



The business people – an extension to your team

Employment Law Panel Report

March 2011

Introduction

The Forum of Private Business is a proactive, not-for-profit organisation providing comprehensive support, protection and reassurance to small businesses. We add value to businesses through the collective voice for members in local, central and European government, and the provision of tailored solutions that promote business success.

Our Employment Law Panel comprises approximately 140 members who have volunteered to provide feedback to us on employment law matters. Traditionally, we have contacted panel members on an *ad hoc* basis to gather feedback on specific issues, however, we now engage more regularly with the business owners on our Member Panels to better understand and collect evidence of their real life experiences, to more effectively reinforce our policy and campaigns activities. This is the second report from the Employment Law Panel.

Note: as figures refer to just over 130 businesses, they should be treated as indicative rather than representative of all small and medium-sized businesses.

Summary

Employer's Charter

Panel members tended to be very positive about the Employer's Charter, feeling that although the measures were available in law, the document was generally very useful, as it highlighted the abilities of employers to take remedial action and balanced out the constant focus on employee rights. It is however only a start as many of the rights highlighted in the charter involve the application of arduous procedures such as redundancy.

Many wanted these sections of employment law prioritised for simplification. Generally they felt that the measures encouraged common sense by promoting employers rights and this focus was felt to be a welcome attempt to consider employment law from a business perspective.

More was needed, however, to balance the rights of individual employees and the rights of the business (employer and other employees). Some did feel it was a gimmick at a time when employee rights are further extended as a result of the UK introducing European legislation.

Pensions

Business owners are worried about the liability and details of how to comply with the regulations introduced by the Government. They consider pensions to be complex financial products and believe it is difficult to distinguish between good and bad offerings.

There remain concerns over auto enrolment into pension schemes - scheduled to reach smaller employers from 2014 - due to the lack of information on current schemes, lack of incentives for business owners and widespread scepticism about the pensions industry in general. This may change as the pension regulator provides further information on duties, the staggered rollout process and NEST launches through 2011 making information available to all sizes of employer.

Business owners would like more support from payroll experts and accountants to understand how they will introduce the scheme and its impact on their business as employees are unlikely to be happy at lower take home pay after a period of austerity and pay freezes.

Resolving workplace disputes

The vast majority of workplace disputes are handled internally by small businesses. Our members find that the best resolutions of workplace disputes do not tend to involve lawyers or consultants. There is little recognition for the work they do and the actual tribunal system is felt to discriminate against the informal methods that smaller firms can operate due to the closer relationship of employer and employee.

Pre-claim conciliation is generally thought of as positive, but a month was thought to be excessive as respondents felt it needed to be faster or it could lead to another level of bureaucracy and hold cases up, particularly if there became a capacity issue at Acas. There was also confusion over the role as mediator if Acas was involved at this stage.

76% preferred mediation to tribunals, although 20% felt that as soon as a case was escalated externally they were likely to lose out because of cost and time. Reducing the number of frivolous and spurious cases was the most helpful measure proposed by the government consultation on resolving workplace disputes, although owners were concerned about whether judges would understand the more informal methods of compliance that are more appropriate for smaller firms. Most concern was over increased penalties for non-compliance as many panel members felt that this could include businesses who had failed on technicalities, rather than their wilful refusal to comply.

Generally the members felt that the suggestions were again positive but a proportion felt that employees would still be favoured in dispute resolution due to the complexity of the legislative framework. Others felt that dispute resolution favoured larger companies who had proportionally less to lose by compromising in mediation or losing a tribunal.

Burden of employment law

The burden of employment law rose again among panel members, with the cost of employment law specialists becoming less affordable in the light of eroded profits.

Recommendations

In his Budget speech, the Chancellor stated that he would create a 3-year moratorium for micro businesses from UK legislation, and work to reduce the regulatory burden from the European Union. As the majority of employment law emanates from Europe, we would like to see the ‘think small first’ principles applied to European law. This could mean that employee rights such as holiday allowances for those who have already taken maternity or paternity leave be left to the discretion of the employer.

We would like to see the more informal way that smaller employers deal with their staff (often in a more sympathetic and effective way than is indicated in law) be taken into account as good practice rather than technically deficient.

We would also like to see the benefits given to micro businesses extended to all small and medium-sized employers so that unreasonable barriers are not created when an employer wants to take on a tenth employee.

Employer’s Charter

Following the positive reaction from panel members, we would like to see these principles made simpler for businesses to enact through the law and employment tribunals. The focus on returning control to business owners and promoting employers rights is a welcome change in direction.

Greater clarity on what new measures are to be introduced to support business owners would be welcome as the practical difficulties in actually using the employer’s charts on matters such as dismissing employees for poor performance have made these suggestions appear to be new initiatives.

Pensions

More information on the basics of pension provision should be available to small and micro businesses. This is, however, time consuming and businesses would like the information provided through trusted advisers following the historical problems in the past.

An incentive package for employers needs to be created to recompense them from their time and potentially increased liability.

The Government should make a concerted effort to ensure employees know they will be subject to salary deductions for pensions from 2014. This will help defuse potential confrontation between employers and employees when auto enrolment is imposed.

The Government should reconsider the timetable for introducing auto enrolment to micro employers, hitting the smallest businesses in 2014 with new pension arrangements, shortly after their exemption for other regulation ends, will see an overwhelming flood of regulation hit employers at once.

Resolving workplace disputes

There should be greater recognition of common sense solutions to workplace disputes, in line with many of the common sense principles in the Employer's Charter. The Forum will, on behalf of our members, reply in more detail to this consultation formally.

Pre-claim conciliation should be speeded up as a month is felt to be too long for a dispute to fester if the relationship between the employer and employee breaks down. Questions over capacity could be dealt with through providing greater use of the Civil Mediation Council (the professional body of which Acas is a member) either to take on pre-conciliation work or undertake the mediation work to avoid confusion in the process.

Mediation was a preferred choice of panel members in resolving disputes, however a work plan agreed in mediation should be legally enforceable on the employee as well as the employer to create greater balance in the process.

Introduction of the other major measures contained within the resolving workplace disputes and as shown in this report. The ability for judges to throw out spurious cases (the most positive idea) would be further improved by a greater understanding by tribunal officials of the issues of working within an SME as they are perceived as somewhat institutional.

It should also be stressed that penalties for non-compliant firms should only be levied when there is has been an avoidance of compliance rather than an issue of non compliance on a technicality.

Employer's Charter

"This charter can only be judged to be a success if it results in fewer frivolous claims through tribunals. It also does nothing to bring employees who break their end of the bargain (e.g. not serving their notice) to book." Panel member response

Broadly, businesses were enthused about the measures focussed on in the Employer's Charter as Figure 1 shows. Any score over 1 is generally positive and anything over 1.5 is extremely positive. 66% of members felt that clarity in asking an employee about their future career plans was "very useful", with the remainder viewing it as 'useful', particularly in view of legislation on maternity and retirement.

Figure 1: Employer rights promoted in the Employer's Charter



Score based on the average (mean) for each initiative (providing that it was felt to be relevant) with a score of +2 if a member thought the right was "very useful", +1 if a member thought it was "useful", 0 if a member thought it was "not very useful" and -1 for those that felt it could be "harmful"

"It's a start but employing anybody now is still a minefield. ALL the above are sensible and should be used sensibly by both sides." Panel member response

"Overall, I like it - it is about time the employer is seen to have some rights. It has become increasingly like being an employer is something that should be punished and is never rewarded." Panel member response

"In some areas counter productive and in others proactive - however staff are any company's strongest asset and it must be borne in mind." Panel member response

26% felt that withholding pay from striking employees was not relevant and 17% thought that the idea of stopping providing work for agency workers was also irrelevant.

Some respondents felt that a number of the issues highlighted in the charter may be harmful, withholding pay from an employee could be abused, bringing good employers into disrepute. Others felt that the option to ask an employee if they would be willing to opt out of the 48 hour working time regulations could have health and safety implications and invite the answer "no". One owner felt that asking an employee to take their annual leave at a time to suit the business could also be harmful.

Although members felt that the Charter would provide a little more balance to the question of employment law, a proportion thought that more information was needed on how these measures, already

enshrined in law, could be made simpler; otherwise it could be construed as a ‘gimmick’ since these rights are already available to most employers but the process is difficult to get right and time consuming.

“It’s a start. For too long employment legislation has been overbalanced in favour of employees, taking important controls away from employers. It is they, after all, who provide the work and often put their livelihood at risk in so doing. They must be able to call the shots - within reason.” Panel member response

One or two felt that it was useful but more directed to the needs of larger, more unionised businesses, this is however a common criticism of employment law in general. For some sections of employment law businesses felt that more needed to be done particularly giving small and medium-sized employers more rights in dealing with maternity and paternity leave as they have, by definition, fewer employees and other resources to reorganise during an employee’s leave period.

Others felt that it was a start in focussing on the need to manage more effectively rather than trying to regulate owners into becoming good managers. One respondent felt that it was basic and helpful but not *“a substitute for good management of good processes”*.

More importantly, a significant proportion of our members felt that the Employer’s Charter would make them more likely to employ in the future, particularly if the measure indicated in the charter became priorities for simplification. In our recent *Referendum* survey 42% felt that greater promotion of employers’ rights as indicated in the Charter would make them more likely to recruit staff with only 2% stating that it would make them less likely to.

Pension scheme

“It is about time employers became just employers and not providers for the welfare state. By all means add taxes for additional pensions but NOT on to the companies but individuals themselves. This may well result in wages going up but would be fairer all round as everyone would receive from what they contribute.” Panel member response

Despite the fact that Forum members are twice as likely as other SMEs to take financial advice, pension schemes are still a big worry for our members as they combine complex financial products with employee rights.

Part of this problem stems from the failed initiatives in the past. The scrapping of ACT in 1997, pension scandals in the late 1980s and the creation of a stakeholder pension (which one respondent said that none of their employees took up) has led to scepticism from employers and employees alike.

“Our staff profile is young and generally staff are more interested in saving for a mortgage than a pension. Pensions have not performed well in the past. Stakeholder was a disaster. The management charges on personal pension schemes were too high and the tax regime brought in by Labour destroyed those schemes. Unless staff can see a real financial gain from a pension scheme, it will be just like another tax.” Panel member response

There were also concerns about whether employees would lose out on other benefits through auto enrolment and may have reduced increases in salary as a result at a time when no wage related inflation is over 4%. Business owners did not relish telling employees that they would be seeing less of their pay packet as a result.

Cost was the other big issue, particularly amongst businesses that are still struggling to make significant profits. Exporters were particularly concerned about how these costs would impact on their competitiveness with China or other far eastern countries.

“Our wage role is 80% of the income, the childcare sector will make childcare more expensive for the client and could affect people accepting job.” Panel member response

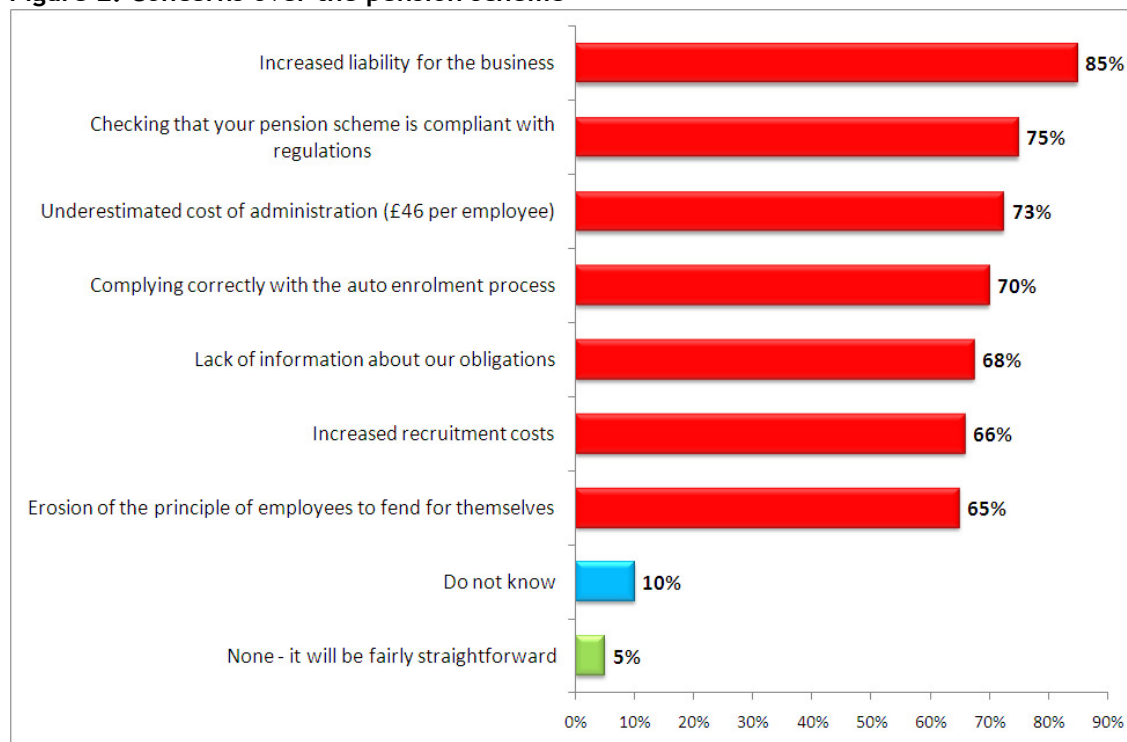
Some businesses felt that there was little to worry about as they already had schemes in place which may have to change slightly but these companies are not overly concerned.

“We provide pensions already after 1 year’s service, for all those who work over 16 hours a week, it may mean some minor adjustments, but the procedures are already established.” Panel member response

Some current pension providers were concerned about an increase in administration as a result of the new legislation. *“More bureaucracy, more red tape, more inspectors, more hassle”* was how one panel member saw the intervention of the state.

The opt out is a particular issue on this matter, with one employer reporting that one member of staff had already opted out and another is already at pension age leading to further uncertainties for the employer. Although the system is not yet formalised, the employer’s duty will only be to enrol the employee and then it is up to them to opt out rather than making employers responsible for the personal decisions of their staff.

Figure 2: Concerns over the pension scheme



Almost everyone who had concerns about the pension legislation were concerned about the increased liability for the business. Over 70% were concerned about the various administrative aspects of the regulations, with 75% worried about their own scheme’s compliance, 73% about the real cost of administration and 70% worried about how to apply the auto enrolment process.

Even for those that feel they do understand the pensions industry, 68% felt that there was a lack of information about the obligations for smaller firms and even the timetable has become confused. One business owner with more than 50 employees, the majority of whom are part time, argued that his company would need more time to become compliant than a business with 50 full-time staff.

A further 65% felt that this was an erosion of the principle of employees fending for themselves and some business owners were concerned about employees assuming that the pension provided by their business would not necessarily be sufficient for them in old age.

Improvements to the pension system

“... leaving the entire pension idea up to the person themselves with the knowledge that if they do not have a private pension they will not be able to claim benefits to help them when they retire. That will kill the argument and relieve the employer of a lot of red tape etc.” Panel member response

Most businesses suggested that the scheme simply be scrapped or that greater emphasis should be placed on encouraging employees to take more responsibility for their pension planning. There were some suggestions for greater incentives for employees to consider private pensions, such as the reintroduction

of Advance corporation tax (ACT) or better education of people about their future financial needs, with some panel members feeling that there should be greater support provided through payroll professionals and accountants so that the employee and/or employer could make more informed decisions.

“The abolition of ACT did enormous damage to pensions and removed much of the incentive for people to have their own pensions. We need better education and incentives for people to have their own pension schemes rather than forcing employers to provide and administer them.” Panel member response

Time was the other issue that could be improved; some businesses would like more time to introduce the measures as they are still unsure what the requirements will be. This was particularly true for businesses with non-domiciled or part-time staff. Some felt that the plans should have been clarified earlier, highlighting that it was in 1994 that the World Bank published the report “Averting the Old-Age Crisis: Policies to Protect the Old and Promote Growth”, yet some elements of pension legislation have still not become law even though larger businesses are due to comply with the legislation by 2012.

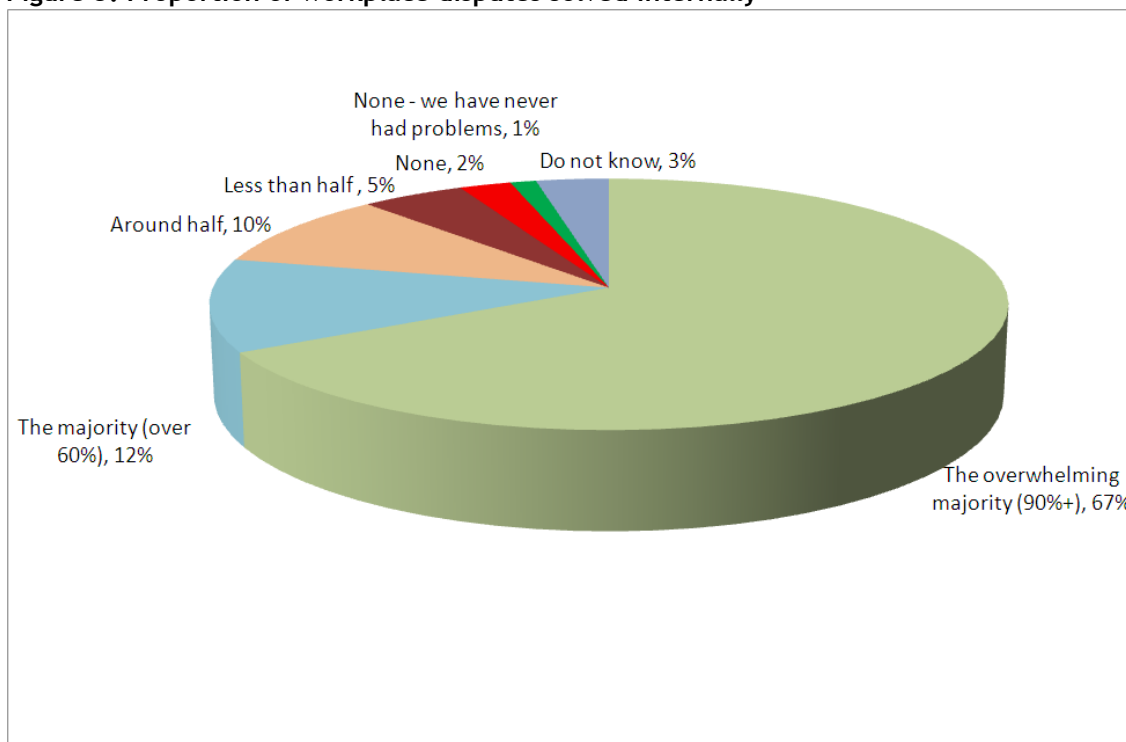
One business owner felt that we have adopted the wrong model and instead of employing the New Zealand solution to the lack of money saved for retirement, we should have looked at the Hong Kong Mandatory Provident Fund, where the Government has registered three types of scheme, an employer-sponsored fund where individual companies fund their staff, a master trust fund (for self employed and employees to contribute into a single pension pot) and an industry fund for industries such as construction reflecting the high mobility in labour in these areas. As important was the Occupational Retirement Schemes Ordinance (ORSO), which left in place any previous agreements between employer and employee.

Workplace disputes

“I have always handled problems internally but this is after 50+ years in business. Unsure that next generation will resolve problems in a cost-effective way. They will too often look to consultants for advice and that’s when the cost roller coaster starts.” Panel member response

Businesses resolve the majority of workplace disputes within the workplace without any recourse to third parties and panel members felt that more recognition should be forthcoming from government on this issue.

Figure 3: Proportion of workplace disputes solved internally



According to our estimates around 80-85% of workplace disputes are dealt internally without recourse to a third party. Based on this information and the estimate from the Civil Mediation Council (CMC) that around

80% of mediation claims are solved successfully we can work backwards from the 2009 employment tribunal statistics to get to an estimate of the number of internal workplace disputes in the UK.

Figure 4: Burden of employment law

	Number
Tribunals ⁽¹⁾	236,100
Tribunals previous through mediation (9% of total) ⁽¹⁾	21,250
Successful mediation (80% success rates) ⁽²⁾	85,000
Total mediation	106,250
Within workplace ⁽³⁾	1,600,000
Total workplace disputes (tribunals, mediation and internal resolutions)	1,900,000

- (1) Annual statistics from the Tribunal Services 2009/10 published June 2010
http://www.tribunals.gov.uk/Tribunals/Documents/Publications/TS_AnnualStatisticsReport0910.pdf This also indicates 9% of tribunals had been through the mediation process
- (2) CMC official estimates
- (3) Approximate figure taking into account panel members' compliance experience and greater likelihood to comply with legislation

According to the CIPD, dispute resolution cost the economy at £24 billion; this would place the cost of each case at around £12,000. As cases resolved within the workplace involve relatively little cost to the economy, this indicates that each tribunal case costs a huge amount; potentially 3 to 4 times this level.

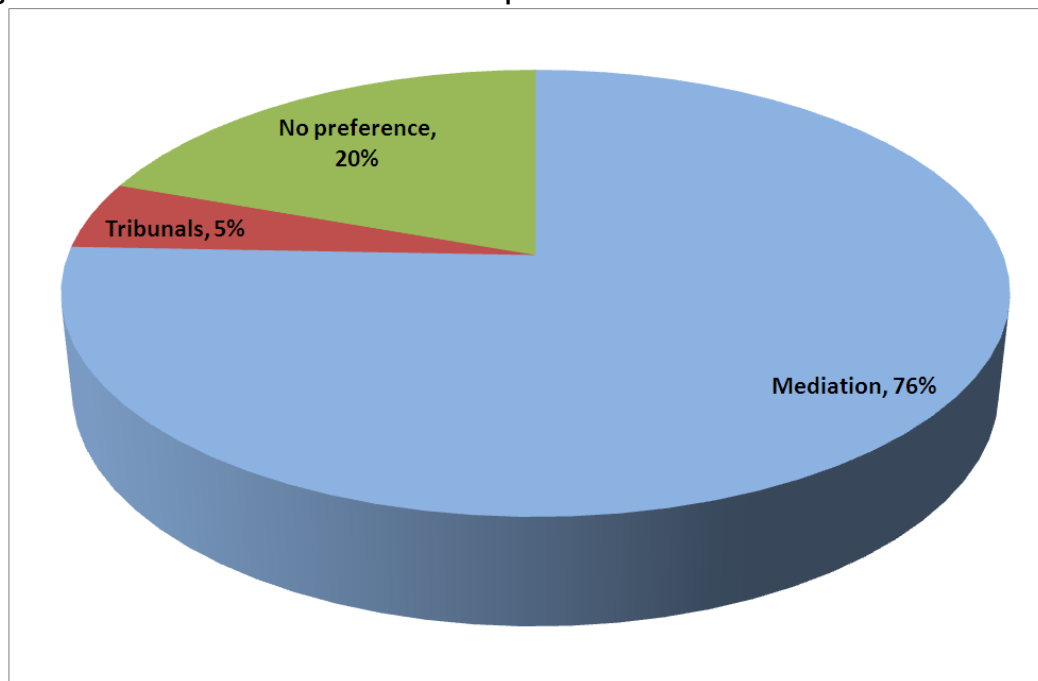
Currently there is capacity amongst the mediation providers to take on a greater proportion of tribunal claims, however the concern of our members is that the increasing complexity of employment law and the inflexibility of the tribunal system could impact on their ability to nip disputes in the bud.

In total, 76% of businesses expressed a preference for mediation over tribunals. 20% stated that they had no preference, because when a workplace dispute was escalated to this level they feel that the employer is automatically the loser as the relationship between employer and employee has broken down. There was also the issue of fairness as time spent on one employee meant fewer resources and less management time could be spent in supporting their other employees; this was an issue for both tribunals and mediation claims.

"In a mediation situation, you have to compromise and agree to pay the claimant something even if the claim is spurious and without foundation. The tribunal system is unfair to the employer." Panel member response

The main issues was cost, one panel member stated that they wanted to reclaim £400 from 2 employees who had been sacked for gross misconduct, but would have been charged £2,000 in legal fees.

Figure 5: Whether business owners have a preference for mediation or tribunals



Another significant issue was the belief that tribunals were biased against employers as the burden of proof was on them to prove compliance. Some business owners pointed out that the use of “no win no fee” lawyers enabled employees to take a “revenge” on their former employer. The budget reported that there would be greater scrutiny of the use of such lawyers in the future and this may allow Tribunals to focus on serious cases.

“There has to be a very serious breakdown in a company's employee management or trust for regular issues to need to be handled by anything other than mediation, assuming internal discussion got nowhere. The costs in fees, time, paperwork and recovery of corporate rhythm and trust within a SME when a tribunal arises can be far-reaching.” Panel member response

Management time was an issue - mediation tends to be less drawn out and has less effect on the morale of the other employees.

“We have had two tribunals against our company (both claims were rejected) however the ETs (employment tribunals) took up valuable management time.” Panel member response

There were positive messages as well, with some members feeling that a third party can help in dealing with problems arising over lack of communication and suggesting ways to improve the business.

“If in house mediation fails, then outside mediation should prove to be less contentious as well as offering a chance to resolve the problem amicably.” Panel member response

“Even if the relationship is broken irreparably, talking gives a final chance to listen & learn, so as to improve processes for the future” Panel member response

In general it is seen as a way of resolving conflict whereas a tribunal simply escalates it, producing a winner and a loser.

Mediation does have its draw backs with cost again an issue for some Forum members who use our insured advice. Vindication of the correctness of the employer was also felt to be advantageous, as some owners felt they should not have to compromise when employees were “trying it on”. Others were concerned with the lack of enforcement on employees.

“We have experienced mediation through Acas. They were helpful but unable to enforce anything and so we were subjected to a tribunal, which was fortunately hosted by sensible people and we were given fair

treatment. Tribunals are a huge drain on resources of small companies and are very stressful” Panel member response

Although fear of tribunals has ensured that more reluctant businesses have complied with employment law, there is a case that this is counterproductive as it will inhibit employment in the future:

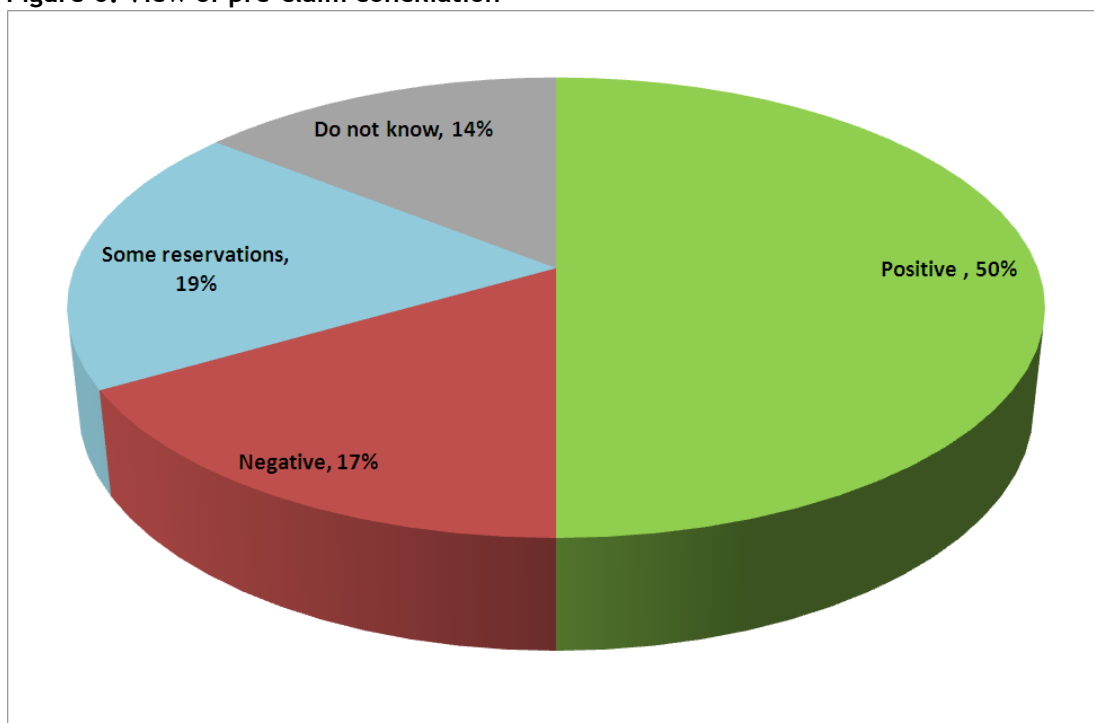
“A lot of company time is spent on administrative procedures and HR in the case of disciplinary etc, we spend a lot of money on consultants and legal fees for advice to ensure we do not fall foul of the law. I am so fed up now that I intend to ensure that I do not have staff on payroll.” Panel member response

Pre-claim conciliation

We asked businesses what they thought of the proposal for Acas to have a month to resolve an issue through pre-claim conciliation. Generally the view was that this was a positive suggestion as any initiative to stop escalation was welcomed; overall almost 70% of comments were positive, however 19% had some reservations.

“A good idea, if Acas can cope with the workload in the time frame.” Panel member response

Figure 6: View of pre-claim conciliation



The main reservations were time-related; many businesses felt that the time was excessive and would prefer a shorter time period for this to take place. As a result many are concerned about the capacity of Acas to deliver this quickly and effectively, one even described Acas as ‘overworked and ineffectual’. Nevertheless most businesses would welcome Acas intervening early and have found them helpful in the past; however they were concerned over how this would fit in with their offering of mediation.

“It is a good ideal although I thought Acas were always involved as a means of mediation!” Panel member response

As with mediation there was also the concern over enforcement of any agreement. There was also concern about their ability to deal with the needs of smaller employers:

“Acas is a professional body with significant experience in resolving large-scale disputes. As such it can come across as heavy-handed and should be treated with caution in an SME situation. If their speedy intervention can prevent a tribunal, it should be recommended.” Panel member response

“I have great respect for Acas, hopefully it will aid conciliation as long as they have employers’ well-being in mind as well as employees’.” Panel member response

There was also a belief the pre-claim conciliation could lead to increased escalation of disputes that would otherwise be resolved in the workplace. Those who were negative about the scheme highlighted the same issues in terms of capacity and the time frame.

“Disputes have to be settled immediately; they cannot be allowed to run for months...who can afford staff on suspension pending reviews. Utter nonsense!” Panel member response

Other measures suggested in the review

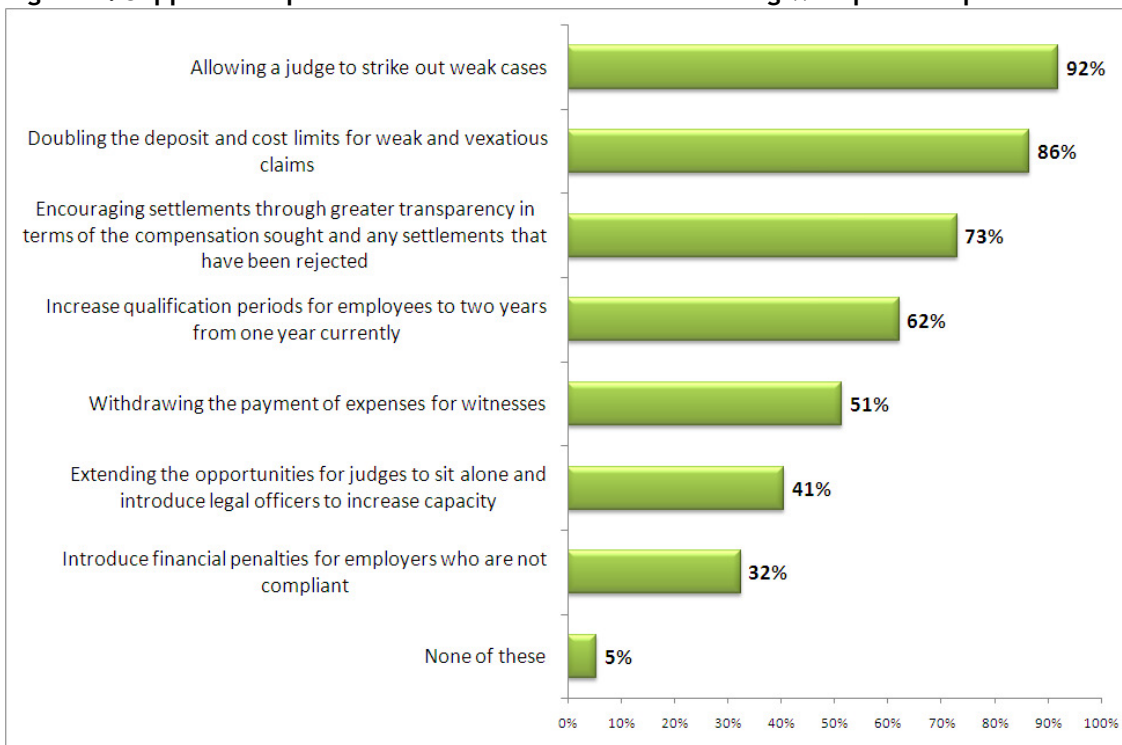
“Anything that means that the employee is having to take responsibility for his actions; at present the law comes down hard on an employer who details the very detail of the law, whilst employees seem able to flout contracts and other workplace rules and law with impunity.” Panel member response

Unsurprisingly, given the comments and experience of panel members who have been subjected to frivolous and spurious claims, 92% of respondents wanted tribunals to have greater powers to strike out cases at an early stage. Even when an employer feels that a case is unwarranted, the legal system causes an inordinate amount of stress and costs money which has an impact on the business and its other employees.

Stopping employees from following this path in the first place would be preferable and was widely regarded as the most positive measure of the department of Business, Innovation and Skills (BIS) consultation. There was a slight concern over the lack of real world experience (especially experience relating to SMEs) of the judges making the decisions as this would reduce the effectiveness of the process in practice. Allowing judges to sit alone could potentially exacerbate this, however 41% of business owners felt that this was a positive measure and one business owner felt it was the most positive initiative.

86% felt that doubling the deposits and cost limits for weak and vexatious claims would help, even if it was more of a theoretical rather than practical deterrent. A number felt that this would dissuade ‘the chancers’ from going down this route.

Figure 7: Support for specific measures outlined in “Resolving Workplace disputes”



73% felt that there should be greater transparency in the process with attempts at mediation and conciliation on behalf of the employer (and employee) take into account.

“Early strike out of weak and vexations claims. Allowing hearings to be held near to the premises of the party which is likely to be most disadvantaged by lengthy travel. Encouraging mediation and discursive resolution possibly with penalties if this is not accepted by one or other party.” Panel member response

62% felt that an increase in qualification periods for employees to two years would also help, provided it reduced the capacity issues in the system, leading to faster resolution. It would also allow business owners to create a rapport with their employee, making misunderstandings less likely. One respondent did feel that this should be stabilised.

Around half were supportive of withdrawing the payment of expenses for witnesses, however some did feel that the employer as well as the employee could benefit from this. A number of business owners would prefer that witnesses’ expenses would be paid as they have to provide a greater number of witnesses and want to ensure that the employee accepts that justice was done.

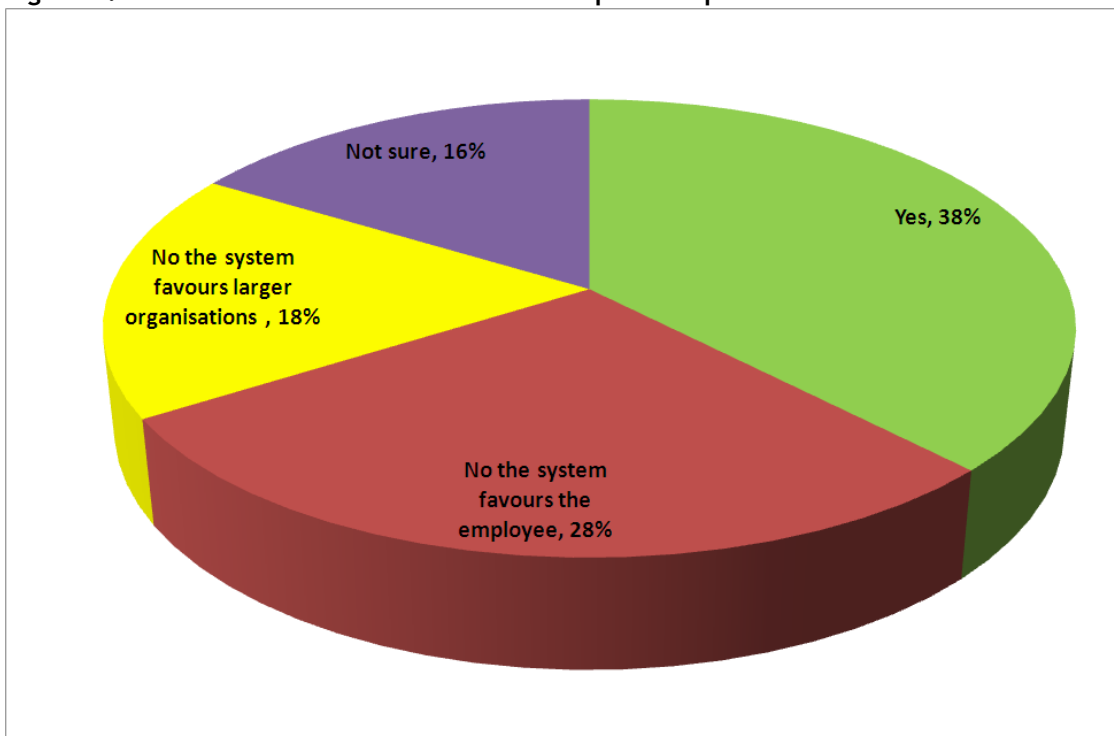
Just 32% felt that the introduction of greater financial penalties for employers who are not compliant was a positive benefit, as many felt that this was best done outside the tribunal route, whilst others would like to see employment law made more manageable before this was introduced. Businesses tended to see this as the most unhelpful element of the tribunal as veterans of employment tribunals could easily envisage non-compliance being punitive.

“Helpful - doubling the deposit in vexatious claims. Unhelpful - financial penalties on employers if non-compliance was an oversight or misunderstanding.” Panel member response

5% felt that none of these suggestions were helpful at the moment as they do not deal with the route of the problem:

“Employee protection law is massively unhelpful to business - and to employees, because no sensible employer wants to take on any more than he absolutely has to.” Panel member response

Figure 8: Fairness of initiatives to resolve workplace disputes



In terms of fairness, 38% believe that the suggestions in the consultation are fair and proportional. 18% believe that the system supports larger employers who have greater resources to afford the necessary support to deal with disputes, although some comments did suggest that when larger organisations have trouble, mediation is more difficult. 28% feel that the system still favours the employee - although these measures tended to be greeted positively -and 16% are uncertain.

In general, the initiative was viewed favourably as it does offer a more flexible approach to dispute resolution, however members felt that employment law still constrained them too much

“The micro-management of dispute resolution that is in place at present ties the hands of employers as every dispute and the circumstances surrounding it are unique and it is therefore difficult to apply the same template to all disputes or disruptions.” Panel member response

Burden of employment law

“I seem to spend more time each week on employment issues.” Panel member response

After a reduction in September, the burden of employment law has risen to a level slightly above panel 1. This is unsurprising due to the pending abolition of the default retirement age and the introduction of increased paternity leave (on children born after 3 April 2011) may be partially responsible for this.

“The paternity leave is largely taken as extra holiday, again believing in personal responsibility and the fact that employees have on the whole 4 + elective weeks of holiday. Fathers need to be responsible for their own actions and should be planning to take holiday when their spouses are having babies, I am sure that most employers would look favourably on giving extra unpaid leave if required but this should be between employee and employer and not a requirement of law.” Panel member response

More likely, is that employers’ perception of the burden of employment law is volatile as at times business owners feel drowned by it and at other times it is less of an issue.

Figure 9: Burden of employment law

	Panel 1	Panel 2	Panel 3
	February 2010	September 2010	March 2010
Burden of employment law (out of 10)	6.19	5.14	6.53
% reporting 7-10	46%	32%	60%

From the comments raised by our members, the burden on our members has increased in terms of their inability to continue to pay for the legal services that are required because of the complexity of the legislative framework at a time when profits are being heavily eroded. The April common commencement date will introduce extensions to flexible working and paternity leave, both of which disproportionately affect smaller employers.

Some felt that the increase of 56% of tribunal claims between 2008 and 2009 showed a more worrying concern, as one member reflected:

“More employees are realising that it is a good way to make some money as it is very costly and time consuming for employers to fight a case and consequently many employers settle with the employee because they do not have the time, money or energy to go through the system.” Panel member response

Others felt that there was a problem in keeping up to date with the current laws and issues. The 3-year moratorium on domestic legislation may help some businesses but not all as most of the panel members are small rather than micro businesses and much employment law comes from European directives in any case.

Forum of Private Business
Ruskin Chambers
Drury Lane
Knutsford
Cheshire
WA16 6HA
Telephone: 01565 634467
Email: info@fpb.org
Web: www.fpb.org