

# Employment Pricing Transparency

## Employment tribunal: range of costs

### Before dealing with any claim

Before instructing any legal advisers to represent you in relation to an employment tribunal claim you should establish whether you may be able to use the benefit of any trade union membership (if you're an individual) or insurance cover for the necessary work. In terms of insurance, for individuals it is worth checking any bank account terms or household insurance policy in particular. For employers, considering whether you have any commercial disputes insurance or other insurance backing with your insurance broker or other providers should also be a consideration.

Additionally, a precursor to any employment tribunal claim is the ACAS pre-claim conciliation process. You should note that none of the pricing outlines below includes any legal assistance that you might request from us in relation to such pre-claim conciliation or any settlement negotiated as part of such a process.

### Basis of pricing information

The Solicitors Regulation Authority Transparency Rules require us to provide pricing for both the bringing, and the defence, of employment tribunal claims for unfair or wrongful dismissal. You should note that in many instances claims in the employment tribunal are made up of multiple heads of claim. The following pricing is therefore relevant **only** to stand alone claims of unfair dismissal or wrongful dismissal.

A wrongful dismissal claim in the employment tribunal is a breach of contract claim which is outstanding at the date of termination of employment or arises from the termination of employment. It does not extend to any claims that ongoing employees may have in relation to payments that they may be due or owed whilst employment is ongoing.

By its nature, given that any claim for unfair or wrongful dismissal depends on a multiplicity of factors, a substantial range of variables and that the work required will depend significantly on the stance taken by the other party to any proceedings we cannot provide a fixed or capped cost for such work. We charge for employment tribunal claims by reference to hourly rates, which currently range from £125 plus VAT per hour for a paralegal to £210 plus VAT for a solicitor, £250 plus VAT for an associate solicitor and up to £350 plus VAT for a partner. Based on those rates, our indicative pricing for bringing and defending claims for unfair or wrongful dismissal which proceed to final hearing is as follows:

1. In simple cases, where it is expected that the matter can be dealt with in a hearing of up to two days in length, the range of costs is likely to start from £8,000 to £12,000 (excluding VAT and disbursements).
2. In medium complexity cases, that is cases that are likely to last between three and five days, the range of costs is likely to start from £12,000 to £18,000 (excluding VAT and disbursements).
3. In high complexity cases involving hearings of five days or more and/or including an unfair dismissal claim which is brought on the basis of a whistleblowing allegation, costs are likely to start from £18,000 (excluding VAT and disbursements).

**NB: The above figures exclude representation costs at the final tribunal hearing, which for the purposes of this pricing model would be dealt with by counsel and are set out further below under the “Disbursements” heading.**

### **Considerations necessary to the pricing of employment tribunal claims**

As stated previously, there are a number of factors which could make a case more complicated and may result in costs being more than the indicative costings set out above.

These include:

1. If it is necessary to make or defend any applications by the other party to amend claims or to provide further information about an existing claim or where the tribunal requires consideration of substantial case management issues.
2. It can be more costly, as it frequently involves more time to manage our involvement in a claim, where claims are brought or defended by litigants in person.
3. The pricing does not include any considerations in relation to any costs applications that may be brought against you by the other party or that you may make against them. In the event that costs applications become a consideration in the employment tribunal, then these would be quoted for on a separate basis.
4. In some cases (particularly where there is a Public Interest Disclosure Act/"whistleblowing" aspect to the case which impacts on the pleading and management of the unfair dismissal case) complex preliminary issues can often arise and need dealing with as part of a formal preliminary hearing with the tribunal. A single preliminary hearing is included only within the high complexity cases, but if there is the need for substantial preliminary work then this would be subject to additional cost. That

cost will depend on the extent of preparatory work required and the length of any preliminary hearing which is fixed for the employment tribunal.

5. The number of witnesses and documents is also a substantial factor in terms of the costs in any employment tribunal claim.
6. Allegations of discrimination which may be linked to the dismissal are not covered by the range of costs examples provided above. These need to be considered on a case by case basis and we are happy to quote for any required work (to include any unfair or wrongful dismissal elements that may be appropriate) on request.

### **Disbursements**

Our pricing for the purposes of these requirements does not include the cost of representation at the tribunal hearing. We would (unless agreed otherwise) use a barrister (counsel) to advise and represent you at the final hearing. Counsel's costs fall within disbursements – i.e. the incidental costs which are also part of the legal costs of a matter. These are the costs which are payable to third parties in order to progress the matter or are expenses that we incur in order to progress the matter.

Where counsel is used, any fees that are to be incurred with counsel require you to make a payment on account of such costs to us in advance of counsel being instructed. This is because, as an organisation, we become liable for counsel's costs from the date of their instruction.

Counsel's costs depend on the experience level of the barrister instructed. Typically, the costs for a barrister with five to nine years' post qualification experience to carry out a tribunal in the simple or medium complexity category, of between one and five days, range from £1,500 to

£10,000 (plus VAT). These include the preparation costs for counsel but not any travel or accommodation expenses which may be separately payable. Matters lasting five days or more, may require more senior counsel and costs would be discussed on a case by case basis, but are like to start from £10,000 plus VAT.

Other common disbursements include the potential need for documents to be couriered or (predominantly for employers) where the parties are obliged to prepare the bundles of documents for use at the employment tribunal. In such circumstances, our photocopying charge is 15 pence (per sheet). VAT is not charged on this disbursement.

### **Stages of an employment tribunal unfair or wrongful dismissal claim**

The key stages of an employment tribunal claim (which are included within the fee estimates provided above) are as follows:

1. Us taking your initial instructions, reviewing any papers and advising on the merits and likely levels of compensation;
2. Us preparing the claim or response form (as applicable);
3. Us reviewing and advising you on the claim or response from the other party;
4. Us exploring settlement and negotiating a settlement of the claim at any time during the process;
5. Us preparing schedules and counter schedules of loss (if ordered);

6. Us preparing for and attending (where appropriate) any case management hearing or preliminary hearing;
7. The exchange of documents with the other party and the agreement and preparation of a bundle of documents for use at the tribunal hearing;
8. Us taking witness statements, to include the necessary interviews, drafting and compilation of the final form of witness statements;
9. Us reviewing and advising on the other party's witness statements;
10. The agreement of any list of issues, any chronology of events or the provision of a "cast list" (i.e. a list of the main individuals setting out their general relevance to the issues under consideration), if required by the employment tribunal;
11. Preparing for the final hearing including any necessary instructions to counsel.

The stages set out above are an indication only and if some of the stages above are not required, then any fee would be likely to be towards the lower end of the scale of charges provided.

### **Time period for the management of any claim**

Employment tribunals work on a regional basis. The length of time that a matter will take from initial instructions to the final resolution of the matter will depend largely on the overall complexity of the matter, the current case load of the regional employment tribunal within which it will be heard and the stage at which the claim is resolved.

Once a claim is accepted by the tribunal and forwarded to the employer, the employer has 28 days to respond to the claim. If directions are not issued by the tribunal on receipt of the defence, the matter then is likely to be subject to a preliminary hearing at which case management directions will be considered. Commonly this can take up to 13 weeks after the employer's response is received to be arranged. Any final tribunal hearing is likely to take place within a further period of twenty to 52 weeks after those case management directions start to run. These timescales are an estimate only and in any given case we will be able to give a more accurate timescale once we have more information from you and the initial claim form and defence have been submitted. The timescale will also be revised as any matter progresses.