

Sample Disciplinary Procedure

Introduction

The company aims to ensure that any issues concerning an employee's conduct are handled promptly and fairly and with as little formality as possible. If your manager is concerned about any aspect of your conduct then he or she will usually want to talk to you about that on an informal basis – we find that most issues can be resolved this way without the need for any formal process.

Where an informal approach has not worked – or where the allegations are so serious that an informal approach would not be appropriate - then this procedure will be used to resolve the issue. Please note that this procedure does not form part of your contract of employment and may be changed from time to time to reflect the changing needs of the business.

Sometimes circumstances prevent parts of the procedure from being followed in full. For example, employees may be too ill to participate in a disciplinary meeting or a specified manager may be unavailable to chair the meeting. When this happens, the company will do its best to ensure that the employee fully understands the allegations that have been made, is given a proper opportunity to respond to them and that the employee's response is fairly and carefully considered.

Allegations of misconduct

Where a formal allegation of misconduct is made against you, then this will be explained to you – usually by your direct line manager. The details of the allegation will then be confirmed to you in writing, together with a copy of the disciplinary procedure.

Suspension

In some cases it might be appropriate to suspend you from work for a temporary period while the matter is dealt with. This is in no way intended to indicate guilt on your part, but is an administrative measure designed to protect the business or ensure the smooth running of the disciplinary procedure. Any period of suspension will be kept as short as possible and will be on a fully-paid basis.

Investigation

An investigation will be conducted into the allegations to decide whether there is sufficient evidence to justify taking the matter further. The person appointed to conduct the investigation will usually talk to you at an early stage to hear your response to the allegations and then will talk to anyone else who may be able to shed light on the matter. Where appropriate the investigation may also include the examination of documents, including emails and other forms of electronic communication.

Invitation to a meeting

Once the investigation is complete, the company will decide whether to proceed to a formal meeting – or whether the matter can be resolved informally or without any further action. If it is felt necessary to hold a disciplinary meeting then this will be confirmed to you in writing. You will usually be given at least three days' notice of any meeting, depending on the complexity of the evidence, to allow you to prepare and to arrange for a companion to accompany you.

Prior to the meeting you will be given a copy of any evidence that will be presented at the meeting and will be invited to submit any further evidence that you consider to be relevant.

Bringing a companion

At any disciplinary meeting you are entitled to be accompanied by a fellow employee or a properly accredited official of a trade union. Please note that it is your responsibility to arrange for a companion to accompany you – this is not something that the company can do on your behalf. Any employee who agrees to accompany you will be given paid time off for this purpose. If your chosen companion is not available for the day of the meeting then the company will rearrange the meeting to a more convenient date, provided this can be done within a reasonable timescale. If it does not prove possible, then you may need to find somebody else.

The disciplinary meeting

The meeting will be chaired by an appropriate representative of management who has not, as far as possible, been previously involved in the matter. The evidence gathered in the course of the investigation will be presented and you and your chosen companion will be given an opportunity to respond.

You may also call on witnesses to give evidence on your behalf, provided this is relevant to the issues being considered in the meeting.

The meeting is not a trial, however, and the company will not usually require any witnesses to attend against their will. Nor will those who participated in the investigation normally be required to attend so that you can question them directly. The chair of the meeting may, however, choose to adjourn the

meeting so that further evidence can be obtained. If this happens then you will be given an opportunity to respond to any fresh evidence that is considered to be relevant.

Before the meeting closes, you (or your companion) will be given an opportunity to make any comments or representations that you think will be relevant and which may shed light on the situation.

The chair of the meeting will usually adjourn for a period to consider his or her conclusions. The meeting may then reconvene – either immediately afterwards or as soon as can reasonably be arranged. You will then be told of the outcome.

Outcomes

If the allegations against you are upheld to any extent then the chair of the meeting will decide whether disciplinary action is appropriate. This will usually take the form of a written warning, depending on the circumstances and the seriousness of the misconduct.

First written warning

A first written warning will be appropriate for instances of misconduct that are serious enough to warrant disciplinary action, but where there is no current warning already in place. The warning will set out the nature of the misconduct and explain that any further misconduct (similar or otherwise) will be likely to result in further action.

The warning will also specify how long it will remain 'active'. This will usually be a period of six months to a year at the discretion of the chair, but may be longer where circumstances warrant it. Once the 'active' period of the warning has expired, it will no longer be taken into account for the purposes of this procedure.

Second written warning

Where the conduct is more serious – or the employee is already subject to an 'active' first written warning – then a second written warning will usually be given. This will set out the nature of the misconduct and explain that any further misconduct (similar or otherwise) will be likely to lead to a final written warning

A second written warning will usually remain active for a period of 12 months – although a longer period may be specified when the circumstances warrant it. Once the 'active' period of the warning has expired, it will no longer be taken into account for the purposes of this procedure.

Final Written Warning

Serious misconduct may be dealt with by a final written warning. Misconduct may also lead to a final written warning if the employee is already subject to an active second written warning, or (where the circumstances justify it) a first written warning. A final written warning will set out the nature of the misconduct and explain that any further misconduct (similar or otherwise) could lead to the employee being dismissed.

A final written warning will usually remain active for a period of 12 months – although a longer period may be specified when the circumstances warrant it. Once the 'active' period of the warning has expired, it will no longer be taken into account for the purposes of this procedure.

Dismissal

Where the employee is already subject to an active final written warning then the penalty employed will generally be dismissal with notice. Where the employee is found to have committed gross misconduct then dismissal will normally be the outcome even if the employee has received no previous warnings. Dismissal for gross misconduct will usually be without notice.

There is no exhaustive definition of what constitutes gross misconduct but for guidance on this issue you should look at the Company's code of conduct.

The right to appeal

If you feel that a disciplinary penalty is unfair, you are entitled to appeal. You should indicate your intention of doing so in writing within 10 days of receiving written notification of the disciplinary meeting.

If you appeal, a meeting will be arranged to be chaired by [a more senior manager]. You will have the same right to be accompanied by a fellow employee or trade union official as at the initial disciplinary meeting. At the meeting you will be given the chance to explain why you feel the initial hearing reached the wrong conclusion. Depending on the circumstances the meeting may either simply consider the points that you have raised or it may reconsider the whole case and reach its own conclusion on the correct outcome.

The result of the appeal will be notified to you in writing and will be final.

NB: This is a sample policy written by Darren Newman. A properly developed policy would be tailored to meet the particular needs of the client. Introducing a new disciplinary policy may involve a careful consideration of current arrangements which may form part of the contract of employment or require consultation with the appropriate trade union or staff representatives