

Some Changes in Employment Law

The law relating to disciplinary and grievance procedures at work has changed. The relevant parts of the Employment Act 2006 came into force in April 2009, and replaced the old statutory procedures with a new Code of Practice.

Before April 2009 an employer could not dismiss an employee without following certain procedures. If he did so the dismissal was automatically unfair. On an employee's side, the employee could not claim constructive dismissal if he did not first raise a grievance under the statutory procedures.

These rules still apply if disciplinary action or grievance took place before 6th April 2009.

If the relevant disciplinary matter or grievance took place after 6th April 2009 the ACAS Code or Practice will apply.

The Code of Practice recommends informal action where minor misconduct or unsatisfactory performance are concerned. This is particularly useful in small firms. If an informal approach does not work or matters are more serious and a more formal procedure is required clear communication is the key. The employee should be told in writing what he or she is alleged to have done wrong. After this a meeting should be held at which the employee should have the chance to present evidence and call witnesses. After the meeting the employer should decide what if any action is justified. Normally an employee should be given a chance to improve the position before a final written warning is given except in cases where matters are more serious. If a final written warning has to be given where for example there is no improvement then the warning should make clear that the employee's job is at risk. If the conduct or performance still fails to improve then the employer may decide to dismiss or demote the employee.

For gross misconduct there is a slightly different procedure.

If the statutory procedure is not followed then the dismissal will be unfair.

Another change with effect from April 2009 is that employees with children under the age of 17 may request flexible working.

If you need further information and advice on these or other employment matters, you may find the ACAS website of assistance: www.acas.org.uk.

Alternatively you are welcome to contact Alison Fielden & Co:
The Gatehouse
Dollar Street
Cirencester
Glos. GL7 2AN

alison@alisonfielden.co.uk

01285 653261

As an additional service to our clients **our offices are open on Saturday mornings** from 8.30am – 12.30pm as well as from 8.30am-5pm weekdays.