MWR Solicitors

A legal guide

EMPLOYMENT LAW:

Guidance notes for clients

Lawyers for life

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This booklet is also available on tape and CD

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CLIENT CARE POLICY

Our aim is to notify you of all significant developments in relation to your claim. We will give you a progress report every 4 – 6 weeks. If a step in your claim will take longer we will let you know.

In any event please do not hesitate to contact us for a progress report. You can contact us by letter, phone, fax or e-mail which ever you prefer.

We believe our clients are our greatest asset. In order to provide you with a first class service we work in specialist teams so that there is always someone available to assist you. We will notify you at the start who will be dealing with your matter.

At the end of your claim you will be contacted by our Administration Department to complete a short survey on the standard of our service. You may also be contacted during the course of your claim.. We would appreciate you taking a few minutes to complete the survey, to help us to improve the service we provide.

STANDARDS OF SERVICE

We have had ISO9001 approval since 1994. We have had the Investors in People Award since 1998. We have had Lexel since 2010.

These 3 awards are externally awarded and ensure a high quality service which is constantly being reviewed and updated.

In addition, In order to ensure a consistent level of service that you can rely on, we have introduced our own minimum levels of service that you can expect:

- Frequency of Contact:

  We aim to contact you initially within 5 working days of receiving your instructions, and then keep you updated every 4 to 6 weeks unless we have advised you otherwise.

  If you supply your e-mail address, we will endeavour to use it for all correspondence. However, our e-mails will not be encrypted.If you have any concerns about this, please raise it with us.

- Returning your calls:

  If the person you wish to speak to is not available when you telephone, and no-one else is able to answer your query, someone who can help you will call you back within 24 hours.

- Decision on prospects:

  Within 3 months we will have assessed the circumstances and made a decision about whether your claim stands a chance of succeeding. If we don't think it does we will advise you.

- Tribunal proceedings:

  If we think your claim does stand a chance of success we will start tribunal proceedings. We would expect your case to be completed within 6-12 months of receiving your instructions depending on its complexity and any timetable laid down by the tribunal.

WHAT WE NEED FROM YOU

We need you to answer any questions raised or complete forms and sign documents sent to you as promptly as possible. We cannot make progress with your matter unless we have your full co-operation and instructions. As your case develops we may need to raise further matters with you.

We need you to notify us of any expenses you are incurring and also to provide receipts for those expenses.

STEP BY STEP GUIDE TO PROGRESSING A CLAIM IN AN EMPLOYMENT TRIBUNAL

1. Most claims must be lodged with the Tribunal within ninety days of the matter you are complaining about.

2. The claim must be presented in writing (on form ET1) giving full reasons for the claim.

3 The form is then sent to the appropriate regional office of the Employment Tribunal.

4 The form can be delivered by hand, posted, faxed or emailed.

5 The Employment Tribunal sends a copy of the form to the employer and to ACAS.

6 The employer has 28 days from receiving the ET1 to file an appropriate response on form ET3.

7. In the meantime ACAS have a duty to promote settlement and either party can request an officer to mediate.

8. If the matter is complex, a pre hearing review may be ordered which both parties attend. A chairman will consider the general merits of the case and decide if any directions (regarding the future conduct of the matter) are required.

9 If appropriate the complaint is then listed for a full tribunal hearing.

10. Parties to a hearing can represent themselves or have a representative such as a Solicitor. The claim is usually heard by a Panel of three people. Both parties get an opportunity to cross-examine witnesses.

11. As a general rule, the tribunal will not normally award either party their costs of bringing the claim, unless they show that the other party has acted unreasonably.

12. If you disagree with a Tribunal's decision you can either apply to the tribunal for a review within fourteen days of the decision being given or in certain circumstances you can apply to the Employment Appeal Tribunal, within forty two days of the decision being given.

A BRIEF SUMMARY OF THE TYPES OF EMPLOYMENT CLAIM

1. Redundancy - the claim may be because:

a. An employee has been made redundant when there is not a true redundancy situation, which would also give rise to an unfair dismissal claim.

b. They have not been paid their full legal redundancy pay.

c. They have been unfairly selected or not properly consulted for redundancy. This usually also gives rise to an unfair dismissal claim.

2. Unfair Dismissal - this can occur in various situations.

a. Due to an employer's unreasonable action, an employee had no option but to leave. This is called Constructive Dismissal.

b. An employee is suspected of breaching conduct code (e.g. by committing theft) but the Employer conducts an unreasonable investigation and/or reaches an unreasonable conclusion.

c. The employee may have been found to be guilty of some minor wrongdoing and is sacked. It may be argued that the Employer's response was unreasonable and disproportionate, having considered all the circumstances.

3. Wrongful Dismissal

Where the termination of employment was in breach of the employment contract by not giving proper contractual notice or pay in lieu of notice. This type of claim may be brought in the civil courts so giving a Limitation period of 6 years within which to bring the claim.

4. Sex/Race/Disability/Sexual Orientation/Religious Belief Discrimination -suffered by employees and job applicants. This can be:

   a. of a direct nature, where the discrimination is obvious and detrimental

   b. of an indirect nature, where the employer imposes a requirement on all his employees, but a particular sexual or racial group are less able to comply and so suffer a detriment.

   c. related to maternity rights or pay

5. Complaints about unlawful deductions made from an employees wages, which an employee has not authorised.

6. Equal Pay where a person complains that they are paid less compared to a colleague of the opposite sex performing a similar job.

COSTS v BENEFITS

Before advising you to pursue your claim, it is necessary for us to consider the relative merits and the likely costs compared with the benefits. If we advise you to pursue your claim, we will have considered these relative merits, and reached the conclusion that pursuing your claim is in your best interests. In some cases it may be appropriate to discuss this with you.

CHARGES AND COSTS

HOW OUR CHARGES ARE CALCULATED?

Our charges are calculated on an hourly basis. They cover the time spent working upon your matter. They cover all attendances, preparation, phone calls (made and received) and correspondence. Telephone calls and letters written are charged at 1/10th of our hourly rates.

Our charges are reviewed annually in April of each year. If they are increased we will notify you.

It may become necessary for different levels of fee-earners to be involved in your case.

Our hourly rates are as follows:

- Partners & Consultants - £250
- Solicitor, Senior Litigation Executive or Legal Executive with over 8 years experience - £200
- Solicitor, Litigation and Legal Executive with between 4-8 years experience - £180
- Solicitor and Fee Earners with less than 4 years experience - £160
- Trainee Solicitor and paralegals - £120

We will provide you with a breakdown of the costs incurred and the overall likely costs on a 6 monthly basis if this applies to you.

In the event of a dispute on our bill, you have the right to make a formal complaint under our internal complaints procedure and if still unsatisfied to the Legal Complaints Service.

You also have the right in certain circumstances to have the bill assessed by a court and we would provide details to you as to how that can be done.

You should be aware that we are entitled to claim interest on any unpaid bill or part thereof.

DISBURSEMENTS

These are payments we have to make to others on your behalf in order to make progress with your claim.

They include fees paid to experts to provide reports, and in claims involving disability or injury may include GP or hospital records. It may also include court fees and barristers fees.

The client care schedule accompanying this booklet will give you an indication of how much this is likely to be.

FINANCIAL ADVICE

In certain types of matters we would recommend that you seek professional financial advice. This may be before making your will to ensure that your assets are safeguarded against unnecessary taxation, or as beneficiaries under a probate or recipient of compensation, to ensure that the funds are invested to your best advantage. On financial settlement of a claim, we will also suggest you seek professional advice.

We keep a list of independent financial advisors and would be pleased to introduce you. Please ask for further information.

FUNDING OF YOUR MATTER

The covering letter you have received with this booklet confirms how your matter is funded.

UNION ASSISTED

If your claim is being funded by your Trade Union then provided you stay within the rules of your union and keep your contributions up to date they will be responsible for your own legal fees and any fees you are ordered to pay of your opponents. You should check the full rules of your union for full details. Your union may withdraw funding for your claim if the prospects of success are not sufficient. You will have received a full leaflet explaining the limits on your union's cover.

CONTINGENCY FEE AGREEMENT

These apply in Employment Law cases. We agree to take on your claim on a "No Win - No Fee" basis. If your claim succeeds then we will take an agreed percentage of your compensation.

PRIVATELY FUNDED

If you are paying your legal fees yourself then the previous section headed "charges and costs" will help explain what you might have to pay. In addition, our letter sent to you at the start of your matter will set out in full the terms we have agreed with you.

In most privately funded matters, we will need you to meet all disbursements in advance and also make regular monthly payments on account.

If at the conclusion of your case we hold money on account for you by way of damages, then we will forward to you a bill for approval which will then be deducted from the monies we hold and the balance forwarded to you.

In the event that further monies are due from you, a final bill will be sent which is payable within 28 days. Interest will be charged at 8% on any unpaid bill.

COSTS IN EMPLOYMENT TRIBUNALS

In most Employment Tribunal cases, each side pays their own costs.

However, in certain circumstances, the tribunal may order one side to pay costs to the other. These circumstances include where one side has behaved unreasonably in the way they have carried out the case or if a tribunal thinks that a claim was so weak that it should not have been brought. Costs can be awarded to a Party that is not legally represented, for time spent preparing the case or wasted legal costs if a Party is legally represented.

GENERAL INFORMATION

DOCUMENTATION

After completion of your matter we will return all original documentation to you. We are entitled to keep all your papers and documents whilst there is money owing to us for our charges and expenses.

Upon conclusion we will keep your file of papers in safe storage for 7 years (12 years if a house purchase). The file will then be confidentially destroyed. We will keep the file on the understanding that we have your authority to destroy it. We will not destroy any documents you ask us to retain in safe custody. When our file is destroyed, we will also destroy any original documentation you have left with your file so it is important at the conclusion of your case that you ask for the return of any documentation you wish to keep.

COMMISSION RECEIVED

In some circumstances we receive commission from third parties who carry out work for us in connection with your case. This may be in connection with financial services, insurance premiums arranged on your behalf, or medical reports arranged for you.

In some cases, if this commission is less than £20 we are not required to disclose it to you. Where it is more than £20 we can only keep it if we have your permission to do so.

You will be advised on an individual basis of the sort of commission likely in your case, and the amount it is likely to be. If we need your permission to keep it, we will ask you for it.

INTEREST PAYABLE

If we hold your funds in our client bank account, depending upon the amount and the time for which we hold it, you may be entitled to interest. The amount of the interest is calculated in accordance with Law Society Rules. If interest is due, it will be credited to your account in April and October, or if the balance of your account is to be paid to you at any other time, on the day of payment.

STORAGE OF WILLS AND TITLE DEEDS

We will store and retrieve your wills, title deeds and closed files in our secure storage facilities at no charge. They can be made available to you at 24 hours notice.

TERMINATION

You may terminate your instructions to us in writing at any time but we will be entitled to keep your file of papers and documents whilst there is any money owing to us for our charges and expenses.

OTHER SERVICES

If you have other legal problems that arise or need assistance for example in preparing your wills, or moving property we will be more than happy to assist.

CLIENT SATISFACTION POLICY

If there is anything wrong with the service we provide or our bill we would rather know straight away. In the first instance please contact the person dealing with your matter. If you prefer, please speak to the partner will overall responsibility for your matter. You will find their name in the letter you received with this Guide.

If you remain dissatisfied with our service or if you prefer to do so please ask to speak to our Client Liaison Partner Jane Booker. She will obtain your file of papers and discuss your complaint with you.

In the event that the Client Liaison Partner is the person dealing with your matter we will nominate another partner to look into your complaint.

Who ever deals with your complaint will send you a copy of our complaints leaflet explaining the procedure that will be followed.

We monitor all complaints we receive and use them to improve the service we provide.

In relation to any objections to our bill you may in certain circumstances be entitled to have the bill assessed by the court under Part III of the Solicitors Act 1974.

In relation to any complaint including one relating to our charges, you can complain to the Legal Complaints Service.

In 2010 the complaints service will transfer to the Office for Legal Complaints (OLC). We will provide you with the details under our internal complaints procedure.

FINANCIAL SERVICES

This firm is not authorised by the Financial Services Authority. However, we are included on the register maintained by the Financial Services Authority so that we can carry on insurance mediation activity, which is broadly the advising on, selling and administration of insurance contracts. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by The Law Society. The register can be accessed via the Financial Services Authority Web site at: www.fsa.gov.uk/register. We may also receive commission from a third party to whom we have referred you for financial advice or arrangements. If we do receive commission, we will discuss this with you at the time to obtain your permission to keep it.

EQUALITY AND DIVERSITY POLICY

This firm is committed to promoting equality and diversity in all of its dealings with clients, third parties and employees. (Please contact us for a copy of our equality and diversity policy)

CLIENT IDENTIFICATION

The UK is a major financial and legal centre, with a high reputation for honesty and integrity.

Unfortunately that is why financial and professional businesses, like banks and solicitors firms, are attractive to money launderers – criminals sometimes try to hide stolen money by turning it into legitimate income.

The government have introduced measures:

- To make it more difficult for criminals to make and keep money from their crimes.

- To confiscate proceeds to crime

For this reason there are compulsory checks which solicitors have to make of their clients.

Being asked for identification does not mean you are under suspicion. The identification requirements apply to all clients when they are asking their solicitors to conduct certain types of cases.

This means you may have to show us some personal documentation that can include:

- Current signed passport
- Photo card driving licence
- Benefit book
- And a recent gas, electricity or other household bill

If you are asked for these documents and you don't have them, you will have to ask your solicitor to advise you on how best to prove who you are.

DATA PROTECTION

In order to provide an efficient service, some personal information about you and your claim will be held on our computer system.

We respect your right to privacy and treat our obligations under the Data Protection Act 1998 ("the Act") very seriously. We will keep your personal information confidential except to the extent that it is necessary to disclose it by law or to comply with a regulatory or legal process or where we need to disclose the information to provide a product or service that you have requested. Under the Act you have the right to receive details of the personal data we maintain on you. An official fee is payable. If you would like to see the information we hold about you or would like to be removed from our database, you should contact us at 6 Cannon Street, Preston, Lancashire, PR1 3PY.

If we hold your e-mail address on our records, we may contact you in the future for marketing purposes.

OPENING HOURS

Our office is open from 8.30 am to 5.30 pm on Monday to Friday. Appointments outside these times can be made by arrangement. In some circumstances, arrangements can be made to
visit you at home.

PROFESSIONAL INDEMNITY INSURANCE

MWR Solicitors LLP maintains professional indemnity insurance in accordance with the rules of the Solicitors Regulation Authority. Details of the insurers and the territorial coverage of the policy are available for inspection at our offices.

OTHER INFORMATION

MWR Solicitors LLP is a limited liability partnership registered in England and Wales (registered number OC339516) and is regulated by the Solicitors Regulation Authority No. 512776. We use the word 'partner' to refer to a member of the LLP, or senior employee with equivalent standing and qualifications. Members: Jane Booker, Altaf Patel.

OUR SERVICES

Accident claims
Employment law
Wills & Probate
Conveyancing
Family law

CONTACT US

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