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DIFC Practice Direction No. 1 of 2025: A New Procedural Framework for Employment Disputes

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Introduction

The DIFC Courts have issued *Practice Direction No. 1 of 2025 – Access to Justice in Employment Disputes* (“***Practice Direction***”), effective 9 October 2025, marking a material procedural shift in how workplace disputes will be litigated before the Court of First Instance (CFI). While the **DIFC Employment Law** (Law No. 2 of 2019) regulates substantive employee rights — such as termination, gratuity and anti-discrimination — the conduct of litigation itself was previously governed by the same rules applied to high-value commercial disputes.

The newly enacted Practice Direction reflects a deliberate move towards a more proportionate, equitable and privacy-conscious employment dispute model, recognising that power imbalances and cost barriers can deter valid claims or pressure early settlements. At the same time, it preserves judicial discretion to penalise bad-faith litigants and prevent abuse of process. In essence, the DIFC Courts have introduced a framework that lowers deterrents for the litigants while keeping adequate checks and balances.

Key Procedural Changes — and How They Differ from the Previous Regime

Until now, any employment dispute filed before the DIFC Courts — whether by a junior employee or a multinational employer — was treated procedurally as a **standard commercial claim**. Filing fees were calculated without relief, hearings were public by default, and the classic **“loser pays” costs principle under RDC Part 38 applied in full**. This meant that employees risked financial liability for the other side’s legal costs if they lost, and employers risked public exposure of internal matters.
The Practice Direction introduces a departure from this “one-size-fits-all” litigation model**.**

1. *Filing Fees Can Be Reduced, Waived or Paid in Instalments*

Previously, a claimant had no structured mechanism to reduce filing fees, regardless of financial means. Fee relief was theoretically available under Registrar discretion but used sparingly, with no legal test or procedural guidance.

Under the new regime, fee adjustment is formally recognised as part of the access-to-justice framework. A claimant — whether an individual or a company — may request that filing fees be:

1. Waived completely;
2. Reduced or capped at a specified level; or
3. Paid in instalments over time.

The Registrar now has clear authority to exercise such discretion based on the claimant's financial capacity, complexity and merits of the claim, or broader interest of justice considerations. While the Registrar's discretion is available "upon application", in reality **fee relief is more likely to assist claimants than defendants**, as considerations on financial capacity and hardship are specifically worded to cover the claimant. The mechanism therefore operates less as a mutual cost-balancing tool and more as **an access gateway for claimants who might otherwise be deterred by upfront court fees**.

2. ***Litigation Costs Are No Longer Automatically Recoverable from the Losing Party***

Under the previous regime, the DIFC Courts followed the English law approach "costs follow the event" principle — meaning the loser typically paid the winner's legal costs. This created a defensive mindset: employees feared financial ruin if unsuccessful, and employers sometimes pursued aggressive costs recovery strategies as leverage.

The Practice Direction establishes a neutral cost position as the default. Each party is now expected to bear its own legal costs, regardless of outcome. However, the Court retains the power to depart from this rule where a party has acted unreasonably and / or in bad faith or pursued frivolous litigation.

The practical effect is nuanced: meritorious claims become more viable, but procedural discipline remains essential. The threat of adverse costs has not disappeared — it has simply shifted from "losing the case" to "abusing the process."

3. ***Confidentiality Becomes the Norm — Not the Exception***

Previously, employment hearings before the CFI were **public by default**, with transcripts and witness submissions open to public access unless a specific application for privacy was made. Final judgments were typically published **with full party names**, easily identifiable through online legal databases.

Under the Practice Direction, privacy becomes the default procedural setting:

- Hearings in employment disputes will be held in private; and
- Final judgments will be published in anonymised form, unless the Court determines that full publication is required for public interest or legal precedent.

This protects both employees against reputational stigma and employers against unwanted publicity of internal matters. This shift may encourage parties to engage more openly and resolve disputes earlier, without concern that their discussions or negotiations will later be made public.

Practical Implications

The Practice Direction is not just a procedural amendment — it reshapes the strategic landscape of employment litigation. By changing how costs, confidentiality, and hearings are handled, it directly affects the incentives and risks for both employers and employees. Parties must now reassess how they approach disputes: whether to settle early, how to document internal decisions, and how to evaluate the potential reputational or financial impact of proceeding to court. In short, the new framework influences not just *how* cases are run, but *whether* they are brought at all.

For Employers:

- Review employment contracts, handbooks and dispute escalation clauses (if any). With costs less predictable and public exposure reduced, employees may be more inclined to litigate rather than settle. Consider introducing mandatory mediation before formal proceedings.

- **Maintain stronger documentary discipline.** Since adverse cost orders now hinge on allegations of *unreasonable conduct*, employers must ensure that performance warnings, investigation reports and termination decisions are properly recorded.

For Employees and SMEs:

- **Litigation is now financially safer, but credibility still matters.** Courts will not tolerate speculative or exaggerated claims. Clarity of evidence and proportionality remain essential.

- **Fee waiver and instalment applications should be substantiated** — claims of hardship must be supported with financial statements or other proof.

Conclusion

Practice Direction signals an evolution in the DIFC Courts' judicial philosophy towards employment disputes. The Court is no longer applying a rigid commercial litigation framework to inherently relational conflicts. Instead, it is introducing a tribunal-style balance between fairness, accessibility and accountability.
Greater flexibility for claimants means greater responsibility in preparation. Likewise, lower barriers do not guarantee success — but they now guarantee a fairer route to being heard.
Schlüter Graf continues to advise its clients in structuring DIFC-compliant employment contracts, representation in all litigation matters negotiating dispute outcomes efficiently, especially under this rebalanced framework.

Our dedicated DIFC Practice is well positioned to provide comprehensive advice and representation across employment and broader commercial disputes within the DIFC framework. The team offers both strategic guidance on dispute avoidance and robust representation across leading institutions and sectors, ensuring effective and commercially focused advocacy at every stage.

For further information or assistance, please contact our DIFC team at *usama.munir@schlueter-graf.com; thishani.fernando@schlueter-graf.com* .

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