



Department  
for Business  
Innovation & Skills

Findings from the Survey of  
Employment Tribunal Applications  
2013

Ad-hoc statistical analysis

OCTOBER 2014

# Introduction

The 2013 Survey of Employment Tribunal Application (SETA) is the sixth in a series. The first SETA was undertaken in 1987, with subsequent surveys undertaken in 1992, 1998, 2003 and 2008. The series aims to provide information on the characteristics of the parties in, and the key features of, employment tribunal (ET) cases. The headline aims of the 2013 study were:

- To obtain information on the characteristics of employment tribunal claimants and employers.
- To assess the costs of going to tribunals for claimants and employers;
- To monitor the performance of the employment tribunal claim process;

The [findings from the Survey of Employment Tribunal Applications 2013](#) were published in June 2014. This report contains further analysis based on the survey dataset on the characteristics of claimants who would have been required to pay a fee at the time of their claim, if the current fee regime had been in force. Data were collected from claimants and employers, though for this analysis only the claimant sample was used.

The findings presented in this publication are statistically representative of single claims disposed of between 3 January 2012 and 4 January 2013 in Great Britain.

## Details of the sample

BIS commissioned this survey to randomly sample and interview parties involved in employment tribunal cases recorded in Her Majesty's Courts and Tribunals Service's (HMCTS) case management system, about the key features of the employment tribunal case and the characteristics of the parties involved in the case

The sample frame was extracted from the employment tribunal case management system maintained by Her Majesty's Courts and Tribunals Service. The following claims were excluded from the sample frame:

- claims with a current position of case transferred;
- claims with a current position of case inputted in error;
- claims with a reporting restriction imposed that had not expired;
- claims involving allegations of a sexual offence under Rule 49 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004;
- multi-jurisdictional claims with different outcomes, for example a claim with one jurisdiction which was successful at hearing and another jurisdiction that was unsuccessful at hearing;<sup>a</sup>

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<sup>a</sup> The first jurisdiction of a claim that did not have an outcome of 0 (Not allocated) or 7 (Entered in error) was matched against the other jurisdictional outcomes, with the exception of jurisdictions with an outcome of 7 (entered in error). Claims where all the jurisdictions had the same outcome were included in the sample. This means that the sample included claims where, say, one jurisdiction had an outcome of 3 (Successful at hearing) and two had an outcome of 7 (entered in error).

- multiple claims, brought by two or more people about proceedings arising out of the same facts;
- claims excluded from the register; and
- claims deleted from the physical register.

These rules meant that there were 53,401 claims in the sample frame, which is 4,178 fewer single claims than the number of claims reported in Tribunal Statistics in 2012. In addition, the data was manually inspected and around 200 additional claims were removed including:

- 207 cases where the claimant was also recorded as the employer. There are cases that are entered in error where an employer has counter claimed under a breach of contract rules;
- 2 cases where the records were identified as duplicates; and
- 19 cases where the cases were labelled sensitive.

## Sample selection

The SETA 2013 design largely followed the approach employed in SETA 2008.<sup>b</sup> However, in terms of the sample design there were no 'matched' cases,<sup>c</sup> and the sample design was modified slightly to be stratified random samples of cases,<sup>d</sup> one for employers and the other for claimants.<sup>e</sup>

The findings presented in this report are based on a random sample of 1,988 claimants and are statistically representative of single claims disposed of between 3 January 2012 and 4 January 2013 in Great Britain.

## Data collection

As in SETA 2008, the data were collected using Computer Assisted Telephone Interviewing (CATI). In total, 1,988 interviews were carried out with claimants (achieving a response rate of 53 per cent) and 2,011 with employers (achieving a response rate of 51 per cent). The fieldwork was conducted between 13th May 2013 and 22nd September 2013. The average interview length in the claimant survey was 33 minutes and in the employer survey 27 minutes.

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<sup>b</sup> The technical report for SETA 2008 can be found at:  
[http://doc.ukdataservice.ac.uk/doc/6714/mrdoc/pdf/6714seta\\_2008\\_technical\\_report.pdf](http://doc.ukdataservice.ac.uk/doc/6714/mrdoc/pdf/6714seta_2008_technical_report.pdf)

<sup>c</sup> In SETA 2008, there were a small sample of 'matched' cases where both the claimant and employer were interviewed. These were claims brought under the jurisdiction of unfair dismissal but with no element of discrimination.

<sup>d</sup> The sample frame was stratified by case outcome and track, with cases randomly sampled in proportion to the population size of the strata.

<sup>e</sup> There were some small adjustments made to the sampling design to improve it without impacting on comparability.

## Response rates

On the claimant survey, 1,988 interviews were achieved (with a response rate of 53 per cent). Table 1 below show overall response breakdowns.

**Table 1: Response rates for the claimant survey**

<b>Advance letters sent <sup>†</sup></b>	<b>5,560</b>
Sample covered	5,049
No contact made with respondent (unable to establish eligibility)	325
Sample at end of fieldwork - with no final outcome	186
<b>Invalid sample data</b>	<b>1,317</b>
Invalid Tel No	789
Deceased	17
Moved (and no trace)	60
Unknown at number	195
No recollection of case	9
ETHOS Information incorrect	66
Awaiting appeal	54
Signed confidentiality agreement	12
Respondent incapable of interview	110
Other Ineligible	5
<b>Opt-out/refusal</b>	<b>1,744</b>
Personal refusal / Opt out	756
Proxy refusal	40
Case too sensitive/traumatic	57
Abandoned interview	116
Unavailable during fieldwork	62
Unsuccessful call attempts / general callbacks	713
<b>Full interviews</b>	<b>1,988</b>
<b>Invalid sample data</b>	<b>1,317</b>
<b>Opt-out/refusal</b>	<b>1,744</b>
<b>Full interviews</b>	<b>1,988</b>
<b>Valid sample data</b>	<b>3,732</b>
<b>Invalid sample data (%)</b>	<b>26%</b>
<b>Opt-out/refusal (%)</b>	<b>35%</b>
<b>Productive (%)</b>	<b>39%</b>
<b>Productive of valid sample (%)</b>	<b>53%</b>
<b>Refusal/unproductive of valid sample (%)</b>	<b>47%</b>

<sup>†</sup> During fieldwork it was necessary to issue a small batch of reserve sample in addition to the 4,810 claimant cases originally selected.

## Methodology

Since 29<sup>th</sup> July 2013, claimants who make a new employment tribunal claim have been required to pay a fee when doing so. There are two types of fees, type A and B, which depend on the type of claim being made. Type A claims tend to be more straightforward for the tribunal to deal with and have lower fees. Type B claims involve more complicated issues for the tribunal to decide and have higher fees. The relevant fees are shown in table 2 below.

**Table 2: Employment tribunal fees**

	Type A	Type B
Issue Fee	£160	£250
Hearing Fee	£230	£950

There is no information in the sample dataset on fee type, since all of the claimants completed their case prior to the introduction of fees. However, a fee type was derived for each claimant based on the fee type that the claimant would have paid if the current fee regime in force as at 17 October 2014 was in place when they submitted their claim. The fee types for each jurisdiction were derived from the [jurisdictional list guidance](#).

Claims can involve one or more jurisdictional complaints. If multiple jurisdictional complaints were brought in a case, the case was assigned to a single fee type based on the highest fee level in the claim. This means that cases were only assigned to fee type A (the lower fee) if the case did not contain a fee type B jurisdictional complaint. Table 3 shows how the fee types for specific cases were determined.

**Table 3: Fee type determination**

Jurisdictions contained in case	Fee Type
Case contains only fee type B jurisdictions	B
Case contains only fee type A jurisdictions	A
Case contains mixture of fee type A and B jurisdictions	B

The analysis is based on the 1,988 claimant interviews. In particular, the following data are used to derive the estimates:

- gender of the claimant as specified by the claimant in the telephone interviews;
- jurisdictions for the case as recorded in the Her Majesty's Courts and Tribunals Service's (HMCTS) case management system.

This means that for each claimant interview, the survey dataset contains both the self-declared gender and all jurisdictional complaints recorded by HMCTS. Following assignment of cases to the fee level category, the gender breakdown for each fee type was estimated. This provides

for each specific fee type, the estimated percentage of claimants who were men and women had the fee regime been in force at the time of the case.

## Analysis

It is estimated that approximately 75 per cent of claims would have attracted Type B fees and 25 per cent would have attracted Type A fees.

**Table 4: Gender of claimants by estimated fee type, if the current fee regime had been in force at the time of the case. Estimates of the standard error and confidence intervals are provided in the table.**

	Type A	Type B	All fee types
Male			
Percentage estimate	64%	55%	57%
Standard Error	2%	1%	1%
95% Confidence Interval Lower Bound	59%	52%	55%
95% Confidence Interval Upper Bound	68%	57%	59%
Female			
Percentage estimate	36%	45%	43%
Standard Error	2%	1%	1%
95% Confidence Interval Lower Bound	32%	43%	41%
95% Confidence Interval Upper Bound	41%	48%	45%
<i>Unweighted base</i>	528	1,460	1,988

Source: BIS estimates from the Survey of Employment Tribunal Applications 2013

Notes:

1. The unweighted base is the number of respondents to the survey in each specific subgroup.

A confidence interval is provided in table 4. The Survey of Employment Tribunal Applications is a sample survey, which provides estimates of various measures of the population of single employment tribunal claims. As with any sample survey there will be sampling error, which is the difference between an estimate from a sample survey and the 'true' value which would result if the whole population was examined. Statistical theory allows us to provide estimates of the sampling error (measured as the standard error), which forms the basis of the confidence interval placed around the estimate.

A confidence interval describes the range within which a result for the whole population would occur for a specified proportion of times a sample survey is completed. Normally a 95% confidence interval would be used. This means that in 95 out of 100 different samples we would expect the true (population) rate to fall within the 95% confidence interval for the sample estimate. It is usual to assume that there is only a 5% chance that the true population value falls outside the 95% confidence interval calculated for the survey estimate.

## Limitations of the methodology

Some of the jurisdictional complaints that were least common did not have a single case within the survey dataset. For the purposes of this analysis, these jurisdictions were therefore not included in the analysis.

The analysis does not consider any changes in behaviour that may have occurred had fees been in force at the time of the claim. For example, claimants may have chosen to remove certain jurisdictional complaints or not taken forward their case had fees been in force. The analysis rather looks back retrospectively at the fee type that would have been applied in the case had there been no changes in behaviour.

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.

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