

How the LRA can help

Conciliation Explained



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 special 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
Conciliation and Arbitration Department
on 028 9032 1442 (Option 2) or
visit our website www.lra.org.uk**

Conciliation

If someone has lodged a claim to the tribunal about their employment rights a copy is sent to the Labour Relations Agency.

We have a legal duty to offer **conciliation** in most cases when someone has a complaint about their employment rights even if no claim has been made to the tribunal.

A **Conciliation Officer** will contact the parties or their representatives as quickly as possible and their role is to help find a solution that both sides find acceptable instead of going to a tribunal hearing. They don't impose solutions, but will try to help you settle your differences on your own terms.

This booklet explains how we can help.

Key features of Conciliation

Conciliation Officers are **impartial**. They do **not**:

- Represent either the employer or the employee.
- Take sides or judge who is right or wrong.
- Give an explicit opinion on the merits of a claim.
- Advise on tactics, or how to win at a tribunal.
- Pressurise people to settle or abandon a case.

Conciliation is **voluntary**.

- You only take part if you want to and you can stop at any time.
- The Conciliation Officer has no power to compel anyone to take any course of action.

Conciliation is **confidential**.

- Information will not be passed to other parties without your agreement.
- What you say during conciliation cannot be used as evidence against you at a tribunal hearing.

Conciliation is **independent**.

- It is entirely separate from the tribunal service and if a settlement is not reached, a claim can still be pursued.
- It does not delay the tribunal process.

Conciliation is **free** at the point of use.

- There is no charge for our service.

What are the options?

If someone has lodged a claim to the tribunal about their employment rights, there are a number of possible options:

Settle the claim through the Labour Relations Agency – we conciliate in most claims about individual employment rights, and the majority are settled (or withdrawn). We can do this even if no claim has yet been made to a tribunal. For more details refer to the booklet on Pre-Claim Conciliation Explained or ask your Conciliation Officer.

Settle the claim privately – you can settle the claim privately in certain circumstances but a private settlement reached without the assistance of an appropriate advisor **may not** be legally binding. If you want to explore this

option you should take advice from one of the sources listed on Pages 11 and 12.

Withdraw the claim – if someone has made a claim to the tribunal but no longer wants to continue with it, they should withdraw it. The Labour Relations Agency can facilitate your withdrawal and this should be done without delay, as the tribunal may award costs if they think someone has acted unreasonably.

Have the claim decided by an arbitrator – as an alternative to a tribunal, the claim can be heard by an independent arbitrator under the Labour Relations Agency Arbitration Scheme. The Scheme is a quick, non-legalistic, less formal and more cost effective alternative to a tribunal hearing. Arbitrators have the authority to make legally binding awards in the same way as a tribunal. For more details ask your Conciliation Officer or refer to the booklet on the Arbitration Scheme.

Have the claim decided by a tribunal – you can get booklets explaining tribunal procedures from the Office of the Industrial Tribunal and the Fair Employment Tribunal or from Job and Benefit Offices, Citizens Advice Bureau and Law Centres.

Why choose Conciliation?

- **Saves time and money.** Preparing or responding to a tribunal claim takes a great deal of time, and if there is a tribunal hearing both employer and employee could have representational costs.
- **Minimises stress.** Almost everyone finds the process of pursuing or defending a case difficult, and appearing in tribunal can be a stressful experience.
- **Quick Solution.** Many cases can be dealt with in a few telephone calls or a short meeting, with agreed settlements implemented very soon afterwards.
- **Win-Win Outcome.** In a tribunal someone always loses and even the ‘winner’ will not always get what he or she wants from the process.

- **Control.** Settlements are reached by agreement on terms that suit the parties. In the tribunal the decision is taken out of the parties' hands and there are restrictions on what the tribunal can award (e.g. they cannot order references to be given).
- **Avoids Formality.** Although the tribunal is less 'stuffy' and legalistic than most courts it is still a judicial process with which most people are unfamiliar and uncomfortable.

When can the Labour Relations Agency become involved?

We can get involved as soon as someone has a complaint about their employment rights, even if they have not yet lodged a claim to the tribunal. Either side can ask us for help by contacting the Labour Relations Agency 028 9032 1442 (Option 2).

If someone makes a claim to the tribunal, the tribunal copies the papers to us, so that we can contact the parties to offer conciliation. If you are involved in a tribunal case, you can contact your Conciliation Officer at any time. Contact details will be provided in the introductory letter from the Labour Relations Agency.

What will the Conciliation Officer do?

In order to help you reach a settlement, the Conciliation Officer will talk through the issues with both sides to see if a solution can be found.

Where appropriate, the Conciliation Officer will also:

- Explain the conciliation process.
- Explain the way tribunals operate, and what they are likely to take into account in deciding the case.
- Help establish the facts at issue and discuss the options open to you, including arbitration where appropriate.
- Help you to understand how the other side views the case, and explore with you how it might be resolved without a tribunal hearing.

- In cases of dismissal, explore the possibility of re-employment.
- Tell you about any proposals the other side has for a settlement.

The Conciliation Officer **will not**:

- Make a judgement on the case, or the likely outcome of a tribunal hearing.
- Advise you whether or not to accept any proposals for a settlement.
- Act as your representative, take sides, or help you prepare your case.

What happens if I settle the claim through the Labour Relations Agency?

If you settle the claim through the Labour Relations Agency, the agreement will be legally binding. Although agreements do not have to be in writing to be legally binding, the terms of the agreement will be recorded on a Labour Relations Agency form to be signed by both sides as proof of the agreement.

The tribunal will be notified by the Conciliation Officer that a settlement has been agreed and the case will be dismissed.

What happens if agreement cannot be reached?

If you cannot reach agreement on a tribunal claim, and the claim is not withdrawn, it will be decided by a tribunal.

As previously explained on Page 5 claims may be decided by an arbitrator, if that is what both sides want. For more details on this service speak with your Conciliation Officer or refer to the booklet on the Arbitration Scheme.

What if I have a representative?

If you appoint a representative to act for you, we will conciliate through them, and will not be able to deal with you directly. As any settlement reached through your representative would be legally binding, it is important to ensure that they are fully aware of your requirements.

Will talking to the Labour Relations Agency affect the tribunal process?

No. It is important to comply with all instructions from the tribunal as they will continue to process the case while conciliation is taking place, and will list the case for a hearing unless they hear it has been settled or withdrawn. Conciliation is completely separate from the tribunal process.

Where can I get more advice?

- The Labour Relations Agency Helpline can give information and advice about employment rights, but is not able to assist with preparing or responding to a claim to the tribunal. Telephone 028 9032 1442.
- The National Minimum Wage Helpline for free help and advice on the national minimum wage. Telephone 0800 917 2368.
- The Equality Commission can give free help and advice on matters relating to equal pay and all aspects of discrimination. Telephone 028 9050 0600 for more information.

- Trade Unions and employers' associations may be able to advise and support their members.
- The Citizens Advice Bureau, Solicitors, Law Centres and some specialist consultants can provide advice and representation on all matters concerned with employment rights and potential claims.

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 Labour Relations Agency offices are given on the back of this booklet.



Labour Relations Agency

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