

## Changes to unfair dismissal rules and the introduction of tribunal fees

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**The Chancellor has announced that the qualifying period of unfair dismissal will increase to two years from April 2012 and that he will introduce a system of fees in the employment tribunals.**

### Unfair dismissal

In January, the Government launched a consultation on changes to the employment tribunal system. The underlying aim was stated to be to promote growth in the economy. Vince Cable said this week that 'businesses tell us that unfair dismissal rules are a major barrier to taking on more people.' In an attempt to increase economic activity in the job market, the Government will change the qualifying period from one to two years from 6 April 2012. We still do not have any details of how this change will be implemented and what will happen to those employees who have one but not two year's service prior to 6 April 2012. The BIS press release states that this change should save businesses £6 million a year with a reduction of 2,000 claims a year.

Many commentators are sceptical about the likely success of this measure, not least because there is no qualifying period for discrimination claims. We already see claimants with under a year's service trying to frame what is essentially an unfair dismissal claim as a discrimination claim to get around the qualification rules. Discrimination claims tend to be more costly to defend and result in larger awards if successful. The increase in the unfair dismissal qualifying period may reduce the number of unfair dismissal claims but result in an increase to the number of claims that allege that the dismissal was discriminatory. This is not what the Government intends.

Despite Vince Cable's claims, we have yet to come across a client whose recruitment policy is determined by unfair dismissal qualifying periods. What we are hearing from our clients is that it is the economic situation which is limiting their recruitment.

### Tribunal Fees

George Osborne also announced in his speech that he intends to introduce a system of fees in the employment tribunal system. The aim is to reduce the number of 'vexatious' claims. The current proposal is to charge an initial fee of £250 to the Claimant when they submit their claim. A further fee of £1,000 will be charged when the matter is listed for hearing. Both fees will be refunded if the Claimant is successful but forfeited if the Claimant loses his or her claim. There will be an exemption for 'poor Claimants.' The Government has not yet announced what threshold it will apply for this exemption. Given that Claimants tend to be unemployed (very often the reason they are bringing a claim), it may be that a large number of Claimants will fall outside the fee structure in any event.

Concern has been expressed about how the fee system will be administered as the tribunal system is already bursting at the seams with claims.

The proposed fee structure is subject to further consultation, starting in November. We will update you further as this proposal progresses.

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