

LEGAL FRAMEWORK

- *Governed by the Employment Tribunals Act 1996
- *Constitution and procedure contained in the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004
- *Statutory claims (such as unfair dismissal and discrimination) can only be brought at the ET
- *Contractual claims (e.g. wrongful dismissal) can be brought at both the ET (under £25,000) and the County Court. Usually claims have to be brought within 3 months (discrimination, UD, WD), or 6 months (equal pay).
- *Extend time limit when not reasonably practical (out the country, postal strike) – UD, breach of contract, TUPE. For extending time limit is discrimination it has to be just and equitable.
- *NOT REASONABLE PRACTICABLE TEST: *Cambridge & Peterborough Foundation NHS Trust v Crouchman/ Palmer v Southend-on-Sea BC/ Times Newspapers v O'Reagan*; but see *Union Cartage Co Ltd v Blunden***

JUST AND EQUITABLE - *Department of Constitutional Affairs v Jones/ Berry v Ravensbourne NHS Trust/ Cohan v Derby Law Centre*

COMMENCING PROCEEDINGS AND ACAS

*Dispute arises *Try sort it out *Get advice *Send Claim to tribunal office (claim not accepted if in complete, without merit, out of time, etc) * Claim accepted, sent to the R and conciliation starts. Form ET3 includes whether intends to resist application and upon what grounds. Copies of completed ET3 sent to employee and ACAS. *within 28 days response accepted. If no response received/response not accepted so default j'ment entered. The 28 days can be extended upon a successful application. *After this within 26wks there is case management directions and a hearing is held *a Further 4wks after this allows j'ment to be issued.

***Role of ACAS:** promote agreement without need for a hearing; produce ACAS Code and Guidance.

***Compromise Agreement:** s203 ERA 1996: prevent the voluntary surrender of statutory rights. Any attempt will be void (*Council of Engineering Institutions v Maddison*). *Unless: ACAS or a representative who has authority to negotiate; collective agreement; A compromise agreement.

RULES AND COMPOSITION OF THE ET

*Less formal than cts – procedural governed by statute (Rules of Procedure); can hold Case Management Discussions (for Directions); can hold Pre-hearing Reviews to get more info re what the case is about.

*Disclosure: there is no automatic disclosure (to give up documents). It is usual to make voluntary disclosure, but ET can make an order.

*At tribunal, there is an Employment Judge and two lay members with employment law background.

*Person on whom burden of proof rests goes first eg UD cases it is employer, and in constructive UD it is employee.

*The parties usually state their cases each, then cross-examination, with finally each giving a summation.

*There is a 42-day time limit to appeal the decision on a point of law.

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Page 1 of 1