



Code of Practice on Handling Workforce Issues: Alternative Dispute Resolution Procedure

1 Introduction

This paper is presented jointly by the LGA, the Employers' Organisation for Local Government, the TUC and the CBI. It sets out a procedure for resolving disputes arising from the application of the Code of Practice on Handling Workforce Issues. All the parties agree that the procedure should be a last resort and all will make their best efforts to resolve problems by agreement. We also support the Government criteria that the ADR should be fast, efficient and cost-effective.

2 The need to exhaust local procedures

The parties must exhaust all normal local procedures as required by paragraph 9 and paragraph 13 of the Code before invoking the Alternative Dispute Resolution procedure (ADR) provided for in paragraph 14.

3 Who is responsible for resolving disputes?

The ADR procedure will be under the supervision of an independent person appointed from an approved list supplied by ACAS. If the parties so agree, they may appoint two "wing members" with an employer and trade union background to assist the independent person.

4 The dispute resolution process

Disputes will be resolved using the following three-stage procedure.

Stage 1: Initial reference to the independent person.

The independent person will be invited to answer three questions:

- (i) Is this a dispute about the application of the Code?

If the answer is no, the matter can proceed no further. If yes, then the independent person will move to question (ii).

- (ii) Have the parties exhausted local procedures?

If the answer is no, then the parties will be invited to make further local efforts to resolve the dispute. If yes, then the independent person will conduct an independent assessment, by answering question (iii) and giving reasons for the answer.

- (iii) Do the terms and conditions of employment on offer to new employees comply with the Code?

If the answer is yes, then the matter is deemed to be concluded and the contractor can continue to offer the same package of conditions to new employees. If the answer is no, then the dispute will proceed to Stage 2.

Time limit: Twenty working days.

Stage 2: Discussions with a view to reaching an agreement on compliant terms and conditions

Stage 2 begins with the parties being invited to seek to resolve the matter through further discussions.

The independent person will make themselves available to the parties to facilitate the process. The parties also have the option of establishing other arrangements for mediation.

If the parties can reach an agreement consistent with the Code then the matter is closed and the new package of conditions of employment will be applied both to new starters and to those employed during the dispute.

If no agreement can be reached within the allotted time then the dispute will proceed to Stage 3.

Time limit: Ten working days, with the possibility that this might be extended by the agreement of the parties and with the consent of the independent person.

Stage 3: Final Reference to the Independent Person

The independent person invites the parties to make final submissions. If the independent person then believes it would be worthwhile, the parties may be given a short period of further discussion.

If there is no value in giving the parties more time - or if during any discussion the parties were unable to agree on how to bring the matter to a successful conclusion - then the independent person will proceed to a final binding arbitration. Having heard the evidence and reached a conclusion the independent person will impose a revised package of terms and conditions applicable to each of the affected employees.

Time limit: Ten working days