



DOYLE CLAYTON

Workplace Lawyers

Costs information for employees and employers bringing and
defending claims for unfair or wrongful dismissal specified in the SRA
Transparency Rules - 6 December 2018

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Costs information for employees and employers bringing and defending claims for unfair or wrongful dismissal specified in the SRA Transparency Rules

1. INTRODUCTION

This costs information is provided in accordance with the SRA Transparency Rules and the Price and Service Transparency guidance issued by the Law Society. Those Rules require us to provide costs information in relation to advising and representing employees and employers when bringing and defending claims for unfair and wrongful dismissal in the employment tribunal. The costs information provided here is a guide and is not a binding quote for working on your case. If you instruct us we will provide you with a fee estimate tailored to your case.

An unfair dismissal claim is a statutory claim which relates to the fairness of the dismissal. A wrongful dismissal claim is a contractual claim for compensation for failure to pay some or all of notice pay. Only wrongful dismissal claims worth up to £25,000 can be brought in the employment tribunal. Any wrongful dismissal claims worth more than that must be brought in the High Court, in which case any such claims are outside the scope of the SRA Transparency Rules.

The information provided does not amount to legal advice or a comprehensive overview of every potential permutation that could occur in an employment tribunal claim for unfair dismissal and/or wrongful dismissal. We are obliged to provide you with information about likely third party costs, such as barristers' fees. As changes to these are outside our control we are not responsible for any errors in this information, which we are providing to you based on our experience and as a guide only.

2. WHO WILL WORK ON YOUR CASE?

One or more of Doyle Clayton's employment team will work on your case. The team's contact details, experience and qualifications are available [here](#).

Any member of the team below Partner level will be supervised by one of the Partners in the team.

3. OUR FEES

We charge based on time spent at the relevant team member's hourly rate. Hourly rates in the employment team range from £95 plus VAT per hour to £650 plus VAT per hour, as at 1 November 2018. Our hourly rates may be increased each November. We may offer lower hourly rates in some cases.

We do not usually work under a conditional fee agreement or damages-based agreement but such arrangements may be available on request.

We have set out below our range of fees for both a standard unfair and wrongful dismissal claim (not involving a whistleblowing or other type of automatic unfair dismissal claim) and a standard whistleblowing/other automatic unfair and wrongful dismissal claim.

(a) FEE RANGE – STANDARD UNFAIR AND WRONGFUL DISMISSAL CASE
(not whistleblowing or other types of automatic unfair dismissal cases)

The prices set out below are an estimate of the range of costs for a standard unfair or wrongful dismissal case. You can obtain a full case-specific estimate by contacting the adviser assigned to your case.

Our fees for bringing or defending a standard claim for unfair or wrongful dismissal range from £12,000 to £25,000 plus VAT. The fee range is due to our solicitors and other advisers having different levels of experience and being based in different locations. Typically, your adviser on a standard case will be a qualified solicitor with between two to four years' post qualification experience. All of our advisers are supervised by Partners of the firm who have considerable expertise in unfair and wrongful dismissal cases.

There will be an additional charge for attending the employment tribunal hearing of between £750 and £1,500 plus VAT per day.

Charges for barristers and disbursements are in addition to our fees (see section 4 below).

What VAT is charged on fees?

The Standard rate of UK VAT, which is currently 20%, is charged on our fees, save as set out below. The only circumstances where we do not charge VAT (in relation to fees) are where:-

- We are billing an EU registered company and we are able to quote their VAT number on the face of our invoice. If we are billing an individual who resides in the EU we have to charge VAT as they will not be a VAT registered entity;
- We are billing an individual or company based in a country that is outside of the EU which falls outside the scope for UK VAT.

What does a "standard" case typically involve?

A standard case will typically involve the following:

- Making or defending an unfair dismissal claim and/or making or defending a wrongful dismissal claim in the employment tribunal. Please see the Introduction for an explanation of what these claims are. More detail of what work is included in our fees and the likely timescales is provided in the table below;
- A hearing lasting for two days in an employment tribunal plus one preliminary hearing in the employment tribunal of two hours to determine a preliminary issue (such as whether the case has been brought out of time);
- Both parties being legally represented;

- Up to three witnesses in total plus the Claimant (ie the person bringing the claim);
- One witness statement for each witness of no more than five A4 pages each, typed and double spaced;
- No more than 300 pages of documents.

STAGE	WORK UNDERTAKEN AND LIKELY TIMESCALES - STANDARD UNFAIR DISMISSAL/WRONGFUL DISMISSAL CASE
Stage 1	<ul style="list-style-type: none"> • Taking your initial instructions and reviewing the papers • Entering into pre-claim conciliation to see whether a settlement can be reached (this usually takes a minimum of 4 weeks) • Drafting and filing claim or response • Reviewing and advising on claim or response from other party • Drafting initial merits report <p>Likely timescale for stage 1 – between 5 and 12 weeks</p>
Stage 2	<ul style="list-style-type: none"> • Preparing for preliminary hearing, for example to discuss (1) case management or (2) any other preliminary issues, such as whether the claim is out of time or whether the Claimant has the requisite length of service/employment status to bring a claim • Attending a preliminary hearing (in person or by phone) <p>Likely timescale for stage 2 – between 2 and 4 weeks</p>
Stage 3	<ul style="list-style-type: none"> • Reviewing further papers • Drafting list of documents • General correspondence with client and other party • Exchanging documents with the other party and agreeing a hearing bundle • Drafting or considering schedule of loss and/or drafting or considering counter schedule of loss • Drafting or considering costs warning letter • Settlement discussions • Drafting settlement documentation (if applicable) • Updating merits report <p>Likely timescale for stage 3 – between 4 and 8 weeks</p>
Stage 4	<ul style="list-style-type: none"> • Taking witness statements, drafting statements and agreeing their content with witnesses • Reviewing and advising on witness statements disclosed by other party • Preparing mitigation statement (if acting for individual) and collating supporting evidence – this relates to attempts made to secure alternative sources of income

	<ul style="list-style-type: none"> • Drafting/reviewing/agreeing a list of issues, cast list and chronology for final hearing • Instructing a barrister (Counsel) • Preparing for final hearing • Reviewing mitigation statement and mitigation evidence (if acting for employer) <p>Likely timescale for stage 4 – between 4 and 8 weeks</p>
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The stages set out above are an indication and if some of the stages are not required, any fee that would otherwise be attributable to any omitted stages will not be charged. Some of the items listed in one stage may take place at a different stage in the process, as not all cases run in the same order. For example, settlement discussions can take place at any time, or throughout the process, and may sometimes be prolonged and very detailed. You may wish to handle the claim yourself or only obtain our advice in relation to some of the stages. This can be arranged according to your individual needs.

What does a “standard” case typically not involve?

Whether your case is standard or non-standard, we will always provide you with a case-specific estimate.

A non-standard case may be an unfair or wrongful dismissal claim where the hearing is projected to last longer than two days, there are more than three witnesses plus the Claimant, there are longer or additional witness statements, there is more than one preliminary hearing and/or there are larger amounts of documentation than in a standard case.

A standard case will usually exclude the following. Please note that some of these items may also be relevant to standard cases, in which case they will be charged for as separate items outside of the standard case fee range:

- Any claim other than unfair dismissal and wrongful dismissal, such as a claim for discrimination, unlawful detrimental treatment or an unauthorised deduction from wages;
- Defending a claim brought by a litigant in person;
- Multiple parties (ie more than one Claimant and/or Respondent);
- Making or defending applications to amend an existing claim/response or making or defending an interim application (an application made before the hearing such as an application to strike out the claim/response, to postpone the hearing, for disclosure of specific documents, for a deposit order, a costs order or a restricted reporting order);
- Providing further information about an existing claim or response;

- Dealing with specific disclosure requests (these relate to documents that a party knows or suspects their opponent has in their possession but has failed to disclose);
- Advising an employee about dismissal before their employment is terminated;
- Advising an employer in connection with terminating an employee’s employment;
- Dealing with insurers;
- Applying for or defending an interim relief application (an emergency order requiring the employer to continue employing the employee or to continue paying their salary until the case is finally determined). Very few cases involve such an application;
- Preparing for and attending judicial mediation (a meeting where an employment judge tries to facilitate a settlement of the claim). Not all cases are suitable for judicial mediation and all parties need to agree to it;
- Instructing experts or reviewing experts’ reports. It is very unlikely that these will be required except in the most complex whistleblowing claims;
- Preparing for the advocacy and presenting your case at the final hearing where a barrister is not instructed;
- Preparing for, attending and presenting your case at any separate remedies or costs hearing. Normally remedy and costs are dealt with at the final hearing or will be agreed without the need for a separate remedies/costs hearing. Where a separate hearing takes place the barrister who represented you at the final hearing will usually be instructed to represent you again. The barrister’s fee will be charged as an additional expense (see Barristers’ Fees and Disbursements below);
- Making or responding to a data subject access request.

(b) FEE RANGE – STANDARD AUTOMATIC UNFAIR DISMISSAL AND WRONGFUL DISMISSAL CASE

The prices set out below are an estimate of the range of costs for a standard automatic unfair and wrongful dismissal case, such as a “whistleblowing” case. A whistleblowing case is where the Claimant alleges they were dismissed for blowing the whistle (ie for making a protected disclosure). A protected disclosure is a disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show that one or more statutory failings has occurred or is likely to occur. There are also specified persons to whom the disclosure must be made in order for it to have “protected” status, and in most cases this will be the employer.

There are a multitude of other dismissals which are also treated as “automatically unfair” if the reason for the dismissal is not permitted by law (such as dismissing someone for taking leave for family

reasons, participating in protected industrial action or dismissing someone in connection with a business transfer or service provision change). As a standard whistleblowing case would normally require more work than any other type of automatic unfair dismissal case, you could expect that the fees for any other type of standard automatic unfair dismissal case would be towards the lower end of the range set out below.

You can obtain a full case-specific estimate by contacting the adviser assigned to your case.

Our fees for bringing or defending a standard automatic unfair and wrongful dismissal claim range from £25,000 to £60,000 plus VAT. The fee range is due to our solicitors and other advisers having different levels of experience and being based in different locations. Typically, your adviser on a standard automatic unfair dismissal case will be a qualified solicitor with at least three years' post qualification experience. All of our advisers are supervised by Partners of the firm who have a considerable amount of expertise in whistleblowing and other automatic unfair dismissal cases.

There will be an additional charge for attending the employment tribunal hearing of between £850 and £1,750 plus VAT per day.

Charges for barristers and disbursements are in addition to our fees (see section 4 below).

What does a “standard” automatic unfair dismissal case typically involve?

A standard automatic unfair dismissal case will typically involve the following:

- Making or defending an automatic unfair dismissal claim and making or defending a wrongful dismissal claim in the employment tribunal. Please see the Introduction for an explanation of what these claims are. More detail of what work is included in our fees and the likely timescales is provided in the table below;
- A hearing lasting for up to four days in an employment tribunal plus up to two preliminary hearings in the employment tribunal of two hours each to determine a preliminary issue (such as whether there was a protected disclosure and/or whether the case has been brought out of time);
- Both parties being legally represented;
- Up to three witnesses in total plus the Claimant (ie the person bringing the claim);
- One witness statement for each witness of no more than 10 A4 pages each, typed and double spaced;
- No more than 600 pages of documents.

STAGE	WORK UNDERTAKEN AND LIKELY TIMESCALES - STANDARD WHISTLEBLOWING OR OTHER AUTOMATIC UNFAIR DISMISSAL/WRONGFUL DISMISSAL CASE
Stage 1	<ul style="list-style-type: none"> • Taking your initial instructions and reviewing the papers • Entering into pre-claim conciliation to see whether a settlement can be reached (this usually takes a minimum of 4 weeks) • Drafting and filing claim or response • Reviewing and advising on claim or response from other party • Drafting initial merits report <p>Likely timescale for stage 1 – between 5 and 12 weeks</p>
Stage 2	<ul style="list-style-type: none"> • Preparing for preliminary hearings, for example to discuss (1) whether a protected disclosure has been made or (2) case management or (3) any other preliminary issues, such as whether the claim is out of time or whether the Claimant has the requisite length of service/employment status to bring a claim • Attending up to two preliminary hearings (in person or by phone) <p>Likely timescale for stage 2 – between 2 and 8 weeks</p>
Stage 3	<ul style="list-style-type: none"> • Reviewing further papers • Drafting list of documents • General correspondence with client and other party • Exchanging documents with the other party and agreeing a hearing bundle • Drafting or considering schedule of loss and/or drafting or considering counter schedule of loss • Drafting or considering costs warning letter • Settlement discussions • Drafting settlement documentation (if applicable) • Updating merits report <p>Likely timescale for stage 3 – between 6 and 12 weeks</p>
Stage 4	<ul style="list-style-type: none"> • Taking witness statements, drafting statements and agreeing their content with witnesses • Reviewing and advising on witness statements disclosed by other party • Preparing mitigation statement (if acting for individual) and collating supporting evidence – this relates to attempts made to secure alternative sources of income • Drafting/reviewing/agreeing a list of issues, cast list and chronology for final hearing • Instructing a barrister (Counsel) • One conference (meeting) with Counsel • Preparing for final hearing • Reviewing mitigation statement and mitigation evidence (if acting for employer)

	Likely timescale for stage 4 – between 6 and 12 weeks
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The stages set out above are an indication and if some of the stages are not required, any fee that would otherwise be attributable to any omitted stages will not be charged. Some of the items listed in one stage may take place at a different stage in the process, as not all cases run in the same order. For example, settlement discussions can take place at any time, or throughout the process, and may sometimes be prolonged and very detailed. You may wish to handle the claim yourself or only obtain our advice in relation to some of the stages. This can be arranged according to your individual needs.

What does a “standard” automatic unfair dismissal and wrongful dismissal case typically not involve?

Whether your case is standard or non-standard, we will always provide you with a case-specific estimate in relation to your case.

A non-standard automatic unfair and wrongful dismissal case may be one where the hearing is projected to last longer than four days, there are more than three witnesses plus the Claimant, there are longer or additional witness statements, there are more than two preliminary hearings and/or there are larger amounts of documentation than in a standard automatic unfair dismissal case.

A standard automatic unfair dismissal and wrongful dismissal case will usually exclude the following. Please note that some of these items may be relevant to standard cases, in which case they will be charged for as separate items outside of the standard case fee range:

- Any additional claim such as for discrimination, unlawful detrimental treatment or an unauthorised deduction from wages;
- Defending a claim brought by a litigant in person;
- Multiple parties (ie more than one Claimant and/or Respondent);
- Making or defending applications to amend an existing claim/response or making or defending an interim application (an application made before the hearing such as an application to strike out the claim/response, to postpone the hearing, for disclosure of specific documents, for a deposit order, a costs order or a restricted reporting order);
- Providing further information about an existing claim or response;
- Dealing with specific disclosure requests (these relate to documents that a party knows or suspects their opponent has in their possession but has failed to disclose);
- Dealing with excessive documentation that surpasses all reasonable expectations;
- Advising an employee about dismissal before their employment is terminated;

- Advising an employer in connection with terminating an employee's employment;
- Dealing with insurers;
- Applying for or defending an interim relief application (an emergency order requiring the employer to continue employing the employee or to continue paying their salary until the case is finally determined). Very few cases involve such an application;
- Preparing for and attending judicial mediation (a meeting where an employment judge tries to facilitate a settlement of the claim). Not all cases are suitable for judicial mediation and all parties need to agree to it;
- Instructing experts or reviewing experts' reports, such as accounting experts. It is very unlikely that these will be required except in the most complex whistleblowing claims;
- Preparing for the advocacy and presenting your case at the final hearing where a barrister is not instructed;
- Preparing for, attending and presenting your case at any separate remedies or costs hearing. Normally remedy and costs are dealt with at the final hearing or will be agreed without the need for a separate remedies/costs hearing. Where a separate hearing takes place the barrister who represented you at the final hearing will usually be instructed to represent you again. The barrister's fee will be charged as an additional expense (see Barristers' Fees and Disbursements below);
- Making or responding to a data subject access request.

What might cause our fees to rise in either a standard or non-standard case, both "ordinarily unfair" and "automatically unfair"?

The costs information and any case-specific fee estimate is provided on the basis that:

- the amount of communication (phone calls, emails etc) and other correspondence received from you or others involved in your case is not excessive;
- information is provided to us promptly, is reasonably complete and accurate;
- hearings including preliminary hearings are not postponed at short notice;
- settlement discussions are not excessive.

Where we consider that communication is excessive, we will try to work with you to reduce the volume but where that is not possible we will notify you as soon as reasonably possible of any

additional fees or other costs that you are likely to incur. Similarly, if information is not provided to us promptly, is incomplete or inaccurate, resulting in us spending additional time on your case, we will advise you of any additional fees or other costs that you are likely to incur as a result.

Sometimes hearings can be postponed for a variety of reasons, ranging from last minute applications from either party for a postponement, through to the employment tribunal postponing the hearing due to a lack of judges. This may result in additional costs being incurred due to the need to prepare again for the rescheduled hearing.

Sometimes settlement discussions can be very protracted, particularly where an agreement is almost reached but fails at the eleventh hour. We will keep you updated on costs and if we believe that excessive costs are being incurred in relation to this aspect of the claim, we will notify you as soon as reasonably possible of any additional costs that you are likely to incur.

4. BARRISTERS' FEES AND DISBURSEMENTS

Disbursements are expenses related to your case payable to us or to third parties. We usually handle payment of disbursements on your behalf but sometimes you may be asked to pay them direct.

Barristers' fees in a standard unfair dismissal and wrongful dismissal case (not whistleblowing or other automatic unfair dismissal)

Usually we will appoint an external barrister (known as Counsel) to present your case at the final employment tribunal hearing. Counsel's fees for representing you at a final two day hearing in a standard case are likely to be in the range of £1,500 to £8,000 plus VAT. The fee range is due to our using a variety of different sets of Chambers whose barristers will have a large range of experience and expertise. They will also be based in different locations, some in London (where costs are generally higher) and others outside London.

Depending on the complexity of the case, it may be necessary for Counsel to prepare for and attend preliminary hearings. A standard case envisages one preliminary hearing lasting two hours. The range of fees for preparing and attending a preliminary hearing of this nature will be £750 to £2,500 plus VAT), depending on the complexity of the preliminary issue, level of experience and expertise and location of the barrister. Your adviser will in many cases conduct the preliminary hearing themselves, in which case the costs will be within the costs range for the standard case.

We do not usually seek Counsel's input into drafting or reviewing pleadings (such as the claim and response) or witness statements in a standard case, but if we consider this desirable and cost-effective, we will provide you with a separate estimate at the appropriate time.

Meetings with Counsel (known as conferences) are rare in all but the most complex standard unfair and wrongful dismissal cases.

Barristers' fees in a standard automatic unfair dismissal and wrongful dismissal case

Usually we will appoint an external barrister (known as Counsel) to present your case at the final employment tribunal hearing. Counsel's fees for representation at a final four day hearing in a standard automatic unfair dismissal and wrongful dismissal case are likely to be in the range of £4,000 to £20,000 plus VAT. The fee range is due to our using a variety of different sets of Chambers whose barristers will have a large range of experience and expertise. They will also be based in different locations, some in London (where costs are generally higher) and others outside of London.

Depending on the complexity of the case, it may be necessary for Counsel to prepare for and attend preliminary hearings. A standard automatic unfair and wrongful dismissal case envisages two preliminary hearings lasting two hours each. The range of Counsel's fees for preparing and attending each preliminary hearing of this nature will be £750 to £2,500 plus VAT, depending on the complexity of the preliminary issue, level of experience and expertise and location of the barrister. Your adviser will in many cases conduct the preliminary hearing themselves, in which case the cost will be within the costs range of the standard automatic unfair and wrongful dismissal case.

We do not usually seek Counsel's input into drafting or reviewing pleadings (such as the claim and response) or witness statements in a standard automatic unfair and wrongful dismissal case, but if we consider this desirable and cost-effective, we will provide you with a separate estimate at the appropriate time.

It would be usual to have one conference (meeting) with Counsel in a standard automatic unfair and wrongful dismissal case. The fees charged will depend upon the length of the conference and the amount of preparation time.

Other disbursements – standard unfair dismissal and standard automatic unfair dismissal cases

Other likely disbursements in both types of standard cases include:

- Travel costs (for example to the employment tribunal or to meet with you, your witnesses or your barrister) including rail, air and taxi fares, mileage and parking. These will differ according to where you, your adviser's office, your barrister's chambers and your witnesses are based and the location of the employment tribunal. We will always try to use the most cost effective means of transport;
- Hotel accommodation (for example if it is not feasible to travel to the employment tribunal each day). Hotel accommodation will be charged at the rate of Premier Inn or similar;
- Subsistence costs (for example, food and drink for those people closely involved in advising on your case for the duration of the hearing – these costs will normally only be incurred in cases where the location of the employment tribunal necessitates overnight stays);
- Courier or similar postal or delivery charges where speedy collection, delivery or service is required;

- Bulk photocopying charges (we are permitted to charge for photocopying charges which are not considered as “petty” and we reserve the right to charge for over 100 sheets of photocopying at 25p per sheet plus VAT).

We are required to specify the average cost or range of costs for disbursements, where the actual cost is not known. Based on a standard unfair and wrongful dismissal case, where the location of the employment tribunal is within daily commuting range of the adviser and barrister, and where the hearing lasts for two days, typical disbursement costs will be £200 to £300 for all chargeable travel costs and between £75 to £150 for courier and bulk copying charges, in each case plus VAT.

If the employment tribunal is situated in a location which is more than a three hour commute away from the adviser’s or barrister’s home, office or Chambers, it is likely that hotel accommodation will be arranged, in which case the range of accommodation plus subsistence costs for each night for one adviser and barrister are likely to be between £100 and £150 plus VAT per person per night.

What other disbursements might be charged in non-standard cases?

In addition to the disbursements listed above (which would be increased on a pro rata basis, according to the length of the hearing), it is possible that the case may require instructing experts. It is very unlikely that experts’ fees will be incurred except perhaps in the most complex whistleblowing claims. VAT at 20% will be charged unless the expert is not VAT registered, in which case there will be no VAT to pay.

What rate of VAT is charged on disbursements?

The standard rate of UK VAT, which is currently 20%, is charged on all disbursements, except where indicated below. VAT is added to our standard services such as travel and bulk photocopying costs. The only circumstances where we do not charge VAT (in relation to disbursements) are where:-

- We are billing an EU registered company and we are able to quote their VAT number on the face of our invoice. If we are billing an individual who resides in the EU we have to charge VAT as they will not be a VAT registered entity;
- We are billing an individual or company based in a country that is outside of the EU which falls outside the scope for UK VAT;
- Where we can classify a cost as a “disbursement” and we are not recovering VAT on the purchase invoice.

5. HOW LONG WILL YOUR CASE TAKE?

The time that it takes from taking your initial instructions to the final resolution of the matter depends largely on the stage at which the case is resolved. If a settlement is reached during pre-claim conciliation, the case is likely to take between four to eight weeks. If the claim proceeds to a final hearing it is likely to take between 15 and 32 weeks for a standard case (not whistleblowing or other

automatic unfair dismissal), or between 19 and 44 weeks for a standard whistleblowing/other automatic unfair dismissal case, but much depends upon the efficiency of the employment tribunal hearing the case. We should be able to give a more accurate timescale once we have more information and as the case progresses.

If your case is a non-standard case, particularly one that involves complex whistleblowing issues, it can take considerably longer than the timescales set out above, and you will be advised accordingly if this is the case.

Doyle Clayton your partner in the workplace operating from four offices:

The City, Mayfair, Canary Wharf and Reading. We work with businesses and individuals throughout the UK, providing high quality legal services at competitive rates.

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