

For Employers

Costs in unfair and wrongful dismissal claims in the Employment Tribunals

February 2024

We always liaise closely with you at the outset of any instruction to agree on costs before undertaking any item of work

It is important to us that you understand the upfront costs associated with our instruction. Employers should be aware that the normal rule in Employment Tribunals is that the parties bear their own costs regardless of the outcome. There are exceptions to this general rule where cases are brought unreasonably or where the conduct of the claim is unreasonable.

Claims for unfair and wrongful dismissal come in various shapes and sizes and the cost of defending proceedings will depend on the nature of the issues (for example whether it is a misconduct case or one dealing with redundancy), the volume of the documentary evidence, the number of witnesses likely to be called and the duration of the final hearing which is determined by the Employment Tribunal (normally at a case management hearing). For these reasons, it is not possible to provide any meaningful estimate of costs in advance of a fuller understanding of the claims.

We set out below the typical range of costs to be expected when a business instructs us in relation to advice and representation when faced with a claim by a former employee in the Employment Tribunal for either unfair dismissal or wrongful dismissal. In some cases, it may be possible to agree with us a fixed fee in relation to the work from start to finish, but a fixed fee may not be in your best interests if there is a prospect of early settlement.

The total charges (excluding disbursements) in acting on behalf of an employer in defending a claim for unfair or wrongful dismissal will normally be in the region of £20,000 to £30,000 plus VAT at the current rate, being 20% (£24,000 to £36,000 inclusive of VAT).

A significant element of our charges will depend on the length of the final hearing before the Employment Tribunal and this can range from one day in the simplest of cases to two weeks or more in complex cases.

Our charges include the following work:

- taking your full instructions;
- advising you on the merits of the case;
- preparing and filing the Grounds of Response/liasing with counsel in this regard;
- preparing for and attending a case management hearing (or agreeing on the case management timetable) and briefing counsel for the hearing if appropriate;
- preparing and agreeing on a list of issues if required;
- dealing with your disclosure obligations;
- reviewing the claimant's disclosure;
- preparing witness evidence;
- instructing counsel for the hearing;
- preparing the case for the final hearing which will include agreeing on trial bundles, and liaising with counsel and witnesses; and
- attending the hearing.

In terms of timescales, this is very much dictated by the Employment Tribunal which sets a timetable and will fix the hearing dates subject to its own resources. You should anticipate at least a 9 to 12-month turnaround from the date an ET1 claim form is received to the date the Employment Tribunal list it for final hearing. In some

cases, this may be longer depending on which Employment Tribunal the claim is listed.

The indicative cost range does not include our charges for any work that may prove necessary during the claim, which would be unknown at the outset; such as an interim application for specific disclosure or as a result of a party's non-compliance.

In most cases we recommend that counsel is instructed to represent the business at the final hearing. Sometimes, it is appropriate to retain counsel to advise on the merits and settle the Grounds of Response. The level of the brief fees for counsel will depend upon their seniority and the duration of the hearing. Counsel's fees would be a disbursement payable by the business and would be in the region of £6,000 to £8,000 plus VAT (£7,200 to £9,600 inclusive of VAT for a one-day hearing). The brief fee covers the preparation for the hearing and the first day. Counsel will charge a refresher fee for each additional day, and refresher fees normally range from £1,500 to £3,000 plus VAT (£1,800 to £3,600 inclusive of VAT).

We allocate work based on your case's complexity and the experience of our fee-earners. Time spent is charged at the fee-earner's hourly rate. [Karen Cole](#)'s standard hourly charging rate is £400 plus VAT, and [Alex Deal](#)'s is £525 plus VAT. [Daniel Downes](#) and [Patrick Simpson](#) work under Karen and Alex's supervision. Daniel's standard hourly charging rate is £335 plus VAT, and Patrick's standard hourly charging rate is £250 plus VAT. Please click on the relevant fee-earner's name for details of their experience and qualifications.

For full details of our charges please see the "Charges" section of our [general terms of business](#), a hard copy of which is available on request.

We are happy to discuss the costs in relation to any item of work we undertake. Contact [Karen Cole](#) today to discuss your enquiry.

Karen Cole
020 7299 6909
karen.cole@riaabg.com
www.riaabarkergillette.com



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