




Self help guide - Producing disciplinary and grievance procedures

This guide gives practical advice on how to draw up disciplinary and grievance procedures and how to operate them effectively. The information given is not an authoritative interpretation of the law. Such an interpretation can be given only by the employment tribunals and by the courts.

The guide should help you produce first drafts of disciplinary and grievance procedures. It is a good idea to show the draft to someone else for comment. Acas can help with this and you can contact [Regional Acas offices](#). It is always preferable to consult directly with your employees and their representatives because they may come up with ideas which could make the procedures more effective and acceptable.

Once you have set up procedures, you will need to know how to operate them and deal with any problems that might arise. The Acas [Advisory handbook - Discipline and grievances at work \(section 1 of 2\)](#) and the Acas  [Code of Practice - Disciplinary and grievance procedures \[327kb\]](#) give advice about dealing with disciplinary issues.

What is the legal position?

The three-step discipline and dismissal procedure

From 1 October 2004, new statutory discipline and dismissal and grievance procedures were introduced.

How does the three-step discipline and dismissal procedure operate?

In step one you must give a written statement to the employee setting out why you have decided to take disciplinary action.

In step two you must meet the employee, who has the right to be accompanied by his or her colleague or union representative. You should state your case, let the employee respond and then, after the meeting, give the employee your decision. You should explain that the employee may appeal against your decision.

In step three the employee may appeal against your decision and choose to be accompanied at the appeal meeting, which should ideally be heard by a different or more senior manager. You should inform the employee of the decision of the appeal. The employee must appeal to complete the statutory procedure.


When should I follow the three-step discipline and dismissal procedure?

You should not use the statutory three-step discipline and dismissal procedure in the early stage of disciplinary action for alleged 'minor' offences. For example, if an employee is persistently late and you wish to initiate formal disciplinary action you should give the employee a first written warning. You should only use the three-step procedure when you are considering taking serious disciplinary action, such as dismissal, suspension without full pay, or demotion. Therefore, you would use the three-step procedure if an employee's conduct or performance has failed to improve following a series of warnings, or if the employee has allegedly committed an act of gross misconduct.

The modified statutory discipline and dismissal procedure is a two-step procedure. In step one you write to the employee setting out the reasons for dismissal and give the employee the right of appeal. Step two will be set in motion if the employee wishes to meet you to appeal against the dismissal. The modified two-step procedure should be used only in a very small number of gross misconduct cases where the employee's conduct would justify summary dismissal.

Would a dismissal be fair if I used the statutory three-step discipline and dismissal procedure?

Not necessarily. You should take disciplinary action which is appropriate for the alleged offence. For example, if the offence required a final written warning and you used the three-step procedure to dismiss the employee, then the dismissal could be judged by an employment tribunal to be unfair.

The three-step discipline and dismissal procedure is not intended to replace established disciplinary procedures. You should set up your own procedures by following the guidelines set out in this guide and in the Acas  [Code of Practice - Disciplinary and grievance procedures \[327kb\]](#).

Would I have to change my existing disciplinary procedures to bring them in line with the statutory discipline and dismissal procedures?

Dismissals will probably be unfair if you do not go through the three steps outlined in the statutory procedure before you dismiss an employee. This guide shows you how you can set up a disciplinary procedure which satisfies the three-step discipline procedure.

What happens if I don't complete the statutory dismissal or disciplinary procedure?

The employee may be able to claim automatic unfair dismissal. However, if the failure to complete the procedure is the employee's fault his or her compensation will usually be reduced.

Are there any exemptions from the statutory dismissal or disciplinary procedures?

The Regulations do not apply where:

- in the case of collective redundancies, there is a duty to consult representatives etc
- strike action is taking place
- the business suddenly ceases to function
- factors beyond the control of either party make it impossible to go through the procedure in the foreseeable future, such as long-term illness
- the employee cannot legally continue working, such as where a driver has lost his or her licence
- a designated dismissal procedures agreement applies (such as between TU and an employers' association)
- the employee claims interim relief before the procedure is completed
- either party adopts violent or abusive behaviour
- one party has been subject to harassment (defined as violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment) and has reasonable grounds to believe that using the procedure would result in further harassment

- either party fails to attend the meeting. Where the meeting fails to take place due to either party being unable to attend, the employer, taking account of employee's right to be accompanied and any suggested dates, is required to rearrange the meeting, but only once. If the second meeting falls through
- neither party is under any further obligation to complete procedures. This is likely to cause problems and hence enquiries and claims
- national security is an issue.

The statutory grievance procedures

How do the statutory grievance procedures operate?

In step one the employee sets out in writing his or her grievance with the employer.

In step two the employer arranges a meeting to discuss the employee's grievance. The employee has the right to be accompanied. At the end of the meeting the employer informs the employee of the decision and the employee's right of appeal.

In step three the employee tells the employer if he or she wishes to appeal (and he or she must do so to complete the statutory procedure). If an appeal is requested, a further meeting is arranged, if possible with a more senior or different manager. The employee has the right to be accompanied. After the appeal meeting, the employee is told of the employer's decision.

An example of a grievance procedure which meets the requirements of the statutory three-step grievance procedure is below.

Do employees have to use the three-step grievance procedure before they can make a claim to an employment tribunal?

Usually, employment tribunals will reject claims from applicants if employees have not raised the grievance by sending a step one letter. For example, an employee could use the Race Relations Act to claim that he did not get promoted at work because he was black. However, if the employee has not raised this issue as a grievance the tribunal would expect him to do this before they accept the claim.

If the employee begins the procedure by sending a step one letter his or her complaint will be accepted by the tribunal, but if the three-step procedure has not been completed and the employee is successful in his or her claim, the compensation will usually be increased or decreased by between 10 and 50 per cent depending on whether it was the employer's or the employee's fault that the procedure was not completed.

Would employers who already have grievance procedures have to scrap them and replace them with the statutory grievance procedures?

Not if the organisation's grievance procedure includes the main ingredients of the statutory procedures. This guide gives advice on what grievance procedures should contain and how these will satisfy the statutory requirements.

The right to be accompanied

If you ask your workers to attend certain grievance or disciplinary hearings they have a statutory right (if they request) to be accompanied by a fellow worker or trade union official. This right applies irrespective of how many workers you employ. If you refuse a request from a worker to be represented at a disciplinary or grievance hearing the worker may make a complaint to an employment tribunal.

What happens if you get it wrong?

The lack of procedures can be expensive, leading to:

- low morale and resistance to change
- lowered efficiency
- successful claims for unfair dismissal
- complaints about breach of contract
- claims under the anti-discrimination legislation.

You can help avoid these problems by writing down company rules and drawing up workable procedures.

Rules

Before drawing up a disciplinary procedure, you will need to consider what standards the procedure will be used to maintain. Rules set standards of conduct at work. They should be fair, reflect the needs of the organisation and written in a way that everyone understands.

Why have them?

If people know and accept the rules, they will be less likely to break them. Rules help ensure a consistency of management action and can improve efficiency.

What should rules cover?

It depends upon the nature of your business, but company rules can cover:

- gross misconduct
- timekeeping
- absence
- holidays
- health and safety
- standards of work
- personal appearance
- use of company facilities
- smoking
- non-discrimination.

Remember, don't have too many written rules. Be realistic. Consult with employees, and be careful to avoid rules that are unjustifiable and unlawful.

What is a disciplinary procedure?

Rules set out standards and the disciplinary procedure helps employers deal fairly with employees who fail to maintain those standards.

Why have one?

Most disciplinary problems can be solved by informal discussions or counselling. However, if this fails to resolve the problem you will need a more formal approach.

A disciplinary procedure will:

- encourage employees to achieve and maintain standards of behaviour
- provide a fair and consistent method of dealing with alleged failures
- remind managers and supervisors how disciplinary matters should be handled
- minimise disagreements about disciplinary matters
- reduce the need for dismissals.

What form should it take?

The procedure should be tailored to your own needs, but it should:

The procedure should be tailored to your own needs, but it should:

- be in writing
- not discriminate on grounds of race, sex or disability, sexual orientation, religion or belief
- specify to whom it applies
- explain the penalties
- deal with matters quickly
- give workers the right to be accompanied (see above for information on the statutory right to be accompanied)
- give employees the right to put their side of the case
- specify who has the authority to take disciplinary actions
- ensure that action is not taken without careful investigation
- provide a right to appeal.

Example of a disciplinary procedure

Guidance Notes	
1. Purpose of the procedure The Company's aim is to encourage improvement in individual conduct and performance. This procedure sets out the action which will be taken when Company rules are breached.	1. The purpose should remind people that the procedure is designed not as a dismissal procedure but as a means of encouraging employees to conform to acceptable standards.
2. Principles If you are subject to disciplinary action: <ul style="list-style-type: none">• the procedure is designed to establish the facts quickly and to deal consistently with disciplinary issues. No disciplinary action will be taken until the matter has been fully investigated;• at every stage you will be advised of the nature of the complaint, be given the opportunity to state your case, and be represented or accompanied by a fellow employee of your choice;• you will not be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will normally be dismissal without notice and without pay in lieu of notice;• you have a right to appeal against any disciplinary action taken against you;• the procedure may be implemented at any stage if your alleged misconduct warrants such action.• If you request you have the right to be accompanied at a disciplinary hearing by a fellow worker or trade union official.	2. Employers often lose at Employment Tribunals because they did not comply with the procedure - so always follow the procedure.
3. Informal discussions Before taking formal disciplinary action, your supervisor will make every effort to resolve the matter by informal discussions with you. Only where this fails to bring about the desired improvement should the formal disciplinary procedure be implemented.	3. Make sure that employees and managers understand the difference between routine admonishments and action taken under the procedure.
4. First warning If conduct or performance is unsatisfactory, the employee will be given a written warning or performance note. Such warnings will be recorded, but disregarded after ... months of satisfactory service. The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory	4. It can be unfair to keep details of warnings on an employee's file indefinitely Unless a warning is for a very serious matter, it should be disregarded after, say, six months to a year. The written warning should accurately record the warning given at the disciplinary interview. Do not write the

improvement or change. (Where the first offence warning before the interview is sufficiently serious, for example because it is having, or is likely to have, a serious harmful effect on the organisation, it may be justifiable to move directly to a final written warning.)

5. Final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given which will include the reason for the warning and a note that if no improvement results within ... months, action as set out below will be taken.

5. The warning should state clearly that dismissal will result from a failure to comply.

Dismissal or action short of dismissal

If the conduct or performance has failed to improve the employee may suffer demotion, disciplinary transfer, loss or seniority (as allowed in the contract) or dismissal.

Except in cases of gross misconduct employees should receive notice or payment in lieu.

6. Statutory discipline and dismissal procedure

If an employee faces dismissal - or action short of dismissal such as loss of pay or demotion - the minimum statutory procedure will be followed. This involves:

- step one: a written note to the employee setting out the allegation and the basis for it
- step two: a meeting to consider and discuss the allegation
- step three: a right of appeal including an appeal meeting

The employee will be reminded of their right to be accompanied.

7. Gross misconduct

If, after investigation, it is confirmed that an employee has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice or payment in lieu of notice:

- theft, damage to property, fraud, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying and gross insubordination.

While the alleged gross misconduct is being investigated, the employee may be suspended, during which time he or she will be paid their normal pay rate. Any decision to dismiss will be taken by the employer only after full investigation.

8. Appeals

If you wish to appeal against any disciplinary decision, you must appeal, in writing within five working days of the decision being communicated to you to (name or job title). If possible a senior manager who was not involved in the original disciplinary action will hear the appeal and decide the case as impartially as possible.

Operating the disciplinary procedure

Once the procedure has been written, you need to be sure that all employees are familiar with it and have access to a copy. You also need to be certain that all managers and supervisors are fully trained in its operation. The Acas [Advisory handbook - Discipline and grievances at work \(section 1 of 2\)](#) gives some useful information.

In brief, before taking disciplinary action using the procedure, you will need to be certain that:

- the matter cannot be resolved through informal counselling
- you have investigated the matter fully
- the individual is told that he or she will be interviewed by the appropriate manager/supervisor and has the right to be represented or accompanied by a fellow employee or a trade union official of their choice.

At the disciplinary interview, make sure that:

- the employee concerned knows the details of the allegation
- he or she has the opportunity to put his or her side of the matter
- any disciplinary measure is appropriate to the circumstances.

If a warning is given, it should tell the employee:

- the level of improvement required
- the date by which it is to be achieved
- what will happen if it is not
- how to appeal.

Grievance procedure

The grievance procedure enables individual employees to raise grievances with management about their employment either by themselves or with a representative.

Why have one?

How do the statutory grievance procedures operate?

In step one the employee sets out in writing his or her grievance with the employer.

In step two the employer arranges a meeting to discuss the employee's grievance.

The employee has the right to be accompanied. At the end of the meeting the employer informs the employee of the decision and the employee's right of appeal.

In step three the employee tells the employer if he or she wishes to appeal and he or she must do so to complete the statutory procedure. If an appeal is requested, a further meeting is arranged, if possible with a more senior or different manager. The employee has the right to be accompanied. After the appeal meeting the employee is told of the employer's decision.

An example of a grievance procedure which meets the requirements of the statutory three-step grievance procedure is set out below. You must also, in the written statement of terms and

conditions of employment, give the name or job title of the person to whom the employee can apply if he or she has a grievance.

What should it contain?

The procedure should aim to settle grievances fairly and as quickly as possible. It should recognise that most routine complaints and grievances are resolved informally in discussions with the employee's immediate manager.

It should be simple, rapid in operation and in writing.

The number of stages contained in the procedure will depend upon the size and nature of the organisation, and the management structure.

Most grievance procedures will outline:

- how and with whom to raise the issue
- whom next to apply to if not satisfied
- time limits to each stage
- the right to be represented.

The grievance procedure is every bit as important as that dealing with discipline. For it to be used effectively, managers and supervisors need to know how to deal with complaints sympathetically and promptly.

Example of a grievance procedure

Guidance Notes	
1. Introduction It is the Company's policy to ensure that employees with a grievance relating to their employment can use a procedure which can help to resolve grievances as quickly and as fairly as possible.	It is a good idea to set out company policy; it reminds managers of their role in dealing with grievances.
2. Informal discussions If you have a grievance about your employment you should discuss it informally with your line manager. We hope that the majority of concerns will be resolved at this stage.	Informal discussions should resolve the vast majority of grievances.
3. Statutory grievance procedure If you feel that the matter has not been resolved through informal discussions, you should raise it formally with management. Employees must follow the statutory grievance procedure if they wish subsequently to use the grievance as the basis of certain applications to an employment tribunal. Under the statutory grievance procedure employees must: Step 1: Inform the employer of their grievance in writing. Step 2: Be invited by the employer to a meeting to discuss the grievance and notified in writing of the decision. An employee has the right to be accompanied by an employee representative at all grievance meetings. Step 3: Be given the right to appeal against the decision.	
4. Appeals Appeals should be heard by more senior managers wherever possible. Where a more senior manager is not available, a different manager should hear the appeal	In larger organisations it may be appropriate to allow employees to appeal to a higher level of management. Time limits prevent issues running on and on and encourage managers to deal with them promptly.

Information in this guide has been revised up to the date of the last reprint - see date below.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

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