

Extension Material 9.1

Disciplinary stages

If the actions of an employee are serious enough, the procedure may be entered into at the appropriate stage. For example, a major breach of the rules might lead directly to a final written warning or, in the case of serious or gross misconduct, summary dismissal (i.e. immediate dismissal without notice being either served or worked by the employee) (see Table 9.2).

Procedures can vary between organizations in all aspects, including time limits for appeals, those permitted to be present, and the levels and duration of warnings. The important thing to note in an organization is that procedures should comply with at least the minimum requirements set by ACAS (2015) in their code of practice. Care should be taken to ensure that procedures, once in place, are properly communicated, including an appropriate reference in every employee's written statement of terms and conditions. It is also important in defending any potential claims for unfair dismissal to ensure that the procedures are always adhered to. A number of employers lose employment tribunals because of procedural failings rather than whether they acted too harshly.

Applying disciplinary procedures fairly is a complex matter and many organizations have specific training in place for managers required to apply the procedures. These organizations will often have back-up provisions for advice from legal advisers, such as a solicitor or other appropriate professional. Many trade unions also have training for representatives and employ the services of their own legal advisers.

ACAS (2015) recommends the following procedural features should be incorporated into an organization's disciplinary policy and practices:

- The importance of following the principles of natural justice, for example, employees should be informed of allegations against them, be given the opportunity to challenge the allegations before decisions are reached, and be provided with a right to appeal.
- Procedures should be in writing, made available to staff, non-discriminatory, and state clearly which group they apply to.
- Discipline should not be unnecessarily delayed and matters must remain confidential with only those managers involved being made aware of the case.
- Provide employees with the right to be accompanied by a person of their choice.
- Provide that no employee is dismissed for a first breach of discipline, except in cases of gross misconduct.
- Require management to investigate fully before any disciplinary action is taken.

Table 9.2 Recommended stages in a disciplinary procedure

| Level | Recommended duration | Level of manager likely to implement |
|-----------------------|----------------------|--------------------------------------|
| Written warning | 6 months | Line manager |
| Final written warning | 12 months | Senior manager |
| Dismissal | Permanent | Senior manager |



REFERENCE

ACAS (2015) *Code of Practice on Disciplinary and Grievance Procedures*.