

From April 2009, workplace dispute resolution will change and will, in large part, follow the recommendations of the Gibbons review into workplace dispute resolution. The review had found that the statutory procedures had been counter-productive by increasing employment litigation rather than reducing it, and had attached over-emphasis on procedure rather than substance.

The key points are:

- The often confusing 3 step statutory disciplinary, dismissal and grievance procedures (SDDP/SGP's) will be repealed.
- Tribunals will no longer automatically reject claims where an employee has failed to submit a grievance.
- Tribunal time limits will no longer be automatically extended where a grievance is lodged.
- Dismissals will no longer be automatically unfair where an employer fails to comply with disciplinary and dismissal procedures.
- A new ACAS Code of Practice on Discipline and Grievance will take its place, based on key principles and best practice.
- The *Polkey* rule will return to use (i.e. that although a dismissal may be unfair if the employer fails to follow a fair procedure, the injustice (or lack of it) caused will be taken into account at the compensation stage by applying a percentage reduction in any damages awarded).
- Tribunals will no longer increase/reduce compensation by 10%-50% for a breach of disciplinary or grievance procedures but will have discretion to increase/reduce compensation by up to 25% for unreasonable failure to comply with the ACAS Code by employers or employees.
- Internal/alternative dispute resolution (such as mediation) are encouraged

However, the SDDP and SGP will not just disappear overnight from 6 April and transitional provisions will apply. Consequently, any grievance or disciplinary issues currently under way may need to continue under the current procedure and even beyond 6 April, so legal advice will be necessary to avoid falling foul of them in their final throes!

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