



A Framework for Dispute Resolution in the Health Services



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Objectives

The main objective of this Framework is to provide clear and definitive procedures for discussion and negotiation on all matters, which arise affecting staff in the Health Service. The intention is to ensure that all such matters are processed without undue delay.

The full utilisation of these procedures should result in the resolution of all disputes without disruption to services thereby providing the stability to ensure the delivery of a quality health service to the public.

The health service is an essential service and these procedures shall, therefore, be recognised as a code of practice for the resolution of disputes and ensure continuity of services as envisaged under the code of practice and dispute procedure, including procedures in essential services as formulated by the Labour Relations Commission.

Principles

The parties to this Framework recognise the paramount importance of a stable industrial relations climate in the health service. All dealings will be founded in high trust and deemed to be fair and be seen to be fair.

Matters appropriate to the Framework

As a general guideline all matters which are in the normal course the subject of negotiations concerning improvements in pay and conditions of employment will be dealt within this Framework.

The code recognises that the primary responsibility for dealing with industrial relations issues and the resolution of disputes rests with employers, employer organisations and trade unions. It is the intention of the code to ensure that in line with this responsibility employers and trade unions:

- (a) Agree appropriate and practical arrangements for resolving disputes on collective and individual issues;
- (b) Observe and implement the terms of agreements;
- (c) Refrain from any actions which would be in contravention of them.

Discipline/Grievance

Matters covered by the appropriate Discipline and Grievance procedures agreed for the grades concerned shall not be dealt with through this machinery save for a matter of general principle with regard to the operation of these procedures raised by either party.

Dealing with Disputes in a Timely Manner

Employers and trade unions recognise the importance of introducing a fresh approach and effective arrangements for negotiations and resolving disputes if the vision of reformed industrial relations for the health service is to be achieved.

- a) The parties agree to conduct all industrial relations discussions in an atmosphere conducive to reaching agreement and where neither side seek to pre-empt the outcome by exerting pressure on the other, or by implementing their desired outcome before these procedures are exhausted.
- b) The parties commit themselves to maximising the possibility of the resolution of issues at local level.
- c) To this end, employers and unions accept that representatives must have sufficient authority to address the issues involved. The involvement of senior local representatives on both sides will help to ensure that issues can be addressed speedily and that any agreements reached can be implemented quickly and adhered to consistently.
- d) The Framework for processing issues at national and local level will involve:
 - Each stage having stated time limits;
 - Real engagement/negotiation on the issue before referral to external parties; and
 - When agreement is not possible, speedy referral to the Labour Relations Commission, the Labour Court or another independent third party where appropriate.
 - Issues raised at a national level will be dealt with in accordance with existing procedures.

- e) If the issue(s) is/are not resolved at local level, the issue will be referred to the next senior manager (Level 2). One outcome may be to refer issues back to local level in keeping with the principle that matters should be resolved as near to the source as possible. Another outcome may be to refer an issue directly to Level 3 where considered appropriate. All matters arising shall be minuted.
- f) Where agreement is not reached between the parties at level 2, the matters shall be referred to the Director of Human Resources or equivalent (level 3). No matter will be submitted to this level without having been subject of discussion at level 2 where every effort will have been made to resolve the matter. All matters arising will be minuted.
- g) Where the issue remains unresolved, and where either party is of the view that the matter is unlikely to be resolved at this stage, the matter may be referred to an independent third party or to the Health Service National Joint Council if appropriate.
- h) It is absolutely understood that this system can only work effectively if reasonable time limits for individual stages and the overall process are observed. An indicative overall time frame (including a third party outcome) targeting 26 weeks with a provision for a maximum of 34 weeks by agreement will apply for the processing of cases under this code.
- i) The effective operation of the procedures will depend on good communication and representation. In this regard, it is strongly recommended that managers should have meetings with staff representatives on at least a monthly basis. Adequate notice of such meetings and any other meetings associated with this Framework must be given. The indispensable nature of certain work and the actual working hours/patterns must be taken into account and provision made for replacement of representatives when fulfilling their roles and responsibilities. The provisions of the LRC Code of Practice on the duties and responsibilities of employee representatives and the protection and facilities afforded them by employers will be met. Both parties commit to the arrangements governing consultation provided for in EU Directive 2002/14/EC
- j) It is agreed that no form of industrial action will be initiated or threatened while issues are being progressed through the Framework.

- k) The operation of this Framework will be monitored by the Health Service National Joint Council.
- l) The progress and successful operation of the Framework will be monitored on an ongoing basis by the National Joint Council of the Health Services. There is an imperative on both sides to ensure that the Framework is adhered to in both its letter and spirit. Where either side in a dispute feels the other party has breached the Framework, the matter should be referred for immediate consideration by the National Joint Council.

Maintenance of Industrial Peace

- a) The parties agree to adhere to relevant provisions of national agreements in relation to industrial peace and public service pay.
- b) Due regard will be had for third party recommendations in accordance with the procedures and/or rules of either party. Where this is not possible all the parties concerned shall enter into immediate discussions with a view to resolving the difficulties.
- c) The parties to this Framework will have regard to the role of the Top Level Group established under Sustaining Progress and to the Health Service National Joint Council in the maintenance of industrial peace.
- d) Where matters have been processed in accordance with these procedures, no industrial action shall take place prior to the expiry of three weeks written notice from the trade union(s).
- e) In the event of unofficial action, the substantive issue(s) shall not be addressed through the agreed machinery prior to resumption of normal working.

Contingency Arrangements

- a) Both parties recognise the essential nature of the Health Service generally and furthermore recognise that in the event of any form of industrial action certain services are indispensable.
- b) In the case of industrial action, each formal notice of the intention to take action will contain an offer to meet immediately to agree contingency arrangements. The objective of the meeting will be to

agree contingency arrangements not later than 14 days in advance of the proposed commencement of industrial action. Such arrangements will continue for the duration of the action and will ensure:

- That services, where interruption or cessation could endanger life will be protected.
 - That the life and dignity of the patient/service user will not be put at risk.
 - The ability to respond to unforeseen emergencies.
 - The provision of emergency services required on humanitarian grounds.
 - Communication between management and Strike Committees.
- c) Both sides will endeavour to ensure that the first meeting, to agree contingency arrangements, will take place within 48 hours of the notice being served. Where the parties encounter difficulties in finalising arrangements under sub-paragraph (b) above, both parties will seek the assistance of the Labour Relations Commission who will respond to the request urgently. Discussions at the Commission will explore all options including a cooling-off period.
 - d) The trade union(s) will establish a Strike Committee at each location and the names of committee members will be advised to management. The composition and arrangements for Strike Committees will be the responsibility of the trade union(s) concerned. Appropriate facilities will be provided to Strike Committees. Where appropriate, requests from members of Strike Committees for time off to participate in contingency planning will be facilitated. Communication from management representatives will only be directed to agreed, designated union representatives.
 - e) It is agreed that any industrial action will be suspended in the event of a Major Emergency Plan being activated.

Review Clause

The parties to this Code may seek a review within two years from the date of this agreement. Such a request will be activated through the Health Service National Joint Council.

