

SCHEDULE

The Labour Relations Agency Arbitration Scheme

PART XIV

Outline of procedure before the hearing

63. Once a hearing has been fixed, the following procedure shall apply, subject to any direction by the arbitrator.

Written materials

64.—(1) At least 14 days before the date of the hearing, each party shall send to the LRA (for forwarding to the arbitrator and the other party, and for retention by the LRA Arbitration Section) three copies of a written statement of that party's case, together with three copies of—

- (a) any supporting documentation or other material to be relied upon at the hearing; and
- (b) in respect of any person who will accompany each party to the hearing or be called as a witness, that person's name and the purpose of their attendance.

(2) Written statements under sub-paragraph (1) should briefly set out the main particulars of each party's case, which can then be expanded upon if necessary at the hearing itself. The statement should include an explanation of the events which led to the claim being brought, including an account of the sequence and outcome of any relevant meetings, interviews or discussions.

(3) If the arbitral proceedings include a claim of unfair dismissal (see paragraph 8), the parties should come to the hearing prepared to address the practicability of any remedy the claimant is seeking.

65. Supporting documentation or other material may include (where applicable and without limitation) copies of—

- (a) contracts of employment;
- (b) documentation concerning recruitment;
- (c) letters of appointment;
- (d) written statement of particulars of employment;
- (e) employers' handbooks, rules and procedures;
- (f) time sheets and attendance records;
- (g) performance appraisal reports;
- (h) warning and dismissal letters;
- (i) written reasons given to the claimant by the respondent explaining the respondent's actions;
- (j) notes of meetings held between claimant and respondent in relation to the dispute;
- (k) any other written information which may assist the arbitrator in deciding on the claim or the relevant part of it;
- (l) any information which will help the arbitrator to assess compensation, including (without limitation)—
 - (i) pay slips, P60s or wage records;
 - (ii) details of benefits paid to the claimant such as travelling expenses and free or subsidised accommodation;

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- (iii) guidance about, and (if available) actuarial assessments of, pension entitlements;
- (iv) details of any welfare benefits received;
- (v) evidence of attempts to find other work, or otherwise mitigate loss;
- (m) signed statements of any witnesses or outlines of evidence to be given by witnesses at the hearing.

66. The parties must also supply details of any relevant awards of compensation that may have been made by any other tribunal or court in connection with the subject matter of the claim.

67. Legible copies of documents must be supplied to the LRA even if they have already been supplied to an LRA conciliator before the Arbitration Agreement was concluded.

68. No information on the conciliation process, if any, in respect of the case to be heard by the arbitrator shall be disclosed by the LRA to the arbitrator.

Submissions, evidence and witnesses not previously notified

69. Any document which has not been provided to the LRA prior to the hearing in accordance with paragraph 64 may be relied upon at the hearing only with the arbitrator's permission.

70. All representatives and witnesses who have been listed as accompanying a party at the hearing should be present at the start of the hearing. Witnesses who have not been included in a list submitted to the LRA prior to the hearing may be called only with the arbitrator's permission.

Requests for documents

71. Any party may request the other party to include in their submission, or submit through the LRA or the arbitrator (as appropriate), copies of relevant documents that are not in the requesting party's possession, custody or control. Although the LRA and the arbitrator have no power to compel a party to comply, the arbitrator may draw an inference from a party's failure to comply with a reasonable request.

Requests for attendance of witnesses

72. Although the arbitrator has no power to compel the attendance of any person at the hearing, the arbitrator may draw an inference if an employer who is a party to the arbitration fails or refuses to allow any person who is a party or a witness time off from work to attend the hearing, should such an employer be so requested.

Preliminary hearings and directions

73. Where the arbitrator believes that there may be considerable differences between the parties over any issue, including the availability or exchange of documents, or the availability of witnesses, the arbitrator may call, through the LRA, the parties to a preliminary hearing to address such issues, or he or she may give procedural directions.

74. In the course of a preliminary hearing or through the LRA, the arbitrator may express views on the desirability of information or evidence being available at the hearing.