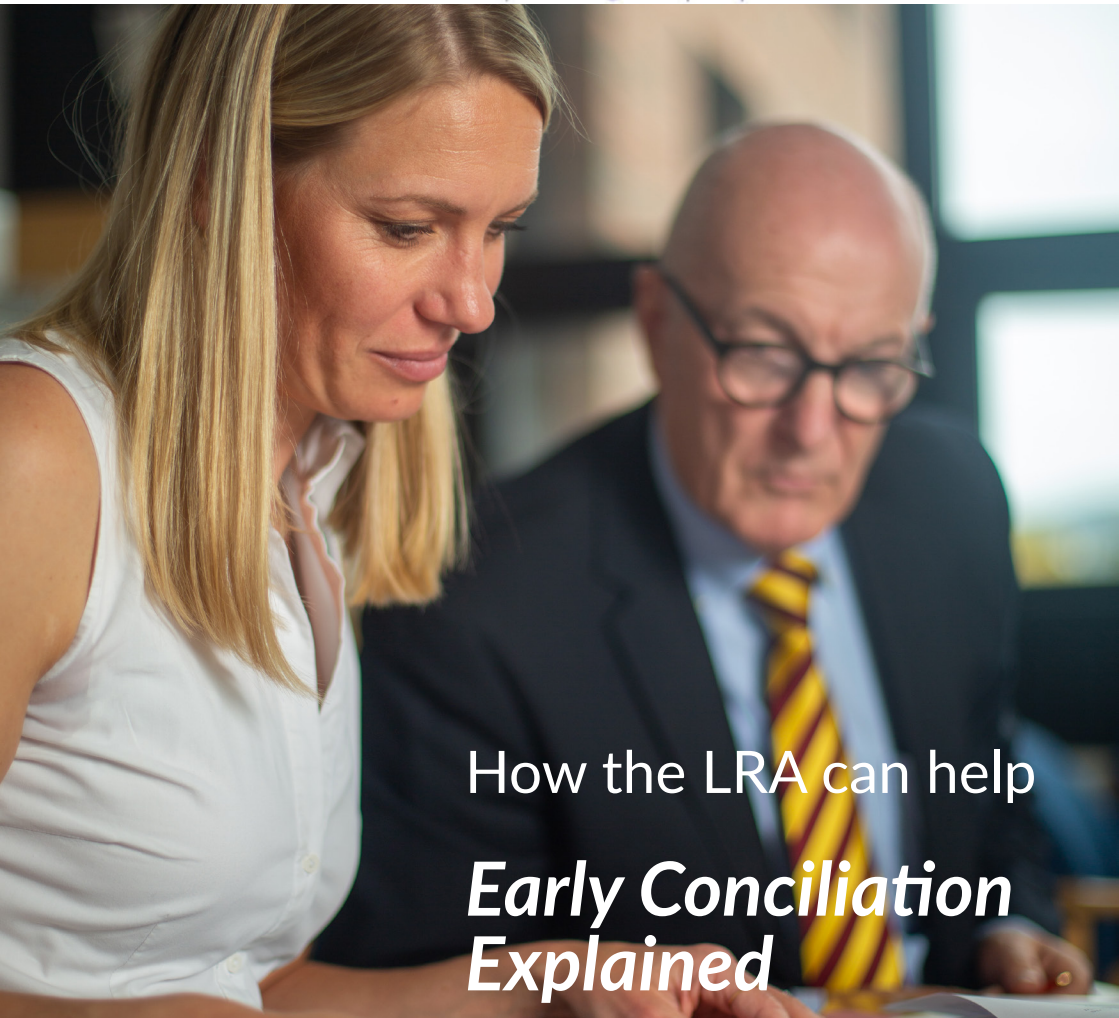


Labour Relations agency

improving employment relations



How the LRA can help

***Early Conciliation
Explained***

Labour Relations Agency

The Labour Relations Agency is an independent, impartial, publicly-funded organisation.

We promote good employment relations in Northern Ireland.

If you have a disability, please let us know if we can make any special arrangements to help you use our services.

If you need to use an interpreter, we can arrange that for you.

We can also provide this booklet in other formats – please ask for more details.

If you need more information on Early Conciliation that we haven't covered here, please visit our website www.lra.org.uk or phone our Workplace Information Service on 03300 555 300.

Early Conciliation

When someone has a complaint about their employment rights and plans to lodge a claim with the Industrial or Fair Employment Tribunal they must first let us know. This is so that they can consider the conciliation service we offer, which may be able to resolve that complaint.

The first step is to fill out a short Early Conciliation notification form. You can do this:

- online at www.lra.org.uk; or
- by calling into one of our offices where we will provide a private space for you to complete the online form; or
- by downloading the form from our website, filling in the required information, and posting or hand delivering it to one of our offices -

Labour Relations Agency
2-16 Gordon Street,
Belfast
BT1 2LG

or

3rd floor
Richmond Chambers
The Diamond
Derry/Londonderry
BT48 6HN

If you can't complete the form online, phone us on 03300 552 224 and we'll take your details over the phone.

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You can also ask someone to do this for you, such as a trade union or legal representative.

Once we have received your Early Conciliation notification form one of our Conciliation Officers will contact you, usually within five working days.

The Conciliation Officer will explain how conciliation works and offer it to you. If you give your consent, the Conciliation Officer will then contact the other party to ask if they are willing to agree to conciliation. If both parties agree, the Conciliation Officer will try to find a solution both sides can accept, which would avoid the need for a Tribunal hearing. The Conciliation Officer will try to help both sides settle the differences between them. They will not impose or force a solution.

If you or the other party do not want to use conciliation, we will give you a certificate to confirm that you have considered Early Conciliation. The certificate will have a unique reference number. The Tribunal office will need this if you want to take your case to a Tribunal.

Key features of Early Conciliation

We offer Early Conciliation as a free service. It provides a safe space where you can explore a possible agreement both parties can accept, rather than a 'win or lose' decision being given in a public hearing. It is private and less stressful than going to a Tribunal hearing.

The conciliation agreements we help arrange are legally binding.

When do I need to make my Early Conciliation notification?

Tribunal claims usually have to be submitted to the Tribunal office within three or six months of the alleged incident or behaviour, depending on the type of claim. Early Conciliation allows time to reach agreement to settle the dispute and will extend the time available to the claimant to lodge the claim to Tribunal if conciliation is unsuccessful. This means that, if you fill in an Early Conciliation notification form, within the three to six month time limit outlined above, the Tribunal time limit clock stops for up to one calendar month, during which conciliation can take place.

If agreement isn't reached within that calendar month, but the parties are close to agreement, the Conciliation Officer can extend the conciliation period by two weeks.

If there is no agreement, we will provide an Early Conciliation certificate, which you will need if you wish

to take your case to Tribunal. From when the certificate is issued the clock starts ticking again. As long as you were not already out of time when you made the Early Conciliation notification, you will have at least one month following receipt of the Early Conciliation certificate to lodge your claim at Tribunal.

Exemptions

There are exemptions that mean you will not need an Early Conciliation certificate and, if you want to, you can go directly to Tribunal. These exemptions are:

- if another person with the same dispute has been given an Early Conciliation certificate number and you lodge your Tribunal claim on the same claim form; or
- if an employer has already asked us to get involved in the dispute, you will be exempt from Early Conciliation; or
- where your complaint relates to an employment dispute and includes a claim where the Agency has no duty to conciliate e.g. a written Particulars claim or a Redundancy Fund payment claim, or
- if you plan to apply for interim relief because you believe you have been unfairly dismissed, or
- if your claim is against the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

How does conciliation work?

Conciliation is voluntary:

- You only take part if you want to and you can stop conciliation at any time.
- The Conciliation Officer can not and will not force you to take any course of action.

Conciliation is confidential:

- We will not pass information to other parties without your agreement.
- What you say during conciliation can't be used as evidence at a Tribunal hearing.

Conciliation is independent and:

- is entirely separate from the Tribunal service and, if you don't agree to a settlement, you can still pursue a claim;
- For most claims, you have three months from the time of the incident or alleged behaviour to lodge it with the Tribunal. However, if you apply for Early Conciliation the clock temporarily stops temporarily (see page 4). Please note: if the three-month deadline had already passed when you applied for Early Conciliation the Tribunal may reject your claim. In this situation, you can ask for the certificate and then immediately apply to the Tribunal to avoid any further delays. Conciliation will still be available, even when you take your claim to the Tribunal.

Conciliation is impartial. Conciliation Officers do not:

- represent the employer or the employee;
- take sides or judge who is right or wrong;
- give an opinion on what they think of a claim;
- tell you what you should do, such as how to win at Tribunal; or
- pressurise you to settle or abandon a case.

What will the Conciliation Officer do?

The Conciliation Officer will talk through the issues with both sides to see if you can find a solution and reach a settlement.

The Conciliation Officer will also:

- explain conciliation;
- explain how Tribunals work and what they might take into account before deciding the case;
- help establish the facts and discuss your options;
- help you understand the other side's views about the case, and explore with you how you might resolve it without a Tribunal hearing;
- explore whether re-employment is possible (in dismissal cases); and,

- tell you if the other side has any proposals for a settlement.

Are there other options when I have a complaint about my employment rights?

Yes. You can:

Settle the claim through us – we can conciliate in most claims about individual employment rights, and the majority are settled (or withdrawn).

Settle the claim privately – you can settle the claim privately, but a private settlement reached without appropriate advice may not be legally binding. If you want to explore this option you should first get advice from one of the sources listed on page 11.

Withdraw the claim – if you have received your Early Conciliation certificate and have then gone on to lodge a claim with the Tribunal, but no longer want to continue with it, you should withdraw it. We can help you with your withdrawal, which you will need to do straightaway. The Tribunal may ask for costs to be paid if they think someone has acted unreasonably.

Let an arbitrator decide the claim – instead of going to Tribunal, you can have your claim heard by an independent arbitrator using our Arbitration Scheme. The scheme is a quick, non-legalistic, less formal and more cost effective alternative to a Tribunal hearing. It is also carried out in a private setting and the outcome remains confidential, unlike a public Tribunal hearing.

Arbitrators can make legally binding awards in the same way

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a Tribunal does. For more information, ask your Conciliation Officer or read our arbitration booklet.

Have the claim settled by a Tribunal – you can get information explaining Tribunal procedures from:

- The Office of the Industrial Tribunals and the Fair Employment Tribunal (OITFET);
- Jobs and Benefits Offices;
- Your trade union;
- The Law Centre;
- The Ulster University Law Clinic; and
- Advice NI.

Why choose conciliation?

- ***It saves time and money.*** Preparing or responding to a Tribunal claim takes a while. If there is a Tribunal hearing, both employer and employee might have to pay costs if they have appointed someone to represent them.
- ***It minimises stress.*** Almost everyone finds pursuing or defending a case difficult. Appearing in a Tribunal can be stressful.
- ***It offers a quick solution.*** It's possible that a Conciliation Officer can quickly agree a settlement with a few phone calls or a short meeting. This would reduce stress and costs for everyone and make working relationships easier to restore, which can often be impossible following a Tribunal process.
- ***It's a 'win-win' outcome.*** In a Tribunal, even the 'winner'

will not always get what he or she wants. Conciliation may offer a settlement to suit both parties.

- ***You can stay in control.*** In a Tribunal the decision is taken out of your hands, and there are limits on what a Tribunal can award. For example, it can't order that references are given to help someone to find another job. A conciliation agreement through us offers much more room for wide-ranging terms.
- ***It's private and confidential.*** Conciliation is private and confidential. However, a Tribunal is a public forum where people can watch proceedings and the outcome of cases is published online.

What happens if I settle my claim through you?

If you settle your claim through us, the agreement will be legally binding. Although agreements do not have to be in writing to be legally binding, the terms of the agreement will be recorded on a form to be signed by both sides as proof of the agreement.

If parties return to conciliation and then agree to settle the claim after a case has been lodged with the Tribunal, the Conciliation Officer will tell the Tribunal so that the case can be withdrawn.

What if I have a representative?

If you appoint a representative to act for you, we will speak to them about your case. As any settlement reached through your representative would be legally binding, you should make sure they understand your requirements.

Where can I get more advice?

- Our Workplace Information Service gives information about employment rights and employment law. However, they can't help you prepare or respond to a Tribunal claim. Phone us on 03300 555 300 for more information.
- We can't offer advice about the national minimum wage. For help with this, contact Acas on 0300 123 1100.
- The Equality Commission for Northern Ireland offers free help and advice on equal pay and discrimination. Phone 028 90 500 600 for more information.
- Trade unions and employers' associations may be able to offer support to their members.
- Advice NI, solicitors, law centres and some specialist consultants can give advice and representation on employment rights and potential claims issues.

Data Protection

We hold some information about you to check progress and help produce statistics.

And finally...

We do our best to provide a high standard of service at all times. However, if you are not happy with the service you have received, you should complete our online Customer Complaints Form at www.lra.org.uk. If you prefer, you can write to the Customer Complaints Officer at either of our addresses (see back cover of this booklet).

Labour Relations Agency

Head office

2-16 Gordon Street

Belfast

BT1 2LG

Telephone: 03300 552 220

Textphone: 028 9023 8411

Regional Office

Floor 3

Richmond Chambers

The Diamond

Derry/L'Derry

BT48 6BB

Telephone: 03300 552 220

Textphone: 028 9023 8411

E-mail: info@lra.org.uk

Website: www.lra.org.uk