
genderace

The use of racial anti-discrimination laws
Gender and citizenship in a multicultural context

ANNEX 3

UK Country Report

June 2009

By

Ludovica Banfi, Erica Howard, Eleonore Kofman and Helena Wray

Grant 217237

EC Officer: Angela Liberatore

Dissemination: Participants

Deliverable: D04



Contents

Introduction.....	80
1. Presentation of the sample.....	83
2. The use of resources.....	89
3. The experience of discrimination	91
4. Processing the complaint.....	94
Conclusion.....	97

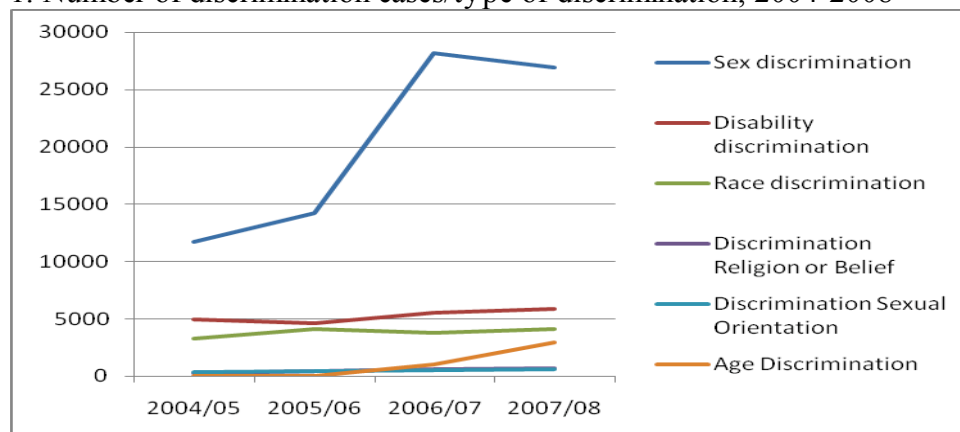
Introduction

In Great Britain, most claims for discrimination concern employment for which information is also the easiest to obtain. Non-employment claims made in the County Courts are not separately counted. Three sources of claims on the grounds of discrimination have been identified: Employment Tribunals, Citizens Advice Bureaux (CAB) and Law Centres.

Employment Tribunals: cases are analysed annually and a sample survey of them (called SETA) is conducted every 5 years. The anonymised individual files are then deposited in the UK data archives. The latest available Survey (2003) contains 136 sex discrimination and 63 race discrimination cases out of a total of 283 applicant discrimination cases. An additional survey (491) and a sample of semi-structured interviews with individuals bringing claims on grounds of racial discrimination were undertaken in 2005 for the period 2004-5 (SETA Race Relations) but data appears not to have been deposited in the Archives though all the publications are available. A 2008 survey is currently being conducted and results will be deposited in the Archives in 2009. Apparently, race relations claimants are quite different to others in their social characteristics - they are better educated and more likely to be professionals.

In term of trends since 2004 to 2008 there has been an increase in all discrimination cases. This is particularly true for sex discrimination cases that rose from 11,726 in 2004/2005 to 26,907 in 2007/08. In the last year, though, sex discrimination cases have slightly decreased (from 28,153 to 26,907).

1. Number of discrimination cases/type of discrimination, 2004-2008



Source: Employment Tribunals statistics available at <http://www.employmenttribunals.gov.uk>

2. Claims accepted by Employment Tribunals 2004-2008¹

	2004/0 5	2005/0 6	2006/0 7	2007/0 8
Sex discrimination	11726	14250	28153	26907
Disability discrimination	4942	4585	5533	5833
Race discrimination	3317	4103	3780	4130
Discrimination Religion or Belief	307	486	648	709
Discrimination Sexual Orientation	349	395	470	582
Age Discrimination	n/a	n/a	972	2949
Detriment/unfair dismissal due to pregnancy	1345	1504	1465	1646

Source: Employment Tribunals statistics available at <http://www.employmenttribunals.gov.uk>

2) Citizens Advice Bureaux are registered charities reliant on over 20,000 volunteers in 3000 locations. The majority of advisers are trained volunteers. The intention is that CABs become a first point of contact for advice on discrimination. In 2007/8, Citizens Advice Bureaux dealt with 22,780 discrimination enquiries. Three-quarters of these enquiries were about discrimination in employment, and the rest covered a wide range of issues including discrimination in housing, legal issues, benefits, and consumer issues. The most common grounds on which clients reported experiencing discrimination were disability, sex and race, but there were also significant numbers of enquiries about discrimination on the grounds of age, sexual orientation and religion or belief.

In 2008/9, 20 Citizens Advice Bureaux in England and Wales received grant funding under the Equality and Human Rights Commission interim grant-funding programme: the majority to provide specialist discrimination casework and representation to people in their area. There are 357 specialist employment advisers in Bureaux, the majority are part-time and volunteers. 193 Bureaux provide some level of representation at Employment Tribunals. 27 Bureaux have Legal Services Commission (LSC) contracts for employment advice. It is not possible at the current time to know how many of the specialist employment advisers are experienced in discrimination casework, but it would seem that the majority are not. Citizens Advice Specialist Support has an LSC contract to provide second-tier employment advice to Bureaux and the wider advice sector.

The City of London Bureau is one of those financed by the Equalities and Human Rights Commission to give advice on discrimination and has, since it started earlier this year, had a large number of sex discrimination but few race discrimination cases. Most people are able to access a Cab fairly easily, but there is no certainty that a service beyond basic advice will be available. Many CABs have links with law centres and local lawyers' firms to whom they refer cases.

3) Law Centres are non profit organisations that provide légal advice and représentation in areas of social welfare law such as employment, immigration, education, housing, community care, welfare benefits, etc. As stated in their mission, they prioritise work that

¹ Jurisdiction mix of claims accepted. A claim may be brought under more than one jurisdiction; these data consider the number of jurisdictions under which the case was brought, not the number of cases (that is thus lower).

affects the most disadvantaged, such as race, sex and disability discrimination. Law Centres often employ trained lawyers and usually provide more specialist services than CABs. They regularly undertake representation at Employment and Immigration Tribunals and will also sometimes undertake work in the main courts including judicial reviews or appeals. Law Centres usually serve their local community but provision is uneven. Even where there is a local law centre, demand exceeds supply and law centres often adopt criteria of need, vulnerability and public interest in order to decide which cases to undertake. Law centres are able to have a major impact in a few cases but they are not available to all who need them.

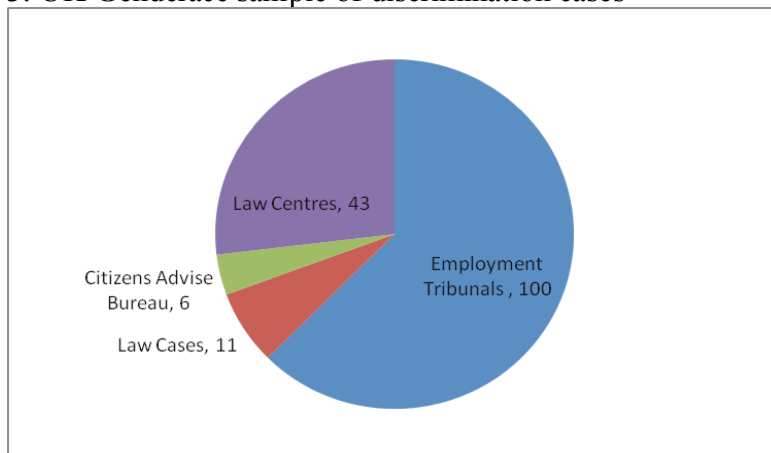
- Access to data and Presentation of the different sources used

We used four different sources to gather 160 cases:

- 1) 100 cases from Employment Tribunals - SETA cases (62%)
- 2) 11 law cases (7%)
- 3) 6 cases from Citizens Advise Bureaux (4%)
- 4) 43 cases from Law Centres (Barnet Law Centre, Northern London) (27%)

All these sources have very strict confidentiality rules; hence direct access to claimant files is not possible. For the Employment Tribunals files (SETA) only those doing research for the Department of Business, Enterprise and Regulatory Reform (BERR) are allowed to access to them. Law Centres and CABs generally insist that only their staff, including volunteers may see these files. Thus we have negotiated with CABs and Law Centres that a donation of £20 per file would be made if they completed the forms for us.

3. UK Genderace sample of discrimination cases



- Classification of cases

These four sources can be combined into two main categories: Tribunal cases include Employment Tribunal and Law Cases (almost 70% of the overall sample) and Advice Centres which include Citizen Advice Bureau cases and Law Centre cases (30% of the overall sample).

4. Classification of cases

	N	%
Advice Centres	49	30,6
Tribunals	111	69,4
Total	160	100

- Claims or (formalized) complaints

The sample also varies in relation to the formalization of the complaint, ranging from claims to formalized complaints. With regard to Employment Tribunal and law report discrimination cases, it goes without saying that all of them are formalized complaints. For Advice Centres, in our sample they are equally represented: the complaints are 27 out of 49 (55,1%) and the claims 22 out of 49 (44,9%).

5. Classification of cases per type of complaint

	claim		complaint (formalized)		Total	
	N	%	N	%	N	%
Advice centres	22	44.9	27	55.1	49	100
Tribunals	0	0	111	100	111	100

1. Presentation of the sample

- General information about complainants (age, nationality, country of origin, family status, residence status, socio-economic status, employment status...)

Age

In our sample, SETA complainants are slightly elder: about 62% are 36-55 years old whereas 69% of the Law Centres complainants are 18-45 years old.

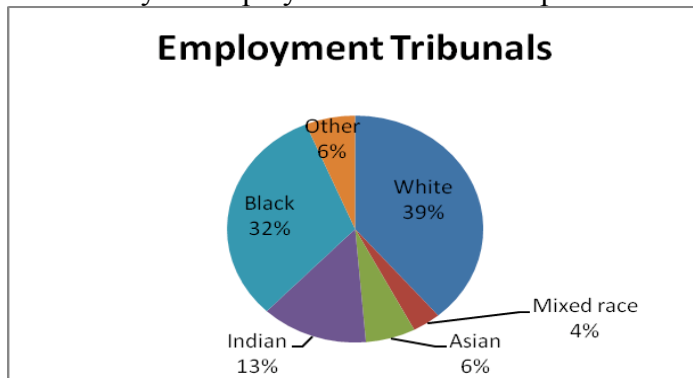
6. Age of the sample

		Juvenile	18-25	26-35	36-45	46-55	56-65	+65	missin g	Total
		Advice and Law Centres	N	1	8	15	11	9	5	0
	%	2,0	16,3	30,6	22,4	18,4	10,2	0	0	100
Employment Tribunals	N	2	7	24	35	24	11	1	7	111
	%	1,8	6,3	21,6	31,5	21,6	9,9	0,9	6,3	100
Total	N	3	15	39	46	33	16	1	7	160
	%	1,9	9,4	24,4	28,8	20,6	10,0	0,6	4,4	100

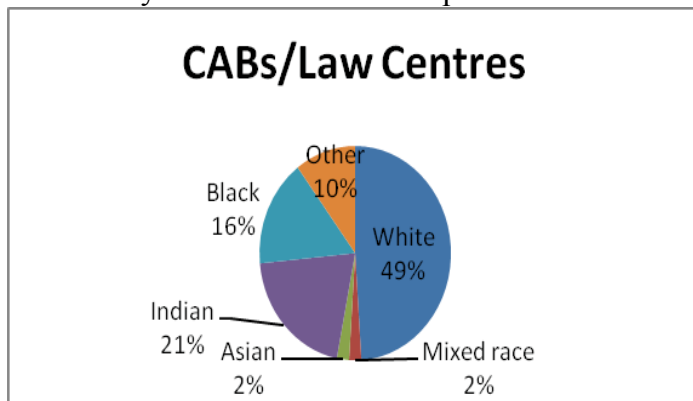
Ethnicity²

The majority of the complainants define themselves as white (there was 1 complainant of Middle Eastern ethnicity whom we included as “White”). It should be noted that Northern African, Turkish etc (included in “Other”) often consider themselves as White. With regard to the tribunal complainants: White are the majority (38,7%) followed by Black (31,5%) and, far fewer Indians (13,5%). The high percentages of Indians (20,4%) in CAB/Law Centres is due to the fact that cases were collected in Barnet, a borough in London with a relatively high percentage of Indian population .

7. Ethnicity in Employment Tribunal sample



8. Ethnicity in Advice Centre sample



Country of origin

The data concerning country of origin is available just for the CABs/Law Centres cases. Most of the complainants were born in the UK (18/49), followed by the Indian subcontinent (9/49) and Eastern Europe (6/49).

²

White: includes Middle East

Asia: includes South East Asia and China

India: includes Indian subcontinent

Black: includes Afro Caribbean and Sub Saharan Africa

Other: includes other, and Northern Africa (just 1 case) and Turkey (just 1 case)

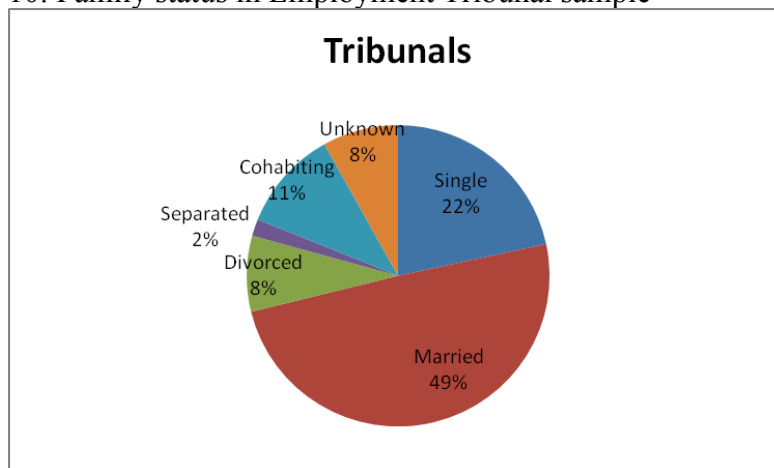
9. Country of origin in Advise Centre sample

Country	N
UK	18
Indian subcontinent	9
Eastern Europe	6
Sub-Saharan Africa	4
Turkey	2
Ghana	2
North Africa	2
Other	2
France	1
Southern Europe	1
China	1
Middle East	1
America	0
Southeast Asia	0
Total	49

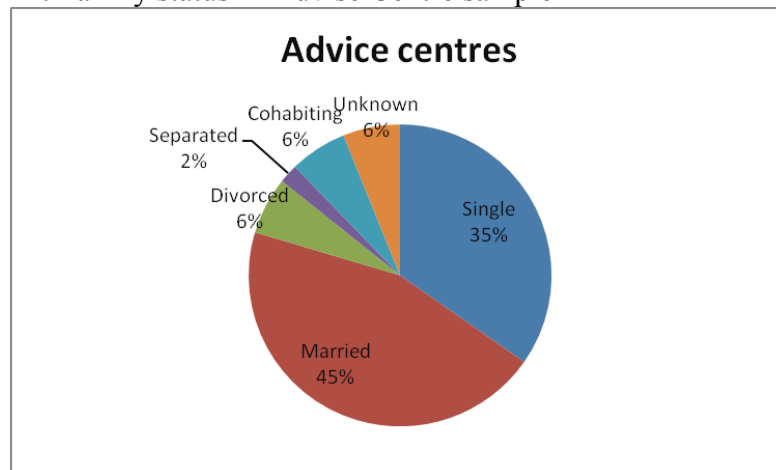
Family status

Most complainants are married or single. In the case of Tribunal Employment complainants, there is a lower percentage of single people, probably because they are on average elder than the Advice Centres complainants.

10. Family status in Employment Tribunal sample



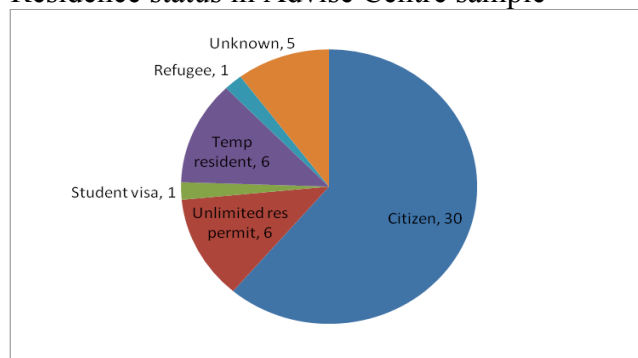
11. Family status in Advise Centre sample



Immigration and Citizenship Status

The data is available just for Advice centres. The majority (61,2%) are citizens, followed by people holding an unlimited residence permit (12,2%) and by temporary residents (12,2%).

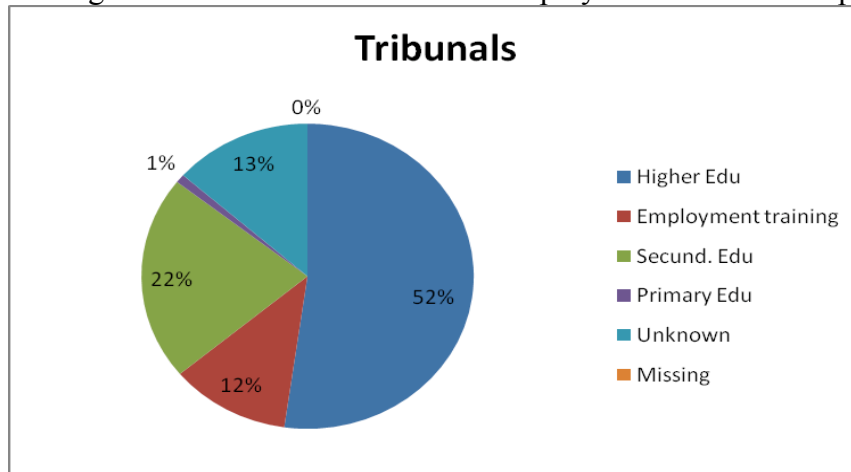
11. Residence status in Advise Centre sample



Educational attainment

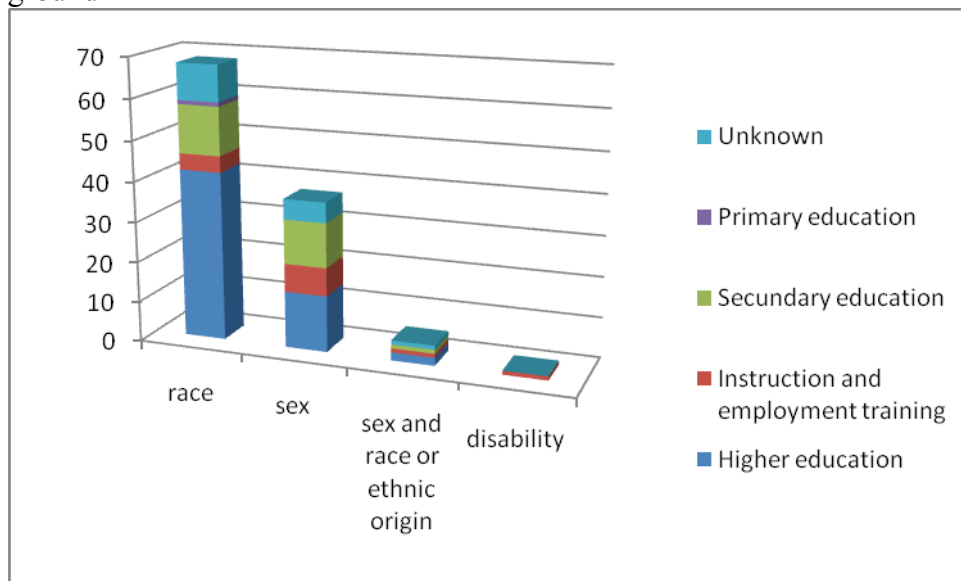
In relation to Tribunal complainants, their average educational attainment is quiet high (more than half of the complainant's have higher education). Nothing can be said about Advice Centres complainants because there are too many unknown cases (79,6%).

12. Highest educational attainment in Employment Tribunal sample



In the Tribunal sample, race relations claimants are better educated than sex discrimination complainants. Among race relations complainants 61,8% have higher education compared to 37,8% of sex discrimination claimants.

13. Highest educational attainment in Employment Tribunal sample/discrimination ground



Employment Status

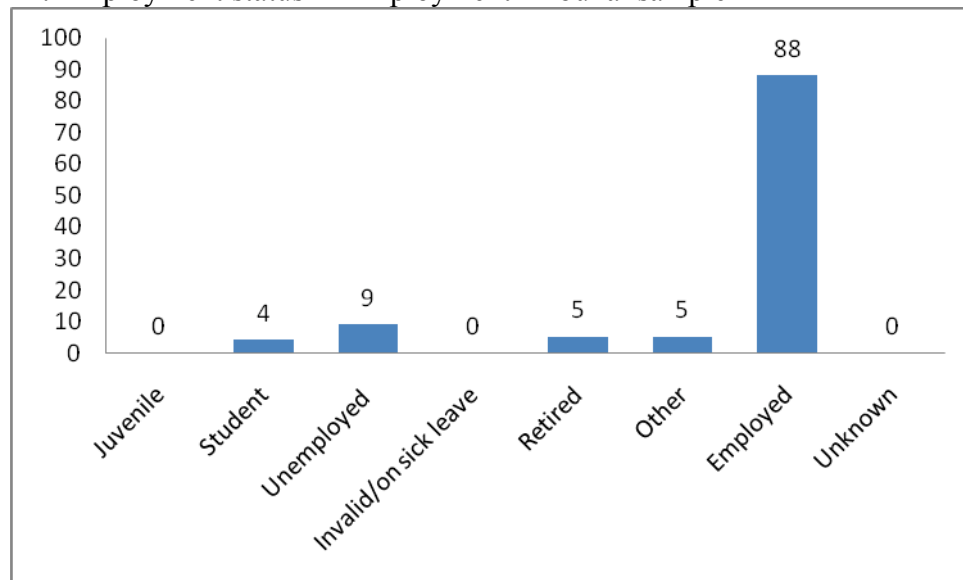
Figures 1 and 2 show the actual employment status of the complainants. It is immediately evident that:

- Tribunal complainants have a much higher probability of being employed than Advice Centre complainants.
- Tribunal complainants show a higher diversification of employment outcomes than advice centre ones.

79,3% (88 over 111) of tribunal complainants are employed at the time of survey and just 8,1% (9 over 111) are unemployed. Following the average higher age of Employment

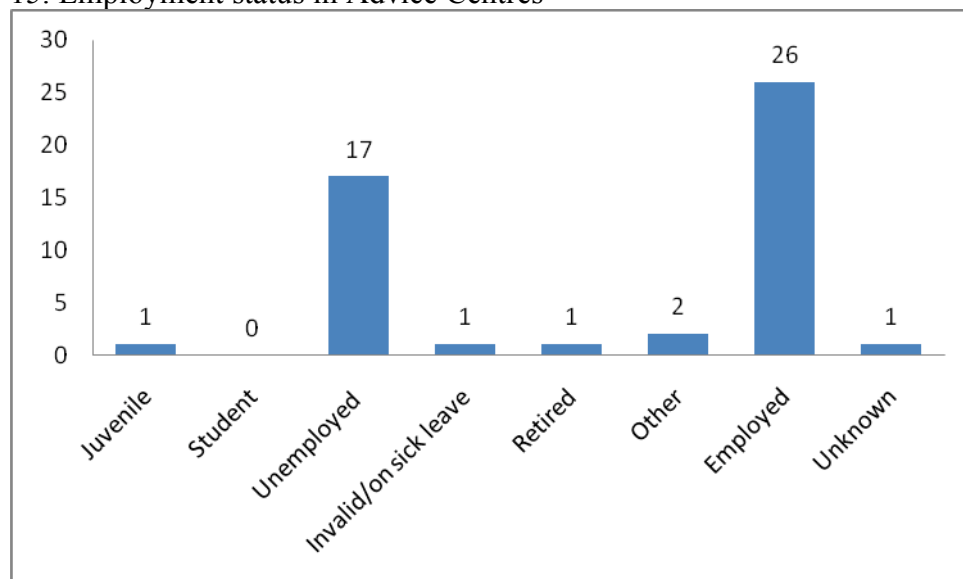
Tribunals complainants, 5 are (4,5%) are now retired. 4 people (4,5%) went back to study, this probably reflects a higher class position as they are able to temporarily exit the job market and invest in education.

14. Employment status in Employment Tribunal sample



As far as Advice Centres complainants are concerned, 53,1% (26 out of 49) are employed and 34,7% (17 out of 49) are unemployed. Just one person has retired and nobody has gone back to study.

15. Employment status in Advice Centres



Ethnicity of the complainant by sex

In the Tribunal cases, two results are worth highlighting: almost half of women complainants are White, compared to one quarter of men; 20,0% of men complainants are Indian, compared to only 8,2% of women. There is a similar percentage of women and men among Black complainants. Thus, not only different communities show different rates of complaints, but there is a different gender breakdown of complainants in different ethnic communities.

18. Ethnicity of the complainant/sex, Law Cases sample

		White	Mixed race	Asia	India	Black	Other	Total
male	N	13	2	3	10	16	6	50
	%	26,0	4,0	6,0	20,0	32,0	12,0	100
female	N	30	2	4	5	19	1	61
	%	49,2	3,3	6,6	8,2	31,1	1,6	100
Total	N	43	4	7	15	35	7	111
	%	38,7	3,6	6,3	13,5	31,5	6,3	100

In Advice Centres, the non representativeness of the sample and the small number of cases do not allow any conclusion.

In law cases, among women complainants, 27,9% are single, double the amount of men (14%).

19. Family status /sex, Law Cases sample

		Single	Married	Divorced	Separated	Cohabiting	Unknown	Total
male	N	7	26	6	2	4	5	50
	%	14,0	52,0	12,0	4,0	8,0	10,0	100
female	N	17	29	3	0	8	4	61
	%	27,9	47,5	4,9	0,0	13,1	6,6	100
Total	N	24	55	9	2	12	9	111
	%	21,6	49,5	8,1	1,8	10,8	8,1	100

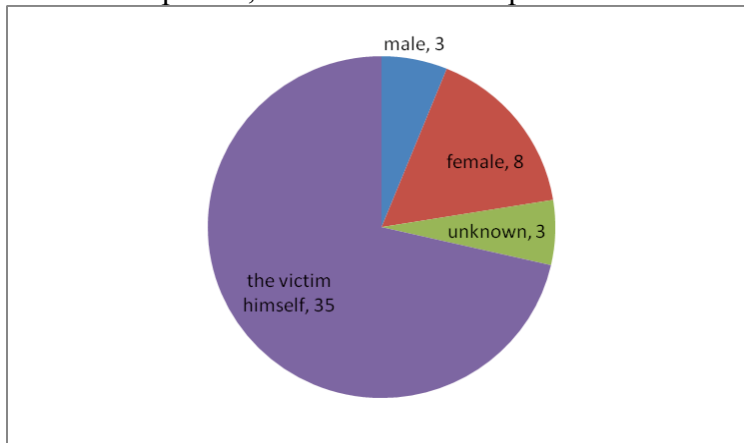
2. The use of resources

In relation to the sex of the contact person, this data is available only for Advice Centres: in the majority of cases (35/49) the contact person is the victim him/herself.

In the other cases, the contact person is more often a woman (8/49) than a man (3/49).

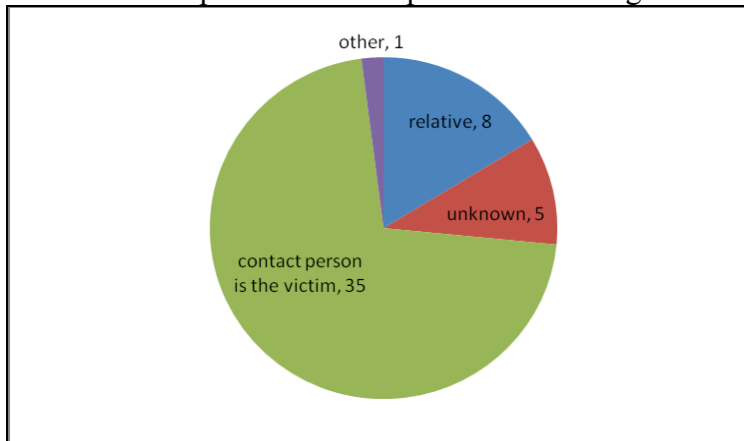
The contact person is never a couple or a family.

20. Contact person, Advice Centre sample



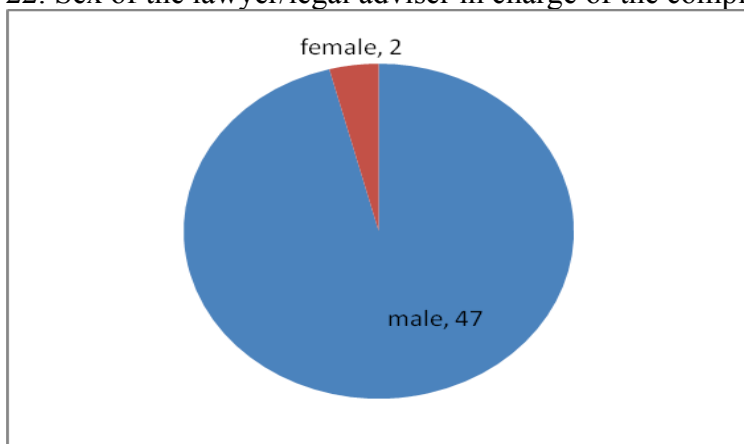
In what concerns the relationship of the contact person to the alleged victim of discrimination, when the contact person is not the victim him/herself, it is usually a relative. The contact person is never a co-worker.

21. Relationship of the contact person to the alleged victim, Advice Centre sample

**Sex of the lawyer/legal adviser in charge of the complaint**

The legal adviser is in the great majority of cases a male (47/49)

22. Sex of the lawyer/legal adviser in charge of the complaint, Advice Centre sample

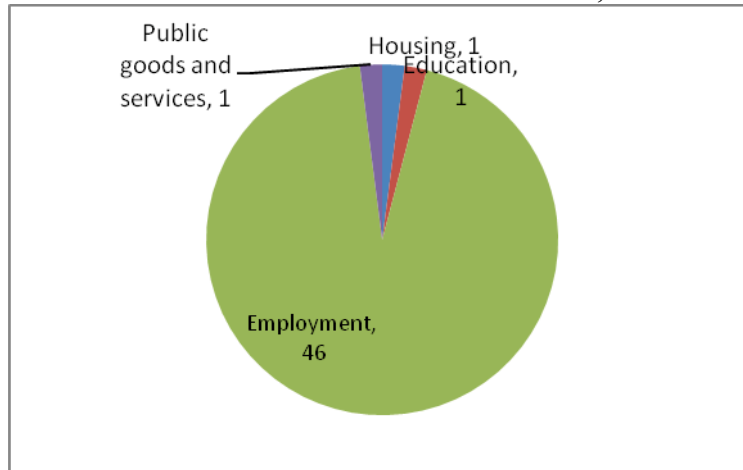


3. The experience of discrimination

- Sector where the event occurred

In almost all the cases the discrimination experience occurred in the employment sectors. For Employment Tribunals, this relates, of course, to all the cases. In Advice Centres, 46 cases out of a total of 49 were related to employment discrimination. 1 case was reported in the housing sector, 1 in the education sector and 1 in public goods and services.

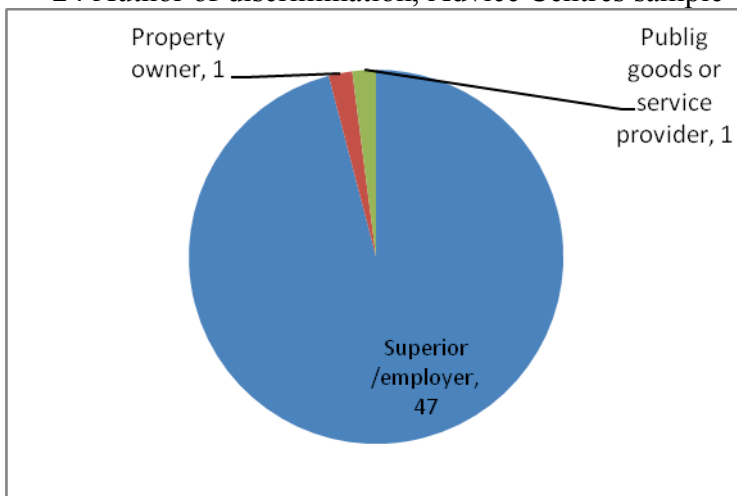
23. Sectors where the discrimination occurred, Advice Centres sample



- Author of discrimination

The data is available just for Advice Centres. Following the fact that the majority of cases were experienced in the employment sector, the alleged author of discrimination is almost always the employer (47/49). In the case of the one housing discrimination, the author was the owner of the house, in the case of public goods and services; it was the provider of the service.

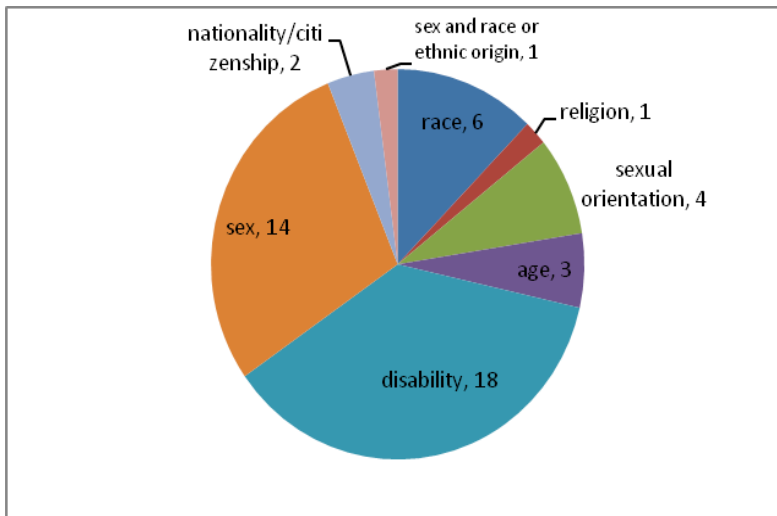
24 Author of discrimination, Advice Centres sample



- Grounds of discrimination

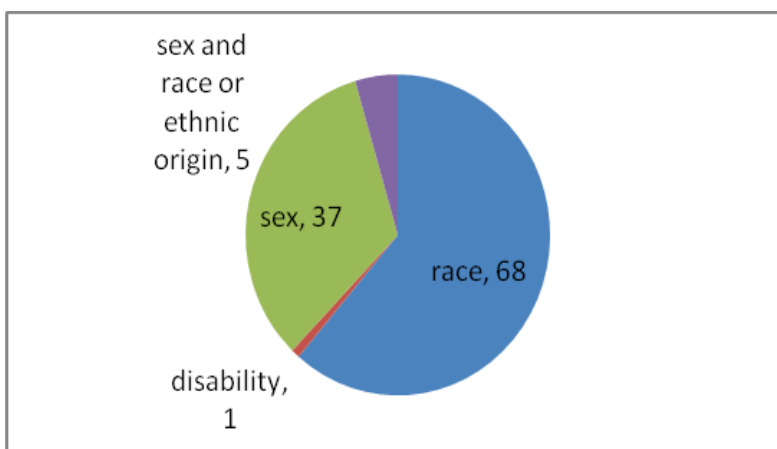
The ground of discrimination varies according to the sample. For what concerns Advice Centres, the majority of the discrimination cases were experienced on the ground of disability (18 over 49), followed by sex (14 over 49), race (6 over 49) and sexual orientation (4 over 49). There is just one case of multiple discrimination, on the ground of sex and race or ethnic origin, but 6 cases of multiple discrimination on different combinations of characteristics.

25. Ground of discrimination in Advice Centres cases



The situation in the case of Tribunal cases is quite different. Here the majority of discrimination cases are on the ground of race (61%), followed by sex (33%) and multiple discrimination, on the ground of sex and race or ethnic origin (5%). Just one case was on the ground of disability.

26. Ground of discrimination in Employment Tribunal cases

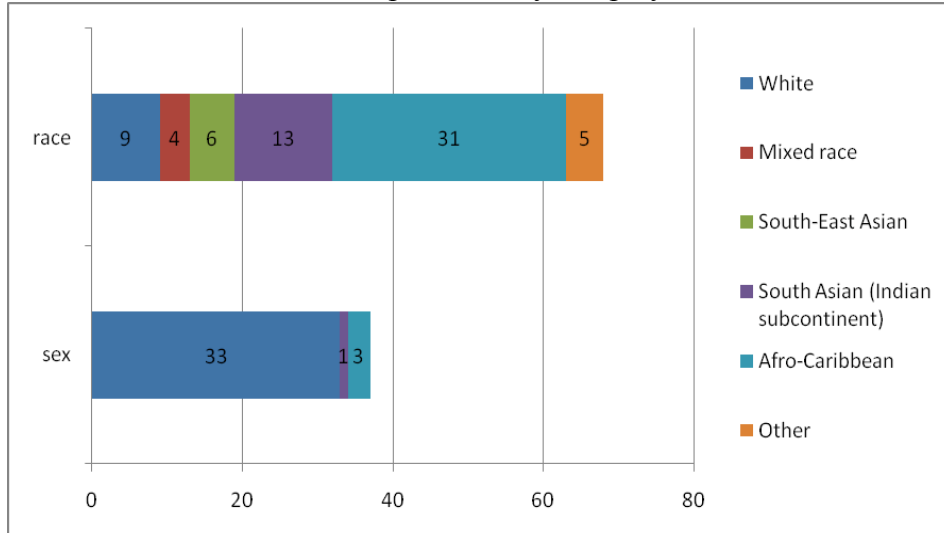


If we consider just Employment Tribunal cases and break down the ground of discrimination per ethnicity, the result is that race relations claimants are overwhelmingly Afro-Caribbean

(31), followed by South Asian (13) and White (9).

Sex discrimination complainants are for the most white (33 over 37) while there are just 4 other communities cases (of which 3 Afro-Caribbean).

27. Ground of discrimination per ethnicity, Employment Tribunal cases

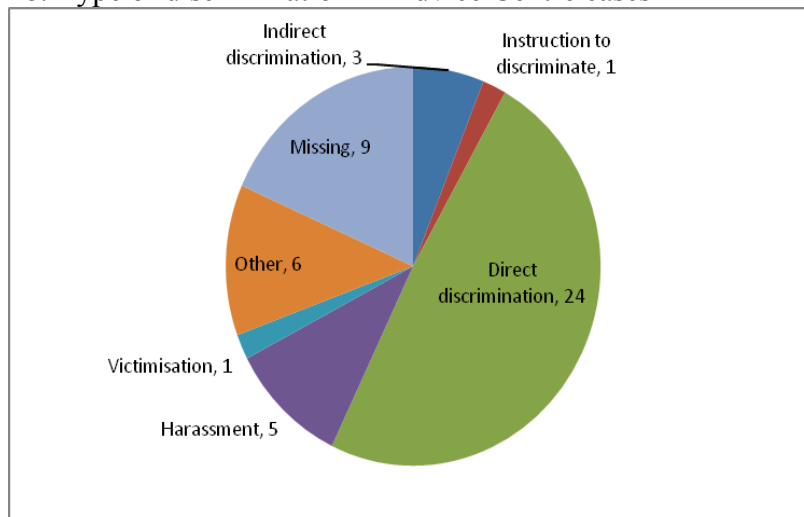


- Type of discrimination

This data is available just for Advise Centres discrimination cases.

Almost half of the cases concern direct discrimination (24 over 49), followed by harassment (5 over 49) and direct discrimination (3 over 49). There is just 1 victimisation case.

28. Type of discrimination in Advice Centre cases

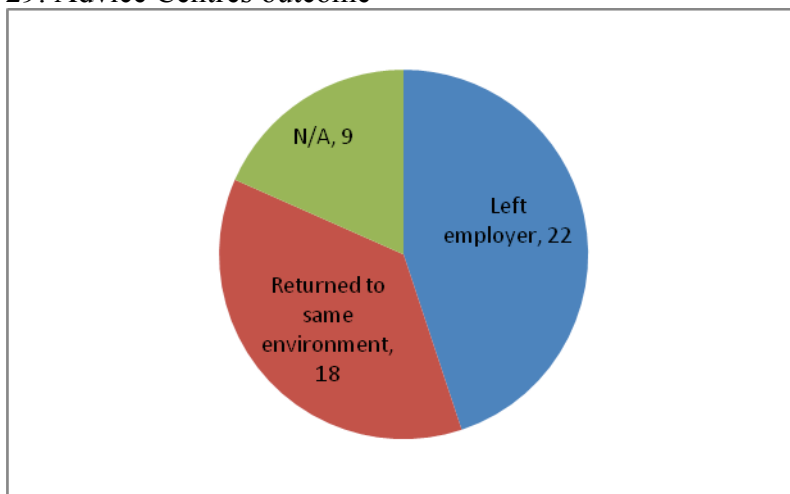


4. Processing the complaint

- Actions taken in relation to the environment

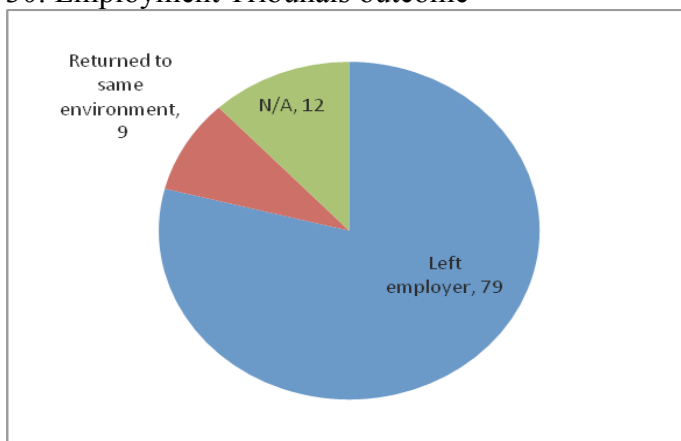
The questionnaire doesn't allow us to answer in detail to this question but the data we have allow us to detect how many complainants and claimants are still working for the employer (alleged author of discrimination) and how many left that job. It appears clear that a higher number of Employment Tribunal claimants left their employer (either resigned or were dismissed) compared to the Advice Centre ones.

29. Advice Centres outcome



In the case of Advice Centres, chart 29 suggests that almost half of the complainants (22 over 49) have stopped working for their previous employer (alleged author of discrimination).

30. Employment Tribunals outcome



In the case of Employment Tribunals, chart 30 suggests that the great majority of complainants (79 over 100) have stopped working for their previous employers.

Among the 79 complainants who have left their job, 25 resigned, 22 were dismissed and 19 were made redundant. So 41 were actually axed by their employers whereas 25 resigned.

31. Employment Tribunals answer to the question “How did you leave your employer”?

How came to leave employer	Total
Resigned	25
Dismissed	22
Made redundant	19
Left to take up another job	2
Mutual agreement	2
Retired at normal age for job	2
Retired due to ill health	2
Temporary contract came to an end	2
Gave up work for ill health or disability	1
Retired at normal age	1
Other	1
Missing	21
Total	79

- Methodology used

32. Methodology used/sample

	Advice Centres	Tribunals
not resolved	3	0
withdrawal of formal complaint	4	0
resolved through mediation	30	0
taken to court	5	111
nor processed but minor investigation	4	0
missing	3	0
Total	49	111

- Results

In both Advice Centres and Tribunals, the great majority of cases taken to court end up in settlement, with the parties trying to reach an agreement. In the case of Employment Tribunals, settlement concerns 40% of the discrimination cases taken to court, whereas in the case of Advice Centres it concerns 17 out of 22 cases taken to court.

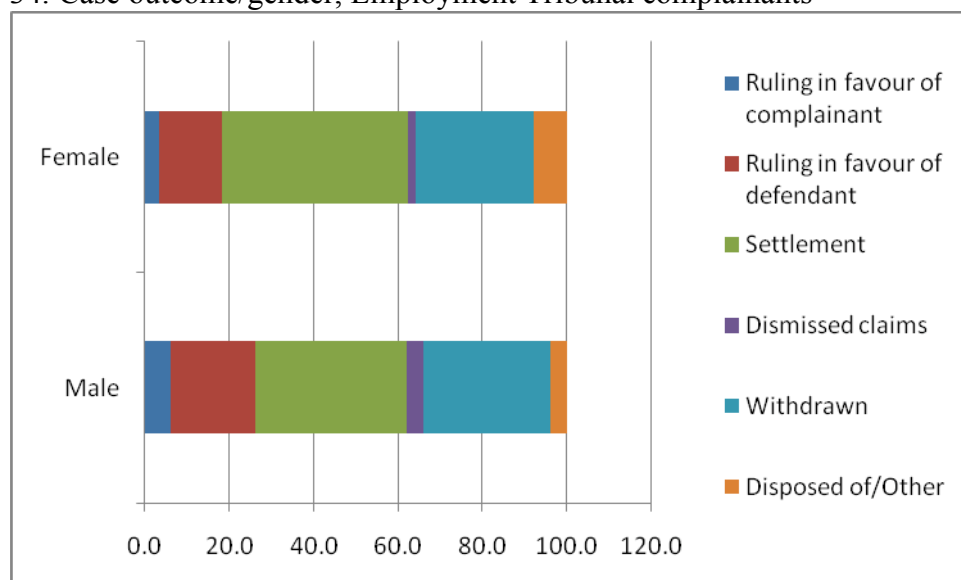
In Employment Tribunals, the settlement is followed by the withdrawal of the case (28,8%). Cases tend to end up more in ruling in favour of the defendant (17,1%) than in favour of the complainant (4,5%).

33. Results when taken to court/sample

		Advice centres	Tribunals
Ruling in favour of complainant	N	1	5
	%	2.0	4.5
Ruling in favour of defendant	N	1	19
	%	2.0	17.1
Settlement	N	17	45
	%	34.7	40.5
Dismissed claims	N	0	3
	%	0	2.7
Awaiting resolution	N	3	0
	%	6.1	0
Not taken to court	N	27	0
	%	55.1	0
Withdrawn (from Empl. Tribunals)	N	0	32
	%	0	28.8
Disposed of/other	N	0	7
	%	0	6.3
Total	N	49	111
	%	100	100

In terms of gender, of the cases taken to court which are then resolved, a higher proportion of women tend to settle (44,3%) compared to men (36%) amongst the Employment Tribunals cases. The other outcomes show a more balanced gender proportion.

34. Case outcome/gender, Employment Tribunal complainants



Conclusion

Multiple discrimination in the UK is beginning to be recognised in legislation. On the 24 April 2009 a new Equality Bill, due to take effect in 2010, was introduced in the House of Commons. The new bill consolidates the various pieces of legislation outlawing discrimination in employment and imposes equality duties on public authorities. Some of the more significant changes to the law include new approaches to disability-related and indirect disability discrimination, extended coverage of third-party harassment and a new law prohibiting pay secrecy clauses in employment contracts. Furthermore, for what concerns enforcement, Tribunals will have a new power to make recommendations in respect of an employer's workforce as a whole – and not just in relation to a particular claimant as at present – following a finding of discrimination. The recommendation must state that the respondent has to take a specified action to reduce the adverse effects of any matter raised in the proceedings within a specified time. Multiple discrimination is included in the Bill and is to be implemented after April 2011. It is argued in the Consultation document³ that this will cover a maximum of two grounds in order to keep it simple and because evidence from the Citizens Advice Bureau showed that only 8% (1072) out of 13,000 who visited them between April and December 2008 had two or more grounds. Relatively few presented more than two grounds. These grounds cover age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

The GENDERACE Team is responsible for the content of the report which does not necessarily reflect the view of the Commission, nor can the Commission accept responsibility for the accuracy or completeness of information it contains.

³ Government Equality Office (2009) *Equality Bill: Assessing the impact of a multiple discrimination provision. A discussion document*