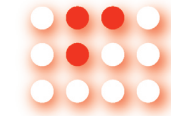


# FACT

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## Proposals to improve employment tribunals

The Law Society has published proposals to improve the employment tribunal structure – for employees, employers, and the administration of justice.

The employment tribunal (ET) system is not working as well as it could and the introduction of ET fees has created a barrier to genuine claimants, according to the Law Society in its discussion document, *Making employment tribunals work for all*.

Due to advances in employment law, both legislative and procedural, the ET process has become increasingly legalistic; simple cases are not being dealt with as quickly and efficiently as they could be, the Society says.

Most employment disputes need to be lodged at the ET, while some can only be heard in the county or High Court, and in some cases the claimant has a choice of forum. This can be confusing to unrepresented claimants as to where they should start their claim. Once a dispute enters the ET process the avenues for alternative dispute resolution (ADR) are unclear.

The discussion document suggests that the structure of the ET could be reformed so that cases are

dealt with at a level proportionate to their complexity and value. All employment cases could be heard in a single jurisdiction, consisting of four levels. Each of the levels would have different procedural considerations. To make the single jurisdiction easy for the public to use there would be a single point of entry. Cases would then be allocated to the appropriate level by a gatekeeper.

The first level proposed by the Law Society would involve a document based decision making approach. This approach would be for straightforward cases, such as unpaid wages claims, where a judge can make a decision on the documents alone.

Level 2 would follow a judicial inquisitorial approach and again include straightforward cases, such as redundancy payments, that need further investigation.

The next level would apply to cases that make up the majority of claims currently heard in the employment tribunal. Here the approach would be to encourage early neutral evaluation and alternative dispute resolution.

Level 4 would apply to cases heard under civil litigation principles and include employment disputes which are currently heard in the civil courts.

The discussion document sets out the long-term position of the Law Society that the current ET fee structure needs to be removed. "The introduction

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of fees in July 2013 has meant that the employment justice system is hard to access for those on an average income, and intimidating to the point of prohibitive for the poorest workers," the discussion document says.

*Making employment tribunals work for all* also invites views on whether a single employment jurisdiction should adjudicate on *Equality Act 2010* cases,

[www.lawsociety.org.uk/policy-campaigns/articles/making-employment-tribunals-work-for-all/](http://www.lawsociety.org.uk/policy-campaigns/articles/making-employment-tribunals-work-for-all/)

## Supermarket Lidl to pay Living Wage

Supermarket Lidl has said it will become the first UK supermarket to implement the Living Wage as recommended by the Living Wage Foundation.

From October, Lidl UK employees will earn a minimum of £8.20 an hour across England, Scotland and Wales, and £9.35 an hour in London, the supermarket said.

Lidl said that if the Living Wage Foundation raised its recommended rate in its annual announcement in November, Lidl would adjust its minimum wage accordingly. The Foundation will announce a change in its recommended rates in November.

Currently, Lidl pays its staff a minimum of £7.30 an hour and £8.03 an hour inside London. The Living Wage Foundation's current recommended minimum hourly rate is £7.85, and £9.15 for London.

The rate is different to the National Living Wage which was revealed in chancellor George Osborne's July Budget, and is set to be £7.20 an hour from April 2016 for people aged over 25.

Lidl said its new pay rate would amount to an average wage increase of £1,200 a year, "with 53% of Lidl UK's 17,000 workforce and all age brackets benefiting from the rise".

Rhys Moore, director of the Living Wage Foundation, called Lidl's decision "a massive breakthrough" in the Living Wage campaign.

He said: "It proves that paying staff a real Living Wage, calculated around the cost of living, is possible on the British high street. It sets a challenge to the rest of the UK supermarket sector that has until now claimed that paying staff the Living Wage was just not possible."

Last month, Sainsbury's announced a record 4% pay increase for 137,000 colleagues working in our stores across the country, bringing their current basic pay to £7.36 an hour, including those aged under 25 – above the government's proposed National Living Wage of £7.20 for the over 25s, but below the voluntary Living Wage. The group, unlike Lidl, pays for breaks and give an annual bonus to staff.

[www.bbc.co.uk/news/business-34281559](http://www.bbc.co.uk/news/business-34281559)

[www.livingwage.org.uk/news/lidl-become-first-supermarket-pay-living-wage](http://www.livingwage.org.uk/news/lidl-become-first-supermarket-pay-living-wage)

[www.ibtimes.co.uk/lidl-living-wage-will-tesco-aldi-others-increase-pay-new-frontier-supermarket-war-1520294](http://www.ibtimes.co.uk/lidl-living-wage-will-tesco-aldi-others-increase-pay-new-frontier-supermarket-war-1520294)

## Cap on public sector redundancy pay-offs

The cap on redundancy pay for public-sector workers will be set at £95,000, the government has confirmed.

The proposal to limit "taxpayer-funded, six-figure payoffs in the public sector" is a key part of the government's *Enterprise Bill* and is now out for consultation.

The cap will cover payments made in relation to leaving employment, including:

- voluntary and compulsory exits;
- other voluntary exits with compensation packages;
- ex gratia payments and special severance payments;
- the monetary value of any extra leave, allowances or other benefits granted as part of the exit process which are not payments in relation to employment; and
- payments or compensation in lieu of notice and payments relating to the cashing up of outstanding entitlements (such as outstanding leave or allowances that are cashed up and added to the value of the sum).

However, under the proposals, payments made following litigation for breach of contract or unfair dismissal and compensation payments in respect of death or injury attributable to the employment, serious ill health and ill health retirement will not come within the cap's remit.

The policy will extend to all of the bodies where employment and remuneration practices are the responsibility of the UK government. It will be up to the Scottish government, Welsh government and Northern Ireland Executive to determine if and how they want to take forward similar arrangements in relation to devolved bodies and workforces.

All entities classified within the central and local government and non-financial public corporation sectors as determined by the Office for National Statistics for National Account purposes, with a small number of exemptions are expected to come within the scope of the cap.

However, the government is considering exempting exit payments made by a number of bodies from the cap, including the armed forces, broadcasters the BBC, Channel 4 and S4C, and the Bank of England.

In May, chancellor George Osborne said: "That's why we are delivering on our pledge to end six figure pay offs for the best paid public sector workers, ensuring fairness and value for money for the taxpayer."

However, the cap has been condemned by unions as the average public sector worker could be hit. The PCS civil service union said the cap will impact on staff who are earning just above the average civil service pay and who have long service. By including in the cap the buy-out of early pension reduction it means that even members with long service and who earn £27,000 but take their pension early will be affected.

[www.gov.uk/government/consultations/consultation-on-a-public-sector-exit-payment-cap/consultation-on-a-public-sector-exit-payment-cap](http://www.gov.uk/government/consultations/consultation-on-a-public-sector-exit-payment-cap/consultation-on-a-public-sector-exit-payment-cap)

[www.pcs.org.uk/en/news\\_and\\_events/pcs\\_comment/pcs\\_comment.cfm/pay-off-cap-yet-another-attack-on-public-sector](http://www.pcs.org.uk/en/news_and_events/pcs_comment/pcs_comment.cfm/pay-off-cap-yet-another-attack-on-public-sector)

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## Forecasts for economy

The economy is expected to grow by 2.6% this year, according to *Forecasts for the UK economy*, a monthly comparison of independent forecasts collated by the Treasury.

The 2.6% growth figure is the median from a range of forecasts from the City and academia, which runs from 2.4% growth up to 3.0% growth for 2015.

At the time of chancellor George Osborne's July Budget, the independent advisers to the Treasury, the Office for Budget Responsibility (OBR), forecast 2.4% growth.

For next year, the range is wider – from 1.4% growth up to 3.0%, with a median of 2.4%. The OBR forecast is for 2.3% growth.

On retail price inflation, the range of forecasts for the fourth quarter of this year runs from 0.8% up to 1.6%, with a median rise of 1.2%. By the fourth

quarter 2016, the range of forecasts runs from 0.8% up to 3.7%, with a median of 2.8%.

As the latest pay round gets rolling, the earnings forecasts will be of interest to negotiators. Average earnings growth this year is expected to come to 2.7%, with the forecasts ranging from 1.4% growth up to 3.5% growth. Come 2016, the median rise is up to 3.3%, with the range both higher and narrower at 2.2% up to 4.1%.

[www.gov.uk/government/collections/data-forecasts](http://www.gov.uk/government/collections/data-forecasts)

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## Tribunal numbers dive

The number of employment tribunals has plummeted over the past three years.

The latest Ministry of Justice figures show that there were 12,563 receipts at the employment tribunal in the April-June 2015 period. That is 72% down on the same period 2013 – the quarter before fees were introduced by the government – when the total was 44,334.

There were 4,403 single claims – down by 69% over the same period – while the more volatile multiple claim figures also showed a huge fall of 74%.

[www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2015](http://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-april-to-june-2015)

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## Price of a life – the price of a car?

Car manufacturer Jaguar Land Rover has been sentenced for safety breaches discovered during an investigation into a death of a worker at its Merseyside plant. Its fine was pitiful.

Liverpool Crown Court heard Graham Begley, 49, from Halewood, was found trapped between two 24 tonne pieces of car making machinery called "dies" on 26 September 2011 at the firm's factory in Halewood.

The court was told it is thought the deceased was moving the machinery with a crane when its chain/hook snagged on the die, causing it to move towards him and crushing him.

As part of its investigation into the incident, the Health and Safety Executive (HSE) found Jaguar Land Rover had failed in its duty to undertake a suitable risk assessment of the risks to its employees

were exposed to in relation to the pre-lift process prior to the lifting of dies.

Jaguar Land Rover was prosecuted by the HSE over breaches of regulation 3(1) of the *Management of Health and Safety at Work Regulations 1999*.

After entering a guilty plea, Jaguar Land Rover was fined £30,000 and agreed to make a contribution towards the HSE's costs of £20,000.

The £30,000 fine is almost £3,000 less than the cost of the cheapest Land Rover Discovery Sport model made at Halewood.

<http://press.hse.gov.uk/2015/jaguar-land-rover-in-court-over-halewood-death/>

## Who misses out on auto-enrolment?

Women are less likely to meet the qualifying criteria for automatic enrolment into a pension, new research finds.

*Who is ineligible for automatic enrolment*, an evidence-based briefing note published by the Pensions Policy Institute (PPI), examines whether different demographic groups meet the criteria.

On gender, the research finds that of the 13 million employed women in the UK, around four million or 32% do not meet the qualifying criteria for automatic enrolment. For males the proportion is only 16%.

More women would qualify if income from second jobs is included in the assessment. However, automatic enrolment qualification is assessed on a per job basis.

The PPI estimates that if the income from both first and second jobs is taken into account a further 80,000 people – 60,000 of them women – would earn enough to meet the qualifying criteria.

Other key findings of the briefing note are:

- 81% of workers receiving Carer's Allowance do not qualify for automatic enrolment;
- ethnic minority groups are less likely to meet the qualifying criteria. For example, about a third of Pakistani and Bangladeshi workers are not eligible, compared to 23% of white workers;
- 30% of disabled workers (900,000 people) are also not eligible; and
- only 55% of people working in the service

industries are eligible compared to 80% in most other sectors.

These figures only include people who are employees, and there are many more who do not qualify because they are self-employed or not in work. Of the total population aged 16-64 about half qualify for automatic enrolment.

[www.pensionspolicyinstitute.org.uk/briefing-notes/briefing-note-75—who-is-ineligible-for-automatic-enrolment](http://www.pensionspolicyinstitute.org.uk/briefing-notes/briefing-note-75—who-is-ineligible-for-automatic-enrolment)

## Presenteeism rife

Pressure to go to work when sick – presenteeism – is a major issue for organisations. More than one in eight (13%) workers would have to be hospitalised and have no other choice before calling in sick, according to Canada Life Group Insurance.

The researchers found that almost nine in 10 UK workers (89%) have come into work while sick, with nearly a third (32%) saying their workload is too great for them to take time off for illness.

Around a fifth (21%) worry about the financial implications of calling in sick and 13% didn't feel secure enough in their job to take time off. More than one in 10 (13%) said colleagues and senior members of staff make them feel guilty for taking time off when unwell.

Additionally, nearly three-quarters (71%) of employees said they have become ill after another colleague came into work when unwell, with 14% saying they experience this at work "all the time".

The survey also found over a third (36%) would not take time off if they had a stomach virus, even when experiencing symptoms of sickness and diarrhoea. Almost half (49%) would not take time off if they had the flu.

Paul Avis of Canada Life said: "Employees should not be discouraged from taking time off when they are genuinely unwell, as presenteeism creates not only an unpleasant working environment but also one that is counter-productive.

"Staff need to feel that they won't be penalised for taking sick leave and organisations therefore should ensure they communicate their support."

[www.hrmagazine.co.uk/article-details/employees-would-have-to-be-hospitalised-before-calling-in-sick](http://www.hrmagazine.co.uk/article-details/employees-would-have-to-be-hospitalised-before-calling-in-sick)

[www.canadalife.co.uk/media/32398/g2881astradereleasepresenteeismfinal.pdf](http://www.canadalife.co.uk/media/32398/g2881astradereleasepresenteeismfinal.pdf)