



Employment Tribunals

This employment law guide explores the basics of employment tribunals and offers guidance on how to avoid common pitfalls.

Employment Tribunals are a separate judicial body created to hear and decide disputes regarding employment rights between employee and employer. There are separate tribunals for England & Wales, with the Central Office located in Leicester; and Scotland, where the Central Office is located in Glasgow.

Who sits on an Employment Tribunal?

A tribunal contains an Employment Judge, who can sit alone for some hearings, or there may be a panel of three where two 'lay members' are also involved. One lay member will have previous experience of representing employers and businesses; whilst the other will have a background of working with employees. Where lay members are involved, all three panel members will decide the case.

What claims will an Employment Tribunal hear?

The claims will cover a wide range of employment law issues, including claims for:

- Unfair dismissal
- Discrimination
- Equal pay
- Wages
- Working time
- Breach of contract
- National Minimum Wage

How is a claim made to the Employment Tribunal?

Early Conciliation

Since April 2014, an individual must notify Acas before bringing a claim to an Employment Tribunal. Acas will offer Early Conciliation to try to resolve the issue before a claim is brought. If Early Conciliation

is successful, the issue is settled and the individual is barred from bringing a claim.

Claim Form

Where Early Conciliation fails, the employee can then go on to complete the claim form (ET1), attaching proof that the Early Conciliation scheme has been completed.

Response Form

The employer will receive a response form (ET3) from the Tribunal, informing them that a claim has been brought, and requiring them to enter their response i.e. their defence to the allegations.

Claimant – the individual who is bringing the claim.

Respondent - This is the party who is the claim is brought against. This is normally the business where the claimant worked, but can also include individuals.



Who can bring a claim?

- Employees
- Workers
- Self-employed people
- Ex-employees
- Job applicants
- Agency workers

NB. Not all employment rights are available to each category named above

Different types of hearings

Preliminary hearing

These hearings are normally held before an Employment Judge sitting alone to decide some key matters before the main hearing. These include matters such as whether the claim should continue or be struck out, if a deposit needs to be paid by a party if the case appears to be weak and to decide

how the later proceedings should be carried out.

Final Hearing

This is the hearing which decides whether the claim succeeds or fails.

Remedy Hearing

If the amount of compensation to be awarded to the successful claimant was not decided at the final hearing, a further hearing can be arranged to decide this point.

What can an employment tribunal award?

If the claimant is successful, the tribunal can make a financial award against the respondent. In some cases, compensation is fixed at a certain amount e.g. eight weeks' pay. In other cases, such as discrimination, compensation is unlimited. Alternatively, a Tribunal may decide on re-instatement or re-engagement of the individual at the respondent company.

In unfair dismissal cases, the compensation is made up of a basic award and a compensatory award, and generally the most the employee may be awarded is one year's pay, although there are some exceptions.

Basic award

This is calculated in the same way as statutory redundancy pay, taking into consideration the employee's length of continuous service, age and a week's pay. A week's pay is subject to a maximum limit.

Compensatory award

The aim of this award is to compensate the claimant fully in terms of past and future losses. Some areas the tribunal may look at when deciding the amount of the compensatory award will include immediate loss of wages, future loss of wages and loss of employment rights.



Does it cost to bring a claim to the tribunal?

Since July 2013 claimants must pay a fee to bring an employment tribunal claim.

Fee type	Type A claim	Type B claim
Issue fee	£160	£250
Hearing fee	£230	£950

Type A claims are typically wages related claims. Type B claims are for more complex claims that will take longer to hear, such as unfair dismissal and discrimination.

Fees are paid in two stages as shown in the table; the Issue Fee is payable when the claim is brought; and the Hearing Fee is paid shortly before the hearing.

Employers should expect to reimburse the fee to a successful claimant.

Time limits

For the majority of claims, the time limit in which to bring the claim is three months from the date on which the action took place e.g. the date of dismissal or the date the breach of contract took place. The Employment Tribunal has the power to extend this time limit.

Employment Appeals Tribunal (EAT)

The EAT hears appeals from decisions made by Employment Tribunals in England, Wales and Scotland. The appeal must be on a point of law e.g. the legal reasoning the tribunal used to decide the claim. To bring an appeal, for all claims, the issue fee is £400 and the hearing fee is £1,200.

Statistics

The latest annual statistics show that in 2014/2015:

105,803 claims were made to the Employment Tribunal

