

The status and range of tribunals

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Tribunals in the UK

The system of courts in the United Kingdom is supplemented by a substantial number of **tribunals**, set up by Acts of Parliament. They are described in the guidance given to government departments as:

"those **bodies** whose functions, like those of courts of law, are essentially **judicial**. Independently of the **Executive**, they decide the rights and obligations of private citizens towards each other and towards a government department or public authority."

Report of Council on Tribunals

The growth in the number and importance of tribunals is closely related to the development of an increasingly active welfare state with legislation covering areas previously considered private. Some examples are:

- Social Security Appeal Tribunal
- Employment Tribunal
- Mental Health Review Tribunal
- Immigration Appeal Tribunal
- Lands Tribunal

Some tribunals have a significant effect in the areas of law involved. However, they are nonetheless inferior to the courts and their decisions are **subject to judicial review** – examination by a higher court of the decision-making process in a lower court.

Composition of tribunals and procedure

A tribunal consists of three members. The **chairperson** is normally the only legally qualified member. The other two are **lay representatives** who usually have **special expertise** in the area governed by the tribunal, gained from practical experience. The tribunal will also have all the usual administrative support enjoyed by a court: hearing clerks, who are responsible for administering procedures, clerical staff, and hearing accommodation.

The intention of tribunals was to provide a less formal proceeding in which **claimants** could **lodge claims** and **respondents** **defend claims**, and ultimately **resolve** their **disputes** without the need for legal representation. However, procedures have become more complicated and cases **brought before** tribunals are often presented by solicitors and barristers. For example, a case of **unfair dismissal** – where an employer appears to not be acting in a reasonable way in removing an employee – could be brought to an Employment Tribunal. Procedure at that Tribunal may include a stage where a **government agency**

tries to **broker a settlement** so that a **claim may be withdrawn**. The costs of the hearing are **borne by the public purse**, that is, paid from tax revenue, but legal representation is at the cost of each party. **Witness statements** are normally exchanged before the hearing and at the hearing both **parties** may question witnesses and **address the Tribunal**. The Tribunal can **refer to decisions of higher courts** before making its decision in a specific case.



A tribunal in action

Complete this letter which a lawyer has written to his client about a case coming to an Employment Tribunal. Look at B opposite to help you.

Woods & Pankhurst Solicitors

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Mr D Johnson,
Managing Director, Force Ltd

Dear David,

Claim for Unfair Dismissal by A.J. Blackwood

Many thanks for your faxed letter of yesterday attaching the copy ET1 in respect of the above. According to my records, Force Ltd have not had an (1) claim made against it previously so I thought it would be helpful if I gave you a brief outline of the various stages of the procedure involved for you to (2) the claim.

Following receipt of the ET1, the company, as (3) , has 28 days to complete and return a defence on form ET3. The Tribunal will acknowledge receipt of this and will forward a copy to Miss Blackwood, the (4)

The Tribunal appoints an officer of the (5) , the Arbitration Conciliation and Advisory Service (ACAS), to this case. He or she will get in touch with both you and Miss Blackwood for the purpose of offering assistance to broker a Settlement Agreement so that the claim can be (6) Obviously, if this is possible then the costs of a Tribunal hearing will be saved. The costs of a hearing are (7) the public purse, although obviously you will be responsible for this firm's fees in representing you if required.

Usually the Tribunal allows ACAS a number of weeks in which to (8) If that doesn't happen, a date for the case to be heard will be arranged. When that date has been determined, the Tribunal will give both (9) a simple set of directions to prepare for the hearing. I would normally expect to agree a bundle of relevant documents with the other side and to exchange written witness statements in advance of the hearing.

At the hearing, witnesses will be asked to swear or affirm that the contents of their (10) are true. Both parties and the Tribunal will have the chance to question the witnesses. Following that, Miss Blackwood and you on behalf of the company (or your respective legal representatives) may (11) the Tribunal with an argument about why your evidence and case should be accepted. The Tribunal may also consider points about the relevant law at this point and possibly (12) decisions made at a higher level of the Tribunal system, such as the Employment Appeal Tribunal, the Court of Appeal, the House of Lords, or even the European Court of Justice, before reaching its decision.

I hope this is helpful to you. Obviously, we will need to discuss in some detail the facts of the matter and the merit, or otherwise, of the claim when we meet on Friday. I already have a copy of Miss Blackwood's contract so will make sure I have that to hand. I look forward to seeing you then.

Kind regards,

Yours sincerely,

Paul Hedges

Paul Hedges

Partner, Woods & Pankhurst