



Industrial Disputes and Collective Conciliation

Note: This publication is intended to provide general guidance only. It does not constitute legal advice and should not be relied upon as doing so.

Overview

Good working relationships are essential to optimise business efficiency. Minor problems can develop into grievances and disputes if they are not dealt with promptly and effectively. Open lines of communication between employers and employees and appropriate procedures to deal with workplace issues are vital.

However, sometimes internal procedures are unable to resolve matters. Employers, employees or employee representatives (including Trade Union Representatives) may decide to seek assistance from a third party rather than leaving issues unresolved with the potential to cause resentment and disharmony in the workplace.

Collective and Industrial Disputes

Collective disputes are so called because the issues in dispute generally apply to a group or groups of employees within a workplace. Matters which give rise to a dispute situation often centre on annual pay reviews, changes to terms and conditions of employment or potential changes to working practices (shift patterns, time and lengths of breaks etc).

Under the *Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993*, an Industrial Dispute is defined as “*any dispute or difference between an employer and an employee, or between an employee and employees, connected with the employment or non-employment, or the conditions of employment, of any person...*”

Request for assistance regarding Collective Disputes

Confidential, impartial advice may be sought from the Employment Relations Service on matters which may be considered collective disputes. Where it is considered appropriate, conciliation (explained fully on page 2) may be offered by the Employment Relations Service. Provided that all parties agree to participate, positive progress can be made to resolve collective issues.

Formal notification of an Industrial Dispute

A dispute may be notified under the *Industrial Disputes and Conditions of Employment (Guernsey) Law, 1998* to the Industrial Disputes Officer (IDO) (appointed by, but independent from, the States of Guernsey). The notification of an Industrial Dispute should only be considered when all other avenues have been thoroughly explored.

How is a dispute notified?

A dispute is usually notified to the IDO in writing. It is helpful to clearly detail the reasons for the dispute, e.g. pay, overtime, hours etc. Notifications should be sent to the Employment Relations Service for onward transmission to the IDO. Contact details appear at the bottom of these guidance notes.

What happens when a dispute is notified to the Industrial Disputes Officer?

When a dispute is notified under the Law, the IDO will determine whether a dispute exists under that Law. If a dispute does exist, the IDO has six weeks in which to settle the dispute “*unless ...negotiations, conciliation or arbitration proceedings are in progress with a view to a settlement*” (Part I Section 2 (b)). The IDO will settle the dispute either by giving advice and assistance, by offering conciliation, by arbitration (arbitration must be agreed to by the parties) or by referring the matter to an Industrial Tribunal.

Collective Conciliation

Whether parties choose to make a request for assistance or to notify Industrial Dispute conciliation is the first step in the process. Conciliation is a specific term to refer to talks between representative employee groups (e.g. Trade Unions, employee representatives) and employers in an attempt to resolve workplace disputes. It is facilitated by a trained conciliation officer.

One meeting or a series of mutually agreed meetings are convened to explore and understand the issues. Parties can work through the issues to achieve resolution. Conciliation can encourage better relationships and avoid prolonged and ongoing disagreements. It can also foster a spirit of mutual cooperation and potentially avoid the deadlock of opposing, entrenched positions.

What can a Collective Conciliation Officer do?

The Conciliation Officer can:

- ✓ explain the collective conciliation process
- ✓ discuss the options open to the parties
- ✓ assist the parties to understand how the other side views the issues in dispute
- ✓ liaise between the parties regarding any proposals that may be put forward
- ✓ explain the options if a resolution is not found including notifying a formal Industrial Dispute and the potential implications of doing so

What can a Conciliation Officer not do?

- ✗ make a judgement on the issues in dispute
- ✗ give an opinion on the merits of the case
- ✗ advise either party to accept or decline any proposal for settlement
- ✗ communicate threats
- ✗ compel or advise a party to withdraw the claim
- ✗ act as a representative, take sides or assist either party to prepare a case for Arbitration or Industrial Tribunal

What are the benefits of entering into the conciliation process?

- Conciliation is a process for resolving the issues which avoids protracted negotiations and the possibility of potentially damaging issues remaining unresolved in the workplace
- It is impartial and voluntary
- It is a confidential process; parties normally agree to keep all ongoing talks confidential
- It avoids the time, potential expense and stress of preparing for and attending an Arbitration or an Industrial Tribunal (Tribunals are public and generally reported upon)
- Any settlement is based upon mutually acceptable terms and not decided and imposed by a third party.

What if the parties do not wish to engage in conciliation?

Collective conciliation is a voluntary process and will only take place when both parties agree to it. If a dispute is notified to the IDO under the Law and either party is unwilling to engage in conciliation, the IDO could potentially explore arbitration and/or an Industrial Disputes Tribunal. Ultimately, the IDO has the power to refer a notified dispute to the Industrial Tribunal for a legally binding resolution.

What happens if a settlement is reached during the conciliation process?

If the parties reach agreement on the issues in dispute the Conciliation Officer or Industrial Disputes Officer will finalise a settlement agreement detailing the terms to which both parties have consented. All parties (including the Conciliation Officer and/or IDO) then sign the agreement (which is **confidential** to all parties). The parties to the dispute receive a copy of the agreement. At this point the dispute is deemed to be resolved.

Will taking part in collective conciliation affect the Tribunal process?

No, conciliation operates separately and confidentially from the Tribunal process.

Other Publications

Publications can be downloaded from the website on a wide range of employment relations matters including local employment legislation and best practice guidance on other employment related matters.

Contact Information

For further advice

- Check www.gov.gg/employmentrelations
- Email employmentrelations@gov.gg
- Contact the **Employment Relations Service**, Edward T Wheadon House, Le Truchot, St Peter Port, GY1 3WH
- Telephone number: **01481 220026**