



Judges not using power to dismiss claims or responses early at Employment Tribunals

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Employees and employers face long delays in having their case heard.

Judges are not exercising their power to dismiss claims early at Employment Tribunals, despite a growing backlog of cases, says GQ|Littler, the specialist employment law firm.

Over the last year, judges did not use their power of early dismissal in any of the 94,330* new cases received by Employment Tribunals in 2018/19.

The early dismissal of claims is possible under 'Rule 27', which allows judges to dismiss a claim (or a response) they believe has no reasonable prospect of success before it reaches a court hearing, reducing employees' and employers' legal costs and reducing the burden on the Employment Tribunal system.

GQ|Littler says the current volume of claims going through to a court hearing is worsening the backlog of cases. This backlog increased 39% to 26,664 last year (year to March 31 2019)**, up from 19,116 the previous year (see graph below).

GQ|Littler adds that the mounting backlog means employers are distracted from more strategic management issues due to uncertainty over the outcome of a claim. Employees are also likely to be anxious over the delay, and may struggle financially while waiting for compensation to be awarded.

Raoul Parekh, partner at GQ|Littler, says: "Why go to the trouble of creating a power, and then not use it? With the backlog of claims ever worsening and limited resources, tribunal judges should use every option to stem the tide."

"The fact that judges are not using their powers to dismiss claims early may reflect their sympathy towards claimants in wanting to give their case a chance rather than dismissing them out of hand. Understandably, judges will not want to restrict access to justice."

"However, the high volume of claims reaching a first hearing is contributing to the worsening backlog. This backlog of cases is prolonging the process for both employees and employers, who are being left in the dark over when their case will be resolved."

"There is an urgent need to address the lack of resources at tribunals, through new funding for front line judicial staff as well as administrative staff. In the meantime, it is important to find ways of improving efficiency."

"If the backlog and waiting times continue to grow, employment tribunals will cease to be an effective body for employees or employers."

Backlog of cases at Employment Tribunals jumps 39% to 26,664 in the last year - total number of claims outstanding.

*Source: Ministry of Justice - year end March 31 2019

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About GQ|Littler

GQ|Littler, the London office of the largest global employment law firm for employers. Based in the City of London, the firm is part of Littler, the world's largest employment law firm with over 1,500 lawyers in 80 offices worldwide, offering a single source solution to international businesses. Offering risk-based contentious and non-contentious advice, the firm's legal expertise includes employment, immigration, employee tax and incentives. Its client base spans a wide range of sectors including financial services, technology, healthcare, professional services and luxury goods. GQ|Littler is recognised as a leader in its field by both Legal 500 and Chambers & Partners, which describes the firm as "a premier outfit".

For expert insight on the outlook of European employers, please see Littler's annual Executive Employer Survey Europe 2019 which can be found [here](#).

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