



Lyn Creasey
Managing Director

In this newsletter we cover:

- ❖ **Repeal of Statutory Dispute Resolution Procedures**
- ❖ Key changes at a glance
- ❖ **Other changes from April 2009**
- ❖ **Alternatives to Redundancy**
- ❖ Outplacement Support
- ❖ Statutory Redundancy Payment
- ❖ **Quotes for thought!**

Repeal of Statutory Dispute Resolution Procedures

The most significant change under the Employment Act 2008 came into effect on the 6th April 2009. Employers will say goodbye to the current Statutory Dispute Resolution Procedures and a new ACAS Code and Guidance Booklet will take their place.

The Code and Guidance are not legally binding but if the Tribunal finds that an employer or employee has acted unreasonably in failing to follow the code they can adjust the compensation awarded by up to 25%.

The key points are as follows:

- The "3-step" process will now be replaced with a 'fair and reasonable' approach to handling disputes. However many of the key elements such as holding a meeting to discuss a disciplinary issue or a grievance will still form the basis of the new approach.
- The Code doesn't apply to dismissals due to redundancy and the renewal of fixed term contracts.
- Disciplinary warnings will now be covered so employers should allow an appeal against a warning.

- There is now an obligation on the employer (where previously this was only seen as good practice) to advise employees of their right to be accompanied. Employees must be given a reasonable opportunity to call witnesses at a disciplinary hearing.
- Employers can proceed with a disciplinary hearing in the employees absence where an employee has been persistently 'unable or unwilling' to attend without a good reason.
- Employers may no longer be under an obligation to hear grievances from ex-employees (although it is advisable to investigate this in some way if it is likely that the ex-employee may bring a tribunal claim)
- There will be greater scope for adjusting the compensation award by 25% where there has been an unreasonable delay in dealing with employer and employee issues.
- There are also several changes relating to conciliation by ACAS officers

A copy of the ACAS Code of Practice can be found by clicking

<http://www.acas.org.uk/CHttpHandler.ashx?id=1047>

KEY CHANGES AT A GLANCE

PRE 6TH APRIL 2009

Statutory Dispute Resolution Procedures (SDRPs) in force

FROM 6TH APRIL 2009

SDRPs abolished. New ACAS Code of practice on disciplinary & grievance procedures comes into force

DISCIPLINE & DISMISSALS

Employers **must** set out details of the disciplinary issue in writing

Employers **should** set out details of the disciplinary issue in writing and advise the employee of the right to be accompanied

After two meetings which the employee has been reasonably unable to attend, an employer may make a decision

An employee must be persistently unable or unwilling to attend before a decision can be made in their absence

Statutory disciplinary procedure does not apply to warnings

New Code applies to all stages of formal disciplinary action, from written warnings to dismissal

Failure to follow the statutory dismissal procedure constitutes automatically unfair dismissal

No automatically unfair dismissal for a failure to follow the new Code

As long as the statutory procedure is followed, a failure in an additional procedure will not render the dismissal unfair if following the additional procedure would have made no difference

Employers will be unable to avoid a finding of unfair dismissal by arguing that following a fair procedure would have made no difference (Polkey v AE Dayton Services Ltd (1987) IRLR 503 HL)

Statutory dismissal procedure applies to small-scale redundancy dismissals and non-renewal of fixed-term contracts

New Code does not apply to redundancy dismissals or non-renewal of fixed-term contracts

GRIEVANCES

Grievances **must** be set out in writing

Grievances **should** be raised in writing

Ex-employees are entitled to have grievances heard through a standard or modified grievance procedure

No right for ex-employees to have grievances heard and no modified grievance procedure

Claimants may be prevented from making a claim to employment tribunal without first submitting a grievance

No requirement for claimants to submit a grievance before a claim to employment tribunal

GENERAL PROVISIONS

Failure to adhere to the SDRPs may result in an uplift or reduction of tribunal award of up to 50%

Failure to follow the standards in the new Code may result in an uplift or reduction of tribunal award of up to 25%

Possible three month extension to tribunal claim time limits if statutory procedure being followed

Return to an assessment of what is 'reasonably practicable' and 'just and equitable' extensions to time limits

OTHER CHANGES - from April 2009

Statutory Sick Pay, Maternity and Paternity Pay

From 6th April the annual increases to Statutory sick pay, maternity and paternity pay came into effect:

- Statutory Sick Pay (SSP) increased to £79.15
- Statutory Maternity Pay (SMP) increased to £123.06
- Statutory Paternity Pay (SPP) increased to £123.06

Flexible Working rights extended

From 6th April the **right to request** flexible working was **extended** to child carers with caring responsibilities for children **up to and including the age of 16**. Previously this right had applied to carers with children up to and including the age of 5.

The same procedures for applications to work flexibly will apply. Carers of disabled children continue to have the right to request flexible working in relation to children under 18.

Increase to minimum holiday entitlement

From 1st April statutory holiday entitlement increased for all full time employees to 5.6 weeks per year up from 4.8 weeks.

This is an increase from 24 days to 28 days.

This increase may include bank holidays. The entitlement will be pro-rated for part time employees.

If you need to check any of your policies and procedures to check they are in line with changed legislation then contact:

lyn@lynchr.co.uk

ALTERNATIVES TO REDUNDANCY

Despite suffering a fall in orders and a squeeze on income many companies are reluctant to loose experienced staff to redundancy. There are a number of measures which may be put in place to save costs whilst still keeping employees on the books.

These include:

- Putting a hold on overtime and spreading the work evenly amongst the workforce
- Reducing hours per day or days per week
- Changes to shift patterns to ensure most economical use of employees
- Offering unpaid leave
- Introducing pay cuts

These measures should be introduced sensitively and normally after consultation with employees.

OUTPLACEMENT SUPPORT – Support Pack

Should you be in the unfortunate position of having gone through or going through a redundancy situation [LYNC HR Ltd](#) has produced a **Redundancy Support Pack** for a company to use for selected and affected employees. This covers areas like:

- Benefit entitlements
- What requirements individuals have for future working
- Finding work
- Writing a CV
- Writing an application covering letter

- Application Form information
- Interviews
- Job Offers
- Useful signpost information

This Support Pack can be purchased as an email document which can then be used by the company for all future support information that may be required.

Please contact lyn@lynchr.co.uk for more information and prices.

STATUTORY REDUNDANCY PAYMENT

It was discussed within the budget that the maximum weeks pay for statutory redundancy payment will increase from £350 to £380. It is not clear when this change will come into force but we expect it will be in line with the next Employment Rights (Increase of Limits) Order (2009) whereby changes come into force 1 February each year, so in this case 1 February 2010. The budget did not mention whether the maximum for an unfair dismissal basic award will increase.

Quotes for thought

Tom Peters

“People must shed the barnacles of the past and re-imagine!”

“The hard part of change management is not getting ‘new’ stuff in, but getting the ‘old’ stuff out!”



This newsletter is sent to you quarterly and includes useful information about employment legislation changes and top tips on an employment subject in a concise form. Further advice must be sought before any subsequent action is taken. The information published is without responsibility on our part for loss occasioned to any person acting or refraining from action as a result of information published herein. We welcome your feedback and views so please feel free to email us at: info@lynchr.co.uk If you know of anyone who may also be interested in receiving the newsletter please ask them to register on the company website or contact us directly.

In the event that you wish to unsubscribe please email us at: info@lynchr.co.uk