



**ENHANCING EMPLOYMENT RELATIONS  
IN NORTHERN IRELAND**

**PROPOSALS OF THE LABOUR RELATIONS AGENCY  
FOR IMPROVING THE RESOLUTION OF DISPUTES**



# ENHANCING EMPLOYMENT RELATIONS IN NORTHERN IRELAND

## THE PERSPECTIVE OF THE LABOUR RELATIONS AGENCY

### 1. Introduction

The DEL Review of Dispute Resolution marks the most significant opportunity in recent decades for the reform of the employment dispute resolution system in Northern Ireland. The DEL Review follows the Gibbons Review which resulted in the introduction of changes to the dispute resolution system in Great Britain with effect from 6<sup>th</sup> April 2009. The Gibbons Review changes do not apply to Northern Ireland. With devolved powers on employment legislation the Assembly enjoys the unique opportunity of introducing a bespoke dispute resolution system that addresses local economic and social conditions.

### 2. The Need for Reform

The Agency believes that reform is required because:

- 2.1. Effective dispute resolution improves employment relations and benefits the Northern Ireland economy and society generally.
- 2.2. The current statutory dispute provisions have made discipline and grievance matters too formal at too early a stage and arguably have led to fewer disputes being resolved.
- 2.3. The resultant cost of dispute resolution is too high both in human and financial terms.
- 2.4. Small firms in particular need much more support with good employment practice.
- 2.5. Throughout the economy employers, trades unions and employees need more support in resolving disputes as close to source as possible.
- 2.6. A culture of alternative dispute resolution (ADR) needs to be developed in Northern Ireland.
- 2.7. The dispute resolution system needs to provide for international best practice in alternative dispute resolution.
- 2.8. Overall the prevention or early resolution of disputes will improve employment relations, enhance productivity and bring a greater sense of fairness to the workplace.

### 3. Legislative Reform

Based on the Agency's consultation with the social partners and key stakeholders and the Agency's extensive experience of dispute resolution, the following package of legislative changes is proposed:

- 3.1. The repeal of the current statutory dispute resolution procedures.
- 3.2. The establishment of an LRA statutory Code of Practice articulating fundamental principles of fairness in the workplace.
- 3.3. The extension of the current LRA statutory authority and protections applying to conciliation to alternative dispute resolution processes in general.
- 3.4. The simplification of claim forms but continuing to require that each party sets out the substance of their claim/response in writing.
- 3.5. The current statutory arbitration arrangements should be enhanced to provide for the LRA establishing an Employment Commissioner Scheme as an alternative to Tribunals, with Commissioners being skilled in the practice of employment relations.
- 3.6. The Employment Commissioner Scheme should provide statutory arbitration for all relevant employment jurisdictions.

- 3.7. That claims are submitted in the first instance to the Agency, rather than the Tribunal to allow ADR to take place at an early stage.
- 3.8. The parties to the dispute are required to engage with the LRA ADR services for a period, which will normally be up to eight weeks.
  - 3.8.1. During the initial eight week period if the parties agree the claim may be settled, referred to the Employment Commissioner or to the Tribunal or may be withdrawn.
  - 3.8.2. At the end of the eight week period the LRA will be required, if the case is not settled, to forward the claim form to the Tribunal or it may be forwarded to the Employment Commissioner.
  - 3.8.3. After referral to the Employment Commissioner or the Tribunal it will be open to the parties jointly to agree to utilise as appropriate the LRA ADR service.
- 3.9. The current statutory arbitration arrangements should be revised to allow for an appeal from an Employment Commissioner to an Employment Appeal Tribunal.
- 3.10. In respect of multiple claims the extension of Tribunal management powers to formally identify appropriate test cases, particularly where the parties are unable or unwilling to do so; and for the outcome of those test cases to be binding on other related cases.
- 3.11. There should be no time limits introduced in respect of the access to or the provision of the LRA alternative dispute resolution processes and arrangements set out above.

#### **4. Promoting Best Practice in ADR**

In addition to the above the Agency would propose that:

- 4.1. The Agency should publish comprehensive non-statutory guidelines as part of a package of measures to promote and support sound workplace decision making and effective dispute resolution; all of which must be underpinned by procedures.
- 4.2. There would be an enhanced role for the Agency Helpline in informing callers of the ADR options available to them in respect of the resolution of their issues and directing the callers to the LRA officers who are able to provide further assistance on those options.
- 4.3. The Agency is of the view that the enhancement of management, representatives and employee competence and capabilities in dispute prevention and resolution is essential to the development of good practice.
- 4.4. Any new legislation should be complemented with a programme of skills/competency development in alternative dispute resolution that would include negotiation, mediation, conciliation and arbitration.
- 4.5. The opportunity should also be taken to promote these skills through skills councils and through regional/sector/workplace employment relations machinery.

*A structural overview of the above legislative and best practice proposals is provided overleaf.*