

Employment Tribunal and Employment Appeal Tribunal Fees Stakeholder factsheet

Why fees are being introduced in the employment tribunal and Employment Appeal Tribunal

The aim of introducing fees is to transfer some of the approximate £74m cost of running the employment tribunals and the Employment Appeal Tribunal from the taxpayer to those who use the system.

The Government believes that users of the employment tribunal system, who can afford to pay, should contribute to its running cost, particularly because the taxpayer already provides for free Acas conciliation and will continue to do so.

Types of fees payable

The main types of fees paid will be a fee at issue of the claim or appeal and a fee before hearing. In the employment tribunals there are also application specific fees namely:

- Application for a review (reconsideration) of default judgment
- Application to dismiss following withdrawal
- Application for a counter-claim (which will become known as an 'Employer Contract Claims' after the new 'Underhill' rules are implemented)
- Application for review of final decision
- Judicial mediation

Who pays the fees

The basis of the fee structure is that fees are paid in advance by the party seeking the order. This means that the claimant or appellant will pay the issue and the hearing fee, but the respondent will pay fees for any applications they make. The tribunal will have the power to order the unsuccessful party to reimburse the fees paid by the successful party. The fee for judicial mediation will be paid by the respondent, reflecting the practice where mediation is entered into privately to resolve employment disputes.

Fee levels

In the employment tribunals there are two fee levels based on the type of claim, reflecting that generally some types of claims take more of our resources to deal with. In broad terms Wages Act/refusals to allow time off/appeals etc will be defined in the Order as Type A claims, and attract the level 1 fee, as stated in the consultation response. Discrimination / detriment / dismissal claims will be defined in the Fees Order as Type B claims and consequently allocated to the higher level 2 fees.

The fee levels are:

Fee Type	Type A claims	Type B claims
Issue fee	£160	£250
Hearing fee	£230	£950

For the application specific fees the levels are:

	Review Default Judgment	Application to dismiss following settlement	Mediation by the judiciary	Counterclaim	Application for review
Type A	£100	£60	-	£160	£100
Type B	£100	£60	£600	-	£350

Claimants who submit their claim on the same form will be designated as “fee groups” and have access to a cheaper fee structure if they chose to split the fee between them. They will also have access to our remission scheme.

For Type A claims the following fees are payable:

	Number of claimants in fee group		
	2-10 (2 x the single fee)	11-200 (4 x the single fee)	over 200 (6 x the single fee)
Issue fee	£320	£640	£960
Hearing fee	£460	£920	£1380

For Type B claims the following fees are payable:

	Number of claimants in fee group		
	2-10 (2 x the single fee)	11-200 (4 x the single fee)	over 200 (6 x the single fee)
Issue fee	£500	£1000	£1500
Hearing fee	£1900	£3800	£5700

In the Employment Appeal Tribunal the fees are £400 to lodge an appeal and £1200 for a full hearing.

How the fees were set

The fee levels are based on the likely representative cost of making a claim to the employment tribunals or an appeal to the EAT. The more complex a claim the more judicial and administrative resources are consumed, so two claim types with two different fee levels reflect this.

In the EAT there is a single fee level for all appeals regardless of the original claim types or number of individuals to whom the original judgement relates. This reflects the fact that these factors do not appear to have an impact on the amount of resource needed to deal with the appeal.

Ministers have decided to set fees at a level that will recover approximately 33% of the cost of the employment tribunals if all fees were paid and none were remitted.

Commencement of fees

Subject to necessary Parliamentary approvals, the date for the implementation of fee into the employment tribunals and Employment Appeal Tribunal will be Monday 29th July 2013.

Commencement of rules changes following the 'Underhill' Review

The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 will come into force on 29 July 2013. The regulations and rules replace those previously in place, and represent a complete new procedural code for the employment tribunals. The new rules include provisions on fees, including processes applicable where fees are due but remain unpaid. The new regulations and rules are available [here](#).

How a fee is charged on a claim with different types of complaint

The fee payable will be that which relates to the highest level claim. For example, a claim containing a complaint of unpaid wages (Type A) and a complaint of unfair dismissal (Type B) would be charged one fee at the Type B rate.

Her Majesty's Courts & Tribunal Service Fee Remission Scheme

Her Majesty's Courts & Tribunal Service remissions scheme (which currently applies to proceedings in the civil courts in England & Wales) will be extended to protect access to the tribunal for those who cannot afford to pay a fee. As a general rule, everyone is deemed to be able to pay unless they demonstrate (by way of an application through our remissions scheme), that they are unable to do so. In the event that a remission application is successful, the whole (or any part of) the fee will be waived.

Time-limits for making claims

There is no extension to the existing time-limits for making claims because paying a fee or completing a remission form should not cause parties to fail to meet existing time-limits. We will make it clear in guidance that fees are payable, ensuring that everyone is aware of this obligation.

Transitional provisions

Only claims made to the employment tribunals or appeals made to the Employment Appeal Tribunal on or after the implementation date will attract fees. Any claim/case/appeal in the system before fees are implemented will not attract any fee payments.

This means that a claim issued on the day before fees are introduced would not attract, for example, a hearing fee – even though the point at which the hearing may be listed takes place after our go-live date.

However should an appeal be made to the Employment Appeal Tribunal after the implementation date, fees will be payable.

Methods of Payment

Fee payments can be made via our online service by either credit or debit card payment. Any other payment (cheque or Postal Order) will be collected through centralised processing facilities (one in England & Wales, and one in Scotland).

Remission applications will also be centralised within the centralised processing facilities.

The new business model

Claimants will create a new employment tribunal claim by entering details through a new online interface, which will allow fee payments to be taken online via a debit/credit card. If a claimant wishes to submit their claim by post, they can send their ET1 to the appropriate central processing facility by post with appropriate payment by cheque or Postal Order or submit an application for remission for processing.

Only once the fee has been paid, or remission approved, will the ET1 be routed to the appropriate office for vetting, service and processing.

Payment for all other fee types in the employment tribunal will be notified by the tribunal office, who will issue a Notice to Pay with the amount payable and due date for payment. The payment can be made either online by debit or credit card or manually through the Central Processing Facility by cheque or Postal Order.

Because there is no online capability to lodge an appeal to the Employment Appeal Tribunal, appeals will continue to be sent to the Employment Appeal Tribunal office (without payment), and a notice to pay will be issued, which may be paid online or by cheque or Postal Order to the Central Processing Facility.

Further information

Her Majesty's Courts & Tribunal Service will be providing clear written guidance that will set out what fees may be due, at what stage, in what amount; and how remission applications can be made.

The Public Enquiry Line will also answer questions on general queries on fees and remissions for the employment tribunal and the Employment Appeal Tribunal and will liaise with local offices where queries relate to specific proceedings.

Here are some links to pages with additional information:

- BIS Resolving Workplace Disputes consultation package:
<http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/Consultations/resolving-workplace-disputes?cat=closedwithresponse>
- MoJ Fees consultation package:
<https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011>
- Draft Added Tribunals Order:

- <http://www.legislation.gov.uk/ukdsi/2013/9780111538647?view=plain>
- Draft Fees Order:
<http://www.legislation.gov.uk/ukdsi/2013/9780111538654>
- MoJ Remissions consultation:
<https://www.gov.uk/government/consultations/fee-remissions-in-the-courts-and-tribunals>
- Existing remissions guidance: <http://www.justice.gov.uk/courts/fees>
- Future announcements: <http://www.justice.gov.uk/>