

Employers beware



In October 2004 the 3 step disciplinary and dismissal procedure was introduced with an aim at reducing the number of claims going to tribunal and to provide a simple procedure that would be easy for employers to follow. It was a complete nightmare; complicated legal argument went back and forth on the meaning of the procedures and tribunal claims increased significantly. Dismissals were automatically unfair if any part of the process was missed and awards could be increased by up to 50%. So after April 6th 2009 the statutory dispute resolution procedures will be repealed and at the same time replaced by the new ACAS Code of Practice.

The new Code of Practice is easier to understand but again leaves many areas unexplained. Tribunals will still have the ability to increase or decrease an award by up to 25% where an employee or employer unreasonably fails to follow the code. The need to take out a grievance before making a tribunal claim has been removed so we may simply see claims

being made earlier. There are a number of grey areas which we will have to wait for case law to determine. However, many of the requirements remain the same in the new ACAS code such as the right to be accompanied, the need for issues to be raised promptly and for employers to carry out any necessary investigations. Above all is the need to follow a fair process before dismissing an employee. Overall we will have to wait and see if this new system works better in practice than the dispute resolution procedures but with an increasingly litigious workforce and an uncertain economic climate we may well be changing one set of rules for another.

Employers however should review their procedures to ensure they comply and it is probably a good opportunity to provide training for managers on how to handle workplace disputes.

The HR Dept provide advice on HR and employment issues.