

The Birketts view

Employment tribunals
impact report 2025



Introduction

The Government's flagship Employment Rights Bill – introduced on 10 October 2024 – will bring about substantial changes to an already-challenging employment law landscape for businesses and their people management teams.

A significant part of that challenge is the mounting number of employment tribunal claims being brought by employees (and former employees). Add to that the Bill's controversial provision introducing 'day one' rights for employees to claim unfair dismissal (subject to an initial probationary period), plus the impact of the new duty on employers to prevent sexual harassment of their employees, and we are likely to see a marked increase in the number of claims brought in the employment tribunal. This is set against an ongoing backlog of cases in the tribunal system waiting to be determined, resulting in substantial delays and prolonging the disruption to business.

The uncertain economic outlook and the impact of the recent Budget on businesses means that it is essential for employers to limit the risks and costs associated with handling employment tribunal claims. In order to do so, they need to fully understand the impact of these claims on the business community.

Our Employment Team has combined its knowledge of its business clients (and the legal issues they grapple with), and sought to uncover the true costs businesses are facing. Our research, looking back at the previous 24 months' experience of 500 HR professionals, provides a real insight into what the UK's business community is dealing with in terms of tribunal claims from their workforce.

Our findings reveal the most common types of claims faced by businesses, and the significant amount of time HR teams are having to devote to them, as well as the outcomes that emerge from what can often be a very long, costly and time-consuming process.

With one eye on the raft of new employee rights due to be implemented by the new UK Government, we hope that our new research and this initial report of our findings will assist employers in developing effective strategies for facing the challenges head on.



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Executive summary

Birketts, in collaboration with [Opinion Matters](#), surveyed 500 HR professionals in England and Wales, most of them (467) from businesses with 1,000 or more employees, on their experiences with the employment tribunal process over the preceding 24 months.

Highlights from the survey findings include the following:

- In the previous 24 months, respondents reported spending over a month of their working time purely handling employment tribunal claims.
- Unfair dismissal, disability discrimination, TUPE, and holiday pay claims created the biggest headaches for HR teams. Discrimination claims based on the other protected characteristics, as well as whistleblowing claims, also featured regularly.
- Regionally, respondents in Wales saw the highest number of employment tribunal claims in the last two years, reporting on average almost one every two weeks.
- On average, the majority (62%) of employment tribunal claims in the last 24 months were settled before the final hearing. Almost a quarter (24%) of respondents reported that employment tribunal claims were settled the day before the hearing was due to commence.

Survey sample:

Of the businesses surveyed, the majority (467) were organisations with 1,000+ employees (33 in organisations with 500-999 employees), all located in England and Wales. Our sample included 100 responses from each of the following sectors: manufacturing, hospitality and leisure, and the care sector. The survey responses were collected between 11 and 26 July 2024.

¹ Employment Tribunal statistics April 2023 to March 2024, showing a 14% increase in claims compared with the preceding year: <https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-april-to-june-2024>

Employment tribunal claims

Those surveyed had dealt with an average of 40 employment tribunal claims in the previous 24 months. Organisations with 1,500–1,749 employees faced the highest level of claims, with an average of 44 being reported by respondents.

Regional differences

When looking at regional differences, those based in Wales saw the most employment tribunal claims in the preceding 24 months: an average of 46 claims made, almost one every fortnight. Respondents based in England reported an average of 38 claims over 24 months.

Average number of employment tribunal claims over 24 months by region	
Wales	45.47
England	38.49
England & Wales	39.80

The Birketts view

In our experience, it is rare to encounter a straightforward ordinary unfair dismissal claim on its own. Instead, we more frequently see it alongside other claims, such as whistleblowing, harassment, pregnancy or maternity related discrimination and disability discrimination. Recently, we have seen a notable increase in whistleblowing claims brought against our clients, which are not subject to the usual statutory compensation cap of 52 weeks' pay associated with ordinary unfair dismissal.

Most common types of claims

The survey also investigated the most common types of claims that were received by businesses in England and Wales over the previous 24 months (figure 1). While respondents reported claims from across the legal spectrum, of those surveyed, the most common employment tribunal claims brought against businesses were unfair dismissal (24%) and disability discrimination (22%), followed by wrongful dismissal (17%), TUPE (17%) and holiday pay (16%).

Figure 1. Most common employment tribunal claims brought against businesses in the last 24 months



Resolution of claims

While respondents reported that claimants were successful after a full hearing in over a quarter (27%) of employment tribunal claims, over three quarters (76%) reported a settlement rate of above 50% (50-100%) before the final hearing.

On average, those surveyed reported that almost two-thirds (62%) of employment tribunal claims they dealt with in the last two years were settled before the final hearing.

Looking at the various stages where claims have been settled by these businesses:

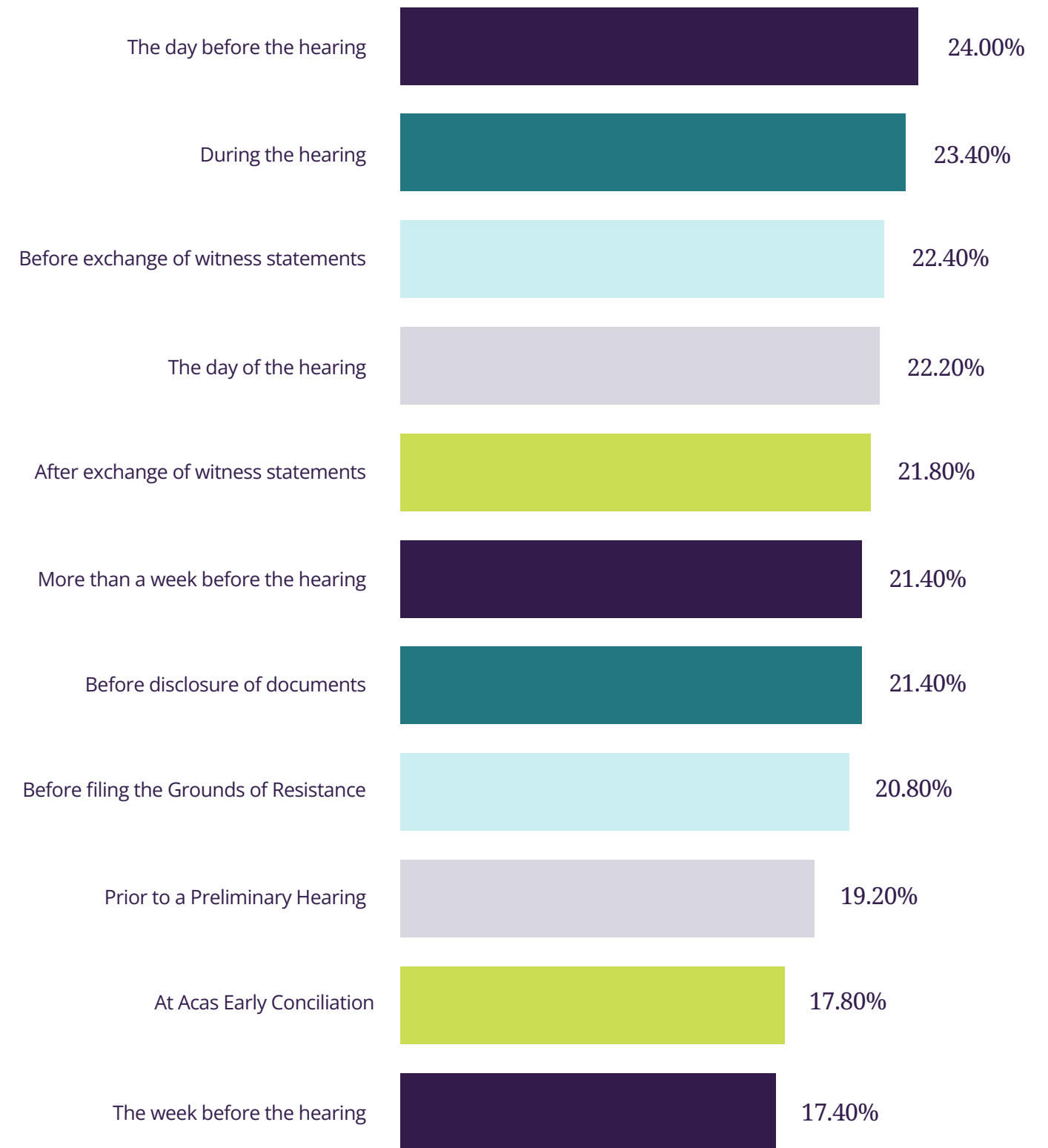
- Dispute resolution via an independent third party, such as mediation, was the joint most frequent conclusion to claims brought against organisations in the last two years, alongside
- Settlement via Acas once the tribunal process had started (both reported by 30% of respondents).

In our experience, last-minute settlements are becoming increasingly frequent (figure 2). Of those surveyed almost a quarter (24%) of respondents reported that employment tribunal claims received by their organisations were settled the day before the hearing was due to commence, with similar numbers reported on the day of the hearing (22%) and even during the hearing itself (23%).

The Birketts view

When it came to handling the employment tribunal cases brought against the businesses of those surveyed, over half (55.5%) of respondents did not choose to use the Acas Early Conciliation process because they felt that conciliation would not resolve the issue, or it would take up a considerable amount of time. Using early conciliation can save time, reduce costs and potentially preserve working relationships by resolving disputes amicably. However, with a minority of respondents opting for conciliation, it suggests that many businesses will face the increased management time and higher costs associated with resolving claims at a later stage.

Figure 2. As your business has faced employment tribunal claims in the last 24 months, at what stage have the claims most commonly been settled, if any?



Spotlight on disciplinary and grievance cases

On average, in the businesses of those surveyed, 37 disciplinary matters were dealt with in the previous 24 months (figure 4). The most common type of disciplinary case that led to dismissal in the previous 24 months was reported as being discrimination, followed by dishonesty and bullying (figure 3).

At the other end of the scale, theft was the least common type of disciplinary matter reported by respondents, along with harassment and a breach of trust and confidence.

On average, respondents had dealt with 35 grievance cases in the previous 24 months (figure 5).

The survey found that, on average, over half (56%) of employment tribunal claims brought against businesses of those surveyed were preceded by a grievance process in the previous 24 months (figure 6).

Of those surveyed, the most common type of grievance cases concerned pay and benefits, and stress (both 26.1%), closely followed by discrimination (25.9%), and workload (24.5%) (figure 7).

The least commonly reported types of grievance related to relationships with colleagues, bullying and performance management.

The Birketts view

Managers too often see dealing with grievances and disciplinaries as an inconvenience and rush through an investigation - increasing the risk of a successful claim against the organisation. This may be because they regard this aspect of their role as a low priority, with many other competing demands on their time. It can also be because managers have had insufficient prior experience and have not been provided with good quality investigations and disciplinaries training.

One of the ways in which an organisation can impress upon their managers the importance of getting an investigation or disciplinary process right, is for them to understand that taking on this role might mean that they will be required to defend their actions in front of an employment tribunal. Attending a tribunal hearing as an observer (or witnessing what happens in a mock tribunal), can be a good way for them to understand how much scrutiny they are likely to be subject to.

Figure 3. The most common types of disciplinary cases leading to dismissal in the last 24 months

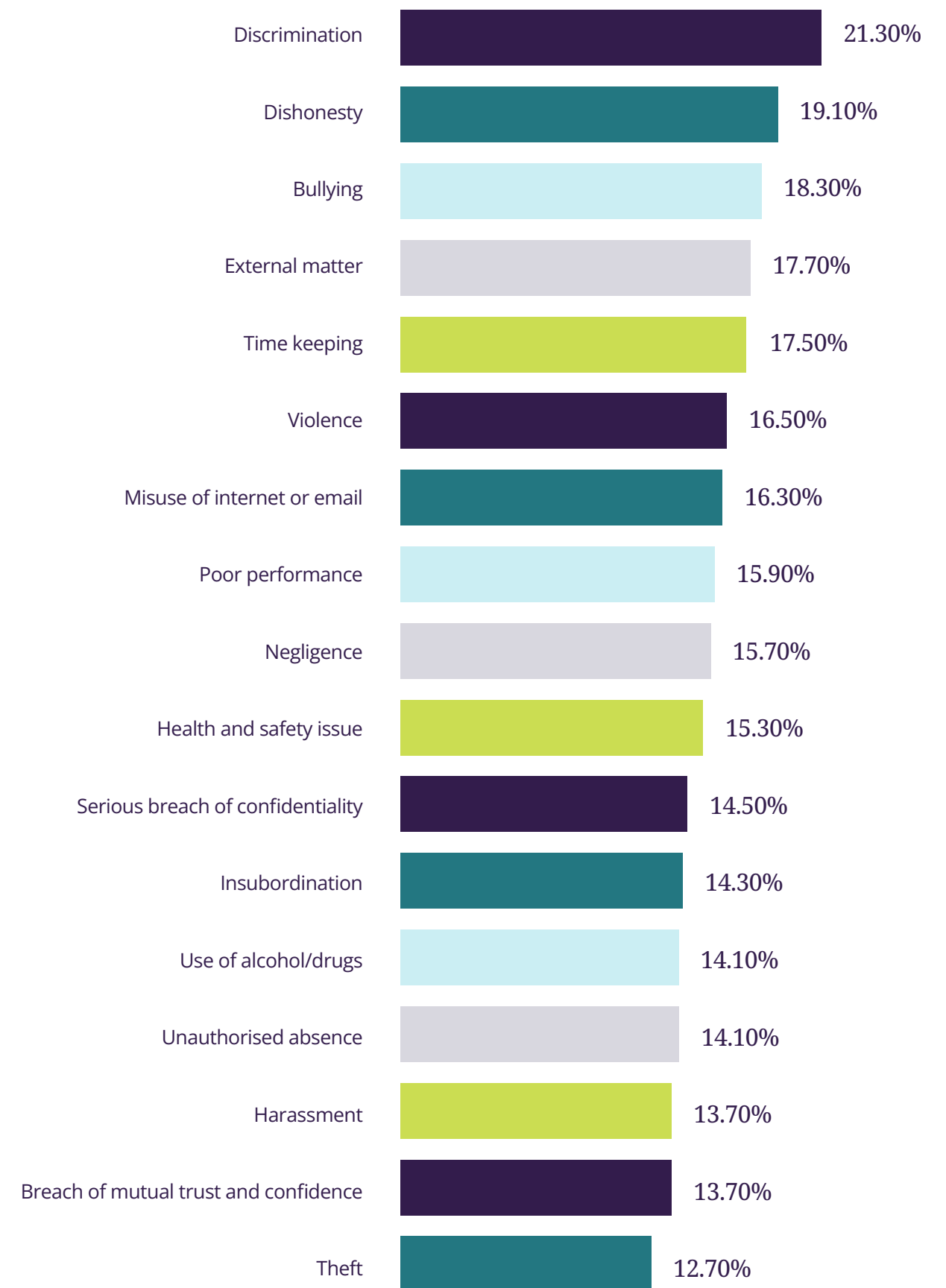


Figure 4. How many disciplinary cases has your organisation dealt with in the last 24 months, if any?

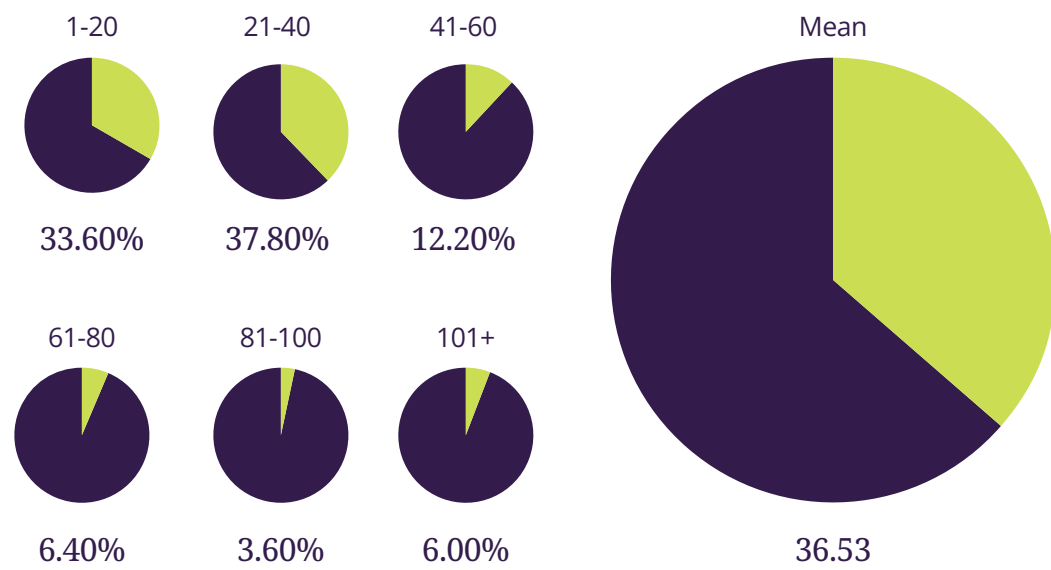


Figure 5. How many grievance cases has your organisation dealt with in the last 24 months, if any?

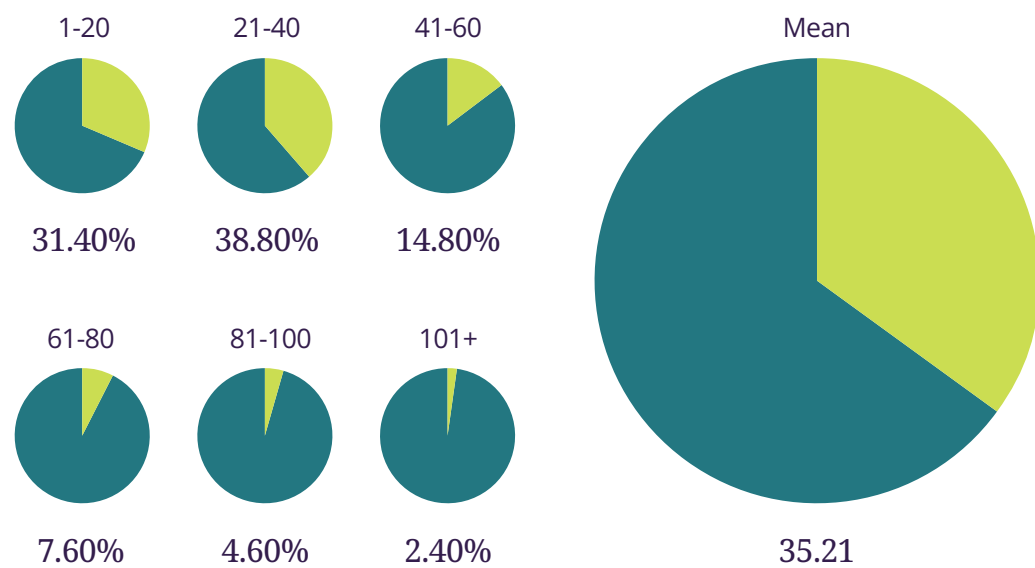


Figure 6. Of the employment tribunal claims brought against the business in the last 24 months, what percentage, if any, were preceded by a grievance process?

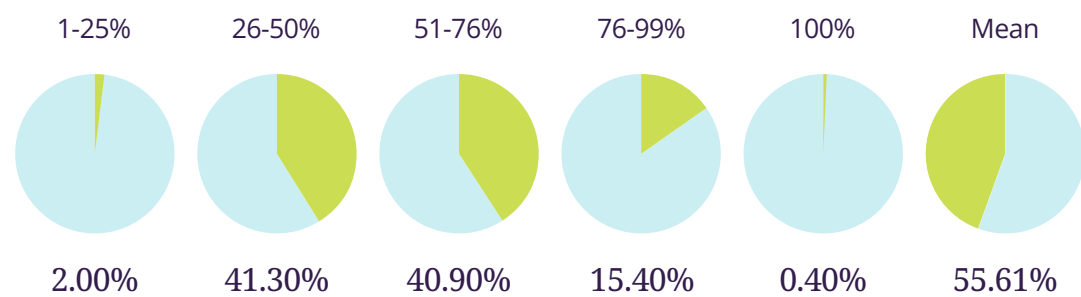
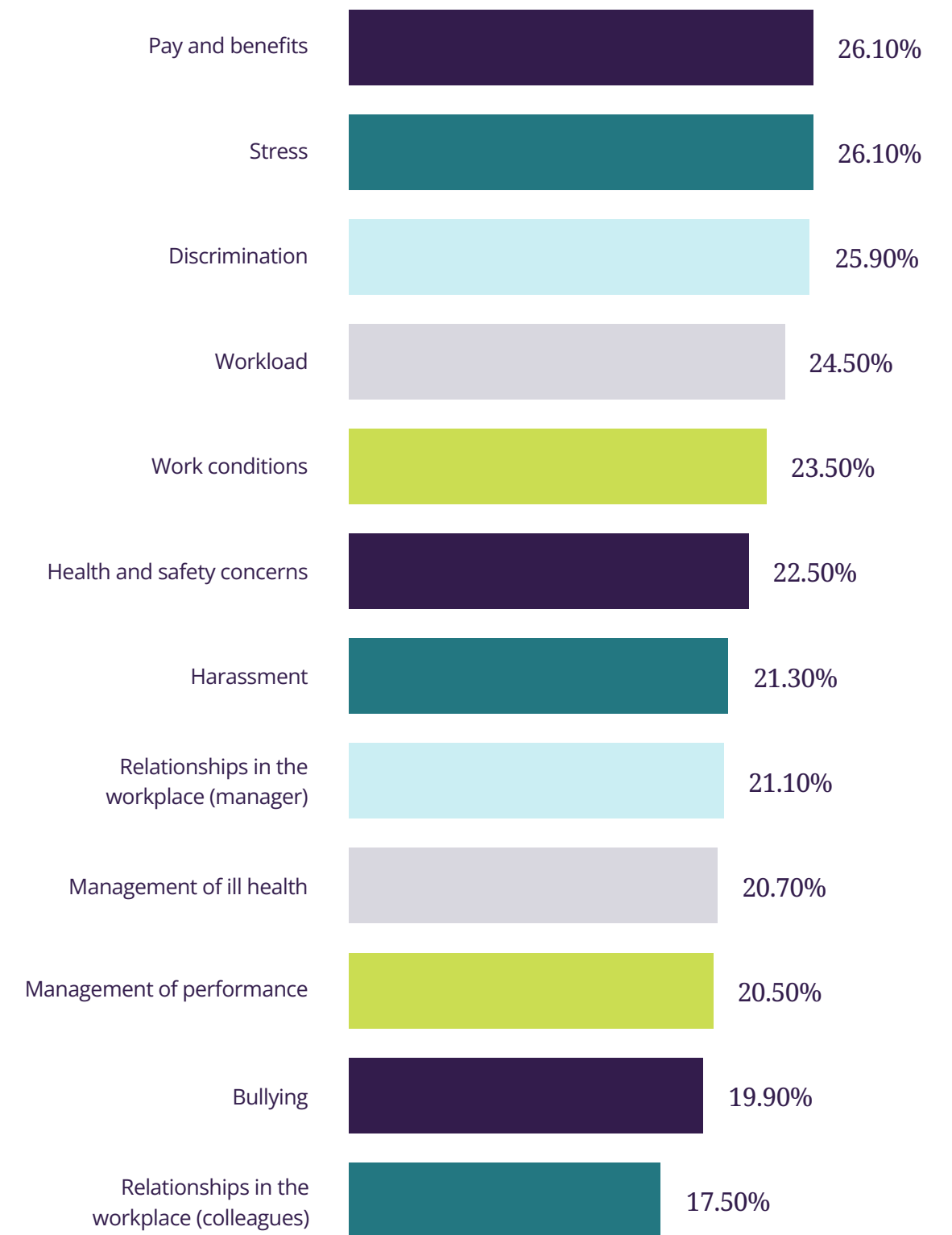


Figure 7. The most common type of grievance cases dealt with in the last 24 months



The impact of employment tribunals on HR

The survey results show that on average, in the previous 24 months, respondents spent 4.8 working weeks on employment tribunal claims. Almost half (44.7%) of those surveyed had clocked up between 5 and 6 working weeks on employment tribunal claims in the last 24 months.

Considering the volume of disciplinary and grievance cases being dealt with by businesses in the survey (figure 8), it is unsurprising that almost a third (32.7%) of respondents said that their business implemented training for line managers in managing disciplinary or grievance issues following employment tribunal claims being lodged against it in the last 24 months. A similar number (32.3%) introduced new disciplinary or grievance procedures.

Survey respondents identified other areas in which their line managers needed increased training (figure 9), with increased support in:

- Identifying and understanding fair reasons for dismissal (26.8%),
- Managing grievances (26.4%), and
- Handling difficult conversations (26.2%).

Against a background of an increasing volume of tribunal claims against employers, such additional training and support would be prudent.

The Birketts view

Employment tribunals have a significant impact on HR professionals, both in terms of their time and cost to the business. They are often very stressful to handle, and can have a negative impact on staff morale and business reputation. Taking active steps to mitigate the risk of tribunal claims, particularly in view of a likely increase in volume following implementation of the Employment Rights Bill, makes good business sense.

Figure 8. What are the main changes, if any, that have been made in your workplace during the last 24 months as a result of employment tribunal claims being lodged against it?



Figure 9. What areas do you feel your line managers need support on when it comes to employment relations, if any?



Next steps for businesses

These survey results demonstrate the importance of taking preventative measures and handling claims tactically.

Our key takeaways are:

- Implement clear workplace policies and maintain open lines of communication between management and employees – this should help to address issues at an early stage (before they escalate to formal claims).
- Provide quality training to line managers, so they are equipped with the skills and knowledge enabling them to deal effectively with employee issues when they arise – acting as a critical ‘first line’ of defence for the business.
- Keep detailed records of all employment-related decisions and actions – this is of critical importance as it can provide the employer with crucial evidence if a dispute results in a tribunal claim.
- Take an early view on whether early settlement is the most cost-effective or desirable outcome– this will also limit the time commitment and expense of preparing for a full hearing.

A backlog of employment claims in the courts and tribunals, together with the Government’s focus on new and strengthened workplace rights (including a ‘day one’ right to claim unfair dismissal), make for a challenging employment law landscape. Businesses and their HR leaders must plan and adapt if they are to thrive in what is a rapidly-changing environment.

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Additional information

We will shortly publish three further reports with a focus on employment tribunal-related issues in the care, hospitality and leisure, and manufacturing sectors. To receive these reports and other future employment law-related updates and insights please sign up to our [newsletter](#).

About Birketts

Our Employment Team advises employers of all sizes on defending employment tribunal claims, from beginning to end, taking a strategic approach to achieve the best possible outcome for your business. We not only support businesses in relation to discrimination, whistleblowing and unfair dismissal claims from employees, but we also, through our Investigations and Employee Relations Consultancy services, provide expert assistance with disciplinary or grievance investigations, hearings and appeals to reduce the risk of employment tribunal claims arising.

We regularly run mock employment tribunals, working with barristers and judges, and also offer witness familiarisation training. See our Shaping Excellence training page for more information about the training we offer [here](#)

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