

Applying for an **Acas** **Certificate.**

You must first tell Acas before bringing an Employment Tribunal Claim against your employer.

What is Acas?

If you intend to bring an Employment Tribunal (ET) claim against your employer, you must first tell Acas. This means completing Acas Early Conciliation (EC), which is a mandatory legal requirement.

Acas stands for the **Advisory, Conciliation and Arbitration Service**. Acas gives employees and employers free impartial advice on workplace rights, rules and best practice. It's a non-governmental public body, funded by the UK Government (Department for Business and Trade).

Benefits of Acas

Acas is not part of the Tribunal Service, and will not discuss any matter with the Tribunal. The benefits of using Acas are:-

- ✱ It's a **free service**
- ✱ It's **confidential**
- ✱ It's usually a quick service (but if your Conciliator doesn't get back to you promptly, chase them up. It might also be the case; your employer is dragging their feet getting back to the Acas Conciliator).
- ✱ It's entirely voluntary, both you and your employer can refuse talks at any stage. If this happens, Acas will then issue you with an EC certificate and number, to make a claim to the Tribunal Service
- ✱ You can agree outcomes, for example settlement terms or a job reference
- ✱ It may avoid the need to go to an ET, which is a significantly more lengthy and more stressful experience.
- ✱ If you and your employer reach an agreement with the help of Acas, a '**COT3**' **agreement** can be completed. It's important to remember, you don't have to actually sign the COT3, for it to be enforceable, so be careful what you 'agree to'. We recommend you agree terms in writing rather than over the phone. Once a COT3 is agreed, you cannot take your case to an ET.

2 Years Continuous Service rule

To bring a claim, you generally need **2 years** of continuous service/employment with the same employer; '**unofficial**' working periods do not count. However, there are some important exceptions to this rule known as 'Automatic Unfair Dismissal' claims. See our information leaflet on '**Automatic Unfair Dismissal**'.

Early Conciliation Process

Early Conciliation (EC) is a process to try and resolve your dispute with your employer, with the help of an Acas representative, **known as a Conciliator**. To start EC, you complete a basic form on the Acas website (link at the end). The EC process involves Acas undertaking talks between you and your employer to try and reach a legal agreement without the need for a worker to go to an ET. Talks usually take place over the phone or by email for up to 6 weeks. Acas will shuttle or talk between you and your employer during this period.



If your employer does not want to engage in talks, Acas will give you a certificate straight away. You can also ask Acas for a **certificate at any time**.

Once you have completed or exhausted EC, you will then be issued with a certificate and a certificate number. You will need this number to lodge your **ET1 claim**.

Terminology

When you tell Acas you want to make a claim, you are known as the '**Claimant**'. Your employer (or anyone else you claim against) is known as the '**Respondent**'. There may be one respondent or there may be several (usually referred to as R1, R2, R3 for shortness in Tribunal proceedings). The Tribunal service to where you make your claim is known as the **Employment Tribunal**.

Once an EC Certificate is issued by Acas

You will usually have a **MINIMUM** of 1 month from the date the EC certificate is issued, to bring your claim. In some cases, you might have longer, it depends on how much of the **primary time limit- 3 months less 1 day** - you had left originally, the day you contacted Acas (sometimes referred to as **Day A**), and the date Acas issued their EC certificate (known as **Day B**).

Working out the exact time limit can be complicated. Acas will not offer you any specific advice on time limits, as they will not want to be held responsible for your claim being in or out of time. Only a Tribunal can rule/decide if a claim is ultimately '**within time or not**' after hearing from both sides.

Completing Form ET1

If you do decide to proceed to take your employer to the Employment Tribunal, you will need to complete an **ET1 Form**. We can help with this, check out our Service section on our website.

An ET1 is the ET Claim Form that you must complete to submit your claim against your employer. **It's very important to get this document right**, as it sets out your claim against your employer, and it's what the employer will respond to by submitting an ET3 (their Grounds of Resistance) to your claim. If you get the ET1 wrong, it will most certainly derail, undermine or make your claim more difficult.



Time Limits

It's very important to remember that there are strict **time limits** for bringing a claim to the ET, **3 months less 1 day** (known as the primary time limit) from the last act you're complaining about (or the last of a series of acts). While you're talking to Acas the time limit is '**temporarily stopped**' (from the day you apply to Acas for EC, until the day your EC Certificate is issued).

This still means, you must make any claim to the ET within the primary time limit or within a month of the **EC Certificate** being issued.



There are some special rules, for some events/conduct by the employer to be treated as a '**series or continuing acts**', but this is by no means guaranteed. If you do make a late claim (or very close to the deadline), the time limit may be disputed by your employer or the Tribunal, and it may lead to your case (or parts of your case/ claims) being dismissed by the Tribunal. The other side (the Respondent or their Lawyers) may argue as a preliminary point that your claim(s) are out of time, and invite the ET to dismiss your claim(s) for want of jurisdiction.

We strongly advise that you don't leave making your claim to the last minute. Often arranging advice, organising your paperwork and drafting your ET1, will take a lot of time, if you want to do it properly.

Sadly, some employers (or the legal reps) will undoubtedly be aware of the strict time limits, and may try to string out the Acas discussions or a grievance process or appeal, or the dismissal appeal process, to try and '**time out**' workers from bringing claims. You must be alert to this to avoid it happening to you.

You can **contact us about time limits**, and we'll be happy to offer you free advice on this.

We hope you found this brief guide helpful

For more information on Acas go to:

www.acas.org.uk

Good luck with your claim.