

Employment

As a general rule, costs are not recoverable in the Employment Tribunal. This means that parties usually have to pay their own litigation costs.

A number of factors dictate the level of fees a party can be anticipated to pay, including the complexity of the issues; the number of documents that need to be reviewed and considered; the number of witnesses who will give evidence; the anticipated length of the final hearing and whether any preliminary hearings might be needed; the value and significance of the case to the parties.

Fees are considered on a case by case but for guideline purposes, we have set out below a broad estimate of our fees relating to the handling of Employment Tribunal claims for unfair or wrongful dismissal.

| Complexity of Case | Our Fees (£) excluding VAT | Criteria for Complexity of Case |
|----------------------|----------------------------|--|
| Simple case | £4,500 - £9,000 | <p>Final hearing lasting no longer than 2 days (including any remedy hearing). No preliminary issues requiring preliminary hearing(s).</p> <p>A maximum of 4 witnesses in total (3 for the employer, 1 for the employee).</p> <p>Fewer than 150 pages of evidence in the Tribunal bundle (in addition to the grounds of complaint, the response and any correspondence from the Tribunal setting out the case management directions).</p> |
| Medium Complexity | £9,000 - £25,000 | <p>The final hearing is expected to last between 3 – 5 days (including any remedy hearing).</p> <p>More than 4 witnesses can be anticipated to give evidence.</p> <p>Cases involving complex preliminary issues requiring a preliminary hearing such as whether the claimant is disabled (if it is not agreed by the other party), or whether the Employment Tribunal has jurisdiction to deal with the claim or whether the claim should be struck out.</p> <p>Claims involving litigants in person.</p> <p>Making or defending a costs application.</p> <p>Between 150 – 300 pages of evidence in the tribunal bundle (in addition to the grounds of complaint, response and any correspondence from the Tribunal setting out the case management directions).</p> <p>Allegations of discrimination linked to unfair dismissal and/or wrongful dismissal claim(s).</p> <p>The claim value is in excess of £30,000.</p> |
| High Complexity Case | £25,000 + | <p>The final hearing is expected to last more than 5 days.</p> <p>More than 10 witnesses.</p> <p>There is a significant reputational risk to the employer.</p> <p>In excess of 300 pages of evidence in the Tribunal bundle (in addition to grounds of complaint, response, and any correspondence from the Tribunal setting out the case management directions).</p> <p>The case value may exceed £60,000.</p> |

What is included?

The fees set out above can be anticipated to cover all of the work in relation to the following key stages of a claim:

- Taking initial instructions, reviewing relevant papers and advising on the merits and likely compensation award that is to be made by the Tribunal (the merits and anticipated judgment award will be regularly reviewed through the course of the matter);
- Entering into pre-claim conciliation where there is a mandatory requirement to explore whether settlement can be achieved;
- Preparing the claim or the response;
- Reviewing and advising on the claim or the response from the opponent;
- Exploring and negotiating settlement throughout the process;
- Preparing and considering schedules of loss;
- Preparing for (and attending) a preliminary hearing;
- Obtaining and reviewing the client's disclosable documents, exchanging the documents with the other party and reviewing the opponent's disclosed documents;
- Agreeing trial bundles and preparing them (if required);
- Taking witness statements, drafting statements and agreeing their content with witnesses;
- Reviewing and advising on the opponent's witness statements;
- Agreeing, drafting and preparing a list of issues, chronology and/or cast list (if required);
- Preparation and attendance at the final hearing, including instructions to Counsel.

As not all of the above stages may be required in the course of a matter, the fees charged will vary according to the extent of work undertaken. Some clients may prefer to only utilise our services for certain stages of a matter, and if we agree to work on that basis, our charges will be adjusted accordingly.

Additional disbursements

In addition to the fees that we charge, you can also expect to pay additional costs known as disbursements. Disbursements are costs related to your matter that are additional to our fees, such as travel or accommodation costs or costs payable to third parties, such as barristers or experts (if required).

In an Employment Tribunal claim the most usual disbursement tends to be the fees charged by a barrister. Barristers tend to charge fixed fees for attending and preparing for hearings or advice meetings (conferences) or for preparing written opinions or draft statements of case. Barrister's fees can broadly be anticipated at an hourly rate range of £150 - £400 plus VAT, dependent on the level of experience. We will endeavour to agree such fees in advance of a barrister's instruction and would normally ask you to make a payment on account of their fees in advance of the instruction being confirmed.

How long will the case take?

The length of time a case generally takes from initial instructions being obtained to the final resolution, largely depends on the stage at which a case is resolved and its complexity (see above). As a very broad guideline, if settlement is reached during pre-claim conciliation, the case is likely to take on average between 6 – 8 weeks.

If the claim proceeds to a final hearing it will be scheduled on a date fixed by the Tribunal, often having regard to all parties' availability and the Tribunal's resources. As a very general rule, we normally work on the basis that a simple case can be expected to be heard within 6 to 12 months of our instruction. More complex cases are more difficult to predict, but on a very broad brush basis, can be anticipated to resolve in around 12 – 24 months from instruction.

We do, of course, give more accurate assessments on timescales as a case progresses and as more information is obtained.

The Employment Team



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