

ERR

6 - Disciplinary Procedures

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Session Six: Disciplinary Procedures

Introduction to the Session

This session focuses on disciplinary procedures.

Even with highly committed employees, it may sometimes be necessary to use disciplinary procedures; it is therefore crucial that employers have effective disciplinary procedures. If problems do arise, these procedures should help you to quickly resolve issues within the workplace. They should also ensure that you deal with disciplining employee fairly.

Salon rules and procedures should be set out in writing and follow the good-practice principles set out in the Acas code of practice on disciplinary and grievance procedures.

Learning Outcomes

To complete this section you must show that you know and understand:

- Part 1 Disciplinary Procedures Your knowledge will be gained by completing this Employment Rights and Responsibilities module

We estimate that the module may be completed in around **45 minutes to 1 hour**.

To start the first session, click on [Start Session](#)

At the end of this session remember to:



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Introduction

The purpose of a disciplinary procedure is to encourage and maintain standards of conduct and performance in the workplace and to ensure consistent and fair treatment of all employees. It allows the employer to explain clearly what improvement is needed and should give the employee an opportunity to explain their side of the situation. It can lead to disciplinary action, including dismissal in more serious cases.

Before taking formal disciplinary action, the employer may attempt to raise the matter informally. This is often a good way of resolving a problem quickly. Sometimes the problem may be the result of a misunderstanding and can easily be cleared up.

Employers must provide each of their employees with written details of a their disciplinary procedure.

The Advisory Conciliation and Arbitration Service – now known as Acas, produces publications which cover all aspects of employment law. Hard copies of Acas publications may be ordered online, or by telephone on 08702 42 90 90, by fax on 01375 484 556, or by email at acas@ecgroup.co.uk

Much of the material in this session is taken from the Acas website, this can be accessed at www.acas.org.uk

This section covers:

- Employers expectations of behaviour, conduct and performance
- The possible impact of not meeting the employer's expectations
- What type of actions might result in a disciplinary procedure
- What type of actions might result in instant dismissal
- The stages of the disciplinary procedure
- The employee's rights during the disciplinary procedure
- How procedures should be conducted to ensure fairness
- The right to be accompanied at a disciplinary meeting
- The right of appeal against disciplinary decisions



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Part 1: Employer's expectations of behaviour, conduct and job performance

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Part 1 – Disciplinary Procedures

Employer's Expectations of Behaviour, Conduct and Job Performance

Each company sets its own expectations of their employee's behaviour, conduct and performance. Usually these expectations are set out in a set of rules that form part of an employee's contract of employment, a legal document which sets out the terms of employment between an employer and an employee.

Contracts of employment contain express terms (terms that are obvious and also implied terms (terms that are assumed to be accepted). Implied terms may include:

- Terms that are too obvious to mention (e.g. that the employee will not steal from the employer)
- Those necessary to make the contract workable
- Those that are the custom and practice within the industry. (e.g. that a hairdresser should be polite to clients)
- Terms incorporated into individual contract by reference to other documents (e.g. company handbooks, salon rules etc)
- Terms imposed by law (e.g. the right not to be discriminated against on grounds of race, sex, disability, sexual orientation, religion or belief).

An employer is not required to set out in writing all the terms of the contract but must provide the employee with written details of his or her main terms and conditions of employment within two months of the employee starting work. Many employers include an introduction to terms and conditions as part of the induction programme for new starters. This gives employees a chance to ask questions and for the employer to test understanding of the employment contract.

The Possible Impact of not Meeting the Employer's Expectations



In most cases, an employer will set out what their expectations of the employee are; this may be recorded in a Contract of Employment and also in company rules and codes of practice. Therefore, in the event that an employee fails to meet expectations in terms of behaviour or performance, the employer has a strong case for taking disciplinary action against the employee.

Examples of the consequences that could occur if an employee fails to meet the employer's expectations include:

- **Health and safety:** failure to follow salon safety rules could result in injury to the employee or to others.
- **Salon security:** not following basic security procedures could lead to the theft of valuables and a subsequent police investigation and possible criminal action being taken.
- **Behaviour at work:** misbehaving in the workplace can range from 'fooling about' to deliberately disobeying instructions. This type of behaviour cannot be tolerated.
- **Salon hygiene:** failure to keep to basic hygiene rules either in personal or general terms is another extremely serious issue and could potentially tarnish the reputation of the salon.
- **Service levels:** failure to keep to company service levels is yet another extremely serious issue which could potentially damage the reputation of the salon in the eyes of clients.

All of the above cases could lead to disciplinary action and possible dismissal.

What Type of Actions Might Result in a Disciplinary Procedure



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Most cases where there is a failure to meet expectations of employees behaviour, conduct and performance are dealt with without recourse to a disciplinary procedure. However, if the problem is re-occurring, the employer may decide to start disciplinary proceedings.

1. If the disciplinary procedure aims to deal with an isolated act of misconduct or initial failure to meet performance standards, poor timekeeping, poor sickness record, displaying a bad attitude, etc. it is possible that a Stage 1 Warning will be given. This warning will normally remain in force for a period of three months.
2. A more serious case of misconduct, failure to show and maintain improvement or a repetition of an act of minor misconduct will normally result in a Stage 2 Warning being given. This warning will normally remain in force for a period of six months.
3. Failure to comply with a Stage 2 Warning will normally result in a Stage 3 Warning. This is a final warning and any further requirement to take disciplinary action during the time it remains in force may result in dismissal with the appropriate length of notice. A Stage 3 warning will normally remain in force for a period of 12 months.

What Type of Actions Might Result in Instant Dismissal

Workplace rules and regulations exist for a purpose and employees who disregard such rules may be in breach of their contract of employment and could be subject to disciplinary action. In extreme cases this could lead to dismissal. A serious act of misconduct may be deemed sufficiently serious for a Stage 3 Warning to be issued without prior warnings.

The Stages of the Disciplinary Procedure

A full investigation of the facts of each case must be carried out before any disciplinary action is taken.

The employee subject to disciplinary procedure will normally be required to attend a formal disciplinary meeting which allows the employer to explain clearly the issues involved and what improvement is needed. It also gives the employee an opportunity to put their side of the situation.

Following the meeting, the employer must give careful consideration to all of the facts before notifying the employee in writing of their decision. Decisions regarding disciplinary action will depend upon the nature of the issue, and will normally take account the employee's employment record and length of service etc.

- The misconduct or inadequate performance complained of
- The action necessary to remedy the situation, e.g. additional training
- Any review period which may be determined
- The consequence of any failure to comply with the warning
- Any right of appeal that may be applicable

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Part 1 Continued: Employee Rights and the Appeal Process

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The Employee's Rights During the Disciplinary Procedure

Employees have the right to expect the employer to follow a basic procedure at disciplinary meetings; the employee also has a duty to follow the procedure. In most cases there are three compulsory steps the employer has to take.

- The employer must tell you in writing what you are alleged to have done wrong and invite you to a meeting to discuss it.
- The second step is for you to meet your employer to discuss the allegations. You have a right to take a colleague or an accredited trade union official to this meeting. Your employer must inform you of their decision and of your right to appeal.
- If you want to appeal against the decision, you must tell your employer. They will invite you to a further meeting, to which you can take someone. Your employer must then tell you their final decision.



An Employment Tribunal may find your dismissal unfair if your employer fails to follow this procedure, for example, if they don't let you bring someone to the disciplinary hearing and appeal meetings.

How Procedures Should be Conducted to Ensure Fairness

The Acas Code of Practice on disciplinary and grievance procedures (the Code) is an established approach to ensure fairness in both disciplinary and grievance procedures. An employer is not forced to follow the Code, however if the case eventually goes to an Employment Tribunal, not following the Code will be taken into consideration.

The Right to be Accompanied at a Disciplinary Meeting



All employees, including part-time and casual workers have the right to be accompanied either by a companion at a disciplinary hearing, this can be a workplace colleague or an accredited trade union representative.

The companion may make an opening address on behalf of the employee at the beginning of the hearing. After that they cannot address the hearing again unless the employer agrees. However the employee and companion may confer at any time, and the companion can take detailed notes of the hearing which will be very useful if the case ever goes to appeal or ends up in an Employment Tribunal.

If a companion is not free at the time when the meeting is organised, the employee can ask for a postponement of up to five working days and ask for a different time within those five days when the companion is free. The alternative time must be a reasonable one.

The Right of Appeal Against Disciplinary Decisions

If the employee feels the disciplinary action taken is wrong or unjust they can appeal against the decision, any such appeal must be made in writing to the employer (or to a senior manager) within five working days of the decision. You need to state the grounds for appealing the decision, explaining why you don't agree with it. The employer should arrange a further meeting to discuss your appeal. Appeals should be heard without unreasonable delay. Wherever possible, your employer should make sure the appeal is dealt with by a manager who has not previously been involved in the case.

The appeal hearing is run similarly to the original meeting, and you have a right to bring a companion, as before. You should make sure you take notes at the appeal meeting. After the appeal meeting, your employer should write to you to tell you their final decision.



Puzzle Task:

Have a look at this interactive drop and drag activity and see how much you have remembered about disciplinary and grievance procedures.

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