

Employment law: costs information

Employment law

Employment Tribunals – Price Transparency

The Department undertakes Employment Tribunal work for both employers and employees. These particulars provide the price transparency information in relation to unfair dismissal claims and constructive dismissal which is required by Solicitors Regulation Authority Rules. The cost of conducting tribunal litigation in relation to these claims can vary hugely depending on the factual background and a range of other factors, and it is not possible to give standard prices for this sort of work.

However, typical unfair dismissal or constructive dismissal cases, providing that they are listed for no more than one day in total, and involve no more than 3 witnesses, will usually cost between £6000 and £9,000 (plus £1,800 VAT). This does not include the cost of conducting advocacy at the final hearing, which will typically involve instructing of a barrister. Typical barrister's fees for a one day hearing of this sort will often be between £1250 (plus £250 VAT) and £4000 (plus £800 VAT) depending on the seniority of the barrister selected by our client.

Our fees are calculated in accordance with the hourly rate relevant to the solicitor assigned to a particular Tribunal case, and these hourly rates are currently between £175 (plus £35 VAT) per hour and £300 (plus £60 VAT) per hour, depending on the seniority of the solicitor assigned.

However, in most cases we are able to quote a fixed fee following a review of the case and the extent of the work which it is likely to involve.

Our charges include all of the work undertaken in relation to the preparation of the Tribunal case and in complying with the directions or orders made by the Tribunal determining how the case is to be prepared. The typical stages in bringing or defending an Employment Tribunal claim, and the services which we offer, are set out below. In relation to each, we set out the services offered, the likely timescales involved, and an estimate of the likely fees incurred at each stage.

1. In relation to bringing an employment tribunal claim, taking instructions, advising as to the merits of the claim, and if so instructed, entering into correspondence with the proposed Respondent with a view to eliciting an offer in relation to the proposed claim. Advice as to the merits of the claim will typically be provided within seven days of the first instruction and correspondence with a proposed Respondent will typically be completed within three days thereafter. Progress in settlement discussions will depend upon the response received by the proposed Defendant, and it is not possible to provide a time estimate in relation to this. The likely cost associated with this stage will be between £500 (plus £100 VAT) and £1,000 (plus £200 VAT).
2. In relation to bringing an employment tribunal claim, submitting the ACAS compulsory conciliation form and liaising with ACAS in relation to compulsory conciliation, and if conciliation is not desired by the client, or conciliation is not successful, drafting the claim, including setting out the Particulars of Claim on Form ET1, sending the Particulars in draft for comment and amendment, making any consequential amendments and submitting the claim to the employment tribunal. The likely cost associated with this stage will be between £500 (plus £100 VAT) and £1,000 (plus £200 VAT). This stage will generally be undertaken within 14 to 21 days of initial instructions, but will be dependent upon the relevant time limits, and the

work may need to be conducted urgently if the time limit for bringing an employment tribunal claim is pressing.

3. If defending an employment tribunal claim, receiving and reviewing the tribunal application, taking instructions, advising as to the merits of the claim, the costs of defending the claim and the merits of entering into negotiations in order to settle the claim prior to submitting a Defence. Thereafter, if so instructed, entering into correspondence with the Claimant or entering into negotiations via ACAS with a view to settling the claim, potentially as part of the compulsory conciliation process. This stage will be undertaken within the 28 days allowed for the completion of a Defence in relation to an employment claim. The fee incurred in relation to this stage will typically be between £500 (plus £100 VAT) and £1,000 (plus £200 VAT).
4. If defending an employment tribunal claim, preparing particulars of the response in draft, seeking instructions and once approved, submitting the response to the relevant office of the employment tribunal. The timescale is determined by the time limit applying to the submission of the Defence, which is 28 days from the date upon which the claim is sent out by the tribunal office. At this stage, we will also consider whether any further information about the claim should be sought, and if necessary, we will enter into correspondence to obtain that further information (often referred to as "further particulars") and if such information is not provided, we may make an application to the tribunal for an order that the additional information be provided. The costs at this stage are generally between £750 (plus £150 VAT) and £1,500 (plus £300 VAT).
5. Whether bringing or defending claims, we will advise on the legal obligation to provide disclosure of documents to the other side, obtain and review disclosure documents, and review whether those documents are likely to be the entirety of the documents in the possession of the Claimant or Defendant, and therefore whether the legal obligation to disclose has been met. We will complete an index of documents for disclosure, and subsequently enter into correspondence with the other side to arrange for the disclosure of documents by copy. We will consider whether any additional documents not initially disclosed by the other side are relevant, and if appropriate, we will seek specific disclosure, initially by correspondence with the other side and in the event that the relevant documents are not forthcoming, make an application to the tribunal for specific disclosure. The timescale for this stage depends on the directions set by the tribunal, but typically, this stage will take place within 1 month of the submission of the tribunal defence. The typical cost for this stage is £500 (plus £100 VAT) to £1,000 (plus £200 VAT).
6. In relation to defending a claim, we will create a paginated, chronological and indexed bundle of documents for use at the tribunal hearing, in accordance with any directions issued by the tribunal. The cost for this stage is generally between £350 (plus £70 VAT) and £750 (plus £150 VAT).
7. Whether bringing or defending an employment tribunal claim, we shall interview all relevant witnesses either in person or over the telephone in order to take instructions on the written witness statement of that witness, and thereafter we will draft a witness statement for the approval of the witness, seek instructions that the witness statement is accurate in all particulars, and arrange for exchange of witness statements with the other side. Upon receipt of witness statements prepared by the other side, we will review these in detail and provide updated advice as to the prospects of success. This stage will usually be completed

approximately 1 month prior to the hearing date, and the cost for this stage will typically be between £1,000 (plus £200 VAT) and £2,500 (plus £500 VAT).

8. Whether either bringing or defending employment tribunal claims, we will make enquiries relating to the availability of a suitable barrister, negotiate brief fees, and advise as to the most suitable barrister based upon expertise and price. We will then instruct Counsel and, if required, arrange a conference with Counsel prior to the hearing. Note that the cost of such a conference is likely to be an additional cost above and beyond the cost associated with instructing Counsel noted above. This stage will usually be completed in the week preceding the hearing. The cost associated with instructing Counsel are between £200 (plus £40 VAT) and £400 (plus £80 VAT), and the cost of attending a conference with Counsel, if required, is generally between £200 (plus £40 VAT) and £500 (plus £100 VAT). Counsel's fees for a conference will typically be around £500 (plus £100 VAT).
9. When bringing or defending an employment tribunal claim, we will make final hearing preparations, provide guidance as to what is to be expected at the hearing and give guidance to anyone acting as a witness as to how best to present oral evidence in the employment tribunal. We will ensure that an appropriate number of bundles are taken to the tribunal. We do not generally attend tribunal hearings where Counsel has been instructed, but will do so, at additional cost, if requested. Costs for this stage are typically £200 (plus £40 VAT) to £300 (plus £60 VAT), and the cost of an attendance for the day at the employment tribunal will typically be £500 (plus £100 VAT).

Please note that our costs do not include any costs incurred after the hearing itself, and do not include the costs of seeking a review of any tribunal decision, or of pursuing or defending any appeal as a result of the hearing. Neither do these costs include any separate hearing which is listed by the tribunal to assess the issue of damages, if this is not dealt with at the initial hearing itself.

It is not possible to provide guidance on the timescales relating to a typical Tribunal case, as the chronology of a case is determined by the orders given by the Tribunal, which themselves are dependent upon the availability of hearing dates at the Tribunal centre to which the case is assigned. In very broad terms, a typical one day unfair dismissal or constructive dismissal case is taking between 6 months and 9 months from first instructions to final hearing, though this does vary considerably and depends on factors which are outside our control.

Experience and qualifications of individuals carrying out work within the areas specified

The following information is provided in relation to individuals at BLM who carry out work in relation to bringing or defending employment tribunal claims for unfair dismissal or constructive dismissal. In each case, the individual named is a qualified solicitor.

1 James Lister, Partner

- a. Post-qualification experience – 26 years
- b. Estimated number of cases dealt with in relation to unfair dismissal and constructive dismissal – over 300.

- c. Percentage of time spent in relation to unfair dismissal or constructive dismissal employment tribunal cases – 10%.
- d. Complexity and type of issues typically dealt with – unfair dismissal and constructive dismissal matters of high complexity and/or high value.

2 Andrew McDonald, Partner

- a. Post-qualification experience – 30 years
- b. Estimated number of cases dealt with in relation to unfair dismissal and constructive dismissal – over 300.
- c. Percentage of time spent in relation to unfair dismissal or constructive dismissal employment tribunal cases –10%.
- d. Complexity and type of issues typically dealt with – unfair dismissal and constructive dismissal matters of high complexity and/or high value.

3 Laura D’Arcy, Senior Associate

- a. Post-qualification experience – 17 years
- b. Estimated number of cases dealt with in relation to unfair dismissal and constructive dismissal – over 300.
- c. Percentage of time spent in relation to unfair dismissal or constructive dismissal employment tribunal cases – 20%.
- d. Complexity and type of issues typically dealt with – unfair dismissal and constructive dismissal matters of high complexity and/or high value.

4 Laura Molloy, Associate

- a. Post-qualification experience – 8 years
- b. Estimated number of cases dealt with in relation to unfair dismissal and constructive dismissal – over 150.
- c. Percentage of time spent in relation to unfair dismissal or constructive dismissal employment tribunal cases – 25%.
- d. Complexity and type of issues typically dealt with – unfair dismissal and constructive dismissal matter of medium to high complexity or value.