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Department for
**Employment
and Learning**
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Resolving workplace disputes

Report on the outcome of pre-consultation on possible reform of systems for resolving individual employment rights disputes in Northern Ireland

October 2008

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1. Foreword

- 1.1. **Few disagree that disputes in the workplace are bad for employees and bad for business. Disputes have immediately obvious costs in terms of time and money spent as well as subtler but no less serious effects in psychological terms and in relation to reduced productivity and morale. It is therefore essential that there are effective mechanisms for resolving workplace disputes in a way that is equitable to both employers and employees.**
- 1.2. The Department for Employment and Learning (“the Department”) is conscious that the current statutory arrangements have attracted significant criticism. The Department is also mindful of the outcome¹ of the recent Gibbons review² of the Great Britain arrangements and the Department for Business, Enterprise and Regulatory Reform’s (BERR’s) 2007 consultation³. Against this background the Department has initiated a fundamental review of the current dispute resolution system with the express intention of achieving a bespoke system that best reflects the needs of the Northern Ireland economy while upholding the rights of individual employees.
- 1.3. The Department has held discussions with organisations and individuals who have a strong interest in employment dispute resolution. These include the trade union movement, employer organisations, public bodies with a role in resolving disputes, and providers of advice and representation to those involved in disputes. Discussions have been very productive and show that there is a desire for improvements to be made to existing dispute resolution arrangements.
- 1.4. This document lays out the main issues raised during the Department’s engagement with stakeholders and sets the scene for a full review of dispute resolution scheduled to begin with a full public consultation in late 2008 or early 2009. The Department extends thanks to all who contributed views during the pre-consultation process.

¹ ‘Resolving disputes in the workplace consultation: Government response’ (BERR, May 2008)

² ‘Better dispute resolution: a review of employment dispute resolution in Great Britain’ (Department of Trade and Industry (DTI), March 2007). Note: the DTI was subsequently renamed the Department of Business, Enterprise and Regulatory Reform.

³ ‘Success at work: resolving disputes in the workplace – a consultation’ (DTI, March 2007)

2. Introduction

- 2.1. **Between 13th February and 11th April 2008, the Department held face-to-face discussions with a selection of stakeholders who have a major interest in the resolution of employment disputes in the workplace. The purpose of those meetings was to ascertain views on whether and to what extent steps can be taken to improve current systems for dealing with such disputes.**
- 2.2. To provide a focus for the discussions, a 'pre-consultation' document⁴ setting out the following information was supplied:
- *an outline of existing processes for resolving employment disputes, including changes which have been made during recent years;*
 - *details of a recent review (the Gibbons review) of closely comparable systems in Great Britain, and steps that are now being taken there in light of the review;*
 - *alternative dispute resolution methodologies that could potentially be used if changes are made to systems for resolving disputes here;*
 - *a short examination of selected dispute resolution systems elsewhere in the world e.g. in the Republic of Ireland, New Zealand and Canada.*
- 2.3. Drawing on a combination of statistical and anecdotal evidence to assess the strengths and weaknesses of the current system, the Department hoped that the document would stimulate debate and establish whether a full-scale review of dispute resolution systems is needed.
- 2.4. As well as face to face meetings, written submissions were encouraged and, to facilitate stakeholders the closing date for contributions to the pre-consultation was extended to the end of April.
- 2.5. The organisations which contributed to the pre-consultation process, whether by way of verbal feedback or written submission, are listed at Annex A. A list is also provided of those organisations which were initially invited to participate in pre-consultation.

⁴ 'Resolving workplace disputes: a pre-consultation on possible reform of systems for resolving individual employment rights disputes in Northern Ireland' (Department for Employment and Learning, February 2008)

- 2.6. The Department would like to thank all of those who gave of their time to take part in the pre-consultation. Without exception, discussions and submissions have been constructive and thought-provoking.
- 2.7. It became very clear from an early stage that there is widespread support for a fresh consideration of the systems for resolving workplace disputes and for steps to be taken, where necessary, to ensure that they remain fit for purpose.
- 2.8. The concerns expressed by consultees about existing systems and the solutions put forward suggest that a wide variety of issues need to be explored, and that a range of options is available.
- 2.9. This document provides a factual report on the findings of the pre-consultation. It does not seek to narrow down or comment on the options; rather, by shedding light on what is considered to be wrong with current systems, it provides a starting point for a comprehensive dispute resolution review scheduled to begin in late 2008 or early 2009.

NEXT STEPS

- 2.10. The Department will use feedback from the pre-consultation together with all available quantitative and qualitative research data to assist it in preparing for full public consultation on a range of options. It will be ably assisted in this by a consultation steering group⁵ which has been established to guide the consultation process.

⁵ The steering group is chaired by the Department and consists of representatives from CBI NI, the Equality Commission for Northern Ireland, the Federation of Small Businesses, the Labour Relations Agency and the Northern Ireland Committee of the Irish Congress of Trade Unions.

3. Executive summary

3.1. Discussions with key stakeholders during the pre-consultation have shown definitively that there is a desire for reform of systems for resolving employment rights disputes. There is a majority view that statutory dispute resolution procedures, while well intentioned, have not been a success and should be repealed. However, some argue strongly for their retention. The need for changes to the tribunal system has also been discussed, with suggestions ranging from the procedural to the structural. It is clear that tribunals are a valued part of the dispute resolution system but should not in most cases be seen as a first port of call. The role of alternative dispute resolution is viewed by most participants as critical, and a number of potential delivery options have been suggested, ranging from modifications to existing services to the introduction of new initiatives. Finally, consultees have expressed the desire for better advice and guidance, with some arguing for a more client-centred approach that offers more directive advice tailored to the specific circumstances.

BACKGROUND

3.2. A number of substantial changes have been made in recent years to systems for resolving employment rights disputes, culminating in the 2005 introduction of new tribunal powers and of statutory workplace dispute resolution procedures which employees and employers are obliged to follow in most grievance, disciplinary and dismissal situations. These changes have produced some successes, including positive changes to the way in which tribunals are able to manage cases. On the other hand, anecdotal evidence both in Great Britain (where similar legislation is in place) and in Northern Ireland has suggested a widespread feeling that the statutory workplace procedures are not achieving their intended objective, namely the resolution of more disputes close to the source of the problem at work without recourse to a legal process.

3.3. The apparent dissatisfaction with the procedures prompted a wider review of dispute resolution systems in Great Britain, culminating in the publication of the findings of a high-level review (the Gibbons review) and the launch of a public consultation in March 2007. Now that GB consultation is complete, an Employment Bill is being taken through Parliament that will include provision for significant changes to systems for resolving disputes.

3.4. Since GB dispute resolution systems are very similar to those operating in Northern Ireland, it makes sense to look in detail at the findings of the GB review. That said however, as employment law is a devolved matter, the Northern Ireland Executive is not bound by GB decisions in

this area. Whether change should happen here, and to what extent, is very much a question that can best be answered by examining the issues through a local lens. This was very much the theme of the Department's February publication, 'Resolving workplace disputes: a pre-consultation on possible reform of systems for resolving individual employment rights disputes in Northern Ireland', which signalled the start of a Northern Ireland review.

- 3.5. The background to and rationale for the review is explained in the pre-consultation document itself, while further contextual information about the situation in GB can be found in the relevant GB documentation (the Gibbons report and subsequent consultation documents). All of these documents are available on the internet by visiting www.delni.gov.uk/erpublications, then navigating to 'Forms and documents', then 'Dispute Resolution Pre-consultation'. They can also be obtained from the Department upon request (see the section on 'Contact details' below).

STRUCTURE OF THIS DOCUMENT

- 3.6. In essence, the pre-consultation has set out to achieve three aims:
- *to ascertain whether there is appetite for reform of dispute resolution procedures in Northern Ireland;*
 - *to gain an initial steer on the appropriateness for Northern Ireland of the proposals arising out of the Gibbons review in Great Britain;*
 - *to invite suggestions for other options which might be worth investigating for Northern Ireland, including thoughts on what lessons can be learned from dispute resolution best practice elsewhere in the world.*
- 3.7. Although not the primary focus of the pre-consultation, comments have also been sought on what might be done to reduce the number of disputes occurring in the workplace, how an improved employment relations culture might be encouraged, and what measures could be taken to develop and promote best practice.
- 3.8. This document sets out the findings of the pre-consultation process in relation to the above issues. In as far as possible, a thematic approach has been adopted. Issues have been grouped together where there are commonalities and, where possible, the structure of the pre-consultation document has been followed and contextual information provided to illuminate the issue at hand.

CONTACT DETAILS

- 3.9. All documents referred to in this response can be obtained from the Departmental web-site or in hard copy form by contacting the Department in one of the following ways.

Post: Dispute Resolution Review
Employment Relations Policy and Legislation Branch
Room 203
Adelaide House
39-49 Adelaide Street
BELFAST
BT2 8FD

E-mail: employment.rights@delni.gov.uk

Telephone: 028 902 57600

Fax: 028 902 57555

Textphone: 028 902 57458

ALTERNATIVE FORMATS

- 3.10. This and other Departmental publications may be made available in alternative formats upon request.

4. Responses to the pre-consultation

4.1. This chapter details the Department's discussions with stakeholders and draws on the additional written submissions provided in a number of cases. Discussions have been frank and open, providing a very useful perspective on the views of certain interest groups. A decision has been made not to attribute comments to specific sources partly to help the narrative flow but more importantly because, at this stage, views are still being formulated and it would be unhelpful to tie organisations to a fixed corporate view on the basis of comparatively informal soundings. The pre-consultation has been about obtaining a sense of the way forward rather than determining a final outcome.

NEED FOR A REVIEW

4.2. Before delving into the debate around specific issues, it is worth recording the overwhelming view of pre-consultation participants that there is a need to re-examine dispute resolution systems. Right from the outset, it has been clear that consultees favour a comprehensive review and welcome the opportunity to comment at an early stage in the policy development process.

INFLUENCE OF DEVELOPMENTS IN GREAT BRITAIN

4.3. Consultees agree that one of the key questions is around the extent to which consideration should be given to adapting the GB Gibbons proposals for use in Northern Ireland. Systems for resolving disputes in Great Britain and Northern Ireland currently resemble one another very closely and contributors believe it would be remiss not to give the GB solutions serious consideration.

4.4. Briefly by way of summary, Michael Gibbons was asked by the Government to review systems for resolving disputes in GB and accordingly, in March 2007, made a series of recommendations on which full public consultation subsequently took place. The outcome of consultation has been a declaration of intent by Government to:

- *remove from the statute book the statutory three-step procedures for resolving disputes at work and the requirement to follow them;*⁶

⁶ In Northern Ireland, the same statutory procedures were introduced by way of the Employment (Northern Ireland) Order 2003 and the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004. The procedures became operative as of 3rd April 2005.

- *repeal associated provisions relating to unfair dismissal, reverting to the legal position before the procedures were introduced⁷;*
- *revise the ACAS Code of Practice and enable an Employment Tribunal to raise or lower an award if the Code has not been followed;*
- *remove time limits on ACAS' ability to offer its conciliation services;*
- *provide funding for an improved ACAS helpline and increased availability of early conciliation services;*
- *adjust the compensation powers of tribunals.*

4.5. Most consultees agree that the proposals above provide a useful point of reference in developing a programme of change for Northern Ireland. However, they also feel that paying attention to the situation across the Irish Sea should not preclude or constrain a fundamental reappraisal, independent of Gibbons, of the fitness for purpose of systems here.

A BESPOKE SOLUTION FOR NORTHERN IRELAND

4.6. Some consultees make reference, for example, to Northern Ireland's status as a small employer economy. Emphasising that "One size does not fit all", these organisations feel that a review of dispute resolution here will need to respond to the fact that Northern Ireland's small and medium-sized enterprise (SME) sector plays such a significant role in the local economy by comparison to its GB counterpart⁸. One organisation further believes that there is merit in examining the ability of the system to respond to issues within different industry sectors. Construction, for example, is seen as disproportionately likely to generate disputes and it is suggested that the system should be equipped to deal more effectively with sector-specific challenges.

A PRINCIPLED APPROACH

4.7. Stakeholders generally agree on the broad principle that any new arrangements should be more expeditious, more voluntarist and less

⁷ The legal position in question is that established by the case of *Polkey v A E Dayton Services Ltd*, explained in the pre-consultation document

⁸ As the pre-consultation document pointed out, whereas in the UK as a whole SMEs account for 58.7% of employment, the figure for Northern Ireland sits at 81%. Large firms account for only 19% of local employment, compared to 41% for the UK as a whole. See 'Resolving workplace disputes: a pre-consultation', p. 20

legalistic than at present. They should attempt to identify disputes at an early stage and deal with them as close to their original source in the workplace as possible. There is much agreement on the need to go about this with less formality than at present and in a way that is proportionate to the seriousness or complexity of the issues, while retaining full access to justice by way of legal remedy where appropriate.

- 4.8. Some feel strongly that proposals for change “should keep the issue of the access to rights of the individual at the forefront”, while other concerns include the need to reduce costs and pressures on claimants and respondents alike.
- 4.9. While it is encouraging to observe some measure of consensus as regards underlying principles, the bulk of engagement with consultees has inevitably focused on specifics, both in regard to positives and negatives about the current system and the potential for change. It is appropriate to begin with the issue that has generated the most comment;- statutory dispute resolution.

5. Dispute resolution procedures

- 5.1. The pre-consultation document outlined the background to the introduction of the statutory grievance and statutory disciplinary and dismissal procedures in April 2005 and went on to point to anecdotal evidence that would suggest that these arrangements have not been working as intended. Similar feedback had already come to light in Great Britain, where the procedures were introduced in October 2004. It was this evidence that persuaded Michael Gibbons to recommend the repeal of the GB statutory procedures and associated legislative provisions.
- 5.2. Those who participated in the pre-consultation process have given a mixed reception to the idea of opting for a similar course of action in Northern Ireland. There is majority support for dispensing with the statutory procedures here ; however there is also some support for their retention, with one stakeholder arguing that a negative view of the statutory procedures had already been formed by some at the time of their introduction without allowing time for them to be tested.

ADVANTAGES

- 5.3. One consultee feels strongly that the statutory procedures act as a 'safety valve' in that they identify workplace problems at an earlier stage than otherwise would be the case, allowing employees and management to discuss issues before passions become inflamed and views become entrenched. The kernel of this argument is that the dispute resolution provisions provide a mechanism for ensuring that disputes are tackled close to source. Without them, the question arises as to how such behaviour could be encouraged.
- 5.4. The statutory grievance procedures in particular have drawn a number of positive comments. In forcing employers to respond to employee issues, they are thought to increase the prospects of problems being successfully addressed. The procedures hurt only less scrupulous employers; they provide a 'last ditch' protection for employees that will in no way harm good employers.
- 5.5. The grievance procedures are also thought, in some instances, to have allowed people to clarify issues relating to their complaint and treatment, enabling them to make an informed decision as to whether to take the matter forward. It is seen as particularly important that issues can be clarified in complex cases such as those dealing with equality and fair treatment.
- 5.6. One organisation, generally critical of the statutory procedures, feels that they do at least provide employees with an opportunity to air a grievance. An employer body, while wishing to see the procedures

taken off the statute book, similarly feels that their statutory nature has forced small employers previously having no procedures in place to adopt a useful procedure of some sort. Another consultee put similar sentiments concerning the procedures as follows:

“They have created a mandatory baseline and set standards to which all employers must conform; thereby ensuring a degree of consistency amongst all employers, regardless of size, as to how disputes are handled internally.”

- 5.7. Although some clearly see benefits from the statutory grievance procedures, one consultee takes the alternative view that it is the statutory disciplinary and dismissal procedures which have been the more successful. This organisation argues that disciplinary matters are much less likely than grievances to be resolved by informal processes and that having in place formal procedural requirements therefore protects employees from unfairness and employers from the consequences of unfairness. This protection is seen to have particular relevance in Northern Ireland given the large proportion of SMEs. Such businesses, it is felt, do not have the time and resources to learn all aspects of employment law, so must continue to be provided with a formal minimum standard by which they must abide. By contrast, this organisation feels that grievances have been over-formalised by the statutory grievance process and that this must be removed from the statute book.
- 5.8. Even amongst those expressing positive views on the procedures, opinions are certainly very mixed and there is a general view that if the procedures are to be retained in some form, it is important to look carefully at how they can be simplified. Their complexity, as discussed below, is one of the major criticisms levelled at the procedures.

DISADVANTAGES

- 5.9. While participants acknowledge and welcome the fact that the dispute resolution provisions aim to encourage a proper dialogue about problems as close to their source in the workplace as possible, there is a feeling among many that the legislation itself has proven unfit for purpose. Indeed, many more reservations than positive comments have been made about the procedures. Even those consultees who hold positive views on some aspects of the system do not hesitate to raise criticisms.
- 5.10. Very much in line with the findings of the Gibbons Review, criticisms about the statutory procedures tend to focus on their apparent complexity and the perception that they over-formalise dispute resolution processes from the outset, creating an “elevation of process over substance” and encouraging some parties to ‘go through the motions’ rather than to seek genuine resolution.

- 5.11. There is a feeling that the requirement to put a grievance in writing at too early a stage closes off informal channels and encourages the parties to begin to think of the possibility that the problem might go to a tribunal resulting in a more entrenched approach. The fact that adherence to the dispute resolution procedures has a bearing on later access to a tribunal is perceived as unfair in some situations and results in undue legalisation of the process. However it has also been pointed out that tribunals have always taken into account the actions of both parties to a workplace dispute and that this is not something uniquely associated with the current statutory procedures.
- 5.12. Although disputed, the view of one organisation is that unnecessary formality and legalism can be detrimental to existing collectively agreed processes. The procedures, it is alleged, force parties to spend time and money obtaining legal advice in order to ensure that procedural requirements are met rather than focusing on resolving the matter at hand. Uncertainty over what constitutes a grievance under the legislation, places pressure on employers to scrutinise every written communication and to react formally if there is the slightest possibility that it could be seen as a 'stage one' grievance letter. Employers therefore begin formal processes where this may not be necessary.
- 5.13. Although the procedures can in some instances work well for simple issues such as wages claims, they are seen as less effective in dealing with more complex cases such as discrimination placing procedural hurdles in the way of legitimate complaints. The legislation itself is thought to be difficult to understand and interpret, even by those who work regularly with it. Difficulties in interpreting the procedures can lead to delays and mounting costs.
- 5.14. One example of the problems created by the complexity of the current provisions is the apparent lack of clarity around what, precisely, constitutes a grievance. In discrimination cases, for instance, complainants are said to find it difficult to distinguish between following the initial questionnaire procedure to elicit information from their employer about a potential complaint and the lodging of a grievance about the complaint.
- 5.15. Taking another example, in order to ensure that a potential tribunal claim arising out of an unresolved grievance will be accepted by a tribunal, a claimant is required to make an initial judgement at a very early stage about whether or not to use the statutory procedures and, if taking a claim, will later have to account for that decision on the tribunal claim form. Such a difficult early decision can therefore determine whether a tribunal claim arising out of the grievance will be allowed to proceed. In applying to a tribunal, a claimant is also asked to declare on the claim form whether or not they have the legal status of 'employee', which in itself is a very fraught legal question on which claimants are unlikely to possess the necessary expertise.

- 5.16. From the employer point of view, small firms in particular are believed to need a great deal of help in simply understanding what is required of them. In many cases, a single individual often carries out all managerial functions within a business and may not have the time to grasp the complexities and nuances of the regulations on top of all their other responsibilities. Any replacement for or modification of the regulations, it is felt, should build in a degree of flexibility and simplicity in recognition of this.
- 5.17. These arguments underpin a general call for simplification of the legislation. Even something as outwardly straightforward as a time limit is seen to be complicated by the statutory procedures; parties are said to find it difficult to understand how the extension of time available under the statutory procedures, where the procedures are being followed, meshes with the normal (usually three month) time limit for lodging a tribunal claim.
- 5.18. Given the perceived complexities and differing permutations of the procedures, some feel that although the number of tribunal claims has fallen since the introduction of the statutory procedures, this reduction may be for the wrong reasons. Many disputes, rather than being addressed within the workplace by effective use of internal processes, remain unresolved because of the complexity involved in having an issue addressed.

IMPLICATIONS FOR THE REVIEW

- 5.19. It is evident from the pre-consultation that much anxiety surrounds the operation of the statutory dispute provisions introduced in 2005. The very clear message has been sent, and received, that any fundamental review of dispute resolution systems will have to look carefully at whether statutory procedures have a future, how they can be modified if they do, and what might replace them if they do not.

6. The tribunal system

- 6.1. **The pre-consultation document looked in some detail at the role and powers of industrial tribunals and the Fair Employment Tribunal. These bodies play a key role in the dispute resolution process as they provide what is usually a final remedy in cases not amendable to resolution by other means.**
- 6.2. There is a general consensus amongst stakeholders that tribunals perform a necessary and useful function. There is also broad agreement that the tribunal route may not always be the most proportionate, appropriate or beneficial course of action. Options for alternative dispute resolution may be more useful in some situations. However, where a legal determination is appropriate for resolving a dispute, it is considered important to ensure that the system is accessible and fit for purpose.

ACCESS ISSUES

- 6.3. Access to the tribunal system has drawn particular attention from organisations generally supportive of employee interests. These commentators highlight the need to support two groups, the first consisting of individuals whose grievances never formally enter the system and the second composed of those whose disputes do enter the system but are later withdrawn. The factors which may restrict access for these two groups are said to include:
 - *lack of knowledge of employment rights and unavailability of directive advice;*
 - *fear of the repercussions of pursuing a dispute;*
 - *cost (including the cost of representation if the case goes to tribunal and the fact that parties are generally required to bear their own legal costs whether they win or lose);*
 - *complexity e.g. in following the dispute resolution procedures or preparing a bundle of documents for tribunal (detering some from entering the system and placing those who do but cannot afford a representative at a disadvantage vis à vis respondents who are usually represented);*
 - *tactics adopted by respondents' representatives particularly at the interlocutory stage e.g. threats of costs and delaying action.*
- 6.4. Some consultees argue that the reduced number of claims entering the system since 2005 is not necessarily seen as indicative of more disputes being resolved at work and that some perfectly valid grievances never see the light of day for some of the reasons outlined

above. Likewise, for these reasons, some claims that do enter the system but do not make it all the way to a hearing may be withdrawn even though the claimant feels that his or her case has merit.

- 6.5. It is worth looking in more detail at some of the points listed. The issue of advice and guidance is explored further at paragraphs 8.1-8.7. In relation to the costs issue, some suggest that consideration needs to be given to extending legal aid to cover the cost of representation at tribunal hearings in certain circumstances, although others oppose this proposal. It is also suggested that particular aspects of the costs regime could be re-examined. For example, the circumstances in which a pre-hearing deposit is required, its level, the circumstances in which costs are awarded and their level are all issues that it is felt should be considered.
- 6.6. The costs issue is also a concern for employers' organisations, although these groups are more likely to contend that there is a need to reduce the number of spurious or vexatious claims entering the system. Consultee organisations, supportive of employee interests, deny that there are significant numbers of such claims in the system. The 'employer' argument, for want of a better label, emphasises the financial harm that can be done to businesses by needless litigation where there is no real case to be argued and which costs an employer time, money and reputation. There is a feeling that the costs associated with taking a case through the full tribunal process in many instances encourage employers to 'pay off' a claimant, regardless of the facts of the case, because of the potentially greater impact on the firm of pursuing the case 'all the way'.
- 6.7. While agreeing that employees are entitled to have legitimate grievances heard, employer groups stress the need for effective controls on 'weak' claims. Failure to curb these is seen as bringing the system into disrepute. Although it is acknowledged that "there can be difficulty in *proving* that a claim is 'weak and vexatious' without hearing the evidence first", there is a degree of support for introducing some form of financial disincentive against weak claims, perhaps involving "the principle of costs following the event and a payment into court system". The contention that 'weak claims' are a problem, however, is countered by an alternative view that greater action must be taken by tribunals to counter 'weak defences' by respondents, which are also believed to bring the system into disrepute.
- 6.8. A further 'access' issue relates to the documentation used by a claimant for entry to the tribunal system, namely the IT1 and FET1 forms. Most stakeholders agree that it would be useful to look at whether and how the design of these can be improved. This could include changes to the type of information that is sought as part of the claim process or a reduction in the perceived complexity and length of the forms. Some stakeholders, not necessarily opposed to simplification, think that the forms should ask for *additional* information. For example, requiring parties or, alternatively, the LRA, to prepare a

schedule of loss, it is felt, could help parties focus on what they might expect a successful claim to deliver and reduce unrealistic expectations.

LATE SETTLEMENTS AND WITHDRAWALS

- 6.9. It is well known that a significant number of disputes are settled ‘on the tribunal steps’, often on the day of the hearing itself. Conventional wisdom has it that the imminence of legal proceedings can have a powerful effect in encouraging parties to reconsider their options at this juncture and to choose settlement (although one stakeholder makes a somewhat controversial assertion that early settlements tend not to come about because they are not in legal representatives’ commercial interests).
- 6.10. Prior Government initiatives have recognised that late settlements are administratively wasteful (since much work has already by this stage been put into preparing for a hearing that then does not take place) and are not generally in the interests of the parties given the time, money and stress that can be invested in taking a case so far only to settle it where agreement might have been achieved earlier. To address this issue, legislative changes made alongside the introduction of the dispute resolution procedures in 2005 placed the Labour Relations Agency (LRA) under a duty to offer its conciliation services for a time-limited period in relation to a variety of legislative jurisdictions. The aim was to help tribunals fix a hearing date in parties’ minds early on and focus the parties on attempts to resolve the matter.
- 6.11. Although comment on this issue has been sparse, there is a feeling that the fixed period has been more successful in Northern Ireland than in Great Britain, where in light of the Gibbons review it is to be removed. If a similar step is contemplated here, it is felt that some equally effective way of maintaining the parties’ focus on imminent tribunal proceedings must be found.
- 6.12. Minds are also said to be focused by case management discussions (CMDs), which are preliminary hearings used by tribunals to identify issues that will later be considered at the substantive hearing. For several stakeholders, CMDs are useful and have an important role to play in encouraging earlier settlement by forcing parties to be very specific about the facts and arguments upon which they intend to rely. If the case, following such close examination, then appears to a party to be weaker than had first been thought, the prospect of the costs that may be incurred by following through with a full hearing may help persuade some to settle.
- 6.13. However some stakeholder comments have been critical of tribunals for too often allowing issues that have not been raised at a CMD, or that have been raised but are not relevant, to be brought up at full hearing. This is thought to devalue the CMD.

- 6.14. By contrast, looking at CMDs from a very different standpoint, one stakeholder considers that the preparatory work required is difficult for claimants to undertake without representation and that a system whereby issues are raised and dealt with at the substantive hearing would be more beneficial.
- 6.15. Finding ways to encourage parties to reach a settlement earlier in the process is an important issue for stakeholders. If this can be done at work, before external processes are invoked, through ADR mechanisms or in the early stages following the lodging of proceedings, then tribunal resources will be freed to focus on those cases which are least amenable to resolution or for which a legal ruling is clearly the most appropriate solution.

TIME LIMITS

- 6.16. One consultee suggests that the time available to attempt resolution of a dispute before legal proceedings begin should be extended, arguing that this could reduce the number of tribunal cases. Currently, the statutory dispute resolution procedures provide for an extension of three months where attempts to resolve the dispute are ongoing. However, this provision is thought of as confusing and it is reported that, in spite of it, tribunal claims are lodged prematurely on a 'just in case' basis. A solution that reduces confusion around this issue is sought.
- 6.17. A further suggestion is that steps are needed to harmonise the differing time limits for lodging a tribunal claim which are applicable in various jurisdictions. The limit in most jurisdictions is three months, but in some a longer period of six months is the norm. (It is worth taking note at this point that a proposal to harmonise time limits in GB is not being taken forward.)
- 6.18. An increase of the time available to employers to lodge a response with the tribunal is sought by one organisation, which suggests that the existing 28-day period should be extended to three months. Arguments that have been advanced in the past for a longer response time relate to the apparent difficulties faced by large organisations in ensuring that documentation reaches the responsible person (e.g. in HR or personnel departments) in time for action to be taken. This is said not always to be straightforward as the claimant will on occasion fail to complete these details correctly on his or her claim form. However a contrary view is that large organisations are in fact well attuned to dealing with tribunal claims, and can be expected to have the appropriate machinery in place to ensure that a timely response is provided.

OTHER ISSUES

6.19. Additional issues raised by consultees, and which it may be appropriate for the review to address, are listed below.

- **Rules of Procedure:** *one suggestion is that there is a need to revise this legislation which governs the way in which tribunal proceedings are conducted, the circumstances in which certain actions may be taken, etc. The 2004 Rules of Procedure (now repealed), rather than the 2005 Rules, are thought to offer a useful starting point for this process because they are thought to have been less restrictive.*
- **'Fast track' procedure:** *GB policy-makers intend to empower Employment Tribunals to deal with the simplest claims – unlawful deductions from wages, breach of contract, redundancy pay, holiday pay and the national minimum wage – by way of a 'fast track' procedure involving an employment judge⁹ sitting alone. This proposal has received only a lukewarm reception from stakeholders in Northern Ireland. While not opposed, one organisation points out that such a process would be useful for dealing with questions of law rather than questions of fact. Another consultee adds that most cases with a money element (of the type envisaged for determination by the fast track procedure) tend to be part of claims under more than one jurisdiction and so would not be amenable to 'fast track' determination. One contribution suggests that there will be no need for a tribunal 'fast track' if claims can be dealt with more effectively at the pre-tribunal stage, perhaps by a Rights Commissioner service or equivalent.*
- **Multiple claims:** *action must be taken to streamline the process of dealing with these claims, in the view of one stakeholder. For the avoidance of confusion, reference to 'multiple' claims here is to claims brought by more than one individual about the same set of facts. These can constitute a large proportion of claims entering the system. In this context the term does not refer to individual claims lodged in respect of multiple jurisdictions (e.g. sex discrimination and unfair dismissal).*
- **Remedies:** *Some consultees suggest that the dispute resolution review should also consider the remedies available through tribunals. For example, one stakeholder considers that the remedies of reinstatement or re-engagement are rarely used. This is seen as symptomatic of a system that allows employers too easily to 'get rid' of employees. Another consultee states that "tribunals should...have the power to order reinstatement or*

⁹ The equivalent position in Northern Ireland is that of tribunal chairman.

re-engagement for dismissed workers” and that they should be given “power to make orders requiring changes to policies and practices and equality audits, and to issue injunctive relief in order to prevent an act of discrimination occurring or being repeated.” These views are closely related to the contention that more ought to be done, where reasonable prospects exist, to assist parties to rebuild and repair employment relationships that have broken down during the course of a dispute.

- **Enforcement of awards:** A number of contributors to the pre-consultation feel that there is a need to re-evaluate mechanisms by which tribunal awards are enforced. At present, in order to enforce an award, it is necessary to register it with the courts and, if it remains unpaid, to pursue payment through the court system. It is argued that this is an unsatisfactory state of affairs.
- **Contempt and perjury:** there is a suggestion that court-like powers are needed to allow tribunals to deal with contempt and perjury.
- **Restricted reporting:** the introduction of a power for tribunals to restrict reporting of sensitive cases dealing with a person’s sexual orientation is sought. A comparable power already exists in relation to sexual harassment. It is felt that the potential for public revelations about individuals’ sexual orientation may discourage them from taking part in proceedings.
- **Structural issues:** the structure of employment-related tribunals in Northern Ireland has already been the subject of public consultation on the proposed Single Equality Bill and the pre-consultation document therefore did not place a heavy emphasis on the question. This has been reflected in the small number of comments received on the issue. Only one consultee has made the case for a single Employment Tribunal, amalgamating all the functions currently exercised separately by industrial tribunals and the Fair Employment Tribunal. Only one argues for a Single Equality Tribunal to deal with all employment and non-employment discrimination issues. Finally, only one stakeholder specifically argues for the creation of a Northern Ireland Employment Appeal Tribunal.

IMPLICATIONS FOR THE REVIEW

- 6.20. Stakeholders are agreed that tribunals provide an essential service where alternative methods of resolving a dispute have been tried but have failed, or where other methods are simply inappropriate. Beyond that, they have identified a range of issues that they would wish the review to explore, from the operation of the Rules of Procedure to the fundamental structure of the tribunal system. Drawing on these

concerns, the dispute resolution review will set out to ensure that tribunals continue to be fit for purpose and are able to mesh successfully with any new arrangements that are made for wider dispute resolution mechanisms.

7. Alternative dispute resolution

- 7.1. The Department sought stakeholders' views on whether and to what extent more use could be made of alternative dispute resolution (ADR) processes. Consultees were also asked whether examples from elsewhere in the world could offer ideas which might be adapted for use in any redeveloped Northern Ireland dispute resolution system.

CONCILIATION

- 7.2. In one sense, of course, ADR is already firmly embedded in today's dispute resolution framework. When a claim is received by the Office of Industrial Tribunals and the Fair Employment Tribunal (OITFET) it is automatically copied to the LRA, which then attempts to broker a conciliated settlement between the parties. The LRA also provides conciliation services in respect of disputes where no tribunal claim has been lodged, and is successful in resolving significant numbers of these so-called 'non-IT1' cases each year.
- 7.3. Stakeholder discussions and submissions have shown that existing conciliation processes are generally commended for providing neutral, non-directive assistance whilst leaving the parties themselves in control. However, this praise does not come without reservations. Some believe, for example, that conciliation is better at resolving more straightforward disputes about e.g. unpaid wages, holiday pay, and so on, and less effective in addressing more complex issues such as those involving discrimination. Conciliation is also thought to be much more successful in situations where an employment relationship still exists between the parties as opposed to where that relationship has ended. Consultees therefore view positively plans in Great Britain for increased pre-claim conciliation, and would welcome more immediate pre- (and indeed early post-) claim efforts in Northern Ireland. The sooner in the process those efforts begin, it is thought, the more likely it is that the employment relationship will not yet have broken down beyond repair.
- 7.4. Thus, while conciliation is seen to play a helpful role within the present arrangements, many stakeholders feel that there may be scope for exploring the use of other forms of ADR.

ARBITRATION

- 7.5. Existing LRA services also include arbitration, which is available in disputes specifically relating to unfair dismissal and flexible working. Designed to be a quicker, less formal and cheaper alternative to a tribunal hearing, arbitration has however had its problems. It is known

that uptake of the LRA's two Arbitration Schemes has been low and the suggestion is that this may be due to the very small number of cases to which arbitration can be applied, namely those cases *only* concerned with unfair dismissal or flexible working. A hearing dealing with a single jurisdiction is unusual; for instance, an unfair dismissal or flexible working claim might also include allegations of sex discrimination. The fact that an arbitration hearing is unable to deal with the other element or elements of a claim rules out arbitration as an option in these situations. A further perceived problem with current arbitration arrangements is that there is no mechanism for bringing an appeal against an arbitrator's decision unless it is on the grounds that the arbitrator has misconstrued the law.

- 7.6. Since arbitration is little used, stakeholders have not commented extensively upon it. That said, only one organisation specifically recommends against use of the process. If the process is to gain active support, however, current arrangements will need to be re-evaluated. One possible solution may be revised legislation allowing LRA-appointed arbitrators to deal with a wider range of jurisdictions. There is already legislative power to allow for arbitration in disputes relating to discrimination on the grounds of religious belief or political opinion, although no relevant scheme is currently in place. It may be that expanding the reach of arbitration and adding some form of appeals mechanism could revive it as an attractive alternative to a tribunal hearing.

MEDIATION

- 7.7. Another form of ADR highlighted by the pre-consultation document, mediation, has elicited much more feedback from stakeholders. Consultees' views are varied but generally positive. Although a mediator cannot make a decision determining the outcome of a case brought before him or her in the way that an arbitrator can, the mediator's role is more directive than that of a conciliation officer. It is normal for a mediator to play a part in proposing and suggesting solutions to those in dispute, and this is an attractive proposition for some. Indeed, some participants in conciliation are said to be disappointed when they find out this process is not more directive.
- 7.8. Although mediation is viewed favourably by most stakeholders, for some the process is best utilised in dealing with 'softer' grievance type issues rather than in circumstances where there are allegations to be investigated and facts or legal questions to be determined, as is often the case in serious disciplinary and dismissal cases.. Mediation's more directive approach is thought to be helpful in advancing situations where there has been a breakdown in workplace relationships and where the parties need guidance to assist them towards resolving the issue. Since mediation requires a significant time investment by the parties, it is also considered to be relatively unsuited to simpler cases

such as payment of wages/holiday pay as a disproportionate investment of time would be required.

- 7.9. If mediation is given increased prominence within the system, a key question arises as to how and by whom it would be carried out. The most obvious option might be to enable the LRA, with its recognised expertise in ADR, to expand its mediation activities. This would have the advantage of building on pre-existing in-house knowledge and on stakeholders' clear confidence in the Agency. Another possibility might be to allow the process to be undertaken by specially trained tribunal judiciary. A pilot study using judicial mediators has already been carried out in Great Britain and its findings are awaited. One consultee considers that the latter option would lend the process gravitas; if a qualified tribunal chair expresses an opinion on how a case might be resolved, that opinion would undoubtedly carry some weight. As several stakeholders point out, however, involvement of a tribunal chairman in mediating a case would necessarily preclude his or her involvement in any subsequent legal proceedings relating to that case.

EARLY NEUTRAL EVALUATION

- 7.10. As noted in the pre-consultation document, early neutral evaluation involves an independent third party at an early stage of a case examining its strengths and weaknesses and providing the parties with an objective assessment of its likely outcome. Many contributors to the pre-consultation consider that some form of early neutral evaluation could be a helpful addition to existing processes. Those who support the proposal suggest that the evaluator's report could address issues such as the possible merits of a case, the best way of dealing with it (e.g. going to mediation), and the likely outcome if the legal stage is reached. The suggestion is that the LRA could provide such a service, perhaps by telephone, at an early stage of a case. For one organisation, "it would have to be compulsory in certain cases and there would need to be an incentive for parties to engage in the process (e.g. disclosure of the evaluator's decision to the tribunal)."

RIGHTS COMMISSIONER MODEL (REPUBLIC OF IRELAND)

- 7.11. As noted previously, the pre-consultation set out to establish whether there is interest in models for resolving disputes drawn from outside the United Kingdom. In this regard, the Rights Commissioner Service operated by the Labour Relations Commission in the Republic of Ireland has drawn particular notice. Rights Commissioners are individuals with practical experience in the employment field who hold relatively informal, non-legalistic meetings which attempt to resolve individual employment disputes. Where agreement between the parties cannot be reached, the Commissioner is empowered to make a decision, which can be appealed to a second-tier body.

- 7.12. One organisation in particular supports the introduction of a comparable system in Northern Ireland. Its argument is that the relative simplicity of the process would benefit both employees and SMEs in particular, given that both groups do not have the time or finance available to deal with complex employment law issues. The organisation believes that mandatory referral to the service should be considered. This would have the benefit of resolving cases that ultimately do not require a full legal remedy, whilst preserving parties' freedom to go to a tribunal on appeal should they so wish.
- 7.13. The same consultee suggests that the LRA could have oversight over such a system, with the Northern Ireland equivalents of the Republic of Ireland's Rights Commissioners being independent appointees of the Agency in much the same way as arbitrators are at present. Claims relating to employment disputes could then be required to go first of all to the LRA, which on receipt of a claim would organise a hearing with a Rights Commissioner. If this did not resolve the issue, there could be an advisory or early case management type of discussion with the parties, possibly involving preparation of a schedule of loss where appropriate to quantify the value of the case and establish whether it is worth pursuing. Only after this point would the case enter the tribunal system.

VOLUNTARY VS MANDATORY ADR

- 7.14. The above discussion of specific forms of ADR raises a more general and fundamental question as to the status that ADR should be accorded within the dispute resolution process as a whole. Few of those whose opinions the Department has heard have advocated outright that ADR of whatever form should be a mandatory step in the dispute resolution process, although the Department is aware that there are those who do hold this opinion.¹⁰ Opposition to mandatory ADR is premised on the view that this approach would turn ADR from a valuable tool into a process 'hoop' that would have to be jumped through in order to obtain justice, much in the same way as some view the statutory dispute resolution procedures.
- 7.15. A halfway house between an optional and a mandated approach is advocated by some stakeholders, who envisage an 'incentivised' form of mediation. In this model, parties would generally be required or encouraged to undertake mediation or, where they fail to do so, to explain as part of any subsequent tribunal proceedings why they have not engaged in the process. This would allow tribunals to focus on cases that cannot readily be resolved by other means and, by

¹⁰ One contributor to this year's LRA symposium on dispute resolution, for instance, believed that it would be worth requiring the attendance of claimants at a LRA conciliation meeting before a tribunal claim could be accepted.

preserving the right for parties to go to a tribunal, would not run contrary to the need to maintain access to justice.

- 7.16. An alternative suggestion along the same lines is the barring of access to a tribunal to those who have not attempted all other reasonable steps such as going through informal and formal channels in the workplace and then exhausting the options offered by ADR. Supporters of this type of system feel that the right to pursue a tribunal claim should be understood as a last resort for use after the exhaustion of other options that it is reasonable to expect the parties to explore in the circumstances. It is possible that such an approach could be bolstered by directing the initial claim form not to OITFET but instead to the LRA. The application could take the form of a letter of complaint drafted in much less formal terms than present OITFET claims. The Agency would then be able to focus its efforts on resolving such disputes and acting as a 'clearing house' before litigation begins. The potential benefit of this system would be that the initial focus would be firmly on the LRA, with its reputation for providing effective ADR services, rather than on legal proceedings.

INTERNAL VS EXTERNAL ADR

- 7.17. Use of ADR once a dispute has escalated beyond the workplace is generally welcomed by consultees. However, one stakeholder argues that where larger and/or public sector organisations have in place and have operated their own internal ADR processes, but have failed to achieve resolution, it is superfluous to use very similar external processes afterwards. To this line of thinking, a second process beyond the workplace would be likely only to retread the same ground, and achieving a different outcome would be extremely doubtful. External processes might be more beneficial, it is thought, where employers lack (or, for whatever reason, have not used) internal ADR processes of their own. Small employers are most likely to find themselves in this position and could benefit from the use of external services.
- 7.18. Of course, having in place and operating internal procedures is not of much value, as one organisation has pointed out, unless there is a degree of trust that such processes are fair. Many employees, this stakeholder believes, are lacking in this trust. A mediator appointed by an employer, for example, will often be seen by the person having the grievance as 'working for' the employer and likely to take the employer's side.
- 7.19. It has been suggested that one way of addressing this issue might be to seek collective agreement between unions and employers on the content, promotion and use of internal dispute resolution processes. Where these have achieved acceptance from employer and employee representatives and sufficient confidence in them has been

established, there is thought to be a greater chance of resolving disputes internally than might otherwise be the case. If a dispute can be resolved at work, there may be less likelihood of working relationships, confidence and trust between the parties deteriorating rapidly, as can happen once a dispute has escalated beyond the workplace. In essence, this strategy calls for steps to improve employment relations across the board – no small task, certainly, but one which participants in future public consultation may wish to explore.

IMPLICATIONS FOR THE REVIEW

- 7.20. Overall, there seems to be a significant level of support for the view that there are few workplace disputes (including those relating to complex or controversial issues such as discrimination) which could not, at least, be potentially amenable to resolution by ADR. Pilot exercises may be required to determine the effectiveness of various techniques, but there seems to be agreement that a review of dispute resolution should place emphasis on promoting realistic ADR that is proportionate to the dispute in hand, whilst leaving open the tribunal route for those who wish to use it.

8. Guidance and advice

- 8.1. **There remains the question of best practice guidance and the status it should enjoy. Currently, the Labour Relations Agency produces a Code of Practice on disciplinary and grievance procedures and, while there is no requirement to follow the Code, a failure to do so can be taken into account by a tribunal if the issue reaches the hearing stage.**
- 8.2. Stakeholders generally agree that it is right that a Code of this sort, backed by legal force, should remain in place. It is not thought sufficient to promote best practice guidance without some form of incentive to ensure that efforts are made to adhere to it. At this early stage in the policy development process, stakeholders have not gone far towards suggesting what sanctions there might be for failure to adhere to best practice; nor have they proffered consistent views on what the Code should contain. Opinions that have been expressed include the following:
- *the Code should not be overly prescriptive;*
 - *it should be straightforward and easily understood;*
 - *it should be principles-based, should focus on the procedures to be followed and reflect the need for fairness and consistency;*
 - *its statutory backing should be made clear;*
 - *processes should not change unduly as the existing Code is well understood and change for change's sake would create a new learning need without necessarily bringing substantive benefits.*
- 8.3. The need for a statutory Code, then, is in no real doubt. Faith in the existing system's ability to deliver awareness amongst employees and employers respectively of employment rights and how they can be enforced is less firm. Some consultees, in drawing attention to this issue, see it as the reason why a significant number of legitimate grievances are either not raised in the right way or not raised at all. Improved signposting to help more vulnerable groups obtain justice is thought to be needed on the one hand, but employers on the other are not necessarily at fault and would themselves benefit from better information and education. Helping employers improve understanding of their own role, it is thought, will ensure that some disputes are avoided and limit the effects of others once they have begun.
- 8.4. Awareness-raising might be achieved through an enhanced role for the LRA, perhaps along the lines of the functions being taken on by ACAS in Great Britain following the Gibbons review. In essence ACAS is being allocated additional resources in order to provide an enhanced helpline service that will seek to make available better signposting to

callers without providing directive advice. The increased resources will also be focused on promoting greater utilisation of early conciliation before a tribunal claim is lodged, with the helpline acting as a significant source of referrals.

- 8.5. Several consultees point out that a key decision that lies ahead will be around the extent to which an advice service should offer direction to its users. There is a very clear distinction between outlining the options and their potential implications on the one hand and, on the other, suggesting which option might be best in the circumstances. A 'neutral' service such as that currently operated by the LRA is certainly seen to have its merits, but there are those who argue that the dispute resolution review should look at whether either the LRA or an alternative body could take on a directive advisory role, providing "advice in addition to information".
- 8.6. Another proposed approach to awareness-raising might involve the creation of a proactive enforcement agency with legal powers to secure individuals their rights. Initially, such an agency could advise employers, if they are going wrong, on the steps they should take. If improvements are not secured, the agency could then impose penalties or take the case to an industrial tribunal. The agency would have investigatory as well as enforcement powers and could operate on the same principles as the National Minimum Wage enforcement machinery. Its 'hard' enforcement powers could be supplemented by 'soft' support and guidance, particularly for the large numbers of small businesses in Northern Ireland.
- 8.7. Whatever approach is adopted, a key issue for some is to foster an improved understanding amongst the general public of dispute resolution processes and institutions, of the range of options available when a dispute arises and the implications of each potential course of action. For example, signposting could explain how a tribunal might look at a case, focusing on how the panel might arrive at a decision. Provision of better and simpler online and offline employment rights guidance is also considered important. The latter might take the form of a booklet given to all employees when they start work, or a poster prominently displayed in a communal area in the workplace. The guidance would ideally be developed co-operatively between trade union and employer organisations, conferring on it an increased legitimacy.

IMPLICATIONS FOR THE REVIEW

- 8.8. Stakeholders' opinions would suggest that the review could usefully explore content, presentation, targeting, sources and availability of guidance and advice. Specifically in response to calls from some quarters for a much more client-centred and interventionist approach to

advice, there is also a need to consider the extent to which advice should remain neutral and non-directive.

9. The way forward

- 9.1. **Feedback from the pre-consultation shows that there is a desire for the Department to take forward a full-scale dispute resolution review. The Department has now begun preparations for this, which will culminate in the form of public consultation beginning sometime towards the end of 2008 or the beginning of 2009.**
- 9.2. The Department has commissioned research into the views of users of the tribunal system, and hopes to draw upon the findings from the research in scoping options for the way ahead. In addition, to assist in preparing a meaningful consultation, the Department has established a steering group, which it chairs, consisting of representatives from CBI NI, the Equality Commission for Northern Ireland, the Federation of Small Businesses, the Labour Relations Agency and the Northern Ireland Committee of the Irish Congress of Trade Unions. The steering group will establish a set of guiding principles and contribute to scoping the options that will underpin full consultation.
- 9.3. Inquiries about the review should be directed to the Department, using the contact details provided on page 7.

10. Annex A

LIST OF THOSE INVITED TO PARTICIPATE IN PRE-CONSULTATION

- *CBI Northern Ireland*
- *Central Personnel Group, Northern Ireland Civil Service [internal]*
- *Chartered Institute of Personnel and Development (NI)*
- *Citizens Advice*
- *Construction Employers Federation*
- *Department of Health, Social Services and Public Safety (for consideration by large public sector Health and Social Services employers)*
- *Education and Library Board Staff Commission*
- *Employment and Learning Committee [Northern Ireland Assembly]*
- *Employment Lawyers Group*
- *Engineering Employers Federation*
- *Equality Commission for Northern Ireland*
- *Law Centre Northern Ireland*
- *Federation of Small Businesses*
- *Institute of Directors*
- *Labour Relations Agency*
- *Local Government Staff Commission*
- *Northern Ireland Chamber of Commerce*
- *Northern Ireland Committee, Irish Congress of Trade Unions*
- *Northern Ireland Housing Executive*
- *Northern Ireland Human Rights Commission*
- *Northern Ireland Local Government Association*

- *Office of Industrial Tribunals and the Fair Employment Tribunal*

LIST OF THOSE WHO PARTICIPATED IN THE PRE-CONSULTATION

- *CBI Northern Ireland*
- *Citizens Advice*
- *Engineering Employers Federation*
- *Equality Commission for Northern Ireland*
- *Law Centre Northern Ireland*
- *Federation of Small Businesses*
- *Labour Relations Agency*
- *Local Government Staff Commission*
- *Northern Ireland Committee, Irish Congress of Trade Unions*
- *Northern Ireland Housing Executive*
- *Office of Industrial Tribunals and the Fair Employment Tribunal*

ADDITIONAL MATERIAL

- 10.1. Additional material was drawn from contributions to this year's Labour Relations Agency symposium on dispute resolution, held in February at the Stormont Hotel, and from individuals who communicated their thoughts during the process.
- 10.2. More broadly, the drafting of this document has been informed by discussions with Government officials in Northern Ireland, Great Britain and the Republic of Ireland.

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