

## Workplace Conflict

### **Industrial Relations Definition**

This is the term used to describe the relations between the management and its employees. If Industrial relations are good, employees will be well motivated, and as a result morale and productivity will be high. If industrial relations are poor employees will be a lot less motivated and productivity will be low with a high labour turnover.

### **Causes of Industrial Relations Conflict**

1. Pay Disputes (see below)
2. Working Conditions
3. Unfair Dismissals
4. Discrimination

### **Pay Claims**

Comparability Claim	Other employees doing similar work. For example; Tesco workers get a pay rise, Sainsbury can also look for a pay rise.
Relativity Claim	One group of workers want to maintain higher pay than another group e.g. if waiters in a hotel get a pay increase then the chefs may seek an increase.
Cost of Living Claim	Prices of goods in the shops have risen, so workers are finding it harder to live. Workers want their wages to keep up with inflation.
Productivity Claim	Workers may ask for a pay increase if they are operating more complex machinery or working harder.

## **Non-Legislative Methods**

### **Trade Unions**

They are organisations that represent the views and interests of employees in matters concerning pay and conditions of employment. (A shop steward is a spokesperson elected by employees in a workplace to act as their union rep.)

Reasons for joining a trade union:

1. Increased bargaining power – one voice as a representative
2. Having a skilled negotiator on behalf of employees
3. Greater job security if the union is powerful
4. Provide advice to members RE industrial relations and employment issues

Benefits of union membership to employers:

Simplifies communication between management and employees.

**\*ICTU\*** The Irish Congress of Trade Unions is the body that speaks and acts for ALL unions in the ROI. It:

- Acts as a negotiator
- Promotes the benefits of TU membership to the public.
- Resolves disputes and disagreements between TUs.
- Provides training, education and research services for unions and their members.
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### **Conciliation**

Two parties in a dispute ask an independent third party to help solve their problems. They are encouraged to discuss their issues, listen to each other and the conciliator helps them come to an agreement. This is not legally binding, but the aim is to solve the dispute without strike action.

### **Arbitration**

Two parties in a dispute ask an independent third party to help solve their problems. They agree in advance whether or not to accept the arbitrator's ruling. The arbitrator listens to both sides and issues a recommendation. This is legally binding.

**National Wage Agreements** - national agreements between the social partners (comprises of representatives of the government, employers IBEC, and employees ICTU).

**Social Partnership** - refers to the process whereby the government, employers and employees agree to pay and conditions nationally.

## **Legislative Methods**

### **Industrial Relations Act 1990**

The act sets out the following;

#### **1. A Trade Dispute**

A dispute between employees and employers in connection with the employment or unemployment of employees and the terms and conditions of their contract. Legitimate trade disputes; pay and working conditions, dismissal of another employee, failure to recognise the union, discrimination and the duties required of employees.

#### **2. Balloting**

A secret ballot of members must be held before industrial action can take place. Employees must give their employers 7 days notice of strike action.

#### **3. Primary Picketing**

This involves employees gathering outside their workplace and walking around with placards. Striking workers form a picket line, where they try to discourage customers from entering the building. The protest must be peaceful, with no intimidation or obstruction.

#### **4. Secondary Picketing**

This means the employees picket outside another business that is supporting/helping their employer. Example; Supervalu cashiers are on strike and Tesco cashiers are employed to work in Supervalu. The Supervalu cashiers picket outside Tesco.

#### **5. Immunity**

Employees cannot be sued for loss of earnings to the business during industrial action. They cannot be arrested and a judge cannot stop them from protesting, as long as the protest is peaceful.

### **Evaluation of the Industrial Relations Act 1990**

Protect employees by ensuring;

- 1.** They have a legal right to protest legitimately.
- 2.** No one is forced to strike. The secret ballot means employees can vote whatever way they want without any pressure or intimidation.
- 3.** Employees are protected from being arrested or sued. They can legitimately protest without fear of retribution.

## Different types of Strike Action

### Official Strike

This is a complete withdrawal of labour. Workers are entitled to strike pay. Unions must hold a secret ballot, and give the employers seven days notice.

### Work to Rule

Employees work as per contract. They only follow the rules of their employment contract, as the 'letter to the law'.

### Go Slow

Workers stay in their jobs but slow down operations. Sometimes the business cannot operate, but the employees are still at work and can still get paid.

### Unofficial Strike

Workers walk out on the job. There is no secret ballot, no seven day notice and no approval from the trade union or ICTU (Irish Congress of Trade Unions). The employees have no legal protection against being sued for loss of earnings.

### Consequences of Strikes for Stakeholders:

Business: sales are lost and profits fall. Competitors can use this as an opportunity to undermine reliability and reputation of business. Harder to recruit and keep high quality staff. Management time and energy is wasted.

Employees: lose wages and use up savings. Job security may be undermined. If unsuccessful, loss of confidence in union.

Customers: inconvenienced, can undermine abilities of others to make a living.

Suppliers: loss of sales, undermines profitability.

Investors: reduction in dividends, undermines a firm's' ability to pay back interest on loans.

Economy: loss of wages spent, substitute products may have to be imported.

Government: loss of tax revenue (VAT, income tax, USC etc), can undermine Ireland's international reputation

## **Labour Relations Commission (LRC)**

The LRC was set up under the Industrial Relations Act 1990 to assist in settling disputes and to promote good industrial relations.

The LRC provides the following services: (Functions/Roles)

### **1. Conciliation service**

The LRC provides an Industrial Relations Officer (IRO). They encourage both sides to talk through their problems and offer advice and guidance towards a solution. This is not legally binding.

Evaluation: Over 80% of cases referred are settled through conciliation. It is a free service.

Example: 2011 Aer Lingus pilots

### **2. Codes of practice**

These are rules and practices to be followed when dealing with conflict. The LRC offers guidance to firms drawing up their code of practice.

Evaluation: They can lead to better relations and fewer disputes.

### **3. The Industrial Relations Advisory Service**

The LRC offers advice to employers and unions on industrial relations matters. It also helps firms to understand the root of the problems that cause conflict. It advises employees and employers how to behave in order to have good relations.

Evaluation: Provides independent and free professional advice on how to have better relations.

### **4. Rights Commissioner Service**

The Rights Commissioner looks into disputes involving individual workers or small groups of workers concerning unfair dismissals, maternity leave and disciplinary procedures. Employees and employers have their cases heard and try to reach an agreement. Any recommendations of the rights commissioner can be appealed to in the Labour Court.

Evaluation: The cases are heard in private. This is a free service, so neither party has anything to lose.

### **5. The LRC assists **Joint Labour Committees (JLC) and Joint Industrial Councils (JIC).****

The JLC is a body set up by the Labour Court to investigate rates of pay, work conditions for workers that have no union.

A JIC is a voluntary body set up to solve disputes that may arise in a particular industry.

### **6. Research**

The LRC conducts research and monitors development in industrial relations. It is trying to develop new ways of solving disputes.

Evaluation: helps to identify future problems and come up with solutions before they arise.

## **The Labour Court**

It is a court of last resort in industrial disputes. It is not a court of law. It hears both sides of the case and then issues a recommendation. It is not legally binding, except for cases in breach of the Employment Equality Act 1998.

### Functions of the Labour Court

#### **1. Resolve disputes that the LRC cannot**

The Labour Court's recommendation is not legally binding.

Evaluation: neither party has anything to lose because it is a free service, where they get expert advice.

#### **2. Hears appeals**

The Labour Court hears appeals against the recommendation made by an Equality Officer under the Employment Equality Act 1998. The Labour Court makes a legally binding judgment on this case.

Evaluation: Resolves discrimination cases with a legally binding agreement.

#### **3. Investigates breaches of codes of practice**

The Labour Court interprets the codes of practices to give its opinion, and also investigates any breaches of them.

Evaluation: Industrial relations in Ireland meets world standards.

#### **4. Registering Employment Agreements**

Agreements negotiated between employers and employees can be registered with the Labour Court. These agreements once registered become legally binding.

Evaluation: this gives employees and employers confidence that the agreement they have made cannot be broken.

## Unfair Dismissal Acts 1977/2007

To protect all employees, full time or part time, from being unfairly dismissed from their employment.

Every dismissal is unfair unless proven otherwise.

You must have one year's continuous service, unless the dismissal arises from pregnancy, maternity/adoptive/parental/carer leave or trade union activities.

Fair Dismissal	Unfair Dismissal
Incapable of doing the job	Pregnancy
Not qualified	Union Activities
Incompetent	Beliefs
Misconduct	Race
Redundancies	Age
	Suing your boss
	Sexuality

### Proper procedure in a Dismissals Case (pg57)

1. Counselling
2. Formal Verbal Warning
3. Written Warning
4. Employee's Right to Appeal

### **Considered fair if:**

1. The employee is incapable: physically cannot do the work expected of them.
2. The employee is incompetent: consistently fails to meet expected work standards.
3. Employee is not qualified: lied about or does not have the required qualifications required for the job.
4. The job has become redundant: no longer any work for them to do.
  - Voluntary = offered to those who wish to apply for it (financial incentives)
  - Compulsory = not given a choice, must leave
5. The employer followed the proper procedure gave adequate warning and has proof of fair dismissal.

### **Considered unfair if:**

1. Employer cannot prove any of the above.
2. Employers engages in **constructive dismissal** making working conditions so difficult that an employee is forced to leave.
3. Due to maternity leave, trade union/strike, age (except if under 18 or over retirement age), religious/political views, race/colour, gender, sexual orientation, suing boss or membership to the travelling community.

### **Remedies to unfair dismissals**

**Reinstatement** - the employee is given their same job back with exactly the same pay and conditions, they are entitled to full back pay from the date they were dismissed, they are entitled to any improvements in pay and conditions (e.g. pay rises) that occurred since they were unfairly dismissed.

**Re-engagement** - the employee is given their old job or a different but reasonably suitable job back, not entitled to any back pay, this remedy is usually used where the employee contributed to their dismissal even though it is still unfair.

**Compensation** - the employee is paid an amount of money by their former employer as compensation for the financial loss incurred due to the unfair dismissal, no compensation for stress/hurt, maximum compensation is two years pay.

Before being dismissed the employee has the right to:

- Know the reason for their dismissal
- Right of reply
- Have a fair hearing and be accompanied by a representative.

### **Constructive Dismissal**

Employee resigns from their job because of their employers conduct towards them. They make the employee's life so miserable that they have no choice but to leave their job. They are treated so badly. This is illegal.

## Employment Equality Act 1998

This act was set up by the Equality Authority to protect employees and potential employees from discrimination.

Discrimination means treating one person less favourably than others. There are 9 areas in which people can be discriminated against:

Gender	Male/Female
Marital Status	Married, single, divorced, widowed
Family Status	Children, carers
Age	Old/young
Disability	Physical, learning, emotional, intellectual
Race	Colour of skin, nationality, ethnic origin
Sexuality	Gay, lesbian, bisexual, heterosexual
Religious Beliefs	Christian, Muslims, Jews etc or no religious beliefs
Traveller	

An employer cannot discriminate against people for the above reasons when hiring, training, and promoting or in the conditions of their employment.

### The Equality Authority

Functions:

1. To eliminate discrimination in the workplace  
Explain their legal rights and communicate with the employer, and provide legal assistance.
2. To provide information about the Act  
Educate the public about their rights. [www.equality.ie](http://www.equality.ie) and they have a telephone service.
3. Promotes equal opportunities at work

### The Director of the Equality Tribunal

1. Investigates cases of discrimination  
Victims have 6 months to complain to the Director. Free service for the employee.
2. Equality Mediation Officer (mediation)  
This person will hear the discrimination case informally and in private. They mediate with both parties and try to come up with a solution. If a settlement is reached through mediation, the terms are legally enforceable.

### 3. Equality Officer

If mediation is not successful, it is investigated formally by an equality officer. The officer's decision is legally enforceable. This is a fair and independent ruling on the case.

The Director of the Equality Tribunal has the power to dismiss a claim, and protects an innocent employer. They also have the final say in all cases and this ruling must be obeyed.

#### **Remedies**

1. Equal pay for up to three years previous.
2. In other claims, up to two years pay can be awarded. If they are not an employee, they can receive about €12,700.

#### **Evaluation of the Employment Equality Act 1998**

- Protects employees from being treated badly/discriminated against due to...
- Director of Equality Tribunal is legally binding. This creates confidence.
- Government backed official who fights for the workers. Again creating confidence.
- Prevents discrimination during recruitment.

