 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Early Conciliation	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Final	
IA number	BIS 0392	
Origin	Domestic	
Expected date of implementation (and SNR number)	6 April 2014 (SNR7)	
Date submitted to RPC	13/12/2013	
RPC Opinion date and reference	28/1/2014	RPC13-BIS-1918
Overall Assessment	GREEN	
RPC comments The IA is fit for purpose. The assessment of costs and benefits and the One-in, Two-out (OITO) classification of zero net cost appear to be robust.		
Background (extracted from IA) What is the problem under consideration? Why is government intervention necessary? <i>Employment tribunal claims are costly and stressful for both claimants and employers, whilst the Exchequer cost of administering the employment tribunal system is also significant. There are significant benefits to resolving disputes early, and before they reach employment tribunal (as Early Conciliation facilitates). The necessary primary legislation has now completed its passage through Parliament. Government intervention is about improving the efficiency of our dispute resolution system by reducing the costs to all concerned.</i> What are the policy objectives and the intended effects? <i>The introduction of early conciliation would: increase the number of cases where parties reach an agreed settlement; ensure claimant and respondent benefit from contact with Acas in terms of information and understanding, even where they do end up at employment tribunal; improve overall satisfaction with the employment dispute resolution system and implement the delivery of the policy in the most efficient way.</i> What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) <i>At earlier stages in the development of this policy, many of the details of how Early Conciliation would operate were set out (some of which would be delivered through the Enterprise and Regulatory Reform Act). A subsequent consultation sought views on proposals for implementation. These included aspects such as how the Early Conciliation form (to commence the Early Conciliation process) would work, and how first stage contact should be made with prospective claimants and employer respondents. It is unlikely that the various implementation options would affect the overall costs and benefits to all parties significantly. However, where there are risks these were highlighted.</i> <i>Option 1 - Do nothing</i> <i>Option 2 - All prospective ET claims to be submitted to Acas in the first instance and offered early conciliation.</i>		

Comments on the robustness of the One-in, Two-out (OITO) assessment

The Department considers that the proposal is regulatory but net beneficial to business. The requirement for all prospective employment tribunal (ET) claims to be submitted to Acas in the first instance and resultant early conciliation cases would have a cost to business but this is more than offset by a reduction in (more expensive) ET cases (see further details below). The Department's assessment is, therefore, that this is in scope of OITO but with a zero net cost. This appears to be a reasonable assessment and is consistent with paragraph 1.9.12 of the Better Regulation Framework Manual (July 2013).

Comments on the robustness of the small & micro-business assessment (SaMBA)

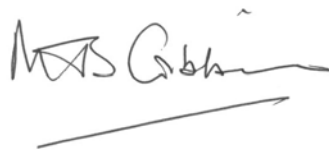
The Department has provided a SaMBA. The proposal comes in after 31 March, is domestic in origin, and regulatory in nature. The SaMBA shows that over a third of employment tribunal cases relate to organisations with fewer than 50 employees. Since ET cases can be particularly costly for small firms, the proposal should be of particular benefit to them. The SaMBA is fit for purpose.

Quality of the analysis and evidence presented in the IA

The IA estimates the cost to employers of early conciliation to be £27.6 million each year, based upon a unit cost of £512 and 53,900 estimated additional conciliation cases. Benefits to employers are estimated at £64.6 million each year, based upon a unit saving of £3,900 and an estimated 16,550 fewer ET cases. The assumptions draw upon information on the current cost of ET claims and evaluation of the operation of the existing voluntary pre-claim conciliation (PCC) service that Acas currently provides. About 80% of these costs and benefits accrue to business and civil society organisations, resulting in an EANCBS of -£24.0 million. These estimates appear to be robust.

The estimates of costs and benefits to claimants and the public sector (Acas and HM Courts & Tribunals Service) also appear to be robust. The Committee notes, in particular, that the latter has been strengthened through further investigation.

Signed



Michael Gibbons, Chairman