OCTOBER

2023

EMPLOYMENT TRIBUNAL

GUIDE

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OVERVIEW & **INTRODUCTION**

This Guide is intended to help people navigate the Tribunal system and provide guidance on the processes and requirements that apply before making a legal claim.

The guide covers:

- Dealing with problems at work
- Alternatives to legal proceedings
- Submitting a claim to a Tribunal
- The Tribunal process
- The Tribunal decision
- Settling a case

This guide is not meant to be a substitute for representation or expert advice. Sources of free help and support are identified throughout the guide.

Law Centre NI's employment hub advises on employment law and provides a representation service for employees and workers.

Our employment team offers free, specialist and confidential employment advice. You can contact our advice line on 028 9024 4401, Monday-Friday 9.30am-1.00pm.

This guide has been prepared by Law Centre NI with the support of the Department for the Economy.

HOW TO DEAL WITH PROBLEMS AT WORK

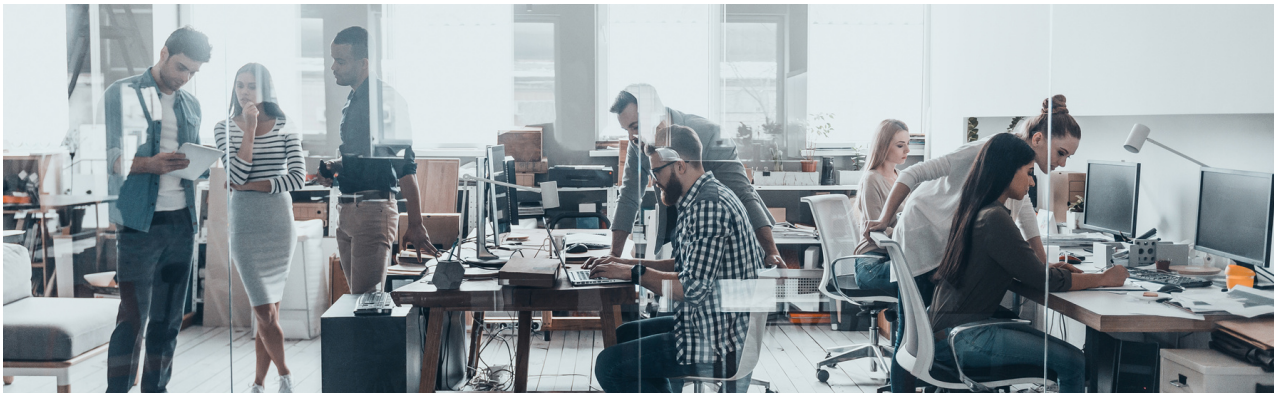
Workplace problems can be very upsetting and can impact on your home life as well as your work life. If it is the first time you have experienced a workplace problem, you might not know where to turn. There is guidance available on how to deal with workplace problems. Applying this guidance to your own case, should help you to navigate workplace problems more easily. In turn, this should reduce the upset and stress caused by workplace problems.

Consult your employment contract and workplace dispute policies and procedures

The first thing to do if you have a problem at work, is to see if the particular problem is covered in your terms and conditions of employment or a workplace policy. Consulting those documents, helps you to know what action to take and what you can expect from your employer.

Your employer might have a workplace grievance and disciplinary policy in place. This policy will set out the steps you need to take to raise a grievance with your employer. Grievances are concerns, problems or complaints that employees raise with their employers. Your workplace policy will also set out what you can expect of your employer and what to do if you are dissatisfied with your employer's response to your grievance. The policy will also let you know what is expected of you.

If your employer does not have a workplace grievance or disciplinary policy, refer to the **Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures (LRA Code)** for guidance on what you should do to raise a grievance and the standards your employer should follow.



Raise the issue informally

Once you have consulted your contract and workplace policies, you should try raising your problem with your employer informally. Sometimes having an informal chat with a manager is enough to resolve a problem at work. If your direct line manager is the source of your problem, identify another manager who you can confide in or a representative of the Human Resources department.

Put your grievance in writing

If an informal approach does not work, raise your issue formally with a written grievance. Refer to your workplace grievance policy or the LRA Code of Practice for guidance on how to raise a formal written grievance. An example grievance letter is included in the Appendices to this Guide.

Once you raise a formal, written grievance, your employer should respond in accordance with workplace policy or the LRA Code of Practice. Grievance procedures help employers to deal with grievances fairly, consistently and speedily, and avoid the need for legal action where possible.

What if my employer does not deal with my grievance to my satisfaction?

If you feel that your employer has not satisfactorily resolved your grievance or followed a flawed procedure, you should have the opportunity to appeal.

Your employer should deal with your appeal impartially. Wherever possible a manager who has not previously been involved in your case should hear the appeal.

Employees have a statutory right to be accompanied at an appeal hearing by a work colleague or Trade Union representative.

If you are dissatisfied with the outcome of your appeal, you can consider pursuing another route to resolving your problem or making a claim to the Tribunal. Seek further advice if you are contemplating bringing legal proceedings against your employer or former employer.

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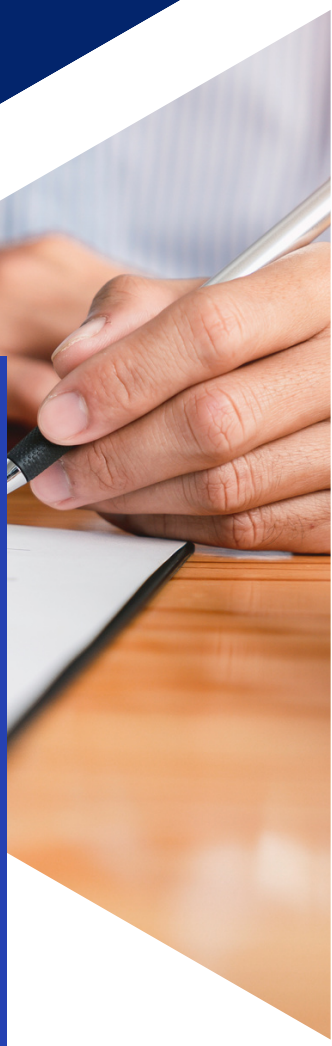


Grievance Procedure

- Raise an informal grievance
- Submit a formal, written grievance
- If you're not satisfied with the outcome, appeal the decision

Alternatives to Legal Proceedings

If your workplace grievance has not been resolved, there are alternatives to making a claim to the Employment Tribunal.

Continue reading to learn more about **mediation** and **arbitration**.

MEDIATION

Some large workplaces, like the NHS, offer a mediation service for workplace disputes.

During mediation, an impartial expert known as a *'mediator'* talks to both sides (together if necessary) and provides them with an opportunity to speak and be heard. The mediator will work with both parties to try to resolve the dispute by helping them to come to an agreement. They are not there to make a judgment, but instead help facilitate conversations and resolve the issue.

Mediation will not work if both sides of the dispute are not willing to cooperate with it.

The benefits of mediation are that it is usually quicker, often lasting less than a day, almost always less expensive and usually less stressful. However, mediation is not legally binding unless this is agreed in advance.

Mediation might be a mandatory part of your employer's grievance procedure. If it is, this will be outlined in your employment contract. Mediation can be handled directly by someone in your company, or alternatively through an external source.

The Labour Relations Agency offers a free mediation service, which can be requested by an employer or an employee.

ARBITRATION

Arbitration is another alternative to legal proceedings.

During arbitration, an impartial person known as an *'arbitrator'* will act as a judge and decide between the two points of view. Arbitration can be used to resolve individual problems or collective disputes at work, without going to an Industrial or Fair Employment Tribunal.

Both parties present their case to the arbitrator, provide evidence, and call witnesses to tell their side of the story. The two parties will normally agree in advance whether the arbitrator's decisions will be legally binding or whether they can still go to Court or Tribunal if they do not agree.

Arbitration is often faster and less formal than Tribunal or Court proceedings. Note the difference between aribration and mediation. Arbitration provides the opportunity to have your problem or complaint decided by an arbitrator. Whereas with mediation, a mediator is there to facilitate agreement and conversation between the parties.

The Labour Relations Agency offers a free arbitration scheme that can decide on most matters of employment law.

JUDICIAL ASSESSMENT & MEDIATION

Judicial Assessment is an impartial and confidential assessment by an Employment Judge which can take place at the first Case Management Preliminary Hearing if both parties agree.

The Employment Judge will assess the strengths, weaknesses and risks of the parties' respective claims, allegations and contentions.

An assessment by the Employment Judge may assist both parties to come to a settlement agreement by identifying what the case is actually about, what is at stake, and by clarifying the issues that are being disputed.

Judicial Mediation is a process for resolving claims in which an Employment Judge helps the parties to find an acceptable solution to their dispute without having to go to a full hearing.

Judicial Mediation is a voluntary and confidential process and any party to the mediation may withdraw from the process prior to reaching a formal settlement agreement.

For Judicial Mediation to be successful, all parties must be willing to compromise. For further information on Judicial Assessment and Mediation see below:

Click to view Explanatory Notes

The goal with Judicial Assessment and Mediation is to encourage both parties to agree to a resolution before becoming entrenched and burdened with excessive costs.

INITIATING LEGAL **PROCEEDINGS**

If you are unable to resolve your workplace problem with your employer, you can consider making a claim to the Tribunal.

Deciding whether to go to the Tribunal

You should not make the decision to start legal proceedings lightly. Attending a Tribunal can be a lengthy and time consuming process, which can also cause financial and emotional stress.

Some issues to consider are:

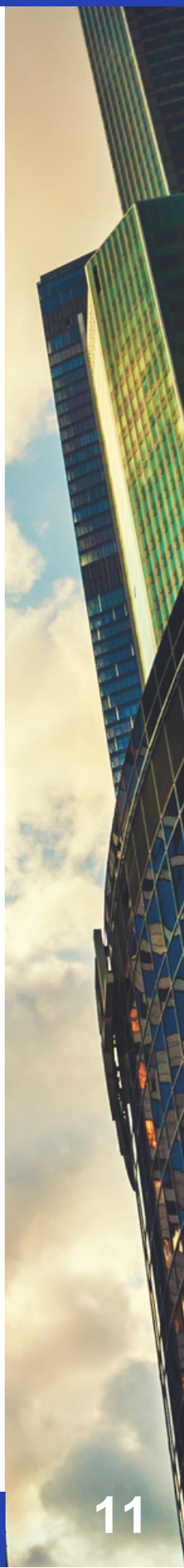
- The possibility of a financial award if you win your case.
- The opportunity to be reinstated or for a formal acknowledgement of the legal wrongdoing against you.
- While you will not have to pay any of the other party's costs merely because you lose your case, the Tribunal may order you to pay all or part of the costs of the other party if it considers you have acted abusively, vexatiously or otherwise unreasonably.
- Bringing a claim to the Tribunal can significantly damage your working relationships. This is something to consider if you ultimately wish to be reinstated in your role.
- The Tribunal process can be lengthy and takes time to get to a final Hearing.
- The Tribunal process is formal. It will require you to undertake public speaking and face the challenge of being cross-examined by your employer, the Respondent, or its legal representatives.

Identifying legal issues

Not all work-related problems are necessarily legal issues. You should seek legal advice at an early stage to try and identify whether there are any legal issues in your case. A Tribunal can only hear cases on certain legal issues. This is known as having *'jurisdiction'* to hear the claim.

You might decide to make a claim to the Tribunal if you have:

- Been unfairly dismissed.
- Been forced to leave your job due to the conduct of your employer or another staff member (this is known as *'constructive dismissal'*).
- Suffered discrimination – i.e. you have been treated differently because of your age, gender, race, disability, religious or political belief, gender reassignment or sexual orientation.
- Received less favourable treatment than your colleagues because of your contract status (e.g. permanent, fixed-term, agency worker etc.).



INITIATING LEGAL **PROCEEDINGS**

- Made a 'protected disclosure' (as a 'whistle blower').
- Had unfair deductions to your wages (including failure to pay correct holiday pay).
- Been unfairly selected for redundancy.

Time limits

Time limits are very important in Employment Tribunal cases. Failure to adhere to time limits can be fatal to your case.

Most Tribunal claims must be made within **three months** of the termination of employment, incident or dispute. For discrimination cases, it is three months from the last act of discrimination. Tribunals will only extend the time limit for lodging a claim in exceptional circumstances.

Getting advice

Legal Aid is not available for Employment Tribunal claims except in exceptional circumstances. This means that Legal Aid will not pay for a solicitor to represent you at a hearing.

There are a few sources of free legal advice in Northern Ireland:

- If you are a **Trade Union** member, you might be entitled to free legal advice and representation. Contact your Union Representative to find out which services are available to you.
- **Law Centre NI** offers free legal advice on employment law to employees and workers. In some circumstances, we provide a full legal service, including representation.
- The **Equality Commission** provides advice and assistance in relation to discrimination at work or when seeking work. Contact the Equality Commission on 028 90 500 600.

Some household insurance policies cover legal costs in relation to an employment dispute. Check your policy documents to see what cover you have. An insurer might cover legal costs in an employment case if your policy includes 'breach of contract' as one of the insured areas. If your policy excludes 'disputes concerning trade, profession or occupation', it is unlikely you will be able to rely on the policy.

If your insurance policy does cover employment disputes, an insurer is not allowed to insist that their nominated solicitor represents you. *The Insurance Companies (Legal Expenses Insurance) Regulations 1990* provide that you are entitled to choose a solicitor and the insurer must cover your solicitor's reasonable professional fees under the policy.

SUBMITTING A CLAIM AT THE TRIBUNAL

If you have decided to make a claim to the Tribunal, there are a number of procedural steps you must follow.

1 Early Conciliation

Since January 2020, you must notify the Labour Relations Agency (LRA) if you want to make a claim to the Tribunal. Employees, or their representative, can notify the LRA by completing an online form or by telephoning on 03300552220.

A Conciliation Officer from the LRA will contact you, normally within five working days, to ask if you are willing to try Early Conciliation to resolve your case before going to the Tribunal. Early Conciliation is voluntary, but you cannot make a claim to the Tribunal without at least considering it.

The LRA will, if you agree, attempt to conciliate with your employer.

The Conciliation Officer is not there to make a judgement on your case, but to facilitate negotiations and to help both parties arrive at a resolution they are happy with. Conciliation will usually take place over the phone, or possibly with a meeting. The aim is to arrive at a resolution to the dispute that both parties can agree to, without the stress or cost of going to Tribunal.

Early Conciliation offers a cost effective opportunity to settle a dispute early and protect working relationships before becoming entangled in a legal battle. Early Conciliation provides an opportunity to negotiate an agreement which is satisfactory to both sides.

By contrast, with Tribunal proceedings, the decision is out of the parties' hands and there are limitations on what the Tribunal can do.

For example, during conciliation, you might be able to negotiate a reference as part of your settlement agreement. However, the Tribunal cannot include a reference in your award even if you win your case.

SUBMITTING A CLAIM
AT THE TRIBUNAL

If you settle the claim through the LRA, the agreement will be legally binding. It does not have to be in writing, and you can agree verbally. Following this, the terms will be recorded on an LRA form which is signed by both parties to the agreement. The Tribunal will be notified by the Conciliation Officer that a settlement has been agreed and your case will be dismissed.

If your employer refuses to conciliate or the process is unsuccessful, the LRA will issue you an Early Conciliation Certificate number. You will need this Certificate number to submit your claim to the Tribunal.

The deadline for lodging a claim with the Tribunal (usually three months from the date of the alleged incident) will be put on hold while conciliation is explored. If there is unlikely to be any progress in conciliation, you can ask for a Conciliation Certificate.

The LRA has published a guide to Early Conciliation, which can be accessed here:

Click to view Early Conciliation Explained

2 Completing the ET1 Claim Form

To make a claim to the Tribunal, you must set out your claim in detail and in writing on the proper form called an '**ET1 form**'.

The ET1 claim form must include:

- In particular, the **Claimant's name** and **address**.
- Each Respondent's name and address.
- The Early Conciliation Certificate number.
- Details on the Early Conciliation Certificate must match those on the Tribunal form.

The Tribunal will reject a claim form if it does not contain the above information and if the information is not identical to the Early Conciliation Certificate.

Your ET1 form should include a brief statement about what the claim is about, including a summary of relevant facts. You should adopt a succinct and clear drafting style.

Your ET1 form should cover all the matters you want the Tribunal to consider, as it is difficult to amend or add material issues after you have lodged the papers with the Tribunal.

You should set out details of any financial loss you believe you have sustained. You may be asked by the Tribunal to prepare a schedule of loss at a later point.

The ET1 form can be sent to the Tribunal via email or by post. Contact details are available on the Tribunal website:

Click to view Website

An ET1 form can be rejected on technical grounds. One such ground is that the details on the ET1 form and the Early Conciliation Certificate (such as the legal title of the employer) are not the same.

SUBMITTING A CLAIM AT THE TRIBUNAL

If your claim has been rejected in whole or in part, you can apply for a reconsideration of the decision. This is on the basis that either the decision to reject was wrong or the mistake can be rectified. You must make your application for reconsideration within 14 days of the date that notice of rejection was sent to you. On receipt of your application, an Employment Judge will decide whether your application can continue in the Tribunal.

Which court?
Industrial Tribunal v Fair Employment Tribunal

When people talk about bringing a case to the Employment Tribunal in Northern Ireland, they refer to the Industrial Tribunal or the Fair Employment Tribunal. While the Industrial Tribunal and Fair Employment Tribunal sit in the same building and involve the same Judges, they deal with different issues.

The Industrial Tribunal is an independent judicial body that hears and determines claims to do with employment matters. These include claims relating to unfair dismissal, breach of contract, wages and other payments, as well as discrimination on the grounds of sex, race, disability, sexual orientation, gender reassignment, age, part-time working and equal pay.

The Fair Employment Tribunal (FET) is an independent judicial body that hears and determines complaints on the grounds of religious belief or political opinion.

If your claim relates to issues relevant to the Industrial Tribunal and Fair Employment Tribunal, the FET will decide all aspects of your claim.

3 The Respondent's Response (ET3)

Once you have sent your ET1 form to the Tribunal office, it will forward it to your employer. If your employer chooses to defend the case, it will be known as the *'Respondent'*.

The Respondent may forward the ET1 onto its legal representative or prepare a response or defence itself. The response is called the ET3. The ET3 sets out the basis on which the claim is being defended. Respondents have 28 days from receipt of the ET1 to submit an ET3 to the Tribunal.

The ET3 indicates if the Respondent intends to resist the claim and outlines its grounds for doing so. You will receive a copy of the ET3 when it has been processed.

If the employer fails to present an ET3 form within the permitted timescale, a hearing will be arranged to consider your case. The Respondent will not usually be allowed to participate in the hearing.

4 Attending the Case Management Preliminary Hearing

After the ET1 and ET3 have been considered, the parties will receive a date from the Tribunal Office for a Case Management Preliminary Hearing.

The Hearing is an opportunity for the Employment Judge to identify the issues in the case and to agree a timetable for procedural steps to take place. A date for exchange of documents will also be directed at the hearing.

At the preliminary hearing, the Employment Judge will ask if either party is planning to bring witnesses to give evidence at the hearing of the case, and, if so, how many witnesses are they bringing.

Where possible, you should ask your intended witnesses beforehand to ensure they are happy to make a statement and give evidence at the Tribunal.

5 Exchanging Evidence

This is the opportunity to exchange evidence with the Respondent about your case.

Evidence can include emails, letters, WhatsApp messages, pictures, staff handbooks, minutes, memoranda and contracts of employment. Many of these documents may be held by your employer.

You should provide the Respondent with any documentation relating to your financial loss, such as the steps you take to find alternative work and payslips from your new employer.

Notice for discovery

Once you have received the Respondent's ET3, you can seek discovery from them of all documents in their possession, custody, power or control relating to the issues in your case. You can request specific evidence from the Respondent in a *'Notice for Discovery'*, where you list the specific documents you require.

You should ask for a response to your Notice for Discovery within 14 days and warn that you will seek an order compelling a response if you do not hear satisfactorily from the Respondent.

An example Notice for Discovery is included in the Appendices to this Guide.

Notice for additional information

You can also ask the Respondent questions about issues which arise from statements or allegations made in its ET3. This is called a *'Notice for Additional Information'.*

The Respondent will have to respond to your notices with their answers and provide any relevant documentation.

SUBMITTING A CLAIM
AT THE TRIBUNAL

Statutory questionnaires

If your case includes an allegation of discrimination, you might want to serve a statutory questionnaire on the Respondent.

This is a useful way of seeking further information from your employer. Details of questionnaire forms can be found on the Equality Commission's website.

Replying to the Respondent's notices

The Respondent can also ask you for certain documents and information by serving you with Notices for Discovery and Additional Information. You are under an obligation to respond to the Respondent's notices.

Usually parties have 14 days in which to provide information to the other party. However, the process of discovery is an ongoing obligation for both parties. If relevant information comes to light during the Tribunal process, the parties are under an obligation to disclose it to the other side when it becomes available.

Responding to legal and factual issues

At the Case Management Preliminary Hearing, the Judge might try to determine the legal and factual issues in your case or to set a date for this to be agreed between the parties. This is known as a Statement of Legal and Factual Issues.

A Statement of Legal and Factual issues is generally written in neutral terms, as it is expected to be agreed between the parties, if possible. The statement covers the relevant factual issues and basic legal arguments involved in the case.

In order to agree the legal and factual issues in the case (for example, the law relating to sex discrimination), you will need to understand the law that applies to your case and the facts you need to prove (for example, that a person of the opposite gender received more favourable treatment than you).

If you are claiming you have been unfairly dismissed, you will need to show why you believe your employer's conduct was unfair and point to policies and procedures which were not followed.

SUBMITTING A CLAIM AT THE TRIBUNAL

Witness statements

The Tribunal conducts its hearings by ordering the exchange of written witness statements, which are read by the Tribunal panel before the hearing. Once the Hearing has started, the witness statements are taken as read and there may be cross examination as to their content.

The University of Ulster has published a Guide on Drafting Your Own Witness Statement, which you can access here:

Click to view Guide

The Claimant will always be a witness in their own case. The Claimant's witness statement is an important document which outlines the evidence in a narrative form. If you have any other witnesses, they will also have to write statements, which will be provided to the Respondent and the Tribunal.

Your statement should be comprehensive, as you cannot supplement your statement after it has been completed and served. The statement should set out the relevant background to the complaint and detail how the dispute arose.

If you are seeking compensation, you should specify the amount of your monetary loss and how this is calculated. For example, showing that a new job pays you significantly less than your former job.

A witness should identify relevant documents they wish to draw to the Tribunal's attention.

It is important to get your statement right because the Tribunal will not allow the parties to add anything or change evidence once witness statements have been exchanged, unless there is an exceptionally good reason.

You and your witnesses should be familiar with your statements and any documents referred to in the statements. You will have a copy of the statement in front of you and you can refer to it during cross examination.

If you would like someone to give evidence on your behalf, you should arrange for them to attend the Hearing. If they are unwilling to attend or if there is some other difficulty, you should write to the Tribunal at least 10 days in advance of the Hearing, asking for an order requiring them to attend. A claim for a witness order should include:

- The name and address of the witness.
- The nature of the evidence that they can give.
- A statement to the effect that the witness has been approached to attend the Tribunal and has declined.

6 The Hearing

There is one Employment Tribunal in Northern Ireland, which is situated in Killymeal House, Belfast. The Office of the Tribunals will send a Notice of Hearing to the parties at least 14 days before the date of the hearing.

The Hearing will normally be conducted by a full Tribunal, which includes an Employment Judge and two lay members. The Hearing will normally be held in public.

The parties can give evidence and question their own witnesses and cross-examine the other party's witnesses.

Each party may also address the Tribunal making arguments about the evidence and the law.

In a claim for unfair dismissal, the Respondent's witnesses give evidence first, as the former employer must justify its dismissal of you.

For all other cases, the employee is called first to give evidence. At the hearing, you may present your case in person or be represented.

During the hearing, the Employment Judge will manage how the hearing proceeds and the length of time each witness can give evidence. Tribunal members may ask questions of the parties or witnesses in order to obtain relevant facts.

If you are unclear about procedure, you can ask the Employment Judge for guidance. During the Hearing, you should address the Employment Judge as 'Judge', 'Sir' or 'Madam'.

If you are neither present nor represented, the Tribunal might decide the case in your absence after considering any written representations you have made. The Tribunal might dismiss a claim if the Claimant fails to attend.

Following the Hearing, the Tribunal decides whether the claim succeeds or fails and, if it succeeds, what remedy is appropriate.

THE TRIBUNAL **DECISION**

After hearing all the evidence, the Tribunal retires to consider its decision. A Tribunal will either issue its decision orally or reserve it to be given in writing later.

Costs

Employment Tribunals are designed to be a user friendly jurisdiction in which an award of costs against a party is considered exceptional.

However, a costs order can be made in circumstances where a party (or their representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably or where all or part of a claim or response had no reasonable prospect of success.

If you represent yourself at Tribunal and you are successful, the Tribunal can award you an amount of money towards your preparation costs if your employer has acted unreasonably.

Appealing a Tribunal Decision

You can appeal the decision of a Tribunal to the Court of Appeal **on a point of law only**. Just because you disagree with the Tribunal's decision on how it viewed the credibility of witnesses, it is not enough to justify an appeal.

If you appeal a decision to the Court of Appeal and you are unsuccessful, you could be ordered to pay substantial legal costs. You should take legal advice before considering an appeal to the Court of Appeal.

SETTLING
A CLAIM

You can agree, or attempt to agree, to settle your case with the Respondent up to the hearing. The Tribunal is not informed about any discussions you have about settling your claim. These discussions are referred to as *'without prejudice'* discussions.

Where there is an existing dispute between the parties, the *'without prejudice'* rule can prevent statements or discussions made in a genuine attempt to settle a dispute from being used as evidence in a Court or Tribunal. However, a *'without prejudice'* discussion cannot be used to hide highly inappropriate behaviour towards the other party.

If your employer wants you to give up your right to make a claim to Tribunal, there are only two legal ways to do this:

- You and your employer can negotiate an agreement via the LRA, or
- You and your employer can agree a *'compromise agreement'*.

Compromise / Settlement Agreements

A compromise agreement (sometimes referred to as a settlement agreement) usually involves your employer promising to pay you a sum of money or agreeing to stop treating you unlawfully or both.

A compromise agreement sets out the terms of your agreement with your employer. One of the terms is an agreement that you will not bring legal proceedings against your employer.

A compromise agreement is a legal contract between you and your employer, which either party can enforce if the other party does not do what they agreed to do. Your employer is likely to want you to keep the agreement confidential. It is also becoming increasingly popular to have a clause in the agreement to avoid both parties discussing the dispute or making derogatory statements on social media.

Your employer will discuss with you what should be in the agreement, either face-to-face or in writing.

SETTLING
A CLAIM

If the negotiations do not lead to you settling the dispute with your employer, you will not normally be able to refer to anything you discussed if you go to an Employment Tribunal. If you do want to rely on those discussions, seek legal advice.

If you decide to settle matters with a compromise agreement, your employer will usually pay for you to get independent legal advice from a solicitor. This ensures that you are not giving up your legal rights without getting advice first.

If you sign a compromise agreement without getting independent legal advice, you might still be able to go to an Employment Tribunal.

A solicitor will explain the terms of a compromise agreement to you. The solicitor will not advise you on whether it is a good agreement or if you could have got a better result by going to a Tribunal.

When you are considering your employer's offer, you should consider:

- How reasonable is your employer's offer?
- How strong is your case?
- What weaknesses your case has?
- If your employer is agreeing to you keeping your job or being reinstated, whether your employer will make any agreed changes in your workplace.

If you do not think your employer's offer is reasonable, you can ask them to increase their offer. Alternatively, you can decline the offer and opt to continue with or make a claim to the Tribunal.

EXAMPLE
GRIEVANCE LETTER

[Insert date]

[Insert address of employer]

Dear [insert name of employer],

I am writing to you to highlight a problem I am experiencing at work. I hope that you can help me to resolve the problem in a quick and amicable way.

I raised this problem informally with [my manager] on [insert dates], but it has not been resolved to date.

[Insert short summary of the problem you are experiencing]

[Insert explanation of how the problem is affecting you. Refer to any effect it is having on your health etc.]

[Insert how you feel the problem could be resolved]

I would like the opportunity to meet with you to discuss my grievance. I would be grateful if you would reply to me, suggesting a convenient date and time. I intend to be accompanied to this meeting by [Trade Union representative/colleague].

Yours sincerely,

[Insert name]

EXAMPLE
NOTICE FOR DISCOVERY

IN THE OFFICE OF THE INDUSTRIAL TRIBUNAL OF NORTHERN IRELAND

BETWEEN: Case Number

[Insert Name] (Claimant)

AND

[Insert Name] (Respondent)

NOTICE FOR DISCOVERY

TAKE NOTICE that the Respondent is hereby required to disclose to the Claimant within 14 days of the date of this Notice all documents and records in the possession, power or custody of the Respondent relating to the matters in dispute in the above proceedings. If the said documents and records have been but are no longer in the possession, power or custody of the Respondent, state when the Respondent parted with same and what has become thereof.

AND FURTHER TAKE NOTICE that without prejudice to the generality of the foregoing, the Respondent is hereby required to provide specific discovery of the following documents:

1. A copy of the Claimant's personnel file.
2. A copy of the Respondent's staff handbook.
3. A copy of the Claimant's contract of employment.
4. A copy of the Claimant's employment particulars.
5. A copy of the Claimant's disciplinary record.
6. A copy of the Respondent's disciplinary policy.
7. A copy of all evidence relevant to the disciplinary investigation.
8. A copy of all documents, notes, minutes, text, emails, company documents or memoranda pertaining to the employment of the Claimant by the Respondent.
9. A copy of all letters, emails, text messages, notes, and any other documentation in relation to any conduct or performance reviews held with the Claimant during their employment with the Respondent.

EXAMPLE
NOTICE FOR DISCOVERY

10. A copy of the Claimant's payslips for 6 months prior to the termination of their employment.
11. A copy of the Claimant's P45.
12. All letters, emails, text messages, notes, and any other documentation relating to the decision to dismiss the Claimant.
13. The Respondent's internal or external Human Resource advice, to include notes and records, emails and relevant correspondence relating to the issues in this case.
14. All documents on which the Respondent will seek to rely in defending this claim.
15. All correspondence, minutes, records and documents of whatever nature in the Respondent's possession, care or control relevant to the determination of any of the issues in this case.

FURTHER NOTICE that if the Respondent fails or neglects to reply to this Notice within the time stipulated or a time stipulated in any Direction or Order of the Court, an immediate application will be made to the Industrial Tribunal pursuant to regulations to seek appropriate orders compelling the production of documents. In such event, use will be made of this correspondence to seek an order for costs of and incidental to such application and any hearings arranged in respect of same.

Date:

Signed by: [insert name] Signature Here

[Insert address]

EXAMPLE
STATEMENT OF LEGAL & FACTUAL ISSUES

IN THE OFFICE OF THE INDUSTRIAL TRIBUNAL OF NORTHERN IRELAND

BETWEEN: Case Number

[Insert Name] (Claimant)

AND

[Insert Name] (Respondent)

LEGAL AND FACTUAL ISSUES

Issues of Fact

1. When did the claimant's employment commence?
2. Was there a written contract of employment?
3. What was the claimant's role and job description?
4. What were the claimant's average working hours?
5. What was the claimant's holiday entitlement?

Issues of Law

1. Did the claimant have the status of an employee to qualify for unfair dismissal rights?
2. Did the respondent act unfairly in conducting its disciplinary processes?
3. Was a fair process followed in dismissing the claimant?
4. Did the respondent fail to operate the 3 step procedure and was the dismissal automatically unfair?

EXAMPLE
STATEMENT OF LEGAL & FACUTAL ISSUES

5. Would the claimant have been dismissed if a fair process had been followed?
6. What remedy is the claimant entitled to, if any?
7. What is the proper measure of compensation?
8. If the process failed to follow the 3 step dismissal procedure due to a default by the respondent, what uplift should apply to an award of compensation?
9. Did the claimant take reasonable measure to mitigate their loss after losing their job?

Law Centre NI

CONTACT INFORMATION

028 9024 4401

MONDAY TO FRIDAY
09:00 - 13:00

LAW CENTRE NI
SPECIALIST EMPLOYMENT TEAM