

Discipline at Work

In any organisation, rules are needed to set standards in the working environment. The purpose of a disciplinary procedure is to ensure that these standards are adhered to and there is a fair and consistent method for resolving alleged failures and breaches of company rules. The principle aim of a disciplinary procedure should not be impose sanctions but to effectuate improvements where accepted standards are not being met.

Employees can be disciplined for conduct related issues and performance related issues.

The Legal Requirements

All employers must refer to any disciplinary rules which they have in the contracts of employment which it issues to its employees. The contract of employment does not have to include all of the rules and it is acceptable for an employer to simply refer to the document within which the disciplinary rules are contained, for example, the staff handbook or, the disciplinary policy.

The ACAS Code of Practice

As well as adhering to any internal policies, employers must also take into account the ACAS Code of Practice on disciplinary and grievance procedures when considering matters of discipline. If an employer unreasonably fails to comply with any provision of the Code an Employment Tribunal may adjust any compensatory awards by up to 25%. Employees should also do their best to comply with the provisions of the Code.

Three Stage Process

A disciplinary process comprises three main elements: investigation; disciplinary and appeal. If any element of this process is not fulfilled any disciplinary sanction is likely to be rendered unfair. Suspension should not be imposed automatically; only if it is reasonable to do so. Any suspension must be on full pay.

The **investigation** should be carried out without delay and the facts of the case should be established. It is usually advisable to meet with the employee against whom the disciplinary allegations have been levied. If necessary, witnesses should also be interviewed as part of the investigation.

Once the investigation has been concluded, the employee should be given written notification of the allegations against them and invited to attend a **disciplinary** hearing. The employee should be given sufficient information about the alleged misconduct or poor performance and the possible consequences of the disciplinary hearing. The employee should be provided with copies of all evidence upon which the employer intends to rely, including copies of any witness statements obtained. The employee should be given a minimum of 48 hours' notice of the disciplinary hearing and offered the statutory right to be accompanied by either a work colleague or a trade union representative.

During the disciplinary hearing the employee should be given the opportunity to respond to the allegations in full. After the meeting the employer should consider the employee's comments in line with the evidence in its possession and make a decision about whether disciplinary action is necessary. The employer should write to the employee with its decision giving the employee the right of appeal.

Any **appeal** should be dealt with impartially and wherever possible, by a manager who has not previously been involved in the case.

Disciplinary Sanctions

The most common disciplinary sanctions include: verbal warning; first written warning; final written warning; demotion; dismissal with notice and summary dismissal (dismissal without notice). Summary dismissal is the most severe of the disciplinary sanctions.

The employee should be told why the sanction being issued and how long the sanction will remain on their record.

Disciplinary FAQs

Q What are examples of misconduct?

A Lateness, unauthorised absence and failure to follow reasonable management requests are all examples of misconduct.

Q What are examples of gross misconduct?

A Falsifying timesheets, physical violence, harassment, victimisation, threatening behaviour and fraud. This list is not exhaustive.

Q What should be included in the investigation?

A All evidence upon which the employer intends to rely for example: witness statements, CCTV footage and documentary evidence.

Q Does the employee have a right to be accompanied?

A An employee has a statutory right to be accompanied by a work colleague or a trade union representative at disciplinary and appeal hearings.

Q Can the employee call witnesses?

A Yes, but advance notice should be given.

Q What if an employee fails to attend a disciplinary hearing?

A The employer should rearrange the hearing at least once however thereafter the employer may be able to consider holding the meeting in the employee's absence.

Q Do I have to start at a verbal warning in every case?

A No. An employer is entitled to issue whatever sanction they feel is most reasonable in the circumstances.

[DISCLAIMER]