



## MODEL ARBITRATION AND CONCILIATION PROCEDURE

This is a voluntary procedure to be used when there is a disagreement on the interpretation of compliance with the Building Regulations, between an applicant and the Local Authority Building Control Service provider.

The procedure can only be used where a formal Building Regulations application (Full Plans or Building Notice) has been made, and where the parties have agreed to its use.

The aim of this procedure is provide a quick response to disputes and avoid legal actions, by seeking a review of the case by independent Building Control professionals.

Whilst a decision is not legally binding, it is expected that the parties will agree to abide by the decision reached, rather than to pursue legal action.

In the event that the dispute escalates into legal action, the decision reached may be regarded as authoritative.

- In the event of a technical dispute between an applicant and a Local Authority every effort should be made to resolve the issue at a local level first.
- If agreement cannot be reached, the applicant will inform the authority that they wish to use the conciliation procedure.
- The Authority should arrange for the applicant to receive an application form on which to set out the issues of the dispute, and forward it to the Regional Secretary (or other Service Head nominated by the LABC Region). In rare circumstances, the Secretary may feel that the matter is inappropriate for the conciliation procedure e.g. deemed trivial, vexatious or better resolved either by DCLG determination or application for relaxation or by legal action. In such cases, the matter is to be referred to the LABC Technical Committee for a decision.
- Upon receipt of a completed application form, the Regional Secretary will convene a panel of members of the LABC, (selected on a rotational basis) and second such other officers who possess particular knowledge pertinent to the dispute. Should the dispute relate to an expert area outside the scope of the LABC, then the panel may elect to commission a consultant to provide expert opinion. The costs are to be born by the Region of the LABC.  
The panel will not contain any person from the Local Authority that is party to the dispute.
- The Secretary will contact the applicant and the Local Authority concerned to ascertain whether or not they wish to have :-
  - a. A summary hearing based on written evidence only, without the parties being present. This must be agreed by both parties

b. A full hearing with personal pleadings.

- In either case the type, time date and venue for the hearing is to be set and the parties will be requested to provide:-
  - i. Relevant plans and documentation
  - ii. A statement setting out the issue in dispute
  - iii. A statement setting out their contentions
  - iv. Any supporting evidence or expert opinion
  - v. Any informal DCLG comments

The above information is to be provided ten days before the panel hearing, and will be circulated to the panel members no less than seven days before the hearing.

The hearing should take place within fifteen working days of receipt of the application.

- Panel Procedure
  - i. The applicant presents the issue and their contentions
  - ii. The Local Authority presents the issue and its contentions
  - iii. The Panel questions the applicant
  - iv. The Panel questions the Local Authority
  - v. The Panel are to decide if the services of expert witnesses are required
  - vi. Should an adjournment be required, the period should be agreed by both parties
  - vii. The applicant has the opportunity to make any final comments
  - viii. The Panel will retire to come to a recommendation
  - ix. The Panel's recommendation will be made in writing within 48 hours
- The Panel's recommendation does not preclude the Applicant from applying to the DCLG for a Determination in relation to a plans conformity question, or applying to the Local Authority for a dispensation or relaxation.

## Notes

- a) The aim is to resolve the dispute within 28 days.
- b) All decisions are to be reported to the LABC Technical Committee, who will keep a record and may, where appropriate, forward details to the DCLG.
- c) The Panel should consist of not less than 3 experienced heads of service supplemented by expert advisors.



# Arbitration/Conciliation Process

