

## ABOLITION OF EMPLOYMENT TRIBUNAL FEES – TIME FOR A REVIEW

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There is no doubting that the abolition of the Employment Tribunal (ET) Fees has come as a shock to many organizations; this has been borne out by the nature of some of the comments posted on social media. However, this move is not surprising, given that the fees had prohibited those people on a low income from accessing the judicial system. The actual judgement can be found on the Supreme Court Website at

<https://www.supremecourt.uk/cases/docs/uksc-2015-0233-judgment.pdf>

It is also believed that there will be a rise in the number of vexatious claims submitted to the ET following the abolition of the fees. However, under the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, SI 2013/1237 (the ET Regs), once the claim and response has been accepted (this means that the ET1 and ET3 have been correctly completed, and submitted within the time limit), a Judicial Sift is carried out by an Employment Judge to consider all the documents and confirm whether there are arguable complaints and defences within the jurisdiction of the Tribunal. This is designed to eliminate weak cases. However, some solicitors have indicated that the Sift is very rarely effective. If that is the case, then does the Judicial Sift process require review? Irrespective of the Judicial Sift process, it does highlight the need for all documentation submitted in defence of a claim to be complete, and robust enough to stand up to scrutiny by the ET.

We would also advise employers to review the following, to ensure that they comply with current employment legislation:

- Contracts of Employment
- Disciplinary, Capability, Appeal, Internal Mediation, and Grievance Procedures. ACAS provides a wide range of advice in this area.

It would also be advisable for management teams to be provided with guidance and training in legal aspects of management – especially employment legislation. Employers also need to ensure that they adhere to current legislation when attempting to restructure the employment relationship.

Finally, employers should keep an eye out for the Governments' response to the Report on the Taylor Review of Modern Employment Practices. As highlighted in previous articles published by Specialist Human Resources

Limited, the recommendations in this report are far-reaching and, if adopted by the Government, could bring about major changes to the current employment legislation.