

FACT SHEET

Employment Tribunal Guidance for Employees

KEY CONTACT



Gary Smith

Partner

t: 01279 712576

e: gsmith@nockolds.co.uk

An employee or ex-employee may decide to start a claim in the employment tribunal if they have got a problem at work that cannot be resolved, or if they have been unfairly treated or dismissed by their employer.

Employees do not have to pay any fees to start a tribunal claim and there is no requirement for parties to be legally represented.

The general rule is that each party pays its own costs. There is only a very small chance an employee will be ordered to pay the employer's costs, for example, if the employee has brought a hopeless case that has no or little prospects of success.

An employee generally has three months less one day from the date of termination, or the event giving rise to the claim, to bring a claim in the employment tribunal. If this important 'limitation date' is missed, it will become statute-barred, meaning the employee will not be able to pursue the claim.

Steps to Take Before Bringing an Employment Tribunal Claim

- » Check the time limits for bringing a claim. In most cases, the employee has three months less one day from the date of dismissal or the cause of action (such as the discriminatory act) to issue a claim in the employment tribunal.
- » Participate in the employer's own internal procedures, i.e. formal disciplinary and grievance procedures.
- » Submit an appeal via the employer's internal procedures.
- » Contact Acas (Advisory, Conciliation and Arbitration Service) and engage in free, voluntary early conciliation to attempt to resolve the dispute with your employer as an alternative to issuing a claim in the tribunal.

An additional month is allowed for Acas conciliation which 'stops the clock' on the time period for lodging the claim with the tribunal.

- » Obtain a 'conciliation certificate' from Acas to show that early conciliation has been attempted but failed.

Failing to take these initial steps before bringing a claim in the employment tribunal may mean that any compensation you are ultimately awarded by a tribunal is reduced by up to 25%.

Steps to Bringing an Employment Tribunal Claim

- » **Complete and submit the claim form** - this is known as the 'ET1 Form' which must be submitted to the employment tribunal. This can be done online at GOV.UK or the form can be printed off, completed and sent in the post. You should attach full details of your claim and the events leading up to it in chronological date order.
- » **Await response** - the tribunal will then log the claim and send a copy to your employer (known as the 'respondent'). Your employer has 28 days to respond by completing and returning an 'ET3 Form', setting out their defence to the claim. If your employer fails to do this in time, the tribunal may make a judgment in default which means your employer will not be able to defend the claim and you will automatically win your claim without having to continue through the process to a final hearing.
- » **Directions and deadlines** - the employment tribunal will send 'directions' to both parties setting out the timetable for the steps to be taken up to the date of the final hearing. Directions may include setting a preliminary hearing, exchanging documents and witness statements.
- » **Preliminary hearing** - in more complex cases, the judge may order that a preliminary hearing take place before the main tribunal hearing. This is a mini-hearing which helps the judge understand the case and make arrangements and agree a timetable of steps to take before the main, final hearing.
- » **Disclosure** - both parties will be obliged to disclose to the other party all the documents they have that are relevant and necessary to the issues of the case. The duty of disclosure applies to all documents that are in a parties' possession or control, whether or not the documents help or hinder that parties' case.
- » **Witness statements** - witnesses need to be identified and witness statements drafted. The statements will be the witnesses' evidence-in-chief in the case and it is crucial that they are factually correct. A witness statement should set out the witness's own version of events in full and cross reference any relevant documents.
- » **Final hearing** - the final hearing will take place in front of an employment judge who sits alone or, in more complex cases, a panel consisting of the judge and two panel members. All parties and witnesses must attend, whether the hearing takes place in person or remotely.
- » **Outcome** - once the hearing has finished, the judge will adjourn to consider their decision on the outcome of the claim known as a 'judgment'. If you are successful, the tribunal can make the following awards:

- » Compensation - made up of a 'basic award' (equivalent to a statutory redundancy payment) and compensation for loss of earnings (for unfair dismissal claims the compensatory award is capped at the lower of the employee's annual salary or £93,878);
- » Payment of wages or monies due to the employee;
- » Reinstatement (the employee gets their job back);
- » Re-engagement (the employee returns to the business in a new role).

How We Can Help

The prospect of starting and pursuing a claim in the employment tribunal may seem daunting but we can make the process significantly less stressful by assisting employees as follows:

- » Assist you in identifying the correct limitation date for your claim;
- » Obtain all the relevant information to assess the strength of your claim and advise you on your prospects of success should your case reach a final hearing;
- » Advise you on the likely value of your claim;
- » Advise you on the likely legal costs in bringing a claim;
- » Draft all the necessary paperwork to progress your claim to a final hearing, including the initial claim form and witness statements;
- » Ensure important deadlines are diarised are not missed;
- » Provide advice on your disclosure obligations throughout the case;
- » Provide representation and support for you at the final hearing;
- » Engage with your employer throughout the process to attempt to secure an amicable settlement and outcome for you to avoid the costs and delay of the full process of bringing a claim in the employment tribunal.



How Can We Help You?

For more information and to find out how we can help you, please contact us on 0345 646 0406 or email enquiries@nockolds.co.uk and a member of our Team will be in touch.