

Rights at work

- > discipline, grievances and dismissals
- equality and discrimination
- information and consultation
- parents at work
- pay
- time off
- trade unions and representation

Acas can help *with your employment relations needs*

Every year Acas helps employers and employees from thousands of workplaces. That means we keep right up to date with today's employment relations issues – such as discipline and grievance handling, preventing discrimination and communicating effectively in workplaces. Make the most of our practical experience for your organisation – find out what we can do for you.

We inform

We answer your questions, give you the facts you need and talk through your options. You can then make informed decisions. Contact us to keep on top of what employment rights legislation means in practice – before it gets on top of you. Call our helpline **08457 47 47 47** or visit our website **www.acas.org.uk**.

We advise and guide

We give you practical know-how on setting up and keeping good relations in your organisation. Look at our publications on the website or ask our helpline to put you in touch with your local Acas adviser. Our Equality Direct helpline **08456 00 34 44** advises on equality issues, such as discrimination.

We train

From a two-hour session on the key points of new legislation or employing people to courses specially designed for people in your organisation, we offer training to suit you. Look on the website for what is coming up in your area and to book a place or talk to your local Acas office about our tailored services.

We work with you

We offer hands-on practical help and support to tackle issues in your business with you. This might be through one of our well-known problem-solving services. Or a programme we have worked out together to put your business firmly on track for effective employment relations. You will meet your Acas adviser and discuss exactly what is needed before giving any go-ahead.

Discipline, grievances *and dismissals*

What is this leaflet for?

This leaflet gives a brief outline of rights on discipline, grievances and dismissal at work. It includes basic information on:

- Who is entitled to the rights
- How people complain if they are denied a right they believe they are entitled to.

For detailed information about a particular right, visit **www.acas.org.uk**.

Rights covered

- Disciplinary and grievance procedures
- Disciplinary and grievance hearings
- Fair dismissal
- Unfair dismissal
- Automatically unfair dismissal
- Remedies for unfair dismissals
- Breach of contract claim
- Notice of termination
- Whistleblowing
- Written reasons for dismissal.

Visit the Acas website at www.acas.org.uk for further information on all the rights with links to detailed guidance on the Department for Business, Enterprise and Regulatory Reform (BERR) website. View and order printed versions of Acas publications from www.acas.org.uk/publications.

If you do not have easy access to the internet (world wide web) at home or at work try:

- your local library. Most medium-sized or large public libraries provide internet access including a limited period free of charge. In some areas other sources of free access are available.
- Internet cafes, which provide access to the internet for a fee.
- UK online centres. These were set up by the Department for Education and Skills to help people with no computer skills to access the internet. There are around 6,000 UK online centres. Call the free UK online helpline **0800 77 1234** to find your nearest centre.

This leaflet is one of a series which outlines individual employment rights – other titles include *Equality and discrimination*, *Information and consultation*, *Parents at work*, *Pay*, *Time off* and *Trade unions and representation*. Information on the law is for guidance only – you may need to seek legal advice on your particular circumstances.

Advisers on Acas' national helpline **08457 47 47 47** can answer questions on most employment relations matters including rights and duties, but cannot provide legal advice. Acas also offers a wide range of products and services for organisations of all sizes and the people who work in them. Our aim is to improve organisations and working life through better employment relations.

Rights on discipline, *grievances and dismissal*

Disciplinary and grievance procedures

Most employees are entitled by law to a written statement setting out the main particulars of their employment within two months. As well as information on pay, hours, holiday entitlement and pensions, the statement must cover a note giving details of the employer's disciplinary and grievance procedures. This note must:

- cover any disciplinary rules which apply to the employee
- specify the person to whom the employee can apply and the manner in which an application should be made if the employee is dissatisfied with any disciplinary decision relating to them or for the purpose of seeking redress of any grievance relating to their own employment
- cover any further steps which follow from making any such application.

The *Acas Code of Practice on disciplinary and grievance procedures* sets out principles for handling disciplinary and grievance situations in the workplace. These include:

- informing the employee of the problem
- holding a meeting to discuss the problem
- allowing the employee to be accompanied
- deciding on appropriate action
- providing employees with an opportunity to appeal.

Employment tribunals are legally required to take the Code into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25 per cent for unreasonable failure to comply with any provision of the Code.

Grievance procedures

Employers should follow the guidance set out in the *Acas Code of Practice on disciplinary and grievance procedures* (available at www.acas.org.uk/publications). Employment tribunals are legally required to take the Acas Code of Practice into account when considering relevant cases. Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25 per cent for unreasonable failure to comply with any provision of the Code.

Disciplinary and grievance hearings

Workers are entitled to be accompanied at certain disciplinary and grievance hearings by a fellow worker or a trade union official of their choice, provided they make a reasonable request to be accompanied. They also have the right to a reasonable postponement of the hearing, within specified limits, if their chosen companion is unavailable at the time the employer proposes.

Workers have the right to take time off during working hours to accompany fellow workers employed by the same employer. These rights apply to workers including agency workers and home workers, though not to those who are in business solely on their own account.

Fair dismissal

Dismissal is normally fair only if the employer can show that it is for one of the following reasons:

- a reason related to the employee's conduct
- a reason related to the employee's capability or qualifications for the job
- because the employee was redundant
- because a statutory duty or restriction prohibited the employment being continued
- some other substantial reason of a kind which justifies the dismissal.

Unfair dismissal

Employees have the right not to be unfairly dismissed. In most circumstances, they must have at least one year's continuous service before they can make a complaint to an employment tribunal. However, there is no length of service requirement in relation to 'automatically unfair grounds' (see p5). Also, the requirement is reduced to one month for employees claiming to have been dismissed on medical grounds as a consequence of certain health and safety requirements that should have led to suspension with pay rather than to dismissal.

A complaint of unfair dismissal must be received by an employment tribunal within three months of the effective date of termination of the employment (usually the date of leaving the job) unless the tribunal considers this was not reasonably practicable.

If both the employer and employee agree, instead of going to an employment tribunal, the case may be heard by an arbitrator under the Acas Arbitration Scheme. For further details, see section on The Acas Arbitration Scheme (p9).

If an employment tribunal establishes that a dismissal has taken place, it is normally for the employer to show that it was for a fair reason. In such cases, the tribunal must then decide whether, in the circumstances, the employer acted reasonably in treating that reason as sufficient for dismissal.

Automatically unfair dismissals

Dismissals are classed as 'automatically unfair' – regardless of the reasonableness of the employer's action – if an employee is exercising specific rights to do with:

- pregnancy – including all reasons relating to maternity
- family reasons – including parental leave, paternity leave (birth and adoption), adoption leave or time off for dependants
- representation – including acting as an employee representative and trade union membership grounds and union recognition
- part-time and fixed-term employees



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- discrimination – including protection against discrimination on the grounds of sex, race, disability, age, sexual orientation and religion or belief
- pay and working hours – including the Working Time Regulations, annual leave and the National Minimum Wage.

For a more comprehensive list, visit the advice section of the Acas website at www.acas.org.uk.

Remedies for unfair dismissal

If the employment tribunal finds the dismissal was unfair, it will order one of three possible remedies: reinstatement, re-engagement or compensation. Orders for reinstatement or re-engagement normally include an award of compensation for the loss of earnings.

Breach of contract claim

Employees who suffer a measurable financial loss because their employer has not followed the agreed terms of their contract can seek damages by making a breach of contract claim. Normally this must be made to a county or other civil court but if the employment has ended, it may be made to an employment tribunal.

Employers who suffer a measurable financial loss because an employee has departed from the agreed terms of the contract of employment can also seek damages in the same way – as a breach of contract claim or, if the employee has already claimed breach of contract to the tribunal, as a counter-claim.

Notice of termination

Both the employer and employee are normally entitled to a minimum period of notice of termination of employment. After one month's employment, an employee must give at least one week's notice; this minimum is unaffected by longer service. An employer must give an employee:

- at least one week's notice after one month's employment
- two weeks after two years

- three weeks after three years and so on up to 12 weeks after 12 years or more. However, the employer or the employee will be entitled to a longer period of notice than the statutory minimum if this is provided for in the contract of employment.

Most employees, subject to certain conditions, are entitled to certain payments during the statutory notice period.

Employees can waive their right to notice or to payment in lieu of notice. Employers can also waive their own right to notice. Either party can terminate the contract of employment without notice if the conduct of the other justifies it.

Whistleblowing

Workers who ‘blow the whistle’ on wrongdoing in the workplace can complain to an employment tribunal if they are dismissed or victimised for doing so. An employee’s dismissal (or selection for redundancy) will be unfair if it is wholly or mainly for making a protected disclosure.

Further information is available ‘*Disclosures in the public interest: protection for workers who blow the whistle*’ available at www.berr.gov.uk/publications.

Written reasons for dismissal

Employees who are dismissed and have completed at least one year’s continuous employment are entitled to receive, on request (orally or in writing), a written statement of reasons for dismissal within 14 days. An employee dismissed during:

- her pregnancy or her ordinary or additional maternity leave
- his or her ordinary or additional adoption leave

is entitled to a written statement of the reasons regardless of length of service and regardless of whether the request was made.



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Who has these rights?

Most people are entitled to the statutory rights listed in this leaflet, although, in many cases, qualifying conditions must be fulfilled before a right may be claimed. Some rights apply to all employees as soon as they start work; others depend on factors such as length of service, continuity of employment and activities in addition to the job (eg union work). For certain rights, various groups of people are excluded. Most rights apply only to employees but some apply to wider groups of workers. Always check detailed information on qualifying conditions using the links provided on the Acas website at www.acas.org.uk.

Employers and employees are free to agree better terms than those required by legislation in their contract of employment. A contract of employment is an agreement entered into by an employer and employee under which they have certain mutual obligations – for more information visit the Department for Business, Enterprise and Regulatory Reform website at www.berr.gov.uk/er.

Employers must give employees a written statement of the main particulars of employment within two months of the beginning of the employment. It should include, among other things, details of pay, hours, holidays, notice period and an additional note on disciplinary and grievance procedures.

What happens if there *is a dispute about rights at work?*

If employers and employees have a dispute about any of the rights listed in this leaflet they have the following options:

- 1. Resolve the dispute.** Employees should always try to resolve a problem or dispute with their manager or employer first. This should be through the organisation's own grievance procedure. An independent third party or mediator can also help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. Both sides can also come to Acas for advice, either from the helpline or a conciliator.

Acas also offers conciliation before a claim is made to an employment tribunal (known as Pre-Claim Conciliation). Pre-Claim Conciliation can save time, money and stress and promote a quick solution which suits the employer and employee and helps them avoid a permanent breakdown in their relationship. For more information ring the Acas helpline on 08457 47 47 47 (lines open 8am – 8pm Monday to Friday and 9am – 1pm Saturdays).
- 2. An employee can make a **complaint to an employment tribunal**** if he or she believes an employment right has been denied or infringed. In most cases, people who are treated detrimentally for exercising their rights may also complain to a tribunal. Complaints normally must be made within three months of the date of the alleged infringement – although there are exceptions (follow the links on the Acas website for details). For nearly all types of complaint, once an application is received an Acas conciliator will contact both parties to see if a settlement can be reached before the case reaches a hearing.



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3. **Acas Arbitration Scheme.** For cases of alleged unfair dismissal and complaints under the right to request flexible working only, both parties can choose to have their case heard by an independent arbitrator appointed by Acas. The hearing is private, informal, non-legalistic, quick and confidential and the arbitrator's decision final. The remedies are the same as through an employment tribunal.
4. A **tribunal hearing** has various remedies and awards it can make, depending on the type of case. For example, if the tribunal decides an employee has been unfairly dismissed, the remedy could be re-instatement, re-engagement or monetary compensation, depending on the circumstances. Costs can also be awarded. A tribunal hearing is public.

Acas Publications

*Book time with your
Employment specialist*

Whether you need to know how to write a contract of employment, how much holiday you are entitled to or about the latest employment legislation, our range of booklets and leaflets give practical information and advice for both employers and employees on employment matters.

You can choose from our handbooks offering comprehensive guidance to the modern workplace or our Getting it Right pocket guides, providing vital checklists to help small firms run their business.

View and order online at **www.acas.org.uk/publications**

Other Acas material on this subject includes:

Acas Advisory Handbook – *Discipline and grievances at work*
- *the Acas guide*

Acas Getting it Right guides – *Dealing with grievances*
and *Discipline at work*

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Acas Training

Our training is carried out by experienced Acas staff who work with businesses every day. They will show you the value to your business of following good practice in employment matters and how to avoid the common pitfalls. We also run special training sessions on new legislation.

Look at the Acas website for up-to-date information about all our training or if you want to book a place online.

Training sessions are specially designed for smaller companies and our current programme includes:

- Managing discipline and grievances at work
- Managing absence at work
- Essential skills for supervisors
- Having difficult conversations
- Contracts of employment - how to get it right
- Employment law update

We also have online learning packages to help you – just go to www.acas.org.uk and click on **E-learning**.



Information in this booklet has been revised up to the date of the last reprint - see date below. For more up-to-date information, check the Acas website.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

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Helpline 08457 47 47 47

08456 06 16 00

helpline for Minicom users

08457 38 37 36

Acas Customer Services Team for details of training and services in your area

08456 00 34 44

for questions on managing equality in the workplace

Acas main offices

Acas National

22nd Floor, Euston Tower,
286 Euston Road,
London NW1 3JJ

East Midlands

Lancaster House, 10 Sherwood Rise,
Nottingham NG7 6JE

East of England

Acas House, Kempson Way,
Suffolk Business Park, Bury St. Edmunds,
Suffolk IP32 7AR

London

23rd Floor, Euston Tower,
286 Euston Road, London NW1 3JJ

North East

Cross House, Westgate Road,
Newcastle upon Tyne NE1 4XX

North West

Commercial Union House,
2-10 Albert Square, Manchester M60 8AD

Pavilion 1, The Matchworks, Speke Road,
Speke, Liverpool L19 2PH

Scotland

151 West George Street, Glasgow G2 7JJ

South East

Cygnus House, Ground Floor,
Waterfront Business Park,
Fleet, Hampshire, GU51 3QT

Suites 3-5, Business Centre,
1-7 Commercial Road, Paddock Wood,
Kent TN12 6EN

South West

The Waterfront, Welsh Back,
Bristol BS1 4SB

Wales

3 Purbeck House, Lambourne Crescent,
Llanishen, Cardiff CF14 5GJ

West Midlands

Apex House, 3 Embassy Drive,
Edgbaston, Birmingham B15 1TR

Yorkshire & Humber

The Cube, 123 Albion Street,
Leeds LS2 8ER

www.acas.org.uk



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