



Get advice early

Employment law can be complicated, and few people have a clear idea of all their rights at work. If you think your employer has treated you unfairly, it is important to get legal advice at the earliest opportunity. In some circumstances there are specific deadlines for making complaints against an employer, and generally the longer you leave a problem, the harder it is to solve.

A solicitor can:

- explain your options;
- tell you if you have a legal case against your employer;
- help you decide whether your case is worth taking further; and
- explain what you should do next.

Finding a solicitor

To find a solicitor who deals with employment law, visit our website at www.solicitors-online.com and search under 'Employment'. Or you can call the Law Society on 0870 606 6575.

If you are a trade union member, you may be able to get legal advice from a union official or a solicitor appointed by the union.

Starting the process

Once you have found a solicitor, you should explain your situation briefly over the phone and set a date for a meeting. If you plan to take someone with you to the meeting, mention this and ask if there are any documents you need to bring.

What your solicitor will need to know

At the meeting your solicitor is likely to ask you:

- how long you have worked for your employer;
- how much you earn;
- the details of your problem at work;
- what events have led you to your current situation;
- whether you have any relevant documents;
- whether there are any documents which you do not have that might be relevant to the case; and
- what, if anything, you have already done to sort the matter out.

Exploring the alternatives

Once you have explained your circumstances in detail, your solicitor can explain your options. If your solicitor believes you have a case and you want to take it further, you need to decide how you are going to do this.

You should, if possible, try and sort out your problem through internal company grievance procedures. You should do this because:

- matters can often be sorted out quite quickly this way; and
- employment tribunals may refuse to hear your claim or reduce your compensation if you haven't tried to sort out the matter internally before taking your case to them.

Ideally you should consult a solicitor before using internal procedures. Your solicitor can help you set out your case or negotiate a settlement for you. If you are happy to carry out these negotiations directly with your employer, your solicitor can offer useful advice on how best to go about doing this.

If your attempts to solve the problem internally are not successful, an employment tribunal may be your best option. If so, your solicitor can help by preparing your case or representing you at the tribunal.

Time limits

If you do want to take your complaint to an employment tribunal, you must normally do this within three months of the date of the events you are complaining about. However, this deadline may be extended in special circumstances. If your claim is about redundancy payments, you have six months to take it to the tribunal.

Compromise agreements

If you can reach an agreement with your employer without going to a tribunal, this can be recorded in a 'compromise agreement'. This is a legal document which confirms the terms of the settlement you have agreed, in exchange for which you give up your legal claim against your employer. You may be able to get your employer to make a contribution to your legal costs as part of the agreement.

Employment tribunals

An employment tribunal is chaired by a lawyer and made up of two independent 'wing' members with experience of employment relations. It is up to the tribunal to:

- weigh up the evidence;
- consider the law; and
- decide whether your claim against your employer is justified.

In doing this the tribunal is likely to consider:

- what policies or procedures your employer has for dealing with problems at work; and
- what steps you and your employer have already taken to solve the problem.

They will also consider your behaviour and your employer's behaviour throughout the time you were employed.

Tribunal hearings are usually completed within a day. Decisions are made by majority vote and most are announced straight away. If the tribunal decides in your favour, it has the power to award you compensation. Or if you are claiming for unfair dismissal, it can sometimes order your employer to give you your job back, though this is rare.

It is important to remember that if you win your tribunal case, the 'remedy' you are awarded may not be financial. And even if it is, the amount you receive is unlikely to be large. The average compensation award is £4,000, and often much of the award is simply to compensate you for the actual losses you have suffered. Because of this, it is almost always better to sort out problems early, before losses begin to mount up.



Claiming unfair dismissal

Generally, you are only entitled to make a claim for unfair dismissal once you have been employed for a year or more, full or part time. However, if you are dismissed for any of the reasons described below, your dismissal is 'automatically unfair'. This means that you are protected by law from the first day of your employment. These reasons include:

- pregnancy;
- sexual or racial discrimination;
- equal pay;
- trade union membership or duties;
- health and safety issues; and
- exercising a legal right, such as your right to a minimum wage, paid leave, a written statement of your terms and conditions of employment, or an itemised pay statement.

Discrimination

If you believe that you are being treated less favourably than other employees and that the reason for this is related to your race, sex or disability, you may have a discrimination claim. Your solicitor can tell you more about this.

Solicitors' charges

Charges can vary between solicitors. They depend on:

- the experience and knowledge of the solicitor; and
- how complicated your case is.

If your solicitor acts as a consultant in helping you to prepare your case but does not actually represent you, their charges are likely to be based on an hourly rate. However, if the case goes to a tribunal, other types of fee arrangement may be more suitable. You could, for example, agree a 'contingency fee' where, if you win, the solicitor gets an agreed percentage of the pay-out. Your solicitor can run you through the options.

Help with costs

Legal aid is not available to pay for a solicitor to represent you at a tribunal. But if your income is low, you may be able to get financial help to prepare your case before it reaches tribunal. If in doubt, you can get free advice on this at your local Citizens' Advice Bureau or Law Centre. You will also find information on all these options on our website at www.solicitors-online.com under 'Free legal advice'.

Trade union members are normally entitled to free legal help from a trade union official or from a solicitor employed by the union. Check with your workplace representative or your union's regional office.

Some household contents insurance policies also cover legal expenses for claims in an employment tribunal, so it is worth checking your policy to see if it covers this.

More information

This is one of a series of leaflets covering the most common types of legal services which solicitors provide. Other leaflets in the series are listed below. You can get them from your solicitor or by phoning the Law Society on 0870 606 6575.

Your guide to making a will

Your guide to buying a home

Your guide to renting out your property

Your guide to renting a home

Your guide to getting a divorce

Your guide to setting up a business

Your guide to making a personal injury claim

Your guide to financial matters for the elderly

Your guide to setting up home with your partner

Your guide to using a solicitor

The Client's Charter: your solicitor's customer care standards