

Guide to Unfair & Wrongful Dismissal

This is a brief guide to the Employment Tribunal claim process for Unfair and Wrongful dismissal. Please note that it is intended to be a very basic guide to the main stages of the process and is far from being a complete overview. Please note that the stages do not always follow the same sequence.

Unfair Dismissal relates to a breach of a statutory right under s.94 Employment Rights Act 1996. An Employee must (in most circumstances) have two years of continuous employment with the Employer before they develop the right not to be unfairly dismissed.

Wrongful Dismissal occurs when an employee is dismissed and one or more of the rights granted under the contract of employment have been breached. There is no requirement for the employee to have specified period of service with the employer.

STAGE 1: ACAS Early Conciliatory Process

- 1 The Early Conciliatory process is necessary before a claim maybe made to an Employment Tribunal.
- 2 A Claimant must complete the ACAS form, who will then attempt to mediate between parties in an effort to resolve the dispute. The process takes between 14-28 days.

Please find link for below, but please be aware that Evans & Co do not service the link and you should be aware that the form may be updated.

<https://ec.acas.org.uk/>

- 3 If no resolution can be agreed a certificate is issued to the Claimant, who may then use this to complete a Claim form ET1.

STAGE 2: ET1 & ET3 Forms

- 1 Should a Claimant/ Employee wish to advance a claim to the Employment Tribunal an ET1 Claim Form will be completed and submitted to the Employment Tribunal. The claim for will provide details of all parties and the claims made/pleaded by the Claimant/ Employee.

The Respondent/ Employer must then respond formally to the claims made in the ET1. The response form, being an ET3 form is available for the Respondent/ Employer

Please find links for both forms below, but please be aware that Evans & Co do not service the link and you should be aware that the forms may be updated.

<https://www.gov.uk/government/publications/make-a-claim-to-an-employment-tribunal-form-et1>

<https://www.gov.uk/government/publications/respond-to-a-claim-made-to-an-employment-tribunal-form-et3>

STAGE 3: Witness Statements

- 1 An assessment will be made as to who will be required to make a witness statement in support of either the Claimant's or Respondent's case.
- 2 A witness statement is an accurate written account of that person's recollection of events relevant to the case and will be presented to the Employment Tribunal during the hearing.
- 3 A witness may be cross-examined and challenged upon the contents of their witness statement by representatives of the opposing party.

STAGE 4: Preparing the Bundle

- 1 Both parties must agree which documents are to be part of the Hearing Bundle.
- 2 The Bundle is an agreed form of reference to amalgamate all documents, policies or contracts necessary for the Employment Tribunal to understand the facts of the case.
- 3 The Bundle will normally be prepared by the Claimant's representative. However, if the Claimant is not legally represented, the Employment Tribunal may request that the bundle is prepared by the Respondents representative.
- 4 Both parties are now legally bound to buy and sell the property for the agreed price on the agreed completion date.

STAGE 5- The Hearing

- 1 Both parties will attend the Employment Tribunal, and present their respective evidence. This will be in the form of witnesses, who will be cross examined by the

opposing parties' representatives and with reference to documentation in the Bundle.

- 2 A hearing length will depend upon the complexity of the case and how many witnesses are required to attend. However, hearings are generally between 1-3 days.
- 3 A decision will be made by the Judge by post following the conclusion of the hearing. The decision can be received within several days to a few weeks depending upon the complexity of the case.

Fee Scale

Average range of prices (including VAT)

	From	To
Simple case	£5,000	£7,000
Medium complexity case	£7,000	£10,000
High complexity case	£10,000	£20,000

Please be aware that the fees quoted are fees of Evans & Co only and do not take into consideration disbursement costs such as a barrister or expert reports as maybe required.

Initial Interview

Evans & Co offer a free initial interview of twenty minutes for both Employer and employee clients. However, this does not include a full review of the litigation risks and the relevant documentation.

£250 inclusive of VAT