

HUGHES ENTERPRISE LAW PRACTICE

GENERAL INFORMATION FOR CLIENTS INVOLVED IN A TRIBUNAL CLAIM

Handling your claim

We are committed to achieving a worthwhile, practical and cost-effective outcome which is satisfactory to you. If we can do this without going to Tribunal, by negotiation or mediation or another form of dispute resolution, we will do so. We set out below the requirements and obligations of the dispute so that you can understand what will be expected of you.

Cost benefit analysis

At the beginning and at regular intervals we will consider with you what you can hope to achieve by making or defending the claim, what it may cost and what the likely net benefit may be to you. If appropriate, we will advise as to what the other alternatives may be. If we doubt that it makes financial sense for you to pursue the case, we will tell you.

Legal charges and expenses

You are responsible for paying your own legal bills. Only in exceptional circumstances will the Tribunal order your opponent to pay your costs.

In any event, you have to bear in mind that the opposing party may not have the money to pay, could become insolvent or only have assets which, if traceable at all, can only be pursued by incurring further cost.

Pursuing a claim can require a considerable personal time contribution from the client. You are unlikely to be able to recover for the value of the time and expense of working on your own case and instructing your lawyer.

If you pursue any aspect of your claim unreasonably it is possible that you will be ordered to pay a contribution to the charges and expenses incurred by your opponent, as well as your own.

Use of barristers and other third parties

We may recommend to you that some of the work on your case be handled by "counsel" (a barrister). If so, we will seek your agreement. Unless counsel is working under a conditional fee arrangement, we will need payment from you before work is done by counsel.

We may also need to have work done by other third parties on your case. These might include expert witnesses to prepare reports. Normally, we would expect to obtain your agreement to instruct such people but an urgent situation might prevent it.

We have to reserve the right to require that you retain the experts directly and assume responsibility for their fees or to require a payment from you on account of the fees of any third parties.

Information and documentation

We will have to ask you for information to help us run your case. Time limits in employment cases mean that it is important that you do not delay in supplying that information to us. In addition, it is vital that you tell us if you think that the information is not complete or is inaccurate in any way.

The Tribunal rules which lawyers and their clients have to comply with are strict about anything which might be evidence in the case. All paperwork, records and notes relevant to the case, including all electronic records stored on computers, laptops, backup tapes, other storage devices, PDAs and mobile phones, however damaging to your own case or commercially sensitive to your business, must be kept safely by you or us and made available to the other side: the only exception involves the legal advice you receive from us.

The Tribunal process

When Tribunal claims have been made, the Tribunal judges effectively take control of how the case is to be conducted, though they do so in consultation with the parties. They have wide-ranging powers and their decisions can be unpredictable.

Business clients, in particular, need to appreciate that there will be more involvement by them at an earlier stage, for example, in searching for documentation and verifying the truth of documents and of witness statements. You, with us, will have to meet strict timetables or risk your case being struck-out by the Tribunal. You may have more pressing commercial problems to which you feel you should give priority over our need for help from you in respect of this claim. The Tribunal will not allow us to buy you time. If you get involved in the Tribunal process – as applicant or defendant – you must commit yourself to it.

We hope that this note is helpful and we will be happy to explain any aspect more fully to you. In the meantime, we look forward to working with you and towards a satisfactory outcome.

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