



**EMPLOYMENT  
TRIBUNALS  
FACT SHEET  
FOR FREEDOM  
TO SPEAK UP  
GUARDIANS**

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**National  
Guardian**

Freedom to Speak Up

## An introduction to employment tribunals

The National Guardian's Office has seen an increase in queries from Freedom to Speak Up guardians about how to respond when they are approached for information or attendance as a witness in connection with employment tribunal claims or similar proceedings. In response, we have produced this fact sheet to offer guidance.

### What is an employment tribunal?

Employment tribunals are judicial bodies responsible for adjudicating workplace disputes between workers and employers. This includes claims relating to the Public Interest Disclosure Act 1998 (sometimes referred to as the whistleblowing law).

### Where can those who speak up obtain advice from?

- [ACAS](#)
- [Protect](#)
- [Citizens Advice](#)
- Unions
- Independent legal advice.

### Q&As

**I have been informed by my organisation that there is to be an employment tribunal where the worker has previously spoken up to me. The organisation is requesting that I share my records with them, should I do this?**

As a Freedom to Speak Up Guardian you should liaise directly with your organisation's legal team and information governance team to understand what information is requested and only that information should be shared. Consent does not need to be sought from the worker who spoke up, however, you should inform the worker of the legal request.

**I have been asked to provide a witness statement for an employment tribunal of a worker who has previously spoken up to me, what should I include?**

Freedom to Speak Up guardians should always maintain impartiality. Freedom to Speak Up guardians do not investigate concerns and should avoid attending meetings with workers who have spoken up, as this can be interpreted as representing an individual. If a worker requests support at a meeting to discuss concerns, you may wish to signpost them to their union or a colleague. It should be a rare occurrence for a Freedom to Speak Up Guardian to provide a witness statement for an employment tribunal case.

Where a witness statement is necessary, we recommend discussing the request with your own organisation's legal team.

The statement should be concise and factual and as a Freedom to Speak Up Guardian, you should ensure you have a robust recording system in line with the [Recording Cases and Reporting Data Guidance](#). For example, a witness statement might cover the Freedom to Speak Up Guardian's role and remit, what the employee spoke up about, and actions taken by the Freedom to Speak Up Guardian, inclusive of dates. You may also wish to use the template opening letter in the [Starting Out, Stepping Down Guidance](#), which sets out clearly what your role is as a guardian, what was spoken up about, and next steps.

Freedom to Speak Up guardians should not state opinions and should always remain impartial.

At the end of your witness statement, you should write **This statement is true to the best of my knowledge, information and belief**. This is called a statement of truth. Then sign and date the statement.

### **I have been asked to attend an employment tribunal as a witness, what should I expect?**

There are several ways you could be asked to be a witness at an employment tribunal, including:

- Giving evidence - you may be asked to give evidence orally without a witness statement
- Writing a witness statement - the tribunal may ask you to write a witness statement if they think it would be better
- Voluntary attendance - a worker or your organisation may ask you to attend the tribunal as a witness
- Being ordered to attend - the tribunal may issue a witness order if a witness refuses to attend.

In employment tribunals, witnesses are not usually required to read their statement out. Witnesses can be asked questions about their statement by the parties, and by the presiding judge. You must remain factual in your answers and refrain from giving opinions.

For further information about what to expect at an employment tribunal, Citizens Advice has produced guidance on [attending your employment tribunal hearing](#).

BPP University Law School has produced a series of videos that explain what to expect at an employment tribunal hearing: [Video 1](#), [Video 2](#), and [Video 3](#).

You can also contact the National Guardian's Office for a Guardian support call [enquiries@nationalguardianoffice.org.uk](mailto:enquiries@nationalguardianoffice.org.uk)

### **How can organisations foster a culture that reduces the need for employment tribunals?**

A Freedom to Speak Up policy should be embedded within your organisation, with everyone understanding their responsibility in speaking up, listening up and following up. It should be made clear that no one will suffer detriment for speaking up. Please familiarise yourself with the [detriment guidance](#) and steps that can be taken to support those who speak up.

### **How can organisations learn from employment tribunals?**

Employment tribunal decisions are [published online](#).

As part of your proactive work as a Freedom to Speak Up Guardian you may wish to work with your leadership to ensure relevant learning from employment tribunals is adopted within your own organisation.