
Conciliation Explained

Acas – Working for everyone

May 2018

About Acas – What we do

Conciliation Explained

Acas is a publicly funded independent organisation that promotes good employment relations and helps sort out employment disputes. Our advisers and conciliators are workplace experts.

Acas provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems. Go to www.acas.org.uk for more details.

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 or (if a claim has been made) a tribunal hearing and decision. This process is known as conciliation and this guidance explains what it is and the context in which it is available.

This guidance is also available in alternative formats – braille, audio and large print. Please email the Acas Customer Services Team (CST@acas.org.uk) for further details.

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Information in this booklet has been revised up to the date of publishing. For more information, go to the Acas website at 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.

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What is Conciliation?

Many issues which may lead to an employment dispute can be resolved informally in the workplace between the individual and their immediate line manager. It is Acas' advice that issues are best dealt with as early as possible. Internal procedures should be in place to deal with more difficult cases, and Acas can provide employers with advice about best practice policies and procedures to help you avoid difficulties. You can contact our Helpline on 0300 123 1100 or see our [Advice A-Z](#) for more information.

However, sometimes these issues escalate and they can become formal legal claims. In these circumstances people must first notify Acas before they lodge an Employment Tribunal claim, and we will try to help. Reaching a settlement through conciliation is quicker, cheaper and less stressful for all concerned than a tribunal case.

Conciliation is offered to both sides with the aim of settling the matter without the need for a legal claim to be lodged. It's voluntary, and both parties must participate in the process for conciliation to be able to work.

Conciliation Explained

Conciliation involves an independent Acas conciliator who discusses the issues with both parties in order to help them reach a better understanding of each other's position and underlying interests. Without taking sides, the conciliator tries to encourage the parties in a dispute to come to an agreement between themselves.

This is different from **Acas Collective Conciliation**, where Acas facilitates talks to help resolve disputes between groups of employees (usually via trade unions) and employers to help prevent industrial action. Again, our role is not to direct either party on what to do; but to help them develop options and solutions to resolve the dispute.

Seven key features of Acas conciliation:

- **It's voluntary.** You are legally required to contact us before making a tribunal claim, however neither party is obliged to take part in conciliation and can stop whenever they wish.
 - **You are in control.** Agreements are decided by the parties, not imposed by a tribunal. Agreed outcomes can include things not available at an employment tribunal, such as an employment reference or an apology.
 - **It informs.** Parties can get a clearer idea of the strengths and weaknesses of their case, and can explore the options for resolving their differences.
 - **It saves time and money.** Acas conciliation is free, and often is concluded by a few telephone calls. If parties can settle their differences, this will avoid the time, expense, risk and stress of making or defending a tribunal claim, or, if a claim has been made, of going to the tribunal hearing.
 - **We're impartial and independent.** Acas doesn't represent either the employee or the employer and we are not part of the tribunal system.
- It's confidential.** Anything 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. Settlement discussions cannot be used by either party at a tribunal hearing. Tribunals are heard in public.

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- **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.

The role of the Acas conciliator:

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 separately. 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.
- Explain how **tribunals** decide what to **award**.
- **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 the conciliator cannot do:

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.

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- **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.

Stages of Acas Individual Conciliation:

Wherever possible we will try and ensure that the same conciliator deals with the case throughout its life:

- **Before an Employment Tribunal claim has been lodged**, the claimant must contact Acas and we will offer Early Conciliation to try and help settle the dispute without the need to lodge a tribunal claim.
- Acas has a statutory duty to offer **Early Conciliation** for an initial period of up to a calendar month, with the conciliator having the discretion to extend that by two weeks if both parties agree that extra time may help resolution.
- During the Early Conciliation period, the time limitation for putting in a tribunal claim is paused (*see section below for details about the time limitation for lodging an Employment Tribunal claim).
- When the Early Conciliation period is over, the time limitation clock starts again, but **Acas conciliation** continues to be available.
- At the end of Early Conciliation, we will issue a Certificate with a number on it. That number is required to lodge an Employment Tribunal claim.

If the claimant goes on to lodge an Employment Tribunal claim (on form ET1), we will continue to offer a **free conciliation service** right up until the tribunal hearing to help parties try and find a solution, and avoid the cost time and stress of a hearing. We can provide conciliation after the hearing has started and up to the point a judgement is made.

Time limitation for lodging an Employment

Tribunal claim

Tribunal claims have to be presented within a certain amount of time, known as limitation periods, usually three or six months depending on the type of claim. For example, after being dismissed a person has three months from the date the employment ended in which to make a claim of unfair dismissal.

When someone notifies Acas of their intention to make a tribunal claim, the clock stops ticking on their limitation period. The clock starts again once Early Conciliation ends and extra time is added to ensure everyone has at least one calendar month in which to present a tribunal claim after Early Conciliation ends. However, if someone is already late for making a tribunal claim by the time they notify Acas, they will still be late when Early Conciliation ends as no adjustment is made in these circumstances; if an ET1 is lodged, the Claimant would have to rely on the tribunal's discretion to allow a late claim.

It is the claimant's responsibility to make sure that their claim is presented to the tribunal in time. Only a tribunal can decide whether the claim is in time or not; the conciliator cannot decide or advise on this point.

How does Early Conciliation work?

How is a notification for Early Conciliation made?

The quickest and simplest way to notify Acas is online using the form on our website: www.acas.org.uk/earlyconciliation. If you cannot access the internet, contact Acas' Early Conciliation support on 0300 123 11 22. Nine out of ten people who notify do so online as it's very easy.

The form asks for the names and basic contact details of the person intending to make a tribunal claim and the employer or individual they intend to claim against. Claimants need to ensure that the correct legal name of the organisation or person they want to claim against is given. If the name of the employer on a tribunal application does not match the name on the early conciliation notification form, the claim may be rejected by the tribunal. The correct employer name can usually be found on job offer letters, a contract of employment or a wage slip.

Is notifying Acas always mandatory?

The requirement to notify Acas applies to nearly all intended tribunal claims but there are a small number of exemptions. For example, where a group of people are making a tribunal claim against the same employer in the same dispute, if one person has already notified Acas, the others may not have to.

Further information about exemptions can be found on the Acas website (www.acas.org.uk/earlyconciliation) or in the tribunal leaflet "*Making a claim to an Employment Tribunal*" at (<https://hmctsformfinder.justice.gov.uk/courtfinder/forms/t420eng.pdf>)

People can try to resolve the dispute through Early Conciliation, even where an exemption exists.

What happens after an Early Conciliation notification?

First we send the claimant an acknowledgement. We quickly make initial contact to check the information provided, find out what the claim is about and explain the conciliation process. The timing and nature of subsequent contact will depend on the circumstances of the case, and preferences of the parties. The conciliator will only approach the employer or respondent after the claimant has agreed they want to participate in Early Conciliation.

For the period of Early Conciliation, Acas will talk to both the claimant and respondent (or their representatives) and try to find common ground to reach agreement. We will help both to understand the process of conciliation and what getting involved in a tribunal would involve. Our involvement takes out some of the emotion from difficult circumstances, and helps people to step back and think about how they could resolve the situation.

If contact with the claimant cannot be made, Early Conciliation is formally stopped, and the time limitation for lodging a tribunal claim restarts. However, the opportunity to participate in Acas conciliation remains available.

Do I need to be represented (e.g. by a trade union representative or a lawyer)?

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There is no obligation to have a legal (or other) representative if taking part in Early Conciliation or making a tribunal claim. If you appoint a representative to act for you, we can conciliate through them. A representative is someone of your choosing and could include a trade union official, a lawyer, or someone from a Law Centre or Citizens Advice Bureau.

Your representative has the power to 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 full authority to enter into an agreement on your behalf, and regularly keeps in touch so that you are aware of any progress.

What is the Early Conciliation Certificate?

If the Acas conciliator cannot get hold of either party; if either party (or their representatives) advise that they do not wish to take part in Early Conciliation; or if the conciliator believes that no resolution can be reached, the Early Conciliation Certificate will be issued.

When the Certificate is issued, the time limitation clock for lodging an Employment Tribunal claim restarts. However, Acas can continue to offer conciliation right up to the point of a claim being decided by the Tribunal.

Claimants must quote the unique reference number from the Acas Certificate on their tribunal application form as evidence that they have notified Acas of an intention to make a tribunal claim. A copy of the certificate is only sent to the employer or their representative if the Acas conciliator has had contact with them.

What happens when parties reach a resolution?

When a resolution is reached, the Acas conciliator will record what has been agreed on an Acas settlement form (known as a COT3). Both parties will sign this as a formal record of the agreement.

The COT3 is a legally binding enforceable contract, which means that the claimant will not be able to make a future tribunal claim

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in those matters, or, if a tribunal claim already has been lodged, it will be closed.

Lodging an Employment Tribunal claim

What happens when a claim is received?

If parties cannot reach an agreement through Acas Early Conciliation, the claimant may choose to proceed to a tribunal. They will complete the lodgement claim form (called an ET1), which will be copied to Acas and to the employer. We will offer conciliation services to both parties right up until the tribunal hearing and decision. Where the dispute was previously the subject of an Early Conciliation notification, the same conciliator will continue to offer support.

Will talking to Acas affect the tribunal process?

No. Conciliation is a confidential process and separate from tribunal proceedings. Tribunals base their decisions on an individual's application and the respondent's reply and on the evidence the parties give in the tribunal hearing. If conciliation is not successful a tribunal is not entitled to take this into consideration, and Acas does not share the content of conciliation discussions with anyone, not even an Employment Judge.

Acas conciliation and the tribunal process can run alongside each other. Even if a claim appears to be progressing towards a resolution it is important that both parties comply with any Orders that the tribunal makes. If a case were 'struck out' as a result of an Order being ignored, conciliation could not continue.

What are the possible outcomes of a tribunal claim?

If someone has made a complaint to an employment tribunal, there are a number of possible options:

- **Settling the complaint through Acas** - we can continue to conciliate in most claims about individual employment rights.
- **Settling the complaint privately.**
- **Withdrawing the complaint** - if someone has made a claim to a tribunal but no longer wishes to continue with it, they should withdraw it by writing to the tribunal. This should be done without delay, as the tribunal may award costs if they think someone has acted unreasonably.
- **Having the complaint decided by an arbitrator** - if both parties agree, certain complaints can be decided by an independent arbitrator appointed by Acas. For more details ask your conciliator.
- **Having the complaint decided by a Judge** – if the complaint proceeds to the Employment Tribunal, the case will be heard in public and the decision made by the Judge. You can get information explaining tribunal procedures from HMCTS, Citizens Advice Bureaux and Law Centres.

Where can I get more advice and information?

Acas conciliators can help you identify sources of advice and information appropriate to your situation. Alternatively, 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 or defence to the tribunal. See www.acas.org.uk/helpline

The **Equality Advice and Support Service** 0808 800 0082 can give free help and advice relating to equal pay and discrimination in employment. See www.equalityadvisoryservice.com

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

Citizens Advice Bureaux, lawyers, 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** on 0300 1231024 (England & Wales) and 0141 3548574 (Scotland) for information about how tribunals work. They cannot give legal advice. See also www.justice.gov.uk/tribunals/employment

General Data Protection Regulation 2018

If you are party to a conciliation case, 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, Energy and Industrial Strategy (BEIS) to assist in research into the use and effectiveness of Acas.

...and finally

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

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

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

Complaints - Delivery Directorate
Acas National
Euston Tower
286 Euston Road
London NW1 3DP

Email: complaints@acas.org.uk

Keep up-to-date and stay informed

Visit www.acas.org.uk for:

- Employment relations and employment law guidance – free to view, download or share
- Tools and resources including free-to-download templates, forms and checklists
- An introduction to other Acas services including mediation, conciliation, training and arbitration and the Acas Early Conciliation service
- Research and discussion papers on the UK workplace and employment practices
- Details of upcoming Acas training courses, conferences and events

Sign up for the free Acas e-newsletter:

The Acas email newsletter is a great way of keeping up-to-date with changes to employment law and to hear about upcoming events in your area. Find out more at: www.acas.org.uk/subscribe

Acas e-learning. Our e-learning covers a range of employment relations topics and can help you understand both best practice and current legislation. Our e-learning is free to use and can be accessed directly on our website:

www.acas.org.uk/elearning

The Acas Model Workplace. This engaging and interactive tool can help you diagnose employment relations issues in your workplace. The tool will work with you to identify areas of improvement you could consider and will point you toward the latest guidance and best practice:

www.acas.org.uk/modelworkplace

Acas Helpline. Call the Acas helpline for free and impartial advice. We will provide you with clear and confidential guidance about any kind of dispute or query that you have about relationship issues within the workplace. You may want to know about employment rights and rules, best practice or you may need advice about a dispute. Whatever it is, our team are on hand. Find out more: www.acas.org.uk/helpline

Look for us on:

Facebook - <https://www.facebook.com/acasorguk>

LinkedIn - <http://linkd.in/cYJbuU>

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Twitter - <http://twitter.com/acasorguk>

YouTube – <https://www.youtube.com/user/acasorguk>