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ENTERPRISE & REGULATORY REFORM**

**EMPLOYMENT RELATIONS  
RESEARCH SERIES NO. 83**

The costs and benefits of  
Employment Tribunal  
cases for employers and  
claimants

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EMPLOYMENT RELATIONS RESEARCH SERIES NO. 83

# **The costs and benefits of Employment Tribunal cases for employers and claimants**

BY

KATHY ARMSTRONG AND DAVID COATS, THE WORK FOUNDATION

# About EMAR

Employment Market Analysis and Research (EMAR) is a multi-disciplinary team of economists, social researchers and statisticians based in the Employment Relations Directorate of the Department for Business, Enterprise and Regulatory Reform.

Our role is to provide the evidence base for good policy making in employment relations, labour market and equality and discrimination at work. We do this through:

- Conducting periodic benchmark surveys
- Commissioning external research reports
- Conducting in-house research and analysis
- Assessing the regulatory impact of new employment laws
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<http://www.berr.gov.uk/employment/research-evaluation>

## About this publication

The project manager for this report was Wayne Diamond, Principal Research Officer in the EMAR branch.

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Enquiries should be addressed to [emar@berr.gsi.gov.uk](mailto:emar@berr.gsi.gov.uk) or to:

Employment Market Analysis and Research  
Department for Business, Enterprise and Regulatory Reform  
Bay 4107  
1 Victoria Street  
London SW1H 0ET  
UNITED KINGDOM

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# Foreword

The Department for Business, Enterprise and Regulatory Reform (BERR) leads work to create the conditions for business success through competitive and flexible markets that create value for businesses, consumers and employees. It drives regulatory reform, and works across Government and with the regions to raise levels of UK productivity. It is also responsible for promoting choice and quality for consumers through competition policy and for ensuring an improved quality of life for employees.

As part of that work the Employment Market Analysis and Research branch (EMAR) of the Department manages a research programme to inform policy making and promote better regulation on employment relations, labour market and equality and discrimination at work issues.

This report is one of four commissioned by the Department to conduct secondary analysis of the Survey of Employment Tribunal Applications (SETA) 2003. Details of the SETA Small Grants Fund can be found here:

<http://www.berr.gov.uk/employment/research-evaluation/grants/seta>

This report, by Kathy Armstrong and David Coats, examines the relationships between the costs, satisfaction with outcomes and perceptions of fairness of both Tribunal claimants and employers. We hope you find it of interest.

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Grant Fitzner

Director, Employment Market Analysis and Research

# Acknowledgements

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# Executive summary

*Secondary analysis of the Survey of Employment Tribunal Applications (SETA) 2003 data finds that claimants who are more satisfied with the outcome of their case also tend to incur less financial costs, be less likely to experience negative effects such as stress or depression and are more likely to find a better job after the claim. The role of Acas was generally positive for both employers and claimants. Full and comprehensive support from unions or staff associations was a key factor in satisfaction with outcome for claimants. The existence of an active trade union in the workplace was found to be associated with higher levels of satisfaction among employers.*

## **Aims and objectives**

This paper aims to provide an in-depth view of the costs and benefits of Tribunal claims for both employers and claimants by conducting sophisticated secondary data analysis of the 2003 Survey of Employment Tribunal Applications (SETA 2003). Multivariate techniques were used to examine the relationships between variables to extend the primarily descriptive analysis that has already been conducted.

The analysis examines the relationships between costs, satisfaction with outcomes and perceptions of fairness. In other words, do higher costs lead to higher or lower satisfaction with the claim. It also explores the relationship between non-financial negative effects and employment after the tribunal. Another aspect of the dataset that was examined was whether people who have reported that they have taken a 'job for now' report more negative non-financial effects of the tribunal claim.

The role of Acas in limiting the negative impacts of tribunal claims is also investigated. The intention is to determine whether the involvement of Acas resulted in fewer reported negative effects and financial costs for both employers and claimants.

The paper also examines the role of trade unions and their impact on the assessment of costs and benefits for both employers and employees.

## **Background**

SETA 2003 is the fourth in a series. The first SETA was undertaken in 1987, with subsequent surveys undertaken in 1992 and 1998. The series aims to provide information on the characteristics of the parties in, and key features of, employment tribunal cases. The findings presented in this report are

based on a random sample of 4,517 ET cases drawn from two independent sample surveys of claimants (2,236) and employers (2,281)

### **Costs and benefits for claimants**

A relationship was found between costs incurred by the claimant and satisfaction with the outcome of the case. Increased costs tended to be associated with lower levels of satisfaction with the outcome for claimants.

Claimants who settled their case via Acas or who were successful at hearing experienced the greatest levels of satisfaction with their case.

Those claimants who reported experiencing non-financial negative effects reported decreased satisfaction with the outcome. Those claimants who obtained a job that was aligned with their career aspirations reported greater satisfaction with the outcome of their case and were less likely to report experiencing non-financial negative effects. This highlights the potential impact of claimants experiencing negative effects such as stress and depression on their subsequent ability to find a job that is not just a 'job for now'.

Acas involvement in the claimants' cases appears to have mixed effects. Receiving a letter from Acas was associated with higher satisfaction. However, personal contact with an Acas officer is associated with reduced levels of satisfaction with the outcome of the case. Of course there may well be other factors common to these cases that account for these differences in satisfaction.

Trade unions were found to play an interesting role in claimants' experiences of their case. The amount of support provided by the union was found to be a key factor impacting on claimants' satisfaction. Interestingly though, results demonstrated that this support needs to be full and comprehensive rather a low level of support or 'half-hearted' support.

### **Costs and benefits for employers**

In summary, in line with results for claimants, increased satisfaction with the outcome of the case was associated with lower costs for the employer, e.g., legal costs.

Employer satisfaction was greatest where the claimant was unsuccessful at the hearing or where the case was dismissed or disposed of.

If employers were satisfied with the outcome of their case, they were more likely to be satisfied with the workings of the ET system. A similar result was obtained for the claimant sample.

The role of Acas was slightly different for employers compared to claimants. Satisfaction with the case was greater if employers had contact with an Acas officer. Similarly to claimants, satisfaction was higher for those employers who received a letter from Acas compared to those who did not. However, for employers this difference was not found to be statistically significant.

The existence of active trade unions or staff associations was found to be associated with higher levels of satisfaction amongst employers.

### **About this project**

This research was carried out as part of the Department for Business, Enterprise and Regulatory Reform's employment relations research programme. The research analyses data from the Survey of Employment Tribunal Applications 2003 (SETA 2003), and was funded by the Department's SETA Small Grants Fund.

SETA 2003 was collected by BMRB Social Research on behalf of the DTI (now BERR), Acas and the Scottish Executive. The data and supporting documentation has been deposited in the UK Data Archive:

<http://www.data-archive.ac.uk>

Multivariate analyses were used to examine relationships between variables in the SETA 2003 dataset.

### **About the authors**

Kathy Armstrong is a Senior Researcher at The Work Foundation, an evidence-based research and management consultancy. David Coats is the Associate Director – Policy at The Work Foundation. The Work Foundation exists to inspire and deliver improvements to performance through improving the quality of working life

# 1

## Introduction

### **Background to SETA 2003**

SETA 2003 is the fourth in a series of surveys on the characteristics and experiences of claimants and employers involved in Employment tribunal claims. The first SETA was undertaken in 1987, with additional surveys undertaken in 1992 and 1998. The series aims to provide information on the characteristics of the parties in, and key features of, employment tribunal cases. The Rayner Efficiency Review in the mid 1980's recommended that sample surveys be used to collect information on the characteristics of parties, as well as provide other information for policy research purposes.

Additional aims of the SETA 2003 were to update the results from the 1998 SETA, to provide the basis for an analysis of the factors that determine the outcomes and durations of employment tribunal cases, and to establish existing practice and attitudes in relation to workplace dispute resolution, ahead of the introduction of new legislation which came into effect in October 2004.

### **Background to Employment Tribunals System**

Employment tribunals attained their current role in the sixties, and initially heard appeals by employers against the levies imposed on them to fund industrial training boards (Dickens et al, 1984: 501). Later on, their remit extended to include adjudication of disputes between employers and employees over redundancy pay. The range of jurisdictions has increased considerably, in line with additions and reforms of the statutory framework within which employment relations are conducted.

The additions to the work of the Tribunal include claims in relation to unfair dismissal, sex and race discrimination, breach of contract and unlawful deductions from wages. By 2004 unfair dismissals accounted for around 40 per cent of all ET claims annually.

The number of ET claims has increased in line with the increased breadth in jurisdiction. There has been a threefold increase in claims to tribunals since 1990. The increased number of claims has put pressure on the ET system. A number of legislative reforms have been introduced in the last few years to reduce the number of claims, for example, by promoting settlements between disputants and by speeding the flow of cases through the system.

## **Role of Acas**

The Advisory, Conciliation and Arbitration Service (Acas) is an independent element of the ET system. Created in 1974, Acas has a statutory duty to conciliate in actual or potential complaints to employment tribunals. Acas Officers (Acas Individual Conciliation Officers) assist parties to settle their dispute, to avoid the need for an employment tribunal hearing.

## **Costs of the Tribunal System**

The process and experience of the tribunal experience imposes costs on all those involved, both employers and claimants. Many claimants report lower status or lower paid employment or indeed lack of employment following the case. Employers also report costs such as management time, legal fees, settlement payments or award costs. Other costs, such as loss of productivity, poor staff morale and bad publicity are also mentioned. (Dispute Resolution in Britain – A background paper, 2001)

## **SETA 2003 - Methodology**

The findings presented in this report are based on a random sample of 4,517 employment tribunal (ET) cases drawn from two independent sample surveys of claimants (2,236 cases) and employers (2, 281 cases). The sample for each survey was drawn across all jurisdictions from tribunal cases completed between March 2002 and March 2003. The findings are statistically representative of cases completed in the United Kingdom during this period. The survey was conducted by BMRB Social Research between October 2003 and January 2004.

As in SETA 1998 (the previous survey in the series), the survey data was collected using Computer Assisted Telephone Interviewing (CATI). The response rate was 66 per cent for both claimants and employers.

## **Scope of this Report**

This report presents an in-depth view of the costs and benefits of Tribunal claims for both employers and claimants by conducting secondary data analysis of the SETA 2003 data set. This will extend the primarily descriptive analyses that have already been conducted.

The report begins with an exploration of cost and benefit issues for claimants including:

- The relationship between cost and satisfaction with outcome
- Relationships between non-financial negative effects, costs and satisfaction with outcome
- Employment after the claim
- The role of Acas
- The role of trade unions.
- The next chapter looks at similar issues for employers including:
- Relationship between cost and satisfaction with outcome

- Non-financial negative effects, satisfaction with outcome and workings of the ET system
- The role of Acas
- Trade Unions and employers' satisfaction with outcome

# 2

## Costs and benefits for claimants

### Data considerations

As a result of discussions with researchers in DTI, discrimination cases were not included in all the analyses reported in the paper. The reason for this is that the experiences of claimants and employers in discrimination cases are likely to be very different from those in other types of cases. Discrimination cases tend to take longer to decide and involve normative disputes rather than disputes about terms of employment or other essentially factual issues. Discrimination cases were classified as those cases including jurisdictions related to:

- Unfair dismissal due to disability
- Other employment detriment due to disability
- Discrimination in getting employment due to disability
- Employer fails to make reasonable adjustment
- Equal pay or equal value
- Race discrimination
- Sex discrimination
- No written reasons for dismissal (pregnancy/maternity)
- Unfair dismissal for pregnancy

### Relationship between cost and satisfaction with outcome of case

These analyses aimed to investigate the relationships between costs and satisfaction with the outcome of the case for the claimant. That is, do higher costs lead to higher or lower satisfaction for the claimant? This section reports the results of these analyses. As part of the survey, claimants were asked whether their case resulted in any other financial costs to them personally for:

- travel,
- communication (such as telephone calls and stamps),

- loss of earnings or other financial costs.

Claimants were also asked about legal costs they incurred (not paid by third parties).

Correlation analyses<sup>1</sup> revealed a significant inverse correlation between satisfaction with the outcome of the case and the amount of lost earnings incurred as a result of the case, Pearson  $r = -.09$ ,  $p < .05$ . There was also a significant inverse correlation between the outcome of the case and the amount of travel costs incurred as a result of the case, Pearson  $r = -.11$ ,  $p < .05$ .

Probit models were used to further investigate the impact of financial costs on satisfaction with the outcome of the case. Ordered probit estimates were conducted using STATA. Results showed travel costs had a significant negative impact on satisfaction with the outcome of the case (coefficient =  $-.003$ ,  $z = -4.45$ ,  $p < .001$ ). Lost earnings had a significant negative impact on the outcome of the case (coefficient =  $.00$ ,  $z = -2.87$ ,  $p < .001$ ). Communication and legal costs did not have a significant impact on satisfaction.

Therefore:

- increased satisfaction with the outcome of the case was associated with lower travel costs and lost earnings, and;
- satisfaction with the outcome of the claim was not found to be associated with the total paid for advice and representation.

There was a significant positive correlation between satisfaction with the outcome and overall satisfaction with the working of the ET system, Pearson  $r = .58$ ,  $p < .001$ . That is, the more satisfied claimants were with the workings of the ET system, the more satisfied they were with the case outcome overall.

Thus, the more claimants spend on their claim and the more earnings they miss out on, the less satisfied they are with the outcome of their case. Perhaps a longer, more drawn-out and inevitably more expensive case affects the way claimants view the outcome of their case, leading them to have a less positive view of the final outcome. Or perhaps it is something about the nature of cases that require greater expenditure from the claimants that results in less satisfactory outcomes for claimants. The next section will examine the impact of case outcome (e.g., Acas settled, withdrawn etc) on satisfaction with the case and how costs differ according to outcome.

### **Relationship between case outcome, satisfaction and costs**

The employment tribunals Service administrative system (ETHOS) records the main events in the case, such as when claims are received, any hearing events, and the outcome of each claim in the case. Given that a case can contain many claims it is not always possible to describe a single case

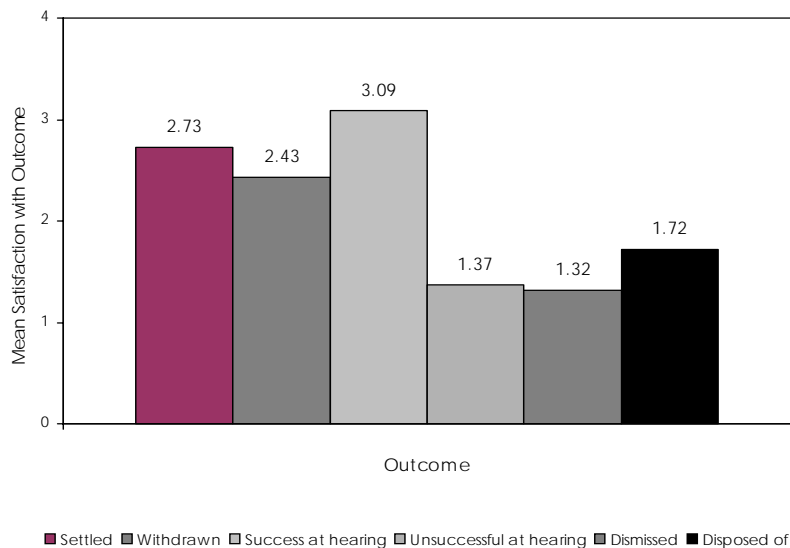
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<sup>1</sup> Note that variables for all analyses were recoded so that a higher score was a better score, in addition the 'don't know' response was treated as a missing value.

outcome. In the SETA survey claimants and respondents were invited to describe their own overall outcome for the case – this is recorded in the SETA data as the ‘survey outcome’. In this report the outcome of the case is taken to be the outcome of the ‘main jurisdiction’ in the case as recorded on the ETHOS administrative database. The ‘survey outcome’ differs from the ETHOS outcome in that the survey outcome distinguishes between ‘private settlement’ and cases that are withdrawn, whereas the ETHOS admin data only records cases as settled when they are notified via Acas (usually referred to as ‘Acas settled’). The survey outcome may also differ from the ‘main jurisdiction’ ETHOS outcome in multiple-jurisdiction cases. Survey respondents are given the option of describing their own overall case outcome instead of accepting the outcome for the main jurisdiction in the case. For single jurisdiction cases this will not make very much difference. In this report the authors have chosen to use the ETHOS outcome for the main jurisdiction in the case as opposed to the claimant-defined survey outcome for the case. Henceforth references to ‘outcome’ will refer to the ETHOS outcome.

Chart 1 illustrates mean satisfaction scores by the (ETHOS) outcome of the case (the official outcome of the main jurisdiction in the case). Claimant satisfaction with outcome is highest for those whose cases are successful at hearing, followed by those who settle their case. Satisfaction is lowest for those whose cases are dismissed or who are unsuccessful at the hearing.

**Chart 1. Mean satisfaction with outcome according to case outcome**

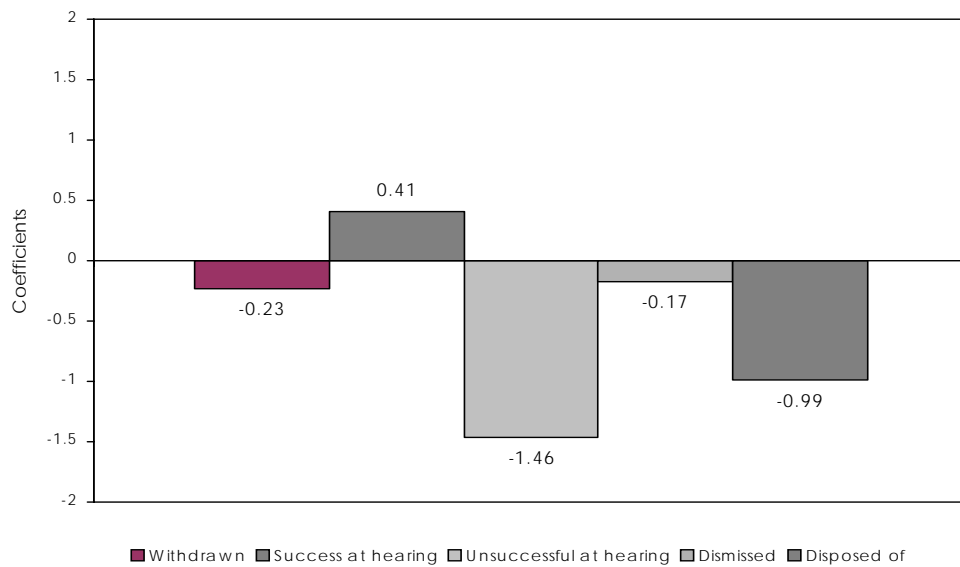


Source: SETA 2003

An ordered probit model revealed some interesting relationships between outcome and satisfaction. Chart 2 illustrates the coefficients for this model. ‘Settled’ as an outcome is set to zero. Thus the coefficients are all compared to ‘Acas settled’. This chart shows that there was a positive impact of case

outcome on satisfaction with outcome for those claimants who were successful at the hearing ( $z=5.31$ ). There is a negative impact on satisfaction with outcome for those claimants whose cases were withdrawn ( $z=-4.01$ ), unsuccessful at hearing ( $z=-13.10$ ), dismissed ( $z=-5.80$ ) or disposed ( $z=-6.48$ ), compared to those claimants who settled via Acas. So, not surprisingly, claimants who were successful at hearing were more satisfied with the outcome of their case.

**Chart 2. Relationship between case outcome and satisfaction with outcome**

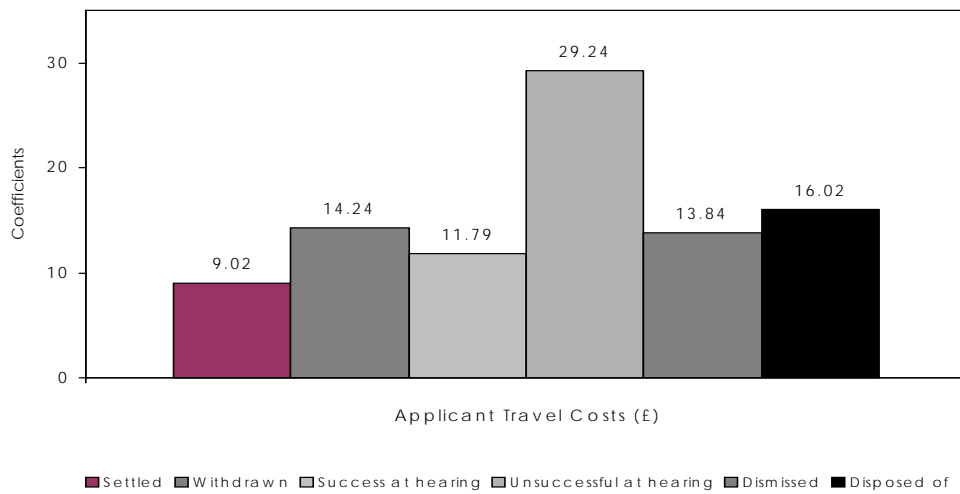


Source: SETA 2003

Chart 3 shows how travel costs varied according to outcome of the case. Travel costs were highest for those claimants whose cases were unsuccessful at the hearing.

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**Chart 3. Relationship between travel costs and case outcome**



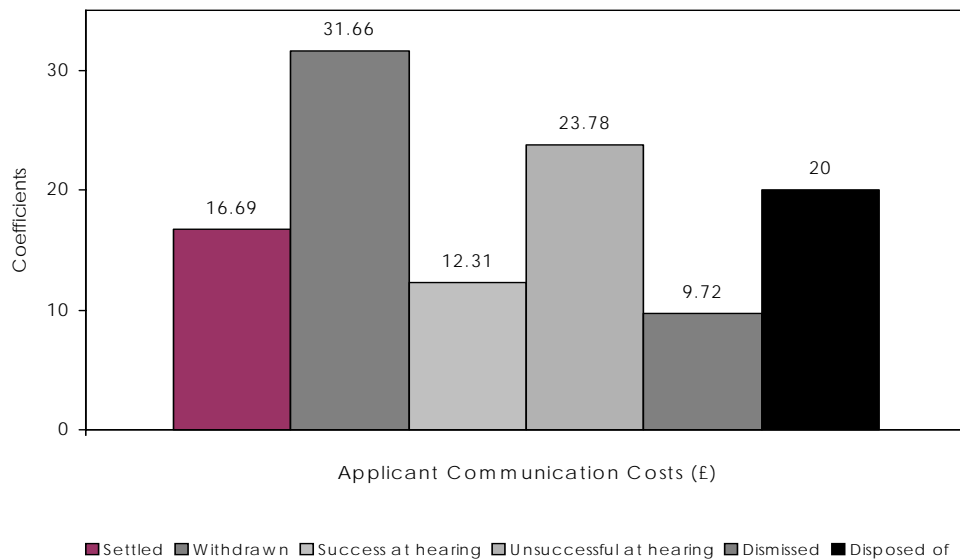
Source: SETA 2003

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Chart 4 shows how communication costs varied according to outcome of the case. Communication costs were highest for those applicants whose cases were unsuccessful at the hearing or were withdrawn.

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**Chart 4. Relationship between communication costs and case outcome**

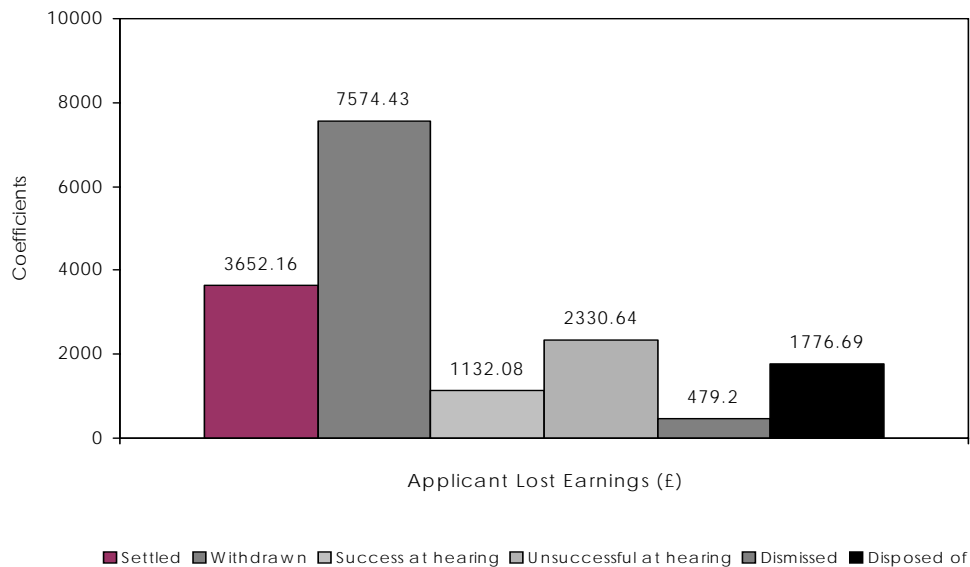


Source: SETA 2003

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Chart 5 shows how lost earnings varied according to outcome of the case. Lost earnings were highest for those claimants whose cases were withdrawn. Lost earnings were very low where cases were dismissed.

**Chart 5. Relationship between lost earnings and case outcome**



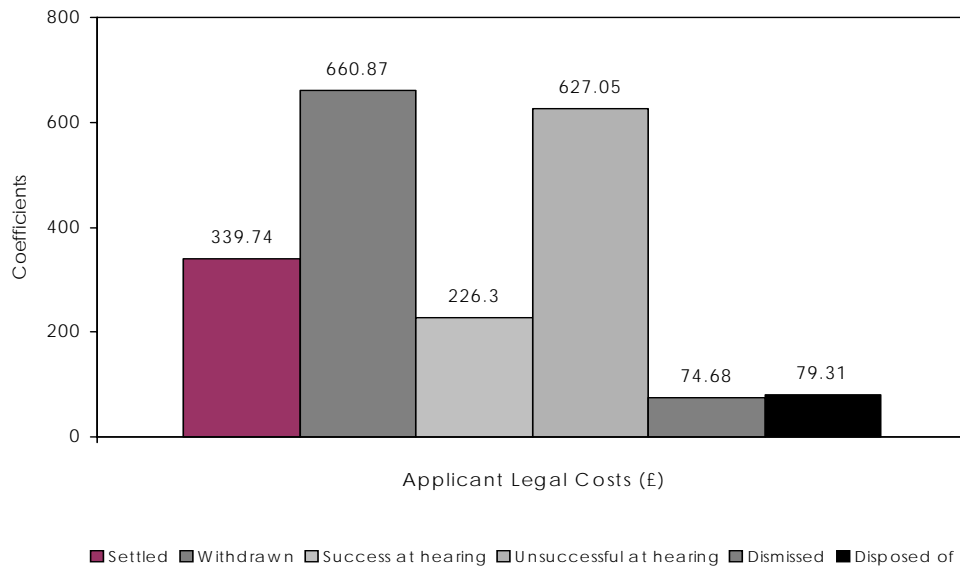
Source: SETA 2003

Chart 6 shows how legal costs varied according to outcome of the case. Legal costs were highest for those claimants whose cases were withdrawn or were unsuccessful at hearing. Legal costs were very low where cases were dismissed or disposed of.

In summary:

- the better the case outcome, the higher the levels of satisfaction with the outcome
- Costs incurred by the claimant were generally lower if a case was settled via Acas – this may be due to the case being shorter in duration

**Chart 6. Relationship between legal costs and case outcome**



Source: SETA 2003

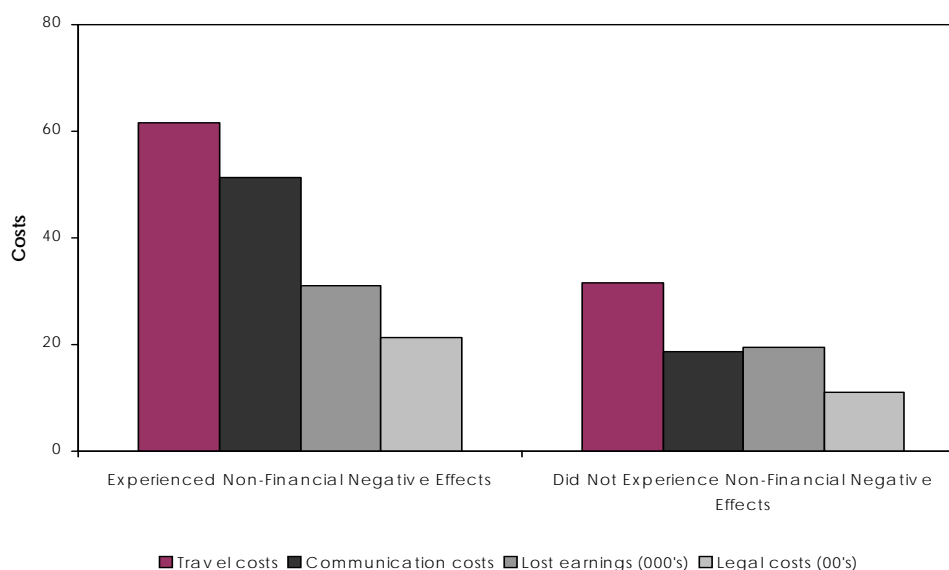
### **Non-Financial Negative Effects, Costs and Satisfaction with Outcome**

The objective of these analyses was to examine the relationships between the experience of non-financial negative effects, costs and the outcome of the case for the claimant. This section reports the results of these analyses. Claimants were asked whether the case had any other non-financial negative effects on them. Analyses examined whether claimants who reported non-financial negative effects were less satisfied with the outcome of their case.

Most commonly reported negative effects of SETA 2003 were some sort of stress or depression or finding the case emotionally draining. Also reported was loss of self-confidence and self-esteem (DTI (2004) Findings from the Survey of Employment Tribunal Applications 2003).

Chart 7 shows that those claimants who experienced non-financial negative effects had significantly higher costs (travel, communication, legal costs and lost earnings) compared to those claimants who did not experience these negative effects. These differences were all significant at the .05 level.

**Chart 7. Relationship between costs and whether experienced non-financial negative effects**



Source: SETA 2003

Correlation analyses found a significant negative correlation between the reporting of non-financial negative effects and satisfaction with the outcome of the case, Kendall's tau  $b = -.33$ ,  $p < .001$ .<sup>2</sup> That is, if claimants reported experiencing non-financial negative effects, they also reported greater levels of satisfaction with the outcome of the case.

Ordered probit estimates were conducted and revealed a strong negative impact of non-financial negative effects on claimant's satisfaction with the case. That is, if claimants experience non-financial negative effects, satisfaction with the outcome of their case decreases, coefficient =  $-.71$ ,  $z = -13.03$ ,  $p < .001$ .

In summary:

- those claimants who report experiencing non-financial negative effects such as stress and depression also report less satisfaction with the outcome of the case,
- those claimants who do not report experiencing non-financial negative effects report greater satisfaction with the outcome of the case, and;
- both financial costs as well as non-financial negative effects impact on the satisfaction of claimants.

<sup>2</sup> Kendall's tau b correlation coefficients were used for ordered category variables.

## Employment after the claim

In this section, analyses aimed to examine the relationship between satisfaction with the outcome of the case and employment experiences after the claim for the claimant. This section reports the results of these analyses.

As part of the survey, claimants were asked about their current job and whether this job was part of their career plan or something to do until something better came along.<sup>3</sup>

ANOVA analyses revealed that satisfaction with the outcome of the case was higher for those who saw their current job as part of their career plan ( $M = 2.65$ ,  $SD = 1.13$ ) compared to those who saw their current job as something to do until something better came along ( $M = 2.47$ ,  $SD = 1.11$ ),  $F(1, 1501) = 6.46$ ,  $p < .05$ .

This was supported by results from a marginal effects binary probit model that revealed that whether claimants saw their current job as part of their career plan had a negative effect on the likelihood of experiencing non-financial negative effects, (coefficient =  $-.087$ ,  $z = -3.23$ ,  $p < .01$ ). That is, if claimants viewed their current job as fitting with their career plan, they were 8.7% less likely to report experiencing non-financial negative effects. Or alternatively, if claimants viewed their job as something to do until something better comes along, they were 8.7% more likely to report experiencing non-financial negative effects.

Outcome of the case was also included in this model and revealed that there was a strong positive effect of an unsuccessful case outcome on the likelihood of experiencing non-financial negative effects, (coefficient =  $.11$ ,  $z = 2.24$ ,  $p < .05$ ). So if claimant's cases were unsuccessful they were 11% more likely to experience non-financial effects. There was a strong negative impact of successful cases on the likelihood of experiencing non-financial negative effects (coefficient =  $-.14$ ,  $z = -3.37$ ,  $p < .01$ ). Therefore, if a claimant were successful, they were 14% less likely to experience non-financial effects. There was no significant impact for the other outcomes.

Claimants were also asked about the status of their current job compared with the job related to the claim. Chart 8 illustrates that satisfaction with the outcome of the case was higher for those whose current job was at a higher level or the same level than the job they had prior to the claim compared to those whose current job was at a lower level than the job they had prior to the claim. ANOVA analyses revealed these differences were significant,  $F(2, 1534) = 14.25$ ,  $p < .001$ .

In other words, those claimants who obtained satisfactory employment that was aligned with their career plan after the case were more satisfied with the outcome of their case and less likely to report non-financial negative effects.

In line with this, if claimants obtained a job that was at a higher level or the same level as their previous job, they were more satisfied with the outcome.

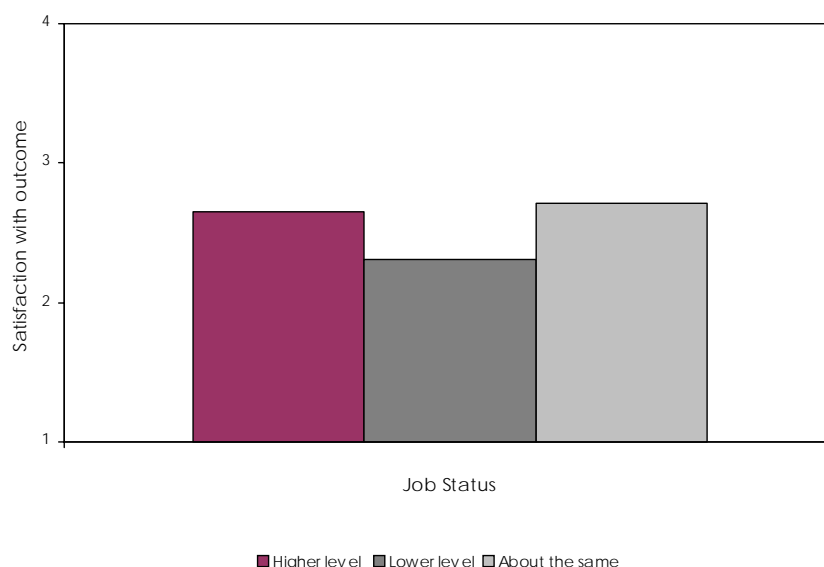
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<sup>3</sup> Length of unemployment was not used as an independent variable in analyses as there were too few cases.

Those claimants who took a job that was not part of their career plan were more likely to report experiencing non-financial negative effects such as stress and depression. Whether these negative effects were a factor in claimants not finding a job that fitted with their career aspirations is an important research question requiring further investigation.

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**Chart 8. Satisfaction with outcome of case according to status of job after the claim to the ET**



Source: National Statistics

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### **The role of Acas in limiting the negative impact of ET claims**

This section aims to investigate the impact of involvement of Acas on costs, non-financial effects and satisfaction with outcome.

Claimants were asked whether they received a letter from Acas explaining the service they offered. They were also asked, apart from this letter of introduction, whether they personally had any contact with an Acas officer after they put in their claim.

There were no significant differences in travel costs, communication costs and lost earnings according to whether claimants received a letter from Acas or had personal contact with Acas.

ANOVA analyses revealed that if claimants received a letter from Acas they were significantly more satisfied with the outcome of the claim ( $\underline{M}$ =2.62,  $\underline{SD}$ =1.13) compared to those claimants who did not receive a letter ( $\underline{M}$ =2.39,  $\underline{SD}$ = 1.15),  $\underline{F}(1, 1782)=11.16$ ,  $\underline{p}<.001$ .

If claimants had personal contact with an Acas officer, they were significantly less satisfied ( $M = 2.49$ ,  $SD = 1.13$ ) compared to those who did not have contact with an Acas officer ( $M = 2.66$ ,  $SD = 1.13$ ),  $F(1, 1970) = 10.89$ ,  $p < .01$ .

In summary:

- Acas' recent policy of sending introduction letters is associated with increased satisfaction.
- The involvement of Acas made no difference to the costs that were incurred by claimants.
- Personal contact with an Acas officer tended to have a negative impact on claimants' satisfaction with the outcome of their case -this is an area warranting further investigation.

### **The role of trade unions in limiting the negative impact of ET claims**

These analyses sought to examine the role of trade unions in limiting the negative impact of ET claims for the claimant. Claimants were asked about the amount of support or assistance their Union gave them during the case. They were also asked whether they were a member of a trade union or staff association at the time of the claim, and also whether they consulted a trade union representative or a worker representative for advice or guidance.

If claimants went to a trade union representative or a worker representative for guidance, their travel costs were significantly higher ( $M = 137.14$ ,  $SD = 183.77$ ) than those who did consult a representative ( $M = 64.19$ ,  $SD = 91.83$ ),  $F(1, 112) = 5.75$ ,  $p < .05$ . Communication and travel costs were not significantly higher if claimants consulted a representative for guidance.

If the claimant was a member of a trade union or staff association at the time of the claim, communication costs were not significantly higher than for those who were not members.

There were no significant differences in lost earnings according to whether claimants were members of trade unions or staff associations or if they consulted a representative for advice and guidance.

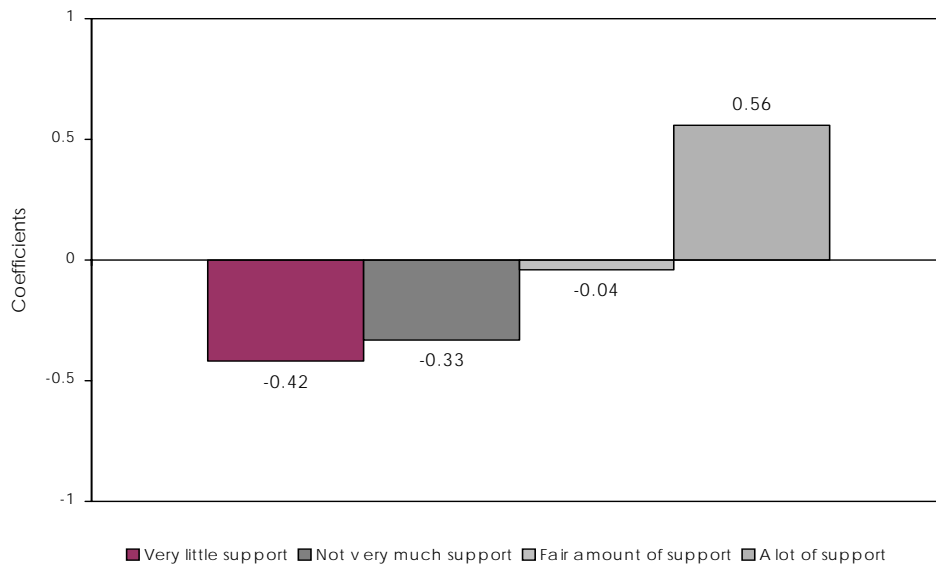
An ordered probit model revealed some interesting findings in terms of the relationship between the amount of support provided by the Union and satisfaction with outcome.

Chart 9 illustrates the coefficients for this model. Non-significant coefficients are plotted as zero, e.g., 'not very much support' and 'fair amount of support'. 'No support at all' is set to zero. Thus the coefficients are all compared to 'no support at all'. This chart shows that there was a positive impact of support from the Union on satisfaction with outcome for those claimants who reported a lot of support ( $z = 3.72$ ) but a negative impact on satisfaction with outcome for those claimants who had very little support ( $z = -2.13$ ), compared to those claimants who received no support.

Therefore, it appears that it was better for the satisfaction of claimants to have no support at all than to have very little support from Unions. Claimants appeared to be less unhappy with no-support than half-hearted support. This

might be related to the reason given, if any, for the union not being involved in the case.

**Chart 9. Relationship between amount of support provided by Union and satisfaction with outcome**



Source: National Statistics

ANOVA analyses revealed that if claimants were members of a trade association or staff association at the time of claim they were significantly less satisfied with the outcome of their case ( $M=2.31$ ,  $SD=1.15$ ) compared to those who were not members ( $M=2.66$ ,  $SD=1.12$ ),  $F(1, 1968)=33.50$ ,  $p<.001$ .

An ordered probit model revealed that whether claimants were members of a trade association or a staff association at the time of their claim had a strong negative impact on satisfaction with outcome (coefficient=  $-.22$ ,  $z=-3.5$ ,  $p<.001$ ). That is, if the claimant was a member of a union or staff association at the time of their claim, their satisfaction with the outcome is decreased.

However, when the amount of support provided from the union was added to the model, membership of a union or staff association ceases to have an impact on satisfaction with outcome, suggesting that there is no 'membership' effect. Rather, it is what is associated with being a member of a union, i.e., the support that is provided, that is important in terms of influencing satisfaction with outcome. If claimants went to a trade union representative or a worker representative for guidance, they were significantly less satisfied with the outcome of their case ( $M=1.77$ ,  $SD=1.11$ ) than those who did not seek guidance from a representative ( $M=2.31$ ,  $SD=1.11$ ),  $F(1,343)=8.44$ ,  $p<.01$ .

An ordered probit model showed that there was a negative impact of going to a trade union or worker representative on satisfaction with outcome (coefficient=-.70,  $z=-3.57$ ,  $p<.001$ ). That is, if claimants went to a representative for guidance, they tended to be less satisfied with the outcome of their claim. However, the impact of going to a trade union or worker representative on satisfaction with outcome is a relatively weak effect. When the amount of support provided from the union was added to the model, going to a representative for guidance ceased to have an impact on satisfaction with outcome. Again, this highlights the importance of support from the union in driving satisfaction with outcome.

In summary, trade unions appear to have an interesting role to play in limiting the negative impact of ET claims:

- A key factor impacting on claimants' satisfaction with outcome appears to be the amount of support provided by the union.
- This support needs to be full and comprehensive rather than low level or inconsistent support.
- Providing only a little support was found to be worse than providing no support at all.

## Summary

In summary, there appears to be a relationship between costs incurred by the claimant and satisfaction with the outcome of the case. Increased costs tend to be associated with lower levels of satisfaction with the outcome for claimants.

Claimants who settle their case or who are successful at the hearing experience greater satisfaction with the outcome.

Those claimants who report experiencing negative effects report decreased satisfaction with the outcome. Those claimants who obtained a job that was aligned with their career aspirations reported greater satisfaction with the outcome of their case and were less likely to report experiencing non-financial negative effects. This highlights the potential impact of claimants experiencing negative effects such as stress and depression on their subsequent ability to find a job that is not just a 'job for now'.

Acas involvement in the claimants' cases appears to have mixed effects. Receiving a letter from Acas was associated with higher satisfaction and a slightly reduced likelihood of experiencing non-financial negative effects. However, personal contact with an Acas officer is associated with reduced levels of satisfaction with the outcome of the case.

Trade unions were found to play an interesting role in claimants' experiences of their case. The amount of support provided by the union was found to be a key factor impacting on claimants' satisfaction. Interestingly though, results demonstrated that this support needs to be full and comprehensive rather a low level of support or 'half-hearted' attempt at support.

The next chapter will consider the costs and benefits for employers of employment tribunal claims.

# 3

## Costs and benefits for employers

### Relationship between cost and satisfaction with outcome of case

This section reports the results of analyses examining the relationships between costs and satisfaction with the outcome of the case for the employer. As part of the survey, employers were asked about legal costs they incurred as a result of the claim (not paid by third parties).

Satisfaction with the outcome of the claim was found to be inversely related to the total paid for advice and representation, Pearson  $r = -.06$ ,  $p < .05$ . That is, the higher the legal costs, the less satisfied claimants were.

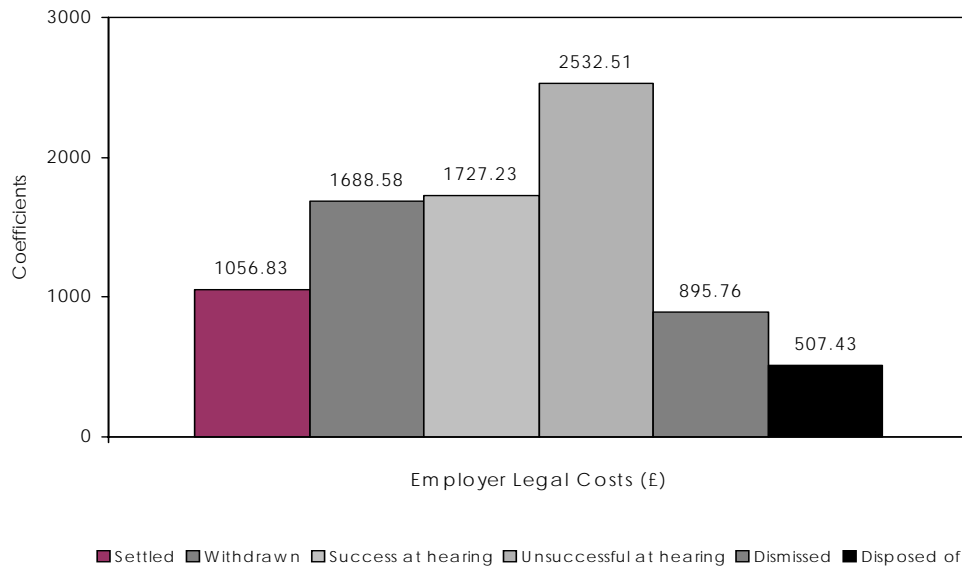
Chart 10 shows how legal costs vary according to the outcome of the case. Legal costs are considerably higher for employers when the claimant's case is unsuccessful at the hearing. Costs are lowest when the case is disposed of. Higher legal costs presumably go hand in hand with a longer duration for the case.

Ordered probit estimates were conducted and revealed a strong negative impact of legal costs on an claimant's satisfaction with the case. That is, if claimants incur greater legal costs, satisfaction with the outcome of their case decreases, coefficient =  $-.01$ ,  $z = -2.94$ ,  $p < .001$ .

Chart 11 illustrates how employer satisfaction varies according to the outcome of the case. Unsuccessful cases for the claimant are associated with increased levels of satisfaction with outcome for the employer. Not surprisingly, satisfaction levels are lowest when the claimant is successful at the hearing.

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**Chart 10. Relationship between case outcome and legal costs**

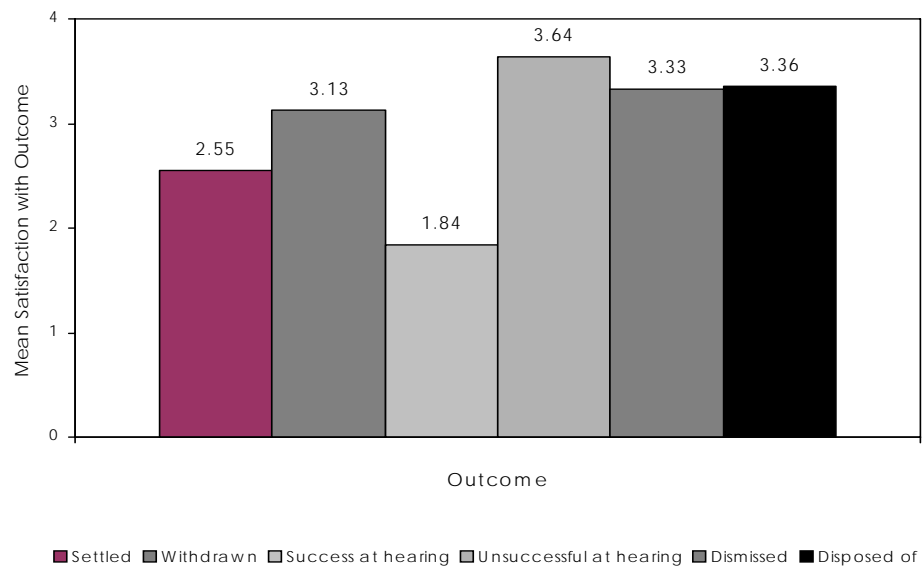


Source: National Statistics

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**Chart 11. Satisfaction with Outcome According to Case Outcome**



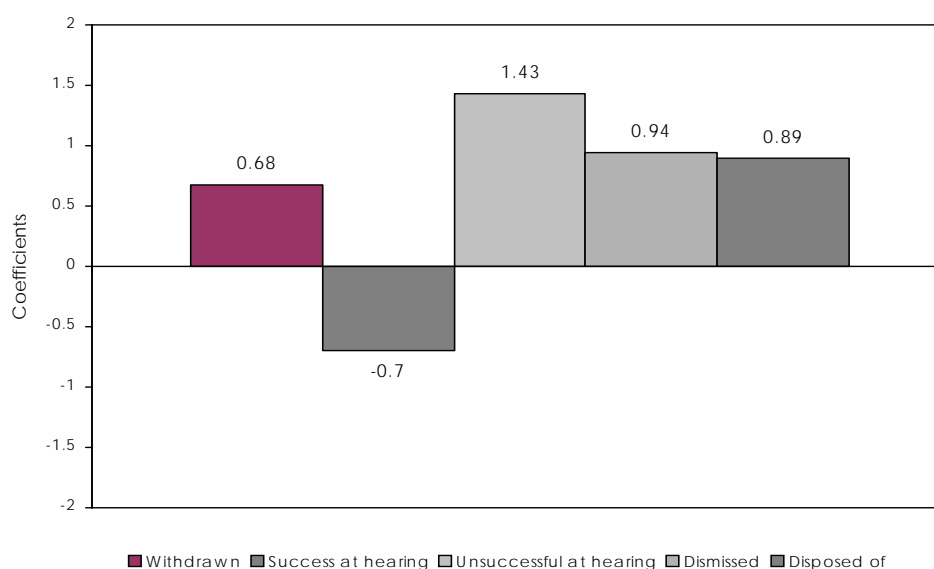
Source: National Statistics

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An ordered probit model illustrated the relationships between outcome and satisfaction in more depth. Chart 12 illustrates the coefficients for this model. 'Settled' as an outcome is set to zero. Thus the coefficients are all compared to 'settled' (Acas settled, not private settlement – which are included with 'withdrawn' in the ETHOS outcome variable). This chart shows that there was a negative impact of case outcome on satisfaction with outcome for those employers who were successful at the hearing ( $z=-7.09$ ) but a positive impact on satisfaction with outcome for those employers whose cases were withdrawn or privately settled ( $z=11.14$ ), unsuccessful at hearing ( $z=13.47$ ), dismissed ( $z=4.10$ ) or disposed ( $z=6.72$ ), compared to those employers who settled. The impact was most positive for those where claimants were unsuccessful at the hearing.

Thus, not surprisingly, a successful outcome for a claimant has a negative impact on the satisfaction of employers.

**Chart 12. Relationship between case outcome and satisfaction with the case**



### **Non-financial negative effects and satisfaction with outcome and working of the ET system**

This section reports the results of analyses examining the relationships between non-financial negative effects, satisfaction with the workings of the employment tribunal system and satisfaction with the outcome of the case for employers.

Employers were asked about their satisfaction with the outcome of the case, and whether there were any non-financial negative effects on the organisation as well their satisfaction with the workings of the employment tribunal System and the outcome of their case.

Correlation analyses revealed that similarly to the claimants, there was a positive correlation between overall satisfaction with the workings of the ET system and satisfaction with the outcome of the claim, Pearson  $r = .49$ ,  $p < .001$ . That is, if claimants were satisfied with the workings of the ET system they were more likely to report greater satisfaction with the outcome of their case. Those who reported non-financial outcomes for their organisation were significantly less satisfied with the outcome ( $M = 2.45$ ,  $SD = 1.21$ ), compared to those who did not report non-financial outcomes ( $M = 2.96$ ,  $SD = 1.03$ ),  $F(1, 1821) = 87.53$ ,  $p < .001$ . That is, those organisations who reported non-financial outcomes tended to be less satisfied compared to those organisations who did not report non-financial outcomes.

### **The Role of Acas in Limiting Negative Impacts of Tribunal Claims**

This section reports the results of analyses examining the relationships between satisfaction with the outcome of the case and the role of Acas for the employer.

Employers were asked whether they received a letter from Acas explaining about the service they offered. They were also asked, apart from this letter of introduction, whether they personally had any contact with an Acas officer after they put in their claim. Employer's satisfaction with the outcome of the case was significantly greater if employers had contact with an Acas officer ( $M = 2.85$ ,  $SD = 1.11$ ) compared to if employers had not had contact with an Acas officer ( $M = 2.74$ ,  $SD = 1.13$ ),  $F(1, 1831) = 4.49$ ,  $p < .05$ ). This finding is in contrast to that found for claimants, where contact with an Acas officer was associated with lower satisfaction with outcome.

There was no significant difference in terms of satisfaction with outcome for those employers who received a letter from Acas compared to those who did not receive a letter, although satisfaction was higher for those who received a letter of introduction from Acas.

### **Trade unions and employers' satisfaction with outcome**

Employers were asked whether there were any trade unions or staff associations active at the workplace. Those employers whose organisations had active trade unions or staff associations ( $M = 3.15$ ,  $SD = .92$ ) were significantly more satisfied with the outcome of the case compared to those employers who did not have active unions or staff associations ( $M = 2.67$ ,  $SD = 1.14$ ),  $F(2, 1814) = 29.37$ ,  $p < .001$ .

### **Summary**

In summary, in line with results for claimants, increased satisfaction with the outcome of the case was associated with lower costs for the employer, e.g., legal costs.

Employers satisfaction with the outcome was highest where the claimant was not successful or where the case was dismissed or disposed of.

If employers were satisfied with the outcome of their case, they were more likely to be satisfied with the workings of the ET system. A similar result was obtained for the claimant sample.

The role of Acas was slightly different for employers compared to claimants. Satisfaction with the case was greater if employers had contact with an Acas officer, for claimants satisfaction with the case decreased if they had had contact with an Acas officer.

Similarly to claimants, satisfaction was higher for those employers who received a letter from Acas compared to those who did not. However, for employers this difference was not found to be significant.

The existence of active trade unions or staff associations was found to be associated with higher levels of satisfaction amongst employers.

# 4

## Conclusions

This paper sought to provide an in-depth view of the costs and benefits of ET claims for both claimants and employers by conducting secondary data analysis of SETA 2003.

Analyses examined the relationships between costs, satisfaction with outcomes and perceptions of fairness. It also explored the relationship between non-financial negative effects and employment after the tribunal. Another aspect of the dataset that was examined was whether people who have reported that they have taken a 'job for now' report more negative non-financial effects of the tribunal claim. The role of Acas and trade unions limiting the negative impacts of tribunal claims was also investigated.

### **Costs and benefits for claimants**

A relationship was found between costs incurred by the claimant and satisfaction with the outcome of the case. Increased costs tended to be associated with lower levels of satisfaction with the outcome for claimants.

Those claimants who reported experiencing non-financial negative effects reported decreased satisfaction with the outcome. Those claimants who obtained a job that was aligned with their career aspirations reported greater satisfaction with the outcome of their case and were less likely to report experiencing non-financial negative effects. This highlights the potential impact of claimants experiencing negative effects such as stress and depression on their subsequent ability to find a job that is not just a 'job for now'.

Claimants who settle or who are successful at the hearing experience greater satisfaction with the outcome. Those claimants who were more satisfied with the outcome of their claim tended to incur lesser financial costs, to be less likely to report non-financial negative effects such as stress, and were more likely to find a job afterwards that fitted with their career goals. Those claimants who were less satisfied tended to incur greater financial costs, were more likely to report experiencing negative effects such as stress and depression, and were less likely to find a good job afterwards.

Acas' involvement in the claimants' cases appears to have mixed effects. Receiving a letter from Acas was associated with higher satisfaction and a slightly reduced likelihood of experiencing non-financial negative effects. However, personal contact with an Acas officer was associated with reduced levels of satisfaction with the outcome of the case.

It is clear that claimants welcomed the Acas intervention (i.e., the letter). However, once a conciliation officer became involved, people were less happy with the outcome of their case. Perhaps there is some kind of selection effect at work here. That is the claimants with the most complex or most uncertain cases tending to ask for more help from Acas. Or maybe claimants have high expectations of Acas being able to positively assist them in pursuing their claim, when in fact the role of Acas is to broker a solution rather than act as an advocate for the claimant. The finding may highlight the need for Acas to more clearly explain their role to claimants - that the role of Acas is to conciliate a settlement, not to promote a victory for the claimant.

This finding does not imply that Acas is ineffective, it simply suggests that there may be a mismatch between claimants' expectations of what Acas can do for them and what is actually within Acas' remit. It is more an issue of lack of understanding of Acas' role than any critique of the role of Acas officers.

Trade unions were found to play an interesting role in claimants' experiences of their case. The amount of support provided by the union was found to be a key factor impacting on claimants' satisfaction. Interestingly though, results demonstrated that this support needs to be full and comprehensive rather than a 'half-hearted' attempt at support.

### **Costs and benefits for employers**

In summary, in line with results for claimants, increased satisfaction with the outcome of the case was associated with lower costs for the employer, e.g., legal costs.

If employers were satisfied with the outcome of their case, they were more likely to be satisfied with the workings of the ET system. A similar result was obtained for the claimant sample. Employer satisfaction was highest when the claimant was unsuccessful at the hearing.

The role of Acas was slightly different for employers compared to claimants. Satisfaction with the case was greater if employers had contact with an Acas officer, for claimants satisfaction with the case decreased if they had had contact with an Acas officer. This might be because employers have a more realistic understanding of the role of Acas to promote settlement between the parties and to avoid cases going to a Tribunal hearing (which employers may be keen to avoid for cost reasons). Similarly to claimants, satisfaction was higher for those employers who received a letter from Acas compared to those who did not. However, for employers this difference was not found to be significant.

It makes sense that an introductory Acas letter has a less influential impact on satisfaction with outcome. Presumably, employers will already know of the existence of Acas, and have access to more physical and emotional resources. However, having personal contact with Acas is likely to have a positive impact, as Acas' focus on conciliating a solution may be more in line with what employers want. Whilst an employee is seeking justice and to vindicate their rights, it could be said that employers just want a solution, so that they can go back to running their business.

The existence of active trade unions or staff associations was found to be associated with higher levels of satisfaction amongst employers. Unions may act as a buffer between the claimant and employer, with the union acting as an intermediary in the same way as Acas, except that the union is presumably acting in the claimant's best interest and attempting to broker the best deal. For example, union officials can talk to claimants and persuade them to settle, if they believe that is in the best interests of the employee. Perhaps the role of the union is clearer for claimants, and perhaps claimants have more realistic expectations of how the union can help them.

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