

## Changes to staff disciplinary and grievance procedures

**From 6 April 2009 statutory minimum 'three-step' dismissal and disciplinary or grievance procedures are abolished and will be replaced by an ACAS code of practice.**

When things go wrong at work, all settings are currently required by law to follow statutory minimum 'three-step' dismissal and disciplinary or grievance procedures. The dismissal and disciplinary procedure (DDP) must be followed in all termination of employment situations except retirement (but including redundancy, expiry of a fixed term contract, and dismissal for capability or conduct). The grievance procedure (GP) must be followed whenever an employee puts a complaint about their work in writing.

At present if a setting dismisses an employee without following the DDP, that dismissal will be automatically unfair even if there is a good reason behind it. Conversely, an employee cannot present claims other than unfair dismissal to an Employment Tribunal unless they have first raised a grievance using the GP, so settings will have prior warning of serious problems.

From 6 April 2009 both statutory minimum procedures are abolished and will be replaced by an ACAS code of practice. Although the steps required by the code are in essence the same as the 'three-step' DDP and GP, there is no longer a concept of automatically unfair dismissal for failure to follow the code and no requirement for an employee to raise a grievance before bringing a Tribunal claim. However, Tribunals must have regard to the code when deciding cases and if it has not been complied with, can increase or reduce awards of compensation by up to 25%.

The code takes a common sense approach requiring that:

- settings and employees should raise issues promptly then deal with them without unreasonable delay
- settings and employees should act consistently
- settings should investigate as necessary to establish the facts
- settings should inform employees of the problem and allow them to put their case
- settings should allow employees to be accompanied at formal disciplinary and grievance meetings
- employees should be allowed to appeal any formal decisions.

It is likely that your existing disciplinary and grievance procedures will comply with the code, but you should review them in the light of the following specific provisions it contains.

- It does not apply to dismissals for redundancy or termination of fixed term contracts.
- It recommends that, where possible, different representatives of the employer conduct the investigation and any subsequent hearing.
- It specifically provides for employees to be able to call witnesses to formal meetings.

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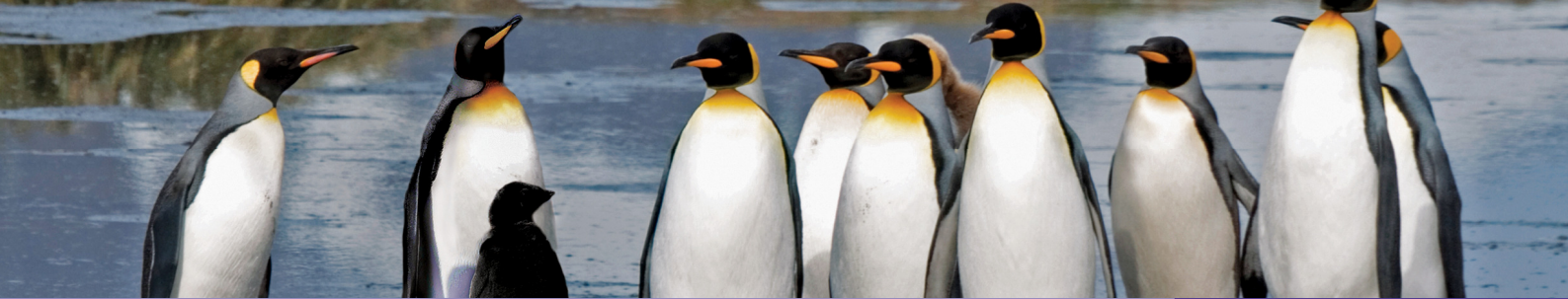
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- Disciplinary warnings must specify the consequences of further breach.
- It requires employees to specify the reason for any appeal against a decision in writing.

In addition to the code, there are more detailed guidance notes also produced by ACAS, which include flow charts and draft letters that comply with the code.

### Action points:

- Obtain a copy of the ACAS code of practice and supporting guidance (available from the ACAS website) at:
  - code:  
<http://www.acas.org.uk/CHttpHandler.ashx?id=880&p=0>
  - guide:  
<http://www.acas.org.uk/CHttpHandler.ashx?id=981&p=0>
- Check existing procedures and draft letters for compliance with the ACAS code.
- Ensure managers are aware of the code and its provisions before dealing with any disciplinary or grievance issues.

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