



## Discipline and Grievance

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## FACTSHEET - Discipline and Grievance

Most employers will at some time face challenges at work with one or more employees. Discipline and Grievance policies and procedures will ensure that any challenge is dealt with fairly, reasonably, consistently, and in a timely manner. Employers should also have procedures in place that support all parties.

For those employers who do not have the relevant policies then the ACAS Code of Practice should be used. The organisation having organisational policies and processes, however, is evidence of their commitment to dealing with these matters appropriately and within the law.

### Discipline

There are two main reasons for disciplinary procedures being applied:

1. Conduct
2. Performance/Capability.

1. Conduct – There are many issues which are classed as employee misconduct and these can be minimal or serious. Employers should, in all cases, follow its policy and the ACAS Code. The following is a list of some conduct issues. It is not however exhaustive:

- Not following instructions from a manager
- Continued extension of break times
- Lateness
- Leaving early
- Bullying or abusive behaviour
- Theft
- Being convicted of a criminal offence\*
- Failing to advise your employer of the above\*

\* More serious misdemeanours may be classed as Gross Misconduct and may ultimately lead to a sanction up to dismissal with or without notice (Summary Dismissal).



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Whatever the issue or challenge employers should always follow a procedure and have a written record at each stage.

2. Performance/Capability – Issues may arise due to training needs of the employee or if the employee is unable to perform to the required standards due to other reasons. The employer must be able to evidence the reason for the performance issue and any support given before starting a formal procedure. Another reason for performance issues may be related to ill health and this should be managed appropriately, with particular consideration of the Equality Act 2010.

**Disciplinary Process** – this usually has three distinct stages, and these are a letter, a meeting, and an appeal.

The employer must always conduct a full and fair investigation, determine the relevant facts, and retain written details of any meetings. When appointing an Investigatory or Disciplinary officer consideration should be given to who within the organisation is at the appropriate level and has been trained for the role. Consideration should also be given to a member of the HR team attending all meetings.

**Retaining Records** – All forms of communication should be recorded and retained, and this will be crucial should the employee apply to an Employment Tribunal. This includes:

- A written record of all meetings
- Any emails, texts, or posts from Social Media
- A written summary or agreed recording of telephone calls
- A copy of all correspondence to all involved in the disciplinary
- Any statements from other employees or managers.

Employees are legally entitled to have a representative accompany them at any formal meeting, and this can be a colleague, Trade Union, or professional body representative. In **exceptional circumstances** a request for a representative out with these categories may be made and should be given careful consideration.

### **Dismissal**

There are currently only five potentially fair reasons for dismissal. HR advice should be sought before a decision to dismiss is made. **LBJ Consultants** can support, and protect, you and your organisation in making these decisions.



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**Grievance** - Organisations must ensure that all employee grievances are conducted in a fair manner and that the managers involved are experienced in dealing with Grievance and understand the policy and procedures.

It is good practice to attempt to resolve any grievances informally in the first instance, this will protect relationships within the organisation. If this is not possible you may consider Mediation or some other form of dispute resolution. **LBJ Consultants** have suitably experienced and qualified Mediators and can advise on this route.

### Formal Grievance

If informal resolution is not possible then employees should be aware of the option to make their complaint formal. An employer should consider the following within their policy:

- All stages of the ACAS code should be followed
- Persons suitably experienced to deal with formal grievance should be named
- Any support available is included
- Timescales for the completion of the procedure
- Stages within the Grievance policy

As before employees are legally entitled to have a representative accompany them at any formal meeting.

**Retaining Records** – All forms of communication should be recorded and retained, and this will be crucial should the employee apply to an Employment Tribunal.

Please be aware that if the Grievance is concerning **Harassment**, there are additional factors to consider and Harassment is also covered by legislation.

With fully qualified Consultants and many years' experience in this area **LBJ Consultants** can deliver Discipline and Grievance procedures professionally and support you and your staff in the process.

We will be happy to answer any questions that you may have and you can call us on 07375 097443 or e-mail: **enquiries@lbjconsultants.co.uk**