Labour Relations
AGENCY
Improving Employment Relations
Chairman and Chief Executive's Office
2-8 Gordon Street, BELFAST BT1 2LG
Tel: 028 9033 7401 Fax: 028 9043 8737 TDD: 028 9023 8411
Website: www.lra.org.uk

1 November 2013

Mr Tom Evans
Employment Relations Policy & Legislation Branch
Room 214, Adelaide House
39/49 Adelaide Street
BELFAST BT2 8FD

Dear Tom

Re: DEL Public Consultation on Employment Law Review 2013

The Labour Relations Agency (the Agency) welcomes the DEL Review of Employment Law as a constructive contribution to the development of effective employment relations in Northern Ireland. Please note that, given the Agency's independent and impartial role in NI employment relations, the Agency has taken the view that response to a number of the questions fall to the NI employment relations stakeholders and the social partners. However the Agency awaits with interest the overall DEL response to the consultation exercise.

In relation to the outcome of the Review the Agency is available to discuss matters arising with DEL, in particular, those matters which would directly impact on the role, functions and operations of the Agency. Questions may arise relating to (1) resourcing and (2) statutory protections for the parties to certain processes.

(1) In particular the Agency will assess the resource requirements relating to the implementation of early conciliation and neutral assessment services as well as the resource impact of taking forward initiatives deriving from the DEL McClure Waters review of SMEs.

(2) It is notable that in GB under the Enterprise and Regulatory Reform Act 2013 prohibitions are introduced preventing ACAS from disclosing information relating to a worker, an employer of a worker, a trade union, that they hold in the course of performing their functions. It is essential that Agency functions are afforded the same protection and that corresponding provision is introduced for NI.

Please note the Agency is available to clarify or discuss any matters arising from the attached response.

Yours sincerely

W Patterson

Bill Patterson
Chief Executive

DEL Public Consultation on Employment Law Review
Summary of questions

Labour Relations Agency Response 1 November 2013

Early Resolution of Workplace Disputes		
1.	If early conciliation (EC) is implemented, should it include a provision to 'stop the clock', suspending the limitation period for lodging a tribunal claim? Please give reasons for your answer.	As outlined in the Section 4 of the Model Framework on Re-Routing of OITFET claims to the Agency (see Appendix 1) the Agency would propose that when a completed EC form is received by the Agency the running of the limitation period will be suspended i.e. 'the clock stops' to allow conciliation to take place. The clock stops to ensure that referring the matter to the Agency for EC does not have a detrimental impact on the time period for lodging proceedings.
2.	Your opinions are sought on: • unintended consequences that could arise if prospective claimants are required to give a brief description of the nature of the dispute(s) on the EC form; and • the other proposed contents of the EC form.	The Agency refers to its model framework Section 2 regarding the content of the EC form (see Appendix 1) The Agency has no comment on this question but will take into account, in discussion with DEL, the views expressed through this consultation exercise.
3.	Are there other jurisdictions in relation to which EC would be inappropriate; in particular categories of claim unlikely to settle in a four week period (e.g. discrimination claims)? Please give reasons for your views.	The Agency is of the view that the scope of EC relates to all appropriate jurisdictions currently submitted to the Tribunals. In the Agency's experience discrimination claims are appropriate for early conciliation.
4.	Please set out and explain your views on the proposed circumstances in which EC would not be appropriate.	As outlined in Section 8 of the Model Framework on re-routing of OITFET claims to the Agency (see Appendix 1) **t**here will be certain circumstances where it will be inappropriate to require prospective claimants to first submit details of their claim to the Agency. It is proposed that these exemptions apply to: (a) Prospective claimants who are part of a multiple claim, where another person in the multiple has complied with the EC requirement by submitting details of the claim to the Agency. A multiple claim is one in which there are multiple claimants bringing claims against the same respondent(s) on the

		same or a similar set of circumstances. As claimants in a multiple may present their claims together on one ET1 form the exemption from the EC requirement will apply where the claims are presented on the same ET1. In such cases, a conciliator may attempt to settle the dispute on behalf of all members of the multiple. (b) Prospective claimants where the prospective respondent has contacted the Agency and asked them to conciliate the dispute. If the Agency is already providing conciliation in the case, it would be overly-bureaucratic to require that the claimant should submit an EC form for the same dispute. In respect of claims relating to points 1 and 2 it will be necessary to devise a system so that the tribunal office are able to identify such exemptions. (c) Prospective claimants who intend to bring a claim against the Security Service, the Secret Intelligence Service or the Government Communications Headquarters. (d) Prospective claimants who are lodging proceedings on issues where the Agency has no conciliation role (e) Claims where the time-limit for lodging complaints make EC unfeasible i.e. interim relief. An option in respect of exemption is to exclude other categories of claim which are unlikely to settle in a four week period e.g. discrimination claims.
5.	Should hard copy EC forms receive a written acknowledgement? Please explain.	The Agency is of the view that not all claimants or respondents will have access to electronic communication therefore hard copy acknowledgement remains an option. Written responses to hard copy forms should not be required when the Agency has, prior to issuing an acknowledgment, already made contact with a party.

6.	What should be considered 'reasonable attempts' to contact the parties in the first instance, and should the same approach be taken for both prospective claimants and prospective respondents?	The Agency considers, within the proposed time limits, that normally two attempts should be made by the Agency to contact the claimant and two attempts should be made by the Agency to contact the respondent. There may be occasions where prospective claimants or respondents will be difficult to contact and whilst the Individual Conciliation Officer should make reasonable attempts at contact these should not continue indefinitely. Where lack of contact makes conciliation impossible a certificate will be issued to the prospective claimant.
7.	What are your views on the proposed process for issuing EC certificates? Should different or additional information be included? Should a certificate be issued even where all matters have been conciliated?	As outlined in Section 5 of the Model Framework on the Model Framework on Re-Routing of OITFET claims to the Agency (see Appendix 1) where either party declines EC the Individual Conciliation Officer will issue a certificate stating that the prospective claimant has fulfilled their obligation to first contact the Agency before presenting their complaint to the tribunal. The certificate will also be issued in the following circumstances when (a) conciliation discussions have failed to resolve the issues in dispute or (b) when only some of the issues have been resolved and other elements of the claim remain in dispute. It will not be necessary to issue a certificate where a conciliated settlement is reached. This is because the prospective claimant will have agreed to refrain from instituting proceedings against the respondent. In circumstances where relevant terms of the settlement are not honoured the individual will be required to enforce this via the Enforcement of Judgements Office.
8.	How should evidence of having completed EC be provided to OITFET and what form should it take?	As outlined in Section 5 of the Model Framework on the Model Framework on Re-Routing of OITFET claims to the Agency (see Appendix 1) the certificate can be issued in either electronic or hard copy format. It would contain details of the prospective claimant and respondent and a summary of the issues referred to but not settled by EC. There would be a statement confirming that the claimant has fulfilled their obligations in respect of

		the issues not settled by EC and would be signed and dated by the Individual Conciliation Officer (ICO). This document would then be attached by the claimant to the ET1 form.
9.	Is the proposed approach to handling EC requests from prospective respondents appropriate? Should respondents be permitted to provide information by other means e.g. telephone?	As outlined in Section 7 of the Model Framework on the Model Framework on Re-Routing of OITFET claims to the Agency (see Appendix 1) the Agency proposes that respondents should be able to provide information on-line or by hard copy but not by telephone.
10.	Please give your views on the proposed EC process as a whole. If any, what alternatives should the Department consider?	The Agency considers that its model for re-routing claims to the Agency in the first instance will achieve the Minster's aim of encouraging the resolution of disputes without the need to go through a formal legal process. However the Agency is prepared to re-consider the model in the light of responses to the Public Consultation.

Neutral Assessment		
11.	Should neutral assessment only be available where the LRA believes that the requesting parties have already made good faith efforts to resolve their dispute?	As outlined in Section 4 of the Model Framework for a Neutral Assessment Service (see Appendix 2) neutral assessment would not be offered by the Agency as a first access service. The first access service to be offered would be conciliation normally through an Agency Individual Conciliation Officer. The Agency would encourage reasonable attempts by both parties to seek a settlement through conciliation. Where the conciliation process is exhausted without settlement and where both parties agree to request access to neutral assessment the Individual Conciliation Officer would transfer the case to the Agency Arbitration Secretary who will make arrangements for neutral assessment. There is the option of requiring the parties to make good faith efforts in using conciliation.
12.	Should neutral assessment in writing be available as an option?	As outlined in Section 6 of the Model Framework for a Neutral Assessment Service (see Appendix 2) the Agency proposes that the assessment would not normally be committed to writing but may be committed to writing on the request of both parties.
13.	What are your views on the proposed focus and content of the neutral assessment process?	As outlined in Section 3 of the Model Framework for a Neutral Assessment (see Appendix 2) the Agency proposes that the assessment process would be flexible, but would normally involve (1) case presentation, (2) focusing on the issues, (3) assessment and (4) the exploration of settlement.
14.	The Department would welcome views on whether and to what extent neutral assessment should be in confidence.	The Agency would be of the view that neutral assessment in line with the conditions and protections of the Agency's conciliation processes should be in confidence.
15.	The Department is inviting views on the proposed neutral assessment model which, like the LRA's arbitration arrangements, would be unique to Northern Ireland. What advantages and disadvantages does the proposal have, and how could it be improved?	By extending the range of available options, neutral assessment would make ADR more attractive and thus make it easier to realise the Minister's objective of shifting the resolution of employment rights dispute in the direction of ADR. Nevertheless the Agency is prepared to re-consider the model in the light of responses to the Public Consultation.

Embedding Good Employment Practice		
16.	If introduced, what form should a subsidy scheme take and how should it be targeted?	The Agency as the statutory body charged with promoting the improvement of industrial relations in Northern Ireland would see itself as the main body for providing employment relations support and advice. To this end the Agency provides a comprehensive suite of services to enhance the capacity of small employers to deal with employment rights/relations issues. Any further incentive for employers to adopt and apply good employment practice should be concentrated on encouraging employers to utilise the services of the Agency. The Agency is anxious to extend and promote the service it provides to the SME and Micro-firms sector of the NI economy. The Agency notes the estimate of funds available for a pilot subsidy scheme detailed in the Partial Regulatory Assessments. The Agency is strongly of the view that any resource available for a subsidy scheme should be re-directed to the Agency to raise awareness of the Agency among employers, particularly SMEs and Micro firms and allow for an expansion of resource to encourage employers to introduce and implement good employment practice.
17.	The Department would welcome practical suggestions on how information can be more effectively communicated to small employers so that they better understand the options open to them in dealing with employment rights/relations issues.	The Agency is anxious to provide as much support and assistance to small employers as resources permit and is willing to consider various service delivery models to best service the needs of SME sector of the NI economy. The Agency aims to be the organisation that small employers come to in the first instance should a work issue arise. The Agency would seek additional resource to allow the Agency to further market and develop its services to the SME sector of the economy to improve understanding of legal obligations and good practice.
18.	If subsidised mediation is trialled, how might it best be targeted to maximise coverage and effectiveness?	The Agency would not be in favour of a subsidised mediation scheme being available in those workplace matters which are within the jurisdiction of an industrial tribunal as the Agency, under statute, already provides such a service. The Agency would favour, if a subsidised

		mediation scheme is trialled that this is restricted to those workplace issues which are outside the jurisdiction of an industrial tribunal. The Agency would be of the view that any resource available for a subsidy scheme should be re-directed to the Agency to encourage employers to introduce and implement in-house ADR best practice.
19.	Should the LRA proactively offer its services to respondents who have lost a tribunal case? If so, given the likely sensitivities, what approach should the Agency adopt?	The Agency is prepared to consider developing a strategic approach to offering its advisory services to all respondents who have been involved in tribunal proceedings.

Unfair Dismissal Qualifying Period		
20.	Northern Ireland has, for the most part, maintained the same unfair dismissal qualifying period as Great Britain. Do you consider that retaining parity in this area is desirable, considering that employment law is devolved to the Northern Ireland Assembly? Please give reasons for your answer.	The Agency considers that the presentation by the Department of the arguments relating to the qualifying period for unfair dismissal rights is fair and reasonable. The Agency notes the difficulty in linking the history of qualifying periods in Northern Ireland, Great Britain and the Republic of Ireland to the volume of tribunal claims.
21.	Do you have any comments on the Department's labour market analysis?	The Agency considers that the Department's labour market analysis is reasonable.
22.	Do you have any alternative sources of quantitative data which could be considered by the Department?	The Agency has no alternative source of quantitative data.
23.	Do you have any comments on the Department's finding that it is very difficult to estimate the contribution of the unfair dismissal qualifying period on employment growth?	The Agency agrees with DEL that it is difficult to determine that there is a direct causal link between changes in the unfair dismissal qualifying period and the number of jobs in the economy.
24.	Do you have any further quantitative information to prove a causal link between the unfair dismissal qualifying period and employment growth?	The Agency has no sources of quantitative information that are not also available to the Department.
25.	Do you have any comments on the Department's analysis regarding the contribution of the unfair dismissal qualifying period on inward investment?	The Agency agrees with DEL that it is very difficult to establish any casual link between changes in the unfair dismissal qualifying period and the level of inward investment.
26	Do you have any further quantitative information to prove a causal link between the unfair dismissal qualifying period and levels of inward investment?	The Agency does not have any sources of quantitative information that are not also available to the Department.
27.	Do you have any comments on the Department's finding that it is very difficult to estimate the contribution of the unfair dismissal qualifying period on claims to tribunal?	The Agency would agree that it is difficult to estimate the contribution of the unfair dismissal qualifying period on claims to the tribunal.
28.	Do you have any further quantitative information to prove a causal link between the unfair dismissal qualifying period and claims to tribunal?	The Agency does not have any sources of information that are not available to the Department.
29.	Should the unfair dismissal qualifying period remain at one year? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.

30.	Should the unfair dismissal qualifying period be increased to two years? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
31.	Should the unfair dismissal qualifying period be increased to two years for employees in SMEs? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
32.	If you support this option, how should 'SME' be defined in legislation?	If this option is adopted it is important that the definition is clearly set out in legislation and does not lead to satellite litigation.
33.	Should the unfair dismissal qualifying period be increased to two years for new start employees? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
34.	Should the unfair dismissal qualifying period be increased to two years for employees in inward investor companies? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
35.	If you support this option, how should 'inward investor companies' be defined in legislation?	If this option is adopted it is important that the definition is clearly set out in legislation and does not lead to satellite litigation.
36.	Should the unfair dismissal qualifying period be increased to two years for employees in start-up businesses? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
37.	If you support this option, how should 'start-up business' be defined in legislation?	If this option is adopted it is important that the definition is clearly set out in legislation and does not lead to satellite litigation.

38.	Should the unfair dismissal qualifying period remain at one year for all potentially unfair dismissal reasons, with the exception of redundancy, which could be extended to two years? Please provide reasons for your response.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
39.	What is your favoured option from the list provided?	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
40.	Do you have any alternative options for consideration? Please support any new options with available quantitative evidence.	In the Agency's opinion any change in the qualifying period should be based on considering whether there is a substantiated link in NI between the length of the qualifying period and the following factors: growth in employment; level of inward investment; and volumes of tribunal claims.
41.	Is there evidence of unrealistic expectations about tribunal awards in unfair dismissal cases and, if so, how can these be addressed?	The Agency is not aware of any substantiated evidence on unrealistic expectations about tribunal awards in NI.
42.	What are the potential benefits and drawbacks of introducing a 12 month pay cap on the compensatory award for unfair dismissal?	The Agency is not aware of evidence to support any alternatives suggested to the current overall cap.
43.	Should the overall cap on unfair dismissal (currently £74,200) be reviewed? Why?	The Agency is not aware of evidence to support any alternatives suggested to the current overall cap.
44.	Should the Department consider any other possibilities in relation to unfair dismissal awards?	The Agency is not aware of evidence to support any alternatives suggested to the current overall cap.

	Consultation Periods for Collective Redundancies	
45.	Do you feel that the current arrangements are sufficient to meet the needs of business and employees in redundancy situations? (Question in Consultation Paper) Do you agree with DEL's overall approach to the rules on Collective Redundancy consultation? (Question in Summary)	The Agency considers the presentation by the Department of the arguments relating to the consultation periods for collective redundancies to be fair and reasonable. The Agency notes that a minority of redundancy cases involve more than 100 redundancies.
46.	If the 90-day minimum period is to be replaced, then which of the proposed options should replace it? Are there any other options which the Department should consider? Please explain why you think your choice would better deliver DEL's aims than the alternative option.	The Agency considers the presentation by the Department of the arguments relating to the consultation periods for collective redundancies to be fair and reasonable. The Agency notes that a minority of redundancy cases involve more than 100 redundancies.
47.	Do you agree with the Department's proposals to address issues regarding the meaning of 'establishment' in guidance? Please provide comments to support your answer.	To ensure consistency of practice the Agency is strongly of the view that any guidance should be issued by the Agency.
48.	Do you consider that the inclusion of fixed term employees in collective redundancy consultations represents 'gold plating' of the Directive?	In the Agency's opinion any change relating to fixed term contracts should be based on evidence that the change is likely to increase employment or investment in NI.
49.	Do you believe that a legislative amendment in a similar vein to Great Britain, should be taken forward to address issues around fixed term employees or can the issue be addressed in guidance?	In the Agency's opinion any change relating to fixed term contracts should be based on evidence that the change is likely to increase employment or investment in NI.
50.	Have we got the balance right between what is for statute, and what is contained in Departmental guidance and a Code of Practice?	To ensure consistency of practice the Agency is strongly of the view that any Code of Practice should be issued by the Agency.
51.	What changes are needed to the existing Departmental guidance to support employees who are made redundant? (Question in Consultation paper) Do you consider that a Northern Ireland version of the Great Britain Code of Practice will be adequate for Northern Ireland purposes? How can we ensure the Code of Practice helps deliver the necessary culture change? (Question in summary)	In accordance with its statutory remit to publish Codes of Practice the Agency would be prepared to produce a new Code of Practice and accompanying Advisory Guides to encourage and promote good employment practice in the handling of redundancies. The Agency is strongly of this view in order that consistency is applied to the conduct of employment relations in NI.

52.	Are there other non-legislative approaches that could assist – e.g. training? If yes, please explain what other approaches you consider appropriate.	The Agency would be willing to consider, in discussion with DEL, the services it provides in this area in the light of comments received.
53.	Has DEL correctly identified the impacts of the proposed policies? If you have any evidence relating to possible impacts we would be happy to receive it.	The Agency has no evidence on impacts that is not also available to the Department.
54.	If you have been involved in a Collective Redundancy consultation in the last five years, how long did it take to reach agreement?	N/A
55.	If you have carried out a Collective Redundancy consultation in the last five years, what effect, if any, did it have on your regular business during this time?	N/A

Review of compromise agreements and possible introduction of a system of protected conversations		
56.	Do compromise agreements currently work in practice in Northern Ireland?	The Agency currently provides a service under Statute by which conciliated settlement agreements are reached between parties on matters which are the subject of Tribunal proceedings as well as on matters which have not yet been lodged at the OITFET. These agreements using the existing process are trusted and accepted by the parties to conciliation.
57.	Are compromise agreements widely used in Northern Ireland?	During 2012-2013 the Agency delivered 3057 conciliated settlement agreements covering 4396 jurisdictions.
58.	Should any change be made to the process/conditions of compromise agreements as currently used?	The Agency is satisfied with the current approach through its statutory services to settlements of potential and actual claims. If changes are made there needs to be clarity in order to avoid satellite litigation.
59.	Should compromise agreements be allowed to contain 'non-compete' and confidentiality clauses?	The Agency would be of the view that this is a matter for agreement between the parties in each particular case.
60.	Should the term 'compromise agreement' be changed, perhaps to 'settlement agreement'?	The Agency would be in agreement with this proposal.
61.	Should Northern Ireland simply maintain parity with Great Britain?	The Agency would be of the view that the priority for any public policy initiatives should be focused on improving employment relations in Northern Ireland.
62.	Should an employer be able to make an offer to terminate an employee's contract in the absence of a formal dispute?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
63.	In what circumstances should it be possible for an employer to make an offer of settlement to an employee to end the employment relationship? Examples could include attendance, conduct, performance, retirement, workforce planning, etc.	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.

64.	Should the inadmissibility principle be extended to negotiations leading to termination of employment where no dispute exists?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
65.	Should the protection apply in respect of potential unfair dismissal claims only, or in other circumstances?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
66.	What are the equality/discrimination risks in creating a system of inadmissible offers of settlement?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
67.	BIS has stated that if an employer wants information about an individual's plans for workforce planning purposes (e.g. retirement), they are already able to ask in an open and trusting management conversation. Is this your understanding of the law after the abolition of the default retirement age?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
68.	If such a system was to be introduced, should it be underpinned by legislation, or a Code of Practice, or by guidance, or a combination of these?	In line with its statutory remit to publish Codes of Practice the Agency is strongly of the view that it should produce a Code of Practice and accompanying Advisory Guides to encourage good practice in compromise/settlement agreements. It is important that the dispute resolution experience gained by the Agency provides the basis for the development of good practice throughout NI.
69.	What safeguards should be enacted to ensure that the rights of parties to these negotiations are protected? (An example may include withdrawing inadmissibility on grounds of improper behaviour. Please provide suggestions on any definitions required).	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.

70.	How do we ensure that there is an equal balance of power between employers and employees in settlement negotiations?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.
71.	How do we avoid satellite litigation?	Given the evidence of the use of settlement agreements in NI (see response above to Q57) the Agency is of the opinion that the introduction of a formal system of protected conversations should be deferred until there is a review of its effectiveness in Great Britain.

Public Interest Disclosure		
72.	Do you agree that *Parkins -v- Sodexho* created a loophole in the law on Public Interest Disclosure, to the effect that a worker could make a protected disclosure on matters related to his/her personal work contract?	This is a matter for the social partners and the Agency offers no further comment on this question.
73.	If you consider that a loophole exists, do you agree that it should be closed in Northern Ireland, by means of amendment to the Public Interest Disclosure (Northern Ireland) Order 1998?	This is a matter for the social partners and the Agency offers no further comment on this question.
74.	Do you consider that a reasonable worker could determine what might be in the public interest for disclosure purposes?	This is a matter for the social partners and the Agency offers no further comment on this question.
75.	Do you consider that closing the loophole could inhibit employees from making important disclosures about wrongdoing?	This is a matter for the social partners and the Agency offers no further comment on this question.
76.	Do you agree that Northern Ireland Public Interest Disclosure legislation should be amended to allow protected disclosures to be made otherwise than 'in good faith'? Please provide reasons for your answer.	This is a matter for the social partners and the Agency offers no further comment on this question.
77.	If you agree with allowing for protected disclosures to be made otherwise than 'in good faith', should an industrial tribunal be empowered to reduce the level of compensation awarded to the whistleblower? What sort of limit should apply to the reduction?	This is a matter for the social partners and the Agency offers no further comment on this question.
78.	Do you agree that the definition of 'worker' should be amended in Northern Ireland (for whistleblowing purposes only), to ensure that various NHS workers who were inadvertently excluded from the scope of the legislation are covered? Please provide reasons for your answer.	This is a matter for the social partners and the Agency offers no further comment on this question.
79.	Do you agree that the Department for Employment and Learning should have the power to make subordinate legislation to amend the definition of 'worker' for whistleblowing purposes?	This is a matter for the social partners and the Agency offers no further comment on this question.
80.	Should Northern Ireland employers be vicariously liable for detriment caused to a whistleblower by co-workers?	This is a matter for the social partners and the Agency offers no further comment on this question.

81.	Do you have any comments on the operation of Public Interest Disclosure law generally in Northern Ireland? Please provide reasons and any supporting evidence for your answer.	The Agency has no evidence of the operation of this law in NI and consequently is not in a position to offer comments.
82.	Do you consider that any further changes are required to be made to the 1998 Order? Please provide reasons and any supporting evidence for your answer.	This is a matter for the social partners and the Agency offers no further comment on this question.