

NEW ACAS Code of Practice Disciplinary Procedure

Disciplinary and Grievance Procedures

As of April 6th 2009 the statutory dispute resolution procedures have been repealed and at the same time replaced by the new ACAS Code of Practice.

The new Code of Practice is easier to understand but again leaves many areas unexplained. The new code requires employers to adhere to general rules and follow a series of steps when dealing with disciplinary issues. Tribunals will still have the ability to increase or decrease an award by up to 25% where an employee or employer unreasonably fails to follow the code.

The main differences between the new ACAS code and the old statutory dispute resolutions can be summarised as follows:

- It only covers disciplinary areas for misconduct and poor performance;
- There is no provision for instant dismissal, even for gross misconduct the procedures must be followed;
- It does not cover the end of a fixed term contract or redundancies;
- There is no need for a verbal warning so employers can act faster in issuing first written warnings;
- There is no more automatically unfair dismissal for failure to follow procedures;
- The maximum compensation award for unreasonable failure to comply with the new code is 25%;
- Grievance procedures remain the same;
- The need for employees to raise a grievance before making a tribunal claim has been removed so we may simply see claims being made earlier.

There are a number of grey areas which we will have to wait for case law to determine. However, many of the requirements remain the same in the new ACAS code such as the right to be accompanied, the need for issues to be raised promptly and for employers to carry out any necessary investigations.

Above all is the need to follow a fair process before dismissing an employee.

Stage One – The Disciplinary Letter The employer sends a letter to the employee explaining the reasons for the disciplinary action and the date, time and place of the disciplinary hearing. It must also inform the employee of the right to be accompanied. If there is a chance that the disciplinary action may lead to dismissal, this must also be stated on the letter. Any evidence set against the employee being disciplined, must be given in advance of the hearing. If you need help with wording your letters, please do not hesitate to contact us. **Stage Two – The Disciplinary Hearing** Both the employer and the employee must take all reasonable steps to attend the disciplinary hearing. If either party can not attend then a second date and time must be arranged. After all the disciplinary issues have been discussed, a short adjournment must be taken to allow time to review all the evidence and come to a decision on the outcome. The employer must then inform the employee of the outcome of the disciplinary hearing and give the right of appeal with details of who to appeal to and a time limit set. This must be followed by a letter summarising the hearing and confirming these details. If you would benefit from further advice on conducting a disciplinary hearing, please contact us giving as much information as possible. Our advisors will be happy to offer you guidance. **Stage Three – The Disciplinary Appeal** The employee must inform the employer in writing that they wish to appeal against the decision of the disciplinary hearing within the time period allowed. The employee has the right to be accompanied. The final outcome of the appeal should be communicated to the employee and confirmed in writing. If you need advice on disciplinary appeals, please contact us. Overall we will have to wait and see if this new system works better in practice than the dispute resolution procedures but with an increasingly litigious workforce and an uncertain economic climate we may well be changing one set of rules for another.

However, it is imperative that employers review their procedures as soon as possible to ensure they comply and it is probably a good opportunity to provide training for managers on how to handle workplace disputes.

With the repeal of the statutory dispute resolution (disciplinary and grievance) procedures, a lot of companies are unsure of how to deal with disciplinaries and grievances in the future. Please click [here](#) to contact our consultants for more specific advice and a fuller explanation of the new Code of Practice. SCR Solutions Limited has had extensive experience in handling a wide range of disciplinary hearings and are well known for being fair and efficient. If you need any further assistance with disciplinary issues such as examples of disciplinary letters, help to implement a disciplinary policy or

assistance with conducting disciplinary hearings, please do not hesitate to contact us giving as much information as possible. Our highly competent, CIPD qualified members of staff will assist in finding a simple solution to all your disciplinary needs in a very discreet manner. Disclaimer:

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