



Workplace Relations Commission (WRC) Employment Claim Checklist



1.

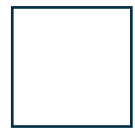
Write to your former employer and carry out a DSAR.



Outline your case to your employer and seek their response. Carry out an access request under GDPR for any information your employer holds about you. This is very powerful and your employer must provide you with your personnel file and any other information they have identifying you including emails, letters, sms texts or memos.

2.

Make notes.



Make a comprehensive record of what, when, where and how things happened to you. Collate as much supporting documentation as possible. Gather together any notes you made at the time. These will be important evidence and will be critical later on. Memories fade!

3.

Lodge your claim to the WRC within 6 months.



Unless your employer resolves the matter (which they very rarely do) you must lodge your claims to the WRC within 6 months of the unlawful act. Make sure to properly identify your employer's legal identity. Otherwise they could wriggle out "on a technicality".

4.

Review the DSAR carefully.



Review the DSAR and combine it with your own data. If there is anything missing you should raise this. If they ignore you the Data Protection Commissioner can be pretty persuasive! At this stage you can finalise which claims you wish to take to the WRC.

5.

Draft legal submissions to the WRC.



Once you're satisfied you have everything you need, you should begin preparing your written legal submissions. You are going to rely heavily on these at your hearing. Put some effort into them. Make sure that they are well organised and presented.

In an Equality claim you must make your submission first – setting out your case to your employer and the WRC, outlining what happened, how it was a breach of your rights and what the law (in particular caselaw) says about that type of conduct.

6.

Submit legal submissions to the WRC.



These should be submitted to the WRC and copied to the other side within 28 days of lodging your claim.

7.

Get the other sides submissions.



Once you have lodged your submissions you should look to the other side for theirs (once they've been given a reasonable period of time to digest yours). Then it is simply a matter of waiting for your case to be listed.

In an Unfair Dismissal case, it is important that you keep looking for work and that you can show evidence of the efforts you have made to find alternative employment..

8.

Contact witnesses.



In preparation for the hearing, you should contact any witnesses you intend to bring in support of your case and make sure that you know what they will say!



9.

Prepare five copies of your submissions.



These should be page numbered on the bottom right-hand corner and be divided into sections as follows:

- a. Written legal submissions;
- b. WRC complaint form;
- c. Claimant's contract of employment and employment handbook (if any);
- d. Payslip, P45 and P60 (if any);
- e. Inter-partes employment correspondence;
- f. Caselaw and legislation;
- g. Any other relevant documents including documents you intend to rely on or refer to at the hearing.

10.

Housekeeping



Prior to the commencement of the hearing some housekeeping issues can be agreed like:

- What your earnings were;
- Your date of commencement of employment;
- The date of leaving;
- Calculation of your loss (if relevant);
- Booklets of documents should also be exchanged.

11.

The hearing



At the hearing be prepared for intimidating tactics from the employers, such as turning up armed to the teeth with lawyers and witnesses.

You will present your case by oral and written evidence and submissions. You can call witnesses in support of your claim and you can give your own oral evidence about what happened to you.

You and your witnesses can be cross-examined. Lawyers can be very skilled at this and you should take great care not to rush any answers. Sometimes witnesses simply say anything to just get out of there. Don't do that! This is your opportunity to tell them exactly what you think of them. Don't come out with any regrets.

Likewise, the other side will also give oral evidence to the Adjudicator and you can then test that evidence through questioning (cross-examination). It is crucial that you are well prepared for this stage. You should know what it is you are trying to elicit and what questions you need to ask to establish that.

When all the evidence has concluded, both sides can make a closing submission to sum up your cases. This is important as it will tie your case to the evidence that has been heard in order to present your case in the best possible light to the Adjudicator.



12.

Settlements



In advance of the hearing, or at the hearing itself, discussions often take place by which the employer seeks to settle the case by the payment of a sum of money. You are the only person who can agree a settlement and withdraw your case.

Where a settlement is agreed it will always be on the basis that it is confidential, without admission of liability and in full and final settlement of all of your claims against your employer. It is also open to the Adjudicator to attempt to mediate a settlement.

If the case is not settled, the Adjudicator will not make a decision on the day but will write up a decision and send this out to you by post. This usually takes about three to six months¹

13.

The Decision



On receipt of the Adjudicator's determination either side has 6 weeks from the date the determination to appeal it to the Labour Court.



14.

Appeals

On appeal the decision is no longer anonymised and the hearing is open. The employer is no longer protected by confidentiality. This means that their conduct towards you can be reported which can understandably create great risk for the employer. The Labour Court is a much more formal process, evidence is given under oath and witnesses are subjected to direct and cross-examination. This can make the battleground a bit more level.



15.

Costs

Regardless of the outcome of your case, the costs in both the WRC and the Labour Court are borne by the parties and cannot be attributed to the other side. So, if you win they do not have to pay your costs, but likewise if you lose you are not accountable for theirs.



About Us

We are Employment Law Specialists.

This means that when you come to us, you get advice from experts in Employment Law, not general practitioners who may not be up to speed with the complexities of this fast-changing area of law.

We can advise you as to your rights when you are expecting a child and how best to ensure that your employer respects these rights. If you are in the unfortunate position that your employer has treated you unfairly, we act for many clients in the exact same position as you. We will ensure that you know your rights so that you can get what you deserve.

We have proven success negotiating the prompt settlement of claims and we can provide guidance and support so you understand the claims process, provide you with a voice and we act in an open and transparent manner so you keep control of your claim.

We are passionate about protecting the Employment Rights of new parents. Whether you are seeking general advice regarding your Employment Rights when you are expecting a child or if you are concerned that your rights may have been infringed, it is important to take action now. If you are considering bringing a claim, there is a general 6 month time limit for referring complaints to the Workplace Relations Commission.

Call us today on 1890 88 90 90 for hassle free advice or email us info@employment-matters.ie!

Warning: if you do have a claim that you wish to pursue through the WRC you must act fast and ensure that you adhere to the strict time limits laid down in employment legislation. You generally have six months to take your claim from the date of the conduct you complain of.

Very Important Disclaimer:

“This is not intended to be legal advice. You must not rely on the legal information provided here as an alternative to legal advice from a lawyer or other professional legal services provider. If you have any specific questions about any legal matter, you should consult your lawyer or other professional legal services provider. You should never delay seeking legal advice, disregard legal advice, or commence or discontinue any legal action because of the information contained here.”

Employment Matters is a trading name of Seán Ormonde, solicitor.

Employment Matters, 3-4 Canada Street, Waterford.