
Chapter 3

Unit 1 - People in business

Resolving Conflict in the Workplace

Chapter Notes & past Exam Question

Question 1

(2022 - 2011)

WHAT ARE INDUSTRIAL RELATIONS

Industrial Relations ^{Def} This look at the relationship between the employer and the employee.

Benefits of having good IR include

1. Easier to retain and recruit quality staff
2. There will be low levels of absenteeism and labour turnover
3. Staff are more productive
4. There will be fewer industrial disputes.

Past exam Questions

2021 Q4 A (i)

2019 Q1 B (i)

2014 Q1 A (i)

WHAT ARE THE CAUSES OF CONFLICT IN THE WORKPLACE

Industrial Disputes

^{Def} This is a legal term used to describe any conflict between workers and employees.

Causes of Industrial Relations

Industrial Disputes are usually caused by the following conflicts

1. **Over-pay** - Workers may launch a variety of different pay or pension claims, for example cost of living claim, comparability claim or relativity claim. If the employer resists or rejects these pay claims it could lead to industrial disputes.
2. **Redundancies** - How employees are selected for redundancy can cause industrial relation disputes. If workers feel that unfair procedures for selection are being used or if redundancy payments are not adequate for example employers may wish to 'cherry pick' employees for redundancy while a trade union representing the employees may prefer a Last In First Out system.
3. **Working conditions** - Safety is a fundamental need for employees and is an employment right. Failure by management to provide safe working conditions, safe equipment, proper hygiene and adequate heating can lead to industrial disputes.
4. **New work practices/New Technology** - Workers may resist the introduction of new technology if they believe that the employer has not provided adequate training or financial reward for their increased productivity.
5. Unfair Dismissal -
6. Discrimination of staff -

The conflict can be made worse by

1. Poor Communication
2. Unrealistic employees
3. Demanding Employers
4. Autocratic Managers
5. Lack of trust.

HOW CAN GOOD INDUSTRIAL RELATION BE PROMOTED

Good Industrial Relation can be promoted by

1. Paying good Wages
2. Having open communication
3. Building trust and respect
4. Treating staff fairly
5. Having a clear Grievance Procedure.

WHAT ARE TRADE UNIONS

Trade Unions

^{Def} This are organisation that represent the views and interest of employee with issued concerning pay and condition of employment.

Benefit of Unions to Employees

1. Seek to protect employee rights
2. Look for better pay and conditions
3. Provide advice to members (about strikes)
4. Provide a national voice (ICTU)

Benefits of Unions to Employers

1. Communication is easier

Irish Congress of Trade Unions

ICTU

^{Def} This is the body that speaks and acts for all Unions in Ireland.

It has the following functions/roles

1. Acts as a negotiate for al unions when dealing with the government EU and IBEC
2. Promotes the benefits of union membership
3. Resolves disputes and disagreements
4. Provided training, education and research.

HOW ARE EMPLOYEE PAY AND CONDITIONS NEGOTIATED?

This is usually done by different Pay claims

- Cost of Living Claim** ^{Def} This is where employees want an increase in wage in line with inflation.
- Comparability Claim** ^{Def} This is where employees want similar pay and condition to worker doing the same job in a different company.
- Relativity Claim** ^{Def} This is when one group of workers want to keep higher pay gap than another group.
- Productivity Claim** ^{Def} This occurs when workers seek an improvement in pay and condition as a reward for increasing their output.

When employees want a change in their pay a process of negotiation called local bargaining starts.

- Individual Bargaining** ^{Def} This Occurs when each employee negotiates their own pay and condition with management.
- Collective Bargaining** ^{Def} This occurs when the employer negotiates collectively with a group of employees.
- Social Partnership** ^{Def} This is when the Government, IBEC (Employer) and ICTU (employee) agree on pay and conditions that will cover a period of time.

WHAT IS THE INDUSTRIAL RELATION ACT 1990

Industrial Relation Act

^{Def} This law sets out the rules concerning industrial disputes and strikes

Past exam Questions

2019 Q1 B (ii)

2010 Q1 A (ii)

It has the following provisions

1. Disputes must be legitimate

A legitimate dispute arises over pay and conditions, work duties, dismissal. It is however illegal to go on strike if you don't agree how the business is run.

2. Unions must hold a secret Ballot

This is when the employee vote confidentially. They tick yes or no on a piece of paper and put it in a ballot box. It is done confidentially so no one knows how each other votes. They need a majority to go out on strike.

3. Give one-week notice

The union must give one week notice to the employer. This is to give him time to try and resolve the dispute and prevent the strike from going ahead. It will give both parties time to have talks and negotiate an agreement.

4. Official Disputes

These are legitimate trade disputes that have received approval from the majority of workers. A secret ballot has taken place. The employer has been given 1 weeks' notice and there is still no resolution. There must also be trade union and ICTU support before a strike action.

5. Immunity

This means that the employer can't sue unions or employee for loss of earning during the strike. This only occur when the steps for an official dispute have been followed.

6. Unofficial Disputes

This are disputes that have not approval from the union of ICTU. These types of dispute are illegal and don't provide legal protect to the employee from being sued by the employee for loss of earnings. The employee does not receive any support from the union.

7. Picketing

Primary Picketing

Def This involves employees and trade union official walking up and down outside the workplace informing the public that there is a strike on here. They will be holding placards to inform the public in a peaceful manner

Secondary Picketing

Def This means holding a picket outside another business. This only happen if the employees believe that the second business is helping the first business to frustrate the strike.

Past exam Questions
2015 Short Question 9

WHAT TYPES OF INDUSTRIAL ACTION CAN A UNION TAKE

Official Strike

Def This is when Employees refuse to enter the workplace or perform their work duties. An official strike involves a secret ballot, proper notification to the employer and sanction by ICTU. The union members on strike hold a picket outside the workplace. To inform the public that a strike is taking place and the reason why

Past exam Questions
2021 Q4 A (ii)
2014 Q1 A (ii)
2011 Short question 7
2010 Question 1 A (i)

Wildcat strike	Def This is an unofficial strike where no advance warning is given to management. They usually occur over some issue but are resolved very quickly.
Token Stoppages	Def This involves workers stopping work for a short period of time to demonstrate their unhappiness with the employer and to highlight the frustration over an issue. It also shows solidarity amongst workers and highlights the intention to carry the threat of further more serious action if agreement is not reached.
Work to Rule	Def This means employee only do their jobs as outlined in their contract of employment and nothing extra. This can be frustrating for the employer as the employee are not on full strike and are entitle to full pay as they are still doing their job.
Go Slow	Def This means that employee only carry out the minimum amount of work that they can get away with.
Overtime ban	Def This is when Employees refuse to work extra hours and any overtime. This can cause major disruption, leading to lost orders and lost sales, especially at peak trading times e.g. the employees in an airline refuse to do overtime during the holiday period.
All out Strike	Def This all union members are orders to stop working by ICTU. It is very serious and is usually followed by Picketing.

WHAT ARE THE CONSEQUENCES OF STRIKE FOR STAKEHOLDERS

Past exam Questions
2018 Q1 B

Strike can have the following consequences for the following stakeholders

1. Business

Operation and production are disrupted which may result in a fall of sales and profits. This will give competitors an opportunity to gain back market share. The reliability and reputation of the business may also be affected. Management's time and effort is diverted on solving the dispute instead of main work of the business.

2. Employees

Employee will lose wages and might have to use their saving to help them with their everyday needs. Their job security may be affected if the business has to close due to the strike and if they lose, they will lose confidence in the union.

3. Customers

Customer will not be able to get their goods and service and might push them to use a competitor's product and service. This may result in them staying with the competitor after the strike because then can trust them and might realise that the product or service is better.

4. Suppliers

Suppliers might not have a market for their product and thus may go out of business. There could also not supply the business anymore because of the strike and the trust between the business and supplier has been broken.

5. Investors

Investor will have a reduction in their dividends as the business has lost potential sales due to the strike. Trade disputes are also bad publicity for the business. The share price may fall, reducing the market value of the investor's stake. The business may now find it hard to repay back loans if the strike lasts a long time.

WHAT IS THE PURPOSE OF THE WORK PLACE RELATION COMMISSION?

The establishment of the Workplace Relations Act 2015

Most appeals under the Industrial Relations Act 1990, Employment Equality Acts 1998-2015 and Unfair Dismissals Acts 1977-2015 are adjudicated by the Workplace Relations Commission in the first instance.

Past exam Questions
2020 Q1 C

The WRC provides the following services:

1. Advisory Service

The Workplace Relations Commission's Advisory Service promotes good practice in the workplace by assisting and advising organisations in all aspects of industrial relations in the workplace. It engages with employers, employees and their representatives to help them to develop effective industrial relations practices, procedures and structures.

2. Conciliation

Conciliation is a voluntary process in which the parties to a dispute agree to avail of a neutral and impartial third party to assist them in resolving their industrial relations differences. They do this by making available Industrial Relations Officers (IRO or Conciliation Officer). They

help both parties to come to a recommendation. Participation is voluntary, and so too are the outcomes. Solutions are reached by negotiation and agreements facilitated between the parties themselves. The conciliation process is informal in its practice. The parties are free to represent themselves or be represented by trade unions or by employer organisations.

3. Mediation

Here they try to arrive at a solution through an agreement between the parties. The WRC offers a mediation service to facilitate the resolution of complaints/disputes at an early stage. The Mediation Officer empowers the parties to negotiate their own agreement. The process is voluntary and either party may terminate it at any stage. If successful, the terms of the agreement will be recorded in writing. If each of the parties are satisfied, they will sign the record. If unsuccessful, the mediation officer will notify the Director General of the WRC and each of the parties in writing of that fact. It will be referred for adjudication by an Adjudication Officer.

4. Adjudication

The Adjudication Officer's role is to hold a hearing where both parties are given an opportunity to be heard and to present any evidence relevant to the complaint. The Adjudication Officer will not attempt to mediate or conciliate the case. Parties may be accompanied and represented at hearings by a trade union official, a practicing barrister or practicing solicitor. The Adjudication Officer will then decide the matter and give a written decision in relation to the complaint.

The decision may:

1. declare whether the complainant's complaint was or was not well founded,
2. require the employer to comply with the relevant provision(s),
3. require the employer to make such redress as is just and equitable in the circumstances including the award of compensation.

A party to a complaint may appeal to the Labour Court from a decision of an Adjudication Officer.

5. Compliance/Inspection

Service Inspectors visit places of employment and carry out investigations on behalf of the WRC in order to ensure compliance with equality and employment-related legislation. Such investigations involve examining books, records and documents related to the employment, and

conducting interviews with current and former employees and employers. Where breaches of legislation have been found, an Inspector may issue either a Compliance Notice or a Fixed Payment Notice to an employer.

6. Enforcement of Decisions

If an Employer fails to carry out a decision of an Adjudication Officer of the Workplace Relations Commission, or a decision of the Labour Court arising from an appeal of an Adjudication Officer's decision, an application may be made to the District Court for an order directing the Employer to carry out the decision. The application can be made by the following:

1. The Employee/Complainant (or legal representative on their behalf)
2. A Trade Union, with consent of employee, or
3. In excepted body of which the employee/complainant is a member.

WHAT IS THE PURPOSE OF THE LABOUR COURT

The Labour Court

^{Def} This is a court of Last resort. If the WRC fails to solve a dispute or a decision is appealed, it will be heard here. It provides an arbitration service by listening to both side an them given recommendations.

The labour courts

1. Consist of representatives

From the employers (IBEC) from the Trade Union (ICTU) and a chairperson.

2. Only get involved

They only get involved when asked to by the WRC or if a decision by the Industrial Relation officer or Mediation office has been rejected or by special requested form the Minister.

3. Provide and Arbitration service

Arbitration

^{Def} This is when the court listen to both side and then gives recommendation or solution to solve the dispute. It is not legally binding.

4. Register Industrial Relation Agreements

If both parties agree to the recommendation, they will sign the record, and this will be registered at the labour court. Once this is done it is legally binding.

Past exam Questions
2020 Short Question 8
2018 Q1 C
2016 Q1 A (i)

WHAT IS THE UNFAIR DISMISSAL ACT 1977 to 2015

Dismissal

^{Def} This means being sacked from a job due to incompetence, dishonesty or breach of company discipline. Unfair dismissal applies to employee who are employed for over 1 year

Fair Dismissal

^{Def} this occurs when an employee has been dismissed from his/her position due to one of the following grounds: misconduct, redundancy, incompetence, or the employee is deemed incapable of performing his/her duties. This is legal under the Unfair Dismissals Act 1977/2015.

The following are reason for fair dismissal

1. Incapable

This includes issues such as persistent lateness, and absenteeism either short-term or long-term. The employer will be expected to have documentary proof of this allegation, such as clocking-in records or documented absences on file that are not medically certified. In addition, the employer will also be expected to show that you were made aware of the problem and that the employee was warned as to the consequences for your continued employment

2. Incompetence

This means the inability of an employee to do their job due to poor work performance or failure to meet sales targets. The employee needs to be aware of the standards that are expected of them. If you the employee falls short of the required standard, this must be clearly explained to them through a formal set of procedure. The employer should also specify what improvements are necessary. These should be achievable and a reasonable timeframe must be allowed for the improvement. Ultimately, the employer should give the employee a final warning setting out the likelihood of dismissal.

3. Misconduct

This means improper and unacceptable behaviour and may give rise to instant dismissal without notice. Examples of misconduct include assault, drunkenness, theft, bullying or serious breach of your employer's policies and practices. Minor incidents, when taken together, constitute misconduct and are enough to warrant dismissal, The employer is obliged to give the employee notice in this type of situation.

4. The job becomes redundant

This means that there is no job for the employee anymore.

Redundant	^{Def} This occurs when workers are let go from a job because there is not enough work for them to do.
Voluntary Redundancy	^{Def} This is offered to those who wish to apply for redundancy.
Compulsory Redundancy	^{Def} This arise when employee is not given a choice and must leave.

5. Employer followed proper procedures

This is when the employer follows the proper grievance procedure before dismissing the employee. This include given the employee a verbal warning, then a written warning, given them an opportunity to give their side to the warning, to have representation.

Procedures an employer should follow before dismissing an employee

The burden of proof lies with the employer. The employer must show that there were substantial grounds for justifying the dismissal,

Past exam Questions 2012 Q1 A

1. Counselling/Advice

Counselling and advice on how to improve is given by supervisor to the employee and recorded on their personal record. The employer outlines what employee needs to do to rectify the situation. The employee is made aware of the consequences.

2. Formal verbal warning

The employer has to inform the employee of the reasons for the possible dismissal. The evidence for the dismissal must be made known to the employee. This is given in the presence of the employee's representative. The employee is given the opportunity to respond fully to any such allegations or complaints. The warning is recorded on the employee's personal record.

3. First Written warning

If there is no change to the situation, a formal written warning follows the oral warning. A copy will be given to the employee's representative. This may be followed by a final written warning, suspension without pay, transfer to another task, or section of the enterprise, demotion, some other appropriate disciplinary action short of dismissal and finally dismissal.

4. Employee's Right of appeal

The employee has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors or circumstances.

5. Employer Duties/Responsibilities

The employer must recognise the employees right to representation at a hearing into the dismissal and the hearing itself must be impartial.

Unfair Dismissal

1. The employer did not follow proper procedures
2. The employer can't prove that the employee was incompetent.
3. The employer can't prove that the employee conduct was unacceptable.
4. The employer can't prove that the employee was redundant.
5. The employee engages in constructive dismissal.

Constructive Dismissal

Past exam Questions

2020 Short Question 8
2016 Q1 A (ii)
2013 Short Question 7

^{Def} this occurs when an employee's position is made so difficult by the employer that they feel they have no option but to resign. The burden of proof falls to the employee to show that their resignation was justified and can result in the same entitlements as an unfairly dismissed employee.

For example - An employee is constantly being harassed by there manager, who blames the employee for all problems in the business. The employee feels they have no option but to resign their position.

6. For any of the following reasons
 - a. To take maternity, parental adoptive or carer leave
 - b. For joining a trade union
 - c. For complaining about breach of Min wage law
 - d. Because of their age
 - e. Because of religious or political opinions
 - f. If they are a race, colour, gender or sexual orientation.

Before being dismissed an employee has a right to (Also see the procedure before dismissing and employee)

1. Know the reason for their dismissal
2. Have a right to reply to those reasons
3. To have a fair hearing and to be represented at the hearing

The penalties for a company guilty of unfair dismissal

Past Exam Questions
2021 Q1 C

1. Financial Compensation

^{Def} This is the most common remedy - where compensation is awarded in respect of financial loss only. Generally, the maximum compensation is 2 years' pay. If the employee was dismissed for making a protected disclosure, the maximum is 5 years' pay. An employee cannot claim any compensation for such matters as injury to your feelings or stress caused by the dismissal.

2. Reinstatement

^{Def} This means the employee is treated as if they had never been dismissed. Reinstatement entitles them to repayment for earnings lost between the date of the dismissal and the date of the hearing, and also to any favorable changes in the terms of employment during that period, such as pay rises. This remedy is rarely used.

3. Reengagement

^{Def} Re-engagement means the employee will be given their job back but only from a particular date, such as the date of the decision in your favor. This means that they will not be entitled to compensation for any loss of earnings. Often this remedy is used where the adjudicator feels the employee contributed to the dismissal, even though the actual dismissal was unfair. This remedy is rarely used.

Complaints under this act are heard by the WRC

WHAT IN THE EMPLOYMENT EQUALITY ACT 1998 - 2015

This act says that it is illegal to discriminate against anyone at work on the basis of

- | | |
|------------------|-------------------|
| 1. Gender | 2. Martial status |
| 3. Family Status | 4. Age |
| 5. Disability | 6. Race |

Past exam Questions
2015 Q1 C

7. Sexual orientation
8. Religious Belief
9. Being a traveller.

Discrimination

^{Def} This is when an employee is said to be discriminated against or is treated in a less favourable way than another person is, has been or would be treated in a comparable situation on any of the nine distinct grounds. It covers job applicants -full and part time employee and customers

DEALING WITH DISCRIMINATION IN THE WORKPLACE

This can be done in two ways

1. Legislative
2. Non-Legislative

1. Legislative

For disputes involving groups

1. Take it to the WRC who provide different services
2. If this doesn't work take it to the Labour court

For dispute involving individuals

1. Take it to the WRC who provide different services
2. Meditation service.

<p><u>Past Exam Questions</u> 2017 Q1 B 2011 Q1 C</p>
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2. Non-Legislative

1. Talk to the employer - This involves having a meeting between the individual employee and their employer to try and discuss the situation and clarify any difficulties. Assistance can be sought from the shop steward and/or the Human Resource Manager. The employee may seek help from the union head office and the employer may seek help from IBEC.
2. Negotiation - This is when both parties bargain with each other/a **process of bargaining**. They seek to discover **common ground** and reach agreement to settle a matter of **mutual concern**. A **compromise** is reached that both parties find acceptable.

3. Conciliation - This is when a **third-party** attempts to get **both sides** of the dispute to talk separately or jointly. The third party may **offers a solution to the problem. The parties involved decide on the solution themselves.** This is not legally binding.

4. Arbitration - This is when a third party listens to both sides **and makes a decision** or judgement on the solution. Both parties agree in advance to accept the solution/to abide by the decisions made.

Chapter 3

Unit 1 - People in business

Resolving Conflict in the Workplace

Higher Level

Past Exam Question (Higher)

(for Resolving Conflict in the Market Place

Question 1

(2022 - 2011)

PAST SHORT QUESTIONS

2020 - Short Question 8

Distinguish between fair dismissal and constructive dismissal

2015 - Short Question 9

Distinguish between primary and secondary picketing as types fo industrial action available to employees

2013 - Short Question 7

Explain the term constructive dismissal

2011 - Short Question 7

Outline two types of industrial action that employees could take in an attempt to get employers to meet their demands

(i)
(ii)

2010 - Short Question 9

Outline 3 grounds for fair dismissal under the terms of Unfair Dismissal act 1997/93

(i)
(ii)
(iii)

PAST LONG QUESTIONS**2021 - Question 1**

(C) Outline three types of redress available to employees who have been unfairly dismissed under the Unfair Dismissals Act 1977/2015. (20)

2021 - Question 4

Read the information supplied and answer the questions which follow.

The ASTI conducted a ballot for industrial action in October 2020.

- (A) (i) Outline two causes of industrial relations disputes.
 (ii) Discuss two types of official industrial action available to employees involved in an industrial dispute with their employer. (20)

2020 - Question 1

(C) Discuss the services provided by the Workplace Relations Commission (WRC). (20)

2019 - Question 1

(B) Read the information supplied and answer the questions which follow.

Nurses belonging to the Irish Nurses and Midwives Organisation (INMO) are to begin industrial action on 30 January in an escalation of their pay dispute. www.rte.ie

- (i) Outline three reasons, other than pay, for an industrial dispute.
- (ii) Discuss the procedures which must be followed before official industrial action can take place. (25)

2018 - Question 1

(B) Illustrate the impact of trade disputes on any three stakeholders in a business. (15)

(C) Under the terms of the Unfair Dismissals Acts 1977 to 2007, explain the grounds for dismissal that are deemed to be fair. (20)

2016 - Question 1

- (A)
- (i) Outline two reasons for fair dismissal, as set out under the Unfair Dismissals Acts 1977-2007.
 - (ii) Explain the term constructive dismissal, providing an example to support your answer. (20)

2014 - Question 1

- (A) The purpose of the Industrial Relations Act 1990 is to put in place an improved framework for the conduct of industrial relations and the resolution of disputes.
- (i) Outline three factors that can lead to industrial disputes in business.
 - (ii) Discuss two types of official industrial action available to employees involved in an industrial dispute with employers. (25)

2012 - Question 1

(A) Outline the procedures an employer should follow under the Unfair Dismissals Acts of 1977-2007, before dismissing an employee. (20)

2011 - Question 1

(C) Describe how conflict between an employer and an employee could be resolved in a non-legislative manner. (15)

2010 - Question 1

The purpose of the Industrial Relations Act, 1990 is to put in place an improved framework for the conduct of industrial relations and for the resolution of trade disputes.

- (A)
- (i) Outline the impact on trade unions of the main provisions of the Industrial Relations Act 1990.
 - (ii) Describe two types of official industrial action a trade union can undertake as part of a trade dispute. (30)