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# New laws for resolving disputes at work

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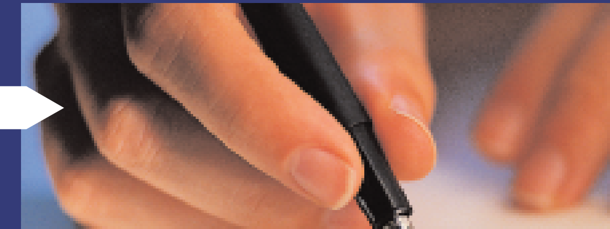

2 MEET AND DISCUSS

3 APPEAL

## New Procedures for Discipline and Grievance
## A Guide for Employees

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# Introduction

### The new dispute resolution regulations

On **3 April 2005**, the Employment (Northern Ireland) Order 2003 (Dispute Resolution) Regulations (Northern Ireland) 2004 (called "**the Regulations**" in this guidance) came into effect giving new rights and responsibilities to both employers and employees.

From that date, **all** employers must follow minimum procedures for resolving disputes about employment issues. The minimum procedures are for dealing with **grievances** (complaints by an employee) and with **disciplinary action** and **dismissal** (actions the employer can take against an employee).

Many employers may already have procedures in place that go further than what is required by the new minimum standard. Where your employer already has procedures of this kind, there will be no need for him or her to take action other than to confirm that the procedures comply with the new law.

### Written statement

When you start work with a new employer, he or she must give you, within two months of the starting date, a **written statement of employment particulars**. The statement tells you about issues such as pay and hours, and must include a note of the employer's disciplinary and grievance procedures.

In particular, the note must set out any disciplinary rules which apply to employees, and tell you to whom you should go if you have a grievance.

Under the new Regulations an employer and an employee **must** in certain circumstances, by law, follow these minimum procedures.

For more information about the written statement, you should consult the booklet **Written statement of employment particulars (ER2)**, available for download from the Library facility of the Department for Employment and Learning's Employment Rights web-site (www.delni.gov.uk/er). You can also get information and advice on your employment rights from the Labour Relations Agency (LRA), telephone 028 9032 1442 or 028 7126 9639.

### How does this affect you?

**If you do not follow the procedures, the effect could be serious.**

Unless you have first put your grievance in writing – and allowed at least 28 days to pass – **you will no longer, as a general rule, be able to make a claim to a tribunal** based on a grievance with your employer or former employer (unless your grievance is about dismissal).

If the grievance, disciplinary or dismissal procedures have not been followed before the case goes to a tribunal, the tribunal will decide whether that is the fault of the employer or you. **If it is your fault, any money awarded will normally be decreased by at least 10% and possibly up to 50%. If it is the employer's fault, any money awarded will normally be increased in the same way.**

These new minimum procedures apply **only to employees but not to other workers** who supply services to employers, for instance freelancers or subcontractors. This is an important and complex point of law. If you need help, or advice on whether or not the procedures apply to you, you can contact your trade union representative or local Citizens Advice Bureau. You can also get advice from the Labour Relations Agency at www.lra.org.uk or by ringing their helpline 028 9032 1442 (Head Office); 028 7126 9639 (Regional Office).

### Key points

- *Your employer is* **bound by law** *to have disciplinary, dismissal and grievance procedures, and to tell you what they are.*
- *Before using these procedures, you and your employer should* **attempt to sort problems out informally** *where possible.*

**Grievance procedure**

- *You are now required to* **send your employer a written statement** *of your grievance.*
- *Your employer must then* **arrange a meeting** *to discuss it, and then tell you the decision.*
- *You have a right to* **appeal against that decision at a further meeting.** *If you do not appeal but go straight to a tribunal, the tribunal will generally find that you had not completed the procedure.*
- *If you disagree with what your employer decides to do after the appeal meeting, you will need to make a claim to a tribunal if you want to resolve the matter by legal means.*

- *As a general rule, you will* **not** *be able to make a claim to a tribunal based on a grievance* **unless** *you have put your grievance to the employer in writing and then allowed 28 days to pass. This rule does not apply if your grievance is about dismissal, or about disciplinary action that you agree was taken against you on conduct or capability grounds (unless you think the action involved unlawful discrimination against you).*

**Disciplinary action and dismissal procedure**

- *If your employer is contemplating taking disciplinary action against you on conduct or capability grounds, or dismissing you, the responsibility lies with him or her to start a dismissal or disciplinary procedure.*
- *Your employer is required to* **send you a written statement** *of his or her reasons and to* **arrange a meeting** *to discuss it with you.*
- *If you disagree with the decision he or she makes after that meeting,* **you have a right to appeal**, *and your employer must arrange a further meeting. If you do not appeal but go straight to a tribunal, the tribunal will generally find that you had not completed the procedure.*
- *If you disagree with what your employer decides to do after the appeal meeting, you may decide to make a claim to a tribunal. Before doing so you may wish to take further advice, possibly from your union representative, if you are a union member, or your local Citizens Advice Bureau or the Labour Relations Agency.*

**The meetings**

- *You have a right to be accompanied to any meetings to discuss your grievance, and any meetings about dismissal or disciplinary action which your employer intends to take against you. You may choose to be accompanied by someone you work with or a trade union official.*

This guide describes the new dispute resolution procedures and their implications for employees. It gives general guidance only. It has no legal force and cannot cover every point and situation. It describes the position which applies in Northern Ireland. In England, Wales and Scotland, corresponding legislation applies.

# Section 1: How to raise a grievance

## Grievance procedures

**Grievance procedures** are procedures which enable you to raise concerns you have about your job with management. These concerns could be about the work itself, your working conditions, or the people you work with. **Your employer must, by law, tell you in writing what procedures you should follow at your place of work if you want to raise a grievance.**

The first thing to do if you have concerns is raise the matter with the person specified in the grievance procedures, usually your line manager. If this is not possible, or if your problem is with that person, you should go to the next most senior person. Try to get the problem resolved informally at this stage.

Although these first discussions are informal, you may find it helpful to **keep a brief note** of any discussions you had, noting the date and time, to whom you spoke, and the main points covered. These will be useful if the problem is not resolved at this stage and you have to go on to more formal procedures.

You should begin a formal grievance procedure if your employer fails to resolve the matter to your satisfaction. **If you do not begin a formal procedure, you will not be able to make a claim to a tribunal** that your employer has failed to honour certain statutory employment rights. (This does not apply, though, if your grievance concerns dismissal, or disciplinary action short of dismissal that you agree was taken on conduct or capability grounds. See Section 2 for more details.)

If you do have to take matters further, the grievance procedure has three steps:

## Step 1: The written statement

**You must set out your grievance in writing and send a copy to your employer.** If you have problems expressing yourself in writing you can ask for help at a Citizens Advice Bureau or, if you are a union member, from a trade union representative. An example of a written statement raising a grievance is on page 20.

### Step 2: The meeting

When your employer has read your written statement, he or she must invite you to a **meeting** to discuss your grievance. He or she can allow himself or herself a little time to look into your complaint but should not delay for an unreasonable amount of time.

You have a **right to be accompanied** to this meeting by someone who works with you or by a trade union official. The meeting must be held at a time and place that are reasonable for you and anyone accompanying you.
If either you or your companion is disabled, the employer must take all reasonable steps to make sure that you have no problems getting to the meeting.

You should attend the meeting. If you or the person you have chosen to come with you cannot get there for a reason which you did not know about when the meeting was arranged, the employer must arrange another meeting and you should attend it.

**Prepare carefully** for the meeting and discuss the matter fully with anyone you have asked to accompany you. If there is anyone there you don't know, ask your employer to introduce them. Your employer should explain how the meeting will be held, who will speak and when. Your employer should give you an opportunity to set your case out calmly and clearly and, if appropriate, to explain what you have done to try to resolve the problem informally. Be proactive. Use the opportunity to make some suggestions as to how the problem might be resolved. This will help you and your employer. Be concise. If you have any other grievances, consider if you need to raise them separately.

After the meeting – not necessarily straight away – the employer must tell you what he or she has decided. **If you do not agree with his or her decision, you have the right to appeal**, and your employer should inform you of this.

### Step 3: The appeal

**If you feel that your grievance has not been satisfactorily dealt with, you should tell your employer that you are going to appeal.** An example of an appeal letter is on page 21. He or she must arrange a meeting to discuss this. The same rules apply to this as to the original meeting. It must be at a reasonable time and place and you have a right to be accompanied. **If you do not appeal but go straight to a tribunal with your complaint, any money you are awarded may be reduced by between 10% and 50%.**

After the appeal meeting, the employer must tell you what he or she has decided. This is his or her final decision. If you are still not satisfied, and you think that your employment rights have been infringed, you may wish to take the matter to an industrial tribunal or, if appropriate, the Fair Employment Tribunal (see Section 3). But discuss it first with your trade union representative or local Citizens Advice Bureau or the Labour Relations Agency.

### Raising a grievance after you have left your job

If you leave a job but still have an outstanding grievance, you can pursue it using a shorter, **two-step** procedure, known as the modified procedure, if:

- *You and your employer agree in writing to use the modified procedure; and*
- *Your employer did not know about the grievance before your employment ended* **or** *the procedure was either not started or was started but not completed before you left the employment.*

The two steps are:

1. *You send a written statement of the grievance and the basis for it to your former employer.*
2. *Your former employer writes back to you, answering the points you have raised.*

### When you do not need to go through the procedures, or the procedures do not apply

In any of the following circumstances, the procedures either do not apply, or do not have to be gone through.

- *You have* **reasonable grounds for believing** *that putting your grievance in writing to your employer would result in* **significant threat** *to you or your property or to some other person or their property.*
- *You have been subject to* **harassment** *and have* **reasonable grounds** *to believe that putting the grievance in writing to your employer would result in further harassment.*
- *You do not need to go through the procedures if the grievance is a* **collective** *one; that is, if a recognised trade union or workplace representative raises it on behalf of two or more employees.*
- *Your employment has ended, you did not put your grievance in writing to your employer before your employment ended, and it has since become* **not reasonably practicable** *for you to do so; for example, if he or she has gone abroad.*
- *It is* **not reasonably practicable** *for you to put your grievance in writing to your employer* **within a reasonable period**, *for example because your employer is a sole trader and is not available due to long-term illness.*
- *Finally, there will be circumstances in which it is just* **not possible** *to complete the procedures, for example if one of the parties leaves the country or becomes seriously ill.*

# Section 2: Dismissal and disciplinary action

### Introduction

If your employer is concerned about your conduct or capability, **he or she should try to sort things out with you informally before considering disciplinary action or dismissal**. In some circumstances this may also apply to redundancy, retirement and the end of a fixed-term contract which is not renewed. Matters of gross misconduct and instant dismissal are covered on page 13.

The new statutory minimum procedures come into play **when the employer actually contemplates dismissing you or taking other disciplinary action against you**. However, many employers already follow additional, preliminary procedural steps – for instance, holding investigation meetings and/or issuing a series of verbal or written warnings, culminating in a final written warning – before reaching this point. If you are already entitled to this as part of your terms and conditions of employment, the new statutory minimum procedures do not change things. They will need to be followed in addition to your employer's previous procedures. Not to do so may count as unreasonable behaviour.

It would help to **make a short note** of any discussions you have with management about a work problem, recording the date of the discussion, to whom you spoke and the main points discussed. This may be useful if your employer takes formal proceedings.

**At the point your employer contemplates taking disciplinary action or dismissing you, he or she should follow the minimum statutory disciplinary procedures.** "Disciplinary action" here means action taken on grounds of your conduct or capability and **does not include** warnings or suspension on full pay.

If your employer does not follow the new statutory minimum procedures, and

1. *dismisses you, you may complain to a tribunal, which will normally find the dismissal to be* **automatically** *unfair and increase compensation; or*
2. *takes other disciplinary action, short of dismissal, against you and you subsequently make a successful tribunal claim about that action, any money awarded to you is likely to be* **increased by between 10% and 50%** *(assuming the failure to follow the procedures was not your fault).*

The new statutory minimum procedures also apply if:

- *you are an employee;*
- *you are on a fixed-term contract of a year or more which is not renewed; and*
- *you are dismissed on grounds of age and you have not reached the age of 65 or, if different, the normal retirement age for your job.*

Like the grievance procedure, the discipline and dismissal procedure has three steps.

### Step 1: The written statement

Your employer must prepare a **written statement** of his or her reasons for considering disciplinary action or dismissal and send you a copy of it. Read the statement carefully. The statement should be clear and explain your employer's position. If you have trouble understanding it, discuss it with a workmate or a trade union official, or take it to a Citizens Advice Bureau or the Labour Relations Agency.

### Step 2: The hearing

Once your employer has sent you the statement, he or she must invite you to a **meeting** to discuss the issue. Your employer should allow you enough time to think about what has been said but should not delay the meeting for an unreasonable time.

You generally have a **right to be accompanied** to this meeting by someone who works with you or by a trade union official. The meeting must be held at a time and place which is reasonable for you and anyone accompanying you. If either you or your companion is disabled, the employer must take all reasonable steps to make sure that you have no problems getting to the meeting.

**You have a duty to attend the meeting.** If you, or the person you have chosen to come with you, cannot get there for a reason which was not foreseen when the meeting was arranged, the employer must arrange another meeting and you must attend it.

**Prepare carefully** for the meeting and discuss the matter fully with anyone you have asked to accompany you. If there is anyone there you don't know, ask your employer to introduce them. Your employer should explain how the meeting will be held, who will speak and when. Your employer must give you an opportunity to set your case out calmly and clearly. Listen to what your employer has to say and give your side of the case. Be concise. **The employer may dismiss or take the disciplinary action against you at this point.**

### Step 3: The appeal meeting

At or after the meeting, your employer must let you know his or her decision. **If you want to appeal against this decision, you must tell your employer.** An example of an appeal letter is on page 21. You must appeal to complete the statutory procedures.

Your employer must then arrange a meeting to hear the appeal. Again generally you have a **right to be accompanied** to this appeal meeting by someone who works with you or by a trade union official. The meeting must be held at a time and place which is reasonable for you and anyone accompanying you. If either of you is disabled the employer must take all reasonable steps to make sure that you have no problems getting to the meeting. **You have a duty to attend.**

If you or the person you have chosen to come with you cannot get there for a reason which was not foreseen when the meeting was arranged, the employer must arrange another meeting and you must attend it.

**Prepare carefully** for the meeting and discuss the matter fully with anyone you have asked to accompany you.

After the meeting the employer must decide what he or she is going to do and tell you what it is. This is his or her final decision and, if you are still not happy with it and wish to continue, you may wish to take your case to a tribunal.

### Can the grievance procedure apply to a dismissal or disciplinary procedure?

You do not need to start a grievance procedure over a dismissal in any circumstances (**unless** you are complaining about constructive dismissal – i.e. you are claiming that you were forced to resign because of your employer's behaviour).

You can start a grievance procedure about disciplinary action taken by your employer if:

- *you disagree with your employer that the action was taken on conduct or capability grounds;* **and/or**
- *you consider that the action constituted unlawful discrimination against you.*

In either of these circumstances, you should put your grievance to the employer **in writing**. **When** you do this is important.

### Putting a grievance in writing before the appeal meeting

If you put your grievance in writing **before** the appeal meeting held under the disciplinary procedure has taken place, you will have met the requirements and **will not have to begin a new set of procedures** about the grievance. An example of this type of situation is shown below.

- *The employer first of all puts in writing his or her reasons for disciplining the employee and sends them to the employee. A meeting is arranged to discuss the issue.*
- *The meeting is held and the issues are discussed.*
- *The employer's decision is made and the employee is informed.*
- *The employee is dissatisfied with the decision and appeals against it. The employer arranges an appeal meeting.*
- *The employee believes the employer's action is not being taken on grounds relating to his or her conduct or capability, and/or believes that it is discriminatory. The employee sends this grievance in writing to the employer* **before the appeal meeting has taken place***.*
- *The appeal meeting is held. The grievance, as well as the disciplinary issue, can be discussed at this meeting.* **A new grievance procedure does not have to be started to deal with the grievance.**

### Putting a grievance in writing after the appeal meeting

If you leave putting your complaint in writing until **after** the appeal meeting under the disciplinary procedure has already taken place, **you will have to begin a full grievance procedure** (i.e. put your complaint in writing; meet with your employer to discuss it; and, if appropriate, talk about the matter further at an appeal meeting). For instance:

- *The employer writes to the employee explaining the reasons for the disciplinary action. A meeting is arranged to discuss the issues.*
- *The meeting is held and the problem is discussed in full.*
- *The employer takes a decision.*
- *The employee is not satisfied with the decision.*
- *The employee appeals against the employer's decision and so the employer arranges an appeal meeting.*
- *The appeal meeting is held and a final decision is made by the employer.*
- *If at this stage the employee wants to complain that the employer's action is not being taken on grounds relating to his or her conduct or capability, and/or believes that it is discriminatory, he or she will have to* **start a new grievance procedure***.*

### Instant dismissal

An instant dismissal when the employer has not made any investigation of the circumstances is **nearly always unfair**.

However there are some very rare cases involving gross misconduct where tribunals have ruled that the dismissal was fair because the circumstances made an investigation unnecessary. In these cases, the Regulations allow the employer to dismiss first and then operate a **two-step procedure** going straight from the written statement to the appeal without holding a hearing in between.

### When an employer does not need to go through the new procedures

There are some circumstances in which an employer is allowed to dismiss you or take disciplinary action without going through the procedures. These are:

- *If the action your employer takes is to give you a* **verbal or written warning** *or* **suspend you on full pay**. *[If you do not agree with such action, you can raise a grievance.]*
- *If there are* **reasonable grounds** *for believing that going through the procedures would result in* **significant threat** *to the employer's person or property or to some other person or their property.*
- *The employer has been subject to* **harassment** *and has* **reasonable grounds** *to believe that following some part of the procedures would result in further harassment.*
- **Collective issues**, *where discussion between management and employee representatives is the best way of taking matters forward. An example is when an employer lays off a group of staff and, either before or when the employment terminates, offers to rehire them under different terms and conditions.*
- *When the employer is under a duty to consult employee representatives in relation to* **collective redundancies**.
- *When employees are dismissed whilst taking* **industrial action**. *(In the case of lawful, officially organised action, special arrangements apply.)*
- *When it is not possible for employment to continue, for example when a factory burns down and it is no longer practicable for the employer to employ anyone or where it becomes illegal to employ a particular employee.*
- *It is not practicable for the procedures to be complied with within a reasonable period.*

# Section 3: Applying to a tribunal

Where a dispute over an employment issue can't be sorted out by those involved, a claim can be made to a tribunal. In most cases the Labour Relations Agency has a duty to try to resolve such claims without the need for a tribunal hearing. A tribunal will be able to provide a legal judgement about the problem. For further information contact the Labour Relations Agency.

There are two different types of employment tribunal in Northern Ireland. **Industrial tribunals** can hear claims about the vast majority of disputes to do with employment such as unfair dismissal, deduction from wages, sex discrimination, and so on. The **Fair Employment Tribunal** deals only with cases involving alleged discrimination on the grounds of political opinion or religious belief. Both types of tribunal operate in very similar ways: they are courts, but have less formal procedures than the ordinary civil courts.

### How tribunals deal with cases

Preliminary hearings, generally known as **pre-hearing reviews** (PHRs), usually take place before a legally-qualified chairman on his or her own.

Full **hearings**, which decide outstanding issues and conclude cases, usually take place before three tribunal members; the chairman, and two members who are experienced in dealing with work-related problems. Usually one of these members will have a background in management and the other will have experience of representing employees.

If you would like more information, visit the web-site of the Office of Industrial Tribunals and the Fair Employment Tribunal www.industrialfairemploymenttribunalsni.gov.uk/

### Time limits for making an application

There are time limits to follow when making a claim to a tribunal. In many cases, the limit is three months from the date of the matter you're complaining about.

If your claim is received after the end of the time limit that applies to your complaint (for example, in unfair dismissal, the date is three months from the date your employment ended)**, the tribunal will not normally accept the claim**.

However, in certain circumstances, **the normal time limit for submitting tribunal claims will be extended to allow extra time for workplace discussions to continue**. The extension is to allow you and your employer more time to sort out your problem at work without having to begin a legal process. For more information on extending time limits, see page 18.

There are certain types of cases which are subject to different time limits. These are set out on page 18. For example, if your claim is concerned with equal pay the time limit is six months, which may be extended to nine months if the statutory grievance procedure applies in your case (see paragraph below).

**Note:** *The existing discretion of the tribunal to extend a time limit where it was not reasonably practicable for it to be met (or, in some cases, where it is just and equitable to extend it) is unaffected by these changes.*

## When your claim will not be accepted

If your claim is based on a **grievance** with your employer or former employer, and the statutory grievance procedure applies, **your claim will not be accepted at all** unless you either:

- *Put your grievance* **in writing** *to the employer and then allow at least* **28 days** *to pass before putting in your claim to the tribunal office;* **or**
- *Give a* **valid reason** *on the claim form why you think this legal requirement does not apply in your case.*

A list of valid reasons follows. Some of them involve complex legal matters. If you are uncertain about whether the reasons apply in your case, you should get advice from a trade union representative, your local Citizens Advice Bureau or the Labour Relations Agency.

Valid reasons for not lodging a written grievance are:

- *You were* **not an employee** *of the employer (but were, for instance, a worker supplying services as a freelancer or contractor, or were a job applicant). [Note that the question of whether or not you are an employee can be a complex one. An employee must have entered into or worked under a contract of employment. If you are not sure whether you are classed as an employee, you should seek advice.]*
- *Your claim is brought under a law that is not listed in Schedule 3 to the Employment (Northern Ireland) Order 2003.* **The main example is a claim about a breach of contract** *(but you may still be penalised in terms of compensation if you do not complete the procedures).*
- *Your* **employment has ended**, *you did not put your grievance in writing to your employer before your employment ended, and it has since become* **not reasonably practicable** *for you to do so, for example if your employer has gone abroad.*
- *It is* **not practicable** *for you to put your grievance in writing to your employer* **within a reasonable period**, *for example because your employer is a sole trader and is not available due to long-term illness.*
- *Your grievance is that you were* **dismissed,** *or it is about* **disciplinary action** *that your employer says was* **taken on the grounds of your conduct or capability** *(unless you disagree that those were the grounds, or think that the action was unlawfully discriminatory. For what to do in these cases, see pages 11-12).*
- *You have* **reasonable grounds for believing** *that putting your grievance in writing to your employer would result in* **significant threat** *to you or your property or to some other person or their property.*
- *You have been subject to* **harassment** *and have* **reasonable grounds to believe** *that putting the grievance in writing to your employer would result in further harassment.*
- *The grievance was put to your employer in writing by an* **appropriate representative** *(for example, an official of a recognised trade union)* **on behalf of you and at least one other employee**.
- *You have raised the grievance under an* **industry-level grievance procedure** *that has been agreed between at least two employers or an employers' association and one or more independent trades unions.*
- *You have raised the matter that is the subject of your grievance as a "protected disclosure" under the public interest disclosure ('whistleblowing') provisions in the Employment Rights (Northern Ireland) Order 1996.*
- *Your claim raises an issue of* **national security**.

## Extension of time

In certain circumstances the normal time limit for submitting a tribunal claim can be **extended by three months** to give you and your employer the chance to sort out the dispute between you without involving the tribunal. This extended time limit applies in **any** of the following circumstances:

- *You have raised your grievance in writing with your employer* **within the normal time limit**.
- *You put your claim to the tribunal office within the normal time limit for lodging the claim but were turned down because you had not put your grievance in writing to your employer* **or** *had done so, but had not then* **allowed 28 days to pass before putting in your tribunal claim**. *(Note that in this case you must put your grievance in writing to your employer* **within one month** *of the expiry of the normal time limit or your claim will not be accepted in any circumstances.)*
- *Your claim is about a* **dismissal**, *or about* **disciplinary action** *that your employer says was on the grounds of your* **conduct or capability**, *and at the time that the normal time limit expired,* **you had reason to believe that a dismissal or disciplinary procedure was still in progress**.

## Special cases

If you are applying for a **redundancy payment**, special time limits apply. These are complicated and you should seek advice from the Redundancy Payments Service helpline on 0800 585 811.

If your complaint is related to the **National Minimum Wage** you should seek advice from the National Minimum Wage Helpline on 0845 6500 207.

If you are dismissed because of:

- *trade union activities*
- *membership or non-membership of a trade union*
- *activities as a pension scheme trustee*
- *being, or proposing to become, an employee representative*
- *being an appropriately protected shop worker or betting worker who refuses Sunday work (a worker is appropriately protected if he or she is not contractually required to work on Sundays, or if he or she has opted out of that requirement)*

you can apply for an immediate re-employment order. This application must be made within seven days of dismissal. You should seek advice from your trade union representative, the Citizens Advice Bureau or the Labour Relations Agency immediately if you are in this position.

## Costs

New tribunal legislation was introduced on **3 April 2005**. Under it, unless you (or your representative, if you have one) abuse the system by acting unreasonably, or by pursuing a claim which has no reasonable prospect of success, you will not have to meet the respondent's costs. This is one of the ways in which the employment-related tribunals differ from the ordinary civil courts.

It is also envisaged that the circumstances in which a claimant can be ordered to make a payment towards a respondent's costs (or preparation time, if the respondent is not legally represented) are where the claimant (or claimant's representative) acts "vexatiously, abusively, disruptively or otherwise unreasonably", or brings proceedings that are "misconceived". Even then, when considering whether or not to make such an award and, if so, the amount, the tribunal will be able to take into account the claimant's ability to pay.

If a respondent (or respondent's representative) acts unreasonably after the new legislation is operational, he or she may be required to pay the claimant's costs (or preparation time). Unreasonable behaviour by a respondent could include making unjustified threats – e.g. threats that the claimant will be automatically required to meet the respondent's costs – to persuade the claimant to withdraw the claim.

Costs awards made by tribunals are based on actual costs, reasonably incurred, and they can be made only in circumstances where the tribunal thinks that behaviour has been unreasonable or inappropriate. The maximum costs award a tribunal can make is £10,000, though in practice most awards will be much smaller.

## Going to a tribunal: key points

- *You can make a claim to a tribunal by completing a claim form, available in hard copy or online from the Office of Industrial Tribunals and the Fair Employment Tribunal (www.industrialfairemploymenttribunalsni.gov.uk).*
- *You will generally need to put in your claim within a specified time limit, which can be as short as three months beginning with the day your employment ended or when the matter you are complaining about happened. However, in certain circumstances this time limit will be extended if you complete the first step of the statutory procedure.*

# Section 4: Example letters

## LETTER 1

Raising a grievance

Dear ______________________________ Date ________________

I am writing to tell you that I wish to raise a grievance.

This action is being considered with regard to the following circumstances:

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

I am entitled to a hearing to discuss this matter. I am entitled, if I wish, to be accompanied by a work colleague or my trade union representative. Please reply within ________________ [not more than 28] days of the date of this letter.

Yours sincerely

Signed ______________________________ Employee

## LETTER 2

Request for appeal hearing (grievance procedures)

Dear ______________________________ Date ________________

On __________ I was informed that the Company had decided to __________ based on my grievance of ________________ raised on __________

I would like to appeal against this decision.
I wish the following information to be taken into account:

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Please reply within ________________ [five days may often be long enough] days from the date of this letter.

Yours sincerely

Signed ______________________________ Employee

## LETTER 3

Request for appeal hearing (dismissal or disciplinary action procedures)

Dear ______________________________ Date ________________

On __________ I was informed that ____________ [insert organisation name] was considering dismissing OR taking disciplinary action [insert proposed action] against me.

I would like to appeal against this decision.
I wish the following information to be taken into account:

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Yours sincerely

Signed ______________________________ Employee