

Bulletin 179

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RECESSION TRIGGERS RECORD TRIBUNAL CLAIMS; DELAYS IN TRIBUNALS; INCREASING COMPLEXITY OF CLAIMS

Latest figures from the Tribunal Service show the number of claims made at the Employment Tribunal during 2009-10 increased by a whopping 56% on the previous year, meaning that figures are at an all time high.

Dig a little deeper and these figures consist largely of claims for unfair dismissal, redundancy and breach of contract, suggesting that the economic climate has had a large part to play in this surge in claims.

Employers are continuing to cut costs and there is a greater willingness among employees to raise claims against their employer. There are also fewer prospects for ousted employees, the lure of a compensatory payment is all the more appealing. The Tribunals in turn are likely to make larger awards for future loss for dismissed employees who cannot find work. Altogether these escalating figures are not likely to subside anytime soon.

The influx of claims comes at a time when delays in the Tribunals are rife. With an increased caseload, the Employment Tribunal are struggling to process applications. Numbers for applications dealt with within target time are down by 25% from 2007-08. The growing complexity of Tribunal claims is also adding to the delays in claims being processed.

The Equality Act, which is set to be implemented on 1 October has opened up the option for claimants to make "combined" claims for direct discrimination (e.g. a claim that you have been discriminated on grounds of both sex and race together making three distinct claims likely: sex alone, race alone and combined sex and race). It is at least the case that only two of the so called "protected characteristics" (race, sex, disability, age, sexual orientation, gender reassignment, religion or belief) can be combined. However slower progress of claims through the Tribunals results in them being much lengthier and more expensive to defend.

With the prospect of lengthy and expensive Tribunal proceedings, employers aren't prepared to risk the expense, and these financial pressures appear to explain the increase in claims settling. There were only 19% of all claims last year that made it to full hearing. Disposals in 2009-10 increased by 15% on the 2008-9 figures – which would suggest that more cases were settling.

Practical Tip

Now more than ever, employers need to protect their business by ensuring that they have clear policies, particularly in relation to redundancy, equal opportunity and dismissal.

This is a costly and time consuming period to be dealing with employment claims in the Tribunal. However, with good advice, businesses still retain the ability to run their business as they see fit and minimise the risk of employee claims.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to helen.calvert@brabnerscs.com

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