ACAS RESPONSE TO REFORMING THE EMPLOYMENT TRIBUNAL SYSTEM CONSULTATION

Acas welcomes the opportunity to respond to the government’s consultation on taking forward the current reforms in the courts and tribunals into employment tribunals and the employment appeal tribunal. As an organisation which has a close involvement with the operation of the employment tribunal system through our conciliation work we take a keen interest in any proposals for reform of the system.

We endorse the principles of justice, accessibility and proportionality which underpin the reform programme. Employment tribunals play a crucial role in allowing individuals to exercise their individual employment rights.

Acas conciliation is recognised as a vital component in dispute resolution, saving money for the taxpayer, business and claimants and we are therefore pleased to note that the government intend to carry out any reforms in a way that preserves the current strengths of both employment tribunals and Acas conciliation.

We have a number of specific comments to make on certain questions posed in the consultation document as follows.

Q1. Do you agree that with the right system in place the specific needs of users of the Employment tribunals and the Employment Appeal Tribunal can be accommodated in a more digitally based system?

Acas does believe that with careful planning and appropriate consultation the needs of employment tribunal users can be successfully met with a more digitally based system although care will need to be taken to ensure that the system is still accessible to those who cannot access digital services whether that be for technical or cognitive reasons or because of disability. Our own work on implementing a digital system for handling early conciliation notifications demonstrates that such an approach can work and be accepted by users. Indeed over 80 per cent of users of Acas early conciliation expressed satisfaction with the service they received, including that carried out digitally and over 90% of notifications come in online.

Q2. What issues need to be considered when deciding whether a claim would be suitable for online consideration?

In moving to a fully digital handling of employment tribunal claims one important issue that will need to be considered is how the tribunal’s digital system works and interacts with Acas’ own computer systems. As the consultation paper makes clear, at present employment tribunal claims, once made, are dealt with on paper and this includes their transfer to Acas for conciliation. If the full benefits of digitalisation are to be realised it is essential that a system for the smooth electronic transfer of information between tribunals and Acas is developed and this will require careful thought and planning. Acas has its own digital case management system and a way will need to be found to link this system with the new tribunal system in order to promote efficient operational liaison and avoid expensive rebuilds or administrative work-arounds.
In moving to a new digital system for processing employment tribunal claims it will also be important to take account of the views of all stakeholders whether they be members of the public using the system or ‘back-office’ case administrators. Whilst the technical aspects of any new system are of course vital, the acceptance and active support of those using the system is also essential and without it any new system is likely to founder however well designed from a technical point of view.

Q3. **What factors should be taken into consideration when creating the scope to allow increased flexibility to delegate judicial functions to caseworkers in Employment tribunals and the employment appeal tribunal?**

One important factor that will need taking into account when delegating functions is the need to explain carefully to users the differing roles of tribunal case workers and employment judges. We use a similar system of delegating certain basic tasks in early conciliation from a Conciliator to an Early Conciliation Support Officer. Whilst the system has worked well on the whole, we have found that people can become confused about exactly who they are dealing with which can on occasions lead to misunderstandings. We would be happy to share with the government our experiences of early conciliation.

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