

I have an Advisory, Conciliation and Arbitration Service (ACAS) settlement or conditional settlement (Form COT3) but the respondent has not paid – How do I enforce it?

This leaflet will explain how you can enforce an ACAS settlement (described as a settlement) or an ACAS conditional settlement (described as a conditional settlement). More detailed information on specific court processes can be found in the leaflets and forms listed page 5.

Do I have a settlement or a conditional settlement?

- A **settlement** provides only for the payment of money
- A **conditional settlement** provides for the payment of money but also contains terms that require you, as the receiver of the money, to undertake certain actions in addition to the money being paid.

If you are enforcing an **ACAS settlement** you can use the 'ACAS and Employment Tribunal Fast Track' scheme, which will allow a High Court Enforcement Officer to be assigned to your case immediately the respondent has failed to pay as ordered. The High Court Enforcement Officer will then pursue the award on your behalf. More details of this scheme can be found in leaflet EX728, which can be obtained from your local county court or downloaded from our website www.hmcourts-service.gov.uk

Using the court to recover the amount due under your settlement or conditional settlement ensures that enforcement can be started straightaway without giving the respondent any further time to pay.

The types of enforcement available to you are:

- A Warrant of Execution or Writ of Fi Fa.
- An Attachment of Earning Order.
- A Third Party Debt Order.
- A Charging Order.
- Bankruptcy or insolvency.

Details of how these methods of enforcement can be started, and the court fees involved, can be found in the leaflets listed on page 5.

Is there anything that I can do before coming to court?

Before coming to court to enforce a settlement or conditional settlement it may be worthwhile contacting the respondent to remind them of the payment date. The respondent may have forgotten to pay and a letter or phone call could result in the whole matter being resolved quickly.

However, if you do not wish to make further contact with the respondent or payment is still not made then you may begin enforcement proceedings through the court.

Enforcement of all settlements or conditional settlement needs to be done through the county court, however the procedure for each is different.

Where do I file my settlement or conditional settlement?

The first thing you need to do is to identify in which county court you need to file your settlement or conditional settlement. This will be the court for the district where the person who must pay your money under the settlement or conditional settlement resides or carries on business. Information about a county court's district can be obtained at your local county court or from our website www.hmcourts-service.gov.uk.

How do I file my settlement?

Once you have identified the correct county court, you will need to get and complete form N322B. This must be returned to that court with a copy of your settlement.

You can get Form N322B from your local county court or from our website www.hmcourts-service.gov.uk .
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If you are unsure about how to complete this form, the staff at your local county court should be able to assist you.

As the type of settlement you are enforcing does not require permission of the court to proceed no court fee is payable. However, you will have to pay a fee to start enforcement proceedings.

How do I file my conditional settlement?

Once you have identified the correct county court, you will need to obtain and complete form N322A. This should be returned to that court with a copy of your conditional settlement.

You can get Form N322A from your local county court or from our website www.hmcourts-service.gov.uk.

If you are unsure about how to complete this form, the staff at your local county court should be able to assist you.

As you are registering a conditional settlement details of the conditions imposed and how you have satisfied them must be recorded on the N322A.

The court will then allow the respondent 14 days in which to respond to your application. Once this time has elapsed the court will make an order as to how the action should proceed.

You will need to pay a fee to file a conditional settlement in the county court, as it requires permission of the court to proceed. You will also need to pay a fee to start enforcement proceedings.

You can get more information about court fees from court staff or the county court fees leaflet (EX50 - County Court Fees), which is available from any county court office, or from our website www.hmcourts-service.gov.uk. The court will add the fee to the amount the respondent already owes.

If you cannot afford the fee, you may not have to pay it in full. Further information is available from court staff, or in the leaflet EX160A – Court Fees – do I have to pay them, which is available from any county court office, or from our website www.hmcourts-service.gov.uk.

Can I claim interest on the amount due to me under my settlement or conditional settlement?

Settlements or conditional settlements that are not paid will attract interest on the same basis as for an Employment Tribunal decision. Advice on what interest can be claimed, and from what dates, should be obtained from a lawyer, Citizens Advice or other competent advisor. ACAS are unable to advise.

Details of the interest calculation and the amount claimed should be included at the relevant part of your form.

How does a declaration by the Respondent affect my settlement or conditional settlement?

It is possible for the Respondent to make a declaration that the money owed to you is not payable by them under the general law of contract. In order to do this they must make a separate application to either the court or the Employment Tribunal.

If such an application is made then you **cannot** proceed to file your settlement or conditional settlement in court or continue with enforcement until the declaration application is determined.

However, if you are sure that no such declaration has been made then you should tick the box under the section marked Declaration on your form to advise the court of this.

I have filed my settlement or conditional settlement in the county court and have still not been paid. What can I do?

Once your settlement has been filed with the county court, or an order made that you may proceed to enforcement on your conditional settlement you may, for the purpose of enforcement, treat it as a county court judgment.

Although the court staff can assist you with the completion of the forms they will not be able to tell you which method of enforcement to choose. It is up to you to decide which one is the most likely to succeed.

Information on how to enforce your settlement or conditional settlement can be found in leaflet EX321 - I have a judgment but the defendant hasn't paid – What can I do?

The following leaflets and forms may be of use to you:

EX321	I have a judgment but the defendant hasn't paid – What can I do?
EX322	Warrant of execution – How do I ask for a warrant of execution?
EX323	Attachment of earnings – How do I ask for an attachment of earnings order?
EX324	How do I apply for an order? - Order to obtain information from a person who owes you money?
EX325	Third party debt orders and charging orders – How do I apply for an order? How do I respond to an order?
EX50	County Court Fees
EX160A	Court fees - Do you have to pay them?
N322A	Application for an order to allow enforcement of a decision or ACAS conditional settlement (Form COT3) that requires permission to proceed.
N322B	Application for an order to allow enforcement of a decision or an ACAS settlement (Form COT3) that does not require permission to proceed.

You can get these leaflets from your local county court or you can download them from our website www.hmcourts-service.gov.uk

This leaflet can only give you a general idea of what is likely to happen. It cannot explain everything about court rules and procedures. You may be able to get free legal advice from a law centre. A Citizens Advice Bureau or consumer advice centre may also be able to help.

For free legal information, help and advice contact Community Legal Advice on 0845 345 4 345 or at www.communitylegaladvice.org.uk