

SCHEDULE

ACAS (FLEXIBLE WORKING) ARBITRATION SCHEME

PART XVI

OUTLINE OF PROCEDURE AT THE HEARING

Arbitrator's overall discretion

95. Subject to the arbitrator's general duty (Part X above), and subject to the points set out below, the conduct of the hearing and all procedural and evidential matters (including applications for adjournments and changes in venue) shall be for the arbitrator to decide.

Language

96. The language of the proceedings shall be English, unless the Welsh language is applicable by virtue of the Welsh Language Act 1993(1) (as amended from time to time). Reference should be made to paragraph 75 above if the Welsh language is to be used.

Witnesses

97. No party or witness shall be cross-examined by a party or representative, or examined on oath or affirmation.

Examination by the arbitrator

98. The arbitrator shall have the right to address questions directly to either party or to anybody else attending the hearing, and to take the initiative in ascertaining the facts and (where applicable) the law.

Representatives

99. The parties may be accompanied by any person chosen by them to help them to present their case at the hearing, although no special status will be accorded to legally qualified representatives. Each party is liable for any fees or expenses incurred by any representatives they appoint.

Strict rules of evidence

100. The arbitrator will not apply strict rules of evidence (or any other rules) as to the admissibility, relevance or weight of any material (oral, written or other) sought to be tendered on any matters of fact or opinion.

Non-attendance at the hearing

101. If, without showing sufficient cause, a party fails to attend or be represented at a hearing, the arbitrator may—

- (i) continue the hearing in that party's absence, and in such a case shall take into account any written submissions and documents that have already been submitted by that party; or

(1) 1993 c. 38.

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(ii) adjourn the hearing.

102. In the case of the non-attendance of the Employee, if the arbitrator decides to adjourn the hearing, he or she may write to the Employee to request an explanation for the non-attendance. If the arbitrator decides that the Employee has not demonstrated sufficient cause for the non-attendance, he or she may rule in an award that the claim be treated as dismissed.

Post-hearing written materials

103. No further submissions or evidence will be accepted after the end of the substantive hearing without the arbitrator's permission, which will only be granted in exceptional circumstances. Where permission is granted, any material is to be sent to the ACAS Arbitration Section, to be forwarded to the arbitrator and all other parties.