



University of Strathclyde
LAW CLINIC

10B The Employment Tribunal Process

A guide for the general public

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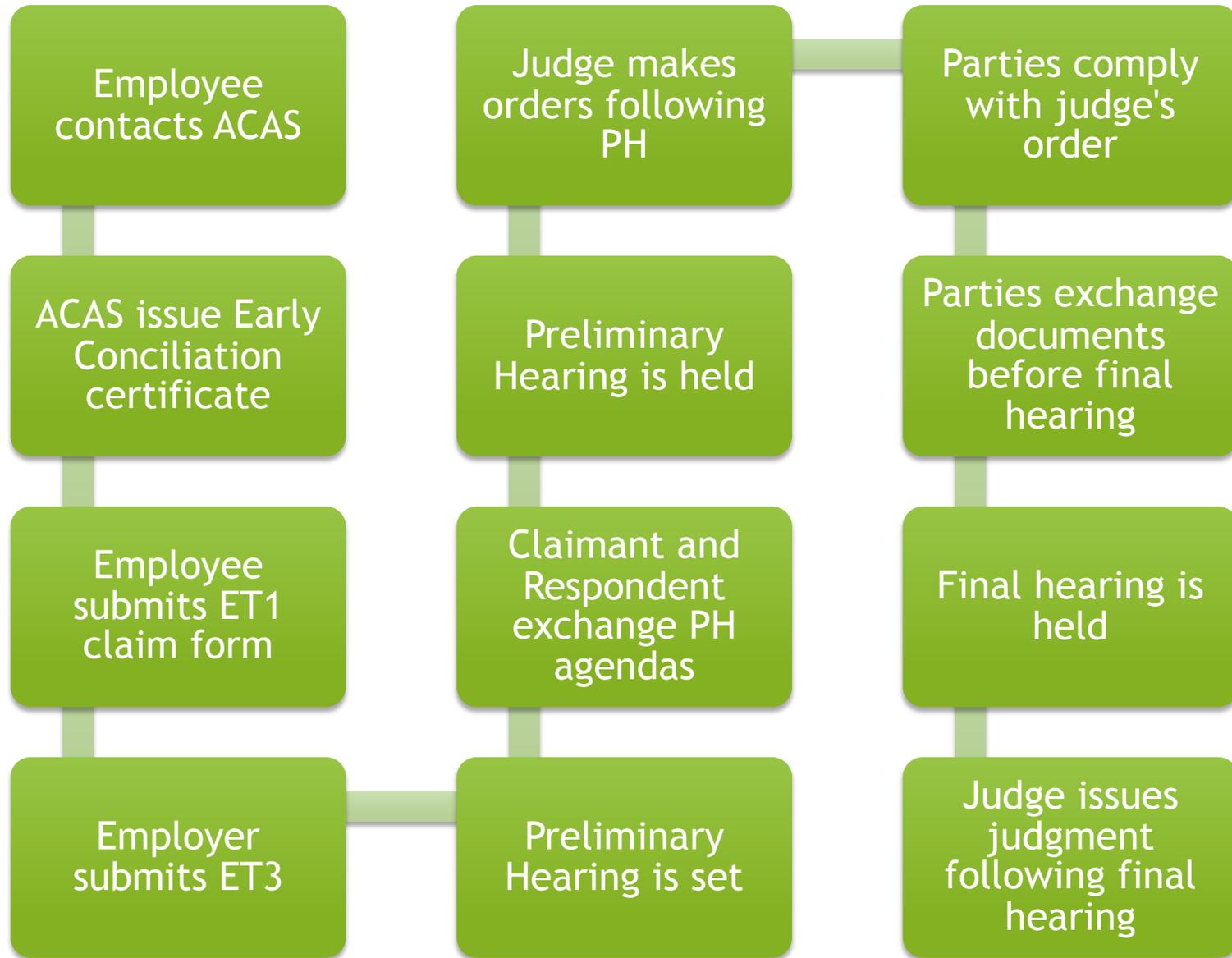
Outline

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Introduction

The next slide is a flowchart which sets out roughly what you can expect to happen as your claim progresses through the Employment Tribunal.

The flowchart is meant as a rough guide. No two cases are the same and some cases progress faster than others. Some cases may involve more than one preliminary hearing, particularly if the final hearing is to be held online and not in person. At the first preliminary hearing the judge might decide that another preliminary hearing should be held to decide on a particular issue which needs to be decided separately from the rest of the case. For example, it might be decided that there should be a hearing to decide whether or not you meet the legal definition of a disabled person, or if the case is time-barred. These are issues which sometimes need to be decided before looking at the whole circumstances of the case.



Potential orders the Tribunal might make (1)

The Tribunal can make an order for a party to provide certain information at any point in the process. Here are some common types of order that you might come across.

- ▶ **Further and Better Particulars:** This is where you set out in more detail what exactly happened in your case and why you think it was unlawful.
- ▶ **Agreed Statement of Facts:** You will have set out the facts from your perspective in the ET1. Your employer will have done the same in their ET3. It is likely that each side's version of events will be quite different. An agreed statement of facts is a document which sets out the facts that both sides agree on. This might include things like the date you started your employment, the role you worked in, what your duties were etc. The Respondent will normally be asked to take responsibility for this with your co-operation.

Potential orders the Tribunal might make (2)

- ▶ **Witness Statements:** Usually at a hearing each witness will give their evidence which is called examination in chief. They can then be cross-examined by the other party. However, a witness statement which is prepared and submitted in advance on behalf of each witness can be used to speed up the process. The statement will replace examination in chief and will form the bulk of their evidence. This means that at the hearing, you go straight to cross examining that witness. These are not generally used but are becoming more common when a virtual hearing is considered appropriate.
- ▶ **Schedule of Loss:** The Claimant is asked to provide an outline of the valuation of their claim.

Virtual hearings

These resources were prepared during the COVID-19 pandemic in 2020. During the pandemic hearings could only be held online and all in person hearings were delayed significantly. It is likely that virtual hearings will be common for the foreseeable future. Because of this, judges are now more likely to ask the parties to exchange as much information as possible in advance of the final hearing. This has resulted in an increased use of witness statements, agreed statements of fact, and further and better particulars.

Virtual hearings are also more likely to involve more detailed and more frequent Preliminary Hearings. The Tribunal will discuss in detail with yourself and the Respondent whether a virtual hearing might be appropriate in your case. There are a number of important factors to weigh up in assessing whether this is the case and you should be open about any concerns or reasons as to why you might not feel this is the best way to deal with your case.