



EMPLOYMENT STANDARDS REPORT

2020

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Introduction

1. This report highlights the Employment Standards situation in 2020. The previous edition of the report had covered the period up to the first half of 2020.
2. Overall, the incidence of employment claims and appeals lodged with the Ministry of Manpower (MOM) and the Tripartite Alliance for Dispute Management (TADM) fell to 2.59 per 1,000 employees in 2020, from 3.04 in 2019. This was driven by a sharp drop in the incidence among foreign employees to 3.61 in 2020, from 5.13 in 2019. In contrast, the incidence for local employees increased slightly to 2.17 in 2020, from 2.00 in 2019.
3. There were 8,697 employment claims and appeals lodged with MOM and TADM in 2020. 5,142 (or 59%) were lodged by local employees while the remaining 3,555 (or 41%) were lodged by foreign employees. The vast majority of these cases¹ consist of salary claims (7,226) and dismissal claims (1,319).



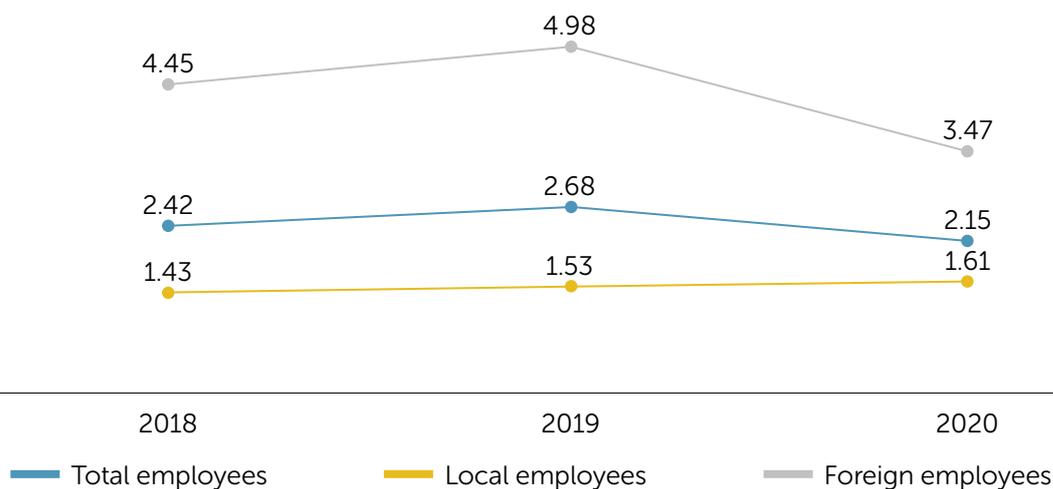
¹ The remaining cases were (i) dismissal appeals lodged under the Retirement and Re-employment Act and the Industrial Relations Act; and (ii) cases where TADM offered voluntary mediation for issues which were not covered under employment legislation, such as payment disputes between self-employed persons and their service buyers.

Salary Claims

Incidence of salary claims fell

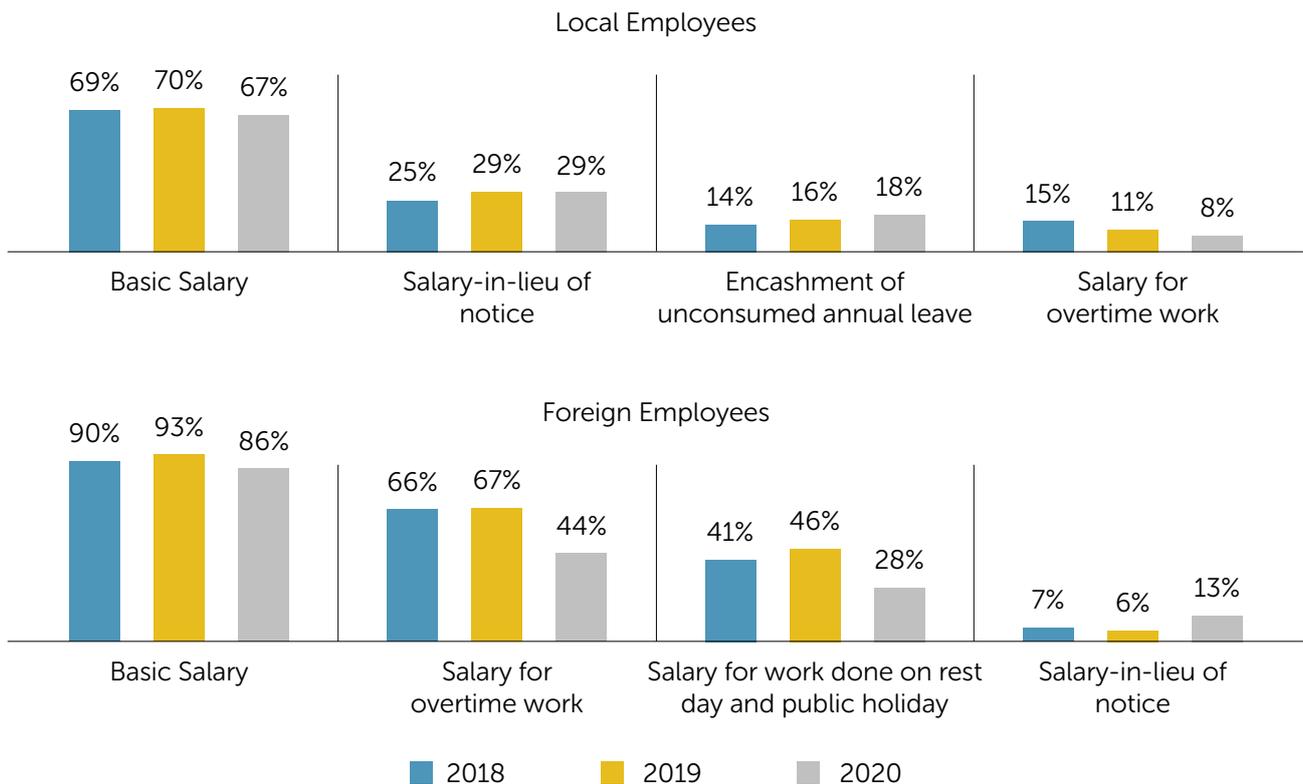
4. Despite more challenging economic conditions due to the pandemic, the overall incidence of salary claims in 2020 fell to 2.15 per 1,000 employees (2019: 2.68 per 1,000 employees).
 - Among local employees, the incidence of salary claims crept up to 1.61 per 1,000 local employees in 2020 (2019: 1.53 per 1,000 local employees). The incidence was higher in industries such as accommodation & food services activities, information & communications, and construction, some of which were severely impacted by the Circuit Breaker and movement restrictions in 2020.
 - Among foreign employees, the incidence of salary claims fell to 3.47 per 1,000 foreign employees (2019: 4.98 per 1,000 foreign employees) but remains higher than that of local employees. The industries with the highest incidence of salary claims were arts, entertainment & recreation, accommodation & food services activities, and construction. One important reason for the improvement is MOM's enhanced measures to detect and arrest salary issues among foreign employees since the onset of the COVID-19 pandemic (see Special Feature Article below).
 - The median duration of salary arrears claimed by foreign employees fell to 2.3 months (2019: 3.4 months). This indicates that foreign employees are reporting their salary claims earlier, although it remains higher compared to local employees (2020: 1.1 months).

Chart 1: Incidence of salary claims per 1,000 employees, 2018 - 2020



5. The top 4 claim items lodged by local and foreign employees are shown in Chart 2. In line with the challenging economic climate, the proportion of claims relating to end-of-employment issues such as salary-in-lieu of notice and encashment of unconsumed annual leave increased in 2020. Such claims arose due to disagreements on whether leave had been taken during the Circuit Breaker for the purpose of encashment and what were the salaries payable during the period of business disruption. Taking reference from the *Advisory on Salary and Leave Arrangements* issued by the tripartite partners, TADM guided employees and employers towards fair settlement given that both parties were experiencing hardships brought about by COVID-19.
6. Claims for overtime payment has consistently been among the top claim items, particularly among foreign employees. Such claims often arise due to employers' failure to maintain proper work hour records or computational errors on the overtime rates payable. The reduction in the proportion of such claims in 2020 is due to less overtime work being performed in 2020, and MOM's initiatives to address this problem. These initiatives include requiring employers who failed to keep proper work hour records to attend corrective clinics on the Employment Act so that they better understand their obligations and improve their employment practices. This is complemented by launching educational campaigns through the WorkRight initiative, including media publicity and roadshows to educate the public on their basic employment entitlements.

Chart 2: Proportion of salary claim items lodged by employees, 2018 - 2020



Note: An employee may lodge a salary claim containing multiple claim items (e.g. basic salary and salary-in-lieu of notice). The claim items listed are not exhaustive.

About 8 in 10 claims were concluded expeditiously within 2 months at TADM

7. 84% of salary claims were resolved at TADM, with the remaining 16% referred to the Employment Claims Tribunals (ECT) for adjudication. This is slightly lower than the 87% figure in 2019 as mediated settlements were more challenging to arrive at due to more employers facing financial difficulties.
8. 76% of salary claims were concluded at TADM within 2 months, while the remaining complex claims were generally concluded between 2 and 6 months². The cases that took longer usually required further fact-finding when parties presented conflicting accounts or evidence. The proportion of salary claims concluded within 2 months has decreased in 2020 partly due to the weak economic climate which made it more difficult for parties to agree on the payment terms.

Chart 3: Percentage of salary claims resolved at TADM, 2018 - 2020

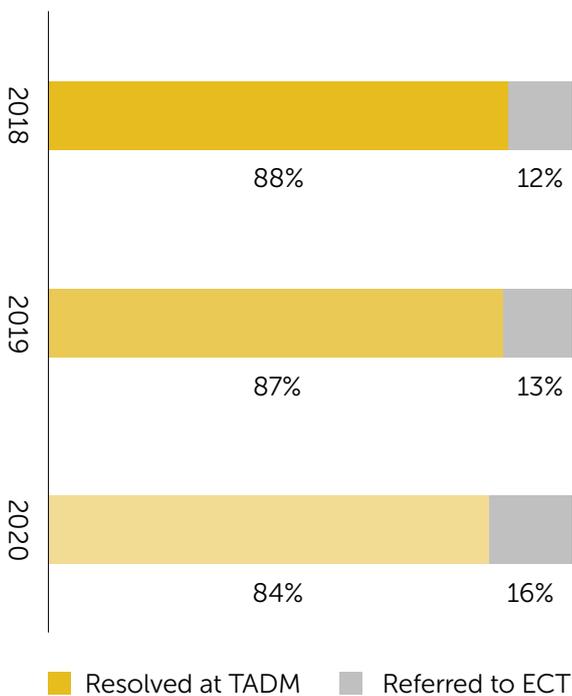
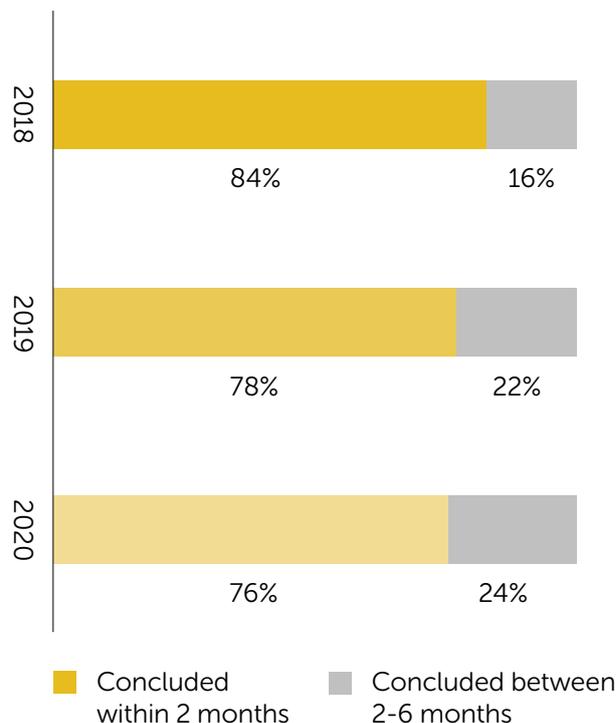


Chart 4: Duration to conclude salary claims at TADM, 2018 - 2020



² Less than 1% of cases took longer than 6 months due to exceptional reasons, such as big group cases that required more time to resolve individual claims and requests made by parties to postpone mediation sessions due to COVID-19.



More than 9 in 10 employees fully recovered their salaries at TADM and ECT

9. Of the salary claims lodged in 2020, 92% of the employees fully recovered their salaries at TADM and ECT, based on the amount agreed between parties involved in the dispute or the amount ordered by ECT. Of the remaining 8% of employees:
 - 5 percentage points recovered their salaries partially. Most of these claims involved employers who were unable to make full payment for their workers' owed salaries due to financial difficulties. MOM and TADM helped the affected workers recover part of their salary arrears through other means such as by negotiating for settlement payments from security bond insurers³ or main contractors, or helping lower-wage employees secure financial assistance through the Short-Term Relief Fund (STRF) or Migrant Workers' Assistance Fund (MWAFF).
 - The remaining employees did not recover any salaries and were mainly higher income earners who did not qualify for financial relief through the STRF or MWAFF.
10. MOM suspended the work pass privileges of all employers who did not fully repay their employees. While it is not our intention to criminalise every non-payment of salary, especially if it is the result of business failure, we do prosecute wilful employers for serious or repeated offences. Less than 1% of the salary claims lodged in 2020 involved wilful employers who refused to make full payment of the salary arrears despite having the means to do so. MOM investigates these employers with a view of prosecuting them.
11. The total recovered sum to employees amounted to about \$15 million.



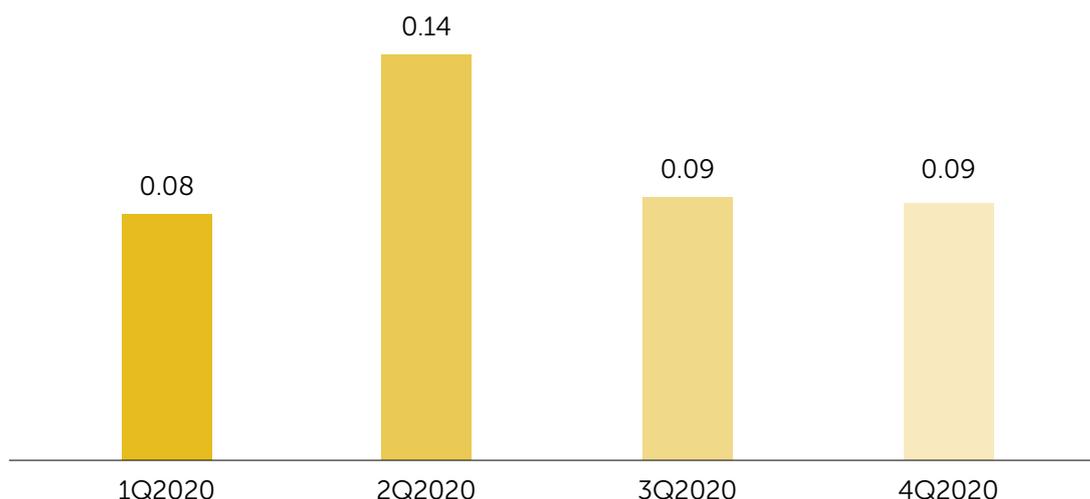
³ Employers are required to purchase a security bond for each non-Malaysian Work Permit Holder that they employ. The bond may be forfeited under various circumstances, such as when the employer fails to pay his or her worker's salary on time. In the event of a salary claim, the security bond insurers may offer to provide the worker with a settlement payment in lieu of having the security bond forfeited.

Wrongful Dismissal Claims

Incidence of wrongful dismissal claims has stabilised in the second half of 2020, following a spike in the second quarter

12. The overall incidence of wrongful dismissal claims remained low at 0.39 claims per 1,000 employees despite the challenging economic situation in 2020. The incidence was slightly higher for local employees (0.50 claims per 1,000 local employees), as compared to foreign employees (0.14 claims per 1,000 foreign employees).
13. On a quarterly basis, the incidence of wrongful dismissal claims stabilised in the last two quarters of 2020, following a spike in the second quarter. Not all employees who seek compensation or reinstatement by lodging dismissal claims were dismissed wrongfully. Some of these claims had arisen due to poor communication by their employers. For instance, many of the dismissal claims in the second quarter of 2020 were lodged by employees who were terminated abruptly (due in part to the restrictions in face-to-face meetings during the Circuit Breaker). Most of these employers have fulfilled their contractual obligations in the contract terminations.

Chart 5: Incidence of wrongful dismissal claims per 1,000 employees, 2020





1 in 4 wrongful dismissal claims lodged were assessed to be substantiated by TADM

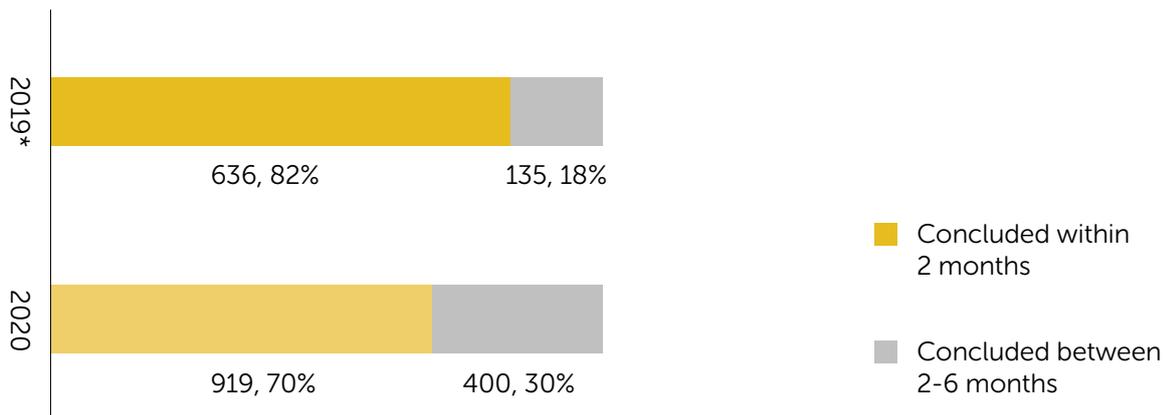
14. Of the wrongful dismissal claims assessed by TADM:

- About a quarter (or 26%) of the claims were assessed to be substantiated. These employers should have managed the dismissal process better, such as by conducting robust inquiries on misconduct or maintaining proper records to document performance issues. For such cases, TADM will require the employer to address the claims, such as by compensating the employee, clearing up any miscommunications and/or facilitating the employee's job search.
- The remaining 74% of the claims were assessed to be unsubstantiated. Many of these claims had arisen from disputes over work performance, poor communication between the employer and employee or business restructuring due to the lacklustre economy. For such claims, TADM will explain to the employees the lack of basis for their claims, help them seek closure to their grievances, and refer them to financial assistance programmes such as the COVID-19 Recovery Grant or job facilitation support where applicable.

Most wrongful dismissal claims were concluded at TADM within 2 months

15. 70% of wrongful dismissal claims lodged in 2020 were concluded at TADM within 2 months, with the remaining complex claims generally concluding between 2 and 6 months⁴. Claims that took a longer time to conclude often involved aggrieved employees who maintained strong views over their dismissal and had unrealistic demands which could not be met by their employers. Such cases often involved multiple allegations from both the employee and employer that required a longer time to verify and address. Furthermore, due to the challenging business environment, employers, who were often not at fault, were also less willing to settle cases with ex-gratia payments to meet the employees' demands. On the other hand, neither party was keen to appear before the ECT, thereby increasing the time for case conclusion at TADM.
16. The total payment by employers to employees amounted to about \$1.8 million.

Chart 6: Duration to conclude wrongful dismissal claims at TADM, 2019 - 2020



*Data is for the period from April to December 2019, in line with the shift of adjudication of wrongful dismissal claims under the Employment Act and Child Development Co-Savings Act from MOM to ECT on 1 April 2019.

⁴ Less than 1% of cases took longer than 6 months due to exceptional reasons, such as requests made by parties to postpone mediation sessions due to COVID-19.



Special Feature:

Early intervention to address potential disputes due to impact of COVID-19 on businesses

17. The COVID-19 pandemic put immense pressure on businesses as countries shut their borders and Singapore saw an unprecedented decline in travellers. As the Government rolled out various financial support packages for businesses, MOM focused on ensuring that employers also treat employees fairly.



- In March 2020, MOM introduced a requirement for employers with 10 or more employees to **notify MOM on cost-saving measures that affect employees' monthly salaries**. This prompted employers to be responsible in cutting costs and also provided the Government with additional insights on the help that businesses and employees may require during the difficult period. The Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) proactively engaged employers who had made severe cuts to wages to check whether their cost-saving measures were implemented fairly and to persuade employers to exercise compassion in supporting their employees. With each engagement, TAFEP helped to prevent further downstream salary disputes and ensured that both employers and employees took a long-term view of their relationship, thereby preventing job losses in the short term.



The migrant workers residing in dormitories presented a unique set of challenges as MOM tried to tackle both COVID-19 health risks and their livelihood. To prevent salary issues from becoming another source of stress to the migrant workers, MOM introduced a slew of measures to tackle non-payment of salaries upstream:



- In April 2020, MOM introduced a requirement for all employers with workers residing in dormitories to **pay salaries electronically**.

April

May

- From May 2020, all employers in the construction sector, which traditionally accounted for a high percentage of salary non-payment cases and had a large number of migrant workers residing in the dormitories, were required to **submit monthly declarations on the status of salary payment to their foreign employees**.



- In June 2020, MOM introduced a module via the **FWMOMCare mobile application that allows migrant workers to quickly report any salary, bank account and remittance issues**.



- For owed salaries, TADM proactively engaged employers and facilitated salary resolution for about 7,000 migrant workers between June and December 2020, without requiring employees to come forward to lodge these salary claims.

June

- As a result, salary issues did not feature prominently in the management of COVID-19 at the dormitories.

18. Even with the best efforts to support employers and employees, salary arrears may still occur, especially for hard-hit businesses. To support local employees caught in such unfortunate situations, MOM enhanced the STRF in April 2020. The STRF support was increased from up to one month's salary capped at \$1,000 previously, to up to two months' salary with a cap of \$4,600. This makes the STRF pay-out similar to the level of financial support given by the MAAF to foreign employees whose employers could not cover their salary arrears.

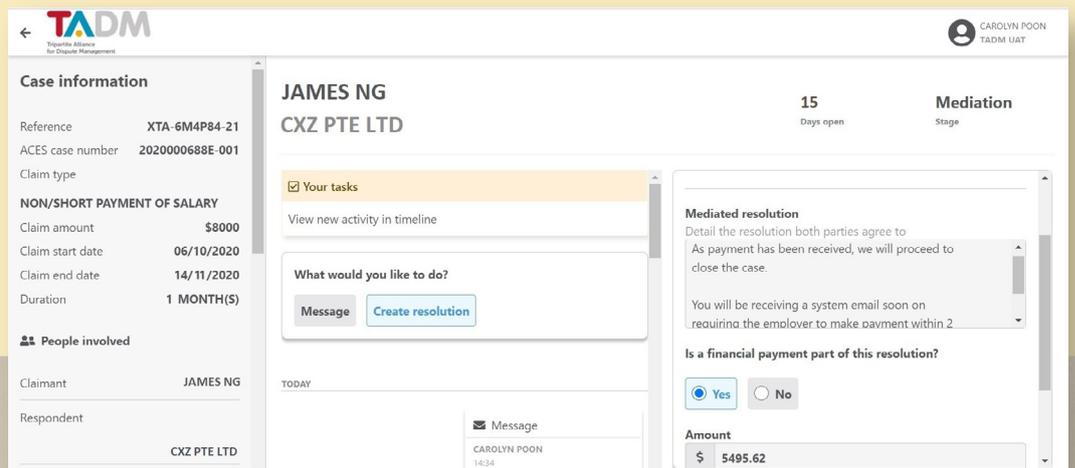


Special Feature:

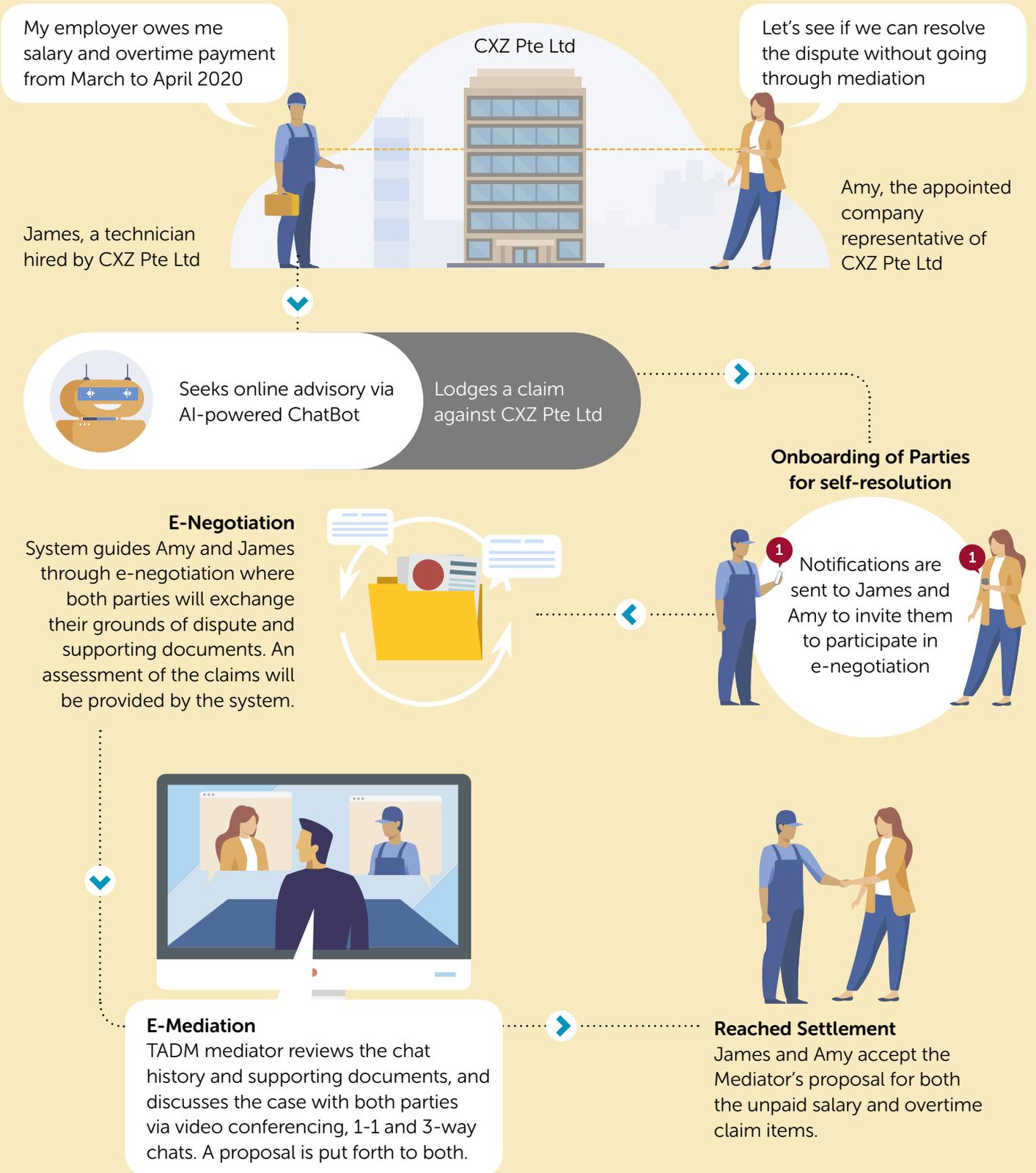
Improving Outreach and Customer Experience

19. In February 2020, TADM piloted an **Online Dispute Resolution (ODR) process**, which provided a platform for parties involved in a dispute to resolve their issues remotely, in lieu of attending physical mediation sessions. Employees and employers no longer have to juggle their schedules to attend physical mediation sessions. Instead, parties are offered a range of digital communication tools such as emails, WhatsApp Business messages, and online conferencing platforms to discuss and settle their disputes. This initiative was especially useful during the Circuit Breaker when physical mediation sessions could not be held. The ODR also allowed TADM mediators to review the documents ahead of the mediation to ensure that mediation sessions were conducted more expeditiously. In 2020, TADM mediated an average of about 600 cases per month via the ODR process. TADM further enhanced its ODR capabilities in March 2021 to support the exchange of views between the employee and their employer, and for parties to present documents and evidence to support their claims.

Note: This example is for illustration purposes only.



20. In the next phases of development, TADM will focus on enhancing the usability of the system to cater to different users' profile, and also improving the users' access to relevant case information and tools to enable both the employee and employer to make informed decisions on the claim. TADM will also explore the use of artificial intelligence and scenario-based conversations to guide parties in the decision-making. The ODR will be the first end-to-end online platform for employment dispute resolution and will be seamlessly integrated with the ECT's claims filing system when fully developed in 2023.



Note: This case is for illustration purposes only.

Case Study: Dispute on incentive payment

Mr Goh approached TADM to assist him on a dispute regarding a \$1,500 deduction that his employer had made from his final salary when he resigned after 12 months of service. Based on his contract, two tranches of incentive payments amounting to \$1,500 each were payable after the employee had completed 8 and 16 months of service respectively. The deduction pertained to the first incentive payment which he had received after he had completed 8 months of service.

During the self-resolution stage, the employer maintained that Mr Goh had not served for 16 months and hence he did not qualify for the incentive payment which was disbursed earlier.

As the parties were unable to resolve the dispute via self-resolution, TADM's mediator stepped in to review the parties' claims and documents submitted via the ODR platform. The mediator was able to quickly identify the area of contention and assessed that Mr Goh had a valid claim based on his contract. The mediator also highlighted that such salary deductions were not allowed under the Employment Act. In light of this, the employer reviewed their position and agreed to make full payment to Mr Goh.

Mr Goh is pleased that TADM managed to resolve his dispute expeditiously in 18 days via the ODR process. This had allowed him to have a peace of mind in starting afresh and preparing for his new employment at a logistics and transportation company.



I was looking for a quick and efficient way to resolve my employment dispute and was pleasantly surprised that I could do so in the comfort of my own home. The entire process, from lodgement to mediation, was done online. This not only saved me the trouble of having to travel back and forth to TADM amidst a pandemic but also gave me the freedom to express my thoughts freely without the physical presence of my former employer. 

21. Other than enhancing our digital services, we are also partnering other agencies to provide better access to TADM's services. TADM established a **partnership with Our Tampines Hub (OTH)** in April 2020 to provide basic guidance to workers who needed assistance on employment-related issues or with e-transactions such as online claims lodgement and appointment-making. From April to December 2020, OTH has attended to about 100 customers who required TADM's services. The feedback from the public on this initiative has been positive, as customers were able to enjoy a more streamlined and holistic assistance on their issues. Building on the success of the collaboration with OTH, TADM is exploring similar partnerships with other public agencies to further TADM's outreach.

Conclusion



22. The COVID-19 pandemic has impacted the economy severely, affecting both employees and businesses alike. MOM, together with our tripartite partners, worked closely together to review and roll out new initiatives to prevent an escalation of employment disputes amidst the evolving situation. The numbers point to an encouraging situation. As the economy recovers, MOM will monitor the situation closely and address emerging issues where necessary. We will also press on with our efforts to uplift employment standards while our economy restructures to adapt and thrive in a post-pandemic world.

In our continuous effort to uplift employment standards and resolve workplace disputes, we would like to acknowledge the support and partnership from many organisations including the Singapore National Employers Federation, NTUC's General Branch Unit, Migrant Workers' Centre, U Care Centre, Employment and Employability Institute, Social Services Offices, Family Services Centres, Law Society, Our Tampines Hub, Singapore Mediation Centre, and the Employment Claims Tribunals.



A publication by:

