

ASSESSING YOUR GRIEVANCE AND DISCIPLINARY PRACTICES





CONTENTS

Introduction	3
The risk of grievances and disciplinary matters	4
Are your practices up to date and fit for purpose?	4
Review checklist.....	5
About CMP Resolutions	6



INTRODUCTION

Modern diverse workplaces with clued-up employees and a growing policy infrastructure¹ look set to continue generating significant number of grievances, some of which will exhaust internal procedures and go to Employment Tribunal. How you handle these could determine how successful you are, and the price you pay.

Cases at tribunal have highlighted the cost of getting your investigation process wrong. They show how failures of formal grievance and disciplinary process (and particularly the set up and conduct of investigations) cause higher awards against employers at Employment Tribunal. A failure of disciplinary process opens organisations to a claim, even if there was good reason to discipline.

Managing internal complaints is widely accepted as being resource intensive. The process causes significant stress and disruption for all involved, and all too often leads to a lose/lose outcome. An organisation's reputation, brand and finances can be badly damaged by high profile cases, and employers invest heavily in legal advice and insurances in order to protect themselves at employment tribunals. While early intervention and mediation *are* having an impact on grievance and disciplinary numbers, many organisations are not as effective as they could be at managing the risks posed by their internal investigation procedures and processes.

It is important that your policies, procedures and practices are up to date, well-understood, and correctly applied, if you are to avoid unnecessary costs as you manage this aspect of the employee relationship.

I would wholly recommend this course without reservation to any organisation, large or small, who want to utilise the talents of their own people for the good of both themselves and their organisation. It is easy to see why CMP are a market leader in both training delivery and investigation.

VT Group (now Babcock)

¹ 'More areas of working life are covered by the law, as are more employees. At the beginning of the period, there were around 20 individual employment rights under which an employee may bring a claim. By 2008, there were in excess of 60 (Employment Tribunal Service, 2008.)' Quoted in Conflict at work: The pattern of disputes in Britain since 1980, ACAS 2008 Dix, Forth and Sisson.



THE RISK OF GRIEVANCES AND DISCIPLINARY MATTERS

Our experience of providing investigations and training investigators since 1989 strongly suggests that employers too often:

- 🚩 Have few or no internal standards for the conduct of formal investigations.
- 🚩 Allocate investigators by status and experience rather than skill set, so that investigations are carried out by untrained, insufficiently supported people.
- 🚩 Fail to monitor the effectiveness of and compliance with their policies.
- 🚩 Fail to bring back to the business the useful learning arising from an investigation.
- 🚩 Lose at employment tribunals due to their failure to follow their processes, or those processes being poorly understood or interpreted.
- 🚩 Spend time processing and resourcing appeals which, had the original investigation been carried out to a higher standard, would not have been lodged.

ARE YOUR PRACTICES UP TO DATE AND FIT FOR PURPOSE?

Minimum standards for workplace mediation exist for training, mediator competencies, underpinning values and principles, a code of practice, and service delivery. Yet someone turning to a formal process has their complaint investigated by a person less quality assured than an 'informal' mediator! There is no baseline within the UK for investigators into disciplinary and grievances at work, despite this activity posing a far greater business risk than does mediation.

CMP provided us with focused attention on the seriousness of a complaint and the company's attitude towards it; the process was handled very well.

White Link Ferries

We are increasingly aware of the negative impact this absence of quality measures has and recommend that employers review the robustness, consistency and quality of their provision for employers going through a formal complaint process.

A review of your grievance and disciplinary policies procedures and processes can identify areas that need to be strengthened, build consistency in, and bring your practices up to date.

Complete this 'Review checklist' and identify for yourself where your processes are vulnerable.

**REVIEW CHECKLIST**

Do you have evidence that ...	Yes	No	Unsure
Your policies satisfy the requirements of the ACAS Code			
Departmental and service processes meet the requirements of up to date legislation			
There is a reporting format in place that is common across all departments and services			
There is an adequate process for monitoring outcomes			
Standard notifications are issued to employees by HR			
Your retention of investigation papers is appropriate and consistent, even if no formal disciplinary hearing is required			
Investigations papers are forwarded to HR team for retention and not kept on local personal computers			
You maintain records effectively and with regard to the Data Protection Act			
People are clearly informed in writing what happens if an investigation moves to the next stage			
Those who carry out investigations have been trained on an assessed programme to ensure they are operating with the same degree of skill			
You monitor your investigation outcomes and spot potential inconsistencies both of judgement and disciplinary outcomes			
You have Guidance for Managers which includes standard investigation document templates			
There a consistent approach to creating Terms of Reference			
There is a clear statement in your policy about what constitutes Malicious and Vexatious complaints			
There is a standard investigator's checklist and standard report templates			
Managers are aware of what constitutes a grievance and know how to record them as such			
You have a process to formally close out grievances and document employee acknowledgement of grievance resolutions			
You have clear processes and principles in place about evidence visibility, and proportionality			
You have decision-makers who are separate from the investigative process			
You have a public set of values and competencies for investigators			
You quality assure the work done by investigating officers			



ABOUT CMP RESOLUTIONS

We provide outsourced investigation services at all levels including coaching and mentoring for internal investigators; full case work; reviews; and Appeals. We deliver the Professional Qualified Investigator programme (ILM endorsed).

This project has gone very well; it has been organisationally excellent. The quality of the training is good and the content of the training is extremely relevant. Working with CMP Resolutions in the short term has helped us to establish a pool of qualified investigators who we are assured is competent to undertake investigations.

HR Director HSE Ireland

With a head office near Cambridge and a diverse team of experienced practitioners across the UK, our services are accessible to any employer. Whatever your investigation needs, CMP is here to help.

FOR FURTHER INFORMATION YOU ARE INVITED TO CONTACT

RICHARD PEACHEY, SALES AND MARKETING MANAGER

T: 01763 852225

E: RICHARD.PEACHEY@CMPRESOLUTIONS.CO.UK