

SUBMISSION FROM ACAS

1. I refer to your letter dated 23rd March 2009 and thank you for asking Acas to submit evidence in relation to Stage 1 of the Arbitration (Scotland) Bill.
2. Acas is renowned for its experience and skill in dispute resolution and has been active in this sphere of activity since 1975.
3. The dispute resolution service provided by Acas is aimed solely at the resolution of workplace disputes either of an individual or collective nature. Acas arbitration was established under the TULRA 1992 legislation [s212 and s263(6)]. These sections indicate that the Arbitration Act 1950 does not apply to Acas arbitrations or CAC decisions.
4. Acas offers a range of ADR services which include: conciliation in individual rights issues; collective conciliation in workplace disputes; arbitration and collective mediation in workplace disputes and individual mediation to resolve workplace issues. The aim of all of these services is to resolve workplace issues without the need for litigation. Acas deliver arbitration and other ADR in a variety of workplace situations. Acas collective conciliation and arbitration is sometimes specifically written into workforce agreements as the final stage in the dispute procedure.
5. Acas arbitration is morally but not legally binding. Parties have historically accepted this stricture and have implemented the arbitration awards.
6. One exception to the morally binding nature of Acas arbitration exists in Scotland. Acas is charged with resolving all collective disputes in the Scottish Prison Service. Arbitrations undertaken under this provision is contractually binding on prison officers.
7. Acas supports and delivers arbitration it is always our aim to resolve workplace issues without the need to resort to arbitration. When a request for arbitration is made Acas always first engages with the parties in collective conciliation. When discussing the issues in collective conciliation Acas has a twofold aim. Firstly to try to resolve the dispute at this stage and secondly, failing resolution, to establish agreed terms of reference for the arbitration. Engaging in this process facilitates agreement between the parties in the majority of cases and therefore arbitration is not necessary.
8. Acas would be happy to share our experience of workplace dispute resolution with the Committee should it feel our input would be of value.
9. Acas understanding is that the Arbitration (Scotland Bill) is being introduced to put the majority of general Scots law of arbitration into a single statute but that this relates to arbitration that might arise in civil legal proceedings, commercial disputes, international disputes and in domestic circumstances. It will therefore not impact on the work of Acas in the dispute resolution arena.

Frank Blair
Director
20 May 2009