

UK Client Briefing – January 2012

January 18, 2012

There have been two recent announcements from the Ministry of Justice: one about new, increased rates for statutory employment payments and Employment Tribunal awards; the other, the launching of a consultation period on fees for Employment Tribunals.

NEW COMPENSATION AND BENEFIT LEVELS

From 1 February 2012, rates and limits on certain statutory employment payments and Employment Tribunal awards will increase. Specifically:

- the cap on compensatory awards for unfair dismissal will increase from £68,400 to £72,300;
- the cap on a week's pay (used to calculate both the basic award for unfair dismissal and statutory redundancy pay) will increase from £400 to £430.

Remember, despite the general cap on compensatory awards for unfair dismissal, there are exceptions where the cap does not apply, including:

- dismissals that are discriminatory or which relate to family rights;
- dismissals that relate to raising concerns about health and safety in certain circumstances;
- dismissals in connection with taking time off for jury service;
- where the dismissed employee has whistleblower protection; and
- certain circumstances where the dismissal relates to carrying out activities as an employee representative (including trade union activities).

In addition, from April 2012:

- the statutory rates of statutory maternity, paternity and adoption pay will increase from £128.73 to £135.45 per week; and
- the weekly rate of statutory sick pay will increase from £81.60 to £85.85.

CONSULTATION ON TRIBUNAL FEES

The Ministry of Justice has launched its consultation, *Charging Fees in Employment Tribunals and the Employment Appeal Tribunal*, seeking views by 6 March 2012. It proposes two significantly different fee charging structures in the Employment Tribunal.

Employment Tribunals - Option 1

An issue fee (of between £150 and £250) and a hearing fee (of between £250 and £1,250). The amount of the fees would depend on the nature of the claim and whether it was an individual or a multiple claim.

Employment Tribunals - Option 2

A fee only on issue, the level of which would depend on what the claimant states their claim to be worth. If the claimant states their claim to be worth less than £30,000, the issue fee would be between £200 and £600, whilst one valued more would incur an issue fee of £1,750.

It is suggested that Option1 could be introduced in 2013 while it would take until 2014 for Option 2 to be implemented.

Under both options, there would be additional fees for specific applications and a fee remission scheme would be adopted to accommodate those applicants who cannot afford the fees.

In addition, it is proposed that, unless the tribunal "*considers that it is not appropriate given the circumstances*", the unsuccessful party should bear the cost of the fees.

Employment Appeals Tribunal

For Employment Appeal Tribunals, two fees are proposed for the EAT, both of which would be paid by the appellant - an issue fee of £400 and a hearing fee of £1,200.