



Ministry of
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Research into enforcement of employment tribunal awards in England and Wales

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and Joni Browne
IFF Research Ltd**

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Summary

This study was designed to feed into the debate about the need for enforcement of awards made by an employment tribunal. The main aim of this study was to understand the overall proportion of awards that are honoured and to assess and understand the factors that may have an impact on the likelihood of a claimant being paid their award by the employer.

A total of 1,002 interviews were conducted with claimants who had been awarded a monetary payment between January 2007 and April 2008. In all cases, the time lapse between the award being made and the interview being conducted was in excess of the 42 day period allowed before interest starts to accrue.

Award payment

By the time of interview, 39% of claimants had not received their award at all. If this percentage is applied to the total number of claimants in the sample framework, this amounts to 2,127 claimants not receiving their awards over a 16 month period. Just over half (53%) had been paid in full and a further 8% had been paid in part. Of those who had received payment in part, 27% were being paid in instalments (although in a few cases the instalments were not ongoing at the time of interview). In all other cases, it appeared unlikely that claimants would receive further payment. It is, however, possible that some of those who have not received payment at all may still receive it at a later date.

The findings show that it is factors related to the employer and type of employment that have an impact on the likelihood of payment being made in full, rather than demographic factors of the claimant such as age, gender or ethnicity.

In terms of specifics of the claim that have an impact, it appears that it is the more simple, lower value type claims that are more likely to be paid in full. Awards at the lowest value (up to £499) were significantly¹ more likely to be paid (70%) than higher value awards (see table 6.2). Just over half of all awards under £5,000 had been paid in full compared with 46% of larger awards. Claims that have an element of working time directive, wages or redundancy pay and consultation are more likely to have been paid in full than claims without these elements (see table 6.1 for a full breakdown of payment by jurisdiction).

¹ Where significant differences are mentioned, this means the data has been tested and found to be statistically different at a 95% confidence level.

Associated with this, claimant's roles and responsibilities also have an impact on the likelihood for payment to be made (regardless of whether county court proceedings had been taken). Those in lower level job roles were significantly more likely to be paid in full than those at higher levels (58% of operatives compared to 47% of managerial claimants). Further, those who have been employed for two years or more are also more likely to be paid than those who have been at the employer for less than two years.

Those in very small organisations (one to nine employees) were significantly less likely to have been paid in full when compared to those in all other business size groups (43% of under 10 employees compared to 51% for 10-49 employees, 57% for 50-249 employees and 78% for 250 or more employees).

County court procedures

In some cases payment had been secured by recourse to the county court. Of those who had been paid in full, 13% had initiated county court proceedings in order to secure payment and 29% of those who had been paid in part had done so. While 61% of claimants had received full or part payment of their award, only 51% had achieved this without the involvement of the county courts.

Of those who had not received payment, over a third (36%) had initiated county court proceedings. Across the claimant population as a whole, just under a quarter (24%) have involved the county court in their case.

Among those who had not received payment but chosen not to involve the county courts, this decision is often based on the time and inconvenience required for county court proceedings. One in five of these claimants considered the process 'to be too much hassle' and a further 8% felt that it was 'too time consuming'. Lack of awareness about county court options was also an influence (18% did not know they could commence proceedings).

The cost of county court proceedings also appeared to have an impact, with 15% feeling that the exercise was 'too expensive'. Those most likely to feel that cost was an issue were those working in smaller organisations (20% for those with one to nine employees) and those with elements of redundancy pay or working time directive in their claim (see Section 8.2 for a full breakdown).

The lack of awareness about county court options was reflected in the overall awareness of proceedings should the employer decide not to pay. Only one third (37%) of claimants who

had not been paid in full agreed that they knew what the options available were should this circumstance arise. This indicates that there may be a need for increased education or awareness raising of not only the county court pathway, but also other non-litigious options that may be available.

Timeliness of payment and reasons for non-payment

For those who had been paid their award in full the vast majority were paid relatively quickly, with 82% being paid within three months of the judgment being made. Payments for those who have received part of their award were somewhat slower overall, although a majority (62%) had been paid in full at the three month mark.

While this is a positive finding, a minority of claimants (both those who have been paid in full and those paid in part) were not paid until after six months had elapsed from the judgment (6% and 15% respectively).

Reasons given by claimants for non-payment of their award tended to be either the status of the employer had changed or a simple refusal to pay. Bankruptcy was the most mentioned reason for non-payment (39%) and it was more likely to affect those in mid-size organisations.

A refusal to pay was the second most mentioned reason for non-payment (29%). This issue was more likely to affect those with lower award values (under £5,000), so while members of this group may have been the most likely to be paid their award generally, when they were not it is apparent that it is the organisation that is driving the non-payment rather than a procedural issue associated with the claim.

1. Context

Employment tribunals (ET) are independent judicial bodies who determine disputes between employees and employers, protecting the rights of both. Their core function is to decide whether or not an award should be made to a claimant (the person bringing the claim – generally the employee). Of the cases brought by claimants that are successful, most result in an award being made. After a 42 day period, interest accrues on the amount outstanding if it has not been paid by the employer. In the event that claimants do not receive the sum awarded then they need to pursue their case through the county court in order to enforce payment, with these proceedings able to be initiated once written judgment of the award has been received.

Non payment of awards made at employment tribunals may lead to negative repercussions. From a claimant's point of view, the additional time and money required as a result of having to go through the county court proceedings can be hard to manage. From a government (and more specifically Ministry of Justice (MOJ)) perspective there is not only the potential for additional costs and burden on the court system as a result of the county court proceedings, but also the negative impact of community perceptions of employment tribunals and their effectiveness.

Employment tribunals do not currently have a way of estimating the number of claimants who have not been paid the money awarded to them or, for those who have been paid, how long it takes after the hearing for the payment to be made. This survey sought to answer these questions and to examine relationships between award payment and characteristics of claimant and respondent. Specifically, the objectives were to:

- identify the number of claimants who have not been paid their award;
- understand how many claimants (in figures and percentages) had to go to county court to gain their award;
- understand the reasons why awards were not paid;
- understand which aspects of the claim (or claimant) have an impact on likelihood of payment of award:
 - type of claim;
 - claimant particulars (age, gender, ethnicity etc.);
- understand when the payment was made – if it was made;
- provide insight into how long after the hearing awards were received;
- identify the characteristics of claimant or respondent.

Ultimately the findings from this research will be used to help MOJ gain a greater understanding of issues that claimants have faced in getting their awards paid and through this enable MOJ to assess whether, and how, the Employment Tribunal could assist in this.

2. Approach

A sample of 1,002 claimants was interviewed between 17 September and 10 October 2008 by telephone using Computer Assisted Telephone Interview (CATI) technology. On average, interviews took approximately 15 minutes to complete.

The Sampling Frame was provided to IFF Research by the MOJ/ET and consisted of 5,455 unique claimants in England and Wales who had a monetary award ordered by an ET between 2 January 2007 and 30 April 2008. Where claimants had multiple claims (i.e. different case numbers), the most recent judgment was selected for the focus of the study. Where claims were submitted in multiple jurisdictions the questionnaire wording and introduction was tailored to reflect this. At the time of interview, all claimants had the minimum 42 days time lapse between judgment being issued and the interview taking place and as a result, all claimants had interest accruing on their awards.

All claimants on the sample frame were sent a letter notifying them in advance about the research in order to allay any concerns they may have about this potentially sensitive subject and give them the opportunity to opt out.

Those who did not opt out formed the sample for the survey. All eligible records were drawn as a starting sample to enable fieldwork to be completed within a reasonable timeframe.

It was originally envisaged that quotas would be set by jurisdiction of claim. However, the large number of claims that fell into multiple jurisdictions (26% fell into three or more jurisdictions) meant that this approach was not practical. That said, efforts were made to prioritise cases falling into some of the smaller jurisdictions to maximise coverage of these types of claim and the potential to analyse results by jurisdiction.

A total of 1,671 individuals were approached to achieve the 1,002 interviews. Given the small total numbers of contacts in the “sex discrimination and equal pay”, “disability” and “race” jurisdictions, contacts within these jurisdictions were prioritised to maximise the numbers of interviews achieved and hence maximise the potential for analysing these jurisdictions separately. In effect, a census approach was taken for claims falling into these jurisdictions. For the remaining interviews, individuals to approach for the survey were selected at random. For more details of the sampling approach, please see appendix B.

One interview was carried out in Polish (via telephone) by request of the claimant. Two paper questionnaires were sent out: one to a claimant who was hard of hearing, and one to a

claimant whose spoken English was not of a standard to allow a telephone interview. One of these was returned.

Overall a response rate of 81.7% was achieved. Please see appendix B for a discussion of how the response rate was calculated.

Table 2.1: Call outcomes

Call outcome	
Complete interviews	1002
Interview terminated by claimant	1
Dead number*/incorrect number	31
Refused	167
Unobtainable**	408
Fax/business	5
Could not recall if monetary award paid	57

* Dead number includes those with no ringtone

**Unobtainable includes those numbers tried 8 times with the call not answered or unable to contact the named sample

At the analysis stage, data were weighted to the jurisdiction proportions given in the original database supplied by MOJ. Please see appendix B for more detail of the weighting process.

Table 2.2: Jurisdiction counts

Jurisdiction	Total sample	Interviews achieved	Interviews weighted
Unfair dismissal	2738	448	501
Working time directive	1322	354	240
Wages claims	2314	458	421
Sex discrimination and equal pay	313	100	60
Breach of contract	2142	437	391
Redundancy pay and consultation	653	232	120
Disability	233	40	40
Race	104	14	20
Other	485	86	90

2.1 Data treatment

Responses to all questions for the enforcement of employment tribunals awards research for claimants with different characteristics were compared and differences tested for statistical significance. Where differences are noted between demographic groups, this difference is statistically significant at the 95% confidence level (meaning that the results are statistically robust and reliable).

As mentioned, on review of the jurisdiction data, it became clear that in almost every case claimants had made claims in multiple jurisdictions. Given this, all analysis on jurisdiction (particularly where significance testing is involved) comprises the testing of claimants who have a claim within a specific jurisdiction and claimants who do not have a claim in that jurisdiction.

To ensure that the findings were representative of the population of claimants as a whole, the data were weighted to be proportionate by jurisdiction. Bases presented in this report are 'unweighted' (i.e. the raw number of people who answered that question) and as such, there is some difference between the base as a percentage (which is a weighted figure) and the base on each chart.

For full details on sampling and methodology, including social grading, see the appendix B.

3. Types of claimant

Before identifying factors that have an influence on claim outcome, it is useful to first look at what types of claimants are involved with the claims process. The following section provides the demographic profile of claimants and where possible, compares this against the profile of employees in England and Wales, as a whole, taken from national data sources.

3.1 Age and gender

Sixty-one per cent of those receiving awards in employment tribunals are male and 39% are female. Compared to the gender profile of employees in England and Wales, men are over-represented among claimants who received a financial award at an employment tribunal hearing (since they account for 52% of those in employment) (ONS, 2001 Census).

Fifty-one per cent of claimants were aged between 35-54 years. Twenty-seven per cent were aged under 34 years of age and a similar proportion (24%) were over 55 years of age. The age profile of claimants is slightly older than is the case for employees in general (ONS, 2001 Census).

Table 3.1: Age and gender of claimants

		Survey population %	Employees in England and Wales %
Gender			
	Male	61	52*
	Female	39	48*
Age			
	16 – 24	8	12*
	25 – 29	11	12*
	30 – 34	8	14*
	35 – 44	23	27*
	45 – 54	26	22*
	55 – 64	19	11*
	65+	5	1*

D8: Gender. Base: All (1,002)

D1: Which of the following age groups do you fit into? Base: All (1,002)

* Source: ONS, 2001 Census

Does not add to 100% due to rounding

3.2 Marital status, disability status and social grade

The majority of claimants were in a partnered relationship (64% married/civil partnership, cohabiting, or living with a partner). One quarter (26%) were single and only ten per cent were widowed or had separated or divorced. This is in line with the profile of those in employment in England and Wales (ONS, *2001 Census*).

Fourteen per cent of claimants consider themselves to have a disability. This is similar to the proportion of employees in England and Wales who report a disability (12%), *Annual Population Survey* (2007).

Twelve per cent of claimants can be classified as social grade AB.² A further 40% can be classified as C1. Just over one quarter (28%) of claimants can be classified as C2 and one in five claimants can be classified as DE (20%). Compared with the social grade profile of England and Wales as a whole, individuals of social grade AB and DE are under-represented among those granted an award at an employment tribunal while those in social grade C1 and C2 are correspondingly over-represented.

² See Appendix B for information on social grading and how it is defined.

Table 3.2: Marital status, disability status and social grade of claimants

		Survey population %	Employees in England and Wales %
Marital status			
	Married/ civil partner	50	54*
	Single	26	23*
	Cohabiting or living with a partner	14	14*
	Separated/ divorced	8	8*
	Widowed	2	1*
Disability status			
	Has a disability	14	12**
	Does not have a disability	86	88**
Social grade			
	AB	12	22***
	C1	40	30***
	C2	28	15***
	DE	20	33***

D6: Are you currently... [marital status read out]

Base: All excluding refused (993)

D3a: Do you consider yourself to have a disability?

Base: All excluding refused (999)

D4: Before filing your claim with the Employment Tribunal, what was the occupation of the chief income earner?

Base: All excluding refused (987)

* Source: ONS, 2001 Census

** Source: ONS, 2007, Annual Population Survey

*** Source: ONS, 2001, Census (approximated social grade)

3.3 Ethnicity and first language

Eighty-seven per cent of claimants classified themselves as White. Fewer than one in ten were Asian (6%) or Black (5%) and an even smaller percentage were mixed (1%).

Compared to the ethnicity of employees in England and Wales, black and ethnic minority employees are slightly overrepresented. (ONS, 2001 Census).

English was the first language of the vast majority (89%). Other languages include Polish (2%), and Hindu/Punjabi, Arabic and Urdu/Pakistani (1% each).

Table 3.3: Ethnicity and first language of claimants

		Survey population %	Employees in England and Wales %
Ethnicity			
	White	87	94*
	Asian	6	3*
	Black	5	2*
	Mixed	1	0*
	Other	1	1*
First language			
	English	89	-
	Polish	2	-
	Hindi/Punjabi	1	-
	Arabic	1	-
	Urdu/Pakistani	1	-
	Other	7	-

D5: And how would you describe your ethnic origin? D7: And what is your first language?

Base: All excluding refused (987)

Base: All (1,002)

** Source: ONS, 2001 Census*

Does not add to 100% due to rounding

3.4 Income

Sixty-nine per cent of claimants were in work at the time the interview was conducted, and of those only 3% were with the same employer. Eleven per cent indicated that they were unemployed after they had filed their claim.

Claimants were asked about their income both at the time when they made their claim and at the point of interview. At the time of their claim, more than one third (39%) of claimants earned between £10,001 and £20,000 per year. One quarter (22%) of claimants earned less than £10,000 per year and 30% earned more than £20,000 but less than £40,000 per year. Fewer than one in ten (7%) had a personal income exceeding £40,000 per year.

Whilst income was similar after the claim among those working, it must be noted that there was a decrease in employment which, in effect, saw overall personal salary across all claimants decrease.

Table 3.4: Personal salary and household income

	Salary before claim	Salary after claim
Personal annual salary before claim		
Up to £10,000 (%)	22	20
£10,001 - £20,000 (%)	39	40
£20,001 - £40,000 (%)	30	30
£40,001 - £50,000 (%)	3	3
£50,000+ (%)	4	4
Don't know (%)	2	2
Refused (%)	1	1

D2a.: Before filling in your claim with the Employment Tribunal, which of these bands did your personal annual salary fall into?

D3: And which one of these bands does your current personal yearly income fit into?

Base: D2a all (1,002); D2b (681)

Does not add to 100% due to rounding

Looking on an individual basis half of claimants (52%) who were working at the time of the interview are earning at a similar level to that which they were before the employment tribunal (i.e. their income falls into the same broad salary band). However, 34% of claimants' earnings now fall into a lower salary value band and just 13% now earn in a higher value band.

3.5 Role and working status

One quarter of claimants had worked in managerial or senior officials roles before their case was filed and award made (26%). Hence individuals in these occupations are over-represented among claimants (they account for only 15% of employment in England and Wales). With the exception of those working in the skilled trades and sales and customer services employees, all other occupational categories are under-represented among claimants.

The majority of claimants had full-time permanent positions (79%). Seventeen per cent had permanent part-time roles and very few had part time/full time temporary roles (3%).

Table 3.5: Role and working status of claimants

		Survey population %	Employees in England and Wales %
Role			
	Manager or senior officials	26	15*
	Professional	7	14*
	Associate professional or technical	5	16*
	Administrative or secretarial	8	13*
	Skilled trades	15	4*
	Personal service	7	10*
	Sales and customer service	13	9*
	Process, plant and machine operatives	9	5*
	Elementary	10	12*
Working status			
	Permanent full-time	79	
	Permanent part-time	17	
	Temporary (full or part time)	3	
	Prefer not to say	1	

A7: Which of the following descriptions best describe your core role?

D2c: Before filling in your claim with the Employment Tribunal, was your role... [working status read out]

Base: All (1,002)

* Source: ONS, April 2007 - March 2008, Annual Population Survey

3.6 Length of tenure and claimant's current working relationship with employer

Almost half (49%) of claimants had worked for their employer for one to two years (34% less than two years, 15% two years but less than three years). Thirteen per cent had worked for their employer for between five and ten years and 16% had worked for their employer for more than ten years before filing their case.

The majority of claimants were no longer working for the employer by the time of interview (97% compared to 3% who were still employed by the employer). Almost all claimants left their employer before they sent their claim to the employment tribunal (90%). Fewer than one in ten left after they sent the claim but before they were awarded compensation (9%) and very few (1%) left their employer after they were awarded compensation.

Table 3.6: Length of tenure, claimant employer current relation and when claimant left

		Survey population %
Length of tenure before claim		
	1 year or more, but less than 2	34
	2 years	15
	3 years	9
	4 years	6
	5 years	5
	More than 5 years, less than 10 years	13
	10+ years	16
	Don't know	1
Whether still working for employer		
	Yes	3
	No	97
When left employer		
	Before claim was sent to the employment tribunal	90
	After claim was sent but before compensation was awarded	9
	After compensation was awarded	1

A8: Before filing your claim with the Employment Tribunal, how long had you worked for this employer?

A9: And are you still working for this organisation currently?

Base: All (1,002)

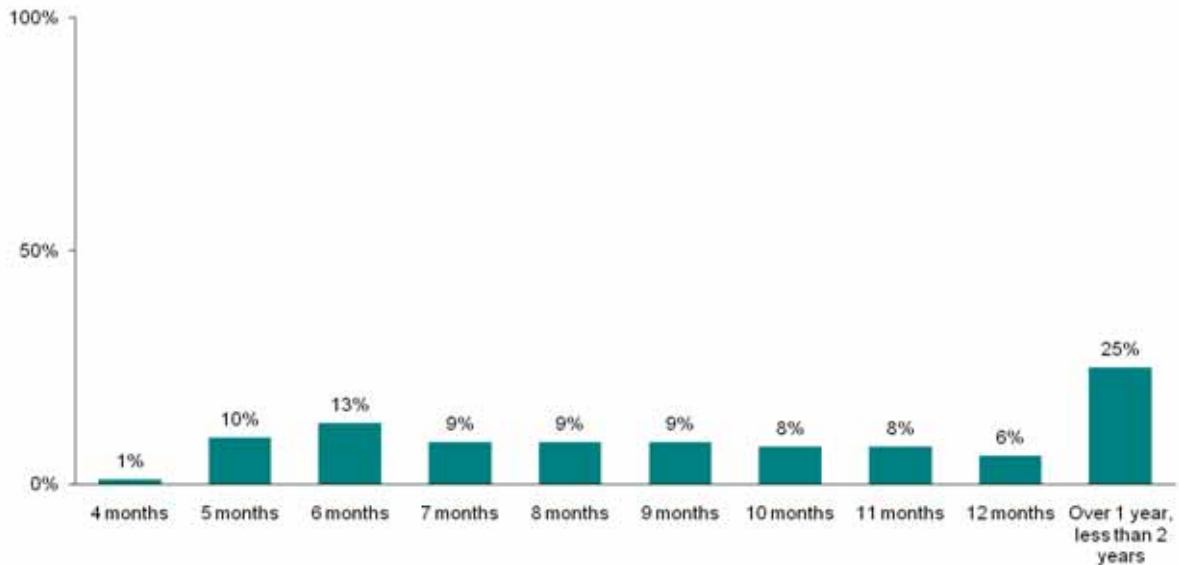
A10: Did you leave this employer...

Base: All who have left their employer (971)

3.7 Time lapse between date of hearing and date of interview

The records attached to the sample provided for this study show that claimants hearings had taken place between January 2007 and April 2008. Assessing time lapse between date of interview and announcement of judgment, we can see that 25% of claimants had more than one year elapse between these key dates.

Figure 3.1: Time lapse between announcement of judgment and date of interview



Date of award announcement from sample frame

Date of interview

Bandings shown as inclusive e.g. 5 months = $4 < t \leq 5$ where t = precise time elapsed

Base: All (1,002)

3.8 Experience and confidence with legal issues before the claim

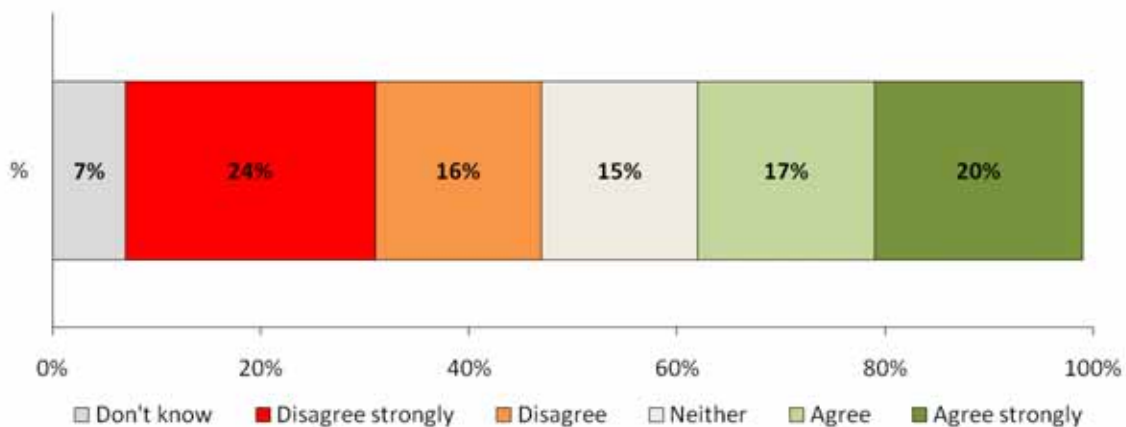
Claimants were asked to state how confident they would describe themselves as being in dealing with legal issues before the claim. Half of claimants (54%) stated that they were 'confident' in dealing with legal issues before they commenced the claim in the employment tribunal. One third (36%) were 'not confident', including 13% who were 'not at all confident'.

Those significantly more likely to be confident tended to be:

- in managerial/professional/associate professional roles before their award was made (61% compared to 49% operatives/elementary and 51% personal service/sales/customer service);
- earning over £40,000 before their case at the Tribunal (71% compared to 53% who earned up to £20,000 and 54% who had an income of £20,001 - £40,000);
- awarded smaller sums (63% of those awarded £1 - £499 compared to 49% with an award of £2,000 - £4,999);

- working in part time or temporary roles (62% compared to 53% in full time permanent roles);
- not disabled (56% compared to 45% who were disabled);
- social grade AB and C1 (63% and 59% compared to 49% C2 and 47% DE);
- not white (67% compared to 53% who were white);
- male (59% compared to 48% who were female);
- older (64% of those aged 55 or more compared to 52% of those who were younger).

Figure 3.2: Claimants' confidence with legal issues before the Tribunal



B10: And before this claim in the Employment Tribunal. How confident would you say you were about dealing with legal issues?

Base: All (1,002)

Does not add to 100% due to rounding

For almost all claimants (93%), this was their first claim within a court or tribunal. Just under one in ten (7%) had made a claim/appeal prior to the current employment tribunal case.

Those who were disabled were significantly more likely to have had a prior claim (13%).

Summary – types of claimant

Similar to the national profile, most claimants were in a partnered relationship and classified themselves as white ethnicity. However, there was over-representation of claimants who were: male; without a disability; in older age brackets; of social grade C1; in managerial or senior official roles, skilled trades, sales and customer service and process, plant and machine operatives. English was the first language of the vast majority of claimants.

Most claimants (69%) earned between £10,001 and £40,000 per year before the claim. Among those who were in employment after the claim, personal salary remained similar to the amount before the claim. However, the increase in those who were unemployed suggests that income across all claimants had decreased. Most claimants had worked full-time for the respondent.

Around half of respondents had worked for the respondent for 1-2 years. Almost all claimants were not working for the same employer and most left before the claim was sent to the employment tribunal. Two fifths of hearings took place in 2007 (61%) with a third in 2008 (31%).

Half of claimants (54%) felt confident in dealing with legal issues before the claim and 36% were not confident. For almost all claimants, this was the first claim within a court or tribunal.

4. Types of organisation involved in claims

As well as the characteristics of the individuals awarded claims through employment tribunals, it is also useful to consider the profile of employers involved in these claims.

4.1 Industry

Twelve per cent of claimants indicated that they were in a public sector organisation. However, cross-referencing to this question with employee name provided on the sample frame (where this was available) indicated that this classification was not always reliable. For this reason, we have not conducted separate analysis of public versus private sector differences.³

One in five private sector claimants worked in the manufacturing/industry/engineering (23%) sector and a smaller proportion (21%) were in the retail/consumer sector. Professional services was also one of the more commonly mentioned business sectors (15%).

The remaining respondents were spread across a variety of industries, none of which represented more than one in ten claimants. All sectors represented by claimants and respondents can be seen in table 4.1.

Table 4.1: Industry of employer (private sector only)

	Those employed in private industry %
Manufacturing/industry/engineering	23
Retail/ consumer	21
Professional services	15
Transport/ distribution	9
Leisure/ tourism	6
Pharmaceutical/ healthcare	5
Construction (inc. landscaping and maintenance)	5
Other	15

A2: What does this organisation do or make?

Base: All in the private sector (842)

Does not add to 100% due to rounding

³ It was not possible to use the 'organisation name' variable from the MOJ/ET sample frame to conduct analysis as the details on this file held by the MOJ/ET were incomplete.

4.2 Number of employees at UK organisation and claimant site

Most employers involved in claims were small businesses (71% of claimants worked for companies with fewer than 50 employees) and 18% were large organisations across both the public and private sector. Medium-sized organisations were least likely to be involved in claims (13% of awards were against employers with 50 – 249 employees). Compared with the profile of the workforce in Great Britain⁴ as a whole, employees from small companies (1 – 49 employees) are under-represented among those made awards in employment tribunals, while those in larger-sized workplaces are over-represented.

A majority of employers (59%) involved in claims employed fewer than 26 full time staff at the UK site the claimant worked at. Just less than one quarter (22%) employed 26 – 250 people and around one in ten had 250 or more employees (13%).

Table 4.2: Number of employees at respondent organisation

		Survey population %	Employees in Great Britain % ⁵
Full time employees in UK			
	1 – 49	71	97*
	50 – 99	6	2*
	100-499	8	1*
	500+	15	0

A5: Approximately how many full-time employees does this organisation employ in the UK?

Base: All excluding don't know (892)

* Source: ONS, 2006, Annual Business Inquiry Workplace Analysis Does not add to 100% due to rounding

4.3 Number of sites at employer organisation

Over half of claimants (54%) worked for employers that had only had one site in the UK, 42% worked for multi-site organisations. Three quarters (75%) worked for companies that did not have sites outside of the UK and 15% for companies with an overseas presence.

⁴ Figures for England and Wales are not available and thus proportions have been compared with Great Britain.

⁵ Figures for England and Wales are not available and thus proportions have been compared with Great Britain.

Table 4.3: Number of sites at employer organisation

		Survey population %
More than one UK site		
	Yes	42
	No	54
	Don't know	4
Sites outside the UK		
	Yes	15
	No	75
	Don't know	10

A3: Does this organisation have more than one site in the UK

A4: Does this organisation have sites outside the UK?

Base: All (1,002)

Summary – types of organisation involved in claims

The most common private sector respondents were manufacturing/ industry/ engineering and retail/ consumer.

Most respondents employed 1- 49 full-time staff in the UK, did not have more than one UK site and did not have sites outside of the UK.

5. Claim specifics

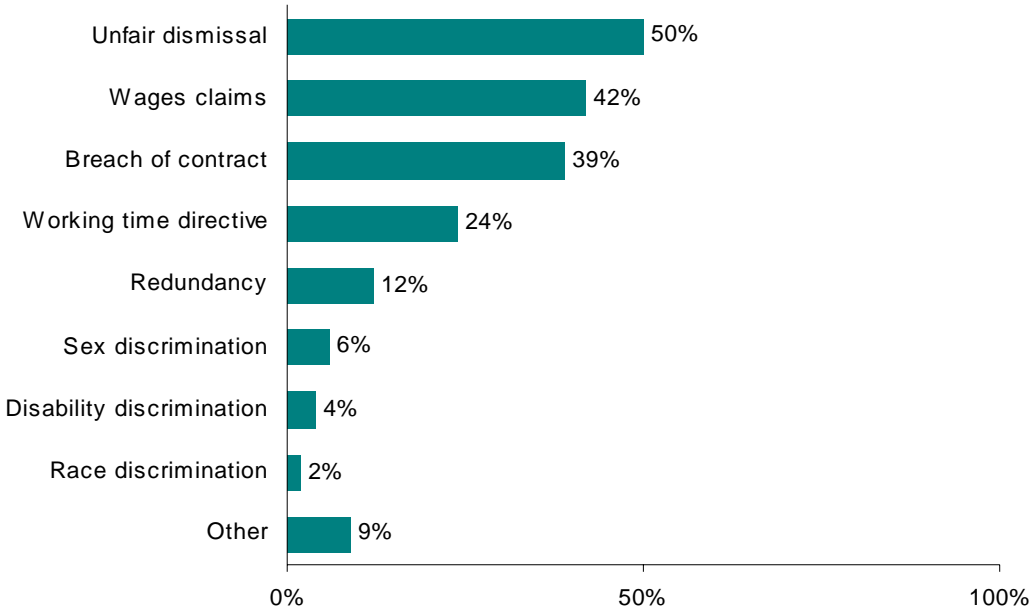
This chapter looks at the nature of the claims, including jurisdiction, value of award, length of time taken for each aspect of the claim and legal representation for both claimant and employer.

5.1 Jurisdiction

Jurisdiction of claim was taken from the tribunal records as supplied by MOJ/ET. All claimants had multiple jurisdictions and, as a result, figure 5.1 presents the proportions of claimants who had an element of each jurisdiction in their claim.

It was most common for claims to contain an element of unfair dismissal (50%). Around four in ten claims contained an element of wages claims or breach of contract (42% and 39%). Least common claims include discrimination for sex, disability and race (each less than 10%).

Figure 5.1: Jurisdiction after weighting



Obtained from sample - provided by MOJ

Base: All (1,002)

Comparing claimants in each jurisdiction against claimants as whole, there were some trends in the 'type' of claimant in each; where these trends are significant these are summarised below.

- **Unfair dismissal** – claimants were more likely to:
 - have worked for the employer for a longer period (in 28% of claims involving unfair dismissal the claimant’s tenure was less than 2 years, compared to 48% of all other claims).

- **Wages claims** – claimants were more likely to:
 - work for smaller organisations (39% 1-9 employees, compared to 28% of all other claims);
 - have worked there for a shorter period of time (50% tenure less than two years, compared to 23% of all other claims);
 - be younger (55% of those under 30 years, 34% of those aged 55 years and over) and male (44%, compared to 38% for females).

- **Breach of contract** – claimants were more likely to:
 - work for smaller organisations (39% 1-9 employees, compared to 28% of all other claims);
 - have worked for the employer for a shorter period (39% tenure less than two years, compared to 32% of all other claims);
 - be full-time (83%, compared to 77% of all other claims).

- **Working time directive** – claimants more likely to:
 - work for smaller organisations (40% 1-9 employees, compared to 30% of all other claims);
 - have worked for the employer for a shorter period (42% less than two years, compared to 32% of all other claims).

- **Redundancy pay and consultation** – claimants more likely to:
 - work for smaller organisations (52% one to nine employees, compared to 30% of all other claims);
 - have worked at the business for a longer period of time (5% tenure less than two years, compared to 38% of all other claims);
 - be older (42% over 55 compared to 21% of all other claims), lower earners (71% salary at time of claim £20,000 compared to 59% of all other claims), white (93% white compared to 85% of all other claims) and have English as their first language (94% compared to 88% of all other claims).

- **Sex discrimination and equal pay (caution, low base <100)** – claimants more likely to:
 - work for larger companies (31% 250+ employees, compared to 14% of all other claims);
 - be younger (37% under 30, compared to 18% of all other claims), lower earners (74% earning under £20,000 at time of claim against 60% of all other claims), and part time (30% part time compared to 20% of all other claims);
 - be female (91% compared to 36% of all other claims).

- **Disability and age discrimination (caution, low base <100)** – claimants more likely to:
 - work for larger respondent companies (62% 250+ employees, compared to 14% of all other claims);
 - have worked at the business for a longer period (47% over five years, compared 29% of all other claims);
 - fall into the 45-54 age bracket (50%, compared to 25% of all other claims);
 - classify themselves as having a disability (80% of claimants claiming under this jurisdiction were disabled, compared to 12% of all other claims).

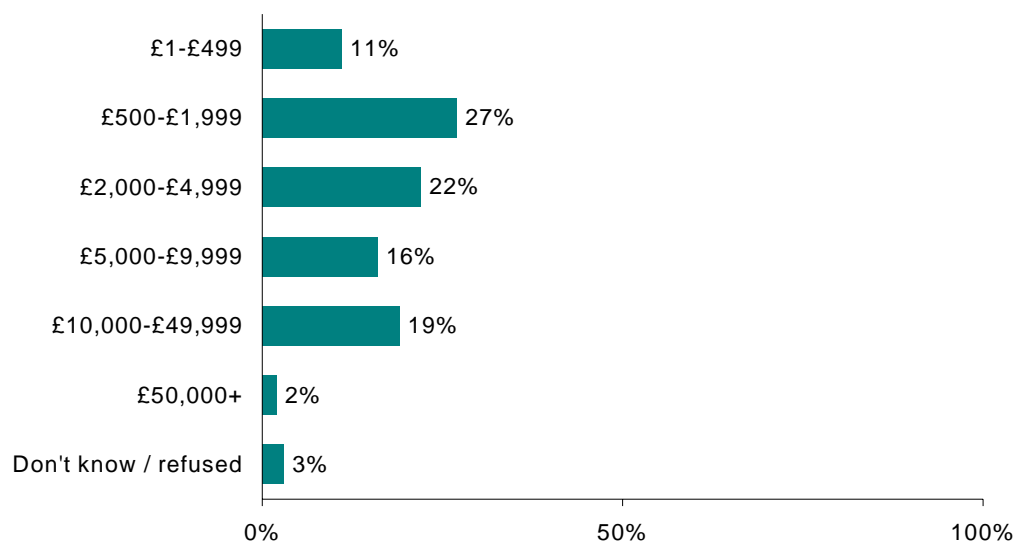
- **Race, religion or belief discrimination (caution, low base <100)**
 - due to the very small base size of this jurisdiction (20 interviews after weighting), no significant differences were found. It is, however, worth noting that 84% of claims were from non-white ethnic groups, compared to 12% of all other claims.

5.2 Award value

All claimants were asked how much they were awarded by the tribunal in total (that is cumulative across jurisdictions). Values ranged from £10 to £250,000 with a mean of £7,768 and a median of £3,000.

Award value ranges are outlined in figure 5.2 below.

Figure 5.2: Award values



B3: Can you tell me what your total award from the Tribunal was in pounds?

Base: All (1,002)

There was some evidence of the type of claim having an influence on the total amount awarded; this reflects the maximum awards payable for different jurisdictions. Types of claims where the award was significantly more likely to be £5,000 or more included:

- unfair dismissal (53%);
- sex discrimination and equal pay (64%);
- disability/age discrimination (74%).

As would be expected, seniority, tenure and age all had a relationship on the value of the claim awarded. Those more likely to receive higher award values (£5,000 or more) included:

- claims brought by more senior staff (50% manager/professional/associate professional);
- claimants with a longer tenure (52% over five years);
- claimants aged 30 or over (40%);

- claimants on a higher income at the time of the claim (68% over £40,000);
- claimants working full time (40%);
- claimants with a higher socio-economic status (42% AB/C1).

There was also some influence with regard to the type of employer involved in the claim on amount awarded. Again, those employers who were significantly more likely to see higher awards (£5,000 or more) made against them included:

- larger organisations (52% 250 or more employees).

No differences were found by ethnicity, language or gender.

5.3 Length of case

In very few cases (just 7%) the case was decided within a month from the claim being made. Within three months, more than one third of all cases had been resolved and at the six month point, two thirds of cases had been resolved.

One in three (30%) indicated that it took longer than six months to resolve their case (1% could not remember how long it took to resolve their case).

Analysis of the time taken to reach a decision shows that there were significant differences in decision time by jurisdiction. Cases involving sex discrimination and equal pay were most likely to take the longest to reach a decision, with 60% of these taking more than six months to resolve. In half (52%) of disability and age discrimination cases it took longer than six months before the case was decided, and for cases involving unfair dismissal, 42% took longer than six months to reach a resolution. Wages claims and cases regarding redundancy pay and consultation were most likely to be resolved quickly, with 48% in each case being resolved within three months. It is plausible to assume that the differing lengths of case reflect the differing levels of complexity by jurisdiction.

There was also evidence to suggest that organisational factors (particularly sector and size) had a significant impact on the likelihood that a case will be resolved in a timely fashion. Cases against larger organisations took longer to resolve; those against companies with one to nine employees took longer than six months just 20% of the time; whereas, those against companies with 250 or more employees took over six months on 55% of occasions.

This may reflect the fact that larger organisations are also more likely to have the resource to fight a case. In addition, larger companies are often involved in larger claims, the complexities of which may have taken longer to resolve. Twice as many claims resulting in

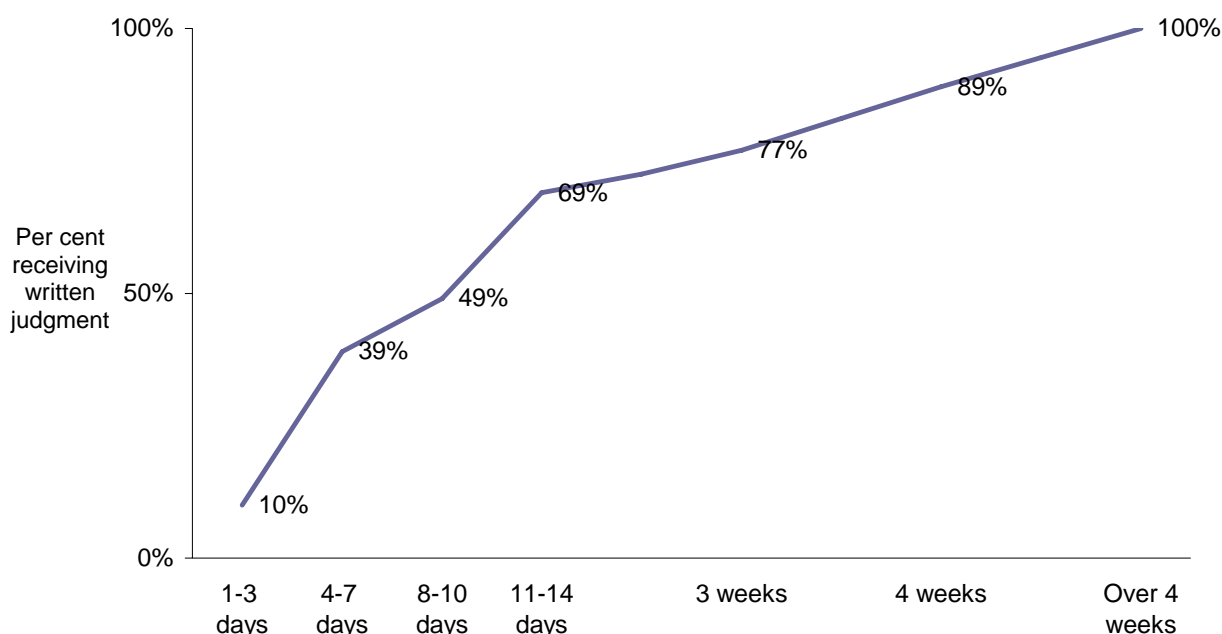
awards over £5,000 in value (43%) took over six months to resolve compared to cases resulting in awards under £5,000 (22%).

5.4 Length of time for confirmation

In the majority of cases (69%) claimants received their written judgment within two weeks of their hearing taking place. A further 20% of claimants received their written judgment within four weeks of it being made (89% in total at the four week mark), with this being in line with the Charter Statement (85% of judgments issued within four weeks).

Twelve per cent of claimants could not remember when they had received their written judgment.

Figure 5.3: Time taken for written confirmation of judgment to arrive (don't know excluded)

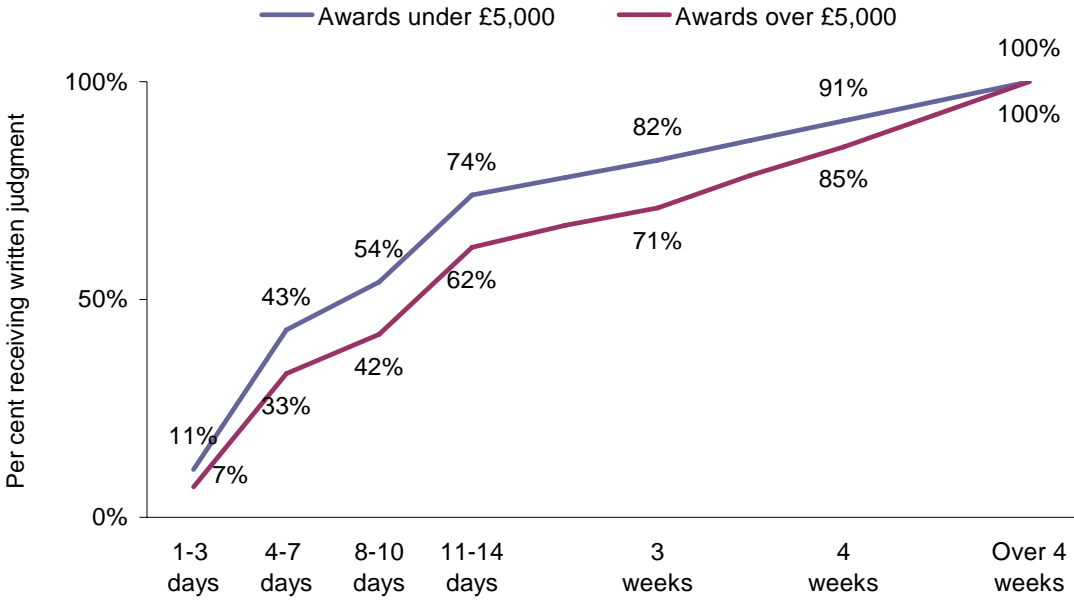


B4a. After being told at your hearing how much you were to be awarded, how long did it take for the written confirmation of the judgment to arrive?

Base: All excluding Don't know (880) – 122 Don't knows excluded

Those with lower value awards are significantly more likely to receive their written judgments faster than larger award values (figure 5.4). Findings also indicate that lower value awards are significantly more likely to be paid in full (see section 6).

Figure 5.4: Time taken for written confirmation of judgment to arrive by award value (don't know excluded)



B4a. After being told at your hearing how much you were to be awarded, how long did it take for the written confirmation of the judgment to arrive?

Base: All excluding Don't know. (543 under £5k, 315 over £5k). 144 don't knows excluded

5.5 Legal representation

Forty-one per cent of claimants had chosen to have some form of legal representation at their tribunal hearing or in the run up to the hearing.

According to claimants, in one quarter of claims covered by the sample (23%) both the claimant and the employer were represented in some form at their employment tribunal hearing (table 5.1). In around one in five cases (18%), the claimant was represented and the employer was not or the employer was represented and the claimant was not (17%). Research conducted by Dennison and Corby (2005),⁶ shows that claimants and employers accounts do sometimes differ markedly. It is possible that the actual figure for employer representation is slightly higher due to the claimant not having sufficient knowledge of the approach taken by their employer. This would be especially true of claimant reporting of employers who did not have a representative at the hearing but sought advice in the run up to the hearing.

In a further 41% of cases, neither the claimant nor the employer was represented.

⁶ Dennison, P. and Corby, S. (2005) "Images in the adversarial Mirror: A study of the Employment Tribunal System in Britain", *International Employment Relations Review*, 11, pp. 21-36

Table 5.1: Legal representation

Representation status (either in the run-up to or at the hearing)	Survey population %
Claimant and employer represented	23
Claimant only represented	18
Employer only represented	17
Neither represented	41
Don't know	2

B5) Did you choose to have legal representation?

B7) Did your employer have any representation?

Base: All (1,002)

Jurisdiction also had an impact on the presence of representation, both for the claimant and the respondent. Those whose claims included aspects of unfair dismissal, sex discrimination and equal pay, and disability and age discrimination were more likely to be represented. Employers defending these groups were also more likely to have a representative (see table 5.2 for full details). This could be a result of the complexity of such cases, or the potential size of the award involved.

Table 5.2: Legal representation by jurisdiction (either in the run-up or at the hearing)

Jurisdiction	Claimants	Respondents
	%	%
Unfair dismissal	52	52
Working time directive	34	30
Wages claims	33	25
Sex discrimination and equal pay	47	52
Breach of contract	37	28
Redundancy pay and consultation	24	17
Disability and age	78	84
Race and belief	50	75
Other	58	43

B5) Did you choose to have legal representation?

B7) Did your employer have any representation?

Base: All (1,002)

Most of claimants using legal representation used a solicitor or lawyer (58%) but a number of other representatives were mentioned, including:

- the Citizens Advice Bureau (16%);
- trade unions (12%);
- a friend or family member (9%).

This information is shown in figure 5.5 below.

The higher the value of the award, the more likely the claimant was to have legal representation (55% of awards over £5,000, significantly higher than the 32% of those under £5,000).

Social grade appeared to have an impact on whether the claimant was represented or not. Those classified as D and E social grade (the lowest social grade classifications) were significantly less likely to have representation (of any kind) during their hearing than those classified AB (65%, compared to 52%).

Further, there was a clear difference in type of representation by socio-economic status. Solicitors or lawyers were significantly more likely to be used by those of AB and C1 social grades (69% used a solicitor or lawyer compared to 46% those in other social grades), whereas those of social grades C2, D and E were the most likely to use the Citizens Advice Bureau (22%) or a trade union (18%).

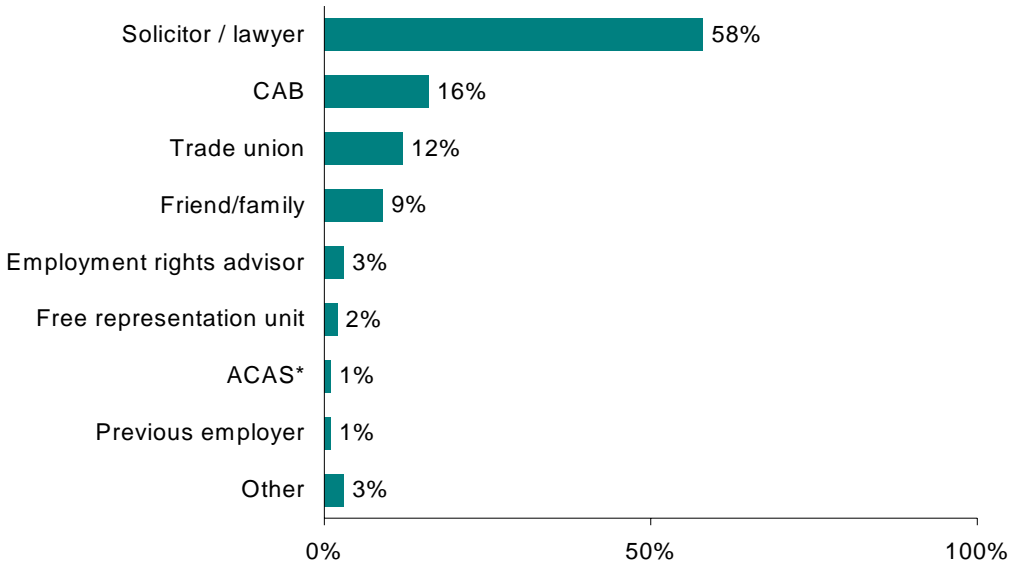
The type of company to which the claim was related also appeared to have an impact on legal (i.e. lawyer or solicitor) representative status. Claimants filing against larger companies were significantly more likely to seek legal representation, with 70% of those whose case involved an employer with 250 or more employees having a lawyer/solicitor represent them, compared to 56% whose case involved an employer with one to nine employees.

Further, both parties were significantly more likely to use a legal representative if the claimant was older (67% 45-54 years compared to 46% for those aged under 30 years), had worked at the organisation for a longer period of time (62% two to five years, 61% five years or more compared to 48% less than two years) or earned a higher salary before the claim was made (82% over £40,000 compared to 49% up to £20,000).

Thirty-nine per cent of claimants reported that the respondent in their case had representation. This was most likely to be in the form of a lawyer or solicitor (62%) with a further 27% using a company lawyer.

Larger companies in turn were significantly more likely to have a representative (of any type) defend their case, with 81% of those employing 250 or more employees having legal representation compared to 22% of those with one to nine employees.

Figure 5.5: Claimants' legal representatives



B5a) Who did you have as your legal representative?

*Base: All who had legal representation (380)
Adds to over 100% as multiple responses allowed*

**Whilst ACAS does not represent claimants, 1% mentioned the organisation in response to this question. The advice and support that ACAS offered to claimants prior to the hearing was felt to be a form of legal representation.*

Summary – claim specifics

The findings indicate that there are differences between the types of claimants and respondents involved in cases within different jurisdictions. Generally, smaller private sector organisations were more likely to be defending wages claims, breach of contract claims or redundancy pay and consultation claims.

It also appears that there was a relationship between jurisdiction and award values, with awards for unfair dismissal claims, sex discrimination and disability claims generally being higher than those awarded in other jurisdictions.

Award values were also likely to be larger if the claimant was a higher earner (it is plausible to assume that loss of earnings for this group would be higher).

The time taken to decide a case appeared to be related to the complexity of the case and the size of the award involved. Similarly the time taken for the written judgment to arrive was related to this.

There was a strong link between value of the award and the claimant having representation, with representation generally equating to higher value awards. Whether the more serious cases prompted respondents and claimants to engage a representative or whether having a representative lead to a higher reward is unclear, but given that the relationship exists for both claimants and respondents it is likely to be the former.

Finally, representation by a solicitor or lawyer (as opposed to lay representation) was closely linked with the socio-economic status of the claimant. Those with higher salaries, more seniority and longer period of employment were more likely to be represented by a lawyer or solicitor. Again, it is possible that this is the result of an impact of the relationship between this level of representation and the size/complexity of the claim – with more complex (and therefore potentially higher value award) claims necessitating a higher degree of representation. It is also possible that this is a reflection of the ability to afford this level of representation.

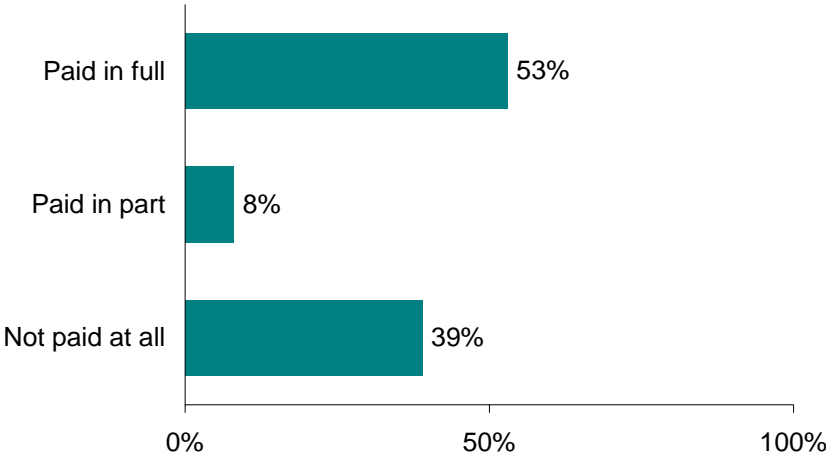
6. Award payment

The core aim of this study was to assess and understand factors that influence the likelihood of payment once an award has been determined by the employment tribunal. The following section profiles likelihood of the award being paid against key demographics of the organisation concerned and of the individual involved in the claim.

When asked about the overall outcome of their award, half (53%) indicated that they had been paid in full by their employer (figure 6.1) and a further 8% had been paid in part by their employer at the time of the interview.

Of concern, more than one third (39%) of claimants indicated that they had not been paid at all by their employer at the time the interview was conducted. It is important to note that, in all cases more than 42 days had elapsed between the judgment being issued and the interview; after this 42 day time period, interest accrues on the award. Applying these percentages to the total population provides 2,127 of the total 5,455 claimants not receiving their award at all, having waited at least 42 days since their written judgment was issued. Using this calculation 2,891 claimants have been paid in full, with the remaining 436 having been paid in part.⁷

Figure 6.1: Payment of award after employment tribunal ruling



C1: Has your award been...?
Base: (1,002). Don't know include in analysis but not charted

Examining payment outcome against key demographics of both the employer and the claimant, it is apparent that claim factors (such as jurisdiction and award value) and organisational factors (such as role, sector and size) have a greater influence on likelihood of payment than personal demographic factors (such as age and gender). Given this trend, we

⁷ It is due to rounding that these figures sum to 5,454 rather than 5,455.

concentrate discussion on aspects where significant differences occur, indicating a strong influence on likelihood of payment.

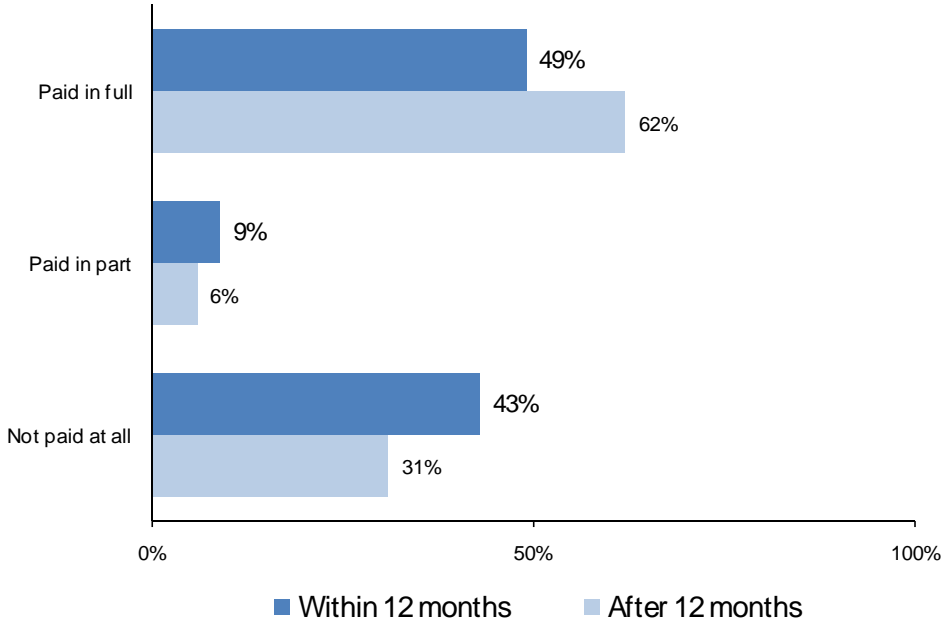
6.1 Payment outcome by time elapsed from judgment

Figure 6.2 below shows payment outcome split between those who completed the interview within 12 months of receiving their judgment and those who completed the research after 12 months had elapsed since receiving their judgment.

There is some evidence that the proportion of claimants paid in full increases over time, with 49% of claimants who completed the study within 12 months having been paid in full, compared to 62% of claimants who completed the study after 12 months had elapsed.

While it does appear that the longer a claimant waits, the more likely they are to be paid, it is important to note that all claimants in this study have waited beyond the 42 day period (when interest accrues).

Figure 6.2: Payment over time



C1) Has your reward been... ?

Base: All who could remember if their award had been paid in full, paid in part or not paid at all - paid in full (529), paid in part (76), not paid at all (395)

6.2 Payment outcome by jurisdiction

Claims with an element of disability and age discrimination and claims with elements of race and belief were the most likely to be paid in full by the employer (71% and 69% respectively). However, it is important to note that the small base sizes do mean that the figures need to be interpreted with caution. Claimants with an element of unfair dismissal in their claim were significantly more likely to be paid in full than those without this aspect to their claim (57% compared to 49%).

In terms of non-payment of award, claims with elements of working time directive, wages and redundancy pay and consultation were the least likely to be paid in full by employers, with more than half in each case indicating they had not been paid at all (see table 6.1).

Table 6.1: Payment by jurisdiction

Jurisdiction	Base		Paid in full	Paid in part	Not paid at all	Don't know
Unfair dismissal	(448)	%	57	8	35	0
Working time directive	(354)	%	38	9	53	0
Wages claims	(421)	%	41	8	51	0
Sex discrimination and equal pay	(100)	%	49	12	37	2
Breach of contract	(437)	%	46	7	47	0
Redundancy pay and consultation	(232)	%	37	11	51	0
Disability and age	(40 *)	%	71	7	22	0
Race and belief	(14 *)	%	69	7	25	0
Other	(86)	%	60	2	37	0
TOTAL	(1,002)	%	53	8	39	0

C1) Has your reward been... ?

Base: All (1,002)

* Small base size, consider with caution

6.3 Payment outcome by value of award

The findings suggest that there was a relationship between value of award and likelihood of full payment by the employer. Awards at the lowest value (£1 - £499) were significantly more likely to be paid (70% paid in full) than all other higher award values (see table 6.3). This is more than likely the impact of employers being able to afford to pay smaller awards in a one-off payment.

Thirty-seven per cent of awards under £5,000 had not been paid at all by the employer. Forty-four per cent had not been paid awards over £5,000.

The likelihood of being paid in part increases with the size of the award (only 3% of awards with value £1 – £499 compared to 11% of those £10,000 or more).

Table 6.2: Payment by award value

	£1-£499	£500-£1,999	£2,000-£4,999	£5,000-£9,999	£10,000+
	%	%	%	%	%
<i>Base</i>	93	261	236	173	204
Paid in full	70	55	51	44	47
Paid in part	3	5	9	9	10
Not paid at all	26	40	40	47	43

C1) Has your reward been...?

Base: All (1,002)

6.4 Payment outcome by job role

Claimants’ job role also appears to have an impact on the likelihood of the award being paid by the employer.

Claimants with lower level job roles (personal service/customer service and operatives/elementary) were significantly more likely to indicate that they had been paid their award in full. To some extent, this reflects the fact that individuals in these occupations are more likely to receive lower value awards (which in turn are more likely to have been paid in full).

Claimants in managerial/professional/associate professional roles, by comparison, were significantly more likely to have not been paid their award at all (44%). Again, this finding is potentially related to the increased complexity and higher value award that would be associated with more seniority in role.

6.5 Payment outcome by organisation size

Claimants working for larger organisations are also significantly more likely to be paid in full by their employer than those working for smaller organisations. This was particularly the case for very small organisations (one to nine employees) with these employees being significantly less likely to be paid in full and significantly more likely to have not been paid at all than all other business size groups (see table 6.3). It is plausible to assume that this is the result of larger organisations being more able to afford to pay awards, when compared to smaller businesses.

Table 6.3: Payment by size of organisation

	1-9 employees %	10-49 employees %	50-249 employees %	250+ employees %	Don't know /Refuse %
<i>Base</i>	360	277	106	149	110
Paid in full	43	51	57	78	47
Paid in part	8	8	8	6	6
Not paid at all	49	40	35	16	46
Don't know /refused	0	0	0	0	1

C1) Has your reward been...?

Base: All (1,002)

Does not add to 100% due to rounding

6.6 Payment outcome by length of time worked for the employer

There is also a relationship between length of time worked for an employer and likelihood of payment. Claimants who had worked for their employer for the shortest amount of time (less than two years) were significantly less likely to have been paid in full (44%) when compared to those who had worked with their employer for between two and five years (54%) and more than five years (61%).

Table 6.4: Payment by length of time claimant worked for the employer

	Less than 2 years %	2-5 years %	More than 5 years %	Don't know /Refused %
<i>Base</i>	323	340	327	12
Paid in full	44	54	61	44
Paid in part	6	8	8	32
Not paid at all	49	38	30	24
Don't know /refused	0	0	1	0

C1) Has your reward been...?

Base: All (1,002)

Does not add to 100% due to rounding

6.7 Payment outcome by representation

Those claimants who had legal representation were significantly more likely to have been paid in full than those who did not have legal representation.

Table 6.5: Payout outcome by representation

	Legal representation %	No legal representation %
<i>Base</i>	407	590
Paid in full	60	48
Paid in part	8	7
Not paid at all	32	45

B5) Did you have legal representation?

Base: All (1002) – includes 5 respondents who refused to answer these questions

Refused included in base but not charted

6.8 Payment outcome by other factors

Other factors that appeared to have some impact on likelihood of award being paid in full include:

- **Age**
 - Younger claimants (under 30 years) were significantly more likely to have not been paid at all (47%) when compared to those aged 45-54 (35%) and 55 and over (33%).

- **Gender, ethnicity, social grade, income and language**
 - There were no meaningful differences by these demographic factors in relation to likelihood of award payment.

Summary – award payment

The incidence of non-payment of award after 42 days is relatively high, with two-fifths of claimants indicating that they had not been paid in full by their employer.

There is evidence to show that factors related to the employer and the job role do have an impact on the likelihood of the claimant being paid in full by the employer. These employer and job role factors appear to have a greater influence than demographic factors such as age and gender.

It is those employees whose award is of a lower value, who are in lower ranking roles at work and who have been employed for less than two years are most likely to indicate that their award has been paid in full.

Those in very small organisations appear to be at a disadvantage when it comes to full payment of their award, particularly those in organisations of under ten employees.

Seniority of role and value of award appear to have a strong influence on payment outcome, with higher value awards and more senior positions being linked to a lower likelihood of full payment.

Specifics of the case also appear to have an influence on likely payment being made, with those claimants whose claim encompasses the jurisdictions of working time directive, wages or redundancy pay and consultation being the least likely to have been paid in full at the time of the interview.

7. Payment timelines and reasons for non-payment

All claimants were asked to indicate how long it was before payment(s) were made. Those who were only paid in part or who were not paid at all by the employer were also asked to indicate why this was the case. The following section outlines responses to this series of questions for all claimant payment types.

7.1 Time elapsed before full payment of award was made

Eighty-two per cent of those who had been paid in full had been paid their award within three months of the judgment being made. This equates to 42% of all awards made. An additional 6% were paid between three and four months. One per cent were paid between four and five months and 4% were paid between five and six months.

Seven per cent of claimants who had been paid in full indicated that it had taken longer than six months for their payment to be made. A very small proportion (2%) did not know when their award had been paid in full.⁸

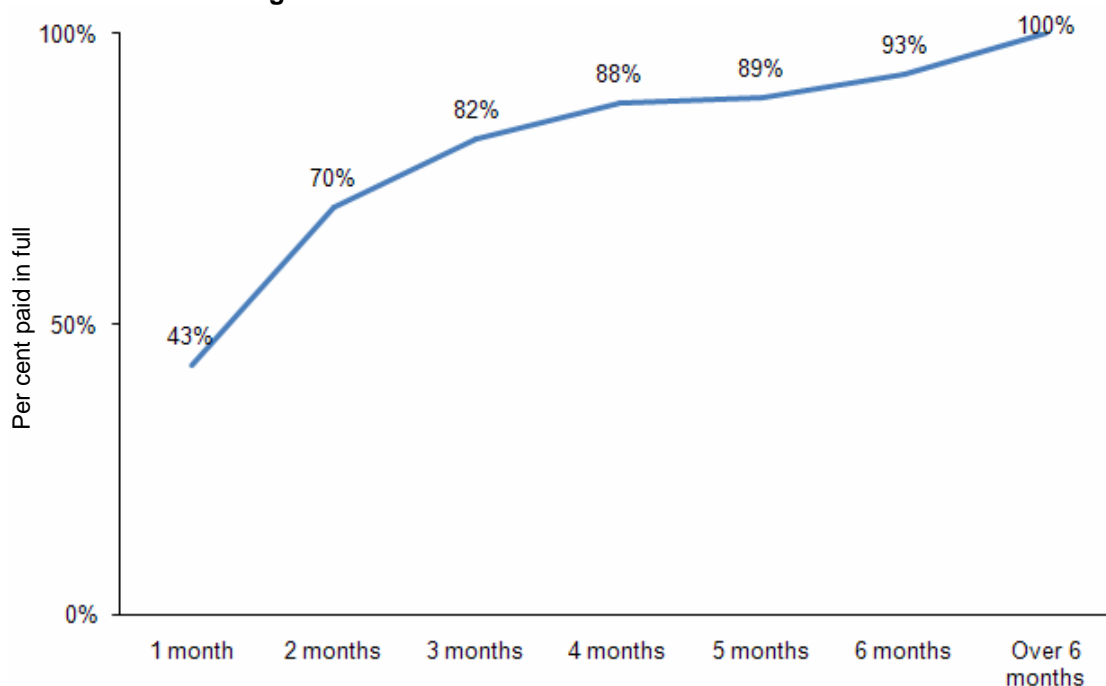
Those with higher value awards were more likely to have to wait longer for their award to be paid, when compared to those with lower value awards (10% of those with an award of £5,000 or more had to wait more than six months, compared to 4% of those with an award under £5,000). This may be influenced by instalment arrangements of those with larger payments.

Those who indicated that they had been to county court were also more likely to have waited more than six months to receive their award (19% compared to 2% of those who did not go to county court).

No significant differences existed by jurisdiction in terms of payment within three months or over six months.

⁸ Don't knows removed from base of analysis so adds to more than 100%.

Figure 7.1: Time elapsed before full payment of award was made to the claimant (cumulative) excluding don't know



C2a) Within how many months from the date of judgment was made was your award paid in full by the employer?
 Base: All whose award had been paid in full excluding don't know (518). 76 don't knows excluded.

7.2 Reasons for part payment of the award

While only a relatively small proportion of claimants indicated that their award had been paid in part (8%), the most frequently given reason for this part payment was that the award was being paid in instalments (27% of those who had been paid in part said this).

Of those being paid by instalments (27% of those who had received part payment), almost all said that their payments were ongoing at the time of the interview (87% ongoing payments, 13% of payments were not ongoing). These claimants still have the opportunity to receive their full award payment from the employer, should the employer continue to pay as agreed (this equates to an additional 1% of all claimants).

One in five claimants who had only been paid in part indicated that they were not sure why they had not been paid in full, and a further 14% indicated that the employer had refused to pay the award in full.

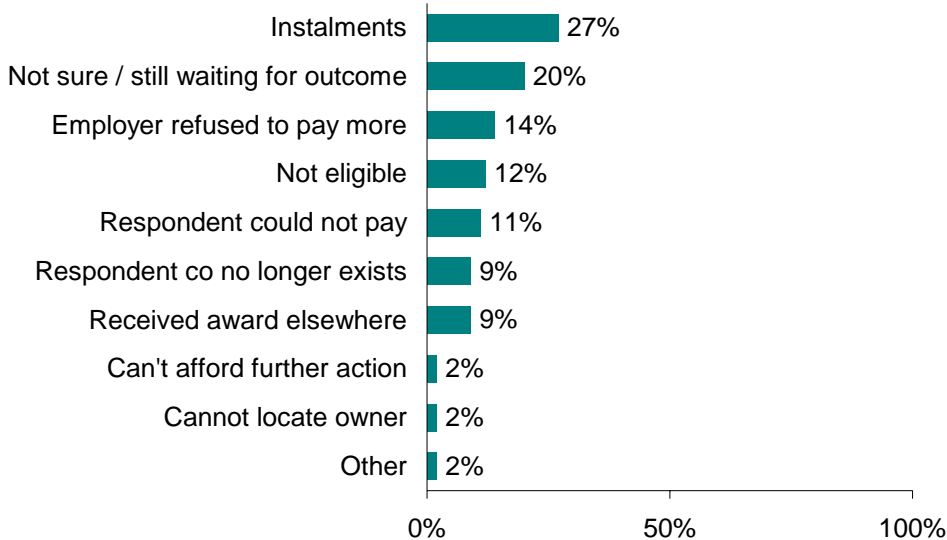
Twelve per cent said that they were not eligible for payments, including comments related to the employer finding a 'loop hole', mistakes in filing etc.

"...Because redundancy money was received they stated that I was no longer eligible for the compensation."

"The solicitors made a mistake with the claim and I got only got £3,000 from the court and nothing from the employer."

Around one in ten (9%) indicated that non-payment was the result of receiving the award payment from somewhere else (such as the Government Redundancy Fund and Redundancy Payments Office etc.). Due to the small base size for this question, no significant differences between sub-groups exist. It should also be noted that these reasons are based on claimant perceptions and experiences only and claimants may be attributing reasons rather than knowing them as fact. If asked, employers may give very different reasons for non-payment.

Figure 7.2: Reasons for part payment of award



C3) Why has only part of your award been paid...?

Base: All whose award has only been paid in part by the employer (85)

Adds to over 100% as it was an open-ended question with multiple responses allowed

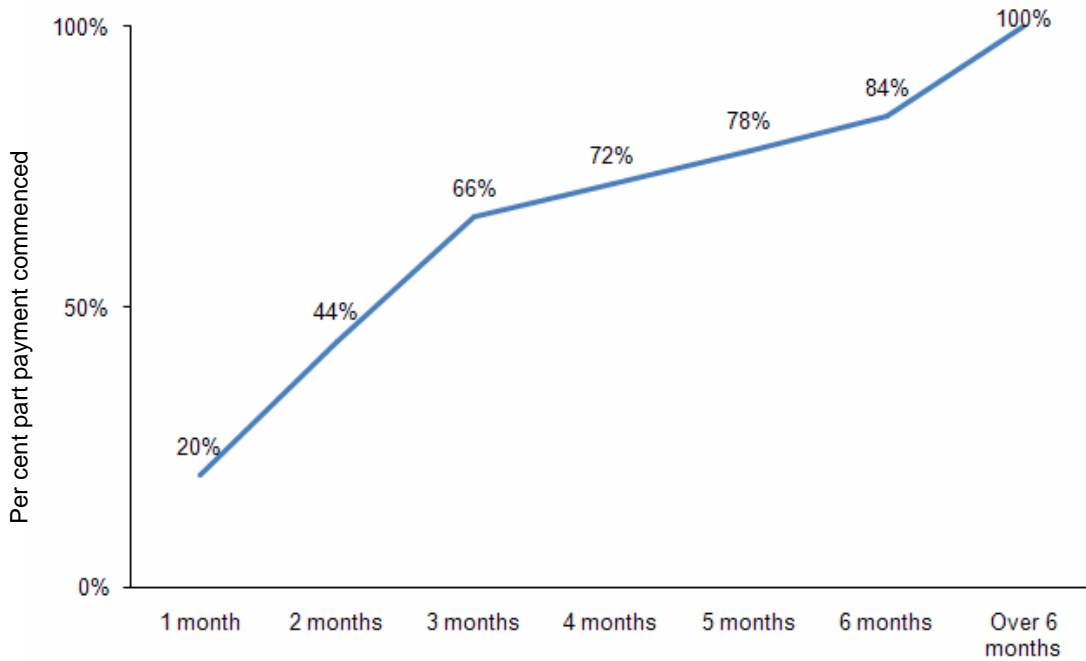
7.3 Time elapsed before part payment made

Two thirds (66%) of claimants who had received part payment indicated that the employer had started to make payments on the award within three months of the amount being awarded. Eighty-four per cent had payments commence before or at the six month point.

Sixteen per cent of claimants indicated that they had to wait more than six months for the employer to commence payment of the award, (see table 8.1 for proportions of those who filed their case at the Country Court to receive payment).

Due to the small base size for this question, no significant differences between sub-groups exist.

Figure 7.3: Time elapsed before part payment of award was made to the claimant (cumulative) excluding don't know



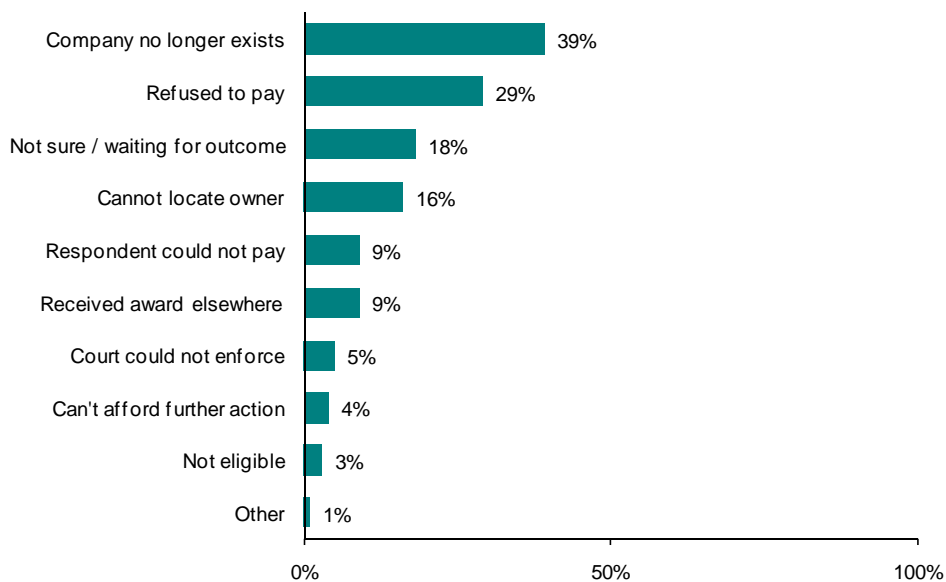
C5a) Within how many months from the date of your award did the employer start to make payments?

Base: All whose award has only been paid in part by the employer excluding don't know (70). 5 don't knows excluded

7.4 Reasons for non-payment of the award

Those claimants who had not been paid at all by the employer were asked for their opinion on why this was (figure 7.4).

Figure 7.4: Reasons for non-payment of the award



C6) Why have you not been paid your award at this stage by the employer?

Base: All whose award had not been paid (434)

Adds to over 100% as it was an open-ended question multiple responses allowed

The company no longer existing (or having gone into liquidation) was a key reason for non-payment of the award at the time of the interview, with this being mentioned by more than one third (39%) of those who had not been paid. Those in mid-size organisations were significantly more likely to mention this as a key reason for non-payment when compared to large organisations (50% 10-49 employees, 53% 50-250 employees compared to 14% for 250 or more employees).

“... The company has gone into liquidation, but the mother company who owned the business hasn't - they are still running.”

“They are limited company so basically they have disbanded the company and started another limited company.”

“The company declared bankruptcy and therefore I couldn't claim the award. The employer set up another company though.”

“They do not exist anymore - they stopped trading and started trading under another name the next day.”

Twenty-nine per cent of claimants who had not been paid at all indicated that this was because the employer had refused to pay. While those with lower value awards (less than £5,000) were significantly more likely to be paid in full, when they were not they were significantly more likely to cite this as a reason when compared to those with claims over £5,000 (33% compared to 23%).

Eighteen per cent were still waiting to see if they would get their award paid or not at the stage the interview was conducted. Those with an element of unfair dismissal in their claim were significantly more likely to cite this as a reason, when compared to those without this element (24% compared to 13%).

Sixteen per cent indicated that they could not locate the owner (case respondent). Those with an element of wages claims in their claim were significantly more likely to indicate that this was a reason for non-payment (22% compared to 10% without this element). Those working for very small companies (one to nine employees) were also more likely than those working for larger organisations to indicate that this was a reason for non-payment (22%, compared to 9% for those working in companies of 10-49 employees). This issue was also more pertinent for lower social grade employees (5% classified as AB mentioned this, compared to 20% of C1 and 22% classified as DE).

“They have disappeared off the face of the earth. And I have searched endlessly for the employers, but they are not trading or are residing under the address given to Companies House. ... They basically cut-off contact with everyone and done a runner.”

“My employer has done a runner. Initially she claimed she was bankrupt, but this was investigated and no such records were found.”

Approximately one in ten (9%) indicated that non-payment was the result of the respondent not being able to pay or that they had received the award payment from somewhere else (such as the Government Redundancy Fund, and Redundancy Payments Office etc).

Fewer still indicated that non-payment was the result of not being able to enforce the award (5%), not being able to afford further action (4%) or not being eligible for payment, including employer finding a 'loop hole', mistakes in filing etc. (3%).

“He ignored letters, did not turn up to the hearings and just hasn’t paid.”

“They are still trading and haven’t paid my award - they are just ignoring it so far.”

“...They won’t answer the phone or talk to me or anything. He is just totally refusing to pay the money and it’s cost me over a hundred pound so far for me to take him to court and I haven’t even got a penny of my entitlement.”

Summary – time elapsed and reasons for non-payment

For those who have been paid their award in full the vast majority were paid relatively quickly, with 80% being paid within three months of the judgment being made. Payments for those who have received part of their award were somewhat slower, although a majority had received some payment at the three month mark.

While this is a positive finding, there is evidence to suggest that a reasonable proportion of claimants (both those who have been paid in full and those paid in part) were not paid anything until after six months had elapsed from the judgment.

For those whose payment had not been made at all, there is evidence that some organisations are actively avoiding payment, either through procedural means (such as filing for bankruptcy or changing the name of the company) or through a simple refusal to pay. Bankruptcy is the most mentioned reason for non-payment and it is more likely to affect those in the private sector and those in mid-size organisations.

A simple refusal to pay was the second most mentioned reason for non-payment. This issue was more likely to affect those with lower award values – so while they may have been the most likely to be paid their award generally, when they were not it is apparent that it is the organisation that is driving the non-payment, rather than a procedural issue associated with the claim.

8. Initiating county court proceedings

All claimants were asked to indicate if they had initiated county court proceedings, either to enforce their award (if it had been paid) or to seek enforcement (if it was either part paid or yet to be paid). Claimants who were eligible to commence county court proceedings but had not, were asked why they had not. The following section presents the findings from the county court related questions for all claim outcome groups.

8.1 Initiation through the county court

In some cases payment had been secured by recourse to the county court. Of those who had been paid in full, 13% had initiated county court proceedings in order to secure payment, and 29% of those who had been paid in part also initiated county court proceedings.

Of those who had not received payment, over a third (36%) had initiated county court proceedings.

Those who indicated that they had been to county court were significantly more likely to have waited more than six months to receive their award (20% compared to 4% of those who did not go to county court).

Table 8.1: Proportion filing a case with the county court

	Paid in full %	Paid in part %	Not paid at all %
<i>Base</i>	529	76	395
Filed case	13	29	36
Did not file case	86	70	64
Did not know it was possible	0	1	-

C2b) Did you have to file a case in the County Court to ensure that the employer paid your award?

C5b) Did you have to file a case in the County Court to ensure that your employer started paying your award?

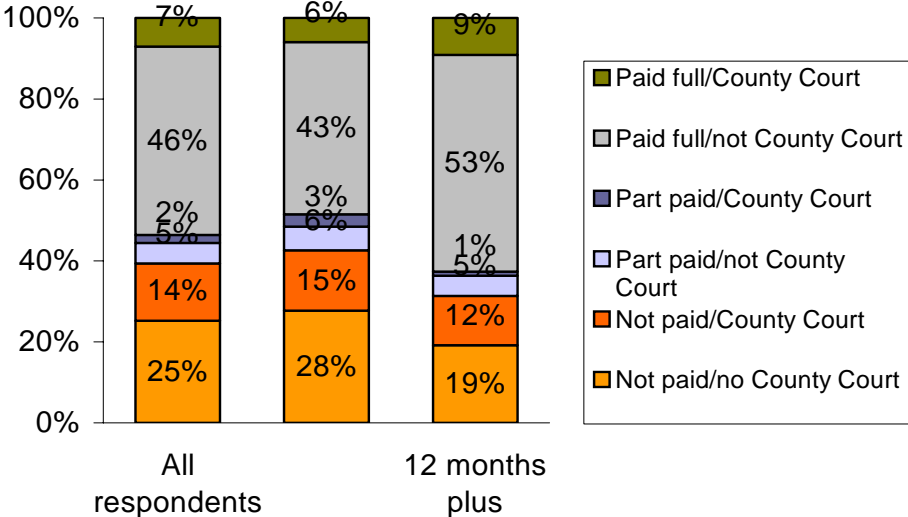
C7) Have you filed a case in the County Court in relation to the payment of the award you received from the Employment Tribunal? Does not add to 100% due to rounding

Only 51% of claimants had achieved full or part payment of their award without the involvement of the county courts. A further 10% had needed to take this action (figure 8.1).

Across the claimant population as a whole, just under a quarter (24%) have involved the county court in their case.

A quarter of all claimants had not been paid at all but had no plans to involve the county court. Section 8.3 explores the reasons for this for all claimants, and for those who had been paid within 12 months of notification and those who were paid after more than 12 months had elapsed.

Figure 8.1: Payment outcome by filing of case in county court



- C2b) Did you have to file a case in the County Court to ensure that the employer paid your award?
- C5b) Did you have to file a case in the County Court to ensure that your employer started paying your award?
- C7) Have you filed a case in the County Court in relation to the payment of the award you received from the Employment Tribunal?

Base: All who could remember if their employer had paid their award in full, in part or not at all (1,000)

It is also apparent that factors related to the claim and the employer have a significant relationship with propensity to file a case in the county court.

- Those with an element of wages claims were less likely to have filed a case than those with this element (81% not filed compared to 71%).
- Those with an element of breach of contract were less likely to have filed a case than those with this element (79% not filed compared to 73%).
- Those from smaller employers (under 50 staff) were more likely to have filed a claim than those from larger employers.
- Claimants who had been in their position for longer periods were more likely to have filed a claim those who had been in their position for less than two years (77% employed between two and five years and 84% employed for more than five years compared to 70% for less than two years).
- Those with higher value awards were more likely to have filed a claim than those with lower value awards (77% not filed a claim with less than £5,000 award, compared to 74% for those with £5,000 or more).

8.2 Non-payment of award and the county court

Claimants who had not been paid their award at all were asked some additional questions about their county court hearing.

At the time of interview 29% of claimants who had not been paid at all and who had filed a case in the county court had had their hearing. A similar proportion (23%) indicated that they would have (had) legal representation at the county court hearing.

Those with an element of unfair dismissal in their claim were significantly more likely to have legal representation than those without this element (32% compared to 14%). Those with lower value awards (under £5,000) were significantly less likely to have legal representation than those with higher value awards (89% compared to 59%). Those classified at lower social grades were also significantly less likely to have legal representation.

Table 8.2: Proportion filing a case with the county court (non-payment of award)

	Had hearing %	Legal representation %
Yes	29	23
No	71	77

C9) Have you had a County Court hearing at this stage?

C10) For the County Court proceedings, do you (did you) have legal representation?

Base: All those who have not been paid in full and who indicated they had filed a case in the County Court (141)

When asked why claimants who had not been paid their award at all and had not filed the case in the county court, one in five (21%) indicated that this was because the process of filing was ‘too much hassle’. In line with this comment, a further 8% indicated that the process was too time consuming. Those without an element of unfair dismissal were significantly more likely than those with this element to feel it was ‘too much of a hassle’ to file (27% compared to 14%).

“I felt they couldn’t do anything about it so I didn’t bother - it would be a waste of time.”

“It might be too much hassle and expense and after all that, I may only get half of my award. I don’t know if it will work out to be worth my while.”

Lack of awareness also appears to be a factor, with 18% indicating that they did not know they could file in the county court. At the extreme end of social grade (DE and AB) there is no difference in awareness (27% not aware for both).

Cost was a factor for some claimants (15%) not to file a case. Those with an element of redundancy pay and consultation or working time directive in their claim were significantly

more likely to feel that cost was an issue when compared to those without these elements (24% each respectively, compared to 13% for non-redundancy pay and consultation and 10% non-working time directive). Those working in smaller companies (one to nine employees) were also significantly more likely to feel that cost was an issue, when compared to those in larger companies (20%, compared to 7% of those with 10-49 employees).

Fifteen per cent of claimants did not file a case because they were advised that it would not be effective (such as by colleagues, liquidators, legal advisors and the employment tribunal).

“I contacted the liquidators and they told me there was no money to pay me with.”

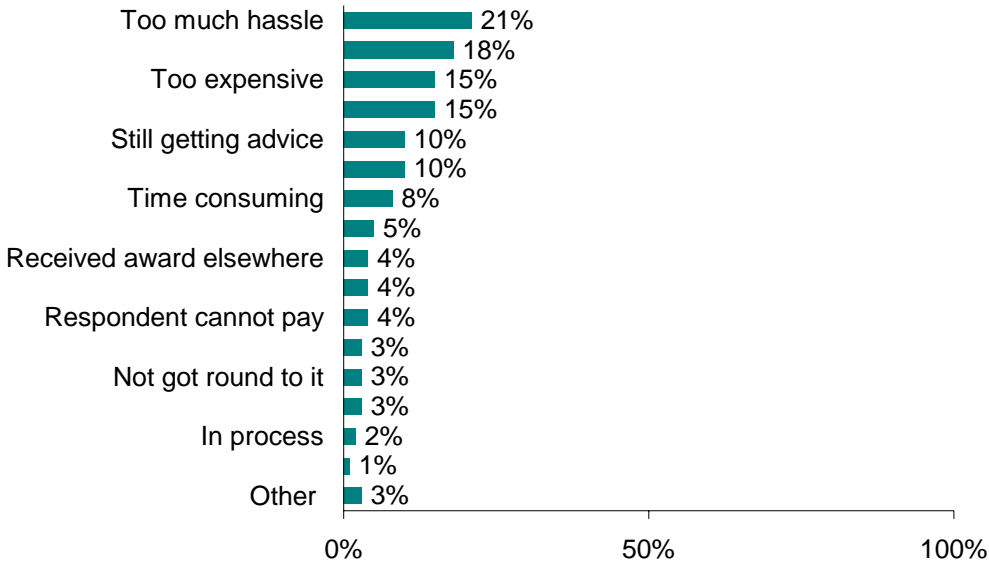
“I was told by the Tribunal that the company is limited and that if they didn't make a payment, then was nothing I could do about it.”

“A colleague who was in the same situation filed with the county court and the Court said they couldn't do anything to help. So I didn't bother.”

“I decided not to after legal advice because it was a limited company and they had stopped trading.”

Less than one in ten claimants mentioned other reasons for not filing in the county court

Figure 8.2: Reason for not filing in county court



C11) Why have you not filed a case in the County Court about non-payment of your award?

Base: All those who have not been paid in full and who indicated they had not filed a case in the County Court (282)

Adds to over 100% as multiple responses allowed

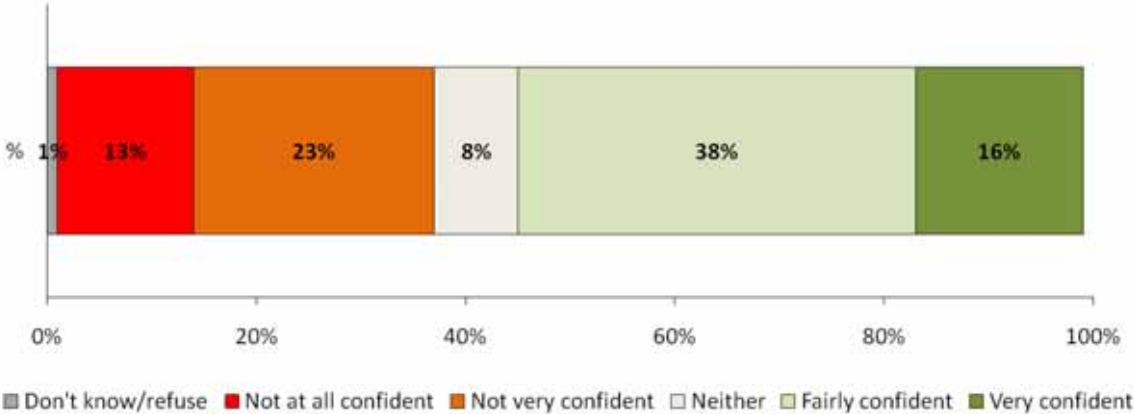
8.3 Awareness of options

Figure 8.3 shows the proportion of claimants, either paid in part or not paid at all, who said that they were aware of their options should the employer not pay their award.

Thirty-seven per cent 'agreed' they were aware of their options should the employer decide not to pay (including 20% agreeing strongly and 17% agreeing). Forty per cent 'disagreed' that they understood their options and 7% were not able to agree or disagree with this statement.

Those from very large organisations (250 or more employees) were significantly less likely to understand their options when compared to those from smaller organisations. Female claimants were also significantly less likely to be aware than male claimants (48% of males agree they know their options compared to 38% of females).

Figure 8.3: Awareness of options should employer not pay award



C13) How much do you agree or disagree that you understood the options available to you should the employer decide not to pay your award?

Base: All those who had been paid in part or not paid at all (519)

Summary – initiating county court proceedings

The majority of claimants have not had to initiate county court proceedings, with 24% having done this at the time of the interview.

That said, claimants who are yet to be paid their award were significantly more likely to have filed a county court case than those who have either been paid in part or in full. This is to be expected given the aim of the county court proceedings. Across all payment groups (full, part or not paid) claimants from smaller organisations appear to be more likely to commence proceedings in the county court than those from larger organisations.

The time and hassle required of the county court is a reason why some claimants who should have filed a case have not filed (i.e. those who have not been paid at all). One-in-five of these claimants considered the process to be too much hassle and a further 8% felt that it was too time consuming. Lack of awareness may also be a contributing factor to a lack of county court filing.

The cost of county court proceedings also appears to have an impact, with 15% feeling that the exercise was too expensive. Those most likely to feel that cost was an issue were those claimants working in smaller companies and those with elements of redundancy pay or working time directive in their claim.

The lack of awareness about county court options seen in the sub-group of claimants who have not been paid at all is reflected in overall awareness of options should the employer decide not to pay. Only one-third (37%) of claimants who said they had not been paid in full knew what their options were should this circumstance arrive. Forty per cent disagreed that they knew their options. This indicates that there may be a need for increased education or awareness raising of not only the county court pathway, but also other non-litigious options that may be available.

References

Annual Business Inquiry Workplace Analysis (2006). Data produced by the ONS.

Annual Population Survey (2007-2008). Data produced by the ONS.

Dennison, P. and Corby, S. (2005). "Images in the adversarial Mirror: A study of the Employment Tribunal System in Britain", *International Employment Relations Review*, 11, pp. 21-36.

National census (2001). Data produced by the ONS.

Appendix A: Glossary

Some key terminology used in this report is clarified below and used consistently throughout this document.

- **Claimant**
Refers to the individuals who have made the claim against the employer in the Employment Tribunal – by default all claimants in this study have been successful and received a monetary award.
- **Award**
The sum awarded to the claimant as a result of their success in the Employment Tribunal.
- **Jurisdiction**
Refers to the nature of the claim made – for example unfair dismissal – in almost all cases claims were made in multiple jurisdictions.
- **Employer**
The ‘respondent’ in the claim – i.e. the individual/organisation against whom the claim was filed.
- **Tribunal**
Employment Tribunal.
- **Case**
Employment tribunal case to which this survey referred to during discussions with the claimant.
- **Statistically significant**
Indicates that the results are statistically significant at 95% confidence.
- **Respondent**
The employer in the claim (used interchangeably with employer).
- **Social Grade**
Represents the social grading of the claimant and is based on analysis of job role, qualifications and job responsibility. For the current study, it is graded into four levels, these being AB, C1, C2 and DE (with AB being the highest and DE being the lowest grade).

Appendix B: Technical information

The purpose of this technical report is to provide a record of the methodology used in the 2008 Research into enforcement of employment tribunal awards in England and Wales.

Fieldwork

The questionnaire for fieldwork was developed by IFF Research in conjunction with the Employment Tribunal Service (ETS) and can be seen in appendix C.

All claimants were sent a letter pre-notifying them about the research. The survey was carried out using Computer Assisted Telephone Interviewing (CATI). Telephone interviewing was carried out between the Wednesday 17 September 2008 and Friday 10 October 2008. A copy of the letter can be seen in appendix D.

In the event of a claimant requiring it, the option was given for interviews to be carried out in a foreign language. One respondent took up this option, completing the interview in Polish. An experienced Polish interviewer translated the script and carried out the interview on paper, entering it into the CATI system afterwards. The interviewer translated the verbatim back into English for coding.

The option was also provided for claimants to complete the interview via a paper questionnaire. This was offered to those who were hard of hearing, or whose spoken English was not sufficient to complete the interview over the telephone but whose written English was good enough to complete a paper version. Two paper questionnaires were sent out; one was returned and entered into the CATI system.

Fieldwork was due to end on Friday 17 October 2008 but was completed one week early due to the higher than anticipated response rate of 81.7%.

Sampling

MOJ/Employment Tribunal Service provided a database of all claimants from the past two years. Once duplicates were removed this amounted to 5,455 unique records. Where claimants had multiple claims (i.e. different case numbers), the most recent judgment was selected for the focus of the study. Where claims were submitted in multiple jurisdictions the questionnaire wording and introduction was tailored to reflect this.

A total of 4,107 of these had telephone numbers, and tele-matching provided a further 267 numbers giving a total of 4,374 records with telephone numbers.

All individuals on the MOJ/ET list were loaded into the IFF CATI system. Given the small total numbers of contacts in the “sex discrimination and equal pay”, “disability” and “race” jurisdictions, contacts within these jurisdictions were prioritised to maximise the numbers of interviews achieved and hence maximise the potential for analysing these jurisdictions separately. A census was conducted among these individuals, i.e. attempts were made to contact all claimants within these jurisdictions and as many interviews as possible were conducted within the fieldwork period. Aside from this prioritisation contacts were selected at random to approach.

Table B.1: Jurisdiction counts

Jurisdiction	Total sample	Sample with tel. numbers	Interviews achieved
Unfair dismissal	2739	2135	448
Working time directive	1323	1100	354
Wages claims	2315	1923	458
Sex discrimination and equal pay	313	230	100
Breach of contract	2143	1761	437
Redundancy pay and consultation	653	567	232
Disability	233	171	40
Race	104	80	14
Other	485	372	86

Response rates

In total 1002 interviews were completed, from a total of 1,671 contacts used. As noted above in the sampling discussion, these 1,671 contacts were drawn at random or prioritised in relation to their jurisdiction from all contacts by IFF’s CATI system.

Table B.2 shows the breakdown of calls for all contacts used (i.e. randomly selected or prioritised and called).

Table B.2: Call outcomes

Call outcome	
Complete interviews	1002
Interview terminated by claimant	1
Dead number*/incorrect number	31
Refused	167
Unobtainable**	408
Fax/business	5
Could not recall if monetary award paid	57

* Dead number includes those with no ringtone

** Unobtainable includes those numbers tried 8 times with the call not answered or unable to contact the named sample

The response rate for this study is calculated by taking all numbers which are known to be in-scope (interview terminated, refused, could not recall if monetary award paid) and adding this to the total of contacts. This is then divided by the total number of interviews achieved to give the response rate as shown in the calculation below.

$$\frac{1002 \text{ (completed interviews)}}{1 \text{ (interview terminated)} + 167 \text{ (refused)} + 57 \text{ (could not recall)} + 1002 \text{ (completed interviews)}} = 81.7\% \text{ response rate}$$

The refusal rate for this study was 13.6%.

Following fieldwork five interviews were deleted after quality checks as, despite respondents claiming to meet the criteria for the survey at screening, it became clear from their answers that they had not received a monetary award and were thus ineligible.

Data weighting

As some jurisdictions (race, disability, sex discrimination and equal pay) were prioritised to boost interview numbers, these jurisdictions were over-represented in the final raw dataset. As claimants’ experiences differ widely by jurisdiction, an imbalance such as this would skew the data. To ensure representativeness data were therefore weighted to be equivalent to the proportions of jurisdictions as shown in the original database of all cases. Rim weights were applied to the following proportions (see figure 1.3). The minimum weight applied was 0.3714 and the maximum was 2.3007.

Table B.3: Jurisdiction weighting proportions

Jurisdiction	Total sample		Interviews achieved		Interviews weighted	
	Count	%	Count	%	Count	%
Unfair dismissal	2738	50	448	45	501	50
Working time directive	1322	24	354	35	240	24
Wages claims	2314	42	458	46	421	42
Sex discrimination and equal pay	313	6	100	10	60	6
Breach of contract	2142	39	437	44	391	39
Redundancy pay and consultation	653	12	232	23	120	12
Disability	233	4	40	4	40	4
Race	104	2	14	1	20	2
Other	485	9	86	9	90	9

Statistical testing

Statistical t-testing was applied within each cross break at the 95% confidence level.

Social grading

In its standard form, Social Grading is a household classification. The NRS social grades consist of six grades which are labelled A, B, C1, C2, D and E. All members of a household receive the same grade, which in the first place is based on the chief income earner's current occupation, if working, or previous occupation (if applicable), if not working. Apart from occupation, there are additional criteria, which are taken into account, such as qualifications and number of people responsible for at work. For this research, the following was asked of all claimants:

D4: Before filing your claim with the Employment Tribunal, what was the occupation of the chief income earner?

Job title.....

Industry.....

Whether they are responsible for any staff.....

How many staff they are responsible for.....

Any job related qualifications.....

The responses were then coded into one of the following social grades:

Grade	Description	Typical occupation
A	Professional people – very senior managers in business or commerce or top-level civil servants.	doctor, solicitor, barrister, accountant, company director
B	Middle management executives in large organisations, with appropriate qualifications/ principal officers in local government and civil service/top management or owners of small business concerns, educational and service establishments.	teacher, nurse, police officer, probation officer, librarian, middle manager
C1	Junior management, owners of small establishments and all others in non-manual positions.	junior manager, student, clerical/office workers, supervisors
C2	All skilled manual workers and those manual workers with responsibility for other people.	foreman, agricultural worker, plumber, bricklayer
D	All semi-skilled and unskilled manual workers, apprentices and trainees to skilled workers.	manual workers, shop worker, fisherman, apprentices
E	All those entirely dependent on the state long-term, through sickness, unemployment, old age or other reasons / those without a regular income	casual labourers, state pensioners

Appendix C: Questionnaire

S1) Hello, my name is [NAME]. I'm from IFF Research, an independent research company, calling on behalf of the Employment Tribunal Service. Can I please speak to [CONTACT NAME]?

Yes put through	1	CONTINUE
Hard appointment	2	MAKE APPOINTMENT
Soft Appointment	3	
Refusal	4	CLOSE

WHEN THROUGH TO CORRECT RESPONDENT

Good morning / afternoon. My name is _____ and I am calling from IFF Research, an independent research agency, on behalf of the Tribunals Service (Employment)

We are talking to people who have been awarded monetary compensation by the Employment Tribunal to find out whether employers make their payment.

S2) You would have received a letter from the Tribunals Service and IFF explaining this research, do you recall seeing this letter?

Yes	1	CONTINUE
No/don't know	2	OFFER TO READ/FAX/EMAIL

As outlined in the letter, IFF have been commissioned by the Tribunals Service to conduct a short interview with people who have been through the Employment Tribunal system. The interview should take about 10 minutes of your time to complete.

S3) Would it be OK to conduct this interview now or should I call back at a time that is more convenient for you?

Yes	1	CONTINUE
Hard appointment	2	MAKE APPOINTMENT
Soft appointment	3	MAKE APPOINTMENT
Refuse	4	THANK AND CLOSE
Needs reassurances	5	CONTINUE

REASSURANCES TO BE USED AS NECESSARY

- The research will be used to help the Tribunals Service to understand the details of how and when claimants may receive their awards from employers
- We are conducting independent research - nothing you say to us will result in any sort of sales follow-up. IFF have been contracted by the Tribunals Service.
- IFF Research is an independent market research company. All of our work is carried out according to the strict Code of Conduct of the Market Research Society, which means that everything you tell us will be treated in the strictest confidence and results will only be presented as aggregate statistics. If you would like to check IFF’s credentials, you can call the Market Research Society on 0500 39 69 99. If you would like more information about the research we are conducting, please call Joni Browne at IFF on 020 7250 3035.
- The Tribunals Service has provided us with your name and phone number, in accordance with their data policy.

ASK ALL

S4 **Before we begin, can I just confirm that within the last [DATE FROM SAMPLE], you have had a case heard at the Employment Tribunal and that you were awarded monetary compensation from the hearing?**

PROMPT IF NECESSARY: By monetary compensation we mean that you were awarded a cash payment from your employer by the tribunal.

DO NOT READ - SINGLE CODE

Yes	1	GO TO Q1
No	2	THANK AND CLOSE
Don't know/can't remember/refuse to comment	99	

SECTION A – BACKGROUND OF ORGANISATION AND CLAIMANT

ASK ALL

The first few questions are about the type of work that you were doing and the organisation about which you claim in the Employment Tribunal referred to. This may have been the organisation where you were working at the time of the claim, or you may have ceased working for them at the time of your Employment Tribunal claim.

A1) So, thinking about the company or organisation involved in your claim – is this company/organisation....

READ OUT.
SINGLE CODE

A private sector organisation	1	GO TO A2
A public sector organisation/academic institution	2	GO TO A3
A charity or not for profit organisation	3	
Other (SPECIFY)	4	

IF CODE 1 TO A1 (PRIVATE SECTOR ORGANISATION) ASK A2 – ELSE SKIP TO A3

A2) And what does this organisation do or make?

ADD IF NECESSARY: What sector is the organisation involved in?

DO NOT READ OUT. PROMPT IF NECESSARY
SINGLE CODE

Financial services	1	
Leisure / tourism	2	
Professional services	3	
Retail / consumer	4	
Energy and utilities	5	
IT / communications	6	
Manufacturing / industry / engineering	7	
Pharmaceutical / healthcare	8	
Transport / distribution	9	
Other (specify)	10	

ALL RESUME

A3) Does this organisation have more than one site in the UK?

DO NOT READ OUT. SINGLE CODE.

Yes	1
No	2
Don't know	99

A4) Does this organisation have sites outside the UK?

DO NOT READ OUT. SINGLE CODE.

Yes	1
No	2
Don't know	99

A5) Approximately how many full time employees does this organisation employ in the UK?

INTERVIEWER NOTE: if they are unsure a 'best guess' here is fine – we need a basic indication of size so it does not need to be exact.

DO NOT READ OUT. PROMPT IF NECESSARY
SINGLE CODE.

1-9	1	
10-19	2	
20-24	3	
25-49	4	
50-99	5	
100-249	6	
250-499	7	
500+	8	
DO NOT READ OUT - Don't know	99	

IF CODE 1 TO A3 (MULTIPLE SITES IN UK) CONTINUE – ELSE SKIP TO A7

A6) And how many full time employees were employed at your site in the UK?

INTERVIEWER NOTE: again, if they are unsure a 'best guess' here is fine – we need a basic indication of size so it does not need to be exact.

DO NOT READ OUT. PROMPT IF NECESSARY
SINGLE CODE.

0-9	1	
10-25	2	
26-99	3	
100-250	4	
250+	5	
DO NOT READ OUT - Don't know	99	

Now thinking about your role at that organisation...

INTERVIEWER NOTE: remind if necessary that we are talking about the organisation which was the subject of the Employment Tribunal claim

A7) Which of the following descriptions best describes your core role?

READ OUT. PROMPT AS NECESSARY
SINGLE CODE.

Manager or Senior Officials	1
Professional (eg lawyer, accountant, doctor)	2
Associate Professional or Technical (e.g. IT, Media, Public Services)	3
Administrative or Secretarial	4
Skilled Trades	5
Personal Service (e.g. Childcare, leisure and travel, hairdressing etc)	6
Sales and Customer Service	7
Process, Plant, and Machine Operatives (incl. drivers)	8
Elementary (e.g. cleaning, manual labour, security)	9
Other (SPECIFY)	10

A8) Before filing your claim with the Employment Tribunal, how long had you worked for this employer?

DO NOT READ OUT. PROMPT IF NECESSARY
SINGLE CODE.

1 year	1
2 years	2
3 years	3
4 years	4
5 years	5
More than 5 years but less than 10 years	6
10 years or more	7
Don't know/can't remember	8
Refused	9

A9) And are you still working for this organisation currently?

DO NOT READ OUT.
SINGLE CODE.

Yes	1
No	2
Prefer not to answer	3

IF CODE 2 TO A9 CONTINUE – ELSE SKIP TO NEXT SECTION

A10) Did you leave this employer...

READ OUT.
SINGLE CODE.

Before you sent your claim to the Employment Tribunal	1
After you sent your claim, but before you were awarded compensation by the Tribunal	2
After you were awarded compensation by the Tribunal	3

SECTION B –CLAIM SPECIFICS

ASK ALL

The next few questions are about your claim in the Tribunal.

B1) Please can you tell me the month and year of your hearing?

DO NOT READ. SINGLE CODE

MONTH

January - April	1	
May - August	2	
September - December	3	
Don't know/ can't remember	99	

YEAR

2007	1	
2008	2	
Other (specify)	3	
Don't know/ can't remember	99	

B2) What was your claim in relation to?

PROMPT AS NECESSARY. MULTICODE

Unfair Dismissal	1	
Working Time Directive	2	
Wages claims	3	
Sex discrimination and equal pay	4	
Breach of contract	5	
Redundancy pay and consultation	6	
Disability discrimination	7	
Race discrimination	8	
National Minimum Wage	9	
DO NOT READ OUT: Other (specify)	10	
DO NOT READ OUT: Don't know	99	

IF ANY NOT MENTIONED AT B2 APPEAR IN SAMPLE, ASK:

B2a) Did your claim include any aspect of...

DP SHOW ONLY RESPONSES FROM SAMPLE THAT ARE NOT MENTIONED IN B2

	YES	NO	DK
Unfair Dismissal	1	1	1
Working Time Directive	2	2	2
Wages claims	3	3	3
Sex discrimination and equal pay	4	4	4
Breach of contract	5	5	5
Redundancy pay and consultation	6	6	6
Disability discrimination	7	7	7
Race discrimination	8	8	8
National Minimum Wage	9	9	9

B3) And can you tell me what your total award from the Tribunal was in pounds? By total award I mean the total value awarded to you for your claim, whether or not this has currently been paid.

£ _____ (FORCE TO 7 DIGITS)

Refuse/prefer not to say	X
--------------------------	---

IF CODE X TO B3 (REFUSE ON VALUE) CONTINUE – ELSE SKIP TO B4

INTERVIEWER NOTE: If respondent unwilling to name exact amount, prompt softly for values bands below

B3b) Can you tell me into which of the following value bands your total award from the Tribunal falls into?

DO NOT READ. SINGLE CODE

Less than £10,000	1	
£10,001 - £20,000	2	
£20,001 - £50,000	3	
£50,001 - £100,000	4	
More than £100,000	5	
DO NOT READ OUT: Don't know/ refuse	99	

ALL RESUME

B4) How long was it from when you sent in the claim to when your case was decided? Was it...

Within a month	1
Within 3 months	2
Within 6 months	3
More than 6 months	4
DO NOT READ OUT: Don't know/ refuse	99

B4a) After being told at your hearing how much you were to be awarded, how long did it take for the written confirmation of the judgement to arrive?

1-3 days	1
4-7 days	2
8-10 days	3
11-14 days	4
3 weeks	5
4 weeks	6
Over 4 weeks	7
DO NOT READ OUT: Don't know/ refuse	99

B5) During the case, the decision to have legal representation is voluntary. By representation, we mean, for example, having a legal or union representative who helped you prepare your case or who spoke on your behalf during the hearing.

Is this something that you chose to have?

INTERVIEWER NOTE: IF YES – PROBE TO IDENTIFY IF THIS WAS DURING THE PROCEEDINGS, DURING THE HEARING OR BOTH

DO NOT READ OUT. PROMPT AS ABOVE. SINGLE CODE

Yes – in the run up to the hearing	1	
Yes – at the hearing	2	
Yes – in the run up to and at the hearing	3	
No	4	SKIP TO B7
DO NOT READ OUT: Refuse	99	

ASK IF B5=1-3

B5a) Who did you have as your legal representative?

DO NOT READ OUT. PROMPT AS NECESSARY

Solicitor / lawyer	1
Trade union	2
Citizen's Advice Bureau (CAB)	3
Employment Rights Advisor	4
Friend/Family member	5
Other (specify)	6
Don't know/ refuse	99

ALL RESUME

B7) Did your employer have any representation? By representation we mean someone who spoke on their behalf during the hearing?

DO NOT READ OUT. SINGLE CODE

Yes - During the hearing	1
No	2
DO NOT READ OUT: Don't know/ refuse	99

ASK ALL WHO SAID THEIR EMPLOYER HAD REPRESENTATION (B7=1). OTHERS GO TO B9

B8) Do you know who represented your employer, was it...

READ OUT. MULTICODE

A company lawyer	1	
A lawyer hired externally by the company	2	
A member of staff/a colleague	3	
Someone else (SPECIFY)	4	
DO NOT READ OUT: Don't know	99	

ALL RESUME

B9) Before this claim in the Employment Tribunal, had you made a claim/appeal to a court or tribunal previously?

DO NOT READ OUT. SINGLE CODE.

Yes	1	
No	2	
Don't know/ refuse	99	

B10) And before this claim in the Employment Tribunal, how confident would you say you were about dealing with legal issues?

READ OUT. SINGLE CODE

Very confident	1	
Fairly confident	2	
Neither confident nor unconfident	3	
Not very confident	4	
Not at all confident	5	
DO NOT READ OUT – Don't know/ refuse	99	

SECTION C –AWARD PAYMENT

The next questions are about the payment of your award.

C1) Has your award...

READ OUT. SINGLE CODE

Been paid in full by the employer	1	
Been paid in part by the employer	2	
Not been paid at all at this stage by the employer	3	
DO NOT READ OUT: Don't know/ Refuse	99	

ASK ALL WHOSE AWARD HAS BEEN FULLY PAID (C1=1) - ELSE SKIP TO C3

C2a) Within how many weeks / months from the date of the judgment was made was your award fully paid by the employer?

DO NOT READ OUT. SINGLE CODE

4 weeks (1 month)	1	
5 weeks	2	
6 weeks (1 and a half months)	3	
7 weeks	4	
8 weeks (2 months)	5	
3 months	6	
4 months	7	
5 months	8	
6 months	9	
7 months	10	
8 months	11	
9 months	12	
10 months	13	
11 months	14	
12 months	15	
More than 12 months	16	
Don't know/refuse	99	

C2b) Did you have to file a case in the County Court to ensure that the employer paid your award?

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	
Did not know this was possible	3	

ASK ALL WHOSE AWARD IS ONLY PART PAID (CODE 2 TO C1) – ELSE SKIP TO C5a

C3) Why has only part of your award been paid?

Being paid in instalments/paid off over time	1	
Other (RECORD VERBATIM)	2	
Don't know/refused	3	

IF CODE 1 TO C3 CONTINUE – ELSE SKIP TO C5a

C4) And are these instalments ongoing?

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	

ASK ALL WHOSE AWARD HAS BEEN FULLY OF PARTLY PAID (CODE 1 =1 OR 2) – ELSE SKIP TO C6

C5a) Within how many months from the date of your hearing did the employer start to make payment?

DO NOT READ OUT. SINGLE CODE

4 weeks (1 month)	1	
5 weeks	2	
6 weeks (1 and a half months)	3	
7 weeks	4	
8 weeks (2 months)	5	
3 months	6	
4 months	7	
5 months	5	
6 months	6	
7 months	7	
8 months	8	
9 months	9	
10 months	10	
11 months	11	
12 months	12	
More than 12 months	13	
Don't know/refuse	99	

C5b) Did you have to file a case in the County Court to ensure that employer started paying your award?

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	
Did not know this was possible	3	

ASK ALL WHOSE AWARD NOT PAID AT THIS STAGE (CODE 3 TO C1) – ELSE SKIP C12

C6) Why have you not been paid your award at this stage by the employer?

PROBE FULLY

_____ (RECORD VERBATIM)

C7) Have you filed a case in the County Court in relation to the payment of the award you received in the Employment Tribunal?

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	

IF CODE 1 TO C7 CONTINUE – ELSE SKIP TO C11

C8) Within how many months from the date of receiving your judgment did you commence County Court proceedings?

DO NOT READ OUT. SINGLE CODE

4 weeks (1 month)	1	
5 weeks	2	
6 weeks (1 and a half months)	3	
7 weeks	4	
8 weeks (2 months)	5	
3 months	6	
4 months	7	
5 months	5	
6 months	6	
7 months	7	
8 months	8	
9 months	9	
10 months	10	
11 months	11	
12 months	12	
More than 12 months	13	
Don't know/refuse	99	

C9) Have you had a County Court hearing at this stage?

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	

C10) For the County Court proceedings, do you have legal representation?

PROMPT IF REQUIRED: By representation, we mean a legal representative who helped you with your case or who spoke/may speak on your behalf during the hearing.

DO NOT READ OUT. SINGLE CODE

Yes	1	
No	2	

IF CODE 2 TO C7 CONTINUE – ELSE SKIP TO C13

C11) Why have you not filed a case in the County Court about non-payment of your award?

DO NOT READ OUT. MULTIPLE CODE – PROBE TO ‘NOTHING ELSE’

Did not know I could	1	
Award made within 42 days so no need to at this stage	2	
Too expensive	3	
Too much hassle/just want to forget it	4	
Too time consuming	5	
Still getting advice	6	
Advised not to	7	
Trust the employer to pay/employer told me they will pay	8	
Other (SPECIFY)	9	
Prefer not to answer	10	

ALL RESUME

C13) And on a scale of 1 to 5, where 1 is agree strongly and 5 is disagree strongly, how much do you agree or disagree that you understood the options available to you should the employer decide not to pay your award?

DO NOT READ OUT. SINGLE CODE

Agree strongly	1	
Agree	2	
Neither	3	
Disagree	4	
Disagree strongly	5	
DO NOT READ: Don't know/not sure	6	

SECTION D –DEMOGRAPHICS

Finally, I just have a few questions about you to ensure that we have a good cross section of people in our survey.

ASK ALL

D1) Which of the following age groups do you fit into?

READ. SINGLE CODE

16-24	1
25-29	2
30-34	3
35-44	4
45-54	5
55-64	6
65 +	7

D2a) Before filing your claim with the Employment Tribunal, which of these bands did your personal annual salary fall into?

IF NECESSARY ADD: this is before any deductions e.g. tax or national insurance deductions.

INTERVIEWER: TRY TO GET ESTIMATE OF ANNUAL SALARY

Up to £10,000	1
£10,001-£20,000	2
£20,001-£40,000	3
£40,001-£50,000	4
Over £50,000	5
Don't know	6
Refused	7

D2b) And which one of these bands does your current personal yearly income fit into?

IF NECESSARY ADD: this is before any deductions e.g. tax or national insurance deductions.

IF NECESSARY: *Again this is just to ensure we have a good mix of people in our survey*

Up to £10,000	1
£10,001-£20,000	2
£20,001-£40,000	3
£40,001-£50,000	4
Over £50,000	5
Don't know	6
Refused	7

D2c) Before filing your claim with the Employment Tribunal, was your role...

READ OUT.
SINGLE CODE

Permanent full-time	1
Permanent part-time	2
Temporary (full or part time)	3
DO NOT READ OUT Prefer not to say	4

D3) And what is your current employment situation?

PROBE TO PRECODES. SINGLE CODE.

Working full time (28 hours plus per week)	1
Working part time (under 28 hours per week)	2
Retired	3
Unemployed, on benefit	4
Unemployed, not on benefit	5
Looking after the home or family	6
Not working because of sickness or disability	7
In education or training	8
Other (SPECIFY)	9
Refused	10

D3a) Do you consider yourself to have a disability?

Yes	1
No	2
Refused	3

D3b) And which one of these bands does your household's total yearly income fit into? Please include all the incomes of all household members before any deductions, e.g. tax or national insurance deductions. SINGLE CODE

IF NECESSARY: *Again this is just to ensure we have a good mix of people in our survey*
INTERVIEWER NOTE: THIS IS DIFFERENT FROM PERSONAL INCOME UNLESS THEY ARE THE ONLY PERSON EARNING IN THEIR HOUSEHOLD, IN WHICH CASE CLARIFY INCOME.

Up to £10,000	1
£10,001-£20,000	2
£20,001-£40,000	3
£40,001-£50,000	4
Over £50,000	5
Don't know	6
Refused	7

D4) Before filing your claim with the Employment Tribunal, what was the occupation of the chief income earner?

JOB TITLE.....

INDUSTRY.....

WHETHER THEY ARE RESPONSIBLE FOR ANY STAFF?.....

HOW MANY STAFF THEY ARE RESPONSIBLE FOR?.....

ANY JOB RELATED QUALIFICATIONS?.....

OFFICE USE ONLY:

A	1
B	2
C	3
D	4
E	5
Refused	6

D5) And how would you describe your ethnic origin?

SINGLE CODE

White	1
British	2
Irish	3
Other White (specify)	4
White and Black Caribbean	5
White and Black African	6
White and Asian	7
Other Mixed (specify)	8
Asian or Asian British	9
Indian	10
Pakistani	11
Bangladeshi	12
Other Asian background (specify)	13
Black or Black British	14
Caribbean	15
African	16
Other Black background (specify)	17
Chinese	18
Other (specify)	19
Don't know	20
Refused	21

D6) Are you currently...

READ OUT. SINGLE CODE ONLY

Married / Civil Partner	1
Cohabiting or living with a partner	2
Single	3
Separated/ divorced	4
Widowed	5
Other (specify)	6
Refused	7

D7) And what is your first language?

English	1
Other (specify)	2
Refused	3

D8) INTERVIEWER – DO NOT READ OUT. Code gender

Male	1
Female	2

Thank you very much for taking part in the survey. Once again my name is [NAME] from IFF Research and this survey is being conducted on behalf of the Employment Tribunals Service and the Ministry of Justice

THANK AND CLOSE

Appendix D: Pre-notification letter to Claimants



[NAME]
[ADDRESS 1]
[ADDRESS 2]
[ADDRESS 3]
[POST CODE]

Dear [SALUTATION] [NAME],

Research into Employment Tribunal awards

Our records show that within the past year you were successful at your Employment Tribunal hearing and as a result you were awarded a monetary payment. The Tribunals Service is interested in understanding more about your experience of the process in receiving your award and has commissioned IFF Research, an independent research agency, to conduct research into this.

IFF Research will conduct a survey by telephone between 17th September and 17th October 2008. They will be contacting claimants who have been awarded monetary compensation, as randomly provided by us. The interview itself will take between 10 and 15 minutes to complete and IFF will want to speak to you regardless of whether you have actually received your award at this stage, or whether you are still awaiting payment.

Your response will play a key part in our monitoring of the payment of awards. Therefore, if you are contacted by IFF Research I do hope you will take the opportunity to contribute. **Any answers you give will remain completely confidential** and we will only see overall results, not individual replies.

If you have any questions at all about this research, then please don't hesitate to contact Katie Gore at IFF Research on 020 7250 3035 or email Katie at katieg@iffresearch.com.

Once again, we do feel that this is an important piece of research and hope you will participate if called.

Yours sincerely,

Christopher Hall
Employment Tribunal
Stakeholder Relationship Manager



Ministry of Justice Research Series 9/09

Research into enforcement of employment tribunal awards in England and Wales

The Ministry of Justice (MOJ) commissioned this survey to understand the overall proportion of employment tribunal awards in England and Wales that were honoured. The survey was also intended to assess and understand the factors that may have an impact on the likelihood of a claimant being paid their award by the employer. The survey was conducted by way of interview, and a total of 1,002 claimants who had been awarded a monetary payment between January 2007 and April 2008 participated in the survey. The Tribunals Service will use the findings to contribute towards the development of improved processes to reduce the cost and burden of enforcing awards made by the Employment Tribunals.

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