

Industrial

Tribunals

Procedures

For those concerned in Industrial
Tribunal Proceedings



Revised April 2005

Introduction

This booklet describes the procedure for making or resisting a claim to an industrial tribunal in Northern Ireland, and what happens at a tribunal hearing. It is a guide only and should not be regarded as a complete or authoritative statement of the law.

This booklet is intended as a guide for individual claimants and respondents but the principles contained within nevertheless have equal application to parties other than individuals.

The statutory regulations governing industrial tribunal proceedings in Northern Ireland are the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005. This booklet does not seek to deal with the differences in procedure between different types of claims, as these are minimal. For detailed information on non-general claims you should refer to schedules 2-6 of these regulations.

Copies of the Regulations mentioned above may be purchased from The Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD or visit: www.northernireland-legislation.hmso.gov.uk.

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General Information

The industrial tribunals

Industrial tribunals are independent judicial bodies. An industrial tribunal is normally composed of three members:

- a legally qualified chairman;
- one member drawn from a panel appointed by the Department for Employment and Learning after consultation with bodies representing employers; and
- one member drawn from a panel appointed by the Department for Employment and Learning after consultation with bodies representing employees.

In some circumstances a tribunal chairman may sit without lay members (see Constitution of the tribunal on page ??) and in other circumstances, a tribunal may proceed in the absence of a lay member.

Industrial tribunals sit mainly in Belfast but from time to time in other centres throughout Northern Ireland.

Matters which an industrial tribunal can consider

A list of the main matters, which an industrial tribunal can consider using the procedures described in this booklet, is on **pages 45-60**.

General Information

The parties to a case

Persons (or other bodies) bringing claims to industrial tribunals are known as **claimants** and those against whom such claims are brought are known as **respondents**. These terms will be used throughout this booklet.

The Public Registers

Details of claims to industrial tribunals and the decisions of the tribunals are required by law to be kept in registers, which are held at the Office of the Tribunals and are available for inspection by the public free of charge.

The Register of Claims contains the:

- case number
- date on which the claim was received
- name of the claimant
- name of the respondent, and
- type of claim brought in general terms

The Register of decisions contains the decisions of the Industrial Tribunals.

This register will become available (in due course) on the website of the Office of the Tribunals.

General Information

However, in cases appearing to involve allegations of a sexual offence, as defined in the Industrial Tribunals (Northern Ireland) Order 1996, any identifying matter is required to be omitted from, or subsequently deleted from, the Public Registers and from any document or record of proceedings available to the public.

Contacting the industrial tribunals

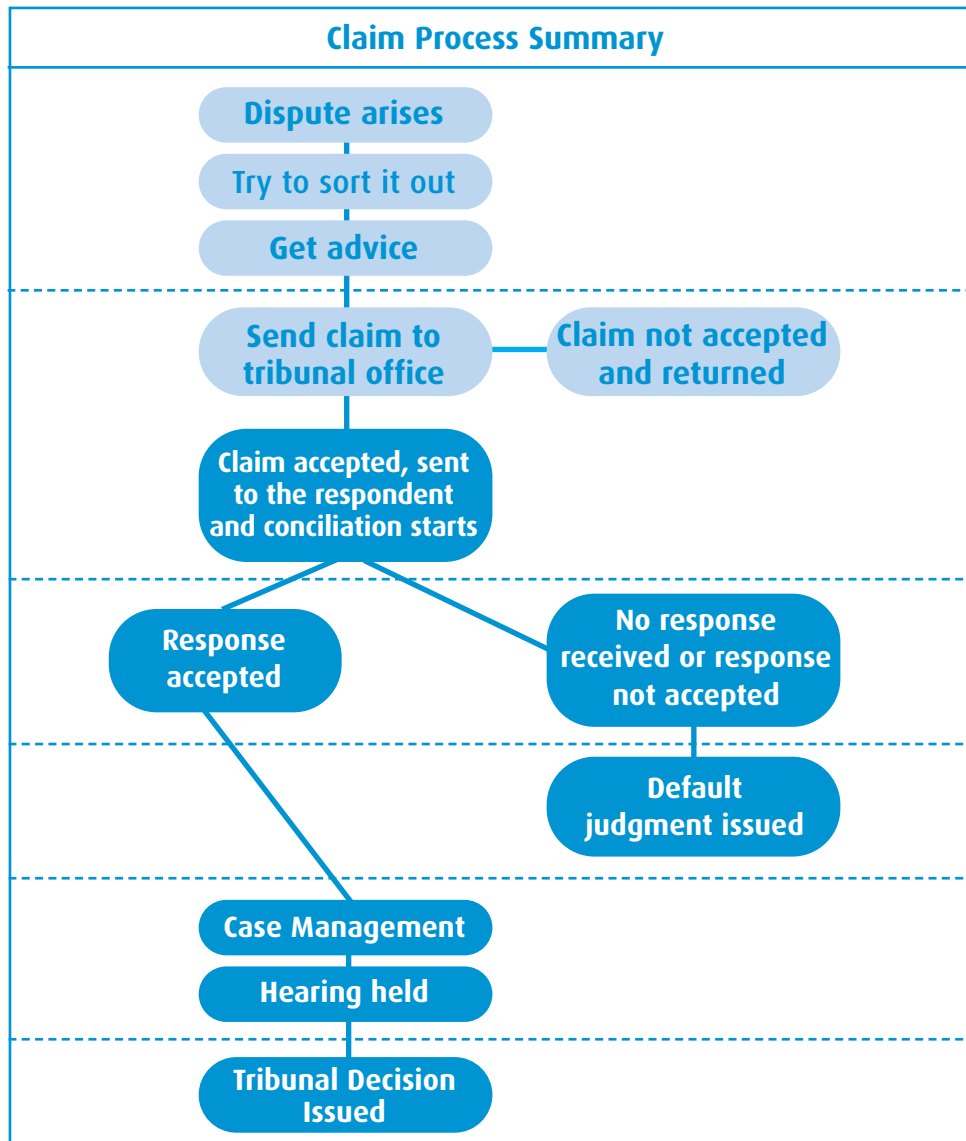
All claims to an industrial tribunal and all subsequent correspondence should be sent to the Secretary of the Tribunals at:

Office of the Industrial Tribunals and
the Fair Employment Tribunal
Long Bridge House
20-24 Waring Street
BELFAST
BT1 2EB
Tel (028) 9032 7666
Fax (028) 9023 0184
email: mail@employmenttribunalsni.org
or visit: www.employmenttribunalsni.org

In this booklet this office is referred to as the Office of the Tribunals and it is open to the public, Monday – Friday between 9.00am and 5.00pm.

General Information

If you are a claimant



Before making a claim

If you think you have a claim for an industrial tribunal to consider, you should make sure that the tribunal has the jurisdiction to deal with the claim you wish to raise, and that you submit your claim within the time limit allowed. There are different time limits for different matters and these are explained in the appropriate guides or booklets. Failure to make your claim within these time limits may deprive you of the right to have your claim heard by the industrial tribunal.

The main matters which may be considered by an industrial tribunal using the procedures described in this booklet are listed in **pages 45 to 50** with reference to the appropriate guide or booklet listed alongside. You are strongly advised to read the appropriate guide or booklet before completing your claim, these are available from The Department for Employment & Learning, Employment Rights Division (see useful contacts) or visit www.delni.gov.uk./er and browse the library facility.

Information needed before a claim can be accepted

Your claim cannot be accepted unless it meets certain conditions. For example, it cannot be accepted if you have not given the mandatory / required information in one or more of the sections of the claim form (IT1 Revised April 2005). A claim to the Industrial Tribunals should be in writing and must state: -

If you are a claimant

- a) each claimant's name and address;
- b) each claimant's gender and date of birth
- c) the name(s) and address(es) of each person against whom the claim is made, ("the respondent(s)");
- d) full detail of the claim(s) which you are making to inform the person or body complained against, of the case which has to be met;
- e) whether or not the claimant is or was an employee of the respondent;
- f) (if you are or were an employee of the respondent) :- whether or not your claim includes a complaint that the respondent has dismissed you or has contemplated doing so;
- g) (if you are or were an employee of the respondent) :- whether or not you raised the matter detailed in the claim with the respondent in writing at least 28 days prior to presenting the claim to the Office of the Tribunals;
- h) if you have not taken the action described in sub paragraph (g), why you have not done so.

If you are a claimant

A claim form IT1(Revised April 2005) may be obtained from any local JobCentre / Jobs and Benefits Office, Office of the Tribunals or in due course you may make your claim on-line through our website. www.employmenttribunalsni.org. which is currently under construction.

When you make your claim on-line, receipt will be acknowledged electronically, there is no need to send a further copy in the post.

You are asked to read the guidance notes that accompany the form carefully to avoid having your claim rejected. You should keep a copy of your claim form for your records. It is your responsibility to ensure that the Office of the Tribunals receives your claim within the relevant time limit.

Statutory dispute resolution

You are advised that there are **new dispute resolution regulations**, which are effective from **3rd April 2005**. The regulations will apply, giving new rights and responsibilities to both employers and employees. If you do not follow the procedures set out in these regulations you will no longer, as a general rule, be able to make a claim to an industrial tribunal based on a grievance with your employer or former employer (unless your grievance is about dismissal).

If you are a claimant

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 employers fault it will 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 sub-contractors. If you need help or advice on whether or not these procedures apply to you, you can contact the Labour Relations Agency, Telephone (028) 9032 1442, email: info@lra.org.uk or visit: www.lra.org.uk.

Getting help with the claim

Your trade union or a Citizens Advice Bureau may be able to give you advice or help with your claim. For advice relating to employment matters you may wish to contact the Labour Relations Agency.

In claims under the Equal Pay Act (Northern Ireland) 1970, the Sex Discrimination (Northern Ireland) Order 1976, the Race Relations Order (Northern Ireland) 1997 or the Disability Discrimination Act 1995, Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003, you may wish to contact the Equality Commission for Northern Ireland on

If you are a claimant

Telephone (028) 9050 0600, email: information@equalityni.org, or visit www.equalityni.org.

According to your financial circumstances, you may also be entitled to Legal Aid for the purpose of obtaining legal advice in connection with a claim to a tribunal and the preparation of a case for hearing (but not for representation at the hearing). Information about Legal Aid is available from the Northern Ireland Legal Services Commission

If you are making a claim to an Industrial Tribunal and you believe that you have been discriminated against on the grounds of religious belief and/or political opinion then.

- you should consider whether to make a claim to the Fair Employment Tribunal (claim form FET1 revised April 2005). Advice in relation to such a claim may be obtained from the Equality Commission for N.I.
- whether or not you decide to make a claim to the Fair Employment Tribunal your attention is drawn to Article 63 of the Sex Discrimination (Northern Ireland) Order 1976, Article 52 of the Race Relations Order (Northern Ireland) 1997, and Article 11(5) of The Industrial Tribunals (Northern Ireland) Order 1996 and Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003. The effect of these provisions is that an industrial tribunal

If you are a claimant

is unable to proceed to hear your complaint of unfair dismissal or of unlawful discrimination on the grounds of sex, race, disability or sexual orientation until all proceedings which could be taken (or have been taken) under the Fair Employment and Treatment (Northern Ireland) Order 1998 to the Fair Employment Tribunal in respect of your allegation of unlawful discrimination on the ground of religious belief/political opinion has been concluded.

Jurisdiction of industrial tribunals

Article 85 of the Fair Employment & Treatment (Northern Ireland) Order 1998

The jurisdiction of industrial tribunals to hear and determine complaints of unfair dismissal and unlawful discrimination on the grounds of sex, race disability or sexual orientation is subject to Article 85 of the Fair Employment and Treatment (Northern Ireland) Order 1998.

Where a complaint has been made to the Fair Employment Tribunal of unlawful discrimination on the grounds of religious belief or political opinion and it appears that this complaint is one in respect of which:

If you are a claimant

- a complaint could be made to an industrial tribunal on the ground that the person complaining was unfairly dismissed or unlawfully discriminated against on the ground of their sex, race, disability or sexual orientation;
- a complaint on one or both of those grounds has been made to an industrial tribunal which has not been disposed of;

then it may be directed that these matters shall be heard by the Fair Employment Tribunal and not by an industrial tribunal. For these purposes the Fair Employment Tribunal has the jurisdiction and powers of an industrial tribunal.

Before such a direction is made however, a notice must be sent to those concerned, giving them an opportunity to show cause why such a direction should not be made.

Representation - claimant

An industrial tribunal will decide if your claim is well founded at, or following, a hearing at which you and the person or body against whom you are complaining about may attend and speak. You may present your case yourself. If you wish you may at any time nominate a person to represent you with their agreement i.e. trades union official, solicitor etc. You should name your representative on your claim form and obtain their advice on the

If you are a claimant

completion of that form. Correspondence will thereafter be sent to your representative but you will be informed of the date, time and place of the hearing before the industrial tribunal and you will be sent your own copy of the industrial tribunal's decision in due course. Make sure that your representative keeps you informed of the progress of your claim.

Receipt of the claim

The Office of the Tribunals will acknowledge receipt of your claim as soon as they receive it. After your claim has been received a copy of it will be sent to the respondent(s). We will inform the respondent(s) in writing about how to present a response to your claim, the time limit for doing so and what may happen if a response is not entered within the time limit. You will be sent a copy of the response.

Further correspondence

After you have made your claim, any further correspondence about the case should be sent to the Office of the Tribunals. At the same time you should send a copy to the respondent. You should also notify the Office of the Tribunals promptly of any change of address. Correspondence will be copied to any other party to the proceedings.

If you are a claimant

Withdrawal of claim

If you are the claimant and you decide to withdraw your claim before the commencement of the hearing, you must let the Office of the Tribunals know at the earliest possible moment and confirm this in writing, you must also tell the respondent that you are withdrawing your claim. Without your written request for withdrawal, the tribunal may proceed to hear the case, even in your absence.

If you are a respondent

Notice of the claim

When industrial tribunal proceedings have been commenced against you, you will receive from the Secretary of the Tribunals a copy of the claim setting out the claimant's case. You will also be informed in writing about how to present a response to your claim (form IT3 Revised April 2005 will be provided), the time limit for doing so and what may happen if a response is not entered within the time limit.

Responding to the claim

If you wish to respond to the claim(s) that you have received, you must fill in and present your response to the Office of the Tribunals within 28 days from the date that you were sent a copy of the claimant's claim form. In due course you may make your response on-line through our website. www.employmenttribunalsni.org which is currently under construction. When you respond on-line, receipt will be acknowledged electronically, there is no need to send a further copy in the post.

Your response cannot be accepted unless it meets certain conditions. For example, it cannot be accepted if you have not given us mandatory / required information as indicated in the guidance notes that accompany the claim form IT3 (revised April 2005).

If you are a respondent

A response to the Industrial Tribunals should be in writing and must state: -

- (a) each respondent's full name and address;
- (b) whether or not each respondent wishes to resist (defend) all or part of the claim; and
- (c) if the respondent wishes to resist (defend) the claim, on what grounds

You are asked to read the guidance notes that accompany the form carefully to avoid having your response rejected. If your response does not contain the information required, it will be returned to you and the claim dealt with as if we had not received a response. You should keep a copy of your response form for your records. It is your responsibility to ensure that the Office of the Tribunals receives your response within the relevant time limit.

What can I do if I cannot meet the deadline for sending in my response?

If it is not possible for you to complete the response in time, you can ask the tribunal to extend the time limit. You must do this in writing and provide full reasons why you are asking for the extension, your request must be received by the Office of the

If you are a respondent

Tribunals within the 28 day limit. A chairman will then decide whether or not to grant an extension. Any change of address after you have returned your completed response should be notified promptly to the Office of the Tribunals.

What will happen if I do not send in my response in time or the tribunal does not accept it?

If your response is not received within the time limit of **28 days** or it does not provide the information required, the tribunal will not accept your response and so you cannot resist (defend) the claim. In these circumstances a chairman will consider issuing a default judgement. A default judgement allows a tribunal chairman to make a decision about a claim without the need for a hearing. You will have a copy of any **default judgement** sent to you along with details of how to have the default judgement reviewed and the time limit for making an application for review to the chairman. A default judgement will be entered in the Public Register of Decisions, (see “Review of default judgements”- **page 38**).

Taking no further part in proceedings

A respondent who has not presented a response to a claim or whose response has not been accepted shall not be entitled to take part in the proceedings except to –

If you are a respondent

(a) make an application under Rule 33 (review of default judgements) of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005;

(b) make an application under Rule 35 (preliminary consideration of application for review) in respect of rule 34 (3) (a), (b) or (e); of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005;

(c) be called as a witness by another person; or

(d) be sent a copy of a document such as a default judgement; a decision or correction of orders, decisions, or reasons.

Representation - respondent

An industrial tribunal will determine if the claim against you is well founded, following a hearing at which you and the person making the claim may attend and speak. You may present your case yourself, or you may nominate a person to represent you at any time i.e. from an employers’ organisation or a solicitor. You should name your representative on your response form and obtain their advice on the completion of that form. Correspondence will thereafter be sent to your representative but you will be told the date and place of the hearing and you will get your own copy of the Tribunal’s decision. Make sure that your representative keeps you informed of the progress of the case.

If you are a claimant or respondent

Conciliation

In most cases copies of relevant documents are sent to the Labour Relations Agency (LRA), who will try to assist the parties to reach a settlement. Information given to the conciliation officer is confidential and cannot be used in evidence at the hearing without the consent of the party who gave the information to the conciliation officer, there is no charge for this service. If you think that a conciliation officer can help even though a claim has not yet been made, you should contact the LRA, whose address is shown at the end of this booklet. If you decide to contact the LRA, you should remember that there are time limits for making/ responding to a claim to a tribunal.

How to involve the Labour Relations Agency (LRA)

What is a fixed period for conciliation?

A letter will be sent to tell you whether the claim has been given a fixed period for conciliation by the LRA and when that period ends. The length of this period depends on the nature of the complaint that the claimant is asking the tribunal to decide on. If a fixed period of conciliation **does not** apply to the claim, you can use the services of the LRA until the matter is resolved or the tribunal issues a judgment.

If a fixed period for conciliation **does** apply to the claim, you will have that time to use the services of the LRA to reach an agreed settlement of the claim without the need for a hearing.

If you are a claimant or respondent

If a settlement is not reached during this fixed period, the claim will be heard by the tribunal as soon as possible after the period has ended.

If either party does not want to negotiate a settlement with the LRA, they can write to the LRA and let them know. The fixed period of conciliation will end when they receive the letter and the case will be heard in due course.

If the case settles

If your case settles before the hearing, you should let us know immediately. If your case is settled using the LRA, the conciliation officer will let us know.

Notice of hearing

All claimants and those respondents whose response has been received and accepted by the Office of the Tribunals will be sent a Notice of Hearing at least 14 days before the date of the hearing. Save in exceptional circumstances, a request for a postponement will not be considered unless the party making the request has obtained the consent of all other parties to the proceedings and valid reasons are shown. Every request for a postponement should confirm the consent of such party to postponement or state the objections to it. The Tribunal will also consider at that stage how near the request is to the date of hearing and if the date of hearing was agreed by the parties.

If you are a claimant or respondent

Joinder / Dismissal

Sometimes a claimant will seek a remedy against a person (or other body) who is not the respondent named in their claim. In such cases, either on request or on their own initiative, the Tribunal may order that such a person (or other body) be joined as a party to the proceedings and, where necessary, dismiss the person or body named in the claim from the proceedings.

What are the different types of hearing?

Case management discussions –

These are held to:

- clarify the issues in the case;
- decide what orders should be made about matters such as documents and witness statements
- decide the time and length of the full hearing.

Case management discussions will normally be held in private, before a chairman sitting alone, or via a telephone conference link.

If you are a claimant or respondent

Pre-hearing review

These are held to:

- decide whether the claim or response should be struck out;
- decide questions of entitlement to bring or defend a claim;
- decide, if either party's case has no reasonable prospect of success and if so, decide how much of a deposit is to be paid (current maximum of £500), before that party can continue to take part in the proceedings.

The letter giving you the date of the hearing will state the matters to be decided at the pre-hearing review. Unless the pre-hearing review is only to consider whether a deposit should be paid, it may well be necessary for evidence to be given at such a hearing. You must decide which witnesses (if any) and evidence to bring or you may be directed by a chairman to produce witness statements as well as the witnesses who made them. Pre-hearing reviews are normally held in public before a chairman sitting alone, but may be held via a telephone conference link.

Introduction

The hearing

This is the hearing that:

- decides whether the claim succeeds or fails and, if it succeeds, what remedy is appropriate.

The Hearing will normally be conducted by a full tribunal which includes a chairman and two lay members.

Review hearing

You can apply to the tribunal to ask it to review its decision, orally at hearing or in writing within 14 days of the date the decision was sent by the Office of the Tribunals. (A chairman may extend the time limit for reviewing a decision but only if it is considered just and equitable to do so).

If the grounds for review are established under Rule 34 (3) of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005, the tribunal shall proceed to review its decision and may on such review, affirm, vary or revoke that decision and, if necessary, order a new hearing.

Jurisdiction of industrial tribunals general information

Constitution of the tribunal

In some circumstances the tribunal deciding your case may consist of a chairman sitting without lay members, or of a chairman and two lay members. Where the parties agree, a case can be heard with only one lay member sitting with the chairman (for example, if the other member falls sick during the course of a hearing).

Certain types of cases must always be heard by the chairman sitting without lay members, unless the chairman decides otherwise. The cases which will usually be heard by a chairman sitting without lay members include:

- case management discussions
 - pre-hearing reviews
 - claims for interim relief;
 - cases involving insolvency;
 - breach of contract claims;
 - wages deduction claims;
 - any case where the claim is withdrawn or uncontested;
- and
- any case where both parties give their written consent to the case being heard by the chairman sitting without lay members.

If you are a claimant or respondent

In some of these cases the chairman can decide to sit with lay members after considering whether there is likely to be disputes of fact or questions of law.

At some stage during the proceedings you may be asked in writing, whether you agree that your case should be heard by a chairman sitting without lay members. Once you and the other party have given your written consent it cannot be withdrawn. Your case will be heard by a chairman sitting without lay members, unless the chairman decides it more appropriate for the case to be heard with lay members.

Orders for attendance of witnesses, production of documents, supply of particulars and written answers.

If you wish someone to give evidence on your behalf, you should arrange for them to attend the hearing. If they are unwilling or if there is some other difficulty you should write to the Tribunal, at least 10 days in advance of the hearing, asking for an order requiring them to attend.

The claim for a Witness Order should include: -

- the name and address of the witness required;
- the nature of the evidence that he/she can give;
- a statement to the effect that the witness has been approached to attend the Tribunal and has declined.

If you are a claimant or respondent

The Tribunal cannot grant an order in respect of a person who is residing outside of Northern Ireland.

Similarly, if you wish the other party to bring certain documents to the hearing, you may ask them to do so. If they refuse, you can apply to the Tribunal for an order requiring them to produce the documents. You may also ask the other party to supply further particulars about the case or produce documents for your inspection. If they refuse you can apply to the Tribunal for an Order requiring them to produce the documents and provide the particulars.

You may also apply to the tribunal for an order imposing a requirement on a party to furnish to the tribunal a written answer to questions.

Requests for Orders from a Tribunal for documents, particulars or written answers to questions, must specify the documents, particulars and questions sought.

What will happen at the Hearing?

The parties may give evidence, use statements of their evidence and their witnesses evidence and may question their own witnesses and cross-question those brought by the other party. Each party may address the Tribunal. The order in which

If you are a claimant or respondent

evidence is given is not fixed and is a matter for the tribunal hearing the case. At the hearing, you may present your case in person or be represented by any person whom you wish to represent you and who has agreed to do so.

If necessary, the Tribunal will give guidance on procedure to a party during the hearing. Tribunal members may ask questions of parties or witnesses in order to obtain relevant facts.

If you are neither present nor represented, the Tribunal may decide the case in your absence after considering any written representations you have made. The Tribunal may dismiss a claim if the claimant fails to attend. The hearing will normally be held in public.

Reporting restrictions

In proceedings where there are allegations of sexual harassment or other sexual misconduct there is provision for the tribunal on the application of a party or at its own discretion, to make an order restricting reporting of the proceedings by the media in a way which would identify the parties. Similar reporting restrictions apply to claims under the Disability Discrimination Act 1995. The tribunal tries to identify such cases before they are listed. If yours is such a case please contact the tribunal as soon as possible, so that the tribunal can consider whether or not to impose reporting restrictions at the hearing.

If you are a claimant or respondent

A restricted reporting order will specify the persons who may not be identified. The tribunal may revoke the order at any time if it thinks fit, but if it is not revoked earlier, it will cease to apply when the tribunal's decision on the complaint is sent to the parties.

Evidence

You may be directed to prepare a witness statement of what you or your witness will tell the tribunal. This direction may be made at a case management discussion at a date before the full hearing. Both you and your witnesses will be required to give evidence on oath or affirmation.

Each party should bring to the hearing all documents on which he or she intends to rely. These documents will vary according to the subject of the claim but may include:

- the contract of employment or other documents relating to the terms of employment; details of pay in the previous and any new job for example, pay statements, wages records;
- documents relating to other benefits received in the previous and any new job, for example, travelling expenses, car allowances, free or subsidised housing;

If you are a claimant or respondent

- documents relating to any pension or superannuation scheme;
- documents relating to any money which had to be spent in taking up a new job, for example, travelling expenses, household removal expenses; and
- documents relating to income tax paid or refunded or Jobseekers Allowance or other benefits received.

There may be documents not mentioned in the previous paragraph which may assist a party or an industrial tribunal. If there are, you should bring them with you to the hearing. You should also be prepared to give oral evidence about the matters mentioned in the documents.

Sufficient copies of any such documents should be produced at the hearing for the use of a witness, the other party and the members of the industrial tribunal. **Usually five copies are required.**

Each party should therefore be prepared to deal with all issues which arise out of the contents of the claim. Parties should be prepared to deal with the issues raised in relation to the remedies sought. Claimants should be able to prove their financial loss by providing supporting evidence.

If you are a claimant or respondent

An industrial tribunal can regulate its own procedure and it will conduct the hearing in such a manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. It will try to avoid formality and will not be bound by rules of law relating to the admissibility of evidence.

Once all the evidence has been heard, both sides can sum up before the tribunal retires to consider their decision. Unless the tribunal 'reserves' its decision, the chairman will announce the decision and the reason for it at the end of the hearing.

If the judgment is reserved you will receive a written decision at a later date. This may happen in complicated cases or if there is not enough time on the day of the hearing to come to a decision. Payment of amounts ordered under a tribunal award should be made directly to the person entitled to receive them by the person who is required to pay them.

The remedy sought from the industrial tribunal

Where an industrial tribunal finds that the claimant has been unfairly dismissed, it must consider whether to make an order for re-instatement in the previous job or re-engagement in another job, if the claimant wants either of these remedies. Both parties should therefore be prepared to give evidence as to whether re-instatement or re-engagement would be practicable.

If you are a claimant or respondent

Respondents should bear in mind that they may have to pay the costs of any postponement or adjournment of an industrial tribunal hearing due to their failure, without a special reason, to provide reasonable evidence about the continuing availability of the claimant's previous job.

Respondents may also have to pay the costs of a postponement or adjournment in similar circumstances where a woman has succeeded in her complaint against her employer's refusal to allow her to return to work after she has been away from work due to pregnancy or confinement.

If, as an alternative to re-instatement or re-engagement, an industrial tribunal awards compensation, this will include loss arising as a result of the dismissal. It is the claimant's duty to reduce their loss as much as possible, for example, by making adequate efforts to get another job. The claimant should be ready to give evidence about what he or she has done to reduce such losses.

In cases of discrimination where a tribunal has found in a claimant's favour, it may award a sum for injury to feelings as well as loss. The claimant would be required to produce medical evidence to support any claim that that they have been attending a doctor or hospital.

If you are a claimant or respondent

Recoupment of Jobseekers Allowance and Income Support

If a claimant has been in receipt of the above benefit(s) some or all of that benefit may have to be repaid to the appropriate government department by the respondent from any compensation awarded. Where appropriate, the tribunal will send a form which is part of the decision to the parties about this.

Award of costs or expenses

Each party at a hearing should meet their own expenses to the extent that they are not payable out of public funds (*see "Allowances for attending the Tribunal"*). You will not have to pay any of the other party's costs merely because you lose your case. However the Tribunal may order you to pay all or part of the costs of the other party if it decides that you have acted abusively, vexatiously or otherwise unreasonably or the bringing or conducting of the proceedings by the paying party has been misconceived. An award of costs may follow a warning given at a pre-hearing review or if you fail to comply with an "Order" or "Practice Direction". The Tribunal may also order you to make a payment to the other party if he or she suffers loss because a hearing is postponed or adjourned at your request because of some action or failure on your part. A request should be made to the Tribunal if you wish it to consider making an order for costs.

If you are a claimant or respondent

A Wasted Costs Order

This can be made against a party's representative if costs are incurred by a party as a result of improper, unreasonable or negligent act or omission by a representative. The tribunal or chairman will give the representative a reasonable opportunity to state why the Order should not be made. A wasted cost order may not be made against a representative who is not acting in pursuit of profit for those proceedings or where the representative is an employee of that party.

A Preparation Time Order

This order is made by a tribunal or chairman for a 'paying party' to make a payment for the preparation time of the 'receiving party'. It applies when the receiving party is not legally represented and is for preparation time not time spent at the hearing. You must apply in writing to the Secretary of the Tribunals no later than 28 days from the issuing of the decision. The chairman will need to know information on the time spent by the receiving party and will also consider the paying party's ability to pay, and can make his/her own assessment of what is a reasonable amount of time.

If you are a claimant or respondent

What happens next?

Written reasons for the oral decision will be given if you ask for them at the hearing or make a written request within 14 days of the date that the decision was sent to you. If the decision was reserved at hearing, reasons for it will be sent to the parties and their representatives when it has been signed by the chairman.

Review of a tribunal's decision

In certain circumstances an industrial tribunal may review its decision and affirm, change or revoke it. These circumstances are:

- an error on the part of the staff at the Office of the Tribunals; or
- that a party did not receive a notice of the proceedings leading to the decision; or
- that the decision was made in the absence of a party or other person entitled to be heard; or
- that since the decision was made new evidence had become available and the existence of that evidence could not have been reasonably known or foreseen; or

If you are a claimant or respondent

- that the interests of justice require such a review.

An industrial tribunal will not review its decision merely because a party disagrees with that decision. If proper ground(s) is/are established, an industrial tribunal shall proceed to review its decision and it may on such a review, affirm, vary or revoke its decision and if necessary order a new hearing. If you think you have grounds for asking for the decision to be reviewed you may apply to the industrial tribunal at the hearing immediately after the decision has been given. Alternatively you may send a written request for a review to the Office of the Tribunals stating your reasons in full. This request should reach the Office of the Tribunals not later than 14 days after the date (as shown on the copy of the decision) on which the industrial tribunal's decision was sent to you.

Review of default judgements

A party may apply to have a default judgement reviewed. This must be done within 14 days of the date on which the default judgement was sent to the parties. The application to review must give reasons for the review, as well as the respondent's proposed response, an application for an extension of the time limit for presenting the response and reason(s) why the time limits were not complied with. A chairman will review the decision in public and may:-

If you are a claimant or respondent

- (a) refuse the application to review
- (b) vary the default judgement
- (c) revoke all or part of the default judgement: or
- (d) confirm the default judgement

Appeals

You have the right of appeal to the Court of Appeal against the Tribunal's decision **on a point of law only**. It may be in your interests to consult a legal adviser before instituting an appeal against the Tribunal's decision. If you decide to appeal, written notice must be given to the Secretary of the Tribunals within 6 weeks of the date on which the decision is sent to you. This date will be shown on the copy of the decision. Any application to extend that time limit can only be granted by the Court of Appeal.

Data Protection Act

Information given to the Office of the Tribunals about any claim may be kept on computer. This is to help process the claim and for statistical purposes. If you want a copy of the information held on computer, please write to the: -

If you are a claimant or respondent

Local Information Manager
Office of the Tribunals
Long Bridge House
20-24 Waring Street
BELFAST
BT1 2EB

Special Needs

If you (or a person required to attend a tribunal) have particular needs because of a disability, you should advise the Office of the Tribunals, so that we can provide any assistance which you may require. Examples of the help that we can provide include, converting documents to Braille and arrangement/ payment for sign language interpreters.

Where a particular need is identified this should be notified to the Office of the Tribunals at the earliest possible date.

Interpreters / Translation

If you (or a person required to attend a tribunal) have problems communicating with the tribunals in English, you should advise the Office of the Tribunals who can make arrangements for the translation of documents and arrange for an interpreter to be present at hearing, if appropriate.

If you are a claimant or respondent

Your Comments on our Service

If you wish to bring anything to our attention, our comments and complaints procedure is outlined in the leaflet 'Putting Things Right'. These are available from the Office of the Tribunals or can also be obtained by contacting Telephone (028) 9032 7666. You can also contact the Customer Service Manager on Telephone (028) 9034 7423 or by email: oitfetmailbox@delni.gov.uk. mail@employmenttribunalsni.org

Allowances for attending an industrial tribunal

The following allowances may be paid to you, your witnesses and any person representing you (including members of Citizens' Advice Bureaux but excluding full-time officials of a worker's or employer's organisation, a barrister or a solicitor or other paid representative). Allowances may be refused if they are not reasonably justified.

Where an industrial tribunal has made an award of costs against you (**see page 35**) travelling expenses, subsistence allowances and compensation for loss of earnings may not be paid to you.

If you are a claimant or respondent

Travelling costs

Costs of travelling by public transport may be paid to persons travelling from anywhere within the United Kingdom or the Republic of Ireland. People travelling from elsewhere will be paid fares only from the place of arrival in the United Kingdom.

Travel by public transport is limited to standard class fares. Taxi fares will only be paid in exceptional circumstances and when accompanied by a valid receipt. If you travelled by car or motorcycle a mileage rate will be paid. The tribunal clerk will tell you what you can claim.

Air fares (normally the most economical) may be paid but only where the Tribunal Office Manager has given prior approval.

If a party or witness who has been ordered to attend feels they may have difficulty in attending an industrial tribunal hearing, they should contact the Office of the Tribunals immediately.

Subsistence allowances

Overnight expenses may be paid, subject to limits and only where a period of 24 hours absence from home is unavoidable.

If you are a claimant or respondent

Allowances are not payable in advance of a hearing. If a party or a witness is in financial difficulty in this respect, they should seek assistance from the local office of the Social Security Agency.

Loss of earnings (or National Insurance benefit)

Any earnings (or National Insurance benefit which would otherwise be payable) which are actually lost through absence from work may be repaid up to a specified limit per day. This also applies to those who are self-employed. Where the performance of work is merely postponed, no compensation is payable.

How to claim

You should apply to the industrial tribunal clerk after the hearing for a claim form if you want to claim any of these allowances. Payments will be made in due course by the Office of the Tribunals.

If you are a claimant or respondent

Matters that may be considered by an industrial tribunal

Industrial tribunals may be asked to decide questions relating to many different matters. You will find below a table of the main ones over which industrial tribunals exercise jurisdiction. The table is not intended to be an exhaustive list of all matters which fall to be determined by industrial tribunals. The table also includes the Act of Parliament, the Order or the Statutory Rule which gives the tribunals power to hear the case and for most of the matters, the name of an explanatory guide or booklet which describes the matter concerned more fully and says who has the right to make an claim to the tribunals. These guides and booklets are available, unless otherwise stated, free of charge from JobCentres throughout Northern Ireland.

If you are a claimant or respondent

Matters which a tribunal may be asked to decide	Acts or regulations giving tribunals Power	Explanatory guide or leaflet
Breach of contract		
Right to minimum notice and to minimum pay during the notice period.	Industrial Tribunals Order 1996 Art. 5 and Industrial Tribunal Extension of jurisdiction Order (NI) 1994	Contracts of employment (ER21)
Breach of Fixed Term Workers Directive / Regulations		
Right of fixed term employees not to be treated less favourably than a comparable permanent employee	Fixed Term Employees (Prevention of Less Favourable Treatment) Reg. (NI) 2002 S. R.298	Fixed Term Work – A guide to the Regulations. Available: DEL Employment Rights Branch 2
Deductions from wages		
Right of all workers not to have deductions made from their wages or to be required to make payments to their employers, unless allowed by statute, by the contract of employment or with the worker's prior written agreement	Employment Rights (Northern Ireland) Order 1996	Contracts of employment (ER 21)

If you are a claimant or respondent

Additional rights for workers in retail employment who suffer deductions from wages (or are required to make payments) because of cash shortages or stock losses	Employment Rights (Northern Ireland) Order 1996	Contracts of employment (ER 21)
Disability discrimination		
Discrimination by an employer on grounds of Disability	Disability Discrimination Act 1995	Disability Discrimination in N.I. Available from The Equality Commission for N. I.
Equal Pay		
Right to receive the same pay and other terms of employment as an employee of the opposite sex working for the same or an associated employer if engaged on like work, work rated as equivalent under job evaluation or work of equal value	Equal Pay Act (Northern Ireland) 1970 (as amended)	Equal pay – a guide to the Equal Pay Act (Northern Ireland) 1970

If you are a claimant or respondent

Guarantee Payments		
Right to receive guarantee Pay from employers during lay-offs	Employment Rights (Northern Ireland) Order 1996	Guarantee payments (ER 14)
Insolvency of employer		
Right to be paid by the Department for Employment and Learning, certain debts owed by an insolvent Employer	Employment Rights (Northern Ireland) Order 1996	Employees' rights on insolvency of Employer (ER 5)
Right to be paid by the Department for Employment and Learning, occupational pension scheme contributions owing on behalf of employees of insolvent employers	Pension Schemes Act (Northern Ireland) 1993 Section 122	Employees' rights on insolvency of employer (ER 5)
Itemised pay statement		
Right to receive an itemised pay statement	Employment Rights (Northern Ireland) Order 1996	Itemised pay Statement (ER 12)

If you are a claimant or respondent

If you are a claimant or respondent

Maternity rights		
Right not to suffer detrimental treatment nor to be dismissed for reasons connected with pregnancy, childbirth or taking maternity leave	Employment Rights (Northern Ireland) Order 1996	Changes to Maternity Rights (MR 1)
Right to be paid time off work for ante-natal care	"	"
Right to return to work after maternity leave	"	"
Parental Leave	Employment and Parental Leave Regulations (NI) 1999	Parental leave (MR2) and (ER 25)
Adoption / Paternity Leave	Employment (NI) Order 2002	ER 25
Health and safety activities		
Unfair dismissal on health and safety grounds.	Employment Rights (Northern Ireland) Order 1996.	Unfairly dismissed (ER 13)
Detrimental treatment for health and safety reasons		Unfair dismissal (ER 18)

Medical Suspension		
Right not to be unfairly dismissed on suspension on medical grounds relating to health and safety regulations	Employment Rights (Northern Ireland) Order 1996	Suspension on Medical grounds Under health and Safety regulations (ER 10)
Right to receive pay on suspension on medical grounds	Employment Rights (Northern Ireland) Order 1996	Suspension on medical grounds under health and safety regulations (ER 10)
Occupational pension schemes		
Right of recognised independent trade unions to be consulted about an employer's notice of claim for a contracting out certificate relating to an occupational pension scheme, including any question about whether a union is independent or recognised to any extent for collective bargaining purposes	Pension Schemes (Northern Ireland) Act 1993 and the Occupational Pension Schemes (Contracting-Out) Regulations (Northern Ireland) 1985	

If you are a claimant or respondent

If you are a claimant or respondent

Race Relations discrimination		
Discrimination by an Employer on grounds of race	Race Relations (Northern Ireland) Order 1997	Racial Discrimination: A guide to the Race Relations (Northern Ireland) Order 1997
Redundancy		
Right of "appropriate representatives" [of any Employees who may be affected by proposed dismissals] and a recognised trade union to be consulted by the employer about proposed redundancies	Employment Rights (Northern Ireland) Order 1996	Redundancy Consultation and Notification (ER 3)
Right to receive payment Under a protective award Made by an industrial tribunal	Employment Rights (Northern Ireland) Order 1996	Redundancy consultation and notification (ER 3)
Right to receive redundancy payment and questions relating to the amount of such payments	Employment Rights (Northern Ireland) Order 1996	Redundancy Consultation and Notification (ER 3)

Sex Discrimination		
Right not to be discriminated against in employment, training and related fields on the grounds of sex or Marriage, or victimised, for example, for pursuing rights under this Order of the Equal Pay Act (Northern Ireland) 1970	Sex Discrimination (Northern Ireland) Order 1976 (as amended)	Sex discrimination - A guide to the Sex Discrimination (Northern Ireland) Order 1976
Time off (see also Maternity rights and Trade union membership/non-membership rights)		
Right to time off for public duties	Employment Rights (Northern Ireland) Order 1996	Time off for public duties (ER 7)
Right to paid time off for safety representatives	Health and Safety At Work (Northern Ireland) Order 1978 and the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979	Safety representatives and safety committees (Regulations, approved Code of Practice and Guidance Notes)

If you are a claimant or respondent

Right to paid time off for Representatives of employee safety	Employment Relations (NI) Order 1996;	Redundancy Notification and Consultation (ER4); Employment Rights on the transfer of an undertaking (ER11)
Right to paid time off in the event of redundancy to look for other work or to make arrangements for training	Employment Rights (NI) Order 1996;	Time off for Study or Training (ER26)
Time off for dependants	Employment Rights (NI) Order 1996	Time off for Dependants (ER24)
Trade union membership/non-membership rights		
Right to paid time off for trade union duties; right to time off for trade union activities	Employment Rights (Northern Ireland) Order 1996	Labour Relations Agency Code of Practice No. 3 - Time off for trade union duties and activities (available from the Labour Relations Agency)
Right not to suffer action short of dismissal for trade union membership or activities	Employment Rights (Northern Ireland) Order 1996	Union membership rights and the closed shop

If you are a claimant or respondent

Right not to suffer action short of dismissal to compel union membership whether in or outside a closed shop	Employment Rights (Northern Ireland) Order 1996	Union membership rights and the closed shop
Right not to be unfairly dismissed for trade union membership or activities	Employment Rights (Northern Ireland) Order 1996	Union membership rights and the closed shop
Right not to be unfairly dismissed for non-membership of a union whether in or outside a closed shop	Employment Rights (Northern Ireland) Order 1996	Union membership Rights and the closed shop
Claim for interim relief (that is, re-employment or continuation of contract of employment) from an employee who complains to an industrial tribunal that he or she has been unfairly dismissed for non-membership of a union or for trade union membership or activities	Employment Rights (Northern Ireland) Order 1996	Unfairly dismissed (ER 13)

If you are a claimant or respondent

Right not to be chosen for redundancy because of trade union membership or activities or non-membership of a trade union whether inside or outside a closed shop	Employment Rights (Northern Ireland) Order 1996	Unfairly dismissed (ER 13)
Right not to be unreasonably expelled from a trade union	The trade union and Labour Relations (Northern Ireland) Order 1995	Unjustifiable discipline by a trade union.
Right not to be unjustifiably disciplined by a trade union	The Trade Union and Labour Relations (Northern Ireland) Order 1995	ER 6 “
Right not to be refused employment on grounds related to trade union membership	Employment Rights (Northern Ireland) Order 1996	Union membership and Non membership rights (ER31)
Right not to be refused the service of an employment agency on grounds related to trade union membership	The Trade Union and Labour Relations (Northern Ireland) Order 1995	“

If you are a claimant or respondent

Right not to suffer unauthorised or excessive deductions of union subscriptions	The Trade Union and Labour Relations (Northern Ireland) Order 1995	“
Transfer of undertakings		
Right of union to be informed and consulted about the transfer of an undertaking to a new employer	Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended)	Employment rights on the transfer of an undertaking (ER 11)
Right not to be dismissed on the transfer of an undertaking to a new employer except for certain reason	Employment rights on the transfer of an undertaking (ER 11)	Employment rights on the transfer of an undertaking (ER 11)
Unfair dismissal (see also Maternity rights, Medical suspension, Transfer of undertakings, Trade union membership/non-membership rights)		
Right not to be unfairly dismissed	Employment Rights (Northern Ireland) Order 1996	Unfairly dismissed ER 13

If you are a claimant or respondent

Written reasons for dismissal		
Right to receive a written statement of reasons for dismissal	Employment Rights (Northern Ireland) Order 1996	Rights to notice and reasons for dismissal (ER 16)
Written statement of employment particulars		
Right to receive a written statement of the particulars of any alteration to them with sufficient details to meet requirements of the order	Employment Rights (Northern Ireland) Order 1996	Written statement of employment particulars (ER 2)
Sunday Working		
Right not to be dismissed, selected for redundancy (when others in similar circumstances are not selected) or subjected to other detrimental treatment for refusing to shopwork on Sundays.	Shops (Sunday Trading, etc) (Northern Ireland) Order 1997.	(ER 13)

If you are a claimant or respondent

Working Time		
Workers have the right to complain to an industrial tribunal if they are denied rest periods, breaks or paid annual leave provided for by the regulations In addition employees can complain to a tribunal of unfair dismissal if they are dismissed for exercising rights under the regulations and workers can complain that they have suffered a detriment if they are dismissed for this reason.	Working Time Regulations (NI) 1998	ER 13
Public Interest Disclosure		
Employees have the right not to be dismissed, selected for redundancy or subjected to a detriment for making a disclosure within the meaning of the Order	Public Interest Disclosure (NI) Order 1998	(ER 13)

If you are a claimant or respondent

If you are a claimant or respondent

National Minimum Wage		
<p>Employees can complain to an industrial tribunal of unfair dismissal if they are dismissed because they qualify for the NMW or because they have sought to enforce their right to it (or because their employer was prosecuted on account of enforcement action taken by them). Workers can complain of suffering a detriment if their contracts are terminated for any of these reasons. Additionally both employees and workers are protected from detrimental inaction by their employer falling short of termination of employment</p>	<p>National Minimum Wages Act 1998</p>	<p>(ER 13)</p>

Tax Credits		
<p>Employees can complain to a tribunal that they have been unfairly dismissed, selected for redundancy (or subjected to any other detrimental treatment) if they are entitled to Working Families Tax credit; have taken or propose to take action to enforce a right conferred by the Act or their employer was fined as a result of such action</p>	<p>Tax Credits Act 1999</p>	<p>ER 13</p>

If you are a claimant or respondent

Useful contacts

Part-time Working		
<p>Part-time workers should be treated no less favourably in their working conditions than comparable full-time workers.</p> <p>Workers have the right not to be unfairly dismissed, selected for redundancy or subjected to any other detriment if the reason for such action is that the workers exercised or sought to exercise rights under the regulations, gave evidence or information relating to proceedings brought by a worker under the regulations or that the employer believed that a worker had done or intended to do any of those things.</p>	<p>The Part-time Workers (Prevention of Less Favourable Treatment) Regulations (NI) 2000</p>	<p>Individual rights of Employees.</p> <p>ER1</p>

Citizens Advice Bureau

211 Antrim Road
 BELFAST
 BT15 2GW
 Tel (028) 9075 2114

Department for Employment & Learning Employment Rights Division

Adelaide House
 Adelaide Street
 BELFAST BT2 6FD
 Tel (028) 9025 7558
Website: www.delni.gov.uk/er

Health and Safety Executive

83 Ladas Drive
 BELFAST BT6 9FH
 Tel (028) 9024 3249
email: hzeni@detini.gov.uk
Website: www.hzeni@detini.gov.uk

Useful contacts

JobCentre

Gloucester House
57-63 Chichester Street
BELFAST BT1 4RA
Tel (028) 9025 2222
(for all other JobCentre addresses)
or N.I telephone directory
www.jobcentreonline.com

Labour Relations Agency

2-8 Gordon Street
BELFAST BT1 2LG
Tel (028) 9032 1442
email: info@lra.org.uk
Website: www.lra.org.uk

Labour Relations Agency

District Office
1-3 Guildhall Street
Londonderry BT48 6BJ
Tel (028) 7126 9639

Useful contacts

Office of the Industrial Tribunals and the Fair Employment Tribunal

Long Bridge House
20-24 Waring Street
BELFAST, BT1 2EB
Tel (028) 9032 7666
Fax (028) 9023 0184
email: mail@employmenttribunalsni.org
or visit www.employmenttribunalsni.org

The Equality Commission for Northern Ireland

Equality House
7 – 9 Shaftesbury Square
BELFAST BT2 7DP
Tel (028) 9050 0600
email: information@equalityni.org
Website: www.equalityni.org

The Northern Ireland Legal Services Commission

2nd Floor, Waterfront Plaza
8 Laganbank Road
Mays Meadow
BELFAST BT1 3BN
Tel (028) 9024 6441
Website: www.nilsc.org.uk

