

# Method changes to early conciliation and employment tribunal data for England Scotland and Wales 2023 to 2024

30 November 2023

## Introduction

Recent changes to the case management system in Acas have meant that the way early conciliation and employment tribunal cases are counted and recorded has changed. Numbers are no longer directly comparable to the old method of reporting but will more accurately reflect the number of cases in our system.

## 1. Main changes

We no longer present cases as net and gross but as:

- individual
- group
- cases within groups

We are better able to identify and remove duplicate cases due to an upgrade to our case management system so duplicate case volumes will be lower and reporting will be more accurate.

Numbers can no longer be directly compared to early conciliation statistics published before 2020, nor to employment tribunal statistics.

## 2. Overview

In most cases, prospective employment tribunal (ET) claimants are required to contact Acas before making a claim to the employment tribunal, which gives Acas the opportunity to talk to claimants about the benefits of conciliation (although it is not mandatory to take up this offer).

Early conciliation is the service offered at this point, with the conciliation offered after a claim has been submitted to the employment tribunal known as 'post-ET1 conciliation'. In between these 2 stages, Acas can continue to work with parties in dispute, offer conciliation, and resolve matters so that the application to the employment tribunal might still be avoided.

Acas holds management information on these case numbers, statistics on which were published up until December 2018. A recent change in the case management system at Acas has resulted in a change in the way our early conciliation and employment tribunal cases are recorded.

This methodology article describes these changes and considers:

- the impact of this change on case numbers compared with statistics published up until December 2018
- how these statistics align with HM Courts and Tribunals Service (HMCTS) tribunal statistics

There have been 2 major breaks in the publication of these statistics. The first due to a change in case management system and methodology for registration of cases. This happened in 2018 and meant subsequent data was not directly comparable to the new release. A further error in the data was discovered in 2021 and the publication was removed for investigation.

This has now been corrected but it is impossible to create the data for the missing quarters. Annual data can however be found in the [Acas annual reports on GOV.UK](#) for indicative numbers, however these data are not directly comparable to the quarterly publications.

Each new data cut will be taken 6 weeks after the end of the final month of the quarter that it reports on, with the publication released within 2 weeks from that date. The exception to this rule will be the quarter which will be released in alignment with the Acas annual report and so is expected to be delayed beyond the usual publication date.

### 3. Changes to recording cases

Since the pause in the publication of these statistics in 2018, Acas has introduced 2 main changes, both related to a new case management system for recording early conciliation and employment tribunal cases.

#### 3.1. Duplicate cases

From the launch of early conciliation until December 2020, if a claimant submitted an early conciliation notification with a company name that did not match the proper legal company name, this could be enough for a case to be rejected. For this reason, claimants would sometimes submit multiple notifications with varying names of the company to ensure that the correct one was submitted.

Certificates were provided for each of these cases so the claimant could decide which certificate number(s) to use. Only duplicate cases – where the prescribed information is exactly the same in the notifications – were closed with exception of the first notification and certificates were not issued. In December 2020, there was a change to regulations to allow the company name to be altered to the correct legal name without requiring submission of further forms which has removed the need for claimants to submit multiple early conciliation notifications.

#### 3.2. Grouping of cases

The new case management system has also changed the way that we identify batches of related cases.

We only collect cases into 'group cases' based on these criteria:

- they are submitted on the same date
- they are represented by the same person
- they relate to the same matter
- they are against the same respondent

However, the new system also allows claimants to enter more than one respondent at the time of submission, then automatically identifies the multiple respondent relationship. Therefore, we can now identify batches of cases (for example with multiple claimants; related groups; cases with respondents in common) independent of the date of submission or the level of representation.

This has allowed us to link cases more effectively.

## 4. Resulting changes to case numbers

### 4.1 Early conciliation notifications

The changes will affect early conciliation case numbers in 2 main ways so the figures published in this new series of bulletins cannot be directly compared to earlier publications on this topic.

Firstly, through better identification and removal of duplicate cases in the new system, early conciliation numbers are slightly lower than before. This change in numbers will be small but will reflect an improvement in data quality as it will more accurately reflect case numbers in our system.

Secondly, numbers due to grouping will be different from prior publications at the early conciliation stage as it becomes easier to identify groups in the system. This grouping of notifications, in addition to reporting individual case numbers, is important as it more accurately reflects the actual caseload in our systems in terms of workload, performance and volumes of cases.

#### Workload

Several cases with one representative require far fewer conversations to deal with the case than the same number of cases with different representatives.

#### Performance

Settlement of 5 cases that are grouped together is not the same as settling 5 individual cases. Similarly, where cases are grouped, conciliators should not be penalised for having many unresolved cases if they are all linked as one group.

#### Volumes reporting

If a person has chosen to submit several notifications, this should only be counted as one to reflect the true number of cases in our system and the grouping of these is important in identifying this.

Due to the potential time lag between an early conciliation certificate being issued and the corresponding ET1 reaching Acas, early conciliation outcomes cannot be accurately reported until after a period of time has elapsed and so are one quarter behind all the other statistics. These outcomes take longer so will not be final, but this enables a trade-off between timeliness and accuracy.

### 4.2 Employment tribunal

These changes to the case management system will have little impact on the employment tribunal case numbers. This is because the rules around naming of parties are different at employment tribunal and at the time of registering the employment tribunal case, multiple submissions to cover different variations of the same company name are no longer required.

The requirement for the correct legal name of the employer was relaxed by a change to the Early Conciliation Regulations in 2020. For notifications made on or after 1 December 2020, if the claimant tells us they have made a mistake with their notification the details can be corrected. This includes any of the 4 elements of prescribed information – names and addresses of the claimant and the respondent respectively.

The respondent name on the early conciliation certificate still needs to match the respondent name as stated on the ET1 but now the claimant can check and amend the name whereas before they had to make a new notification. This has also virtually eliminated the scattergun approach where various permutations of the respondent's name resulted in separate notifications.

When grouping cases, employment tribunal cases are grouped differently and are called multiples, not groups. The rule used by Acas for grouping cases is when a batch of ET1s have a claimant-side representative in common to call this 'one multiple case', irrespective of the size of the batch or the dates of submission.

However, if there is no representative the cases are not grouped in this way by Acas even if they all concern the same matter. This process is different to how the early conciliation notifications are grouped and so multiples at the employment tribunal stage cannot be directly compared to groups at the early conciliation stage. Data on these employment tribunal multiples will be included in future publications following the recent system changes.

Due to the potential time lag between an ET1 reaching Acas and the ET case having some sort of outcome recorded, these data cannot be accurately reported until after a period of time has elapsed and so are one quarter behind all the other statistics in this bulletin. These outcomes take longer so will not be final, but this enables a trade-off between timeliness and accuracy.

Employment tribunal outcomes are reported as outcomes for cases during the time period covered in the bulletin.

## 5. Alignment with HM Courts and Tribunals Service tribunal statistics

### 5.1 Receipts

Acas counts ET1 receipts using the date we receive them and when the record is first input into the case management system. This usually post-dates the submission date, sometimes by a number of weeks, so the ET1 receipts in a particular month at Acas can include some cases from previous months and exclude some from the current month.

Another issue arises when taking account of disputes with multiple parties. As described above, Acas groups cases into multiples when a batch of ET1s have a claimant-side representative in common but if there is no representative Acas does not group the cases in this way even if they all concern the same matter. HMCTS, on the other hand, may, for practical reasons, treat a large dispute as several smaller batches despite having a common representative or they may batch together multiple claimants in the same dispute even though they have no formal representation in common.

Another discrepancy arises around large-volume claims (such as equal pay) which are often too large in volume to be input onto the Acas system and are handled administratively although these cases appear in full in the Tribunal Service count.

Occasionally, for legal reasons aimed at preserving timelines, claimants resubmit claims repeatedly (typically every 3 months) which HMCTS counts again but not Acas, who are likely to have counted them only at first submission.

Additionally, a small number of claims are not open to Acas conciliation and are therefore not counted in Acas totals.

### Outcomes or disposals

The date of outcome (or 'disposal') of ET1 cases differs between Acas and HMCTS due to unavoidable lags in recording and occasional omissions.

Outcomes reached through Acas conciliation may not be recorded straight away by the courts and likewise court disposals are not always received and recorded by Acas on the date they were reached. In some cases, Acas does not receive final confirmation of the outcome of an expected hearing and there can be some delay in obtaining this information. For a small number of cases, we cannot get this information and we decide to close a case as 'heard' on the Acas system – sometimes a number of weeks after the expected date of hearing.

Inevitably, during periods when a backlog of cases is building up, the volume of receipts logged exceeds the volume of outcomes and, when working through a backlog, the reverse is true which can also lead to discrepancies between Acas and other figures.

## 6. Future developments

There are 2 planned additions to this series in the near future.

The first is to present case numbers with a geographical breakdown. Cases are submitted with a postcode of the employer against which the claim is being raised (or the site where the employee has worked). This postcode data can be used to provide an overview of where in England, Scotland and Wales cases are arising and will allow for us to identify case hotspots. However, it should be noted that head offices may be provided as respondent addresses as opposed to the location the claimant worked in.

A second planned change is to start presenting employment tribunal multiples alongside individual case numbers. We have made a recent system change which will improve production of these figures, so we have not reported the numbers in this statistical release to avoid being misleading but will be looking to report in the near future.

## 7. Related links

- [Acas early conciliation evaluation 2019](#)
- [Employment tribunal statistics on GOV.UK](#)