

EMPLOYMENT LAW CLAIMS (January 2024)

(Wrongful and Unfair Dismissal)

What can we do for you?

A claim for **Wrongful Dismissal** is a common law action for breach of contract to compensate an employee where the employer did not give (or pay) proper contractual notice when terminating the employment. Damages are normally limited to what would have been paid had the employment terminated in accordance with the contract (normally the notice period). Tribunals do not concern themselves as to whether employers acted “reasonably” in bringing the employment to an end. Employees do not need a minimum period of employment to claim Wrongful Dismissal.

Whereas a Wrongful Dismissal claim is based on the contract agreed between the parties, **Unfair Dismissal** claims are founded on statutory rights within the Employment Rights Act 1996. Unlike Wrongful Dismissal claims, in Unfair Dismissal claims, tribunals will look at whether the employment was terminated for a fair reason AND whether the employer acted reasonably. If not, the tribunal may award compensation to compensate the individual for their financial losses until it is reasonable for them to find another job (capped always at the lesser of a year’s gross salary or a maximum compensation figure, currently £105,707 (Jan 2024)). Employees ordinarily need to have 2 years’ service to claim unfair dismissal.

Wrongful Dismissal and **Unfair Dismissal** claims tend to be brought together, but not necessarily so. For example, an employee might not have 2 years’ service and so can only bring a Wrongful Dismissal claim. The Unfair Dismissal pricing information below assumes that a Wrongful Dismissal claim is also ‘tagged onto’ the claim (as there is little difference in when it is not).

What will it cost?

Wrongful Dismissal Claim Only

Our fees

- Simple case: £3,000 - £6,000 (excluding VAT)
- Medium complexity case: £6,000 - £10,000 (excluding VAT)
- High complexity case: £10,000 - £20,000 (excluding VAT)

There will be an additional charge for one of our solicitors attending the Tribunal Hearing of £1,500 per day (excluding VAT). In many cases this will not be necessary and the barrister will attend with you alone. Stand-alone Wrongful Dismissal claims rarely exceed 1 day. Barrister's fees are in addition to our fees. They are regarded as a disbursement, which are dealt with below. Disbursements are separate to our fees.

Factors that could make a Wrongful Dismissal case more complex *

- Needing to make or defend applications to amend claims or to provide further information
- Where there is no dismissal confirmed by the employer but the claimant contends the contract was brought to an end by the employer's actions
- Defending claims brought by litigants in person
- Making or defending a costs application
- Making or defending a counter-claim
- Complex monetary or contractual issues (for example, complicated termination payment mechanisms within the contract or difficult commission calculations etc.)
- The number of witnesses and documents

** This is not an exhaustive list*

Unfair Dismissal Claims (which may also include Wrongful Dismissal)

Our fees

- Simple case: £8,000 - £17,000 (excluding VAT)
- Medium complexity case: £12,000 - £30,000 (excluding VAT)
- High complexity case: £20,000 - £40,000 (excluding VAT)

There will be an additional charge for one of our solicitors attending the Tribunal Hearing of £1,500 per day (excluding VAT). In many cases this is not necessary and the barrister will attend with you alone. Unfair and Wrongful Dismissal cases (assuming no additional claims are brought such as discrimination claims) normally last between 1 and 3 days, depending on the number of witnesses and amount of documentary evidence.

Factors that could make a case more complex *

- If it is necessary to make or defend applications to amend claims or to provide further information about an existing claim.

- Defending claims that are brought by litigants in person
- Exploring judicial mediation
- Making or defending a costs application
- Complex preliminary issues such as whether a claimant is disabled, determining a relevant comparator for equal pay purposes, whether a deposit / strike-out order should be made etc
- The number of witnesses and documents
- Determining pension losses
- If it is an automatic unfair dismissal claim e.g. if you are dismissed for making a protected disclosure or because you raised health & safety issues
- Allegations of discrimination which are linked to the dismissal

** This is not an exhaustive list.*

Disbursements

Disbursements are costs which need to be paid to third parties, like a barrister or a medical expert. We handle such payments on your behalf, but you must put us in funds before we do so.

The most typical disbursement for Wrongful and Unfair Dismissal claims are barristers' fees. Barristers undertake the advocacy for your claim at tribunal or court (with the bulk of the case preparation having been done by us). Barristers' fees are likely to range from £1,000 to £3,000 plus VAT per day (depending on their experience) for attending a Tribunal Hearing (including preparation).

What is included?

The fees set out above cover all of the work in relation to the following key stages of a claim:

- Taking your initial instructions, reviewing the papers and advising you on merits and likely compensation (this is 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

- Preparing claim or response
- Reviewing and advising on claim or response from other party
- Exploring settlement and negotiating settlement throughout the process
- Preparing or considering a schedule of loss
- Preparing for (and attending) a Preliminary Hearing
- Exchanging documents with the other party and agreeing a bundle of documents
- Taking witness statements, drafting statements and agreeing their content with witnesses
- Preparing bundle of documents
- Reviewing and advising on the other party's witness statements
- Agreeing a list of issues, a chronology and/or cast list
- Preparation and attendance at Final Hearing, including instructions to Counsel

The stages set out above are an indication and if some of them are not required, the fee will be reduced. There may, however, be some additional stages which, due to the peculiarities of your case, we are unable to foresee at this stage.

You may wish to handle the claim yourself and only have our advice in relation to some of the stages. This can also be arranged on your individual needs.

You may also have other funding options available (such as cover under an insurance policy). Again, a member of our team will be happy to discuss this with you.

How long will it take?

The time that it takes from taking your initial instructions to the final resolution of your matter depends largely on the stage at which your case is resolved. If a settlement is reached during pre-claim conciliation, your case is likely to take 1 - 8 weeks. If your claim proceeds to a Final Hearing, your case is likely to take 4 - 12 months depending on when your case can be heard by a Tribunal. This is just an estimate and we will of course be able to give you a more accurate timescale once we have more information and as the matter progresses.

Who will be helping you?

We will always be happy to discuss what work is likely to be entailed and the potential associated costs when dealing with your employment law needs. Please feel free to contact a member of our team to discuss in more detail.