



COLLECTIVE DISPUTE RESOLUTION

Advisory Guide 1

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1. INTRODUCTION

1.1 This Guide is designed to assist employers, employees and their representatives to establish joint procedures for resolving disputes. The advantages of resolving disputes and avoiding the need for any actions which disrupt services or production are considerable for the employer, employees and the wider community in Northern Ireland.

1.2 The Guide is intended to explain in non-legal language the types of procedures appropriate to resolving disputes. The procedures include stages internal to the organisation and external stages and processes such as conciliation, mediation and arbitration. The basis of such procedures is that they provide for discussion and negotiation between the parties with a view to resolving differences at the earliest possible stage and without recourse to industrial action.

1.3 The principles contained in this Guide are appropriate for organisations in the private, public and voluntary sectors in Northern Ireland, irrespective of function or size. Although many organisations will establish terms and

conditions of employment and procedural agreements through employer-trade union negotiations, the principles in this Guide can be applicable to other organisations where trade unions do not organise.

1.4 It is not intended that this Guide should have legal standing. However, it does contain standards of good practice as recommended by the Labour Relations Agency.

2. GENERAL PRINCIPLES

2.1 The primary responsibility for dealing with employment relations issues and the resolution of disputes rests with employers and employee representatives.

2.2 Employers and employee representatives should agree procedures for resolving disputes.

2.3 Employers, employees and their representatives should observe the stages in the agreed procedures and not take any actions which would contravene them.

2.4 All procedures for resolving disputes should contain an external conciliation process to which a dispute may be referred,

provided that the internal stages of procedure have been exhausted.

3. WHAT IS A COLLECTIVE DISPUTE?

3.1 The definition of a collective dispute (or a “trade dispute” as it is known in law) is quite wide and can involve matters in dispute such as terms and conditions of employment, physical working conditions, engagement, termination, duties of employment, allocation of work, discipline and a range of other matters connected with employment relations.

3.2 Whilst the great majority of employment issues are resolved through discussion between the parties, disagreements or disputes can and do occur. It is good practice for employers and employee representatives to deal with these disputes by using agreed procedures.

4. WHO IS AN EMPLOYEE REPRESENTATIVE?

4.1 Most frequently an employee representative will be an elected or appointed official of a trade union or staff association. In other

circumstances, for example in redundancy consultation, the workforce may elect a representative who is an employee of the employer at the time they are elected.

5. THE ELEMENTS OF A DISPUTE PROCEDURE

5.1 Where the normal processes of discussion or negotiations between an employer and employee representatives fail to achieve a settlement a “failure to agree” should be recorded and a formal dispute procedure should be invoked.

5.2 The dispute procedure should be in writing and, depending on the scale of the organisation, it should provide an opportunity for a dispute to be referred to a higher management-employee representative stage.

5.3 If the higher stage of management-employee representative discussion does not resolve the dispute then the matter should be referred to external conciliation.

5.4 Reasonable time limits should be set for reference to the internal and external stages of a dispute procedure.

5.5 In many instances employers and employee representatives may wish the dispute procedure to provide for arbitration or mediation. It is preferable for the parties to try to settle a dispute through conciliation before using these other forms of dispute resolution.

6. EXTERNAL DISPUTE RESOLUTION

6.1 Although it is the case that in a few employment sectors 'private' arrangements exist for 'conciliation' or 'arbitration' most employers and employee representatives avail themselves of the services of the Labour Relations Agency. The Agency can help by offering conciliation, arbitration or mediation.

7. CONCILIATION

7.1 Requests for conciliation may be made to the Agency by either the employer or appropriate employee representative, separately or jointly. Where a trade union represents the employees, it will normally be a full-time official of the union who refers the dispute to conciliation. Before it will agree to

conciliate the Agency will check to see that the parties have exhausted any internal dispute resolution procedures they may have.

7.2 In coming to conciliation, no prior commitment is required from the parties, only a willingness to discuss the problems at issue.

Conciliation is an entirely voluntary process and it is open to either party to bring discussions to an end at any time. However, no time limit is imposed by the Agency's conciliation process. The Agency will continue to help the parties as long as they wish and as long as there seems a chance of reaching an agreed settlement.

7.3 Where it is clear that a settlement to the dispute can be achieved, the conciliation officer will look to secure an agreement signed by the parties, which will finalise the terms of the settlement. Any agreements reached in conciliation are the responsibility of the parties involved and the Agency has no power to impose or even recommend settlements.

8. ARBITRATION

8.1 If a settlement is not reached through conciliation, the Agency can arrange for the dispute to be resolved through arbitration.

8.2 A single arbitrator or a panel (with an independent chairperson and two side members drawn from employer and trade union representatives) will be appointed by the Agency to consider the dispute and to make a decision which will resolve it. The parties will need to agree, usually with Agency assistance, the terms of reference under which the single arbitrator or panel will operate. Agency officials themselves do not arbitrate.

8.3 The process of arbitration involves each side setting out its case in writing, followed by a hearing at which the two sides present their evidence and arguments in person. Hearings are held at the Agency's premises in Belfast or Londonderry.

8.4 Before the Agency will arrange arbitration, both parties must agree to accept the arbitrator's decision as a binding settlement of the dispute. This is a long-established principle and, in practice, arbitration awards

invariably are accepted and implemented.

9. MEDIATION

9.1 Mediation involves a similar process to arbitration. The main difference is that the mediator makes formal, but non-binding, proposals or recommendations intended to provide a basis for settlement of the dispute

10. ACCESS TO AGENCY'S DISPUTE RESOLUTION SERVICES

10.1 There is little formality in accessing any of the Agency's services referred to in this Guide. Simply contact the Agency's offices in Belfast or Londonderry:

Headquarters:

**2-8 Gordon Street
BELFAST
BT1 2LG**

**Tel: 028 9032 1442
Fax: 028 9033 0827
TDD (Textphone):
028 9023 8411**

**e-mail: lra@dnet.co.uk
website: www.lra.org.uk**

District Office:

**1-3 Guildhall Street
LONDONDERRY
BT48 6BJ**

**Tel: 028 7126 9639
Fax: 028 7126 7729**

**e-mail: Ira@dnet.co.uk
website: www.lra.org.uk**

The Labour Relations Agency

The Labour Relations Agency was set up in 1976. The Agency now operates under the Industrial Relations (Northern Ireland) Order 1992, as amended by the Trade Union and Labour Relations (Northern Ireland) Order 1995.

The Agency is directed by a Board which is comprised of individuals who have knowledge and experience of employment relations. The Chairman and Board members are appointed by the Department for Employment and Learning.

Details of the current membership of the Board are available on request from the Board Secretary by writing or telephoning as detailed on page 5.

What We Do

We promote the development of good employment policy in areas such as,

- ?? terms and conditions of employment
- ?? disciplinary rules and procedures
- ?? grievance procedures
- ?? absence notification procedures

and good employment practices which contribute to organisational success, and improve the quality of working life for employees.

We provide a wide range of conciliation and arbitration services and an advice service which is currently free of charge.

Publications and Information

As well as conciliation, arbitration and advisory services we provide a wide range of information.

Our staff will be pleased to make information available in large print or on audio tape for people with impaired sight. Additional assistance for those with special needs (for example, hearing or learning disabilities) can be arranged by the Agency on request.

A list of our publications with information on how to obtain copies is available on request.

(Contact details are on page 5)



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2-8 Gordon Street, Belfast BT1 2LG

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