

PRESS CUTTING

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Employers favour radical changes to fix 'broken' tribunal system, poll reveals

Many companies strongly feel that the current procedures leave them with no protection against weak or speculative claims.

Graham Snowdon



Employers favour radical changes to the tribunal system. Photograph: Fabio De Paola
More than half of employers would support changes to the law to make it easier for them to dismiss their staff, suggests a new survey examining conflict management in the workplace.

The research, conducted by the Chartered Institute of Personnel and Development (CIPD), also found that 69% of respondents believed "there is no effective protection for employers against wholly unjustifiable [tribunal] claims". Three in five surveyed said they had experienced an employee claiming unfair dismissal and "tagging on" a discrimination claim in the hope of getting more compensation.

Mike Emmott, the CIPD's employee relations adviser, said the findings reflected a strong feeling among employers that the current tribunal system was "broken". "Despite many attempts in recent years to find a solution, the volume of tribunal claims has increased and employers believe they have no protection against weak or speculative claims," he said.

"The real problem is that the employment tribunal system itself is broken and its costs and benefits are wholly out of line. The government needs to take a radical look at the existing machinery for protecting employment rights."

The CIPD polled 206 of its senior members with employee relations interests, with most believing more effective case management was needed to identify "vexatious" claims, while just over half wanted to see tribunals given the right to award costs against losing claimants.

Some 76% said they thought compromise agreements – where an employer makes a payment to an employee in return for the latter agreeing not to go to a tribunal – helped employers limit their risks when dismissing staff. Earlier this year the British Chambers of Commerce published research showing that the average cost of a settlement was £5,400 compared with around £8,500 for a tribunal.

Employment lawyer **Ronnie Fox**, principal partner at **Fox Lawyers**, said employers preferred compromise agreements, even if they believed the employee's claims to be without merit or substance, because the costs were easier to predict.

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"The tribunal system is comparatively risky [for employers]," Fox said. "It is much cheaper for claimants to bring claims in the employment tribunal than to sue in the high court. Moreover tribunals very rarely order the losing party to pay the cost of the winning party whereas this is the usual principle in high court cases."

In January prime minister David Cameron revealed proposals to increase the qualifying period of continuous employment for employees to bring unfair dismissal claims from one year to two years, claiming it would give businesses greater confidence to hire new staff.

However, that view was contradicted by the CIPD survey, in which only 5.7% of respondents said they thought the possibility of unfair dismissal claims would discourage their firms from recruiting.

The Trades Union Congress warned against any reform of the tribunal system in favour of employers. "At the heart of any change has to be the desire to make it more effective at delivering justice to the thousands of people who every year are wronged at work," said the TUC general secretary Brendan Barber. "While employer groups complain that tribunals are costing them too much, they seem to have lost sight of the fact that if firms treated their staff as they are meant to, few would ever find themselves taken to court.

"Instead of a focus on the employment tribunal process, ministers' time would be better spent looking at why so many companies, especially small employers, have such poor employment practices."