

Management guideline on Disciplinary Code and Procedure



A disciplinary code refers to the workplace rules that aim to protect labour relations and are included in a company's *employment contracts or operate as a separate policy document*. These are in place to protect both employees and employers and to settle disputes according to a set process.

The purpose of a disciplinary code

The purpose of a disciplinary code and procedure is to inform employees of the rules and acceptable conduct in the workplace. The code further assists line management in dealing with employee misconduct in a fair and consistent way and is aimed at correcting improper behaviour and following a progressive approach in the workplace.

Guidelines for dealing with misconduct

Cases of misconduct can be divided into three categories: *minor transgressions*, *serious misconduct* and *very serious misconduct*. These can be individualised and the categories may differ according to the specific industry within which the company operates.

An example of a minor transgression would be tardiness or petty negligence that has no financial implications. Serious misconduct includes cases of feigning illness or of absence without explanation. Very serious misconduct entails more heinous acts or even crimes like theft and assault.

A disciplinary code may specify transgressions in order to take remedial steps or specify the time period after which the employer can take disciplinary action. An example could be sub-standard work performance with an expiration date indicating when repercussions might ensue. The code would outline the exact and valid steps to be taken, which may include several warnings and eventual termination of employment.

A disciplinary code should always distinguish between misconduct and poor work performance. The latter will not always lead to sanctioning as in the case of misconduct because our labour law requires an objective appraisal system and series of interventions such as training in an attempt to improve levels of performance before an employee can be dismissed.

Desertion is defined as absence from work with the purpose of absconding. This is a ground for dismissal, on condition that a proper procedure is followed.

Disciplinary measurements

Disciplinary measures that can be taken by an employer (depending on the gravity of the offence) include the following:

- Verbal warning – valid for 3 months
- Written warning – the first warning is valid for 6 months and the final warning is valid for 12 months
- Dismissal with notice (normally for instances of poor work performance) – the notice period depends on the payment method, for example if salaries are paid monthly, one month's notice is required.
- Dismissal without notice – Summary dismissal for serious cases of misconduct.

When should I get help from a Labour Relations consultant?

Consult a labour relations consultant in all circumstances where an employee needs to be disciplined or dismissed. *Labour laws* are intended to protect employees and the onus is on the employer to prove that an employee was disciplined and dismissed fairly, both procedurally and substantively.

Contact SERR Synergy for an experienced *labour relations* specialist who will deal fully and comprehensively with the relevant labour legislation on your behalf.

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