

# Disability Law Service

advice and legal representation for disabled people

## Representing yourself at Employment Tribunal

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# Representing yourself at Employment Tribunal

## Introduction

The following factsheet has been written with the aim of providing assistance to those who are either contemplating or are in the early stages of bringing a claim and will be representing themselves in the employment tribunal.

This factsheet cannot cover every fine detail that a claimant will encounter during the course of their claim. However, this factsheet is intended to be used as a practical guide that outlines the general procedures and processes.

For many people, the thought of running and presenting their own case in an employment tribunal will be a daunting thought. A key aspect to running your case effectively amounts to gaining confidence and becoming familiar with the tribunal process so that you know what to do and when. Once you know what is expected of you, you can then begin work on your case.

# The Tribunal Process

1. Filling out the ET1 claim form
2. 28 days for the respondent in the case to file a defence on an ET3 form
3. Preliminary hearing (for more complex claims), sometimes by phone
4. Case Management Orders (sometimes known as Directions)
5. Compliance with Employment Tribunal Orders and Directions (eg Disclosure of evidence and preparation of witness statements)
6. Preparing for the Hearing
7. The Hearing
8. Post -Hearing

From 6<sup>th</sup> May 2014, before submitting a claim, you will need to notify Acas of your intention to bring a claim. Contact is made via the Acas website ([www.acas.org.uk/early](http://www.acas.org.uk/early) conciliation) or by phoning 0300 123 1122. Once you have done this, an Acas officer will be in touch with you to establish whether you want to use their services in order to try to settle the claim. You are not obliged to try to settle the matter at this stage, but you may

wish to attempt to do so (the Acas service is free) in order to avoid paying a fee to issue a claim in tribunal. The minimum you must do is to notify Acas of your intention to bring a claim; if you do not wish to discuss the matter further, Acas will issue you with an early conciliation certificate, with a reference number. You will not be able to go ahead and issue a claim in tribunal without this reference number.

If you do wish to try to settle the matter at this stage, then you will have one month (with a possible extension of up to 2 weeks) for Acas to try to negotiate a settlement between you and your employer. Your time limit to make the claim to the employment tribunal, which is normally 3m minus 1 day, is suspended during this time, and in some cases can be extended. This is a complicated (and new) area of law, and you should take legal advice as to exactly when your time limit expires, if early conciliation is not successful and you wish to go on to issue a claim in the employment tribunal.

### Step 1 – the claim form (ET1)

You should set out the basis of your claim on a form called an ET1 and submit it online. This is the easiest way of submitting the claim. You will also at the same time have to pay the fee for

issue (see below) or submit an application for remission of the fee.

ET1 forms can be downloaded directly from:

<https://www.employmenttribunals.service.gov.uk/employment-tribunals>

Alternatively, you can download and print off a form, complete it on paper and post it to one of two central employment tribunal offices. These are as follows:-

For England and Wales - Employment Tribunal Central Office,  
PO Box 10218, Leicester, LE1 8EQ.

For Scotland – Employment Tribunals Central Office Scotland,  
PO Box 27105, Glasgow, G2 9JR

If you are submitting a claim this way, you must include either a cheque or postal order for the appropriate fee, made payable to HM Courts and Tribunal Service or form EX160 applying for a fee remission, accompanied by supporting evidence.

It is also possible to deliver the ET1 in person by hand during office hours, along with the fee or a remission application. Not

every tribunal office is authorised to receive claims in this way, so you should contact the employment tribunal helpline to check that your local office can do this. The relevant telephone numbers are **0300 123 1024 (England and Wales) or 0141 354 8574 (Scotland).**

Whatever method of submission you use, claim forms **must** be completed and submitted within the relevant time limits (normally 3 months minus 1 day, subject to the early conciliation process, but this may vary). For advice about the time limit of your claim you can contact the employment tribunal helplines as above.

For late claims attach a separate application for extension of time (proposing grounds/reasons to extend time). Once you have sent an ET1 to the tribunal office the tribunal will:

- send you an acknowledgement with the details of the case;
- state whether or not the tribunal has accepted the claim (you may still be able to apply for a reconsideration of a decision to reject a claim); **and**
- send the respondent(s) (your employer) a copy of the ET1.

## **Step 2 – ET3 (The Defence)**

The respondent (s) (the person/company whom the case is being brought against) must file a defence to the tribunal within 28 days from the date upon which the respondent was sent a copy of the claim. Respondents will normally submit their defence upon a form called an ET3. If you do not receive a copy of the ET3 defence you should contact the employment tribunal office to determine whether they have received an ET3 from the respondent(s). If the tribunal office has not received an ET3, an employment judge ('EJ') may issue default judgement of your claim if there is sufficient information on the form to enable them to do this, or you may be called to a hearing at which the judge will decide your claim. (A respondent who has failed to submit an ET3 in time will not be permitted to take part in this hearing, unless they successfully request an extension of time for submitting the ET3).

Once both the ET1 and ET3 have been submitted to the tribunal, an EJ will look at the claim and response to the claim. This is known as the 'sift' stage. It is possible for either a claim or response to be struck out at this stage, if the EJ considers they have no reasonable prospect of success, but before a

strike out can take place, the relevant party will be given an opportunity to put in written representations and further evidence as to why this should not happen. (NB Either side can themselves apply for a strike out of the other party's case, and this would normally be dealt with at a preliminary hearing (see below)).

### **Step 3 – Preliminary Hearing**

If there is any doubt as to whether you are eligible to bring a claim you may be required to attend a Preliminary Hearing (PH). A party can request a PH or the tribunal may set PH on its own initiative. A PH will normally be heard by one EJ sitting alone. One of the purposes of a PH is to:

- Decide whether a claim or defence should be struck out;
- Assess the likely success of a claim or defence;
- Decide whether a deposit should be paid before allowing a party to proceed.

In the event the EJ considers a claim or defence to have little (as opposed to no) reasonable prospect of success it may order a party to pay a deposit of up to £1000 as a condition of



proceeding with the claim or defence. This is done in an attempt to prevent hopeless litigation.

#### **Step 4 – Case Management Orders**

Another function of a PH is to make Case Management Orders ('CMOs' – also referred to as 'Directions'), to direct how the case should proceed. Sometimes, in a relatively simple case, standard CMOs will be issued by the tribunal as soon as the ET3 has been accepted and the ET has completed the 'sift' stage, and there will be no requirement for a hearing. However, as discrimination cases tend to be complex and can involve issues requiring expert evidence, you should expect there to be a PH, at the very least to make CMOs, if you have made a claim under the Equality Act 2010.

If the purpose of the PH is just to make CMOs, this would normally be done in a private hearing (known as a 'Closed Preliminary Hearing'), but if any elements of the claim/response are going to be decided upon at the PH (such as a strike out, or whether the tribunal has jurisdiction to hear the claim), then this would be done in public (known as an 'Open Preliminary Hearing').

You should normally receive a letter that will outline the case management matters to be addressed at a PH. Discussion at the PH will normally focus on defining the main issues to be decided in the case, the number of witnesses who will be called, the length and time of main hearing and what documentation and additional information should be sought and when exchange (disclosure) of this information should occur. If the purpose of the PH is only to make CMOs, it can be heard in person or over the telephone.

## **Step 5 – Compliance with Employment Tribunal Orders and Directions**

### **Disclosure (Obtaining Evidence)**

Once you have the respondent's ET3 defence which sets out the basis for their case/defence, you can start to analyse the case as a whole. You need to consider what documentation and/or other items will help you to understand the respondent's case and to prove your case. Once you have decided on what information you require you can request additional information from the respondent, as long as it relates to their case as set out in the ET3. You can set out specific questions for which you require written answers as well as the disclosure of specific

documentation. Equally, the respondents may request further information and documentation from you. Normally, exchange of information between the parties should occur on the same day (this will normally be decided during the PH).

However, if the requested information is not forthcoming after the agreed date of disclosure you should write to the tribunal and request an order that the information is disclosed by the respondent. If this situation occurs, you should also send a copy of this letter to the respondent.

## **Step 6 – Preparing for the Hearing**

The most important aspect to running your case effectively is thorough preparation. It is important that you undertake some legal research with regard to relevant legislation and case law and it is vital that you have a thorough understanding of the issues (which will normally have been defined by the tribunal at the PH) and facts of your case so that you can assist the tribunal in understanding your claim.

Items that you will need to complete during the course of preparation for your case will include:

- Schedule of loss;
- Witness statements;
- Agreed bundle of documents;
- It may be helpful to produce a list of the legal issues and a chronology of events (these are not essential but will help assist you to fully understand your case and may assist the tribunal); **and**
- Websites where you can obtain statutes (see useful contacts/websites).

## Assessing the Merits of your Case

### Objectivity

It is important to remember to assess your claim at the outset and thereafter, as an employment tribunal will certainly do this. This means maintaining an objective stance when assessing the legal and factual issues of the case. It may be difficult to remain objective as you are obviously very personally involved in the case. However, you should try to remember that the tribunal is **only** interested in establishing the facts of a case so

that they can determine and apply the law. It is therefore essential that you are realistic about the strength of your claim.

For example:

Identify the facts of the case + identify the relevant evidence (to prove the facts) + application of the 'relevant law' = to determine the likely outcome

It may be helpful to keep the following points in mind when assessing your claim.

- Assessment of merits **must** always be realistic, accepting the state of the law as it is and accepting the evidence as it is. The prospects of obtaining additional evidence **must** also be realistic.
- In addition to assessing merits of the case the credibility and competence of witnesses must also be assessed. Credible and competent witnesses will add strength to evidence they give making your case more credible and persuasive.

## Checklist (Facts)

When compiling all the relevant facts of your case it may be helpful to:

- Identify evidence of disability (for claims brought under the Equality Act 2010), as, in many cases, before a claim can get off the ground you may be required to show that you are disabled according to the definition of 'disability' as set out in the act. (NB For certain conditions such as Multiple Sclerosis (MS), cancer and HIV, there is no requirement to establish disability under the act, as these conditions are automatically deemed to be disabilities)
- Identify less favourable treatment/detriment/failure to make reasonable adjustments (i.e. discriminatory acts) and connection to disability/race/gender etc
- Identify timing of discriminatory acts
- Identify grievance(s), if any, lodged against discriminatory acts or any other notice to employer
- Identify evidence of (or witnesses to) discriminatory acts, evidence of employer's reaction to grievance(s) and/or notice of discriminatory acts and evidence of any 'acceptance' by employee of discriminatory acts.

## **Checklist (Law)**

It is essential that you are familiar with and understand the law as it relates to your case. You should undertake some research to find the appropriate statute(s) and provision(s) as well as any relevant case law.

There are a number of websites from which you can access legislation (See useful contacts and websites at the end of this document). It may also be helpful to obtain an employment law textbook, so that you can become more familiar with the statutes and cases that are pertinent to this area of law.

While carrying out preparation for your case it is essential that you:

- Identify and understand the precise statute and/or case law relevant to discrimination being alleged.
- Identify strategy to be used to apply statute and/or case law to relevant facts.

- Identify at least one alternative strategy to be used to apply statute and/or case law to relevant facts (ie, 'if that argument fails, I will rely on this argument..')

## Pleadings/Submissions of Claim

### Checklist (ET1 Claim form)

A claim in the employment tribunal is initiated when the Claimant (the person bringing the claim) fills out and submits an ET1 form to the relevant regional employment tribunal office. There are strict time limits set as to when you can bring a claim. In most cases, the time limit for bringing a claim is three months from the cause of action. The time limit for bringing a claim for unfair dismissal or for discrimination is three months minus one day from the effective date of termination (the day your employment terminated – this is not always straightforward, and if you are in any doubt, you should take legal advice on this point) or three months minus one day from the act of discrimination. In certain circumstances, it is possible that the time limit does not run until the date of the last act of discrimination, if all former acts are linked to it; in this case,



there could be a deemed 'continuing act' (but you should not readily rely on this proviso).

It is important to be as accurate as possible and to supply all the relevant information to help the tribunal and respondent understand your claim.

When completing the ET1 you should keep the following in mind:

- Ensure ET1 Claim form is submitted within the relevant time limits (normally three months minus one day). For late claims attach a separate application for extension of time (proposing the grounds/reasons to extend time).
- It is very important that you ensure that all relevant sections of ET1 form are completed accurately.
- Ensure that all of the required fields of information have been completed. You must provide information in sections marked with the symbol \* and, if it is relevant, you must provide information in sections marked with the symbol •.

- You must set out a statement of your claim, ie, the ways in which you believe your employer has breached your rights, in full. This is very important, as, if you forget to add a claim that exists at the date you submit your ET1, and try to add it later, you may be out of time. Alternatively, you can attach a statement of claim/pleadings, within a separate document, to ET1 form.

## **Late Claims (Discrimination Cases)**

In some circumstances you may be able to submit a discrimination claim outside the time limit, if the ET finds that it is just and equitable to allow this. The ET will consider, amongst other factors, the length and reason for the delay, any prejudice caused to either party by the delay, the employee's action in obtaining timely legal advice, the quality of that advice and whether it was reasonable for the employee to rely on it.

## **Statement of Claim Layout**

Statements of case refer to the claim and response (these are sometimes also called pleadings). As we are only dealing with the claimant's side of matters we will only address the statement of claim.

There is no one right way to complete a statement of claim but as a general guide the following should be included:

- General history – **brief** but informative details on history of disability, employer's knowledge of disability, history of employment, history of claimant's work, introduction to other key individuals.
- Facts of the case – details of facts relevant to allegations of discrimination/ unfair dismissal (if the act of discrimination is a dismissal) etc. These are the facts, together with supporting evidence, which you will be putting to the ET at the final hearing.
- Resolution efforts – details of the effort(s) made by claimant to resolve matters, including whether a grievance has been raised

- Claims – to summarise, confirm the specific claims of discrimination being made

## Case Management

### **1. Preliminary Hearing to determine claims (Open Preliminary Hearing)**

As set out above, an employment tribunal may set a date for a PH to determine claims at a very early stage (an Open Preliminary Hearing) where it has initial concerns over the claim and believes either it may have no jurisdiction to hear the claim and/or it believes the claim has no, or little, reasonable prospect of success. A PH can result from either the ET's own initiative or from an application made by the respondent.

Things to remember about such a PH (as opposed to a PH to make CMOs):

- It is an extremely important hearing, as failure means termination of claim (or part of claim). Examples of jurisdiction issues: wrong respondent; late claim; insufficient qualifying service for the claim made (although

there is no qualifying service for a discrimination claim);  
wrong litigation venue.

- PHs of this type equate to a preliminary assessment of merits by the ET. This can show that, on the facts put forward by each party at that date, the ET is doubtful as to the merits of the claim – hence the importance to properly assess merits at the outset. Respond with references to prospective merit and evidence. If a claim is judged to have no reasonable prospect of success, it can be struck out at this stage. If a claim is judged to have little reasonable prospect of success, the tribunal can order that a deposit of up to £1000 (per claim) is paid into court if the claimant wishes to proceed with the claim.

## **2. Preliminary Hearing to make CMOs (Closed Preliminary Hearing)**

This is essentially a housekeeping hearing designed to ensure effective management of the case up to the final hearing.

- An employment tribunal may consider matters such as the issues in the claim, disclosure of documents/evidence,

instruction of a medical expert (disability cases), witnesses and witness statements, length and date(s) of hearing.

- As noted earlier, a PH that is convened solely to make CMOs could be conducted over telephone (especially if issues are relatively straightforward or drafted and agreed beforehand) or in person (if issues are complex or without agreement).

The following should be undertaken in preparation for a PH to make CMOs:

- A draft Schedule of Issues identifying – specific detriment(s) alleged; specific references to contravention of the Equality Act and other statutes; specific references to comparators.
- Draft Schedule of Loss identifying – injury to feelings (**Vento v Chief Constable of West Yorkshire 2002 EWCA Civ 1871**); injury to health (**Sheriff v Klyne Tugs 1999 IRLR 481**); economic losses (such as loss of earnings).

- Prepare knowledge of number of witnesses, potential length of hearing and future dates to avoid. Also prepare any applications for disclosure and/or witness orders.

## **Evidence**

In order to prove the facts of your case you will need evidence. It is important that you gather as much evidence as possible to prove your case.

When collating evidence the following should be considered:

- Either documents or audio/video recordings.
- The evidence must address the issues in dispute, **and no others**, as this will waste the tribunal's time. Generally, if issues are agreed, it is not necessary to adduce evidence in respect of them, but you should check this with the tribunal and the other side, normally at the stage of a PH.
- Assess your own evidence (within your proposed strategy) and pursue prospective evidence at outset of case.

- Disclosure Orders apply to existing evidence only. Ensure, at the very least, evidence of disability (if disputed in Equality Act cases) and evidence that the detriment(s) alleged exist.
- When all documents are exchanged critically assess all the evidence 'as a whole' to avoid surprises.

## Witnesses

- Critically assess claimant's and witnesses' characters as witnesses
- Ensure the claimant and the witness(es) agree 100% with the contents of their witness statements. Ensure that the claimant's witness statement addresses mitigation.
- **Do not coach witnesses** witnesses but do prepare them for the process of cross-examination.
- Safest and most productive principle for witnesses: be truthful and answer the questions put and no more.

## The Final Hearing

### The Hearing Sequence



- Introductions by the tribunal and representatives, confirmation of claim(s) to be heard and resolution of any outstanding case management issues.
- In discrimination cases the claimant has the immediate burden of proof to show that there is some case to be met by the respondent before the burden of proof may pass to the respondent (**Igen v Wong [2005] EWCA 142**). So generally the claimant and his or her witnesses will give evidence first, but this is not a hard and fast rule.
- Sequence of evidence: evidence in chief (which now takes the form of the party testifying to the truth of their witness statement, without, in most cases, being required to read them aloud, as the tribunal will already have done this by the time the party comes to the stand); supplementary questions (so the party can comment on matters covered in the other side's statements that have not been dealt with in their own statement): cross-examination; re-examination and the tribunal's questions.
- Fundamental Rule: **Ensure you listen to everything that is said and remain adaptable throughout the hearing.**

## Hearing Tactics during Case Presentation

- ‘Homework’ prior to hearing – read every page of the hearing bundle and all witness statements; prepare cross-examination questions accordingly; general advice – anticipate cross-examination questions and anticipate a focus on your displays of disability (if disputed) and character.
- Object to attempts to badger you and your witnesses – a witness is required only to answer a question, **not** to give the answer desired by the cross-examiner.
- Ensure you re-use re-examination to help you and your witnesses recover confidence and to repair any damage done during cross-examination.

## Hearing Tactics during Cross-examination

- Always begin cross-examination with questions from the bundle and **not** from witness statements.

- Be adaptable with questioning as cross examination progresses and take notes of answers given (for references purposes).
- Stress every point conceded during cross examination and challenge every point disputed.
- Cross reference questions with other witnesses' statements (especially from other respondent witnesses).
- Draw attention to any helpful displays of witnesses' character and take time to exhaust all lines of questioning before concluding.

## **Closing submissions**

- Pre-draft closing submissions in skeleton form, leaving gaps/room for adaptations.
- Adapt closing submissions during breaks and whenever else possible in order to update contents with points/issues/concessions/statements made during the course of the hearing.

- Be bold and affirmative in closing submissions as you are permitted to, however also be realistic as to what has or has not be proven during the hearing, as Judges often question representatives over aspects of their closing submissions.

## **Delivery of Judgment**

- Judgment either delivered at the end of the hearing or 'Reserved' to be delivered in writing (along with 'Reasons') at a later date.
- If delivered at the end of the hearing, write down judgment and reasons as Judge reads them out – very good for records.
- If the case is lost, make a verbal application for 'Written Reasons' as they are not given unless requested and they are required for an appeal to the Employment Appeal Tribunal.

## Costs

- Not an automatic consideration for Employment Tribunals as it is for other courts; only in exceptional cases – **Lodwick v London Borough of Southwark [2004] IRLR 554.**
- Only applicable in certain circumstances – i.e. unreasonable conduct within proceedings by a party or their representatives; unreasonable postponement of a hearing; misconceived, vexatious and/or malicious claim or defence.
- Party pursuing costs should provide a schedule of costs which, in itself, can be challenged and scrutinised during the hearing.
- Beware of early and unfounded threats of costs used by the respondents as a form of intimidation and consider complaining to the tribunal if this occurs.

## Reconsiderations

Within 14 days of the Judgment Date (i.e. – the date stamped or written on the last page of the written Judgment/Reasons) the losing party has the right to submit an application to the same tribunal Judge for reconsideration of the judgment. The grounds for doing so are that a reconsideration is necessary in the interests of justice, which can include matters such as new evidence coming to light (as long as it could not have been discovered at the time of the original hearing), decision taken in justifiable absence of a party or a development in the law that means the facts found in the case should be viewed differently.

Even if the application for a reconsideration is granted, it does not mean that the original decision will be overturned – a tribunal can also confirm or vary the decision.

## Appeals

Appeals must be brought within 42 days of Judgment Date (i.e. date stamped or written on the last page of written Judgment/Reasons). The losing party has the right to submit an appeal application to the Employment Appeal Tribunal (either

London or Edinburgh). NB There is now a fee (initially, £400) to pay for this.

- Grounds for appeal – ‘bias’; ‘error of law’; ‘perversity’.
- When drafting the notice of appeal you **must** aim primarily to attack the Employment Tribunal’s ‘Reasons’ and little else – for appeals referring to ‘bias’ also attack the Tribunal’s conduct of proceedings.

## Jargon Buster

**ACAS** – stands for the Advisory Conciliation and Arbitration Service. This statutory body provides advice to both employees and employers on employment matters. It produces Codes of Guidance and is responsible for preventing or resolving, and negotiating settlements, in employment cases.

**Authorities** – decided cases that a party uses to support its own arguments.

**Bundle** – A file of all the papers relating to the case. In most cases you and respondent will have an agreed bundle meaning

you agree to include the same documents in the same order. In addition to your and respondent's own copy the employment tribunal will need to have at least four corresponding copies of the bundle: one for each member of the tribunal (three people), and one for the witnesses. Bundles should be paginated and contain an index.

**Burden of Proof** – The party which has the responsibility of proving the facts in issue.

**Preliminary hearing for directions (or case management orders)** – A 'housekeeping' hearing designed to ensure effective management of the claim. Parties are directed as to how the case should proceed and by when.

**Cause of action** – the facts that entitle a person to bring a claim.

**Claim** – the assertion that the claimant is owed a remedy by the respondent.

**Claimant** – the person bringing a claim (you).

**Constructive Dismissal** – where an employee resigns following a fundamental breach of the employment contract.



**Continuous employment** – the period of time an employee works for an employer without interruption. Continuous service is an important concept in employment law as in order to qualify for certain employment law rights, such as the right to claim unfair dismissal, an employee must usually have a period of two year's continuous service (there are exceptions to this). Continuous service is also used as a basis for calculating awards made to successful claimants.

**Cross-examination** – the questioning of a witness not conducted by the party that called him or her, i.e. questioning your opponent's witness in order to undermine their case. All questions should be leading and open questions should not be asked.

**DDA** – The Disability Discrimination Act 1995 – its provisions are now contained in the Equality Act 2010.

**Default Judgment** – Judgment obtained by one party when the other party fails to carry out a required act, i.e. submit a defence.

**Disclosure** – the exchange of information between the parties.

**Employment Tribunal** – A special court of law which only hears and rules on employment disputes between employees, employers and trade unions. Employment tribunals are less formal than other civil courts and strict rules of evidence do not apply. Parties are able to represent their own case or chose any person they wish to present their case. Tribunal cases are heard by three people; the Employment Judge (who will be legally qualified) and two lay members (who will not have a legal background). Each of the lay members will have an employment background, one employee - based while the other is employer - based.

**Employment Appeals Tribunal** – The court that hears appeals from decisions made in the employment tribunal.

**Effective Date of Termination** – the date upon which termination of employment takes place. It is important to establish the effective date of termination as the prescribed time limit to bring a claim often runs from this date.

**ET1** – the form on which a claimant set out and initiates a claim his or her claim.

**ET3** – the form on which a respondent submits his or her defence.

**Evidence-in-Chief** – the questioning of a witness by the party that called him or her. As a rule leading questions should not be asked.

**Grievance Procedure** – refers to any issues raised by an employee with his or her employer. Many employers will have a formal grievance procedure which an employee can comply with in order to resolve work problems.

**Issues** – the matters in dispute between the parties on which the employment tribunal will decide.

**Judgment** – the decision given by the employment tribunal on the case or issues within the case.

**Leading Question** – a question that prompts a particular answer, usually yes or no. Leading questions should only be used during cross-examination. Leading questions are generally not allowed in examination-in-chief unless relating to undisputed issues.

**Legislation** – Acts of Parliament and laws made under Acts of Parliament.

**Limitation Period** – the time in which a claimant can initiate a claim.

**Listing** – the date on which the hearing date is fixed.

**Mitigation** – action taken by a claimant to reduce the amount of their losses, i.e. by finding new employment.

**Open Questions** – questions asked to elicit longer, more detailed answers than closed questions. Open questions should be used during examination-in-chief to allow the party's witness to give their account of events.

**Order** – a direction given by an employment tribunal that requires compliance by either/or both parties.

**Pleadings** – statement of each party's case i.e. the claim or defence.

**Preliminary hearing** – a hearing used to determine the prospect of success of a claim or defence or to decide any other preliminary matter the tribunal wishes to consider.

**Re-engagement** – an order made by an employment tribunal in unfair dismissal cases. Essentially it is a remedy in which the

claimant is offered comparable alternative employment by the respondent.

**Reinstatement** – an order made by an employment tribunal in unfair dismissal cases. Essentially it is a remedy in which the claimant is reinstated in his position of employment prior to the unfair dismissal.

**Remedies** – what the claim seeks to achieve. A remedy will normally take the form of monetary compensation but in employment cases other possible remedies also include re-engagement or reinstatement and in discrimination cases, a declaration that discrimination has taken place. A claimant is not limited to seeking one type of remedy.

**Respondent** – the person against whom a claim is made.

**Reconsideration** – within 14 days of the judgment date a dissatisfied party may make an application that the tribunal review its decision. After review the tribunal may revoke or vary the decision or leave it to stand. The ground for requesting a reconsideration is that it is in the interests of justice.

**Schedule of Loss** – a document drafted by the claimant that sets out amount of loss suffered by the claimant and the overall value of the claim.

**Skeleton Argument** – an outline of the arguments a party will assert during the course of the hearing.

**Statement of Truth** – a statement of truth is required at the end of a witness statement. It is a statement that asserts the contents of a document are truthful, by the person making it.

**Statute** – see legislation.

**Submissions** – the arguments made by a party in support of their case.

**Witness Order** – where a witness is uncooperative and unwilling to attend a hearing the employment tribunal can make a witness order that makes their attendance at the hearing mandatory.

**Witness Statement** – a written statement given by a witness that sets out their evidence. Witness statements should include a statement of truth as its concluding paragraph and should be signed by the witness to whom it relates. Witness statements

should be exchanged with the opposing party in accordance with case management directions.

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For further advice on these matters please contact:

### Disability Law Service

Telephone: **020 7791 9800**

Minicom: **020 7791 9801**

Fax: **020 7791 9802**

Email: [advice@dls.org.uk](mailto:advice@dls.org.uk)

Website: [www.dls.org.uk](http://www.dls.org.uk)

Or write to us at: c/o REAL, Jack Dash House, 2 Lawn House Close, Isle of Dogs, London E14 9YQ



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