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## 6D. Handling Labour Disputes

As employees and employers may view their interests and rights from very different perspectives, it is inevitable that disagreements will arise. It is important that dispute resolution mechanisms are in place in order to manage these conflicts and achieve the amicable settlement of disputes before they cause any disruptions to the parties involved. It is important that labour dispute resolution mechanisms function correctly and that the social partners feel confident in using these mechanisms.

Proper handling on labour disputes is of great significance to every organization. The disputes, regardless of the scale, will have negative impact to the whole operation and image of the organization.

Following are some common resolution processes:

- ✦ Dialogue: A process of talking and listening, sharing information, ideas and concerns
- ✦ Negotiation: Dialogues between two or more parties with both common and conflicting interests, with a common goal of reaching a mutually acceptable agreement
- ✦ Voluntary conciliation/mediation: A situation in which arbitration is set in motion only with the agreement of the disputing parties.
- ✦ Adjudication: A process of settling a dispute in court before a judge or magistrate, in accordance with the formalities and procedures required by law
- ✦ Strike: A concerted work stoppage of or withdrawal from work by a group of workers of a group of employees to express a concern or to enforce demands

Many disputes – but not all – are resolved by the parties themselves through consensus-based processes of dialogue, negotiation, and bargaining.

The Labour Relations Division of the Labour Department is responsible for the maintenance of harmonious labour relations in the non-government sector. Its main activities include:

- ✦ providing in-person consultation service to employers and employees on matters relating to conditions of employment and their rights and obligations under the Employment Ordinance; and
- ✦ providing voluntary conciliation service to employers and employees to help settle their disputes and claims

The Labour Relations Division assists employers and employees in establishments outside the government sector in resolving their labour disputes through the provision of conciliation service.

About conciliation service provided by the Labour Relations Division:

- ✦ it is provided free of charge.
- ✦ it is informal, time saving and relatively simple procedures which help resolve labour disputes.
- ✦ it is accessible to both employers and employees, either party involved may contact a branch office near their work place to make enquiries in person.

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✦ the process:

- the staff at the Labour Relations Division office will interview the enquirer to understand the issue involved and explain the relevant requirements of the Employment Ordinance and/or the Minimum Wage Ordinance.

- if conciliation is required, a meeting for the purpose would be arranged, and the other party would be requested in writing to turn up at the conciliation meeting at the scheduled time.

- at the conciliation meeting, the conciliation officer would assist both parties in exploring the crux of the issue concerned, and in analyzing the situation. Attention will be drawn to the relevant statutory requirements and terms of the employment contract, thus facilitating them to reach a mutually acceptable settlement.

- if necessary, a settlement agreement would also be signed by the parties.

- if the settlement involves compensation by cash payment, the conciliation officer would assist in making arrangements for effecting payment.

- if either party fails to attend the conciliation meeting, or no settlement is reached between both parties at the meeting, the conciliation officer will arrange another conciliation meeting, or at the request of the party concerned, refer them, depending on the claim amount, to lodge a claim with the Minor Employment Claims Adjudication Board or the Labour Tribunal where the dispute will be adjudicated by the Adjudication Officer of the Minor Employment Claims Adjudication Board or the Presiding Officer of the Labour Tribunal.

For detailed information on conciliation service provided by the Labour Relations Division of the Labour Department, please visit the Labour Department website <http://www.labour.gov.hk> > Publications > Labour Relations > (E) : Conciliation Service and Claims <http://www.labour.gov.hk/eng/public/csc.htm>

