



# Regulatory Update

## Employment Tribunal Fees and the Early Conciliation Process

Provided by BIP Ltd

### Quick Facts

- Claimants in England, Scotland and Wales must pay a required fee in order to submit employment-related claims to employment tribunals or the Employment Appeal Tribunal.
- Claimants must pay an 'issue fee' when submitting the claim and a 'hearing fee' if and when the claim proceeds to a full hearing.

These regulations require claimants in Great Britain to pay a fee in order to submit employment-related claims to employment tribunals or the Employment Appeal Tribunal.

As of 29th July 2013, under the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 and the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013, claimants in England, Scotland and Wales must pay a required fee in order to submit employment-related claims to employment tribunals or the Employment Appeal Tribunal. Claimants must pay an 'issue fee' when submitting the claim and a 'hearing fee' if and when the claim proceeds to a full hearing. Respondents may also have to pay fees if they make certain applications during the tribunal process. The fee amounts are calculated based on the type of employment claim being pursued and the number of claimants involved. There is also a fee remission scheme available for claimants whose income is below a certain threshold or who receive benefits.

The government stated that the purpose for introducing this fee is to transfer some of the £74 million per annum cost of running the tribunals from the taxpayers to those who actually use the system. The following provides an overview of what the new fee system entails.

### Types of Claims And Fee Levels

All employment-related claims are broken down into two different types: 'Type A' and 'Type B'.

- Type A claims include issues regarding unpaid wages, redundancy payments, breach of contract and payment in lieu of notice. Type A claims have lower fees because they are easier for tribunals to deal with and require fewer resources.
- Type B claims include unfair dismissal, discrimination complaints and whistleblowing. Type B claims have a higher fee because they are more complicated and time-intensive.

The following is a chart showing fee levels for a single claimant.

Fee Type	Type A Claims	Type B Claims
Issue Fee	£160	£250
Hearing Fee	£230	£950

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Claimants can also submit their claim with other claimants and become designated as a 'fee group'. This can substantially cut down on the cost of the fees.

	Number of Claimants in Fee Group					
	2 - 10		11 - 200		Over 200	
	Type A	Type B	Type A	Type B	Type A	Type B
Issue Fee	£320	£500	£640	£1000	£960	£1500
Hearing Fee	£460	£1900	£920	£3800	£1380	£5700

If a claim contains more than one complaint type, the fee payable will be the one that relates to the highest-level claim. For example, a claim consisting of an unpaid wages complaint (Type A) and an unfair dismissal complaint (Type B) would be charged a single fee at the Type B rate.

Additional fees will also apply to parties making specific applications, typically the respondent, during the employment tribunal process.

Type of Application	Type A Claims	Type B Claims
Review of default judgement	£100	£100
Reconsideration of judgement following a final hearing	£100	£350
Dismissal following withdrawal	£60	£60
Employer's contract claim (counterclaim)	£160	-
Judicial mediation	£600	£600

#### When are the Fees Due?

Claimants are responsible for paying the issue fee or submitting a fee remission application when initially sending the claim to the employment tribunals. If they do not, the tribunal will reject the claim, and any time limit that applies to submitting the claim will continue to run. If the claim reaches the hearing stage, the tribunal office will notify the claimant when the hearing fee is due, and if not paid, the claim will be delayed and possibly dismissed. If applications are submitted, the tribunal office will notify the filing party when the required fees are due. If not paid, the application will be dismissed.

#### Are the Fees Recoverable?

The winning party, claimant or respondent, can ask the employment judge to include restitution of any fees paid from the other party. However, the judge has complete discretion on whether or not to award restitution of fees. Both parties may be given the chance to argue for and against restitution during the proceedings.

#### Legal Challenge

A legal challenge was brought up against the introduction of the new fees. The government stated that this legal challenge does not currently affect the introduction of the fees, and



applicable fees must be paid from 29th July 2013. However, if the legal challenge against the fees is successful, the HM Courts and Tribunal Service will reimburse any fees that have been paid. [B\_Officalname] will keep you updated on this legal challenge.

**Avoiding the hassle: the early conciliation process**

As of 6th May 2014, the Advisory, Conciliation and Arbitration Service (Acas) began requiring claimants to submit an Early Conciliation notice before presenting a claim to an employment tribunal. Early Conciliation is a free, confidential process designed to resolve disputes before they reach an employment tribunal. Claimants must submit their form (found [here](#)) and wait for confirmation from Acas. From there, claimants work with an Acas conciliator to decide if their claim should continue to a tribunal. Early Conciliation can help resolve the majority of workplace disputes which may lead to an employment tribunal, and avoid the cost and stress of a tribunal while exploring other options for resolution. For more information and guidance concerning required employment tribunal fees and Early Conciliation, please visit [here](#).

