

## **TRANSPARENCY AS TO PRICE AND SCOPE OF SERVICES**

### **Overview**

I can see that Rules 1.1, 1.3, 1.4 and 1.5 of the new Transparency Rules require certain information be published regarding the following services (these of course being services which we provide in the Dispute Resolution Department):

- Regarding services to individuals – the commencement of any Employment Tribunal claim against an employer for wrongful or unfair dismissal, as well as any instance where a Conditional Fee Agreement i.e. ‘no win no fee’ agreement, is entered into.
- Regarding services to businesses – defending any claim by a former employee which relates to wrongful or unfair dismissal, as well as any undisputed debt recovery (up to a value of £100,000).

For ease, each of the above is dealt with in turn below. Equally, given the new guidance states that the information published must cover not only costs, but also exactly what services are included as part of the estimate, the below combines these two elements.

### **Regarding services to individuals**

- (a) The commencement of any Employment Tribunal claim against an employer for wrongful or unfair dismissal:

#### Our estimated costs

Whilst much will depend on how complex your claim is, our typical pricing range for bringing a claim for wrongful or unfair dismissal is as follows:

- Simple case: £2,800 - £3,000 (exc VAT)
- Medium complexity case: £3,000 - £4,700 (excluding VAT)
- High complexity case: £4,800-£7,500 (excluding VAT)

Factors that could make a case more complex include:

- Whether it is necessary to make (or defend) any additional applications during the proceedings to amend your claim, provide further information about an existing claim, request further documentation from your opponent (or anyone else), etc.
- Making an application for your legal costs to be recovered.
- Defend an application brought by your opponent for recovery of their legal costs.
- Whether or not more than one hearing is required in the matter.
- Dealing with any additional, complex issues which are disputed between the parties (such as determining whether or not you have a disability).
- The size of the documentation which needs to be considered.
- The number of witnesses who are required.
- Whether or not the claim relates to any alleged discrimination.

- Whether or not the claim relates to whistleblowing.

Whilst it may not be necessary for us to attend any hearing which is scheduled (given these will normally be dealt with by barristers), sometimes our attendance may be required, or may be requested by you. If so, then there will be an additional charge for attending which will be calculated using the hourly rate of £146.00 (exc VAT and travel). As such, exactly what our attendance costs will be will depend on how much time is spent by us attending the hearing itself (as well as how many days the Tribunal Judge has scheduled the hearing to last).

### Disbursements

Disbursements are costs related to your matter that are payable to third parties, such as court fees, barristers' fees, as well as a payment to anyone other than ourselves. We handle the payment of the disbursements on your behalf to ensure a smoother process.

Barrister's fees are typically between £500.00 to £750.00 (exc VAT) per day (depending on the experience of the barrister) for attending a Tribunal Hearing (including preparation).

### Key stages

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 the merits of your potential claim and likely compensation (this is likely to be revisited throughout the matter and subject to change).
- Entering into pre-claim conciliation with your opponent (where this is required) to explore whether a settlement can be reached.
- Instructing a barrister to prepare the claim.
- Reviewing and advising on your claim or the response from the other party.
- Exploring settlement and negotiating settlement throughout the process.
- Preparing or considering a schedule of loss.
- Exchanging documents with the other party and agreeing a bundle of documents.
- Taking witness statements, drafting statements and agreeing their content with witnesses.
- Reviewing and advising on the other party's witness statements.
- Agreeing a list of issues, a chronology and/or cast list.
- Instructing a barrister in readiness for the final hearing.

The stages set out above are an indication and if some of stages above are not required, the fee may be reduced. You may wish to handle the claim yourself and only have our advice in relation to some of the stages.

There may also be instances where additional stages arise which are not included within the above key stages. Such additional stages could include:

- Whether it is necessary to make (or defend) any additional applications made during the proceedings, e.g. requesting further information or documentation

from your opponent or any other individual/organisation, any application to have the claim struck-out, any application for your claim to be amended, any application for further directions from the Tribunal, etc.

- Dealing with more than one hearing (given typically the only hearing arranged will be the final hearing when your claim is heard by the Tribunal).
- Dealing with any applications for recovery of costs, either by you or by your opponent.

#### 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. Much will also depend on what directions we receive from the Tribunal Judge. If a settlement is reached during pre-claim conciliation, your case is likely to take 12-16 weeks. If your claim proceeds to a Final Hearing, your case is likely to take anywhere between 17-42 weeks depending on what timetable the Tribunal wishes to set. Much will also depend on the Tribunal's availability. As such, these timescales are estimates and we will of course be able to give you a more accurate timescale once we have more information and as the matter progresses.

#### (b) Conditional Fee Agreements:

In some instances (typically relating to any claim relating to personal injury), we may enter into a Conditional Fee Agreement with you. These are also known as 'no win no fee' agreements.

As their name suggests, in the event you are unsuccessful in your claim, there will usually be no legal costs for you to pay to us. Whilst there are exceptions to this (such as if you decide to terminate the agreement part-way through your matter, or where we can no longer act for you due to professional reasons, etc), this is the standard position.

Equally, should your claim against your opponent be successful, whilst we will try and recover all of your legal costs from your opponent, there will also be something known as a 'success fee' which will be payable by you to us. Whilst the exact amount of this success fee will depend on your matter, this fee can never exceed 25% of the total damages which you recover from your opponent. This does not therefore mean that your success fee will automatically be equal to 25% of the value of your compensation (given it can be lower than this), but simply that it cannot exceed it.

It is important to note though that a 'no win no fee agreement' applies to your legal costs. Throughout your matter, it may also be necessary for payments to be made to 3<sup>rd</sup> parties (such as obtaining copies of your medical records, obtaining a medical report, payment of court fees, barrister's fees, etc). Given these payments are made to 3<sup>rd</sup> parties (rather than to us), they are known as 'disbursements'. This is important as –regardless of whether you win or lose your claim– disbursements will remain your liability to pay. Whilst we do of course try to recover as many of these disbursements from your opponent (where your claim has been successful), these disbursements do not fall under your 'no win no fee' agreement. We may also require payment on account of any likely disbursements from you.

## **Regarding services to businesses**

(a) Defending a claim brought against you for wrongful or unfair dismissal:

### Our estimated costs

Whilst much will depend on how complex the claim is, our typical pricing range for defending a claim for wrongful or unfair dismissal is as follows:

- Simple case: £2,800 - £3,000 (exc VAT)
- Medium complexity case: £3,000 - £4,700 (excluding VAT)
- High complexity case: £4,800-£7,500 (excluding VAT)

Factors that could make a case more complex:

- If it is necessary to make (or defend) any additional applications during the proceedings to amend the claim or your defence, provide further information about an existing claim, request further documentation from your opponent (or anyone else), etc.
- Making an application for your legal costs to be recovered;
- Defend an application brought by your opponent for recovery of their legal costs.
- Whether or not more than one hearing is arranged in the matter.
- Dealing with any additional, complex issues which are disputed between the parties (such as determining whether or not the claimant has a disability).
- The size of the documentation which needs to be considered.
- The number of witnesses who are required.
- Whether or not the claim relates to any alleged discrimination.
- Whether or not the claim relates to whistleblowing.
- Defending a claim which has been brought by someone who is acting without legal representation.

Whilst it may not be necessary for us to attend any hearing which is scheduled (given these will normally be dealt with by barristers), sometimes our attendance may be required, or may be requested by you. If so, then there will be an additional charge for attending which will be calculated using the hourly rate of £146.00 (exc VAT and travel). As such, exactly what our attendance costs will be will depend on how much time is spent by us attending the hearing itself (as well as how many days the Tribunal has scheduled the hearing to last).

### Disbursements

Disbursements are costs related to your matter that are payable to third parties, such as court fees, barristers' fees, as well as a payment to anyone other than ourselves. We handle the payment of the disbursements on your behalf to ensure a smoother process.

Barrister's fees are typically between £500.00 to £750.00 (exc VAT) per day (depending on the experience of the barrister) for attending a Tribunal Hearing (including preparation).

### Key stages

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 of the claim made and likely compensation in the event your opponent is successful (this is likely to be revisited throughout the matter and subject to change).
- Entering into pre-claim conciliation with your opponent (where this is required) to explore whether a settlement can be reached.
- Instructing a barrister to prepare the defence/response.
- Reviewing and advising on the claim from the other party.
- Exploring settlement and negotiating settlement throughout the process.
- Preparing or considering a schedule of loss.
- Exchanging documents with the other party and agreeing a bundle of documents.
- Taking witness statements, drafting statements and agreeing their content with witnesses.
- Reviewing and advising on the other party's witness statements.
- Preparing a bundle in readiness for the final hearing.
- Agreeing a list of issues, a chronology and/or cast list.
- Instructing a barrister in readiness for the final hearing.

The stages set out above are an indication and if some of stages above are not required, the fee will be reduced. You may wish to handle the claim yourself and only have our advice in relation to some of the stages.

There may also be instances where additional stages arise which are not included within the above key stages. Such additional stages could include:

- Whether it is necessary to make (or defend) any additional applications made during the proceedings, e.g. requesting further information or documentation from your opponent or any other individual/organisation, any application to have the claim struck-out, any application for your defence/response to be amended, any application for further directions from the Tribunal, etc.
- Dealing with more than one hearing (given typically the only hearing will be the final hearing when the claim is heard by the Tribunal).
- Dealing with any applications for recovery of costs, either by you or by your opponent.

### 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. Much will also depend on what directions we receive from the Tribunal Judge. If a settlement is reached during pre-claim conciliation, your case is likely to take 12-16 weeks. If the claim proceeds to a Final Hearing, the case is likely to take anywhere between 17-42 weeks depending on what timetable the Tribunal wishes to set. Much will also depend on the Tribunal's availability. As such, these timescales are estimates and we will of course be able to give you a more accurate timescale once we have more information and as the matter progresses.

(b) Non-disputed debt recovery (up to a value of £100,000):

Court Claims

These costs apply where your claim is in relation to an unpaid invoice which is not disputed, as well as where no enforcement action is needed. If the other party disputes your claim at any point, or if enforcement action is required, we will discuss any further work required and provide you with revised advice about costs if necessary, which could be on a fixed fee (e.g. if a one-off letter is required), or an hourly rate if more extensive work is needed.

Debt value	Court fee	Our fee (exc VAT)	Total (exc VAT)
Up to £5,000	From £35 - £205 (dependent on sum being claimed)	£900 - £1,000	From £935 - £1,205
£5,001 - £10,000	£455	£1,000 - £1,850	From £1,455 - £2,305
£10,001 - £50,000	5% of the claim	£1,850 - £2,600	£1,850 - £2,600 plus the court fee

Anyone wishing to proceed with a claim should note that:

- The VAT element of our fee cannot be reclaimed from your debtor.
- Interest and compensation may take the debt into a higher banding, with a higher cost.
- The costs quoted above are not for matters where your claim is disputed by your opponent, or where enforcement action is required e.g. such as instances where the bailiff is needed to collect your debt.

Our fee includes:

- Taking your initial instructions and reviewing documentation.
- Undertaking any appropriate searches.
- Sending a letter before claim to the debtor inviting them to discharge the debt.
- Receiving payment and sending onto you, or if the debt is not paid (but not disputed), drafting and issuing the claim.
- Where no Acknowledgment of Service or Defence is received, applying to the court to enter Judgment in default.
- When Judgment in default is received, writing to the other side to request payment.
- If payment is not received within 14 days, providing you with advice on next steps and likely costs.

The stages set out above are an indication of the likely steps involved. You may wish to handle the claim yourself at any point and only have our advice in relation to some of the stages.

There may also be instances where additional stages arise which are not included within the above key stages. Such additional stages could include:

- If the debtor seeks to dispute the claim
- If the matter requires any enforcement action
- If the matter likely requires the input of a barrister – typically where the value of the debt is high, the matter complex, or where it is expected that the debtor will file a defence to any claim if proceedings are issued
- If the debtor intimates that they intend on making any counterclaim against you.

#### How long will my matter take?

Matters usually take 6-16 weeks from receipt of instructions from you to receipt of payment from the other side, depending on whether or not it is necessary to issue a claim. This is on the basis that, in the event proceedings are necessary, the debtor pays promptly on receipt of Judgment in default.

If enforcement action is needed, the matter will take longer to resolve.