

# Annual report 2012/13

Office of the Industrial Tribunals and  
The Fair Employment Tribunal

KILLYMEAL HOUSE

## **Contents**

*Page*

Introduction by the Secretary

**Page 2**

Overview of the tribunals

**Page 4**

Industrial Tribunals and The Fair Employment Tribunal

**Page 6**

Tribunal administration

**Page 8**

Customer service targets

**Page 9**

Statistical information

**Page 12**

Limits on tribunal awards

**Page 23**

Glossary of terms

**Page 24**

Advisory and/or information bodies

**Page 25**

## Introduction by the Secretary

Our annual report for 2012/13 provides the detail of what has been a busy and progressive year for the Office of Industrial Tribunals and The Fair Employment Tribunal (OITFET) in Northern Ireland.

The number of tribunal claims registered during this period was 2722, a 3% reduction on the 2011/12 figure of 2810. Indeed this is the fourth consecutive year that there has been a decrease in the number of tribunal claims registered.

Our statistics for 2012/13 (*page 15*) show continuing high levels of unfair dismissal and redundancy related complaints which no doubt, are a barometer of the challenges still facing the Northern Ireland labour market.

At 31 March 2013, there were 4027 live claims within the tribunal system. This is a reduction of 2.8% on the previous year's total of 4141. Indeed it is the lowest number of live claims recorded since 2002 when the Office started to record statistics on claims received rather than number of complaints within each claim.

In our previous annual reports, I set out the main Customer Service Targets which relate to the time that it takes for us to offer parties to a claim a date for full hearing. I am delighted to report that these targets were achieved. There were a small number of cases where either the parties were unable to avail of the early listing date offered or the case was deemed unsuitable for fast track listing. However, all of the latter cases were actively monitored and where appropriate, case managed.

In line with the tribunals' overriding objective of dealing with cases expeditiously, during the past year the President dedicated judicial resources to deal with the high level of recession (redundancy) related claims. A pilot exercise was carried out listing recession claims at 8 weeks from the date received. The pilot exercise proved very successful with a large number of parties receiving the tribunal's written decision on the same day of hearing. The new arrangements have now been assimilated into the tribunals' normal business. The President is determined to build on the momentum of speedier access to a tribunal and has set a target for the incoming year to list Unfair Dismissal complaints at 12 weeks from the date received. This is a challenging timescale, but I am confident that tribunal administration will step up to the mark. All key listing targets for 2013/14 are detailed at pages 9 and 10 of this report.

As Secretary, I am responsible for ensuring tribunal administration directs its resources on getting cases to hearing and maximising the number of tribunal sitting days available to ensure claims progress through the tribunal system efficiently. Given the continued reduction in live claims in 2012/13, in line with government policy of ongoing efficiencies, I was again able to reduce the overall resource required to provide an administrative service to the tribunals without compromising the quality of service to tribunal users. For the incoming year, I will continue to monitor resource utilisation with a particular focus on hearing room occupancy.

The transfer of the Industrial Tribunals and The Fair Employment Tribunal to the Northern Ireland Courts and Tribunals Service within the Department of Justice failed to materialise. It is now looking increasingly likely that our transfer will not take place until after 2015.

While our counterparts in the Employment Tribunals in England and Wales face quite radical change in 2013/14, how tribunals will operate here in the future remains the subject of a number of Departmental consultations. While change is inevitable, the Minister responsible is clear that any changes to employment law and remedies must reflect the particular needs of both Northern Ireland business and its workforce.

Regardless of any prospective legislative changes, what tribunal users can expect in 2013/14 is an increased focus on both earlier neutral review of claims/responses and consideration of deposit hearings.

I would again take the opportunity to publicly thank my staff for their dedication to providing a high quality administrative service to the tribunals.

I am pleased to present our 2012/13 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 not treated less favourably 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,
- industrial tribunal chairmen are appointed to hear appeals 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, breach of contract, failure to pay / deduction from wages and failure to pay a redundancy payment.

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 and Vice President of the tribunals' at 31 March 2013 there were seven full-time chairmen and fourteen 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 117 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 25 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 25.

## The Public Registers

Details of claims to the Industrial Tribunals and The Fair Employment Tribunal and the tribunals' 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 our 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 55 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 - 2013/14

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:**

OITFET will offer parties who have presented complaints related to redundancy payments, breach of contract and/or wages complaints a **full hearing at week 8** from the date the claim is received in the OITFET.

*Where a chairman hears a case with a panel* OITFET will offer parties a **full hearing at week 12** from the date the claim is received in the OITFET. 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 OITFET.

### **Multiple claims**

Cases involving five or more claimants who bring common complaints against a common respondent may be 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 – 2012/13 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 2013 we had achieved our targets to the point that we were able to:

- offer parties in all single discrimination cases a hearing date within 6-9 months from the date that the claim was presented to the tribunals;
- list 95% of claims involving non-discrimination complaints (chairman sitting alone jurisdictions) within 12 weeks from the date that the claim was presented to the tribunals, the remaining 5% of these cases were generally unsuitable for fast track listing; and
- list 90% of claims involving non-discrimination complaints (jurisdictions requiring a tribunal panel) within 18 weeks from the date that the claim was presented to the tribunals.

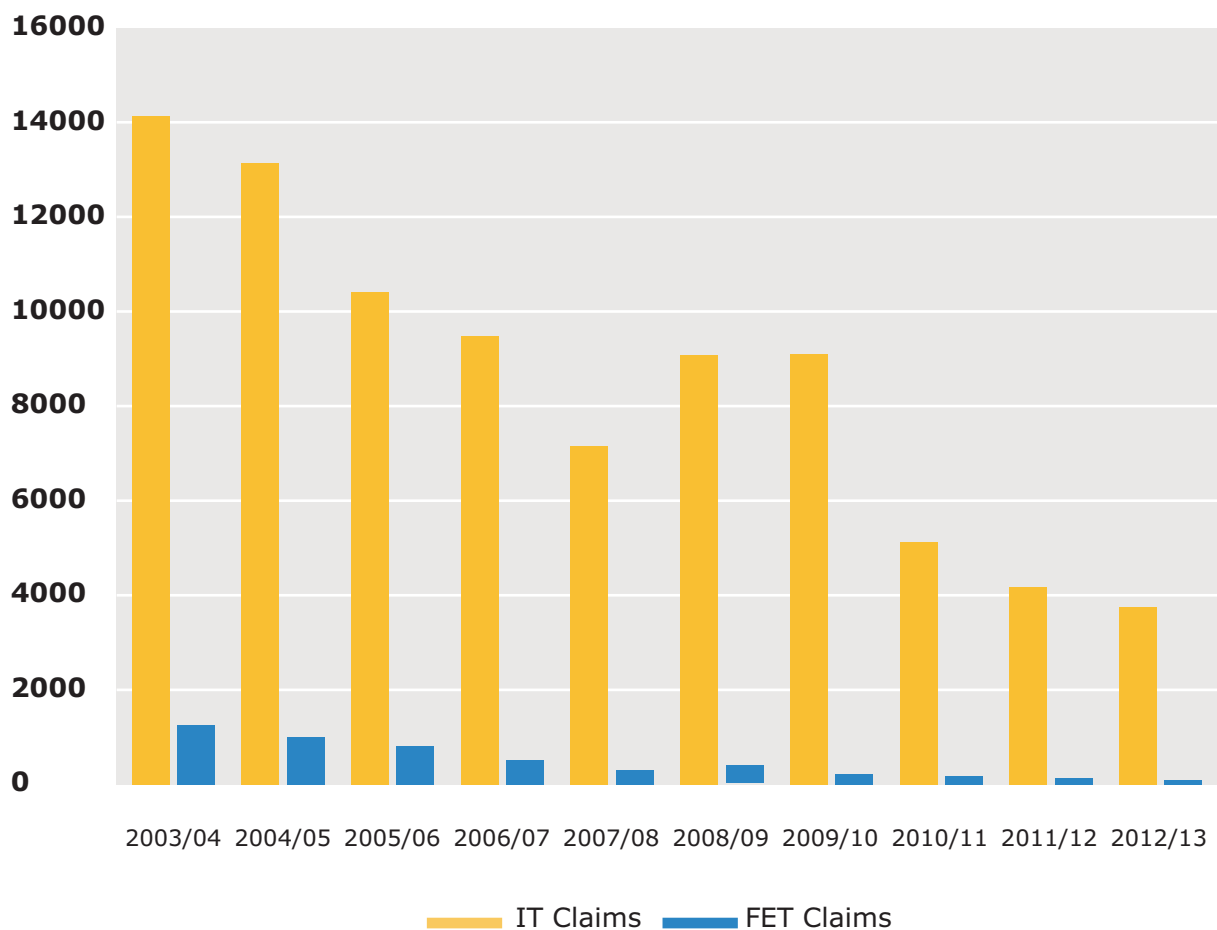
Of the 4027 live claims reported, there are still older claims in the tribunal system which cannot be listed until proceedings in related cases have been determined by other courts. There are also older claims in which the parties to the proceedings require more time to prepare for hearing, in what are 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 in the Northern Ireland employment tribunal system at year end over the last ten years:

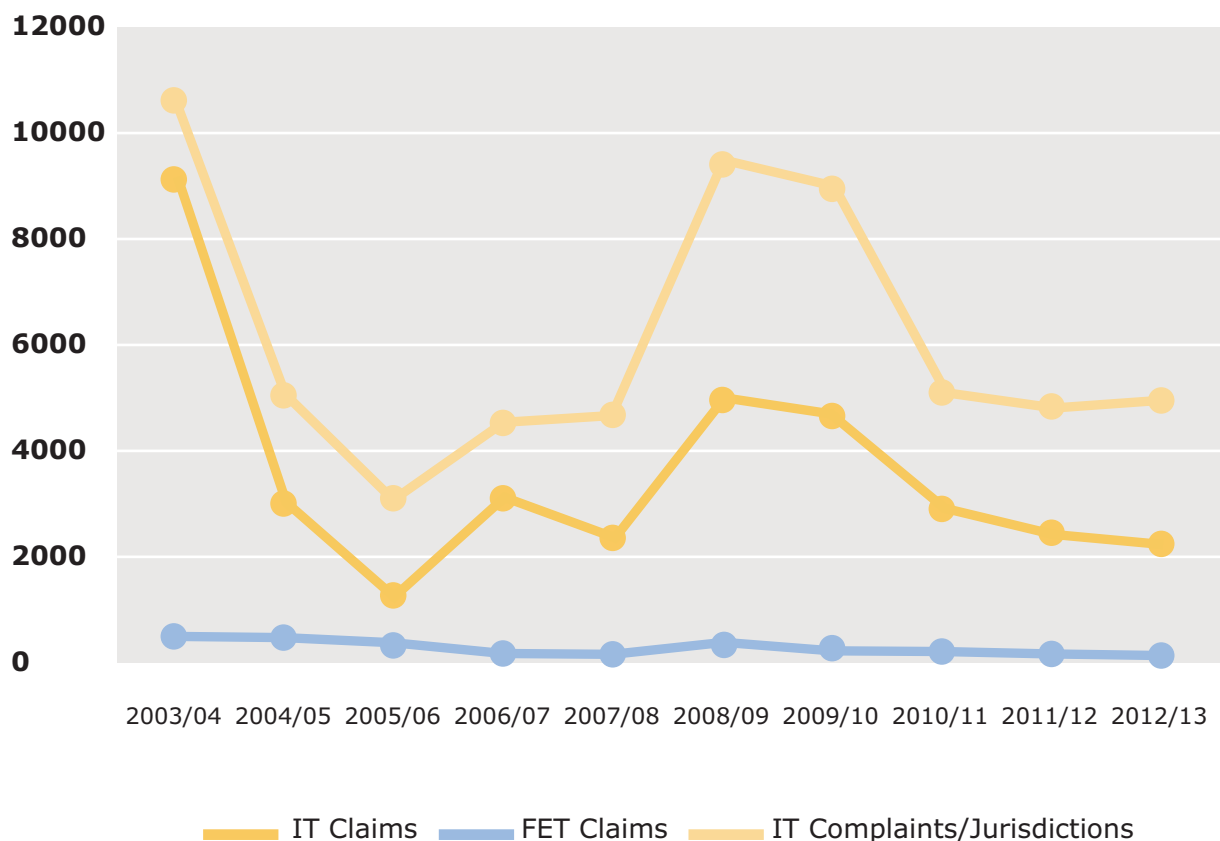
Live Claims	2003 /04	2004 /05	2005 /06	2006 /07	2007 /08	2008 /09	2009 /10	2010 /11	2011 /12	2012/ 13
<b>IT</b>	14113	13513	11508	9460	7098	8948	8963	5351	4037	3955
<b>FET</b>	1071	761	547	342	204	238	179	145	104	72
<b>Total</b>	<b>15184</b>	<b>14274</b>	<b>12055</b>	<b>9802</b>	<b>7302</b>	<b>9186</b>	<b>9142</b>	<b>5496</b>	<b>4141</b>	<b>4027</b>



## Tribunal claims and complaints registered

The table below gives details of cases and complaints registered by OITFET over the last ten 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 2012/13 2582 claims generated 5572 complaints. Claims to the Fair Employment Tribunal (FET) do not generate more than one complaint.

	2003 /04	2004 /05	2005 /06	2006 /07	2007 /08	2008 /09	2009 /10	2010 /11	2011 /12	2012/ 13
<b>IT Claims</b>	*9484	3075	1506	*2627	*2160	*4865	*4544	*3071	*2673	2582
<b>IT Complaints/ jurisdictions</b>	*11352	5017	2857	*4330	*4378	*9839	*8812	*5669	*5466	5572
<b>FET Claims</b>	476	378	175	160	157	225	213	167	137	140
<b>TOTAL</b>	<b>9960</b>	<b>3453</b>	<b>1681</b>	<b>2787</b>	<b>2317</b>	<b>5090</b>	<b>4757</b>	<b>3238</b>	<b>2810</b>	<b>2722</b>



*If you are interpreting trends in tribunal claims registered by OITFET 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.*
- \* In 2011/12, 273 multiples cases relate to a common complaint against one respondent under Protection of Wages Regulations.*
- \* The Employment Act (Northern Ireland) 2011 came into operation on 3rd April 2011.*

The Act makes provision about the procedures for the resolution of employment disputes and the procedures of industrial tribunals and the Fair Employment Tribunal. Key aspects of the act include:

Repeal of statutory grievance procedures;  
Statutory dispute resolution procedures: effect on contracts of employment;  
Statutory dispute resolution procedures: consequential adjustment of time limits;  
Non-compliance with statutory Codes of Practice;  
Powers of Fair Employment Tribunal in relation to matters within jurisdiction of industrial tribunals  
Enforcement of sums payable.

## Industrial Tribunals – complaints / jurisdictions

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

Non Discriminatory	Apr 10 - Mar 11		Apr 11 - Mar 12		Apr 12 - Mar 13	
	Number	%	Number	%	Number	%
Unfair dismissal	1093	19.28	1080	19.76	1093	19.61
Breach of contract	988	17.43	974	17.82	1044	18.74
Failure to pay a redundancy payment	480	8.47	513	9.39	588	10.55
Failure to pay wages - unauthorised deduction from wages	684	12.07	899	16.45	548	9.83
Transfer of Undertakings	74	1.31	21	0.39	148	2.66
Failure to Consult (T.U) on Redundancy or Relevant Transfer	11	0.19	16	0.29	139	2.49
Failure to pay remuneration under a protective award	59	1.04	39	0.71	130	2.33
Right to receive particulars of contract	118	2.08	156	2.86	108	1.94
Right to paid annual leave – working time regulations	130	2.29	92	1.68	106	1.90
Redundancy fund payment	35	0.62	68	1.24	83	1.49
Trade Union Members Rights	2	0.04	5	0.09	75	1.35
Service Provision Change (Protection of Employment)	2	0.04	3	0.05	70	1.26
Right to receive written reason for dismissal	50	0.88	55	1.01	49	0.88
Right to receive an itemised pay statement	79	1.39	61	1.12	42	0.75
Breach of fixed term working directive	233	4.11	42	0.77	40	0.72
Public interest disclosure	24	0.42	48	0.88	30	0.54
Working time regulations	57	1.01	69	1.26	28	0.50
Health and safety detriment	34	0.60	40	0.73	25	0.45
Right to be accompanied - Disciplinary / Grievance hearing	29	0.51	33	0.60	23	0.41
Miscellaneous	476	8.40	91	1.66	131	2.35
<b>Non Discrimination complaints – sub total</b>	<b>4658</b>	<b>82.18%</b>	<b>4305</b>	<b>78.76%</b>	<b>4500</b>	<b>80.75%</b>
<b>Discrimination</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
Sex discrimination	354	6.24	376	6.88	351	6.30
Disability discrimination	176	3.10	210	3.84	213	3.82
Age discrimination	97	1.71	187	3.42	197	3.54
Part Time Working	96	1.69	125	2.29	109	1.96
Race relations	141	2.49	120	2.20	108	1.94
Equal pay	125	2.20	115	2.10	70	1.26
Sexual orientation	22	0.39	28	0.51	24	0.43
<b>Discrimination complaints – sub total</b>	<b>1011</b>	<b>17.82%</b>	<b>1161</b>	<b>21.24%</b>	<b>1072</b>	<b>19.25%</b>
<b>Total complaints / jurisdictions</b>	<b>5669</b>	<b>100%</b>	<b>5466</b>	<b>100%</b>	<b>5572</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 3 years are as follows:

	2010/11	2011/12	2012/13
<b>IT Cases</b>	6685	3983	2658
<b>IT Complaints/ Jurisdictions</b>	12781	7715	5332
<b>FET Cases</b>	203	176	172

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

BREAKDOWN		2010/11		2011/12		2012/13	
		Number	%	Number	%	Number	%
<b>IT</b>	Allowed	801	6.27	637	8.26	1007	18.89
	Dismissed	483	3.78	465	6.03	400	7.50
	Dismissed after Pre-hearing review	19	0.15	11	0.14	17	0.32
	Dismissed for Failure To Comply	93	0.73	571	7.40	107	2.00
	Withdrawn	1514	11.84	1343	17.41	1361	25.53
	Conciliation - with the assistance of the LRA	1908	14.93	2419	31.35	1806	33.87
	Settled between the parties	7962	62.29	2269	29.41	632	11.85
	Stayed	1	0.01	0	0.00	2	0.04
	<b>Industrial Tribunal Total</b>	<b>12781</b>	<b>100%</b>	<b>7715</b>	<b>100%</b>	<b>5332</b>	<b>100%</b>
<b>FET</b>	Allowed	2	0.99	1	0.57	2	1.16
	Dismissed	31	15.26	23	13.07	12	6.98
	Dismissed after Pre-hearing review	2	0.99	0	0.00	3	1.74
	Dismissed for Failure To Comply	3	1.48	1	0.57	3	1.74
	Withdrawn	67	33.00	85	48.30	74	43.03
	Conciliation - with the assistance of the LRA	50	24.63	38	21.59	64	37.21
	Settled between the parties	48	23.65	28	15.90	14	8.14
	Stayed	0	0.00	0	0.00	0	0.00
	<b>Fair Employment Tribunal Total</b>	<b>203</b>	<b>100%</b>	<b>176</b>	<b>100%</b>	<b>172</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 24.

## 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 DISCRIMINATION JURISDICTIONS</b>								
Unfair dismissal	127	130	6	230	559	202	0	1254
Failure to pay wages- unauthorised deduction from wages	108	49	5	148	206	65	0	581
Breach of contract	223	95	11	305	348	122	0	1104
Working time regulations (WTR)	1	4	34	118	13	441	0	611
Right to paid annual leave (WTR)	20	7	3	24	35	13	0	102
Failure to pay a redundancy payment	185	34	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	36	10	0	78
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	5	16	5	0	30
Miscellaneous	10	23	3	55	121	43	0	255
<b>Sub Total</b>	<b>776</b>	<b>391</b>	<b>75</b>	<b>1045</b>	<b>1592</b>	<b>958</b>	<b>0</b>	<b>4837</b>
<b>DISCRIMINATION JURISDICTIONS</b>								
Sex discrimination	12	31	8	191	100	3478	0	3820
Disability discrimination	2	28	0	56	74	51	0	211
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>25</b>	<b>111</b>	<b>18</b>	<b>469</b>	<b>316</b>	<b>7004</b>	<b>1</b>	<b>7944</b>
<b>IT TOTAL</b>	<b>801</b>	<b>502</b>	<b>93</b>	<b>1514</b>	<b>1908</b>	<b>7962</b>	<b>1</b>	<b>12781</b>

## Industrial Tribunals decision outcomes by jurisdiction April 2011 – March 2012

COMPLAINT / JURISDICTION	Allowed	Dismissed	Dismissed/ Failure to Comply	Withdrawn	Conciliated	Settled between parties	Stayed	Total
<b>NON DISCRIMINATION JURISDICTIONS</b>								
Unfair dismissal	73	122	7	214	565	122	0	1103
Breach of contract	189	103	15	216	396	76	0	995
Failure to pay wages- unauthorised deduction from wages	105	43	6	112	200	132	0	598
Failure to pay a redundancy payment	173	40	11	123	115	26	0	488
Inducements relating to collective bargaining	0	0	8	12	387	0	0	407
Right to receive particulars of contract	15	3	34	15	74	21	0	162
Working time regulations (WTR)	1	3	33	31	21	34	0	123
Transfer of undertakings	6	7	34	5	23	9	0	84
Right to paid annual leave (WTR)	10	2	0	14	36	10	0	72
Redundancy Fund payment	15	9	0	37	4	2	0	67
Right to receive an itemised pay statement	9	0	0	6	34	10	0	59
Health & safety detriment	1	2	0	10	22	5	0	40
Miscellaneous	29	21	3	47	132	26	0	258
<b>Sub Total</b>	<b>626</b>	<b>355</b>	<b>151</b>	<b>842</b>	<b>2009</b>	<b>473</b>	<b>0</b>	<b>4456</b>
<b>DISCRIMINATION JURISDICTIONS</b>								
Sex discrimination	6	28	208	198	162	876	0	1478
Disability discrimination	0	32	2	78	71	31	0	214
Race relations	1	29	1	39	55	18	0	143
Equal pay	0	10	206	132	42	837	0	1227
Age discrimination	2	13	3	36	44	9	0	107
Part time working	2	6	0	9	26	20	0	63
Sexual orientation	0	3	0	9	10	5	0	27
<b>Sub Total</b>	<b>11</b>	<b>121</b>	<b>420</b>	<b>501</b>	<b>410</b>	<b>1796</b>	<b>0</b>	<b>3259</b>
<b>IT TOTAL</b>	<b>637</b>	<b>476</b>	<b>571</b>	<b>1343</b>	<b>2419</b>	<b>2269</b>	<b>0</b>	<b>7715</b>

## Industrial Tribunals decision outcomes by jurisdiction April 2012 – March 2013

COMPLAINT / JURISDICTION	Allowed	Dismissed	Dismissed/ Failure to Comply	Withdrawn	Conciliated	Settled between parties	Stayed	Total
<b>NON DISCRIMINATION JURISDICTIONS</b>								
Unfair dismissal	86	88	9	281	523	91	1	1079
Breach of contract	305	71	12	186	341	64	0	979
Failure to pay wages- unauthorised deduction from wages	132	33	11	177	185	69	0	607
Failure to pay a redundancy payment	277	37	7	105	87	22	0	535
Breach of fixed term workers directive regulations	0	2	2	13	4	190	0	211
Right to receive particulars of contract	23	9	2	30	63	19	0	146
Failure to pay remuneration under a protective award	98	0	0	5	0	0	0	103
Redundancy Fund payment	12	15	5	26	4	0	0	62
Right to paid annual leave (WTR)	4	8	0	11	27	7	0	57
Right to written reasons for dismissal	1	2	1	23	23	4	0	54
Right to receive an itemised pay statement	10	2	0	11	24	5	0	52
Transfer of undertakings	4	7	0	7	19	5	0	42
Miscellaneous	32	42	3	66	103	27	0	273
<b>Sub Total</b>	<b>984</b>	<b>316</b>	<b>52</b>	<b>941</b>	<b>1403</b>	<b>503</b>	<b>1</b>	<b>4200</b>
<b>DISCRIMINATION JURISDICTIONS</b>								
Sex discrimination	8	27	22	133	134	57	1	382
Disability discrimination	11	35	2	70	82	24	0	224
Age discrimination	1	13	3	93	50	13	0	173
Equal pay	0	4	22	55	41	8	0	130
Race relations	2	16	2	38	56	12	0	126
Part time working	1	5	2	26	28	6	0	68
Sexual orientation	0	1	2	5	12	9	0	29
<b>Sub Total</b>	<b>23</b>	<b>101</b>	<b>55</b>	<b>420</b>	<b>403</b>	<b>129</b>	<b>1</b>	<b>1132</b>
<b>IT TOTAL</b>	<b>1007</b>	<b>417</b>	<b>107</b>	<b>1361</b>	<b>1806</b>	<b>632</b>	<b>2</b>	<b>5332</b>

## Complaints heard and determined by a tribunal

	Year	Complaints Heard and Determined	Found in Favour of	
			Claimant	Respondent
IT	Apr 10 - Mar 11	1303	61%	39%
	Apr 11 - Mar 12	1113	57%	43%
	Apr 12 - Mar 13	1424	71%	29%
FET	Apr 10 - Mar 11	35	6%	94%
	Apr 11 - Mar 12	24	4%	96%
	Apr 12 - Mar 13	17	12%	88%

## Representation at hearing

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 tribunal

	Representation	Claimant			Respondent		
		Apr 10-Mar 11	Apr 11 - Mar 12	Apr 12-Mar 13	Apr 10-Mar 11	Apr 11 - Mar 12	Apr 12-Mar 13
IT	In person	66%	66%	65%	41%	37%	23%
	Legal	26%	24%	22%	35%	34%	30%
	Trade Union	1%	2%	2%	0%	0%	0%
	Party Did Not Attend Tribunal	4%	6%	4%	21%	27%	44%
	Other	3%	2%	7%	3%	2%	3%
FET	In person	62%	75%	62%	63%	37%	33%
	Legal	31%	25%	38%	33%	58%	67%
	Trade Union	0%	0%	0%	0%	0%	0%
	Party Did Not Attend Tribunal	7%	0%	0%	4%	5%	0%
	Other	0%	0%	0%	0%	0%	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 3 years is as follows:

REVIEW APPLICATIONS	April 2010 March 2011		April 2011 March 2012		April 2012 March 2013	
	IT	FET	IT	FET	IT	FET
Received	69	4	49	3	57	1
Application Withdrawn	13	1	4	0	3	0
Application Refused	25	3	25	2	36	0
Application Allowed	31	0	20	1	18	1
<b>Outcome of Review</b>						
Refused – Decision Upheld	9	0	9	1	8	0
Allowed - Decision Varied	16	0	9	0	4	0
Allowed - Decision Revoked	6	0	2	0	5	1
Review Hearing - Ongoing	0	0	0	0	1	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.

A revised Appeals Procedure on a point of law was introduced by **The Rules of the Court of Judicature (Northern Ireland) (Amendment) 2010** which came into operation on 1st April 2010.

There are now 2 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.

**Details of applications lodged with the Court of Appeal during the last 3 years is as follows:**

REVIEW APPLICATIONS	April 2010 March 2011		April 2011 March 2012		April 2012 March 2013	
	IT	FET	IT	FET	IT	FET
Appeal lodged with Court of Appeal	12	1	15	2	27	1
Appeal withdrawn by claimant after lodgement	3	0	5	0	4	0
Tribunal decision upheld by Court of Appeal	4	1	7	2	7	0
Tribunal decision varied by Court of Appeal	0	0	0	0	0	0
Tribunal decision overturned by Court of Appeal	5	0	0	0	1	0
Heard by Court of Appeal – awaiting judgement.	0	0	3	0	3	1
Appeal Lodged - Awaiting hearing at Court of Appeal	0	0	0	0	12	0

## 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 10th February 2013 as set out in the Employment Rights (Increase of Limits) Order (Northern Ireland) 2013.

<b>Relevant Statutory Provision</b>	<b>Subject of Provision</b>	<b>Old Limit 04/03/12</b>	<b>New Limit 10/02/13</b>
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.	£8,100	£8,400
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	£430	£450
Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£23.50	£24.20
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.	£3,500	£3,600
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.	£5,300	£5,500
Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal	£72,300	£74,200
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.	£430	£450

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)

### 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  
 BT1 3BN  
 Tel: (028) 9025 7552  
 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 6B  
 Tel: (028) 7126 9639

### National Minimum Wage Enquiries

Free phone 0800 917 2368

### 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 and Responses 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 in pdf format can be downloaded from our website or alternatively you can request a hard copy by contacting the Office of the Tribunals.*

## Notes

---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



---



## Notes

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

