

How the LRA can help

*The Labour
Relations Agency
Arbitration Scheme
Explained*

An alternative to a tribunal





Labour Relations Agency

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

Our job is to promote good employment relations in Northern Ireland.

If you have a disability, please let us know if we need to make any additional arrangements for you to use our service.

If you need to use an interpreter, we can arrange for one to be available.

This booklet can also be made available in alternative formats.

Please contact the Arbitration Secretary:

- on 028 9033 7407
- or email arbitration@lra.org.uk
- or visit our website www.lra.org.uk

The Labour Relations Agency Arbitration Scheme

You can use the Labour Relations Agency Arbitration Scheme to resolve an employment-related dispute (a “claim”) instead of going to a tribunal. An arbitrator’s decision is binding as a matter of law and has the same effect as a tribunal.

The Scheme is entirely voluntary. Its use must be agreed by all parties to a claim.

This booklet explains the benefits of using the Scheme and how to use it.

More detailed guidance is contained within the *Guide to the Scheme*.

What claims can be heard under the Scheme?

Most claims that could be the subject of tribunal proceedings can instead be resolved through arbitration. These include:

- Unfair or constructive dismissal.
- Payments owed, including notice pay, holiday pay, arrears of pay, and breach of contract.
- Redundancy payments.
- Discrimination in recruitment or employment on the grounds of age, disability, equal pay, gender, part-time working, political opinion, race, religious belief or sexual orientation.
- Flexible working arrangements.
- Less favourable treatment of fixed term employees or agency workers.

Key features of the Scheme

It is a **legally binding alternative** to a tribunal.

The Scheme is:

- ✓ **Confidential** – hearings are held in private. The outcomes of hearings are not published.
- ✓ **Quick** – a hearing to consider a claim will normally take place within two months of an Arbitration Agreement being received by the Agency. The hearing normally lasts for less than one day. The decision on the claim is normally issued within 14 days after the hearing.
- ✓ **Non-legalistic and informal** – hearings take place without, for example, any swearing of oaths.
- ✓ **Non-adversarial** – there is no cross-examination of witnesses. This makes it particularly appropriate where the employment relationship between a claimant and a respondent is expected to continue after the hearing.
- ✓ **Cost efficient** – the speed and informality of the process mean that it is less costly to the parties than using a tribunal.

- ✓ **Flexible** – if both parties agree, proceedings can be suspended at any time to allow for conciliation to find a way of resolving the claim without the need for a decision by an arbitrator.
- ✓ Able to award **legally enforceable remedies** in the same way as a tribunal.

How to enter the Scheme

There is no charge for using the Scheme.

Entry to the Scheme is through an Arbitration Agreement, which will normally be drawn-up by a Conciliation Officer.

The Arbitration Agreement must be signed by all parties.

Once an Arbitration Agreement has been concluded the claim can no longer be heard by a tribunal.

How is a claim decided?

Claims are decided under the Scheme by an **arbitrator** who is:

- Appointed by the Labour Relations Agency on the basis of their knowledge, adjudication skills and employment relations expertise.
- Independent and impartial.

In deciding whether to uphold a claim the arbitrator will:

- Carefully consider all aspects of a claim, taking into account the cases put forward by both parties.
- Make an objective decision to resolve the matter.
- Apply general principles of fairness and good conduct in employment relations, including principles referred to in any relevant codes of practice.
- Take account of the provisions of relevant guidance, such as that published by the Agency.

Each party is required to prepare a written statement and attach any documents that support their case. This is to help the arbitrator, and each party to the claim, better understand the issues.

The written statements and supporting documentation are then sent to the Agency 14 days before the hearing. These submissions are forwarded to the arbitrator to allow them to prepare for the hearing.

Each party's submission is forwarded to the other party.

A hearing then takes place to consider the issues in respect of the claim. The hearing is an opportunity for each party to highlight the key points of their case to the arbitrator and demonstrate the relevance of any supporting evidence. Witnesses may also attend to provide evidence.

Questions are asked by the arbitrator to clarify points. The parties may also ask questions of each other through the arbitrator (in other words, this is not a cross-examination as at a tribunal).

The arbitrator’s decision, known as an “award”, will not be made at the hearing – it is sent to the parties normally within 14 days after the hearing.

When/where does a hearing take place?

Once the parties have agreed to resolve a claim through arbitration the Agency will seek to agree a date for the hearing.

Hearings normally last for less than one day.

The hearing will normally take place within two months of the Arbitration Agreement being received by the Agency.

The parties are expected to co-operate in the agreement of the date for the hearing by making themselves available on as many dates as possible within the two-month period.

Hearings are normally held at the Agency’s offices in Belfast or Derry/Londonderry. They are held in private, unlike in tribunals where members of the public and the media are allowed to attend.

Can I be represented at a hearing?

If they wish, parties may bring someone to help them present their case – for example, a colleague, a trade union representative or a legal adviser.

The parties are liable for any fees or expenses incurred by any representative they appoint.

Can I settle a claim before the hearing is concluded?

If the parties agree, proceedings can be suspended at any time in order to find a way of resolving the claim through conciliation. If a claim is resolved through conciliation there will be no need for a decision by an arbitrator.

If the parties wish it, the arbitrator has the power to adjourn a hearing once it is under way to allow for a conciliated settlement to take place.

The services of a Conciliation Officer are available to the parties before, and during, a hearing to help them reach a settlement. A settlement reached using a Conciliation Officer is binding and legally enforceable.

If a settlement is reached privately between the parties, the arbitrator can be asked to endorse it – this would also make it binding and legally enforceable.

The award (decision)

The arbitrator's decision is called an 'award'. It is final and legally binding. The award is sent to both parties at the same time, normally within 14 days after the hearing has taken place.

If the arbitrator finds in favour of the complainant, the award will contain details of what needs to be done (the remedy). The remedies available to the arbitrator are the same as those available to a tribunal.

Such remedies could, for example, be financial compensation or, in the case of unfair dismissal, reinstatement or re-engagement.

The award is enforceable through the courts in the same way as if it had been made by a tribunal.

In line with the Agency's remit to promote good employment relations, arbitrators may make recommendations to improve employment practices within an employer's organisation in light of the claim.

What if I disagree with the award?

While an arbitrator's award is final and legally binding on the parties, it can be appealed or challenged in certain circumstances.

Appeals or challenges should be made to the High Court, or the county court, within 28 days of the date the award was sent to the party by the Agency.

Data Protection Act 1998

The Labour Relations Agency holds some information to monitor progress and produce statistics.

And finally...

We do our best to provide a high standard of service at all times but if you are not satisfied with the service you have received, you should write to the Agency's Customer Complaints Officer. The addresses of the Agency offices are given on the back of this booklet.



Labour Relations Agency

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To contact the Agency's

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