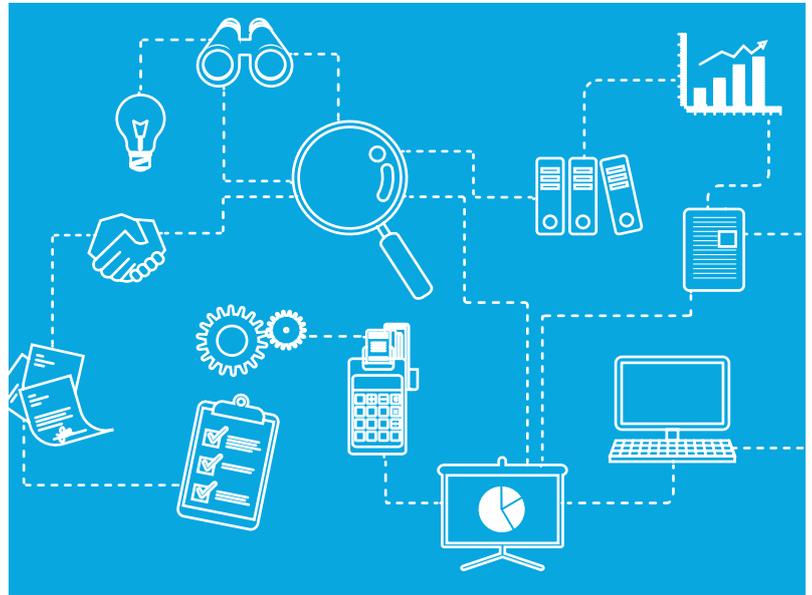


# Managing employment claims: how to protect your company and your time



Since the abolition of tribunal fees in July 2017, the number of employment tribunal claims made has risen dramatically. As awareness grows claims are likely to continue to increase. Defending employment claims is a very costly process for employers, not just financially but reputationally as well as from an organisational perspective.

What can you do to protect yourself against tribunal claims, and what can you do when claims are brought against you?

## Common issues arising as a result of employment tribunal claims:



Valuable management time is taken up in managing and defending the claim



Reputational damage to the company on publication of the claim narrative in the tribunal decision



Negative cultural impact on management and co-workers



Financial damage if claims are successful

**2017: In the final quarter single employment tribunal claims increased by 90 per cent compared to the first quarter of 2017.**



## Protection from claims

Getting your employment contractual terms right is a vital part of your armoury. Having fit for purpose, enforceable employment contracts provides you with an effective tool to manage employee performance and protect your business. Ensuring you have tailored employment contracts specific to your business model and way of operating will mean that you can manage behaviours and performance. Following these carefully will give you a successful defence route if a tribunal claim does arise.

Your employment contracts operation must be supported by best practice HR policies and procedures fairly delivered.

**Your employment contracts and HR process will be your first line of defence in a tribunal claim.**

## Responding to claims

If a tribunal claim is brought against you or your company, there are a number of strategies that you can follow. All of these start by looking at the individual employment contract and at the HR processes that have been followed, to establish your position.

Following that, early stage claims counter options such as conciliation via ACAS, workplace mediation with HR, arbitration, the correct use of effective costs warnings can all be very effective.



### How can RSM help protect you from claims?

Our multi disciplinary team of legal experts and professional HR consultants offers the right balance of legal issues management

and practical HR guidance that you need to set up your employment contracts and HR policies and procedures in the most appropriate way for your business model and objectives, and to help you if an employment claim arises.

#### Job description

Make sure your contract includes a clear, tailored description of all the job tasks, the people responsibilities and the limits of authority in the role. This sets an agreed baseline of expectations for both the executive and the business that both enables the fair measurement of success and gives clarity in cases of underperformance. A job description is also a vital tool if issues of equal pay arise since it will facilitate the comparison of tasks and responsibilities between different roles.

#### Sick leave, pay and benefits protection

Unplanned sickness absence is a high source of claims. The business wants a productive worker and the employee relies on the income from the job. Ensure your contracts state for how long contractual sick pay will continue, which benefits can be enjoyed while away unwell, when statutory sick pay is engaged, whether there are private medical insurance or permanent health benefits, for whom and on what terms. Lack of information can be as damaging to business planning as the absence itself so setting expectations about timing, content and verification of communication about sickness and about the ability to return to work is crucial.

#### To find out more contact:

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#### Behaviour standards

The contract needs to introduce the respect for others in the workforce and wider business community required of the employee.

#### Business protection

Protect your business from competing employees. Ensure your staff are not easily marketable taking with them your trade secrets, customer databases, confidential information or well-trained colleagues through the use of effective contract terms. These terms must be proportionate to the role and to the business interest and their preparation always requires specialist legal advice.



### How can RSM help you respond to tribunal claims?

#### Managing disciplinary or grievance processes

Our multi disciplinary team can undertake either a disciplinary or grievance process for you by providing on the ground and in-meeting HR support and guidance with strategic legal advice as needed. We can also provide you with legal advice benefitting from legal advice privilege giving confidentiality.

#### ACAS conciliation

Our legal and HR teams are experienced in resolving claims at pre-conciliation and post claim stages via ACAS as a conciliation interface resulting in swift, binding and confidential settlements.

#### Tribunal claims defence

Our legal employment team can not only undertake the legal defence support you need ensuring you have effective representation via a dedicated legal team but they will also help you understand what to expect and when to expect it. Settlement strategies are key here dependent on your business aim.

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