

Template Schedule of Loss Form

Please feel free to use our template Schedule of Loss form if you've not been provided one by your Tribunal.

Fill in the sections highlighted in yellow. The form provides **examples** of reasons and explanations for claiming certain awards. **Please modify these to describe and explain your circumstances.**

We have provided explanations of different parts of the schedule of loss in the 'Guidance note' on page 7.

For more information, please read our guide 'Filling in a Schedule of Loss form after unfair dismissal'. You can download our guide here:

https://www.toynbeehall.org.uk/know-your-rights/?_resource_category=employment

FORM SCHEDULE OF LOSS

IN THE [ADD DETAILS OF TRIBUNAL]

Claim no: [ADD CLAIM NUMBER]

BETWEEN

[ADD YOUR FULL
LEGAL NAME]

Claimant

and

[ADD NAME OF
FORMER
EMPLOYER]

Respondent

SCHEDULE OF LOSS AS AT _____, 2021

1. CLAIMANT DETAILS

Claimant's Date of Birth

Date employment commenced [This will usually be your first day of work, or a date specified in your contract]

Effective Date of Termination (EDT) [This will often be the last day worked, or when the dismissal was communicated]

Age at EDT

Gross (pre-tax) annual salary

Net (after tax) annual salary

Annual Employer's Pension Contribution

2. UNFAIR DISMISSAL¹

2.1 BASIC AWARD²

Weekly gross (pre-tax) pay

£[This is capped at £544, as of 6 April 2021]

[] weeks x per week³ £[]⁴

Total Basic Award £[]

2.2 COMPENSATORY AWARD⁵

2.2.1 PAST LOSSES⁶

Loss of earnings

Net pay (your pay after tax): £[] per week

Loss of earnings from EDT to [insert date]: £[]

Less income from new employment £[]

TOTAL £[]

Other benefits

Pension

£[] per week £[]

The respondent contributed []% of gross salary to my pension.

[List any other benefits, such as a company car, with a brief explanation]

£[] per week £[]

TOTAL £[]

Job seeking expenses⁷

[I attend the Jobcentre weekly for which my travel costs are £1.50. I have attended four job interviews which incurred travel expenses of £15.00. I have also incurred expenses for buying local newspapers and for postage costs. I wish to claim a sum of £50 due to these losses. If needed, I can provide full details of my expenses.]

£[]

2.2.2 FUTURE LOSSES⁸

[I have an ongoing loss of £[] per month. This consists of my net loss of earnings (£[]), my pension loss (£[]) and my job seeking expenses (£[]).]

[I estimate that this loss will continue for a period of [] months. [Although I am a skilled worker, the local job market is difficult and I am unable to travel extensive distances to work because I have to care for my disabled son in the evenings while my wife is at work. The average period of unemployment for a skilled worker in my area is [] months. However, given the restriction about my hours of work, and the fact I was sacked for gross misconduct, I submit it is likely to take me longer to find work than the average worker.]

TOTAL FUTURE LOSS ([] months x £[FUTURE LOSS])

£[]

2.2.3 LOSS OF STATUTORY RIGHTS⁹

I will have to work two years to regain protection from unfair dismissal and I submit it would be appropriate to award £350 to reflect my loss of statutory rights.

£[500]

TOTAL COMPENSATORY AWARD

£[]

2.2.4 UPLIFT FOR FAILURE TO FOLLOW THE ACAS CODE¹⁰

I argue that an increase of [up to 25]% should be made to the compensatory award for the Respondent's failure to follow the Acas Code of Practice.

[The Respondent did not inform me that I had a right of appeal. After seeking advice, I tried to appeal but my letter was ignored.]

TOTAL INCREASE

£[]

TOTAL COMPENSATORY AWARD INCLUDING UPLIFT

£[]

2.3 FAILURE TO PAY HOLIDAY PAY¹¹

My leave year [] to []

Amount of holiday accrued at EDT []

Amount of holiday taken in weeks []

Holiday owed in weeks []

Weekly net pay £[]

Holiday pay owing

£[]

2.4 AWARD FOR FAILURE TO PROVIDE A STATEMENT OF TERMS AND CONDITIONS¹²

[I was not provided with a written statement of my terms and conditions of employment.]

I argue that an additional award of 4 weeks' pay should be made.]

TOTAL (4 weeks x £[])

£[]

2.5 TAX LIABILITY¹³

To the extent that the award is greater than £30,000 it will be subject to taxation. Accordingly, the Claimant will seek to gross up their award to provide for such tax to be paid on sums awarded.



Guidance Note to Form Schedule of Loss

- 1 To claim for unfair dismissal, you must have worked continuously for the Respondent for at least two years, unless you've been dismissed for one of the excepted reasons, such as for making a protected disclosure. You must also be an employee; this is a complicated question, but not all workers are employees and if there is any doubt about whether you're an employee then you should seek legal advice.

An unfair dismissal claim must be made to a tribunal within 3 months of the Estimated Date of Termination (EDT).

A dismissal could be unfair if your employer doesn't:

- have a reason for dismissing you that is legally capable of being fair;
- follow a fair process when deciding whether to dismiss;
- The dismissal is not reasonable in all the circumstances.

Your dismissal will be automatically unfair and two years' service will not be required if you were dismissed because you:

- asked for flexible working
- refused to give up your working time rights - for example, to take rest breaks
- joined a trade union
- took part in legal industrial action that lasted 12 weeks or less
- needed time off for jury service
- applied for maternity, paternity and adoption leave
- were on any maternity, paternity and adoption leave you're entitled to
- tried to enforce your right to receive Working Tax Credits
- made a protected disclosure of information about wrongdoing in the workplace (known as 'whistleblowing')
- were forced to retire (known as 'compulsory retirement')

- 2 The basic award is calculated by reference to a formula based on age, length of service (up to a maximum of 20 years) and a week's pay. If your unfair dismissal case is based on redundancy and you have received a redundancy payment, then you don't get the basic award.

- 3 You can work out how much your basic award will be by adding together:
 - 1.5 weeks' pay for each complete year of employment when you were 41 or over
 - 1 week's pay for each complete year of employment when you were between the ages of 22 and 40 inclusive
 - half a week's pay for each complete year of employment when you were below the age of 22.



The number of weeks you use depends on both your age and the number of complete years served. If you are over 22 and under 41, then it is one week's pay per year served. If you are over 41, then it's 1.5 weeks' pay for each year served that you were over 41.

- 4 The amount you can ask for will depend on the circumstances of your claim. This may include compensation for financial loss due to being out of work.
- 5 Compensatory loss is intended to put you in the financial position you would be in if you hadn't been dismissed. The compensatory award is capped at either 52 weeks' gross pay or just under £89,493, whichever is lower. For example, if you earn £120,000 per year then it will be capped at £90 000, and if your gross pay is £30,000 then it will be capped at £30,000.
- 6 Past losses (money lost for being out of work) are calculated by multiplying the number of weeks from the EDT to the date of the hearing by your net weekly pay. If you haven't been paid for some or all of your contractual notice period, this head of loss will include losses during the notice period. In these circumstances, you would also have a wrongful dismissal claim.

You can include:

- Any payment which is paid as part of the basic salary (for example, a car allowance or rolled-up holiday pay);
 - Bonuses and any anticipated increase in salary, even if you are not contractually entitled to them
 - Pension contributions that were made by your Employer
 - Contractual benefit you were receiving
 - Other non-contractual benefits, provided that there is a reasonable expectation of receiving them
- 7 Job seeking expenses can be included as part of your Past Losses – you should add an explanation as given in the Form Schedule of Loss. Since you need to evidence your loss, it's best to not estimate and only claim for what you can evidence.
 - 8 Future losses are the losses you can predict you'll have after the hearing. You need to clearly explain this - see the example given in the Form Schedule of Loss as a basis of the losses you can include and an explanation as to why you are including these losses.
 - 9 Loss of statutory rights is designed to compensate you for the fact that it will take two years in any new job before you regain the right not to be unfairly dismissed. It's usually a fixed amount and is normally around £350-£500.
 - 10 Your employer's failure to follow the Acas code. This only applies in certain circumstances. The worse the dismissal process, the higher the uplift.



The behaviour your Employer should have followed includes:

- Deal with issues promptly
- Not unreasonably delay meetings, decisions or confirmation of any decisions
- Act consistently
- Carry out any necessary investigations, to establish the facts of the case
- Inform you of what the problem is and give you an opportunity to respond to the case before any decisions are made
- Allow you to be accompanied to any formal disciplinary or grievance meeting
- Allow you to appeal against any formal decision that's made.

You could ask for up to 25% of the total award. Please modify the explanation to match your circumstances.

- 11 This only applies if your employer has not paid you for any holiday days left untaken on termination.
- 12 This will often not apply. If your employer didn't give you a written statement of your terms and conditions, a tribunal can award you an extra two to four weeks' pay.
- 13 Where the award is over a set amount (£30 000) you will be taxed on it. So, you need to ask the ET to 'gross it up' so that you don't pay tax on what should be your net pay. If your award is less than £30 000 then this is unnecessary.

Acknowledgements

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