

1. Introduction and Background

1.1 Introduction

With the introduction of new legislation in recent years to protect the rights of individuals¹, questions regarding the general awareness of the population about their rights at work are more pertinent than ever. As individuals are required to enforce these aspects of the law themselves, knowledge and awareness of new legislation among those directly affected by changes is crucial.

This report focuses on the levels of knowledge and awareness about employment rights and the exercise of these rights by the economically active working age population in Great Britain. It presents the findings of research undertaken by the Institute for Employment Studies (IES), in partnership with NOP, and commissioned by the Department for Trade and Industry (DTI).

1.2 The research study

The main aims of the study were:

- to assess individuals' awareness of their employment rights and entitlements
- to ascertain individuals' levels of knowledge about more detailed aspects of their rights
- to establish where people turn to for information and advice about employment issues
- to determine how people exercise their rights and whether they know how to do so
- to examine a range of personal and work/job-related characteristics for their impact on the above.

The research was based on a nationally representative telephone survey of individuals of working age (*ie* 16 to 64 for men and 16 to

¹ Key examples include the *Working Time Regulations 1998*, and the *Employment Relations Act 1999* (which includes legislation on parental leave, time off for dependants and the right to be accompanied in disciplinary and grievance proceedings).

59 for women) resident in Great Britain, who had engaged in some paid work in the last year as employees (self-employed individuals who had not worked as employees in the last year were excluded from the sample).

1.3 Background

1.3.1 Economic context¹

The economic climate at the time of the research was one of rising employment and falling levels of unemployment. The employment rate for the UK², stood at 74.6 per cent for the period August to October 2000, having risen each year since 1993. During the same period, a total of 27.98 million people of all ages were in employment, which is up 305,000 over the year.

The ILO unemployment level among working age people was 1.6 million for the period August to October 2000, which is 116,000 lower than a year previously. This represents an ILO unemployment rate of 5.6 per cent. These levels of unemployment compare favourably with other European countries, with the UK below the average rate for the EU at October 2000, demonstrating lower rates of unemployment than countries such as Germany and France. These figures confirm the relatively buoyant nature of the current UK economy and labour market.

1.3.2 Legislative framework

There have been a number of key reforms in UK employment law over the last few years. These include:

- The *Employment Relations Act 1999*, which introduced a range of provisions including: parental leave and dependant care leave (by mid-December 1999), an increase in the limit on unfair dismissal compensation to a maximum of £50,000 (from 25th October 1999), and the right to be accompanied at disciplinary and grievance proceedings (from Spring 2000).
- The *National Minimum Wage Act 1998* and the *National Minimum Wage Regulations 1999* which applied from April 1999, introducing a minimum wage at £3.60 per hour (£3.70 from October 2000), and a youth rate at £3.20 for 18-21 year-olds.
- *Collective Redundancies and Transfer of Undertakings (Protection of)*, which came into force from July 1999.

¹ Data in this section are taken from *Labour Market Trends*, January 2001, Vol. 109(1).

² Among people of working age, ie men aged 16-64 and women aged 16-59.

- The *Working Time Regulations 1998* (which aim to limit average working hours), introduced in October 1998.
- *Maternity and Parental Leave Regulations*, which took effect from December 1999.
- The *Human Rights Act 1998*, which came into force in October 2000.
- *Sex Discrimination (Gender Reassignment) Regulations 1999*, which took effect from June 1999.
- The *Disability Rights Commission (DRC) Act 1999*, which resulted in the establishment of the DRC in April 2000.

While the legislative landscape has undergone significant change, however, there is little information available on the extent to which these changes have entered the consciousness of the individuals they were designed to protect.

1.3.3 Institutional framework

If an individual wishes to pursue a claim against their employer because of an infringement of their employment rights, they are able to use the Employment Tribunal system. Employment Tribunals are independent judicial bodies, which determine disputes relating mainly to individual employment rights. Dealing with over 50 different types of complaint, including unfair dismissal, unlawful deduction of wages and breach of contract, they aim to provide speedy, accessible and relatively informal justice.¹ In addition, the Employment Appeals Tribunal (EAT) deals with appeals against Employment Tribunal decisions, based on points of law.

There are also several bodies which can assist individuals in finding out about and enforcing their employment rights. Sources of free legal advice include:

- The Advisory, Conciliation and Arbitration Service (ACAS) which plays a central role in the promotion of good industrial relations and is able to intervene in disputes to promote settlement. A copy of all claims that go to Employment Tribunal is sent to a conciliation officer at ACAS.
- Law Centres and Citizens' Advice Bureaux offer free advice and can provide further assistance such as completion of claim forms, but are not able to provide representation.
- a variety of telephone help-lines (eg that offered by the DTI on the National Minimum Wage) and specialist advice centres.

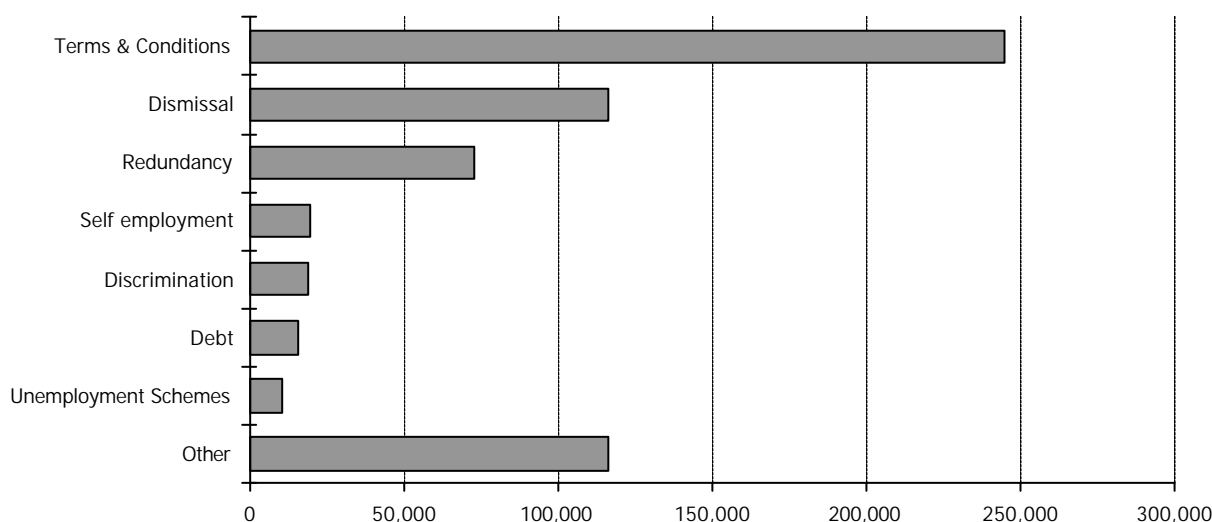
¹ For a fuller description of the role of Employment Tribunals, see: Employment Tribunals Service, *Annual Report and Accounts 1999-2000*, London, The Stationery Office.

Information from the nation-wide network of Public Enquiry Points run by ACAS suggests that the demand for information and advice is increasing (715,000 calls were handled in 1999/2000, compared with 508,000 in the previous year).¹ The National Association of Citizens' Advice Bureaux also notes an increase in the numbers of employment-related problems being brought to Citizens' Advice Bureaux, with 616,272 enquiries in 1998/9, an increase of six per cent from the previous year. A breakdown of the specific subjects of these enquiries is presented in Figure 1.1.

If an individual does decide to pursue a claim there are several potential sources of support or funding, which include:

- Legal Aid, which although not generally available for claims at Employment Tribunals, is available for two hours of free legal advice and assistance through the 'claim 10' form.
- Trade unions, which usually have funds set aside to assist members with employment disputes.
- The Commission for Racial Equality, which can help with claims based on race discrimination.
- The Equal Opportunities Commission, which can help with claims which fall under the Sex Discrimination Act or Equal Pay Act.
- The Disability Rights Commission, which can provide legal advice and support to individuals who believe they have been discriminated against because of a disability.

Figure 1.1: Breakdown of main Employment Problems presented to Citizens' Advice Bureaux during 1998/99



Source: NACAB Management Information

¹ Statistics are drawn from *ACAS Annual Report 1999-2000*, London, Advisory, Conciliation and Arbitration Service, October 2000.

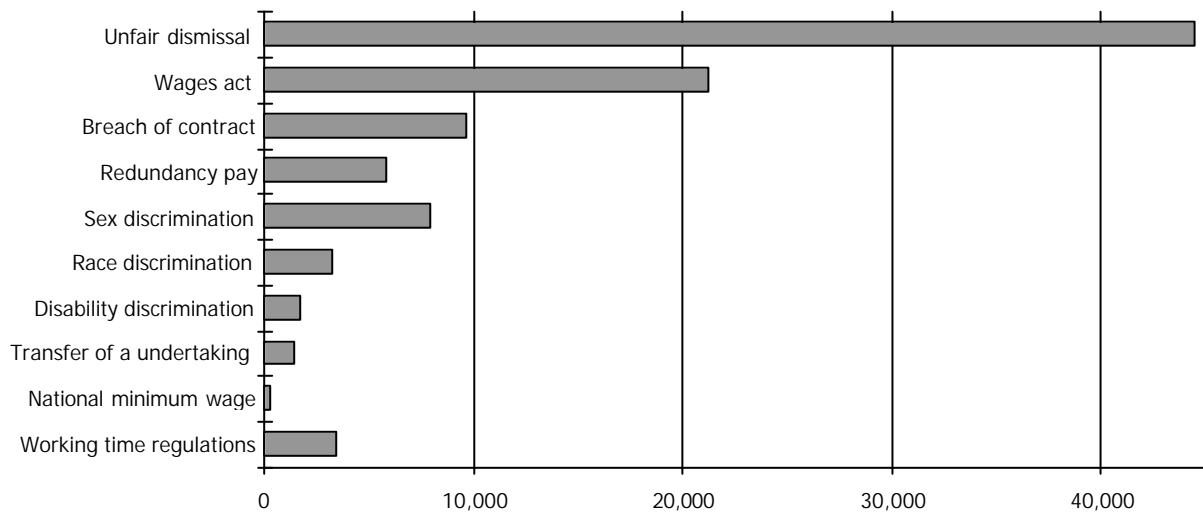
- The Health and Safety Commission, which can give assistance where the claim falls under the Health and Safety at Work Act, or in the context of any health and safety issue at work.
- Pressure groups, associations and *pro-bono* legal groups, who may be willing to support an individual, where the claim is felt to highlight a particular campaign or issue.

1.3.4 Tribunal applications

The role of the Employment Tribunal Service (ETS) is to carry out the administrative tasks necessary to enable applications to Employment Tribunals and appeals to the EAT to be determined. As part of their annual reporting procedures, the ETS provides statistics on the number of applications made to tribunals. Figure 1.2 presents the breakdown of ET applications by specific areas of employment law.

The number of tribunal applications has been rising in recent years (up from 91,913 in 1998/9 to 103,935 in 1999/2000), and over 83,000 cases were actually disposed of in 1999/2000. However, 46 per cent of cases brought were either withdrawn¹ or dismissed at the hearing. In November 2000, the Secretary of State for Trade and Industry announced proposals to reform the Employment Tribunal system. The changes are intended to discourage employees from bringing spurious claims, at the same time as ensuring that

Figure 1.2: Applications to Employment Tribunal by area of law concerned (1999/2000)



Source: ETS Management Information

¹ It should be noted that this figure includes cases which have been privately settled without a hearing. It is not possible on the basis of the information available regarding private settlements to identify what proportion of these cases might have succeeded at tribunal. In settling, some employers may be acknowledging fault; equally others may believe they have acted properly but wish to avoid disruption and cost and potential publicity associated with a tribunal hearing.

reasonable tribunal claims are dealt with fairly and quickly. The new rules that have been suggested involve: a range of measures including: increased costs for unreasonable behaviour both of the applicant and their representative; added powers for tribunals to strike out claims which have no chance of success; and an increase in the deposit for pursuing a weak case or defence from £150 to £500.

The judgements made in presenting an application to tribunal will therefore need to be more carefully considered in future. Levels of general awareness, particularly in relation to what is and is not covered by the law, will be important in influencing the actions of individuals. Similarly, individuals will increasingly need to know where to turn for sound and professional advice.

1.3.5 Other evidence

Changing employee relations

The analysis of the *Workplace Employee Relations Survey* (WERS), as provided by *Britain at Work*¹, provides a picture of a changing world of employee relations. The election of a Conservative government in 1979 began a period of policy reform that restricted the activities of trade unions and weakened some parts of the framework of statutory employment protection. Employment legislation of the time was concerned with strengthening the position of employers in an attempt to promote free market forces. Such countervailing tendencies as occurred, were mainly influenced by developments in European legislation.²

Alongside these changes, there has been a significant and ongoing decline in trade union membership. Overall, union membership has fallen from a peak of 40 per cent in 1979, to 30 per cent in 1999. The patterns of membership differ according to a range of individual characteristics (eg men are more likely to be union members than women, full-time employees are more likely to be members than part-timers, employees of larger organisations and those in the public sector are more likely to be union members), but a greater percentage of individuals are affected by collective agreements (36 per cent of employees in autumn 1999) than those who claim union membership on an individual basis.³

There has also been a radical change in the pattern of workplace conflict. The analysis of successive *Workplace Employee Relations Surveys* shows that under the influence both of declining union

¹ Cully M, Woodland S, O'Reilly A and Dix G (1999), *Britain at Work*, London, Routledge.

² See the discussion in Cully *et al.* (*op. cit.*), p. 219-200.

³ See: Hicks S (2000), 'Trade union membership 1998-99: an analysis of data from the Certification Officer and the Labour Force Survey', *Labour Market Trends*, July 2000, pp. 329-340.

representation and of the changing legislative environment, collective industrial action of any kind has virtually disappeared from British workplaces.¹ When this is considered alongside the increasing figures for Employment Tribunal² cases (nine per cent of workplaces were the subject of tribunal applications in 1990, compared with 13 per cent in 1998), it is evident that individuals are increasingly required to deal with any conflict they have with employers in a direct manner. Awareness and knowledge of legislation, or at least of the potential sources of advice on employment rights, are therefore crucial again for individuals in recognising and upholding their rights at work.

While it is too early to draw strong conclusions in this regard, it seems likely that the landscape of employee relations is again changing in the most recent period. We might note in this respect the breadth of employment law reforms undertaken by the current (post-1997) government. At the same time, there has been a reported rise in trade union membership from 1997 to 1998 of around 12,000 — the first increase since 1985.³ However, given that the majority of the recent changes relate to individual rather than collective rights, these changes, if anything, reinforce the importance of individual awareness and knowledge of their employment rights.

Survey data on individuals' propensities to take action on employment issues

Survey work conducted by Genn⁴ also provides relevant contextual data for the current study. Genn's survey examined the circumstances behind a range of 'justiciable'⁵ disputes including money problems, housing issues and relationship/family matters. Employment accounted for six per cent of problems cited by respondents, giving an indicator of the prevalence of justiciable employment problems in the UK population. Additionally, the survey provided information about the characteristics of these employment problems. These data are presented in Figure 1.3.

Those individuals in the Genn survey who had experienced problems with employment law were likely to have higher levels

¹ See Cully *et al.* (*op.cit.*), p.245.

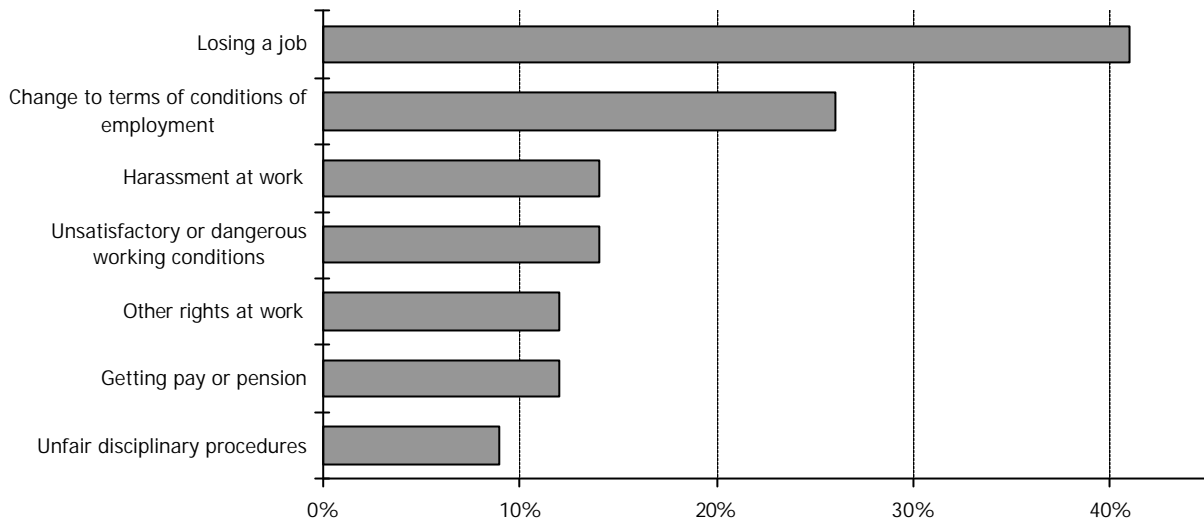
² Employment Tribunals were known as 'Industrial Tribunals' prior to 1 August 1998.

³ Hicks (2000) *op. cit.*

⁴ Reported in Genn H (1999), *Paths to Justice: what people do and think about going to law*, Oxford, Hart Publishing.

⁵ Genn defined a 'justiciable event', as '*... a matter experienced by a respondent which raised legal issues, whether or not it was recognised by the respondent as being "legal" and whether or not any action taken by the respondent to deal with the event involved the use of any part of the civil justice system*', Genn (1999), *op. cit.* p.12.

Figure 1.3: Breakdown of problems experienced by respondents since 1992



Notes: (1) One respondent can have experienced more than one problem.
(2) Base is those respondents reporting experience of an employment related problem.

Source: Genn, 1999

of education and home ownership than the sample as a whole. Respondents with employment problems also had a distinctive earnings distribution. About half had earnings at or below £20,000 which was similar to the overall sample, but far fewer had incomes of below £10,000 (17 per cent compared to 31 per cent of the overall sample). Men were also more likely to report having experienced problems, despite the sample containing more women than men overall.

Genn's work also provides some analysis of the factors involved in taking action in response to a justiciable problem. Of those who report experiencing a problem with employment law, seven per cent did nothing, 15 per cent resolved the issue themselves without outside advice, and 78 per cent obtained advice (a relatively high figure when compared to other areas of the law). Those individuals who did nothing were likely to feel that 'nothing could be done' or that it was 'not worth the trouble'.

Factors that were found to be associated with seeking advice about any kind of justiciable problem (not just those related to employment) included the respondent's:

- educational qualifications
- age
- income level
- gender
- attitude towards the legal system (*ie* whether they were confident of a fair hearing).

1.4 Research questions

From these data, a number of research questions emerge. A brief outline of how this study aims to tackle some of these questions is presented below:

- Individuals are likely to have differing levels of knowledge and/or awareness dependent on the aspect of law under examination. This research aims to examine these relationships in more detail and provide comparisons of individuals' awareness and knowledge of different 'groups' of rights.
- Individuals appear to access information about employment rights for a variety of reasons, and these also differ according to the area of law in question. This research examines the sources of advice that individuals use and looks for any patterns in the way these sources are used.
- It appears that some individuals are more likely to have experienced difficulties with employment law, dependent on their personal characteristics. This research aims to provide a breakdown of those individuals who have experienced difficulties with the law; their personal, job and employer characteristics and the area of law in which they perceive an infringement to have taken place.

Additionally, the study examines the extent to which differences in levels of knowledge and awareness can be attributed to individual characteristics.

1.5 Report structure and content

The findings from the survey are presented in the following eleven chapters.

Chapter 2 presents the conceptual foundations of the research, including an outline of what is meant by 'awareness' and 'knowledge' in the context of this research. It also presents a summary of the methodology (which is covered in more detail in Appendix 1) and an overview of the key characteristics of the sample (with fuller details in Appendix 2).

Chapter 3 presents an overview of respondents' awareness and knowledge of employment rights in general.

Chapter 4 examines the awareness and knowledge levels of the sample in more detail in relation to the legislation protecting 'work-life balance'.

Chapter 5 discusses the availability and take-up of the newer 'work-life balance' entitlements. This was a specific additional focus of the study in the light of the most recent legislation.

Chapter 7 reviews the sample's awareness and knowledge of rights relating to wages, terms and conditions (including the National Minimum Wage).

Chapter 8 describes the awareness and knowledge of the sample in relation to laws protecting workers from unfair dismissal.

Chapter 9 discusses respondents' awareness and knowledge of anti-discrimination legislation.

Chapter 10 presents the experiences of the sample, looking at whether they have encountered problems at work, what actions they have taken as a result, and (using hypothetical questioning) what actions they would take if they were to experience difficulties in the future.

Chapter 11 presents some conclusions regarding the key findings of the research and their implications.

Finally, the report contains:

A *Statistical Annex*, reporting some multivariate analysis of awareness variables; and four appendices:

- Appendix 1 contains details of the research methodology.
- Appendix 2 presents data summarising the personal and job-related characteristics of the sample.
- Appendix 3 provides fuller details of the responses to the hypothetical (scenario) questions used in the research.
- Appendix 4 contains the questionnaire used in the telephone survey.