

Insights

THE NEW ACAS CODE: OPPORTUNITIES FOR EMPLOYERS IN THE AGE OF AI-GENERATED GRIEVANCES

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Summary

The Advisory, Conciliation and Arbitration Service ("**ACAS**") has recently commenced [consultation](#) on an updated draft Code of Practice on disciplinary and grievance procedures ("**Code**"). This is the first substantive overhaul of the Code for more than a decade, drawing much attention from employers, workers and their representatives.

It is understandable that the commentaries to date have focussed on challenges that the changes may bring for employers, particularly as they ready themselves for the seismic changes to unfair dismissal law coming their way on 1 January 2027 (as [explored in our previous update](#)). But the Code can also work in an employer's favour when defending unfair dismissal claims. We believe that ACAS' proposed changes could generate some new opportunities here, including on the vexed issue of AI-assisted grievances.

Opportunities for employers?

The Employment Tribunal ("**ET**") can increase an employee's compensation by up to 25 per cent for an employer's unreasonable failure to comply with the Code, a power that will become more significant once the unfair dismissal compensation cap is removed on 1 January 2027. But the Code cuts both ways: employees have their own duties, breach of which can result in an equivalent reduction of up to 25 per cent.

The draft Code may strengthen an employer's hand here, including in the following areas:

- *AI-generated grievances* - One of the key principles in the draft Code is that an employee should "*explain their concern clearly in a way that will enable the employer to understand and resolve it*". Currently, a grievance need only be in writing and set out the nature of the complaint. This new principle sits uneasily with the issues created by the increasing use of generative AI in this space (although we note the consultation asks respondents for their views on those issues). AI-assisted grievances are often lengthy, hard to follow and cite

dubious legal concepts (as we have explored previously). Employers will celebrate this change to the Code if it helps them push back on unwieldy, AI-driven grievances!

- *Informal resolution* – The draft Code elevates the importance of informal resolution, meaning a claimant's unreasonable failure to explore informal steps could, in future, materially reduce any compensation award. As is so often the case with workplace disputes, the quality of your paper trail will be important. Ensure you document any resistance to informal resolution so you can alert the ET. This point may be particularly effective against AI-reliant complainants, who are often reluctant to attend meetings where they have to explain or defend their position.
- *Mediation and facilitated conversations* – The draft Code also directs parties to consider resolving concerns via mediation or a facilitated conversation. Mediation can be a very effective tool for resolving complaints, not least as it can produce outcomes which are not available from the ET. In those disputes which are suitable for mediation (most), consider proposing it to the employee. Explain what the process would involve and why you believe it might help.

These points could encourage an ET to reduce any compensation award and could also provide the employer with really useful leverage in settlement discussions.

What do you need to do now?

- Keep up to date with the consultation and any changes to the Code.
- Review your policies and procedures once the changes are confirmed.
- Remember that employees owe their own duties under the Code.
- Ensure you are holding complainants to account and highlighting any deficiencies to the ET.

If your organisation uses legal AI tools, consider incorporating checks against the Code's requirements when analysing the merits of employee complaints and claims. Good habits are worth embedding before 1 January 2027, after which the issues discussed above will become even more important. As ever in employment law, preparation is crucial.

Related Capabilities

- Employment & Labor

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