

How to discipline employees fairly

Some employers are reluctant to address problems with employees and put up with unacceptable conduct or substandard performance, sometimes for many years, until the employee resigns and solves the problem by default.

However it is possible to deal with such matters fairly, without risking costly employment tribunal claims.

You should first consider whether you need to take formal action under your disciplinary procedure and carry out a thorough and reasonable investigation.

Before the disciplinary hearing, the employee must be informed in writing of the case against them, told what the possible consequences will be, given copies of any evidence so they can prepare and reminded of their right to be accompanied by a work colleague or trade union representative. At the hearing, you should explain the allegations and go through the evidence.

Following the hearing, you should take some time to consider what the employee has said, whether the allegations should be upheld and what the appropriate actions should be.

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If you are considering dismissal, you should also think about alternatives such as demotion, redeployment or a final written warning. You should write to tell the employee your decision and the reasons for it and set out the employee's right to appeal.

If necessary, an appeal hearing must be held promptly and, if possible, it should be conducted by a manager who has not already been involved in the matter and who is more senior than the disciplining manager. He can overturn the original decision if he disagrees with it.

If you do not have a fair reason for dismissal such as poor conduct or performance, if you fail to follow a fair procedure or if you do not act fairly and reasonably, you could be faced with a claim for unfair dismissal with fines up to £85,200.

Specific procedures need to be followed at every stage and it is always advisable to seek the advice of an employment solicitor if necessary.

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good on paper, even better in person

Contact us

Ware & Kay's specialist, Gill Wilkinson, has extensive experience in all aspects of employment law. Contact her on 01904 716000 or gillian.wilkinson@warekay.co.uk.

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