

GUIDELINES FOR RESPONDING TO A CLAIM AND COMPLETING THE RESPONSE FORM

WHAT DOES THE EMPLOYMENT AND DISCRIMINATION TRIBUNAL DO?

The Employment and Discrimination Tribunal (Tribunal) hears cases and makes decisions on disputes arising both in the workplace and in the provision of services. Although it is not as formal as a court, the Tribunal must comply with rules of procedure and act independently.

HELP AND ADVICE

You can obtain help and advice from:

- Jersey Advisory & Conciliation Service (JACS) on 01534 730503 for employment-related claims (including discrimination arising in the workplace). Their website is www.jacs.org.je;
- Citizens Advice Jersey (CAJ) On 01534 724942 for non-work related discrimination. Their website is www.cab.org.je;
- your trade union, staff or professional association (if you are a member); or
- solicitors and other professional advisers.

It may be useful to look at previous decisions of the Tribunal in cases similar to the one to which you are responding at www.jerseylaw.je .

Please note that the Jersey legal aid scheme does not pay for employment or discrimination law advice or representation.

Staff at the Tribunal office can answer general enquiries, give information about Tribunal publications and explain how the Tribunal system works. They cannot give legal advice, such as whether your claim is likely to be successful.

HOW SOON MUST I RESPOND TO THE CLAIM?

You must complete and return your response form to the Tribunal office to reach us by the date given on the letter which was sent to you with the claim form. It is your responsibility to ensure that the Tribunal office receives your response within the relevant time limit; that is 21 days from the date we sent you a copy of the claimant's claim form.

WHAT CAN I DO IF I CANNOT MEET THE DEADLINE FOR SENDING IN MY RESPONSE?

If you do not submit your response form within the allocated time limit, the claim is likely to be treated as one to which no defence has been submitted and a judgment will probably be made against you.

It is possible to make an application to the Tribunal to extend the time limit if it is genuinely not possible for you to complete the form in time. Any such application must be made within the 21 day time limit for filing the response form. Applications for an extension of time must:

- be in writing;
- provide full reasons why you are asking for the extension; and
- include relevant materials, which will normally include a draft copy of the response form.

The Tribunal takes the relevant time limits very seriously and a chairman will only extend the time limit if they consider that the circumstances mean that it is fair on both parties to do so. You will be informed of the Chair's decision and cannot assume an extension has been granted until then. Please note that time will continue to run against you while you await a Chairman's decision on whether or not to grant an extension of time.

INFORMATION NEEDED BEFORE YOUR RESPONSE CAN BE ACCEPTED

The Tribunal cannot accept your response unless it meets certain conditions. It must be on an approved Response Form which is provided by the Tribunal. You will have received a copy of the Response Form with our letter enclosing the claimant's claim. The Response Form can also be found on the Tribunal's website (www.tribunal.je).

By law, you must tell us:

- the full name and address of the person or organisation against whom the claim is being brought; and
- whether you want to resist (defend) all or part of the claim.

WHAT WILL HAPPEN IF THE TRIBUNAL DOES NOT ACCEPT MY RESPONSE?

Your response will not be accepted and so you cannot resist the claim if:

- your response is not the approved form;
- the Tribunal office does not receive your response within the 21-day time limit and an extension of time has not been granted; or
- your response does not provide all the minimum information.

If no response is accepted in relation to a claim then a Chairman can decide the claim without the need for a hearing although a hearing to determine compensation may sometimes be required. You would only be entitled to participate in such a hearing to the extent permitted by a Chairman.

WHAT HAPPENS WHEN THE TRIBUNAL RECEIVES MY RESPONSE?

If your response is rejected, the Tribunal office will return your response form to you with a letter telling you the reason for the rejection and what action you

should take. Please note that if your response is rejected, time will continue to run against you as far as the time limit for issuing your response is concerned.

If your response is accepted, we will send you a letter to confirm this. That letter will contain a link to our publication 'Guidance to the Employment and Discrimination Tribunal Process' which will tell you the next steps. At the same time we will send the claimant a copy of your response form.

In most cases we will also send a copy of the claim and the response to JACS (for work-related disputes, including discrimination) or to CAJ (for non-work related discrimination). A JACS or CAJ conciliator will contact you to explore whether or not it might be possible to resolve the claim through conciliation and without the need for a Tribunal hearing.

CORRESPONDENCE

In future correspondence we will refer to you as the 'respondent' and to the person who has issued the claim as the 'claimant'. We will send a copy of your response form to the claimant. Our preferred method of communication is by email. Please check your email account regularly.

Parties are required under the Tribunal's Procedure Order to copy any letters, emails or documents that they send to the Tribunal (other than an application for a witness order) to all other parties and must state that they have done this. You can show that this has been done, for example, by the use of 'cc'.

We will send you and the claimant any decision the Tribunal makes.

You must let us know immediately if your contact details change. If you have a representative (a person you ask to act on your behalf) who you have formally instructed, we will send all correspondence about your case to them and not to you. If your representative has not been formally instructed (eg a family member, friend or other uninsured individual) we will send all correspondence about your case to that representative but will also copy you in on all such correspondence.

BREACH OF CONTRACT COUNTERCLAIMS

There may be circumstances in work-related disputes where an employer can issue a counterclaim against the claimant for breach of contract.

Any such employer's counterclaim must be included in the response form and must be made within 21 days of the date that the copy of the claim form was sent by the Tribunal.

DO I HAVE TO PAY THE CLAIMANT'S COSTS?

The Tribunal does not have the power to make an order for costs or preparation time. Similarly, the Tribunal does not have the power to order payment to cover expenses.

FILLING IN THE RESPONSE FORM

We have designed these guidance notes to be as helpful as possible. However, they do not give a full statement of the law. **If you do not provide the information marked with an asterisk (*) your response will not be accepted.**

DO NOT include any supporting documents with the response form. Supporting documents **will not be accepted** by the Tribunal at this stage.]

1.* CLAIMANT

Please give the full first and family name of the claimant. It is not necessary to give a title.

2. RESPONDENT'S DETAILS

2.1* Give the full name of the respondent who is completing this form, or on whose behalf it is being completed. Please say whether the respondent is a sole trader, a partnership, a plc, a limited company or otherwise.

2.2* Give the name of the person whom we should use as a contact point if you have not appointed a representative.

2.3* Give the full address, including house name/number, street, parish, town or city, county and postcode of the respondent completing the form.

2.4* Give the telephone number (including the dialling code) for the contact person named at 2.2.

2.6* Give us the e-mail address for the contact person named at 2.2. If the contact does not have an email address please state as much. Email is our preferred method of contact and you should check it daily.

3. EMPLOYMENT DETAILS

If the claim is work-related please complete this section.

3.1 Please tick the appropriate box to say whether you agree with the answer given by the claimant in section 6.1 of their claim form. The claimant's status to work is governed by the Control of Housing and Work (Jersey) Law 2012.

3.2 Please tick the appropriate box to say whether or not you agree with the dates of employment given by the claimant in section 6 of their claim form. If you tick 'Yes', please now go straight to section 3.3. If you disagree, please give the details you believe to be correct here and say why you disagree with the dates given by the claimant.

3.3 Please tick the appropriate box to say whether or not the claimant's employment is continuing.

3.4 Please tick the appropriate box to say whether or not you agree with the claimant's description of their job or their job title. If you tick 'Yes', please now go straight to section 4. If you disagree, please give the details you believe to be correct here.

4. EARNINGS AND BENEFITS

4.1 Please tick the appropriate box to say whether or not you agree with the hours of work the claimant has given in section 7.1 of their claim form. If you tick 'Yes' please now go straight to **section 4.2**.

If you disagree, please give the number of weekly hours you believe to be correct here.

4.2 Please tick the appropriate box to say whether or not you agree with the earnings details the claimant has given in section 7.2 of their claim form. If you tick 'Yes' please now go straight to **section 4.3**.

If you disagree, please give the weekly earnings you believe to be correct here.

4.3 Please tick the appropriate box to say whether or not you agree with the claimant's answer about working or being paid for a period of notice in section 7.3 of their claim form. If you tick 'Yes', please now go straight to **section 4.4**.

If you disagree with the claimant's answer, please give the details you believe to be correct here. If relevant, please give a full explanation of the reasons why the claimant did not work, or did not receive payment for, a period of notice.

4.4 Please tick the appropriate box to say whether or not you agree with the details given by the claimant about benefits in sections 7.4 of their claim form. If you tick 'Yes', please now go straight to **section 5**.

If you disagree, please give the details you believe to be correct.

5. RESPONSE

5.1* Please tick the appropriate box to say whether or not you defend (*ie* contest) the claim made by the claimant. If you only defend a part of the claim, please tick 'Yes' and tell us which part of the claim you are resisting in the space provided. If you tick 'No', please now go straight to **section 6**.

If you have ticked 'Yes', please explain the grounds on which you are resisting the claim. If the claim is about more than one issue, you will need to respond to each issue. Clearly explain what points you disagree with and give information to support your argument. If the respondent dismissed the claimant, explain the procedure you followed before the actual dismissal and give full reasons why you dismissed the claimant. Give full reasons if you disagree that your organisation owes the claimant money or if you disagree with the amount claimed.

At this stage you must not send any documents to support your response. Any relevant documents may be produced later in the process if the claim goes to a

hearing. If there is not enough space on the form, please continue on a separate sheet and attach it to this form.

6. EMPLOYER'S COUNTERCLAIM

6.1 Please tick the box to confirm you wish to make an employer's counterclaim

6.2 In the space provided please set out the details of your counterclaim, including any important dates.

7. YOUR REPRESENTATIVE

You only need to fill in this section if you have appointed a person to act on your behalf (a representative). If you appoint a representative we will deal directly with them, not with you, although if your representative has not been engaged in a professional capacity and does not hold professional indemnity insurance, we will continue to copy you in on correspondence. Please do not give the name of a representative unless they have agreed to act for you. Do not give the name of a person or organisation who is only giving you advice on filling in this form.

7.1 If you know the name of the person representing you, give it here. If you don't know it, leave this section blank.

7.2 Give the full name of the representative's organisation (for example, the union, firm of solicitors or Citizens Advice Jersey).

7.3 Give the full address and postcode of the representative's organisation.

7.4 Give the representative's phone number.

7.5 Give the representative's email address.

7.5 Give the reference number your representative has given to your case (if you know it)

7.6 State whether or not your representative holds professional indemnity insurance.

8. TRANSLATOR

If you require a translator, please tick 'yes' and tell us which language you speak. Please note that the Tribunal will not allow you to bring your own translator to hearings.

9. DISABILITY

If you have a disability it would be helpful if you could advise us of any assistance you will need as your claim progresses through the system.

10. ADDITIONAL INFORMATION

Please **do not** send either a covering letter or supporting documentation with your response form. You should give us any extra information that you want to tell us in your response form. For example, you may want to give an explanation of why your response is out of time. If there is not enough space, please continue on a separate page and attach it to this form. If you are providing information on separate pages for a number of questions, please say here how many pages in total you have attached to the form.

11. CONFIRMATION

Please check the checklist which appears at the end of the form. Once you are happy with the contents of the form, please sign and date the form in the boxes provided.

A copy of your response form will be sent to the claimant and either to JACS or to CAJ. We will put the information you give us on this form onto a computer. This helps us to monitor progress and produce statistics for our annual report.

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