

Employment Tribunal Regulations

Government Response to Public Consultation

July 2004

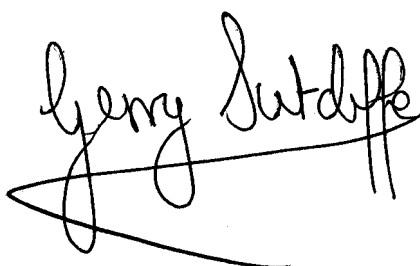
## Foreword

In December, I sought your views on new draft Employment Tribunal (ET) Regulations, and associated Rules of Procedure, which govern how the Tribunals handle cases. These form one part of the package of new dispute resolution measures due to come into effect on 1 October this year. They will, amongst other things, implement provisions of the Employment Act 2002

The new Regulations aim to facilitate the more efficient running of the tribunal system. We have also taken this opportunity to rewrite and re-order the provisions to make them easier to use. Alongside the new dispute resolution regulations, they aim to bring about a significant improvement in the framework for resolving workplace disputes in Great Britain.

I would like to offer my thanks to all those who responded to the consultation document. A summary of their views is given here. These responses, from a broad range of stakeholders, should be read in conjunction with the analysis and statistical evidence presented in the consultation document. This feedback has proved invaluable in revising the Regulations to meet the needs of all parties.

I have now laid the Regulations before Parliament.

A handwritten signature in black ink that reads "Gerry Sutcliffe". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Parliamentary Under Secretary of State for Employment Relations,  
Competition and Consumers  
20 July 2004

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## INTRODUCTION

1. Part Two of the Employment Act 2002<sup>1</sup> covers employment tribunal (ET) reform and includes provisions to streamline and render more efficient the handling of tribunal cases. The primary purpose of the changes that have been made in the new Regulations, and the associated Rules of Procedure set out in the schedules to them, is to implement that reform. They also address some recommendations of the Employment Tribunal System Taskforce. In addition, the opportunity has been taken to improve the structure of the legislation and recast it in more “plain English” terms to improve its user-friendliness. The DTI launched a public consultation on the Government’s proposals for the new provisions in December 2003. This document summarises the responses to consultation and explains the Government’s final decisions on key points.

### Pre-consultation

2. Tribunal reforms were amongst the issues consulted on in the period prior to the passing of the Employment Act in 2002. In seeking to incorporate the relevant provisions of the Act into the ET Regulations, DTI has been working very closely with both ET Presidents, the Employment Tribunals Service (ETS) and Acas. We have also met representatives of CBI and TUC, as well as other established external stakeholders (i.e. ETSNUG). In addition, we have carried out statutory consultation with the Council on Tribunals.

### Consultation activities

3. Draft Rules and Regulations were developed and published in a consultation document on 5 December 2003<sup>2</sup>. The consultation document sought views on the draft Regulations and on particular issues arising from them.

4. Copies of the consultation document were sent to members of the aforementioned external stakeholders, to other organisations that had participated in previous informal consultation, to those who had expressed a prior interest in this and similar consultations, and to other significant contacts. Copies were also supplied in response to orders from individual enquirers. More than 500 paper copies were despatched altogether. The consultation document was also made available on the DTI website, along with the Executive Summary in Welsh.

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<sup>1</sup> For further information on the Employment Act 2002 see [www.dti.gov.uk/er/employ/index.htm](http://www.dti.gov.uk/er/employ/index.htm)

<sup>2</sup> To download an electronic version of the consultation document see [http://www.dti.gov.uk/er/individual/etregs\\_consult.htm](http://www.dti.gov.uk/er/individual/etregs_consult.htm)

## Responses to consultation

5. The deadline for responses was 5 March 2004. A total of 106 responses were recorded. These break down as follows.

Category	Number of responses
Barristers, solicitors & legal organisations	23
Judiciary, judicial bodies & ET members' associations	8
Individual employers	5
Employer organisations	12
Individuals responding in a personal capacity & academic researchers	8
Trade unions, union groups, trade & employee associations	13
Advisory services e.g. CAB, business, employment and HR consultants	14
Other government departments, non-governmental organisations, local councils and boroughs	13
Other	10
Total of all responses recorded	106

6. The Government would like to thank respondents for supplying a great deal of high-quality feedback. As well as input on policy issues, a large number of useful technical drafting suggestions were received.

7. The responses, except those made in confidence, are available in the DTI Library and can be accessed on request by contacting the Information and Library Services in the DTI on 020 7215 6226. A list of those respondents who were willing to have their names and responses disclosed can be found at Annex A.

## Regulatory Impact Assessment

8. The consultation document contained a partial Regulatory Impact Assessment (RIA) that evaluated the potential impact of the draft Regulations.

9. A small number of respondents offered detailed comments on the analysis and the information presented in the RIA. Where relevant, this feedback has been incorporated in the full RIA that accompanies the finalised Regulations. This document will be available separately on the DTI website.

10. The following table summarises the main costs and benefits associated with adopting the statutory procedures.

Summary of longer term costs and benefits			
	Annual benefits	Annual costs	One-off costs
<b>Employers</b>			
Pre-acceptance procedures	£2.0-4.0 m		
Fixed period of conciliation	£0.4-0.9 m		
<b>Total</b>	<b>£2.4-4.9 m</b>		
<b>Exchequer</b>			
Implementation costs		£30,000	£850,000
Pre-acceptance procedures	£0.6-1.2 m	£0.3 m	
Fixed period of conciliation	£0.7-1.7 m		
Default judgements	£0.2-0.3 m		
Written reasons	£0.2-0.3 m		
<b>Total</b>	<b>£1.7-3.4 m</b>	<b>£0.3 m</b>	<b>£850,000</b>
Note: figures may not add up due to rounding			

### Understanding this document

11. This report follows the order of the December consultation document. It gives an account of the views expressed in relation to each of the areas in which the Government made a proposal, along with broad numerical breakdowns of responses to individual questions. Not every respondent is cited in each case, not least because some submissions repeated views already expressed by others. Where the Government has concluded, in the light of consultation replies, that a significant change in the provisions is warranted, this is set out in bold print at the end of each section.

12. In the light of comments received, a number of other changes have been made to the Regulations on more detailed and/or technical points. Some of these are also described, where relevant, in the text below.

13. Some respondents offered views on issues that were outside the scope of the consultation – in many cases these issues had already been determined in the Employment Act 2002. Where possible, this document

contains a summary of these additional views, although discussion of them is generally more limited.

14. Where specific provisions are referred to below, the numbering is that of the draft on which public consultation took place. They may since have been renumbered as a result of changes made.

## PROPOSED REVISIONS TO THE EMPLOYMENT TRIBUNAL REGULATIONS AND RULES OF PROCEDURES

### Summary

15. The key reforms in relation to which views were sought were:

- Re-structuring and re-writing of the new regulations in “plain English”
- The introduction of a pre-acceptance procedure for claims
- The implementation of a fixed period of Acas conciliation
- The implementation of provision for the introduction of prescribed claim and response forms, and for the giving of certain information by claimants and respondents to be mandatory
- Measures relating to the time limit for a respondent to respond to a claim
- Determinations without a hearing (default judgments)
- Types of hearing
- Costs and preparation time awards
- The Public Register

16. The Regulations and Rules will apply to the whole of Great Britain, replacing the current separate, but essentially equivalent, provisions for England & Wales and Scotland.

17. The Government intends shortly to make a further amendment to the legislation, also to come into effect on 1 October 2004, to add a further schedule, Schedule 6, setting out a revised procedure for the handling of equal value claims under the Equal Pay Act. This has been the subject of separate public consultation<sup>3</sup>.

18. The consultation document posed the following questions:

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<sup>3</sup> The consultation document can be downloaded from DTI's Women & Equality Unit's home web page, 'Publications & research' link:  
[http://164.36.253.98/research/index.htm#towards\\_eqpay](http://164.36.253.98/research/index.htm#towards_eqpay)

## Re-structuring and re-writing of the new regulations in “plain English”

- Question 1 Do you support the recasting of the Rules of Procedure in easier-to-follow, more plain English terms?
- Question 2 Would you prefer the term “respondent” to be retained, or the term “defendant” (or the Scottish equivalent “defender”) to be substituted for the party (usually the employer) responding to a Tribunal claim?

## The Pre-Acceptance Procedure for Employment Tribunal Claims

- Question 3 Are the issues in the list in draft Rule 3(2) appropriate for consideration under the proposed new pre-acceptance procedure for claims?
- Question 4 Are there any items that ought to be added to the list of issues for consideration at the pre-acceptance stage, either for claims – draft Rule 3(2) – or responses – draft Rule 7(2)?

## The Fixed Period for Acas Conciliation

- Question 5 Are the proposed distinctions between the three categories of fixed period cases sensibly drawn? If not, what are your specific points of criticism/proposals for improvement?
- Question 6 Are 7 weeks and 13 weeks appropriate durations for, respectively, the short and standard fixed conciliation periods? If not, what durations should those periods have?

## Employment Tribunal Forms

- Question 7 Is it appropriate for the claimant to be required to give the items of information listed in Rule 1(3)? Are there any items that ought to be added, or deleted?
- Question 8 Is it appropriate for the respondent to be required to give the items of information listed in Rule 5(3)? Are there any items that ought to be added, or deleted?

### Time limit for a respondent to reply to a claim

- Question 9 Is 23 days from the date when a copy of the claim is sent to the respondent an appropriate time limit for entering a response? If not, what would be an appropriate time limit, and why?
- Question 10 Is it appropriate that the time limit for entering a response should be extended only where such an extension is judged just and equitable in the circumstances?

### Determinations without a hearing (default judgments)

- Question 11 Are the circumstances in which it is proposed that a Tribunal should be able to make a default judgment the most appropriate ones? If not, what should those circumstances be?
- Question 12 Are the provisions for reviewing a default judgment appropriate? If not, how should they be changed?

### Types of hearing

- Question 13 Is the proposed new framework for types of hearings likely to be an improvement on the present position? This new framework consists of case management discussions and pre-hearing reviews conducted by a chairman sitting alone, followed where necessary by a full Hearing conducted by a Tribunal.
- Question 14 Are there any changes that ought to be made to this framework? If so, what changes could be made?

### Costs and preparation time awards

- Question 15 Are there any changes that ought to be made to the provisions relating to wasted costs orders and/or preparation time awards?

### The Public Register

- Question 16 Should the Public Register of Tribunal applications continue unchanged? If not, which of the options discussed should be pursued? Are there any other options that ought to be considered?

## RE-STRUCTURING AND RE-WRITING OF THE NEW REGULATIONS IN "PLAIN ENGLISH"

19. In revising the rules of procedure in more user-friendly, "plain English" terms, we aimed to give them a more logical structure and make them more comprehensible in order to make the system easier to use.

20. This change will be complemented by the introduction of standard claim and response forms, the use of which will become mandatory from April 2005. These forms – on which there has been a separate public consultation by the ETS – will seek fuller information in the first instance, to assist the parties, and the tribunal, in understanding cases.

### Question 1 – Do you support the recasting of the Rules of Procedure in easier-to-follow, more plain English terms?

Number of replies: 75

Agree: 72

Neutral: 1

Disagree: 2

21. This proposal was overwhelmingly supported.

22. Some consultees were concerned that the rules were overly detailed and prescriptive. The majority, however, welcomed the fact that they set out all the applicable procedures fully and in detail.

23. The DTI will shortly be making available clear and accessible guidance for tribunal users and advisers, to aid further in the understanding of the procedures.

### Question 2 – Would you prefer the term "respondent" to be retained, or the term "defendant" (or the Scottish equivalent "defender") to be substituted for the party (usually the employer) responding to a tribunal claim?

Number of replies: 77

Retain "respondent": 30

No view either way: 7

No: 40

24. In line with the adoption of more user-friendly terminology in the legislation, the party currently referred to as the "applicant" will in future be referred to as the "claimant". The consultation document canvassed views as to whether or not the term "defendant" (or the Scottish

equivalent, “defender”) should be likewise adopted instead of “respondent”.

25. In strict numerical terms, the weight of consultation replies favoured the adoption of “defendant”. However, most employers’ bodies, including the CBI and small firms representatives, expressed strong opposition. They noted that many employers perceive “defendant” to have pejorative connotations, and consider “respondent” to be more appropriate in the context of determining employment disputes through the relatively informal (by comparison with the civil courts) tribunal system.

26. This issue is one of presentation rather than of substance. Though the judiciary and others see substantive merit in switching from “respondent” to “defendant”, the stakeholders who would be most affected are opposed, and in some cases strongly so.

27. The Government has therefore decided to retain the term “respondent” in preference to “defendant”.

#### THE PRE-ACCEPTANCE PROCEDURE FOR EMPLOYMENT TRIBUNAL CLAIMS

28. The consultation document proposed the introduction of new pre-acceptance procedures to “sift out” claims and responses that (for one or more of a number of specified reasons) should not go forward.

Question 3: Are the issues in the list in draft Rule 3(2) appropriate for consideration under the proposed new pre-acceptance procedure?

Number of replies: 76

Agree: 36

Neutral view: 2

Disagree: 38

Question 4 – Are there any items that ought to be added to the list of issues for consideration at the pre-acceptance stage, either for claims – draft Rule 3(2) – or responses – draft Rule 7(2)?

Number of replies: 66

Claims:        Yes, add items: 8  
                  No, list is acceptable: 38  
                  No, delete items: 4

Responses: Yes, add items: 8  
No, list is acceptable: 36  
No, delete items: 4

Other: 1

29. Some consultees who responded to these questions – including the TUC and individual trade unions – expressed general opposition to the principle of the introduction of a pre-acceptance procedure and, in particular, the introduction of admissibility conditions for claims based on grievances. These issues did not, however, form part of the consultation, as the Government had already committed itself to introducing admissibility conditions, and had taken steps to legislate accordingly in the 2002 Act and the new dispute resolution regulations. The existence of admissibility conditions necessitates the introduction of a pre-acceptance procedure, to ensure that the tribunals do not consider claims where those conditions have not been met.

30. In the light of comments and suggestions put forward by consultees, a number of, mostly detailed, changes have been made to the pre-acceptance procedures. In particular, the list of pre-acceptance criteria for claims has been shortened and simplified, and the provision for pre-acceptance hearings has been removed. The reason for the latter change is that the proper course of action where it is unclear, from the information given on the claim form, whether or not the pre-acceptance criteria have been met, is for the claim to be accepted. (Any necessary clarification can then be obtained in the course of the proceedings themselves.) This renders the pre-acceptance hearing unnecessary (as its intended purpose was to enable the chairman to clarify whether or not the criteria had been met, by discussion with the claimant). If the claimant is dissatisfied with any decision taken at the pre-acceptance stage, he or she can apply for it to be reviewed (or appeal, on a point of law, to the EAT), in which event he or she would have an opportunity to make representations.

### THE FIXED PERIOD FOR ACAS CONCILIATION

31. Acas's duty to conciliate is to be limited to a fixed period in most cases, to encourage parties to settle in good time rather than just before the tribunal hearing. This fixed period will be either a short 7 week period or a standard 13 week period, depending on what the case is about. However, in some cases, particularly those under the discrimination jurisdictions, which tend to be inherently complex, Acas's duty to conciliate will remain unlimited in time.

Question 5 – Are the proposed distinctions between the three categories of fixed period cases sensibly drawn? If not, what are your specific points of criticism/proposals for improvement

Number of replies: 73

Agree sensibly drawn (with or without reservations): 33

Neutral: 4

Disagree: 36

32. Acas currently has a duty to continue to seek a conciliated settlement for as long as the two parties to the dispute want to carry on. This can lead to an Acas-brokered settlement being reached at the very last moment before the case comes to a tribunal hearing. This prolonged process can cost time and money to all concerned, including the tribunals. One of the key elements of the Employment Act 2002 tribunal reforms proposed a move to a fixed period of conciliation, intended to promote the resolution of disputes and achieve settlements before the need for a hearing.

33. Those consultees, including the TUC and some individual trade unions, who responded negatively to this question were generally opposed in principle to the introduction of fixed periods of Acas conciliation. This was not, however, an issue on which views were canvassed in the consultation, given that the Government had already decided to proceed with such measures, and had legislated accordingly, as mentioned above, in the 2002 Act. The great majority of other consultees who commented considered that the distinctions between the fixed period categories were appropriate.

34. In response to suggestions made by some, cases brought under the public interest disclosure provisions of the Employment Rights Act 1996 have been added to the category of cases where no fixed period will apply. This is because, like cases under the discrimination jurisdictions, these tend to be inherently complex.

35. Similarly, a number of further jurisdictions have been added to the list of those types of cases in which the short, rather than the standard, fixed period will apply. This is because, like the other types of cases already included in that list, they tend to be straightforward and involve little dispute over facts.

Question 6 – Are 7 weeks and 13 weeks appropriate durations for, respectively, the short and standard fixed conciliation periods? If not, what durations should those periods have?

Number of replies: 74

7 weeks, yes: 34

7 weeks, no: 28

13 weeks, yes: 35

13 weeks, no: 26

Other comments: 10

36. The prevailing view amongst consultees was that the proposed periods were appropriate. Again, those who responded negatively generally did so from a position of opposition to the principle of having fixed periods at all.

#### EMPLOYMENT TRIBUNAL FORMS

Question 7 – Is it appropriate for the claimant to be required to give the items of information listed in Rule 1(3)? Are there any items that ought to be added, or deleted?

Number of replies: 69

Agree appropriate (with or without reservations): 37

Neutral: 4

Disagree: 28

Question 8 – Is it appropriate for the respondent to be required to give the items of information listed in Rule 5(3)? Are there any items that ought to be added, or deleted?

Number of replies: 66

Agree (with or without additions): 49

Disagree: 17

37. These proposals were generally supported by consultees – strongly so, in the case of the information required to be given by respondents. Those who responded negatively generally did so from a position of opposition to the principle of certain information being required in order for a claim, or a response, to be accepted into the tribunal system – an issue on which the Government had already taken a decision prior to the passage of the Employment Act 2002. A number of detailed changes

have, however, been made to the provisions in the light of constructive suggestions made by some consultees.

### TIME LIMIT FOR A RESPONDENT TO REPLY TO A CLAIM

38. One of the improvements in procedure proposed in the public consultation document was a more rigorous enforcement of the time limit for entering a response to a claim, in particular through the introduction of a “default judgment” procedure. It was also proposed that, in order to provide greater certainty, the time limit should in future run from the date on which the tribunal sends the case papers to the respondent, rather than the date on which the respondent receives the case papers, and that it should be increased from 21 days to 23 days to compensate for the time the papers would take to reach the respondent in the post.

Question 9 – Is 23 days from the date when a copy of the claim is sent to the respondent an appropriate time limit for entering a response? If not, what would be an appropriate time limit, and why?

Number of replies: 72

Yes: 35

Neutral: 1

No: 36

39. While the principle of more rigorous enforcement of the time limit was generally welcomed by consultees, and the TUC and trade unions supported the proposed new time limit, there was a strong feeling amongst employers and their representative bodies, and other key stakeholders such as employment law groups, that 23 days was too short a period to allow. It was considered that an increase would be appropriate, in view of the proposal for more rigorous enforcement, and of the fact that, in large organisations, it can often take some time for the case papers to reach the individual who needs to deal with them.

40. The Government has decided, in the light of consultation responses, to extend the time limit from the proposed 23 days to 28 days (running from the date when the case papers are sent to the respondent). This was a period favoured by many consultees, and recommended at an earlier stage by the Employment Tribunals System Taskforce.

Question 10 – Is it appropriate that the time limit for entering a response should be extended only where such an extension is judged just and equitable in the circumstances?

Number of replies: 66

Yes (with or without reservations): 47

No: 13

Comments only: 6

41. This proposal was generally supported by consultees.

#### DETERMINATIONS WITHOUT A HEARING (DEFAULT JUDGMENTS)

42. The consultation document put forward proposals to implement the provisions of the Employment Act 2002 allowing for a tribunal to issue a default judgment against a respondent (without a hearing) where a case is uncontested.

Question 11 – Are the circumstances in which it is proposed that a tribunal should be able to make a default judgment the most appropriate ones? If not, what should those circumstances be?

Number of replies: 69

Yes: 48

No: 17

Comments / neutral: 4

Question 12 – Are the provisions for reviewing a default judgment appropriate? If not, how should they be changed?

Number of replies: 64

Yes: 30

No: 30

Comments / neutral: 4

43. These proposals were generally supported by consultees. In the light of some concerns expressed about the effectiveness of procedures for reviewing a default judgment – Question 12 – a number of improvements have now been made to the drafting of these provisions. For instance, a respondent applying for a default judgment to be reviewed will now have to explain why no response, or request for an extension of time to enter a response, was made within the original, 28 day time limit.

## TYPES OF HEARING

44. The consultation document proposed a new, streamlined framework for the types of hearing that tribunals or (as the case may be) chairman may hold.

Question 13 – Is the proposed new framework for types of hearings likely to be an improvement on the present position? This new framework consists of case management discussions and pre-hearing reviews conducted by a chairman sitting alone, followed where necessary by a full Hearing conducted by a tribunal.

Number of replies: 66

Yes: 41

No: 18

Other: 3

Question 14 – Are there any changes that ought to be made to this framework? If so, what changes could be made?

Number of replies: 65

Yes – changes required: 45

No – framework satisfactory: 20

45. Prior to 1998, the majority of preliminary hearings in the tribunals took place before a chairman sitting alone, without lay members, including in cases under jurisdictions where the final merits hearing is required to be before a full tribunal. There were then, however, a number of EAT judgments that called this practice into question, essentially on technical grounds. This led to a change in practice, so that now, except in cases under jurisdictions where the final merits hearing can be before a chairman sitting alone, preliminary hearings almost invariably take place before a full tribunal.

46. A key aspect of the new procedures is a rationalisation of the types of hearings held by the tribunals. The consultation document proposed, amongst other things, that the two types of preliminary hearings held at present should in future be superseded by a single type, for which the term “pre-hearing reviews” (PHRs) would be retained. It was envisaged that, in cases where the final merits Hearing is required to be before a full tribunal, these streamlined PHRs should always, without exception, be conducted by a chairman sitting alone. This would increase efficiency and assist all tribunal users by allowing for cases to be progressed more swiftly.

47. While the rationalisation of types of hearing was generally supported by consultees in principle, many, from across the spectrum of interests, opposed or had strong reservations about what they saw as a significant diminution in the role of lay members at the preliminary stage, particularly given that many PHRs will consider factual as well as legal and procedural issues.

48. The Government has therefore decided to amend the provisions so that, although PHRs will normally be heard by a chairman sitting alone, they may be held with lay members where:

a) one or more of the parties makes a written request not less than 10 days prior to the hearing for the involvement of lay members;

b) the chairman considers that one or more substantial issues of fact are likely to be determined at the PHR and that it would be desirable for the PHR to be conducted by a tribunal.

#### COSTS AND PREPARATION TIME AWARDS

49. It was proposed that two substantial changes should be made to the costs rules: (i) there should be a new provision for awards in respect of preparation time in some circumstances; and (ii) it should be possible for representatives (except not-for-profit representatives) to incur a costs award on account of their own conduct.

Question 15 – Are there any changes that ought to be made to the provisions relating to wasted costs orders and/or preparation time awards?

Number of replies: 70

Comments only: 5

Wasted costs orders: Yes: 37; No: 27

Preparation time awards: Yes: 27; No: 23

50. In the light of comments made, a number of detailed changes have been made to these provisions, with a view to improving their operation. A significant proportion of those consultees who responded negatively to this question did so from a position of being opposed to, or having serious reservations about, the principle of the introduction of such provisions – particularly where wasted costs orders were concerned.

## THE PUBLIC REGISTER

### Question 16

a) Should the Public Register of Tribunal applications continue unchanged?

Number of replies: 62

Yes (with or without reservations): 19

No: 42

b) If not, which of the options discussed should be pursued?

Number of replies: 60

Publication on Internet:

Yes / generally supported: 4

Yes, with consent or amendment of content: 5

No: 8

No view either way: 2

Change required information:

Yes: 20

No: 2

Other: 2

Change timing:

Yes: 15

No: 3

Other: 1

Abolish:

Yes: 22

Yes, if unable to change identifiable information: 1

Yes, if cannot make more readily accessible: 1

No: 3

Other: 2

c) Are there any other options that ought to be considered?

Number of replies: 24

Yes: 20

No: 4

51. A small number of consultees – including Public Concern at Work (PCAW) and some employment lawyers and consultants – supported the

retention of the Register strongly, and in some cases called for it to be expanded to include additional information. The majority of key stakeholders, however, favoured abolishing the register in its current form. The balance of views was that its advantages – in terms of freedom of information and access to sources of advice and support that the parties might not otherwise know to approach – were outweighed by its significant disadvantages. The disadvantages cited included compromising the privacy of the parties, and leaving them open to receiving numerous unwelcome, and in some cases misleading, approaches from “ambulance chasers”. Evidence of such approaches was provided by some consultees. Many consultees, including the TUC and individual unions, favoured complete abolition of the register. They were concerned that the register is used for blacklisting purposes. There was, however, support expressed by some consultees for the retention of the aspect of the register recording judgments. This was considered to be useful for monitoring purposes, and to ensure that there continued to be a public record of judgments reached in the tribunals.

**52.** The Government has decided, in the light of consultation responses, that details of claims and responses should no longer be recorded on the Public Register, but that judgments should continue to be recorded. This means that in cases where settlements are agreed before judgment is reached, details will, in future, not appear on the Register.

**53.** The Government will however give further consideration separately to the contention by PCAW that claim and response information on public interest disclosure cases should be treated exceptionally.

#### OTHER ISSUES ARISING FROM THE CONSULTATION

**54.** Comments were received from consultees on a number of other miscellaneous matters, including:

- Power for the Employment Tribunal Presidents to issue practice directions
- Review hearings
- Telephone hearings and electronic communication
- Reporting restrictions
- Withdrawal of claims
- Written reasons for judgments
- Costs
- Witness orders
- Recording ET proceedings

- ET panel issues
- Combined proceedings
- Service of documents
- Re-instatement and re-engagement issues

## ANNEX A – LIST OF CONSULTEES

The following list is of those who responded publicly to the consultation on the draft revised Employment Tribunal Regulations and Rules of Procedure. Individuals who responded did so in a personal capacity, unless indicated otherwise.

Acas Council	Alliance for Finance
Association of University Teachers	Louise Barton
A & M Bacon Limited	Birmingham Law Society
British Printing Industries Federation	British Retail Consortium
Broadcasting, Entertainment, Cinematograph & Theatre Union	Business Services Association
CBI	Catholic Education Commission (Scotland)
Cheshire Citizens Advice Bureau	Citizens Advice
Clifford Chance	Construction Confederation
Cornwall County Council	Council of Chairmen of Employment & Industrial Tribunals
Council of Employment Tribunal Members Association	Council on Tribunals
Helen Craik	Crewe & Nantwich CAB
Croner Consulting	Fiona Davidson
Department for Constitutional Affairs	Department for Education & Skills
Department for Work & Pensions	Digby Brown (for National Union of Journalists (Scotland))
Disability Rights Commission	Discrimination Law Association
DLA	Stuart Duncan
EEF	Electrical Contractors' Association
Employment Law Bar Association	Equal Opportunities Commission
Employment Lawyers' Association	Federation of Small Businesses
Eversheds	GMB
Free Representation Unit	Haldane Society of Socialist Lawyers
Graphical, Paper & Media Union	Hertfordshire CIPD Branch Policy Group
Hammonds Solicitors	Institute of Directors
M Homfray-Davies, E Lloyd-Parry & E Donnelly	KPMG
JR Consultants	The Law Society of Scotland
The Law Society	London Borough of Camden
Lionel Blackman Solicitors	Lyons Davidson, Solicitors
R W Lucking	Maclay, Murray & Spens, Solicitors
Mace & Jones, Solicitors	Paul Miller
Manpower	Brian Mitchell
Ministry of Defence	National Association of Schoolmasters & Union of Women Teachers
Morrish & Co	Newcastle Employment Tribunal Users Group
National Autistic Society	North West Local Authorities' Employers' Organisation
The Newspaper Society	Angela Plaisted
Peninsula Business Services Limited	
Prospect	
Public & Commercial Services Union	

<p>Royal Mail Group plc  Scottish Employment Rights Network  Scottish Low Pay Unit  Secondary Heads Association  Society of Editors  Taylor Walton Solicitors  Thompsons Solicitors  Transport Salaried Staffs Association  Union of Construction, Allied Trades  &amp; Technicians  Universities &amp; Colleges Employers  Association  University of Ulster  Warwickshire County Council  Anna Wooley</p>	<p>Public Concern at Work  Recruitment &amp; Employment  Confederation  Scottish Association of CAB  Scottish Employment Tribunal  Members Association  Scottish Trade Union Centre  Small Business Service  Society of Local Council Clerks  Tesco  Trades Union Congress  Trinity Development  Union of Shop, Distributive &amp; Allied  Workers  University of Leicester  Peter Wallington  Wilcox &amp; Co</p>
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## ANNEX B – SOURCES OF ADVICE

Service	Description	Contact details
Acas	Acas are the employment relations experts, helping people work together effectively. Acas provides impartial information, help and guidance on employment matters. It also prevents and resolves problems between employers and their workforces, settling complaints about employees rights and encouraging people to work together effectively.	08457 47 47 47  Textphone 0845 6061600  <a href="http://www.acas.org.uk">www.acas.org.uk</a>
Business Link	A national service, which provides help and advice to business owners and managers on all aspects of setting up and running a business	0845 600 9006  <a href="http://www.businesslink.org.uk">www.businesslink.org.uk</a>
Citizens Advice	Citizens Advice offers free, confidential, impartial and independent advice on problems that are central to people's lives. These include debt and consumer issues, benefits, housing, legal matters, employment, and immigration. Advisers can help fill out forms, write letters, negotiate with creditors and represent clients at court or tribunal.	England and Wales 020 7833 2181 <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a>  <a href="http://www.adviceguide.org.uk">www.adviceguide.org.uk</a>  Scotland 0131 550 1000 <a href="http://www.cas.org.uk">www.cas.org.uk</a>
Commission for Racial Equality	The Commission for Racial Equality is a publicly funded, non-governmental body set up under the Race Relations Act 1976 to tackle racial discrimination and promote racial equality	England 020 7939 0000  Scotland 0131 524 2000  Wales 02920 729 200  <a href="http://www.cre.gov.uk">www.cre.gov.uk</a>

Community Legal Service	To make it easier for the public to get legal help and advice, the Community Legal Service brings together organisations offering these services into local networks. The networks include solicitors, Citizens Advice Bureaux, law centres, local authority services (including libraries), community centres and a host of other organisations. Many of the organisations within the CLS offer some or all of their services for free.	<a href="http://www.justask.org.uk">www.justask.org.uk</a>
DIALOG	The Diversity Action in Local Government unit provides information for local authority managers on legislative developments and good practice on equality matters. The unit promotes the new Equality Standard for Local Government	<a href="http://www.lg-employers.gov.uk">www.lg-employers.gov.uk</a>
Disability Rights Commission	The Disability Rights Commission (DRC) is an independent body set up by the Government to help secure civil rights for disabled people	08457 622 633 <a href="http://www.drc.org.uk">www.drc.org.uk</a>
DTI Dispute Resolution	The dispute resolution website draws together a number of useful publications on this topic	<a href="http://www.dti.gov.uk/disputeresolution">http://www.dti.gov.uk/disputeresolution</a>
Equal Opportunities Commission	The Equal Opportunities Commission (EOC) is an agency working to eliminate sex discrimination in 21 <sup>st</sup> Century Britain	National 0845 601 5901  Scotland 0141 245 1831  Wales 02920 641 079  <a href="http://www.eoc.org.uk">www.eoc.org.uk</a>
Equality Direct	This service is designed to give business managers easy access to authoritative and joined-up advice on a wide range of equality issues	0845 600 3444  <a href="http://www.equalitydirect.org.uk">www.equalitydirect.org.uk</a>

REAS	The Race and Equality Advisory Service (REAS) is a part of Acas. The service provides free and confidential strategic advice to employers and others so that they can develop and implement policies and practices for racial equality among the workforce. It is a national service with a team of regional advisers based throughout the country to ensure local expertise is available to all their clients	Phone Acas and ask for REAS adviser
Small Business Service	The Small Business Service (SBS) is a Government agency, which champions the interests of small businesses	0845 001 0031 <a href="http://www.sbs.gov.uk">www.sbs.gov.uk</a>
Trades Union Congress	The TUC is the umbrella organisation for Britain's unions. It provides information on rights at work and the right union to join through its know your rights line and workSMART, the TUC's world of work website.	General 020 7636 4030 know your rights line 0870 600 4882 <a href="http://www.tuc.org.uk">www.tuc.org.uk</a> workSMART (world of work website) <a href="http://www.worksmart.org.uk">www.worksmart.org.uk</a>