

DISCIPLINARY: GETTING THE PROCESS RIGHT

When dealing with disciplinary matters, the importance of following a clear and proper process is essential in order to ensure that objectivity, consistency and fairness are maintained. Depending on the issue and circumstances the process may be implemented at either an informal or formal stage. For full details please refer to the full Disciplinary Procedures.

What you need to know...

IMPORTANCE OF GETTING THE PROCESS RIGHT



- Not following a fair process could lead to claims of unfair dismissal or discrimination, with serious financial and reputational consequences
- Less serious issues can build up if not dealt with, resulting in more serious misconduct, which can negatively affect the culture in your organisation

- A minimum of 72 working hours' notice should be given of a formal disciplinary meeting
- The employee has the right to be represented at the formal stages of the process
- The employee must be notified in writing of any decisions made
- They will have a right of appeal against any decision made
- Appeals must be made in writing to a named person within 5 working days of receipt by the employee of the original disciplinary letter
- To minimise risk of unfair dismissal / constructive unfair dismissal claims, make sure you document every step of the process (see our advice guide on Unfair Dismissal for more detail)

KEY CONSIDERATIONS



ADVISED DISCIPLINARY SANCTIONS



- Verbal warnings will **normally** be held on file for 6 months
- Written warnings will **normally** be held on file for 12 months, but in exceptional circumstances for longer, including in perpetuity
- Dismissal may occur if there is a failure to improve or in the event of serious misconduct or repeated warnings
- In cases of Gross Misconduct the disciplinary stages may not apply and, if after full investigation and a disciplinary hearing the case is proven summary dismissal may result
- Other possible disciplinary sanctions include demotion, disciplinary transfer, loss of seniority, temporary suspension with or without pay

HR Now's Disciplinary Process Flowchart:

Informal Stage

(remember this is not a disciplinary hearing)

Where conduct or performance falls short of expected standards, an informal discussion will be held to raise the issue with the aim of seeking a resolution to the matter by encouraging improvement and highlighting steps that will follow if improvement is not made.

An informal warning should be recorded and retained as a file note.

Formal Stage

Depending on the circumstances it may be necessary to invoke formal disciplinary procedures.

No disciplinary action will be taken until the matter is **appropriately investigated**.

The employee will be **advised of the nature of the complaint** and be given a **full opportunity to state their case** before any decisions are made.

Disciplinary Hearing

If required to attend a disciplinary hearing (after the investigation meeting) the employee has the right to be represented by either a work colleague or trade union official.

They are to be provided with full details of the allegations of misconduct, investigation notes, reports and witness statements in order to prepare their case.

The hearing will adjourn before any decision is made. Decisions will be confirmed **in writing**.

They have a right of appeal against any decision made. Appeals will be heard by someone more senior and not directly involved in the original hearing.