

Helpline 08457 47 47 47

08456 06 16 00
helpline for textphone users

08702 42 90 90
for ordering Acas publications

08456 00 34 44
for questions on managing
equality in the workplace

Rights at work

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www.acas.org.uk

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



INVESTOR IN PEOPLE

12/04

Ref: RW03

inform

advise

train

work
with you

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.

Information *and consultation*

What is this leaflet for?

This leaflet gives a brief outline of rights to information and consultation 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

- Information and consultation at European level
- Information and consultation on proposed redundancies
- Protective awards for failure by an employer to consult
- Consultation over a transfer of business
- Information and consultation at national level.

Visit the Acas website at www.acas.org.uk for further information on all the rights with links to detailed guidance on the Department of Trade and Industry (DTI) website. Printed versions of Acas publications are available from **Acas Publications** telephone 08702 42 90 90.

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 *Discipline, grievances and dismissals, Equality and discrimination, 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 to information and consultation

Information and consultation at European level

Employees have certain rights to information and consultation across Europe as part of the Transnational Information and Consultation of Employees Regulations 1999. Companies with at least 1,000 employees in European Union member states and with at least 150 employees in two or more member states must have a European Works Council (EWC) or an equivalent procedure. The purpose of the EWC is to provide “transnational information and consultation” for the entire workforce.

These regulations allow employees reasonable time off with pay to perform their functions as a member of a special negotiating body or a EWC, as an information and consultation representative or as a candidate in an election to be a member or representative.

Information on proposed redundancies

To ensure employee representatives can play a useful part in the consultation process over proposed redundancies, the employer must disclose certain information *in writing* including:

- reasons for the proposed redundancies
- numbers and descriptions of those affected
- proposed method of selecting the employees who may be dismissed
- proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect
- how redundancy payments, other than the legal minimum, will be calculated (see the leaflet on ‘Pay’ in this series).

Consultation over proposed redundancies

An employer must consult with a trade union or employee representatives in circumstances where it is proposed to dismiss 20 or more employees at one place of work over a period of 90 days or less.

This consultation must take place with a view to reaching agreement with the appropriate representatives and must include discussion about:

- ways of avoiding redundancies
- reducing the numbers to be dismissed
- mitigating the consequences of any redundancies.

Employers also have a duty to act fairly and reasonably in handling redundancies and informing and consulting affected employees individually, regardless of the number of dismissals.

Protective awards for failure by an employer to consult

In cases where employers have failed to consult with employee representatives over proposed redundancies, an employment tribunal can make a 'protective award'. The employer is required to pay employees covered by a protective award their normal week's pay for each week of a specified period, known as the protected period, regardless of whether or not they are still working. To be covered by an award, employees must:

- belong to a group specified in the award
- be employees whom the employer plans to dismiss or has already dismissed as redundant, and
- be employees in whose case the employer has failed to comply with the information and consultation requirements.

Consultation over a transfer of business

Employees have the right to be consulted when a business or undertaking, or part of one, is transferred to a new employer – whether employed by the new or previous employers. An employer must tell a trade union or employee representative:

- that the transfer is going to take place, approximately when, and why
- the legal, economic and social implications of the transfer for the affected employees
- whether the employer envisages taking any action (reorganisation for example) in connection with the transfer which will affect the employees, and if so, what action is envisaged.

If action is envisaged which will affect the employees, the employer must consult their representatives. The consultation must be undertaken with a view to seeking agreement.

Information and consultation at national level

The European Union Directive for informing and consulting employees will give employees the right to be:

- informed about the business' economic situation
- informed and consulted about employment prospects, and
- informed and consulted about decisions likely to lead to substantial changes in work organisation or contractual relations, including redundancies and transfers.

Employers and employees may meet their obligations by means of existing agreements on information and consultation.

Implementation will be in stages – businesses with 150 employees (April 2005), businesses with 100 or more employees (2007) and businesses with 50 or more employees (2008). The Directive does not apply to those businesses with fewer than 50 employees.

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 of Trade and Industry website at www.dti.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. **Settle the dispute.** Employees should always try to resolve a problem or dispute with their manager or employer first. This might be through the organisation's own grievance procedure. Both sides can also come to Acas for advice, either from the helpline or an Acas adviser.
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.
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 or call Acas Publications on 08702 42 90 90.

Other Acas material on this subject includes:

- Acas Advisory Booklet – *Employee communications and consultation*
- Acas Getting It Right Guide – *Communicating with your employees*

Information in this booklet has been revised up to the date of the last reprint - see date below.

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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