

An Employer's Guide to Disciplinary Procedures

Disciplinary procedures are a critical aspect of managing employee performance and behaviour. Employers must ensure that these procedures are conducted fairly, transparently, and in compliance with legal obligations. Below is a step-by-step guide for handling disciplinary procedures:

1 Preparation and Initial Steps

- **Identify the Issue:** Clearly define the behaviour or performance issue that requires disciplinary action. Gather all relevant facts and evidence, such as performance records, complaints, or witness statements.
- **Check Policies and Contracts:** Review the employee's contract, internal policies, and any applicable industrial instruments to ensure the proposed disciplinary action aligns with these documents. Refer to your organisation's Grievance Policy to ensure all steps are followed.
- **Consider Procedural Fairness:** Ensure the process adheres to principles of natural justice, including giving the employee an opportunity to respond to allegations.

2 Issuing a Letter of Warning

- **Draft the Letter:** Include the following details:
 - (a) A clear description of the issue or misconduct.
 - (b) Reference to any previous discussions or warnings (if applicable).
 - (c) The expected standard of behaviour or performance.
 - (d) The consequences of failing to meet these expectations.
 - (e) A proposed meeting time to discuss the matter further.
- **Deliver the Letter:** Provide the letter to the employee in person or via email, ensuring confidentiality.

3 Offering a Support Person

- **Inform the Employee:** Notify the employee in writing of their right to have a support person present during any disciplinary meetings. This could be a colleague, union representative, or another person of their choice.

- Document the Offer: Keep a record of the offer to ensure compliance with procedural fairness requirements.

4 Conducting a Disciplinary Meeting

- Schedule the Meeting: Provide the employee with reasonable notice of the meeting, including the date, time, location, and purpose.
- Provide Documentation: Share any evidence or allegations with the employee before the meeting to allow them to prepare a response.
- Allow Representation: Ensure the employee can bring their support person to the meeting.
- Record the Meeting: Assign a note-taker to document the discussion and any outcomes.

5 Making a Decision

- Consider the Employees Response: Evaluate the employees explanation or mitigating circumstances presented during the meeting.
- Apply Proportionality: Ensure the disciplinary action is proportionate to the misconduct or performance issue. Options may include:
 - (a) A formal written warning.
 - (b) A final warning.
 - (c) Additional training or support.
 - (d) Termination of employment (in cases of serious misconduct).
 - (e) Document the Decision: Record the rationale for the decision, referencing evidence and the employees response.

6 Post-Meeting Communication

- Notify the Employee: Provide the employee with a written letter outlining the decision. Include:
 - (a) The outcome of the meeting.
 - (b) Any disciplinary action being taken.
 - (c) The reasons for the decision.
 - (d) Any steps the employee must take moving forward.

- (e) Information about their right to appeal (if applicable).
- (f) File the Letter: Place a copy of the letter in the employees personnel file.

7 Follow-Up and Monitoring

- Monitor Progress: If the employee remains in their role, track their performance or behaviour to ensure improvement.
- Provide Support: Offer additional training, mentoring, or resources as needed to help the employee meet expectations.
- Review Policies: Regularly update workplace policies and provide training to all employees to prevent future issues.

8 Key Considerations for Employers

- Confidentiality: Maintain strict confidentiality throughout the process to protect the employees privacy.
- Legal Compliance: Ensure all actions comply with the Fair Work Act 2009 (Cth) and any relevant state legislation.

By following these steps, employers can handle disciplinary procedures effectively while minimising legal risks and maintaining a fair and respectful workplace.