



The JIB's Role in Mediation, Conciliation and Disputes

“Acas recognises the great value of the JIB, ECA and Unite the Union in working together in an exemplary way to establish a model of ADR [Alternative Dispute Resolution] within this sector” SIR BRENDAN BARBER, CHAIR, Acas

One of the JIB's principal objectives is the resolution of disputes within the industry as set out within the JIB National Working Rules (NWR) 19 and 20.

The JIB focuses on mediation to resolve disputes to mutual satisfaction if possible.

What is the JIB Disputes Procedure?

There are two categories under which disputes may be resolved. These are Unfair Dismissal claims and Grievance claims.

(i) Unfair Dismissal Claims

Under the JIB Procedures 'ordinary' Unfair Dismissal claims eg Redundancy, Conduct, Capability, Some Other Substantial Reason or Constructive Dismissal can be raised. The JIB will not hear cases outside of the norm eg Sex, Race, Age Discrimination, Victimisation, Blacklisting, Harassment, TUPE etc. Such cases must proceed directly to Tribunal.

Uniquely, under the JIB Agreement individuals have employment rights including the right to claim Unfair Dismissal **from their first day of employment**. This does not affect an individual's statutory rights.

(ii) Grievance Claims

The JIB also hears grievances arising out of the application of the NWR such as Wages, Travelling Time/Travel Allowance, Lodging Allowance, Holiday Pay etc. In addition the JIB will deal with claims for Notice, Redundancy Pay etc.

Authority for a hearing lies with the Chairman and Deputy Chairman of the National Disputes Panel.

JIB Mediation and Acas Early Conciliation

The JIB may mediate on claims prior as well as when a case has been placed into the JIB Disputes Procedure or the Employment Tribunal, but this is dependent upon the nature of the case. Further details

Claimants must contact Acas' Conciliation facility if they wish to lodge a Tribunal claim. A fee will be required to lodge a Tribunal claim.

The JIB procedures are free of charge and part of the contractual provisions under the NWR.

Lodging a Claim

Claims should not be lodged with the JIB until the internal company machinery has been exhausted. A claim is lodged by submitting an Application Form.

If an individual pays a fee and lodges a Tribunal claim, the claim should be 'stayed' ie held in abeyance until the conclusion of the JIB procedures. If the matter is resolved to both parties' satisfaction then the Tribunal claim must be withdrawn. If the individual is not satisfied with the outcome, the claim can be reactivated following exhaustion of the JIB's procedures.

Under Dispute Procedures the reasons for the decision and any remedy must be fully explained. If this includes a financial award then the amounts will be clearly explained and calculated. A decision of a JIB Dispute Committee resulting in a financial award is enforceable through the County Court.

How Does The JIB Disputes Procedure Operate?

Once the Application Form has been received it is sent to the company for their response. If the company is a member of the ECA then a copy will be sent automatically to its Employee Relations Department.

Once the Respondent's Reply Form is received the paperwork is sent to the Chairman and Deputy Chairman of the National Disputes Panel for their authority to set up a Dispute Committee hearing. If authority is given then the JIB will set a hearing date. The JIB will also set up an informal mediation meeting with the parties' agreement to try and resolve the matter.

If necessary a JIB Dispute Committee will hear and make a ruling on the case. The date for such a hearing will aim to be around 12 weeks from receipt of the company's response.

If a party does not agree with the decision of a JIB Dispute Committee there are two further rights of appeal to the National Appeals Committee and finally to the JIB Chairman.

What Is Mediation/Conciliation and How Does it Operate?

Mediation is a voluntary process whereby the JIB will seek to resolve a dispute between the employer and employee. Representatives may also be involved. The JIB's role is proactive in assisting the parties rather than making a judgement. Asking questions of both parties helps to understand the cause of the issue, and guide the parties to a possible win-win solution.

The active involvement of the parties (rather than just representatives) helps to resolve outstanding issues. It should be noted not all settlements need be financial and sometimes involve matters such as the provision for a reference, which is outside the remit of a Dispute Committee or Tribunal.

Who Can Use the Procedures?

The Disputes Procedures are open to:

- (i) Any directly-employed JIB graded operative working under the terms and conditions of the JIB National Working Rules for a JIB member company;
- (ii) Registered apprentices (whether or not they are working for a JIB member company).

The procedures are also available for the resolution of collective disputes. This usually applies on larger sites where there are potential site wide implications. The JIB will, however, only become directly involved once a guarantee of normal working has been given.

What Does it Cost?

The JIB provides these services free of charge to those who are eligible. It should be noted that the Employment Tribunal service will cost up to £1200 to lodge and have a claim heard. There are also further costs if appeals are made.

Under the Employment Tribunal service, if an employer has breached a worker's rights and there is one or more "aggravating factors", a penalty charge can be levied against employers. This is up to £5000 paid to the Government, and not to the Claimant.

There are no fees, penalties or costs awarded under the JIB procedures.

How Are Claims Settled?

Settlements are generally concluded by the JIB drawing up settlement papers.

Further Information

For further information about the procedures please contact the JIB Industrial Relations Department on 01322 661605.