

# Supplementary Memorandum submitted by Public Concern at Work (ERR 20)

## Supplementary evidence from Public Concern at Work

Further to the statement submitted to the Scrutiny Committee on 18 June 2012, we thought it might help if we provided a supplementary note with some of the statistics we have gathered relating to claims and cases arising out of the Public Interest Disclosure Act 1998 (PIDA). As part of our public policy objectives, we track PIDA judgments which involves reading all of the judgments produced by the Employment Tribunals (ET) in which PIDA has featured. However, we are reliant on the ET providing copies to us every six months. Our analysis of these judgments to the end of 2010 is set out below (at present our legal team are analysing the cases to end 2011).

We also review the statistics produced by DBIS relating to claims under PIDA. We have not yet received the figures for 2010-2011 and thus we can only provide breakdowns up to and including 2009/2010. The table below shows the number of applications made to an Employment Tribunal under the Public Interest Disclosure Act since the Act came into force. In 2009/2010 the total number of PIDA claims was 2,000, which amounts to less than 1% of all ET claims.

Year	Number of PIDA Applications
1999 / 2000	157
2000 / 2001	416
2001 / 2002	528
2002 / 2003	661
2003 / 2004	756
2004 / 2005	869
2005 / 2006	1034
2006 / 2007	1356
2007 / 2008	1497
2008 / 2009	1761
2009 / 2010	2000

The table below shows the outcomes of applications to Employment Tribunals under PIDA, by year. The source is the Employment Tribunal Service and DBIS. Please note totals in the table below refer to applications disposed of by year which is why they differ from the totals in the table above.

	1999 / 2000	2000 / 2001	2001 / 2002	2002 / 2003	2003 / 2004	2004 / 2005	2005 / 2006	2006 / 2007	2008 / 2009	2009 / 2010	2010 / 2011
<b>ACAS conciliated settlement</b>	11	67	90	149	166	277	345	464	686	680	440
<b>Withdrawn or privately settled</b>	15	59	100	132	198	218	337	481	462	500	350
<b>Successful at hearing</b>	1	11	18	27	20	45	86	59	75	85	30

<b>Unsuccessful at hearing</b>	7	26	49	74	89	111	178	188	163	190	93
<b>Dismissed at hearing - out of scope/at preliminary hearing</b>	0	4	10	9	16	12	19	32	31	34	33
<b>Disposed of - other reasons/struck out not at a hearing</b>	1	4	14	16	23	33	50	54	78	74	47
<b>Default judgment</b>	-	-	-	-	-	-	-	9	7	18	18
<b>TOTAL DISPOSED</b>	35	171	281	407	512	696	1015	1287	1502	1600	1000

There were 2,000 PIDA claims between 1 April 2009 and 31 March 2010. 1,600 of those claims were disposed of with 74% withdrawn, settled by ACAS or by the parties. The remaining 26% proceeded to a hearing at which 20% (or 85 cases) were successful.

We reviewed a total of 884 judgments for 2009 and 2010, which covered both full and interim rulings. 464 of these were final judgments following a substantive hearing. Of these, only 10% of cases were successful on PIDA grounds, 31% were won on other grounds, and the remainder were lost or struck out. The categories of wrongdoing raised in PIDA claims is wide and ranged from security breaches in Afghan military bases, fake invoicing, bid-rigging, restructuring of health services and breach of private employment rights. This latter category is particularly relevant to the amendment proposed in the ERRB, and in our analysis appears in approximately 10% of judgments. Therefore there were 46 cases in total that were classified as a breach of the Claimant's employment rights in 2009/2010. When this is compared to the 112,400 cases disposed of by the ET in the same year, this does not represent a large volume of cases turning on the findings in the *Parkin v Sodexho* case.

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