



**Defending Unfair Dismissal
and Wrongful Dismissal Claims**

Complying with the SRA

Transparency Rules

October 2020

Defending Unfair Dismissal and Wrongful Dismissal Claims

The Solicitors Regulation Authority’s Transparency Rules set out that law firms must display cost and service information for certain employment law services provided to individuals and businesses, specifically defending unfair dismissal and wrongful dismissal claims.

Claim Type

Deloitte LLP, through Deloitte Legal, offers services to employer clients in respect of all areas of employment law and employment tribunal matters, including defending unfair dismissal and wrongful dismissal claims. We do not ordinarily act for individual claimants in respect of these claims.

If you require assistance with any other employment law or employment tribunal matter, please contact us and we would be pleased to assess if we can assist. You are under no obligation to instruct us following the provision of costs and service information from us to you.

Scope of Services

Our scope of service will be tailored to each client’s requirements. Below we list a typical scope of services for defending unfair dismissal or wrongful dismissal claims, which includes the key stages of a claim. If some of the stages set out below are not required, the costs for our services will be reduced. You may also wish to handle the claim yourself and only seek our advice in relation to some of the stages.

Stage	Actions	Timeline
Stage 1 Initial Instructions and Pre-Claim Conciliation	<ul style="list-style-type: none"> • Taking instructions from you and reviewing the papers; • Advising on the merits of the case and the likely compensation (likely to be revisited throughout the matter and subject to change); • Entering into pre-claim conciliation where this is mandatory to explore whether a settlement can be reached. 	One to two weeks.
Stage 2 Commencing Litigation	<ul style="list-style-type: none"> • Preparing the response to the claim and submitting this to the employment tribunal; • Reviewing and advising on the claim or response from another party. 	Generally, two to six weeks.
Stage 3 Preparing for the Final Hearing	<ul style="list-style-type: none"> • Preparing or considering a schedule of loss; • Preparing for and attending one or more preliminary hearing(s); • Exchanging documents with the other party and agreeing a bundle of documents; • Taking witness statements, drafting statements and agreeing their content with witnesses; • Preparing bundles of documents; • Reviewing and advising on the other party’s witness statements; • Agreeing a list of issues, a chronology and/or cast list; • Exploring settlement and negotiating settlement throughout the process. 	Can take between six to 18 months.
Stage 4 Final Hearing	<ul style="list-style-type: none"> • Attending the final hearing, including instructions to the barrister/counsel (where appropriate). 	The duration of a final hearing will depend on the complexity of the case. Typically, the final hearing on a more straightforward case is likely to last up to two days. A more complex case could last up to 10 days or possibly longer.

 **Timeline**

The timeline from taking initial instructions to a final resolution of the matter will depend largely on the stage at which the case is resolved. For example, if a settlement is reached during stage 1 pre-claim conciliation, the case is likely to take around two weeks to be resolved. If the claim proceeds to a final hearing, the case is likely to take between six to 18 months. The timelines set out above are just an estimate and are dependent on other factors, such as the approach taken by the other party (or parties) to the claim. In addition, the listings at the particular employment tribunal office where your case is being heard will impact how quickly the claim can progress to a final hearing.

We will of course be able to give you a more accurate timescale once we have more information and as the matter progresses.

 **Costs Information**

Our estimated fees for defending unfair dismissal and wrongful dismissal claims before the employment tribunal on behalf of employer clients fall within the ranges set out below:

Simple case	£15,000 to £25,000*	This might involve a one to two day final hearing, one witness and several documents.
Medium case	£25,000 to £100,000*	A medium case might involve a multiple day final hearing, several witnesses and a large number of documents.
High complexity case	£100,000 to £150,000*	A high complexity case might involve many issues, witnesses and issues needing a preliminary hearing to be determined, in addition to a multiple day final hearing.

* Our fee estimates include attendance at the final hearing but exclude any advocacy fees, other disbursements and expenses (see below), and VAT at the standard rate (currently 20 percent).

The basis for our fees is calculated by reference to the hourly rates of the lawyers involved. The effective hourly rate that is usually payable for an employment partner is £770. The hourly rates for non-partner lawyers usually range from £150 to £660. These rates vary depending on the seniority and experience of the relevant lawyer. The specific facts of your case will determine the seniority of the lawyer handling your case.

Not every employment tribunal claim is the same and our fees will therefore reflect the particular facts of the case and individual requirements of our client. The actual costs may significantly exceed the above estimates if one or more of the below factors make the case more complex:

- The number of issues in dispute in the claim;
- Defending a claim that has been poorly pleaded;
- If it is necessary to make or defend applications to amend claims or to provide further information about an existing claim;
- Defending claims brought by an individual who is unrepresented;
- The number of witnesses and documents involved;
- If new evidence is discovered or introduced by our client, the other side or any witnesses that impacts on the claim or introduces new issues;
- Whether any preliminary issues need to be resolved prior to the final hearing, for example, whether the individual claimant is disabled (if this is not agreed by the parties);
- If it is an automatic unfair dismissal claim (e.g. if the individual claimant alleges that they were dismissed because they blew the whistle on their employer);
- Whether there are allegations of discrimination;
- Protracted settlement discussions;
- The number of days the hearing is listed for (see above);
- If the hearing is postponed (e.g. due to non-availability of an Employment Judge to hear the claim or at the request of one party).

In addition to the above fee estimates, we would separately quote for:

- preparing for and/or attending a preliminary hearing on a procedural issue (such as whether the claim has been brought in time or whether the ACAS early conciliation process has been completed properly) or a substantive issues (such as whether the claimant is disabled, if not agreed by the parties);
- making or defending a costs application;
- conducting the advocacy at the final hearing but we would discuss the fees for advocacy on each individual case and we may instruct a barrister/counsel if this is more cost and time efficient; and
- assisting with and responding to any subject access request made by the claimant.

Disbursements

Disbursements are costs that we will pay to third parties on our client's behalf in relation to the matter, such as the payment of the barrister/counsel's fees. These comprise a brief fee (normally 1.5 – 2 days at their daily rate) for the preparation work and first day of the hearing and a refresher fee (at their daily rate) for each subsequent day of the hearing. Brief fees are estimated to be between £1,000 (for a junior barrister on a simple case) to £50,000 (for a senior barrister on a complex case). The refresher fee can range between £750 to £5,000 per day. All of these estimates are exclusive of VAT.

Before we instruct a barrister/counsel on your behalf, we would seek a more accurate fee estimate based on the facts of the specific case, and await your confirmation.

Experience and Qualifications

Deloitte LLP's UK employment law team has considerable experience in dealing with employment disputes.

Andrew Lilley, is the Partner and Head of UK Employment Law at Deloitte Legal. He leads a team of solicitors and has been working in this area for more than 30 years. Andrew Lilley's bio can be accessed [here](#).

Our solicitors have experience in delivering high quality work in all matters relating to employment law and employment disputes and assist all clients from large multi-national companies to small start-ups. They have between 5 and 25 years of experience in this area. We always ensure that more junior members of the team are supported and supervised appropriately so that the quality of advice is not affected, regardless of who is working on the case.

Deloitte.

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 1 New Street Square, London, EC4A 3HQ, United Kingdom.

Deloitte LLP is the United Kingdom affiliate of Deloitte NSE LLP, a member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL and Deloitte NSE LLP do not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

Deloitte LLP is authorised and regulated by the Solicitors Regulation Authority (SRA) to provide certain legal services (licence number: 646135). Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. In the UK, Deloitte Legal covers both legal advisory (authorised and regulated by the SRA) and non-SRA regulated legal consulting services. For legal, regulatory and other reasons not all member firms provide legal services.

© 2020 Deloitte LLP. All rights reserved.

Designed by CoRe Creative Services. RITM0571978