



DISCIPLINARY AND DISMISSAL PROCEDURE

1 INTRODUCTION

1.1 Disciplinary rules and procedures help to promote orderly employment relations as well as fairness and consistency in the treatment of individuals. They tell employees what is expected of them. If an employee breaks specific rules about behaviour, this is often called misconduct. Disciplinary procedures and actions are used to deal with situations where employees allegedly break disciplinary rules. Disciplinary procedures may also be used where employees don't meet their company's expectations in the way they do their job.

1.2 This disciplinary and dismissal procedure details the disciplinary and dismissal action to be followed for failure to meet the company standards of job performance, conduct (whether during working hours or not) and attendance, or for breach of any terms and conditions of employment. The procedure applies to all employees and is designed to ensure consistent and fair treatment.

2 DEALING WITH DISCIPLINARY ISSUES

When a potential disciplinary matter arises the company will investigate the complaint, taking into account any witness statements if necessary. Having established the facts, the company will decide whether to drop the matter, deal with it informally or arrange for it to be handled formally. Where an investigation is necessary, the employee may be suspended on full pay pending the outcome. The investigation should take no longer than four weeks to reach conclusion. Any investigatory meeting or suspension will not be considered a disciplinary action. If exceptionally, the matter is not concluded within 4 weeks then employee will be kept informed as to the progress.

3 INFORMAL ACTION

3.1 In cases of minor misconduct or unsatisfactory performance the employee's manager or supervisor will discuss the matter with him/her in an attempt to deal with the matter informally and give the employee the opportunity to improve. At this stage nothing will be entered on the employee's disciplinary record.

3.2 If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classified as minor, formal action will be taken.

4 FORMAL ACTION - DISCIPLINARY MEETING

4.1 In the first step in the formal process the company will write to the employee alleging what he/she has done wrong and the reasons why the behaviour is not acceptable. The letter or note will also invite the employee to attend a meeting at which the problem can be discussed. The employee has the right to be accompanied by a colleague or trade union representative and the employee should be given copies of any documents that will be produced at the meeting. Where possible, the timing and location of the meeting shall be agreed with the employee and the employee shall be given a reasonable time to prepare.

4.2 At the meeting the company shall explain the complaint against the employee and go through the evidence that has been gathered. The employee shall be allowed to state his/her case and answer the allegations that have been made. The employee shall also be allowed

to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses.

5 FORMAL ACTION - FOLLOWING DISCIPLINARY MEETING

Following the meeting the company will decide whether disciplinary action is justified or not and if so, what form this should take. The company will take into account the employee's disciplinary and general record, length of service, actions taken in any previous similar cases, the explanations given by the employee and whether the intended disciplinary action is reasonable under the circumstances and any other relevant circumstances. Where the employee's poor performance or misconduct, or its continuance, is sufficiently serious, for example because it is having a serious harmful effect on the business, it may be appropriate to issue a final written warning. In cases of gross misconduct, the company may decide to dismiss even though the employee has not previously received a warning for misconduct. The steps in the formal action are as follows:

5.1 FIRST FORMAL ACTION - UNSATISFACTORY PERFORMANCE

Where, following a disciplinary meeting, an employee is found to be performing unsatisfactorily, the first step will usually be to give the employee a written warning setting out the performance problem, the improvement that is required, the timescale for achieving this improvement, a review date and any support the company will provide to assist the employee. The employee will be informed that the warning represents the first stage of the formal procedure and that failure to improve could lead to a final written warning and, ultimately dismissal. The employee should be informed that he/she may appeal against the decision. A record of the warning will be kept, but will be disregarded for disciplinary purposes after a period of six months.

5.2 FIRST FORMAL ACTION - MISCONDUCT

Where, following a disciplinary meeting, an employee is found guilty of misconduct, the first step will usually be to give the employee a written warning setting out the nature of the misconduct and the change in behaviour required. The employee will be informed that the warning represents the first stage of the formal disciplinary process and what the consequences will be of a failure to change behaviour. The consequences could be a final written warning and, ultimately dismissal. The employee should be informed that he/she may appeal against the decision. A record of the warning will be kept, but will be disregarded for disciplinary purposes after a period of six months.

5.3 FINAL WRITTEN WARNING

Where there is a failure to improve or change behaviour in the timescale set at the first formal stage, or where the offence is sufficiently serious, the employee will be issued with a final written warning, but only after they have been given a chance to present their case at a meeting. The final written warning will give details of, and grounds for, the complaint and will warn the employee that failure to improve or modify behaviour may lead to dismissal or to some other penalty, and refer to the right to appeal. The final written warning will be disregarded for disciplinary purposes after a period of twelve months.

5.4 DISMISSAL OR DISCIPLINARY ACTION

If the employee's conduct or performance still fails to improve, and the company feels that further action against the employee is necessary, such as dismissal or some other penalty such as demotion, disciplinary transfer or loss of seniority/pay, the standard statutory 3-step disciplinary and dismissal procedure will begin.

6 STANDARD STATUTORY 3-STEP DISCIPLINARY AND DISMISSAL PROCEDURE

6.1 The standard statutory disciplinary and dismissal procedure applies to all dismissals except:

6.1.1 "Collective" or constructive dismissals and dismissals where employment cannot continue for reasons beyond anyone's control (see paragraph 8 below); and

6.1.2 A very small subset of gross misconduct dismissals (see paragraph 8 below); and to all disciplinary action, such as demotion or reduction of pay, except action which is part of a workplace procedure i.e. warnings (oral or written) and suspension on full pay.

6.2 The 3 steps are:

6.2.1 STEP 1 - WRITTEN STATEMENT

The Line Manager must write to the employee setting out what the employee has done, or failed to do that may result in disciplinary action or dismissal and invite the employee to attend a meeting to discuss the matter. In the case of redundancy, retirement on health grounds or the end of a fixed term contract the letter should set out the circumstances which led the company to take the decision to end the person's employment.

6.2.2 STEP 2 - MEETING

The meeting should be at a reasonable time and location and the employee must take all reasonable steps to attend. The employee has a right to be accompanied by a colleague or employee representative. If the employee or the companion is disabled the company will take all reasonable steps to ensure that they have no problems participating fully in the meeting. The meeting should be far enough ahead that the employee has had time to think about the statement in the letter but it should not be delayed for too long. After the meeting the Line Manager must inform the employee about any decision in writing and offer the employee the right of appeal if the decision goes against him/her.

6.2.3 STEP 3 - APPEAL

If the employee decides to appeal he/she must inform the relevant Director within 5 working days that he/she wishes to appeal against the company's decision. The relevant Director must arrange a meeting to discuss the appeal within a reasonable time (normally within 7 working days) and the employee must take all reasonable steps to attend. If possible a manager more senior than the relevant Director will chair the appeal meeting, but if this is not possible, all effort will be made to deal with the matter impartially. The employee has a right to be accompanied by a colleague or employee representative. After the meeting the employee must be told of the decision in writing, making it clear that it is final.

7 DELAYS

If the employee, the company or the person the employee has chosen to accompany him/her cannot make the date of the meeting, another reasonable date must be fixed which should be no more than five working days later than the original date. If this second meeting is missed, the law considers the procedure to be at an end and the company can proceed with the dismissal or disciplinary action without going through any more steps.

8 MODIFIED 2-STEP DISCIPLINARY AND DISMISSAL PROCEDURE

In special circumstances involving gross misconduct the company may be entitled to move directly from the written statement to the appeal without having to hold a hearing. The company must still establish the facts before taking any action. These two steps must be followed or the dismissal is automatically unfair:

8.1 STEP 1 - WRITTEN STATEMENT

The Line Manager must write to the employee setting out what the employee has done, or failed to do that resulted in dismissal. The employee must also be told that he has the right of appeal against this dismissal.

8.2 STEP 2 - APPEAL

If the employee wants to appeal he/she must inform the relevant Director within 5 working days. The relevant Director will then arrange a meeting to hear the appeal (normally within 7 working days). Following the appeal meeting the relevant Director must inform the employee of the decision, making clear that it is final.