

Imminent changes designed to streamline the conduct of employment disputes

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Employment Law News

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Imminent changes designed to streamline the conduct of employment disputes

With the coronavirus pandemic likely to intensify the backlog of employment tribunal claims, the Government has announced a raft of the changes designed to streamline the conduct of

disputes and improve capacity within the tribunal system. Save for the change to the Acas early conciliation period, all the changes are due to come into force on 8 October 2020.

The changes are as follows:

- **Allowing more time to settle disputes before a tribunal claim is started:** currently, the standard Acas early conciliation period is four weeks, with an extension of two weeks available in certain circumstances. From 1 December 2020, the standard period will be increased to six weeks in all cases and there will no ability to extend this period further. Parties will still be able to end the conciliation period before the expiry of the standard period if they wish.
- **Taking pressure of employment judges:** First tier Tribunal and Upper Tribunal Judges, High Court and Deputy High Court Judges and Circuit Judges may be called upon to sit as employment judges in order to widen the judicial pool and provide greater capacity to hear cases. In addition, pressure will be eased from employment judges by diverting some of their administrative tasks to new “legal officers”. These tasks include the determination of the following: whether a claim form is defective; granting extensions of time to respond to a claim or comply with a case management order; and granting postponements in uncontroversial cases. Parties will be able to apply for a legal officer’s decision to be reconsidered by an employment judge.
- **More flexibility for multiple claimants and respondents to use same claim and response forms:** this will be permitted where the claims give rise to common or related issues of fact or law or if it is otherwise reasonable to do so. This will help ease the administrative burden on the tribunal system.

- **Common sense approach to taken in respect of errors on the claim form:** if the Acas early conciliation number on the claim form does not match the number on the Acas early conciliation certificate, the claim will not be rejected if the employment judge considers this was a mistake and that it would not be in the interests of justice to reject the claim.
- **Streamlining the listing of hearings:** cases may be listed before the deadline for response has passed provided that the date of the hearing is not sooner than 14 days after the response deadline.
- **More flexibility over the conduct of virtual hearings:** the inspection of witness statements by the public will not necessarily have to be during the hearing itself and the public will only hear what the tribunal hears and see witnesses “as far as practicable”. It is hoped that these changes will allow more virtual hearings to take place.
- **Encouraging settlement by avoiding the dispute ending up in the public domain:** cases which are dismissed upon withdrawal will no longer be included on the searchable online public register. This may well encourage parties to settle disputes.
- **Other minor changes:**
 - **Default judgments:** where a response has not been filed and the employment judge considers it necessary to hold a preliminary hearing, a default judgment may be issued after that preliminary hearing without the need for a further hearing.
 - **Reconsideration of a judgment:** judgments will be able to be reconsidered by any employment judge and not just the original employment judge.
 - **Witness orders:** where a witness order is made the other parties will be notified of the order and the name of the person/s required to attend.

These changes are sensible and should help ease the burden on employment tribunals and speed up the progression of disputes through the system to some degree. However, with a [reported backlog of 45,000 claims](#), and a further spike in claims expected after the closure of the Coronavirus Job Retention Scheme on 31 October 2020, it remains to be seen whether these reforms will be enough to preserve meaningful access to justice.

If your business needs advice on responding to an employment tribunal claim please contact Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.

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