
Travel	26	39	47	20	20	24	29	26	26	19	19	32	26
weighted 2020	305	142	804	320	311	137	630	525	241	53	352	219	
unweighted 2020	311	141	800	321	311	136	572	529	259	55	379	226	

Based on all claimants  
Source: SETA 2008

**Table 10.2 Claimants' survey: Mean and median costs by SETA outcome and primary jurisdiction**

	SETA outcome						Primary jurisdiction						
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
<b>Communication costs</b>													
Mean (£)	68	95	80	57	61	84	37	57	46	20	19	144	68
Median (£)	20	21	38	20	20	20	20	20	20	10	16	30	20
weighted	538	88	38	217	82	82	32	160	142	54	11	109	63
unweighted	539	89	38	216	82	82	32	145	143	58	12	117	64
<b>Loss of earnings</b>													
Mean (£)	2695	2028	2458	2754	3149	2752	3258	3037	2513	1030	3561	3016	2334
Median (£)	2000	1010	1909	2000	2762	2000	3000	2500	1800	300	1825	2496	1493
weighted	481	75	47	192	68	72	26	174	136	26	5	88	52
unweighted	473	75	47	189	67	70	25	158	135	28	5	95	55
<b>Travel costs</b>													
Mean (£)	97	60	52	101	119	180	98	102	103	39	45	87	147
Median (£)	40	20	30	50	50	50	25	40	40	15	20	50	39
weighted	443	105	58	132	54	59	34	134	113	39	10	97	49
unweighted	443	106	58	132	55	58	34	122	113	42	11	104	51

Based on all claimants who incurred travel costs, communication costs and loss of earnings  
Source: SETA 2008

**Table 10.3 Claimants' survey: Time spent (in days) on case by SETA outcome and primary jurisdiction (median and mean)**

	All	SETA outcome					Primary jurisdiction						
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
Mean (days)	42	41.86	45.12	37.04	51.97	41.04	42.36	35.69	34.62	20.14	32.04	73.82	54.64
Median (days)	7	6.94	9.85	6.25	7.00	7.00	10.00	7.00	5.63	2.00	5.00	14.00	7.01
weighted	1634	257	118	641	262	254	103	500	438	203	40	264	190
unweighted	1636	263	117	638	262	254	102	454	442	218	42	284	196

Based on all claimants who were able to give hours or days spent on the case  
Source: SETA 2008

**Table 10.4 Employers' survey: Number of people in organisation who spent time on the case (in days) by primary jurisdiction**

	Primary jurisdiction						
	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
Mean (days)	4	3	3	4	5	4	4
Median (days)	3	3	2	3	4	3	3
weighted	466	471	149	23	363	221	1694
unweighted	531	498	134	18	329	200	1710

Based on all employers with personal responsibility for the case  
Source: SETA 2008

**Table 10.5 Employers' survey: Total time spent (in days) on case by SETA outcome, primary jurisdiction and enterprise size (median and mean)**

	All	SETA outcome					Primary jurisdiction							Enterprise size			
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Private settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redund payments	Any discrim	Other	Less than 25	25-49	50-249	250+
Mean (days)	13.01	11.21	20.33	10.13	16.40	13.44	11.22	10.92	13.75	4.28	7.41	18.88	12.55	9.54	10.68	14.58	14.94
Median (days)	5.00	6.00	9.00	5.00	6.00	4.00	5.00	5.00	5.00	2.00	5.45	9.00	5.50	5.00	4.00	6.00	6.00
weighted	1514	133	144	594	309	203	131	414	430	137	20	331	183	430	134	280	640
unweighted	1528	122	143	623	317	201	122	476	449	120	14	299	170	532	168	309	488

Based on all employers with personal responsibility for the case who were able to give hours or days spent on the case  
Source: SETA 2008

**Table 10.6 Employers' survey: Total time spent (in days) by directors and senior management on case by SETA outcome, primary jurisdiction and enterprise size (median and mean)**

	All	SETA outcome					Primary jurisdiction							Enterprise size			
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redund payments	Any discrim	Other	Less than 25	25-49	50-249	250+
Mean (days)	9.63	8.37	14.58	7.05	13.65	10.62	6.27	8.42	11.66	3.36	3.42	12.49	7.85	8.09	9.48	11.48	10.20
Median (days)	3.00	4.00	7.00	3.00	4.00	2.00	3.00	3.00	3.00	1.00	2.03	6.00	3.00	4.00	3.00	4.00	3.00
weighted	1514	133	144	594	309	203	131	414	430	137	20	331	183	430	134	280	640
unweighted	1528	122	143	623	317	201	122	476	449	120	14	299	170	532	168	309	488

Based on all employers with personal responsibility for the case who were able to give hours or days spent on the case

Source: SETA 2008

**Table 10.7 Claimants' survey: Non-financial negative effects by primary jurisdiction (most common mentions)**

	Primary jurisdiction						
	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Non-financial negative effects</b>							
Stressful/emotionally draining/depression	40	34	19	22	48	36	36
Physical health problems	11	8	3	2	16	10	10
Difficulty in getting re-employed	13	9	4	4	7	6	9
Loss of confidence/self-esteem	10	8	3	2	12	4	8
Financial problems	7	8	11	4	5	4	7
Lost hope/faith/trust in the system	4	8	9	4	5	8	6
weighted	435	311	96	22	278	128	1269
unweighted	395	310	103	23	299	130	1260

Note: only responses mentioned by at least five per cent of respondents shown in table  
 Based on all claimants  
 Source: SETA 2008

**Table 10.8 Claimants' survey: Non-financial negative effects by gender and age (most common mentions)**

	Gender		Age				
	All	Male	Female	Under 25	25-44	45-64	65 or over
<b>Non-financial negative effects</b>							
Stressful/emotionally draining/depression	36	30	46	23	39	36	36
Physical health problems	10	6	14	6	8	11	10
Difficulty in getting re-employed	9	9	9	6	8	10	9
Loss of confidence/self-esteem	8	6	12	3	8	9	8
Financial problems	7	8	5	15	7	6	7
Lost hope/faith/trust in the system	6	7	5	5	5	8	6
weighted	1269	683	586	69	583	600	16
unweighted	1260	675	585	69	585	588	16

Note: only responses mentioned by at least ten per cent of respondents shown in table  
Based on all claimants  
Source: SETA 2008



**Table 10.9 Employers' survey: Whether case had any non-financial negative effects on organisation by SETA outcome, enterprise size and primary jurisdiction**

	SETA outcome							Enterprise size				Primary Jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Less than 25	25-49	50-249	250+	Unfair Dismissal	Breach of Contract	Wages Act	Redund payments	Any discrim	Other
Yes	33	33	32	33	31	36	38	43	42	30	28	33	33	23	19	38	36
No	65	66	68	66	67	62	62	57	57	69	70	64	67	77	82	60	63
Don't know	1	1	-	1	2	2	-	1	1	1	2	2	*	1	-	2	1
weighted	2007	185	177	780	426	274	165	526	178	381	882	549	551	182	28	437	259
unweighted	2007	165	171	823	430	258	160	653	225	420	665	621	577	159	22	396	232

Based on all employers  
Source: SETA 2008

**Table 10.10 Claimants' and Employers' surveys: Awareness of cost regime by type**

	Employer	Claimant	All
<b>Whether aware of cost regime</b>			
Yes	67	44	55
No	30	53	42
Don't know	3	3	3
weighted	2007	2020	4027
unweighted	2007	2020	4027

Based on all claimants and employers  
Source: SETA 2008

**Table 10.11 Claimants' and employers' surveys combined: Awareness of cost regime by SETA outcome and primary jurisdiction**

	SETA outcome							Primary jurisdiction					
	All	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redund payments	Any discrim	Other
Yes	55	47	60	55	61	56	51	56	49	47	56	66	55
No	42	51	37	42	36	42	46	41	47	48	41	31	43
Don't know	3	3	3	4	3	2	2	3	4	4	3	3	3
weighted	4027	490	319	1584	747	586	302	1178	1077	423	81	790	478
unweighted	4027	476	312	1623	751	569	296	1193	1106	418	77	775	458

Based on all claimants and employers  
Source: SETA 2008

**Table 10.12 Claimants' and employers' surveys: Awareness of cost regime**

	All	Claimants	Employers
Yes	55	44	67
No	42	53	30
Don't know	3	3	3
weighted	4027	2020	2007
unweighted	4027	2020	2007

Based on all claimants and employers  
Source: SETA 2008

<sup>57</sup> **Table 10.13: Claimants' and employers' surveys: Effect of awareness of cost regime on outcome of those who settled/withdrew their case**

	All	Acas settled	Privately settled	Withdrawn
<b>Whether knowing about cost regime influenced decision to settle/withdraw</b>				
Yes – More likely to settle/withdraw	24	25	18	37
Yes – Less likely to settle/withdraw	2	2	1	2
No	70	70	76	59
Don't know	4	4	85	3
weighted	1635	964	477	195
unweighted	1640	972	475	193

Based on all claimants and employers who settled or withdrew their case  
Source: SETA 2008

<sup>57</sup> Please note that employers cannot withdraw a case. The withdrawn category only therefore applies to claimants.

**Table 10.14 Claimants' survey: Current claimant status by primary jurisdiction**

Primary jurisdiction							
	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any Discrimination	Other	All
<b>Current status</b>							
Working for an employer full-time	52	51	60	59	41	48	51
Working for an employer part-time	12	13	11	8	14	15	13
Self employed	11	10	10	14	7	12	10
Unemployed and seeking work	11	10	10	9	10	12	11
Unemployed and not seeking work	2	3	*	6	5	1	3
Retired	5	5	3	2	8	5	5
Student	1	1	2	-	2	2	1
Permanently sick/disabled	3	2	*	-	7	*	3
Temporarily sick	1	1	*	-	3	2	1
Looking after home	1	1	*	-	2	1	1
Carer/looking after children	-	*	-	-	-	-	*
Other	1	3	3	2	1	1	2
weighted	630	525	241	53	352	219	2020
unweighted	572	529	259	55	379	226	2020

Based on all claimants  
Source: SETA 2008

**Table 10.15 Claimants' survey: Current claimant status by SETA outcome**

	Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	All
<b>Current status</b>							
Working for an employer full-time	51	55	50	54	51	41	51
Working for an employer part-time	12	11	14	11	13	16	13
Self employed	11	10	9	11	12	7	10
Unemployed and seeking work	12	9	12	8	9	12	11
Unemployed and not seeking work	2	4	2	3	1	4	3
Retired	6	4	5	6	6	8	5
Student	1	2	2	*	1	2	1
Permanently sick/disabled	2	2	3	2	3	5	3
Temporarily sick	1	2	2	1	2	2	1
Looking after home	1	-	1	1	1	1	1
Carer/looking after children	*	-	*	-	-	-	*
Other	2	2	1	2	2	3	2
weighted	305	142	804	320	311	137	2020
unweighted	311	141	800	321	311	136	2020

Based on all claimants  
Source: SETA 2008

**Table 10.16 Claimants' survey: Level of pay compared to previous job by SETA outcome and primary jurisdiction**

	All	SETA outcome						Primary jurisdiction					
		Claimant successful at Tribunal	Claimant unsuccessful at Tribunal	Acas settled	Privately settled	Withdrawn	Dismissed	Unfair Dismissal	Breach of Contract	Wages Act	Redund payments	Any discrim	Other
More money	41	37	40	45	40	41	33	36	46	52	35	35	41
Less money	41	37	41	38	46	44	49	47	35	27	36	52	42
About the same	16	24	16	15	13	12	16	15	18	18	27	9	15
Don't know	1	2	2	1	1	2	-	1	1	2	2	2	2
Refused	1	-	1	1	1	1	1	1	-	1	-	1	1
weighted	1301	207	91	532	195	194	81	449	369	160	42	148	133
unweighted	1290	211	90	524	194	191	80	408	371	172	44	159	136

Based on all claimants who left their previous employer but were now currently employed in a new job  
Source: SETA 2008

**Table 10.17 Claimants' survey: Status of job compared to previous job by SOC 2000**

Standard Occupation Classification 2000										
	All	Managers & Senior offs	Profess Occs	Ass Pro and Tech	Admin & Sec	Skilled Trade	Personal Service	Sales & Customer Service	Process, plant and machine	Elementary occs
Higher level	41	30	32	40	45	44	53	57	41	52
Lower level	28	42	34	31	28	18	16	24	20	17
About the same	29	27	35	25	24	37	25	17	35	28
Don't know	3	1	-	4	4	2	6	3	5	3
weighted	1301	314	81	164	121	184	84	76	140	131
unweighted	1290	309	80	163	118	183	83	77	139	131

Based on all claimants who left their previous employer but were now currently employed in a new job  
Source: SETA 2008



**Table 10.18 Claimants' survey: Whether think of job as long term by primary jurisdiction**

	Primary jurisdiction						
	All	Unfair Dismissal	Breach of Contract	Wages Act	Redundancy Payments	Any discrimination	Other
Part of long term career plan	63	63	64	65	74	58	60
Something to do until something better comes along	32	33	31	30	20	36	34
Don't know	5	4	5	5	7	6	6
Weighted	1481	472	389	193	43	218	165
unweighted	1478	429	391	208	45	235	170

Based on all claimants who were currently working  
Source: SETA 2008

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