

## Dispute resolution – further consultation

The current statutory dispute resolution regime has been in force since October 2004. The premise behind this regime was that disputes between employers and their staff would be reduced – the title of the ambitiously named Employment Act 2002 (Dispute Resolution) Regulations 2004 is a clue to the intention.

However, soon after implementation it became clear that the regulations covering discipline, dismissals and grievances did not meet their stated aim. The experience of many of those that have wrestled with these regulations has been that whilst they are superficially straightforward, it is very much the case that the devil is in the detail. It has not been unusual to come across employers that have been caught out in areas such as recognising a grievance or running a compliant dismissal process.

As such, a full review has been undertaken of the statutory dispute resolution regime with the aim of establishing a more workable alternative (for more details see – “A review of employment dispute resolution in Great Britain – Sir Michael Gibbons – 21st March 2007”).

To address concerns identified in the Gibbons Review, the Government has proposed the Employment Bill and is currently consulting over secondary

legislation which will repeal the statutory dispute resolution regime with effect from 6 April 2009.

In the current consultation, the Government is seeking views on a number of matters, including:

- whether to extend the category of individuals that may sign off on a compromise agreement having advised an employee. In particular, a proposal has been made by the CIPD that their qualified professionals should be entitled to do so;
- whether the current approach to interest on unpaid Employment Tribunal awards should change to a variable sum that reflects the cost of borrowing;
- whether an Employment Tribunal should be permitted to make wider recommendations at the conclusion of a discrimination case. An Employment Tribunal can currently make a recommendation following proven discrimination that policies and practices should be changed such that they no longer have a discriminatory effect. For example, an Employment

Tribunal may wish to make a recommendation following the departure of an employee that it may regard as being of benefit to the remaining workforce. Whilst it is not proposed that there would be a financial penalty for a failure to comply, compliance or otherwise is something that would be taken into account by an Employment Tribunal faced with a similar claim against the same employer in the future; and

- allowing parties to straightforward claims to agree determination of the case without the need for a hearing, thereby saving time and money.
- adding claims for holiday pay to the list of claims that can be determined by an Employment Judge sitting alone.

If you wish to contribute to the process of consultation, you can do so via this [link](#).

For further details, contact Mark Minns.

**t: + 44 (0) 118 900 1880**

**f: + 44 (0) 118 900 1881**

**w: [www.mpmlegal.co.uk](http://www.mpmlegal.co.uk)**

**e: [mark@mpmlegal.co.uk](mailto:mark@mpmlegal.co.uk)**

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