

## Pricing overview

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Employment tribunal claims (for business)



Solicitors **Regulation** Authority

ela



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*“They are excellent and have broad-based expertise. Crucially, their advice is delivered in a timely manner while maintaining accuracy.”*

Chambers UK

## Introduction

The purpose of our pricing overview is to explain the pricing options available to you. Brachers is committed to transparency, being efficient in handling your work and providing you with what to expect, without fear of unpleasant surprises.

It is our goal to provide you with exceptional quality work and the personal attention you would expect.

Once you have chosen the pricing option that suits your needs best, this will provide us with clarity as to the scope of our engagement.

We look forward to working with you.

## Fee estimate

### Cost ranges

#### How it works

We offer a range of pricing solutions to businesses facing a claim which are designed to give you control, transparency and choice.

We have also included indicative pricing for two of the most common types of claim, unfair dismissal and wrongful dismissal. The cost ranges are based on our hourly rate charging basis. The full basis for this is set out in our Terms and Conditions document (available upon request).

Our current standard hourly rates for ET claims are:

Partners	£350.00 – £390.00 plus VAT
Senior Associates	£310.00 plus VAT
Associates	£285.00 plus VAT
Solicitors	£275.00 plus VAT
Trainee Solicitors	£150.00 plus VAT
Legal Assistants	£150.00 plus VAT

Work carried out by trainee solicitors, solicitors, associates and senior associates is supervised by a partner.

### Price

To give an indication of potential overall costs for representing an employer in an Employment Tribunal (ET) claim to and including a final employment tribunal hearing:

Unfair Dismissal Claim	£8,000 - £15,000
Wrongful Dismissal Claim	£3,000 - £6,000
Combined Unfair Dismissal & Wrongful Dismissal Claim	£10,000 - £20,000

(Prices plus VAT (currently at 20%) in each case.)

*Please note that these costs apply to wrongful dismissal claims in an employment tribunal. In some cases a wrongful dismissal claim (breach of contract) may be brought in the county or high courts – normally when the value is over £25,000. The costs regime in such claims is different.*

### Q&A

#### Why is the range so wide?

The first reason is that there are two types of unfair and wrongful dismissal claim.

The first type are cases where the employee is actually dismissed/has their contract terminated by the Employer – “actual” dismissals.

The second type are cases where the employee resigns in response to the Employer’s actions or inactions – “constructive” dismissals.

Constructive dismissal cases are often significantly more complex. They often cover allegations spanning a significant time period and require a far greater volume of documentation and a higher number of witnesses to defend. This materially alters the costs.

In addition not all unfair dismissal claims are equal. Some may involve more complex factual and evidential issues such as whistleblowing or claims of automatic unfair dismissal on various grounds or related issues such as employment status.

## What may increase or decrease the costs?

In our experience the main issues that can materially impact on the costs of an unfair dismissal or constructive unfair dismissal claim are:

- The expertise, professionalism, attitude and behaviour of the Claimant or their representative; this can be a particular issue with some litigants acting for themselves.
- The willingness of the parties to settle and at what stage of the process.
- The number of witnesses required, which is commonly higher in a constructive claim than an 'actual' unfair dismissal claim.
- The volume and complexity of the documentary evidence, which is commonly more voluminous in a constructive dismissal claim and often covers a far greater period of time.
- Delay, postponements and adjournments which can occur, for example, due to the Tribunal cancelling hearings or changing the directions in a case often at short notice.

## Are there any other third party costs/ disbursements?

The most common disbursement in a wrongful dismissal claim or an unfair dismissal claim is counsel's fees for carrying out the advocacy at a full hearing.

The above cost ranges are inclusive of these fees including the VAT that applies to them.

Experts reports are very rarely required in these types of claims but any costs would be separate. No other disbursements normally apply to these types of claim.

## Can I recover my costs from the Claimant if we win?

Not normally. The standard position in an ET claim is that each party bears its own legal and professional costs win or lose.

There can be exceptional cases where the weakness of the case being brought (or defended) or the manner in which it is pursued (or defended) can lead to a costs award being made against one of the parties for the whole or part of their legal costs. These are in practice very rare and often do not cover the majority of the actual costs incurred.

## Fixed fees

### How it works

Fixed fees mean that we agree with you a fixed cost for the whole employment tribunal process up to and including the ET final hearing, not including any appeals to the Employment Appeal Tribunal or beyond.

### What are the pro's and con's to a fixed fee approach?

For us the risk is that our actual costs for representing you exceed the fixed cost and we bear that risk. For you the risk is that our actual costs are less than the fixed cost agreed and you bear that risk. The main benefit of fixed costs is that it provides cost certainty within the agreed scope.

### Price

We determine the viability and pricing of a fixed fee on a case by case basis. Please contact us to discuss your case and discuss a detailed costing.

### Q&A

### What is included/excluded from a fixed fee?

We price any fixed fee on a case by case basis. The inclusions and exclusions are bespoke to each case as agreed with each client.

The fixed fee is normally within the above costs ranges.

As a general rule a fixed fee will include:

- Drafting and Submitting the Response
- Case Management Preliminary Hearings (if required)
- The Disclosure process
- The Trial Bundle
- Drafting Witness Statements
- Preparation for and representation at the Employment Tribunal Hearing

## Unbundled support

### How it works

We offer so called 'unbundled support' on Employment Tribunal Claims.

This means that you represent yourself on the claim.

We provide support, as and when required, most commonly at key stages in the process.

For example, some employers' are comfortable carrying out parts of the Tribunal process with no, or with limited, input from us.

Some clients may be comfortable carrying out disclosure of documents or the preparation of the Trial Bundle or drafting Witness Statements but want support and legal expertise and experience on some aspects of their case such as drafting the Response or assisting with specific disclosure points.

## Price

We normally provide unbundled support either on a time spent basis, applying our normal hourly rates, or by agreeing a specific fixed cost for the relevant task.

You may ask us to draft a suitable Response. On a standard unfair dismissal claim, this element would normally cost between £1250 plus VAT and £1,750 plus VAT.

You may ask us to prepare witness statements. On a standard unfair dismissal claim these would normally cost between £1250 and £1750 per witness statement plus VAT.

VAT is chargeable at 20% in every case.

## Slice and Price

### How it works

Rather than having a total fixed fee for the whole claim we agree with you a fixed cost for each key phase of the Employment Tribunal Process. Where the likely costs of any element cannot be readily fixed we charge for this on a time spent basis – this is normally only for settlement negotiations where applicable.

## Price

Applying this to the common phases of an unfair dismissal or wrongful dismissal claim, dependent upon the complexity and type of case:

Phase	Lower	Upper
Response	£1250 + VAT	£1750 + VAT
Disclosure	£500 + VAT	£1000 + VAT
Trial Bundle	£500 + VAT	£750 + VAT
Witness Statements <sup>2</sup>	£1250 + VAT	£1750 + VAT
Hearing Preparation	£750 + VAT	£1500 + VAT
Hearing <sup>3</sup>	£1500 + VAT	£2000 + VAT
Case Management Time	£1250 + VAT	£2000 + VAT

<sup>2</sup> Per statement

<sup>3</sup> Per day

VAT is chargeable at 20% in every case.

## Examples

If you took a basic unfair dismissal claim, with a normal one day hearing and two witnesses for the employer this would come to £8250 + VAT (£9,900) for the fixed cost elements.

A more complex constructive dismissal claim with a three day hearing and four witnesses for the employer would come to £18,500 + VAT (£22,000).

## Q&A

### Why is this different to fixed fee or time spent?

Unlike total Fixed Cost you do not incur the full amount should the case be withdrawn by the Employee, dismissed at an early stage or settled. You only incur the costs up to and including the relevant phase reached.

Whilst there are some elements not within the fixed 'slice' costs, for example settlement discussions and preliminary hearings (where fixed costs can be agreed), this approach gives you greater certainty and transparency over when the costs are incurred for each phase of the claim and what they will be, enabling you to make informed commercial decisions about the handling and progress of your claim.

## Insurance backed

### How it works

We do act for employers whose legal costs (and in some cases potential awards) are covered by insurance.

You are normally permitted by the terms of your insurance and the wider law to choose to instruct us rather than an insurer chosen law firm. You should raise this with your insurer if you wish to do so.

### Price

The costs of acting for you on an insured claim depend upon the terms and coverage of your insurance and the hourly rate the insurance provider agrees to cover for your legal advice.

We would discuss with you the basis upon which any additional costs may or may not be incurred above any amount being provided for by the insurance cover.

## The ET process

The ET process is normally made of the following key stages:



In some cases it is necessary to deal with some aspects of the case though preliminary applications or hearings.

For example, not all cases are clearly explained in the Claim Form. It can be necessary to make

applications for further information about the claim in order to deal with it.

In other cases it can be necessary to make applications during the process where for example orders and directions have not been complied with by the Respondent.

It can also in some cases be more cost efficient to seek to deal with a preliminary issue, such as say a claim being issued out of time, or being of a type that the ET has no jurisdiction to hear at an early preliminary hearing rather than a full hearing.

### Timescale

This is very difficult to estimate. There is no fixed timescale for each case. How quickly cases are handled, dealt with and listed for hearings varies significantly from tribunal to tribunal and varies with their caseloads and judicial availability.

At the present time we are seeing cases that have been recently issued listed for hearings between 6 and 12 months in the future albeit the Tribunal system is currently taking steps to increase its capacity to deal with the major increase in claims following the abolition of tribunal fees.

It is not however uncommon for the Tribunals to issue directions that require all of the other phases of the claim (up to and including the preparation and exchange of witness statements) within a few months of the claim being issued despite there then being a long gap before an eventual hearing.

## Useful websites

<https://www.brachers.co.uk/business-law/employment-and-hr>

*(Information on our Employment team)*

## Contact



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