
Introduction.

This leaflet is for general guidance only. It is not intended to give advice on the Employment (Jersey) Law 2003 (‘the Law’) nor is it intended in any way to be a statement of the Law. Copies of the Law are available from the States Bookshop or online at www.jerseylaw.je

Before making a complaint under the Law, or submitting your response, you should seek advice from the Jersey Advisory & Conciliation Service (JACS), your union representative the Citizens Advice Bureau (CAB) or a professional adviser.

This leaflet explains what happens when a complaint of discrimination is made to the Jersey Employment and Discrimination Tribunal (‘the Tribunal’) under the Law and the process which subsequently follows.

For the sake of convenience in this document ‘he’ includes ‘she’ and ‘his’ includes ‘hers’.

How is a complaint made?

If an employee thinks he is entitled to make a complaint under the Law he may refer the matter to the Tribunal. A complaint can be dealt with by the Tribunal if it concerns:

- The provision of a written statement of employment terms
- Minimum rest periods and annual leave
- Flexible working
- Payment of the minimum wage
- Detrimental treatment by an employer
- The payment of wages
- Maternity, adoption and parental rights
- The payment of notice
- Rights following redundancy
- Unfair dismissal from employment
- The right to representation at disciplinary and grievance hearings
- Breaches of the terms of a contract of employment

An employer may apply to the Employment Tribunal:

- For determination that a pay statement complies with the Law
- Where there is an infringement of his rights under the Law
- For clarification of the Tribunal’s jurisdiction in certain limited situations
- In respect of an employee’s breach of a term of the contract of employment

A complaint is made to the Tribunal on an application form, Form JET1 and the response is made on Form JET2. An employer’s complaint is made on Form JET3 and the employee’s response is on Form JET4. These forms are available from the Registrar of the Tribunal (‘the Registrar’), as well as from the Tribunal’s website, JACS and CAB.

Where are the application and response forms sent?

Completed application forms and response forms must be returned directly to the Registrar at the Tribunal Office. All contact details for the Tribunal Office are set out on the last page of this leaflet.

Time limits for complaints relating to Unfair Dismissal and Redundancy payments.

Complaints of unfair dismissal must be submitted to the Tribunal before the end of the period of eight weeks beginning with the effective date of termination of employment.

A complaint that you have suffered a detriment following the assertion or attempted assertion of a statutory right must be made before the end of the period of 8 weeks beginning with the relevant act or last of them, if more than one.

An application for a redundancy payment must be made within 6 months of the effective date of termination of employment.

Complaints concerning the rejection of a request for flexible working and a failure to comply with statutory maternity (including ante-natal care), adoption and parental rights must be made before the end of the period of 8 weeks beginning with the relevant date.

You must take advice upon the calculation of the relevant date if you are unsure of it.
Out of time complaint?

If an application is received outside the time limit, the Registrar will refer the application to the Chairman of the Tribunal and you will be asked to provide an explanation for the delay. In exceptional circumstances, the Tribunal can accept a late application. If you are aware that your application is being made late, you should always explain the reasons for any delay when filing your application form.

There is no fee payable upon submitting an application form.

How is an application dealt with?

When the application form (JET1, JET1-FF or JET3) is received and registered by the Registrar, the Applicant will be informed in writing. A case number will be allocated to the complaint, which must be quoted in any further correspondence with the Tribunal. The person against whom the complaint is made (the Respondent) will be sent a copy of the application form by the Registrar and asked to respond by completing the response form (JET2 or JET4) confirming whether or not he intends to resist the complaint/s.

The Respondent is required to return the completed form to the Registrar within 21 days. Should the Respondent fail to submit a response it is possible that the Tribunal will hear the complaint and make a decision without hearing from the Respondent.

A copy of the completed response form (JET2 or JET4) is always sent to the Applicant.

Copies of the application and response forms will be sent to JACS unless both parties instruct the Registrar not to do so. However the Registrar will send a copy of the application and the response forms will be sent to JACS if either party requests it. Conciliation will then be offered by JACS with a view to reaching an agreed settlement, without the need for a Tribunal hearing. Conciliation is voluntary and either side may refuse to use it. It is recommended that you try to settle your claim through JACS but a failure to do so will not count against you. JACS is separate to the Tribunal and all discussions and negotiations with them remain confidential to both parties and have no effect on the Tribunal proceedings. There is no set period of conciliation and the process can continue up to the final hearing if needs be. The Tribunal will administer the complaint notwithstanding any on-going conciliation or mediation process and the complaint will be scheduled to come before the Tribunal for any required Case Management Meeting or hearings in the usual manner.

If a settlement is reached, a compromise agreement will be signed by both parties, and countersigned by the conciliation officer. The conciliation officer will inform the Registrar that
conciliation has been successful and no further action will be taken by the Registrar in respect of the original complaint. However should conciliation fail to reach a settlement, or the parties do not wish to make use of the service, the complaint will be referred for a full hearing before a Tribunal.

What happens next?

The Registrar will convene a Case Management Meeting for the due preparation of the case for hearing or written Directions for hearing may be given by a Tribunal chairman without meeting the parties. There may also be an Interim Hearing in order to deal with any preliminary issues of law which need to be determined in advance of the full hearing of the complaint.

A Case Management Meeting will be conducted by a Tribunal chairman sitting alone. An Interim Hearing will generally be conducted by a full Tribunal consisting of a panel of three people; a Tribunal chairman and two panel members.

The parties will be given the names of the case chairman and/or Tribunal members appointed to hear any matter in advance of a hearing. If a party believes that there may be a conflict of interest between him and any Tribunal member (including the case chairman), or believes for any other reason that a particular member should not deal with the case, the Registrar should be informed immediately, and she will refer the matter to the case chairman or Chairman of the Tribunal, as appropriate. This important principle applies if a conflict of interest arises during the course of a hearing too.

Case Management: Directions & Orders.

Other than in the most straightforward of cases there are likely to be Directions and Orders given by the Tribunal for the due preparation of the case for hearing. These will be given by a Tribunal chairman either at a Case Management Meeting of the parties or in writing without the parties being present. A party may also request a Case Management Meeting at any time by contacting the Registrar. The Registrar will convene a Case Management Meeting by written notice to the parties. You are referred to the Tribunal’s publication, ‘Guidelines for Case Management Meetings’ for more information.

The date for the final hearing of a complaint will be set at the first Case Management Meeting or set of written Directions.

The Tribunal’s Directions and Orders will be given during the period that the parties are also involved in a process of conciliation and mediation and must be complied with in accordance with the time limits set by the case chairman for compliance.
The parties may receive more than one set of Directions during the period of preparation of a case for hearing.

**What if I or my representatives have Particular Needs?**

If a party, their witnesses or representatives have a particular need, including requiring the services of an interpreter, or where access to the Tribunal Hearing Room may present a problem, please contact the Registrar immediately, so that suitable arrangements may be made. Please note that no fee is charged by the Tribunal Service for the provision of a translator’s services.

**Attendance at the hearing.**

The parties will be advised of the date, time and place of the hearing by the Registrar in writing. The hearing will normally be held in public, unless the chairman of the case decides that there is a good reason under the Law why some or all of the hearing should be held in private.

**What if the parties or witnesses cannot attend the hearing?**

If either a party or any of their witnesses cannot attend the hearing on the notified date, they should contact the Registrar promptly explaining the reasons why they cannot attend.

There will need to be a good reason why a party cannot attend a hearing, supported by evidence, otherwise the chairman of the case will not change the hearing date. The application for deferral should also specify if there are any alternative dates that would not be suitable during the following six weeks. The case chairman will decide whether the hearing should be postponed and the parties will be notified of her decision.

**Arriving at the Tribunal Office.**

Each party must inform the Registrar of their arrival. The Registrar will then take each party to their allotted waiting area. If the parties (or their representatives) wish to meet each other before the hearing begins they should advise the Registrar who in turn will facilitate that meeting and advise the Tribunal panel that the hearing will start late. On arrival the parties must give the names of their representatives and intended witnesses to the Registrar if they have not already done so. The Registrar will want to know whether there are any additional documents to be included in the Bundle (see below). It is at this stage that parties should ask the Registrar about any matters concerning the hearing which need clarification.
Calling Witnesses.

The appearance of a witness at the hearing enables the parties and the Tribunal members to put questions about his evidence directly to him.

Directions concerning the attendance of witnesses and their evidence will have been given by the Tribunal either in writing or at a Case Management Meeting. The parties are required to follow those Directions in the presentation of their case to the Tribunal.

It is the responsibility of each party to ensure that the witnesses that they wish to call can attend on the hearing date.

The Registrar **will not remind** the parties or their witnesses of the date of the hearing once the notice of the hearing date has been sent out.

Relevant documents.

The relevant documents are very important in the preparation and presentation of a case. All relevant correspondence, documents and witness statements must be presented to the Tribunal in a folder called a Bundle. Directions will have been given to the parties about the preparation, contents and delivery of the Bundle either at the Case Management Meeting or in written Directions. The parties must follow those Directions.

The parties are referred to the Tribunal’s publication, ‘Guidelines for producing Bundles’ for more information about this important part of the Tribunal process.

If an unrepresented party is unsure about the relevancy of a document or the form of presentation of documents to the Tribunal in the Bundle they should contact the Registrar for advice.

The Tribunal does not provide a photocopying service.

Summonsing witnesses and documents.

If an important witness is reluctant, or refuses to attend the hearing to give evidence, or refuses to produce a document as evidence, a party may apply to the case chairman to issue a summons on his behalf in order to require that witness to attend or produce that relevant document as evidence. It is the case chairman’s decision as to whether to issue a summons.
The case chairman will require brief details of the evidence the witness will be asked to give and the relevancy of this evidence, before issuing a summons.

Applications for the issue of a summons and any other matters brought to the attention of the case chairman by either party will, in the interest of openness, be disclosed to the other party.

The Hearing.

Most parties present their own case before the Tribunal. However it is possible to have someone else present a case or to be legally represented should a party wish. At the hearing both parties will be given the opportunity to set out their case, call witnesses and produce written evidence as necessary. Both parties may also ask questions of each other and the other party’s witnesses.

You should refer to the Tribunal’s publication, ‘General points for all Tribunal Hearings’ for more information.

When the Tribunal has heard the full case put forward by each party and had the opportunity to question the witnesses, the case chairman will close the hearing in order for the Tribunal to consider the evidence and make a decision. The Tribunal’s decision may be delivered verbally in some cases. All decisions will be supported by written reasons.

Copies of decisions made by the Tribunal in previous cases can be found at www.jerseyemploymenttribunal.org and www.jerseylaw.je. Parties may find it useful to refer to the findings of the Tribunal in previous cases when preparing their own case for hearing.

The parties may not approach any Tribunal member in advance of, during or after the hearing.

It is not appropriate for parties or their witnesses to bring babies or children to a Tribunal hearing. If you have children please make alternative arrangements for their care for the duration of any Tribunal hearing.

There are no refreshments available at a Tribunal hearing.

Mobile telephones must be switched off during a hearing. There is no public internet access available in the Tribunal offices. No photographs or recording of the Tribunal proceedings is permitted.

Can a complaint be withdrawn before the hearing?
Yes. If the parties settle the case before the hearing, they should notify the Registrar as soon as possible, in writing, that a settlement has been reached and that the Applicant wishes to withdraw his complaint.

**The Tribunal’s Decision.**

When the chairman of the case is satisfied that the Tribunal has heard and seen all the relevant evidence submitted by the parties, the Tribunal will consider the facts and the evidence submitted and the parties will be notified of the Tribunal’s decision. Sometimes this will be given verbally shortly after the conclusion of the hearing otherwise the Tribunal will reserve its decision for it to be given in writing, usually within four weeks of the hearing date. Depending upon the circumstances of the case, the Tribunal’s award may take the form of a finding of fact in the dispute and/or a financial award of compensation or damages in accordance with the Law.

**Appeals.**

The decision reached by the Tribunal will be final and legally binding upon both parties. An appeal may be made to the Royal Court on a point of law within 4 weeks of the date of the Tribunal’s Decision or Order.

**What costs are involved?**

There is no fee payable to the Tribunal for issuing a complaint and no awards of costs are made by the Tribunal following a hearing. Accordingly each party will be responsible for their own costs incurred in preparing and presenting their case to the Tribunal.

There is no legal aid available for advice or representation concerning a complaint under the Law.

The confidential advisory and conciliation service provided by JACS is free to both parties. The services of CAB are also free of charge.

If an appeal is made to the Royal Court, the parties may be subject to awards of costs made under the Royal Court’s rules and procedures.
Media Notification.

The names of the parties attending Full and Interim hearings before the Tribunal are sent by the Registrar to the media on the Friday before the week that a case is scheduled to be heard.

Advice and conciliation.

Advisory leaflets on the ambit of the Law are available free of charge from JACS and CAB.

Conciliation and mediation should be seen as a positive means of resolving disputes between parties. It is a confidential service provided by trained staff that are impartial and able to assist in resolving disputes at all levels.

**JACS** is based on the 3rd Floor, Trinity House, Bath Street, St Helier, JE2 4ST and provides a free and confidential advisory and conciliation service to both employers and employees on any employment or discrimination matter related to employment or work. To contact **JACS** phone 730503 or email [jacs@jacs.org.je](mailto:jacs@jacs.org.je). Their website is [www.jacs.org.je](http://www.jacs.org.je)

**CAB** is based at St Paul's Centre, New Street, St Helier, JE2 3WP. It provides a free and confidential advice service to any member of the public and can advise on employment law and discrimination matters that do not relate to employment or work. It also administers the Community Mediation Service. This service provides trained mediators to help parties involved in a dispute involving allegations of discrimination to discuss their problems and reach an agreement of their own making. To contact the **Citizens Advice Bureau** phone 0800 735 0249 (Freephone) or 724942 or email [advice@cab.org.je](mailto:advice@cab.org.je). Their website is [www.cab.org.je](http://www.cab.org.je)
The Tribunal’s contact details

All correspondence and documents must be addressed to: **The Registrar**

And sent either by post
or by personal delivery to:
**The Jersey Employment and Discrimination Tribunal**
1st Floor
Trinity House
Bath Street
St Helier
Jersey
JE2 4ST

Or by e-mail to: **registrartribunalservice@gov.je**

Or by fax to: **(01534) 625898**

For general enquiries please telephone the Tribunal Office: **(01534) 441380**. The office is open to the public between 9.30 am and 4.00 pm each day.