



DISCIPLINARY POLICY

The Employment Act requires all employers and employees to follow statutory minimum dismissal and disciplinary procedures as set out in the standard or modified procedures. These normally apply where an employer wishes to dismiss an employee (on grounds of capability, conduct, redundancy, expiry of a fixed term contract or retirement); or take any other action against him/her on grounds of conduct or capability.

PROCEDURES TO BE TAKEN

A) Warnings

For instances of minor misconduct the Clerk may speak informally to the employee but there is no obligation for the Clerk to do this.

A Verbal Warning is issued for most first instances of general misconduct which should include the likely consequences of further disciplinary offences or failure to make improvements. A note confirming the Verbal Warning will remain in force (on file) for 6 months.

First Written Warning is issued for any serious offence or repetition of an earlier minor offence. It should set out the nature of the offence and required improvement together with the likely consequences of failure to comply. The employee should be notified of his/her right of appeal. This stage may be omitted if the offence is of a sufficiently serious nature. This warning will remain in force for six months.

Final Written Warning is to be issued where a further misconduct occurs within the specified time of the first written warning being issued. It should set out the above information to be carried out within a specified time-scale, together with the information that further offences will result in more serious disciplinary action up to and including dismissal. The employee has a right of appeal. This warning will remain in force (on file) for 12 months.

B) The Standard Disciplinary Procedure (following warnings) consists of 3 steps -

If further misconduct occurs within the specified time-scale of the final warning, and as a result of the Council establishing the facts then:-

Step 1 The employer notifies the employee in writing (setting out the basis of the complaint) of the nature of the conduct, capability or other circumstances which might result in dismissal or disciplinary action.

Step 2 The employer should invite the employee to a meeting (5 days after the letter providing the facts) to discuss the issue. The employee may be accompanied by a representative or fellow employee. Within 5 working days of this meeting the employer should inform the employee about any decisions and offer the employee the right of appeal.

Step 3 If the employee wishes to appeal he/she must inform the employer (within 5 working days) and a further disciplinary meeting will be arranged with the Council's Appeal Panel (within 7 working days). The Appeal Panel's final decision must be confirmed to the employee within 5 working days.

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There is a modified procedure (consisting of only two steps) which could apply in a limited number of situations; including where the action is a dismissal necessitated by circumstances outside the control of the employer, or an immediate 'gross misconduct' dismissal.

Gross Misconduct:

In the case of serious offences which would constitute gross misconduct (such as assault, harassment, wilful damage or falsification of documents) then an employee may be suspended from work on full pay (not normally for more than 10 working days) pending the outcome of any investigation (including any necessary interviews) into the alleged offences by the Council.

If the Council believes the employee is guilty of gross misconduct, his or her employment will be terminated summarily without notice of pay in lieu of notice. The Council will send the employee a statement, setting out the allegations of misconduct and the Council's basis for thinking that the employee is guilty of that misconduct. The date of termination of employment shall be confirmed to the employee and the fact that he/she has a right of appeal against the Council's decision.

If the employee wishes to appeal then any notification should be received by the Council within 5 working days of receiving notice and the employee should be invited to attend a disciplinary appeal meeting before the Council's Appeal Panel which should be convened within 7 working days. Any new evidence will be considered and any disciplinary sanction originally imposed will be reviewed and cannot be increased upon appeal. The Appeal Panel's final decision will be confirmed to the employee within 5 working days.

In certain circumstances, either party may be exempted from these statutory procedures if the other party is violent, abusive or behaves in any other unacceptable way, whereby factors beyond the control of either party make it effectively impossible for the procedure to be maintained.

Failure to follow the minimum statutory procedures could impact on the outcome of any employment tribunal and if an employer has not followed the procedures in a dismissal case, this will be found to be an automatically unfair dismissal.

General Procedure Information:

Verbal and Written Warnings will normally be issued by the Clerk. Where any disciplinary proceedings are instigated against the Clerk, verbal and written warnings will be given by the Council. Any further investigations and meetings will be carried out by the Council's Appeal Panel. Any disciplinary appeal meeting will be conducted by 3 members of the Council who do not sit on the Appeal Panel.