

How Acas can help



Early Conciliation explained

inform

advise

train

work
with you

What does Acas do?

Acas stands for Advisory, Conciliation and Arbitration Service. We are a publicly funded independent organisation that promotes good employment relations and helps sort out employment disputes.

If someone has a dispute at work and that person or their employer asks for our help, we can work with them to find a solution acceptable to both, so that they can avoid the need for an Employment Tribunal claim. This process is known as **conciliation**.

The introduction of Early Conciliation was announced as part of the **Enterprise and Regulatory Reform Act 2013**. This leaflet explains how the new Early Conciliation service will work.

If you have a disability, please let us know if we need to make any special arrangements for you when dealing with your case.

If you need to use an interpreter, we can arrange for communication through Language Line, which is a completely confidential and impartial service.

This leaflet can also be made available in alternative formats. Please email Acas Publications at acas@ecgroup.co.uk for further details.

What is Early Conciliation?

Early Conciliation will be available from April 2014. This means that Acas is able to offer Early Conciliation to help to settle the dispute without going to court.

For tribunal claims lodged on or after 6 May 2014, it is a legal requirement, unless an exemption applies, for a claimant to have made an Early Conciliation notification to Acas. Tribunal claims will not be accepted unless the complaint has been referred to Acas and a conciliation certificate issued. This certificate confirms that the Early Conciliation requirements have been met.

What are the main features of Early Conciliation?

- **It's voluntary** – whilst prospective claimants are required to contact us before making a tribunal claim, they only need to take part in discussing the matter and attempt to resolve it if they want to and either they or the employer can stop the process at any time.
- **It's free** – there is no charge for our service.
- **We're impartial** – Acas doesn't represent either the employee or the employer.
- **We're independent** – Acas is not part of the tribunal system.
- **It's confidential** – what you tell us can only be discussed with the other party if you agree that it will be helpful in trying to settle your case. Whatever is discussed during the course of conciliation cannot be used by either party at a tribunal hearing.

What about representation?

There is no obligation to have a representative in Early Conciliation. If you appoint a representative to act for you we will conciliate through them. A representative can be someone of your choosing and could include a trade union official, a solicitor, or someone from a Law Centre or Citizens Advice Bureau. Your representative may agree a settlement on your behalf. As settlements are legally binding, it is important to ensure that your representative fully understands your requirements, has your express authority to enter into an agreement on your behalf, and regularly keeps in touch with you so that you are aware of any progress in conciliation.

Are there any exceptions?

The requirement to notify Acas applies to nearly all intended tribunal claims with a small number of exceptions. For example, if the potential claimant is one of many people making a claim against the same employer and one person has already made a request to Acas in the same dispute, the other potential claimants may not have to. Further information about exceptions can be found on the Acas website at www.acas.org.uk/earlyconciliation. Of course wherever an exemption applies potential claimants can still choose to try Early Conciliation if they wish.

How is a request for Early Conciliation made?

The quickest and simplest way is through the Early Conciliation notification form on the Acas website at www.acas.org.uk/earlyconciliation. Alternatively, if someone cannot access the internet they can discuss their options by telephoning 0300 123 11 22.

The notification form asks for basic contact details for the claimant and the employer. Claimants should be careful to include the correct name for their employer. If a claim is subsequently made to the tribunal the name of the employer on the ET1 will need to correspond to the name on the Early Conciliation notification form. If the names are different this could lead to the claim being rejected by the tribunal.

Employers will also be able to use Early Conciliation if they believe there is a workplace dispute which is likely to lead to tribunal proceedings. They can find out more on the Acas website at www.acas.org.uk/earlyconciliation.

If you are representing or advising a claimant who is intending to bring a tribunal claim, or if you are representing a group of claimants against the same employer(s) you can find out more here: www.acas.org.uk/earlyconciliation.

What happens to an Early Conciliation request?

When we receive a request we first send the claimant an acknowledgement, this will be online, email or by post depending on how the notification is made to Acas. We then aim to telephone them by the end of the following working day at the latest to check the information provided, find out what the claim is about and explain Early Conciliation.

Once this is done the claimant will receive a call from the Acas Conciliator.

Only when the Conciliator has made contact with the claimant and explained the next steps and the claimant agrees that they want to proceed with Early Conciliation will they approach the employer. The Conciliator will aim to make contact with both parties by the end of the following working day.

If we cannot make contact with the claimant over a reasonable period of time, or if the claimant indicates they do not want Early Conciliation, we will close the case and an Early Conciliation certificate will be issued. This will be sent via email or by post as appropriate.

How can Early Conciliation help?

- **It informs.** Parties can get a clearer idea of the strengths and weaknesses of the potential case, and explore the options for resolving their differences.
- **It saves time and money.** If parties can settle their differences, this will avoid the time, expense, risk and stress of going to tribunal.
- **You are in control.** Agreements to avoid a tribunal are on terms decided by the parties, not imposed by a tribunal. Agreed outcomes can include things not available at tribunals, such as a reference or an apology for example.
- **It's confidential.** Everything can be kept confidential – Acas does not speak to anyone outside the process, whilst tribunal hearings are public.
- **It can restore trust.** If the claimant is still employed it increases the chance of avoiding a permanent breakdown of the employment relationship – if that is what both sides want to achieve.
- **It can be a quick solution.** Many cases can be dealt with in a few telephone calls, with agreed outcomes implemented very soon afterwards.

What will my Conciliator do?

Acas Conciliators have substantial experience of dealing with disputes between employers and employees. To explore how the potential claim might be resolved, the Conciliator will talk through the issues with the employer and the employee. Mostly this will take place over the telephone, but sometimes a meeting, chaired by the Conciliator, can be helpful.

The Conciliator will also, where appropriate:

- explain the conciliation process
- encourage the use of internal procedures such as disciplinary and grievance procedures if available
- explain the way tribunals set about making their decision and what things they take into account
- discuss the options available, for example the appointment of an independent Arbitrator under the Acas Arbitration scheme in appropriate cases
- help parties to understand how the other side views the issues
- discuss any proposals either party has for a resolution.

What are the boundaries of the Conciliator's role?

The Conciliator...

- **Cannot** know what the outcome of a tribunal hearing would be if it went ahead
- **Cannot** advise either side whether to accept or make any proposals for resolution
- **Cannot** take sides, represent either party or help prepare either a case for tribunal or a defence to a claim
- **Cannot** take a view on the merits of a claim or advise whether a claim should be made.

How long will Early Conciliation last?

The initial period of Early Conciliation is intended to be up to one calendar month, which is why we aim to contact both parties so quickly after receiving the request. However, if both parties agree that longer is needed, the period can be extended, only once, by a further 14 days.

If after this period the matter is still not resolved, the Conciliator will bring Early Conciliation to a close and the claimant will be free to make a tribunal claim. The formal certificate that Early Conciliation has finished will include a unique reference number which the claimant must provide when submitting a claim to the Employment Tribunal.

What happens if Acas conciliation is successful?

If a resolution is reached through Acas, the Conciliator will record what has been agreed on an Acas form (known as a COT3). A COT3 agreement is the term used to describe an Acas settlement document. Both parties will sign this as a formal record of the agreement. The COT3 will be a legally binding contract that means the claimant will not be able to make a tribunal claim in that matter.

What happens if we can't reach agreement?

If the parties can't settle their differences the Conciliator will bring Early Conciliation to an end. The claimant will then be free to make a claim to an Employment Tribunal. The formal acknowledgement will include a unique reference number which the claimant must provide when submitting their tribunal claim. If a claimant misplaces their formal acknowledgment they can request a duplicate copy.

A copy of this formal acknowledgement that Early Conciliation has finished will also go to the employer but only if they have been involved in it. If both parties want to continue to talk after Early Conciliation Acas can still be involved on request, and if a tribunal claim is made the Conciliator will again offer to help both parties to resolve their differences without the need to go to a tribunal hearing.

Does Early Conciliation affect the timescale to make a tribunal claim?

In order to allow sufficient time for Early Conciliation to take place, changes have been made to the time limits for an employee to bring an Employment Tribunal claim once the Early Conciliation process has been started. These time limits are known as limitation periods.

Generally the limitation periods for bringing claims at the Employment Tribunal are either three or six calendar months depending on the nature of the claim. So for example if a person has been dismissed, they would have three calendar months from the date of dismissal to make a claim for unfair dismissal.

When the claimant contacts Acas this will 'pause' the time limit for presenting their claim to a tribunal. This pause can be for up to one calendar month, plus a further 14 days if more time is needed. The time limit will start to run again when the claimant receives their formal acknowledgement (the Certificate) that Early Conciliation has finished.

Once Early Conciliation has ended the claimant will have at least one calendar month in which to present their claim. However, please bear in mind that if the claimant was already late for making a tribunal claim when requesting Early Conciliation s/he will still be late afterwards.

It is the claimant's responsibility to make sure that any claim is presented on time, and only a tribunal can decide whether the claim is in time or not; the Conciliator cannot decide or advise on this point.

Where can I get more advice and information?

If you have already spoken to an Acas Conciliator, you will find they can help you identify sources of advice and information appropriate to your situation. If not, the following may be helpful:

- The Acas Helpline 0300 123 11 00 can give information and advice about employment rights, but is not able to assist with preparing or presenting a claim to the tribunal.
- You can call the Pay and Work Rights Helpline for free advice and to report abuses about the National Minimum Wage, the Agricultural Minimum Wage, Employment Agencies, Working Time limits, and working for a Gangmaster. The telephone number is 0800 917 2368, or textphone 0800 121 4042 and www.gov.uk/pay-and-work-rights-helpline
- Equality Direct (08456 00 34 44) can give employers (in England only at present) free advice and information on equality legislation and good practice.
- The Equality Advice and Support Service (EASS) can give free help and advice relating to equal pay and discrimination in employment.

www.equalityadvisoryservice.com

Telephone – 0808 800 0082

Textphone – 0808 800 0084

Email – adviceline@equalityadvisoryservice.com

- Trade Unions and employers' associations may be able to advise and support their members.

- Citizens Advice Bureaux, Solicitors, Law Centres and some specialist consultants can provide advice and representation on all matters concerned with employment rights and potential claims.
- The Employment Tribunals Public Enquiry Line (phone 0845 795 9775 / minicom 0845 757 3722) for information about how tribunals work. They cannot give legal advice. See the website www.employmenttribunals.gov.uk

Data Protection Act 1998

If you are party to an Early Conciliation request, we will put some of the information you give us on to our computer database. This information will help us to monitor progress and to produce anonymised statistics. The information we collect in this context may be disclosed to the Department for Business, Innovation and Skills (BIS) to assist in research into the use and effectiveness of Acas.

...and finally

We do our best to provide a high standard of service at all times but if you are not satisfied with the service you have received, you should address your complaint to:

Complaints
Delivery Directorate
Acas National
Euston Tower
286 Euston Road
London NW1 3DP
Email: complaints@acas.org.uk

Information in this booklet has been revised up to the date of the last reprint – see date below. For more up-to-date information go to the Acas website www.acas.org.uk.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

March 2014

Acas' offices:

- **National**
London
- **East Midlands**
Nottingham
- **East of England**
Bury St Edmunds, Suffolk
- **London**
- **North East**
Newcastle upon Tyne
- **North West**
Manchester
- **North West**
Liverpool
- **Scotland**
Glasgow
- **South East**
Fleet, Hampshire
- **South West**
Bristol
- **Wales**
Cardiff
- **West Midlands**
Birmingham
- **Yorkshire and Humber**
Leeds

Helpline **0300 123 1100**

18001 0300 123 1100
Acas Helpline Text Relay

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0300 123 1150
Acas Customer Services Team who
can provide details of services and
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www.acas.org.uk/training

08456 00 34 44
for questions on managing
equality in the workplace



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