

# MEMBERS FACT SHEET

## DISCIPLINARY ACTION

### What is a disciplinary procedure?

A disciplinary procedure is the way your employer deals with discipline when they believe that your conduct or performance is not up to the expected standard. Disciplinary procedures may involve something as simple as an informal chat, and escalate to involve letters, meetings and appeals.

### What is a disciplinary action?

Disciplinary action is the result of the disciplinary process. This will vary from case to case, but at its most severe it can lead to dismissal.

### Reasons for disciplinary action

If your employer believes your conduct or performance is not up to the expected standard, this may result in your employer taking disciplinary measures against you.

There are many reasons why this could be, but common causes include:

- repeated lateness to work;
- inappropriate behaviour;
- repeated unsatisfactory performance;
- other criteria set out in your contract.

### Stages of disciplinary action

Your employer should follow a set procedure to resolve the issue with you. A disciplinary procedure may follow this order:

- An informal chat in private to identify whether disciplinary action is required.
- An investigation, where you and others may be interviewed.
- A letter from your employer setting out clearly the reason for the disciplinary action.
- A formal meeting to allow you to state your case.
- A formal letter explaining the result of the case.
- An invitation to appeal within a set time frame.

Most employers to set out their own disciplinary procedures in writing. This may or may not form part of your contract of employment. A failure of the employer to follow procedures can result in a breach of contract on their part if the part of the procedure that the employer has breached forms part of your contract of employment. Even if it does not, a breach by the employer of its disciplinary procedure without good reason may amount to a breach of the implied term of trust and confidence.

You are entitled to be accompanied by a colleague or a UNISON rep at a disciplinary meeting

## **Appeal procedures**

An appeal is your chance to reverse a disciplinary decision. This should be lodged within the period of time set by your employer for appealing the decision and be heard by a superior of the person who heard your original case.

You are entitled to be accompanied by a colleague or a UNISON rep in the appeal meeting.

## **Suspension from work**

During the disciplinary procedure, employers may be able to suspend you, pending the result of the disciplinary meeting. This should be on full pay.

You retain your rights while on suspension and if you are not paid the correct amount, you may be able to claim against your employer for unlawful deduction of wages.

The specifics of each case depend on the details of employment contracts, but it is possible for an employer to suspend you without pay if they are entitled to do so under the terms of your contract of employment and the employer is acting in accordance with the terms of your contract of employment. This is very unusual.

## **Results of disciplinary action**

The result of disciplinary action is not always dismissal. Formal warnings and dismissal are the last resort of disciplinary procedures. If you are unhappy with the result of a disciplinary decision, contact your local UNISON rep who can recommend your next steps.

## **Key facts**

Discipline at work and disciplinary procedures are designed to help employers get the best out of members and are never to be used to intimidate or coerce employees.

You are allowed to bring a colleague or UNISON rep into a disciplinary meeting or appeal.

An employer should follow its own disciplinary procedures. These should be in writing and a copy provided to you.

If you are unhappy with the result of a disciplinary meeting you should appeal the decision.

Northumbria Healthcare NHS Foundation Trust's Disciplinary Procedure PP04 is available on the Trust intranet.

Always contact your union rep as soon as you are aware of a possible investigatory or disciplinary meeting to ensure that a representative can advise and accompany you.

### **Legal disclaimer**

The information contained within this article is not a complete or final statement of the law and is based on the laws of England, Wales, Scotland and Northern Ireland.

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