

Frequently Asked Questions

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The Questions Procedure

Frequently Asked Questions

1. **I think I need more information before I can submit a claim to the Industrial Tribunal or the Fair Employment Tribunal. What can I do?**

Before you submit a claim form to the Tribunal you will want to gather as much relevant information as possible about your complaint. This can be done by using the **Questions Procedure**.

2. **What is the Questions Procedure?**

The law permits claimants to use the **Questions Procedure** to gather evidence about their complaint. You can write to your employer, who will be called the **Respondent** in the proceedings before the Tribunal, seeking further information relevant to your claim. Alternatively, you can send a **questionnaire** to the Respondent asking a series of questions about your claim.

3. **What are the time limits for sending a questionnaire to my employer?**

If you have not yet lodged a claim form with the Tribunal you have **three months** from the date of the act you are complaining about to send a questionnaire to your employer.

It is best to submit a questionnaire well in advance of lodging your claim form with the Tribunal. However, this will not always be possible and if the time limit for lodging your claim is approaching you should send your claim form before sending the questionnaire to the Respondent. If you send your claim form to the Tribunal before the questionnaire has been sent to the Respondent, you will then have 21 days to send the questionnaire to the Respondent.

Example 1. John suspects that he was treated less favourably because of his religion when he was not shortlisted for a job on 3rd June 2005. If he wishes to use the questions procedure to get more information, he could send a questionnaire to the employer by 2nd September

2005 or within 21 days after lodging.

Example 2. Ann lodged a claim with the Tribunal because she thought that other male colleagues were paid at a higher rate for doing the same job. She lodged her claim form with the Tribunal on 6th May. She did not submit a questionnaire before sending the claim form. If she wishes to use the questions procedure she must send the questionnaire to her employer by 27th May.

If the Respondent is a limited company you should send the questionnaire to the registered office (head office) of the company and address it to the Company Secretary or Managing Director. **Remember to keep a copy of the questionnaire for your records.**

It is best to send a covering letter with the questionnaire asking for a response within a reasonable time. The Respondent should reply to your questionnaire within 8 weeks.

Please note that the time limit for lodging a claim with the Tribunal applies even if you are awaiting replies to your questionnaire.

Sending the questionnaire to an employer does **not** start any legal proceedings. You have not commenced a claim before the Tribunal just because you have sent a questionnaire. If you want to make a claim before the Tribunal you **must** also send a claim form to the Tribunal within the relevant time limits.

When you receive a response to the questionnaire, you should consider it carefully. You need to decide whether, having read what the employer has to say, you still think you have been discriminated against. If you think you have been discriminated against and that the employer has not justified its actions, then you may want to consider lodging the claim form with the Tribunal as soon as possible, providing you have used the grievance procedure where appropriate.

4. What happens if I don't get a reply to my questionnaire?

The Respondent is not obliged to answer your questionnaire. However, the questions which are asked and any answers which

are provided are admissible evidence before the Tribunal. If the Respondent fails to answer a question, that can also be relevant and can lead to adverse inferences being drawn by the Tribunal against a Respondent. An adverse inference can include an inference that the Respondent discriminated against you.

You can ask for documents relevant to your complaint in the questionnaire. The Respondent is not obliged by law to provide you with documents in response to a questionnaire but it is commonly done. If the Respondent refuses to provide documents you can seek an Order for Discovery from the Tribunal.

If the Respondent is a public authority you also have the right to request certain information under the Freedom of Information Act 2000 by submitting a **Freedom of Information request** in writing, clearly setting out the information which you seek. You may also be able to make a request for copies of information which the Respondent holds about you under the Data Protection Act 1998.

5. Do I have to send a questionnaire to my employer?

No. The Tribunal does not normally impose any penalty upon a claimant for failing to send a questionnaire. However, a questionnaire can be a very useful way of finding out the strengths and weaknesses of your potential claim or of gathering evidence in support of a claim you have already made.

If you are still employed and are concerned about sending a formal questionnaire to your employer you could simply send a letter to your employer asking for answers to certain questions. Remember that a Tribunal may draw adverse inferences against an employer if it refuses to respond to a questionnaire at all, if it refuses to respond fully or the response is misleading. You should take steps to investigate your case thoroughly. If the Tribunal considers your case to have been misconceived it may award costs against you.

6. What questions should I ask in my questionnaire?

A list of suggested questions is available from the Equality Commission for Northern Ireland.

When describing your complaint on the questionnaire, you should ensure that it is consistent with the complaint described in your claim to the Tribunal.

You should try to include questions and ask for documents which are relevant and specific to your complaint. You should also try to ask questions which the Respondent can realistically be expected to give an answer to.

If you are complaining about less favourable treatment on the part of a Respondent you should ask for an explanation of why this treatment occurred. You should set out the facts relating to your complaint fully. The questionnaire asks the Respondent whether it agrees or disagrees with these facts. The questionnaire permits a Claimant to ask more questions on a separate sheet of paper. You can take this opportunity to ask questions which are specific to your complaint.

Always ask the Respondent to acknowledge safe receipt of your questionnaire. **Always** keep a copy of the questionnaire you send.

7. If I send a questionnaire to my employer has my claim started?

No. You have not commenced any formal legal proceedings by sending a questionnaire. If you send a questionnaire shortly after the alleged act of discrimination occurs but do nothing else for three months then the **normal time limit** will expire and the Tribunal will not usually hear your case. If you have not yet lodged a claim form with the Tribunal you have **three months** from the date of the act you are complaining about to send a questionnaire to your employer.

8. I have written a grievance letter to my employer and lodged a claim form at the Tribunal. Can I still send a questionnaire?

Yes. You can send a questionnaire to your employer at any time up to **21 days** after the date when you lodged your claim form. Check the date on your claim form. You will have 21 days from that date to send a questionnaire. If more than 21 days have passed, you may still send a questionnaire but the Respondent is not under any obligation to respond and the Tribunal cannot draw

an adverse inference from a failure to reply. It is also possible to seek leave of the Tribunal to issue a late questionnaire.