

WR.23 DISCIPLINARY PROCEDURE

It is recognised that, in order to maintain high standards of efficiency, safety, quality and good morale, the employer has the right to discipline any operative:

- who fails to perform his or her duties and responsibilities competently and in accordance with the instructions of the employer; and/or
- whose behaviour is unsatisfactory; and/or
- who fails to make appropriate use of the disputes procedure for the resolution of questions arising without recourse to strike or other industrial action.

It is equally recognised that the employer must exercise this right with fairness and care. Cases of minor misconduct or unsatisfactory performance are usually best dealt with informally. A quiet word is often all that is required to improve an operative's conduct or performance. The informal approach may be particularly helpful in small firms, where problems can be dealt with quickly and confidentially. There will, however, be situations where matters are more serious or where an informal approach has been tried and isn't working.

If informal action doesn't bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classed as minor, the employer should provide the operative with a clear signal of their dissatisfaction by taking formal action as follows:-

N.B. The employer will not take any disciplinary action before carrying out a full investigation into the matter for which the disciplinary hearing is to be held.

Where there is cause to take disciplinary action, the employer will give the operative adequate written notice of the date, time and place of the disciplinary hearing. The notice must contain details of the complaint against the operative and advise of the right to be accompanied at the hearing or appeal stage by either a trade union representative or a work colleague. (WR.23.8). Prior to the disciplinary hearing the operative should be given copies of any documents that will be produced at the hearing.

Where possible, the employer should allow a companion to have a say in the date and time of the hearing. If the companion can't attend on a proposed date, the operative can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

Discipline shall normally be applied in accordance with the following procedure:

- 23.1 Disciplinary action will comprise the following stages unless WR.23.4 is applicable:
 - 23.1.1 a written warning
 - 23.1.2 a final written warning
 - 23.1.3 dismissal
 - 23.1.4 following each of the above stages the employer will notify the operative of the decision in writing including the right of appeal under WR.23.3.
 - 23.1.5 the employer shall deal with disciplinary matters without undue delay.

23.1.6 where an operative has been accompanied at a disciplinary or appeal hearing by a union representative the employer shall provide the representative or the union with a copy of any letter of warning or dismissal providing the operative gives express permission.

23.2 **Duration of Warnings**

Warnings will normally be discarded after 6 months in the case of a written warning and 12 months in the case of a final written warning.

23.3 **Right of Appeal**

The operative shall be advised of the right of appeal at every stage of the procedure. Where the employers organisational structure allows, the appeal should be heard by a senior manager/director of the employer who has not been involved in the disciplinary procedure. The request for an appeal must be made in writing within five working days of the date of the disciplinary decision. The employer will inform the operative of the final decision in writing.

23.4 **Serious Misconduct**

In exceptional circumstances and if the matter is sufficiently serious, a final written warning may be issued in the first instance.

23.5 **Gross Misconduct**

23.5.1 In certain circumstances the conduct may be so serious as to be referred to as gross misconduct. In such circumstances the first two stages of the disciplinary procedure, written warning, and final written warning, may be omitted and the operative may be summarily dismissed without notice or pay in lieu of notice. The employer will notify the operative of the alleged gross misconduct in writing and invite them to a disciplinary hearing advising them of their right to be accompanied at the disciplinary hearing or appeal stage by either a trade union representative or a work colleague (WR.23.8).

23.5.2 Set out below is a list, although not exhaustive, of behaviour, which will be considered by the employer to be gross misconduct:

- being under the influence of alcohol or other stimulants or illicit drugs during working hours,
- physical violence – actual or threatened,
- violent, disorderly or indecent conduct,
- deliberate damage to property,
- theft, fraud or falsification of company records, documents or time sheets,
- serious breach of confidence (subject to the Public Interest Disclosure legislation)
- removal from company sites or other premises of property belonging to the company, fellow operative, client, sub-contractor, supplier or other without the approval of the employer,
- serious breach of the employer's safety policy rules or regulations,
- bringing the employer into serious disrepute,
- acts of incitement to or actual acts of discrimination on grounds of sex, race, religion, belief, colour, ethnic origin, disability, age or sexual orientation.
- serious bullying or harassment,
- serious carelessness resulting in loss or damage – or potential loss or damage,
- serious insubordination,

- misuse of the employers or client's property or name.

23.5.3 Summary dismissal means termination of employment without notice or pay in lieu of notice. In circumstances where a gross misconduct is alleged to have occurred the operative will normally be suspended on full pay whilst an investigation is carried out prior to a disciplinary hearing.

23.6 Shop Stewards

Where it is proposed to take disciplinary action against a duly appointed shop steward, or other union official, then before doing so, the employer shall notify the appropriate full time official of the union concerned.

23.7 The Accompanying Person (The Companion)

Accompanying an operative at a disciplinary hearing is a serious responsibility and the companion is entitled to a reasonable amount of paid time off to fulfil this responsibility. The time off should not only cover the hearing but also allow a reasonable amount of time to become familiar with the case and confer with the operative before the hearing. The operative must inform the employer in advance of the hearing of the identity of the proposed companion.

Companions have an important role to play in supporting the operative and should be allowed to participate as fully as possible the hearing in order to:

- Put the operative's case
- Sum up the operative's case
- Respond on the operative's behalf to any view expressed at the hearing

The companion may confer privately with the operative, either in the hearing room or outside. The companion has no right to answer questions on the operative's behalf.

WR.24 TERMINATION OF EMPLOYMENT

24.1 The minimum period of notice of termination of employment that an employer shall give to an employee is:-

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| (i) | During the first four weeks | One day's notice |
| (ii) | After four weeks' continuous employment but less than two years | One week's notice |
| (iii) | After two years' continuous employment but less than twelve years | one weeks notice for each full year of continuous employment |
| (iv) | Twelve years' continuous employment or more | Twelve weeks' notice |

24.2 The minimum period of notice of termination of employment that an employer shall give an employer is:

- (i) During the first four weeks - one day's notice

(ii) After four weeks' continuous employment - one week's notice.

- 24.3 The employment may be terminated at any time by mutual consent which should preferably be expressed in writing.
- 24.4 All outstanding wages are to be paid at the expiration of the period of notice and the employee advised of his entitlement to holiday pay and PAYE certificates or, in lieu thereof, a written statement that they will be forwarded as soon as possible.
- 24.5 In the event of gross misconduct, an operative may be summarily discharged at any time, subject to a sufficient investigation into the circumstances being carried out in accordance with the recommended procedures.

Where gross misconduct is alleged which may result in dismissal without previous warning, the case shall be investigated, a hearing shall be arranged and a decision taken by the employer as quickly as practicable.

The operative(s) will normally be suspended on full pay whilst the case is investigated.