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## Briefing Note

### Client Pressure to Dismiss Agency Staff

On occasions, labour providers can come under pressure, or indeed receive an ultimatum, to get rid of a particular consultant or worker because he or she has displeased a key client. In this situation there are two competing factors. First, the commercial reality and balance of power between the labour provider and the client and secondly, the employment rights of the employee under scrutiny must be respected.

Case law in *Scott Packaging & Warehousing Co Ltd v Paterson* (1978) IRLR 166 EAT; *Dobie v Burns International Security Services (UK) Ltd* (1984); *Grootcon (UK) v Keld* (1984) IRLR 302 EAT; *Greenwood v Whiteghyll Plastics Ltd* (2007) IDS Brief 839 EAT has found as follows:

- It may potentially be justifiable to dismiss an employee who had upset a major client and who it insisted s/he was dismissed. The justification for dismissal would not be for misconduct but for “some other substantial reason” (SOSR) within s.98 of the Employment Rights Act 1996.
- An employer should not simply take on trust critical reports from third parties without first investigating them fully.
- An employer must provide sufficient evidence of such pressure from a client and cannot merely assert it was brought to bear on it.
- There is an obligation on an employer to consider whether the employee could be retained within the employer’s organisation, but in some other capacity doing different work, this may involve reorganising its business.