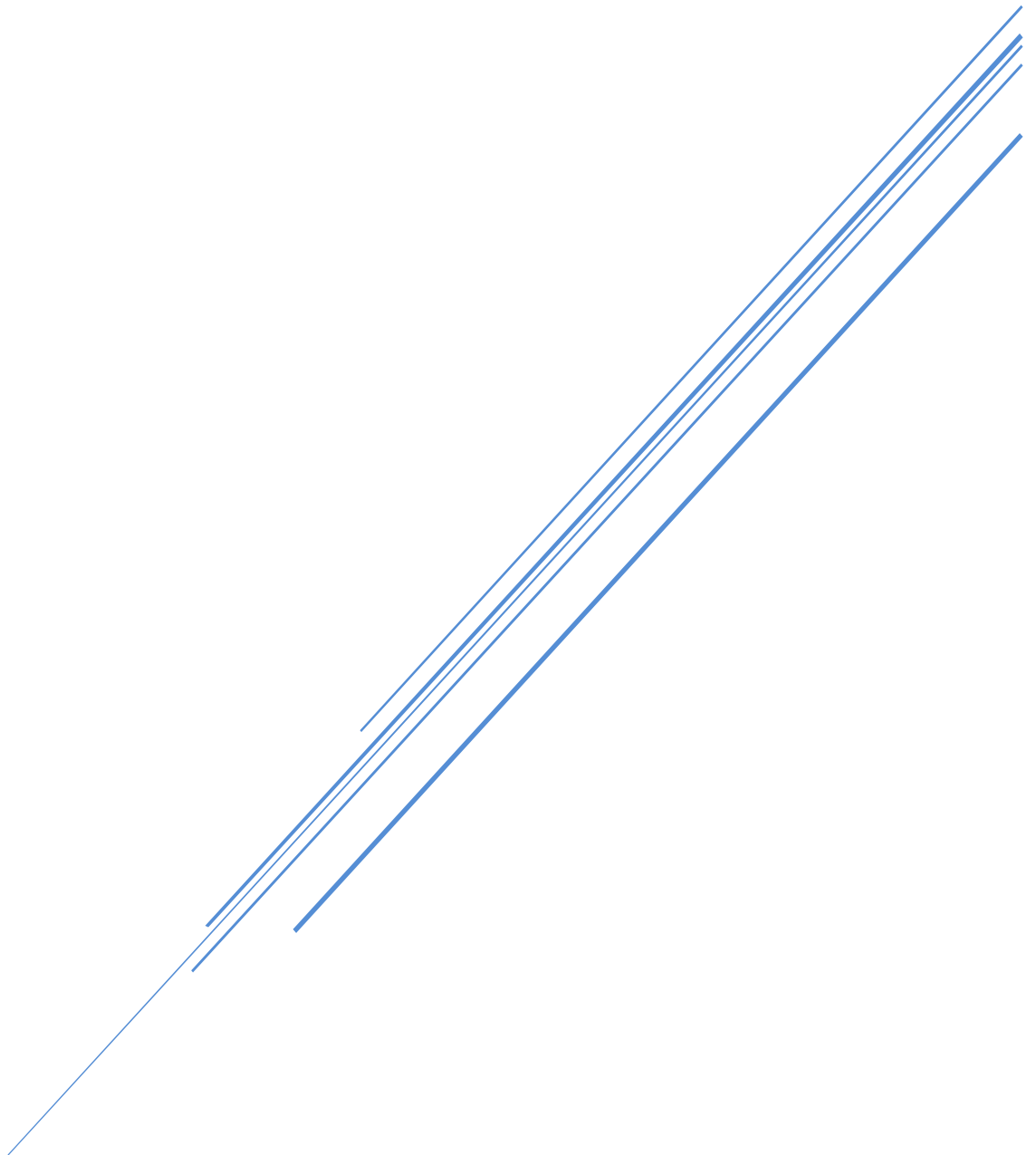


LITIGANTS IN PERSON

EMPLOYMENT TRIBUNAL: THE PROCESS OF
BRINGING A CASE



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Disclaimer

This document is produced by law students of the Open University to provide information on the process to bring a claim to the Employment Tribunal. The information in this document is provided for general information purposes only. All information in this document is provided in good faith. However, we make no representation or warranty of any kind, express or implied. We assume no responsibility for any errors or omissions in its content.

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Key interpretation

For the avoidance of doubts and the ease of understanding, the following rules of interpretation will apply to this document.

The terms “employee(s)”, “applicant(s)” and “claimant(s)” mean the person(s) who wants to lodge a claim to the tribunal.

The terms “employer” and “respondent(s)” mean the person(s) or the company or the organisation that is on the defensive side of the claim.

When the context permitted, the use of the “he” shall include the feminine and/or neuter genders.

When the context permitted, the use of singular includes the plural, and vice versa.

ETA means Employment Appeal Tribunal

Summary

When employees have a problem at work, if possible, they should try solving the problem by raising a grievance at work or talking to their line manager. However, if it has not worked, then the employees need to think about whether the problem is something they can take to an employment tribunal. They can contact their nearest [Citizen Advice](#) for advice. For example, an Employment Tribunal can help if they have been denied a right that they are entitled to or if they have been dismissed or treated unfairly.

Before a claim can be submitted to the Employment Tribunal, the employees must contact the Advisory, Conciliation and Arbitration Service (ACAS) that they intend to make a claim to that tribunal. The ACAS will try to resolve the problem through their [early reconciliation service](#) and hopefully, the employees and the employer can come to an agreement or a settlement so that no one has to go to the tribunal. If it does not work, the employees can then choose to take the case to the tribunal.

Employees MUST submit their case to ACAS within 3 months of the date of the event that they are complaining about. If they are claiming statutory redundancy pay or equal pay, they MUST submit their case within 6 months of that date. The timeline for both the early conciliation and the Employment Tribunal claim is the same, however, the time that they spent in ACAS will be credited back to them if they are bringing the case to the tribunal. So, if they have submitted the case in time for the early reconciliation, they will also have enough time to claim the case in the tribunal as the employees can claim the time they spent with ACAS back. However, if they missed the deadline for the early reconciliation, then they will not be able to submit their claim to the tribunal.

Once the early reconciliation process is finished, the employees will either have settled the claim with their employer; or they could not come to an agreement. If they could not come to an agreement with their employer, then they can proceed to the [tribunal claim](#). The tribunal will decide whether they will need a full hearing or not.

Before the tribunal hearing, depending on the nature of the case it is possible to have a [judicial assessment](#), where the parties can ask a judge to review their case and provide an early impartial and confidential assessment of the strengths and weaknesses of their respective claims. Therefore, it is possible to settle the case before the hearing.

In addition, the ACAS is open to the parties to agree to Judicial Mediation at any time, which means ACAS will be there to assist if the parties want to settle the dispute without involving the tribunal.

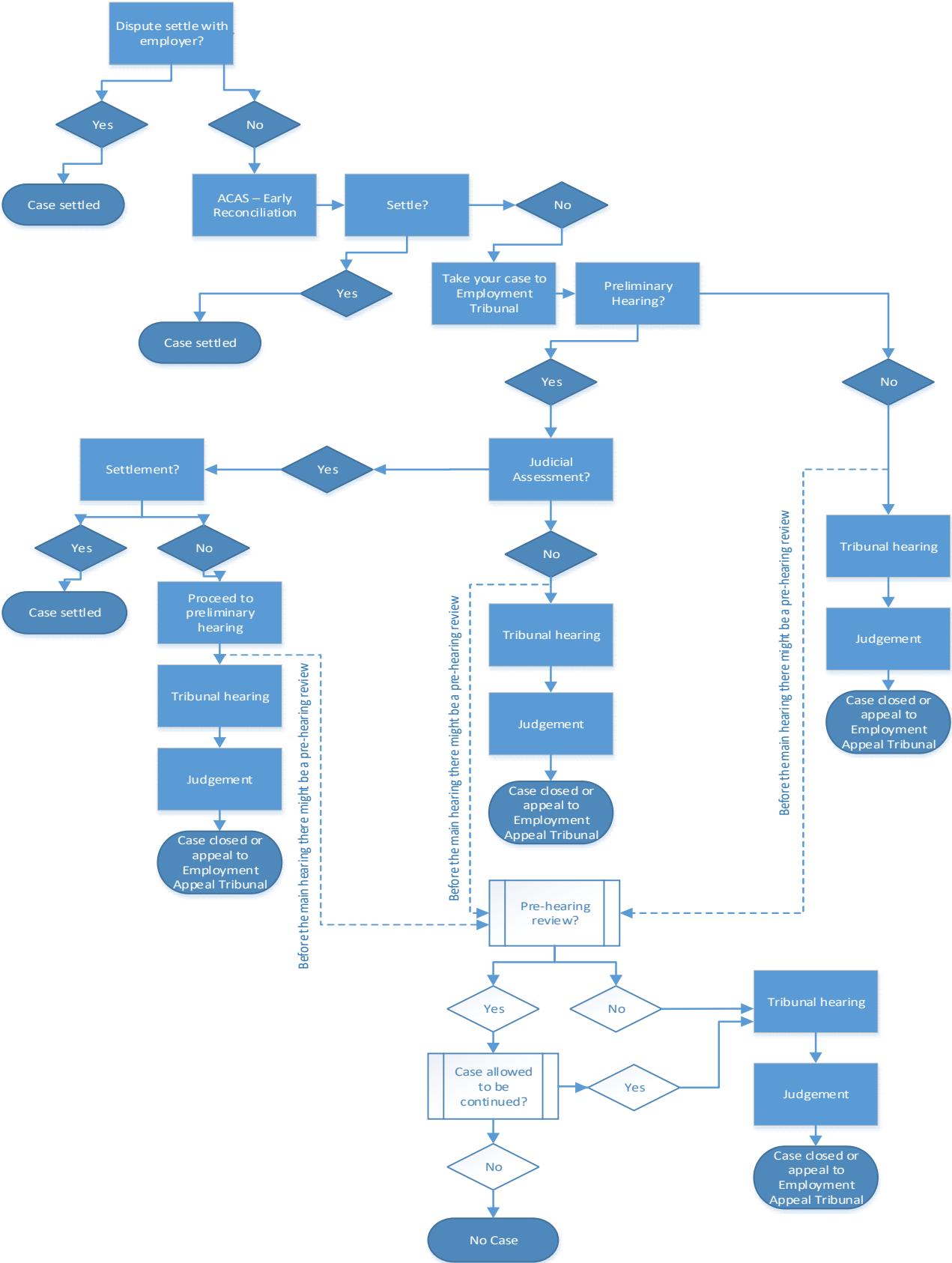
Litigant in Person

Employment Tribunals are set up for ordinary employees to appear on their own and many people do not have a representative. Tribunals are used to people appearing without a representative. Employees can always get free advice from different organisations such as the [Citizens Advice Bureau](#). They are able to provide advice so that the employees can prepare their case. More detail on such organisations is contained [here](#).

This document will go through the whole process of bringing a case to the Employment Tribunal.

Making a claim through the employment tribunal

Flowchart – Walking through the process



Procedure Overview

How to make a claim (Overview)

1. Employees usually have 3 months minus 1 day to make their claim.
2. Before making a claim through the employment tribunal, the employees must tell the Advisory, Conciliation and Arbitration Service (ACAS) that they intend to make a claim to the tribunal.
3. They should then be offered a chance to try and settle the dispute without going to court.
4. The service provided by [ACAS \(Early Conciliation service\)](#) is free.
5. The time the employees spend in ACAS does not affect the total time left to make a claim. Which means the time they spend in ACAS does not count. If early conciliation does not work for the employees, ACAS will provide them a certificate to discount the time they spend with ACAS.
6. Starting a claim with a completed [claim form](#). Information must be completed. Here is the link -
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765199/et1-eng.pdf
7. The completed form can be submitted online or by post. Or to submit online, go to www.gov.uk/employment-tribunals/make-a-claim
8. Follow the link to fill out the form, then submit online. To submit the form by this link provided different postal addresses that close to the employee.
<https://www.gov.uk/guidance/employment-tribunal-offices-and-venues>
9. Submitting a tribunal claim is free of charge.
10. After a claim has been submitted, there should be a reply in writing within 28 days.
11. Then the Employment Tribunal will be decided whether there will be a full hearing for the case. There is more information here referring to after submitting a claim:
<https://www.gov.uk/employment-tribunals/after-you-make-a-claim>

Before submitting a Claim

This section will explain the process before an employee can submit his claim to an employment tribunal. This will include:

- What is early conciliation?
- Who needs to go through early conciliation?
- What happen during the early conciliation process?
- What happen after the early conciliation process?

Early Conciliation

Before making a tribunal claim, employees have to go through the process of “early conciliation” through ACAS. This process allows the two sides in a legal dispute try to reach an agreement before the case is submitted to the tribunal.

Each side can tell the other what they want through ACAS. This could be a financial settlement in return for which they will agree not to go to a tribunal, or this could be that the employees might want the way they are being treated by their employer to change.

There is no need to start early conciliation with ACAS if:

- 1) The employee is a part of a group that is making a claim together and he or she is included in this claim and one of the other people has already contacted ACAS.
- 2) The employee is asking for ‘interim relief’ - to be paid or kept on when he or she has been dismissed in some specific case.
- 3) The employee works for the security services

Before they Start Early Conciliation

If the employees do not know how much their case is worth or how strong it is, they should get advice, for example from their nearest [Citizens Advice](#).

Make sure the employees have the relevant documents and dates such as the contract of employment, the date of the event that being complaining about and any emails or other records that have been exchanged with their employer about it. If they can, make a note of what has happened in date order.

Starting Early Conciliation As Early As they Can

Early conciliation must be started within 3 months minus 1 day from the date of the event that is being complaining about. If employees are claiming statutory redundancy pay or equal pay, the deadline is 6 months minus 1 day.

To miss this deadline, means that any tribunal claim will be late and the employees will lose their right to make a claim.

If early conciliation does not lead to an agreement, the employees will get their time back from the early conciliation process, so that they will have enough time to submit their claim through the Employment Tribunal.

For example, if the employee gets the early conciliation certificate on 1 February and the original deadline is 3 March - more than 1 month away. If early conciliation takes 11 days, the employee can get the tribunal claim in by midnight on 14 March.

If the original deadline has passed or is 1 month or less away when the employee gets the certificate, add 1 month to the date when from the date of the receipt of the early conciliation certificate. That is the new deadline.

For example, the original deadline is 6 October. The early conciliation certificate received on 17 September. The deadline of a tribunal claim is midnight on 17 October.

Starting early conciliation

To apply for early conciliation, the employees can fill in the early [conciliation notification form](#) on the ACAS website. The only details that they have to give is their and their employer's name and address. There is no need to say what the dispute is about. <https://ec.ACAS.org.uk/Submission/Create>

Employees MUST put the correct legal name of their employer for example, if they have 'LTD' or 'Limited' at the end of their name, they will be a company and they can check the [Companies House information](#) on GOV.UK <https://www.gov.uk/get-information-about-a-company> . They can also check the payslips, any letters or emails they have had from the employer, their website or ask their colleagues.

If the employees claim against more than one person or company, just add their names in.

If they have got a discrimination claim, it can be against the employer and whoever discriminated against the employee.

The names MUST be right. The tribunal will reject the claim if the names on the tribunal claim form and the early conciliation certificate do not match.

The employee will get an automated email acknowledgement after the submission of the early conciliation notification form. Make sure to keep a copy it as it will be needed for contacting ACAS.

The employees can also call ACAS if filling in an online form does not suit them.

ACAS early conciliation team

Telephone: 0300 123 1122

Monday to Friday, 8am to 6pm

Calls cost 12p a minute from a landline, and from 3p to 45p a minute from a mobile.

Keep a note of the date of the call and the name of the person to whom the employee spoke. They will fill in the form over the phone for the employee.

What happens during early conciliation

A conciliation officer will be assigned to work with the employees to resolve the case and the conciliation office will contact them to explain the process.

The conciliation officer will discuss with the employees about the problem and if they want to settle the dispute. If they want to settle the dispute, the conciliation will contact the employer to start the process of trying to reach a settlement.

The conciliation officer is impartial, and they are there to try to resolve the problem and to avoid a tribunal claim. They might assess the strengths and weaknesses of the case of each side and tell the employees if their expectations about compensation are realistic. The officer will pass on any offer the employer makes.

However, the officer will not give out advice on how to win the claim if the employees cannot reach a settlement. He will not tell the employee if he thinks there is a claim that the employees have not identified themselves or if there is a better way to argue the case.

If the employees do not want to try to settle the dispute, the conciliation officer will send them the early conciliation certificate. They can then make an employment tribunal claim.

The officer will also send them the certificate if he cannot get in touch with the employee or the employer.

Considering an offer to settle

A 'settlement' might be offered by the employer to the employee. If the employee decides to take it, he will end the conciliation process and will not be able to go to an Employment Tribunal.

If the employee does not think the settlement offer is reasonable, he could ask the employer to increase it, or decline the offer and go to a tribunal.

Contact the nearest [Citizens Advice](#) if the employee needs help deciding whether to accept or decline the employer's offer. <https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/contact-us/>

If an agreement cannot be reached

An early conciliation certificate will be issued to the employee if an agreement cannot be reached between the employee and the employer. The best way is to have the certificate sent to the employee's email so there is no doubt as to when the employee will receive it.

The employee should check the certificate for:

- 1) both the employee and the employer's names and addresses
- 2) the date of the first contacted ACAS
- 3) a unique reference number – this is needed for the tribunal claim form
- 4) the date ACAS sent the certificate
- 5) a statement saying how the certificate was sent to the employee i.e. by post or email

If any of these things are missing or incorrect, contact the relevant ACAS conciliation officer.

If an agreement is reached

The ACAS conciliation officer will write up what have been agreed on a form called a COT3.

The employee needs to be sure what he is agreeing to or to get advice if he is unsure about the agreement before agreeing to a COT3 agreement. Once both parties agree to it, they will have to keep to it - even if they have not yet signed the agreement.

If the employee agree to the sum being offered but has not had time to discuss all the other terms in the agreement, he must tell ACAS that he is not agreeing to a binding agreement until all the other terms have been agreed - for example, if he has not yet agreed on the wording of the reference.

Contact the nearest Citizens Advice if the employee needs advice on a COT3 agreement.

Bringing a claim to the Employment Tribunal

This section will explain what is needed for an employee to make a claim to the Employment Tribunal. This includes:

- What important documents the employee will need for the claim?
- Information on how to fill out the form.
- Where to get help or advice?
- What happen before the tribunal hearing?
- What are the preliminary hearing, judicial assessment, case management review and pre-hearing reviews?

Important to know

- 1) The employee must identify the issue with the claim e.g. discrimination, or unfair dismissal etc. It is important that he can verify the claim. The tribunal will investigate the claim. Keep a journal of the events to support the claim e.g. relevant correspondences such as emails, phone logs

- 2) Fill out the claim form. The form must be completed.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765199/et1-eng.pdf
- 3) The ACAS certificate number will be needed. This should have been obtained from the Early Conciliation service. It can be found on the ACAS certificate or the employee can call ACAS on 0300 123 1100
- 4) The employee can make a claim jointly with other employees if it is under the same circumstances from the same respondent.
- 5) If the employee knows that there is a similar claim against the same employer, then he will need to put it in the form under section 3.
- 6) If the employer is not the actual employer, the employee will need to provide the type of the claim in Section 4. In this case he will not need to fill out Section 5,6 & 7.
- 7) If the respondent is not the employer, then fill out Section 5,6,&7. This will all be about the employee's employment information.
- 8) In Section 8, the employee will provide the detail of the claim.
- 9) The employee can also submit a claim against more than one respondent e.g. both the supervisor and the manager.
- 10) The employee needs to make sure the whole form out is filled out.

Judicial Assessment

If both sides agree, the Employment Tribunal can provide Judicial Assessment free of charge, in which the parties can ask a judge to review their case and provide an early impartial and confidential assessment of the strengths and weaknesses of their respective claims.

This service is only available where a [preliminary hearing](#) for case management has been listed. If the claim is listed for a case management preliminary hearing, the tribunal will normally ask both sides to complete a case management agenda and return it to them in advance of the hearing. This form will ask the both sides to confirm whether or not they are interested in judicial assessment.

The judge will not hear any evidence and will only review the case purely from the papers on the file, which will include the claim form and response.

The judge will not get involved in settlement discussions, and if the case does not settle, a different judge will hear the case.

Judicial assessment may lead to an early settlement of the proceedings but if it does not facilitate a settlement, the case will continue.

The judge will undertake the assessment if all parties agree to it and if there is sufficient time to do so. The process is not expected to last more than two hours and the judge's findings will be presented immediately afterwards.

The judge's decision is not binding, and their notes will be removed from the file so they will not influence any other Judge looking at the file. In addition the Judge who conducted the assessment will not hear the case if it proceeds to a final hearing.

The assessment is confidential, which means no one can refer to it in open correspondence or at the final hearing.

If the judge provides a positive view of the strength of the employee's case, he can use this to try and get a settlement and avoid the time and cost of a tribunal hearing.

The service is likely to be particularly helpful if one side is being difficult or unrealistic in their approach to settlement (a situation that can frequently occur where the employee is unrepresented). If one side is of the view that their case is stronger than the facts suggest, then the viewpoint of an impartial judge may inject a dose of realism.

Settle before the preliminary hearing

In some cases, a settlement may be reached at the Judicial Assessment. Any settlement will be recorded by one of the following means:

- 1) ACAS COT3;
- 2) Formal settlement agreement between the parties;
- 3) Consent judgment by the Tribunal;
- 4) Conditional withdrawal and dismissal of the claim upon payment within an agreed period.

If the case does not settle in the judicial assessment, the case will proceed as ordered at the case management hearing. The Employment Tribunal judge will not normally be involved in any part of the proceedings which may entail a final determination of the parties' rights, but the Employment Judge may conduct any subsequent judicial mediation and is not precluded from the day to day case management including any further case management hearing.

It is still open to the parties to agree to Judicial Mediation, if offered. The services of ACAS are available to the parties at any time.

More information can be found on: <https://www.judiciary.uk/wp-content/uploads/2013/08/presidential-guidance-rule-3-judicial-assessments.pdf>

Preliminary Hearing

A preliminary hearing does not happen for every case. There are usually a preliminary hearing or more than one preliminary hearings when the case is complicated or involves discrimination. They take place before the main Employment Tribunal hearing. It helps the judge to understand the case and to make arrangements for the main hearing.

At a preliminary hearing, the judge might do one of the followings:

1. decide when the main Employment Tribunal hearing will be
2. discuss specific parts of the case
3. decide whether any of the claims or the employer's responses should not be discussed at the main hearing (this means that they are 'struck out')
4. agree for a Judicial Assessment to take place (an informal assessment of the case before the main hearing)

If the case has a preliminary hearing, the employee will receive a letter to explain what will be discussed in the preliminary hearing.

The date of the main Employment Tribunal hearing will be agreed at the preliminary hearing. It is important that the employee tells the judge about any dates when he or any witness is not available.

In less complex cases, the tribunal will usually issue standard written instructions about case management when the notice of final Hearing is sent out to the parties.

Before the tribunal hearing

You might have a case management discussion or a pre-hearing review as part of the preparation of your case.

Case management discussion

A case management discussion is an informal hearing before the main hearing. It might be done in person, or over the phone. Both parties, and/ or the representatives, and the tribunal judge attend a case management discussion. The discussion will be about how the case should be run, and the timetable for the case. A case management discussion will decide things such as:

- what the issues in the case are
- what orders should be made about documents and witnesses
- how long the full hearing should be, and when it should happen.

Pre-hearing review

A pre-hearing review is a short hearing before the main hearing happens. The tribunal might decide that there will be a pre-hearing review, or either parties can ask for one as part of the case preparation.

At the pre-hearing review, there will usually be the tribunal judge, with both parties, and / or the representatives. It will decide things such as:

- whether part of the case is to be struck out. This means that if the judge feels that part of the case is weak, they will not allow it to continue
- making a decision about any crucial issues to the case, that would mean that the case would not be able to continue if they were not proved. For example, this might be proving that the employee has a disability in a disability discrimination case.

In a few cases, the tribunal might say that either of the parties has to pay a deposit. This would be if the tribunal feels that either of the parties' case does not have a reasonable chance of success. But this does not happen very often, and if the tribunal do this, they should take into account the financial situation of the employee.

Tribunal Hearing

This section will explain what will happen in the tribunal hearing. This will include:

- Who will be deciding on the case?
- What is the make-up of the tribunal panel?
- What will happen during the hearing?
- What to prepare for the hearing?
- The etiquette during the hearing.
- What will happen after the hearing?
- What compensation will be awarded?

Tribunal panel

There are three members of the tribunal who will decide on the case. Together, they are called the tribunal panel. They are an employment judge who will run the proceedings, a person representing employer's organisation and a person representing employee's organisation. Some types of cases and some types of hearings can be heard by an employment judge without the panel members.

The atmosphere of the hearing is like a court but slightly less formal. For example, nobody wears wigs or gowns, but evidence is taken on oath and there are rules about what happens and who speaks when. The parties can address the tribunal members as Sir or Madam.

The hearing

The panel members will introduce themselves. The judge will decide which side goes first. In an unfair dismissal claim, the employer usually goes first. In a discrimination claim, the employee usually goes first. Sometimes each side will be invited to make an opening statement to the tribunal about their case, although this doesn't happen very often.

The employee's turn

If the employee starts first, he will usually start by reading out his witness statement. After he has finished reading the statement, the employer or their representative can ask him questions about what he has said. This is called cross-examination. The employee should make sure that he understands the questions and answer them honestly. The tribunal judge may also ask questions at any time and will often take over the running of the hearing. Sometimes being cross-examined can be difficult because the employer is trying to prove that the employee's case is wrong. The employee should try to keep calm, take his time and answer honestly, and ask if he does not understand something.

After the employer has finished cross-examination, the employee's representative, if they have one, may ask a few more questions. This is called re-examination. But normally the employee will have finished most of what they have to say.

The employer's turn

It is then the employer's turn to call their witnesses to read out their statements. After they have read out their statements, the employee will be given a chance by the judge to ask any questions to the witnesses. For the cross-examination, if the employee does not have a representative, the judge will ask if he has got any questions to ask the witnesses. This is a good chance to ask them about anything that seems unclear or where there are differences in the evidence. These could be either between what the witnesses are saying, or what the witnesses and the documents are saying.

It is important to question anything the witness has said that the employee do not agree with. If there are differences in the evidence, it is often a good idea to get one witness to confirm very clearly that what they have said is true. Then ask them to look at the evidence, which is different, and ask them to comment on it. If what they are saying is definitely true, then the evidence in the document or the other witnesses' statements must be false.

The point of asking these questions is to show the tribunal more evidence to back-up the employee's case. There is no need to get the witness to admit they are wrong.

Be mindful that the employee might feel angry towards the employer, but take care not to be rude or aggressive, either towards the employer or to any of their witnesses as it might damage the case.

The employee is advised to think about what he wants to ask each witness before the hearing when he gets the witness statements from the employer. He can also make a note of anything extra he wants to ask while they are reading out their statement.

After all the evidence has been heard

After all the evidence has been heard, the tribunal will usually ask if the employee would like to make some more comments. These are called closing submissions. It is a good idea to prepare something to say. A submission gives the employee an opportunity to sum up the evidence that the tribunal has heard, make legal arguments and explain why he thinks the tribunal should find in his favour.

If the employee does not understand the law, it is best not to attempt to make complicated legal points. Most cases do not involve difficult or unusual points of law, and tribunals will get irritated if he spends a lot of time talking about irrelevant issues. Presenting the facts as clearly as possible is the most important thing the employee needs to do.

Closing of the hearing

After the closing submissions, the tribunal panel will tell the employee what happens next. They will need to make their decision. Sometimes they do this on the day, and other times they will take more time and send it to the employee at a later date.

If they are going to make their decision that day, the tribunal panel will leave the room to decide and tell the employee their decision when they come back. If they take more time, they will send the decision to him in writing later.

Tribunal Decision

When the employee gets the decision from the employment tribunal about his case, if the tribunal panel deliver their decision in person, the employee should ask them to explain if there is anything he does not understand.

If the tribunal give their decision later on in writing, there may be an organisation which can help the employee to understand it.

For details of organisations which may be able to help employees with a claim to an employment tribunal, see this page from [Citizen Advice](#).

If they won the case

If the employee has won the case, the tribunal might take a break to allow both parties to try to agree a settlement. It can be good for both sides to agree a settlement, even at this stage. For example, the employee might be able to use the fact that he has won the case to get the employer to agree to give him a reference, as well as some money.

But if the parties cannot reach a settlement, the employee can go back to the tribunal for them to make the compensation award. This might happen on the same day as the hearing, or it might be a separate hearing.

Compensation award

If the employment tribunal decides that the employee should get compensation, they will do the sums and make an order for how much the employer should pay the employee, and when this should be paid by. If the employer does not pay out what have been awarded, they might have to pay a financial penalty to the Secretary of State, on top of what they have been ordered to pay out to the employee.

If the employer does not pay up, the employee may want to get more advice from [Citizens Advice](#) about what to do.

Appeal to the Employment Appeal Tribunal (EAT)

The employer is making an appeal

It is possible that the employer will apply for either a review of the decision or make an appeal. This means that they might ask for the tribunal to look at their decision again, or for the case

to be looked at by a higher court called the Employment Appeal Tribunal. If this happens, it might take a long time for the case to be finished.

Cases that go to the Employment Appeal Tribunal can get very complicated and involve difficult legal arguments. If the employee is in this situation, he should try to get advice.

He can get advice from a local Citizens Advice. To search for details of the employee's nearest CAB, including those which give email advice, click on [nearest Citizens Advice](#).

The employee is making an appeal

The employee can appeal to the EAT if he thinks a legal mistake was made in an employment tribunal case. EAT is independent of government and will listen to both sides of the argument before making a decision. The employee is eligible to make an appeal if the Employment Tribunal:

- got the law wrong
- did not apply the correct law
- did not follow the correct procedures and this affected the decision
- had no evidence to support its decision
- was unfairly biased towards the other party

However, making an appeal can be complicated, the employee should get advice from their nearest [Citizens Advice](#).

Or Contact EAT on:

EAT public enquiry line

Telephone: 020 7273 1041 (England and Wales)

Telephone: 0131 225 3963 (Scotland)

The information above is subjected to the location of the employees in the United Kingdom, if they are located in Scotland, the link below is the Citizen Advice web page for Scotland. <https://www.citizensadvice.org.uk/scotland/work/problems-at-work/employment-tribunals/preparing-an-employment-tribunal-case-s/>

FAQs

Employment Tribunal FAQ

1- What do Employment Tribunals do?

Employment Tribunals make decisions to resolve legal disputes between employers and employees in accordance to employment law. For example, unfair dismissal, discrimination, redundancy, equal pay and unlawful deductions of wages.

2- Do the employees have to pay fees to access Employment Tribunals Now?

No. As of July 2017, the Supreme Court concluded that fees in respect of Employment Tribunal and Employment Appeal Tribunal proceedings were unlawful. Therefore, the service is now free of charge.

Rules 11 and 40 mentioned the rejection of a claim where a fee or remission application has not been submitted. After the Supreme Court judgment in [Unison v Lord Chancellor \[2017\] UKSC 51](#), Rules 11 and 40 are no longer in force.

3: Can individuals who did not bring claims because of the impact of fees now bring claims even if these are out of time?

Tribunal claims usually must be brought within 3 months of the issue being complained about. The tribunals is very strict on time limits and they can only extend the limitation period if employees have contacted ACAS under the early conciliation process, and can demonstrate that it was “not reasonably practicable” to have issued on time in relation to the claims or it was “just and equitable” to extend time in respect of the claims. Tribunals have, in the past, accepted explanations and extended time for discrimination cases, However, extending time for unfair dismissal claims is, notoriously difficult.

An employee seeking to bring a time-barred case will have to provide robust evidence as to the reason why he or she did not bring a claim at the time.

The Supreme Court’s said that employees were in disadvantage and could not be expected to be able to pay fees if paying the fee for them meant sacrificing ordinary and reasonable expenditure needed to maintain an acceptable standard of living. The Supreme Court also said that even the employees could afford the fees, it would have been pointless to bring claims where the amounts in dispute were modest and that no reasonable person would risk

losing the fee to recover them. Therefore, it is not impossible to bring a time-barred claims. Ultimately, the tribunals will need to decide if they will accept the delayed claims. However, if employees do wish to bring time-barred claims, they will have to do so quickly; any new delay will be scrutinised in detail and will make the process much more difficult, a notable case

4: Can employees get legal aid?

Employees may be entitled to a legal aid if it is subject to the claim they are bringing, before they make a claim, they can get legal help and advice on aid.

If the employees live in England and Wales they can call the following telephone numbers, please note that calls may incur charges.

Employment Tribunal customer contact centre

Telephone: 0300 123 1024 (England and Wales)

Telephone: 0300 303 5176 (Welsh language)

Textphone: 18001 0300 123 1024 (England and Wales)

Telephone: 0300 790 6234 (Scotland)

Textphone: 18001 0300 790 6234 (Scotland)

For information on legal aid in [Scotland visit Assistance by way of representation in civil proceedings \(ABWOR\)](#) click [here](#) or use the link below
<https://www.slub.org.uk/providers/handbooks/Civil/part3chp3>

5- Are employees required to contact ACAS before they lodge a claim?

In most cases, before an employee can make a claim to an Employment Tribunal, they must get in touch with the Advisory, Conciliation and Arbitration Service (ACAS) to start the mandatory 'early conciliation'.

It only means that the employee needs to contact ACAS. This does not mean that they must enter into conciliation talks with their employer.

If either party refuses to enter into conciliation talks, the employee can bring the claim to an Employment Tribunal. ACAS will provide a certificate with an early conciliation number, which is required to make a claim to the tribunal.

6-Are there time limits for submitting claim to an Employment Tribunal?

Yes. There are strict time limits employees need to adhere to. Employees MUST submit their case to ACAS within 3 months of the event that they are complaining about. If employees are claiming statutory redundancy pay or equal pay, they MUST submit their case within 6 months. If an employee does not bring a claim within the specified time period, this means the Tribunal cannot hear the claim unless an extension is granted.

7- How long do employers have to respond to a claim?

If the claim is accepted, the Employment Tribunal will send each party a copy of the claim form and an ET3 form for the employer to respond to the claim. Employers are required to respond within 28 days of the date that the form was sent to them by the Tribunal.

8-Will someone speak for me at the employment tribunal?

No. if the employee does not have a solicitor or a representation, then he will have to speak for himself. However, if his representative will normally do all the case preparation and represent him at the tribunal. Usually, he will still have to speak at the tribunal to give his evidence.

If the employee cannot find a representative, he can absolutely attend the tribunal without one, Employment Tribunals are set up for ordinary employees to appear on their own and many people do not have a representative.

To find out more about having a representative at an employment tribunal hearing, follow the [link](#) below.

<https://www.citizensadvice.org.uk/work/problems-at-work/employment-tribunals/employment-tribunal-hearings/#h-will-someone-speak-for-me-at-the-employment-tribunal->

9- What is the difference between an adviser and a representative?

An adviser is someone who can assist the employee with the case behind the scenes. An adviser will not talk directly to the employer or formally represent the employee. Having an

adviser means that the preparation of the case is the employee's responsibility, and the adviser will be there helping along the way. The employee must keep in contact with the adviser, in particular any updates regarding the case such as letters, emails or phone calls. This is the only way for the adviser to assist with the case. When a date for the hearing is set, the employee must contact the adviser immediately to avoid delay in preparation for the hearing.

A representative is someone who will be named on the tribunal claim form. They will take responsibility for the preparation of the case and act as the employee's representative in the tribunal. Usually, the employee will still have to speak at the tribunal to give evidence. All contact about the case will go to the representative, and they will get in touch with the employee when they need to. The employee will need to let the representative know if he or she is going away, for example, on holiday.

An adviser or a representative may have to withdraw from the case at any stage. This can be for different reasons. For example, it may be because it is easier for a busy representative to prepare cases when they are on the record, or that they can only see how strong the case is after certain procedures are done. If this comes up, they will discuss the situation with the employee.

10- Can the employee bring someone to the tribunal hearing for support?

The employee can bring friends or family with him for support. The friends and relatives will be able to sit behind the employee in the tribunal room, but they must be quiet and never interrupt the tribunal.

If the employee have a representative and he needs to speak to the representative during the case, write down what he wants to say on a piece of paper and pass it to the representative.

11- What can the Employment Tribunal decide?

Depending on the nature of the claim, possible outcomes employer may be ordered to pay compensation, reinstate or re-engage the employee, make a declaration or repay what is owed.

For example, when dealing with claims of unfair dismissal, an order to reinstate the employee (give them their job back) or re-engage them (get a job with the same employer or associated

employer) can be made, but this is rare. In most cases, an order to pay compensation will be made.

In cases of unlawful deduction of wages, they can make a declaration and order the employer to repay what was unlawfully deducted.

12- How much compensation can the employment tribunal award?

In cases of discrimination, there is no cap on the compensation that can be awarded for successful discrimination claims. The compensation that an Employment Tribunal may award may cover not only financial loss, but also personal injury and 'injury to feelings'.

When dealing with unfair dismissal, it will consist of a basic award and a compensatory award. The total cap for compensatory awards is currently capped at £83,682.

You can discuss the compensator award further with the Employment Law adviser, or if they do not have one, contact [Citizen Advice](#).

13- What relevant legislation governs the Employment Tribunal?

Employment tribunal procedure rules on how cases are handled in employment tribunals, from starting a claim to what happens at a hearing, are The [Employment Tribunals Rules of Procedure 2013](#) (as amended). See below full web address:

<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>

The document contains detailed legal rules on starting a claim, responding to a claim, contract claims, case management orders, hearings, withdrawing cases, the tribunal's decision, costs orders, and delivering documents. It has been updated to include recent changes to the law, to help users.

Sources:

<https://elliswhittam.com/blog/employment-tribunal-faq/>

<https://www.citizensadvice.org.uk/work/problems-at-work/employment-tribunals/employment-tribunal-hearings/#h-will-someone-speak-for-me-at-the-employment-tribunal->

<https://www.citizensadvice.org.uk/work/problems-at-work/what-help-can-i-get-with-a-problem-at-work/#h-what-s-the-difference-between-an-adviser-and-a-representative->

<https://www.citizensadvice.org.uk/work/problems-at-work/employment-tribunals/employment-tribunal-hearings/#h-will-someone-speak-for-me-at-the-employment-tribunal->

<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>

<https://www.gov.uk/employment-tribunals>

Sample Form

Claim form

Official Use Only			
Tribunal office			
Case number		Date received	

You must complete all questions marked with an *****

1 Your details

1.1 Title Mr Mrs Miss Ms

1.2* First name (or names)

1.3* Surname or family name

1.4 Date of birth / / Are you? Male Female

1.5* Address

Number or name

Street

Town/City

County

Postcode

1.6 Phone number
Where we can contact you during the day

1.7 Mobile number (if different)

1.8 How would you prefer us to contact you?
(Please tick only one box) Email Post Fax Whatever your preference please note that some documents cannot be sent electronically

1.9 Email address

1.10 Fax number

2 Respondent's details (that is the employer, person or organisation against whom you are making a claim)

2.1* Give the name of your employer or the person or organisation you are claiming against (If you need to you can add more respondents at 2.5)

2.2* Address

Number or name

Street

Town/City

County

Postcode

Phone number

2.3* Do you have an Acas early conciliation certificate number? Yes No

Nearly everyone should have this number before they fill in a claim form. You can find it on your Acas certificate. For help and advice, call Acas on 0300 123 1100 or visit www.acas.org.uk

If Yes, please give the Acas early conciliation certificate number.

If No, why don't you have this number?

- Another person I'm making the claim with has an Acas early conciliation certificate number
- Acas doesn't have the power to conciliate on some or all of my claim
- My employer has already been in touch with Acas
- My claim consists only of a complaint of unfair dismissal which contains an application for interim relief. (See guidance)

2.4 If you worked at a different address from the one you have given at 2.2 please give the full address

Address

Number or name

Street

Town/City

County

Postcode

Phone number

2.5 If there are other respondents please tick this box and put their names and addresses here.

(If there is not enough room here for the names of all the additional respondents then you can add any others at Section 13.)

Respondent 2

Name

Address

Number or name

Street

Town/City

County

Postcode

Phone number

2.6 Do you have an Acas early conciliation certificate number? Yes No *Nearly everyone should have this number before they fill in a claim form. You can find it on your Acas certificate. For help and advice, call Acas on 0300 123 1100 or visit www.acas.org.uk*

If Yes, please give the Acas early conciliation certificate number.

- If No, why don't you have this number?
- Another person I'm making the claim with has an Acas early conciliation certificate number
 - Acas doesn't have the power to conciliate on some or all of my claim
 - My employer has already been in touch with Acas
 - My claim consists only of a complaint of unfair dismissal which contains an application for interim relief. (See guidance)

Respondent 3

2.7 Name

Address

Number or name

Street

Town/City

County

Postcode

Phone number

2.8 Do you have an Acas early conciliation certificate number? Yes No *Nearly everyone should have this number before they fill in a claim form. You can find it on your Acas certificate. For help and advice, call Acas on 0300 123 1100 or visit www.Acas.org.uk*

If Yes, please give the Acas early conciliation certificate number

- If No, why don't you have this number?
- Another person I'm making the claim with has an Acas early conciliation certificate number
 - Acas doesn't have the power to conciliate on some or all of my claim
 - My employer has already been in touch with Acas
 - My claim consists only of a complaint of unfair dismissal which contains an application for interim relief. (See guidance)

3 Multiple cases

- 3.1 Are you aware that your claim is one of a number of claims against the same employer arising from the same, or similar, circumstances? Yes No

If Yes, and you know the names of any other claimants, add them here. This will allow us to link your claim to other related claims.

4 Cases where the respondent was not your employer

- 4.1 If you were not employed by any of the respondents you have named but are making a claim for some reason connected to employment (for example, relating to a job application which you made or against a trade union, qualifying body or the like) please state the type of claim you are making here. (You will get the chance to provide details later):

Now go to Section 8

5 Employment details

If you are or were employed please give the following information, if possible.

- 5.1 When did your employment start?

Is your employment continuing? Yes No

If your employment has ended, when did it end?

If your employment has not ended, are you in a period of notice and, if so, when will that end?

- 5.2 Please say what job you do or did.

6 Earnings and benefits

- 6.1 How many hours on average do, or did you work each week in the job this claim is about? hours each week
- 6.2 How much are, or were you paid?
Pay before tax £ Weekly Monthly
Normal take-home pay £ Weekly Monthly
(Incl. overtime, commission, bonuses etc.)
- 6.3 If your employment has ended, did you work (or were you paid for) a period of notice? Yes No
If Yes, how many weeks, or months' notice did you work, or were you paid for? weeks months
- 6.4 Were you in your employer's pension scheme? Yes No
- 6.5 If you received any other benefits, e.g. company car, medical insurance, etc, from your employer, please give details.

7 If your employment with the respondent has ended, what has happened since?

- 7.1 Have you got another job? Yes No
If No, please **go to section 8**
- 7.2 Please say when you started (or will start) work.
- 7.3 Please say how much you are now earning (or will earn). £

8 Type and details of claim

8.1* Please indicate the type of claim you are making by ticking one or more of the boxes below.

- I was unfairly dismissed (including constructive dismissal)
- I was discriminated against on the grounds of:
 - age
 - race
 - gender reassignment
 - disability
 - pregnancy or maternity
 - marriage or civil partnership
 - sexual orientation
 - sex (including equal pay)
 - religion or belief

I am claiming a redundancy payment

- I am owed
 - notice pay
 - holiday pay
 - arrears of pay
 - other payments

I am making another type of claim which the Employment Tribunal can deal with.

(Please state the nature of the claim. Examples are provided in the Guidance.)

8.2* Please set out the background and details of your claim in the space below.

The details of your claim should include **the date(s) when the event(s) you are complaining about happened**. Please use the blank sheet at the end of the form if needed.

9 What do you want if your claim is successful?

9.1 Please tick the relevant box(es) to say what you want if your claim is successful:

- If claiming unfair dismissal, to get your old job back and compensation (reinstatement)
- If claiming unfair dismissal, to get another job with the same employer or associated employer and compensation (re-engagement)
- Compensation only
- If claiming discrimination, a recommendation (see Guidance).

9.2 What compensation or remedy are you seeking?

If you are claiming financial compensation please give as much detail as you can about how much you are claiming and how you have calculated this sum. (Please note any figure stated below will be viewed as helpful information but it will not restrict what you can claim and you will be permitted to revise the sum claimed later. See the Guidance for further information about how you can calculate compensation). If you are seeking any other remedy from the Tribunal which you have not already identified please also state this below.

10 Information to regulators in protected disclosure cases

10.1 If your claim consists of, or includes, a claim that you are making a protected disclosure under the Employment Rights Act 1996 (otherwise known as a 'whistleblowing' claim), please tick the box if you want a copy of this form, or information from it, to be forwarded on your behalf to a relevant regulator (known as a 'prescribed person' under the relevant legislation) by tribunal staff. (See Guidance).

11 Your representative

If someone has agreed to represent you, please fill in the following. We will in future only contact your representative and not you.

11.1 Name of representative

11.2 Name of organisation

11.3 Address

Number or name

Street

Town/City

County

Postcode

11.4 DX number (if known)

11.5 Phone number

11.6 Mobile number (if different)

11.7 Their reference for correspondence

11.8 Email address

11.9 How would you prefer us to communicate with them? (Please tick only one box) Email Post Fax

11.10 Fax number

12 Disability

12.1 Do you have a disability? Yes No

If Yes, it would help us if you could say what this disability is and tell us what assistance, if any, you will need as your claim progresses through the system, including for any hearings that maybe held at tribunal premises.

13 Details of additional respondents

Section 2.4 allows you to list up to three respondents. If there are any more respondents please provide their details here

Respondent 4

Name

Address

Number or name

Street

Town/City

County

Postcode

Phone number

Do you have an Acas early conciliation certificate number? Yes No

Nearly everyone should have this number before they fill in a claim form. You can find it on your Acas certificate. For help and advice, call Acas on 0300 123 1100 or visit www.acas.org.uk

If Yes, please give the Acas early conciliation certificate number.

- If No, why don't you have this number?
- Another person I'm making the claim with has an Acas early conciliation certificate number
 - Acas doesn't have the power to conciliate on some or all of my claim
 - My employer has already been in touch with Acas
 - My claim consists only of a complaint of unfair dismissal which contains an application for interim relief. (See guidance)

Respondent 5

Name

Address

Number or name

Street

Town/City

County

Postcode

Phone number

Do you have an Acas early conciliation certificate number?

Yes No

Nearly everyone should have this number before they fill in a claim form. You can find it on your Acas certificate. For help and advice, call Acas on 0300 123 1100 or visit www.acas.org.uk

If Yes, please give the Acas early conciliation certificate number.

If No, why don't you have this number?

- Another person I'm making the claim with has an Acas early conciliation certificate number
- Acas doesn't have the power to conciliate on some or all of my claim
- My employer has already been in touch with Acas
- My claim consists only of a complaint of unfair dismissal which contains an application for interim relief. (See guidance)

14 Final check

Please re-read the form and check you have entered all the relevant information.

Once you are satisfied, please tick this box.

General Data Protection Regulations

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>.

To receive a paper copy of this privacy notice, please call our Customer Contact Centre:

England and Wales: 0300 123 1024

Welsh speakers: 0300 303 5176

Scotland: 0300 790 6234

Textphone: 18001 0300 123 1024 (England and Wales)

Textphone: 18001 0300 790 6234 (Scotland)

Please note: a copy of the claim form or response and other tribunal related correspondence may be copied to the other party and Acas for the purpose of tribunal proceedings or to reach settlement of the claim.

15 Additional information

You can provide additional information about your claim in this section.

If you're part of a group claim, give the Acas early conciliation certificate numbers for other people in your group. If they don't have numbers, tell us why.



It is important to us that everyone who has contact with HM Courts & Tribunals Service, receives equal treatment. We need to find out whether our policies are effective and to take steps to ensure the impact of future policies can be fully assessed to try to avoid any adverse impacts on any particular groups of people. That is why we are asking you to complete the following questionnaire, which will be used to provide us with the relevant statistical information. **Your answers will be treated in strict confidence.**

Thank you in advance for your co-operation.

Claim type

Please confirm the type of claim that you are bringing to the employment tribunal. This will help us in analysing the other information provided in this form.

- (a) Unfair dismissal or constructive dismissal
- (b) Discrimination
- (c) Redundancy payment
- (d) Other payments you are owed
- (e) Other complaints

Sex

What is your sex?

- (a) Female
- (b) Male
- (c) Prefer not to say

Age group

Which age group are you in?

- (a) Under 25
- (b) 25-34
- (c) 35-44
- (d) 45-54
- (e) 55-64
- (f) 65 and over
- (g) Prefer not to say

Ethnicity

What is your ethnic group?

White

- (a) English / Welsh / Scottish / Northern Irish / British
- (b) Irish
- (c) Gypsy or Irish Traveller
- (d) Any other White background

Mixed / multiple ethnic groups

- (e) White and Black Caribbean
- (f) White and Black African
- (g) White and Asian
- (h) Any other Mixed / multiple ethnic background

Asian / Asian British

- (i) Indian
- (j) Pakistani
- (k) Bangladeshi
- (l) Chinese
- (m) Any other Asian background

Black / African / Caribbean / Black British

- (n) African
- (o) Caribbean
- (p) Any other Black / African / Caribbean background

Other ethnic group

- (q) Arab
- (r) Any other ethnic group
- (s) Prefer not to say

Disability

The Equality Act 2010 defines a disabled person as 'Someone who has a physical or mental impairment and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'.

Conditions covered may include, for example, severe depression, dyslexia, epilepsy and arthritis.

Do you have any physical or mental health conditions or illnesses lasting or expected to last for 12 months or more?

- (a) Yes
- (b) No
- (c) Prefer not to say

Marriage and Civil Partnership

Are you?

- (a) Single, that is, never married and never registered in a same-sex civil partnership
- (b) Married
- (c) Separated, but still legally married
- (d) Divorced
- (e) Widowed
- (f) In a registered same-sex civil partnership
- (g) Separated, but still legally in a same-sex civil partnership
- (h) Formerly in a same-sex civil partnership which is now legally dissolved
- (i) Surviving partner from a same-sex civil partnership
- (j) Prefer not to say

Religion and belief

What is your religion?

- (a) No religion
- (b) Christian (including Church of England, Catholic, Protestant and all other Christian denominations)
- (c) Buddhist
- (d) Hindu
- (e) Jewish
- (f) Muslim
- (g) Sikh
- (h) Any other religion (please describe)
- (i) Prefer not to say

Caring responsibilities

Do you have any caring responsibilities, (for example; children, elderly relatives, partners etc.)?

- (a) Yes
- (b) No
- (c) Prefer not to say

Sexual identity

Which of the options below best describes how you think of yourself?

- (a) Heterosexual/Straight
- (b) Gay /Lesbian
- (c) Bisexual
- (d) Other
- (e) Prefer not to say

Gender identity

Please describe your gender identity?

- (a) Male (including female-to-male trans men)
- (b) Female (including male-to-female trans women)
- (c) Prefer not to say

Is your gender identity different to the sex you were assumed to be at birth?

- (f) Yes
- (g) No
- (h) Prefer not to say

Pregnancy and maternity

Were you pregnant when the issue you are making a claim about took place?

- (a) Yes
- (b) No
- (c) Prefer not to say

Thank you for taking the time to complete this questionnaire.

Employment Tribunals check list

Please check the following:

1. Read the form to make sure the information given is correct and truthful, and that you have not left out any information which you feel may be relevant to you or your client.
2. Do not attach a covering letter to your form. If you have any further relevant information please enter it in the 'Additional Information' space provided in the form.
3. Send the completed form to the relevant office address.
4. Keep a copy of your form posted to us.

If your claim has been submitted on-line or posted you should receive confirmation of receipt from the office dealing with your claim within five working days. If you have not heard from them within five days, please contact that office directly. If the deadline for submitting the claim is closer than five days you should check that it has been received before the time limit expires.

You have opted to print and post your form. We would like to remind you that forms submitted online are processed much faster than ones posted to us. If you want to submit your claim online please go to www.gov.uk/employment-tribunals/make-a-claim

A list of our office's contact details can be found at the hearing centre page of our website at – www.gov.uk/guidance/employment-tribunal-offices-and-venues; if you are still unsure about which office to contact please call our Employment Tribunal Customer Contact Centre (Mon – Fri, 9am – 5pm) they can also provide general procedural information about the Employment Tribunals.

Customer Contact Centre:

England and Wales: 0300 123 1024

Welsh speakers: 0300 303 5176

Scotland: 0300 790 6234

Textphone: 18001 0300 123 1024 (England and Wales)

Textphone: 18001 0300 790 6234 (Scotland)

[Print form](#) [Reset form](#)