

PAYNE HICKS BEACH

EMPLOYMENT PRICE AND SERVICE INFORMATION – JUNE 2023

Overview

We provide employment advice on all aspects of the employment relationship, whether related to its formation, operation or dissolution or pursuit or defence of claims.

Our work covers acting for private individuals, businesses, charities and professional bodies.

We advise and represent individual employees over matters vital to their daily lives, careers and professional standing, often with regulatory implications. We also support businesses and other employers in a range of activities.

Members of the Team

PETER MCROBERTS, *Partner*
JAMES TOWNSEND, *Partner*
CHRIS WEAVER, *Partner*
DOMONIQUE MCRAE, *Senior associate*
KIM CRANGLE, *Associate*
GEORGE CLOUGH, *Associate*
ANNABELLE STONEY, *Paralegal*
LAURA WHIPPS, *Legal assistant*

Trainees

The team is also assisted by trainee solicitors who normally spend 3 months in the Employment department as part of their general training.

In the event that an employment matter becomes contentious, the scope of our work will normally include the following:

1. Taking your detailed instructions, reviewing the documents and advising you on the merits of your case and the compensation which an Employment Tribunal is likely to award. Merits and compensation assessments will normally have to be reviewed as the case develops, for example in respect of the latter, should a client in seeking to mitigate his or her losses find new employment which produces a significant income, reducing losses and the value of a claim;
2. Conducting initial correspondence with other parties, engaging in the compulsory conciliation service provided by ACAS;
3. Preparing a claim or response to a claim;
4. Reviewing and advising on the claim and the response received from the other parties;
5. Engaging in any settlement discussions and advising upon possible private mediation, including the time at which this would be most productive;
6. Setting out your losses in a schedule of loss;

7. Preparing for and attending any preliminary hearings, including private case management hearings at which procedural directions for the conduct of the case will be given, involving completion of an agenda and a list of issues;
8. Compiling and reviewing the documentary evidence, exchanging lists of documents and examining the material produced by the other parties;
9. Agreeing a joint bundle of documents for use at future hearings, whether related to liability or compensation;
10. Drafting witness statements cross referenced to the documentation;
11. Assessing the other parties' witness statements and the effect which these may have upon prospects or value;
12. Preparing a chronology and a list of relevant individuals;
13. Preparing and delivering a brief to Counsel;
14. Liaising with Counsel over the witness statements and the evidence; and
15. Attending the final hearing, and potentially also a hearing for the assessment of compensation.

Most cases are resolved through negotiation and agreement. The possibility remains that a matter may have to be taken to a final hearing. Costs are not normally awarded for or against parties in Employment Tribunal proceedings and therefore there needs to be careful assessment of the net returns which a claimant may recover. The taxation of compensation will also be relevant, with certain advantages being available upon agreeing terms.

Our charges as at 1 June 2023

Subject to our standard terms and conditions of business, our legal fees are calculated by reference, among other things, to the total amount of time spent on a case. Charges are made for telephone calls, outgoing letters and emails, consideration of documentation addressing tactics and case planning, meetings and general preparation and pursuit of a claim.

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| Partners | £475 - £550 per hour |
| Senior Associates | £375 per hour |
| Associates | £275 - £325 per hour |
| Trainee solicitors | £220 - £230 per hour |

The above rates do not include VAT.

We will provide an estimate of overall costs once we have enough information to do so. The amount of work involved in each case will depend upon the facts and issues but also the level of support required by each individual client.

As a general guide, the overall costs of bringing or defending claims for wrongful or unfair dismissal are as follows, excluding barristers' fees and any expert witness fees:

1. A common case of unfair dismissal, £25,000 to £50,000, excluding VAT;
2. A more complicated case involving a range of claims, £50,000 to £100,000, excluding VAT; and

3. A complex case involving a range of claims and highly technical or evidential issues, £100,000 to £150,000, excluding VAT.

The overall costs of a case may be higher or lower than the range of figures given above.

A variety of factors has to be taken into account including:

1. The volume and complexity of the documentation to be considered;
2. The complexity of the history of the case;
3. The number of witnesses to be called;
4. The client's personal requirements or circumstances, for example, involving exceptional distress or ill health;
5. The level of opposition encountered;
6. The length of the hearing required; and
7. The seniority of the barrister chosen to present the case.

Cases can be made more complicated by, for example:

1. It proving necessary to make or defend a variety of applications, for example, to gain access to documentary evidence;
2. The complexity of discrimination or whistle-blowing arguments; or
3. The need to bring proceedings in a different Court or jurisdiction

It may be necessary to incur not only barristers' fees but also third party expenses, for example, to provide independent medical evidence or material related to employment prospects or to engage in private or judicial mediation.

There are no Employment Tribunal fees at present although there are Court fees, should action have to be brought in the civil courts as well.

Internal procedures

Cases may involve engaging in internal procedures such as over disciplinary or performance issues or grievances and grievance appeals. These can involve incurring fees in the range of £5,000 - £10,000 plus VAT.

Proceedings

Costs are not normally awarded for or against parties engaged in Employment Tribunal proceedings. Costs will be taken into account in any settlement negotiations, not least because costs related to termination of employment are currently tax deductible. Clients should check their insurance policies to see if they cover approved legal costs normally limited to proceedings.

Barristers' fees

Barristers' fees depend upon the level of experience of the barrister appointed. We will seek to agree fees with the barrister before they are incurred but third party expenses (barristers' fees and experts' fees) will have to be provided for by the client in advance of liability for the fees being incurred.

A junior barrister appearing at a preliminary hearing of up to 2 hours might charge fees in the range of £750 to £1,000 plus VAT.

A senior barrister at a final hearing in a complex or valuable case might charge £40,000 - £50,000, with an additional daily rate of £5,000, again plus VAT. A final hearing may take between 3 and 10 days depending on the complexity of the issues and number of witnesses called.

More junior Counsel engaged for the final hearing might charge £12,000 to £15,000 with an additional daily fee of £1,500 to £2,000.

The time take by the process

The length of time required to complete an employment claim is dependent upon whether the matter is resolved by agreement or it proceeds to a hearing. Negotiations for settlement can take place at any time and this firm strongly recommends the use of private mediation in appropriate cases.

The time limit for bringing claims is normally 3 months from the date of the dismissal or the other act which forms the basis of a claim, plus one month to 6 weeks for early conciliation through ACAS. Early conciliation must be started within 3 months and must involve any relevant potential Respondent.

If a case is not settled through early conciliation or negotiation, the Employment Tribunal process is likely to take between 6 to 12 months to complete. A relevant factor is the number of claims before an Employment Tribunal at any time as this can slow down the process.

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