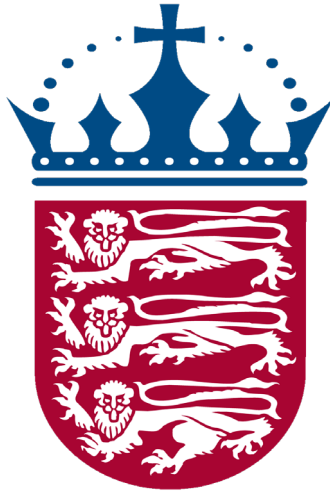


**Jersey
Employment and
Discrimination Tribunal**



**Annual Report
2024**

**This is the nineteenth Annual Report of the Employment and
Discrimination Tribunal and covers the period 1 January 2024 to 31 December
2024.**

R.51/2025

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Overview

The Employment and Discrimination Tribunal ('EDT') is an independent judicial body set up to hear and resolve claims and matters of dispute arising under the Employment (Jersey) Law 2003 ('Employment Law'), the Employment Relations (Jersey) Law 2007 ('Employment Relations Law') and the Discrimination (Jersey) Law 2013 ('Discrimination Law').

The EDT is one of several Tribunals managed by the Judicial Greffe, the administrative arm of the Jersey Courts, through the Tribunal Service. The Judicial Greffe maintains budgetary control of the Tribunal's day to day resources and the Minister for Social Security oversees the appointment of new panel members and also the introduction of employment and discrimination legislation and policy. The other Tribunals in the Tribunal Service are:-

- the Planning Tribunal
- the Health and Safety Tribunal
- the Social Security Tribunal, which is made up of three Tribunals, dealing with medical appeals, social security appeals and income support medical appeals
- the Mental Health Review Tribunal and Capacity Tribunal
- the Charity Tribunal
- the Tax Tribunal

The Tribunal also maintains the Register of Trade Unions and Employers' Associations registered in Jersey.

The Tribunal is similar to a court but is less formal. Most hearings are open to the public. The Tribunal strives to provide a user-friendly service ensuring that the documentation and terminology used in its proceedings is easily accessible. The services of a translator are provided when required at no charge to a party.

The EDT's Claim and Response forms, together with its User Guides and other explanatory information, are available on the EDT Service's website: www.courts.je

The EDT's decisions are published on the Jersey Law website: www.jerseylaw.je/Judgments/JET

There is no fee required to submit a claim to the EDT and there are currently no costs awarded to either party at the end of the matter.

Membership of the Employment and Discrimination Tribunal

The Employment and Discrimination Tribunal consists of a legally qualified Chair and up to five legally qualified Deputy Chairs. There are also three pools of lay members who, depending upon the nature of the claim, will sit with a Chair.

The Chairs usually sit alone to hear unfair dismissal and breach of contract disputes but will sit with lay members for Final Hearings of discrimination claims and in more complex employment claims such as constructive unfair dismissal.

Discrimination and Employment Law Claims

Where a Claim Form contains claims arising under the Employment Law and the Discrimination Law a Chair may sit with two lay members drawn from:

- a) a pool of side members comprising of persons with knowledge of, or an interest in, trade unions or matters relating to employees; and
- b) a pool of side members comprising of persons with knowledge of, or an interest in, employers' associations or matters relating to employers.

Discrimination Law Claims

When the EDT sits to hear just Discrimination Law claims a Chair will sit with two lay members drawn from a third pool of members which comprises a group of persons with knowledge or experience of, or an interest in, matters relating to equality and discrimination.

Discrimination claims can arise in a work and non-work setting. Non-work settings include the provision of goods and services, education and clubs.

Appointments

All appointments to the EDT are made following an open recruitment process overseen by the Jersey Appointments Commission in accordance with its published guidelines.

Once appointed, lay members remain entirely independent of their background; they do not represent any organisation with which they are associated and are entirely impartial, even though in work-related disputes they will have a background in either employer or employee matters.

Remuneration of Members

All members are paid a day rate for sitting on hearings.

Chairman – £800.00

Deputy Chairman – £800.00

Lay Members – £300.00

The members of the EDT in 2024 were:

Chair

Advocate Dr Elena Moran

Deputy Chairs

Advocate Ian Jones

Mr Michael Salter (Barrister)

Mrs Hannah Westmacott (Solicitor)

Advocate Fraser Robertson

Advocate Cyril Whelan

Panel members appointed to hear work-related claims:

Members with experience as representatives of employers

Simon Nash

Michael de La Haye

Scott Hollywood

Melanie Grandfield

Kiley Henley

Members with experience as representatives of employees

Lorraine Bennett

Patrycja Zakrzewska

Sue Pallot

Mark Richardson

Panel members appointed to hear non-work related claims of discrimination

Richard Renouf

Alison Brown

Christopher Stephenson

Allana Binnie

Chairman's Foreword

The work of the EDT increased significantly in 2024 with more Claim Forms being submitted than in any previous year. A total of 286 Claim Forms were submitted compared to 232 Claim Forms in 2023.

It is not clear what has led to the increase in claims and if this is due to more unlawful activity or an increased willingness to bring claims.

Employment claims

A Claim Form can contain multiple claims under the Employment Law and the Discrimination Law. The 286 Claim Forms contained 442 separate claims under the Employment Law

Claims	2024	2023
Unfair & constructive dismissal	119	89
Unpaid wages	81	72
Notice pay/wrongful dismissal	76	66
Holiday/bank holiday pay	73	57
No payslips	45	39
No employment contract	32	37
Others	16	14
Total	442	374

Discrimination claims

Of the 286 Claim Forms submitted, 132 Claim Forms contained a total of 177 claims under the Discrimination Law. This compares with 101 claims in 2023.

The 177 claims related to six protected characteristics.

Protected characteristic	2024	2023
Disability	90	55
Sexual orientation	5	1
Sex	43	20
Age	18	8
Race	18	10
Pregnancy & maternity	3	7
Total	177	101

Collective disputes

There was one case under the Employee Relations Law arising from a dispute between Ports of Jersey and Prospect trade union over pension rights.

Limitation periods

The Employment Law contains very short limitation periods. Most claims must be brought 'within' eight weeks of termination of employment. Discrimination claims must be brought 'within' eight weeks of the act of discrimination. The ability of the Tribunal to extend time is limited to situations where it was not reasonably practicable to file the claim in time, which rarely applies.

The application of the limitation period is widely misunderstood by claimants. The word 'within' in the legislation means that the limitation period is eight weeks less a day. In 2024 there were 34 Claim Forms that were rejected in whole or part. The Tribunal does not collect data on the reasons for the rejection. Anecdotal evidence suggests most of the rejections were because the claims were out of time. In some cases the claims were out of time by one day. To avoid this happening there needs to be more education around limitation periods or the wording in the legislation needs to be clearer.

Dismissal claims

The increase in dismissal claims from 89 in 2023 to 119 in 2024 is due in part to the increase in disability discrimination claims. An employee may be dismissed because of their attendance, or they may resign and claim constructive unfair dismissal because the employer fails to put in place reasonable adjustments. More education around disability rights and obligations is likely to lead to a reduction in the number of dismissal claims.

Twenty-five unfair dismissal claims went to a Final Hearing in 2024. Of the 25 claims that reached a Final Hearing nine were resolved in favour of the claimant and 16 were resolved in favour of the respondent.

Discrimination

As noted above there has been a significant increase in the number of disability claims with disability giving rise to 90 claims in 2024.

Five of the non-work-related disability discrimination claims involved a claim brought on behalf of a child. This was an increase of 4 from 2023. The claims were made in relation to education, policing and health care. Parents are increasingly aware that a failure of a school or service provider to make reasonable adjustments can be challenged in the EDT.

Of the 16 discrimination claims that reached a final hearing in 2024, 14 were resolved in favour of the respondent and only two were resolved in favour of the claimant. All nine disability claims that went to a Final Hearing were resolved in favour of the respondent. The lack of success at Final Hearing stage suggests that

better legal advice for claimants might reduce the number of claims that go to the Final Hearing stage.

Anecdotal evidence from hearings suggests that many claimants and respondents have little understanding of disability discrimination law. Respondents do not understand the test for disability which has a very low threshold. Claimants are often unsure about when and how they should disclose a disability. Without knowledge of a disability a respondent is not obliged to make reasonable adjustments. Both claimants and respondents struggle with occupational health reports; when to commission them and how to implement recommendations. A lack of understanding on both sides leads to entrenched positions and a breakdown in relationships. This can lead to increased anxiety and mental health problems and more time off work. The situation spirals ending with resignation or dismissal. Increased education on the test for disability and how to accommodate its impact so that employees can remain in work is key to reducing the number of claims. A detailed Code of Conduct with practical examples would assist.

Unpaid wages

Claims for unpaid wages remain high with the majority that reached a Final Hearing (19 out of 23) being resolved in favour of the claimant.

Anecdotally there are three issues that are problematic. First, too many employers are deducting income tax and social security but not remitting the sums deducted to Revenue Jersey. Not only is that unlawful but it causes considerable difficulties for employees should they wish to claim benefits. Tighter regulation of employers that fail to remit deductions is required.

Second, other than tax and social security it is unlawful to deduct from wages unless there is a written agreement in place. Some employers rely on generic clauses in the employment contract to deduct from final salary sums said to be owing to the employer. This can include training costs, loans to the employee, alleged damage to the employer's property, travel and visa costs. The net result is that employees receive no money for their final weeks of work, not even the minimum wage. The rules on what amounts to an agreement to deduct and what can be deducted needs to be reviewed.

Third, Insolvency Benefit is a social security benefit that allows employees to claim from the Government unpaid wages, holiday pay, notice pay, and redundancy pay. It is a requirement of Insolvency Benefit that the employer is formally liquidated. The EDT has received multiple claims for unpaid wages and holiday pay etc. against employers that have ceased trading without entering any insolvency process. The result is that these employees, who are often low paid, are left without money and with no access to Insolvency Benefit.

Pay slips and contracts

The failure of employers to issue employment contracts and provide timely payslips continues to be a problem especially with smaller employers. In most cases the problem is ignorance of legal obligations. Education is key to resolving

this issue.

The limitation period of within eight weeks from termination of employment continues to be a problem for payslip claims. Many employees only find out about problems with deductions and non-remittance of deductions to Revenue Jersey after the limitation period has expired.

Mediation

Once a Response Form is filed all cases are referred to mediation. Mediation is often successful. If a case does not settle and continues to an initial case management meeting the parties will be encouraged to mediate if they have not already done so. In a small number of cases, particularly those involving minors or adults with disabilities, the parties may be offered judicial mediation. Judicial mediation is successful in almost all cases.

Mediation is most effective when the participants step back from the detail of the claims being made and work together to mend relationships and find a mutually acceptable way forward. Filing a Response Form can add heat to an already fractious situation and can put an unnecessary burden on a respondent that is willing to resolve matters informally.

It would be desirable to change the Tribunal procedure to provide for mediation prior to the Response Form being filed. This will enable cases to settle more quickly and allow respondents to deal with less contentious claims such as holiday pay even if not all aspects of the case settle.

The increase in claims has led to an increased workload for the Registrars. I would like to thank them for their professionalism and hard work. They provide an exceptional service.


.....

Advocate Dr Elena Moran, Chairman

EDT PROCESS

The EDT process starts with a Claim Form being received which can include more than one issue. For example, a Claim Form may raise issues relating to unfair dismissal, unpaid wages and a failure to provide payslips.

The vast majority of Claim Forms are submitted by employees but occasionally by an employer.

The Claim Form is reviewed by a Chair and any claims with jurisdictional or procedural defects are rejected.

Admitted Claim Forms are sent to the respondent who files a Response Form. In the Response Form the respondent may raise a counterclaim that the claimant must then respond to.

Where no response or response to counterclaim is filed to a claim the EDT may issue a judgment in default. This is only issued where the EDT has enough information to give judgment. In some cases, the EDT may give judgment on liability but order that there is a remedies hearing at a later date.

Once all the necessary forms have been submitted cases are stayed and referred to conciliation/mediation. All claims involving employers are referred to the Jersey Advisory and Conciliation Service, and non-work-related discrimination claims are referred to Citizens Advice Jersey.

Where a case does not settle at mediation it is listed for a short case management meeting before a Chair to give orders for the progress of the case. At this point the parties may be offered the option of alternative dispute resolution (ADR) in the form of judicial mediation. ADR allows the parties to explore settlement with the assistance of an experienced employment judge.

A case is listed for an interim hearing where it is necessary to resolve whether the EDT has jurisdiction. For example, to determine if a claimant is an employee or is self-employed, or if the claim has been submitted in time.

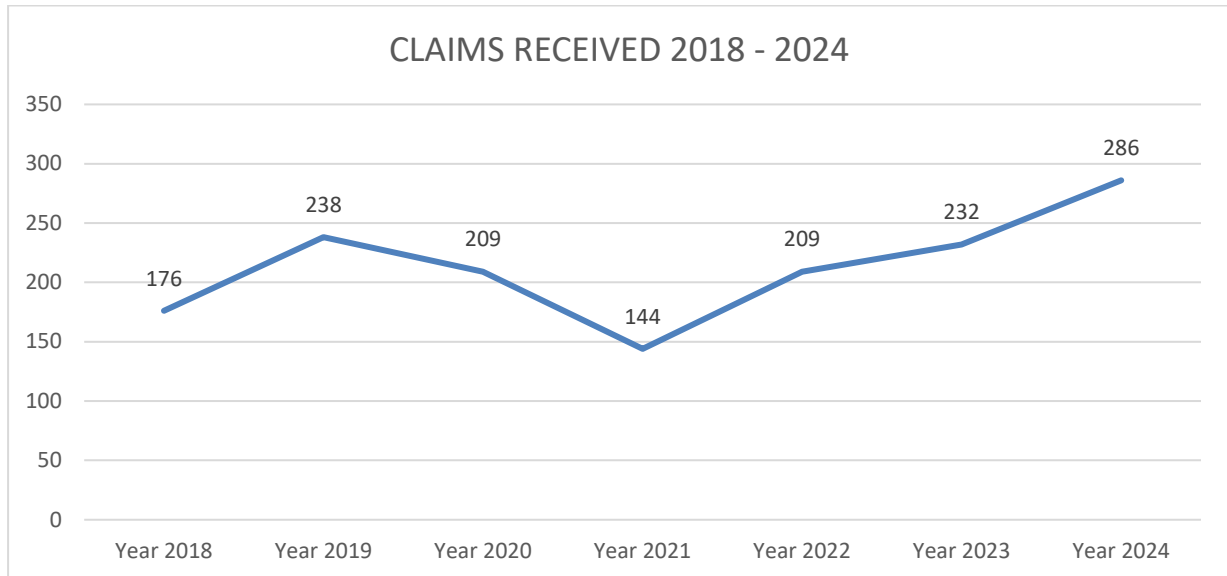
A Final Hearing is presided over by a single chair or a panel of three in more complex employment cases and discrimination claims.

Normally remedies are determined at the Final Hearing but where this is not possible a separate remedies hearing may be arranged.

The Chairs aim to issue the written judgment to the parties within six weeks of the Final Hearing.

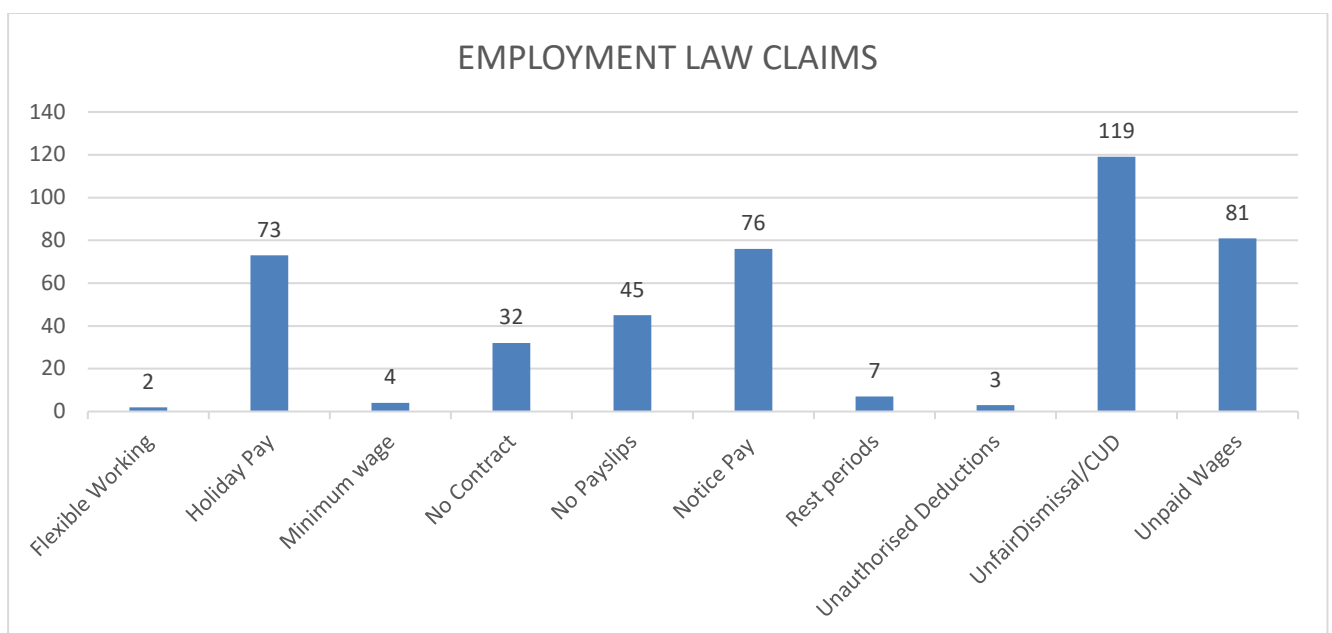
Claims Submitted in 2024

In 2024 a total of 286 claimants submitted Claim Forms to the EDT raising claims under the Employment Law and the Discrimination Law. There was one claim under the Employment Relations Law.



Employment Law Claims

The 286 Claim Forms contained 442 claims under the Employment Law. The most common claims were unfair dismissal including constructive unfair dismissal, unpaid wages, notice pay and holiday pay.

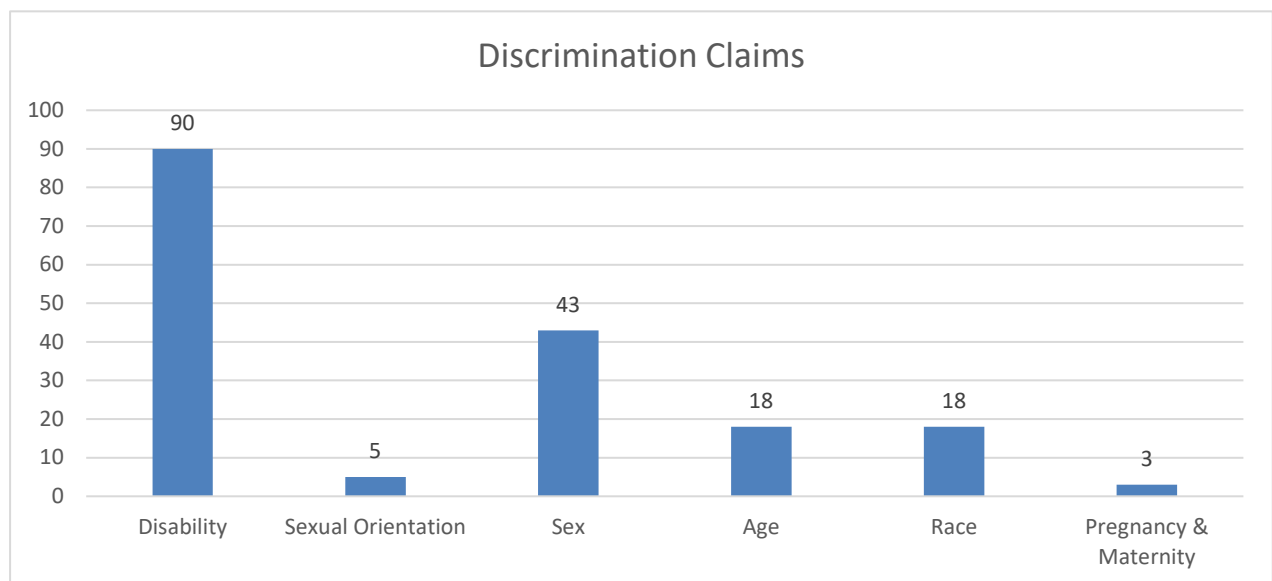


Discrimination Law Claims

There were 132 Claim Forms submitted in 2024 that had a total of 177 discrimination claims. Of the 132 Claim Forms filed, 41 contained allegations of discrimination in a non-work setting including 10 brought by the same claimant. The remaining 91 Claim Forms contained allegations of work place discrimination.

Claims by protected characteristics:

Disability discrimination was the most common Protected Characteristic cited and accounted for 90 of the 177 claims. The second most common Protected Characteristic was sex followed by age and race.



Disability – includes long term physical, mental, intellectual or sensory impairments which can adversely affect ability to engage or participate in activities protected under the Discrimination Law.

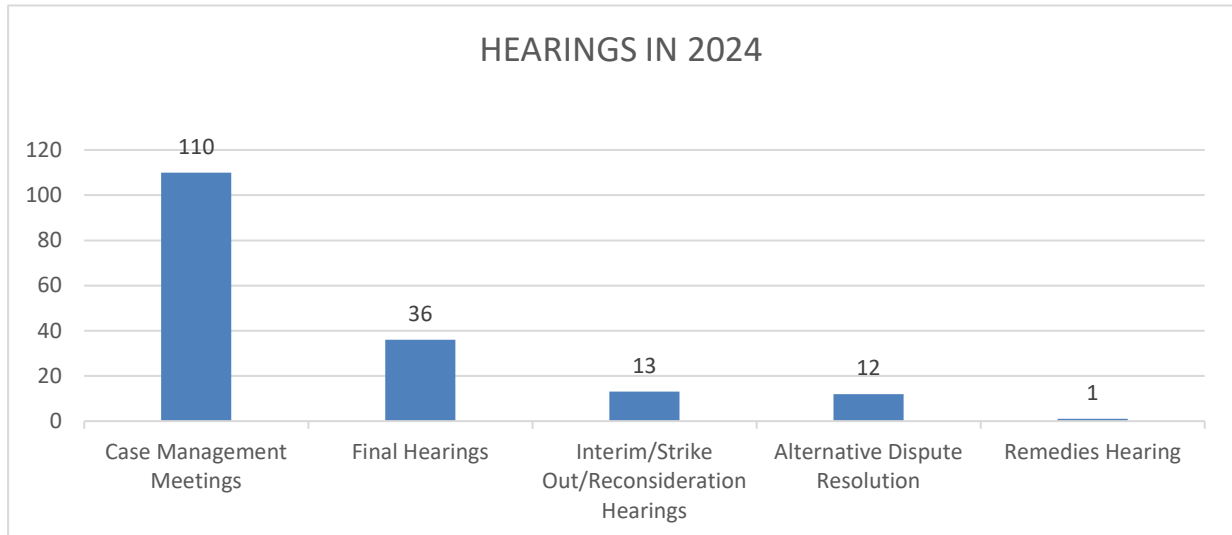
Race – includes colour, nationality, national and ethnic origins.

Sex – includes gender re-assignment

Administration of Claims

During 2024, the EDT conducted 172 hearings including 12 mediation meetings. Hearings are conducted in person, by phone or by video link. Phone and video hearings take place for several reasons such as parties or representatives being off island and health issues.

Number of hearings in 2024:



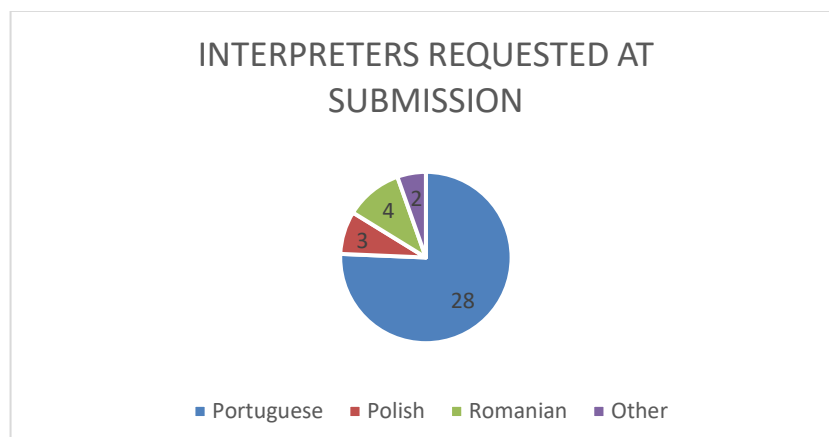
Use of Interpreters

The services of an interpreter are provided by the EDT when required for hearings. This facilitates the smooth running of hearings and ensures fairness.

Interpreters are paid £35.00 an hour.

In 2024 37 parties indicated on their forms that they would require the assistance of an interpreter.

Language of interpreter indicated on the Claim Form:



Representation of Parties

Out of 286 cases filed in 2024, 49 claimants and 97 respondents engaged representatives to assist them at form submission stage.

Out of 52 Final Hearings in 2024, 12 claimants and eight respondents were represented at this stage.

Claimants were assisted by a range of representatives including friends and family, HR professionals and in a few cases lawyers, either locally qualified or qualified abroad.

Most representatives for respondents were either locally or qualified abroad followed by other professionals e.g. HR Consultants.

Outcomes & Awards

Judgments

The EDT aims to issue a judgment to the parties within six weeks of the Final Hearing. All but one of the Judgments delivered in 2024 were delivered to the parties within six weeks of the hearing.

Outcomes of Final Hearings

There were 52 Final Hearings in 2024 including 21 from Claim Forms submitted in 2023. One hearing dealt with claims brought by five employees against the same employer.

In some cases, both parties were successful on different issues.

The table below shows the outcome only in relation to claims that were still in dispute at the Final Hearing. Some claims may have been withdrawn or struck out prior to the Final Hearing. Where a Claim Form includes multiple discrimination claims arising from the same protected characteristic the table records if the claimant was successful on at least one of those claims. A discrimination claim on a protected characteristic would also include any related claims of victimisation and harassment.

Claims	In Favour of Claimant	In Favour of Respondent
Unfair Dismissal	5	12
Constructive Unfair Dismissal	4	4
Notice Pay/Wrongful Dismissal	4	2
Holiday/Bank Holiday Pay	4	3
Unpaid Wages	19	4
No Contract	9	1
No Payslips	10	3
Minimum Wage		
Rest Periods	1	2
Redundancy/Payment	6	
Sex Discrimination		3
Race Discrimination	1	1
Age Discrimination		1
Disability Discrimination		9
Pregnancy/Maternity	1	
Counterclaims	5	

The EDT awards damages for successful breach of contract claims (*i.e.* failure to pay holiday/bank holiday pay, wrongful dismissal (notice pay), unpaid wages, commission, bonuses).

The EDT awards compensation for successful statutory claims (*i.e.* unfair or constructive unfair dismissal, discrimination, failure to provide pay statements, failure to provide contract, failure to allow representation at disciplinary hearing etc).

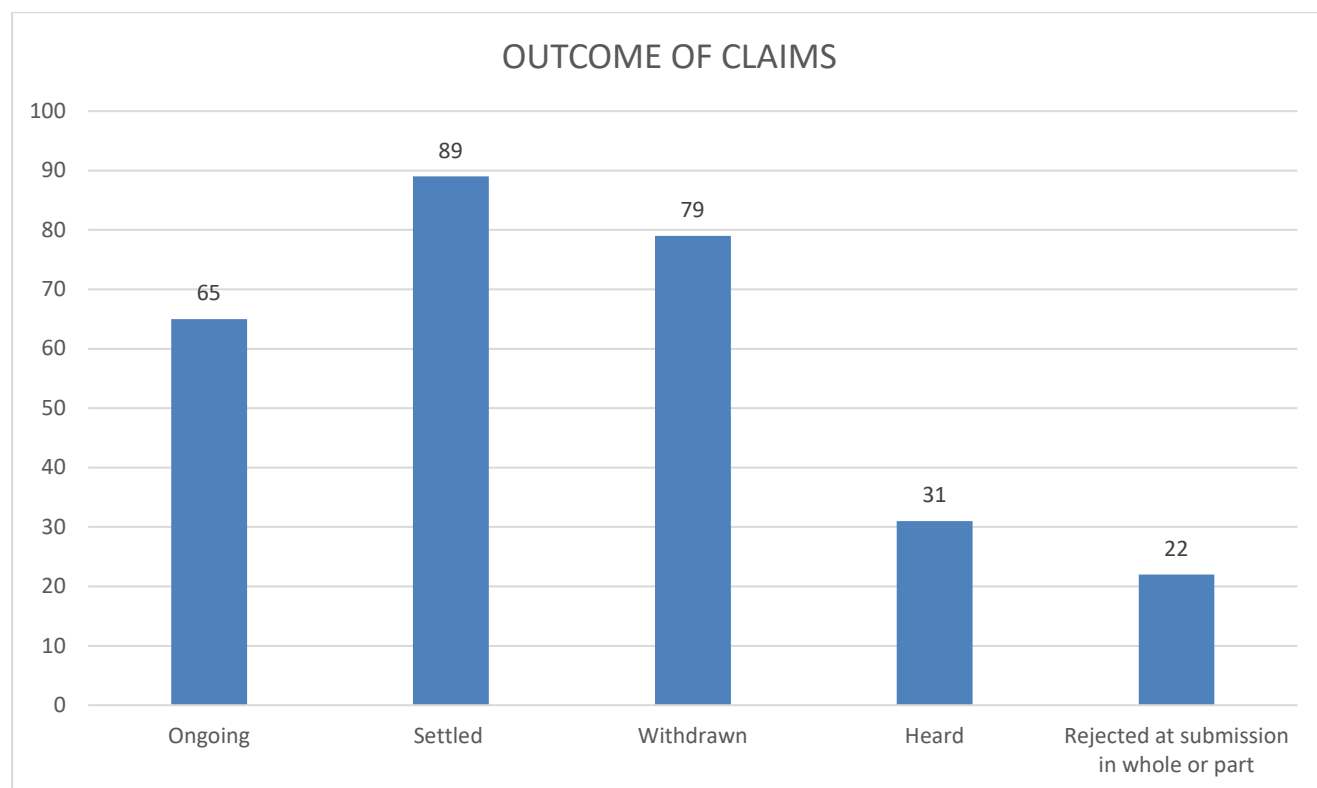
During 2024 the total amount awarded by the Tribunal was £242,842.18. This was made up of £119,472.44 in compensation and £123,393.02 in damages.

Outcomes of claims as at 31 December 2024

The EDT aims to resolve all claims within six months of receipt of the Claim Form. Sometimes this is not possible due to the complexity of the issues in the case, the health of the parties, insolvency of a party or related criminal proceedings.

286 Claim Forms were submitted in 2024. By the end of the year 31 had been to a Final Hearing and 84 remained ongoing.

The majority of the remainder were either settled or withdrawn. Claim Forms that are withdrawn may have settled but claimants do not normally provide a reason for withdrawal.



At the end of 2024, three claims remained unresolved from 2022. Two due to the respondent company being in liquidation and a further case remained ongoing due to its complexity. These claims have now been closed.

One Claim Form is outstanding from 2023 due to related proceedings in the Royal Court.

Contact Details

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Registrar – Katie Thorne (Main Responsibility – Tax Tribunal)