

# Employment Tribunals

## Your Journey

**Taking action against an employer can be daunting and it is useful to know the timescales involved.**

This guide aims to give you a general idea of the work involved and the time each of these stages are likely to take.

### STAGE 1

Ascertaining the position with regards the potential claims in your case, having a meeting with you and considering the paperwork.

**Usually 1 week**

### STAGE 2

Entering into pre-claim conciliation will be necessary in the vast majority of Tribunal matters. You can either:

- conduct this part of the process yourself and then revert to us if no settlement is agreed,
- ask us to provide advice but liaise with ACAS yourself, or
- instruct us to negotiate on your behalf.

The ACAS pre-claim process lasts a maximum of six weeks and we would carry out any work you would like us to undertake on our hourly rates. The ACAS notification will generally need to be made within three months less a day of the incident that you wish to bring a claim about.

**ACAS process – up to 6 weeks**

### STAGE 3

Dealing with the lodging of the ET1 Tribunal application. If the ACAS pre-claim conciliation process does not resolve matters and you wish to proceed with bringing a Tribunal claim the next step will be to draft a claim form.

If the ACAS process does not resolve matters a claim form will need to be issued; there will generally be **at least a month** after the ACAS process concludes in which to do so.

### STAGE 4

Preparing a schedule of loss. The Tribunal will generally issue a case management direction requiring that this be done at an early stage of the proceedings. Even if the Tribunal do not make such a direction it is still sensible to prepare a schedule of loss at an early stage as that document informs any settlement negotiations and allows realistic cost / benefit decisions to be made.

After a claim form is issued the employer will have **28 days** to file their response to the claim. A schedule of loss should be prepared once that response has been received.

## STAGE 5

Exploring and/or negotiating settlement. It is difficult to provide a meaningful estimate of how long this may take or how much it will cost as it is entirely dependent on your attitude towards settlement, your former employer's attitude towards settlement, the advice each party receives and whether there are preliminary issues to consider that might prevent the claim proceeding any further. Some Tribunal matters settle at an early stage of the proceedings, others settle at a Tribunal hearing itself and some simply have no prospect of a settlement being agreed.

It is generally advisable to explore settlement but when that is done and for how long it is done vary significantly depending on the circumstances of the case.

## STAGE 6

Agreeing documentation with the other side and preparing a Tribunal bundle. You will need to provide us with all the relevant documentation that you have (whether it helps or harms your case) and we will need to put it into a disclosure list. We will then need to provide copy documents to your former employer, consider their own disclosure and agree a bundle for use at the Tribunal hearing.

The timing of this will be dictated by the Tribunal's Case Management Order. Often disclosure is ordered in the first couple of months of a case but in other matters it isn't ordered until a month before the final hearing.

## STAGE 7

Preparation of witness statements. We will always prepare an initial draft of your witness statement for your comment and amendment. If you have any supporting witnesses, we will normally also prepare their witness statements although sometimes it will be more effective or cost efficient for them to do so themselves.

This is generally undertaken a few weeks before a final hearing.

## STAGE 8

Preparation for and attendance at final hearing, instructing counsel where necessary. For most claims we would undertake the advocacy at a final hearing ourselves but in some cases it may be necessary or desirable to instruct a barrister.

The duration of cases does vary but most cases have a final hearing within a year of the claim being issued.

It is important point to note that timescales to pursue employment tribunal claims are much shorter than in general civil litigation and you would normally be unable to pursue a claim unless you take action within three months of dismissal (or resignation in circumstances that could allow for a viable claim for constructive dismissal). If you are close to that time limit it is vital you make us aware of that when you first make contact. We can generally reach a preliminary view on your matter within a week or your first contact.

## First steps?

If you'd like to make an employment claim, contact us today.

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**COODES**

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