



## Employment Tribunal Timeline

This timeline is an overview of the key stages in typical unfair dismissal and discrimination cases in the Employment Tribunal. It does not (and is not intended to) cover every aspect of the Employment Tribunal process. For more information about EPR Law or to discuss a matter please contact EPR Law either by email at [info@eprlaw.co.uk](mailto:info@eprlaw.co.uk) or telephone on 020 3582 6560

### 1. ACAS and Early Conciliation

An individual who intends to bring a claim in the employment tribunal must do so before the relevant limitation date. In most cases, the limitation date will be the date 3 months less 1 day from the cause of complaint, e.g. 3 months less one day from the date of dismissal or 3 months less 1 day from the last act of discrimination.

Unless an exception applies, the individual must notify ACAS (the advisory, conciliation and arbitration service) before submitting their claim. This can be done by telephone or via the [ACAS website](#).

ACAS will offer the individual the choice between early conciliation or taking the dispute directly to the employment tribunal. Early conciliation is NOT mandatory on any prospective party but does have the effect of extending the period within which to bring the claim. This is

specifically designed “to stop the clock” so as to allow the parties time to resolve the potential dispute without prejudicing the individual’s right to bring their claim.

At the conclusion of the early conciliation process or sooner if the employee chooses not to take part in it, ACAS will issue a numbered certificate. This certificate number must be provided on the ET1 claim submitted by the individual to the employment Tribunal.

## 2. The ET1 Claim Form

After the ACAS certificate has been issued the individual will have a minimum of one calendar month within which to submit the ET1 claim form (ET1) but it may be longer depending on when ACAS is notified.

The ET1 may be submitted online by, by post or by hand delivery (but only to designated tribunal offices). By far the easiest method is online. [See Here](#)

In the ET1 the individual sets out the factual background information to the claim as well details of their claim.

The ET1 must be completed correctly; it must be submitted before the limitation date is reached and the tribunal must have jurisdiction (authority) to hear the individual’s complaint(s).

In the event that the claim is accepted the tribunal will issue the employer (and any other named party) with the ET3 Response Pack, which includes the completed ET1.

The individual is now referred to as the Claimant and the employer (and any other named party) as a Respondent.

**Claimants are advised to take legal advice before completing the ET1 claim form.**

## 3. The ET3 Response Form

The ET3 is the Respondent’s opportunity to respond to the complaint(s) raised by the Claimant. The Respondent can complete the ET3 in one of the following ways:

1. online, or
2. by filling out and returning the hard copy ET3 contained within the Response Pack, or
3. by downloading the ET3, completing it, and sending it by email to the [tribunal office](#) dealing with the case.

The Respondent must return the completed ET3 to the employment tribunal within 28 days of receiving it. If the Respondent does not file an ET3 response or files it late without prior application, the employment tribunal may issue a default judgment against the Respondent. In these circumstances, the Respondent will need to apply for this judgment to be set aside if it has reasonable grounds for doing so. For further information about the late filing of an ET3 please contact us.

**Respondents are advised to take legal advice before completing the ET3 form.**

#### 4. Case Management Directions

The tribunal has very extensive case management powers and can issue case management orders and directions at any stage of the proceedings. Usually, these are sent out shortly after the ET3 has been filed.

If the claim is not complex the tribunal will usually issue a set of standard directions.

In more complicated cases the parties may be sent a Notice of a **Preliminary Hearing for Case Management** (PHCM). For further information about Preliminary Hearings click [Here](#).

#### 5. Judicial Mediation

If the case is listed for a PHCM, one option that the parties will be required to consider is whether the case is suitable for judicial mediation. Judicial mediation is a form of Alternative Dispute Resolution and involves an Employment Judge, trained in mediation, bringing the parties together for a mediation hearing. This is not mandatory and is at the discretion of the tribunal if the Employment Judge at the PHCM considers the case suitable for mediation. The Judge appointed to the mediation remains neutral and will endeavour to assist the parties in resolving their disputes. The judicial mediation is confidential and held in private. Nothing said or taking place at the judicial mediation may be referred to at any subsequent hearing and the Employment Judge mediating is precluded from any further involvement in the case.

Other statutory methods of alternative dispute resolution are judicial assessment or the continued use of ACAS. The parties may also (and often do) resolve the dispute through private settlement discussions including conventional arbitration or mediation; the latter may be particularly pertinent if the individual is still in the Respondent's employment.

## 6. Disclosure

Parties to the proceedings have a legal duty to disclose any documents which are relevant to the claim and will be ordered to provide these by a specified date to the other party. This is normally done by way of a list with hard copies to follow by request. The disclosure will include documents such as personnel files, contracts, notes, investigation reports, disciplinary and/or grievance documents, emails, voice recordings and any correspondence. If either party discovers further relevant documents after the date ordered for disclosure they are under a continuing obligation to disclose these at any point during the proceedings but may face cost and other adverse consequences, if such late disclosure was unreasonable and avoidable.

## 7. Compilation of the Hearing Bundle

The **bundle** refers to the file or files of documents to which the tribunal will refer during the final hearing. The bundle is based on the parties' disclosure, together with relevant tribunal documents and other correspondence. The bundle must be arranged in the appropriate chronological order, all pages must be numbered (paginated) and correctly indexed so that the parties, their witnesses and the tribunal panel can easily refer to it

## 8. Witness Statements

Witness statements will also be required from anyone who was materially involved in the issues which are relevant to the subject of the claim, save where there is considerable overlap between the witnesses, in which case the most relevant witness will usually only be required to be called.

Witness statements should be exchanged by the parties simultaneously, following the completion of the bundle, so that they contain cross-references to the relevant pages in the bundle. This will assist in directing the tribunal to the most relevant documents.

## 9. Chronology and Cast List

**Chronology** – A list of the key events with dates and in date order (oldest first). This can be very helpful in establishing the relevant pattern of events. These should be drafted in a neutral and objective manner.

**Cast List** – A list of individuals involved in the events on which the claim is based. These are of enormous help to judges and others in understanding the key personnel and their roles case quickly. Like chronologies, cast lists help save valuable time.

## 10. The Hearing

Hearings in the employment tribunal normally take place at one of a number of tribunal offices and hearing centres located around the UK ([Directory of employment tribunal offices](#)). Depending on the type of case a full hearing will be heard either by a panel made up of an Employment Judge and two non-legally qualified members but with a background of dealing with employment issues for employers and employees or by an Employment Judge sitting alone.

Please note that during the Covid 19 pandemic most tribunal hearings have been conducted remotely using the HMCTS' Cloud Video Platform (CVP) and even as lockdown eases we expect many cases to continue to be heard in this way as they have been found to be an effective and efficient way of reducing the current backlog of cases. [Guidance on how to join a CVP hearing](#)

## 11. The Judgment

At the end of evidence and submissions, the tribunal usually retires to decide whether the Claimant succeeds on the claims and, if so, whether an award will be made and if the case is to be listed for a specific remedies hearing if further evidence is required to consider this properly.

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