

SCHEDULE

ACAS ARBITRATION SCHEME

XV. OUTLINE OF PROCEDURE BEFORE THE HEARING

82. Once a hearing has been fixed, the following procedure shall apply, subject to any direction by the arbitrator.

Written materials

83. At least 14 days before the date of the hearing, each party shall send to the ACAS Arbitration Section (for forwarding to the arbitrator and the other party) one copy of a written statement of case, together with:

- (i) any supporting documentation or other material to be relied upon at the hearing; and where appropriate
- (ii) a list of the names and title/role of all those people who will accompany each party to the hearing or be called as a witness.

84. Written statements of case should briefly set out the main particulars of each party's case, which can then be expanded upon if necessary at the hearing itself. The statement should include an explanation of the events which led up to the dismissal, including an account of the sequence and outcome of any relevant meetings, interviews or discussions. The parties should come to the hearing prepared to address the practicability of reinstatement or re-engagement, in so far as the Employee seeks such remedies.

85. Supporting documentation or other material may include (without limitation) copies of:

- (i) contracts of employment;
- (ii) letters of appointment;
- (iii) written statement of particulars of employment;
- (iv) time sheets and attendance records;
- (v) performance appraisal reports;
- (vi) warning and dismissal letters;
- (vii) written reasons for dismissal, where these have been given;
- (viii) company handbooks, rules and procedures;
- (ix) any information which will help the arbitrator to assess compensation, including (without limitation):
 - (a) pay slips, P60s or wage records;
 - (b) details of benefits paid to the Employee such as travelling expenses and free or subsidised accommodation;
 - (c) guidance about, and (if available) actuarial assessments of, pension entitlements;
 - (d) details of any welfare benefits received;
 - (e) evidence of attempts to find other work, or otherwise mitigate the loss arising from the dismissal;
 - (x) signed statements of any witnesses or outlines of evidence to be given by witnesses at the hearing.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

86. The parties must also supply details of any relevant awards of compensation that may have been made by any other tribunal or court in connection with the subject matter of the claim.

87. Legible copies of documents must be supplied to ACAS even if they have already been supplied to an ACAS conciliator before the Arbitration Agreement was concluded.

88. No information on the conciliation process, if any, shall be disclosed by an ACAS conciliator to the arbitrator.

Submissions, evidence and witnesses not previously notified

89. Written statements of case and documentary or other material that have not been provided to the ACAS Arbitration Section prior to the hearing (in accordance with paragraph 83 above) may only be relied upon at the hearing with the arbitrator's permission.

90. All representatives and witnesses who have been listed as accompanying a party at the hearing should be present at the start of the hearing. Witnesses who have not been included in a list submitted to the ACAS Arbitration Section prior to the hearing may only be called with the arbitrator's permission.

Requests for documents

91. Any party may request the other party to produce copies of relevant documents which are not in the requesting party's possession, custody or control. Although the arbitrator has no power to compel a party to comply, the arbitrator may draw an adverse inference from a party's failure to comply with a reasonable request.

Requests for attendance of witnesses

92. Although the arbitrator has no power to compel the attendance of anybody at the hearing, the arbitrator may draw an adverse inference if an employer who is a party to the arbitration fails or refuses to allow current employees or other workers (who have relevant evidence to give) time off from work to attend the hearing, should such an employer be so requested.

Preliminary hearings and directions

93. Where the arbitrator believes that there may be considerable differences between the parties over any issue, including the availability or exchange of documents, or the availability of witnesses, the arbitrator may call the parties to a preliminary hearing to address such issues, or he or she may give procedural directions in correspondence.

94. In the course of a preliminary hearing or in correspondence, the arbitrator may express views on the desirability of information and/or evidence being available at the hearing.