

## Litigation in the Employment Tribunal for unfair or wrongful dismissal claims – our approach to pricing

Fladgate's Employment team specialises in supporting clients with complex, high value litigation in the UK whether this takes place in the civil courts, the Employment Tribunal or the Employment Appeals Tribunal. We are well used to servicing the legal requirements of our UK and international clients across the full spectrum of UK and European employment laws. We are also adept at servicing cross border litigation using our network of overseas relationship firms.

Insofar as our Employment Tribunal litigation expertise is concerned, we offer highly competitive pricing relative to comparable London-based firms. We provide services to mainly corporate clients and senior executives operating a high quality, partner-led service where our most experienced advisors are heavily involved in the day-today case load ensuring that we offer tailored, commercial and highly practical advice to our clients in a cost effective manner in accordance with the requirements of the Overriding Objective for all Employment Tribunal litigation.

To assist clients with gauging the potential costs involved and in compliance with our obligations under our professional rules, we have set below a range of costs for an unfair or wrongful dismissal claim in the Employment Tribunal:

- Simple case: £20,000-£40,000 (excluding VAT)
- Medium complexity case: £40,000-£100,000 (excluding VAT)
- High complexity case: £100,000-£250,000 (excluding VAT)

Our hourly rates vary from £160 per hour (excluding VAT) to £485 per hour (excluding VAT) depending upon the seniority or experience of the lawyer involved in the work. We aim to ensure work is done at the appropriate level of lawyer to keep costs managed appropriately.

Factors that could make a case more complex:

- If it is necessary to make or defend applications to amend claims or to provide further information about an existing claim
- Defending claims that are brought by litigants in person and/or multiple claimants
- Preliminary issues such as whether the claimant is able to bring the claim lodged, has brought the claim in the relevant time limits, adding or removing parties, striking out part or all of the claim(s) or defence(s), seeking orders for documents to be disclosed or parties to attend hearings or to apply for or defend applications for costs
- The number of and location of witnesses and documents (including, in particular, the requirement for an e-disclosure platform)
- If evidence is required from other experts (e.g. medical professionals, forensic experts, accountants, recruitment consultants)
- If it is an automatic unfair dismissal claim e.g. involving a claim that the dismissal occurred following a whistleblowing complaint
- Handling brand and reputation matters or matters involving professional regulation
- A novel point of law or matter of more general public concern
- Where the course of proceedings are subject to delay by the Employment Tribunal and/or if scheduled court dates are adjourned for any reason

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- Matters involving external organisations such as those where there is a criminal, regulatory, or civil aspect alongside the Tribunal claims
- Claims where the jurisdiction of the Employment Tribunal is an issue in the dispute
- Claims which have been subject to an appeal

A more accurate estimate of total costs will be provided on receipt of details of the claim and other relevant factors, including those set out above.

Fladgate's Employment team does not undertake work on a contingency fee basis (e.g. conditional fee agreements or damages-based agreements). However, alternative funding options (such as contributions from an insurer) will be discussed where applicable.

## Disbursements

Disbursements are costs related to your matter that are payable to third parties such as:

- Court fees
- Expert's fees
- Barrister's fees

We usually handle the payment of the disbursements on your behalf to ensure a smoother process.

Barrister's fees vary considerably depending upon the complexity of the case, their seniority and experience, the volume of documents, their involvement in the preparation of the case and the estimated length of the hearing.

The range of fees for a barrister for an unfair dismissal or wrongful dismissal claim is in the order of £5,000 to £50,000 (excluding VAT) for the preparation and attendance at a full Tribunal Hearing, but they can be more.

## What services would not be included in the above prices?

The above indication of likely fees may not include:

- Judicial Mediation or mediation hearings. However, our fees will be reduced if there is successful settlement before further key work (see below) is required although there may be little or no saving if settlement is reached close to the Tribunal Hearing
- Preparation for and attendance at Preliminary Hearings of more than 1 day in length or multiple Preliminary Hearings
- Claims where allegations of unlawful discrimination are made. It may be that allegations of discrimination which are linked to the dismissal may cause a case to fall within the more complex or high complex bands above. However, it may also be that the nature, number and complexity of the discrimination allegations mean that the above typical prices are not applicable. (We will of course provide an indication of likely costs at the outset of the matter and revise this on an ongoing basis to keep you updated)

The above indication of likely fees does not include:

- Advice provided in the lead up to a claim being issued in the Tribunal
- Any preparation for and attendance at separate hearings for the Tribunal to consider remedies
- Any appeals made against a decision or order of the Employment Tribunal
- Ancillary issues, such as advising on any concurrent grievance or subject access request

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## Key stages

The estimate of fees set out above in most cases cover the work in relation to the following key stages of a claim:

- Taking initial instructions, reviewing the papers and advising on merits and likely compensation (this is likely to be revisited throughout the matter and subject to change)
- Preparing claim or response
- Reviewing and advising on claim or response from the other party
- Exploring settlement and negotiating settlement throughout the process
- Preparing or considering a schedule of loss
- Preparing for (and attending) a Preliminary Hearing
- Exchanging documents with the other party and agreeing a bundle of documents
- Taking witness statements, drafting statements and agreeing their content with witnesses
- Preparing bundle of documents
- Reviewing and advising on the other party's witness statements
- Agreeing a list of issues, a chronology and/or cast list
- Preparation and attendance at Final Hearing, including instructions to Counsel
- Advising on the merits of any appeal

The stages set out above are an indication and if some of stages above are not required, the fee may be reduced. Clients may wish to handle the claim themselves and only have our advice in relation to some of the stages. This can also be arranged according to your needs.

## How long will the matter take?

The time that it takes from taking initial instructions to the final resolution of the matter depends largely on the stage at which the case is resolved and the Employment Tribunal at which it is being heard. The dates Employment Tribunals list cases for hearing vary widely.

If a settlement is reached during pre-claim conciliation, the case is likely to take 4-8 weeks. If the claim proceeds to a Final Hearing, your case is likely to take 6-24 months. This is just an estimate and we will of course be able to give a more accurate timescale once we have more information and as the matter progresses.

## Team profiles

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