

# LEEDS BLACK ELDERS ASSOCIATION



## Disciplinary Procedure

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It is an unfortunate fact that from time to time employees do not behave in an acceptable manner and as such have to be dealt with through the disciplinary process.

Generally speaking there are four levels of misconduct, each of which carries a different sanction. They are: -

- Unsatisfactory Conduct
- Misconduct
- Serious Misconduct
- Gross Misconduct

The category to which an employee can fit into can vary dependant upon the business the employer is in. For example, a breach of a no smoking policy in an office environment is more likely to carry a lesser sanction than breach of the same policy in a petroleum plant. Therefore it is imperative that the “sentence fits the crime”.

Examples of the categories that might be used are as follows: -

### **Unsatisfactory Conduct**

Time Keeping  
Smoking in designated non smoking areas  
Failing to abide by general health and safety rules

### **Misconduct**

Foul, abusive language  
Failing to abide by a reasonable management instruction  
Unauthorised use of e-mail/internet

### **Serious Misconduct**

Negligence  
Bringing the Company name into disrepute

## **Gross Misconduct**

Assault

Theft

Falsification of records

The lists are examples but are not exhaustive. Due to the nature of the business some examples may fall into a more serious category.

The general procedure should be followed at all times. Following the procedure can be very useful when defending any subsequent Employment Tribunal as it indicates an element of fairness being present in the disciplinary process.

Normally the disciplinary procedure would follow the format below.

	<b>1st Incident</b>	<b>2nd Incident</b>	<b>3rd Incident</b>	<b>4th Incident</b>
Unsatisfactory Conduct	Verbal Warning	Written Warning	Final Written Warning	Dismissal
Misconduct	Written Warning	Final Written Warning	Dismissal	
Serious Misconduct	Final Written Warning	Dismissal		
Gross Misconduct	Dismissal			

All the above sanctions should carry the opportunity to appeal in the event that the matter is found against them.

When holding a disciplinary hearing, the employee should be given at least 48 hours notice of the hearing. Section 2 of this guide details the procedure which must be followed when inviting an employee to a disciplinary hearing.

## **Holding a Disciplinary Hearing**

### Materials

- Prepare well for the hearing, ensuring that you have more than one pen and paper with margins all the way around.

### **Preparing for the Hearing**

- Initially, you should ensure that full minutes are taken of what the employee says, so that there can be no queries at a future date. A separate employee of the company should act as the note taker.
- Ensure that you write the date and the start on the paper, as well as a list of those present in the meeting for the company and the employee.
- If the employee has declined to be accompanied by a works colleague or TU Representative, then a note should also be made before the meeting commences.
- Ensure that you have a copy of any documents you will be relying on, eg. Witness Statements, disciplinary procedure, written complaints etc.

### **Basic**

#### Introductions:

- Thank the employee for attending.
- Explain that this is a disciplinary meeting.
- Explain the presence of the note taker, and that the notes are being taken so that an accurate record of the meeting will be kept, and that the employee will have the opportunity of agreeing these minutes.
- Welcome the 'companion'. If the employee has declined, ensure that this is still the position or arrange the attendance of a suitable companion.
- Confirm that the companion is to be present in a witness capacity and will not be allowed to answer questions on the employee's behalf or interfere in the hearing.

### **Getting Started**

#### Relevant documents:

- Ensure that the note taker is aware of which documents you will be discussing.
- Go through the documents list and check that the employee has had sight of them all.
- If not, adjourn the meeting to arrange copies.

Ensure that the employee has had adequate time to view the documents, and if necessary postpone the hearing to give them to consider these.

## Questions

The questions will depend on the type of issue that you are investigating.

- Ensure that you have prepared the questions you require responses to prior to the hearing.
- Ensure that all the questions you wanted to ask have been responded to.
- You should enquire as to the employee's perceived misconduct and his or her reasons. For the action(s).
- You should discuss whether there are any special circumstances which should be taken into account.
- Should the employee mention something which you had not anticipated, you will be able to adjourn the interview for further investigation is necessary, or, at the request of the employee's representative.
- In the unlikely event it becomes clear at this stage the employee has provided an adequate explanation, then the proceedings should be stopped.
- You should keep a approach formal and polite, but encourage the employees to talk freely with the view to establishing all the facts. Ask open ended questions such as what happened next.
- Try not to get involved in arguments, and do not make personal or humiliating remarks.
- Avoid physical contact or gestures which the employee might regards as threatening.
- View the notes prepared as minutes of the meeting to ensure that you have got the answers
- At the conclusion of your questions, ask the employee if there is anything that they would like to add.
- Ask whether the 'companion' has anything that they would like to add
- Ask the note taker to show the employee the notes prepared to ensure that they are agreed as an accurate reflection of the meeting.
- Ask the employee to sign the notes, and invite any comments that they wish to add. Explain the notes will be sent to them with decision

## ADD DISCIPLINARY NOTES TO DOCUMENTS CHECKLIST

### Finally

#### Close the meeting

- Thank the employee and his companion for attending.
- At the end of this stage, you should then sum up what has been said, and have an adjournment to consider the decision with regard to disciplinary penalty.
- You can if you wish, inform the employee that the outcome will be sent by letter. However, best practice dictates that the employee should not be waiting.
- At the conclusion of the meeting, or during the adjournment it is highly advisable that you contact ELAS for further guidance.
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- Ensure that the disciplinary notes are signed, and that the finish time of the hearing is noted.

- The employee should then be advised that he has the right to appeal any penalty imposed to a party of the company not previously involved in proceedings. The meeting will then close.
- Contact ELAS who will draft a letter confirming the outcome of the meeting, enclosing minutes of the meeting and set out the employee's right to appeal against any disciplinary measure taken.

It is important that at each step of the way you keep us informed of each and every event to ensure that the procedure is adhered to. Hopefully this will avoid any potential Employment Tribunal proceedings and the employee may feel as though they have been dealt with fairly.