

# **Annual report 2010/11**

Office of the Industrial Tribunals and  
The Fair Employment Tribunal

KILLYMEAL HOUSE



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## Introduction by the Secretary

Our annual report for 2010/11 sets out the detail of what has been another very busy and productive year for the Office of the Industrial Tribunals and The Fair Employment Tribunal (OITFET) in Northern Ireland.

The number of tribunal claims registered during this period was 3238, a 32% decrease on the 2009/10 figure (4758) and 36% down on the 2008/09 figure (5090). However, when the 2010/11 figure is compared to the claims registered in the years 2005 to 2008; this is still a significant increase. While any reduction in claims is to be welcomed, our figures for 2010/11 showed continuing high levels of unfair dismissal and redundancy related complaints which clearly reflect conditions in the Northern Ireland labour market. At the time of writing this report, that trend is continuing.

At 31 March 2011, there were 5504 live claims within the tribunal system. This is a significant reduction on the previous year's total of 9147 and indeed it is the lowest number of live claims recorded since 2001 when the Office started to record statistics on claims received rather than number of complaints within each claim. It should be noted that this reduction in live claims is mainly attributable to the disposal of most of the NICS Equal Pay multiple claim submitted in 2009 and the remainder of the PSNI Working Time Regulations multiple claim submitted in 2003/04.

The Employment Act (Northern Ireland) 2011 came into operation on 3rd April 2011, amending the procedures for the resolution of employment disputes and the procedures of industrial tribunals and the Fair Employment Tribunal.

Key aspects of the Act involve:

- the repeal (for claimants) of the statutory workplace grievance procedures, while leaving intact the statutory dismissal and disciplinary procedures (for employers/respondents)
- the repeal of provisions linking grievance/dismissal procedures with Industrial Tribunal and Fair Employment Tribunal time limits.

In response to the introduction of The Employment Act (Northern Ireland) 2011 and amendments to tribunal legislation, OITFET has revised tribunal claim and response forms along with its procedural information. Work

is currently underway to amend the on-line version of these forms and publications.

The anticipated transfer in April 2011 of the Industrial Tribunals and The Fair Employment Tribunal to the Northern Ireland Courts and Tribunals Service within the newly created Department of Justice did not materialise. While Officials from both Departments are still working towards the transfer, at the time of writing this report it remains unclear whether the transfer will proceed in April 2012.

In our last Annual Report I set out the main Customer Service Targets which relate to the time that it takes for us to offer parties involved in a claim a date for full hearing. I am pleased to report that these targets were largely achieved and in those cases where it was not, our monitoring showed that this was mainly due to the case not being suitable for fast track listing.

While amendments to tribunal legislation introduced in April 2011 have removed the requirement for a fixed period of conciliation within which a tribunal claim could not proceed to a full hearing, it is my belief that the listing targets agreed with the President reflect the optimum period for listing cases. Therefore it is my intention that we continue to work to these challenging timescales. These key targets for 2011/12 are set out at page 11 of this report.

In our previous report, I referred to the dual pressures of an increased workload at a time when all public expenditure is under review. Given the reduction in live claims in 2010/11 assuming the trend continues and in line with government policy, I would expect to be in a position to reduce the overall resource required to provide an administrative service to the tribunals without compromising on the quality of service to tribunal users.

I would like to take this opportunity to publicly thank my staff for their hard work and commitment to maintaining service provision particularly over the Christmas/New Year (2010/2011) period when the building was without heat and water.

I am delighted to present our 2010/11 annual report to you.

**Rene Murray**

**Secretary**

## Overview of the tribunals

The Industrial Tribunals and The Fair Employment Tribunal are independent judicial bodies set up to hear and resolve certain matters of dispute in the employment field. They deal with specific complaints and appeals together with the determination of certain disputes and questions relating to compensation which have been delegated to them.

Tribunals are mainly comprised of three persons, a legally qualified chairman appointed by the Lord Chancellor and two lay members currently appointed by the Department for Employment and Learning. In certain matters, however, a tribunal chairman may sit without lay members. To date lay members have been selected after consultation with bodies representing employers and employees. Once appointed, lay members remain totally independent i.e. they do not represent those organisations or the employer/employee side on a tribunal. Any future appointment of panel members will be made through a full public appointment process.

The tribunals are like courts but are less formal in that no one wears wigs or gowns. However, like a court they must act independently and cannot give legal advice. Unlike Courts, legal aid is not available for the parties attending a tribunal.

### **Principal legislation in the employment field includes provision for Industrial Tribunals to determine complaints and appeals:**

#### **Complaints:**

- under provisions of the Sex Discrimination (Northern Ireland) Order 1976 and the Race Relations (Northern Ireland) Order 1997 relating to employment, partnerships, membership or non-membership of trade unions, the granting of trade and professional qualifications, vocational training, employment agencies, and appeals against non-discrimination notices;
- under the Equal Pay Act 1970 (as amended);
- under the employment provisions of the Disability Discrimination Act 1995;

- under the Employment Equality (Sexual Orientation) Regulations 2003;
- under the Employment Equality (Age) Regulations (Northern Ireland) 2006;
- that an employer has failed to consult with a trade union regarding proposed redundancies, for protective awards and payment of protective awards under the Employment Rights (Northern Ireland) Order 1996;
- of unfair dismissal under the Employment Rights (Northern Ireland) Order 1996 as amended by the Employment Relations (Northern Ireland) Order 1999 and the Employment (Northern Ireland) Order 2002 arising from:
  - disputes regarding entitlement to and amounts of redundancy payments under the Employment Rights (Northern Ireland) Order 1996;
  - trade union membership/activities or non-membership of a trade union;
  - an action seeking to assert a statutory employment right;
  - certain specified types of action on health and safety grounds;
  - reasons relating to pregnancy or any reason connected with maternity;
  - taking, or seeking to take, maternity, parental, adoption or paternity leave;
  - taking, or seeking to take, time off for dependants;
  - eligibility for the National Minimum Wage (or a higher rate of National Minimum Wage) or seeking to enforce a right to either;
  - reasons relating to the Working Time Regulations (Northern Ireland) 1998; or
  - reasons relating to part-time working.
- involving other rights arising under the Employment Rights (Northern

Ireland) Order 1996;

- that employers have not informed and consulted trade unions about transfers of undertakings under the Employment Rights (Northern Ireland) Order 1996;
- alleging breach of contract under Article 7 of the Industrial Tribunal Extension of Jurisdiction Order (Northern Ireland) 1994;
- under the Employment Act 2002 for ensuring that fixed-term employees are treated no less favourable than their comparable permanent employees.

### **Appeals:**

- against improvement, enforcement and prohibition notices issued under the Health & Safety at Work (Northern Ireland) Order 1978;
- against determinations under a variety of compensation regulations delegated to the Tribunals;
- against unjustifiable discipline by a trade union under the Trade Union & Labour Relations (Northern Ireland) Order 1995;
- under the Reserve Forces Appeals Legislation; or
- under the Gangmasters (Appeals) Regulations 2006.

When determining matters of dispute, the Industrial Tribunals and The Fair Employment Tribunal are bound by decisions of the Northern Ireland Court of Appeal, the European Court and human rights legislation. They are not bound by the decisions of the Employment Appeals Tribunal (EAT) in Great Britain but tend to follow them and the British Court of Appeal decisions can be persuasive.

## Industrial Tribunals and The Fair Employment Tribunal

Generally, the greatest percentage of claims to the tribunals relate to complaints of a non discriminatory nature such as unfair dismissal, failure to pay wages - unauthorised deductions from wages, breach of contract and right to paid annual leave.

Complaints involving discrimination under The Fair Employment and Treatment Order 1998, Equal Pay Act (Northern Ireland) 1970, Sex Discrimination (Northern Ireland) Order 1976, Disability Discrimination Act 1995, Race Relations (Northern Ireland) Order 1997, Employment Equality (Sexual Orientation) Regulations 2003, Employment Equality (Age) Regulations (Northern Ireland) 2006, Part-Time Working (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000 and/ or European law normally require considerably more preparation and time for hearing. Such cases are actively case managed by Tribunal Chairmen. Consequently complaints which do not involve discrimination are likely to be listed for hearing more quickly than discrimination complaints and will normally be listed with other cases on a particular day. Due to the number of complaints listed for hearing, some cases may not begin at the specified time. However, the vast majority of complaints are heard on the date for which the hearing is listed.

In addition to the President of the tribunals' at 31 March 2011 there were seven full-time chairmen and 19 fee paid (part-time) chairmen.

A tribunal is usually comprised of three members:

- a legally qualified chairman drawn from a pool of chairmen including the President and Vice President who are all appointed by the Lord Chancellor;
- one member drawn from a panel currently\* appointed by the Department for Employment and Learning after consultation with bodies representing employers;
- one member drawn from a panel currently\* appointed by the Department for Employment and Learning after consultation with bodies representing employees.

Lay members do not have to be members of the nominating organisations. Each member of a tribunal is totally independent. Presently there are some 156 lay members.

In certain matters, however, a tribunal chairman may sit without lay members and in others; a tribunal may proceed in the absence of one lay member with the consent of the parties.

*\*Any future appointment of panel members will be made through a full public appointment process.*

### **Contacting the Tribunals**

All claims to a tribunal and all subsequent correspondence should be sent to the Secretary of the Tribunals at the address given on page 28 of this publication.

Claims and responses may be submitted on-line at [www.employmenttribunalsni.co.uk](http://www.employmenttribunalsni.co.uk)

Schedules of hearings; main decisions; procedural information; certain relevant legislation and the minutes of the Tribunal Users Group can also be found on our website.

Please note that there are various time limits to present particular types of claims. Information and/or advice can be obtained from the relevant bodies detailed at page 28.

### **The Public Registers**

Details of claims to the Industrial Tribunals and The Fair Employment Tribunal and the tribunal's decisions are required by law to be kept in a register. These registers, which are available for inspection by the public free of charge, are held separately at the Office of the Tribunals.

Registers contain, amongst other things, the names of claimants and respondents, the nature of the complaint made as well as the decisions of the tribunals. As noted above, the main decisions are also available on the Tribunals website.

It should, however, be noted that in cases appearing to involve allegations of a sexual offence, as defined in the Industrial Tribunals (Northern

Ireland) Order 1996, or if a Chairman has granted anonymity any identifying matter is required to be omitted from, or subsequently deleted from, the Public Register and from any document or record of proceedings available to the public.

### **Observing the Tribunals**

Most tribunal hearings are open to the public (although the Rules allow for private hearings in certain circumstances). If you wish to observe the tribunals at work you can attend without prior contact with the Office of the Industrial Tribunals and The Fair Employment Tribunal. The weekly schedule of tribunal hearings is displayed at the Office of the Tribunals and is available on our website [www.employmenttribunalsni.co.uk](http://www.employmenttribunalsni.co.uk) under “online services”, however, it is advisable to telephone to ensure certain case(s) listed will be running on a particular day.

In Northern Ireland the Industrial Tribunals sit mainly in Belfast but from time to time in local centres such as Londonderry, Omagh, Strabane, Limavady and Enniskillen.

However, it is important to note that the provision for arranging hearings outside of Belfast is subject to Courthouse availability and is not within the control of OITFET. Therefore any hearing outside Belfast could result in an unavoidable delay in the commencement of proceedings.

## Tribunal administration

The Office of the Industrial Tribunals and The Fair Employment Tribunal provides administrative support to the tribunals. Currently there are 59 members of staff led by the Secretary of the Tribunals who provide all the administrative support functions to enable the Office to meet its main objective.

Our main objective is to service the Industrial Tribunals and The Fair Employment Tribunal in a fair, impartial, effective and efficient manner. This key objective for the Office is broken down further to various sub-objectives:

- **Effective business**  
To ensure that casework is dealt with effectively and in a timely manner to meet customer expectations and internal standards;
- **Customer service**  
To promote and ensure that the customer receives a focused service;
- **Office effectiveness**  
To ensure that the Office of Industrial Tribunals and The Fair Employment Tribunal operates effectively and efficiently with staff who have the necessary skills and competencies to achieve both current and future business objectives;
- **Staff development**  
To provide timely, high quality staff training and development which meets identified business needs; and
- **Information technology**  
To develop and put in place a comprehensive information system which will assist in delivering business effectively.

Administrative duties include:

- Dealing with casework and correspondence relating to cases;
- Making practical arrangements for hearings and supporting tribunals during them;
- Providing information on tribunal procedures to the public; and
- Providing human resources, finance, information and communication technologies, accommodation and operational support to tribunals.

The administration staff do not have a direct role in the legal proceedings and furthermore cannot provide legal advice or direction, views or opinions on matters relating to proceedings.

## Customer service targets - 2011/12

The President of the tribunals is responsible for the listing of all tribunal claims for hearing and to ensure the prompt and efficient disposal of claims the Office of the Industrial Tribunals and The Fair Employment Tribunal (OITFET) has established the necessary procedures to ensure that these targets are met as set out below.

### Single claims involving complaints of discrimination

OITFET will offer parties who have presented a **single claim** which includes a complaint of **discrimination** (*on the grounds of sex, equal pay, disability, religious belief/political opinion, race, age, sexual orientation or matters relating to part-time working and public interest disclosure*) **a full hearing between 26 and 39 weeks** from the date the claim is received in OITFET. (*The vast majority of these cases will follow an agreed 'Case Management' process which will be set out in our standard Case Management letter to parties or their representatives*).

Or,

**Where the respondent(s) does not enter a response** to a claim or where a response has been presented and accepted and the parties/representatives forego the 'Case Management' process and a chairman agrees, OITFET will schedule a full hearing to take place **at or before week 26** from the date the claim is received in OITFET.

### Single non discrimination claims - Fast-track

In proceedings involving **a single non discrimination claim that is listed to be heard on a single day:**

Where a chairman can hear the case without a panel; OITFET will offer parties a **full hearing at week 12** from the date the claim is received in the Office of the Tribunals. The type of complaint included in this category includes breach of contract, wages complaints, right to paid annual leave, redundancy payments etc.

Where a chairman hears a case with a panel OITFET will offer parties a **full hearing at week 18** from the date the claim is received in the Office of the Tribunals. The type of complaint included in this category includes unfair dismissal, working time regulations, flexible working etc.

### **When a claimant presents further related claims**

If a claimant presents further related claims to the tribunals it may delay the listing of their initial claim and it may not be possible to achieve the listing targets set out above. In these circumstances we will apply the target dates set out above to the 2nd or any subsequent claim received in the Office of the Tribunals.

### **Multiple claims**

Cases involving five or more claimants who bring common complaints against a common respondent are categorised as "Multiple Claims". All such cases are actively case managed and will be listed for a hearing in line with the instructions of the allocated Case Management Chairman.

### **Tribunal hearings outside of Belfast**

If a party to proceedings has provided reasons why their case should be heard in a location other than our hearing rooms in Belfast and the President of the tribunals has accepted that it should, then the listing of that case will be subject to the availability of a Courthouse in the preferred location. The scheduling of any hearing outside Belfast could therefore result in an unavoidable delay. Local centres currently used are Londonderry, Limavady, Strabane, Enniskillen and Omagh.

## Customer service targets – 2010/11 achievement

In our previous annual reports we reported that the Office of the Tribunals was committed to reducing the waiting times for cases to be heard.

By April 2011 we had achieved our targets to the point that we were able to:

- list 80% of claims involving non-discrimination complaints within 26 weeks from the date that the claim was presented to the tribunals, most of the remaining cases were not suitable for fast-track listing; and
- offer parties in single discrimination cases a hearing date within six to nine months from the date that the claim was presented to the tribunals.

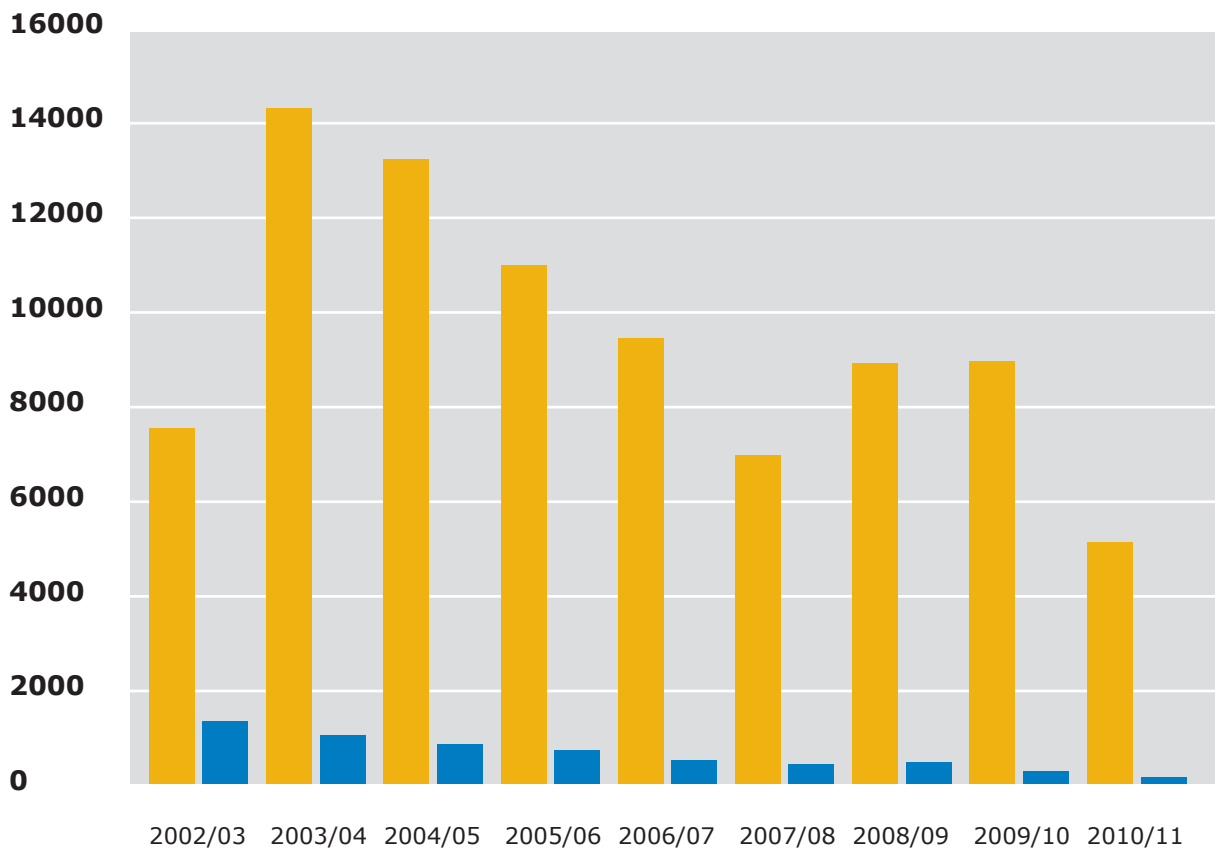
There are still older claims in the tribunal system which cannot be listed until proceedings in related cases have been determined by other courts. There are also older claims in which the parties to the proceedings require more time to prepare for hearing, in what are often complicated cases or large 'Multiple' cases which require active case management by a tribunal chairman.

## Statistical information

### Live tribunal claims

The table below compares the number of live claims at year end over the last nine years:

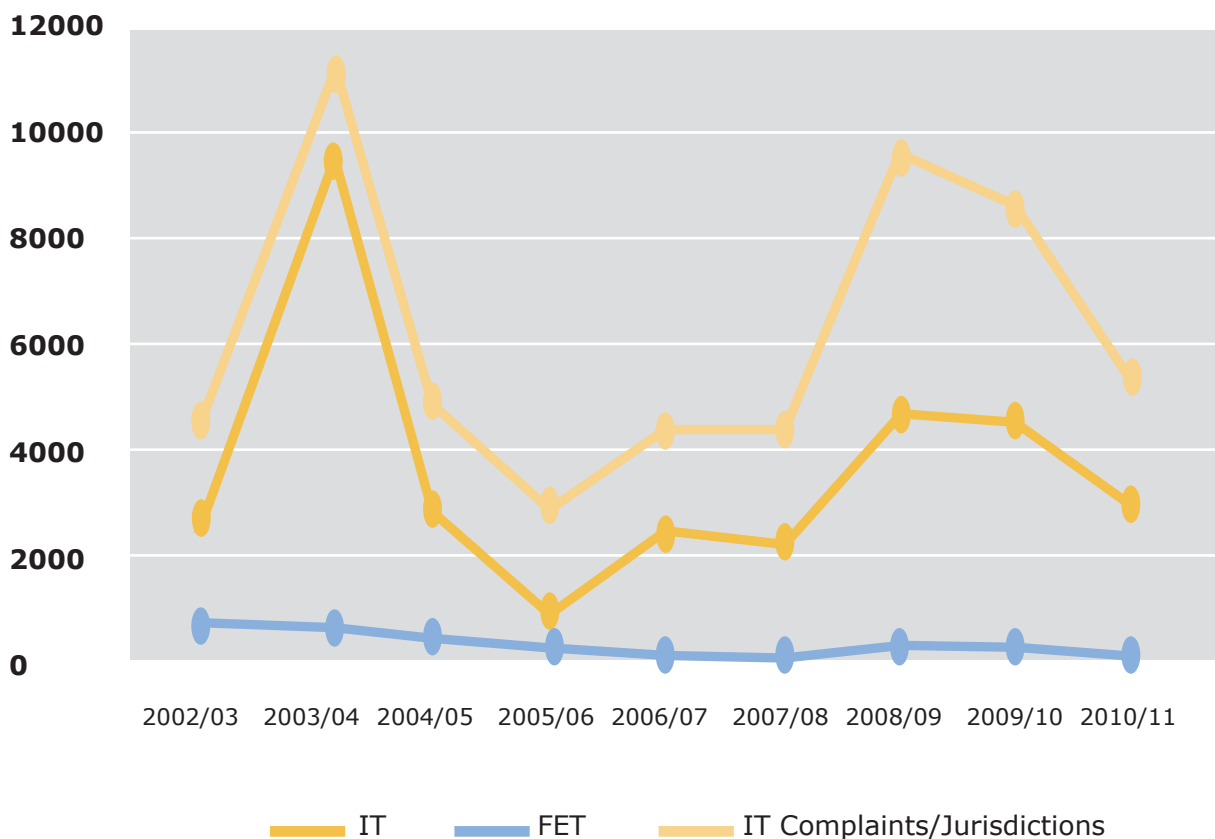
Live Claims	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
<b>IT</b>	7627	14113	13513	11508	9461	7102	8952	8968	5359
<b>FET</b>	1298	1071	761	547	342	204	238	179	145
<b>Total</b>	<b>8925</b>	<b>15184</b>	<b>14274</b>	<b>12055</b>	<b>9803</b>	<b>7306</b>	<b>9190</b>	<b>9147</b>	<b>5504</b>



## Tribunal claims and complaints registered

The table below gives details of cases and complaints registered by OITFET over the last nine years: you should note that there may be more than one complaint raised by a claimant in a single Industrial Tribunal (IT) claim, for instance in 2009/10 4545 claims generated 8812 complaints. Claims to the Fair Employment Tribunal (FET) do not generate more than one complaint.

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
<b>IT</b>	2885	*9485	3075	1506	*2628	*2162	*4865	*4545	3071
<b>IT Complaints/Jurisdictions</b>	4410	*11353	5017	2857	*4331	*4382	*9839	*8812	5666
<b>FET Claims</b>	498	476	378	175	160	157	225	213	167
<b>TOTAL</b>	<b>3383</b>	<b>9961</b>	<b>3453</b>	<b>1681</b>	<b>2788</b>	<b>2319</b>	<b>5090</b>	<b>4758</b>	<b>3238</b>



If you are interpreting trends in tribunal claims registered you may wish to consider some of the points \* referred to below:

- \* *In 2003/04, 6250 Industrial Tribunal Cases relate to a common complaint against one respondent under Working Time Regulations*
- \* *In April 2005 revised Tribunal rules of Procedure were introduced along with statutory dispute resolution procedures set out in the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004*
- \* *In 2006/07, 1062 Industrial Tribunal Cases relate to a common complaint against one respondent under Part Time Workers Regulations.*
- \* *In 2007/08, 296 Industrial Tribunal Cases relate to a common complaint against one respondent under Protection of Wages Regulations.*
- \* *In 2008/09, 4615 Industrial Tribunal Cases relating to a common complaint against N.I. Civil Service departments under the Equal Pay / Sex Discrimination Acts were received, of which 3099 were registered. The remaining 1516 cases were registered in 2009/10.*
- \* *In 2010/11, 413 Industrial Tribunal cases relate to a common complaint against one respondent under Rights relating to collective bargaining and a further 193 Industrial Tribunal cases relate to a common complaint against one respondent under Fixed Term Working Directive.*

## Pre-acceptance checking of tribunal claims

The table below gives details of claims rejected/part rejected since the introduction of the revised Tribunal Rules of Procedure in April 2005. The main reason for rejection of these claims was failure to comply with the statutory dispute resolution procedures introduced by, the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004.

Claims Rejected	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>
Claims part rejected	248 (8.9%)	291 (12.6%)	242 (4.7%)	220 (4.6%)	455 (14.1%)
Claims – fully rejected	212 (7%)	194 (7.4%)	185 (3.5%)	383 (7.7%)	258 (7%)

## Industrial Tribunals – complaints / jurisdictions

Below are details of the main type of complaints / jurisdictions registered by OITFET during the last three years:

NON DISCRIMINATORY	April 2008 - March 2009		April 2009 - March 2010		April 2010 - March 2011	
	No.	%	No.	%	No.	%
Unfair dismissal	905	9.20	1403	15.92	1093	19.29
Breach of contract	640	6.51	1194	13.55	988	17.44
Failure to pay wages - unauthorised deduction from wages	403	4.10	679	7.70	684	12.07
Failure to pay a redundancy payment	187	1.90	427	4.85	479	8.45
Inducements relating to collective bargaining	0	0.00	0	0.00	413	7.29
Breach of fixed term working directive	9	0.09	7	0.08	233	4.11
Right to paid annual leave – working time regulations	220	2.24	97	1.10	130	2.29
Right to receive particulars of contract	197	2.00	162	1.84	118	2.08
Right to receive itemised pay statement	63	0.64	62	0.70	79	1.39
Transfer of undertakings (protection of employment) (TUPE)	89	0.90	21	0.24	74	1.31
Failure to pay remuneration under a protective award	28	0.29	51	0.58	59	1.04
Working time regulations	24	0.24	36	0.41	57	1.01
Right to receive written reason for dismissal	58	0.59	82	0.93	50	0.88
Redundancy fund payment	5	0.05	3	0.03	35	0.62
Health and safety detriment	18	0.18	51	0.58	34	0.60
Miscellaneous	100	1.02	341	3.87	129	2.28
<b>Non Discrimination complaints – sub total</b>	<b>2946</b>	<b>29.95%</b>	<b>4616</b>	<b>52.38%</b>	<b>4655</b>	<b>82.15%</b>
<b>DISCRIMINATION</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Sex discrimination	3331	33.86	1858	21.08	354	6.25
Disability discrimination	145	1.47	228	2.59	176	3.11
Race relations	83	0.84	163	1.85	141	2.49
Equal pay	3163	32.15	1595	18.10	125	2.21
Age discrimination	78	0.79	143	1.62	97	1.71
Part Time Working	76	0.77	190	2.16	96	1.69
Sexual orientation	17	0.17	19	0.22	22	0.39
<b>Discrimination complaints – sub total</b>	<b>6893</b>	<b>70.05%</b>	<b>4196</b>	<b>47.62%</b>	<b>1011</b>	<b>17.85%</b>
<b>Total complaints / jurisdictions</b>	<b>9839</b>	<b>100%</b>	<b>8812</b>	<b>100%</b>	<b>5666</b>	<b>100%</b>

## Outcome of tribunal cases and complaints

Every complaint made to a Tribunal must be concluded by a decision of a tribunal. The numbers of cases and complaints determined in the past three years are as follows:

	2008/09	2009/10	2010/11
<b>IT Cases</b>	3013	4528	6861
<b>IT Complaints/ Jurisdictions</b>	5037	6894	12773
<b>FET Cases</b>	192	271	201

### *Further details of the last three years are as follows*

BREAKDOWN		2008/09		2009/10		2010/11	
		No.	%	No.	%	No.	%
<b>IT</b>	Allowed	315	6.25	602	8.73	799	6.26
	Dismissed	291	5.78	312	4.53	489	3.83
	Dismissed after Pre-hearing review	22	0.44	13	0.19	17	0.13
	Dismissed for failure to comply	603	11.97	394	5.72	91	0.71
	Withdrawn	1207	23.96	1687	24.47	1511	11.83
	Conciliation - with the assistance of the LRA	1484	29.46	2096	30.40	1904	14.91
	Settled between the parties	1115	22.14	1787	25.92	7961	62.33
	Stayed	0	0.00	3	0.04	1	0.00
	<b>Industrial Tribunal Total</b>	<b>5037</b>	<b>100%</b>	<b>6894</b>	<b>100%</b>	<b>12773</b>	<b>100%</b>
<b>FET</b>	Allowed	3	1.56	1	0.37	2	1.00
	Dismissed	26	13.55	56	20.66	31	15.42
	Dismissed after Pre-hearing review	2	1.04	2	0.74	2	1.00
	Dismissed for Failure to Comply	3	1.56	0	0	3	1.49
	Withdrawn	56	29.17	97	35.79	67	33.33
	Conciliation - with the assistance of the LRA	51	26.56	62	22.88	50	24.88
	Settled between the parties	51	26.56	53	19.56	46	22.88
	Stayed	0	0.00	0	0.00	0	0.00
	<b>Fair Employment Tribunal Total</b>	<b>192</b>	<b>100%</b>	<b>271</b>	<b>100%</b>	<b>201</b>	<b>100%</b>

It does not follow that because a complaint is withdrawn, it had no merit. It may have been withdrawn on terms agreed between the parties before, during or even after the hearing if the decision of the Tribunal has not yet been announced. For an explanation of the above terms see Glossary of Terms on page 27.

## Industrial Tribunals decision outcomes by jurisdiction April 2008 – March 2009

Complaint / Jurisdiction	Allowed	Dismissed	Dismissed Failure to Comply	Withdrawn	Conciliated	Settled between parties	Stayed	Total
<b>NON DISCRIMINATORY JURISDICTIONS</b>								
Unfair dismissal	56	65	7	203	422	170	0	923
Failure to pay wages- unauthorised deduction from wages	50	36	310	111	188	167	0	862
Breach of contract	65	49	5	148	295	181	0	743
Working time regulations	3	42	268	328	11	8	0	660
Right to paid annual leave	35	22	1	50	114	115	0	337
Failure to pay a redundancy payment	35	6	2	27	60	55	0	185
Right to receive particulars of contract	8	8	0	22	57	37	0	132
Right to receive Written Reasons for Dismissal	3	4	0	12	31	8	0	58
Failure to pay remuneration under a protective award	25	0	0	1	0	46	0	72
Right to receive an itemised pay statement	8	6	0	10	27	5	0	56
Right to be accompanied - disciplinary / grievance hearing	2	0	0	3	21	4	0	30
Health & safety detriment	0	3	1	3	8	6	0	21
Miscellaneous	5	12	1	27	28	22	0	95
<b>Sub Total</b>	<b>295</b>	<b>253</b>	<b>595</b>	<b>945</b>	<b>1262</b>	<b>824</b>	<b>0</b>	<b>4174</b>
<b>DISCRIMINATORY JURISDICTIONS</b>								
Sex discrimination	5	16	2	118	76	97	0	314
Disability discrimination	10	9	1	40	65	63	0	188
Race relations	3	20	3	38	41	50	0	155
Equal pay	2	3	1	24	6	17	0	53
Age discrimination	0	7	0	21	22	17	0	67
Part time working	0	4	1	15	9	44	0	73
Sexual orientation	0	1	0	6	3	3	0	13
<b>Sub Total</b>	<b>20</b>	<b>60</b>	<b>8</b>	<b>262</b>	<b>222</b>	<b>291</b>	<b>0</b>	<b>863</b>
<b>IT TOTAL</b>	<b>315</b>	<b>313</b>	<b>603</b>	<b>1207</b>	<b>1484</b>	<b>1115</b>	<b>0</b>	<b>5037</b>

## Industrial Tribunals decision outcomes by jurisdiction April 2009 – March 2010

Complaint / Jurisdiction	Allowed	Dismissed	Dismissed Failure to Comply	Withdrawn	Conciliated	Settled between parties	Stayed	Total
<b>NON DISCRIMINATORY JURISDICTIONS</b>								
Unfair dismissal	99	108	9	278	554	263	0	1311
Failure to pay wages- unauthorised deduction from wages	78	26	8	141	430	64	2	749
Breach of contract	192	56	18	207	340	115	0	928
Working time regulations	8	1	336	392	12	11	0	760
Right to paid annual leave	34	4	1	36	63	27	0	165
Failure to pay a redundancy payment	114	25	15	58	74	31	0	317
Right to receive particulars of contract	13	11	1	21	74	21	0	141
Right to receive Written Reasons for Dismissal	9	4	0	9	30	11	0	63
Failure to pay remuneration under a protective award	12	2	0	5	0	0	0	19
Right to receive an itemised pay statement	11	6	1	8	31	10	0	67
Right to be accompanied - disciplinary / grievance hearing	5	5	0	9	26	11	0	56
Health & safety detriment	4	5	0	17	21	1	0	48
Miscellaneous	9	5	1	148	37	27	1	228
<b>Sub Total</b>	<b>588</b>	<b>258</b>	<b>390</b>	<b>1329</b>	<b>1692</b>	<b>592</b>	<b>3</b>	<b>4852</b>
<b>DISCRIMINATORY JURISDICTIONS</b>								
Sex discrimination	5	25	0	72	102	75	0	279
Disability discrimination	5	12	0	51	66	50	0	184
Race relations	3	11	0	34	36	24	0	108
Equal pay	0	4	0	22	8	37	0	71
Age discrimination	1	10	1	49	32	24	0	117
Part time working	0	2	3	127	151	981	0	1264
Sexual orientation	0	3	0	3	9	4	0	19
<b>Sub Total</b>	<b>14</b>	<b>67</b>	<b>4</b>	<b>358</b>	<b>404</b>	<b>1195</b>	<b>0</b>	<b>2042</b>
<b>IT TOTAL</b>	<b>602</b>	<b>325</b>	<b>394</b>	<b>1687</b>	<b>2096</b>	<b>1787</b>	<b>3</b>	<b>6894</b>

## Industrial Tribunals decision outcomes by jurisdiction April 2010 – March 2011

Complaint / Jurisdiction	Allowed	Dismissed	Dismissed Failure to Comply	Withdrawn	Conciliated	Settled between parties	Stayed	Total
<b>NON DISCRIMINATORY JURISDICTIONS</b>								
Unfair dismissal	127	130	6	230	558	202	0	1253
Failure to pay wages- unauthorised deduction from wages	107	50	4	148	206	65	0	580
Breach of contract	222	97	11	305	348	122	0	1105
Working time regulations	1	4	34	118	13	441	0	611
Right to paid annual leave	20	7	3	23	35	13	0	101
Failure to pay a redundancy payment	184	35	4	88	93	24	0	428
Right to receive particulars of contract	27	24	2	17	111	15	0	196
Right to receive Written Reasons for Dismissal	14	7	0	11	35	10	0	77
Failure to pay remuneration under a protective award	32	1	5	26	0	1	0	65
Right to receive an itemised pay statement	26	7	2	10	30	7	0	82
Right to be accompanied - disciplinary / grievance hearing	2	7	0	8	24	10	0	51
Health & safety detriment	1	3	0	4	16	5	0	29
Miscellaneous	10	22	2	55	120	43	0	252
<b>Sub Total</b>	<b>773</b>	<b>394</b>	<b>73</b>	<b>1043</b>	<b>1589</b>	<b>958</b>	<b>0</b>	<b>4830</b>
<b>DISCRIMINATORY JURISDICTIONS</b>								
Sex discrimination	13	32	8	190	99	3478	0	3820
Disability discrimination	2	28	0	56	74	50	0	210
Race relations	5	29	2	29	67	31	0	163
Equal pay	0	3	3	116	12	3405	0	3539
Age discrimination	5	10	1	36	39	27	0	118
Part time working	1	6	3	36	17	11	1	75
Sexual orientation	0	4	1	5	7	1	0	18
<b>Sub Total</b>	<b>26</b>	<b>112</b>	<b>18</b>	<b>468</b>	<b>315</b>	<b>7003</b>	<b>1</b>	<b>7943</b>
<b>IT TOTAL</b>	<b>799</b>	<b>506</b>	<b>91</b>	<b>1511</b>	<b>1904</b>	<b>7961</b>	<b>1</b>	<b>12773</b>

## Complaints heard and determined by a tribunal

	Year	Complaints heard and determined	Found in Favour	
			Claimant	Respondent
IT	Apr 08 - Mar 09	628	50%	50%
	Apr 09 - Mar 10	927	65%	35%
	Apr 10 - Mar 11	1305	61%	39%
FET	Apr 08 - Mar 09	31	10%	90%
	Apr 09 - Mar 10	59	2%	98%
	Apr 10 - Mar 11	35	6%	94%

At the hearing a claimant or respondent may present their case themselves or they may (at any time) nominate a person to represent them with his/ her agreement. This representative could be a trade union official, an officer of an employers' organisation or they can be legally represented.

## Representation at hearing

		Claimant			Respondent		
		Apr 08-Mar 09	Apr 09-Mar 10	Apr 10-Mar 11	Apr 08-Mar 09	Apr 09-Mar 10	Apr 10-Mar 11
IT	In person	51%	67%	66%	27%	48%	41%
	Legal	29%	25%	26%	48%	31%	35%
	Trade union	1%	2%	1%	0%	0%	0%
	Party did not attend tribunal	16%	5%	4%	21%	19%	21%
	Other	3%	1%	3%	4%	2%	3%
FET							
	In person	36%	77%	62%	32%	44%	63%
	Legal	24%	18%	31%	56%	52%	33%
	Trade union	0%	0%	0%	0%	0%	0%
	Party did not attend tribunal	12%	5%	7%	4%	0%	4%
	Other	28%	0%	0%	8%	4%	0%

## Reviews of tribunal decisions

In certain circumstances an Industrial Tribunal or The Fair Employment Tribunal may review its decision, and confirm, vary or revoke it. These circumstances are:

- the decision was wrongly made as a result of an administrative error;
- a party did not receive notice of the proceedings leading to the decision;
- the decision was made in the absence of a party;
- new evidence has become available since the conclusion of the hearing to which the decision relates, provided that its existence could not have been reasonably known of or foreseen at that time; or
- the interests of justice require such a review.

A tribunal will not review its decision merely because a party disagrees with that decision.

A party may apply to the tribunal at the hearing immediately after the decision has been given. Alternatively a party may send a written request for a review to the Office of the Industrial Tribunals. This request should reach the Office of the Tribunals within 14 days of the date on which the decision was sent to the parties.

The number of Applications for review received during the last three years is as follows:

Review applications	April 2008 - March 2009		April 2009 - March 2010		April 2010 - March 2011	
	IT	FET	IT	FET	IT	FET
Received	32	9	53	14	69	4
Application withdrawn	5	5	9	2	13	1
Application refused	15	1	20	11	25	3
Application allowed	12	3	24	1	31	0
<b>Outcome of review</b>						
Refused - decision upheld	7	2	9	1	9	0
Allowed - decision varied	1	0	14	0	16	0
Allowed - decision revoked	4	1	1	0	6	0
Review hearing - ongoing	0	0	0	0	0	0

## Appeals of tribunal decisions

Parties have the right of appeal to Her Majesty's Court of Appeal against the decision of an Industrial Tribunal or The Fair Employment Tribunal on a point of law.

**Details of applications received and subsequently lodged with the Court of Appeal during the last three years is as follows:**

	April 2008 - March 2009		April 2009 - March 2010		April 2010 - March 2011	
	IT	FET	IT	FET	IT	FET
<b>Appeal applications</b>						
Received	23	8	20	15	-	-
Case stated by tribunal	11	4	6	3	-	-
Under Consideration	0	0	0	0	-	-
Subsequently lodged with Court of Appeal	10	3	3	3	12	1
Appeal withdrawn by claimant after lodgement	4	1	0	0	4	0
Tribunal decision upheld by Court of Appeal	1	1	0	0	3	1
Tribunal decision varied by Court of Appeal	1	0	1	0	0	0
Tribunal decision overturned by Court of Appeal	4	1	1	0	4	0
Heard by Court of Appeal – awaiting judgement	0	0	0	3	1	0
Appeal Lodged - Awaiting hearing at Court of Appeal	0	0	1	0	0	0

Your attention is drawn to the new Appeals Procedure on a point of law introduced by **The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2010** which came into operation on 1st April 2010.

There are now two forms of Appeal to the Court of Appeal on a point of law. They are:

- (1) Direct Appeal to the Court of Appeal.
- (2) Appeal by way of Case Stated to the Court of Appeal.

## Limits on tribunal awards

In most cases there are limits on the amounts which may be awarded by the tribunals for infringement of the employment rights contained in the legislation.

The table below shows the changes to those limits applying to certain awards at 13th February 2011 as set out in the Employment Rights (Increase of Limits) Order (Northern Ireland) 2011.

Relevant statutory provision	Subject of provision	Old limit 7/3/10	New limit 13/02/11
Article 40(6) of the 1995 Order	Minimum amount of compensation awarded by the industrial tribunal where individual expelled from union in contravention of Article 38 of the 1995 Order and where, when the application is made, the applicant has not been re-admitted to the union.	£7,200	£7,600
Article 23(1) of the 1996 Order	Maximum amount of "a week's pay" for the purpose of calculating a redundancy payment or for various awards including the basic or additional award of compensation for unfair dismissal.	£380	£400
Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£21.20	£22.20
Article 154(1) of the 1996 Order	Minimum amount of basic award of compensation where dismissal is unfair by virtue of Article 132(1)(a) and (b), 132A(d) (a), 133(1), 134 or 136(1) of the 1996 Order.	£4,700	£5,000
Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal.	£65,300	£68,400
Article 231(1) of the 1996 Order	Limit on amount in respect of any one week payable to an employee in respect of debt to which Part XIV of the 1996 Order applies and which is referable to a period of time.	£380	£400
Article 77E(3) of the 1996 Order	Amount of award for unlawful inducement relating to union membership or activities, or for unlawful inducement relating to collective bargaining.	£3,100	£3,300

There is no limit to the compensation payable where an employee is unfairly dismissed or selected for redundancy for reasons connected with health and safety matters or public interest disclosure.

There is no limit to the compensation payable in claims of unlawful discrimination, for example on the grounds of disability, gender, part-time working, race and sexual orientation or age.

There is also no limit on the amount that may be awarded by the Fair Employment Tribunal.

## Glossary of terms

### **ALLOWED**

The claim has been allowed by the tribunal following hearing.

### **DISMISSED**

The claim has been dismissed by the tribunal following hearing.

### **FAILURE TO COMPLY**

The claim has been dismissed because the claimant failed to comply with Orders

### **WITHDRAWN**

The claim has been withdrawn by the claimant. This may happen before the hearing date or at any time during the hearing.

### **CONCILIATED**

Conciliated with the assistance of the Labour Relations Agency. The Labour Relations Agency in Northern Ireland equates broadly with the Advisory, Conciliation and Arbitration Service (ACAS) in Great Britain.

### **AGREED/SETTLED BETWEEN THE PARTIES**

The parties have agreed a settlement. This may happen before the hearing date or at any time during hearing.

### **STAYED**

The proceedings are stopped until further order. This outcome may result from a number of circumstances. The most common would be if the Office of Tribunals was unable to contact the claimant.

### **LRA**

Labour Relations Agency

## Advisory and/or information bodies

**Citizens Advice Bureau**  
(various addresses)  
[www.citizensadvice.co.uk](http://www.citizensadvice.co.uk)

**Equality Commission for NI**  
Equality House  
7 - 9 Shaftesbury Square  
BELFAST BT2 7DP  
Tel: (028) 9050 0600  
[www.equalityni.org](http://www.equalityni.org)

**Labour Relations Agency**  
2 - 16 Gordon Street  
BELFAST BT1 2LG  
Tel: (028) 9032 1442  
[www.lra.org.uk](http://www.lra.org.uk)

**Law Centre (Northern Ireland)**  
124 Donegall Street  
BELFAST BT1 2GY  
Tel: (028) 9024 4401  
[www.lawcentreni.org](http://www.lawcentreni.org)

**National Minimum Wage**  
Freephone: 0800 917 2368

**NI Legal Services Commission**  
2nd Floor Waterfront Plaza  
8 Laganbank Road  
Mays Meadow  
BELFAST BT1 3BN  
Tel: (028) 9040 8888  
[www.nilsc.org.uk](http://www.nilsc.org.uk)

**Redundancy Payments Service**  
Department for Employment  
and Learning  
Adelaide House  
39 - 49 Adelaide Street  
BELFAST BT2 8FD  
Freephone: 0800 585811  
[www.redundancyni.gov.uk](http://www.redundancyni.gov.uk)

**Department for Employment  
and Learning**  
Adelaide House  
39 - 49 Adelaide Street  
BELFAST BT2 8FD  
Tel: (028) 9025 7956  
[www.delni.gov.uk](http://www.delni.gov.uk)

**Health and Safety Executive**  
83 Ladas Drive  
BELFAST BT6 9FR  
Tel: (028) 9024 3249  
[www.hseni.gov.uk](http://www.hseni.gov.uk)

**Labour Relations Agency**  
District Office  
1 - 3 Guildhall Street  
LONDONDERRY  
BT48 6BB  
Tel: (028) 7126 9639

**Office of the Industrial Tribunals  
and The Fair Employment  
Tribunal**  
Killymeal House  
2 Cromac Quay  
BELFAST BT7 2JD  
Tel: (028) 9032 7666  
Email: [mail@employmenttribunalsni.org](mailto:mail@employmenttribunalsni.org)

Claims to an Industrial Tribunal or The Fair Employment Tribunal can be completed online at our website [www.employmenttribunalsni.co.uk](http://www.employmenttribunalsni.co.uk) Claim forms can be obtained from The Office of the Tribunals or from any JobCentre/Job & Benefits office.

For contact numbers and addresses of JobCentres/Job & Benefits offices look up the telephone directory under Government of Northern Ireland then Department for Employment and Learning.



