

## INTRODUCTION

The Bank of England has forecast that the UK economy will be entering into a recession in late 2022, with the economic contraction expected to last for just over a year, followed by a period of weak growth. Statistics from the 2008 recession showed a large rise in the number of employment tribunal claims, with a 56% increase during the period. The chief executive of the Tribunals Service at that time stated *"there is no doubt that economic conditions have contributed to an increase in the number of cases received"*.

With this rather sobering thought in mind, we have compiled a list of litigation 'top tips' from our employment specialists in London, which should help you respond appropriately should an employee issue either threaten to turn litigious, or become litigious. We also hope this gives you an opportunity to get to know the members of our team better.



## LITIGATION 'TOP TIPS'



**Adam Lambert**  
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### Adam's Top Tips

- *"At the outset of any claim, always insert key deadlines into the calendars of the individuals involved in it".*
- *"Find out when your witnesses are on holiday or otherwise unavailable as their absence may mean you need to complete their statement earlier than you envisaged".*



**Catherine Turner**  
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### Catherine's Top Tips

- *"When the claim is dealing with liability and remedy, make sure your disclosure and witness evidence also covers remedy".*
- *"Consider from an early stage how to protect your position on costs. This involves getting your costs warning letter(s) out early and a strategic consideration as to when to make this point again".*



**Jackie Thomas**  
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### Jackie's Top Tips

- *"Approach any claim or threatened claim strategically, and avoid any emotional reactions".*
- *"Consider commercial issues e.g. reputation as well as legal merits from an early stage. A clear understanding of the claim will allow sensible decision making to take place".*



**David von Hagen**  
Knowledge Development Lawyer  
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### David's Top Tips

- *"Always consider mitigation. For example, what are the individual's chances of finding a new job, and how long will it take? Most awards are based on a loss of earnings with mitigation being a heavy discounting factor".*
- *"A simple, but often overlooked consideration is whether the individual has at least 2 years' service".*



**Mark Kaye**  
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### Mark's Top Tips

- *"Consider who your witnesses are, and how likely they are to perform when called upon. Good witness evidence can make a case, whereas poor witness evidence can break it".*
- *"Consider whether a successful claim could open the floodgates to copycat claims within the company".*



**Katherine Pope**  
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### Katherine's Top Tips

- *"Consideration should be given to disclosure at an early stage as this can take time, especially at large organisations".*
- *"Treat litigants in person with caution as they may not have received legal advice on the merits of their claim".*



**Leah Aschettino**  
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### Leah's Top Tips

- *"Consider any reputational impact such as a risk of media attention. Sometimes the commercial interests of the company outweigh the benefits of defending a public tribunal claim".*
- *"The nature of the individual involved should always be considered. This can help avoid litigation all together, or result in a better strategy for dealing with litigation being adopted".*



**Lydia Octon-Burke**

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**Lydia's Top Tips**

- *"Try to get into the mind-set of the individual. What are they looking for and how does that impact your approach?"*
- *"Consideration should always be given as to whether the individual has a protected characteristic".*



**Peter Summerfield**

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**Peter's Top Tips**

- *"Assessing the strength/ validity of any claim or threatened claim is crucial when deciding on the appropriate next steps".*
- *"We would always recommend that a merits assessment is undertaken when a claim is submitted, as this will enable you to respond accordingly".*



**Jemma Green**

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**Jemma's Top Tips**

- *"Consider ways you could resolve the issue without the employee resorting to litigation. Sometimes the employee should be asked what they want to achieve".*
- *"It should be ensured that no documents relating to the employee are deleted as these may be relevant to the disclosure process".*