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## Disciplinary and Grievance Procedures <sup>[1]</sup>

If there is a discipline or grievance <sup>[2]</sup> issue within a business, an employer must follow and complete statutory minimum disciplinary procedures when considering disciplinary or dismissal of an employee.

### **Employers procedure**

An employer's procedure may include more steps than the statutory minimum, but all employers should ensure that they at least complete the three steps which are:

- Providing a written statement to the employee
- Arranging a meeting once the employee has been provided with a written statement to discuss the issue(s).
- Arrange an Appeal meeting, if requested.

### **Written Statement**

An employer must provide the employee with a written statement stating that the employer is considering disciplinary action or dismissal, setting out the complaint(s) against him/her. The employee should be provided with the evidence/information from any investigations held so that he/she has time to consider these.

### **Disciplinary Hearing/Meeting**

The employer must not take any disciplinary action until the meeting has taken place. The employee has the right to be accompanied by a work colleague or trade union representative.

The employee has a duty to attend this meeting, which must be held at a time and place which is reasonable for the employee and anyone accompanying them. If the employee or the person accompanying cannot attend them this should be drawn to the employer's attention immediately and re-arranged. Failure to attend the meeting will affect any potential future claim.

The employee should prepare for the meeting carefully and the employer should explain, at the beginning of the meeting, what will happen during the meeting and outline the allegation(s) against the employee.

Both parties should take notes during the meeting.

Once the meeting has come to a close the employer should inform the employee of its decision and the action that will be taken. The employer should also inform the employee that they have a right to appeal the decision and the process that needs to be followed.

## **Appeals**

An employer must arrange an appeal meeting if the employee has written to the employer stating the reasons for appeal. The employer should invite the employee to a further meeting to discuss the appeal. Again, this must be held at a reasonable time and location and the employee is entitled to be accompanied.

It is important that the employee attends the appeal meeting otherwise any future compensation award by a Tribunal may be reduced.

## **Suspension**

An employer can suspend an employee on full pay without following the procedure set out above. The employee may wish to raise a grievance in regards to the suspension however.

## **Where the Disciplinary Procedures Do Not Apply**

There are certain circumstances where an employer can dismiss an employee or take disciplinary action without going through the procedures set out above. These are:

- collective redundancy, where the employer is proposing to make more than 20 employees redundant and there is a union or employee representative being consulted;
- where an employer makes a group of employees redundant but immediately reinstates them under different terms and conditions;
- where an employee is dismissed for taking industrial action;
- where it would be illegal to continue the employment;
- sudden and unforeseen stoppage of the employer's business, e.g. burning down of premises.

In the following circumstances neither employer nor employee has to follow the procedure set out above:

- if there are reasonable grounds for believing that there would be a serious threat of violence or damage to property by one of the parties;
- the employee has suffered harassment and reasonably believes that he/she would be subjected to further harassment should the procedure be followed. Harassment includes conduct which is offensive, humiliating, intimidating or violates dignity;
- if it is not possible to begin or complete the procedure within a reasonable time e.g. due

to illness.

The employment team at Sydney Mitchell can offer watertight employers advice on disciplinary procedures and the statutory [grievance](#) <sup>[2]</sup> procedures.

For further information on disciplinary issues, grievance procedures, or any other employment issue please contact us

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#### **Links**

[1] <https://www.sydney Mitchell.co.uk/business-services/employment-law/disciplinary-procedures>

[2] <https://www.sydney Mitchell.co.uk/business-services/employment-law/grievance-procedure>