

andrews ritson solicitors – Directors' Breakfast Briefing

28 January 2015

The Do's and Don'ts of Disciplinarys!

Where to Start?

- Can a full disciplinary process be avoided? Is it appropriate to have an informal chat to try and nip matters in the bud?

If not:

- What process do you need to use?

Look at your own disciplinary procedure within the staff hand book and / or contracts of employment.

Look at the ACAS Code of Practice for disciplinary action.

NB Your own procedure must comply with the code of practice

- Make sure employee's personnel file is fully up to date.

Key Points - Procedure must include:

1. Notification to the employee at earliest opportunity of action and reasons why.
2. Full investigation of issues
3. Written request to employee to attend disciplinary meeting which **MUST** include:

Details of allegations.

Any evidence being used including statements, photos etc.

Right to be accompanied by trade union rep or work colleague.

Date and time of the meeting.

Who will be taking the hearing.

4. Meeting to hear disciplinary issues

NB: look at who is most appropriate person to take the hearing, where it should be, a neutral note taker is a good idea.

Some practical tips on holding the meeting.

5. Written confirmation of outcome of the hearing including:
 - any sanctions
 - the right to appeal and time scale to do so
 - reasons for decision
 - any time scales for action
6. If employee appeals then letter inviting to appeal hearing.
7. Appeal hearing
 - Again look at who should take the hearing. Someone different from original hearing. Someone from outside your business?
 - New matters to consider – from your side, and from the employee.
 - Same employee rights as for first hearing
8. Written confirmation of outcome of appeal
9. Full update to personnel file

Key Principles of a Fair Disciplinary

- Transparency to the procedure (be very clear!).
- Overriding principle of 'fairness' to the employee.
- Confidentiality.

How to avoid Complaints / Grievances

- Record **EVERYTHING** in writing – informal chats, telephone calls, hearings.
- Act promptly - investigate as soon as you are aware of a problem.
- Keep employee fully informed of what's happening.
- Hold meetings promptly.
- Make sure employee has sufficient time to prepare a response and have their say.
- Is the decision relative to the concern raised? Too severe? What is misconduct, and gross misconduct?
- What if the employee raises a grievance during the disciplinary process? What goes first, can you deal with them at the same time?

- What can the Employee claim if I get it wrong? Employment Tribunal claim, conciliation first, constructive dismissal, or unfair dismissal.
- Take advice early. Good source of information/help ACAS [acas.org.uk](https://www.acas.org.uk)
- Call us!!

Any Questions?

Please ask now, or call/email us later – contact details below.

Thanks for attending today!

If you know any other business owners who would benefit from attending a similar briefing, please let us know – call Meg Andrews on 01746 769700, or email her at mandrews@andrewsritson.co.uk

This is the first of a series of Director Breakfast Briefing we'll be holding this year. Let us know if there is a subject you would like us to focus on – contact Meg Andrews with the details.

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