



BIS | Department for Business
Innovation & Skills

**AVOIDING AND RESOLVING
DISCIPLINE AND GRIEVANCE
ISSUES AT WORK**

Simpler laws, better services

acas



Introduction

This leaflet has been jointly produced by the Department for Business, Innovation and Skills (BIS) the Chartered Institute of Personnel and Development (the CIPD) and Acas (the Advisory, Conciliation and Arbitration Service) to inform employers about dealing with workplace disputes in Great Britain. It does not provide legal advice.

In this leaflet you can find out about the procedures in place for dealing with discipline, dismissal and grievance issues in the workplace. The dispute resolution system has the potential to save employers time, money and stress. It focuses on resolving disputes in the workplace before they escalate to the point where they end up in an employment tribunal emphasising the value of alternative dispute resolution mechanisms, including mediation, to encourage earlier resolution.

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Employment Act 2008

The Employment Act 2008 covers various aspects of employment law, including arrangements in Great Britain for dealing with discipline and grievance issues.

Sections 1-7 of the Employment Act, which apply to the handling of discipline, dismissal and grievance issues as well as other matters, came into force on 6th April 2009. They made the following changes to the law:

- The repeal of the pre-existing statutory three step procedures for dealing with discipline, dismissal and grievance issues, set out in the Employment Act 2002;
- Employment tribunals now have discretionary powers to adjust awards by up to 25 percent if employers or employees have failed unreasonably to comply with the Acas Code of Practice on Disciplinary and Grievance Procedures;
- Some technical changes to the law relating to Acas' provision of conciliation services during disputes;
- Employment tribunals can now award compensation for financial loss in certain types of monetary claims.

The Act also paved the way for the revision of the Acas Code of Practice to reflect the abolition of the three step procedure and the move towards a more flexible approach to resolving disputes in the workplace. The Code has been revised and is now concise and principles-based and is supported by accompanying guidance on handling discipline and grievance situations in the workplace.

You can access the Employment Act and explanatory notes at:
www.opsi.gov.uk/acts/acts2008/ukpga_20080024_en_1

Acas Code of Practice and Guidance on Disciplinary and Grievance Procedures

The statutory Acas Code of Practice provides basic practical guidance on discipline and grievance handling in the workplace.

The Code sets out the principles of what an employer and employee should do to achieve a reasonable standard of behaviour. It does not require employers and employees to follow mandatory steps in the process. Employment tribunals will take the Code into account when considering relevant cases. The tribunal will consider whether a failure to follow the Code was unreasonable, taking into account factors such as the size and resources of the business. If a tribunal regards a failure by either the employee or the employer to follow the Code of Practice unreasonable, it has the power to adjust awards by up to 25 percent.

More comprehensive advice and guidance on how to deal with disciplinary and grievance situations is contained in the Acas guidance which accompanies the Code. This does not form part of the Code but has been prepared by Acas to help employers and employees understand the Code and how to reflect it in their procedures and behaviour. The guidance also contains sample disciplinary and grievance procedures. To access the Acas Code and accompanying guidance, go to: www.acas.org.uk/dgcode2009

Options for dealing with employment disputes

Employers and employees should always try to resolve problems in the workplace at the earliest possible opportunity and usually with the least possible formality.

Ideally, matters should be addressed before they even get to the stage of becoming disciplinary or grievance issues. Where possible, line managers should be trained in conflict management skills to give them the confidence to step in at an early stage, where they suspect conflict is growing between employees, or where an employee's performance, attendance or behaviour shows signs of falling below acceptable standards. In many cases early intervention by line managers will nip workplace disputes in the bud and prevent them from escalating to the point where the formal disciplinary procedure has to be used or a grievance is lodged.

If that's not possible, fair and transparent procedures should be used in accordance with the Acas Code of Practice. Adopting this approach will almost always be less time consuming and less likely to damage working relations. Where problems are not resolved using internal procedures, employers should consider using an independent third party to help resolve the problem.

1. Mediation

A mediator can sometimes help resolve disciplinary or grievance issues, although mediation may not be suitable for serious misconduct. The mediator may be a person who works within the

same organisation (so long as they are properly trained and not directly involved in the issue) or may come from outside. There is usually a charge for externally sourced mediation services.

Mediation is a voluntary process where an independent and impartial third party helps two or more people in a dispute to try to reach an agreement. Mediation can be used at any stage in the dispute and, in some organisations, may even be written into formal discipline or grievance procedures.

A number of mediation providers are registered members of the Civil Mediation Council (CMC) (for England and Wales) or are on the Scottish Mediation Register managed by the Scottish Mediation Network (for Scotland). These providers declare that they meet certain standards covering training, practice development, codes of conduct, complaints handling and indemnity insurance.

A list of registered workplace mediation providers for England and Wales can be found at www.cmcregistered.org, and for Scotland at www.scottishmediationregister.org.uk. These are not exhaustive lists of all providers who may offer workplace mediation services in the UK.

2. Pre-claim conciliation

Acas has a statutory role to promote the resolution of claims, or prospective claims, to an employment tribunal. Where no claim has yet been submitted, this service is referred to as pre-claim conciliation.

Pre-claim conciliation is a free service available to all employers and employees in appropriate circumstances. It is delivered via a network of Acas conciliators across Great Britain. Disputes that employees and employers have been unable to resolve by other means (such as internal grievance, discipline or appeal procedures), and which are likely to give rise to an employment tribunal claim if third party help is not provided, may be suitable for pre-claim conciliation. If you think that you are facing a claim, despite having done all you can to resolve the dispute, call the Acas helpline on 08457 47 47 47. The helpline adviser you speak to will be able to identify whether the case is suitable for referral to the pre-claim conciliation service, and if so, will put you in touch with a conciliator.

Further advice and information

1. Go to www.businesslink.gov.uk/resolvingdisputes and www.acas.org.uk/drr to find out more about how to:

- handle discipline and grievance issues;
- follow the correct procedures;
- reduce the risk of employment tribunal claims;
- and handle employment tribunal claims.

The pages on the businesslink website also include **an interactive tool to show you what you can do to resolve a disciplinary issue.**

2. Call the Acas helpline on 08457 47 47 47. The Acas helpline service is free, impartial and confidential, offering detailed advice on the options available for resolving workplace problems.

The Acas helpline is open from 0800-2000 Monday to Friday and 0900-1300 on Saturday.

3. Go to www.cipd.co.uk/guides to download:

Mediation: an employer's guide

Managing conflict at work: a guide for line managers

4. For information on the minimum wage, working hours, or employment rights for employment agencies or gangmasters, call the Pay and Work Rights Helpline on 0800 917 2368 or visit www.businesslink.gov.uk/payandworkrights.



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