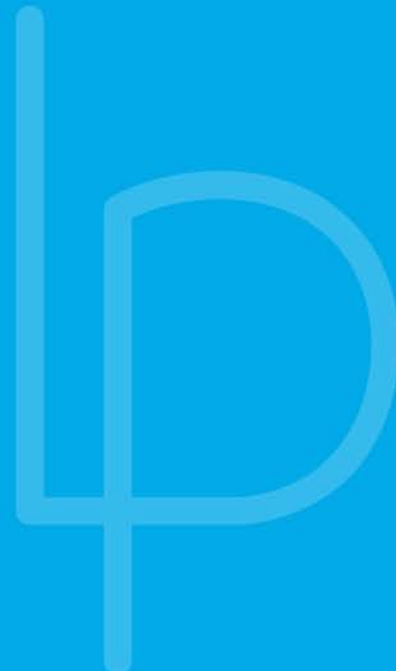


Checklist before dismissal of employee for mis conduct



Dismissal -- misconduct checklist for employer

o Investigation and procedure

- o Have all internal disciplinary procedures been followed?
- o If there are no internal procedures, have the provisions of the Acas Code of Practice on Disciplinary and Grievance Procedures been followed? See Acas disciplinary and grievance code -- procedural requirements for details.
- o Check that:
 - informal interviews of relevant witnesses and the employee have been carried out to try and establish the facts surrounding the complaint;
 - the employee was given the opportunity to state his case, and to be represented should he so wish at the disciplinary hearing; and
 - the employee was given adequate notice of the disciplinary hearing including advance notice of the 'case' against him (including, where applicable, copies of witness statements and other supporting evidence).

o Past disciplinary warnings

- o Has the employee previously received:
 - an oral warning that is still current?
 - a written warning that is still current?
 - a final warning that is still current?
- o Does the disciplinary procedure allow the employer to skip stages and, if so, is it reasonable to skip a stage in the circumstances?
- o Has the disciplinary procedure been exhausted?
- o Has the employee sought to invoke the grievance procedure?

o Other options

- o Are there any other options (short of dismissal) open to the employer that are appropriate in the circumstances?
- o Consider first:
 - the employee's disciplinary record;
 - the employee's age, position, length of service and general performance;
 - action taken in similar cases in the past;
 - would dismissal be 'reasonable in all the circumstances' (including circumstances outside work)
 - before dismissing for gross misconduct, confirm that (a) the employer believes that the employee committed the misconduct, (b) the employer has reasonable grounds for that belief in his mind, and (c) all reasonable investigation has been carried out.
- o Options short of dismissal
 - a final warning (in cases of gross misconduct, a final warning may not be necessary);
 - re-employment elsewhere in the group or company;

- ▶ demotion or transfer to a less senior post;
- ▶ suspension or termination of any non-contractual privileges;
- ▶ retraining (with or without pay);
- ▶ resignation;
- ▶ loss of any scheduled increments in salary.

o **Notify decision to dismiss**

- o Ensure the relevant internal procedures have been followed.
- o Ensure that the provisions of the Acas Code of Practice on Disciplinary and Grievance Procedures have been followed. See Acas disciplinary and grievance code -- procedural requirements for details. Essentially, that is ensure that:
 - ▶ a sufficient investigation has taken place;
 - ▶ the employee has been informed in writing of the alleged conduct or characteristics or other circumstances which have led the company to contemplate dismissing him with sufficient detail to enable him to prepare to answer the case against him;
 - ▶ the employee has been invited to attend a meeting, held at a reasonable time and without unreasonable delay, to discuss the matter and informed of his right to be accompanied;
 - ▶ the meeting to discuss the allegations must have been conducted in a manner that enables the employee and the company to explain their cases;
 - ▶ after the meeting the employee must have been informed of the decision and notified of his right to appeal against the decision if he is not happy with it;
 - ▶ where the employee does wish to appeal the employee should be invited to attend an appeal meeting at which the employee may be accompanied; and
 - ▶ the appeal meeting should be held at a reasonable time and without unreasonable delay but need not take place before the dismissal takes effect. The appeal meeting should be dealt with impartially and wherever possible, by a manager who has not previously been involved in the case. The employee should be informed of the outcome of the appeal in writing as soon as possible.