

# EMPLOYMENT TRIBUNAL

## DEFENDING CLAIMS FOR UNFAIR OR WRONGFUL DISMISSAL

### Estimate of average cost

	Simple wrongful dismissal	Simple unfair dismissal	Medium to complex unfair dismissal	Highly complex unfair dismissal
All estimates are inclusive of VAT @20%				
Estimate of average cost	£5k-£8k	£15k-£24k	£20k-£40k	£40k plus
Estimate of no of Tribunal case days	1 day	Up to 3 days	4-8 days	8 days plus *
Estimated timescale	16-26 weeks	16-26 weeks	12-18 months	12-18 months

\*A clear estimate of costs and timescale for a highly complex unfair dismissal case can be calculated and discussed with you following a review of your individual circumstances.

As a rule of thumb, the overall cost of defending an employment tribunal matter depends on the amount of evidence that is required to be dealt with and the complexity of the issues.

Broadly speaking, each day in tribunal costs between £5,000 and £8,000 (incl. of VAT @ 20%) so a three day case would cost somewhere between £15,000 and £24,000 (incl. of VAT @ 20%) in fees.

The estimated costs are calculated on a blended rate of a Principal (up to £430/hour), Senior Associate (up to £280/per) and Paralegal (up to £185/hour).

### Disbursements

Disbursements will be charged in addition to our fees. For this type of work, we expect the following disbursements to be incurred:

- Counsel's (barristers fees) will vary depending on the level of experience of Counsel instructed. Counsel charge a "Brief Fee" which includes the preparation for the hearing and attendance on the first day and then a "Refresher" for each day after that.
- For a 3 day unfair dismissal hearing using a middle ranking barrister, the Brief Fee would be estimated to be between £4,200 - £9,000 (incl. of VAT @ 20%).
- The estimate for the Refresher would be between £600 and £1,800 per day (incl. of VAT @ 20%), which would make Counsel's fees for the whole hearing somewhere between £5,400 and £12,600 (incl. of VAT @ 20%).
- Additional costs will be charged by Counsel for any work required outside of preparation for and attendance at the hearing, e.g. reviewing witness statements. We will always advise and agree these additional costs with you prior to confirming instructions to counsel.

## Estimate of how long it usually takes

The length of time that it takes a claim to proceed to a final hearing depends entirely on the listing of the case by the Employment Tribunal. The Employment Tribunals aim to have a case listed for a hearing within 26 weeks of the service of the claim form on the employer but, in reality, it is nearer to 52 weeks.

We will endeavour to give you a more accurate timescale once we have more information of your own matter, and as the matter progresses.

## Assumptions

For an average tribunal that we would expect to last for 3 days, we make the following assumptions:

- Taking initial instructions, reviewing the papers, advising on the claim and preparing the defence
- Exploring settlement and negotiating settlement throughout the process
- Considering and advising on the employee's schedule of loss
- Preparing for (and attending) a Preliminary Hearing
- Obtaining your disclosure documents, reviewing them, exchanging documents with the employee and reviewing his/her documents and then agreeing a joint bundle of documents
- Interviewing your witnesses for the purposes of witness statements, drafting statements and agreeing their content with witnesses prior to exchanging witness statements with the employee
- Reviewing and advising on the employee's witness statements
- Agreeing a list of issues
- Preparation and attendance at Final Hearing, including preparing instructions to Counsel

## Factors that indicate a higher complexity include

- Making or defending applications to amend claims or to obtain/provide further information about an existing claim
- Attendance at judicial mediation
- Defending claims that are brought by litigants in person
- Making or defending a costs application
- Where there are preliminary issues (such as where the claim is brought out of time or where there is an interim relief application)
- Where there are substantial numbers of witnesses or documents
- If the allegations include claims that the dismissal was for an inadmissible reason (e.g. whistle-blowing)
- Where there are separate hearings on liability and remedy

## Flowchart of Employment Tribunal

The Employment Tribunal (ET) Process follows 10 main steps. Each of these steps may lead to other processes that you or your employer may need to carry out. Most claims must be brought to the Employment Tribunal within 3 months.



## Our people that can do this type of work

If the work you need us to do for you does not fit into the normal range of service we have set out in this illustration, please speak to us and we will be happy to give you a full detailed scope of fees.



**JON TAYLOR**  
PRINCIPAL

0345 074 2374  
jon.taylor@emwllp.com

I advise on a full range of employment and HR related matters for employers including TUPE, discrimination and whistle-blowing. I also provide training on HR matters for HR teams and managers. I am an accredited CEDR mediator and head of our Employment Team. I qualified as a solicitor in November 1993, and have a wealth of experience in this area.



**PRIYA MAGAR**  
SENIOR ASSOCIATE

0345 074 2501  
priya.magar@emwllp.com

I undertake both contentious and non-contentious work, advising on a wide range of employment matters. I have acted for clients on Employment Tribunal matters including unfair dismissal and discrimination. I also advise clients on general employment matters such as redundancy, contracts of employment, HR policies, recruitment and managing staff exits. I have significant experience in-house and have taken part in a number of client secondments.