

When less is really MORE

By Brian Dunk FCII Chartered Insurer, Managing Director of diB insurance



Just over a year ago and in a much-heralded crack-down on Britain's compensation culture, fixed fees were introduced for employees who wanted to sue their boss. Tribunal fees (up to £1200) were designed to make life easier for businesses by cutting out spurious employment claims and reports suggest there has been a 70% reduction in the number of claims going before Employment Tribunals, but as ever, there is another side...

The reduction in numbers you have read about is wrong, grossly distorted by log-jams in the court system and overlooking completely the numbers using the new ACAS conciliation service. Latest figures show that ACAS had 17,000 employment claim notifications in its first 3 months alone and a whole new sub-industry has developed to help employees either dodge Tribunal fees or "get their money's worth" out of employers.

Claim farmers have now entered the field, supporting potential claims and either stretching or exaggerating the issues in order to profit themselves. And, in another twist of the 'Law of Unexpected Consequences' it seems that Tribunal Judges with less work before them are now regularly extending court time for example, from 2 to 5 days. So guess who pays for the extra days in court?

Speaking from a specialist position, we observe that while fewer claims are being notified, a much higher proportion refuse to settle early because claimants now have more 'skin in the game'. The average cost

to an employer is 50% up on last year – now averaging £8000 per claim for both legal representation and settlement awards.

To say nothing of the cost to management in time and stress.

In a small to medium sized business a relatively small employment claim can hit profits hard and threaten company dividends and if 'discrimination' is involved there is absolutely no upper limit on what a court can award in damages.

We find many employers ill-prepared to deal with disgruntled employees, trusting that relationships are benevolent and "it will never happen to us." Statistically it will, sooner or later. We find SMEs are generally over reliant on low price 'inclusive' insurance, trade association memberships or 'afterthought' covers.

In life, you get what you pay for - so how much of a good lawyers time do you think you can buy for £50? Most of these policies we see have more holes than a goal-net and while they may offer call-centre advice, the policies themselves lack integrity, as the Insurer will have too much discretion over claims. Our advice to prudent employers is to combine a professional HR service with a seamless employment insurance that has some independent control over the conduct of claims built into it.

diB specialises in employment law insurance and would be pleased to advise business readers further.