

**Past Paper Questions for Chapter 3****Resolution of Industrial Conflict****2011 Q1 (C)**

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

**MS: 15 marks (5+5+5). Only 3 points required from the 4 given below.**

**Don't discuss legal avenues like the WRC or Labour Court in your answer.**

**1. Meet and talk**

This involves having a meeting between the individual employee and his/her 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** (grievance procedure).

**2. Negotiation/agreement**

The employer and the employee make a series of **offers** and **counter offers** intended to aim at a compromise in discussions to solve the conflict. They need to be prepared to make **concessions/compromises**. A timetable for the conclusion of the negotiations process needs to be put in place.

**3. Conciliation**

This could be a **trusted third party** that both sides see as **unbiased**. The conciliator will speak to the employer and the employee separately and then together, **highlighting the others point of view**. The conciliator **encourages the parties to settle the dispute** through continued negotiation.

**4. Arbitration**

This is non-legislative when done outside of the Labour Court with a trusted third party that both sides are happy to have arbitrate for them. With arbitration, both sides in the disagreement agree beforehand to an independent third party's **intervention, investigation and judgement**. They also agree beforehand on whether the arbitration outcome should be **binding** or **non-binding**.

**2017 Q1 (B)**

Evaluate negotiation, conciliation and arbitration as methods to resolve industrial conflict in the workplace.

**MS: 3@6(3+3) + 2m for evaluation**

**1. Negotiation/Agreement**

The employer and the employee make a series of offers and counter-offers in an attempt to reach a compromise to solve the conflict. (bargaining)  
Each party needs to be prepared to make concessions/compromises. A timetable for the conclusion of the negotiation process needs to be put in place.

**2. Conciliation**

This could involve a trusted third party that both sides see as unbiased. The conciliator will speak to the employer and the employee separately and then together, highlighting the other's point of view. The conciliator encourages the parties to settle the dispute *themselves* through continued negotiation. It is not legally binding.

**3. Arbitration**

This is non-legislative when done outside the Labour Court with a trusted third party that both sides are happy to have arbitrate for them. With arbitration, both sides in the disagreement agree beforehand to an independent third party's intervention, investigation and judgement. They also agree beforehand on whether the arbitration outcome should be binding or non-binding.

**Evaluation:** In my opinion, conciliation is the best when solving a dispute as having a third party to encourage both sides to communicate better and listen to each other should bring about an agree decision, leaving both sides happier than arbitration.

**2018 Q1 (B)**

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

**MS: 3@5(2+3)**

**Employees**

Employees will not be performing their duties resulting in conflict between them and management. They will not receive a wage during an official strike. Prolonged industrial action may result in financial hardship for the employees. Employees may become unmotivated/unproductive.

E.g. teachers didn't get paid when they went on an official strike with ASTI

**Customers/consumers**

The disruption to the business caused by a work to rule or official strike will result in consumers being unable to purchase products/services. They may lose faith in the brand/may change to another brand/business.

E.g. When Ryanair pilots went on strike, several flights were cancelled.

**Investors**

Trade disputes are bad publicity for the business. Share price may fall, reducing the market value of the investor's stake. Prolonged industrial action will reduce profit levels and the chance of a dividend being paid to investors at the end of the year. Investors may sell their shares.

E.g. When Ryanair pilots went on strike, Ryanair's share price dropped.

**Management / Employer**

More management time and effort required to resolve conflict rather than focusing on the goals of the business. Management must follow agreed codes of practice. This distraction may lead to production delays and wastage. It may also reduce their ability to encourage intrapreneurship among employees.

E.g. Many people called for Michael O'Leary to stand down as Ryanair chief, following the industrial action his pilots took

***Others: Suppliers, Government, Entrepreneurs***

## 2019 Q1 (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](http://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 marks)

MS: (i) 3 @ 5 (2+3); (ii) 4,3,3

## (i) Change to Working Conditions

Failure by management to provide safe working conditions, safe equipment, proper hygiene and adequate heating can lead to industrial disputes.

Or Changes to working conditions may also cause a dispute e.g. holidays, breaks, rotas

## Unfair Dismissal of an Employee

If an employee is dismissed due to any of the following, it may cause an industrial dispute: being a member of a trade union, religious or political opinions, carrying out legal proceedings against the employer, race, colour, sexual orientation...

Unfair Dismissal	2
If an employee is unfairly dismissed (employer didn't follow procedures).	3

Excerpt from 'Getting A H1 In Leaving Cert Business' reviewing my 2019 LC script where I scored a H1 – available now in our store, use NOTES10 for 10% off

## Introduction of New Technology or New work practices

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.

**Other : Unfair Selection for Redundancy, Trade Union Recognition, Equality / Discrimination in the workplace, Demarcation issue**

- (ii) A **secret ballot** must take place. Trade Unions get members to anonymously cast a vote on whether they want to take part in a specific industrial action. The majority must answer yes for the action to go ahead. The Union will try to ensure all members who can vote are able, without interference from other members.

**One weeks notice** is then needed, where the Union give the employer at least 7 days notice of the industrial action, who can't get an injunction on any action.

**2014 Q1 (A)**

- (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 their employers. (25 marks)

**MS: (i) 3 @ 4 (2+2) (ii) 7(4+3) + 6(4+2).**

(i)

### **1. Disputes over pay**

Workers may launch a variety of different pay claims, e.g. **cost of living claim, comparability claim or relativity claim**. If the employer resists or rejects these pay claims it could lead to industrial disputes.

E.g. The Luas drivers went on strike over pay in 2016.

### **2. Disputes over working conditions/duties**

Workers may feel that management haven't provided **enough training or pay increases** for a change to their working conditions or duties.

E.g. teachers in dispute over changes to duties attached to correcting the new Junior Cycle examination.

### **3. Redundancies**

Employees may strike if they feel that an employee has been **unfairly made redundant**. They may also strike if they feel **management have picked** whichever workers they wanted to get rid of rather than using a fair system to choose employees for redundancy like a **Last In, First Out** system.

(ii)

Employees could carry out an **Official Strike** where they would **not enter their workplace** and do not do their work. An official strike involves a secret ballot, one week's notice to the employer and one that is officially **sanctioned by their trade union**. **Picketing** takes place outside.

Employees could only undertake the **exact jobs written** in their job description or **contract of employment**, which is called **Work-to-rule**. No flexibility is provided by staff to meet urgent or unforeseen requirements. Workers follow the rules of their employment contracts to the 'letter of the law'. For example, nurses not answering phones on wards as it isn't specified in their contract.

**2021 Q4 (A)** Read the information supplied and answer the questions which follow.

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

- (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)

**MS: 2 x 10m (2 x 5m (2 + 3))**

**(i) Disputes over pay**

Workers may launch a variety of different pay or pension claims, e.g. cost of living claim, comparability claim or relativity claim. If the employer resists or rejects these pay claims it could lead to industrial disputes.

**Disputes over working conditions**

Failure by management to provide safe working conditions, safe equipment, proper hygiene and adequate heating can lead to industrial disputes. Changes to working conditions or employee duties may also cause a dispute.

**New work practices or new technology introduced**

An employer may need to provide adequate training or financial reward for workers in order for them to accept new practices or new methods. Not doing so may cause a dispute.

**Redundancy packages inadequate or selection not correct**

Employers may wish to 'cherry pick' employees for redundancy while a trade union representing the employees may prefer a LIFO system, causing a dispute.

***Others: Pensions, Holiday entitlements, Trade Union Recognition, Unfair Dismissal, Discrimination, Demarcation etc.***

(ii) 1. An **Official Strike** 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.

2. **Work-to-rule** happens when employees only undertake the exact jobs written in their job description/contract of employment.

3. An **overtime ban** occurs when employees refuse to work extra hours causing 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.

***Other: Token Stoppage***

## 2015 Q9 Short

Distinguish between *primary picketing* and *secondary picketing* as types of industrial action available to employees.

**MS: 6m (3+3) + 4m. Best point is given 6 marks; second is for 4 marks.**

**Primary picketing**

Stated in the Industrial Relations Act 1990. Employees **walk up and down outside** their place of employment **holding placards** to **peacefully protest** against their employers.

**Secondary picketing**

If a **second employer** was assisting the employer that the original dispute was with (frustrating the resolution of the conflict), then employees can peacefully picket at that employer's premises.

## 2011 Q7 Short

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

**MS: 5m x 2 (3m + 2m)**

**Token Stoppage** - Workers stop working for a **short period** of time to **highlight their concerns** about a dispute. For example, bus drivers all pulling in to the side of the road for one minute during rush hour.

**Overtime Ban** - Workers can **refuse to work additional hours outside of their contract**. This can **frustrate** employers in times of peak trading, like at Christmas.

**Others: Official Strike, Work To Rule**

## 2016 Q2 Short

(a) Define the term Trade Dispute

(b) Outline two types of official industrial action available to employees involved in an industrial dispute with employers

**MS: (a) 4m (2+2) (b) 2 x 3m (2+1)**

(a) A Trade Dispute is defined as any dispute between employers and workers which is **connected with the employment or non-employment** or the **terms or conditions of employment** of any person.

(b) as above

**Workplace Relations Commission and Labour Court****2014 Q8 Short**

Outline two functions of the Labour Relations Commission. (Now the WRC)
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**2020 Q1 (C)**

Discuss the services provided by the Workplace Relations Commission (WRC).
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MS: 4 x 5m (2+3)
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**Advisory Service**

The WRC assists and advises organisations in all aspects of industrial relations in the workplace.

They review and develop effective workplace procedures in areas such as grievance, discipline, communications and consultation.

**Conciliation**

The WRC provides conciliation through Industrial Relations Officers (IRO). It is voluntary where a neutral 3<sup>rd</sup> party tries to assist parties reach a solution. It is informal and parties can represent themselves.

**Mediation**

Mediation seeks to arrive at a solution through an agreement between the parties, rather than through an investigation or hearing or formal decision. The Mediation Officer empowers the parties to negotiate their own agreement on a clear and informed basis.

It is voluntary and used at an early stage to prevent it going on to adjudication.

**Adjudication**

Adjudication Officers are statutorily independent in their decision-making duties. They hold a hearing where evidence relevant to the complaint can be presented.

Parties can be represented e.g. by a trade union official or solicitor.

The Adjudication Officers decision can be appealed in the Labour Court.

**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.

They can issue a Compliance Notice or a Fixed Payment Notice to an employer if their records or interviews with staff show breaches.



**2008 Q1 (C)**

Evaluate the role of the Labour Court in dealing with industrial disputes. (20 marks)

**MS:** 4 x 5m (2m + 3m) – This is more likely to be 3 x 6m (3+3) + 2m evaluation in recent times

**Investigates Industrial Disputes**

The court, acting as a **last resort**, asks employer and employees to submit their **cases in writing**. It can then summon witnesses and make them give evidence under oath, allowing the truth to be told in disputes.

**To Hear Appeals against Equality Officer's Ruling**

The Labour Court can hear **employee or employer appeals** following recommendations from an Equality Officer made on **discrimination cases**. The Court can hear the matter again and make a **binding decision** on the matter.

**Register Collective Agreements**

The Court can register collective agreements made between employers and employees. This **makes the agreement legally binding** on both sides. This **allows referral to the Labour Court** by either party if there is a **breach** in the agreement.

**Evaluation**

In my opinion, I think the Labour Court does an excellent job because it allows **confidence in the agreement** as they are **registered and made binding** by the Court, and also, if you aren't happy with the outcome of a recommendation, you are able to call witnesses and have your **case testified under oath** meaning people can't lie about happenings.

**Unfair Dismissals Act 1977/2007****2013 Q7 Short**

Explain the term 'Constructive Dismissal'.

**MS: 10m (6m + 4m)**

Constructive dismissal arises where you, the employee, **terminate your own contract of employment due to the conduct of your employer.**

The employee feels they have been **treated poorly to make them quit**, instead of the employer offering redundancy to the employee. In a constructive dismissal situation, it is up to the employee to prove that the resignation was justified.

**2010 Q9 Short**

Outline three grounds for fair dismissal under the terms of Unfair Dismissals Act 1977/93.

**MS: 1@ 4 marks (2+2) 2@3 marks (1+2)**

**1. Incompetence on the part of the employee** - The employee **lacks ability to carry out required duties** (poor work performance; failure to meet set targets).

**2. Qualifications (misrepresentation by the employee)** – If an employee lied about a qualification to get a job, or employees must be given adequate time to upskill if a new qualification is introduced while they are employed.

**3. Misconduct by the employee** - Improper/unacceptable behaviour by the employee, e.g. theft, substance abuse, violence at work. Others: redundancy; incapability; legal reasons (e.g. visa/permit expired).

**2020 Short Q8**

Distinguish between **fair dismissal** and **constructive dismissal**.

**MS: 2 x 5m (3m + 2m)**

**Fair Dismissal** – It is legal under the Unfair Dismissals Act 1977/2015 to dismiss an employee on one of the following grounds: **misconduct, redundancy, incompetence**, or the employee is deemed **incapable** of performing his/her duties.

**Constructive Dismissal** – this occurs when an employee's **position is made so difficult that he/she feels they have no option but to resign**. The burden of proof falls to the employee to show that their resignation was justified from mistreatment and can result in the same entitlements as an unfairly dismissed employee.

**2018 Q1 (C)**

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

MS: 2@7(4+3) 1@6(3+3)

**Incapability**

This includes issues such as persistent lateness, and absenteeism either short-term or long-term.

The employer will need to show evidence of making the employee aware of the issues so they can try to improve and also document evidence of it e.g. data from a clock-in system of persistent lateness.

**Incompetence**

An inability to do your job (poor work performance/failure to meet sales targets) compared to expected standard.

Your employer should also specify what improvements are necessary before dismissing you and give a reasonable timeframe for improvement.

Ultimately, your employer should give you a final warning setting out the likelihood of dismissal.

**Qualifications** (misrepresentation by the employee)

If you misled your employer about qualifications you had when applying for the job or where your employer made continued employment conditional upon your obtaining further qualifications and you failed to achieve this.

**Misconduct** (improper and unacceptable behaviour)

Gross misconduct may give rise to instant (summary) dismissal without notice or pay in lieu of notice for a serious breach of your employer's policies and practices.

Minor incidents, when taken together, constitute misconduct and are enough to warrant dismissal, although your employer is obliged to give you notice or pay in lieu of notice in this type of situation.

**Redundancy**

If dismissal is due to closure, competition, decline in demand, it is fair.

Fair procedures must be applied (e.g. last in and first out).

**Contravening the law**

If an employee's work visa expired/work permit, then to continue to employ them would break the law so they can be fairly dismissed.

**2012 Q1 (A)**

Outline the procedures an employer should follow under the Unfair Dismissals Acts of 1977/2007, before dismissing an employee. (20 marks).  
**MS: 7 +7+ 6 marks (4+3), (4+3) and (3+3) (it could be 4 points if asked again).**

**Counselling/Advice**

Counselling (i.e. advice on how to improve) is given by **supervisor** and recorded on the employee's personal record. The employer outlines what employee needs to do to **rectify** the situation. The employee is made aware of the **consequences** of **not improving** in their future performance.

**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, e.g. a shop steward.

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**.

**First Written Warning**

If there is **no change** to the situation, a formal written warning follows the verbal warning. This may be followed by a **final written warning, suspension without pay, demotion**, some other appropriate disciplinary action short of dismissal and, finally, dismissal.

**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.

**2016 Q1 (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.

**MS: (i) 2 x 6m (3 + 3) (ii) 8m (4 + 4)**

(i)

**1. Incompetence on the part of the employee**

The employee lacks ability to carry out required duties (poor work performance; failure to meet set targets).

**2. Qualifications (misrepresentation by the employee)**

If an employee was to **mislead** a potential or current employer in relation to **qualifications** they may hold.

Employees must be given adequate time to **upskill** if a new qualification is **introduced** while they are employed.

**3. Misconduct by the employee**

Improper/unacceptable behaviour by the employee, e.g. **theft, substance abuse, violence at work.**

***Others: redundancy; incapability; legal reasons (e.g. visa/permit expired).***

(ii)

Constructive dismissal refers to a situation where an **employer makes it so difficult for an employee** that they feel they **have no other option but to resign** their position.

E.g. If an employee is constantly being **harassed** by his manager, who **blames** the employee for all problems in the business. The employee feels she has no option but to resign her position and leave the company rather than continue.

**2021 Q1 (C)**

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

**MS:** 7m (3+2+2) + 7m (3+2+2) + 6m (2+2+2)

**Re-instatement**

This means you are treated as if you had never been dismissed.

Entitles you to earnings lost between the date of the dismissal and the date of the hearing and to receive any favorable changes in the terms of employment during that period, such as pay rises.

**Re-engagement**

You will be given your job back but only from a particular date, such as the date of the decision in your favor and will not be entitled to compensation for any loss of earnings. Used if the adjudicator feels the employee contributed to their dismissal but that they were still unfairly dismissed.

**Compensation**

This is the most common remedy – where compensation is awarded in respect of financial loss only. Generally, the maximum compensation is 2 years' pay. You cannot claim any compensation for such matters as injury to your feelings or stress caused by the dismissal.

**Employment Equality Act 1998 & Director Of Equality Tribunal****2015 Q1 (C)**

*The Director of the Equality Tribunal (previously known as the Director of Equality Investigations) published 22 decisions during September 2013 in areas of discrimination that included gender and disability.*

(i) Define *employment discrimination* as set out in the Employment Equality Act 1998.

(ii) List three grounds other than gender and disability on which discrimination is outlawed under this Act.

(iii) Evaluate the role of the *Director of the Equality Tribunal* in dealing with discrimination under this Act. (30 marks)

**MS:** (i) **Definition of Discrimination:** 10m (7+3). (ii) **List three grounds on which discrimination is outlawed:** 9m (3 @ 3m). (iii) **The role of the Director:** 9m (3 @ 3m) + 2m evaluation.

(i) An employee is said to be discriminated against if he or she is treated in a **less favourable way** than another employee is, has been, or would be treated (in a comparable situation) on any of the nine distinct grounds.

(ii) Civil (marital) status · Family status · Sexual orientation · Religion · Age · Race · Membership of the Traveller community

(iii) The Director **decides** whether discrimination cases should be examined by the **Equality Mediation Officers**, who deal with the case in a conciliatory manner, or by an **Equality Officer**, who follows a more **formal** approach.

The Director makes the **final decision** and it can be appealed to the Labour Court **within 42 days**.

The Director **refers** the complaint to an **Equality Mediator**, who facilitates both parties to reach a mutually acceptable agreement.