

Annual report 2011/12

Office of the Industrial Tribunals and
The Fair Employment Tribunal

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Introduction by the Secretary

Our annual report for 2011/12 provides the detail of what has been a busy and productive 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 2811, a 13% decrease on the 2010/11 figure (3238) and 41% down on the 2009/10 figure (4757).

Our statistics for 2011/12 (page 17) showed continuing high levels of unfair dismissal and redundancy related complaints which no doubt, continue to reflect conditions in the Northern Ireland labour market.

At 31 March 2012, there were 4155 live claims within the tribunal system. This is a significant reduction (24%) on the previous year's total of 5499 and 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.

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 rules, OITFET has revised tribunal claim and response forms along with its procedural information both in hard copy and to its on-line version of these forms and publications.

The anticipated transfer in April 2012 of the Industrial Tribunals and The Fair Employment Tribunal to the Northern Ireland Courts and Tribunals

Service within the Department of Justice did not materialise. Officials from both Departments are working to facilitate the transfer at a later date.

In previous annual reports, 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 a 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 the tribunal could not proceed to a full hearing, it is my belief that the Listing targets agreed with the President represent the optimum period for listing cases. Therefore it is my intention that we continue to work to these challenging timescales. These key targets for 2012/13 are set out at pages 11 and 12 of this report.

As Secretary, I am charged with ensuring tribunal administration is doing all we can to concentrate resources on getting cases heard and maximising the numbers of tribunal sitting days to ensure cases pass through the tribunal system as efficiently as possible. Given the continued reduction in live claims in 2011/12 and having revised our procedures as a result of the Rule changes, in line with government policy of ongoing efficiencies, I was in the position to reduce the overall resource required to provide an administrative service to the tribunals without compromising the quality of service to tribunal users.

The coming year provides the challenge of rolling out digital recording of all tribunal proceedings and as necessary managing OITFET's integration into the NI Courts and Tribunals Service without impacting on frontline service delivery.

I would like to take this opportunity to publicly thank my staff for their hard work and commitment to maintaining a quality service provision.

I am pleased to present our 2011/12 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,
- 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 2012 there were seven full-time chairmen and seventeen 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 125 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 27 of this publication.

Claims and responses may be submitted on-line at 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 27.

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 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 - 2012/13

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 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 – 2011/12 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 2012 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.
- offer parties in single discrimination cases a hearing date within 6-9 months from the date that the claim was presented to the tribunals.

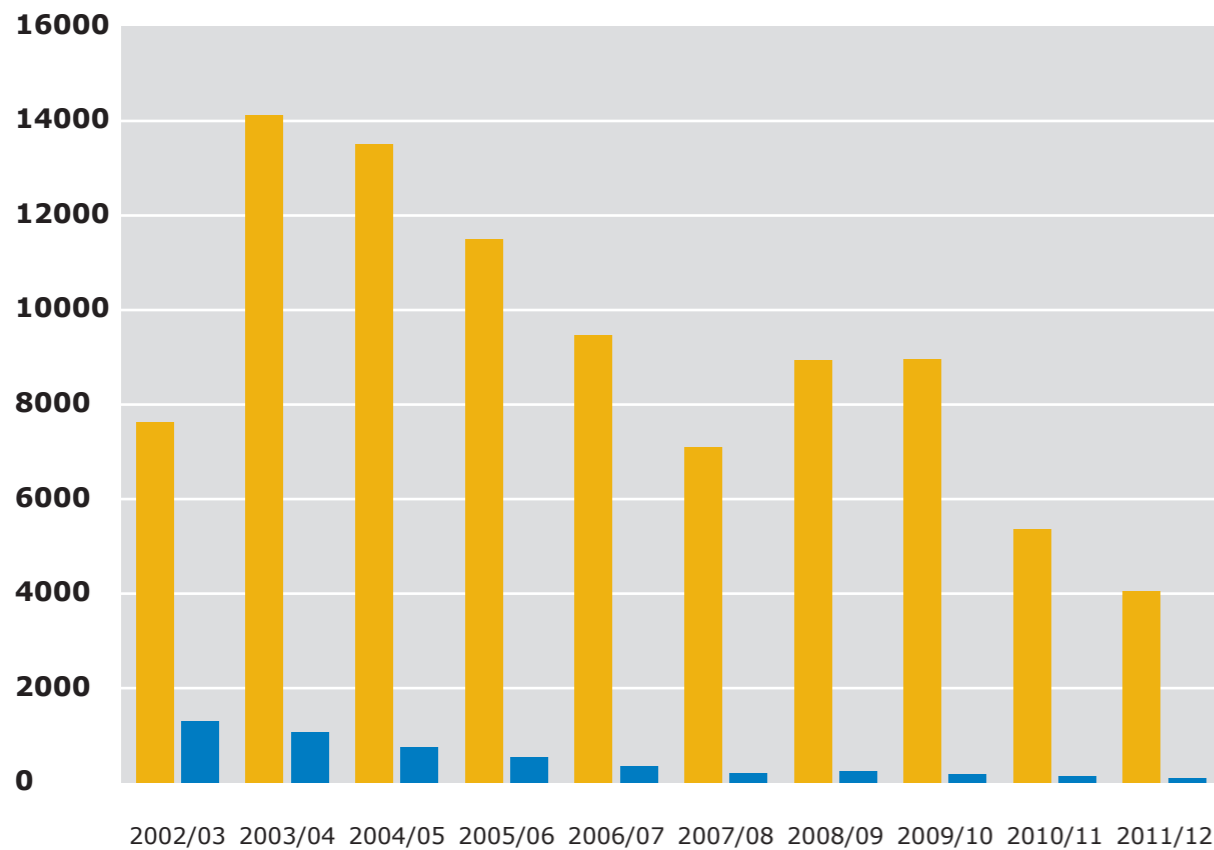
Of the 4155 live claims reported, there are still older claims in the tribunal system which cannot be listed until proceedings in related cases have been determined by other courts. There are also older claims in which the parties to the proceedings require more time to prepare for hearing, in what are 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:

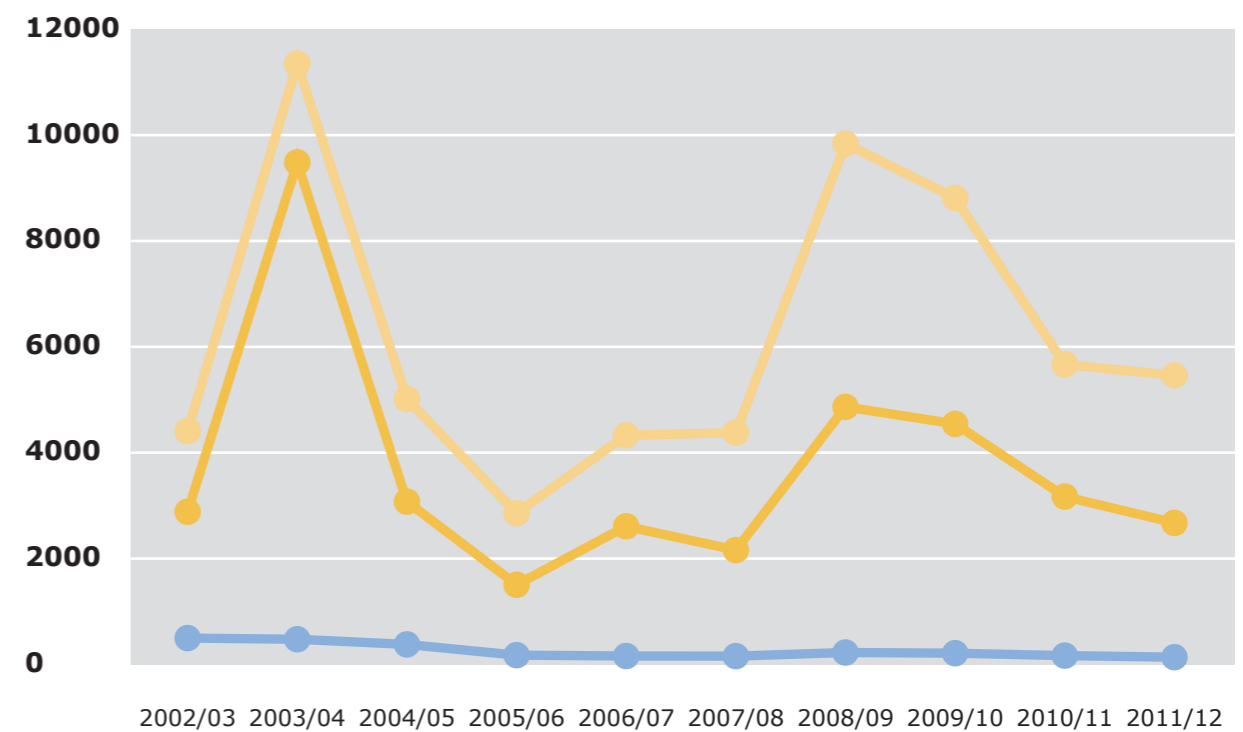
Live Claims	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
IT	7628	14113	13513	11508	9460	7098	8948	8963	5354	4054
FET	1298	1071	761	547	342	204	238	179	145	101
Total	8926	15184	14274	12055	9802	7302	9186	9142	5499	4155



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 2011/12 2674 claims generated 5461 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	2011/12
IT Claims	2885	*9484	3075	1506	*2627	*2160	*4865	*4544	*3071	*2674
IT Complaints/Jurisdictions	4410	*11352	5017	2857	*4330	*4378	*9839	*8812	*5667	*5461
FET Claims	498	476	378	175	160	157	225	213	167	137
TOTAL	3383	9960	3453	1681	2787	2317	5090	4757	3238	2811



IT Claims FET Claims IT Complaints/Jurisdictions

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	April 2009 - March 2010		April 2010 - March 2011		April 2011 - March 2012	
	Number	%	Number	%	Number	%
Unfair dismissal	1403	15.92	1093	19.29	1079	19.76
Breach of contract	1194	13.55	988	17.44	973	17.82
Failure to pay wages - unauthorised deduction from wages	679	7.71	684	12.07	897	16.43
Failure to pay a redundancy payment	427	4.85	480	8.47	512	9.38
Right to receive particulars of contract	162	1.84	118	2.08	155	2.84
Right to paid annual leave – working time regulations	97	1.10	130	2.29	92	1.68
Working time regulations	36	0.41	57	1.01	69	1.26
Redundancy fund payment	3	0.03	35	0.62	66	1.21
Right to receive an itemised pay statement	62	0.70	79	1.39	61	1.12
Right to receive written reason for dismissal	82	0.93	50	0.88	55	1.00
Public interest disclosure	17	0.19	24	0.42	48	0.88
Breach of fixed term working directive	7	0.08	233	4.11	42	0.77
Health and safety detriment	51	0.58	34	0.60	40	0.73
Failure to pay remuneration under a protective award	51	0.58	59	1.04	39	0.71
Right to be accompanied - Disciplinary / Grievance hearing	71	0.80	29	0.51	33	0.60
Miscellaneous	274	3.11	563	9.93	141	2.58
Non Discrimination complaints – sub total	4616	52.38%	4656	82.15%	4302	78.77%
DISCRIMINATION	Number	%	Number	%	Number	%
Sex discrimination	1858	21.08	354	6.25	375	6.87
Disability discrimination	228	2.59	176	3.11	210	3.85
Age discrimination	143	1.62	97	1.71	187	3.42
Part Time Working	190	2.16	96	1.69	125	2.29
Race relations	163	1.85	141	2.49	120	2.20
Equal pay	1595	18.10	125	2.21	114	2.09
Sexual orientation	19	0.22	22	0.39	28	0.51
Discrimination complaints – sub total	4196	47.62%	1011	17.85%	1159	21.23%
Total complaints / jurisdictions	8812	100%	5667	100%	5461	100%

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:

	2009/10	2010/11	2011/12
IT Cases	4528	6685	3967
IT Complaints/ Jurisdictions	6894	12778	7706
FET Cases	271	203	179

Further details of the last three years are as follows:

BREAKDOWN		2009/10		2010/11		2011/12	
		Number	%	Number	%	Number	%
IT	Allowed	602	8.73	801	6.27	643	8.35
	Dismissed	312	4.53	483	3.78	465	6.03
	Dismissed after Pre-hearing review	13	0.19	17	0.13	11	0.14
	Dismissed for Failure To Comply	394	5.72	93	0.73	571	7.41
	Withdrawn	1687	24.47	1514	11.85	1334	17.31
	Conciliation - with the assistance of the LRA	2096	30.40	1907	14.92	2412	31.30
	Settled between the parties	1787	25.92	7962	62.31	2268	29.43
	Stayed	3	0.04	1	0.01	2	0.03
	Industrial Tribunal Total	6894	100%	12778	100%	7706	100%
FET	Allowed	1	0.37	2	0.99	1	0.56
	Dismissed	56	20.66	31	15.26	26	14.52
	Dismissed after Pre-hearing review	2	0.74	2	0.99	0	0.00
	Dismissed for Failure To Comply	0	0	3	1.48	1	0.56
	Withdrawn	97	35.79	67	33.00	85	47.49
	Conciliation - with the assistance of the LRA	62	22.88	50	24.63	38	21.23
	Settled between the parties	53	19.56	48	23.65	28	15.64
	Stayed	0	0.00	0	0.00	0	0.00
	Fair Employment Tribunal Total	271	100%	203	100%	179	100%

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 26.

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
NON DISCRIMINATORY JURISDICTIONS								
Unfair dismissal	99	108	9	278	554	263	0	1311
Breach of contract	192	56	18	207	340	115	0	928
Working time regulations (WTR)	8	1	336	392	12	11	0	760
Failure to pay wages- unauthorised deduction from wages	78	26	8	141	430	64	2	749
Failure to pay a redundancy payment	114	25	15	58	74	31	0	317
Right to paid annual leave (WTR)	34	4	1	36	63	27	0	165
Right to receive particulars of contract	13	11	1	21	74	21	0	141
Failure to consult (TU) on redundancy or relevant transfer	1	0	0	107	2	2	1	113
Right to receive an itemised pay statement	11	6	1	8	31	10	0	67
Right to receive Written Reasons for Dismissal	9	4	0	9	30	11	0	63
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	20	7	1	46	35	25	0	134
Sub Total	588	258	390	1329	1692	592	3	4852
DISCRIMINATORY JURISDICTIONS								
Part time working	0	2	3	127	151	981	0	1264
Sex discrimination	5	25	0	72	102	75	0	279
Disability discrimination	5	12	0	51	66	50	0	184
Age discrimination	1	10	1	49	32	24	0	117
Race relations	3	11	0	34	36	24	0	108
Equal pay	0	4	0	22	8	37	0	71
Sexual orientation	0	3	0	3	9	4	0	19
Sub Total	14	67	4	358	404	1195	0	2042
IT TOTAL	602	325	394	1687	2096	1787	3	6894

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
NON DISCRIMINATORY JURISDICTIONS								
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	21	3	55	120	43	0	252
Sub Total	776	389	75	1045	1591	958	0	4834
DISCRIMINATORY JURISDICTIONS								
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
Sub Total	25	111	18	469	316	7004	1	7944
IT TOTAL	801	500	93	1514	1907	7962	1	12778

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
NON DISCRIMINATORY JURISDICTIONS								
Unfair dismissal	75	122	7	213	564	122	1	1104
Breach of contract	189	103	15	215	396	76	0	994
Failure to pay wages- unauthorised deduction from wages	107	45	6	110	199	132	0	599
Failure to pay a redundancy payment	174	40	11	122	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	73	21	0	161
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)	11	2	0	13	35	10	0	71
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	20	3	46	130	25	0	253
Sub Total	632	356	151	835	2003	472	1	4450
DISCRIMINATORY JURISDICTIONS								
Sex discrimination	6	28	208	198	161	876	0	1477
Disability discrimination	0	31	2	77	71	31	0	212
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	35	44	9	1	107
Part time working	2	6	0	9	26	20	0	63
Sexual orientation	0	3	0	9	10	5	0	27
Sub Total	11	120	420	499	409	1796	1	3256
IT TOTAL	643	476	571	1334	2412	2268	2	7706

Complaints heard and determined by a tribunal

	Year	Complaints Heard and Determined	Found in Favour of	
			Claimant	Respondent
IT	Apr 09 - Mar 10	927	65%	35%
	Apr 10 - Mar 11	1301	62%	38%
	Apr 11 - Mar 12	1119	57%	43%
FET	Apr 09 - Mar 10	59	2%	98%
	Apr 10 - Mar 11	35	6%	94%
	Apr 11 - Mar 12	27	4%	96%

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

		Claimant			Respondent		
		Apr 09-Mar 10	Apr 10-Mar 11	Apr 11-Mar 12	Apr 09-Mar 10	Apr 10-Mar 11	Apr 11-Mar 12
IT	In person	67%	66%	66%	48%	41%	37%
	Legal	25%	26%	24%	31%	35%	34%
	Trade Union	2%	1%	2%	0%	0%	0%
	Party Did Not Attend Tribunal	5%	4%	6%	19%	21%	27%
	Other	1%	3%	2%	2%	3%	2%
FET	In person	77%	62%	75%	44%	63%	37%
	Legal	18%	31%	25%	52%	33%	58%
	Trade Union	0%	0%	0%	0%	0%	0%
	Party Did Not Attend Tribunal	5%	7%	0%	0%	4%	5%
	Other	0%	0%	0%	4%	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 are as follows:

Review applications	April 2009 - March 2010		April 2010 - March 2011		April 2011 - March 2012	
	IT	FET	IT	FET	IT	FET
Received	53	14	69	4	49	3
Application Withdrawn	9	2	13	1	4	0
Application Refused	20	11	25	3	25	2
Application Allowed	24	1	31	0	20	1
Outcome of Review						
Refused - Decision Upheld	9	1	9	0	9	1
Allowed - Decision Varied	14	0	16	0	9	0
Allowed - Decision Revoked	1	0	6	0	2	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.

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 received and subsequently lodged with the Court of Appeal during the last 3 years are as follows:

	April 2009 - March 2010		April 2010 - March 2011		April 2011 - March 2012	
	IT	FET	IT	FET	IT	FET
Appeal applications						
Received	20	15	-	-	-	-
Case stated by tribunal	6	3	-	-	-	-
Under Consideration	0	0	-	-	-	-
Subsequently lodged with Court of Appeal	3	3	12	1	14	2
Appeal withdrawn by claimant after lodgement	0	0	3	0	4	0
Tribunal decision upheld by Court of Appeal	0	0	4	1	3	2
Tribunal decision varied by Court of Appeal	1	0	0	0	0	0
Tribunal decision overturned by Court of Appeal	1	0	5	0	0	0
Heard by Court of Appeal – awaiting judgement	0	3	0	0	1	0
Appeal Lodged - Awaiting hearing at Court of Appeal	1	0	0	0	6	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 4th March 2012 as set out in the Employment Rights (Increase of Limits) Order (Northern Ireland) 2012.

Relevant Statutory Provision	Subject of Provision	Old Limit 13/02/11	New Limit 04/03/12
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.	£7,600	£8,100
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.	£400	£430
Article 63(1) of the 1996 Order	Limit on amount of guarantee payment payable to an employee in respect of any day.	£22.20	£23.50
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.	£3,300	£3,500
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.	£5,000	£5,300
Article 158(1) of the 1996 Order	Limit on amount of compensatory award for unfair dismissal.	£68,400	£72,300
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.	£400	£430

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

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

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

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

NI Legal Services Commission
2nd Floor Waterfront Plaza
8 Laganbank Road
Mays Meadow
BELFAST BT2 8FD
Tel: (028) 9040 8888
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

Department for Employment and Learning
Adelaide House
39 – 49 Adelaide Street
BELFAST BT2 8FD
Tel: (028) 9025 7956
www.delni.gov.uk

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

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

National Minimum Wage Enquiries
Freephone: 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

Claims and Responses to an Industrial Tribunal or The Fair Employment Tribunal can be completed online at our website 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.

