

Jersey Employment and Discrimination Tribunal



Annual Report 2015

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This is the eleventh Annual Report of the Tribunal and covers the period 1st January 2015 to 31st December 2015.

Overview

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

The Employment and Discrimination Tribunal 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
- Three separate Social Security Tribunals – which deal with medical appeals, Social Security appeals and Income Support medical appeals
- The Mental Health Review Tribunal

The EDT is like a court but is less formal. The Tribunal's hearings are generally held in public (although there are certain circumstances when hearings are held in private) and anyone can observe a Tribunal hearing. The EDT strives to provide a user friendly service ensuring that the documentation and terminology used in its proceedings is easily accessible to all parties. The services of an interpreter will be provided at all hearings at no charge to a party whenever required. Where possible the Tribunal will provide assistance to parties experiencing difficulties due to disability or a particular need such as dyslexia.

All of the EDT's application and response forms, as well as User's Guides and other explanatory information, are available on the Tribunal's website: www.jerseyemploymenttribunal.org

The Tribunal has produced guidance to parties in relation to Case Management Meetings, the preparation of Bundles for hearings and the grounds for applying for a Strike Out Order. These guides are available free of charge from the Registrar and are available in English, Portuguese and Polish.

The EDT's decisions are published on the Jersey Legal Information Board (JLIB) website: www.jerseylaw.je/Judgments/JET

A new website for the Jersey Court Service, which will include the EDT, remains in development by the Judicial Greffe.

Comments from the Chairman

There have been a number of changes for the Tribunal in 2015. A major change was the formal establishment of the Tribunal Service by the Judicial Greffe which brought the administration of all the various tribunals (numbering seven in total) in operation in the Island under one roof. The Tribunal Service works from the offices previously occupied by the Employment and Discrimination Tribunal and Social Security Tribunals at Trinity House. During 2015 these offices were reconfigured to accommodate the Registrars of the various Tribunals in the Service and the original hearing room was divided into two rooms so that Tribunal hearings can be held concurrently. The Greffe also recruited a Manager of the Tribunal Service. The Chairman welcomes the establishment of the Tribunal Service as it gives a clear acknowledgment of the place of the EDT in the Jersey Court Service.

However the downside of the creation of a busy office has been the loss of office space in particular the loss of the meeting rooms used by witnesses and by parties wishing to conduct confidential discussions during the course of a hearing. It can be seen from this Annual Report that the work of the EDT has not reduced which means that the administration of its cases is now being conducted in the same space but which is now shared with six other active tribunals. Often, due to the circumstances of an employment or discrimination complaint, parties and witnesses need to be seated separately; this adds to the challenges being faced by the Tribunal Service in administering these complaints from its present premises. It is a cause of concern to the Chairman that this potential overcrowding of facilities for users of the EDT could affect the standard of the service that the Tribunal is able to provide. However, service standards will be monitored over the course of 2016.

Another significant change for the Tribunal during the course of 2015 was the retirement of 9 of the panel members appointed to hear employment and discrimination complaints. Eight of these panel members had been in office since the establishment of the EDT in 2005 and their experience in employment matters and their contribution to the work of the EDT was greatly valued by the Chairman and Deputy Chairmen. After an open recruitment process overseen by the Appointments

Commission a further eight new employment and discrimination panel members were appointed by the States Assembly on 8th September, 2015. All of these panel members have completed their training and are now hearing cases. The EDT also has a panel of eight tribunal members appointed to hear non-work related complaints under the Discrimination (Jersey) Law 2013. The names of all the EDT panel members appear on page 28 of this Report. The Chairman is extremely grateful to all the panel members for their diligence in discharging their duties and their contribution to the work of the EDT should not be underestimated. There is currently one vacancy on the EDT for a panel member with experience of, or an interest in, employment and discrimination issues from an employee's perspective and it is intended to recruit to this position during 2016.

On the 1st September, 2015, sex, sexual orientation, gender reassignment, pregnancy and maternity were included as Protected Characteristics under the Discrimination (Jersey) Law, 2013. The EDT welcomes these additions to the ambit of the Discrimination Law. The introduction of protection against sex discrimination in Jersey prompted the removal of the provisions in the Employment (Jersey) Law, 2003 which limited the rights of employees engaged for 8 hours or less per week. These provisions were potentially discriminatory to women who are statistically more likely to work less hours over the course of a week. In addition, new family friendly employment rights were introduced via the Employment Law on 1st September, 2015, including the right to take up to 18 weeks maternity leave and return to the same job. The Chairman, Deputy Chairmen and all panel members received training on the changes to the legislation over the course of the year.

This Annual Report shows that the number of complaints to the EDT during 2015 remained consistent. As ever unfair dismissal remained the most common issue dealt with by the Tribunal with most complaints concerning the employee's apparent conduct as the reason for dismissal. In the majority of cases the parties are not represented which is in keeping with the ethos of the EDT as a cheap, accessible means of resolving employment and discrimination disputes. However the Chairman has noted an increase in the number of parties represented at hearings and this year the Report specifically notes the type of representation being provided; see page 22 of the Report. The Chairman would suggest that the inclusion of legal insurance cover as a standard provision in

house, car and business insurance policies is leading to the rise in the number of lawyers appearing in the Tribunal. The Chairman would assure all users of the Tribunal that the presence of a legal representative should not cause an unrepresented party to be concerned that there will be an inequality of arms in the presentation of their case as the chairman of the hearing will ensure that all parties are fully engaged and that their case is heard in full.

The EDT is continuing to closely case manage the cases before it. This reflects the fact that the vast majority of applications and responses received by the Tribunal are from non-represented parties, although some parties go on to get representation at a later date for the hearing. Careful case management means that the parties are made aware of the legal issues arising in their case from an early stage and are given clear Directions regarding the disclosure of information and documents, the involvement of witnesses and the preparation of good quality Bundles of documents for hearing. It is the Chairman's experience that case management can assist the conciliation of a dispute but if that is not possible it means that the case proceeds in an orderly fashion towards hearing with both parties fully aware of their role in preparing their case for the final hearing. The Chairman would also point out that the legal issues before the Tribunal are becoming more complex. This is a natural development of the large amount of case law laid down by the Tribunal in the previous 10 years. A complaint involving complex and/or multiple issues also requires careful case management to ensure that the correct evidence is brought before the Tribunal and may involve an Interim Hearing being held in order to establish certain points of law before the case proceeds to a full hearing of the applicant's complaints.

The Annual Report shows the large number of case management hearings held in 2015; each of these hearings resulted in Directions for hearing being given by a chairman. The chairmen will also support the administration of a case through the issue of Written Directions (without convening a case management meeting) whenever necessary.

The Chairman is surprised that so few complaints have been made to the EDT under the Discrimination Law. The EDT wishes to work constructively with the parties on these issues and it

is amenable to adjourning the Tribunal's proceedings in order that conciliation of the issues can be explored by a conciliator or mediator. As the terms of a successful conciliation or mediation are not made public this can be a useful power of the Tribunal. Alternatively, as a Remedy to a complaint under the Discrimination Law, the Tribunal can make Recommendations to the parties of the way ahead beyond their dispute and, if these Recommendations are agreed by the parties in advance, then a full hearing of the evidence can be avoided.

The Chairman is currently working on a programme to ensure that the Tribunal Service is responsive to the needs of all its users in particular those with disabilities and special needs and welcomes contributions from any parties with an interest in equal treatment.

Nicola Santos-Costa, Chairman.

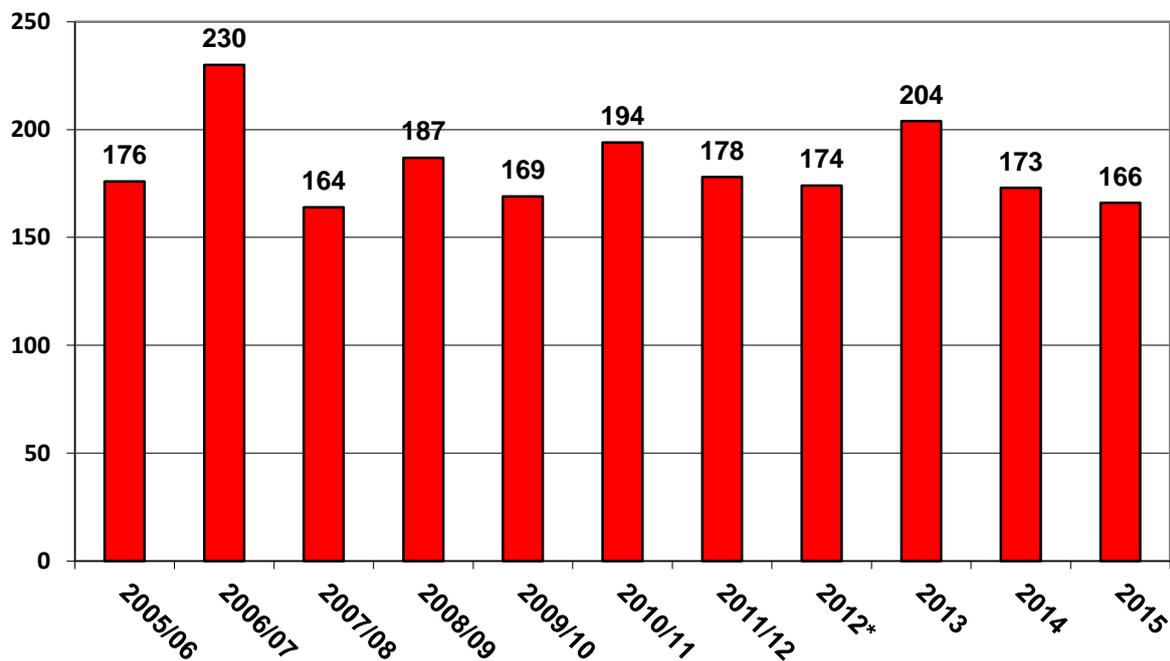
April, 2016.

Statistics relating to Employment Law

In any given reporting period, the Tribunal deals with *complaints received* and *hearings*. These may overlap, meaning that a complaint received has come to hearing within the same period. However, complaints received in the latter part of a reporting period tend to be heard in the following period. Conversely, cases that are heard within the reporting period may relate to complaints received in a previous period and carried forward. For the sake of clarity, this report will look at *complaints received* and *hearings* separately.

Complaints Received

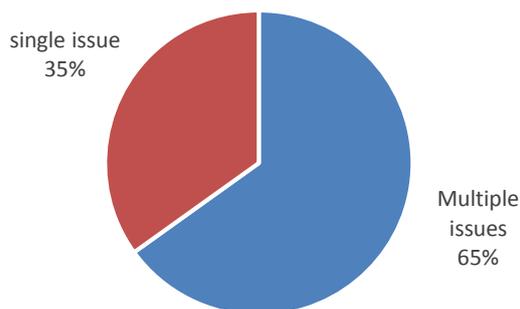
Figure 1: Number of complaints received by the Employment and Discrimination Tribunal from 2005 - 2015



* From 2012 the Tribunal published its Annual Report based on a calendar year.

As can be seen in the above graph, the amount of applications to the EDT in each reporting year has stayed relatively stable over the last 10 years.

Figure 2: Type of Complaints made in 2015



Applicants can raise either a single complaint, or multiple issues. In 2015, 65% of applications to the Tribunal involved multiple issues of complaint.

Issues dealt with in 2015 by the Tribunal

The Tribunal continues to deal with a wide range of issues. Almost half of complaints relate to unfair dismissal, 35% relate to breach of contract claims and the remaining 16% of issues related to other issues.

Figure 3: Issues by type

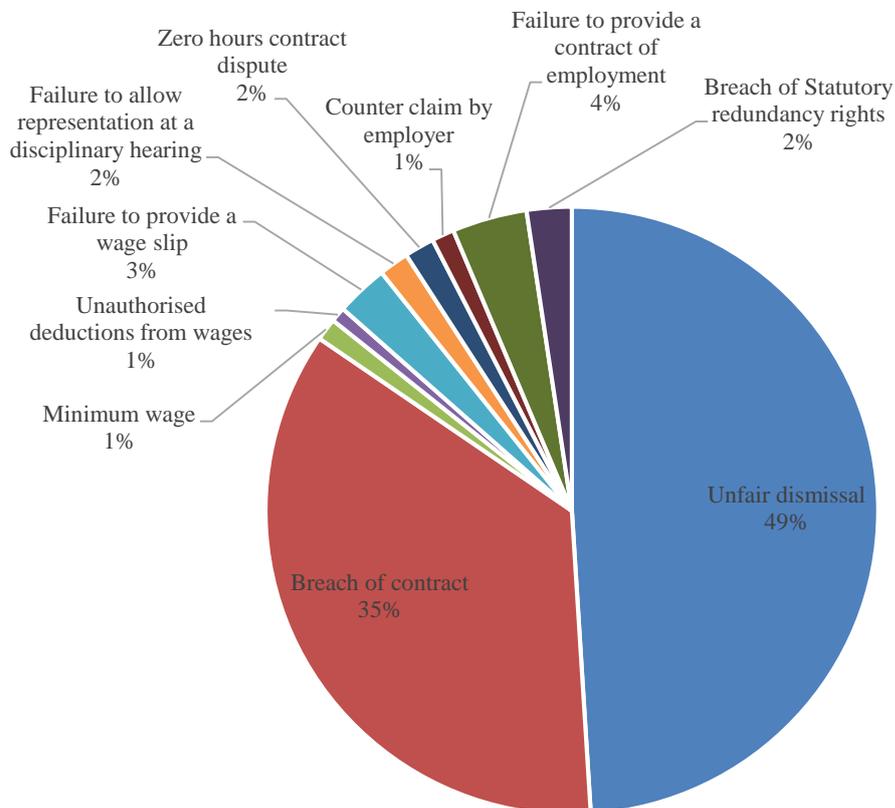


Figure 4: On application the following reasons were given for the Unfair Dismissal complaints

- Capability
- Conduct
- Redundancy
- Contravention of a Law
- Some other Substantial Reason
- Constructive Dismissal
- Reasons unclear on application.

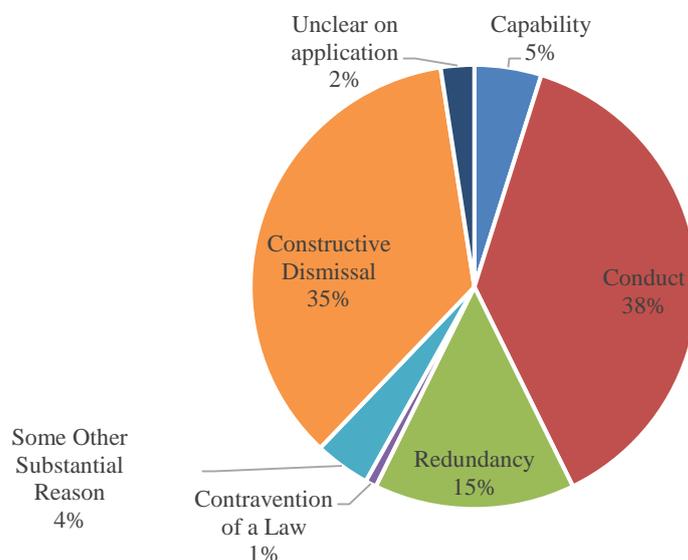


Figure 5: On application the breach of contract complaints fell into the following specific categories:

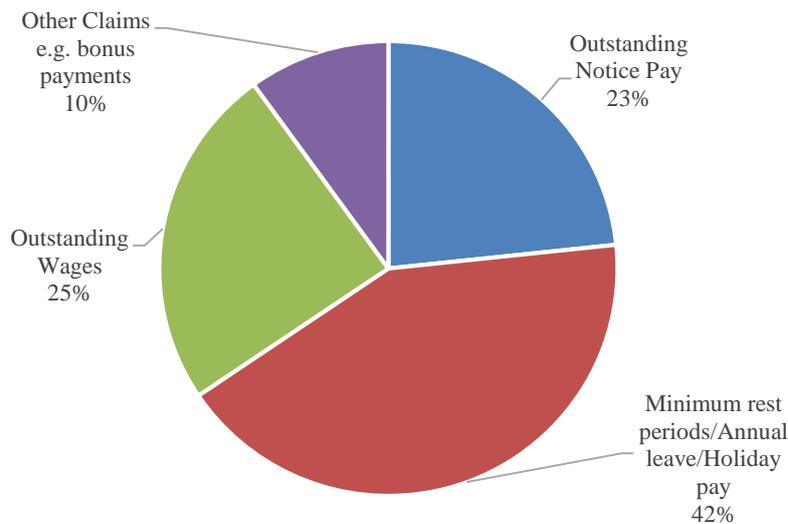
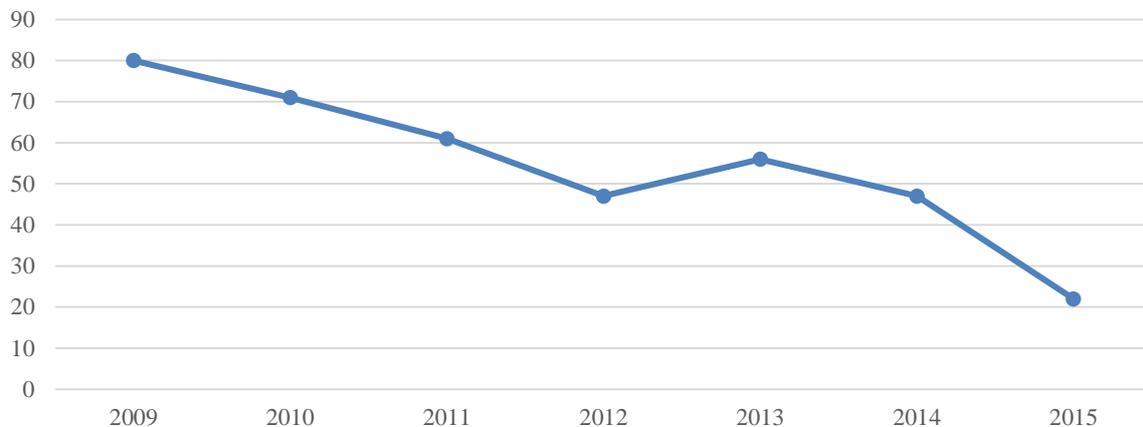


Figure 6: Trends in the applications for payment of outstanding wages from 2009 - 2015



The Tribunal Service is pleased to note that complaints regarding non-payment of outstanding wages has dropped from the period 2009/2010 and the general downwards trend is a positive step. However, the amount of disputes regarding unpaid wages is still high and takes up a significant amount of the Tribunal’s time.

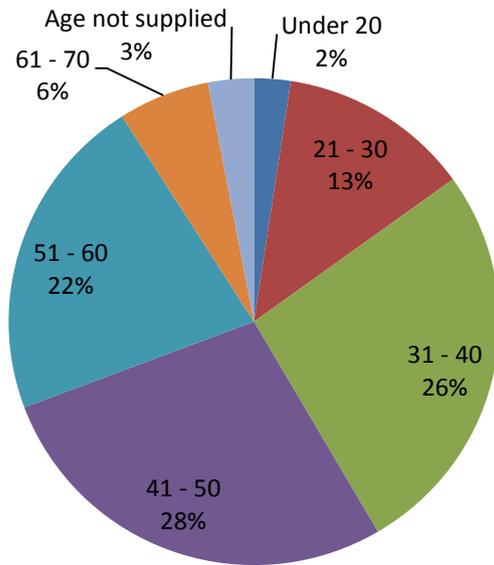
In the first four months of the introduction of the new employment rights, no complaints were submitted to the Tribunal regarding family friendly rights.¹

¹ New family friendly rights contained in the employment law will give employees the right to paid time off work for antenatal appointments, maternity leave (up to 18 weeks) with a right to return to work, parental (paternity) leave, adoption leave and to request flexible working.

Who complains to the Employment and Discrimination Tribunal?

Complaints come from a cross section of the Jersey community. Using the Jersey Census data from 2011 and the Jersey’s Labour Market Statistics (June 2015) we can compare the breakdown of complaints to the general makeup of the working population.

Figure 7: Complaints made to the Tribunal in 2015 by Age



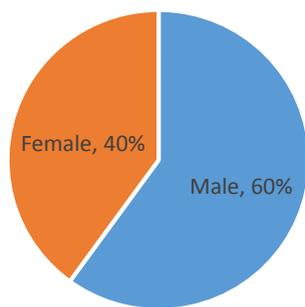
Only 2% of applications were submitted by those under 20 years old. This may be because to submit an unfair dismissal complaint, employees must have 52 weeks’ continuous employment (in most cases) and must have 2 years’ service for statutory redundancy pay. Many younger people may not have been in employment for that long, with the majority of young people in Jersey undertaking post-16 education

As we move up to those under 30, the percentage increases to 15%.

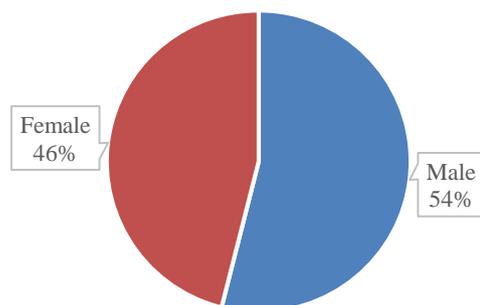
75% of applicants were aged between 31 and 60 years old.

Figure 8: Complaints by Gender

Complaints made to the Tribunal in 2015 by Gender



Gender balance in the Jersey workforce (2011 Census)



Comparing the gender of those making applications to the EDT with the latest census data on the gender balance in the workforce, we can see that a similar percentage of males and females apply to the Tribunal as are represented in the workforce.

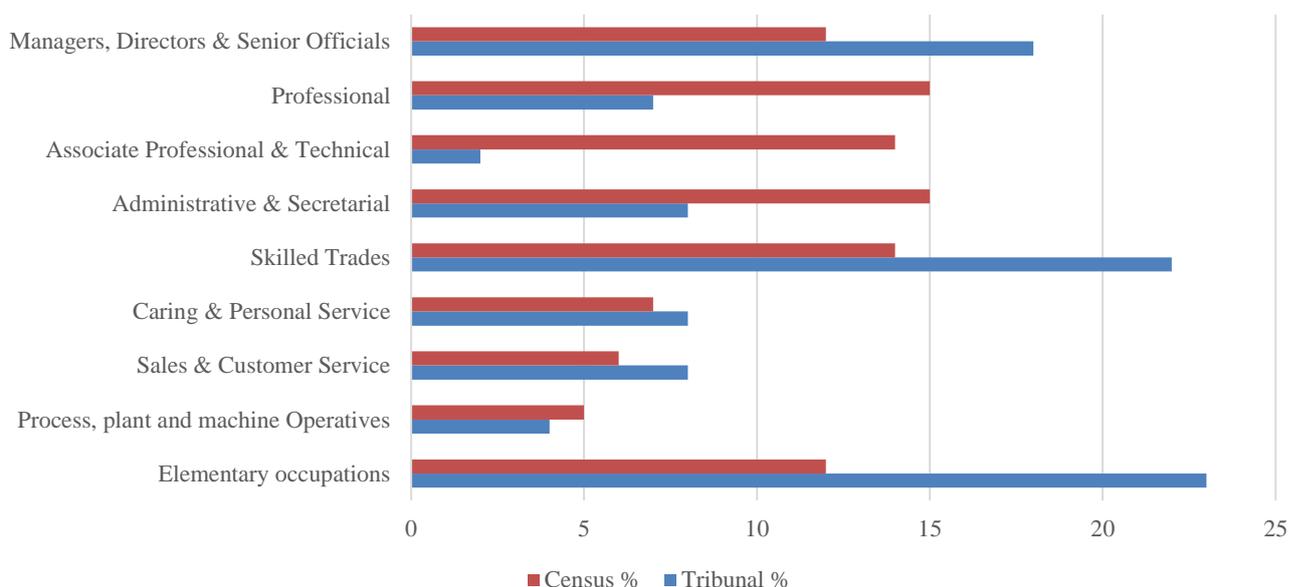
It will be worth reviewing this statistic in the future, following the introduction of the ‘family friendly’ employment rights by the Employment Law. For the avoidance of any doubt we have defined gender as the gender an individual chooses to identify as.

Occupational Group of applicants

Occupations were categorised into nine major groups using the Standard Occupational Classification² used in both local and UK statistical publications.

- **Managers, Directors and Senior Officials:** Managers and senior offices in public and private sectors.
- **Professional:** Science professionals, civil engineers, pharmacists, vets, teachers, lawyers, judges, chartered accountants architects, social workers, librarians, clergy.
- **Associate Professional and Technical:** Science technicians, engineering technicians, nurses, dental technicians, physiotherapists, youth workers police officers (sergeant and below), artists, actors, graphic designers, journalists, sport coaches, air traffic controllers.
- **Administrative and Secretarial:** Office clerks, secretaries, personal assistants, receptionists, book-keepers, telephonists.
- **Skilled Trades:** Farmers, gardeners, fishermen, mechanics, electricians, telecommunication engineer, computer engineer, bricklayers plumbers, carpenters, plasterers, tailors, printers, butchers, bakers, chefs.
- **Caring and Personal Service:** Nursing auxiliaries and assistants, care assistants, home carers, animal care, leisure and travel assistants, travel agents hairdressers, nursery nurses, childminders, education assistants, housekeepers.
- **Sales and Customer Service:** Sales assistants, retail cashiers, call centre agents, check out operators, customer care occupations, telephone sales person.
- **Process, Plant and Machine Operatives:** Plant and machine operatives, fork-lift truck drivers, taxi cab drivers, chauffeurs, bus drivers, van drivers, construction operatives.
- **Elementary Occupations:** Farm workers, labourer, packers, postal workers, messengers, couriers, hotel porters, kitchen and catering assistants, waiters, bar staff, domestic cleaners, security guards.

Figure 9: Comparative data – Percentage of People employed by job role type compared to applications to the Tribunal



Currently, there is an overrepresentation of managers, directors and senior officials in applications received, compared with the percentage of those employed within that job

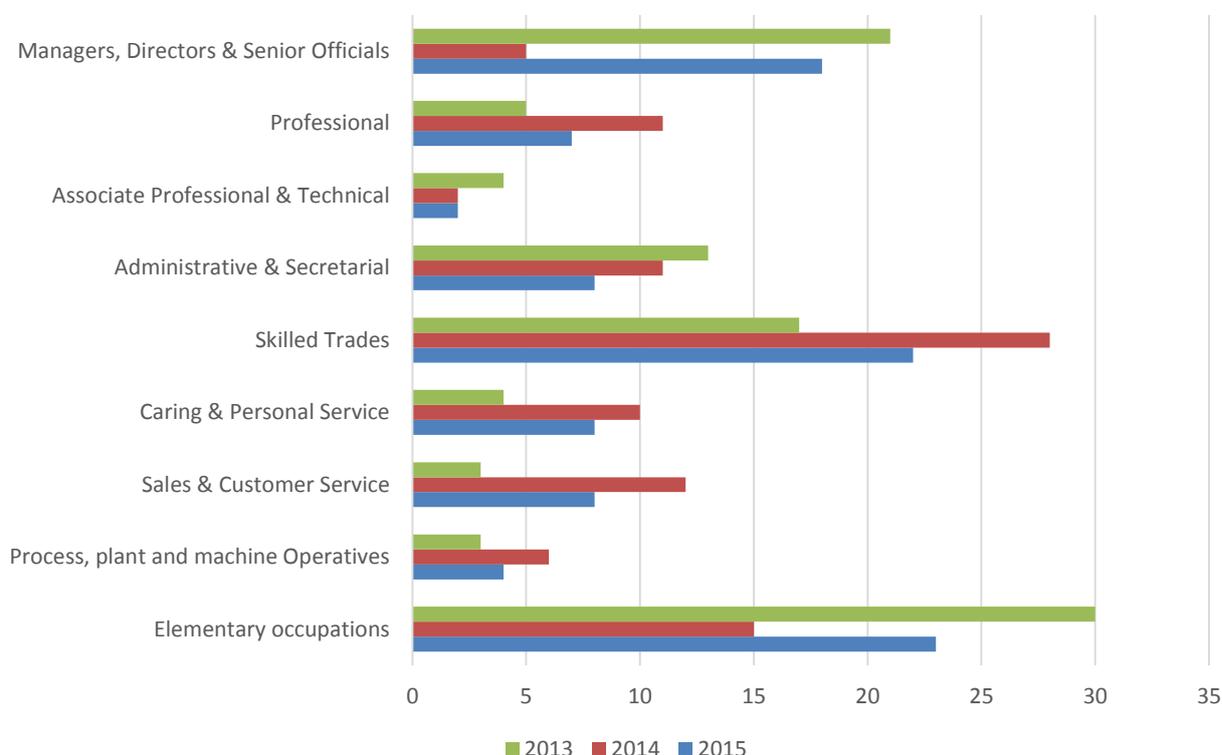
² A Standard Occupational Classification system (SOC2010) has been used, which mirrors the 2011 census.

type and this is an increase. In 2015 18% of applications came from those in senior management positions, whereas in 2014 this accounted for only 5% of applications.

44% of the working population are employed in professional, technical and administrative roles, which are most often office based, skilled roles, many of which require advance training. 17% of applications were from people in this type of role.

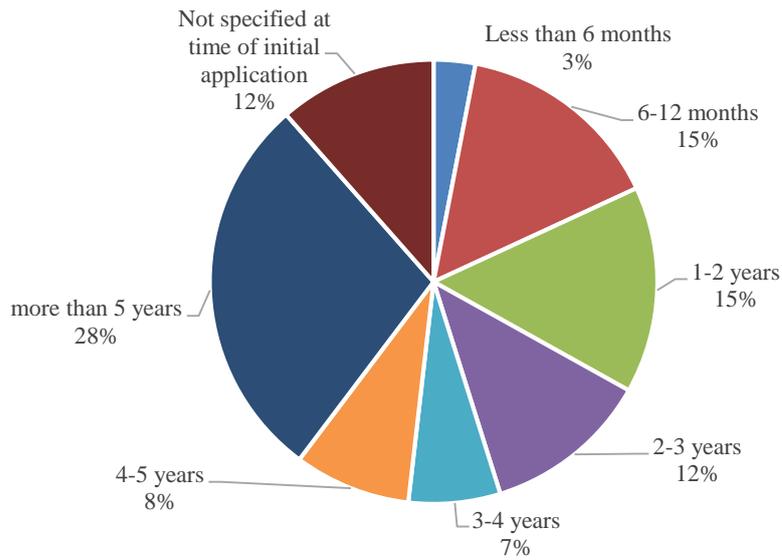
It can be seen that a high proportion of applicant's are employed in elementary occupations, which are often lower paid and unskilled. According to the Jersey 2011 Census, 12% of people living in Jersey are employed within elementary occupations, whereas 23% of applications to the Tribunal come from those employed in this sector. The high percentage of complaints from persons employed in this type of work is concerning.

Figure 10: Percentage of applications from 2013-2015 from job role.



Skilled trades; which include professions such as electricians, plumbers, carpenters are over represented in percentage of applications to the tribunal throughout the last three years. This could be linked to the 2015 higher percentage of applications coming from the employees in the construction industry than other industries.

Figure 11: The Periods of continuous service described in applications received by the Tribunal in 2015



Note:

The amount of compensation that an employee may be awarded following a successful complaint of unfair dismissal is dependent upon the years of continuous service of that employee.

Breakdown of Applications by Sector

We have compared the percentage of complaints from a particular industry with the States of Jersey Labour Market job categories from the same time period.

Figure 12: Applications to the JEDT in 2015 by Industry Sector

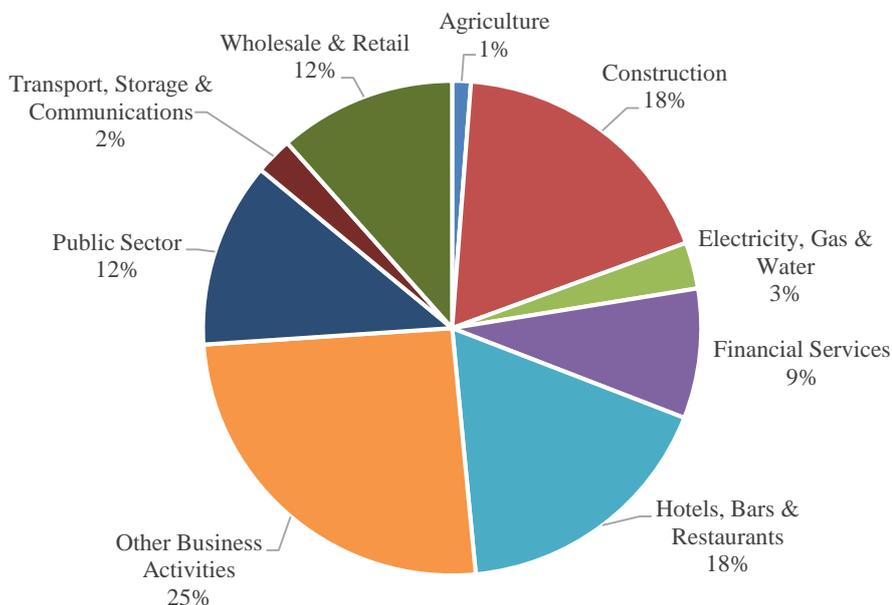
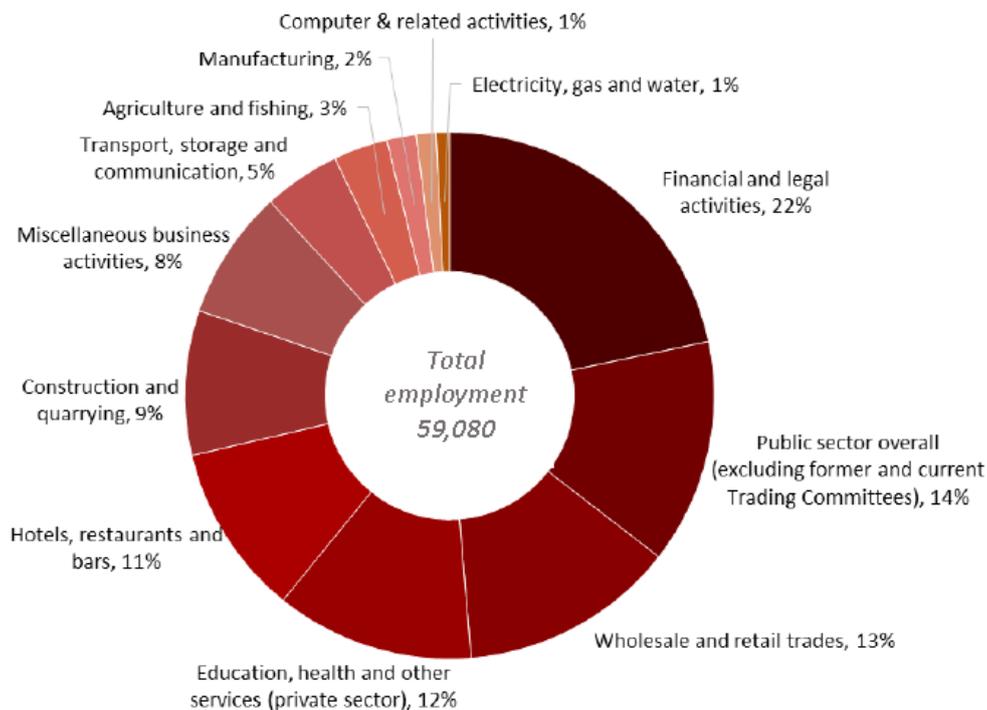


Figure 13: States of Jersey Labour Market categories

Total employment (headcount) by sector, Jun-2015



Data and Graph kindly provided by SOJ Statistics Unit - Jersey Labour Market – June 2015

Many industry areas, such as wholesale and retail and the public sector have similar percentage of the workforce in this employment sector, as has been represented in the Tribunal service, however, there are some significant differences:

- Over representation in the Construction Industry. 9% of the workforce was employed in the Construction and Quarrying industry, yet this industry made up 18% of applications to the EDT.

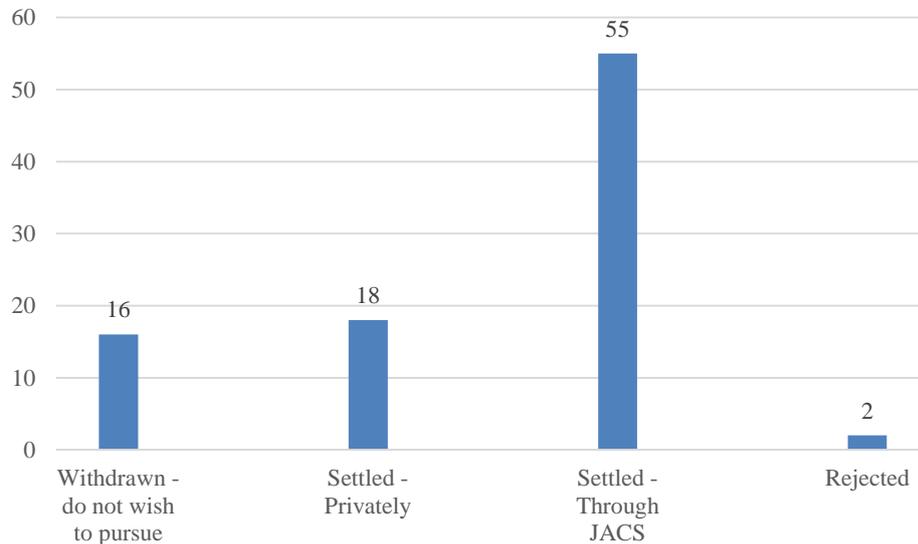
The Tribunal notes that in 2014 only 9% of its applications came from the construction industry, which means that applications from this sector have doubled in a year.

- Slight over representation in the Hotels, restaurants and bars sector – 11% of the workforce is employed in this sector, yet it has accounted for 18% of applications to the Tribunal.
- Under representation in the Financial and Legal activities sector; this makes up 22% of the workforce, yet only 9% of applications to the Tribunal arise from these roles.

How did the Tribunal deal with the Complaints?

The EDT aims to deal with cases in the least formal and flexible way possible. This means that the Tribunal Service will encourage parties to seek alternative resolution to the dispute at all times.

Figure 14: Applications resolved through alternative dispute resolution



This figure only presents the progress of complaints dealt with in the calendar year of 2015. It can take up to six months to complete a case before the Tribunal, occasionally longer. The Tribunal has a policy of case managing each application, thereby ensuring the parties focus from an early stage on the legal issues and the preparation required for a full hearing of their dispute.

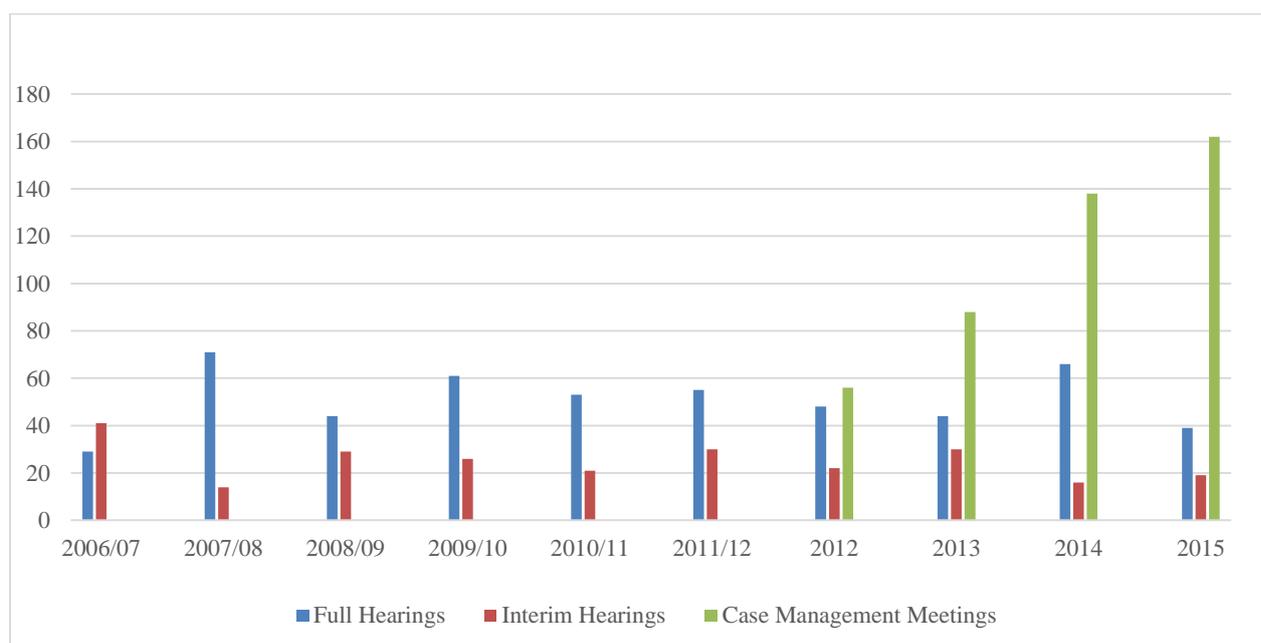
Total number of Hearings before the Tribunal

If a complaint is not settled, withdrawn or rejected at an earlier stage, it proceeds to a *hearing*. A hearing is attended by the Applicant and Respondent, many of whom choose to put their own case to the Tribunal whilst others are represented by a lawyer, trade union official, professional organisation, friend or relative.

A hearing is normally conducted by a Chairman and two panel members. The purpose of a Full hearing is to decide whether the complaint or complaints succeed or fail, i.e. if it falls in favour of the Applicant or Respondent, and to make the appropriate award or compensation.

Prior to a Full hearing, there may also be an Interim hearing, which may be vital in order to determine whether the case can continue or not. These take place in order to determine an initial point of law, in other words, whether or not the Tribunal has the jurisdiction to hear part or all of the complaint. Figure 15 below shows how many case management, interim and full hearings have taken place at the Tribunal in each reporting period.

Figure 15: Type and amount of hearings by year:



Decisions of the Tribunal

Interim Hearings

Of the cases heard in 2015, there were 19 interim hearings. Interim hearings are usually held where there are issues which need to be determined in order to progress the case (such as whether or not someone was employed or self-employed). This means that a case can progress to a Full hearing with any initially disputed areas of law confirmed.

In addition where an application has been made 'out of time' to the Tribunal and the applicant has wished to give reasons for not complying with the time limits set out in the Employment Law, the Tribunal will hear an application for it to use its discretion under the law to accept a late application.

Figure 16: Outcomes of Interim Hearings held in 2015

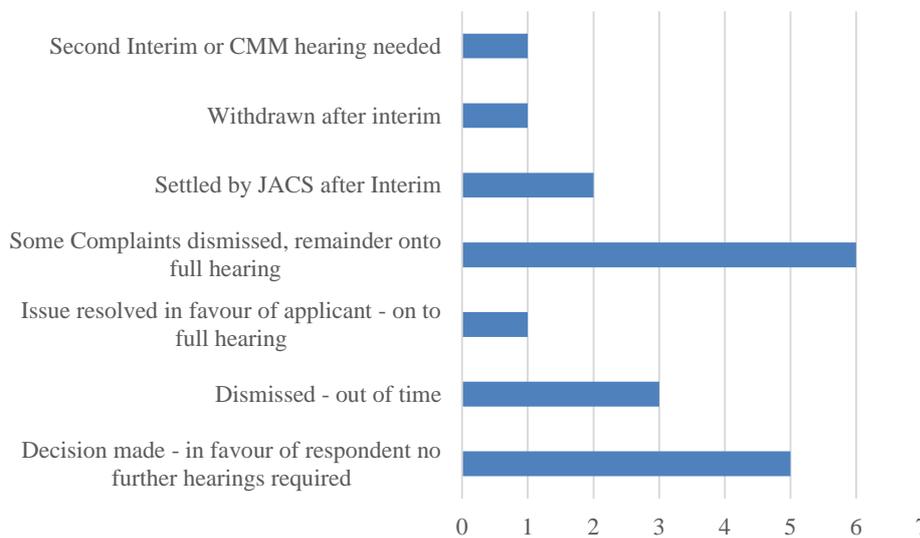
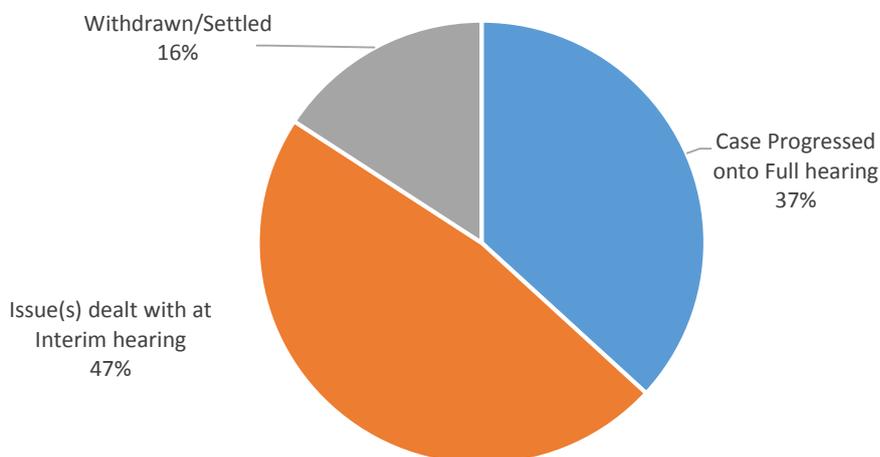


Figure 17: How cases were disposed of after Interim hearings

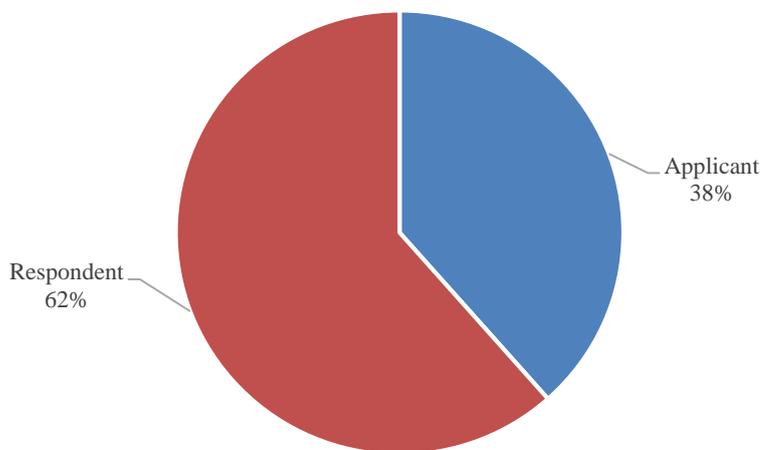


Almost 50% of cases were able to be disposed of at an Interim hearing; this may be that the applicant was not entitled to bring a claim or their application for a case to be heard after the deadline was not successful. 37% of cases had issues which were resolved at Interim hearings – such as interpretation of contracts and specific provisions of the Employment Law, which have a direct bearing on what the nature of the case actually is, and were able to progress to a full hearing to consider the matter.

Full hearings

At a Full hearing the facts of the case will be heard and a decision made regarding whether there has been a breach in the Employment Law and the applicable remedy for any breach.

Figure 18: Outcome of Full hearings in 2015



Awards of Compensation in 2015:

A total of £75,656.38 was awarded to applicants who had their cases heard in 2015. However, several cases are awaiting final amounts of compensation to be awarded pending a remedies hearing or the issue of the Tribunal's award. These cases will be dealt with in 2016.

A total of £923.41 was awarded to Respondents (Employers) during 2015 following successful counterclaims.

Reductions in unfair dismissal awards.

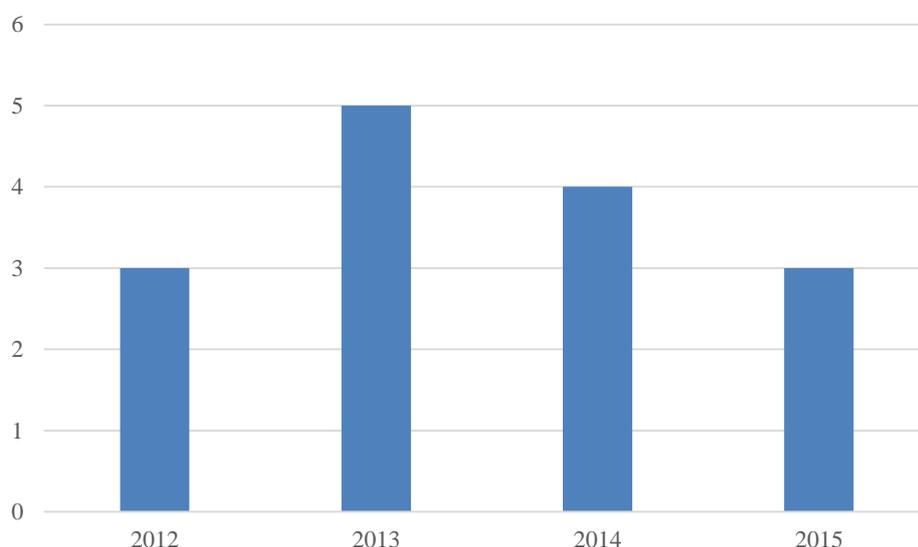
The Tribunal has the power under the Employment Law to reduce the amount of compensation for an unfair dismissal in certain circumstances. The Tribunal exercised its discretion to reduce the award of compensation in accordance with those provisions on three occasions in cases heard in 2015.

The statutory reasons for a reduction are found in part 77(F) of the Employment Law.

The Tribunal may reduce an award of compensation by such amount as it considers just and equitable having regard to any of these circumstances:

- That the employee unreasonably refused an offer by the employer which would have them return to employment;
- That the employee's conduct before dismissal contributed directly to the dismissal;
- That the employee had agreed to receive a settlement payment;
- That the employee has been awarded a redundancy payment or is entitled to receive one;
- That the employee has refused a reasonable offer of compensation by the employer before the Tribunal proceedings, which was equal to the maximum award the Tribunal can provide;
- That there are circumstances in the case that the Tribunal considers would be just and equitable to take into account.

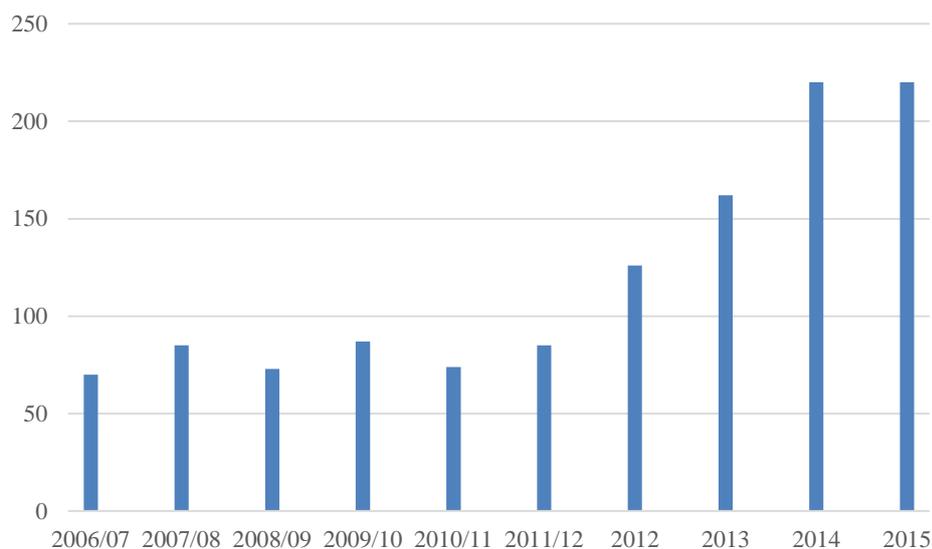
Figure 19: Number of reductions to awards of compensation by year.



Workload

CMM's require the same level of administrative input from the Tribunal's staff as Interim and Full hearings. The Chair will read bundles prepared for the purpose of each type of hearing. Panel members attend only at Interim and Full hearings and are also provided with bundles of documents.

Figure 20: Numbers of Hearings held each year in the Employment and Discrimination Tribunal since 2006:



Staffing

The Registrar is responsible for the administration of claims made to the Tribunal under the Employment Law, the Discrimination Law and the Employment Relations Law. The Registrar will assist both parties to a complaint in an impartial manner. The Registrar will provide general information but will not provide legal advice under any circumstances or express any opinion in respect of a case before the Tribunal. The Registrar also assists the Chairman, Deputy Chairmen and Panel Members in their preparation for the hearing of a case.

The Tribunal Service has three Registrars, a Manager (who also fulfils the duties of the Planning Registrar) and a receptionist/administrator. Each Registrar maintains overall responsibility for their own individual tribunals. The increase in the number of hearings held by the EDT has resulted in a greater workload for the Tribunal Registrar who oversees the Employment and Discrimination Tribunal. To improve and maintain good quality services, an increase in support and administrative resourcing may well be needed in the near future.

In September 2015, the existing premises were modified to enable the provision of current services within the Tribunal Service. The States of Jersey Property Holdings department is currently undertaking a search for potential new premises, which will meet the needs of the expanding service.

Representation of Parties

Either party can elect to be represented at any point in their case. This may either be by legal representation, professional representation (such as a Union Official or a trained professional who has experience in EDT proceedings), a political representative (a member of the States of Jersey) or a lay representative (who may be a friend or family member).

Figure 21: Percentage of cases having professional or legal representation by either or both parties to a case

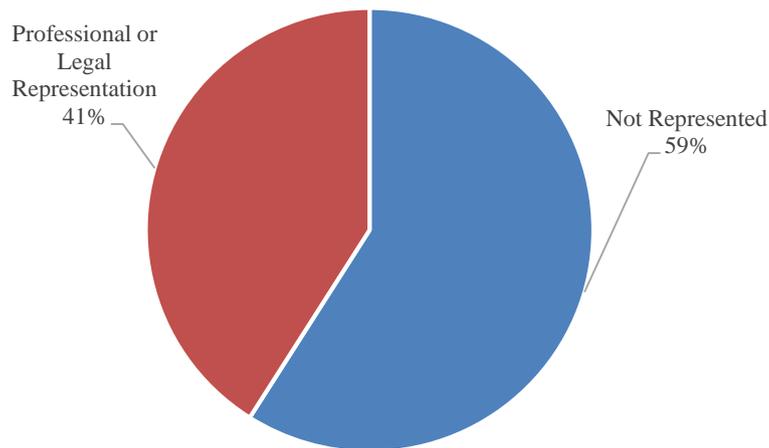
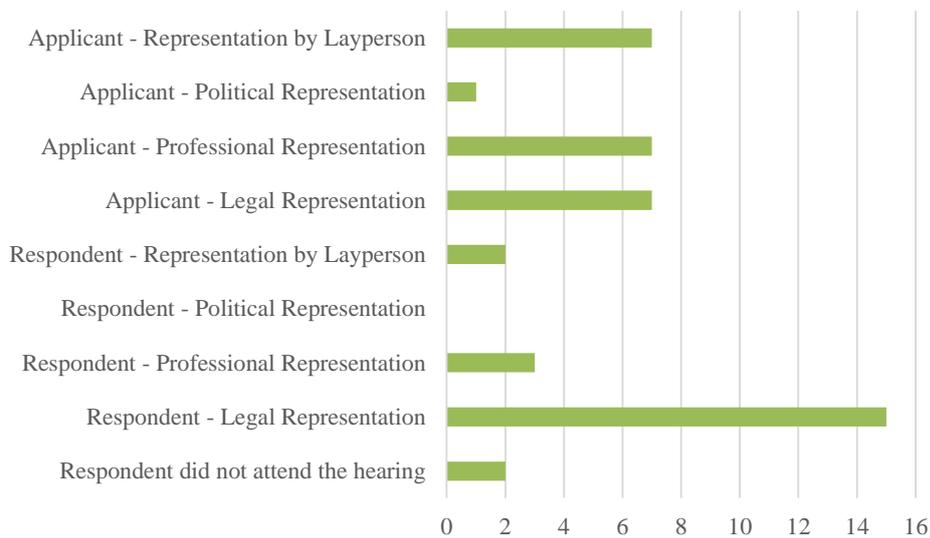


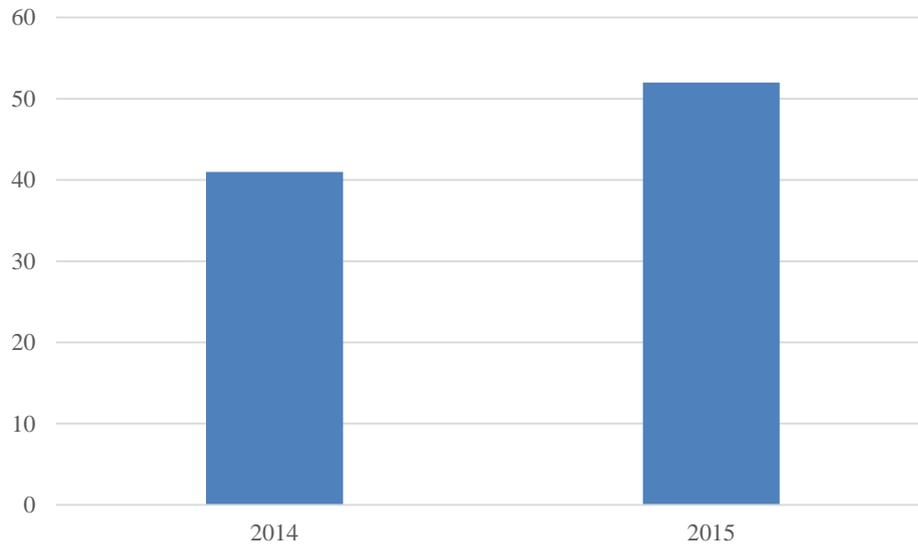
Figure 22: Breakdown of Type of Representation used by parties



Use of Interpreters

The services of an Interpreter will be provided at all hearings at no charge to the parties whenever required.

Figure 23: Number of times an Interpreter was required at the EDT for Hearings



2014 – 41 occasions where an interpreter was required.

2015 – 52 occasions where an interpreter was required.

In the future we will consider keeping statistics on the percentage of applicants whose first language is not English and any other translators that are required. Currently, we do not separate who requires the translator, as it may be a witness or a party.

Statistics relating to Discrimination Law

The Discrimination (Jersey) Law 2013, came into force on 1st September, 2014. The EDT has jurisdiction to hear complaints under this law. Currently the protected characteristics under the Discrimination Law are race, sex, sexual orientation, gender reassignment, pregnancy and maternity.

Types of discrimination

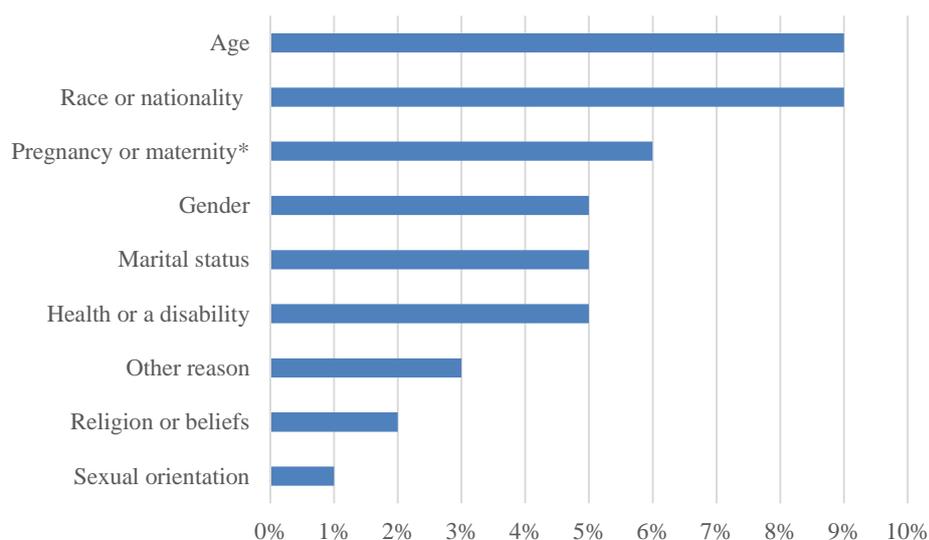
- A person **directly** discriminates against another person if he or she treats that person less favourably than another person because of a particular characteristic.
- A person **indirectly** discriminates against another person where they apply a provision, criterion or practice, which the person cannot show to be a proportionate means of achieving a legitimate aim, that disadvantages (or would, if applied, disadvantage) people with a particular characteristic.
- **Victimisation** – protects those who raise a complaint of discrimination (or assist others in doing so) from suffering less favourable treatment as a result.
- **Harassment** involves unwanted conduct which relates to a protected characteristic that violates the dignity of the victim or creates, for example, an intimidating or offensive environment, e.g. sexual harassment.

Perception of Discrimination in Jersey

In the Jersey Annual Social Survey (JASS) of 2012 respondents were asked if they felt they had been discriminated against in Jersey over the past 12 months on a range of grounds such as age, marital status or religion. A quarter (25%) of Islanders reported at least one occasion of discrimination over the previous 12 months.

Figure 24: (JASS 2012 Survey results)

Do you consider that you have been discriminated against in Jersey on any of the following grounds within the past 12 months? (Percentage 'Yes' responses for each grounds)

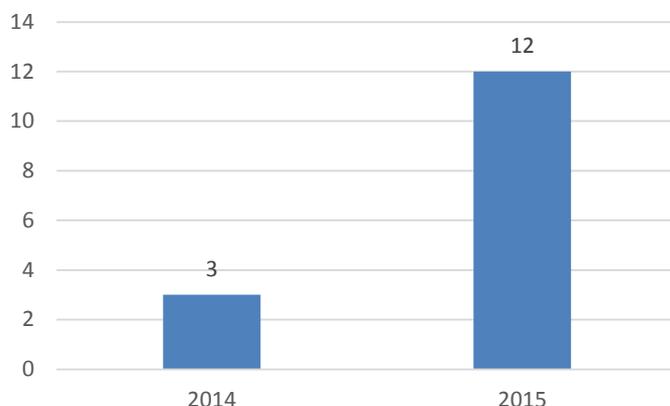


* NB of females aged between 16 and 49 years

Data supplied by SOJ Statistics Unit, 2012 JASS, page 21.

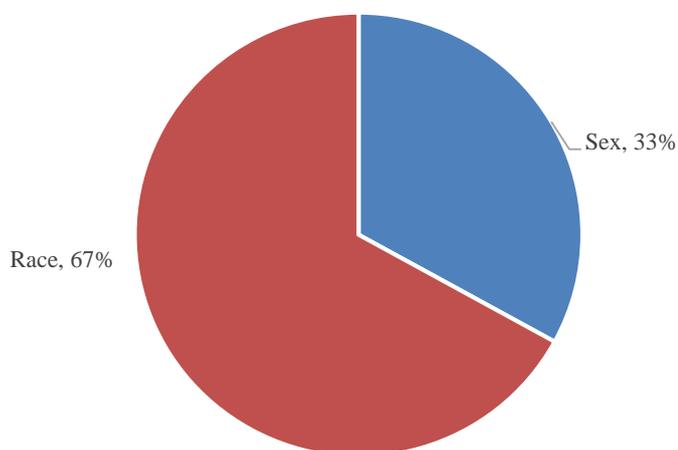
Discrimination Complaints received are applications submitted to the Tribunal by way of a Form JEDT1. The Tribunal received 12 complaints of discrimination in 2015.

Figure 25: Number of Discrimination Complaints Received by the Tribunal in 2014 and 2015



In September, 2014, race was introduced as the first protected characteristic within the Discrimination Law. Between 1st September and the end of 2014, three claims were brought in under the protected characteristic of race, which was the first part of the Discrimination Law.

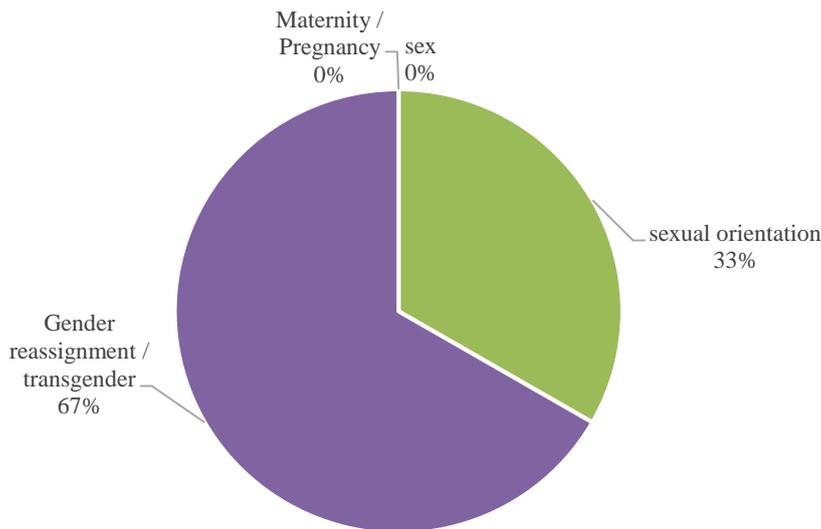
Figure 26: Discrimination complaints received in 2015, shown by protected characteristic



On, 1st September, 2015, four additional protected characteristics were introduced:

- sex
- sexual orientation
- gender reassignment
- pregnancy and maternity

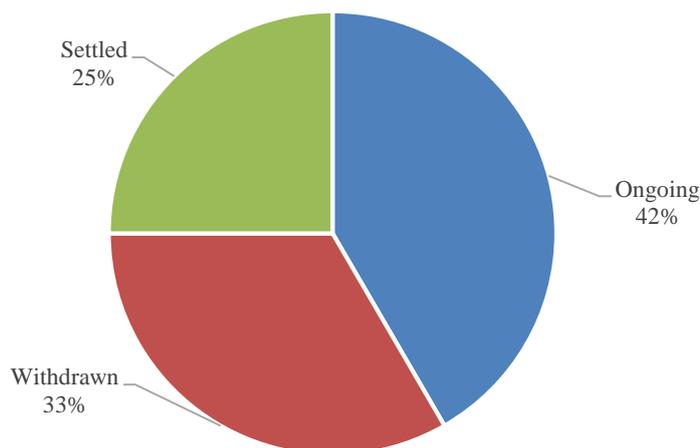
Figure 27: Applications to the EDT by Protected Characteristic of Sex, by subgroup.³



How the Tribunal has dealt with these complaints:

- A case may be ongoing – which is a case that has been accepted by the Chair and has not been heard at a final hearing.
- Rejected – a complaint that has not been admitted by the Chair, usually because it does not comply with the Discrimination Law.
- Withdrawn – the Applicant has decided not to continue with the complaint.
- Settled – both parties have come to an agreement by conciliation or mediation and resolved the complaint via JACS or CAB.

Figure 28: Status of Discrimination Complaints received by the Tribunal in 2015



³ In the first four months of the introduction of the new employment rights, no complaints were submitted to the Tribunal regarding family friendly rights.

Membership of the Tribunal

The Tribunal consists of a legally qualified Chairman, up to five legally qualified Deputy Chairmen and three pools of side members. One pool of side members comprises up to eight persons with knowledge or experience of, or an interest in, trade unions or matters relating to employees generally. The second pool comprises a group of up to eight persons with knowledge or experience of, or an interest in, employers' associations or matters relating to employers generally. When the Tribunal hears a complaint under the Employment Law, or a work related complaint under the Discrimination Law, a Chairman will sit with a lay member from each of these pools. However when the Tribunal sits to hear a non-work related complaint under the Discrimination Law a Chairman will sit with two lay members drawn from the third pool of lay members which comprises a group of up to eight persons with knowledge or experience of, or an interest in matters relating to equality and discrimination generally. All appointments to the Tribunal are made following an open recruitment process overseen by the Jersey Appointments Commission in accordance with its published guidelines.

Once appointed, lay members remain totally independent of their background; they do not represent any organisation that they are associated with or indeed even the employee/employer perspectives of a work related complaint. In cases that do not include a discrimination complaint, the Chairman and Deputy Chairmen may be able to sit alone to hear disputes but generally, whenever the Tribunal sits to consider issues at an Interim hearing or a Full hearing, it will consist of a panel of three persons being the Chairman or a Deputy Chairman, together with two lay members from the appropriate pools of side members.

Membership of the Jersey Employment and Discrimination Tribunal

As of 31st December, 2015, the members of the Tribunal were:

Chairman

Nicola Santos-Costa

Deputy Chairmen

Advocate Claire Davies

Hilary Griffin

Advocate Michael Preston

Panel members appointed to hear complaints under the Employment Law and also work related complaints of discrimination

Members with experience as representatives of employers

Ian Carr

Louise Cram

Sue Cuming

Emma Harper

Louise James

Gerry Larkins

Mark Therin

Marilyn Wetherall

Members with experience as representatives of employees

Mike Baudains

Simon Cross

Clive Holloway

Zannah Le Moignan

Vincent Manning

John Noel

Anne Southern

VACANT

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

Elizabeth Adams

Janet Brotherton

Melanie Cavey

Claire Follain-Metcalf

Thomas Gales

Mandlenkosi Mlambo

Tamburi Muoni

Daria Sawicka

Contact details of the Tribunal Service

Address:

1st Floor, Trinity House, Bath Street, St Helier, Jersey, JE2 4ST

Manager:

Nathan Wilczynski

Registrars:

Maggie Turner
Nicki Hirst
Steph de la Cour

Opening hours

Monday – Friday
9:30am – 4pm

Telephone

(01534) 441380

Email

registrartribunalservice@gov.je

Website

www.jerseyemploymenttribunal.org/