

EMPLOYMENT LAW BULLETIN 14

16 August 2017

The Supreme Court rules that Employment Tribunal fees are unlawful

In 2013 the Government introduced fees that required former employees to pay up to £1,200.00 to bring a claim in the Employment Tribunal. The fees were introduced to reduce the number of weak and vexatious claims brought against employers by former employees. The introduction of fees was widely criticised as preventing workers from gaining access to justice, and since the fees were introduced the claims heard in the Tribunal dropped by approximately 79%.

In a landmark decision, the Supreme Court ruled on 26th July 2017 that the introduction of fees was unlawful. The ruling of the Supreme Court means that former employees will no longer be required to pay fees to bring their claims, and the Government is expected to have to pay back approximately £30 million in fees.

Whilst the ruling will be welcomed by Unions and workers, it has understandably caused some concern amongst business owners as it could result in a significant increase in Tribunal claims. In particular, the concern is that there is no longer a financial risk in former employees bringing even weak claims against employers. The result is that employers could incur considerable legal costs in defending spurious claims. Of course, it is not yet clear what the next steps will entail, and it may even be that there are still Tribunal fees in the future but on a much lower scale (similar to the County Court process).

From a commercial and business point of view, it is therefore a good time to take stock and consider whether there are any steps you can take as an employer to limit the risk of any future claims. It is of course preferable and more cost efficient to take active steps to prevent the risk of claims at the outset rather than being forced to respond to a claim brought before the Employment Tribunal.

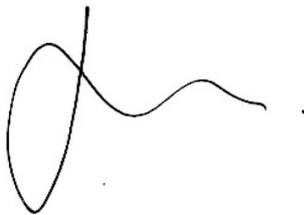
In particular, we would suggest that it is a good time to consider the following possible improvements to your business:

- Do your employment contracts need to be reviewed and updated to limit the risk of any claims? Often the most effective way of preventing issues is to ensure the contract of employment is clear and up to date.

- Do you have a comprehensive Employee Handbook in place which includes the vital policies (for example disciplinary and grievance procedures)? Again, one way to reduce the risk of claims is to ensure that policies are in place to allow your business to ensure it is following procedure and being reasonable throughout any disputes.
- Should you review how you deal with internal issues and disputes to ensure you are following the appropriate practice? One of the most common issues of a business dealing with an internal dispute is failing to take the necessary steps to ensure the process is fair. This leaves a business open to claims from the employee.

If you have any queries in relation to the ruling of the Supreme Court, or if we can be of any assistance whatsoever, please do not hesitate to contact **Jonathan Moreland on 0191 384 2441**.

Kind Regards



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