

Submitting the Claim

The employee should submit their claim using form ET1 which should contain certain information, including names and addresses of the claimant (employee) and respondent (employer), and details of the claim. Claimants also have to make sure that they present their claims within the proper time limit (3 months from the effective date of termination in unfair dismissal and wrongful dismissal cases).

If any of the required information is not included in the ET1, the tribunal will reject the claim and it will have to be re-submitted, which may cause the claimant to miss the time limit of 3 months. Tribunals will consider applications to extend time in certain circumstances but there is no guarantee that they will do so and it is always safer to submit the claim in time.

A claimant may present the claim by post, fax, online or in person. It should be presented to the appropriate tribunal office. The appropriate office will be determined by the postcode of the respondent organisation.

A claim is presented when it is **actually received by the tribunal**, not when it is sent.

Once the Employment Tribunal accepts the claim, it will assign a case number to the claim and send a copy of the Claim to the Respondent together with information about how to respond to the claim and the consequences of failing to do so.

Responding the Claim

The deadline for presenting the response is 28 days after the claim form was **sent to the respondent** by the tribunal, not 28 days after the respondent received it.

The response should be in form ET3 which should contain certain information including

- the respondent's name and address
- whether or not the respondent intends to resist the claim and, if so, on what grounds

The respondent may apply for an extension of time for presenting their response, as long as the application is made before the 28-day deadline has passed. The application should explain why the respondent is unable to meet the deadline.

In certain circumstances, the tribunal will refuse to accept the response and will return it to the respondent explaining why this has been done. The effect of this is as if the response had not been received. The tribunal will also send information on how the rejection may be reviewed or appealed. Reasons for the rejection could include the required information not being included in the form or presenting the claim out of time.

If a response is not presented, or presented and not accepted, the tribunal may:

- make a default judgment in favour of the claimant
- determine the case without a hearing

If a respondent does not present a response, or the response is presented but rejected, the role it may play in the rest of the proceedings is very limited but does include applying for a review of the default judgment.

Procedure for bringing the claim to a hearing

The tribunal will play an active part in the process of preparing for the main hearing. Even in simple cases, it will usually set dates for exchange of documents, for the exchange of witness statements and schedules of loss and for setting a date and a time estimate for the hearing, together with directions as to preparation of the bundle of documents to be used at the main hearing.

Hearing

The main hearing of a tribunal claim usually takes place before a tribunal consisting of 3 members, ie an Employment Judge and two lay members. Most hearings take place in public.

A party may represent himself at the hearing or choose someone else to represent him. Tribunal proceedings are less formal than court cases, with no strict rules of evidence, but there is still some element of formality. Witnesses must give evidence on oath or affirmation and usually read their witness statements as evidence in chief. They are then cross-examined by the other party and re-examined by the party who called them. The tribunal may ask questions at any time and may effectively call witnesses of its own.

Once the evidence of all parties has been given, the parties sum up their cases in closing submissions.



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The tribunal may give judgment at the end of the hearing or may reserve judgment to be given in writing. The tribunal must give reasons for any judgment it gives.

Costs

The employment tribunal will not award costs in favour of the successful party as a matter of course. Costs awards are very much the exception rather than the rule.

Settlement

It is open to the parties to unfair dismissal and wrongful dismissal claims (as with any other claim) to settle the claim privately or through the assistance of Acas. The vast majority of Employment Tribunal claims never reach a full hearing.

The parties may choose to settle their differences before the claim is commenced or even before dismissal takes effect. However, to be effective in compromising a claim or potential claim for unfair dismissal, the settlement must comply with one of a number of statutory provisions, for example by signing a Compromise Agreement.

Funding for employees?

We would be pleased to discuss the various funding options available, including no win no fee agreements.



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