

## THE ACAS CODE OF PRACTICE

### DISCIPLINARY FACTSHEET 1

## The ACAS code of practice on disciplinary and grievance procedures

The ACAS Code sets out how the disciplinary process should be conducted where there are allegations of misconduct or poor performance. The employer should follow the recommendations in the Code, although it is not against the law for them not to.

However, an employment tribunal will take this into account when deciding whether you have been unfairly dismissed and could increase any compensation you are awarded by up to 25%.

It is important to be aware that the Code recommends what you as well as the employer should do during the disciplinary process. If you unreasonably fail to comply with the Code compensation awarded at tribunal may be reduced by up to 25%.

A copy of the Code can be downloaded [here](#). We suggest that you read the Code carefully before going to any disciplinary meeting and take a copy along with you.

ACAS has also produced a Guide to the Code which is available [here](#). It provides useful examples of how ACAS believe the Code should be interpreted. However, it is only guidance and does not have any legal effect.

### A fair disciplinary process

The ACAS Code recommends the following stages should be followed:

#### 1. The investigation stage

The employer should carry out the necessary investigations to establish the facts without unreasonable delay. The employer may just collect the evidence or may hold an investigatory meeting with you before deciding whether to proceed to a disciplinary hearing.

### CONTACT US

If you have any questions about the contents of this factsheet or you would like more information please contact us. We can be contacted by phone on 07972 437396 or 0121 6631224, email [trevor@bhampc.co.uk](mailto:trevor@bhampc.co.uk), via our website [www.bpcentre.org.uk](http://www.bpcentre.org.uk) or in person at Room 118 Gazette Buildings, 168 Corporation Street, Birmingham B4 6TF (please ring beforehand to ensure we are available).

Different people should carry out the investigation and the disciplinary hearing where that is practical.

An investigation meeting is not a disciplinary meeting and so you don't have a legal right to be accompanied. However, some employers do allow their employees to take somebody in with them. You should check your employer's disciplinary policies and procedures.

## **2. Suspension**

Suspension should only happen after careful consideration and where it is considered necessary. The decision to suspend should be regularly reviewed to make sure it is still appropriate.

You should receive full pay while suspended, unless your contract of employment allows for unpaid suspension.

## **3. The disciplinary hearing**

If, after the investigation, your employer believes that there is "case to answer" they should write to you to confirm that there will be a disciplinary hearing and give you reasonable time to prepare. The letter should include:

- Date, time and venue of the hearing
- The right to be accompanied to the hearing
- Enough detail about the allegations so you can prepare your case
- Copies of any witness statements or other evidence that your employer will rely on, which might include an investigation report
- If dismissal is a possibility

At the hearing your employer should explain the allegations against you and go through the evidence. You must be allowed to:

- Answer the allegations
- Present evidence
- Ask questions and call witnesses
- Bring a work colleague or a trade union representative as a companion

You might be told the outcome at the end of meeting but you should still receive the decision in writing, with details of any disciplinary action. If the decision was to dismiss you then the letter should explain how that decision was reached and tell you of your right to appeal.

If you are dismissed the date your dismissal takes effect is very important as there are strict time limits about making a claim to the employment tribunal for unfair dismissal. Time starts "running" from the date you are told of your dismissal if you are dismissed without notice. The date of dismissal is not always clear so please contact us for advice.