

# Research Paper

Representation in Employment Tribunals: analysis of the 2003 and 2008 Survey of Employment Tribunal Applications (SETA)

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## **GLOSSARY**

Acas	Advisory, Conciliation and Arbitration Service
CAB(x)	Citizens' Advice Bureau(x)
ET	Employment Tribunal
ET1	Employment Tribunal Claim Form
ET3	Employment Tribunal Response Form
SETA	Survey of Employment Tribunal Applications

## EXECUTIVE SUMMARY

This study reports the findings from an investigation of representation in employment tribunals (ETs), using the 2003 and 2008 Survey of Employment Tribunal Applications (SETA). Staff at the University of Westminster and Swansea University were commissioned by Acas to carry out the work. The overall aim is to provide a comprehensive picture of representation in ET cases at the point of application (for claimant) and response (for employer), during the course of the claim, and at the point of any full hearing. More generally, the report asks:

- Are there particular case, claimant and respondent characteristics that are more closely associated with certain forms of representation throughout the ET process;
- Are there particular forms of representation amongst claimants and respondents that are more closely associated with certain case outcomes, durations and levels of satisfaction.

The main focus of analysis is on the 2008 SETA. The sample of cases for the 2008 SETA includes all jurisdictions with a *promulgation* [or closure/resolution] date between February 2007 and January 2008, inclusive. During the relevant period, some 63,000 cases with single claimants were recorded and data were collected using Computer Assisted Telephone Interviewing (CATI) between September 2008 and January 2009. A total sample of some 4,027 persons were interviewed, 2,020 claimants (a response rate of 66 per cent) and 2,007 employers (response rate of 50 per cent). In the main these two groups are unmatched, although for claims involving unfair dismissal we are able to analyse 308 pairs of observations in the dataset. A weighting scheme exists so as to render all results representative of the wider population.

For the purposes of the analysis, we create a scale of representation, with those receiving support from legal professionals ranked highest; followed by professionals; then non-professional representatives/others; and finally no representation (see report for fuller description). This hierarchy reflects the extent to which representatives have differing levels of formal/informal and legal qualifications and does not necessarily reflect a differing quality of service. We also assume a hierarchy in terms of *consistency* of types of representation across the ET process, with those receiving advice from a similar source across all stages of the process ranked higher in this scale.

The report also distinguishes between different types of case according to jurisdiction. The categories of jurisdiction used are the Acas fixed period conciliation 'tracks'. These are *open track* cases which involve allegations of discrimination; *standard track* involving unfair dismissal; and *short track* which include wages act, breach of contract and redundancy pay claims (see report for fuller description).

### Overview of Representation

Approximately 4 in every 10 claimants *received help with completing their tribunal application (ET1 form)* (or had it completed on their behalf), while 32 per cent *nominated a representative on the form*. Just under half (48 per cent) of these representatives nominated in the early stages of the tribunal process were legal professionals (i.e. lawyers or barristers).

Employers generally appear to receive more help and guidance at this stage. Around 70 per cent received help with the respondents' tribunal form (ET3 form), while just over 40 per cent nominated a representative (of which 63 per cent were legal professionals).

As well as collecting information on the nature of any representative nominated on the ET1/ET3 forms, the SETA also collects information on the nature of any day-to-day help and advice received by the parties during the process of the case. The responses to this question suggest that 47 per cent of claimants and 63 per cent of employers had some form of day-to-day help and advice – and of these claimants and employers receiving day-to-day help, 49 per cent and 70 per cent respectively were supported by legal professionals. So again, employers secure more help in handling their claim.

Considering all stages of the ET process, 31 per cent of claimants had no help, advice or guidance at any point during the progression of their case; compared to only 11 per cent amongst the sample of employers.

While most claims are resolved in advance of a hearing, for those whose cases progress to a full hearing, legal professionals again appear to be the primary representative of choice, with around 60 per cent of both claimants and employers securing the services of a solicitor, barrister or other form of lawyer.

Contrary to perceptions in the existing literature, between 2003 and 2008, the data suggest there has been something of a decline in representation amongst claimants. The percentage nominating a representative on the ET1 form and receiving day-to-day help fell from 29% to 20% between the two surveys, whilst the proportion receiving no help or advice increased by six percentage points. Amongst employers there is less clear evidence of a similar fall, but this is due to a high level of missing data.

### **Representation Patterns**

It is possible that parties to tribunal claims might use a number of different forms of representation during the course of a claim. However, analysis of the 2008 SETA suggests that most claimants and respondents do not switch between different types of representation at different stages of the ET process and the type of day-to-day help received is generally similar to the type of representation indicated earlier on the ET1/ET3 forms.

For example, 79 per cent of claimants who initially nominated a legal professional at the ET1 stage also had day-to-day advice from a legal professional (though it could have been a different legal professional); of those nominating a professional representative on the ET1 form, 56 per cent received day-to-day help from a professional representative. amongst employers consistency in relation to advice and support is even more pronounced, with the corresponding proportions being 80 per cent and 79 per cent respectively.

Using the responses to questions on formal representation (from the ET1/ET3) and day-to-day help and support (as distinct from advice and guidance), we construct a summary index which reflects the level of representation across the entire ET process. This further underlines the bimodal nature of representation amongst both claimants and employers. For instance, 19% of claimants have legal and/or professional representation across both stages of the process; whilst 41 per cent have no representation at either of these stages (15 per cent



missing). The figures for employers, of 25 per cent and 16 per cent respectively, do not seem as extreme, but this is potentially driven by the 37 per cent missing.

### **Factors associated with representation**

The extent to which representation varies by the type of case brought is also of interest. In particular, one may expect cases which are more 'complex' to have different patterns of representation.

One possible measure of complexity is the *number of jurisdictions* cited in a case. The assumption is that claims involving a higher number of jurisdictions are more complex and parties with more complex cases are more likely to secure professional and/or legal representation. The pattern of representation seen amongst claimants seems to support this hypothesis, but the fact that it does not exist for employers makes us cautious in the exact interpretation. More specifically:

The proportion of claimants nominating legal professionals on their ET1 form rises from 11 per cent where a single jurisdiction is involved to 17 per cent for two jurisdictions and 23 per cent for three or more jurisdictions. In relation to day-to-day help, the corresponding figures are 18, 25 and 31 per cent respectively. For employers in contrast, the proportion nominating a representative on the ET3 is almost the same irrespective of the number of jurisdictions. In terms of day-to-day help the figure does rise as the number of jurisdictions involved increases, but much less sharply than for claimants. Our multivariate analysis confirms that these findings remain even when controlling for a variety of other case and claimant/employer characteristics.

Another indicator of complexity may be the *types of jurisdictions* involved in a claim. Nominating a legal representative on the ET1/ET3 form is much more likely for those involved in open (discrimination) track cases (24 per cent of claimants and 34 per cent of employers), compared with those involved in both standard track (17 per cent and 27 per cent) and especially short track cases (5 and 12 per cent). A similar pattern is apparent for day-to-day help, with 33 per cent of claimants and 56 per cent of employers involved in open track cases securing such assistance compared with just 8 and 20 per cent respectively where the case falls within the short track provisions. This could be driven by legal/professional representatives proactively supporting the submission of discrimination cases, rather than claimants seeking out different types of representative depending on jurisdiction of their case. Regardless of the explanation, our multivariate analysis confirms that this pattern remains even after controlling for additional factors, but the strength of effect is much more pronounced for employers.

Clearly, the nature of tribunal claims, the characteristics of parties and their representation patterns are complex. However, it is possible to utilise the results of our multivariate analysis to outline claimant and employer characteristics that are closely associated with the extremes of our index of representation. For instance:

- A married man or woman, aged 45-54, in a top-3 SOC occupation, with pay that puts them in the top pay quintile, who also has 10 years tenure in their present job and is a union member, has a relatively high probability (22% for men and 23% for women) of having our highest category of representation.

- In contrast, on average an unmarried man or woman, aged 25-34, in a bottom-4 SOC occupation, with pay that puts them in the 2nd pay quintile, who has 12 months tenure in the present job and is a non-union member has a particularly low probability (10% men and 12% women) of having our highest category of representation.
- The average large establishment (with 250+ employees), which is a public sector employer (in transport/communication or public administration) has a 53 per cent probability of having the highest level of representation in our index.
- In contrast, the average small establishment (less than 25 employees), which is a private employer in the manufacturing sector has a 23 per cent probability of having the highest level of representation in our index.

## **Representation and Outcomes**

### ***Claimants***

Cases in which claimants have the highest levels of representation are more likely to result in a private settlement; whilst Acas settlement seems no more or less likely across our different categories of claimant representation. A much higher proportion of claimants who have no representation or the lowest levels of representation are successful at full hearing, but this tends to reflect the fact that these cases are more likely to go to a full hearing in the first place. Multivariate analysis suggests that this is partly explained by the fact that short track cases are both significantly<sup>1</sup> more likely to go to a full hearing and significantly less likely to have representation.

The results of our multivariate analysis suggest other variables that are significantly correlated with whether a case goes to a hearing or not. For instance, cases involving 'any form of discrimination' are significantly less likely to go to a hearing. Claimants with no representation are significantly more likely to see their case being dismissed. In contrast, claimants who detail a legally qualified representative on their ET1 form, and also get day-to-day advice from a similar source, are significantly more likely to privately settle than claimants receiving any other form of representation or no representation.

### ***Employers***

As with the analysis of claimants, from the employer data, cases with 'any discrimination' are significantly less likely to go to full hearing, but we do not find any significant correlation between probability of hearing and short track cases; in addition cases involving allegations of discrimination are significantly less likely to be observed as private settlements.

Within the employer sample, cases under the 'any discrimination' track are significantly less likely to see the claimant being successful at hearing – the suggestion is that whilst cases in this track are less likely to go to a hearing, if they do the claimant is much less likely to be successful.

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<sup>1</sup> In all cases where we use the phrase 'significant' we are referring to statistically significant findings – that is, we are able to reject the null hypothesis of parameter insignificance at the 5%/1% or 0.1% level.

## **Duration and Satisfaction**

Two other factors are considered in relation to representation - (i) the length of time taken to reach a resolution and (ii) parties satisfaction with the tribunal process. For both claimants and employers, case duration is significantly longer in cases with the highest levels of representation (i.e. where both parties have legally trained representatives) relative to almost all other levels/combinations of representation.

Relatively few additional factors are significantly associated with case duration for both claimants and employers, other than the jurisdiction of the claim. For instance, cases with 'any discrimination' are significantly longer, and short cases significantly shorter, than standard cases; a finding that is particularly interesting given that 'any discrimination' cases are significantly less likely to go to a hearing. The number of jurisdictions in a case – a feature potentially associated with greater case complexity – has no statistically significant impact on case duration however.

From the employer data, cases in the public sector, in medium and large sized firms and where the employer has an internal legal department are also all significantly more likely to experience longer average case durations.

Having accounted for a variety of other factors, including case outcome, it is still the case that those claimants and employers who have no contact with a legally qualified or professional representative report significantly higher levels of satisfaction with the ET process.

## **Differences in findings by jurisdiction and findings from matched data**

It is possible that some of our multivariate findings may vary across jurisdictions. For instance, just considering short track cases, claimants with the lowest (and missing) category of representation, are significantly more likely to be successful at hearing. This is a finding that does not hold across all jurisdictions and to check if there are any other variations in the impact of representation across jurisdiction, we carry out an extensive study using interaction effects<sup>2</sup>.

On the whole we do not identify too many deviations from our general findings, other than:

There is an interesting exception to our finding that claimants with the highest levels of representation are much more likely to experience a private settlement. When we consider the specific group of cases that are short track, we find that those with no representation are significantly more likely to experience private settlement.

For employers, we still find (on average) that those who have lower levels of representation are significantly more likely to observe the claimant being successful at hearing. However, this effect does not apply to discrimination cases,

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<sup>2</sup> In the example given, our indicator of *lowest (and missing) category of representation* would be included as an explanatory variable in the regression to predict the probability of being successful at a hearing. However, if the importance of representation varies across jurisdictions, this would not be captured with such a variable (as it is essentially testing whether there is a common impact of 'low and missing representation' across all jurisdictions). Including interactions simply means we add an explanatory term for (i) lowest and missing representation category in short track cases; (ii) lowest and missing representation in standard track etc.

where lower levels of representation amongst employers are associated with a significantly higher probability of observing the claimant being unsuccessful at a hearing.

These findings underline how complicated the decision-making of parties can be, at different points in the ET process, as they evaluate the emerging merits of their own case and the levels of representation they feel they need. To better understand this, we analyse a subset of 308 matched unfair dismissal cases for which we have claimant and employer data; the question is, to what extent do claimants and employers respond to representation levels and patterns adopted by the opposing party?

There is no evidence to support the hypothesis that claimants respond to higher levels of employer representation by 'ratcheting-up' their own levels of representation. However, the quality of the data are such that we cannot arrive at a confident rejection of the hypothesis and also there is no way of testing the movement from 'initial positions' (regarding representation) amongst employers, in response to claimants levels of representation.

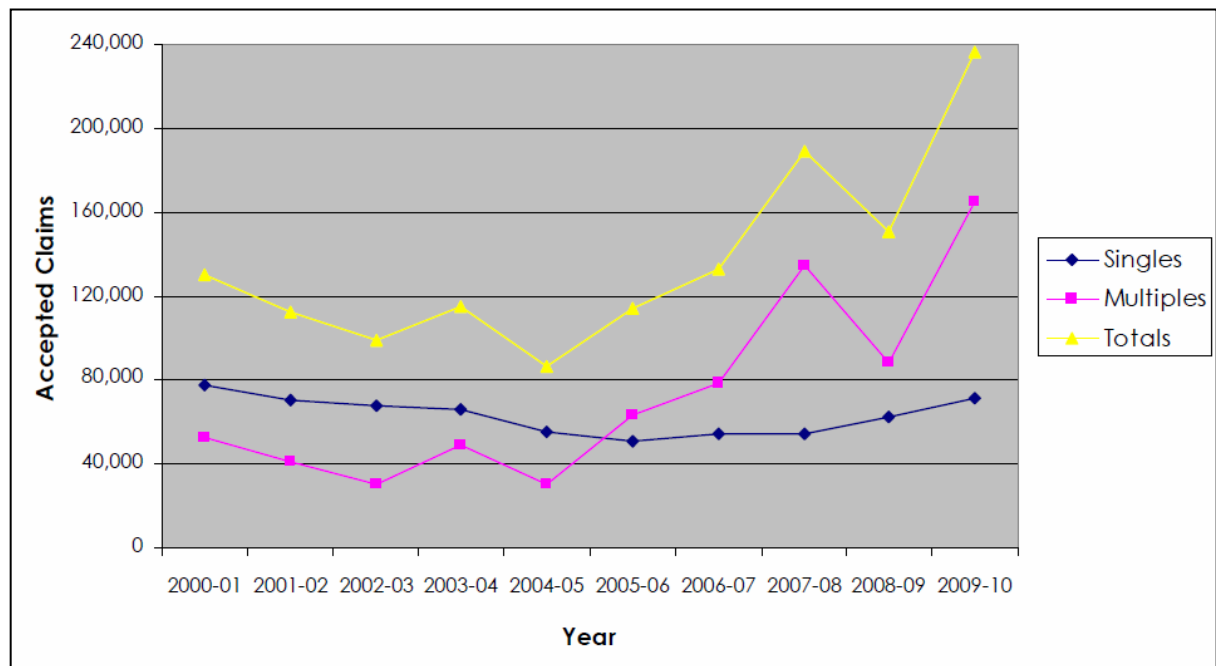
Analysis by outcome carries further caveats. However, there would seem to be some indication that (as one would perhaps expect) a relatively large proportion of cases with high employer and low claimant day-to-day help and advice result in claimants being unsuccessful at hearing, whilst the proportion of private settlements is highest amongst cases where both sides are professionally or legally represented. The proportion of Acas settlements is highest amongst cases where both employer and claimant have lower levels of representation – though it must be remembered that our multivariate analysis does not support this finding from the (less robust) matched data in unfair dismissal cases.

## 1. BACKGROUND/CONTEXT

British Employment Tribunals (ET) are judicial bodies tasked with adjudicating employment-related disputes between employers and employees (or potential employees). They deal with a range of grievances (or 'jurisdictions') by workers, including unfair dismissal, breach of contract, unlawful deductions from wages, redundancy payments, and six strands of discrimination. Following submission of the details of a dispute to the Employment Tribunal Service (ETS) by a claimant (the employee, former employee or applicant to the organisation) using the *ET1 form*, the respondent (the employer) has 28 days to respond by completing an *ET3 form*<sup>3</sup>. In the vast majority of jurisdictions, details of the case (ET1 and ET3 forms) will also be sent to an Acas officer assigned to the claim, who will then approach the parties in an attempt to conciliate. The majority of cases (around 75%) do arrive at some form of outcome (settlement, withdrawal of the claim, etc.) that does not require a full merits tribunal hearing (referred to elsewhere as full hearing) where a panel, normally made up of an Employment Judge and two lay members, is convened.

ET claims are an increasingly important feature of the employment relations terrain, with a record number of applications – some 236,100 – accepted during 2009/10 (Figure 1). This figure represents a 56 per cent increase on the previous year, mostly accounted for by a rise in claims involving multiple claimants, although those involving single claimants also rose 14 per cent (Tribunals Service 2010).

**Figure 1: Single and multiple accepted claims 2000/01 - 2009/10**



Source: Tribunals Service (2010) Annual Statistics for the Tribunals Service, 2009-10, p. 6

<sup>3</sup> ET1 Form is the Employment Tribunal Claim Form completed by claimants and submitted to the Employment Tribunals Service when a breach of employment regulations is claimed. The ET3 Form is the Employment Tribunal Response Form completed by employers in response to the submission of a formal ET1 form.

While ETs (or Industrial Tribunals as they were previously called) were described at the time of the Royal Commission (commonly referred to as the Donovan Commission) as “easily accessible, informal, speedy and inexpensive” (Royal Commission, para. 572), and intended to remain so when its report recommended extending their authority to a wider range of areas of dispute between employers and employees (MacMillan, 1999), the issue of legalism in tribunals has since been the subject of some debate (Munday, 1981; Leslie, 1985; Hepple, 1986; MacMillan, 1999). As an employment practitioner was quoted as saying in Knight and Latreille (2001: 818) “Tribunals are popularly believed to be non-legalistic, non-bureaucratic and suitable for lay-people to use, whereas in fact the opposite is nearer the truth”. Allied with a burgeoning number of jurisdictions and the increasing legal complexity of claims, including the impact of European law (MacMillan, 1999), there have been suggestions by a number of researchers that parties have increasingly availed themselves of (legal) advice and representation over the past two decades (Fox and Dix, 2002; Hayward *et al.*, 2004; see also Colling, 2006)<sup>4</sup>.

Certainly the authorities are aware of this issue, with representation of claimants (but not respondents<sup>5</sup>) reported in the Tribunals Service annual statistical release from 2007/8 onwards. As Table 1 suggests, the majority of claimants do appear to have some manner of formal representation and lawyers do predominate. However, there is some variation from year to year in the percentages attributable to different categories of representative, depending on the composition of claims, and the precise interpretation of ‘representation’. As a result, there is no recent evidence of a continuing rise in levels of representation and this is an issue to which we return.

**Table 1: Representation of claimants at Employment Tribunals**

Representative type	2005/6		2006/7		2007/8		2008/9	
	Number	%	Number	%	Number	%	Number	%
Trade Union	6,676	5.8	9,902	7.5	29,136	15.4	8,812	5.8
Lawyers	67,442	58.9	79,313	59.8	117,565	62.1	85,871	56.9
No rep information provided	30,195	26.4	31,694	23.9	31,780	16.8	41,270	27.3
Other	10,256	9.0	11,701	8.8	10,814	5.7	15,075	10.0
<b>Total Claims</b>	<b>114,569</b>	<b>5.8</b>	<b>132,610</b>	<b>7.5</b>	<b>189,295</b>	<b>15.4</b>	<b>151,028</b>	<b>5.8</b>

Source: Adapted from Table 4 of Tribunals Service (2009) Employment Tribunal and EAT Statistics (GB) 1 April 2008 to 31 March 2009 and Tribunals Service (2009) Employment Tribunal and EAT Statistics (GB) 1 April 2007 to 31 March 2008.

Notes: ‘Lawyers’ includes Solicitors, Law centres and Trade Associations; ‘No rep information provided’ includes individuals representing themselves (and hence left blank).

<sup>4</sup> However, the concern has even earlier antecedents, with Munday (1981: 151) reporting that “In 1978, for instance, approximately one half of respondents and at least one third of applicants were represented by lawyers. A further 16 per cent of applicants were represented by union officials.”

<sup>5</sup> Henceforth the term ‘employer’ will be used rather than the official term ‘respondent’, with the latter being used to denote survey participants.

## 1.1 The legal framework

The ET system has been very much a shifting landscape over the last few years, with a series of substantial changes being enacted and – in some instances – subsequently repealed. The most important of these in the context of the current analysis was the Employment Act 2002 and its Dispute Resolution Regulations 2004 which came into effect on 1 October 2004. These required parties to complete statutory internal dismissal/disciplinary or grievance procedures before a claim could be brought, with failure to do so potentially resulting in any compensation awarded by a tribunal being increased or reduced by between 10 and 50 per cent depending on which side was held to be at fault.

The Employment Tribunals Regulations introduced on the same date also made a crucial change to the provision of statutory conciliation offered by the Advisory, Conciliation and Arbitration Service (Acas). Specifically, conciliation was time-limited to 'fixed periods', the duration of which varied according to which of three 'tracks' a case fell into: 'short' (conciliation restricted to 7 weeks), 'standard' (13 weeks) and 'open' (unlimited)<sup>6</sup>. The conciliation period for an individual case was determined by the longest period among the jurisdictions listed in the claim. 'Short track' cases would be those involving simple claims falling under one or more of Wages Act, Redundancy Payments and Breach of Contract only. All cases involving discrimination claims, regardless of whether other jurisdictions were included, were designated as 'open track'. 'Standard track' comprised all other claims, primarily Unfair Dismissal.

Subsequent review of the ET system by Gibbons (2007) resulted in the repeal of these two aspects in the Employment Act 2008 (effective from 6 April 2009). Therefore these two developments were key features of the ETS at the time of SETA 2008. In contrast, SETA 2003 pre-dates these changes and in some respects the current (post-repeal) regime in 2010 represents something of a return to the situation in 2003.

## 1.2 The Surveys of Employment Tribunal Applications 2003 and 2008

The 2008 Survey of Employment Tribunal Applications is the fifth and latest in a series undertaken at intervals since 1987 and evolving over time<sup>7</sup>. The 2003 and 2008 surveys however are in many respects comparable, with a similar, simple random sample of cases being drawn from single claimant<sup>8</sup> applications claims registered by the Tribunals Service, and with a substantially similar survey instrument (see Peters *et al.*, 2010). In the 2008 survey, the sample of cases included all jurisdictions with a *promulgation* [or closure/resolution] date between February 2007 and January 2008, inclusive (Peters *et al.*, 2010: 3). During the relevant period, some 63,000 'singles' were recorded<sup>9</sup>. Data were collected by the research agency BMRB using Computer Assisted Telephone Interviewing (CATI) between September 2008 and January 2009. A total sample of some 4,027 persons were interviewed, 2,020 claimants (a response rate of 66 per cent) and 2,007 employers (response rate of 50 per cent). In the main these two groups are unmatched, although for claims involving unfair dismissal, an innovation in 2008 was to include a matched element, and some 308 pairs of observations are

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<sup>6</sup> A two week extension to the 7 and 13 week periods was however permitted if settlement was considered a realistic prospect.

<sup>7</sup> Some of these changes, most notably in relation to methodology are documented by Peters *et al.* (2010) and largely preclude comparison with earlier surveys.

<sup>8</sup> Claims involving multiple applicants (often in relation to Equal Pay or pensions provision) are excluded. This would appear a useful area for separate work.

<sup>9</sup> For SETA 2003, the corresponding number of claims was 67,527.

included in the dataset. For the present analysis, following Peters *et al.* (2010), these are treated as comprising independent samples for analysis; to the extent that these are not combined in any of our results. A weighting scheme exists so as to render all results reported here as representative of the wider population.

As we shall see, there have been changes in the way that jurisdiction is recorded in ETS statistics, with a shift from 'main' to 'primary' jurisdictions; the latter referring simply to the order in which jurisdictions are recorded rather than conveying any sense of importance. Similarly the definition of 'representation' is open to various interpretations, and may differ during the course of a case – something that is reflected in SETA. The SETA questions are structured in a way that identifies different forms of advice and representation, at various stages in the ET process. For claimants, questions thus ask about sources of advice concerning employment rights at the pre-application stage; help in completing the ET1 form and the nomination of a representative; it then moves on to ask about day-to-day help after the claim was made; and finally any (additional) advice or guidance sought, as well as passive sources of information (e.g. web sites). For a smaller proportion of cases, we also have information on whether the claimant was represented at a full hearing. For employers a similar structure exists in relation to the ET3, although at the initial stage the survey seeks to identify available sources of support and advice which are internal and external to the employer organisation. This structure is used to underpin Figures 2-6 below.

A notable limitation of the data arising from the structure of SETA is that on the employer side, the person responding to the survey was often filtered out of certain questions if they were not the person dealing with the claim for the organisation. This has the effect that a substantial number of employer cases have missing information in relation to day-to-day help in particular.



## **2. OVERVIEW OF REPRESENTATION**

Figures 2 to 5 provide a schematic overview of the levels of representation observed at different stages of the ET process according to responses to the SETA questions at different stages of the process. Both claimants and employers are asked, did you:

1. Have help in completing the tribunal forms?
2. Nominate a representative on the tribunal forms?
3. Have day to day advice in the process of the claim?
4. Seek additional advice.

Figures 2 and 3 represent the situation for claimants and Figures 4 and 5 for employers, in both cases using data from both the 2008 SETA and its 2003 predecessor.

### **2.1 Claimants**

As the left-hand section of Figure 2 indicates, approximately 4 in 10 (41 per cent) of claimants received help completing the ET1 form (or had it completed on their behalf), while 32 per cent nominated a representative on the form. It is important to note however, that a substantial minority (approaching 15 per cent) did not know or could not recall this information, a feature that is also evident when considering the employer data (Figures 3 and 4).

Among those who nominated a representative on the ET1, three quarters reported that they subsequently received day-to-day help with their case (including handling paperwork, answering letters, dealing with the Tribunal Service, dealing with the employer, etc). This is more than three times the figure for those who did not nominate a representative at the time of their application (23 per cent).

Whilst readers may be interested in the levels of absolute and cumulative representation at different stages of the process described in Figures 2 to 5, it is perhaps the last set of figures in the right hand boxes in each of the Figures that are of greatest interest. For instance, in Figure 2 the suggestion is that in 2008 31 per cent of claimants had no help, advice or guidance across the entire ET process. At the other extreme, 3 per cent of all claimants had a nominated representative, day-to-day help and sought additional advice while 20 per cent had a nominated representative and day-to-day help but had not sought additional advice. Counter to much of the perception in existing research, comparing the 2003 and 2008 claimant figures, there seems to be something of a decline in the proportion in these last two, highly represented groups (from 5 per cent and 29 per cent respectively in 2003). In contrast, the proportion receiving no help or advice had risen by 6 percentage points compared with 2003. Note that in around 15 per cent of cases we have missing data.

## 2.2 Employers

Compared with claimants, employers generally appear to receive more help and guidance. For example, as Figure 4 shows, around 70 per cent received help with the ET3 form in 2008 (cf. 41 per cent of claimants receiving help with the ET1), while just over 40 per cent nominated a representative on the form (cf. 32 per cent of claimants). This latter figure is however, likely to constitute an underestimate since this information was missing for more than a third of employers, something that represents a major caveat to the analysis presented here (and as Figure 5 reveals, is more of a problem in SETA 2008 than its predecessor)<sup>10</sup>.

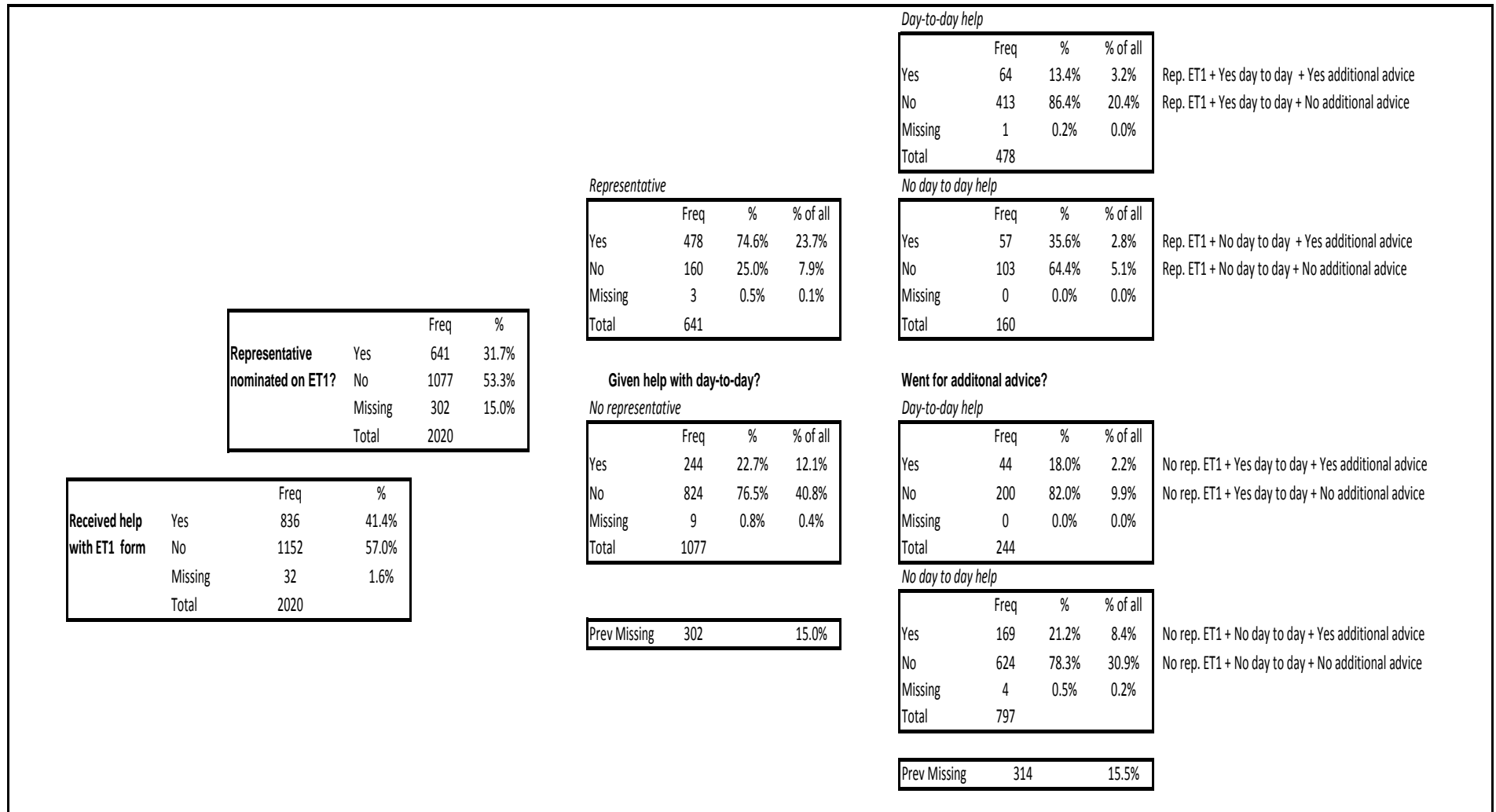
As with claimants, those who nominated representatives on their form were around three times more likely than those without nominated representatives to have received day-to-day help with the case (75 per cent compared with just 23 per cent respectively), while seeking other advice was more common among those without day-to-day help, particularly for those with a nominated representative on the ET3 (42 per cent). As the final set of summary percentages in Figure 4 indicate, four per cent of employers had a nominated representative, day-to-day help and had sought additional advice while 27 per cent had both a nominated representative and day-to-day help, albeit without further advice. Just 11 per cent of employers had no help or advice in contrast to 31 per cent of claimants.

Because the percentage with missing information is higher in 2008, direct comparison over time is problematic. On this basis, the data suggest only minor changes in the pattern of representation and advice since 2003 for employers, and less evidence of the reduction that is apparent for claimants.

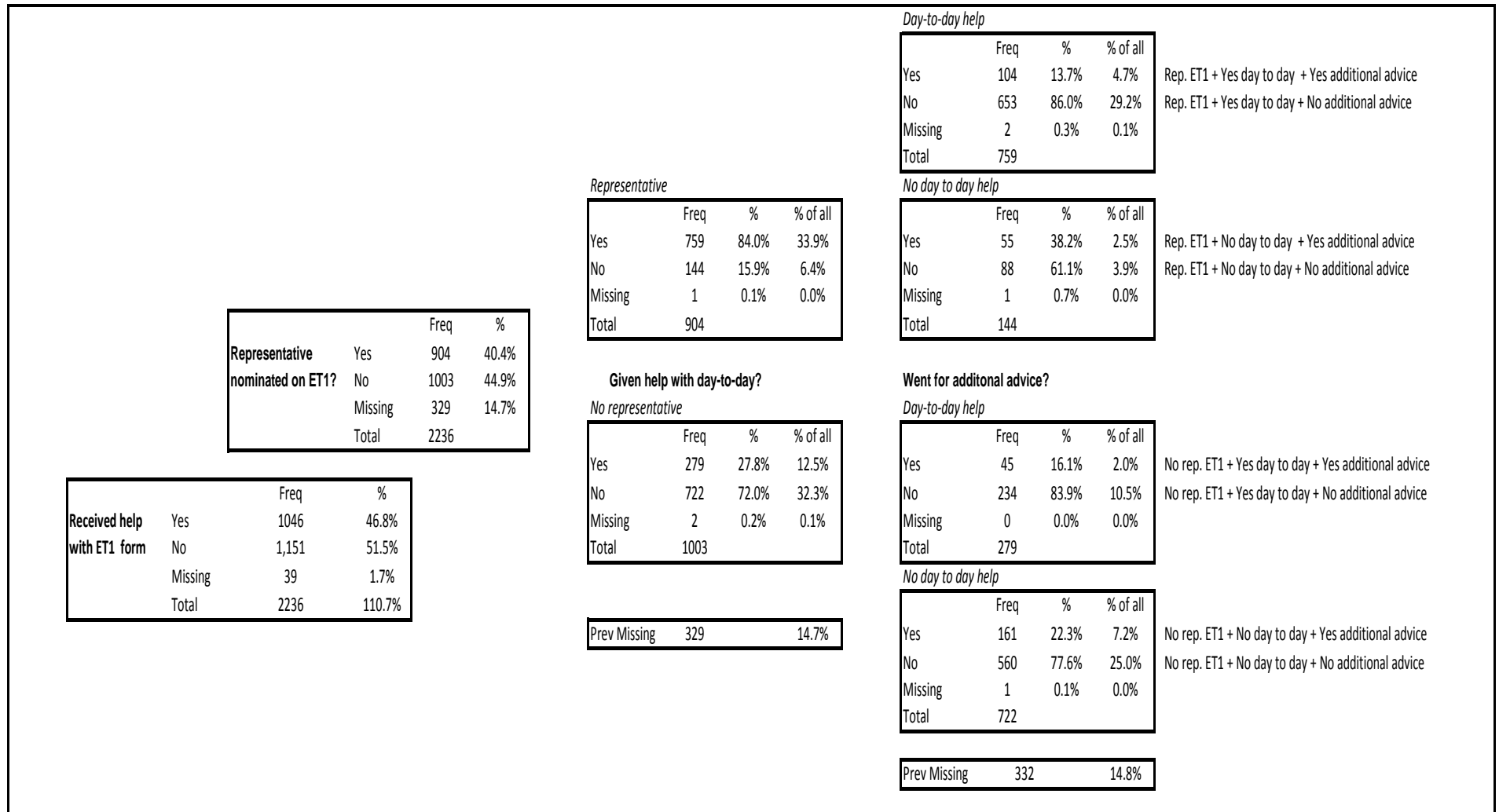
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<sup>10</sup> This is primarily a result of the nature of the selection questions, which filter out respondents who did not deal with the case (comparison to 1998 not possible).

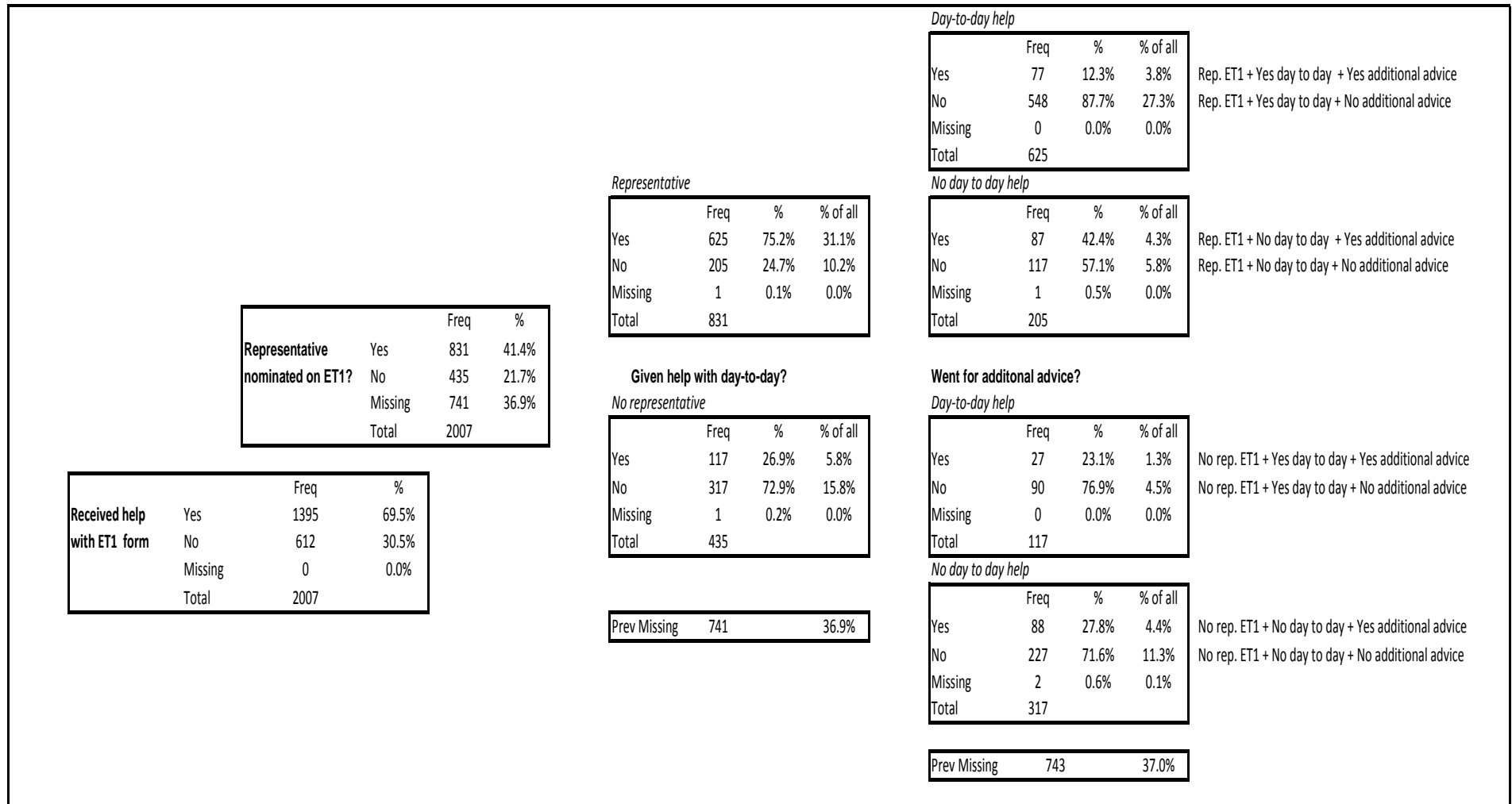
**Figure 2: Overview of advice and representation in SETA 2008 (claimants)**



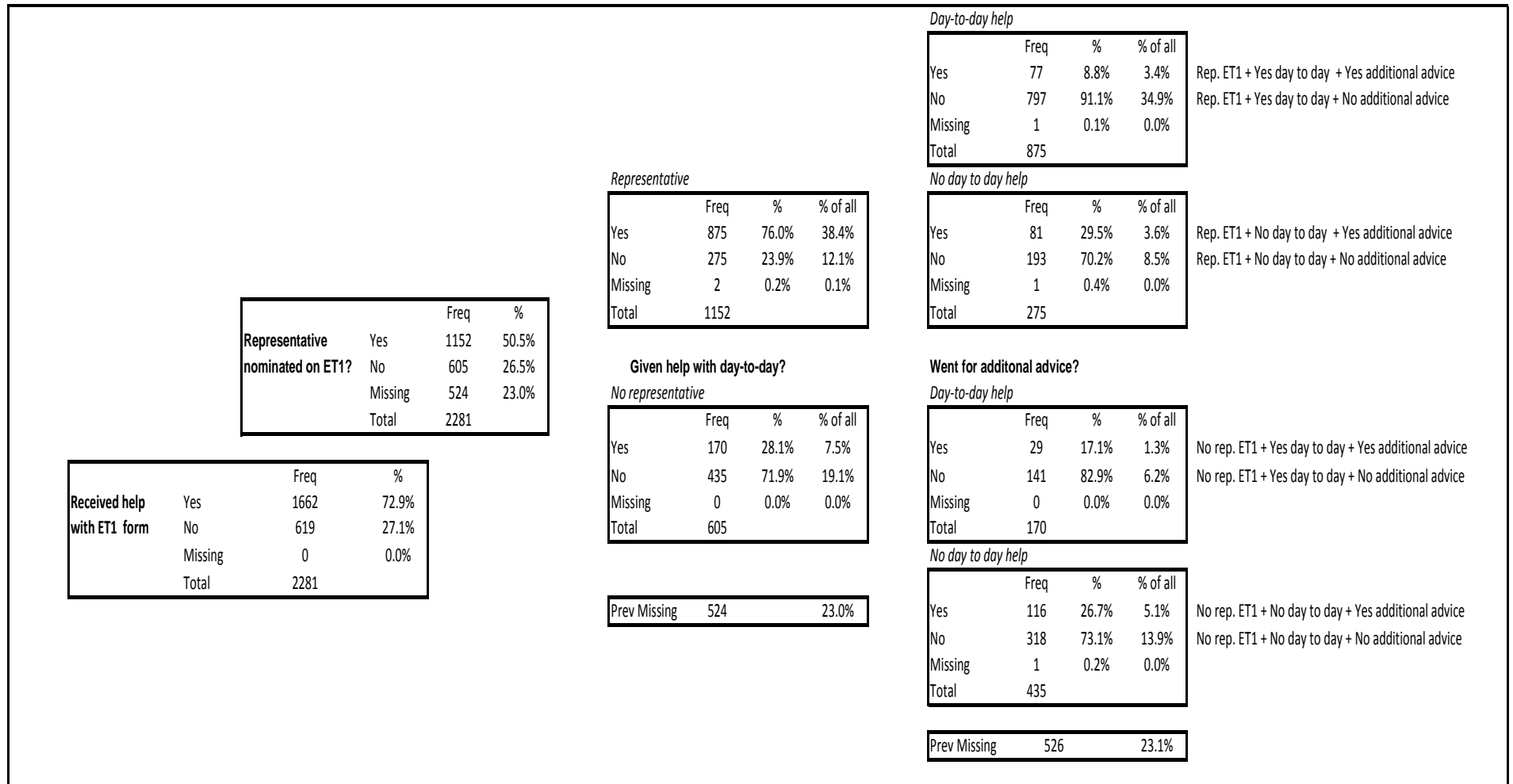
**Figure 3: Overview of advice and representation in SETA 2003 (claimants)**



**Figure 4: Overview of advice and representation in SETA 2008 (employers)**



**Figure 5: Overview of advice and representation in SETA 2003 (employers)**



### 3. REPRESENTATION PATTERNS

Moving on from consideration of overall levels of representation and advice, Tables 2 to 5 examine the specific forms that this takes at two key stages of the ET process as described in the 2008 SETA<sup>11</sup>.

First, Tables 2 and 3 detail the type of representation for the 641 claimants (from Figure 2) and 831 employers (from Figure 4) who report that they nominated a representative at the ET1/3 stage. Amongst those who nominate a representative, legal professionals constitute the predominant type (48% and 63% for claimants and employers respectively), although *trade union/worker representatives* constituted nearly a quarter of claimant representation. For both parties legal and/or non-legal professional groups make up the bulk of formally nominated representatives (80 per cent and 75 per cent respectively).

**Table 2: Type of representation for all claimants nominating a representative on ET1 form**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	306	47.7
Professional representative		
CAB	49	7.6
Trade union representative/workers representative	146	22.8
Employment rights advisor/employment consultant	13	2.0
Non-professional representation		
Family or friends	62	9.7
Work colleague	11	1.7
Other		
Other answers	54	8.4
<b>Total</b>	<b>641</b>	<b>100</b>

<sup>11</sup> See Appendix Table A1 for details of claimants' use of advice at the initial pre-application stage.

**Table 3: Type of representation for all employers nominating a representative on ET3 form**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	527	63.4
Professional representative		
Employers Association	25	3.0
Employment rights advisor/employment consultant	77	9.3
Non-professional representation		
Family or friends	1	0.1
Owner/senior manager	64	7.7
Someone else in organisation	39	4.7
Other		
Other answers	98	11.8
<b>Total</b>	<b>831</b>	<b>100</b>

Notes: >0 indicates a positive number less than 0.5 per cent.

Tables 4 and 5 indicate the source providing the most help on a day-to-day basis for claimants and employers who report some form of help<sup>12</sup>. A similar pattern emerges to that for representation, with most day-to-day assistance provided by legal professionals, particularly on the employer side (72 per cent of all those reporting some form of help). Legal professionals are also the dominant source of most day-to-day help for claimants (50 per cent), but a substantial minority report receiving this from other professionals, most notably trade unions (14 per cent) and the Citizens' Advice Bureau (CAB) (11 per cent). Overall 77.5 per cent of claimants and 82 per cent of employers with some form of support had legal or non-legal professionals providing day-to-day help.

<sup>12</sup> These raw numbers cannot be directly related back to those in Figures 2 and 4, as the latter are cumulative. For instance, we have 910 claimants who report some form of day-to-day help in Table 4. At the 'day-to-day' stage of Figure 2 these correspond to the 478 who also nominated a representative on the ET1; the 244 who did not; and the remaining 188 will be amongst the 302 whose answers are missing for the question on ET1 representation.



**Table 4: Source of most day-to-day help for claimants reporting some form of support**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	457	50.2
Non-professional representation		
Family or friends	123	13.5
Work colleague	5	0.5
Professional representative		
CAB	101	11.1
Trade union representative/workers representative	129	14.2
Employment rights advisor/employment consultant	18	2.0
Other answers	77	8.5
<b>Total</b>	<b>910<sup>10</sup></b>	<b>100</b>

**Table 5: Source of most day-to-day help for employers reporting some form of support**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	882	71.9
Non-professional representation		
Family or friends	7	0.6
Owner/senior manager	24	2.0
Someone else in organisation	54	4.4
Professional representative		
Employers Association	41	3.3
Employment rights advisor/employment consultant	106	8.6
Other		
Other answers	112	9.1
<b>Total</b>	<b>1226</b>	<b>100</b>

While most claims are resolved in advance of a hearing, for those whose cases progress to a full hearing, legal professionals again appear to be the primary representative of choice, with around 60 per cent of both claimants and employers securing the services of a solicitor, barrister or other form of lawyer (for more detail, see Appendix A Tables A2 and A3). In contrast to this most formal of settings, SETA also asks claimants and employers if they sought other advice *after* the claim had been brought (possibly in addition to formal representation and/or day-to-day help and aside from the hearing itself). The sources of such advice are detailed in Appendix A Tables A4 and A5, and whilst legal professionals remain the dominant source, there is more focus than in previous tables on advice from 'non-professional' and 'other'.

### 3.1 Multiple sources of representation/guidance

Parties may have varying patterns of representation and advice across the different ET stages. In this section we combine various pieces of information to identify an 'aggregate' level of representation. If formal representation on the ET1/ET3 can be seen as the 'first step', and day-to-day advice as the 'second step', Tables 6 and 7 suggest that Claimants and Employers generally choose a similar type of representation in the 'second step' as they choose in the 'first step'. For both tables frequencies are presented in the upper panel, followed by row percentages in the middle panel and finally cell percentages in the final panel. The summary categories of representation used are those suggested in Tables 2 to 5 of the previous section and once again we face limitations of missing data (particularly for employers).

In Tables 6 and 7 the figures on the diagonal running from top left to bottom right, give some idea of the proportion of claimants who stick with a certain form of representation. For example, 79 per cent of claimants (in the second panel of Table 6) who initially nominated a legal professional at the ET1 stage also had day-to-day advice from a legal professional (though it could have been a different legal professional); of those nominating a professional representative on the ET1 form, 56 per cent received day to day help from a professional representative. This pattern, whereby the type of day-to-day help received is generally similar to the type of representation chosen earlier is replicated for both claimants and employers, with figures on the leading diagonal (i.e. cells on the diagonal running from the top left corner to the bottom right) typically being the largest in most tables.

Considering the bottom panel (with cell percentages) of Table 6, those claimants without a nominated representative at the ET1 stage or any day-to-day help, constitute the single largest group (41 per cent). The next most important categories are claimants who have legal professionals at both stages, followed by those who have professional representatives nominated on the ET1 and giving day-to-day help. Interestingly, among those where there is an apparent change in the type of representation and support during the ET process, a substantial proportion who initially nominated 'other' or had missing data in relation to the ET1 form nomination, report receiving day-to-day help from a legal professional or, for the latter, from a non-legal professional.

**Table 6: Comparing representation at ET1 and day-to-day help (claimants)**

Freq		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET1</b>	Legal Professional	242	8	3	3	2	48	306
	Prof Rep	14	116	3	5	0	70	208
	Non-prof. rep	5	3	43	2	1	19	73
	Other	10	1	2	18	0	23	54
	Missing	88	66	19	15	9	105	302
	None	98	54	58	34	9	824	1,077
<b>Total</b>		<b>457</b>	<b>248</b>	<b>128</b>	<b>77</b>	<b>21</b>	<b>1,089</b>	<b>2,020</b>

Row		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET1</b>	Legal Professional	79.1	2.6	1.0	1.0	0.7	15.7	100
	Prof Rep	6.7	55.8	1.4	2.4	0.0	33.7	100
	Non-prof. rep	6.9	4.1	58.9	2.7	1.4	26.0	100
	Other	18.5	1.9	3.7	33.3	0.0	42.6	100
	Missing	29.1	21.9	6.3	5.0	3.0	34.8	100
	None	9.1	5.0	5.4	3.2	0.8	76.5	100
<b>Total</b>		<b>22.6</b>	<b>12.3</b>	<b>6.3</b>	<b>3.8</b>	<b>1.0</b>	<b>53.9</b>	<b>100</b>

Cell		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET1</b>	Legal Professional	12.0	0.4	0.2	0.2	0.1	2.4	15.2
	Prof Rep	0.7	5.7	0.2	0.3	0.0	3.5	10.3
	Non-prof. rep	0.3	0.2	2.1	0.1	0.1	0.9	3.6
	Other	0.5	0.1	0.1	0.9	0.0	1.1	2.7
	Missing	4.4	3.3	0.9	0.7	0.5	5.2	15.0
	None	4.9	2.7	2.9	1.7	0.5	40.8	53.3
<b>Total</b>		<b>22.6</b>	<b>12.3</b>	<b>6.3</b>	<b>3.8</b>	<b>1.0</b>	<b>53.9</b>	<b>100</b>

Considering employer representation, we get a similar set of results as for claimants, with the data again showing strong consistency between the type of nominated representative and the source of day-to-day help. Again the 'none-none' group constitute a very large proportion of the total, but as the bottom panel reveals, this is much smaller in aggregate (16 per cent compared with 41 per cent for claimants) while the proportion with legal assistance at both stages is substantially greater (21 per cent of employers and 12 per cent of claimants).

**Table 7: Comparing representation at ET3 and day-to-day help (employers)**

Freq		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET3</b>	Legal Professional	421	3	10	6	0	87	527
	Prof Rep	2	81	1	5	0	13	102
	Non-prof. rep	24	5	12	2	1	60	104
	Other	13	1	2	37	0	45	98
	Missing	353	44	44	43	38	219	741
	None	69	13	16	19	1	317	435
<b>Total</b>		<b>882</b>	<b>147</b>	<b>85</b>	<b>112</b>	<b>40</b>	<b>741</b>	<b>2,007</b>

Row		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET3</b>	Legal Professional	79.9	0.6	1.9	1.1	0.0	16.5	100
	Prof Rep	2.0	79.4	1.0	4.9	0.0	12.8	100
	Non-prof. rep	23.1	4.8	11.5	1.9	1.0	57.7	100
	Other	13.3	1.0	2.0	37.8	0.0	45.9	100
	Missing	47.6	5.9	5.9	5.8	5.1	29.6	100
	None	15.9	3.0	3.7	4.4	0.2	72.9	100
<b>Total</b>		<b>44.0</b>	<b>7.3</b>	<b>4.2</b>	<b>5.6</b>	<b>2.0</b>	<b>36.9</b>	<b>100</b>

Cell		Type of person giving Day-to-day help and support						
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None	Total
<b>Type of Representative nominated on ET3</b>	Legal Professional	21.0	0.2	0.5	0.3	0.0	4.3	26.3
	Prof Rep	0.1	4.0	0.1	0.3	0.0	0.7	5.1
	Non-prof. rep	1.2	0.3	0.6	0.1	0.1	3.0	5.2
	Other	0.7	0.1	0.1	1.8	0.0	2.2	4.9
	Missing	17.6	2.2	2.2	2.1	1.9	10.9	36.9
	None	3.4	0.7	0.8	1.0	0.1	15.8	21.7
<b>Total</b>		<b>44.0</b>	<b>7.3</b>	<b>4.2</b>	<b>5.6</b>	<b>2.0</b>	<b>36.9</b>	<b>100</b>

Tables A6 and A7 of Appendix A perform a similar analysis, comparing the (main) source of day-to-day help and support with the type of additional help sought for claimants and employers respectively; split according to whether a representative was nominated on the ET1/ET3 as appropriate. The suggestion is that, irrespective of whether a representative was nominated on the relevant form, the majority of claimants and employers do not seek additional sources of help/advice.

### 3.2 Levels of representation

The above discussion gives an idea of representation at different stages of the ET process (using SETA2008) and here we attempt to summarise 'levels' of representation in an index of representation across these stages of the process. Implicit in its construction is a ranking/hierarchy in terms of the *source* of representation and advice that claimants and employers receive, with legal professionals ranked highest; followed by professionals, then non-professional representatives/others and finally no representation. This hierarchy reflects the extent to which representatives have differing levels of formal/informal and legal qualifications and *does not necessarily reflect a differing quality of service*.

We also assume a hierarchy in terms of *consistency* across the ET process. Thus, if somebody nominated a lawyer and subsequently reported getting day-to-day

advice from a lawyer, the assumption is that they are receiving consistent and continuous advice. This hierarchical structure becomes less clear as we move on to other interactions and categorisations, and claimants and respondents could switch specific providers (e.g. lawyers) from the point of ET1/ET3 nomination. Day-to-day support/help is also treated as being of greater value to parties than simple nomination, so that for example, a 'legal-non-professional' combination where the non-professional is nominated at the ET1/ET3 stage and day-to-day support is provided by the lawyer ranks more highly than the converse. The resultant categorisation is set out in Table 8 below which, as can be seen, omits those with missing information on either measure.

**Table 8: Index of representation**

Categorisation		Type of person giving Day-to-day help and support					
		Legal Professional	Prof Rep	Non-prof. rep	Other	Missing	None
<b>Type of Representative nominated on ET1 / ET3</b>	Legal Professional	1	2	4	4	9	6
	Prof Rep	2	2	4	4	9	6
	Non-prof. rep	3	3	7	7	9	7
	Other	3	3	7	7	9	7
	Missing	9	9	9	9	9	9
	None	5	5	7	7	9	8

The distribution of responses for claimants and employers across this index of representation categories, are presented in Tables 9a and 9b respectively. As is immediately evident, representation appears to be bi-modal with individuals/employers having either very high levels of representation or very low levels of representation (although it is possible the latter in part reflects missing information, most notably for employers). As suggested previously, the highest forms of representation (i.e. 'legal-legal') are more common for employers at 21 per cent compared with claimants (12 per cent).

**Table 9a: Distribution of index of representation (claimants)**

ET1 Representation	Day-to-day help/advice	Category	Frequency	Percentage	Valid percentage
Legal Professional	Legal Professional	1	242	12.0%	14.2%
Legal Prof or Prof rep.	Legal Prof or Prof rep.	2	138	6.8%	8.1%
None Prof. Rep & Other	Legal Prof or Prof rep.	3	19	0.9%	1.1%
Legal prof or Prof rep.	None Prof. Rep & Other	4	14	0.7%	0.8%
None	Legal Prof or Prof rep.	5	152	7.5%	8.9%
Legal Prof or Prof rep.	None	6	118	5.8%	6.9%
None Prof. Red, Other and None	None Prof. Red, Other and None	7	199	9.9%	11.7%
None	None	8	824	40.8%	48.3%
Missing for either <i>ET1 representation or day-to-day</i>			9	314	15.5%
<b>Total</b>			<b>2020</b>	100	100

**Table 9b: Distribution of index of representation (employers)**

ET3 Representation	Day-to-day help/advice	Category	Frequency	Percentage	Valid percentage
Legal Professional	Legal Professional	1	421	20.8%	33.3%
Legal Prof or Prof rep.	Legal Prof or Prof rep.	2	86	4.3%	6.8%
None Prof. Rep & Other	Legal Prof or Prof rep.	3	43	2.1%	3.4%
Legal prof or Prof rep.	None Prof. Rep & Other	4	22	1.1%	1.7%
None	Legal Prof or Prof rep.	5	82	4.1%	6.5%
Legal Prof or Prof rep.	None	6	100	5.0%	7.9%
None Prof. Red, Other and None	None Prof. Red, Other and None	7	193	9.6%	15.3%
None	None	8	317	15.7%	25.1%
Missing for either <i>ET3 representation or day-to-day</i>			9	743	36.8%
<b>Total</b>			<b>2007</b>	100	100

For ease of exposition the following short-hand is used to represent our 9 categories of representation in the remaining sections of the report:

**Table 9c: Key to categories of representation 'short-hand' used in remaining tables**

Short-hand for categories	ET1 or ET3 Representation	Day-to-Day help/advice
1 - Leg/Leg	Legal Professional	Legal Professional
2 - Leg&Prof	Legal Prof or Prof rep.	Legal Prof or Prof rep.
3 - OthRep & Leg/Prof DtD	None Prof. Rep & Other	Legal Prof or Prof rep.
4 - Leg/Prof Rep & Oth DtD	Legal prof or Prof rep.	None Prof. Rep & Other
5 - NoneRep & Leg/Prof DtD	None	Legal Prof or Prof rep.
6 - Leg/ProfRep & None DtD	Legal Prof or Prof rep.	None
7 - Other/Other	None Prof. Red, Other and None	None Prof. Red, Other and None
8 - None	None	None
9 - Missing	Missing for either <i>ET1/ET3 representation or day-to-day response</i>	

Having described the patterns of representation in SETA 2008, one would ideally move on to consider the reasons why parties choose representation. Unfortunately, there is insufficient information in SETA 2008 to answer this question fully: the nearest question is where respondents are asked “why use representation?” where their representation is defined as “day-to-day advice and representation at a hearing”. In addition, this question is not available for employers. Table A8 of Appendix A presents the responses of claimants to this question, with the majority of individuals (around 50 per cent highlighted in yellow) mentioning reasons to do with their lack of knowledge/expertise or the representative’s greater knowledge/expertise, while around 15 per cent (highlighted in green) chose representation due to the fact it was free/covered by insurance.

### **3.3 Factors associated with representation**

#### ***3.3.1 Considering jurisdiction***

There are likely to be a range of factors associated with the different patterns of representation identified in the previous section, but one that is particularly crucial is the number and type of jurisdictions. In examining this issue there are three things that we need to consider: the number of jurisdictions in a case (each ET claim can be, and often is, brought under multiple jurisdictions); the ‘track’ within which claims fall; and specific jurisdictions comprising (part of) a case.

In relation to the first of these, some 53 per cent of claimants in SETA 2008 were involved in cases with a single jurisdiction; 26 per cent in cases with two jurisdictions and 21 per cent in cases with three or more jurisdictions. For employers in the survey, 46 per cent of cases involved a single jurisdiction, 28 per cent two jurisdictions and 25 per cent three or more jurisdictions. Other things remaining equal, it is generally considered that the higher the number of jurisdictions cited in a case, the more complex it is likely to be; from this we may expect parties with more complex cases to be more likely to secure professional legal representation.

From Tables 10 and 11 this is a feature of the data for claimants, but less so for employers. The proportion of claimants nominating legal professionals rises from 11 per cent where a single jurisdiction is involved, to 17 per cent for two jurisdictions and 23 per cent for three or more jurisdictions. In relation to day-to-day help, the corresponding figures are 18, 25 and 31 per cent respectively. For employers in contrast, the figure nominating a representative on the ET3 is almost the same irrespective of the number of jurisdictions, ranging from 25-28 per cent. In terms of day-to-day help the figure does rise as the number of jurisdictions involved increases, but much less sharply than for claimants.

The same pattern is also apparent for the index of representation presented in the bottom panel of the two tables, where higher levels of representation (especially ‘legal-legal’) are secured by claimants involved in multiple jurisdiction cases, but the same pattern is not apparent for employers. Taken together these findings suggest some caution in interpretation, as there may be a tendency for legal professionals to advise claimants to submit claims under more than one jurisdiction for strategic reasons; rather than the number of jurisdictions being simply a reflection of case complexity, which leads to higher levels of representation.



**Table 10: Representation by number and 'tracks' of jurisdictions (claimants)**

Types of Representation	One	Two	Three+	Short	Standard	Open
<i>Representation on ET1</i>						
Legal Professional	11.0	16.9	23.3	5.3	16.5	23.9
Prof Rep	10.6	13.6	5.5	8.8	9.8	13.0
Non-prof. rep	3.8	3.1	3.9	3.1	4.0	3.6
Other	3.3	2.3	1.6	2.1	3.0	2.8
Missing	15.4	16.1	12.5	12.2	16.5	15.2
None	56.0	48.1	53.1	68.5	50.3	41.5
<i>Day-to-day help</i>						
Legal Professional	17.9	25.5	30.7	8.4	25.8	33.0
Prof Rep	12.8	14.6	8.3	10.8	13.0	12.7
Non-prof. rep	6.2	4.8	8.6	4.5	7.0	7.3
Other	3.1	5.6	3.5	2.8	4.1	4.6
Missing	0.9	1.0	1.6	1.4	0.8	1.2
None	59.2	48.7	47.3	72.1	49.4	41.3
<i>Categorisation</i>						
1	10.6	15.6	21.1	4.4	15.9	22.8
2	8.4	9.9	5.4	7.1	8.4	8.7
3	1.0	1.2	1.3	0.2	1.4	1.7
4	0.7	1.2	0.8	0.4	0.7	1.7
5	7.7	10.1	10.4	5.5	9.6	11.8
6	6.0	9.7	5.9	4.4	6.7	10.4
7	12.0	11.0	11.5	10.5	13.2	10.4
8	53.6	41.4	43.6	67.6	44.3	32.7
<i>Column Percentages</i>						

As can be seen from Tables 10 and 11, nominating a legal representative on the ET1/ET3 form is much more likely for those involved in open track cases (24 per cent of claimants and 34 per cent of employers), compared with those involved in both standard track (17 per cent and 27 per cent) and especially short track cases (5 and 12 per cent). A similar pattern is apparent for day-to-day help, with 33 per cent of claimants and 56 per cent of employers involved in open track cases securing such assistance compared with just 8 and 20 per cent respectively where the case falls within the short track provisions.

Claimants and employers involved in short track cases are much less likely to have nominated a representative when compared with those in open track cases, and are also less likely to have day-to-day help (bottom panels of Tables 10 and 11). For claimants in particular, the percentage reporting 'none-none' is very high (in excess of one third) for short track cases, and it approaches half for employers.

**Table 11: Representation by number and ‘tracks’ of jurisdictions (employers)**

Types of Representation	One	Two	Three+	Short	Standard	Open
<i>Representation on ET1</i>						
Legal Professional	26.0	27.6	25.2	12.1	27.1	34.0
Prof Rep	5.8	5.3	3.5	4.7	5.9	3.7
Non-prof. rep	4.4	6.7	4.9	5.8	5.2	4.8
Other	4.5	5.1	5.3	5.2	4.2	6.1
Missing	36.5	36.0	38.8	35.5	36.7	38.3
None	22.8	19.3	22.3	36.6	21.0	13.0
<i>Day-to-day help</i>						
Legal Professional	41.4	45.7	46.6	19.6	46.1	56.0
Prof Rep	8.4	7.6	5.1	6.6	8.0	6.5
Non-prof. rep	4.5	3.7	4.3	5.0	4.5	3.2
Other	5.2	6.5	5.3	4.4	6.2	5.2
Missing	2.6	1.8	1.2	2.8	2.0	1.5
None	37.9	34.8	37.6	61.7	33.3	27.7
<i>Categorisation</i>						
1	31.7	36.8	32.3	12.9	34.3	45.5
2	8.0	6.9	4.5	6.4	7.7	5.1
3	2.7	3.9	4.2	1.3	3.2	5.4
4	1.5	1.7	2.2	0.9	2.2	1.5
5	6.5	6.3	6.7	4.7	7.4	5.7
6	9.0	6.0	8.0	6.0	8.0	9.0
7	14.8	15.9	15.3	19.3	14.6	13.9
8	25.7	22.5	26.8	48.5	22.6	13.9
<i>Column Percentages</i>						

Overall these data reveal two key features of representation; that (i) employers typically have higher levels of representation than claimants, and this is especially so in open track cases (where discrimination is involved) and (ii) higher levels of representation are evident for both parties in relation to open track cases, when compared to standard and then short track variants. This last pattern may reflect the amounts at stake, both reputationally and financially, since in discrimination cases, there is no ceiling to the size of the awards. However, we still cannot completely rule out the possibility that obtaining legal advice raises the probability that the case will cite a discrimination jurisdiction.

Another way of getting at jurisdictional variation is to break down representation according to whether particular jurisdictions were contained within a claim. In Tables A9, A10 and Figure A1 of Appendix A we present data on representation according to whether a case involved a claim for unfair dismissal, for breach of contract, for Wages Act and redundancy payment, for discrimination or some other type of jurisdiction. This is a different approach, as observations can appear in more than one column, but the findings simply confirm the patterns uncovered in our study of tracks.

### 3.3.2 Claimant demographics

The next set of issues to be examined concerns the relationships between various claimant demographics and representation (employers are examined separately in the next sub-section). Table 12 shows the breakdown by gender, revealing that females are slightly more likely to nominate a legal representative at the ET1 stage (16 per cent compared with 14 per cent for males) and also to receive day-to-day help subsequently from a legal professional (24 per cent compared with 22 per cent). More substantially, they are 8 percentage points less likely to be *unrepresented* at either stage, as shown in the bottom panel for category 8 ('none-none').

**Table 12: Claimant gender and representation**

Types of Representation	Male		Female	
	Freq	Percent	Freq	Percent
<i>Representation on ET1</i>				
Legal Professional	173	14.3	133	16.3
Prof Rep	125	10.4	83	10.2
Non-prof. rep	43	3.6	30	3.7
Other	31	2.6	23	2.8
Missing	164	13.6	138	17.0
None	670	55.6	407	50.0
<i>Day-to-day help</i>				
Legal Professional	262	21.7	195	24.0
Prof Rep	147	12.2	101	12.4
Non-prof. rep	67	5.6	61	7.5
Other	37	3.1	40	4.9
Missing	13	1.1	8	1.0
None	680	56.4	409	50.2
<i>Categorisation</i>				
1	139	13.5	103	15.3
2	86	8.3	52	7.7
3	6	0.6	13	1.9
4	4	0.4	10	1.5
5	84	8.1	68	10.1
6	67	6.5	51	7.6
7	113	10.9	86	12.8
8	534	51.7	290	43.1

A second claimant demographic of interest is ethnicity. Table 13 suggests that claimants from BME groups are less likely to nominate legal and professional representatives on the ET1 form, and also around 5 percentage points less likely to have legal day-to-day support. Overall individuals from such groups are much more likely to have had no advice or support either at the application or post-application stage as evidenced in the bottom panel, where 53 per cent are in index category 8 compared with 47 per cent of white claimants.

**Table 13: Claimant ethnicity and representation**

Types of Representation	White		Non-White	
	Freq	Percent	Freq	Percent
<i>Representation on ET1</i>				
Legal Professional	268	15.6	38	12.8
Prof Rep	187	10.9	21	7.1
Non-prof. rep	57	3.3	16	5.4
Other	43	2.5	11	3.7
Missing	258	15.0	44	14.8
None	910	52.8	167	56.2
<i>Day-to-day help</i>				
Legal Professional	404	23.4	53	17.8
Prof Rep	211	12.2	37	12.5
Non-prof. rep	112	6.5	16	5.4
Other	67	3.9	10	3.4
Missing	13	0.8	8	2.7
None	916	53.2	173	58.2
<i>Categorisation</i>				
1	215	14.8	27	10.8
2	123	8.4	15	6.0
3	18	1.2	1	0.4
4	12	0.8	2	0.8
5	124	8.5	28	11.2
6	104	7.1	14	5.6
7	169	11.6	30	12.0
8	692	47.5	132	53.0

Some of the links between gender/ethnicity of claimants and levels of representation in Tables 12 and 13 could be driven by the nature of cases being brought, rather than the characteristics of the claimants. If we find that female claimants are more likely to have representation, we cannot be certain that this observation is not simply a reflection of, for instance, sex discrimination cases having higher levels of representation. Similar considerations apply when we analyse representation patterns according to the age and disability status of claimants – an issue that is tackled to some extent in our subsequent multivariate analysis.

Generally, we find that older individuals are more likely to nominate a representative on the ET1 and also more likely for this to take the form of *legal* representation than younger individuals, although this pattern kicks in at a medium age (35+) and is fairly constant thereafter (see Appendix A Table A11). Only the very young (34 or below) appear substantially less likely to nominate a *legal* representative on the ET1 and also younger claimants are less likely to receive day-to-day advice from this source. In contrast, prime age individuals (those aged 35-54) are most likely to have *legal* day-to-day advice.

As we shall see from our multivariate analyses, individuals reporting disabilities are much more likely to have high levels of representation across the ET process. This is perhaps to be expected, as the legislation in relation to disability related claims is notoriously complex, with claimants needing to demonstrate eligibility in terms of their disability (Taylor and Proud, 2002; Woodhams and Corby, 2003), especially in the context of mental impairment (Wells, 2003), as well as

inappropriate behaviour on the part of the employer. This, together with considerations of 'reasonable' accommodations on the part of the employer (and previously 'justification'), has resulted in a substantial body of case law emerging. This has increased the complexity of the legal situation (Meager *et al.*, 1999, 2004) and may expect to make professional representation when prosecuting claims under the Disability Discrimination Act (DDA) more of a necessity.

### **3.3.3 Employer characteristics**

Considering some key employer characteristics, we find that employers from the public sector are much more likely to nominate a legal representative on the ET3 form than those from the private or 'other' sectors (38 per cent, 24 per cent and 28 per cent respectively in Appendix A Table A12). In terms of day-to-day help, the public and 'other' sectors are both more likely to have assistance from a legal professional (52 per cent and 54 per cent respectively) compared with private sector employers (41 per cent). As one would perhaps expect, larger firms are more likely to have representation, both in terms of nomination at the ET3 stage and also in terms of day-to-day help (see Appendix A Table A13). There is also a marked difference in relation to the type of help, with smaller organisations less likely to be legally represented, in particular in terms of day-to-day help, where just 35 per cent of the smallest organisations had such assistance compared with more than half (51 per cent) of the largest organisations.

## **3.4 Multivariate analysis of representation choice**

The above analysis is all undertaken using two-way cross-tabulations, and thus it only considers the relationship between two factors – patterns of representation and the characteristic of interest. Multivariate approaches allow us to consider the relationships between characteristics of the parties/cases and levels of representation in a wider context. For instance, when considering the characteristics of employers, we may expect that previous ET experience is likely to be correlated with firm size – larger firms are more likely to have experienced a previous ET case. If we find in a cross-tabulation that firms with previous experience of ET cases are more likely to have representation, it is quite possible that this finding is being driven by the fact that larger firms are more likely to have representation. Multivariate methods allow us to ask, for instance, whether any correlation between previous experience of ET cases and representation still holds, having accounted for firm size.

Our focus is on the representation index that combines information on nomination at the ET1/ET3 stage (as appropriate) and subsequent day-to-day help (the bottom panel in the preceding sets of tables)<sup>13</sup>.

### **3.4.1 Claimant regressions**

A detailed discussion of our regression results is undertaken in the technical Appendix B, specifically discussion of Table B0a. To provide a less technical insight into our main findings, we utilise the results to show how the

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<sup>13</sup> The conventional approach to modelling this type of variable would be to use an ordered probit or logit estimator or, if the proportional odds assumption (i.e. that the 'distance' between the ordered categories is similar) is violated, the stereotype logistic regression developed by Anderson (1984). The analysis here is undertaken using Ordinary Least Squares (OLS) estimation, since this yields results that are easy to interpret. However, the proportional odds assumption is violated for both claimants and employers and in each case a stereotype logistic regression is reported in the final column of the regression tables.

characteristics combine to give the highest and lowest probabilities of representation.

- The average married man or woman, aged 45-54, in a top-3 SOC occupation, with pay that puts them in the top pay quintile, who also has 10 years tenure in their present job and is a union member, has a particularly high probability (22% for men and 23% for women) of having our highest category of representation.
- In contrast, the average unmarried man or woman, aged 25-34, in a bottom-4 SOC occupation, with pay that puts them in the 2nd pay quintile, who has 12 months tenure in the present job and is a non-union member has a particularly low probability (10% men and 12% women) of having our highest category of representation.

### ***3.4.2 Employer regressions***

Carrying out a similar procedure for employers as we did for claimants, the suggestion is that (from Table B0b of Appendix B):

- The average large establishment (with 250+ employees), who is a public sector employer (in transport/communication or public administration) has a 53 per cent probability of having the highest level of representation in our index.
- In contrast, the average small establishment (less than 25 employees), who is a private employer in the manufacturing sector has only a 23 per cent probability of having the highest level of representation in our index.

#### 4. HEARINGS AND OTHER OUTCOMES

Having set out some of the patterns of representation and correlates in the previous sections of this report, we now take the index of representation and consider the extent to which cases with differing levels of representation are associated with a number of outcomes. More specifically, we consider the relationships between patterns of representation and:

- a) The outcomes of the case, which differentiates between (i) *Successful* or (ii) *Unsuccessful* at hearing, (iii) being *Privately* or (iv) *Acas Settled*, as opposed to being (v) *Withdrawn* or (vi) *Dismissed*;
- b) The probability that a case will go to hearing;
- c) The duration of the case in months;
- d) Levels of satisfaction with the ET process as a whole.

Analysis by Latreille (2007) suggests that the receipt of formal legal representation or advice by the employer is positively related to the probability of an offer of settlement being made (although this is only a weak relationship in statistical terms). In contrast, evidence on the impact of those represented by lawyers (Latreille et. al. 2005) suggests that they secure better outcomes for their clients, but that their impact on resolution is dual – their influence can both shorten or lengthen case durations.

Here we attempt to clarify the nature of these effects and as a starting point begin by presenting ‘headline findings’ on the relationship between our index of representation and the six categories of outcome suggested under a) for both claimants and employers, together with a more focused discussion of what this means for b) the probability a case will go to hearing. Following this, we move on to consider whether there are systematic patterns in c) the duration of cases and d) the levels of satisfaction with the ET process as a whole, according to observed levels of representation amongst employers and claimants. In all these discussions a simple cross-tabulation of the relationship between representation and the relevant outcome of interest is supplemented by a multivariate regression analysis.

We then dig down further into representation and outcomes with an analysis of how our findings differ for each of the three different jurisdictional ‘tracks’ (short, standard and open<sup>14</sup>). The aim is to address the question of whether the findings apply equally to all tracks, or whether the nature of any apparent correlation between representation and outcome is being driven by the experiences of one particular set of jurisdictions. For instance, we find that all claimants who report no representation or day to day help are no more or less likely to be observed as successful at a hearing. However, when considering only ‘short’ track cases, it would seem that those without representation or day-to-day advice are more likely to be observed as successful at a hearing.

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<sup>14</sup> Allocation to ‘tracks’ at the time these were formally in operation depended on jurisdictional composition, with short track cases being claims involving Wages Act, Redundancy Payments and Breach of Contract; standard track relating primarily to Unfair Dismissal and open track involving claims involving the various Discrimination strands. While tracks have since been abandoned in terms of the duration for which Acas was required to conciliate, they remain used for administrative classification purposes.

In the final section, before making conclusions and recommendations, we present an analysis of the matched cases included in the 2008 SETA data. Whilst it is not possible to attempt a multivariate analysis due to sample size constraints, the tables presented do allow us some insight into the extent to which the nature or level of representation of claimants to a case is (or is not) a reaction to the levels of representation adopted by the employer (as will become clear it is not possible to analyse the potential 'reactions' of employers). We are then able to shed some limited light on the extent to which the 'balance of representation' – that is, differing combinations of employer and claimant representation – is associated with differing case outcomes.

#### **4.1 Claimant outcomes**

It is striking that consideration of the *row percentages* in the second part of Table 14, suggests that a much higher proportion of claimants who have no representation or the lowest levels of representation (categories 7 and 8) are successful at hearing (18 and 20 per cent respectively) – discounting the figures for category 4 because of insufficient observations, the next highest is seen amongst those with 'legal-legal' (category 1) representation, where 12% are successful at hearing.

This tends to reflect the fact that cases with little or no representation are more likely to go to a hearing – the row percentages in Table 14 also suggest that categories 7 and 8 have much higher proportions of claimants that go to a hearing, but are unsuccessful (9 and 8 per cent respectively). This is in contrast to the greater propensity amongst claimants with the highest levels of representation to experience a private settlement (29 and 22 per cent for categories 1 and 2 respectively). However, Acas settlement seems no more or less likely across our different categories of representation, whilst dismissal of the case is much more likely for those with lower levels of representation.



**Table 14: Claimant outcomes and representation**

Frequencies of outcome and representation							
Category	Claimant unsuccessful	Claimant successful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	16	27	88	69	36	6	242
2 - Leg&Prof	7	8	59	31	30	3	138
3 - OthRep & Leg/Prof DtD	1	2	9	4	3	0	19
4 - Leg/ProfRep & Oth DtD	0	2	6	3	3	0	14
5 - NoneRep & Leg/Prof DtD	7	15	65	23	30	12	152
6 - Leg/ProfRep & None DtD	9	11	41	17	36	4	118
7 - Other/Other	18	36	89	21	21	14	199
8 - None	72	167	304	92	113	76	824
9 - Missing	11	43	139	61	39	21	314
Total	141	311	800	321	311	136	2,020

Row percentage of outcome and representation							
Category	Claimant unsuccessful	Claimant successful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	6.6	11.2	36.4	28.5	14.9	2.5	100
2 - Leg&Prof	5.1	5.8	42.8	22.5	21.7	2.2	100
3 - OthRep & Leg/Prof DtD	5.3	10.5	47.4	21.1	15.8	0.0	100
4 - Leg/ProfRep & Oth DtD	0.0	14.3	42.9	21.4	21.4	0.0	100
5 - NoneRep & Leg/Prof DtD	4.6	9.9	42.8	15.1	19.7	7.9	100
6 - Leg/ProfRep & None DtD	7.6	9.3	34.8	14.4	30.5	3.4	100
7 - Other/Other	9.1	18.1	44.7	10.6	10.6	7.0	100
8 - None	8.7	20.3	36.9	11.2	13.7	9.2	100
9 - Missing	3.5	13.7	44.3	19.4	12.4	6.7	100
Total	7.0	15.4	39.6	15.9	15.4	6.7	100

Cell percentage of outcome and representation							
Category	Claimant unsuccessful	Claimant successful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	0.8	1.3	4.4	3.4	1.8	0.3	12.0
2 - Leg&Prof	0.4	0.4	2.9	1.5	1.5	0.2	6.8
3 - OthRep & Leg/Prof DtD	0.1	0.1	0.5	0.2	0.2	0.0	0.9
4 - Leg/ProfRep & Oth DtD	0.0	0.1	0.3	0.2	0.2	0.0	0.7
5 - NoneRep & Leg/Prof DtD	0.4	0.7	3.2	1.1	1.5	0.6	7.5
6 - Leg/ProfRep & None DtD	0.5	0.5	2.0	0.8	1.8	0.2	5.8
7 - Other/Other	0.9	1.8	4.4	1.0	1.0	0.7	9.9
8 - None	3.6	8.3	15.1	4.6	5.6	3.8	40.8
9 - Missing	0.5	2.1	6.9	3.0	1.9	1.0	15.5
Total	7.0	15.4	39.6	15.9	15.4	6.7	100

We now need to consider the results of multivariate analyses (Tables B1 and B2 of Appendix B) which aim to answer the question of whether, controlling for a variety of other characteristics, we would change the general findings suggested from looking at Table 14. As an example of why we need to draw on these multivariate results, it is useful to consider the suggestion from our analysis to date that *claimants with no representation* make up more than half of all cases going to hearing (whether they are successful or unsuccessful).

The results of the multivariate analysis in Table B1 of Appendix B<sup>15</sup> describe the correlations between levels of representation and the probability a case will go to a hearing, controlling for a variety of other factors (which are not controlled for in the simple cross-tabulation in Table 14). What the multivariate results suggests is that there is little significant impact of representation on whether we observe a case going to hearing – rather it is the ‘short’ conciliation period cases that are significantly<sup>16</sup> more likely to go to a hearing, when compared to the standard track.

To clarify further: when we find in Table 14 that cases with no representation seem to be more likely to go to a hearing, we are simply misinterpreting the true relationship; short track cases are significantly more likely to go to hearing and significantly less likely to have representation – when we look at only

<sup>15</sup> The first column of B1 estimates a binomial Probit regression with the two dependent categories as ‘1’, if the case went to hearing and ‘0’ if it did not.

<sup>16</sup> At the 0.1% level of significance.

representation and the probability of going to a hearing we miss out the important fact that track is driving the apparent correlations.

In fact when we consider Table B1, there are few other variables that are significantly correlated with whether we observe a case going to a hearing – though it is interesting to note that the ‘any discrimination’ track is significantly less likely to go to a hearing. However, this hearing/no hearing split is only one aspect of the possible outcomes that claimants can experience and Table B2 of Appendix B presents the results of a multinomial logit analysis which models the full range of possible case outcomes.

With respect to representation, the results presented in B2 tend to confirm aspects of our findings from Table 14. Combining the discussions of Tables 14, B1 and B2 the main findings from this section of the report on claimants are that:

- Short track cases are significantly more likely to go to hearing and significantly less likely to have representation.
- Claimants with no representation are significantly more likely to see their case being dismissed.
- Claimants who detail a legally qualified representative on their ET1 form and also suggest that they are getting day-to-day advice from a similarly qualified source are significantly more likely to privately settle than claimants receiving any other form of representation or indeed no representation.

This last result presumably reflects in part the requirement that, in order to be legally binding, private settlements must involve a compromise agreement. Until 1<sup>st</sup> August 1998 compromise agreements were only valid following "independent legal advice from a qualified lawyer". Thereafter, the advice of a relevant independent (but not necessarily legally qualified) adviser as defined in Employment Rights (Dispute Resolution) Act 1998 sch.1 para 24 (3), has been sufficient.

In addition to these headline findings it also perhaps helpful to utilise the results of our multivariate analysis to give an idea of the sort of characteristics that combine to give some of the highest and some of the lowest probabilities of going to a hearing (with the focus on those characteristics that are in addition to the findings on ‘tracks’ already identified above). For instance:

- The average (male or female) claimant, aged 45+, with low education and only 12 months tenure in their present job, who is working for a small establishment (less than 25 employees) and has no legal or professional advice would have a particularly high probability of going to a hearing. The probability of going to a hearing is further increased (to 39%) if these characteristics are combined with being non-white and disabled, but it is important to note that these latter effects are indistinguishable from jurisdictional influences<sup>17</sup>.

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<sup>17</sup> It is important to note that the impact of ethnicity here seems to be mainly acting as a proxy for jurisdiction of the case. In specifications of the regression equation where we include individual jurisdiction (i.e. the six discrimination strands separately; wages act; unfair dismissal etc.) any impact of ethnicity, disability and gender disappears – but this then over-specifies the model, when we also include number of jurisdictions and also tracks.

- In contrast, the average married (man or woman), aged 45-54, in a top-3 occupation (according to the Standard Occupational Classifications or 'SOC'), whose pay puts them in the top quintile; with 120 months tenure and who is a union member, receiving legal/legal advice has a particularly low probability of going to a hearing (12% for women and 14% for men).

Consideration of the more detailed outcomes that are possible for cases that do not go to a hearing (i.e. the results from Table B2 Appendix B), the following examples hopefully give an idea of combinations of characteristics that are particularly associated with certain sets of outcomes:

- The average (male or female) claimant who is unmarried, aged 25-34, in a bottom-4 SOC occupation, with pay that puts them in the 2nd pay quintile (ie. between £14,000 and £18,000 per year) who has six months tenure in their present job and is not a union member, with no representation, has a particularly high (51.5% and 56.6% for men and women respectively) probability of arriving at an Acas settlement; but a particularly low (5.3% and 4.6%) probability of a private settlement.
- In contrast, the average male claimant who is married, aged 45-54, in a top-3 SOC occupation, paid in the top pay quintile, with 120 months tenure and who is a union member, receiving legal/legal advice (our category 1) is much less likely (24%) to achieve an Acas settlement, when compared to their probability (50.2%) of a private settlement. If we consider women with all of these characteristics the difference between the probability of an Acas settlement (30.4%) and a private settlement (44.9%) is much less pronounced.

#### **4.2 Employer outcomes**

It is worth first emphasising that in Table 15 we are considering the mirror image of the claimant outcomes for those going to a hearing. For instance, 12% of claimants facing employers who have our top category of legal-legal representation are unsuccessful at hearing, compared to only 4% who are successful. What is interesting is that this pattern is also present for those employers who have our second highest level of representation (15% of claimants are unsuccessful compared to 5% successful). In contrast, employers in our lowest category of representation who go to a hearing are almost twice as likely to see their claimants being successful rather than unsuccessful at a hearing (14%, as opposed to 7%).

## Tables 15: Employer outcomes and representation

Frequencies of outcome and representation							
Category	Claimant unsuccessful	Claimant unsuccessful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	51	18	164	100	55	33	421
2 - Leg&Prof	13	4	37	17	8	7	86
3 - OthRep & Leg/Prof DtD	4	1	15	15	6	2	43
4 - Leg/ProfRep & Oth DtD	2	0	8	8	3	1	22
5 - NoneRep & Leg/Prof DtD	4	10	30	18	13	7	82
6 - Leg/ProfRep & None DtD	8	4	43	19	12	14	100
7 - Other/Other	18	22	86	31	19	17	193
8 - None	22	43	124	68	37	23	317
9 - Missing	49	63	316	154	105	56	743
Total	171	165	823	430	258	160	2,007

Row percentage of outcome and representation							
Category	Claimant unsuccessful	Claimant unsuccessful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	12.1	4.3	39.0	23.8	13.1	7.8	100
2 - Leg&Prof	15.1	4.7	43.0	19.8	9.3	8.1	100
3 - OthRep & Leg/Prof DtD	9.3	2.3	34.9	34.9	14.0	4.7	100
4 - Leg/ProfRep & Oth DtD	9.1	0.0	36.4	36.4	13.6	4.6	100
5 - NoneRep & Leg/Prof DtD	4.9	12.2	36.6	22.0	15.9	8.5	100
6 - Leg/ProfRep & None DtD	8.0	4.0	43.0	19.0	12.0	14.0	100
7 - Other/Other	9.3	11.4	44.6	16.1	9.8	8.8	100
8 - None	6.9	13.6	39.1	21.5	11.7	7.3	100
9 - Missing	6.6	8.5	42.5	20.7	14.1	7.5	100
Total	8.5	8.2	41.0	21.4	12.9	8.0	100

Cell percentage of outcome and representation							
Category	Claimant unsuccessful	Claimant unsuccessful	acas settled	privately settled	withdrawn	dismissed	Total
1 - Leg/Leg	2.5	0.9	8.2	5.0	2.7	1.6	21.0
2 - Leg&Prof	0.7	0.2	1.8	0.9	0.4	0.4	4.3
3 - OthRep & Leg/Prof DtD	0.2	0.1	0.8	0.8	0.3	0.1	2.1
4 - Leg/ProfRep & Oth DtD	0.1	0.0	0.4	0.4	0.2	0.1	1.1
5 - NoneRep & Leg/Prof DtD	0.2	0.5	1.5	0.9	0.7	0.4	4.1
6 - Leg/ProfRep & None DtD	0.4	0.2	2.1	1.0	0.6	0.7	5.0
7 - Other/Other	0.9	1.1	4.3	1.5	1.0	0.9	9.6
8 - None	1.1	2.1	6.2	3.4	1.8	1.2	15.8
9 - Missing	2.4	3.1	15.7	7.7	5.2	2.8	37.0
Total	8.5	8.2	41.0	21.4	12.9	8.0	100

Even if we ignore the lower numbers in our middle categories, there would seem to be less of a clear pattern of correlations between representation and outcomes in other areas where such patterns were apparent for claimants – and when we consider the results of our multivariate analyses for employers in Tables B3 and B4 of Appendix B, there is similarly less that we can say about any systematic impacts for our variables which reflect the employer characteristics in cases. To summarise, from the analysis of Tables 30, B3 and B4, for employers it would seem that:

- As with the analysis of claimants, for employers cases with ‘any discrimination’ are significantly less likely to go to hearing, but we do not find any significant correlation between probability of hearing and short track cases; in addition ‘any discrimination’ tracks are significantly less likely to be observed as private settlements, again perhaps reflecting the requirement for legal advice in relation to compromise agreements.

There is some evidence that claimants are significantly more likely to be unsuccessful at a hearing if the employer has the highest (legal-legal) level of representation, but the finding is clouded by the large negative and significant correlation between our ‘missing’ employer representation category and the probability of going to a hearing<sup>18</sup>. However, it is much clearer that employers

<sup>18</sup> We suggest that employers whose responses are missing are more likely to be concentrated further down our index, on the basis that those with more varied combinations of representation may be less clear on one or other element. However, it

with our lowest category on the index (no representation) are significantly more likely to see the claimant's case succeed at a hearing, when compared to employers with the highest level of representation. In addition to these main findings it is also perhaps of interest to note that if the employer has an internal HRM department the case is significantly more likely to be withdrawn, whilst if the case has three or more jurisdictions listed it is significantly less likely to be withdrawn. However, one of the more interesting and pertinent findings is the fact that:

- Within the employer sample, cases under the 'any discrimination' track are significantly less likely to see the claimant being successful at a hearing – the suggestion is that whilst cases in this track are less likely to go to a hearing, if they do the claimant is much less likely to be successful.

This last point hints at an aspect of the study that we dig further into in our final set of analyses, as it is quite possible here that we are missing some of the interactions between jurisdictional track and representation. For instance, it may be that representation matters more for the outcome of certain tracks such as those under 'any discrimination' than it does for others, such as standard track cases. Whilst we are picking up any direct effects of jurisdiction and track in our analysis to this point, we may be missing more nuanced effects where the impact of representation varies by track.

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could also be that survey respondents in larger firms (where legal departments are more likely to be found) are more detached from and hence less clear on the details of the process.

## 5. CASE DURATION AND SATISFACTION WITH ET PROCESS

Before moving on to consider these interactions, we first show how case duration and levels of satisfaction with the overall ET process are seen to vary with different levels of representation.

### 5.1 Case duration for claimants and employers

Table A14 of Appendix A sets out the mean case duration using the claimant data, assuming both a normal and lognormal distribution. The latter approach compensates to some extent for the small number of cases that have exceptionally high durations and which may be expected to 'artificially' inflate average durations for the higher categories of our index. Whilst we must be a little careful of the low number of observations, generally there seems to be a systematic decline in average case duration as we move down our index of representation.

Turning our attention once again to Appendix B Table B1, the second column provides information on the outcomes from a multivariate analysis of case duration. The main findings are that:

- Case duration is significantly longer in cases where the claimant has opted for the highest levels of representation (i.e. legal-legal) relative to our lower levels of representation and those with 'none'.
- Once again we are struck by the fact that relatively few additional factors are significantly correlated with case duration, other than our indicators of track – as one would expect, cases with 'any discrimination' are significantly longer, and short conciliation cases significantly shorter, than standard conciliation cases. Number of jurisdictions – a feature potentially associated with greater case complexity – has no statistically significant impact on case duration however.

Table A15 of Appendix A considers patterns of representation and case duration using the employer data. There would seem to be a similar pattern of falling average case durations as we move down the table, though the pattern is not as clear.

However, when we consider the multivariate analysis presented in the second column of Table B3, it is clear that:

- Case duration is significantly longer in cases where the employer has opted for the highest levels of representation (i.e. legal-legal) and this effect is one that holds in comparison to almost all of our other levels/combinations of representation.
- Cases in the public sector, in medium and large sized firms and where the employer has an internal legal department are all significantly more likely to experience longer average case durations.
- However, as was the case with claimant data, some of the most significant effects coming through, relate to jurisdictional track – cases with 'any discrimination' are significantly longer, and short conciliation cases significantly shorter, than standard conciliation cases.

## 5.2 Satisfaction amongst claimants and employers

The following discussion focuses on patterns of representation across various reported levels of satisfaction with the ET process as a whole – rather than satisfaction with case outcomes. As one would expect (see Appendix A Tables A16 to A19), there is a high correlation between ‘winning’/‘losing’ the case and satisfaction with outcomes.

Thus, it is only when we consider the results of our multivariate analysis in the third columns of Tables B1 and B3 of Appendix B that we are able to distinguish with more confidence any relationship between representation and levels of satisfaction, as these equations model satisfaction having controlled for case outcome.

The results of this analysis suggest that outcome remains a dominant driver of satisfaction. However, having accounted for a variety of other correlates with satisfaction, we find that level of representation remains significantly correlated to levels of satisfaction with the ET process as a whole; in fact representation and jurisdictional track are two of the only areas where we find any significant impacts. More specifically, those with *Other/Other* (category 7 from our index) and *No representation* appear to be significantly more satisfied than those in the other groups – those claimants who have no contact with a legally qualified or professional representative report much higher levels of satisfaction with the ET process. We must be careful in interpretation of this finding and this is an issue to which we return.

For both claimants and (to a lesser extent) employers, short conciliation track cases report higher average levels of satisfaction with the ET process, when holding a number of other variables constant (B1 and B3 final column). Unsurprisingly, employers are significantly more satisfied with any outcome, when compared to the outcome of ‘claimant successful at hearing’ (B3); although it is interesting that the highest satisfaction levels are associated with claimants losing at a hearing or having their case dismissed prior to this. As with claimants, representation effects are evident, but in this case it is the *Other/Other* group alone that is significantly more likely to be satisfied than those with legal/legal levels of representation. However, this once again suggests a higher level of satisfaction amongst parties that do not take up professional and legal representation.

## 6. VARIATIONS BY TRACK AND INSIGHTS FROM MATCHED DATA

In this section of the report we dig down further into the analysis presented up to now by reporting the results from including further interactions in our multivariate models and also our consideration of the matched claimant-employer SETA data in unfair dismissal cases.

### 6.1 Do our results for representation vary by 'track'?

As suggested previously, it may be that representation matters more for the outcome of certain tracks such as those under 'any discrimination' than it does for others under standard and short conciliation. Here we attempt to capture the potential for these more nuanced effects, by using interactions in our multivariate models in a way that allows the impact of representation on outcomes to be moderated by track. The results from the inclusion of these additional interactions in our multivariate models are presented in Tables B5 and B6 of Appendix B, but to summarise, the results suggest that:

- We have a further finesse of our results on the relationship between short conciliation and outcomes, with respect to claimant representation. Previously we have found that short conciliation cases are more likely to go to a hearing, and this challenged our suggestion that cases where claimants had the lowest levels of representation were more closely associated with going to hearing (as the correlation between short conciliation and lower representation was driving the finding). However, it would seem in addition that short conciliation cases where the claimant also has our lowest (and missing) category of representation are (statistically) significantly more likely to be successful at hearing.
- Also, whilst our finding still holds that, in general, cases with higher (and more specifically the highest) levels of representation amongst claimants are much more likely to experience a private settlement relative to all other types of representation no matter what the jurisdictional track, there is one interesting exception. That is, when we consider the specific group of cases that have both no representation and are short track, they are significantly more likely to experience private settlement.
- Considering the interaction effects for employers, we still find (on average) that those who have lower levels of representation are significantly more likely to observe the claimant being successful. However, this effect does not apply to discrimination cases, where lower levels of representation amongst employers are associated with a significantly higher probability of observing the claimant being unsuccessful at a hearing. This finding underlines how complicated the decision-making of parties can be, at different points in the ET process, as they evaluate the emerging merits of their own case and the levels of representation they feel they need.

In addition to the Tables of interactions presented in Appendix B, we have also estimated similar specifications of our equations which model (i) case duration and (ii) the probability that a case will (or will not) go to a hearing. These tables are available on request, but essentially they do not add anything to our understanding – there is no indication that the impact of representation on either case duration or the probability of going to hearing varies according to jurisdictional track.



## 6.2 Matched SETA 2008 data

Unfortunately the matched data in SETA are not extensive enough to allow detailed multivariate analysis, but they do allow some consideration of potential interactions between levels of employer and claimant representation<sup>19</sup>. The first question we ask of the matched data, is whether there is any evidence that employers and claimants 'ratchet up' (or down) their own levels of representation in response to the levels of representation adopted by the other party to the case. Table 16 sets out the first stage in this process of investigation, by taking the 308 matched cases (that is the 618 matched claimant and employer observations) and looking at the patterns of representation across both employers and claimants. The first part of Table 16 looks at the levels of representation adopted by matched claimants and employers at the ET1/ET3 stage of the ET process. For instance, 5.52 per cent of the 308 cases have both claimant and employer citing legal professionals in their respective ET1 and ET3 forms, whilst 11.36 per cent of claimants who do not detail a representative on their ET1 face an employer who has cited a legal professional on the ET3 form. But, what are we expecting to see from this Table?

In the first instance, we may consider that the claimant and employer have some expectation of the type of representation adopted by the other party to a case – in many instances the dispute would likely have been through internal workplace procedures prior to submission of an ET1 form. If this was the true and both employers and claimants were choosing their levels of representation based on what they would expect from the other party, then we might observe a concentration of cases (high proportions) at the top left and bottom right of the first section of Table 16<sup>20</sup>. In the four top left cells (which include combinations of both legal professionals and professional representatives) we observe 10.4% of cases and at the bottom right (no representative) we observe 11.7%. This does not seem to provide particularly convincing evidence of any 'ratcheting up', given the concentration of cases elsewhere in the table.

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<sup>19</sup> A comparison of the patterns of representation for the entire SETA 2008 sample with the sub-sample of matched cases does not raise any concerns over the representativeness of the sub-sample according to the categories of representation.

<sup>20</sup> Ideally we would observe higher proportions of cases on the diagonal but, as with the unmatched data, we have a bimodal distribution of cases within both the employer and claimant data, with the highest and lowest levels of representation on our index being where we see the greatest concentration of cases.

**Table 16: Matched data showing nature of representation for claimants and employers in a case**

		Employer ET3 Representation					No representative
		Legal Professionals	Professional representative	Non-professional representative	Otherwise	Missing information	
Claimant ET1 Representation	Representation/Representation						
	Legal Professionals	5.5	0.3	0.7	0.3	4.6	3.9
	Professional representative	3.9	0.7	0.0	0.7	3.3	0.7
	Non-professional representative	2.6	0.3	0.0	0.7	1.3	1.0
	Otherwise	1.3	0.0	0.3	0.0	1.3	1.0
	Missing information	3.3	1.0	0.7	1.6	6.8	1.6
	No representative	11.4	4.6	2.6	1.3	19.5	11.7
Total	27.9	6.8	4.2	4.6	36.7	19.81	

		Employer Day-to-day advice					No representative
		Legal Professionals	Professional representative	Non-professional representative	Otherwise	Missing information	
Claimant ET1 Day-to-day advice	Representation/Representation						
	Legal Professionals	14.3	1.6	0.0	0.7	0.7	6.8
	Professional representative	7.8	0.7	0.3	1.0	0.0	3.6
	Non-professional representative	4.2	0.3	0.3	1.0	0.0	2.6
	Otherwise	1.3	0.0	0.0	0.0	0.0	1.6
	Missing information	0.7	0.0	0.0	0.0	0.0	1.0
	No representative	19.5	5.5	3.9	2.3	1.0	17.5
Total	47.7	8.1	4.6	4.9	1.6	33.12	

The second part of Table 16 presents potentially more compelling evidence of a ratcheting-up of representation, as there would seem to be more of a concentration of representation at the top left and bottom right of our index. Thus, 24.4% of matched cases have both parties with either legal professionals or professional representatives providing day-to-day help and advice (four top left cells), and 17.5% have both parties with neither. However, this is far from clear evidence as the proportion of cases where employers have the highest legal professional level of representation and claimants have none (19.48%) and vice versa (6.82%) also increases quite dramatically.

The picture here is thus mixed, but there is one more piece of evidence which we can draw from the matched data to identify the possible reactions of claimants to employer levels of representation. From the matched data we can identify levels of representation at three stages of the ET process:

- (i) the nature of a claimant’s representation on the ET1 form
- (ii) the nature of representation on the corresponding employer’s ET3 form
- (iii) the same claimants ‘day-to-day’ level of representation.

Considering these three steps, we can see if there is any evidence that claimants with lower levels of representation at stage (i), who face employers with higher levels of representation [at stage (ii)], are seen to have subsequently higher levels of representation [at stage (iii)]. The assumption underpinning this is that the claimant is made aware of the level of employer representation on the ET3 form and, if they respond to this in any way, then we would observe different patterns of claimant day-to-day help and advice in reaction to what the ET3 form says.

**Table 17: Any evidence of claimants increasing their representation in response to employer's level of representation?**

**All 107 matched cases where employers cite legal/professional representation on the ET 3 form**  
Claimants Day-to-Day

		Legal / Professional	Otherwise	Missing information	Total
Claimant ET1 representation	Legal / Professional	25 <i>78.1</i>	7 <i>21.9</i>	0 <i>0.0</i>	32 <i>100.0</i>
	Otherwise	10 <i>16.1</i>	52 <i>83.9</i>	0 <i>0.0</i>	62 <i>100.0</i>
	Missing information	7 <i>53.9</i>	5 <i>38.5</i>	1 <i>7.7</i>	13 <i>100.0</i>
	Total	42 <i>39.3</i>	64 <i>59.8</i>	1 <i>0.9</i>	107 <i>100.0</i>
	<i>Row percent in italics</i>				

**All 107 matched cases where employers cite legal/professional representation on the ET 3 form**  
Claimants Day-to-Day

		Legal / Professional	Otherwise	Missing information	Total
Claimant ET1 representation	Legal / Professional	32 <i>74.4</i>	11 <i>25.6</i>	0 <i>0.0</i>	43 <i>100.0</i>
	Otherwise	23 <i>18.4</i>	99 <i>79.2</i>	3 <i>2.4</i>	125 <i>100.0</i>
	Missing information	18 <i>54.6</i>	14 <i>42.4</i>	1 <i>3.0</i>	33 <i>100.0</i>
	Total	73 <i>36.3</i>	124 <i>61.7</i>	4 <i>2.0</i>	201 <i>100.0</i>
	<i>Row percent in italics</i>				

In Table 17 the small cell sizes associated with the matched data have necessitated a reduction in the categories of representation detailed on the ET1/ET3 form and providing day-to-day advice. The first part of Table 17 includes all 107 claimants who are part of a case where the employer has cited a legal professional or professional representative on their ET3 form; the second part includes all those cases where the ET3 form cites some other form of representation or none. If there is a strong 'ratchet' effect, we would expect:

- In the first part of the table, we should have a relatively high proportion of claimants with ET1 representation which is not legal/professional BUT day-to-day help is legal/professional (as they raise their level of representation in response to higher employer representation on the ET3).
- In the second part of the table, we should have a relatively low proportion of claimants with ET1 representation which is not legal/professional BUT day-to-day help is legal/professional (as they do not raise their level of representation, because the employer does not suggest a high level of representation on the ET3).

As we can see, even with such a relatively simplistic distinction of representation, this is pushing the data to its limits and as a result our attempt to determine whether there is any evidence of ratcheting up does not result in any clear findings.

Table A20 of Appendix A presents a summary of the levels of day-to-day help and advice across the matched employer and claimant data and the corresponding outcomes that we observe from these cases. Once again, we are

asking a lot of the data but there is some indication that (as one would perhaps expect) a relatively large proportion of cases with high employer and low claimant day-to-day help and advice result in claimants being unsuccessful at hearing, whilst the proportion of private settlements is highest amongst those who are both professionally or legally represented. The proportion of Acas settlements is highest amongst cases where both employer and claimant have lower levels of representation.

Table A21 of Appendix A considers case durations and satisfaction. In relation to the former, it is evident that on average, the longest durations are reported where there is legal/professional representation on both sides of a case, followed by such representation on at least one side. In contrast, the shortest durations occur where both sides fall into the 'Otherwise' (which in this instance includes no representation). The variation in satisfaction amongst matched cases does not present any clear patterns for comment.

## 7. CONCLUSIONS

One of the main concerns in recent years has been over the perceived movement towards a more legalistic approach in the ET process, which one would expect to be accompanied by increasing reliance on formal representation. The evidence from this report does not support this, as representation amongst claimants was falling between 2003 and 2008 and the situation for employers was seemingly static (though the large number of missing observations on employer representation muddies the waters somewhat).

This does not mean that longer term trends are not working in the opposite direction, especially as there were changes in ET processes during the period under review which may have resulted in short-term impacts. For instance, the Employment Act 2002 and its Dispute Resolution Regulations 2004 (which came into effect 1st October 2004) required parties to complete statutory internal dismissal/disciplinary or grievance procedures before a claim could be brought. This affected how Tribunal claims were commenced and implied a greater role for potential claimants (for instance in completing grievance letters) prior to a formal ET claim. One may speculate that this may have spilt over into a greater willingness to complete ET1 forms if a dispute progressed beyond the workplace.

Whatever the longer-term trends, it is particularly striking that representation is essentially bimodal for both employers and claimants. The vast majority of employers and claimants tend to fall into two categories of either being heavily represented at all stages of the ET process or having little or no representation across the process – the evidence between 2003 and 2008 is that the proportions having no representation during the ET process further increased.

This bimodal distribution of representation is reflected in the fact that the majority of claimants and employers do not seem to shop around across different sources of advice at different stages of the process – for instance, 79 per cent of claimants who initially nominated a legal professional at the ET1 stage also had day-to-day advice from a legal professional (and the figure for employers is 80 per cent).

When we come to consider the possibility of systematic variation in the characteristics of cases (and claimants/employers) and the levels of representation adopted, the findings with relation to jurisdiction need to be treated with care. Our multivariate analysis of claimant data confirms that cases with more jurisdictions cited are more likely to be legally represented and this might be taken as evidence that more complicated cases (indicated by higher numbers of jurisdictions) are more likely to require legal representation. However, the fact that this finding does not hold for employer data may suggest a tendency for legal professionals to advise claimants to submit claims under more than one jurisdiction for strategic reasons.

Turning to other indicators, the fact that nominating a legal representative on the ET1/ET3 form is much more likely for those involved in open (discrimination) track cases, compared with those involved in both standard track and especially short track cases, may be taken as an indication that more complicated cases require legal representation (see Hudson et al. (2007: 51-56) for qualitative evidence in relation to unrepresented parties in race discrimination cases and Denvir et al. (2007: 81-82) for those involving sexual orientation, religion or belief). However, this could also be driven by the fact that representation is brought-in when the potential losses/gains are larger. Among claimants, it is also possible that unions and union barristers proactively support the submission of

discrimination cases that fall into the open track category, which would be consistent with the point made in the previous paragraph.

Generally, the relationship between representation and outcomes is as one would perhaps expect (from both the matched and unmatched data). Cases where claimants and respondents are legally represented tend to experience a significantly higher proportion of private settlements; when compared to those lower down our index of representation where there is a higher probability of the case being dismissed. The chances of an Acas settlement do not seem to vary significantly according to the levels of representation adopted - though evidence from matched data may imply that when there are low levels of representation on both sides of the case, Acas settlement is more likely as an outcome. Much of the remaining influence on outcomes seems to come from jurisdiction – with short track cases significantly more likely to go to hearing, other things held constant.

However, these findings of the impact of representation may be expected to vary across jurisdictional tracks. For instance, we do find some evidence that short track cases where the claimant also has our lowest (and missing) category of representation are (statistically) significantly more likely to be successful at hearing; an impact of representation that is not apparent within other jurisdictions.

Also, for employers there is a nuance to the general finding that those who have lower levels of representation are significantly more likely to observe the claimant being successful. Whilst this overall effect still holds in the aggregate, in cases where the track is 'any discrimination' the finding is reversed. Thus whilst employers with low levels of representation are in general less likely to have the tribunal find in their favour at a full hearing, this does not hold in discrimination cases, where lower levels of representation amongst employers are associated with a significantly higher probability of the claimant being unsuccessful.

As we suggest in the main body of the text, in many areas we are pushing the data to its limits and some caution is needed in interpretation of findings. This is particularly true in the case of the matched data, but what evidence we do have using these data suggests no substantial evidence to support the hypothesis that claimants respond to higher levels of employer representation by ratcheting up their own levels of representation.

Finally, when considering other outcomes such as satisfaction and case duration, some of our findings are as one would expect. It may not be surprising that for both claimants and employers, case duration is significantly longer in cases with the highest levels of representation (i.e. legal-legal) relative to almost all of our other levels/combinations of representation. However, even having accounted for case outcome, claimants and employers who have no contact with a legally qualified or professional representative report significantly higher levels of satisfaction with the ET process.

This last correlation is an interesting finding, particularly given the strength of effect. However it needs to be remembered that, as with the findings in the remainder of this report, it does not constitute unequivocal evidence that different levels of representation are causing different levels of satisfaction (outcomes or case durations). For instance, in the case where we see durations being longer the higher the level of representation, it is quite possible that such cases are longer duration as the issues take longer to consider, and the ET takes a greater amount of time to schedule a hearing (we observe correlations, not causality). When we attempt a multivariate analysis, we become a little more confident that

what we observe may be causal, but we still cannot rule out the fact that what we are observing is a correlation and we have missed something important (that is driving this correlation) from our regression equation.

However, despite these words of warning, it is quite possible that the findings on satisfaction reflect the possible benefits accruing to claimants who retain 'ownership/control' over their case. Those who employ professional and legally qualified representatives hand over the case to them and their satisfaction with the ET process then becomes intricately linked with the level of service they receive from their representative – if claimants receive a generally unsatisfactory service when represented then this would show in the statistics as it does. Claimants who deal with things themselves or in conjunction with friends and family seem more satisfied, potentially because they interact more directly with the ET service.

## REFERENCES

Adler, M. (2006) "Tribunal Reform: Proportionate Dispute Resolution and the Pursuit of Administrative Justice", *The Modern Law Review*, 69: 958-985.

Colling, T. (2006) "What Space for Unions on the Floor of Rights? Trade Unions and the Enforcement of Statutory Individual Employment Rights", *Industrial Law Journal*, 35: 140-160.

Denvir, A., Broughton, A., Gifford, J. and Hill, D. (2007) "The Experiences of Sexual Orientation and Religion or Belief Discrimination Employment Tribunal Claimants", *Acas Research Paper*, No. 02/07.

Fox, M. and Dix, G. (2002) "Employment Tribunal Outcomes", *Acas Working Paper*, 01.

Hayward, B., Peters, M., Rousseau, N. and Seeds, K. (2004) "Findings from the Survey of Employment Tribunal Applications 2003", *Department of Trade and Industry Employment Relations Research Series*, No. 33.

Hepple, B. (1986) "Restructuring Employment Rights", *Industrial Law Journal*, 15: 69-83.

Hepple, B. and Morris, G. (2002) "The Employment Act 2002 and the Crisis of Individual Employment Rights", *Industrial Law Journal*, 31: 245-269.

Hudson, M., Barnes, H. Brooks, S. and Taylor, R. (2007) "Race Discrimination Claims: Unrepresented Claimants' and Employers' Views on Acas' Conciliation in Employment Tribunal Cases", *Acas Research Paper*, No. 04/07.

Kagan, R.A. (2001) *Adversarial Legalism: The American Way of Law*, Cambridge, MA: Harvard University Press.

Knight, K.G. and Latreille, P.L. (2001) 'Gender Effects in British Unfair Dismissal Tribunal Hearings', *Industrial and Labor Relations Review*, 54: 816-834.

Latreille, P.L. (2007) "The Settlement of Employment Tribunal Cases: Evidence from SETA 2003" *Employment Relations Research Series*, No. 61, London: Department for Business, Enterprise and Regulatory Reform.

Latreille, P.L. (2009) "Characteristics of Rejected Employment Tribunal Claims", *Department for Business, Innovation & Skills Employment Relations Research Series*, No. 96.

Latreille, P.L., Latreille, J.A. and Knight, K.G. (2005) "Making a difference? Legal representation in Employment Tribunal cases: evidence from a Survey of Representatives", *Industrial Law Journal*, 34: 308-330.

Leslie, W. (1985). "Legalism in Industrial Tribunals." *Employment Gazette*, September: 357-362.

MacMillan, J.K. (1999) "Employment Tribunals: Philosophies and Practicalities", *Industrial Law Journal*, 28: 33-56.

McKee Q.C., His Honour Judge (1986) "Legalism in Industrial Tribunals", *Industrial Law Journal*, 15: 110-112.



Meager, N. and Hurstfield, J. (2005) "Disabled People and the Labour Market: Has the DDA Made a Difference?" in A. Roulstone and C. Barnes (eds.) *Working Futures: Disabled People, Policy and Social Inclusion*, Polity Press: Bristol.

Morris, G. (2005) "Britain's New Statutory Procedures: Routes to Resolution or Barriers to Justice?", *Comparative Labor Law and Policy Journal*, 25: 477-486.

Munday, R. (1981) "Tribunal Lore: Legalism and the Industrial Tribunals", *Industrial Law Journal*, 10: 146-159.

Peters, M., Seeds, K., Harding, C. and Garnett, E. (2010) "Findings from the Survey of Employment Tribunal Applications 2008", *Department for Business, Innovation & Skills Employment Relations Research Series*, No. 107.

Royal Commission on Trade Unions and Employers' Associations (1968), *Report*, Cmnd 3623, London: HMSO.

Smith, P. and Morton, G. (2006) "Nine Years of New Labour: Neoliberalism and Workers' Rights", *British Journal of Industrial Relations*, 44: 401-420.

Taylor, A.S. and Proud, S. (2002) 'Medical Evidence: Crucial in Employment Tribunals', *Business Law Review*, 23, 209-211.

Tribunals Service (2010) *Annual Statistics for the Tribunals Service, 2009-10*, online, URL<<http://stats.bis.gov.uk/ed/sme>>, visited 10/08/2010.

Wells, K. (2003) 'The impact of the Framework Employment Directive on UK Disability Discrimination Law', *Industrial Law Journal*, 32, 253-273.

Woodhams, C. and Corby, S. (2003) 'Defining disability in theory and practice: a critique of the British Disability Discrimination Act 1995', *Journal of Social Policy*, 32, 159-178.

## APPENDIX A

**Table A1: Sources of advice about employment rights at pre-application stage (claimants)**

Type of representative	No.	%
<i>Legal professionals</i>		
Solicitor, barrister or some other kind of Lawyer	823	40.7
<i>Non-professional representation</i>		
Family or friends	974	48.2
Work colleague	220	10.9
<i>Professional representative</i>		
Citizens' Advice Bureau	799	39.6
Trade union representative/workers representative	311	15.4
Employment rights advisor/employment consultant	185	9.2
<i>Other</i>		
Acas Helpline	900	44.6
Other answers	428	21.2
<b>Total</b>	<b>2020</b>	

Note: Responses can sum to more than 100 per cent and therefore those not gaining any advice are not included in the table.

**Table A2: Representation at full tribunal hearing (claimants)**

Type of representative	No.	%
<i>Legal Professionals</i>		
Solicitor, barrister or some other kind of Lawyer	89	59.7
<i>Non-professional representation</i>		
Family or friends	17	11.4
Work colleague	2	1.3
<i>Professional representative</i>		
CAB	12	8.1
Trade union representative/workers representative	9	6.0
Employment rights advisor/employment consultant	5	3.4
<i>Other</i>		
Other answers	15	10.1
<b>Total</b>	<b>149</b>	

**Table A3: Representation at full tribunal hearing (employers)**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	147	62.8
Non-professional representation		
Family or friends	0	0.0
Owner/senior manager	22	9.4
Someone else in organisation	18	7.7
Professional representative		
Employers Association	8	3.4
Employment rights advisor/employment consultant	15	6.4
Other		
Other answers	24	10.3
<b>Total</b>	<b>234</b>	

**Table A4: Other advice post-application (claimants)**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	136	33.4
Non-professional representation		
Family or friends	57	14.0
Work colleague	11	2.7
Professional representative		
CAB	72	17.7
Trade union representative/workers representative	37	9.1
Employment rights advisor/employment consultant	6	1.5
Other		
Other answers	88	21.6
<b>Total</b>	<b>407</b>	

**Table A5: Other advice post-application (employers)**

Type of representative	No.	%
Legal Professionals		
Solicitor, barrister or some other kind of Lawyer	228	54.6
Non-professional representation		
Family or friends	13	3.1
Owner/senior manager	11	2.6
Someone else in organisation	31	7.4
Professional representative		
Employers Association	40	9.6
Employment rights advisor/employment consultant	25	6.0
Other		
Other answers	70	16.8
<b>Total</b>	<b>418</b>	

**Table A6: Comparing day-to-day help and additional help sought (claimants)**

**IF no representation at ET1**

Row		Type of additional help sought					Total
		Legal Professional	Prof Rep	Non-prof. rep	Other	None	
<b>Type of person giving Day-to-day help and support</b>	Legal Professional	2.2	4.4	2.2	1.1	90.1	100
	Prof Rep	1.5	0.0	3.0	1.5	93.9	100
	Non-prof. rep	10.5	0.0	0.0	0.0	89.5	100
	Other	6.7	6.7	6.7	0.0	80.0	100
	Missing	0.0	18.2	0.0	18.2	63.6	100
	None	8.8	8.0	3.5	9.7	69.9	100
	<i>Total</i>	<i>29.8</i>	<i>37.2</i>	<i>15.4</i>	<i>30.5</i>	<i>487.1</i>	<i>100</i>

*multiple sources of advice possible for additional help sought*

**IF representation at ET1**

Row		Type of additional help sought					Total
		Legal Professional	Prof Rep	Non-prof. rep	Other	None	
<b>Type of person giving Day-to-day help and support</b>	Legal Professional	1.6	3.4	4.0	5.8	85.2	100
	Prof Rep	3.8	2.2	3.3	6.6	84.2	100
	Non-prof. rep	8.6	6.0	2.6	9.5	73.3	100
	Other	6.5	3.2	1.6	4.8	83.9	100
	Missing	15.4	0.0	0.0	15.4	69.2	100
	None	8.9	7.1	2.3	10.1	71.7	100
	<i>Total</i>	<i>44.8</i>	<i>21.9</i>	<i>13.7</i>	<i>52.2</i>	<i>467.4</i>	<i>100</i>

**Table A7: Comparing day-to-day help and additional help sought (employers)**

**IF no representation at ET1**

Row		Type of additional help sought					
		Legal	Prof Rep	Non-prof. rep	Other	None	Total
		Professional					
<b>Type of person giving Day-to-day help and support</b>	Legal Professional	5.4	1.4	2.0	2.3	89.0	100
	Prof Rep	0.0	4.5	0.0	2.3	93.2	100
	Non-prof. rep	18.2	0.0	2.3	2.3	77.3	100
	Other	9.1	2.3	4.5	4.5	79.5	100
	Missing	25.0	2.5	2.5	0.0	70.0	100
	None	19.9	8.0	1.3	4.9	65.9	100
	<b>Total</b>	<b>77.5</b>	<b>18.7</b>	<b>12.6</b>	<b>16.2</b>	<b>474.9</b>	<b>100</b>

multiple sources of advice possible for additional help sought

**IF representation at ET3**

Row		Type of additional help sought					
		Legal	Prof Rep	Non-prof. rep	Other	None	Total
		Professional					
<b>Type of person giving Day-to-day help and support</b>	Legal Professional	4.3	1.1	2.5	4.2	87.9	100
	Prof Rep	1.9	1.0	1.0	3.9	92.2	100
	Non-prof. rep	25.6	4.7	11.6	2.3	55.8	100
	Other	10.1	0.0	2.9	8.7	78.3	100
	Missing	0.0	0.0	50.0	0.0	50.0	100
	None	18.0	6.2	3.4	7.5	65.0	100
	<b>Total</b>	<b>60.0</b>	<b>12.9</b>	<b>71.3</b>	<b>26.6</b>	<b>429.2</b>	<b>100</b>

**Table A8: Why claimants used a representative**

**E16 Why use representation?**

1/24 lack of expertise (2008)) why used a representative	47	5.0%
2/24 time (2008)) why used a representative	14	1.5%
3/24 insured (2008)) why used a representative	22	2.3%
4/24 to help (2008)) why used a representative	70	7.4%
6/24 representatives knowledge (2008)) why used a representative	125	13.2%
7/24 they were referred/suggested to me (2008)) why used a representati	106	11.2%
8/24 expertise/professional advice (2008)) why used a representative	220	23.3%
9/24 member of the union (2008)) why used a representative	70	7.4%
10/24 part of the system/what you had to do (2008)) why used a represen	20	2.1%
11/24 language issues (2008)) why used a representative	12	1.3%
12/24 procedures/forms were complicated (2008)) why used a representati	27	2.9%
13/24 it was free/no charge (2008)) why used a representative	47	5.0%
14/24 because employer would not mediate (2008)) why used a representat	15	1.6%
16/24 expense/could not afford it (2008)) why used a representative	14	1.5%
17/24 ill health/disability (2008)) why used a representative	27	2.9%
18/24 good reputation (2008)) why used a representative	13	1.4%
19/24 it was easier (2008)) why used a representative	11	1.2%
21/24 family/friend (2008)) why used a representative	16	1.7%
22/24 other answers) why used a representative	160	16.9%
23/24 don't know) why used a representative	12	1.3%
24/24 not stated) why used a representative	0	0.0%

944

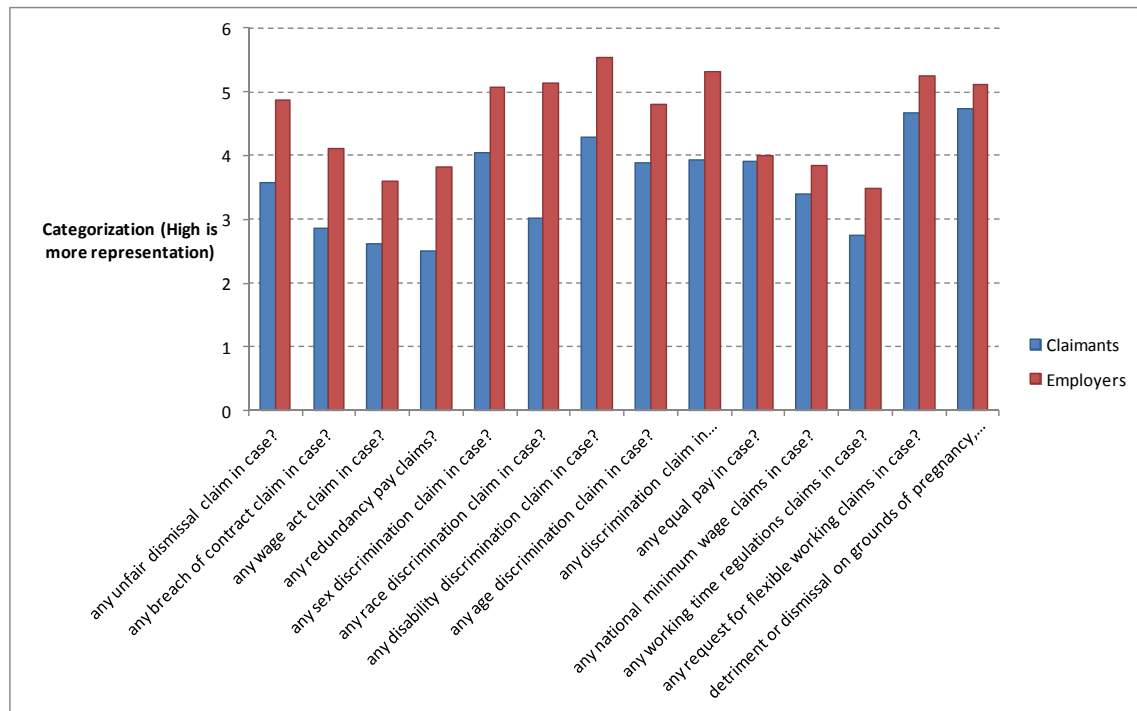
**Table A9: Representation by jurisdictions included in claim (claimants)**

<b>Claimants SETA 2008: Jurisdiction</b>					
Types of Representation	Unfair dismissal	Breach of Contract	Wages Act and Redun.	Any Discrimination	Other
<i>Representation on ET1</i>					
Legal Professional	19.8	16.3	11.0	23.9	16.5
Prof Rep	10.1	5.6	8.8	13.0	10.8
Non-prof. rep	4.0	3.6	3.4	3.6	4.0
Other	3.1	1.9	1.6	2.8	2.5
Missing	16.5	13.0	13.5	15.2	11.8
None	46.5	59.7	61.8	41.5	54.4
<i>Day-to-day help</i>					
Legal Professional	30.3	16.3	16.7	33.0	21.1
Prof Rep	12.7	5.6	10.7	12.7	12.3
Non-prof. rep	7.3	3.6	5.7	7.3	6.5
Other	4.1	1.9	3.8	4.6	2.5
Missing	1.2	13.0	1.3	1.2	1.5
None	44.4	59.7	61.8	41.3	56.1
<i>Categorisation</i>					
1	19.4	13.5	10.2	22.8	14.9
2	8.5	5.4	7.0	8.7	7.8
3	1.7	1.7	0.3	1.7	0.3
4	1.0	0.7	0.7	1.7	0.9
5	10.7	9.1	7.2	11.8	7.8
6	7.1	5.6	5.1	10.4	7.8
7	12.7	10.0	11.6	10.4	11.5
8	39.0	54.0	57.9	32.7	49.1
<i>Percent</i>					

**Table A10: Representation by jurisdictions included in claim (employers)**

<b>Employers SETA 2008: Jurisdiction</b>					
Types of Representation	Unfair dismissal	Breach of Contract	Wages Act and Redun.	Any Discrimination	Other
<i>Representation on ET1</i>					
Legal Professional	28.9	23.7	19.1	34.0	21.2
Prof Rep	5.6	4.8	3.7	3.7	3.8
Non-prof. rep	5.2	4.9	5.7	4.7	6.6
Other	4.3	6.0	3.8	6.2	4.9
Missing	37.8	35.6	38.4	38.3	35.7
None	18.3	25.0	29.3	13.1	27.8
<i>Day-to-day help</i>					
Legal Professional	49.3	41.6	32.5	56.1	34.7
Prof Rep	8.0	5.5	5.9	6.5	5.4
Non-prof. rep	4.2	3.6	5.0	3.2	4.3
Other	6.3	5.1	4.3	5.2	5.9
Missing	2.1	1.5	1.4	1.5	1.5
None	30.1	42.8	50.9	27.5	48.2
<i>Categorisation</i>					
1	37.8	28.7	24.5	45.5	25.0
2	7.3	5.3	5.4	5.2	5.2
3	3.6	3.5	2.5	5.5	2.8
4	2.3	2.1	2.0	1.5	1.6
5	7.0	6.9	5.1	5.8	6.0
6	8.0	8.2	5.1	9.1	7.1
7	14.4	14.9	16.1	13.6	17.9
8	19.6	30.5	39.4	13.9	34.5
<i>Percent</i>					

**Figure A1: Representation index (reversed mean score) by selected jurisdictions**



NB: This figure reports means of the reversed index score (so that higher scores denote more representation)

**Table A11: Claimant age and representation**

Types of Representation	Age less than 34		Age 35 to 44		Age 44 to 54		Age 55+	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
<i>Representation on ET1</i>								
Legal Professional	59	10.7	85	16.1	93	17.1	69	17.6
Prof Rep	37	6.7	59	11.2	65	12.0	46	11.7
Non-prof. rep	32	5.8	17	3.2	9	1.7	14	3.6
Other	14	2.5	17	3.2	12	2.2	11	2.8
Missing	79	14.3	91	17.2	81	14.9	51	13.0
None	330	59.9	260	49.2	284	52.2	201	51.3
<i>Day-to-day help</i>								
Legal Professional	99	18.0	133	25.1	144	26.5	81	20.7
Prof Rep	50	9.1	77	14.6	65	12.0	55	14.0
Non-prof. rep	53	9.6	31	5.9	23	4.2	20	5.1
Other	25	4.5	16	3.0	15	2.8	21	5.4
Missing	7	1.3	5	1.0	3	0.6	6	1.5
None	317	57.5	267	50.5	294	54.0	209	53.3
<i>Categorisation</i>								
1	47	10.0	66	15.1	81	17.6	48	14.2
2	24	5.1	43	9.9	42	9.1	28	8.3
3	8	1.7	6	1.4	2	0.4	3	0.9
4	4	0.9	3	0.7	2	0.4	5	1.5
5	38	8.1	43	9.9	43	9.4	28	8.3
6	21	4.5	32	7.3	33	7.2	32	9.5
7	77	16.5	47	10.8	35	7.6	39	11.5
8	249	53.2	196	45.0	222	48.3	155	45.9

**Table A12: Employer sector and representation**

Types of Representation	Public		Private		Other	
	Freq	Percent	Freq	Percent	Freq	Percent
<i>Representation on ET1</i>						
Legal Professional	103	38.3	365	23.9	59	27.7
Prof Rep	4	1.5	88	5.8	10	4.7
Non-prof. rep	7	2.6	86	5.6	11	5.2
Other	12	4.5	77	5.1	9	4.2
Missing	103	38.3	552	36.2	86	40.4
None	40	14.9	357	23.4	38	17.8
<i>Day-to-day help</i>						
Legal Professional	141	52.4	625	41.0	116	54.5
Prof Rep	5	1.9	128	8.4	14	6.6
Non-prof. rep	11	4.1	68	4.5	6	2.8
Other	14	5.2	85	5.6	13	6.1
Missing	7	2.6	28	1.8	5	2.4
None	91	33.8	591	38.8	59	27.7
<i>Categorisation</i>						
1	72	43.4	298	30.7	51	40.2
2	2	1.2	76	7.8	8	6.3
3	7	4.2	31	3.2	5	3.9
4	6	3.6	15	1.5	1	0.8
5	12	7.2	60	6.2	10	7.9
6	27	16.3	64	6.6	9	7.1
7	14	8.4	158	16.3	21	16.5
8	26	15.7	269	27.7	22	17.3

**Table A13: Employer size and representation**

Types of Representation	less than 25		25-49		50-249		250+	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
<i>Representation on ET1</i>								
Legal Professional	139	21.3	40	17.8	112	26.7	229	34.4
Prof Rep	24	3.7	14	6.2	28	6.7	35	5.3
Non-prof. rep	45	6.9	13	5.8	22	5.2	24	3.6
Other	35	5.4	9	4.0	19	4.5	31	4.7
Missing	217	33.2	97	43.1	164	39.1	242	36.4
None	193	29.6	52	23.1	75	17.9	104	15.6
<i>Day-to-day help</i>								
Legal Professional	229	35.1	99	44.0	200	47.6	342	51.4
Prof Rep	43	6.6	16	7.1	43	10.2	43	6.5
Non-prof. rep	32	4.9	11	4.9	23	5.5	17	2.6
Other	35	5.4	14	6.2	21	5.0	37	5.6
Missing	7	1.1	5	2.2	7	1.7	18	2.7
None	307	47.0	80	35.6	126	30.0	208	31.3
<i>Categorisation</i>								
1	113	25.9	35	27.3	96	37.7	171	40.5
2	20	4.6	11	8.6	24	9.4	31	7.4
3	13	3.0	6	4.7	9	3.5	15	3.6
4	7	1.6	3	2.3	4	1.6	8	1.9
5	29	6.7	10	7.8	18	7.1	25	5.9
6	23	5.3	5	3.9	16	6.3	54	12.8
7	80	18.4	22	17.2	37	14.5	48	11.4
8	151	34.6	36	28.1	51	20.0	70	16.6

*the final column of 44 observations in the 'unknown' category are not shown*



**Table A14: Claimant average case duration in days (normal vs lognormal)**

Categorisation	Normal distribution			Lognormal distribution		
	Mean case duration	Std. Dev	Freq	Mean case duration	Std. Dev	Freq
1 - Leg/Leg	171.8	130.9	242	4.9	0.7	242
2 - Leg&Prof	178.5	364.6	138	4.7	0.9	138
3 - OthRep & Leg/Prof DtD	140.6	93.5	19	4.7	0.7	19
4 - Leg/ProfRep & Oth DtD	493.2	1,124.7	14	5.3	1.1	14
5 - NoneRep & Leg/Prof DtD	158.3	129.9	152	4.7	0.9	152
6 - Leg/ProfRep & None DtD	231.9	590.5	118	4.7	1.1	118
7 - Other/Other	121.0	94.7	199	4.5	0.8	199
8 - None	136.4	356.6	824	4.3	1.1	824
9 - Missing	182.5	438.6	314	4.6	1.0	314
<b>Total</b>	<b>158.9</b>	<b>353.3</b>	<b>2020</b>	<b>4.5</b>	<b>1.0</b>	<b>2020</b>

NB: As the standard deviations associated with these various averages suggests, there is substantial variation in some categories of representation around these measures of central tendency.

**Table A15: Employer average case duration in days (normal vs lognormal)**

Categorisation	Normal distribution			Lognormal distribution		
	Mean case duration	Std. Dev	Freq	Mean case duration	Std. Dev	Freq
1 - Leg/Leg	167.1	150.5	421	4.9	0.7	421
2 - Leg&Prof	139.3	99.5	86	4.7	0.8	86
3 - OthRep & Leg/Prof DtD	165.2	134.3	43	4.8	0.8	43
4 - Leg/ProfRep & Oth DtD	222.9	229.9	22	4.9	1.1	22
5 - NoneRep & Leg/Prof DtD	135.6	101.7	82	4.7	0.8	82
6 - Leg/ProfRep & None DtD	167.2	247.9	100	4.7	0.8	100
7 - Other/Other	121.9	100.6	193	4.5	0.7	193
8 - None	105.2	155.4	317	4.3	0.8	317
9 - Missing	134.8	166.4	743	4.5	0.9	743
<b>Total</b>	<b>139.1</b>	<b>158.4</b>	<b>2007</b>	<b>4.6</b>	<b>0.8</b>	<b>2007</b>

**Table A16: Claimant outcome and mean level of satisfaction with outcome**

Outcome	Mean Satisfaction	Std. Dev	Freq
applicant unsuccessful	1.4	0.8	141
applicant successful	3.2	1.0	302
acas settled	2.9	0.9	789
privately settled	3.0	0.9	315
Withdrawn	2.0	1.1	298
Dismissed	1.5	0.9	132
<b>Total</b>	<b>2.6</b>	<b>1.1</b>	<b>1,977</b>

*Satisfaction score 1 = not at all, 2 = not very, 3 = quite, 4 = very satisfied*

**Table A17: Claimant representation and mean level of satisfaction with ET process**

Categorisation	Mean Satisfaction	Std. Dev	Freq
1 - Leg/Leg	2.9	1.0	213
2 - Leg&Prof	3.1	0.9	132
3 - OthRep & Leg/Prof DtD	3.1	0.8	19
4 - Leg/ProfRep & Oth DtD	2.8	1.1	12
5 - NoneRep & Leg/Prof DtD	3.1	0.9	144
6 - Leg/ProfRep & None DtD	2.9	1.1	110
7 - Other/Other	3.1	0.9	193
8 - None	3.1	0.9	802
9 - Missing	3.1	0.9	286
Total	3.1	0.9	1911

*Satisfaction score 1 = not at all, 2 = not very, 3 = quite, 4 = very satisfied*

**Table A18: Employer outcome and mean level of satisfaction with outcome**

Outcome	Mean Satisfaction	Std. Dev	Freq
applicant unsuccessful	3.7	0.7	153
applicant successful	1.9	1.0	134
acas settled	2.6	1.0	692
privately settled	2.6	1.1	360
withdrawn	3.6	0.8	211
dismissed	3.7	0.7	137
Total	2.8	1.1	1,687

*Satisfaction score 1 = not at all, 2 = not very, 3 = quite, 4 = very satisfied*

**Table A19: Employer representation and mean satisfaction with ET process**

Categorisation	Mean Satisfaction	Std. Dev	Freq
1 - Leg/Leg	2.8	0.9	381.0
2 - Leg&Prof	2.8	0.9	79.0
3 - OthRep & Leg/Prof DtD	2.6	0.8	37.0
4 - Leg/ProfRep & Oth DtD	2.6	0.8	18.0
5 - NoneRep & Leg/Prof DtD	2.6	1.1	77.0
6 - Leg/ProfRep & None DtD	2.9	0.9	88.0
7 - Other/Other	3.0	0.9	174.0
8 - None	2.8	1.0	299.0
9 - Missing	2.7	1.0	397.0
Total	2.8	1.0	1550

*Satisfaction score 1 = not at all, 2 = not very, 3 = quite, 4 = very satisfied*

**Table A20: Claimant and employer representation, and outcomes for matched cases**

Matched day-to-day representation and case outcomes								
Claimant DtD	Employer DtD	applicant	applicant	acas settled	privately	withdrawn	dismissed	Total
		unsuccessful at hearing	successful at hearing		settled			
Legal/Prof	Otherwise	1	8	13	8	6	2	38
		<i>2.6</i>	<i>21.1</i>	<i>34.2</i>	<i>21.1</i>	<i>15.8</i>	<i>5.3</i>	<i>100</i>
Otherwise	Legal/Prof	14	7	35	12	21	6	95
		<i>14.7</i>	<i>7.4</i>	<i>36.8</i>	<i>12.6</i>	<i>22.1</i>	<i>6.3</i>	<i>100</i>
Otherwise	Otherwise	5	12	52	4	9	8	90
		<i>5.6</i>	<i>13.3</i>	<i>57.8</i>	<i>4.4</i>	<i>10.0</i>	<i>8.9</i>	<i>100</i>
Legal/Prof	Legal/Prof	7	8	27	16	14	3	75
		<i>9.3</i>	<i>10.7</i>	<i>36.0</i>	<i>21.3</i>	<i>18.7</i>	<i>4.0</i>	<i>100</i>
Missing	Missing	1	1	4	2	1	1	10
		<i>10.0</i>	<i>10.0</i>	<i>40.0</i>	<i>20.0</i>	<i>10.0</i>	<i>10.0</i>	<i>100</i>
Total		28	36	131	42	51	20	308
		<i>9.1</i>	<i>11.7</i>	<i>42.5</i>	<i>13.6</i>	<i>16.6</i>	<i>6.5</i>	<i>100</i>

*Row percent in italics*

**Table A21: Average case duration (log days) and satisfaction with ET process for matched cases**

Claimant DtD	Employer DtD	Average Case	Average
		Duration (In days)	Satisfaction with ET process
Legal/Prof	Otherwise	4.6	3.2
		<i>1.0</i>	<i>0.9</i>
Otherwise	Legal/Prof	4.8	2.7
		<i>0.7</i>	<i>1.1</i>
Otherwise	Otherwise	4.3	3.2
		<i>0.9</i>	<i>0.8</i>
Legal/Prof	Legal/Prof	4.9	2.8
		<i>0.8</i>	<i>1.0</i>
Missing	Missing	4.5	3.2
		<i>0.5</i>	<i>1.2</i>
Total		4.6	2.9
		<i>0.8</i>	<i>1.0</i>

*Standard deviation in italics*

## APPENDIX B

### Descriptive statistics Claimants

Variable	Coding	Freq	Percent
Gender	Male	1,206	59.7
	Female	814	40.3
Ethnicity	White	1,723	85.3
	Mixed Ethnic Group	237	11.7
	Other Answers	60	3.0
Age	16 to 19	37	1.8
	20 to 24	115	5.7
	25 to 34	399	19.8
	35 to 44	529	26.2
	45 to 54	544	26.9
	55 to 64	361	17.9
	65 or more	35	1.7
Disability	Yes	437	21.6
	No	1,583	78.4
Education	Degree, higher degree, postgraduate qual.	459	22.7
	Other higher education qualifications, A-levels, vocational level 3 or equivalent	227	11.2
	Other qualifications below a-level	402	19.9
	None of these	409	20.3
		523	25.9
Married	Non Married	1,029	50.9
	Married	991	49.1
Nationality	UK, British	1,848	91.5
	Other	172	8.5
Religion	No religion (including humanist, atheism)	1,064	52.7
	Christian (church of England, catholic, Sikh	811	40.2
		105	5.2
	Other answers	40	2.0
Union	Non-union	1,505	74.5
	Union	515	25.5
SOC	Manager and senior officials	439	21.7
	Professional occupations	128	6.3
	Associate professional and technical op	249	12.3
	Administrative and secretarial occupation	230	11.4
	Skilled trade occupations	244	12.1
	Personal service occupations	136	6.7
	Sales and customer service occupations	128	6.3
	Process, plant and machine operatives	227	11.2
	Elementary occupations	225	11.1

**Descriptive statistics Employers**

Variable	Coding	Freq	Percent
Firm type	Public	269	13.4
	Private	1,525	76.0
	Other	213	10.6
Enterprise size	Less than 25	653	32.5
	25-49	225	11.2
	50-249	420	20.9
	250+	665	33.1
	Missing information	44	2.2
Previous ET cases	No	1,194	59.5
	Yes	813	40.5
Multi sited	Single	989	49.3
	Multi	1,018	50.7
SIC	Manufacturing	266	13.3
	Construction	146	7.3
	Whole/retail	250	12.5
	Hotels/restaurants	125	6.2
	Transport/communication/utility	121	6.0
	Finance	165	8.2
	Other services and public admin	835	41.6
	Missing information	99	4.9
Grievance Procedure	Yes	1,751	87.2
	No	173	8.6
	Missing information	83	4.1
Written terms of empl.	Yes	1,696	84.5
	No	197	9.8
	Missing information	114	5.7

For claimants, columns (1)–(8) of Table B0a report OLS estimates of the determinants of claimant representation, with the number of explanatory factors progressively increasing as we move across the table from left to right. Column (1) includes just the female dummy variable, which can be seen is statistically significant. Column (2) next includes controls for ethnicity and in turn controls for claimant age are added (column (3)) which, as in the earlier bivariate examination, reveals a non-linear relationship, with higher levels of representation typically being evident for mid-age claimants compared with the reference group of 16-19.

Column (4) next augments the specification with a dummy for disability. This is strongly significant and positive, indicating that representation levels are typically

higher for individuals with disabilities. Adding in education (column (5)) reveals only a weakly negative effect on representation among those with no formal qualifications and no role for pay (quintiles), which is perhaps surprising given that this might be indicative of ability to pay. Column (6) adds in other personal characteristics such as marital status, nationality and religion, none of which is especially strong in its effect, with occupation and union membership status added in column (7). While the dummy for managerial occupations is weakly significant, a more pronounced effect is evident for union membership. As this shows, union members typically have lower 'levels' of representation, presumably reflecting that nominated representation and day-to-day help are provided by a union official and so classified as professional rather than legal.

Including these additional controls has only a very limited effect on the gender and disability variables which remain significant throughout. However, the addition of controls for the number, tracks and type of jurisdictions in column (8) does reduce their size and significance, albeit both remain weakly significant. Age in contrast, together with union membership status, is largely unaffected. Among the jurisdictional controls, themselves, only disability proves significant, its sign revealing lower levels of representation where this is among the jurisdictions in a case. It is perhaps worth noting too that the overall explanatory power of even the most fully parameterised model is low (R-squared of 0.072), with relatively few significant variables across the range of controls. This is mirrored in the stereotype logistic regression where very few of the characteristics are significant with the exceptions of age and marital status (both weakly negative) and union status (strongly negative). Here however, unfair dismissal and disability discrimination are both weakly and negatively related to representation, while short track cases and the two jurisdictions are positively and negatively related to representation respectively.

For employers (B0b), we begin by including a control for sector, with organisations from the private sector, as in the bivariate analysis, having significantly lower levels of representation. However, augmenting this with firm size dummy variables in column (2) sweeps this effect out, the key factor appearing to be not sector, but size: organisations employing 50 or more employees (and a fortiori /even more strongly? 250 or more) having significantly higher levels of representation. This effect is robust to the inclusion of previous ET experience (column (3), itself weakly negatively related to representation). The inclusion of a multi-site dummy in column (4) is not significant and has little impact on the existing covariates, as is also true in columns (5) and (6) which respectively add sector and the jurisdictional controls to the model. As can be seen in, only hotels and restaurants are significant in column (5) (and then only weakly). In relation to column (6) short track cases appear to be associated with lower levels of representation, while the converse is true for cases involving a claim of discrimination (in both cases reflecting the bivariate discussion and their greater simplicity and severity respectively). Finally the stereotype logistic largely confirms the above, although the private sector dummy is weakly significant and there are a few changes in terms of industry, while the Wages Act dummy also appears significant.

Multivariate models

Table B0a: Regression estimates of representation index (claimants)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Female	0.304*	0.293*	0.324*	0.322*	0.310*	0.436**	0.456**	0.463**	0.265+	0.323**
	(2.31)	(2.22)	(2.46)	(2.46)	(2.37)	(3.28)	(3.12)	(3.16)	(1.80)	(2.61)
Ethnicity: Non-white ( <i>ref white</i> )		-0.458*	-0.434*	-0.418*	-0.506*	-0.417*	-0.399*	-0.384+	-0.432*	-0.338+
		(-2.29)	(-2.15)	(-2.08)	(-2.50)	(-2.07)	(-1.99)	(-1.91)	(-2.17)	(-1.91)
Ethnicity: Other/unknow		-0.076	-0.059	-0.036	-0.153	-0.079	-0.050	0.010	0.010	0.117
		(-0.19)	(-0.15)	(-0.09)	(-0.39)	(-0.20)	(-0.13)	(0.03)	(0.03)	(0.37)
Age: 20 to 24 ( <i>ref age 16 to 19</i> )			-0.319	-0.345	-0.440	-0.470	-0.491	-0.486	-0.618	-0.528
			(-0.54)	(-0.59)	(-0.75)	(-0.81)	(-0.86)	(-0.85)	(-1.10)	(-1.11)
Age 25 to 34			0.088	0.072	-0.083	-0.288	-0.496	-0.485	-0.561	-0.459
			(0.16)	(0.13)	(-0.15)	(-0.53)	(-0.93)	(-0.91)	(-1.07)	(-1.05)
Age 35 to 44			0.694	0.637	0.509	0.207	-0.218	-0.234	-0.336	-0.287
			(1.30)	(1.19)	(0.95)	(0.39)	(-0.41)	(-0.44)	(-0.64)	(-0.66)
Age 45 to 54			0.671	0.606	0.499	0.126	-0.362	-0.432	-0.499	-0.530
			(1.26)	(1.14)	(0.93)	(0.24)	(-0.67)	(-0.80)	(-0.94)	(-1.19)
Age 55 to 64			0.459	0.345	0.290	0.019	-0.518	-0.628	-0.654	-0.496
			(0.85)	(0.64)	(0.53)	(0.04)	(-0.95)	(-1.14)	(-1.21)	(-1.10)
Age 65+			0.728	0.696	0.682	0.553	-0.114	-0.271	-0.497	-0.661
			(1.03)	(0.99)	(0.96)	(0.78)	(-0.16)	(-0.38)	(-0.72)	(-1.16)
Disabled				0.612***	0.601***	0.596***	0.477**	0.445**	0.218	0.282*
				(3.85)	(3.79)	(3.77)	(3.04)	(2.81)	(1.36)	(2.23)
Education: Higher ( <i>ref degree</i> )					-0.390+	-0.176	-0.084	-0.064	-0.091	0.058
					(-1.66)	(-0.74)	(-0.35)	(-0.27)	(-0.39)	(0.31)
Education: A-level					-0.554**	-0.252	-0.159	-0.173	-0.141	0.017
					(-2.82)	(-1.25)	(-0.77)	(-0.83)	(-0.69)	(0.10)
Education: Below A-level					-0.498*	-0.122	-0.061	-0.083	-0.111	0.041
					(-2.51)	(-0.59)	(-0.28)	(-0.39)	(-0.52)	(0.24)
Education: None					-0.622***	-0.159	-0.058	-0.080	-0.059	0.188
					(-3.31)	(-0.79)	(-0.27)	(-0.38)	(-0.28)	(1.11)

Pay quintile: 2 ( <i>ref quintile 1</i> )	0.247 (1.20)	0.207 (1.01)	0.187 (0.90)	0.140 (0.69)	0.227 (1.32)
Pay quintile: 3	0.312 (1.49)	0.148 (0.70)	0.102 (0.48)	-0.032 (-0.15)	0.036 (0.21)
Pay quintile: 4	0.587** (2.74)	0.389+ (1.75)	0.322 (1.44)	0.183 (0.83)	0.001 (0.01)
Pay quintile: 5	1.245*** (5.51)	0.871*** (3.58)	0.722** (2.88)	0.561* (2.28)	0.313 (1.51)
Married		0.416** (3.02)	0.390** (2.83)	0.353** (2.61)	0.292* (2.56)
Union Member		0.999*** (6.58)	0.836*** (5.03)	0.858*** (5.24)	1.187*** (8.47)
SOC: professional occupations ( <i>ref manage</i> )		-0.460 (-1.62)	-0.431 (-1.52)	-0.351 (-1.26)	-0.412+ (-1.77)
SOC: associate professional		-0.419+ (-1.83)	-0.421+ (-1.84)	-0.367 (-1.63)	-0.354+ (-1.89)
SOC: administrative and secretarial		-0.412+ (-1.71)	-0.408+ (-1.68)	-0.439+ (-1.85)	-0.245 (-1.25)
SOC: skilled trade		-0.498* (-2.00)	-0.483+ (-1.94)	-0.353 (-1.44)	-0.034 (-0.17)
SOC: personal service		-0.649* (-2.13)	-0.612* (-2.00)	-0.596* (-1.99)	-0.338 (-1.35)
SOC: sales and customer		-0.629* (-2.10)	-0.626* (-2.08)	-0.600* (-2.03)	-0.514* (-2.00)
SOC: process, plant and machine		-0.539* (-2.09)	-0.563* (-2.18)	-0.506* (-2.00)	-0.336 (-1.58)
SOC: elementary		-0.292 (-1.10)	-0.307 (-1.15)	-0.321 (-1.23)	-0.186 (-0.87)



Establishment size: 25 to 49 ( <i>ref less than 25</i> )									-0.085	-0.163	-0.871
									(-0.41)	(-0.81)	(-1.28)
Establishment size: 50-249 ( <i>ref less than 25</i> )									0.341*	0.241	-0.036
									(1.98)	(1.41)	(-0.21)
Establishment size: 250+ ( <i>ref less than 25</i> )									0.111	-0.089	0.160
									(0.53)	(-0.43)	(1.14)
Establishment size: Unknown ( <i>ref less than 25</i> )									0.007	0.018	0.048
									(0.03)	(0.07)	(0.29)
Firm type: Private ( <i>ref public</i> )									-0.015	0.038	0.073
									(-0.09)	(0.23)	(0.34)
Firm type: Other ( <i>ref public</i> )									0.076	0.063	-0.129
									(0.31)	(0.26)	(-0.95)
Tenure at firm in months									0.002*	0.002+	-0.183
									(2.39)	(1.88)	(-0.93)
No. Jurisdictions: Two ( <i>ref one</i> )										0.434**	0.001+
										(2.84)	(1.85)
No. Jurisdictions: Three or more ( <i>ref one</i> )										0.443**	0.488***
										(2.59)	(3.74)
all cases involving any discrimination ( <i>ref: standard</i> )										0.297+	0.347*
										(1.66)	(2.38)
all short conciliation period ( <i>ref: standard</i> )										-0.894***	0.078
										(-5.95)	(0.55)
Constant	2.969**	3.030***	2.559***	3.101***	3.633***	3.069***	3.366***	3.272***	3.368***	-0.785***	
	(35.84)	(34.55)	(4.90)	(5.75)	(6.44)	(5.33)	(5.65)	(5.33)	(5.50)	(-4.99)	
N	1706	1706	1706	1706	1706	1706	1706	1706	1706	1706	1706
R-sq	0.003	0.006	0.019	0.028	0.035	0.055	0.064	0.091	0.135	n/a	

t statistics in parentheses, + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001; A Brant test suggests the parallel regression assumption has been violated - we therefore estimate (10) as a stereotype logit regression.

Table B0b: Regression estimates of representation index (employers)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Firm type: Private ( <i>ref public</i> )	0.771*	-0.290	-0.299	-0.297	-0.243	-0.047	-0.470
	(-3.11)	(-1.11)	(-1.14)	(-1.13)	(-0.85)	(-0.17)	(-1.58)
Firm type: Other ( <i>ref public</i> )	-0.130	0.331	0.317	0.319	0.295	0.166	-0.183
	(-0.37)	(0.93)	(0.89)	(0.89)	(0.82)	(0.47)	(-0.50)
Establishment size: 25 to 49 ( <i>ref less than 25</i> )		0.450	0.484+	0.489	0.433	0.381	0.193
		(1.54)	(1.65)	(1.64)	(1.44)	(1.30)	(0.71)
Establishment size: 50-249 ( <i>ref less than 25</i> )		1.109***	1.202***	1.211***	1.126***	0.814**	0.572*
		(4.83)	(5.13)	(4.78)	(4.37)	(3.04)	(2.18)
Establishment size: 250+ ( <i>ref less than 25</i> )		1.225***	1.430***	1.444***	1.379***	1.175***	0.973**
		(5.77)	(6.02)	(5.03)	(4.75)	(3.65)	(2.96)
Establishment size: Unknown ( <i>ref less than 25</i> )		-0.547	-0.458	-0.450	-0.510	-0.249	-0.261
		(-0.88)	(-0.73)	(-0.71)	(-0.81)	(-0.40)	(-0.44)
Previous ET experience			-0.363+	-0.361+	-0.373*	-0.344+	-0.346+
			(-1.92)	(-1.91)	(-1.97)	(-1.87)	(-1.94)
Multi sited				-0.019	0.009	-0.041	-0.006
				(-0.09)	(0.04)	(-0.20)	(-0.03)
SIC: Construction ( <i>ref manufacturing</i> )					-0.244	-0.126	0.257
					(-0.63)	(-0.34)	(0.72)
SIC: Whole/Retail ( <i>ref manufacturing</i> )					-0.248	-0.222	0.066
					(-0.76)	(-0.70)	(0.22)
SIC: Hotel/Restaurant ( <i>ref manufacturing</i> )					-0.768+	-0.643+	-0.575
					(-1.94)	(-1.68)	(-1.61)
SIC: Transport/Comunication ( <i>ref manufacturing</i> )					-0.047	0.177	0.614
					(-0.12)	(0.45)	(1.62)
SIC: Finance ( <i>ref manufacturing</i> )					-0.075	0.229	0.572
					(-0.20)	(0.63)	(1.63)
SIC: Oth.Ser/Public Adm. ( <i>ref manufacturing</i> )					-0.063	0.075	0.360
					(-0.23)	(0.28)	(1.41)
SIC: Unknown ( <i>ref manufacturing</i> )					-0.183	-0.063	0.607
					(-0.42)	(-0.15)	(1.45)

Employer has internal HRM dep						0.190	0.335
						(0.88)	(1.60)
Employer has internal legal department						-0.791***	-0.436+
						(-3.52)	(-1.79)
No. Jurisdictions: Two ( <i>ref one</i> )						-0.013	-0.096
						(-0.07)	(-0.51)
No. Jurisdictions: Three or more ( <i>ref one</i> )						-0.421+	-0.359+
						(-1.95)	(-1.74)
all cases involving any discrimination ( <i>ref: standard</i> )						0.696***	0.707***
						(3.41)	(3.42)
all short conciliation period ( <i>ref: standard</i> )						-1.725***	-1.689***
						(-7.93)	(-7.63)
Constant	5.090**	4.007***	4.083***	4.083***	4.224***	4.387***	
	(22.19)	(13.74)	(13.89)	(13.89)	(10.42)	(10.81)	
N	1264	1265	1266	1267	1268	1269	1270
R-sq	0.0104	0.0448	0.0476	0.0476	0.0513	0.1247	

t statistics in parentheses, + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001; A Brant test suggests the parallel regression assumption has been violated - we therefore estimate (7) as a stereotype logit regression.

## TECHNICAL NOTE

As suggested elsewhere, our index summarises ‘levels’ of representation across two key stages of the ET process – that is, (i) the nature of any representation formally proposed on the ET1/ET3 form and (ii) the form of day-to-day help and support (as distinct from advice and guidance) that the claimant/employer reports receiving, according to the 2008 SETA. Implicit in the construction of this index is a ranking/hierarchy in terms of the *source* of representation and advice that claimants and employers receive, with legal professionals ranked highest; followed by professionals, then non-professional representatives/others and finally no representation. This hierarchy reflects the extent to which representatives have differing levels of formal/informal and legal qualifications and does not necessarily reflect a differing quality of service. The index also assumes a hierarchy in terms of *consistency* across the ET process. Thus, if somebody nominated a lawyer and subsequently reported getting day-to-day advice from a lawyer, the assumption is that they are receiving consistent and continuous advice<sup>21</sup>.

As we move to a more detailed discussion of the potential correlations between types of representation and case outcomes, there are a number of issues that arise and it is worth flagging two of them here. First, the hierarchical structure underpinning the ordering in our overall index of representation becomes less clear as we move from ‘legal-legal’ to other interactions and categorisations, and this is especially true in the middle of our index. However as already suggested representation appears to be bi-modal, with claimants/employers having either very high levels of representation or very low levels of representation<sup>22</sup> – making any questions over the exact hierarchy in the middle of our index, less important.

A related issue is the fact that day-to-day support/help is of greater value to parties than simple nomination on the ET1/ET3 form. Our index does take account of this with, for example, a legal-non-professional combination (where the non-professional is nominated at the ET1/ET3 stage and day-to-day support is provided by the lawyer) ranking more highly than the converse. However, one could argue that the index should be further skewed towards the fact that day-to-day help ‘trumps’ the ET1/ET3 form. In the first instance, the fact that we have a bi-modal distribution argues against this being a particularly important issue. Also in the following analysis we pursue alternative (simplified) specifications of the index – partly as a result of these concerns, but also because we are forced to reduce the ‘fineness’ of our categorisations due to considerations of sample size.

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<sup>21</sup> Claimants and respondents could switch specific providers (e.g. lawyers) from the point of ET1/ET3 nomination, but there is no way from the data to differentiate such cases.

<sup>22</sup> It is worth noting that we cannot rule out the possibility of a link between the large amount of missing information on representation and the lack of detail in the middle of our index. However, as we see later, the behaviour of the ‘missing’ group seems to resemble more closely the categories of those with the lowest levels of representation.

**Table B1: Multivariate analysis of (i) Hearing/No Hearing (ii) case duration & (iii) satisfaction with ET process (claimants)**

First column is binomial probit with 'Case goes to Hearing'=1 and 'otherwise'=0; duration and satisfaction are OLS

	Claimants		
	Hearing	Duration (months)	Satisfaction (overall)
<i>Representation Reference: Legal/Legal</i>			
Representation: Legal and Prof	-0.732* (-2.17)	-0.133 (-1.29)	0.157 (1.46)
Representation: Combination of Legal/Prof and Other	-0.264 (-1.09)	-0.102 (-1.25)	0.067 (0.78)
Representation: Other/Other	0.314 (1.28)	-0.158+ (-1.72)	0.166+ (1.74)
Representation: None	0.261 (1.31)	-0.275*** (-3.85)	0.140+ (1.86)
Representation: Missing	-0.277 (-1.17)	-0.140+ (-1.72)	0.122 (1.41)
Female	-0.169 (-1.22)	0.027 (0.54)	0.031 (0.60)
Ethnicity: Non-white ( <i>ref white</i> )	0.093 (0.51)	0.053 (0.78)	-0.066 (-0.94)
Ethnicity: Other/unknow	0.252 (0.76)	0.209+ (1.68)	-0.104 (-0.79)

Age: 20 to 24 ( <i>ref age 16 to 19</i> )	-0.070 (-0.15)	0.209 (1.17)	0.106 (0.59)
Age 25 to 34	-0.083 (-0.19)	0.090 (0.54)	0.092 (0.55)
Age 35 to 44	0.163 (0.38)	0.237 (1.44)	0.016 (0.10)
Age 45 to 54	0.244 (0.56)	0.257 (1.55)	-0.060 (-0.36)
Age 55 to 64	0.097 (0.22)	0.225 (1.32)	-0.049 (-0.28)
Age 65+	-0.259 (-0.41)	0.194 (0.86)	-0.036 (-0.15)
Disabled	0.041 (0.27)	-0.036 (-0.66)	-0.105+ (-1.88)
Education: Higher ( <i>ref degree</i> )	0.154 (0.71)	0.037 (0.47)	0.071 (0.87)
Education: A-level	-0.073 (-0.37)	0.023 (0.33)	0.019 (0.26)
Education: Below A-level	0.203 (1.03)	0.106 (1.48)	0.101 (1.36)
Education: None	0.184 (0.95)	0.069 (0.97)	0.103 (1.41)

Pay quintile: 2 ( <i>ref quintile 1</i> )	0.085 (0.49)	0.031 (0.46)	-0.082 (-1.17)
Pay quintile: 3	0.113 (0.61)	0.109 (1.54)	-0.038 (-0.51)
Pay quintile: 4	-0.265 (-1.33)	0.032 (0.44)	0.032 (0.42)
Pay quintile: 5	-0.524* (-2.26)	0.083 (1.00)	0.060 (0.70)
Married	-0.070 (-0.56)	0.008 (0.18)	0.092+ (1.93)
Union Member	-0.367* (-2.21)	0.132* (2.31)	-0.058 (-0.98)
SOC: professional occupations ( <i>ref manager</i> )	0.279 (1.06)	0.118 (1.23)	-0.120 (-1.21)
SOC: associate professional	0.131 (0.62)	0.005 (0.06)	-0.116 (-1.46)
SOC: administrative and secretarial	0.088 (0.38)	0.064 (0.79)	0.157+ (1.85)
SOC: skilled trade	0.088 (0.40)	-0.041 (-0.49)	0.067 (0.78)
SOC: personal service	-0.238 (-0.85)	0.019 (0.19)	0.076 (0.72)
SOC: sales and customer	0.016 (0.06)	0.033 (0.32)	0.123 (1.18)
SOC: process, plant and machine	-0.030 (-0.13)	-0.142+ (-1.65)	-0.008 (-0.09)
SOC: elementary	-0.125 (-0.53)	-0.161+ (-1.82)	0.117 (1.28)

Establishment size: 25 to 49 ( <i>ref less than 25</i> )	-0.314+ (-1.70)	-0.031 (-0.45)	0.064 (0.92)
Establishment size: 50-249 ( <i>ref less than 25</i> )	-0.168 (-1.08)	0.063 (1.10)	-0.057 (-0.95)
Establishment size: 250+ ( <i>ref less than 25</i> )	-0.529* (-2.48)	0.022 (0.31)	-0.012 (-0.17)
Establishment size: Unknown ( <i>ref less than 25</i> )	-0.572* (-2.24)	-0.020 (-0.23)	0.062 (0.68)
Firm type: Private ( <i>ref public</i> )	-0.204 (-1.27)	-0.112+ (-1.92)	0.036 (0.59)
Firm type: Other ( <i>ref public</i> )	-0.247 (-1.08)	-0.102 (-1.25)	0.006 (0.07)
Tenure at firm in months	0.002* (2.31)	0.000 (1.04)	-0.000 (-1.20)
No. Jurisdictions: Two ( <i>ref one</i> )	0.087 (0.62)	-0.040 (-0.78)	0.108* (2.02)
No. Jurisdictions: Three or more ( <i>ref one</i> )	0.241 (1.55)	0.033 (0.56)	0.070 (1.15)
all cases involving any discrimination ( <i>ref: standard</i> )	-0.413* (-2.29)	0.366*** (6.01)	0.026 (0.41)
all short conciliation period ( <i>ref: standard</i> )	0.617*** (4.70)	-0.552*** (-10.63)	0.263*** (4.90)
Constant	-1.192* (-2.16)	4.456*** (21.66)	2.640*** (12.53)
N	2020	2020	1911
R-sq		0.200	0.051



**Table B2: Multinomial logit model for case outcomes (claimants)**

	unsuccessful at	at hearing	ACAS settled	private settle	withdrawn	dismissed
<i>Representation Reference: Legal/Legal</i>						
Representation: Legal and Prof	-0.392 (-0.76)	-1.288** (-2.78)	<i>reference</i>	-0.581+ (-1.92)	0.043 (0.13)	-0.683 (-0.91)
Representation: Combination of Legal/Prof and Other	-0.280 (-0.71)	-0.466 (-1.46)	<i>reference</i>	-0.703** (-2.83)	0.274 (1.05)	0.364 (0.71)
Representation: Other/Other	0.302 (0.76)	-0.233 (-0.73)	<i>reference</i>	-1.175*** (-3.82)	-0.456 (-1.39)	0.529 (1.00)
Representation: None	0.377 (1.16)	-0.156 (-0.59)	<i>reference</i>	-1.087*** (-4.94)	-0.016 (-0.07)	1.091* (2.39)
Representation: Missing	-0.910* (-2.10)	-0.411 (-1.36)	<i>reference</i>	-0.559* (-2.34)	-0.433 (-1.53)	0.532 (1.07)
Female	-0.510* (-2.19)	-0.201 (-1.13)	<i>reference</i>	-0.374* (-2.26)	-0.359* (-2.14)	0.027 (0.12)
Ethnicity: Non-white ( <i>ref white</i> )	0.315 (1.08)	0.122 (0.50)	<i>reference</i>	0.160 (0.70)	0.141 (0.63)	0.676* (2.40)
Ethnicity: Other/unknow	-0.338 (-0.44)	0.624 (1.53)	<i>reference</i>	0.086 (0.20)	0.185 (0.44)	0.774 (1.53)
Age: 20 to 24 ( <i>ref age 16 to 19</i> )	0.398 (0.35)	-0.087 (-0.17)	<i>reference</i>	0.521 (0.73)	0.555 (0.68)	0.050 (0.07)
Age 25 to 34	0.561 (0.52)	-0.220 (-0.46)	<i>reference</i>	0.236 (0.35)	0.535 (0.69)	-0.214 (-0.31)
Age 35 to 44	0.869 (0.81)	0.062 (0.13)	<i>reference</i>	0.534 (0.80)	0.562 (0.72)	-0.177 (-0.25)
Age 45 to 54	1.088 (1.01)	0.244 (0.50)	<i>reference</i>	1.080 (1.61)	0.713 (0.91)	0.042 (0.06)
Age 55 to 64	0.588 (0.53)	0.219 (0.44)	<i>reference</i>	0.798 (1.16)	0.656 (0.83)	0.322 (0.44)
Age 65+	-0.405 (-0.27)	0.062 (0.09)	<i>reference</i>	1.222 (1.53)	-0.589 (-0.54)	0.255 (0.27)
Disabled	0.158 (0.67)	-0.207 (-1.01)	<i>reference</i>	-0.375* (-2.05)	0.096 (0.57)	-0.321 (-1.23)
Education: Higher ( <i>ref degree</i> )	0.153 (0.47)	-0.047 (-0.16)	<i>reference</i>	-0.243 (-0.94)	-0.496+ (-1.90)	0.388 (1.01)
Education: A-level	-0.670+ (-1.88)	0.220 (0.88)	<i>reference</i>	0.208 (0.93)	-0.425+ (-1.86)	0.422 (1.21)
Education: Below A-level	0.083 (0.26)	0.363 (1.40)	<i>reference</i>	0.209 (0.89)	-0.470* (-1.96)	0.888* (2.58)
Education: None	0.047 (0.15)	0.292 (1.15)	<i>reference</i>	0.009 (0.04)	-0.445+ (-1.91)	0.767* (2.24)
Pay quintile: 2 ( <i>ref quintile 1</i> )	0.341 (1.01)	-0.162 (-0.77)	<i>reference</i>	-0.323 (-1.31)	-0.564* (-2.34)	0.262 (0.84)
Pay quintile: 3	0.316 (0.90)	0.172 (0.74)	<i>reference</i>	0.089 (0.36)	-0.000 (-0.00)	0.410 (1.28)
Pay quintile: 4	0.229 (0.64)	-0.307 (-1.20)	<i>reference</i>	0.314 (1.27)	0.057 (0.23)	0.092 (0.26)
Pay quintile: 5	-0.302	-0.555+	<i>reference</i>	0.275	-0.334	0.291

Married	(-0.74) -0.377+	(-1.87) 0.052	reference	(1.01) -0.144	(-1.21) 0.129	(0.74) -0.441*
Union Member	(-1.81) -0.221	(0.32) -0.234	reference	(-0.94) 0.353+	(0.84) 0.373*	(-2.03) 0.304
SOC: professional occupations ( <i>ref manager</i> )	(-0.86) 0.683	(-1.02) 0.204	reference	(1.92) 0.140	(2.09) 0.162	(1.19) 0.179
SOC: associate professional	(1.64) 0.728*	(0.58) 0.050	reference	(0.46) 0.490*	(0.51) 0.233	(0.38) 0.216
SOC: administrative and secretarial	(2.13) 0.323	(0.17) 0.096	reference	(2.07) 0.216	(0.89) 0.282	(0.59) -0.114
SOC: skilled trade	(0.84) 0.457	(0.33) -0.037	reference	(0.82) -0.288	(1.03) 0.422	(-0.29) 0.033
SOC: personal service	(1.20) -0.184	(-0.14) -0.005	reference	(-0.99) 0.361	(1.48) 0.631+	(0.08) 0.460
SOC: sales and customer	(-0.30) 0.623	(-0.02) -0.030	reference	(1.09) 0.491	(1.87) 0.295	(1.06) 0.417
SOC: process, plant and machine	(1.35) 0.417	(-0.09) -0.264	reference	(1.47) -0.453	(0.80) 0.458	(0.96) 0.081
SOC: elementary	(1.10) -0.420	(-0.89) -0.130	reference	(-1.47) -0.226	(1.61) 0.337	(0.21) -0.365
Establishment size: 25 to 49 ( <i>ref less than 25</i> )	(-0.90) 0.114	(-0.45) -0.379	reference	(-0.73) 0.110	(1.12) 0.276	(-0.85) 0.090
Establishment size: 50-249 ( <i>ref less than 25</i> )	(0.36) 0.403	(-1.62) -0.537*	reference	(0.49) -0.103	(1.23) 0.120	(0.29) 0.105
Establishment size: 250+ ( <i>ref less than 25</i> )	(1.63) -0.056	(-2.53) -0.415	reference	(-0.54) 0.349	(0.62) 0.500*	(0.39) 0.267
Establishment size: Unknown ( <i>ref less than 25</i> )	(-0.17) -0.141	(-1.40) -0.659*	reference	(1.53) 0.203	(2.23) 0.119	(0.83) 0.060
Firm type: Private ( <i>ref public</i> )	(-0.32) -0.495*	(-2.01) -0.080	reference	(0.72) 0.118	(0.40) -0.196	(0.16) -0.616*
Firm type: Other ( <i>ref public</i> )	(-2.00) -0.741+	(-0.36) -0.055	reference	(0.60) 0.014	(-1.04) -0.189	(-2.48) -0.619+
Tenure at firm in months	(-1.89) 0.004***	(-0.18) 0.002+	reference	(0.05) 0.001	(-0.71) 0.003***	(-1.73) 0.001
No. Jurisdictions: Two ( <i>ref one</i> )	(3.71) -0.228	(1.70) 0.109	reference	(1.36) 0.154	(3.85) -0.054	(0.54) -1.076***
No. Jurisdictions: Three or more ( <i>ref one</i> )	(-0.95) -0.356	(0.61) 0.480*	reference	(0.91) 0.070	(-0.31) -0.064	(-3.77) -0.742*
all cases involving any discrimination ( <i>ref: standard</i> )	(-1.26) 0.166	(2.50) -1.230***	reference	(0.35) -0.323	(-0.32) -0.259	(-2.51) 0.017
all short conciliation period ( <i>ref: standard</i> )	(0.62) -0.358	(-4.45) 1.062***	reference	(-1.60) 0.512**	(-1.32) -0.045	(0.06) -0.282
Constant	(-1.37) -2.297+	(6.44) -1.049	reference	(2.91) -1.614*	(-0.24) -1.395	(-1.13) -2.777**
	(-1.89)	(-1.59)	reference	(-2.08)	(-1.60)	(-2.88)
N				2020		
McFadden's R-sq				0.092		

t statistics in parentheses, + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001

**Table B3: Multivariate analysis of (i) Hearing/No Hearing (ii) case duration & (iii) satisfaction with ET process (employers)**

First column is binomial probit with 'Case goes to hearing'=1 and 'otherwise'=0; duration and satisfaction are OLS

	Employers		
	Hearing	Duration (months)	Satisfaction (overall)
<i>Representation Reference: Legal/Legal</i>			
Representation: Legal and Prof	0.224 (0.73)	-0.019 (-0.21)	0.095 (0.81)
Representation: Combination of Legal/Prof and Other	-0.281 (-1.21)	-0.110+ (-1.78)	-0.069 (-0.86)
Representation: Other/Other	0.216 (0.95)	-0.150* (-2.24)	0.232** (2.67)
Representation: None	0.124 (0.61)	-0.312*** (-5.27)	0.043 (0.56)
Representation: Missing	-0.119 (-0.70)	-0.235*** (-5.00)	0.013 (0.18)
Firm type: Private ( <i>ref public</i> )	-0.049 (-0.24)	-0.275*** (-4.77)	-0.243** (-2.94)
Firm type: Other ( <i>ref public</i> )	-0.405 (-1.49)	-0.225** (-3.07)	-0.174+ (-1.67)
Establishment size: 25 to 49 ( <i>ref less than 25</i> )	-0.367 (-1.62)	-0.014 (-0.23)	-0.035 (-0.40)
Establishment size: 50-249 ( <i>ref less than 25</i> )	-0.042 (-0.21)	0.154** (2.70)	0.081 (1.02)
Establishment size: 250+ ( <i>ref less than 25</i> )	-0.141 (-0.59)	0.129+ (1.89)	0.214* (2.23)
Establishment size: Unknown ( <i>ref less than 25</i> )	-0.273 (-0.62)	0.165 (1.34)	0.154 (0.84)
Previous ET experience	0.171 (1.24)	0.012 (0.30)	0.030 (0.54)
Multi sited	-0.181 (-1.14)	-0.053 (-1.20)	0.036 (0.57)

SIC: Construction ( <i>ref manufacturing</i> )	0.064 (0.23)	0.033 (0.42)	-0.087 (-0.78)
SIC: Whole/Retail ( <i>ref manufacturing</i> )	-0.151 (-0.60)	-0.096 (-1.42)	0.020 (0.21)
SIC: Hotel/Restaurant ( <i>ref manufacturing</i> )	0.059 (0.20)	-0.001 (-0.01)	0.085 (0.74)
SIC: Transport/Comunication ( <i>ref manufacturing</i> )	-0.161 (-0.51)	-0.007 (-0.08)	-0.011 (-0.10)
SIC: Finance ( <i>ref manufacturing</i> )	-0.145 (-0.50)	0.056 (0.74)	0.078 (0.71)
SIC: Oth.Ser/Public Adm. ( <i>ref manufacturing</i> )	0.222 (1.10)	0.065 (1.15)	-0.034 (-0.43)
SIC: Unknown ( <i>ref manufacturing</i> )	0.456 (1.52)	0.147 (1.63)	-0.104 (-0.83)
Employer has internal HRM dep	0.018 (0.11)	-0.023 (-0.52)	0.160* (2.53)
Employer has internal legal department	0.059 (0.34)	0.089+ (1.80)	0.098 (1.43)
No. Jurisdictions: Two ( <i>ref one</i> )	-0.182 (-1.20)	-0.033 (-0.79)	-0.061 (-1.02)
No. Jurisdictions: Three or more ( <i>ref one</i> )	-0.005 (-0.03)	0.089+ (1.94)	-0.110+ (-1.69)
all cases involving any discrimination ( <i>ref: standard</i> )	-0.375* (-2.27)	0.189*** (4.37)	-0.056 (-0.92)
all short conciliation period ( <i>ref: standard</i> )	0.168 (1.05)	-0.581*** (-12.09)	0.130+ (1.92)
Constant	-1.395*** (-4.33)	4.948*** (54.24)	2.786*** (22.04)
N	2007	2007	1550
R-sq		0.183	0.069

t statistics in parentheses, + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001

**Table B4: Multinomial logit model for case outcomes (employers)**

	Claimant unsuccessful at hearing	Claimant successful at hearing	ACAS settled	private settle	withdrawn	dismissed
<i>Representation Reference: Legal/Legal</i>						
Representation: Legal and Prof	0.198 (0.53)	-0.063 (-0.11)	<i>reference</i>	-0.269 (-0.83)	-0.266 (-0.62)	0.001 (0.00)
Representation: Combination of Legal/Prof and Other	-0.552+ (-1.79)	0.243 (0.64)	<i>reference</i>	-0.064 (-0.30)	0.028 (0.11)	0.133 (0.44)
Representation: Other/Other	-0.339 (-1.08)	0.670+ (1.89)	<i>reference</i>	-0.552* (-2.20)	-0.282 (-0.92)	0.072 (0.22)
Representation: None	-0.554+ (-1.86)	0.863** (2.70)	<i>reference</i>	-0.183 (-0.88)	0.116 (0.45)	0.079 (0.25)
Representation: Missing	-0.635** (-2.78)	0.515+ (1.78)	<i>reference</i>	-0.260 (-1.57)	0.091 (0.46)	-0.056 (-0.23)
Firm type: Private ( <i>ref public</i> )	-0.276 (-0.99)	-0.204 (-0.64)	<i>reference</i>	-0.423* (-2.06)	-0.280 (-1.18)	-0.455 (-1.60)
Firm type: Other ( <i>ref public</i> )	-0.510 (-1.33)	-0.375 (-0.90)	<i>reference</i>	-0.095 (-0.36)	0.190 (0.66)	0.054 (0.15)
Establishment size: 25 to 49 ( <i>ref less than 25</i> )	0.095 (0.30)	-0.523 (-1.60)	<i>reference</i>	0.145 (0.67)	0.191 (0.71)	0.554+ (1.79)
Establishment size: 50-249 ( <i>ref less than 25</i> )	0.290 (1.01)	-0.096 (-0.34)	<i>reference</i>	0.267 (1.32)	0.041 (0.16)	0.229 (0.75)
Establishment size: 250+ ( <i>ref less than 25</i> )	0.020 (0.06)	-0.236 (-0.68)	<i>reference</i>	0.113 (0.47)	-0.173 (-0.59)	-0.093 (-0.26)
Establishment size: Unknown ( <i>ref less than 25</i> )	-0.627 (-0.80)	-0.099 (-0.18)	<i>reference</i>	-0.142 (-0.31)	-0.312 (-0.57)	0.544 (0.96)
Previous ET experience	0.230 (1.19)	0.128 (0.64)	<i>reference</i>	-0.044 (-0.31)	0.000 (0.00)	0.202 (1.02)
Multi sited	-0.008 (-0.04)	-0.324 (-1.40)	<i>reference</i>	-0.002 (-0.01)	0.029 (0.15)	0.161 (0.71)

SIC: Construction ( <i>ref manufacturing</i> )	-0.762 (-1.56)	0.436 (1.18)	<i>reference</i>	-0.101 (-0.36)	-0.441 (-1.10)	-0.158 (-0.36)
SIC: Whole/Retail ( <i>ref manufacturing</i> )	-0.210 (-0.61)	-0.126 (-0.34)	<i>reference</i>	0.052 (0.22)	-0.313 (-0.99)	0.000 (0.00)
SIC: Hotel/Restaurant ( <i>ref manufacturing</i> )	0.175 (0.42)	0.063 (0.15)	<i>reference</i>	0.092 (0.31)	-0.536 (-1.17)	0.506 (1.21)
SIC: Transport/Comunication ( <i>ref manufacturing</i> )	-0.160 (-0.35)	0.166 (0.37)	<i>reference</i>	-0.085 (-0.27)	0.490 (1.41)	0.922* (2.42)
SIC: Finance ( <i>ref manufacturing</i> )	-0.143 (-0.36)	-0.106 (-0.25)	<i>reference</i>	0.047 (0.18)	0.125 (0.39)	-0.079 (-0.19)
SIC: Oth.Ser/Public Adm. ( <i>ref manufacturing</i> )	0.269 (0.97)	0.417 (1.41)	<i>reference</i>	0.129 (0.64)	0.380 (1.55)	0.124 (0.41)
SIC: Unknown ( <i>ref manufacturing</i> )	0.521 (1.23)	0.709 (1.62)	<i>reference</i>	0.281 (0.87)	0.404 (1.05)	0.160 (0.32)
Employer has internal HRM dep	0.207 (0.89)	0.128 (0.56)	<i>reference</i>	0.219 (1.36)	0.699*** (3.51)	0.278 (1.19)
Employer has internal legal department	0.382 (1.61)	0.138 (0.50)	<i>reference</i>	0.361* (2.06)	0.267 (1.30)	0.572* (2.42)
No. Jurisdictions: Two ( <i>ref one</i> )	-0.288 (-1.36)	-0.017 (-0.07)	<i>reference</i>	0.205 (1.37)	-0.060 (-0.34)	-0.033 (-0.15)
No. Jurisdictions: Three or more ( <i>ref one</i> )	-0.475+ (-1.96)	0.283 (1.25)	<i>reference</i>	0.244 (1.52)	-0.732*** (-3.37)	-0.478+ (-1.93)
all cases involving any discrimination ( <i>ref: standard</i> )	-0.132 (-0.60)	-1.045*** (-3.89)	<i>reference</i>	-0.616*** (-3.90)	0.067 (0.37)	-0.200 (-0.92)
all short conciliation period ( <i>ref: standard</i> )	0.193 (0.81)	0.259 (1.18)	<i>reference</i>	0.293+ (1.75)	-0.002 (-0.01)	-0.552+ (-1.93)
Constant	-1.141** (-2.59)	-1.893*** (-3.76)	<i>reference</i>	-0.469 (-1.45)	-1.411*** (-3.61)	-1.729*** (-3.67)
N				2020		
McFadden's R-sq				0.041		

t statistics in parentheses, + p<0.10, \* p<0.05, \*\* p<0.01, \*\*\* p<0.001

**Table B5: Additional interactions between jurisdictional 'track' and representation (claimants)**

	Claimant unsuccessful at hearing			Claimant successful at hearing			ACAS settled			private settled			withdrawn/dismitted		
	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val
All cases involving any discrimination ( <i>ref: standard</i> )	0.027	0.030	0.363	-0.167	0.060	0.005	0.157	0.060	0.009	-0.026	0.035	0.453	0.009	0.052	0.858
All short conciliation period ( <i>ref: standard</i> )	-0.005	0.044	0.915	0.031	0.048	0.516	0.035	0.077	0.644	-0.064	0.048	0.185	0.003	0.066	0.969
Representation: Combination of Legal/Prof and Other ( <i>reg: legal/legal or legal/prof</i> )	0.001	0.032	0.986	-0.011	0.039	0.774	0.069	0.056	0.224	-0.098	0.037	0.008	0.040	0.047	0.398
Representation: Other/Other ( <i>reg: legal/legal or legal/prof</i> )	0.048	0.029	0.102	0.043	0.039	0.270	0.117	0.063	0.062	-0.179	0.049	0.000	-0.029	0.056	0.613
Representation: None / Missing ( <i>reg: legal/legal or legal/prof</i> )	0.025	0.024	0.285	0.007	0.029	0.799	0.074	0.044	0.092	-0.155	0.028	0.000	0.048	0.037	0.202
Discrimination * Combination of Legal/Prof and Other	-0.032	0.049	0.512	0.006	0.095	0.953	-0.110	0.091	0.230	0.016	0.060	0.786	0.120	0.072	0.099
Discrimination * Other/Other	-0.021	0.048	0.657	0.006	0.106	0.955	-0.099	0.110	0.367	0.109	0.080	0.172	0.006	0.099	0.955
Discrimination * None/Missing	0.001	0.035	0.987	0.063	0.071	0.378	-0.095	0.073	0.195	0.029	0.049	0.562	0.003	0.062	0.964
Short * Combination of Legal/Prof and Other	0.027	0.060	0.658	0.050	0.068	0.462	-0.110	0.112	0.329	0.050	0.077	0.516	-0.017	0.094	0.860
Short * Other/Other	-0.062	0.067	0.357	0.064	0.065	0.324	-0.050	0.117	0.670	0.037	0.096	0.697	0.010	0.104	0.923
Short * None/Missing	-0.031	0.048	0.514	0.097	0.051	0.061	-0.113	0.084	0.178	0.134	0.055	0.014	-0.087	0.072	0.230
Constant	-0.100	0.020	0.000	-0.083	0.025	0.001	0.167	0.039	0.000	0.045	0.022	0.039	-0.030	0.033	0.363

**Table B6: Additional interactions between jurisdictional 'track' and representation (employers)**

	Claimant unsuccessful at hearing			Claimant successful at hearing			ACAS settled			private settled			withdrawn			dismissed		
	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val	MFX	S.E.	P-Val
All cases involving any discrimination ( <i>ref: standard</i> )	-0.044	0.024	0.070	-0.029	0.036	0.422	0.136	0.049	0.005	-0.042	0.041	0.302	-0.008	0.033	0.811	-0.014	0.026	0.602
All short conciliation period ( <i>ref: standard</i> )	0.024	0.032	0.462	0.056	0.040	0.165	-0.059	0.088	0.501	0.073	0.061	0.228	-0.080	0.070	0.256	-0.014	0.046	0.769
Representation: Combination of Legal/Prof and Other ( <i>reg: legal/legal or legal/prof</i> )	-0.045	0.026	0.078	0.015	0.031	0.622	0.051	0.051	0.324	0.007	0.040	0.865	-0.052	0.038	0.171	0.024	0.024	0.310
Representation: Other/Other ( <i>reg: legal/legal or legal/prof</i> )	-0.061	0.032	0.057	0.057	0.029	0.050	0.104	0.058	0.072	-0.033	0.048	0.485	-0.069	0.046	0.130	0.002	0.029	0.941
Representation: None ( <i>reg: legal/legal or legal/prof</i> )	-0.106	0.033	0.001	0.088	0.024	0.000	0.055	0.051	0.275	0.018	0.039	0.650	-0.040	0.036	0.263	-0.014	0.027	0.606
Other	-0.070	0.020	0.000	0.065	0.021	0.002	0.051	0.039	0.188	-0.048	0.032	0.129	0.005	0.025	0.851	-0.003	0.020	0.889
Discrimination * Other/Other	0.130	0.048	0.007	-0.072	0.080	0.370	-0.089	0.107	0.405	-0.118	0.107	0.268	0.126	0.069	0.068	0.022	0.053	0.676
Discrimination * None	0.113	0.055	0.042	-0.008	0.053	0.882	-0.117	0.100	0.239	-0.139	0.095	0.145	0.087	0.063	0.165	0.064	0.047	0.176
Discrimination * Missing	0.064	0.035	0.065	-0.046	0.045	0.300	-0.070	0.065	0.282	0.015	0.056	0.783	0.014	0.043	0.740	0.022	0.034	0.514
Short * Combination of Legal/Prof and Other	-0.038	0.068	0.571	0.011	0.060	0.856	-0.054	0.139	0.698	-0.079	0.101	0.437	0.188	0.093	0.042	-0.028	0.073	0.701
Short * Other/Other	-0.017	0.063	0.786	0.018	0.052	0.722	0.046	0.129	0.720	-0.143	0.105	0.174	0.073	0.106	0.491	0.023	0.065	0.727
Short * None	0.059	0.050	0.239	-0.059	0.047	0.205	0.022	0.109	0.839	-0.124	0.079	0.116	0.112	0.083	0.178	-0.009	0.060	0.878
Short * Missing	-0.020	0.045	0.663	-0.079	0.047	0.094	0.061	0.103	0.554	0.037	0.072	0.611	0.084	0.078	0.276	-0.084	0.063	0.184
Constant	-0.030	0.012	0.015	-0.111	0.017	0.000	0.234	0.031	0.000	0.032	0.024	0.180	-0.056	0.019	0.003	-0.069	0.014	0.000





