

Introduction to the Tribunal Process

While courts have a standard set of rules that govern all court proceedings, tribunals are established to resolve disputes about very different and specific topics. For this reason, every tribunal follows its own set of rules and procedures.

What happens first?

Many things will happen before an adjudicator makes a decision or hears your case. Most tribunals will take some or all of the following steps in an effort to resolve your dispute or determine your rights as quickly as possible. Check your tribunal's website to find out what steps will be followed in the dispute resolution process.

Preliminary review

A senior tribunal staff member or one of the tribunal members usually does a preliminary review of your case. This ensures that your case is before the correct tribunal and it is within the correct time limit. During this initial review stage, an adjudicator may contact you to request further information.

Alternative dispute resolution

Not all disputes have to be adjudicated at a tribunal hearing – many disputes are resolved long before they reach that stage using alternative dispute resolution. These methods are described below.

Case management

A tribunal may use case management techniques to find out if a matter can be resolved without a hearing. For example, a tribunal member may arrange a telephone conference with the parties to understand the issues that are in dispute, the evidence that the parties have gathered to support their claims, and how the case will proceed if it cannot be resolved at this stage. The tribunal member may order that the parties exchange documents and other information with each other to help resolve the dispute.

The tribunal will sometimes arrange for the parties to attend a settlement conference or a mediation session. Usually conducted in person rather than by telephone, these sessions help parties reach a mutually satisfactory agreement about how to resolve the dispute without the expense and stress of a tribunal hearing.

Mediation

Tribunals sometimes impose mediation in an effort to resolve the dispute without a full hearing, and in other cases the parties have the option of choosing mediation.

Mediation is a meeting between the parties for the purpose of negotiating a resolution that is acceptable to both parties. The benefit of a mediated settlement is that the parties can resolve the matter in any way that is acceptable to them, as opposed to a win-lose resolution that an adjudicator may impose.

Discussions at a mediation session are confidential, which means that no one else will know what was discussed. The mediator is a neutral person (often a senior staff person or a tribunal member) who discusses the issues with the parties with a view to reaching consensus. If the parties cannot reach an agreement, the matter can proceed to a hearing.

Settlement conference

A neutral tribunal member conducts the settlement conference, but he or she may take an active role in discussions and offer a non-binding opinion on what the outcome might be if the parties proceed to a hearing. Non-binding means that the opinion will not be imposed on you. Settlement conferences are confidential and if an agreement cannot be reached, the matters discussed at the conference cannot be raised at the tribunal hearing.

A settlement conference may be held instead of a mediation session when the tribunal has a duty to ensure that any agreement follows the legislation that governs the claim or dispute.

Tribunal hearings

If the parties cannot agree on how to resolve the dispute during the case management process, an adjudicator may hold a hearing and make a decision. If the tribunal you will be attending has hearings that are open to the public, go to a hearing to see how they are conducted. This will help you prepare for your own case.

Although tribunals are less formal than courts, you must still adhere to general principles of decorum:

- Be respectful of everyone at the hearing: the adjudicator, other parties, witnesses, and tribunal staff.
- Dress in a professional manner. You do not need to wear a suit or formal clothing, but you should dress appropriately when you appear before a decision-maker.

- Be punctual and follow the instructions of tribunal staff.

Not all tribunal hearings are done in person. Many hearings are done over the telephone or by giving written submissions. Sometimes the tribunal will arrange for the hearing to be done by videoconference so you do not have to travel a long distance to attend the hearing in person.

How will I know what kind of hearing I'll have?

The tribunal will advise you about what type of hearing you will have – by written submission, by videoconference, over the telephone, or in person. The tribunal may post this information on its website or it may contact you directly to give you this advice. Some tribunals will let you choose the type of hearing you would like to have.

Are tribunal hearings open to the public?

Some tribunal hearings are open to the public. If you would like to attend a hearing so you know what to expect at your own hearing, check the tribunal's website (or call the office) to find out the dates of upcoming hearings and if you are permitted to attend. If you feel that your case involves a sensitive matter, and you are not comfortable having members of the public in the hearing room, you must raise this matter with the tribunal before your hearing to see if public access can be restricted or denied.

Are tribunal hearings open to the media?

If the hearing is open to the public, it is likely that members of the media can also attend, but cameras and recording devices may be restricted. If you are not comfortable with this situation, you should raise it with the tribunal before your hearing and ask that cameras and recording devices not be used at the hearing.

Can you make your own recording at the hearing?

The tribunal may restrict cameras and recording devices, so you should check with the tribunal before the hearing if you intend to use your own recording device. Sometimes the tribunal will record its own proceedings, and you can obtain a transcript for a fee.

If you need help

Tribunals are set up to be less formal than courts and the procedures are usually simple enough to follow on your own. If you need help, consider talking to a lawyer who can explain the issues to you or represent you at the hearing. Many organizations provide free (pro bono) legal advice on some administrative law matters.

Some tribunals provide free assistance to workers and employers who are involved in a dispute. It is a good idea to ask the tribunal if it provides assistance.

If you need an interpreter

If you have difficulty communicating in English, you should tell the tribunal well in advance of the hearing that you need an interpreter. The tribunal may have its own rules about bringing an interpreter to the hearing and may require that you use a qualified interpreter that they have approved for services.