



## Disciplinary Procedure

### **What is disciplinary procedure?**

Disciplinary procedure is to enable any concerns over employees conduct, attendance or performance to be handled in a fair, consistent and timely manner with the intention of bringing about an improvement in the performance of the employee.

When developing a disciplinary procedure you should follow the ACAS Code of practice on disciplinary practice and procedures which is available online at [www.acas.org.uk](http://www.acas.org.uk).

### **N.B A revised code is due to come into effect in April 2009**

Failure to comply with ACAS Code of practice when developing a procedure could lead to the employer being taken to an employment tribunal

### **Informal discipline**

General issues of poor performance and minor disciplinary offences should be handled informally in the first instance, usually through discussion and informal warnings. If the informal approach does not lead to the desired improvements in the employee's behaviour and standards, or where the offence is more serious, a formal disciplinary procedure should be followed.

### **The Procedure - The Three Stage Process**

#### **Stage 1 – Formal Verbal Warning**

Where informal discussions have not led to the employee achieving acceptable standards of conduct or behaviour, a formal verbal warning is given. This warning must include –

- The reason for the warning
- That this warning forms the first stage of the full disciplinary procedure
- That there is a right of appeal

A brief written record of the warning is kept with the employee's personnel file, but this should lapse after six months providing the employee's conduct and performance has been satisfactory.

#### **Stage 2 - Written Warning**

Where there is no improvement in standards or a further offence occurs, then a written warning should be given. This must specify the reason for the warning and state that if there is no improvement within the agreed timescale a final written warning will be given. A copy of this written warning is kept on file but following a period of 6 months satisfactory conduct and performance, the warning shall lapse.

### **Stage 3 – Final Written Warning**

Should the employee's conduct or performance remain unsatisfactory or if the misconduct is sufficiently serious as to only warrant one written warning, then a final written warning must be given. This must explain that any recurrence of the offence or any other serious acts of misconduct within six months, then the employee will be dismissed. A copy of this written warning is kept on file but following a period of 6 months satisfactory conduct and performance, the warning shall lapse.

### **Dismissal**

Where the misconduct or performance is sufficiently serious or the employee fails to improve to an acceptable level, the final step in the disciplinary process is dismissal. In some cases other action may be taken such as demotion, transfer or disciplinary suspension. As soon as is reasonably practicable the employee must be provided with written reasons for the dismissal, the date on which employment will be terminated and details of their right to appeal. Any decision to dismiss must be confirmed in writing.

### **Gross misconduct**

Where there is an act of gross misconduct, the employer is entitled to terminate the employee's contract of employment without notice or pay in lieu of notice. In such cases, the 3 stage disciplinary process, detailed above, does not apply. Where the employee faces dismissal, the 3 stage process, is replaced by the minimum statutory procedure as follows-

1. written details of the allegation and the basis for it are given to the employee
2. a meeting must be arranged to consider and discuss the allegation, only after this may a decision be made.
3. the employee submits a letter of appeal. This must include the reasons for an appeal and be supported by any relevant documentation. This is followed by an appeal meeting, to which the employee may be accompanied, for example, by a work colleague or trade union representative agreed in advance with the setting.

### **Appeals**

Once the disciplinary procedure has been initiated the employee has the right, at any stage, within the organisations agreed timescale, to appeal against it. Appeals must be made in writing and clearly state the reasons for the appeal. A meeting should be convened between the employer and the employee. The employee may be accompanied to the appeal meeting for example by a trade union representative or a work colleague agreed in advance with the setting. After the appeal meeting, the employer must inform the employee in writing of the appeal decision. The employer's decision following an appeal meeting is final and the employee has no further rights to an internal appeal.