



Employment Tribunal fees abolished by the Supreme Court

From today, employees will no longer have to pay a fee to bring an Employment Tribunal claim. The Supreme Court has decided that the fees are unlawful, and has abolished them with immediate effect.

What led to this change?

Since 29 July 2013, any individual wishing to bring a claim in the Employment Tribunal has had to pay an "issue fee" (either £160 or £250, depending on the type of claim). If the claim proceeded to hearing, a "hearing fee" (either £230 or £950) was also payable. After these fees were introduced, the number of new Tribunal claims being brought dropped sharply.

Unison (the trade union) brought judicial review proceedings, claiming that the fees prevented access to justice and were discriminatory against women, who were more likely to bring a discrimination claim (which attracts the higher level of fees). The Supreme Court agreed, and held that the fee regime should be abolished from today (and all fees already paid should be reimbursed by the Tribunal).

What happens now?

Whilst many individuals brought a claim despite having to pay a fee, there were also many individuals who were deterred by the fees (as evidenced by the sharp decline in claims when fees were introduced). Following the end of fees, it seems likely that the number of new Tribunal claims being brought will increase (even though the Acas pre-claim conciliation procedure remains in place). The increased likelihood of a claim may also affect how employers conduct exit and settlement negotiations.

Part of the reason for introducing fees was to contribute to the costs of running the Tribunal service (and thereby reduce the burden on the taxpayer). The fees paid to date reportedly amount to around £32 million (all of which now has to be reimbursed). The Government may in due course consider whether it could potentially introduce a new and different fee regime which would not be vulnerable to challenge.

If you have any queries about this development, or would like to discuss how it may affect your business, please speak to your usual Employment department contact or any of the Employment partners..

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