

## **EMPLOYMENT TRIBUNAL – DEFENCE OF CLAIMS FOR WRONGFUL OR UNFAIR DISMISSAL**

### **OUR APPROACH TO PRICING**

#### **What is an Employment Tribunal claim for wrongful or unfair dismissal?**

Employment law sits at the heart of every business and plays a crucial role in effective workplace management. The world of employment law is constantly evolving. If an employee has a claim against their employer for breach of contract (for example for non-payment of wages), or feels he or she has had their employment terminated wrongfully (where they have been dismissed without notice in breach of the terms of their employment contract) or unfairly (where the reason or method of termination is not in the prescribed category of a 'fair dismissal'), he/she may look to bring a claim against his/her former employer. These claims are generally brought in the Employment Tribunal as opposed to the civil courts system.

#### **What will affect the cost of our work?**

No claim made by an employee against their employer or former employer is exactly the same, and our fees will reflect your particular requirements and circumstances. Factors which may affect overall costs include the nature of the claim being brought against you and whether the matter will need to be defended at an Employment Tribunal or in court.

For example, dealing with a claim for wrongful dismissal where a settlement is agreed before proceedings are issued will cost less than dealing with a disputed, and therefore defended, claim for unfair dismissal which requires significant preparation and which runs to a final Employment Tribunal hearing.

We also take factors such as time constraints for the matter into consideration.

These factors mean that we cannot give you a reliable estimate of our fees until we have all of the details of the transaction itself.

#### **What are our typical fees?**

We will always give you an individual cost estimate at the start of the transaction, taking into account the specific features of your instruction or 'matter'.

In most cases, any claim for wrongful dismissal is usually accompanied by a claim for unfair dismissal (unless the employee has not been employed for long enough to bring an unfair dismissal claim).

Our fees for advising on and defending such claims start from £1,670 (£2,004 including VAT). We will charge sums in this region if we are only reviewing the case to advise you

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whether or not you have a potential defence, and then preparing a preliminary letter to your former employee setting out the details of that defence, and nothing else.

Depending on the outcome of that initial letter, the claim may settle or it may proceed to a formal claim through the Employment Tribunal. Our fees for a simple unfair or wrongful dismissal defence which goes to a one- day hearing in an Employment Tribunal with only one or two witnesses (see below for an example) are likely to be between £9,500 and £15,750 (£11,400 and £18,900 including VAT) and extend to £20,000 to £50,000 (£24,000 to £60,000 including VAT) or more for a more complex claim with a longer Employment Tribunal hearing and multiple witnesses.

However, all of these figures may vary in cases with exceptional circumstances. This is why we will always give you an individual cost estimate at the start of the transaction. If we identify unexpected complications, we will always inform you as soon as we can, and will discuss the potential consequences with you before any extra charges are incurred.

### **What is the basis of our charges?**

We have a combination of a fixed fee charging structure and a charging structure based on the time spent and hourly rates.

The costs quoted here are based on our standard hourly rates for those individuals who work on these types of matters. Michelmores' standard hourly rates range from £185 to £610 (£222 to £732 including VAT) with different types and complexities of work being dealt with at different rates and levels of seniority. The rates for those working on your matter, and an indication of timescale and costs, will be confirmed if you decide to instruct us.

In addition to our fees for our time spent dealing with the matter, there may be additional costs that you have to pay, these are called disbursements. Disbursements are sums of money which we would pay out to third parties on your behalf in connection with your instruction. More details about disbursements are set out below.

VAT will also be charged on our fees and usually on disbursements.

In every case we will be able to give you details of the costs which would be incurred for your matter, and which individuals would work on your matter, if you decide to instruct us.

### **Example fees - an unfair or wrongful dismissal defence**

A typical unfair dismissal or wrongful dismissal defence would involve the following actions and timescales:

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ACTION	LIKELY TIMESCALE
Taking detailed instructions regarding the factual background of the case; reviewing of all relevant documents; consideration of the applicable law	Approximately 1-2 weeks
Providing advice on the merits and potential value of a claim; advice on procedure, strategy and tactics	Approximately 1-2 weeks
Drafting and submission of a defence; liaising with the former employee and the Employment Tribunal as necessary	Approximately 2-4 weeks
Preparing of a bundle of core documents (document disclosure)	Approximately 4-8 weeks
Drafting and exchange of witness statements	Approximately 4-8 weeks
Preparing for and representation at a Tribunal hearing	Approximately 4-8 weeks

### A simple defence

Our fees for the defence of a simple unfair dismissal or wrongful dismissal claim would be in the region of

£9,500 and £15,750 (£11,400 and £18,900 including VAT) which excludes Counsel's fees.

This is an indicative estimated cost based on the following assumptions as to what constitutes a 'simple' claim:

- The grounds of claim are limited to wrongful and or unfair dismissal involving simple legal issues and limited witnesses
- The matter is listed for a one-day hearing at the Employment Tribunal
- The decision is not appealed.

If the hearing takes more than one day, it is unlikely to be categorised as 'simple'.

### A complex defence

Our fees for the defence of a complex unfair dismissal or wrongful dismissal claim would, as outlined above, be in the region of £20,000 to £50,000 (£24,000 to £60,000 including VAT) which excludes Counsel's fees.

This is an indicative estimated cost based on the following assumptions:

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- The grounds of claim and legal issues are complex, and potentially include procedural challenges or a complicated factual background to the matter;
- There may be legal points to consider such as time limits;
- There is a hearing at the Employment Tribunal that lasts for more than one day; and
- The decision is not appealed.

Counsel's fees increase depending on the length of the hearing. Counsel will charge a 'brief fee', which covers preparation and the first day of the hearing. This may be anything from £1,500 (£1,800 including VAT) upwards. 'Refresher fees' are then payable for each additional day of the hearing. These are likely to be between £750 to £3,500 (£900 to £4,200 including VAT) per additional day.

### What other costs may be incurred?

Our fees do not include any external costs and charges that we may incur on your behalf (eg court fees for civil court matters, expert fees (where appropriate), Counsel's fees, travel expenses). These are disbursements.

There will be a number of additional costs that will need to be paid as part of the process; these come under the category of disbursements mentioned above and examples of these are set out below:

DISBURSEMENT	COST (EXCLUDING VAT)	COST (INCLUDING VAT, IF ANY)
Counsel's fees for one day hearing	Starting from £1,500.00	Starting from £1,800.00
Counsel's fees for additional hearing days	Likely to be £750.00 to £3,500.00	Likely to be £900.00 to £4,200.00
Printing/Copying (per A4 page)	£0.09 (B&W) £0.49 (Colour)	£0.11 (B&W) £0.59 (Colour)

If we are required to travel to meetings outside of our offices, we may charge you for the time it takes us to travel to these meetings, and the cost of any other expenses we incur as part of this, for example mileage charges (at £0.45 per mile, £0.54 per mile including VAT), or train or aeroplane tickets.

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You will be responsible for these items and we will notify you should these costs be incurred.

We charge an administration fee for undertaking identity checks on our clients. This fee is £12 (plus VAT) for each individual client, £30 (plus VAT) for each UK corporate client and £100 (plus VAT) for each overseas corporate client.

To view our Interest Policy, please click [HERE](#).

### **Is VAT payable?**

VAT is charged at the prevailing rate (which is currently 20%) on all our fees, and many of the disbursements which we may incur on your behalf.

### **Recovery of legal costs**

In the Employment Tribunal it is very rare that the successful party is entitled to recover their legal costs from the losing party – you should therefore assume that you will be unable to recover any of your legal costs from your opponent even if your defence is entirely successful. You should check to see if you have any legal expenses insurance cover which may cover all or part of your legal costs incurred in making or defending Employment Tribunal proceedings.

### **Who would do the work and how is it supervised?**

Details of the people normally involved in this work are given on our website. Please click [HERE](#).

Each matter will be supervised by a Partner in the Firm. The Partner is responsible for the proper supervision of the lawyers and other staff involved in the matter.

Our Partners are hands-on and involved in day-to-day work and supervision, as well as being key account managers.

### **What happens if you are not happy about our work or about your bill?**

We are committed to providing a high-quality legal service to all our clients. When something goes wrong we need you to tell us about it. This will help us to improve our standards. However, if you have any complaint or concerns about our work or about the bill, see our complaints procedure [HERE](#).