

BLP: LOOKING AHEAD

Key changes in employment law explained

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BLP BERWIN
LEIGHTON
PAISNER

Early Conciliation

From 6 May 2014, Tribunal claimants must contact Acas and obtain an Early Conciliation Certificate before submitting a claim in the Employment Tribunal. During the period between 6 April 2014 and 5 May 2014, claimants can, but do not have to, contact Acas.

The requirement to contact Acas to obtain an early conciliation certificate will apply to most claims. Claimants must submit their details and those of the respondent to Acas before they can bring a claim in the Tribunal. Acas must then take steps to promote settlement between the parties and try to avoid proceedings being issued.

The Procedure

While the aim of early conciliation is to encourage settlement, as illustrated in the flowchart over the page, there is no obligation on either party to negotiate. The only mandatory element of the process is for claimants to submit their details and those of the respondent to Acas on an EC form (or by telephone). This introduces an additional step for claimants before they can issue a Tribunal claim.

Receipt by Acas of the claimant's EC form stops the clock on the time limit within which a claim must be brought. Acas then has one month (extendable by 14 days) in which to try to achieve a settlement. Where the normal time limit for bringing a claim would expire at some point during the one month (or extended) conciliation period, the time limit will expire one month after receipt of the EC certificate from Acas instead.

BLP Comment

- The "stop the clock" provisions are likely to complicate issues and lead to secondary litigation on time limits, particularly where the EC form is submitted close to the deadline or where Acas has no record of receiving the form from the claimant. The Tribunal will then have to decide whether to exercise its discretion and extend the time limit to allow the claim to proceed.
- The Government has already introduced a number of changes to the Employment Tribunal process designed to settle disputes before they reach the Tribunal, and reduce the cost and time spent dealing with employee claims, particularly those relating to unfair dismissals. Given that early conciliation does not require the parties to negotiate, it is questionable how effective a measure it will be. However, when combined with Tribunal fees and other changes introduced in the Tribunal, this additional step may deter some employees from litigation.

For further information, please contact



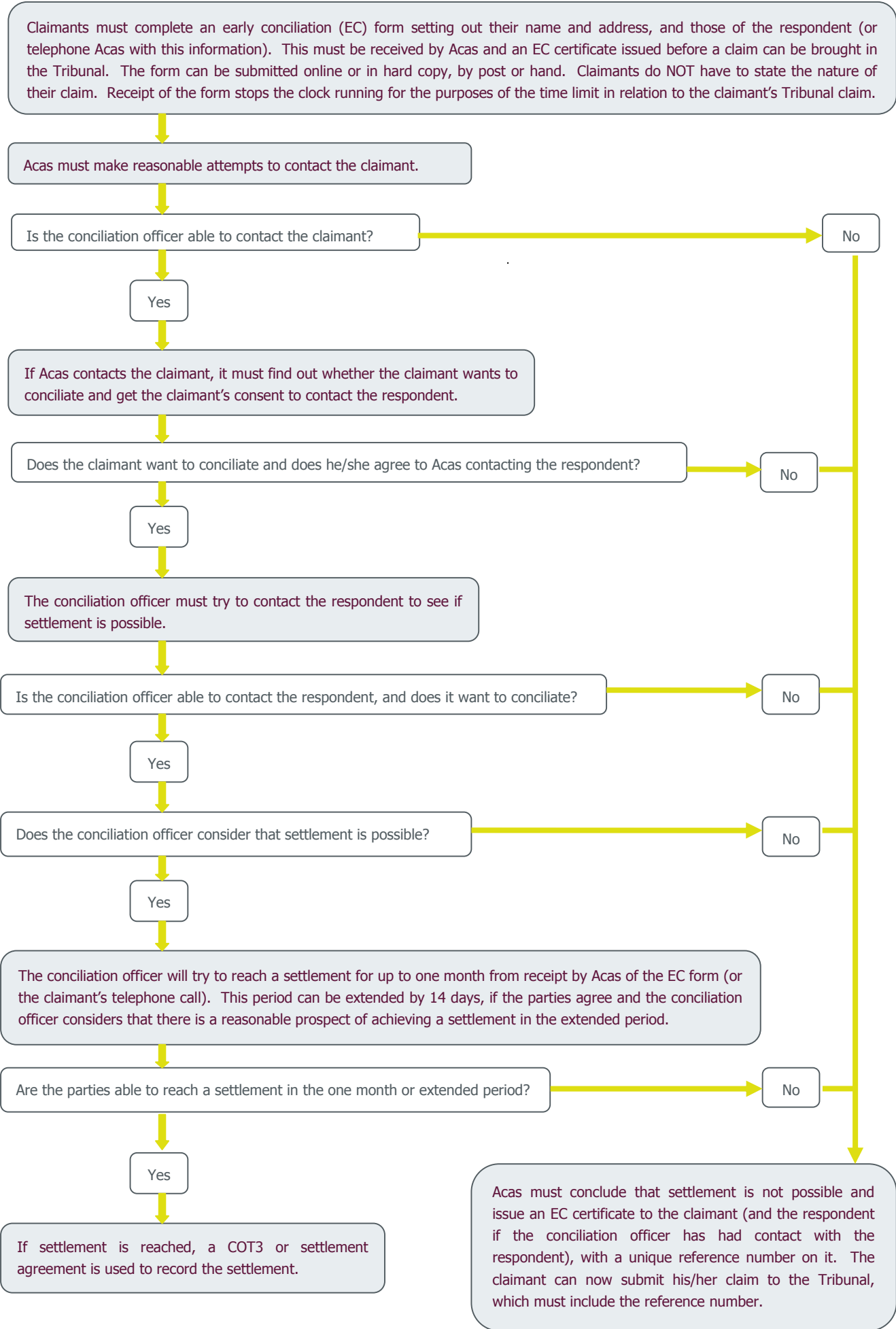
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Getting in touch

If you would like to talk through your project or discuss solutions to your legal needs, please get in touch.

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