

# EARLY CONCILIATION IS FAILING AS DEMANDS ON ACAS INCREASE

Designed to help resolve employment claims before they get to tribunal, the six-week process has a number of weak points that need tackling.

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Early conciliation – a mandatory step before a claim can be brought to an employment tribunal – is failing.

Designed by Acas to provide a six-week window for resolving disputes amicably, the process has helped resolve many cases efficiently. However, it is currently plagued by increased demand and delays that undermine its effectiveness and only serve to create additional challenges for both employees and employers.

Under the system, an employee notifies Acas of their intention to bring a claim, and a conciliator contacts the employer to explore settlement options. Time stops running on the claim's limitation period during this six-week window, ensuring claimants are not prejudiced while employers have time to consider resolution. If settlement cannot be reached, Acas issues a certificate confirming the notification, which is required for a valid tribunal claim.

Historically, this process worked well, with many claims resolving early. Acas also helped employees to assess the credibility of potential claims, which benefited employers by managing claimant expectations.

However, in recent months, increasing numbers of early conciliation cases mean Acas officers are handling large volumes, consequently picking up cases late in the six-week window. With no power to extend this period, employers may only learn of a claim at the last moment, leaving little time for meaningful engagement.

Although Acas officers can continue conciliating after issuing the certificate, resource constraints often prevent this in practice. Once the certificate is issued, individuals have a limited period to file a tribunal claim, adding further time pressure.

Employers face additional challenges, as initial Acas notifications increasingly lack detail about the nature of the claim. This leaves employers in the dark about whether the claim concerns discrimination, whistleblowing, or unfair dismissal, each of which have different legal thresholds and implications.

Often, employers only receive clarity when the formal tribunal claim form arrives by frequently delayed post. To complicate matters, the 28-day period for filing a defence begins on the date of posting, not the date of receipt, compressing preparation and potential settlement time further.

The broader system is already under strain, with the tribunals themselves facing backlogs resulting from increased claims that are lengthy and complex. The situation is set to worsen from November 3, when calls to tribunals will go through a national services contact team instead of direct, which may further exacerbate delays.

Despite these difficulties, there are solutions. Increasing Acas resources, allowing extensions to the conciliation window where necessary, and requiring claimants to provide more detailed early notifications to employers would all improve the process.

While the aim of early resolution remains a good one, significant resources are needed to ensure Acas can fulfil its purpose effectively in the current climate.

IN CASE YOU HAVE ANY QUESTIONS, PLEASE CONTACT:



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