

GUIDANCE NOTE: RECONSIDERATION OF DECISION TO REJECT CLAIM, RESPONSE OR COUNTERCLAIM

There are certain rules which you must follow to enable the Tribunal to accept a claim, response or counterclaim. If you do not comply with those rules, the Tribunal will reject your form.

If the Tribunal has rejected your claim, response or counterclaim, you can request that the original decision to reject be reconsidered.

If you wish to appeal against any decision of the Tribunal, you should refer to the Guidance Notes: Challenging a Judgment.

INFORMATION NEEDED BEFORE A CLAIM CAN BE ACCEPTED

Your claim cannot be accepted unless it meets all of the following conditions:

- it must be on an approved Claim Form which is provided by the Tribunal. The Claim Form can be found on the Tribunal's website, together with guidance on how to complete the form (www.tribunal.je);
- it must contain your name and address or the name and address of the organisation bringing the claim (eg. where an employer is issuing a breach of contract claim against an employee);
- it must include the name and address of the respondent or respondents (the person or organisation against whom you are making a claim);
- it must be signed;
- it must provide a brief summary of the main facts which give rise to your claim. The summary does not have to be very detailed, but it must contain sufficient information so that the Tribunal can understand what your claim is about and the grounds upon which you are bringing that claim. This will ensure that the Respondent can sensibly respond to it; and
- it must be submitted in time or have been not reasonably practicable to submit in time.

If you do not provide all of the above details, your claim will be rejected.

INFORMATION NEEDED BEFORE A RESPONSE CAN BE ACCEPTED

Your response cannot be accepted unless it meets all of the following conditions:

- it must be on an approved Response Form which will be sent to you by the Tribunal. The Response Form can also be found on the Tribunal's website, together with guidance on how to complete the form (www.tribunal.je)
- it must contain each respondent's full name and address; and
- it must be received by the Tribunal by the end of the 21-day deadline, which will be given to you in the Tribunal's letter. Respondents may make an application for an extension of time in which to file their response, but such extensions are only given in exceptional circumstances see Guidance Note on Responding to a Claim.

If you do not provide all of the above details, your response will be rejected.

WHAT HAPPENS IF MY CLAIM OR COUNTERCLAIM IS REJECTED?

The Tribunal will write to you to tell you whether your claim or counterclaim (or part of your claim or counterclaim) has been accepted or rejected. If it has been accepted, it will be sent to the Respondent/s for them to respond to.

If your claim or counterclaim has been rejected, the Tribunal's letter will briefly explain the reason/s for that rejection.

WHAT HAPPENS IF MY RESPONSE IS REJECTED?

The Tribunal will write to you to tell you whether your response has been accepted or rejected. If it has been accepted, it will usually be sent to JACS or CAJ for the 21-day conciliation period, unless the form includes a counterclaim, in which case the form will first be sent to the Claimant for their response.

If your response has been rejected, the Tribunal's letter will briefly explain the reason/s for that rejection. The Tribunal will also write to the Claimant to inform them that the response has been received but rejected.

CAN I ASK THE TRIBUNAL TO RECONSIDER ITS DECISION TO REJECT MY FORM?

You are entitled to ask the Tribunal to reconsider its decision to reject your claim, counterclaim or response in the following circumstances:

- you believe that the Tribunal's original decision to reject your claim, counterclaim or response was wrong; or
- the defect which originally caused the Tribunal to reject the form can be rectified.

Please note that time-limits continue to run when a claim form has been rejected and you risk your claim being filed out of time if you do not make your application quickly.

WHAT IS THE DEADLINE FOR ASKING FOR RECONSIDERATION?

If you wish to apply for a reconsideration, you must do so in writing within 14 days of the date on which your form was rejected. Therefore, if the Tribunal sent the rejection letter to you on Thursday 1 March, you must ensure that the Tribunal receives your application for a reconsideration by midnight on Thursday 15 March. **However, claimants should note that it may be that if you wait for the full 14 days to apply for a reconsideration, your amended claim will arrive at the Tribunal's offices outside the relevant time-limit. If you want to apply for a reconsideration, you should therefore do so as soon as possible.**

WHAT SHOULD I WRITE IN MY APPLICATION FOR A RECONSIDERATION?

The Tribunal letter notifying you of the rejection of your claim will briefly explain the reason for that rejection.

Your application should:

- explain why you think that the original decision to reject your claim or response was wrong;
- correct any defect which the Tribunal identified as the cause of the (eg by providing more information or the addresses of the parties);
- if the claim was submitted out of time explain why it was not reasonably practicable to submit the claim in time.

A decision will usually be made based on your written application. However, if you prefer not to make your application in writing, you are entitled to request that your application be considered at a hearing.

WHERE SHOULD I SEND MY REQUEST FOR RECONSIDERATION?

You should send your request for reconsideration to the Tribunal's offices. The Tribunal prefers to receive applications by email unless circumstances make this difficult:

Employment and Discrimination Tribunal
1st Floor
International House
41 The Parade
St Helier
Jersey
JE2 3QQ
Email: registrartribunalservice@courts.je
Office hours are 9.00 am to 5pm.

WHAT HAPPENS ONCE I HAVE SENT MY REQUEST FOR RECONSIDERATION?

Your application for the Tribunal to accept your claim will be passed to a Chair who will decide how your application should proceed. In some circumstances, the Chair may decide that a decision can be made based on the information which you have provided. Alternatively, the Chair may decide that a hearing is necessary to gather further information.

In all cases, the reconsideration will be carried out by a different Chair to the one who made the original decision to reject.

WHAT IF THE ORIGINAL DECISION WAS WRONG OR I HAVE CORRECTED A DEFECT?

If the Chair considers that the original decision to reject was wrong or the original decision was correct, but you have corrected the defect (within the normal time-limits for filing the claim), the Chair will accept the claim or response and it will be sent to the other party to respond to in the normal course.

If you have corrected the defect but re-submitted the form outside the relevant time-limit, the Tribunal will write to you to notify you of how to proceed.

WHAT HAPPENS IF THE ORIGINAL DECISION WAS CORRECT?

If the Chair concludes that the original decision to reject was correct and that any defect has not been rectified so as to enable the Chair to accept the claim or response, the original decision to reject will be upheld and your form will be returned to you.

CAN I APPEAL AGAINST A DECISION TO REJECT MY CLAIM OR RESPONSE?

You are entitled to seek leave to appeal to the Royal Court against any decision of the Tribunal if you consider that it has made an error of law please see Guidance Notes on Challenging a Decision.

Please note that if you have requested a reconsideration (see above) but you also wish to appeal on a point of law, you must still ensure that you submit your Notice of Appeal within the normal 28-day time-limit. **You should not await the Tribunal's decision on the reconsideration or you risk missing the appeal time-limits.**

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