

How to conduct a disciplinary process for gross/serious misconduct

Our helpful guide



It is vital that employers follow a proper disciplinary process if they are to dismiss an employee for gross misconduct.

Failure to do so could lead to the dismissal being found to be unfair, with claims for compensation of up to £78,962 plus a basic award of up to £14,370 (dependant on length of service). A large proportion of dismissals are unfair on a procedural basis alone.

Follow our short guide, set out below, and you will go a long way to avoiding this risk.

1. Investigate any issues fully and if necessary and appropriate suspend the employee; however avoid unnecessary delay.
2. Keep detailed notes of any investigation meetings and get signed statements from any witnesses.
3. Prepare a full investigatory report with detailed findings and recommendations.
4. Set up a disciplinary panel - not including the investigator who can present the findings but not be involved in any decision.
5. Convene a hearing on reasonable notice and provide all evidence to the employee in advance.
6. The employee must be given the right to be accompanied at any disciplinary hearing – the companion must be a colleague or trade union representative. Don't allow lawyers to attend except in extreme circumstances – we find they don't help the process.
7. Allow sufficient time for the employee to fully present their case and answer the allegations.
8. Adjourn to make a decision and only in the clearest of cases make an instant decision.

9. Provide detailed reasons for any decision and why the conduct warrants the sanction; especially if the employee is dismissed. Remember you have to have a fair reason for dismissal and act reasonably in dismissing for that reason.
10. Give the right to appeal to someone more senior and not previously involved.

For more information on disciplinary processes or any other employment law issue, please call Michael Farrelly on 020 3657 9669 or email mf@cbglaw.co.uk.

Please note that the above is a short guide only and does represent comprehensive advice and does not replace formal advice.

