

SRA Transparency Rules

Service and fees information - bringing and defending unfair dismissal and wrongful dismissal claims

Our specialist employment lawyers - Mike Hornsby and Michael Lane, provide a broad range of services in the field of employment law for both businesses and individuals.

Many of our clients retain us to advise them; guide them; and to provide both legal and related commercial advice on a regular basis; and, in such circumstances, we are happy to agree individual service level agreements and individual arrangements in relation to costs, having regard to the type of work and individual client's requirements.

We will always be transparent as to the basis on which services are provided and fees charged so that a client does not have to worry about unexpected or unforeseen events and charges.

Where a client or potential client consults us in relation to an individual case, we will always discuss and agree the services that we are required to provide; the likely timescales for progressing and completing the matter; and the anticipated costs and expenses that a client may incur.

In accordance with the Solicitors Regulation Authority Transparency Rules every firm of solicitors is required to provide, on its website, details of the services that it provides and the costs that can be anticipated by individuals and small businesses in making or defending claims for unfair dismissal or wrongful dismissal (i.e. a dismissal involving the breach of an employment contract) before an Employment Tribunal.

In each individual case, we will, of course, provide such information directly to our client, or to our potential client. We find that providing this information directly to a client is generally the most helpful and accurate way of doing so because it enables us to provide the information having regard to the specific case in hand and the individual client's circumstances and requirements.

The following information is provided, therefore, in very general terms in order to provide an understanding of the way in which costs are calculated. It is important that, when considering this information, care is taken to understand that there are a significant number of variable circumstances which may mean that the information has little or no relevance to your individual case. For this reason, we would always encourage you to speak to us to discuss the details of your case/requirements. We will then be able to provide you with specific information concerning our services and likely costs.

Unless otherwise agreed with you, our fees for advising you in relation to the making or defending of claim is unfair dismissal or wrongful dismissal will be based on an hourly charge rate which will be fixed having regard to the individual lawyer who is assigned to work on your case, the urgency of the case, and the complexity of the case. Our current standard hourly rate for Mike Hornsby and Michael Lane is £275 per hour plus VAT.

If comparing rates with those provided by other firms, please have careful regard to the level of experience, skill, knowledge and efficiency of the individual concerned. Reliance on an hourly rate when considering services and costs is usually considered to be unhelpful because it is generally a poor measure of value. Low hourly rates are poor value if the individual spends significantly more time on a case because of inexperience or lack of knowledge and if a poor outcome results. We believe that it is more important to consider hourly rates in conjunction with the amount of time that is likely to be involved and the outcome that can be achieved.

It is also important to note that other funding options may be available, including legal expenses insurance to pay all or part of your legal fees. We will advise you on this at the start of your case.

The services that we provide in relation to bringing and defending claims for unfair and/or wrongful dismissal include:

- 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);
- Advising on disciplinary/grievance/appeals processes;
- 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 total costs of bringing or defending an unfair dismissal or wrongful dismissal claim will depend upon many factors, including:

- The stage at which the case is settled, if settlement can be achieved - in most cases each party will be carrying out a regular assessment of the strengths and weaknesses of the case and will be seeking to achieve a reasonable settlement as quickly as possible. However, in some cases, for commercial or tactical reasons, an individual and/or a business may choose not to settle the case and consider it in their best interests to fight the case to trial;
- If the case is pursued to a full hearing – the length of the hearing. This will usually be affected by the complexity of the evidence and the number of witnesses that are required to attend;
- Whether or not the case can be dealt with at one hearing - this will be affected by whether the tribunal require the parties to attend more than once and may be affected by factors such as whether the tribunal have set aside sufficient time to deal with the case;
- Whether both parties are represented by lawyers - experience shows that when one party is unrepresented, the amount of time involved is likely to increase;
- Whether it is necessary to make or defend applications to amend claims or to provide further information about an existing claim;
- The number of documents being relied upon - some cases are heavily dependent upon documents which may require significant amount of time to obtain and analyse. Other cases require very few documents.
- Whether the case involves complex preliminary issues such as whether the claimant is disabled - which may require evidence from expert witnesses;
- Whether the case involves issues other than unfair dismissal or wrongful dismissal - such as allegations of discrimination etc.

The legal costs that you may incur, if you instruct us in relation to a claim, or potential claim, for unfair dismissal and/or wrongful dismissal can range from:

- no cost - if, for example, you have the benefit of legal expenses insurance or you simply wish to have a brief telephone conversation with us to identify whether or not you may wish to instruct us on a more formal basis, or if you are an employee and your employer is willing to settle your case under the terms of a Settlement Agreement; to
- a few hundred pounds - if you simply wish to take an hour, or a few hours' advice in order to understand and analyse your case, to consider the options available to you - or, perhaps, to obtain assistance with initial correspondence;
- a few thousand pounds - if you wish to make or defend a claim before a tribunal - and either the case is very straightforward or it settles always withdrawn at a relatively early stage;
- at the top end, a significant amount of money - possibly tens of thousands of pounds, if the case is complex and/or time-consuming in terms of documents and evidence, and is not completed until the end of a long Employment Tribunal hearing.

An "average" unfair dismissal or wrongful dismissal case is often anticipated to cost in the region of £10,000 plus vat to take through to a one day Employment Tribunal hearing but every case is different. This "average" should be not be regarded as applying to your case and it is for this reason that we provided our clients with estimates on an individual basis.

In addition to solicitors' fees there may be certain expenses (known as disbursements) that you may be liable to pay, if you are involved in bringing or defending a claim for unfair dismissal and/or wrongful dismissal.

Tribunal issue fees are no longer payable, so the most usual disbursements incurred are:

- travel expenses - if you require us to travel to meetings or to tribunal hearings we charge the cost of public transport at cost and mileage at 50p per mile plus VAT. if we travel by car;
- Counsel's fees - if you require us to obtain a barrister's opinion at any stage of your case, or a barrister is used to undertake the advocacy at any hearing, you will be liable to pay a fee for the work that they carry out. This will always be agreed with you in advance.
Counsel's fees will vary depending upon the individual that has instructed. Very junior barristers may be willing to provide advice or attend a hearing from the in the region of £500 plus VAT, but to instruct one of the leading employment law KC's to attend a long trial would obviously be very significantly more expensive. For Counsel to attend a Tribunal hearing at the level of what might be described as an average case you should anticipate incurring fees at a daily rate of between £2,500 and £3,500 per day. Counsel will also often charge for a day of preparation.

However, please bear in mind that it is a very important part of our services to advise you on our services and the potential costs at the outset and on a regular basis throughout the case if you decide to proceed.

This includes carrying out a regular cost/benefit analysis so that you can understand what costs you may be going to incur and weigh these against the risks of winning/losing the case, and the financial benefit (or any other benefit) that you might be able to obtain.

In this way, in your particular case, you will be able to understand what financial exposure you may be about to undertake if you are involved in a claim, and make an informed decision as to whether this is something you wish to do.

How long will my matter 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.

In some cases, all that is required is an initial analysis of the case and advice. We will always try to provide this promptly and to be available immediately where the advice is required urgently.

Many claims can be settled or resolved with pre-tribunal correspondence or through the tribunal's early conciliation service. In such cases claims are often resolved within (very approximately) 1 to 3 months.

If your claim proceeds to a Final Hearing, the length of time from start to finish will often largely depend upon the Employment Tribunal's workload and how quickly they can make sufficient time available. This can vary considerably and may depend upon factors that are entirely unrelated to your particular case. For example, currently due to backlogs caused by lockdowns mean it is not uncommon for cases that reach a hearing to take a minimum of 12 to 18 months.

We will of course, provide you with more relevant and helpful information as to timescales at the start of your case and as the matter progresses.

Gisby Harrison 1 July 2023