



Welcome and setting the scene

WELCOME delegates and **INTRODUCE** yourself with some background.

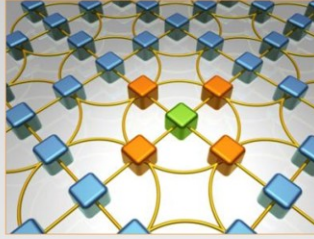
INTRODUCE course by explaining:

- The course is about understanding the purpose, reasons for, and implementation of, the company's disciplinary procedure
- Disciplinary is another tool in our manager toolkit to assist employee performance management
- Unlike other approaches in performance management (e.g. setting good objectives, giving balanced feedback etc) where we 'dangle the carrot', disciplinary are most definitely 'getting the stick out'
- In effect, a disciplinary warning is a threat – we are enforcing them to rectify their behaviour and telling them of the consequences of not rectifying (e.g. "failure to rectify your behaviour could result in further disciplinary action taken against you that may result in your dismissal")
- The disciplinary, although fairly rare in implementation, is an essential ingredient to help people raise their level of conduct or performance at work

POINT OUT:

- Today is also about demystifying the process and convincing you that it is a relatively straightforward process as long as you keep to the rules and guidelines
- The consequences of not sticking to the rules is significant as will be demonstrated
- It is a fact that most companies lose employment tribunals where an aggrieved ex-employee is suing for unfair dismissal because they didn't follow their own procedures

DISCIPLINARY OVERVIEW



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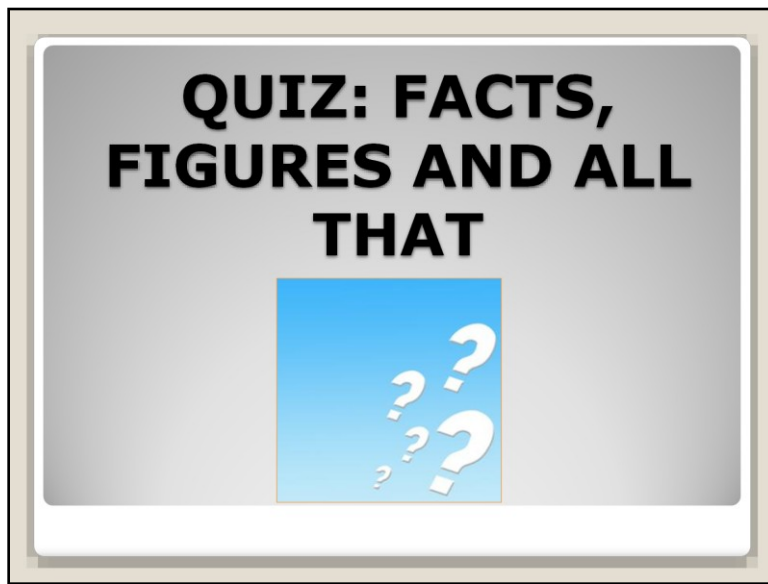
Reasons for procedure

- Shows we are 'fair and reasonable'
- Staff need boundaries - rules set conduct standards
- Conform with the law
- Other methods haven't worked e.g. performance counselling
- Severity of offence

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POINT OUT:

- We can sleep at night as fair and reasonable managers
- ACAS (www.acas.org.uk) is an invaluable source of free advice and information, both on line and a telephone service



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SPLIT delegates into small teams and **ASK** them to consider the answers to the quiz. **REFER** to manual: Quiz: Facts, figures and all that...(2 pages)

Facts, Figures and all that

4. Employment Tribunal
5. 50% better chance
6. Work colleague or trade union official
7. Address hearing to put and sum up the employee's case; Respond on behalf of worker to any views expressed at meeting; Confer with the employee during the interview
8. Dismissal without right to notice period/ pay

4. What does the abbreviation E.T. stand for?

A. Employment Tribunal

5. According to research, do women have a better or worse chance of winning a tribunal for unfair dismissal?

A. They have a 50% better chance even allowing for sexual discrimination cases according to research by Swansea/ Warwick Universities. One of the reasons for this is thought to be that tribunal panels, consisting mainly of men, are being 'chivalrous' to the women i.e. protecting them

6. Who can be chosen as a companion for the employee in a disciplinary interview?

A. The companion can be a work colleague or a trade union official.

7. What is the companion's role?

A. The companion should be allowed to address the hearing to put and sum up the employee's case; respond on behalf of the worker to any views expressed at the meeting; confer with the employee during the interview.

Companion does not have the right to answer questions on behalf of the employee.

8. What is summary dismissal?

A. Dismissal without any right to notice period/ pay for severe offences

FACTORS TO CONSIDER



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Factors to consider

- Performance counselling
- Severity of the offence
- Out of character
- Age
- Length of service
- Training
- Similar cases

POINT OUT that in addition to what we have just discussed, there are a number of other considerations.

REFER to manual: Factors to consider before implementing the disciplinary procedure and **BRIEFLY** discuss).

POINT OUT:

Performance counselling. Briefly discuss performance counselling as a tool by referring to manual: Performance Counselling Meeting (2 pages)

Severity of the offence. For example:

- Not passing on telephone messages. The odd message missed is irritating. What happens if it was a message for the visiting Director or it had a severe effect on our relationship with a key customer because we didn't respond to the message?
- Silly mistakes in completing manual forms. The odd error is acceptable – we all do it from time to time. However a simple mistake on inputting a post code on an order means that the customer doesn't get the delivery on time, complains and withdraws their large annual spend with us could be significant

Out of character. The employee had an argument with the other half that morning which put them in a bad mood thus explaining rudeness. But also we saw earlier re-on drugs, medication, marriage breakdown etc

Age. A 17 year old horse playing in the office demonstrating immaturity. A stern talking to might be more appropriate than a written warning

CASE STUDIES



Off Licence

REFER delegates to manual: CASE STUDY 1: Off Licence - Part 1 (but warn not to look at the next page).

Answer:

- The company concluded that all 4 of these employees had the opportunity to commit the act of theft
- The company was unable to determine which of the four were guilty
- The company dismissed them all
- However, none were eventually prosecuted

ASK delegates to manual: CASE STUDY 1: Off Licence - Part 2

Q. What do you think the tribunal concluded?

A. The tribunal found that the company was reasonable in believing, after a thorough, proper investigation, that it was an 'inside job', and that any one or more of the 4 could have committed the act. The manager's dismissal was held to be fair and reasonable.

STRUCTURE OF THE DISCIPLINARY PROCESS



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Structure – 4 Stages

1. Preparation for Interview
 - Employee
 - Manager (inc. Investigation)
 - Environment
2. Disciplinary Interview Part 1
 - Agree the Gap
 - Explore reasons for Gap
3. Disciplinary Interview Part 2
 - Eliminate the Gap
4. Appeal

Structure of the disciplinary process

Q. How does your managerial style differ in undertaking the disciplinary interview compared with any other meeting we have with employees?

A. More autocratic and direct. Our approach is one of fact finding and gathering evidence to make a balanced judgement about any action. In other meetings (such as performance counselling, review of task progress or appraisal), our style is more participative/consultative.

However it still does not negate the need in disciplinary interviews to:

- Actively listen
- Empathise when required
- Establish reasons
- Be assertive and positive
- Be open minded

Perhaps the disciplinary interview is less about influencing and persuasion and more about investigation of the facts.

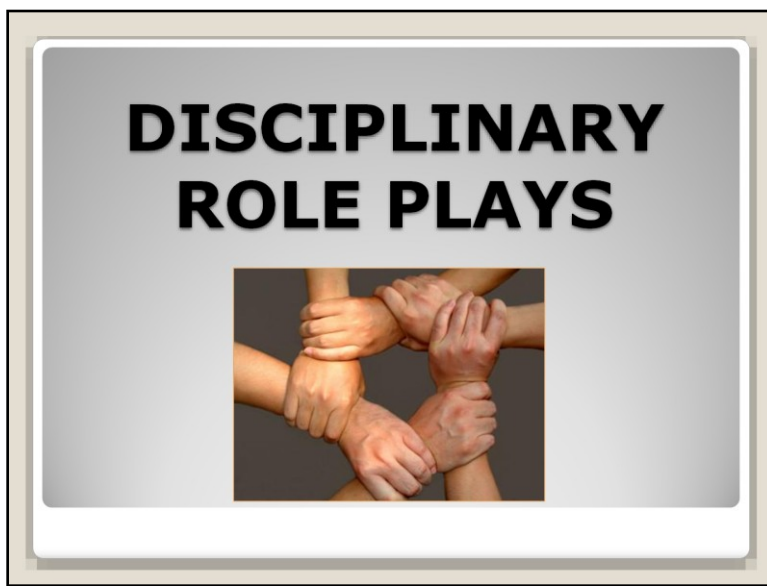
REFER to slide and manual

POINT OUT:

- The same process applies for cases of gross misconduct as other misdemeanours
- Preparation steps for the employee are very important. We need to demonstrate openness and transparency. The employee needs to be given advance warning and an opportunity to prepare his/ her case
- In cases of misconduct ACAS stresses that, if possible, the manager who chairs the disciplinary interview should be different from the investigating manager. This again promotes 'fairness and reasonableness'

POINT OUT:

- **NEVER** go straight from Part 1 to part 2 of the interview. You must show that there is a time interval (even if it's only 20 minutes) to demonstrate that the facts have been considered prior to any decision being made
- Do **NOT**, as one manager did, have the warning already written up, ready to be signed, in the part 1 meeting. When the fumbling manager dropped his papers all over the floor, the trade union companion saw the unsigned document spilling out! Graphic proof that the situation had been pre-judged and the decision had already been made
- The list of considerations in the manual encourage balance and objectivity, particularly when an employee's behaviour can be frustrating and challenges our natural rational, balanced decision making
- Aspects such as length of service and general work record should be considered in the final decision
- The decision on any action to be taken should be communicated verbally first and then in writing, making it clear the consequences of not rectifying ("this could result in further disciplinary action which could result in your dismissal") and the details of the appeal procedure



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We suggest that the role plays are organised ideally in groups of 3 with each delegate taking it in turns to play the Manager, Employee and Observer, with the Trainer circulating during the role plays to add value/ detailed feedback

4 different role play briefs are supplied at the end of this document

INFORM managers that when they invited their employees to the disciplinary interview they fulfilled all the statutory responsibilities e.g. informed them of right of companion to accompany them

BRIEF Observers, using manual: Guidelines for observer feedback and the Disciplinary Interview-Observer checklists (3 pages) listed on subsequent pages of the manual