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LE LAW Guide to Costs for acting for Employees in the Employment Tribunal

(Version 1, November 2018)

LE Law have considerable experience in representing employees in the Employment Tribunal. The Tribunal can consider almost any type of claim arising out of an employer/employee relationship, for example:

- Unfair dismissal
- Redundancy
- Breach of contract
- Deductions from wages
- Sex discrimination
- Race discrimination
- Disability discrimination
- Equal pay

In a few cases you have a choice between the Employment Tribunal or the County Court and we will advise you on the factors to bear in mind. Some cases must go to court, for example if an injunction is required. Most employment cases go to the Tribunal.

This guide sets out how we charge for claims of unfair dismissal and wrongful dismissal claims in particular. We can always provide details of our charges for other types of claim, some of which (eg deductions from wages) will be considerably simpler and therefore less expensive to pursue.

There are a number of different options for funding cases in the Tribunal or the Court – see our Guide to Funding Options for further details.

In the Employment Tribunal (where legal aid is not generally available) the usual options will be :

- (a) Funding the case yourself
- (b) Legal Expenses Insurance
- (c) A Damages Based Agreement (known as a “DBA”)

Under (a) or (b) our charges will be calculated according to the number of hours spent on your case, at the current rate of the lawyer(s) working on your case. Under (c) our charges are calculated on a completely different basis, namely as a percentage of the compensation you recover.

Our charges when you are funding the case yourself, or via Legal Expenses Insurance

The current hourly rates of our lawyers range from £200-300 plus VAT.

There are a number of factors which can affect how much time we spend on your case, the main ones being (a) how complex it is and (b) whether the case goes all the way to a final hearing in the Tribunal, or can be settled earlier.

A typical estimate of our charges for a case that goes to a final hearing would be :

Simple case: £5-10,000 plus VAT

Medium complexity case: £10-20,000 plus VAT

High complexity case: £20-50,000 plus VAT

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
- Making or defending a costs application
- Complex preliminary issues such as whether the claimant is disabled (if this is not agreed by the parties)
- The number of witnesses and documents
- Whether any expert evidence is required (eg a medical report, or report from a health and safety expert)
- If it is an automatic unfair dismissal claim e.g. if you are dismissed after blowing the whistle on your employer
- If you have resigned and wish to claim constructive unfair dismissal
- If you allege to have suffered personal injuries (physical or mental) which you wish to claim for in the Tribunal
- Allegations of discrimination which are linked to the dismissal

Our charges when acting under a Damages Based Agreement (“DBA”)

We will discuss with you whether a DBA may be an appropriate means of funding your case, depending on the value of your claim, and what alternative funding options may be open to you

Under a DBA, our charges are based solely on the amount recovered from your opponent, limited to a maximum of 35% of the amount recovered. That figure will include VAT on our charges.

For example, if you pursue a claim and recover £30,000 in compensation, our charges will be 35% of £30,000 ie £10,500 including VAT (or £8750 plus VAT at the current VAT rate of 20%).

Representation at Hearings

There will be an additional charge for representation at any Tribunal Hearing. There will generally be at least one case management hearing (and in more complex cases often two or even more) before the final hearing. The final hearing might last a day in a simple case, in a medium complexity case it could last 2 or 3 days, and in a complex case significantly longer. We will instruct a barrister to represent you at such hearings.

The barrister's charges for representing you at a hearing will depend on the seniority of the barrister chosen, but for a case management hearing they may charge around £1000 plus VAT, and for the final hearing anything from £2500 to £7500 plus VAT for preparation and the first day of the hearing, with a daily "refresher" of £1000 to £2500 per day plus VAT according to seniority.

Disbursements

Disbursements are costs related to your matter that are payable to third parties, such as fees payable to the Tribunal, barristers and experts. Typical disbursements you may have to pay for :

Tribunal Fees – At the time of writing Tribunal fees have been dropped, but there are Government proposals to possibly reintroduce them at some stage in the future.

Barristers fees – see "Representation at hearings " above

Experts fees – An expert medical report might typically cost £500 for an orthopaedic report, up to £2000 for a psychiatric report.

Key stages

The estimated charges set out above cover all of the work in relation to the key stages of a claim:

- Taking your initial instructions, reviewing the papers and advising you on merits and likely compensation (this is likely to be revisited throughout the matter and subject to change)
- Entering into pre-claim conciliation via ACAS where this is mandatory to explore whether a settlement can be reached;
- Preparing claim or response
- Reviewing and advising on claim or response from other party
- Exploring settlement and negotiating settlement throughout the process
- preparing or considering a schedule of loss
- Preparing for 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 for Final Hearing, including instructions to the barrister who represents you

The stages set out above are an indication and if some of stages above are not required, the fee will be lower.

Representing yourself

You may wish to handle the claim yourself as far as possible and only have our advice in relation to some of the stages from time to time. This can also be arranged if you prefer. Our charges will then be based purely on the time we spend advising and assisting you as and when required.

How long will my matter take?

The time that it takes from taking your initial instructions to the final resolution of your matter depends largely on the stage at which your case is resolved. If a settlement is reached during pre-claim conciliation, your case is likely to take 2-3 months. If your claim proceeds to a Final Hearing, your case is likely to take 9-12 months for a medium complexity case. This is just an estimate and is largely dependent on the delay in obtaining hearing dates from the Tribunal. We will of course be able to give you a more accurate timescale once we have more information and as the matter progresses.

Who will carry out the work?

At present all Employment Tribunal work is carried out by or under the supervision of our Director and senior lawyer, Neil Lloyd-Evans, supported by Mark Zukas.

Neil Lloyd-Evans qualified as a solicitor in 1987 and has over 30 years of experience in dealing with employment claims of all shapes and sizes, both in Employment Tribunals (acting for both employers and employees) and in the courts, including seeking and defending injunction applications.

Mark Zukas is a Chartered Legal Executive who qualified in September 2016 and has worked in the legal profession since 2013. He has already gained experience of pursuing unfair dismissal claim through to settlement shortly before final hearing, and of advising clients on a range of employment issues.

If you have any questions or would like to arrange an appointment please call Neil or Mark on 020 8508 4691.