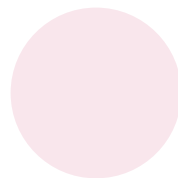


Research Paper



Analysis of the nature, extent and impact of grievance and disciplinary procedures and workplace mediation using WERS2011

Ref: 10/14



2014

Stephen Wood (University of Leicester), Richard Saundry (Plymouth University) and Paul Latreille (University of Sheffield)

For any further information on this study, or other aspects of the Acas Research and Evaluation programme, please telephone 020 7210 3673 or email research@acas.org.uk

Acas research publications can be found at www.acas.org.uk/researchpapers

ISBN 978-1-908370-52-5

**ANALYSIS OF THE NATURE, EXTENT AND IMPACT OF GRIEVANCE AND
DISCIPLINARY PROCEDURES AND WORKPLACE MEDIATION USING
WERS2011**

Professor Stephen Wood, Dr Richard Saundry and Professor Paul Latreille

Prepared for Acas by:

Stephen Wood (University of Leicester), Richard Saundry (Plymouth University) and Paul Latreille (University of Sheffield)

School of Management, University of Leicester
Ken Edwards Building,
University Road, Leicester, LE1 7RH, UK
s.j.wood@le.ac.uk

Copyright © 2014 Acas

Acknowledgements

The authors gratefully acknowledge the funding provided by Acas to carry out this research. Thanks to Barbara Davey at Acas for direction and guidance throughout the project and to Valerie Antcliff for helpful advice on some aspects of the data analysis.

The Workplace Employment Relations Study was conducted by NatCen Social Research on behalf of the Department for Business, Innovation and Skills, the Economic and Social Research Council, the UK Commission for Employment and Skills, the Advisory, Conciliation and Arbitration Service and the National Institute of Economic and Social Research. The data were distributed by the UK Data Archive at the University of Essex.

Disclaimer

This report contains the views of the authors and does not represent the views of the Acas Council. Any errors or inaccuracies are the responsibility of the authors alone.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
1 INTRODUCTION	6
1.1 The legal and regulatory context	6
1.2 The existing evidence base	7
1.3 Key issues	8
1.4 Objectives and structure of the report	10
2 METHODOLOGY	10
2.1 The 2011 Workplace Employment Relations Survey	10
2.2 Key concepts and measures	10
2.3 Our analysis	11
2.4 Weighting, analysis and significance	12
3 NATURE AND EXTENT OF DISCIPLINARY AND GRIEVANCE PROCEDURES	13
3.1 The extent of disciplinary and grievance procedures	13
3.2 The changing nature of workplace disputes procedures	14
3.3 The relationship between size, sector and unionisation on disciplinary and grievance procedures	15
3.4 Multi-variate exploration of the key factors shaping the nature and extent of disciplinary and grievance procedure	18
3.5 Summary	21
4 THE INTRODUCTION AND USE OF MEDIATION IN BRITISH WORKPLACES	21
4.1 The extent of workplace mediation	21
4.2 Workplace and organisational size and mediation	21
4.3 Sector and workplace mediation	22
4.4 Mediation and representation	23
4.5 Shaping the provision of mediation	23
4.6 Summary	26
5 PROCEDURE, PROCESS AND THE INCIDENCE OF INDIVIDUAL EMPLOYMENT DISPUTES	26
5.1 The causes of individual employment disputes	27
5.2 The nature and extent of individual workplaces disputes	27
5.3 Disputes procedures, processes and outcomes	29
5.4 Workplace mediation and the outcome of disputes	31
5.5 Exploring the link between employee attitudes, disputes procedures and use of mediation	32
5.6 Exploring the antecedents of the outcomes of individual employment disputes	34
5.7 Summary	37
6 CONCLUSIONS	37
REFERENCES	39
APPENDIX 1 – Definition of variables	41
APPENDIX 2 – Indices	44
APPENDIX 3 – Questions in WERS2004 not asked in WERS2011	45

EXECUTIVE SUMMARY

This report presents an examination of the nature and extent of disciplinary and grievance procedures and the use of mediation in British workplaces. It also explores their links to the incidence of grievances, disciplinary sanctions, dismissals, employment tribunals and employee attitudes. The analysis is based on the Workplace Employment Relations Study of 2011, and comparisons with its immediate predecessor conducted in 2004.

Nature and extent of disciplinary and grievance procedures

- The progressive spread of written procedures for handling disciplinary issues and employee grievances has continued between 2004 and 2011. The proportion of workplaces with written disciplinary procedures increased from 84 to 89 per cent. The same proportion had adopted written grievance procedures by 2011 compared to 82 per cent seven years earlier.
- There was evidence that the gap between those workplaces that traditionally had robust procedures and others with less institutionalised approaches to industrial relations was narrowing. Adherence to the three key principles of both disciplinary and grievance handling (as set out in the Acas Code of Practice) increased between 2004 and 2011 in a higher proportion of smaller and non-unionised workplaces.
- The presence of procedures was positively associated with organisational size. In addition disciplinary and grievance procedures were least likely to be found in hotels and restaurants, while wholesale and retailing workplaces were less likely to have grievance procedures.
- Organisational size was the factor most associated with adherence to the three key principles of the Acas Code of Practice in respect of disciplinary issues and individual grievances.
- HR practitioners appeared to play a positive role in ensuring procedural compliance in respect of disciplinary issues, but there was no relationship between the existence of procedures and union recognition. There was a positive association between unionisation and procedural compliance in disciplinary matters, but this was relatively weak.

The introduction and use of mediation in British workplaces

- Mediation has become a significant part of workplace dispute resolution regimes, being used in 17 per cent workplaces that experienced a formal individual grievance.
- Mediation by an impartial third-party was provided for within written disputes procedures in around two-thirds of those workplaces that had disciplinary and grievance procedures.
- Organisational size was unrelated to the likelihood of mediation being provided for within disciplinary and grievance procedures. However mediation was more likely to be used in larger workplaces.
- There was also evidence of greater use of mediation in workplaces that experienced increasing rates of disciplinary sanctions between 2004 and 2011 and that had been subject to employment tribunal applications. Therefore, mediation may be one response to rising levels of conflict and the experience of litigation.

Procedures, process and the incidence of individual employment disputes

- There was no evidence that the presence of procedures or the adherence to the three key principles of the Acas Code of Practice had a moderating effect on the outcomes of individual employment disputes. In fact adherence to the key principles was associated with higher rates of disciplinary sanctions.

- More positive employer attitudes in respect of employment relations and fairness were found in workplaces in which the key principles were *not* adhered to.
- There was little difference in the incidence of individual employment disputes in those workplaces that provided for mediation in their written procedures and those that did not.
- Workplaces in which mediation was used had significantly higher average rates of disciplinary sanctions, dismissals and employment tribunal applications. However, this may reflect a greater demand for mediation in organisations that experience greater levels of conflict.
- The most important predictor of the incidence of disputes was workplace size, which was positively associated with rates of dismissals, disciplinary sanctions, grievances and employment tribunal applications. However, workplaces with higher proportions of women employees and also older workers were likely to have lower rates of dismissals and disciplinary sanctions.

Conclusion

- There is no evidence in WERS2011 of any reduction in formality in the wake of the Gibbons Report and consequent changes to the regulatory framework of individual dispute resolution. Instead, organisational practices had coalesced around the three key stages set out in the statutory procedures and now enshrined in the Acas Code.
- The provision for workplace mediation is a significant feature of British workplaces. However, there is little to suggest that mediation is being used at an early stage to prevent disciplinary and grievance matters entering formal procedures or resulting in litigation. Instead, mediation use appears to be a response to experiencing employment litigation or increased levels of conflict.
- The incidence of individual employment disputes is mainly influenced by workplace and workforce characteristics as opposed to conflict-resolution processes and procedures.

1. Introduction

In the four decades since the introduction of the first Acas Code of Practice on 'Disciplinary Practice and Procedures' in 1977, written procedures for handling disciplinary matters and employee grievances have become almost ubiquitous in British workplaces (Kersley, et al., 2006; van Wanrooy, et al., 2013). Disciplinary procedures are designed to provide a framework for dealing with issues of conduct and capability in a fair and consistent manner, and grievance procedures are a mechanism through which employee complaints can be managed and workers can voice their concerns. Accordingly, their use has traditionally been promoted by governments as a way of underpinning 'good employment practices' (DTI, 2001: 14).

However, more recently, public policy has reflected concerns that Britain's system of dispute resolution encourages unduly formal approaches to workplace conflict. Consequently, policymakers have sought to provide employers with more freedom and flexibility to manage conflict, and to encourage the use of alternative approaches to workplace dispute resolution such as workplace mediation (Saundry and Dix, 2014).

This report presents an examination of the nature and extent of disciplinary and grievance procedures and the use of mediation in British workplaces. It also explores their links to the incidence of grievances, disciplinary sanctions, dismissals, employment tribunals and employee attitudes. The analysis is based on the 2011 Workplace Employment Relations Study of 2011, and comparisons with its immediate predecessor conducted in 2004.

1.1 The Legal and Regulatory Context

The introduction of the right to be accompanied at disciplinary and grievance meetings under s.10 of the Employment Relations Act of 1999 represented the first major step to legally underpin workplace procedures for dealing with individual employment disputes. Subsequently, the 2004 Dispute Resolution Regulations (introduced under the Employment Act 2002) established minimum statutory dismissal and grievance procedures for the first time. These were underpinned by three key principles: that the matter should be first put in writing; that a meeting should be held to discuss the issue; and that the employee should have the right to appeal against any decision.

The regulations were aimed at promoting minimum standards for handling discipline and grievances, and encouraging employers and employees to resolve disputes within the workplace rather than resorting to the employment tribunal system (DTI, 2001). However, while procedures might be expected to provide a consistent basis for the internal handling and resolution of disputes, their presence alone is no guarantee that issues will be dealt with speedily, effectively or even fairly by the standards of all parties (Earnshaw, et al., 2000). Neither can procedures be expected, at least in and of themselves, to reduce the incidence of grievances or discipline cases. For while procedures may avoid employees airing frivolous grievances, or employers disciplining workers without a strong basis, access to procedures may create an environment in which conflict is more likely to be brought into the open. In fact, there is no evidence to date that increased formality of discipline and grievance procedures limits the likelihood of individual employment disputes (Antcliff and Saundry, 2009).

The extent to which procedures crowd out less formal approaches to conflict resolution and deter managers from intervening in the early stages of conflict escalation has become a central focus in the development of Britain's system of dispute resolution. In 2007, the Government commissioned Anthony Gibbons to review the British system of Dispute Resolution. In what became known as the Gibbons' report, Gibbons (2007: 8) concluded that disputes procedures were not encouraging early resolution of disputes, but rather were being used "to deal with problems which could have been resolved informally". Inappropriate use of formal processes, it was argued, wasted management time and heightened the stress of employees. Furthermore, it encouraged defensive attitudes, escalated problems and made employment litigation more likely.

Following the recommendations of the Gibbons' Report, the statutory procedures were repealed by the Employment Act 2008 and a revised, shorter and principles-based Acas *Code of Practice on Disciplinary and Grievance Procedures* was introduced in 2009. Critically, the three stages of

the Dispute Resolution Regulations were retained as core principles within the revised Code. Gibbons (2007: 10) also recommended that incentives be introduced to encourage compliance with the Code and that tribunals should take into account the “reasonableness of behaviour and procedure when making awards and costs”. Consequently, tribunals were given the power to increase or reduce compensatory awards if either party had unreasonably failed to adhere to the Acas Code.

Gibbons had also called on the government to “challenge all employer and employee organisations to commit to implementing and promoting early dispute resolution”. To encourage this, Acas’ power to conciliate in a dispute before an ET claim was submitted was amended to a statutory duty. Moreover, Gibbons (2007: 5) set out a “vision” “of a greatly increased role for mediation” as a means for achieving early resolution.

Significantly, mediation was explicitly recognised in the revised Acas Code of Practice for the first time, albeit only in the foreword, although much more extensive discussion was contained in the accompanying Guide. There is evidence that the revision of the Code prompted increased organisational interest in mediation (Rahim, et al., 2011). Also, the Coalition government embraced the spirit of Gibbons, claiming that mediation could lead to improved “employer–employee relationships, the development of organisational culture and the development of “high-trust” relationships” (BIS, 2011: 3).

1.2 The Existing Evidence Base

The nature and extent of workplace procedures and processes for dealing with individual employment disputes are then, of critical concern to both organisational practice and public policy. Much of our knowledge of these is based on previous analysis of WERS data. This has shown that while the presence of procedures has spread, this has been uneven, with slower growth in small- and medium-sized workplaces (Kersley, et al., 2006). Indeed, part of the rationale for the introduction of the 2004 Dispute Resolution Regulations was to encourage greater use of minimum procedural standards in small- and medium-sized organisations. Other structural variables may also be relevant. For example, public sector workplaces have a tradition of detailed and quasi-judicial procedures (Saundry, et al., 2011), perhaps influenced by a strong union presence.

There are also signs that the use of workplace mediation in Britain is increasing. Requests to Acas for mediation on individual issues doubled between 2004/5 and 2010/11 (Acas, 2005; 2011a). Despite this, to date, most estimates have suggested that overall use remains low. For example, research undertaken by Acas in 2011 found that just five per cent of private sector businesses had used mediation, falling to just four per cent in small- and medium-sized enterprises (Williams, 2011).

In terms of the impact of procedure, there is no evidence that links formal procedures with more effective dispute resolution. Kersley, et al. (2006) found that organisations with written procedures were more likely to be subject to employee grievances. In addition, workplaces with written disciplinary procedures have been found to have higher rates of sanctions and dismissals (Knight and Latreille, 2000; Antcliff and Saundry, 2009). This may reflect the fact that procedures provide employees with more confidence to voice their concerns and for employers to address issues of conduct and capability.

Most studies suggest that the factors shaping individual employment disputes fall into three categories: workplace characteristics such as organisational size and sector; workforce characteristics such as gender, age, skill; and factors relating to employment relations and the management of conflict, such as unionisation and the use of process and procedure. In terms of workplace characteristics, analysis of WERS2004 suggests that both employee grievances and higher rates of disciplinary sanctions are more likely in larger workplaces (Edwards, 1995; Knight and Latreille, 2000; Kersley, et al., 2006; Antcliff and Saundry, 2009). Furthermore, smaller businesses are less likely to levy serious sanctions such as dismissal than larger organisations (Forth, et al., 2006).

The relationship between personal characteristics and the incidence of employee grievances has not been explored in great detail, partly due to the fact that it has not been possible to quantify

the incidence of employee grievances in previous versions of the WERS series. Lucy and Broughton (2011) however, have argued that certain types of employee are “more likely to report experiencing problems in the workplace” (p. 15). These include workers who are young, female, black, parents (especially single parents), disabled or with a long-term illness, lesbian, gay or bisexual, and have short tenure, work in routine and manual occupations, and earn less than £25,000 per annum.

However, there is evidence on the relationship between workforce characteristics and rates of disciplinary sanctions and dismissals. For example, the employment of women, older workers and those in more skilled occupational groups is associated with a lower incidence of disciplinary disputes (Knight and Latreille, 2000; Saundry and Antcliff, 2009). Ethnicity also appears to be an important factor; more specifically, workplaces with a higher proportion of ‘non-white’ employees have been found to have higher rates of disciplinary sanctions and dismissals (Knight and Latreille, 2000; Saundry and Antcliff, 2009).

Employment relations within an organisation also shape the nature and extent of workplace conflict. Strong trade union organisation is associated with lower rates of disciplinary sanctions and dismissals. This may be due to unions restraining managerial prerogative (Edwards, 2000) or possibly playing a constructive role in conflict resolution (Saundry, et al., 2011). At the same time, employee grievances may be more likely to be raised within workplaces in which employees receive union support in exercising ‘voice’ and making formal complaints (Kersley, et al., 2006). There is complementary evidence that unrepresented workers are less likely to use formal grievance procedures (Pollert and Charlwood, 2009). Certainly, the quality of union–employer relations is critical. Adversarial employee relations may hamper resolution and create an environment in which conflict quickly escalates. While, high-trust union–employer relations can underpin informal and social processes of conflict resolution (Oxenbridge and Brown, 2004; Saundry and Wibberley, 2014)

Finally, it is anticipated that workplace mediation can help to reduce the incidence of individual employment disputes in two respects. First, mediation is seen as a successful way of resolving individual employment disputes that might otherwise result in formal grievances and potentially escalate into litigation (Seargeant, 2005; CIPD, 2008; Johnston, 2008; Harris, et al., 2008; Latreille, 2011; Saundry, et al., 2013). Second, it has been suggested that the introduction of internal mediation schemes may have a broader impact in increasing the conflict-management capacity of organisations through improving conflict-handling skills, which in turn improves the climate of employment relations (Bingham, 2004; Seargeant, 2005; Latreille, 2011; Saundry, et al., 2013).

1.3 Key Issues

Government policy in the wake of the Gibbons’ report was designed to encourage employers to resolve conflict in the workplace and reduce employment tribunal (ET) applications. It was hoped that by loosening legal regulation and promoting mediation that employers would increasingly address and resolve issues at an earlier stage.

Although WERS2011 does not allow us to assess the impact of the introduction of statutory procedures in 2004, it provides an opportunity to examine the repeal of the Dispute Resolution Regulations in 2008. More specifically, it enables us to examine whether changes to the legal framework may have led to some workplaces retreating from more formal approaches to workplace conflict. This might particularly be the case in small and medium-sized organisations with cultures that favour more informal and personal approaches to dispute resolution.

Nonetheless, as the three key principles of the statutory procedures remained in the Acas Code of Practice and are assumed to represent good practice, we might expect no great reduction in their use, or at least in their inclusion in procedures. Their application is also reinforced by the regulation that non-adherence can increase compensation for unfair dismissal by up to 25 per cent.

However, the relationship between workplace processes and the incidence of individual employment disputes may not be straightforward. For example, it could be argued that once a disciplinary procedure has been commenced, the likelihood of the employee avoiding dismissal

may be low. Managers who might otherwise prefer to use informal methods may feel compelled to enact procedure (see for example Jones and Saundry, 2012). This is not, however, to deny that in some instances effective disciplinary processes can facilitate dispute resolution or changes in behaviour and so reduce the incidence of dismissals.

In the case of grievances, we would expect that workplaces without formal procedures will be less likely to report grievances, since without procedures, employees will have no vehicle through which their concerns and complaints can be formally identified and raised. In this sense, grievances are products of procedures (the alternative potentially being 'exit'). At the same time, organisations may adopt robust grievance processes in response to the emergence of workplace conflict.

However, the debate surrounding individual disputes is more complex than simply whether procedures affect the incidence of grievances, disciplinary action or dismissals. First, it revolves around the extent to which procedures drive out more informal processes that may have more mutually satisfying outcomes and prolong the time it takes to resolve disputes. Unfortunately we cannot address this issue using WERS data, as it does not collect information on the temporal or informal aspects of dispute resolution.

Second, a key issue relates to the regulatory demands placed on small- and medium-sized enterprises and organisations. We can examine if the application of procedures declined following the removal of statutory compulsion in 2008 and also explore the extent to which any such changes were concentrated in smaller workplaces and organisations.

Third, an important question is whether parties are better able to resolve disputes within the workplace than in 2004 and attenuate employment litigation. Using WERS2011 data we can assess the relationship between procedures and mediation on ET claims and (except for mediation) any change between 2004 and 2011.

Fourth, a further dimension of the debate is the role of mediation. WERS2011 does not allow us to explore whether mediation is being employed before the onset of formal procedure to facilitate the early resolution of disputes. Nonetheless, we can explore whether the incidence of individual employment disputes is lower when mediation is included in disciplinary and grievance procedures or has been used, compared with workplaces in which mediation is not available or used.

Fifth, there is a neglected issue of whether procedures make much difference to the average worker's experience at work. Since procedures are also aimed at contributing to procedural justice in workplaces, we might expect them to be most associated with employee's perceptions of fairness and perhaps even of the quality of relationships between managers and employees. Yet procedures are rather distant from the day-to-day lives of most workers who will never experience a disciplinary or grievance issue and this could limit their impact on workers' attitudes. Nonetheless consistent adherence to a transparent and acknowledged code of practice may be viewed as symbolic of a reliable employer and hence may affect commitment.

Finally, WERS2011 was conducted during the recession that followed the financial crisis of 2008 and while the Government was cutting public sector expenditure (often known as the austerity programme). Questions were included in WERS2011 on the impact of the recession, which offer the opportunity to analyse any effects of this on the development of employment relations. We might not expect it to have strong impacts on workplace procedure. Nonetheless, if recessionary conditions increased the power of employers to such an extent that they felt they could flout what was previously taken to be acceptable practice, we might expect some removal of procedures or less adherence to them. It is more likely that the recession has an effect on the nature and extent of grievances and disciplinary cases. Employees may be reluctant to raise grievances in an environment characterised by vulnerability and insecurity. At the same time, employers may be empowered to make more robust disciplinary decisions.

1.4 Objectives and Structure of the Report

In light of the discussion above, it is timely to use WERS2011 to assess:

- 1) the development and application of workplace level procedures for handling disciplinary matters and individual employee grievances;
- 2) the nature and extent of workplace mediation and the key factors determining its use; and
- 3) the relationship between workplace procedures, workplace mediation and key outcomes – employee grievances, disciplinary action, ET applications and employee attitudes.

This report presents research designed to contribute to such an assessment based on the Workplace Employment Relations Surveys (WERS) of 2011 and 2004. The next section introduces the survey and sets out the methods used. We then report in section three our analysis of the nature and extent of grievance and disciplinary procedures. This section also examines changes in the extent and application of written procedure and explores the main factors that shape procedure and process by looking at bi-variate and multi-variate relationships with a range of variables. Section four looks at the introduction and use of workplace mediation in British workplaces. It also uses regression analysis to isolate the relationships between the provision of mediation in written procedures and the use of mediation and key workplace and workforce characteristics. Finally, section five assesses the association between the nature and extent of grievance and disciplinary procedures and use of mediation and outcome measures. These include rates of employee grievances, disciplinary sanctions, dismissals, and ET applications. It also explores the association between employee perceptions of fairness and employment relations and the application of procedure and mediation. We conclude by drawing out the implications of the study.

2. Methodology

2.1 The 2011 Workplace Employment Relations Survey

The 2011 WERS is the sixth in the WERS series. Interviews for the 2011 WERS were undertaken with around 2,700 workplace managers and 1,000 employee representatives. In addition, over 20,000 employees completed questionnaires. Previous surveys were conducted in 1980, 1984, 1990, 1998 and 2004.

WERS2011 contained two key innovations that are central to this study. First, questions on mediation were included which assessed, for the first time, whether mediation by a third party was provided for within disciplinary and grievance procedures, and whether mediation by a third party had been used to resolve a disciplinary or grievance issue in the previous 12 months. Second, questions were introduced that allowed for the calculation of the rate of employee grievances per 100 employees. This enabled the construction of a comparative measure to disciplinary sanctions, dismissals and ET applications – something that had not been possible in previous surveys. However, certain questions in 2004 were excluded in 2011 (see Appendix 3) which reduced the coverage of individual dispute resolution in the survey and therefore restricted the scope of any subsequent analysis.

2.2 Key Concepts and Measures

Our analysis was based on three sets of variables drawn from the Management Questionnaire (see Appendix 1). The first sought to examine the extent and nature of procedures. In relation to disciplinary and grievance procedures, two main measures were used. The extent of procedures can be measured by whether the workplace has a written procedure for dealing with disciplinary matters and dismissals and also a written procedure dealing with employee grievances. The nature of the procedures can be assessed based on questions that ask whether, in dealing with disciplinary and grievance issues, the workplace adheres to three key principles contained in the *Acas Code of Practice on Disciplinary and Grievance Procedures*: a) setting out the issue of concern in writing; b) holding a meeting to discuss the matter; and c) providing employees with an opportunity to appeal the decision. In much of the analysis below, we used a dummy variable which identifies those workplaces that always adhere to these three principles and those that do not. For mediation, the measures outlined in 2.1 are used.

The second set of variables measured outcomes of workplace conflict. Variables were constructed that measured: the rate of disciplinary sanctions per 100 employees, the rate of dismissals per 100 employees, the rate of grievances (raised through a written grievance procedure) per 100 employees, and the rate of ET applications per 100 employees. All these rates were calculated on the basis of numbers of disputes in the last 12 months as against the total number of employees 12 months previously. The main measures of employee attitudes that were used were: the extent to which employees felt that their managers treated them fairly, employee perceptions of employment relations, engagement, measured by displaying initiative, and commitment to the organisation in terms of shared values, loyalty and pride. These attitudinal measures were based on aggregating results from the employee survey by workplace and then examining mean results for each workplace in relation to its adherence to the Acas Code when handling disciplinary issues and the use of mediation.

The third set was made up of contextual factors that have been found in previous studies to be associated with procedural formality and the incidence of employment disputes and include: workplace and organisational size, whether or not the workplace is in the public or private sector, industrial sector (based on 2003 SIC definitions to allow comparison with WERS2004), union recognition, presence of an HR practitioner, and also whether or not the workplace was affected by the recession.

2.3 Our Analysis

We conducted both bi-variate and multi-variate analysis of weighted data. For the multi-variate analysis we used multiple linear regression to evaluate the unique contribution of a set of independent variables to the various dependent variables. In contrast to Pearson correlational analysis, which tests the association between two variables, regression analysis allows one to isolate the relationship between a specific independent variable and the dependent variable, controlling for the other factors. Regression helps one understand how the typical value of the dependent variable changes when any one of the independent variables is varied while the other independent variables are held fixed.

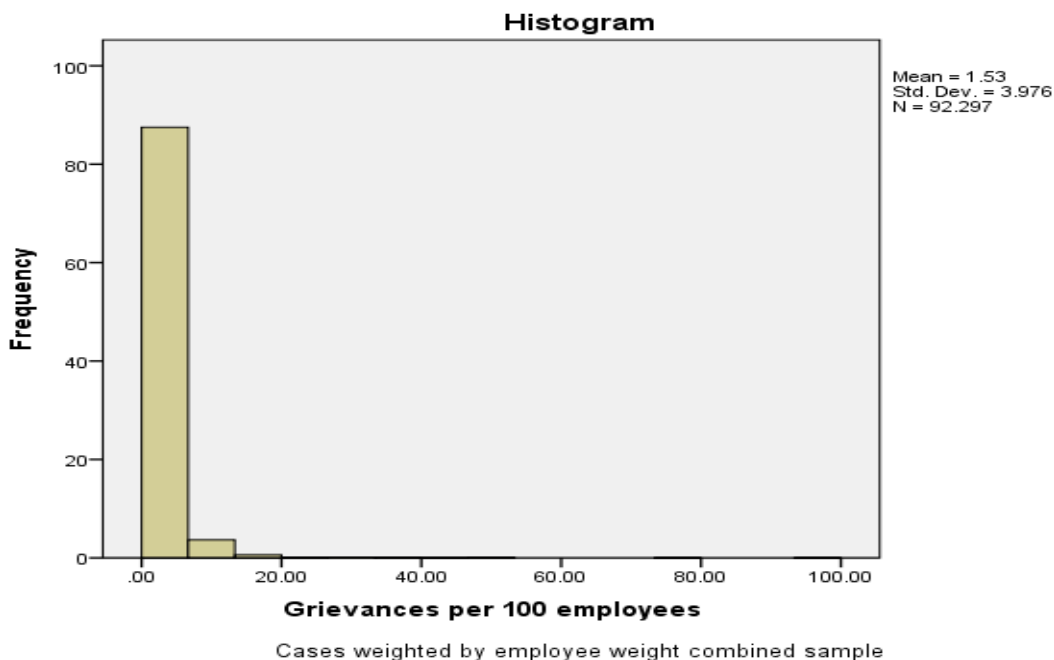
In our analysis, the dependent variables included: the existence of written disciplinary and grievance procedures; adherence to the three key principles contained in the Acas Code of Practice in respect of disciplinary and grievance procedures; the provision of mediation in disciplinary and grievance procedures; the use of mediation; and the incidence of disciplinary sanctions, dismissals, employee grievances, and ET applications.

The independent variables entered into each model varied, but the models use a core set of variables that reflected: procedural presence and adherence, workplace characteristics such as size and sector, workforce characteristics and demographics, union recognition, and the impact of recession. It is important to note that organisational size was used in estimations that related to process and procedure, while workplace size was entered into models predicting practice and outcomes.

The appropriate estimator in the multi-variate models depended on the nature of the dependent variable under consideration. Some of the dependent variables were binary (for example the incidence of procedures or use of mediation) or a set of ordered categories (procedural compliance) in which case we estimated logit and ordered logit regression models respectively (see for example, Greene, 2012), which take account of and model the data more appropriately. Similarly, some of outcome measures were significantly skewed towards and include a large number of zero-valued observations. For example, the distribution of both the number of grievances raised through the procedure in the workplace and the proportion of grievances per employees (as in Figure 1), are highly skewed, rendering Ordinary Least Squares (OLS) biased and inconsistent. Tobit regression models were used in respect of outcome measures where the observations were clustered at the lower end of the distribution and bounded. These models assume an underlying latent variable giving rise to the observed (censored) distribution, with coefficients interpreted similarly to Ordinary Least Squares model, except that the reported effect applies to the uncensored latent variable. For logit and ordered logit models, coefficient estimates represent the effect of an explanatory variable on the log of the odds of the dependent variable, and the sign of the coefficients shows the direction in which explanatory variables influence the dependent variable. In all regression models, for explanatory variables

taking the form of categories (e.g. size groups), one of these must be omitted for identification purposes, and effects are measured relative to this reference category (referred to as Ref in the tables).

Figure 1 – The distribution of grievances per 100 employees



We also analysed data drawn from the WERS panel which comprised all those workplaces that were surveyed in both 2004 and 2011. This allowed us to examine changes in the nature of grievance, disciplinary and mediation processes in workplaces that took part in both the 2004 and 2011 surveys, and to explore links to possible outcomes. Unfortunately, because questions in relation to mediation were asked for the first time in 2011, no direct comparison can be made with 2004. Nonetheless, it may be that the adoption of mediation is linked to preceding changes either in process or the incidence of disputes, and these associations are explored in the section below. In addition, as questions allowing us to identify the rate of employee grievances per 100 employees were not asked in 2004, the only comparison that could be made was whether the workplaces had experienced formal grievances in the past 12 months. The same variables as in the cross-sectional analysis were used; however, in order to explore change between the two periods, dummy variables were constructed that identified a) those workplaces in which adherence to the three key principles contained in the Acas Code increased between 2004 and 2011 and b) those workplaces in which rates of disciplinary sanctions and dismissals increased in the same period.

2.4 Weighting, Analysis and Significance

The analysis used weighted data throughout and employed the svyset procedure within STATA in order to reflect the complexity of the weighted sample. With the exception of the multivariate models, significant results were gauged as being at or below the 5% significance level.

3. Nature and extent of disciplinary and grievance procedures

In this section we will first report on the nature and extent of disciplinary and grievance procedures. We will then examine the relationships among a range of key contextual variables and the nature and extent of disciplinary and grievance procedures.

3.1 The extent of disciplinary and grievance procedures

The WERS series has charted the progressive spread of written procedures for handling disciplinary issues and employee grievances (Kersley, et al., 2006). We found that this has continued in the second half of the 2000s. Between 2004 and 2011, the proportion of workplaces with written disciplinary procedures increased from 84 to 89 per cent. The same proportion had adopted written grievance procedures by 2011 compared to 82 per cent seven years earlier.

There was a significant degree of consistency in the application of written disciplinary procedures, with more than four out of every five workplaces adhering to the three-step approach that constituted the statutory regulations and are now the core principles in the Acas Code of Practice on Disciplinary and Grievance Procedures (Table 1). In respect of employee grievances, there was less adherence, with fewer than half of British workplaces always applying the three key principles.

Table 1 – Adherence to key principles of disciplinary and grievance procedures – 2011

	Discipline	Individual grievances
	%	%
All three, all of the time	82	46
All three, but not all of the time	11	36
One or two, all or some of the time	5	16
None of the principles	2	2

Source: WERS2011 MEQ; Results weighted by establishment; N = 2,654 (2011). Totals do not sum to 100% due to rounding.

Table 2 provides details of responses in relation to each of the three principles for disciplinary and grievance procedures respectively. Again there was a difference in the level of formality between disciplinary and grievance procedures. In 85 per cent of workplaces, the employer was always required to provide written details of any disciplinary allegation, while just 50 per cent of workplaces required employees to submit their grievance in writing all the time. Formal meetings were also more commonly required in respect of disciplinary matters than employee grievances. However, appeals were provided for in 96 per cent of workplaces in response to both disciplinary and grievance decisions.

Table 2 – Key principles of disciplinary and grievance procedures

	Discipline			Individual grievances		
	<i>Always</i>	<i>Some of the time</i>	<i>Never</i>	<i>Always</i>	<i>Some of the time</i>	<i>Never</i>
	%	%	%	%	%	%
Issue required to be set out in writing	85	10	5	50	33	17
Formal meeting	87	9	4	69	25	7
Employees have a right to appeal	96	0	4	96	0	5

Source WERS2011 MEQ; Results weighted by establishment; N=at least 2664. Totals do not sum to 100% due to rounding.

The difference in the extent to which the three principles are applied in respect of disciplinary and grievance procedures suggests that employers are often prepared to accept and address grievances that are not submitted in writing, which reflects the greater scope for negotiation and flexibility in grievance handling (Saundry and Wibberley, 2014).

Another core element of procedural arrangements in Britain is the statutory right, enshrined in the Employment Relations Act 1999, for employers to be accompanied by either a work colleague or trade union representative at disciplinary or grievance hearings. The right to be accompanied applies to all workers irrespective of union membership or union recognition. Overall all workplaces allowed accompaniment of some kind at disciplinary meetings while only one per cent of workplaces did not allow employees to have a companion at formal meetings to

discuss individual grievances. However, the precise nature of accompaniment varied (Table 3). Around one in three workplaces allowed anyone chosen by the employee and around one in ten were prepared to allow legal representatives to accompany employees. Furthermore, approximately one in five workplaces allowed accompaniment from friends or family members. According to statute, all workplaces should allow accompaniment by a work colleague, however, only two-thirds of respondents did so. Similarly, just four in ten respondents said that 'employees were allowed' to be accompanied by a trade union representative and about one-fifth reported that accompaniment by a full time union official was permitted.

Table 3 – Type of companion allowed at grievance and disciplinary hearings

Type of companion allowed	Disciplinary meeting	Grievance meeting
	%	%
Friend or family member	20	23
Trade union representative/shop steward	41	42
Full-time union official	20	19
Other employee representative	26	29
Work colleague	63	66
Supervisor/ line manager/ foreman	21	25
Solicitor or other legal representative	9	11
Someone else	4	4
Anyone they choose	34	31
No accompaniment allowed	0	1
Total	236	251

Source: WERS2011 MEQ; Results weighted by establishment; N=2595

3.2 The changing nature of workplace disputes procedures

Just as the presence of written procedures has continued to spread in British workplaces since WERS2004, analysis of panel data confirmed that the application of disciplinary procedure has become more consistent (Table 4). There has been a significant tightening of procedure, with 83 per cent of workplaces applying all three key principles enshrined in the Acas Code in all disciplinary cases. In respect of employee grievances, there was an increase in the proportion of workplaces applying all three principles some of the time and a sharp decrease in the proportion of those applying 'one or two'. Thus, while grievances were handled more flexibly, the direction of travel is towards a more uniform application of the Acas Code.

Table 4 – Adherence to key principles of disciplinary and grievance procedures, 2004–2011

	Discipline		Individual grievances	
	2004	2011	2004	2011
	%	%	%	%
All three, all of the time	73	81*	42	44
All three, but not all of the time	14	11	28	38*
One or two, all or some of the time	13	6*	28	15*
None of the principles	0	2*	2	3

Source: WERS 2004/2011 Panel; Results weighted by establishment; N = 977; * – significant at 5% level

There was also evidence that the gap between those workplaces which traditionally had robust procedures and others with less institutionalised approaches to industrial relations was narrowing. This might suggest that the driving force behind increased adherence is external legal factors as opposed to structural and workplace level factors. Procedural adherence increased between 2004 and 2011 in a higher proportion of smaller workplaces (22 per cent of workplaces with 49 employees or less) compared to 15 per cent of those with between 50 and 249 employees, 5 per cent of those with between 250 and 999 employees and 10 per cent of those with 1000 employees or more.

In addition, as Table 5 shows, adherence to the three key principles when dealing with disciplinary matters increased in a larger proportion of both private and non-unionised workplaces. For example, 23 per cent of non-unionised workplaces increased the application of the key elements of disciplinary processes as opposed to just 10 per cent of unionised workplaces.

Table 5 – Increase in adherence to all three key principles by sector and union recognition, 2004–2011

	Increased adherence	
	Discipline	Individual grievances
	%	%
Public	16	29
Private	22	20
Union recognised	14*	26
Not recognised	23*	20

Source: WERS 2004/2011 Panel; Results weighted by establishment; N=at least 989; * significant at the 5% level

It might be expected that increased adherence could be driven by experience of conflict – for example workplaces experiencing high levels of conflict or employment litigation could respond by introducing or tightening procedures. However, analysis of panel data showed no evidence of this. Notably, the pattern of change of the rate of disciplinary sanctions and dismissals was virtually identical for those workplaces that applied greater formality and those that did not.

3.3 The relationship between size, sector and unionisation on disciplinary and grievance procedures

A major theme within the Gibbons report was the discomfort felt by managers in smaller organisations over putting disciplinary and grievance matters in writing, and their more general preference for informality. Therefore, we might expect size to be a major factor in explaining the presence of procedures and adherence to the three key principles of disciplinary and grievance handling. Table 6 shows that formal disciplinary and grievance procedures were indeed less likely to be found in smaller workplaces and particularly in those with fewer than ten employees.

Table 6 – Workplace size and presence of procedure

Workplace size	Discipline	Individual Grievances
	%	%
5–9 employees	82	82
10–19 employees	92	90
20–49 employees	96	97
50–99 employees	98	100
100–499 employees	100	100
500 or more	100	100

Source: WERS2011 MEQ; results weighted by establishment; N = at least 2,677.

Moreover, in very small organisations, procedures were less likely to be present than in larger organisations. In fact, one third of organisations with 5–9 employees did not have a written grievance procedure and 31 per cent did not have a written disciplinary procedure. However, procedural presence increased substantially with the size of organisation: only 11 and 12 per cent of organisations with 10–49 employees did not possess written disciplinary and grievance procedures respectively (Table 7).

Table 7 – Organisational size and presence of procedure

Organisational size	Discipline and dismissal	Individual grievances
No. employees	%	%
5–9	69	67

10–49	89	88
50–249	98	96
250–499	100	100
500–999	100	98
1,000–9,999	99	100
10,000 and over	100	100

Source: WERS2011 MEQ; results weighted by establishment; N = 2547.

The extent of adherence to the three key principles of the Acas Code of Practice also varied with workplace size. The proportion of workplaces applying all three principles all of the time increased with the number of employees for both disciplinary and grievance procedures (Table 8).

Table 8 – Adherence to all key principles of disciplinary and grievance procedures by workplace size

Workplace size	Discipline	Individual grievances
<i>No. employees</i>	%	%
5–9	76	43
10–19	81	44
20–49	90	53
50–99	94	60
100–499	97	60
500+	97	68

Source: WERS2011 MEQ; results weighted by establishment; N=at least 2660.

Organisational size was again influential in shaping the application of procedure. In particular, the extent to which procedure was regularly used in very small organisations was relatively low (Table 9).

Table 9 – Adherence to all key principles of disciplinary and grievance procedures – by organisational size

Organisational size	Discipline	Individual grievances
<i>No. employees</i>	%	%
5–9	65	30
10–49	80	44
50–249	86	45
250–499	86	68
500–999	98	45
1,000–9,999	91	56
10,000 and over	95	68

Source: WERS2011 MQ, results are weighted by establishment; N=at least 2533.

For example, in around two-thirds of organisations with between five and nine employees, all three principles of the code of practice were always applied when dealing with disciplinary issues, while only 30 per cent always applied these principles when managing formal grievances; in contrast, 95 percent and 68 percent of organisations employing 10,000 employees and over always adhered to the three principles in respect of discipline and individual grievances respectively.

Written procedures were more likely to be found in the public than the private sector. In the private sector, disciplinary and grievance procedures were present within 88 per cent and 87 per cent of workplaces respectively, while coverage was almost universal within the public sector. However, there was greater diversity between industrial sectors. Procedural coverage was extensive in public administration and sectors either dominated by the public sector (health and education) or that were previously within the public sector (electricity, gas and water). In contrast, only around three-quarters of workplaces in construction and hotels and restaurants had written procedures (Table 10).

Table 10 – Presence of written procedures by industrial sector

	Discipline		Individual grievances	
	Yes	No	Yes	No
	%	%	%	%
Manufacturing	85	15	84	16
Electricity, gas and water	100	0	100	0
Construction	74	26	75	25
Wholesale and retail	88	12	86	14
Hotels and restaurants	79	21	75	25
Transport and communication	99	1	94	6
Financial services	100	0	100	0
Other business services	90	10	93	7
Public administration	100	0	100	0
Education	97	3	97	3
Health	96	4	96	4
Other community services	89	11	90	10

Source: WERS2011 MEQ; results weighted by establishment; N=at least 2,674.

There was greater adherence to the three key principles of the Acas Code of Practice in the public than the private sector. Some 92 per cent of public sector workplaces applied the three principles all of the time when handling disciplinary matters compared to 80 per cent of private sector establishments. Adherence to grievance procedures was generally lower: 63 per cent of public sector workplaces applying all three principles all of the time compared to just 45 per cent in the private sector (Table 11).

Table 11 – Adherence to all three key principles of disciplinary and grievance procedures by sector and industry

	Discipline	Individual grievances
	%	%
Public sector	92	63
Private sector	80	45
Manufacturing	74	31
Electricity, gas and water	100	59
Construction	74	36
Wholesale and retail	83	47
Hotels and restaurants	67	40
Transport and communication	84	55
Financial services	91	67
Other business services	81	47
Public administration	96	66
Education	94	53
Health	89	55
Other community services	81	49

Source: WERS2011 MEQ, results are weighted by establishment N=at least 2657.

In relation to industrial sector, the application of grievance procedures was less uniform, particularly in manufacturing, construction and hotels and restaurants, in which all three principles were applied all the time in 31, 36 and 40 per cent of workplaces respectively. There was less variation in respect of adherence to the three principles when managing disciplinary issues, which may reflect concerns over the potential for unfair dismissal claims. These sectoral variations could be explained by differences in the extent of unionisation. Indeed, there was a strong relationship between union recognition and the presence of written disciplinary and grievance procedures. In fact, procedures were near universal within unionised workplaces. In contrast, in those with no recognition, just over 10 per cent did not have such procedures.

There was also greater adherence to the three key principles within the Acas Code of Practice in unionised workplaces. For example, 42 per cent of non-unionised workplaces applied the three key principles when responding to employee grievances all of the time compared with 63 per

cent in unionised workplaces. Application of the principles in disciplinary procedures was more extensive; nonetheless almost one-quarter of workplaces in which unions were not recognised did not routinely apply all three key principles when handling a disciplinary issue.

3.4 Multi-variate exploration of the key factors shaping the nature and extent of disciplinary and grievance procedure

Having examined bi-variate relationships, we conducted a series of ordered logit regressions in order to assess the unique relationship between the factors discussed above and the existence of disciplinary and grievance procedures and the application of key principles. For example, two of the independent variables, workplace size and union recognition, are known to be related, so through regression analysis we were able to establish whether one was more significant than the other.

In relation to the existence of written procedures, our analysis revealed a number of key factors (Table 12)¹. First, organisational size was uniquely and positively associated with the existence of both disciplinary and grievance procedures. Procedures were most likely to exist in organisations with 500–999 employees and least likely to be found in micro organisations with 5–9 employees. Second, industrial sector was significant. Both disciplinary and grievance procedures were least likely to be found in hotels and restaurants. In addition, wholesale and retailing workplaces were less likely to have grievance procedures while workplaces within the transport and communication industry were disproportionately more likely to have written disciplinary procedures. Third, the presence of an HR professional was positively associated with the existence of both disciplinary and grievance procedures. Disciplinary and grievance procedures were not more likely in workplaces where unions were recognized when we controlled for size and industry. Their disproportional use in unionized workplaces can therefore be explained by their association with size and industrial sector.

Organisational size was also the factor that was most associated with the extent to which the three key principles of both disciplinary and grievance handling were applied in British workplaces as measured by two indices of adherence, one each for discipline and grievance (Table 13). Both are constructed as the sum of three elements: a requirement to set out issues in writing; attending a meeting; and the right to appeal. The last is binary (0=no, 1=yes), while the first two take the values 0=no, 1=yes, sometimes, and 2=yes, always. The sum of each index thus varies from 0–5, with higher values indicating greater compliance (see Appendix 2).

The three key principles were less likely to be applied in public sector workplaces when dealing with disciplinary matters, although more likely to be applied in education and health than elsewhere. The strongest sectoral predictor was whether the workplace was in one of the privatised utilities (electricity, gas and water). Similarly, adherence to the three principles when handling employee grievances was more likely in workplaces in education, health, and other community services.

¹ Note that the near ubiquitous nature of (especially disciplinary) procedures led to the problem of quasi-complete separation, in which the limited variation in the dependent variable means it may be almost perfectly predicted by some (combination of) the independent variables. Stata drops problematic variables, while the maximum likelihood estimates for the remaining coefficients are valid and can still be recovered.

Table 12 – Ordered logit regression of existence of written disciplinary and grievance procedures

	Discipline and dismissals	Individual grievances
<i>Organisational size (Ref: 5–9 employees)</i>		
10–49 employees	1.215*** (0.301)	1.360*** (0.300)
50–249 employees	2.370*** (0.775)	1.727*** (0.574)
250–499 employees	0 (omitted)	0 (omitted)
500–999 employees	5.582*** (1.130)	1.755 (1.082)
1000–9999 employees	3.306*** (0.485)	0 (omitted)
10000+ employees	2.783** (1.101)	5.706*** (1.122)
<i>Public sector</i>	0 (omitted)	2.289* (1.246)
<i>Industrial sector (Ref: Manufacturing)</i>		
Elec., gas, water	0 (omitted)	0 (omitted)
Construction	-0.440 (0.641)	-0.207 (0.687)
Wholesale/retail	-0.637 (0.523)	-0.932* (0.483)
Hotels/restaurants	-1.130** (0.530)	-1.484*** (0.511)
Transport and communications	3.061*** (1.156)	0.656 (0.826)
Financial services	0 (omitted)	0 (omitted)
Business services	0.164 (0.566)	0.630 (0.546)
Public administration	0 (omitted)	0 (omitted)
Education	0.809 (1.048)	1.021 (1.052)
Health	0.617 (0.686)	0.718 (0.680)
Other community services	0.130 (0.583)	0.442 (0.587)
Union recognition	0.671 (1.034)	0.424 (0.804)
Impact of recession	-0.369 (0.304)	-0.659** (0.297)
Presence of HR practitioner	1.940** (0.776)	1.974** (0.806)
Multi-site organisation	0.664 (0.432)	1.122*** (0.413)
Constant	0.975 (0.444)	0.918** (0.423)
Weighted observations	1569	1474

Source: WERS2011 MQ, results are weighted by establishment. Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Table 13 – Ordered logit regressions of index of procedural adherence in respect of disciplinary and grievance procedures

	Adherence to three principles – Discipline	Adherence to three principles – Grievance
<i>Organisational size (Ref: 5–9 employees)</i>		
10–49 employees	0.841*** (0.273)	0.777*** (0.233)
50–249 employees	1.060** (0.424)	0.961*** (0.288)
250–499 employees	0.859 (0.570)	1.788*** (0.434)
500–999 employees	2.875*** (0.855)	0.523 (0.373)
1000–9999 employees	1.480*** (0.475)	1.413*** (0.331)
10000+ employees	2.418*** (0.579)	1.731*** (0.352)
<i>Public sector</i>	-0.980** (0.420)	-0.361 (0.293)
<i>Industrial sector (Ref: Manufacturing)</i>		
Elec., gas, water	3.000*** (1.129)	0.358 (0.635)
Construction	0.007 (0.509)	0.203 (0.425)
Wholesale/retail	0.166 (0.433)	0.115 (0.281)
Hotels/restaurants	-0.826* (0.433)	-0.208 (0.378)
Transport and communications	0.124 (0.556)	0.450 (0.382)
Financial services	0.719 (1.305)	0.904 (0.785)
Business services	0.283 (0.428)	0.532* (0.287)
Public administration	1.555 (0.981)	0.625 (0.529)
Education	1.797** (0.788)	0.936*** (0.310)
Health	0.793* (0.453)	0.972*** (0.274)
Other community services	0.452 (0.442)	0.903*** (0.291)
Union recognition	0.840*** (0.319)	0.133 (0.244)
Impact of recession	-0.220 (0.225)	-0.090 (0.145)
Presence of HR practitioner	1.094*** (0.387)	0.241 (0.184)
Multi-site organisation	0.112 (0.317)	0.166 (0.212)
Weighted observations	2507	2503

Source: WERS2011 MQ, results are weighted by establishment. Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Trade union recognition and the presence of an HR practitioner were positively associated with the extent to which workplaces adhered to the three key principles of the Acas Code in relation to disciplinary matters, but were not influential in shaping the extent to which the three key principles were applied in individual grievances. This suggests that both unions and HR

practitioners play a role in ensuring consistency and legal compliance particularly in relation to issues that may give rise to unfair dismissal claims (Jones and Saundry, 2012; Saundry, et al., 2011).

3.5 Summary

Overall, the analysis points to a continued diffusion of written procedures and a greater use of the three main principles of disciplinary and grievance handling first mandated by the 2004 Dispute Resolution Regulations and more recently contained in the revised Acas Code of Practice. Moreover, there was some evidence that the recent adoption of written procedures and increased adherence to key principles centred on smaller and non-unionised workplaces. To this extent, there was evidence of procedures becoming more uniform and coalescing around the core principles of the Acas Code of Practice. It is notable that this had taken place against a backdrop of a regulatory environment which aimed to provide employers with greater flexibility and encouraged less formal approaches to dispute resolution. However, there was still a gap between large and small workplaces. Both the presence of procedure and adherence to the three key principles were significantly influenced by workplace and organisation size. There was also evidence that where procedures were in place, union recognition and HR expertise were positively associated with compliance with the Acas Code of Practice in managing disciplinary issues.

4. The Introduction and Use of Mediation in British Workplaces

In the wake of the Gibbons Review (2007) there has been increased emphasis on the introduction and extension of workplace mediation into British workplaces. WERS2011 provides the first robust indication of the degree to which mediation has become a significant part of the employment relations landscape. This section examines the extent to which mediation was provided for in written disciplinary and grievance procedures and also used to resolve individual employment disputes. It also assesses the key factors that influence its take-up.

4.1 The Extent of Workplace Mediation

In order to assess the nature and extent of workplace mediation we drew on data from three questions. The first asked whether there was provision for impartial third party mediation in any disciplinary procedure; the second if there was such provision in the grievance procedure; and the third asked whether mediation by such a third party had been used in the workplace for either an individual grievance or a disciplinary matter.

Respondents reported that mediation by an impartial third party was provided for within almost two-thirds (62 per cent) of workplaces with written disciplinary and grievance procedures. However, its use was not as extensive: just 7 per cent of all workplaces recorded having used it in the last 12 months to resolve a dispute. However, in workplaces that had experienced employee grievances (i.e. issues potentially amenable to mediation) 17 per cent had turned to mediation while 14 per cent of workplaces that had dealt with disciplinary cases had used mediation. Mediation was more likely to be used in workplaces with written procedures and also where those procedures adhered to the three key principles set out in the Acas Code of Practice. Although mediation use was not conditional on its inclusion within written disputes procedures, it was more likely to be used in workplaces in which this was the case (11 per cent) compared with those in which mediation was not provided for (3 per cent).

4.2 Workplace and Organisational Size and Mediation

Past research (see Latreille, 2011; Latreille, et al., 2012; Saundry and Dix, 2014; CIPD, 2004, 2007, 2011) has suggested that mediation is largely the preserve of larger organisations. However, bi-variate analysis of WERS2011 showed that there was no relationship between either workplace or organisational size and the inclusion of mediation in discipline or grievance procedures.

As might be expected, there was however, a statistically significant relationship with workplace size and use of mediation. While usage in workplaces with fewer than 50 employees was in single figures, this increased to 14 per cent where 50–99 were employed, 24 per cent in

workplaces with between 100 and 499 employees and 42 per cent where 500 or more were employed (Table 14). Larger workplaces may have more issues for which mediation may be relevant.

Table 14 – Use of third party mediation to resolve grievance or disciplinary matters by workplace size

	Number of employees					
		10–19	20–49	50–99	100–499	500+
	%	%	%	%	%	%
Yes	6	4	7	14	24	42
No	94	96	93	86	76	58

Source: WERS2011 MEQ, results are weighted by establishment; N=2657

However, there was no clear relationship with organisational size. Six per cent of micro organisations (with 5–9 employees) had used mediation as had 10 per cent of organisations employing more than 500 employees (Table 15).

Table 15 – Use of third party mediation to resolve grievance or disciplinary matters by organisational size

	Number of employees						
		10–49	50–249	250–499	500–999	1,000–9,999	10,000+
	%	%	%	%	%	%	%
Yes	6	4	9	5	10	10	10
No	94	96	91	95	90	90	90

Source: WERS2011 MEQ, results are weighted by establishment; N=2529.

4.3 Sector and Workplace Mediation

While our analysis found that public sector workplaces were more likely to include mediation in their procedures than their private sector counterparts (see also Latreille, 2011; Saundry, et al., 2014), this was not reflected in whether mediation was used.

Table 16 –Workplace mediation by sector and industry

Sector	Is mediation provided for in the:				Use of mediation in last 12 months
	Disciplinary procedure		Grievance procedure		
	Yes	No	Yes	No	
	%	%	%	%	%
Public sector	78	22	86	14	8
Private sector	60	40	59	41	7
Manufacturing	53	47	41	59	3
Electricity, gas and water	62	38	46	54	3
Construction	58	42	66	34	14
Wholesale and retail	58	42	61	39	8
Hotels and restaurants	69	31	73	27	9
Transport and communication	58	42	61	39	7
Financial services	38	62	37	63	4
Other business services	54	46	47	53	4
Public administration	75	25	92	8	12
Education	82	18	82	18	10
Health	73	27	77	23	6
Other community services	75	25	75	25	8

Source: WERS2011 MEQ, results are weighted by establishment; N=at least 2499.

More than three-quarters of disciplinary procedures and 86 per cent of grievance procedures in the public sector provided for third party mediation; this compared with 60 per cent and 59 per cent respectively in the private sector (Table 16). In contrast, we found no difference between

the proportions of workplaces that used mediation between the public and private sector. Nonetheless, if mediation took place in the public sector, it was more likely to be conducted by internal mediators, which perhaps reflects the greater in-house expertise in mediation within the public sector. Significant differences in mediation use and the provision of mediation in written procedures between industrial sectors were found. Mediation was more likely to be provided for in procedures within the public services such as education, public administration and health. For example, mediation was included in grievance procedures of 92 per cent of workplaces in public administration compared to just 41 per cent in manufacturing. Mediation was more likely to be used in construction, education and public administration.

4.4 Mediation and representation

Mediation was also more likely to be included in procedures in unionised workplaces than in those in which unions were not recognised. In three-quarters of unionised workplaces, mediation was included in grievance procedures compared to 58 per cent in workplaces where unions were not recognised. A similar differential existed in the case of disciplinary procedures: in 70 per cent of unionised workplaces, mediation was included in disciplinary procedures compared to 60 per cent in workplaces in which unions were not recognised. In contrast, the use of mediation was not significantly different between unionised and non-unionised workplaces (Table 17).

Table 17 – Use of third party mediation to resolve grievance or disciplinary matters

	All	Recognised unions	No unions recognised
	%	%	%
Yes	7	9	7
No	93	91	93

Source: WERS2011 MEQ, results are weighted by establishment; N=at least 2656.

4.5 Shaping the provision of mediation

In order to disentangle the effect on mediation of the factors discussed above, logit regression models were constructed. The first two of these examined the provision of mediation in workplace disputes procedures (Table 18). This analysis confirmed that the provision of mediation in workplace procedures was not associated with workplace or organisational size, contrary to what might be expected given other research to date. However, there was evidence that some public sector workplaces such as those in education and health were more likely to provide for mediation in disciplinary and grievance procedures, while mediation was more likely to be found in grievance procedures in public administration and 'other community services'. In the private sector, whether workplaces were in construction, hotels and restaurants and wholesaling and retailing was positively related to the provision of mediation in grievance procedures. Multi-site organisations were also more likely to include third party mediation in their grievance procedures.

There was also a positive relationship between adherence to the three principles within the Acas Code of Practice and the inclusion of mediation. This may suggest that mediation is seen as part of, rather than an alternative to, the procedural framework of workplace dispute resolution. Curiously, having a specialist HR manager also reduced the likelihood that mediation was incorporated into procedures (although the association was weak in terms of grievance procedures).

Table 18 – Logit regression of the provision of mediation in written disciplinary and grievance procedures

	Provision of mediation in disciplinary procedures	Provision of mediation in grievance procedures
<i>Organisational size (Ref: 5–9 employees)</i>		
10–49 employees	-0.365 (0.290)	-0.315 (0.291)
50–249 employees	-(0.438) (0.358)	0.088 (0.358)
250–499 employees	-0.053 (0.473)	0.321 (0.487)
500–999 employees	0.080 (0.488)	0.557 (0.506)
1000–9999 employees	-(0.383) (0.412)	0.164 (0.410)
10000+ employees	0.142 (0.430)	0.653 (0.435)
<i>Public sector</i>	0.269 (0.320)	0.535 (0.331)
<i>Industrial sector (Ref: Manufacturing)</i>		
Electricity, gas, water	0.394 (0.584)	0.016 (0.614)
Construction	0.375 (0.437)	0.903** (0.450)
Wholesale/retail	0.318 (0.340)	0.827** (0.355)
Hotels/restaurants	0.771** (0.378)	1.446*** (0.403)
Transport and communications	-0.204 (0.429)	0.070 (0.464)
Financial services	0.081 (0.606)	0.331 (0.637)
Business services	0.061 (0.329)	0.204 (0.351)
Public administration	0.366 (0.523)	1.795*** (0.526)
Education	1.034** (0.441)	1.331*** (0.444)
Health	0.746** (0.343)	1.319*** (0.362)
Other community services	0.849** (0.363)	1.223*** (0.379)
Union recognition	0.351 (0.251)	0.368 (0.250)
Impact of recession	-0.040 (0.167)	0.156 (0.172)
Always adhere to key principles (Discipline and Grievance)	0.455*** (0.167)	0.546*** (0.172)
Presence of HR practitioner	-0.476** (0.209)	-0.365* (0.211)
Multi-site organisation	-0.392 (0.258)	-0.567** (0.250)
Constant	0.389 (0.367)	-0.353 (0.404)
Weighted observations	2,377	2366

Source: WERS2011 MQ, Results are weighted by establishment; Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Table 19 – Logit Regression of the Use of Mediation

	Use of mediation
<i>Workplace size (Ref: 5–9 employees)</i>	
10–19 employees	-0.768 (0.469)
20–49 employees	-0.052 (0.420)
50–99 employees	0.604 (0.443)
100–499 employees	1.612*** (0.389)
500+ employees	2.801*** (0.434)
<i>Public sector</i>	-0.302 (0.415)
<i>Industrial sector (Ref: Manufacturing)</i>	
Electricity, gas, water	-1.254* (0.716)
Construction	1.768** (0.752)
Wholesale/retail	0.377 (0.579)
Hotels/restaurants	0.599 (0.733)
Transport and communications	0.549 (0.694)
Financial services	-0.097 (1.136)
Business services	0.056 (0.712)
Public administration	0.699 (0.688)
Education	0.764 (0.824)
Health	0.096 (0.703)
Other community services	0.107 (0.704)
Union recognition	-0.036 (0.322)
Impact of recession	0.422 (0.283)
Proportion of women employees	0.002 (0.007)
Proportion of ethnic minority employees	-0.000 (0.014)
Proportion of employees – 22–49 years of age	-0.026*** (0.008)
Proportion of employees – 50+ years of age	-0.024 (0.015)
Proportion of professional employees	-0.001 (0.007)
Presence of HR practitioner	-0.458 (0.337)
Multi-site organisation	0.234 (0.321)
Always adhere to key principles (Discipline and Grievance)	-0.095 (0.321)
Provision of mediation (Discipline or Grievance)	1.657*** (0.371)
Constant	-2.246 (1.101)
Weighted observations	2,288

Source: WERS2011 MQ, Results are weighted by establishment; Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Factors affecting variations in the use of mediation were somewhat different from those affecting its inclusion in procedures (Table 19). Sector was unimportant in predicting whether mediation had been used in the previous 12 months when other factors were controlled for. However, mediation use was positively associated with workplace size. Compared with workplaces with between 5 and 9 employees, marginal effects reveal the largest workplaces were 39 percentage points more likely to have used mediation, while those with 100–499 employees were 14 percentage points more likely to have done so. In addition, there was a positive relationship between mediation use and its inclusion in disciplinary and grievance procedures but no relationship with adherence to the Acas code.

It might be expected that organisations use mediation or include it within their procedures in response to one or more experiences of conflict. In order to investigate this we examined the WERS panel data (Table 20). First, we looked at workplaces that had experienced an ET claim in 2011. Almost half of all such workplaces (48%) went on to use mediation compared to just 7% which had not been subject to litigation. Second, we looked at workplaces that had a higher rate of disciplinary sanctions in 2011 compared with 2004. This difference was also significant. More than one in five workplaces that had experienced an increase in disciplinary action had used mediation compared to 5 per cent in which there had been no change or the incidence of disciplinary sanctions had fallen. In contrast, there was no significant relationship between these variables and whether mediation was included in the workplace’s disciplinary procedures. Overall our results suggest that the experience of conflict within a workplace will shape the use of mediation but that the development of procedures may be driven by other factors.

Table 20 – Mediation and workplace conflict

	Use of mediation	Inclusion of mediation in disciplinary procedure
	%	%
ET claim in 2011	48*	52
No ET claim in 2011	7*	62
Increase in rate of disciplinary sanctions (2004–11)	21*	55
No increase in rate of disciplinary sanctions (2004–11)	4*	64

Source: WERS 2004/2011 Panel; Results weighted by establishment; N=at least 937; * denotes significant at 5% level

4.6 Summary

Mediation by an impartial third party was used by just 7 per cent of workplaces responding to WERS2011. But closer inspection suggests that it has become a significant part of workplace dispute resolution regimes, being used in almost one in five workplaces which experienced a formal individual grievance. Moreover, mediation was provided for within written disputes procedures in around two-thirds of workplaces. While organisational size does not appear to affect the likelihood of mediation being provided for within disciplinary and grievance procedures, workplace size is positively related to mediation use, which is consistent with the research to date (Latreille, 2011; Saundry, et al., 2014). The evidence suggests that the use of mediation may be triggered as a response to rising levels of conflict and the experience of litigation.

5. Procedure, Process and the Incidence of Individual Employment Disputes

This section examines the relationship between procedures and four measures of individual employment disputes – employee grievances, disciplinary action, dismissals, ET applications – and employee outcomes. First, we report the nature and extent of these disputes. Second, we examine their link to disciplinary procedures, grievance procedures and mediation. Third, we explore the relationships between procedures and process and employee attitudes in relation to fairness, employment relations and organisational commitment. Finally, we present a series of regression models that assess the influence of workplace characteristics, workforce composition, procedural existence and adherence and the impact of recession on these outcomes.

5.1 The causes of individual employment disputes

According to WERS2011, unfair treatment or relations with a line manager or supervisor was the most commonly cited trigger for employee grievances (39 per cent of respondents) followed by pay, terms and conditions (28 per cent) and bullying and harassment (23 per cent) (Table 21). Unfair treatment/relations with a line manager or supervisor and bullying were more prevalent in the public than the private sector (52 per cent compared with 36 per cent).

Table 21 – Reasons for employee grievances

Reasons for employee grievances	All	Public	Private
	%	%	%
Unfair treatment, relations with line managers or supervisor	39	52	36
Pay, terms and conditions	28	23	29
Bullying at work and harassment (including from colleagues,	23	39	20
Promotion, job grading and career development	16	19	15
Working time	15	13	16
Physical working conditions, health and safety	10	11	9
Selection for redundancy	9	7	10
Some other grievance	9	9	10
Discrimination	6	10	6
Total	155	182	151

Source: WERS2011 MQ, Results are weighted by establishment; N=1540.

In relation to disciplinary action, the most commonly used sanction was a formal verbal warning (65 per cent) followed by a formal written warning (62 per cent), while 46 per cent of workplaces taking disciplinary action reported having dismissed an employee. There was little difference in the extent to which warnings were used in the private and public sectors although the use of dismissal was more widespread in the private sector (47 per cent of workplaces compared with 35 per cent in the public sector).

The most frequent reason for disciplinary action was poor performance, followed by timekeeping and absence (Table 22). The proportion of workplaces where these were cited was greater in the private than the public sector, whereas abusive or violent behaviour, bullying or harassment were more frequently cited as a reason in the public sector.

Table 22 – Reason for disciplinary sanctions in the previous 12 months – all and by sector

	All	Private	Public
	%	%	%
Poor performance	58	59	43
Poor timekeeping or unauthorised absence	44	46	29
Personal use of premises or equipment, theft or dishonesty	22	22	20
Abusive or violent behaviour, bullying or harassment	19	18	28
Disobedience	16	16	18
Health and safety breaches	13	13	13
Alcohol or drug use	7	7	0
Other	15	13	35

Source: WERS2011 MQ, Results are weighted by establishment; N=1752.

5.2 The nature and extent of individual workplaces disputes

Mean rates of individual grievances, disciplinary sanctions, dismissals and ER applications broken down by sector and union recognition are shown in Table 23. Rates of individual grievances and ET applications were relatively stable across different workplaces. However, rates of disciplinary sanctions and dismissals were markedly higher in private sector workplaces. In addition, there was some indication of unionisation acting as a moderating influence but only in relation to disciplinary issues.

Table 23 – Rate of grievances, disciplinary sanctions, dismissals and ET applications per 100 employees and by sector and representation

	Individual grievances	Disciplinary sanctions	Dismissals	ET applications
	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>
All workplaces	1.35	6.23	1.54	0.19
Private sector	1.34	6.84*	1.73*	0.19
Public sector	1.47	2.29*	0.35*	0.18
Union recognised	1.39	3.81*	1.19	0.20
Union not recognised	1.35	6.77*	1.62	0.19

Base: all workplaces with five or more employees; N = at least 2188; * – significant at the 5% level

The importance of industrial sector is further examined in Table 24. Mean rates of disciplinary sanctions and dismissals were found to be highest in construction, wholesale and retail, and in hotels and restaurants. The construction sector also had the highest rates of ET applications (by a considerable margin) at 1.76 per 100 employees compared with the next highest 'other community services' (0.43 per 100 employees). Rates of individual grievances were highest in 'other community services' (3.13), followed by hotels and restaurants (1.84) and health (1.74).

Table 24 – Rate of grievances, disciplinary sanctions, dismissals and ET applications per 100 employees by industrial sector

	Individual grievances	Disciplinary sanctions	Dismissals	ET applications
	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>
Manufacturing	0.43	6.25	1.75	0.06
Electricity, gas and water	0.53	1.91	0.51	0.04
Construction	1.18	8.88	2.18	1.79
Wholesale and retail	1.15	8.39	2.39	0.06
Hotels and restaurants	1.84	11.48	2.16	0.36
Transport and communication	2.00	6.30	1.06	0.06
Financial services	0.43	4.89	0.56	0.20
Other business services	0.68	3.36	1.17	0.05
Public administration	1.22	2.09	0.42	0.10
Education	1.33	2.99	0.45	0.22
Health	1.74	4.09	0.95	0.07
Other community services	3.13	6.72	0.87	0.43

Base: all workplaces with five or more employees; N = 2185.

Smaller workplaces had lower levels of individual grievances but higher average rates of disciplinary sanctions (Table 25). Workplaces with more than 500 employees levied sanctions against almost 3 employees per 100 while those with 5–9 employees took sanctions against 6 employees per 100. The largest workplaces also had the lowest mean rate of dismissals (1.05) while the smallest workplaces had the highest rate (1.72), a statistically significant difference. There was no association between workplace size and the rate of ET applications.

In the case of organisational size, the smallest organisations with 5–9 employees had the highest rate of disciplinary sanctions (7.06) and of ET applications (0.49). The lowest rates of disciplinary sanctions (2.72), dismissals (0.90) and ET applications (0.02) were found in organisations employing between 250 and 499 people, a statistically significant difference from other size bands (Table 26).

Table 25 – Rate of grievances, disciplinary sanctions, dismissals and ET applications per 100 employees by workplace size

Workplace size	Individual grievances	Disciplinary sanctions	Dismissals	ET applications
<i>No. employees</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>
5–9	1.28	6.06	1.72	0.22
10–19	1.35	6.56	1.34	0.14
20–49	1.27	6.94	1.45	0.18
50–99	1.87	5.62	1.64	0.26
100–499	1.56	5.08	1.37	0.24
500+	1.63	2.79	1.05	0.19

Source: WERS2011 MQ, Results are weighted by establishment; N=2188.

Table 26 – Rate of grievances, disciplinary sanctions, dismissals and ET applications per 100 employees by organisational size

Organisational size	Individual grievances	Disciplinary sanctions	Dismissals	ET applications
<i>No. employees</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>	<i>Mean</i>
5–9	1.61	7.06	1.63	0.49
10–49	1.11	6.14	1.31	0.14
50–249	1.86	6.06	1.65	0.21
250–499	1.49	2.72	0.90	0.02
500–999	1.33	4.95	1.63	0.26
1000–9999	1.22	7.04	1.92	0.06
10000+	1.31	6.26	1.65	0.14

Source: WERS2011 MQ, Results are weighted by establishment; N=2085.

Analysis of the panel reflected the broad thrust of existing analysis of WERS that suggests a reduction in the incidence of observable disputes between 2004 and 2011 (van Wanrooy, et al., 2013). Although the rate of ET applications increased from 0.15 to 0.20, this was not statistically significant. In contrast there were significant reductions in the rate of dismissals, from 1.85 to 1.23, and the mean rate of disciplinary sanctions, from 9.16 to 4.73 (Table 27). In contrast, the proportion of workplaces in the panel that experienced formal employee grievances increased from 21 per cent in 2004 to 28 per cent in 2011.

Table 27 – Change in workplace conflict, 2004–2011

Rate per 100 employees	2004	2011
ET Applications	0.15	0.20
Disciplinary Sanctions	9.16	4.73*
Dismissals	1.85	1.23*

Source: WERS 2004/2011 Panel; Results are weighted by establishment; n=at least 874; * significant at the 5% level

5.3 Disputes Procedures, Processes and Outcomes

In this subsection we examine if procedures and processes shape outcomes. Do sound procedures help to avoid dismissals and ET applications? Do mediation processes provide for earlier resolutions without recourse to disciplinary action, employee grievances and thereby avoid the threat of litigation?

We first explore bi-variate relationships between the nature of procedures and process and outcomes (Table 28). The rate of disciplinary sanctions was higher where disciplinary procedures existed and the Acas principles were always adhered to in the case of disciplinary matters. Understandably, the rate was unrelated to the existence of grievance procedures or adherence to Acas principles for grievances. Adherence to Acas principles but not the existence of disciplinary procedures was related to higher rates of dismissals. The direction of causality underlying these relationships is not obvious: it could be that the presence of procedures provided managers with the confidence to take action against employees. Alternatively,

managers within organisations that deal with a larger number of disciplinary issues will be practised in ensuring procedural compliance. The lack of an association between the existence of procedures and dismissals may suggest that procedures may promote the use of sanctions as a way of changing behaviour without resorting to dismissal.

Table 28 – Individual Disputes Procedures, Disciplinary Sanctions and Dismissals

	Disciplinary sanctions	Dismissals
	<i>Mean</i>	<i>Mean</i>
Disciplinary procedure	6.42*	1.58
No disciplinary procedure	2.62*	0.84
Grievance procedure	6.23	1.54
No grievance procedure	4.49	1.24
Always adhere to key principles (Discipline)	6.55*	1.73*
Do not always adhere to key principles (Discipline)	3.98*	0.64*
Always adhere to key principles (Grievance)	6.33	1.63
Do not adhere to key principles (Grievance)	5.92	1.45

Source: WERS2011 MQ, Results are weighted by establishment; N=at least 2301; * – significant at 5% level.

Analysis of the WERS panel suggests that increased adherence to the three principles in the Acas Code of Practice between 2004 and 2011 has had little impact on outcomes and the pattern of change of the rate of disciplinary sanctions and dismissals did not differ between those workplaces that applied greater formality and those that did not (Table 29).

Table 29 – Change in incidence of disputes by increased adherence to key principles

Increase in adherence to key principles	Rate of disciplinary sanctions		Rate of dismissals	
	Increased 2004–11	Reduced 2004–11	Increased 2004–11	Reduced 2004–11
<i>Disciplinary procedures</i>	<i>% of workplaces</i>		<i>% of workplaces</i>	
Yes	21	37	11	13
No	29	36	16	18
<i>Grievance procedures</i>				
Yes	25	41	14	15
No	28	35	15	18

Source: WERS 2004/2011 Panel; Results are weighted by establishment; n=at least 803.

Grievance rates were significantly higher in workplaces with written disciplinary procedures but there was no association with adherence to the three key principles under the Acas Code of Practice (Table 30). Mean rates of ET applications were also unrelated to the existence of written procedures or adherence to the three key principles of the Acas Code of Practice.

The findings show that there is not a strong association between adherence to the key principles and the level of individual grievances and ET applications, but there is between adherence and levels of disciplinary sanctions and dismissals. This suggests that managers pay particular attention to procedural and legal compliance when dismissing workers.

Table 30 – Rate of grievances per 100 employees by disputes procedures

	Mean
Disciplinary procedure	1.39*
No disciplinary procedure	.39*
Grievance procedure	1.36
No grievance procedure	n.a.
Always adhere to key principles (disciplinary)	1.44
Do not always adhere to key principles (disciplinary)	0.94
Always adhere to key principles (grievance)	1.51
Do not adhere to key principles (grievance)	1.23

Source: WERS2011 MQ, Results are weighted by establishment; N=at least 2368; * – significant at 5% level

The findings show that there is not a strong association between adherence to the key principles and the level of individual grievances and ET applications, but there is between adherence and levels of disciplinary sanctions and dismissals. This suggests that managers pay particular attention to procedural and legal compliance when dismissing workers.

5.4 Workplace mediation and the outcomes of disputes

One of the key arguments supporting the extension of workplace mediation is that it facilitates the resolution of conflict that would otherwise escalate into full-blown disputes (Latreille, 2011; Saundry, et al., 2013; Saundry and Wibberley, 2014). However, our analysis found that mediation use was generally associated with higher rates of individual employment disputes.

In the case of disciplinary action, rates of sanctions and dismissals were significantly higher where mediation has been used (Table 31). It could be that mediation is more likely to be employed in high conflict workplaces or it is being used following disciplinary action as a way of repairing employment relationships (Latreille, 2011). But the evidence does not suggest that mediation was being used to deal with disciplinary issues before procedure was enacted, as Gibbons had envisaged.

Table 31 – Workplace Mediation, Disciplinary Sanctions and Dismissals

	Disciplinary sanctions	Dismissals
	Mean	Mean
Have used mediation by a third party	14.74*	2.02*
Have not used mediation	5.39*	1.47*
Provision for mediation by a third party included in disciplinary procedure	6.58	1.42
No provision for mediation in disciplinary procedure	6.32	1.94
Provision for mediation by third party included in grievance procedure	7.00	1.57
No provision for mediation in grievance procedure	5.38	1.63

Source: WERS2011 MQ, Results are weighted by establishment; N=at least 2168; * – significant at 5% level.

Moreover, in workplaces in which mediation had been used to resolve a dispute, the average rate of grievances was more than six times that of workplaces in which mediation had not been used (Table 32). This could reflect the fact that organisations turn to mediation as a response to high levels of grievances. Moreover, the availability of mediation may be part of a climate in which employees feel more able to voice concerns and raise grievances.

Table 32 – Rate of grievance per 100 employees by workplace mediation

	Mean
Have used mediation by a third party	6.67*
Have not used mediation by a third party	0.93*
Provision for mediation by a third party included in disciplinary procedure?	1.34
No provision for mediation in disciplinary procedure	1.51
Provision for mediation by a third party included in grievance procedure?	1.46
No provision for mediation in grievance procedure	1.22

Source: WERS2011 MQ, Results are weighted by establishment; N=at least 2300; * – significant at 5% level.

As Gibbons (2007) argued, mediation may offer a way of resolving disputes and repairing relationships within the workplace and of avoiding the cost and stress of litigation. Nonetheless, the mean rate of ET applications in workplaces that have used mediation was significantly higher than those that have not (Table 33). We cannot know if the ET cases followed mediation, or indeed whether the mediation was used in these cases. But this could suggest that the experience of litigation may have encouraged organisations to turn to mediation. This is consistent with the finding that of those workplaces that had experienced an ET application in the previous 12 months, 48 per cent had used mediation when only 7 per cent of workplaces that had not been subject to an ET claim used mediation.

Table 33 – ET applications by workplace mediation

	Mean
Have used mediation by a third party	1.75*
Have not used mediation by a third party	0.06*
Provision for mediation by a third party included in disciplinary procedure?	0.23
No provision for mediation in disciplinary procedure	0.12
Provision for mediation by a third party included in grievance procedure?	0.25
No provision for mediation in grievance procedure	0.10

Source: WERS2011 MQ, Results are weighted by establishment; N=at least 2419; * – significant at 5%

5.5 Exploring the link between employee attitudes, disputes procedures and use of mediation

A central rationale for the extension of workplace procedures is that they provide a basis for sound employment relations practice and for procedural fairness. Moreover, it has been argued that mediation is associated with positive perceptions of workplace justice (Nesbit, et al., 2012; Saundry, et al., 2014). This section examines bi-variate relationships between the application of grievance and disciplinary procedures and use of mediation and measures of employee's attitudes drawn from the Employee Questionnaire of WERS2011.

Perceptions of fairness were measured by a question that asked employees whether they agreed on a scale of 1=strongly agree to 5=strongly disagree that managers at their workplace 'treat them fairly'; the responses were recoded to produce a scale of 1= strongly disagree and 5=strongly agree. Employment relations climate was measured by asking employees to rate 'relations between managers and employees'. Again a five-point scale was recoded so that 1=very poor and 5=very good. Engagement was measured by a single item which asked employees the extent to which they agreed with the statement 'Using my own initiative I carry out tasks that are not required as part of my job'. Three items were used to capture commitment, again asking the respondents about their level of agreement with statements: 'I share many of the values of my organisation', 'I feel loyal to my organisation', 'I am proud to tell people who I work for'. The same scale was used as in the fairness question and thus recoded so that 1 = strongly disagree to 5 = strongly agree.

Fairness perceptions did not differ between workplaces that adhered to the ACAS principles or used mediation (Table 34). However, adherence to these principles for grievances (but not discipline) and the use of mediation was related to the employment relations climate. Employment relations were more poorly rated in workplaces in which mediation had been used

and key principles were adhered to when handling disciplinary matters and employee grievances.

Table 34 – Fairness and employment relations by adherence to key procedural principles and mediation use

	Fairness	Employment Relations
	<i>Mean values</i>	<i>Mean values</i>
Always adhere to key principles (Discipline and Grievance)	3.61*	3.85*
Do not always adhere to key principles (Discipline and Grievance)	3.73*	4.04*
Have used mediation by a third party	3.58	3.80
Have not used mediation by a third party	3.69	3.97

Source: WERS2011 MQ and EQs; EQ results for each workplace were weighted by employee weight variable and then cross-tabulations were weighted by establishment; N=at least 1905; * significant at the 5% level.

There was also no evidence of any relationship between the use of workplace mediation and engagement and organisational commitment. There was also no significant difference in the extent to which workers felt that they used their own initiative or shared the values of the organisation and procedural adherence. However respondents were more positive in terms of loyalty to, and pride in, their organisation in workplaces which did not fully adhere to the three key principles of the Acas Code (Table 35).

Table 35 –Adherence to key procedural principles and mediation use by engagement and commitment

	Initiative	Values	Loyal	Proud
	<i>Mean values</i>	<i>Mean values</i>	<i>Mean values</i>	<i>Mean values</i>
Always adhere to key principles (Discipline and Grievance)	3.88	3.77	3.98*	3.85*
Do not always adhere to key principles (Discipline and Grievance)	3.88	3.81	4.12*	3.97*
Use of mediation	3.81	3.83	3.98	3.91
Non-use of mediation	3.89	3.80	4.07	3.93

Source: WERS2011 MQ and EQs; EQ results for each workplace were weighted by employee weight variable and then cross-tabulations were weighted by establishment; N=at least 1899; * significant at the 5% level. Lower scores equate to more positive expressions of commitment.

It could be argued that adherence to the principles contained within the Acas Code, and particularly the use of mediation, could have a more positive impact in workplaces in which disciplinary sanctions are more likely to be applied or that experience high levels of grievances. In such workplaces, the application and use of mediation may be seen positively by employees as providing fairness and equity. We therefore examined the same variables as above focusing only on the top quartile of workplaces by disciplinary sanctions rate (7.75 per 100 employees and above) and rate of employee grievances (2.3 per cent and above) (Table 36). However, the findings were similar to those of the whole sample (*cf* Tables 31 and 32). In both high discipline and high grievance workplaces, more positive views of both employment relations and the fairness of employers were found where the key principles of the Acas Code were not always adhered to. There was thus no evidence that adherence to the Acas principles or the use of mediation generated more positive employee attitudes. In fact, more negative views of employment relations and fairness were found in workplaces in which there was consistent adherence to the key principles of the Acas Code of Practice. This could be explained by workplaces with being compelled to adopt more robust processes for dealing with conflict.

Table 36 – High conflict workplaces – fairness and employment relations by adherence to key procedural principles and mediation use

	Fairness		Employment Relations	
	<i>High discipline</i>	<i>High grievance</i>	<i>High discipline</i>	<i>High grievance</i>
	<i>Mean values</i>	<i>Mean values</i>	<i>Mean values</i>	<i>Mean values</i>
Always adhere to key principles (Discipline and Grievance)	3.55*	3.31*	3.78*	3.52*
Do not always adhere to key principles (Discipline and Grievance)	3.73*	3.64*	4.09*	3.92*
Have used mediation by a third party	3.67	3.50	3.93	3.76
Have not used mediation by a third party	3.62	3.57	3.96	3.84

Source: WERS2011 MQ and EQs; EQ results for each workplace were weighted by employee weight variable and then cross-tabulations were weighted by establishment; N=469; * significant at the 5% level.

5.6 Exploring the antecedents of the outcomes of individual employment disputes

In order to isolate the influence of procedural and process variables, we estimated regression models designed to predict rates of: disciplinary sanctions, dismissals, rate of ET applications, employee grievances, turnover and absence.

The results for sanctions, dismissals and ET rates (Table 37) suggest that workplace disputes were related to four key factors. First, the incidence of disputes was associated with increasing workplace size. Workplaces with 50–99, 100–499 and 500 and over employees were all positively associated with rates of sanctions, dismissals and ET applications. Second, workforce composition was significant in determining the rate of disciplinary sanctions and dismissals: workplaces with higher proportions of women and also older employees experienced lower rates of both measures of disputes. A similar, albeit only weak, effect was found for the proportion of professional employees at the workplace. Thus far, these findings replicate earlier studies of WERS data in 1998 and 2004 (Knight and Latreille, 2000; Antcliff and Saundry, 2009). Third, whether a workplace was in the public sector was negatively related to the rate of disciplinary sanctions. However, industrial sector was less important in defining the disciplinary profile of workplaces or the likelihood that they may experience litigation. Fourth, the extent to which workplaces adhered to the key principles contained within the Acas Code of Practice was positively related to the rate of both disciplinary sanctions and dismissals. This may simply reflect the fact that high conflict workplaces were more likely to adopt robust procedures when dealing with discipline and grievance. In contrast however, (overall) procedural compliance does not seem to be associated with the rate of ET applications².

Finally, our bi-variate analysis in section 5.2 showed that disciplinary sanctions were significantly higher in unionised workplaces compared with workplaces in which unions were not recognised. However, when other factors such as organisational size were controlled for, this effect was not found. In fact, trade union recognition was not significantly associated with the rate of dismissals, disciplinary sanctions or the rate of ET applications. This represents a change from previous studies of the WERS series that have identified trade union organisation as a key factor in shaping the pattern of workplace conflict (Knight and Latreille, 2000; Antcliff and Saundry, 2009).

² Entering the discipline and grievance indices separately in place of the full compliance measure, a weak relationship was however observed for grievances ($p=0.075$).

Table 37 – Tobit regressions of disciplinary sanction rate, dismissal rate and ET application rate on workforce and workplace characteristics

	Rate of disciplinary sanctions	Rate of dismissals	Rate of ET applications
<i>Workplace size (Ref: 5–9 employees)</i>			
10–19 employees	3.963 (2.986)	2.456 (2.456)	1.116 (2.953)
20–49 employees	6.471* (3.342)	3.564 (2.405)	3.698 (2.395)
50–99 employees	10.010*** (3.061)	10.802*** (2.383)	11.393*** (2.027)
100–499 employees	13.626*** (3.261)	12.833*** (2.571)	15.994*** (2.314)
500+ employees	15.167*** (3.862)	18.065*** (3.046)	21.902*** (3.062)
Public sector	-8.420*** (3.260)	-4.787* (2.860)	-4.193* (2.260)
<i>Industrial sector (Ref: Manufacturing)</i>			
Electricity, gas, water	-11.237 (7.000)	-3.660 (5.137)	-4.800* (2.851)
Construction	7.430 (5.357)	3.949 (5.810)	10.415 (6.752)
Wholesale/retail	4.857 (5.001)	7.590** (3.831)	-1.728 (3.046)
Hotels/restaurants	7.177 (5.509)	4.700 (4.056)	4.181 (3.750)
Transport and communications	0.515 (5.248)	1.553 (3.599)	0.749 (2.460)
Financial services	7.975 (10.437)	-3.011 (5.383)	3.016 (4.568)
Business services	-3.646 (5.121)	2.422 (4.1021)	-1.701 (2.899)
Public administration	1.721 (6.303)	2.845 (4.798)	2.567 (3.450)
Education	5.257 (6.042)	1.283 (4.791)	4.328 (4.746)
Health	3.008 (5.177)	5.868 (4.151)	-1.500 (3.920)
Other community services	5.101 (5.500)	3.052 (4.272)	7.845** (3.434)
Trade union recognition	0.324 (2.835)	0.964 (3.218)	3.106 (1.914)
Impact of recession	-1.531 (1.980)	-1.889 (1.608)	2.514* (1.370)
Proportion of women employees	-0.116** (0.050)	-0.100*** (0.038)	-0.001 (0.050)
Proportion of ethnic minority employees	0.100* (0.060)	0.067 (0.045)	0.031 (0.038)
Proportion of employees – 22–49 years of age	-0.114 (0.074)	0.075 (0.056)	0.001 (0.065)
Proportion of employees – 50+ years of age	-0.264*** (0.094)	-0.150** (0.068)	-0.006 (0.072)
Proportion of professional employees	-0.070* (0.040)	-0.052* (0.029)	-0.006 (0.029)
Presence of HR practitioner	0.340 (2.875)	2.564 (2.076)	-1.000 (1.380)
Multi-site organisation	-0.367 (2.396)	-0.777 (1.855)	-2.169 (1.874)
Always adhere to key principles (Discipline)	9.188*** (3.290)	8.507*** (2.457)	– –
Always adhere to key principles (Discipline and Grievance)	–	–	1.618 (1.939)
Constant	2.600 (9.288)	-22.801*** (6.813)	-28.067*** (8.911)
Sigma	21.941*** (1.870)	14.521*** (1.055)	12.000*** (1.774)
Weighted observations	2,272	2,376	2,426

Source: WERS2011 MQ, Results are weighted by establishment; Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Table 38 – Tobit regressions of rate of employee grievances, turnover and rate of absence on workforce and workplace characteristics

	Rate of grievances	Turnover	Rate of absence
<i>Workplace size (Ref: 5–9 employees)</i>			
10–19 employees	4.319** (2.167)	1.064 (2.295)	0.601 (0.821)
20–49 employees	6.141*** (2.111)	2.033 (2.143)	0.745 (0.734)
50–99 employees	12.016*** (2.273)	2.373 (2.203)	1.309 (1.624)
100–499 employees	16.272*** (2.213)	7.520*** (2.337)	2.281** (0.931)
500+ employees	21.083*** (2.522)	10.603*** (2.834)	0.648 (1.058)
Public sector	-2.123 (2.362)	-5.066 (3.628)	1.491 (1.574)
<i>Industrial sector (Ref: Manufacturing)</i>			
Electricity, gas, water	1.285 (3.105)	-3.496 (6.132)	0.092 (1.585)
Construction	1.792 (3.577)	5.462 (5.326)	0.791 (1.410)
Wholesale/retail	3.214 (2.524)	10.071*** (3.882)	-0.362 (0.826)
Hotels/restaurants	5.432* (3.191)	21.195*** (4.869)	-0.150 (1.570)
Transport and communications	9.064*** (3.328)	3.241 (4.819)	-0.075 (1.726)
Financial services	-1.430 (3.809)	15.514** (7.463)	-2.355** (1.182)
Business services	2.004 (2.378)	10.103** (3.953)	-0.856 (0.975)
Public administration	6.523 (4.067)	3.685 (5.049)	-3.631** (1.817)
Education	5.906 (4.104)	8.515* (4.688)	-0.082 (2.845)
Health	7.880** (3.243)	13.565*** (4.339)	-1.505 (1.544)
Other community services	10.763*** (3.913)	7.627* (4.410)	-1.536 (1.333)
Trade union recognition	-0.817 (1.531)	-2.663 (2.809)	-0.079 (1.027)
Impact of recession	1.367 (1.473)	-2.395 (1.664)	0.072 (0.795)
Proportion of women employees	0.011 (0.035)	-0.006 (0.039)	0.025 (0.022)
Proportion of ethnic minority employees	0.013 (0.041)	-0.077 (0.051)	0.002 (0.019)
Proportion of employees – 22–49 years of age	-0.113* (0.059)	-0.072 (0.059)	0.016 (0.030)
Proportion of employees – 50+ years of age	-0.113* (0.068)	-0.282*** (0.067)	0.038 (0.027)
Proportion of professional employees	0.010 (0.025)	-0.057** (0.030)	-0.005 (0.012)
Presence of HR practitioner	0.900 (1.720)	1.598 (2.164)	-0.328 (1.229)
Multi-site organisation	2.056 (1.602)	3.771** (1.798)	1.257 (0.932)
Always adhere to key principles (Grievance)	1.351 (1.492)	-	-
Always adhere to key principles (Discipline and Grievance)	-	2.300 (1.755)	0.646 (0.699)
Constant	-16.294** (6.590)	6.167 (7.382)	-0.175 (3.262)
Sigma	13.995*** (1.192)	19.792*** (1.046)	8.517*** (0.678)
Weighted observations	2,260	2,352	2,148

Source: WERS2011 MQ, Results are weighted by establishment; Statistical significance levels: *** = $p < 0.01$, ** = $p < 0.05$, * = $p < 0.1$.

Analysis of employee grievances, turnover and absence revealed that workplace size was a predictor of both employee grievances and turnover, with larger workplaces linked to higher rates of both (Table 38). There was no systematic relationship with rates of absence. But industrial sector was important, with rates of grievances higher in transport and communications, health and other community services. Higher turnover varied by sector, with higher rates likely in wholesale and retail, hotels and restaurants, financial services, business services and health. Moreover, workplaces with higher proportions of employees who were 50 years of age or more or which had higher proportions of professionals were likely to have lower rates of turnover, as were those that were part of multi-site organisations. Rates of absence were unrelated to industrial sector and there was no link between adherence to the three principles contained within the Acas Code and any of the dependent variables.

5.7 Summary

Our findings were generally consistent with previous analyses that suggested that the key influences of the incidence of individual employment disputes relate to workplace and workforce characteristics as opposed to managerial actions in implementing resolution procedures and procedures. More specifically, the most important predictors appeared to be: workplace size, which was positively associated with all measures, with the exception of absence; a higher proportion of women in the workplace was linked with lower rates of dismissals and disciplinary sanctions, as was the case in workplaces with a higher proportion of older workers. Workforce characteristics were less influential in predicting rates of grievances, however. Importantly, there was little to suggest that procedural adherence had any impact in reducing the incidence of individual employment disputes. Indeed it may be that those workplaces that experience higher levels of conflict were likely to adopt more robust procedures in response. This also appeared to apply to the use of workplace mediation.

Union recognition was unrelated to outcomes contrary to previous analysis of the WERS series. This could indicate that unions have less influence over the outcome and resolution of individual employment disputes at workplace level than they did in the past. It might be expected that positive perceptions of fair treatment, employee relations and organisational commitment would be linked to the way in which disputes are handled. However, there was little evidence that this was the case. Indeed, the employees in workplaces in which mediation was used and procedure was adhered to had more negative views of employment relations. The results did not differ between high and low conflict workplaces.

6. Conclusions

A number of themes have emerged from this analysis. First, written procedures for dealing with individual employment disputes have become more commonplace since 2004 and the principles embodied in the Acas Code of Practice have become more consistently adhered to. If this is a lagged effect of the introduction of statutory procedures in 2004 it may fade. But if it reflects the fact that organisational practice is coalescing around the three key stages set out in the statutory procedures and now enshrined in the Acas Code, it may be more permanent. Unfortunately WERS2011 does not allow us to see whether these changes have also squeezed out informal approaches to dispute resolution.

Second, there is a difference between the ways in which disciplinary and grievance procedures are enacted in the workplace. Disciplinary procedures appear to be relatively uniform, at least in respect of the three key principles in the Acas Code of Practice, but there is greater variation in grievance procedures. This could reflect that there is greater scope for flexibility in grievance handling, which allows for more negotiation and resolution. In contrast, the close link between disciplinary procedures and the risk of unfair dismissal potentially provides a greater incentive for employers to adopt more consistent procedures.

Third, our analysis of WERS2011 found that workplace mediation is a potentially important feature of British workplaces. Most respondents claim that it is provided for in their procedures. Yet prior evidence, not based on as systematic and representative study as WERS2011, suggested that explicit references to mediation are not commonly included within organisational procedures (Latreille, 2011; Saundry and Wibberley, 2014) and are particularly unlikely to be

found in disciplinary procedures. The WERS result may reflect respondents having a broad conception of mediation or even their gauging it on the basis that mediation is provided for by the fact that it is not explicitly ruled out in the procedure. On the other hand, especially as the use of mediation is not inconsiderable, WERS may have revealed that the reach of mediation is greater than previously thought. That between 14 and 17 per cent of workplaces experiencing some form of dispute in the past 12 months have used third-party mediation was significant. Moreover, our analysis suggests that mediation use is not, as some have thought, limited to large and public sector organisations. Instead, there is evidence that mediation use is a response to experiencing employment litigation or increased levels of conflict. However, there is little in our analysis to suggest that mediation is being used at an early stage to prevent disciplinary and grievance matters entering formal procedures or resulting in litigation.

Fourth, the variation in most of the results between unionised and non-unionised workplaces from bi-variate analysis did not remain once size and industry differences were controlled for. This is a notable contrast from previous analysis of the determinants of individual employment disputes (Knight and Latreille, 2000; Antcliff and Saundry, 2009). In fact, our analysis suggests that unionisation has little influence on the incidence of disciplinary sanctions, dismissals and employee grievances. Nonetheless, it has been argued that it is the quality of union-employer relationships that is critical to effective dispute resolution (Antcliff and Saundry, 2009; Saundry, et al., 2011) and this is an issue for further research.

Finally, there is no evidence that the presence of procedures and also the use of mediation are accompanied by lower rates of individual employment disputes. In fact, workplaces with written procedures and those that used mediation tended to experience more grievances, disciplinary issues and employment litigation. The most convincing explanation for this is that organisations that are prone to conflict are more likely to adopt robust procedures and also to use alternative ways of resolving disputes such as mediation.

REFERENCES

- Antcliff, V. and Saundry R. (2009) 'Accompaniment, Workplace Representation and Disciplinary Outcomes in British Workplaces – Just a Formality?', *British Journal of Industrial Relations*, 47:1, 100–121.
- Bingham, L.B. (2004). 'Employment Dispute Resolution: The Case for Mediation', *Conflict Resolution Quarterly*, 22: 145–174.
- BIS (Department of Business, Innovation and Skills) (2011) *Resolving Workplace Disputes: A Consultation*, London: BIS.
- CIPD (Chartered Institute of Personnel and Development) (2004) *Managing Conflict at Work: A Survey of the UK and Ireland*, London: CIPD.
- CIPD (Chartered Institute of Personnel and Development) (2007) *Managing Conflict at Work*, London: CIPD.
- CIPD (Chartered Institute of Personnel and Development) (2008) *Workplace Mediation – How Employers Do It?*, London: CIPD.
- CIPD (Chartered Institute of Personnel and Development) (2011) *Conflict Management – Survey Report*, London: CIPD.
- DTI (Department of Trade and Industry) (2001) *Routes to Resolution—Consultation Document on Dispute Resolution and Tribunal reform*. London: DTI.
- Earnshaw, J., Marchington, M., and Goodman, J. (2000) 'Unfair to whom? Discipline and dismissal in small establishments', *Industrial Relations Journal*, 31(1): 62–73.
- Edwards, P. (1995) 'Strikes and Industrial Conflict' in Edwards, P. (ed.) *Industrial Relations: Theory and Practice in Britain*, 434–460, Oxford: Blackwell.
- Edwards, P. (2000) 'Discipline: towards trust and self-discipline?' In S. Bach and K. Sisson (eds), *Personnel Management: A Comprehensive Guide to Theory and Practice in Britain* (3rd edn), Oxford: Blackwell, 317–339.
- Forth, J., Bewley, H., and Bryson, A. 2006. *Small and Medium-sized Enterprises: Findings from the 2004 Workplace Employment Relations Survey*, London: Routledge.
- Gibbons, M. (2007) *A Review of Employment Dispute Resolution in Great Britain*, London: DTI.
- Greene, W.J. (2012) *Econometric Analysis* (7thedn), Harlow: Pearson.
- Harris, L., Tuckman, A. and Snook, J. (2008) 'Small Firms and Workplace Disputes Resolution', *Acas Research Paper*, No. 01/08.
- Johnston, T. (2008) 'Knowledge and Use of Mediation in SMEs', *Acas Research Paper*, No. 02/08.
- Jones, C. and Saundry, R. (2012) 'The practice of discipline: evaluating the roles and relationship between managers and HR professionals', *Human Resource Management Journal*, 22:3, 252–26.
- Kersley, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G. and Oxenbridge, S. (2006) *Inside the Workplace: Findings from the 2004 Workplace Employment Relations Survey*, London: Routledge.
- Knight, K.G. and Latreille, P.L. (2000) 'Discipline, dismissals and complaints to Employment Tribunals', *British Journal of Industrial Relations*, 38:4, 533–555.

- Latreille, P.L. (2011) 'Workplace Mediation: A Thematic Review of the Acas/CIPD Evidence', *Acas Research Paper*, 13/11.
- Latreille, P.L., Buscha, F. and Conte, A. (2012) 'Are you experienced? SME use of and attitudes towards workplace mediation', *International Journal of Human Resource Management*, 23(3): 590–606.
- Lucy, D. and Broughton, A. (2011) 'Understanding the behaviour and decision making of employees in conflicts and disputes at work', *Department for Business, Innovation and Skills Employment Relations Research Series*, No. 119.
- Nesbit, R., Nabatchi, T. and Blomgren Bingham, T. (2012) Employees, supervisors, and workplace mediation: experiences of justice and settlement, *Review of Public Personnel Administration*, 32: 3, 260–287.
- Oxenbridge, S. and Brown, W. (2004) 'Achieving a new equilibrium? The stability of cooperative employer-union relationships', *Industrial Relations Journal*, 35:5, 388–402
- Pollert, A. and Charlwood, A. (2009) 'The vulnerable worker in Britain and problems at work', *Work, Employment and Society*, 23(2): 343–362.
- Rahim, N., Brown, A. and Graham, J. (2011) 'Evaluation of the Acas Code of Practice on disciplinary and grievance procedures', *Acas Research Paper*, 06/11.
- Saundry, R. and Dix, G. (2014, forthcoming) 'Conflict Resolution in the UK', In W. Roche, P. Teague, and A. Colvin (Eds.). *The Oxford Handbook on Conflict Management*, Oxford: Oxford University Press
- Saundry, R. and Wibberley, G. (2014) 'Workplace dispute resolution and the management of individual conflict – a thematic analysis of 5 case studies', *Acas Research Papers*, No. 06/14.
- Saundry, R., Bennett, A. and Wibberley, G. (2013) 'Workplace mediation: the participant experience', *Acas Research Papers*, No. 02/13.
- Saundry, R., Jones, C., and Antcliff, V. (2011) 'Discipline, representation and dispute resolution—exploring the role of trade unions and employee companions in workplace discipline', *Industrial Relations Journal*, 42(2): 195–211.
- Saundry, R., Latreille, P., Dickens, L., Irvine, C., Teague, P., Urwin, P. and Wibberley, G. (2014) 'Reframing Resolution – Managing Conflict and Resolving Individual Employment Disputes in the Contemporary Workplace', *Acas Policy Series*.
- Saundry, R., McArdle, L. and Thomas, P. (2013) 'Reframing workplace relations? Conflict resolution and mediation in a Primary Care Trust', *Work, Employment and Society*, 27(2), 212–231.
- Sergeant, J. (2005). 'The Acas small firms mediation pilot: research to explore parties' experiences and views on the value of mediation', *Acas Research Paper*, No. 04/05.
- Van Wanrooy, B., Bewley, H., Bryson, A., Forth, J., Freeth, S., Stokes, L. and Wood, S. (2013) *Employment Relations in the Shadow of Recession – Findings from the 2011 Workplace Employment Relations Study*, London: Palgrave Macmillan.
- Williams, M. (2011) 'Workplace Conflict Management: Awareness and use of Acas code of practice and workplace meditation—A poll of business', *Acas Research Papers*, 08/11.

APPENDIX ONE

Definition of variables

Procedure and Process	
Extent of adherence to key principles (Grievance)	Index based on responses on questions regarding the application of grievance procedure (range: 0–5) – see Appendix 2.
Extent of adherence to key principles (Discipline)	Index based on responses on questions regarding the application of disciplinary procedure (range: 0–5) – see Appendix 2.
Always adhere to key principles (Discipline)	Dummy variable – workplaces that adhere to the three key principles enshrined in Acas Code all of the time in respect of disciplinary matters
Always adhere to key principles (Grievance)	Dummy variable – workplaces that adhere to the three key principles enshrined in Acas Code all of the time in respect of individual grievances
Always adhere to key principles (Discipline and Grievance)	Dummy variable – workplaces that adhere to the three key principles enshrined in Acas Code all of the time in respect of both disciplinary matters and individual grievances
Use of mediation	Dummy variable – workplace has used mediation by an impartial third party to resolve an individual grievance or disciplinary matter
Provision of mediation (Discipline)	Dummy variable – the use of mediation by an impartial third party is provided for within the disciplinary procedure
Provision of mediation (Grievance)	Dummy variable – the use of mediation by an impartial third party is provided for within the grievance procedure
Provision of mediation (Discipline or Grievance)	Dummy variable – the use of mediation by an impartial third party is provided for within either the discipline or the grievance procedure

Outcomes	
Rate of Dismissals	Number of dismissals other than redundancies per 100 employees in previous 12 months
Rate of Disciplinary sanctions	Number of employees who have had sanctions short of dismissal applied in previous 12 months per 100 employees
Rate of Employment Tribunal applications	Number of applications to an Employment Tribunal in the previous 12 months per 100 employees
Rate of employee grievances	Number of grievances raised through written procedure in the previous 12 months per 100 hundred employees
Turnover	Number of voluntary resignations in the previous 12 months per 100 hundred employees
Rate of Absence	Number of work days lost through employee sickness or absence in the last twelve months per 100 employees
Fairness	Extent to which employees agreed that managers at their workplace 'treat employees fairly' (1 = strongly agree to 5 = strongly disagree)
Employment relations	Employees' rating of 'relations between managers and employees' (1=very good to 5=very poor)
Initiative	Extent to which employees agreed with the following statement: 'Using my own initiative I carry out tasks that are not required as part of my job' (1 = strongly agree to 5 = strongly disagree)
Values	Extent to which employees agreed that 'I share many of the values of my organisation' (1 = strongly agree to 5 = strongly disagree)
Loyalty	Extent to which employees agreed that , 'I feel loyal to my organisation'(1 = strongly agree to 5 = strongly disagree)
Pride	Extent to which employees agreed that 'I am proud to tell people who I work for' (1 = strongly agree to 5 = strongly disagree)

Workplace Characteristics	
<i>Workplace Size</i>	
5–9 employees	Dummy variable – workplace has between 5 and 9 employees
10–19 employees	Dummy variable – workplace has between 10 and 19 employees
20–49 employees	Dummy variable – workplace has between 20 and 49 employees
50–99 employees	Dummy variable – workplace has between 50 and 99 employees
100–99 employees	Dummy variable – workplace has between 100 and 499 employees
500+ employees	Dummy variable – workplace has 500 employees or more
<i>Organisational size</i>	
5–9 employees	Dummy variable – organisation has between 5 and 9 employees
10–49 employees	Dummy variable – organisation has between 10 and 49 employees
50–249 employees	Dummy variable – organisation has between 50 and 249 employees
250–499 employees	Dummy variable – organisation has between 250 and 499 employees
500–999 employees	Dummy variable – organisation has between 500 and 999 employees
1000–9999 employees	Dummy variable – organisation has between 1000 and 9999 employees
10000+ employees	Dummy variable – organisation has 10000 employees or more
Sector (Public)	Dummy variable – workplace is in the public sector
Electricity, gas, water	Dummy variable – workplace is in electricity, gas or water sector. Based on standard industrial classifications (2003)
Construction	Dummy variable – workplace is in construction sector. Based on standard industrial classifications (2003)
Wholesale/retail	Dummy variable – workplace is in wholesale or retail sector. Based on standard industrial classifications (2003)
Hotels/restaurants	Dummy variable – workplace is in hotels or restaurants sector. Based on standard industrial classifications (2003)
Transport and communications	Dummy variable – workplace is in transport or communications sector. Based on standard industrial classifications (2003)
Financial services.	Dummy variable – workplace is in financial services sector. Based on standard industrial classifications (2003)
Business services	Dummy variable – workplace is in business services sector. Based on standard industrial classifications (2003)
Public administration	Dummy variable – workplace is in public administration. Based on standard industrial classifications (2003)
Education	Dummy variable – workplace is in education. Based on standard industrial classifications (2003)
Health	Dummy variable – workplace is in the health sector. Based on standard industrial classifications (2003)
Other community services	Dummy variable – workplace is in community services. Based on standard industrial classifications (2003)
Multi-site organisation	Dummy variable – workplace is one of a number of different workplaces in the UK belonging to the same organisation
Union recognition	Dummy variable – at least one trade union is recognised at the workplace
Impact of recession	Dummy variable – workplaces that have been adversely affected by the recession: 'A great deal', or 'quite a lot', or 'a moderate amount'
Presence of HR practitioner	Dummy variable – workplaces in which the title of the job of the respondent was either 'Personnel Manager/Officer' or 'Human Resource Manager/Officer'

Workforce Characteristics	
Proportion of women employees	Proportion of employees at the workplace who are women
Proportion of ethnic minority employees	Proportion of employees at the workplace who are from a non-white ethnic group
Proportion of employees – 22–49 years of age	Proportion of employees at the workplace who are aged between 22 and 49 years of age
Proportion of employees – 50+ years of age	Proportion of employees at the workplace who are aged 50 or over
Proportion of professional employees	Proportion of employees at the workplace who are in professional occupations

APPENDIX TWO

Indices – Extent of adherence to three key principles of Acas Code of Practice

Index – Extent of adherence to key principles (Grievance)	
<i>a) In raising grievances, are employees required to set out in writing the nature of the grievance?</i>	
1) Yes, always	2
2) Yes, sometimes – depends on the issue	1
3) No	0
<i>b) Are employees asked to attend a formal meeting with a manager to discuss the nature of their grievance?</i>	
1) Yes, always	2
2) Yes, sometimes – depends on the issue	1
3) No	0
<i>c) Do employees have a right to appeal against a decision made under the procedure?</i>	
1) Yes	1
2) No	0
Maximum total	5

Index – Extent of adherence to key principles (Discipline)	
<i>a) Is the employer required to set out in writing to the employee the reason for taking disciplinary action?</i>	
1) Yes, always	2
2) Yes, sometimes – depends on the issue	1
3) No	0
<i>b) Are employees asked to attend a formal meeting with a manager to discuss the reason for taking disciplinary action?</i>	
1) Yes, always	2
2) Yes, sometimes – depends on the issue	1
3) No	0
<i>Do employees have a right to appeal against a decision made under the procedure?</i>	
1) Yes	1
2) No	0
Maximum total	5

APPENDIX 3

Questions in WERS2004 not asked in WERS2011

1. The role of any people accompanying employees at a grievance meeting

Whether the employee's companion was allowed to a) ask questions on behalf of the employee, and b) answer questions on behalf of the employee.

2. The role of any people accompanying employees in a disciplinary case

Whether the employee's companion was allowed to a) answer questions on behalf of the employee, and b) confer privately with the employee either in the meeting room or outside.

3. A follow-up question to one asking whether any employees formally raised any matters through the individual grievance procedure

The respondent in workplaces where none had been raised was asked, "why do you think that is?"

4. Respondents were asked how employees were made aware of the discipline and dismissals procedure

5. Options in the list of reasons for taking disciplinary action

Some were either omitted or combined with each other in 2011.

6. Any experience of dealing with an Employment Tribunal application had resulted in management taking follow-up actions

Response categories for this from a list included establishing a disciplinary procedure or ensuring an existing one was followed.

