

# UNDERSTANDING A DISCIPLINARY INTERVIEW.

## Checklist 109

### » INTRODUCTION

Managers often do not find it easy to address issues of poor performance or misconduct, but failing to tackle them can allow problems to escalate and cause further damage to working relationships and organisational performance.

Handling disciplinary issues in a timely, fair and effective manner can:

- › identify the causes of poor performance or misconduct and provide solutions to remedy them
- › avoid the need for more serious action against an employee later
- › aid general morale by showing that misconduct is taken seriously and will not be allowed to affect others or damage working relationships. An ineffective process, however will have the opposite effect.

Ineffective handling of disciplinary issues will:

- › leave the employee unclear about the problem or unaware of the need for improvement
- › lead to claims of unfair dismissal in some circumstances
- › undermine employees' respect for the manager.

This checklist provides guidance for managers who need to carry out a formal interview to address unacceptable behaviour or poor performance, as part of a disciplinary procedure, in instances when it has not been possible to resolve the issue informally.

### » DEFINITION

A disciplinary interview is a meeting between at least one manager and an employee (who in the UK may be accompanied by a fellow worker, a trade union representative or an official employed by a trade union) to investigate and deal with an employee's behaviour or performance in a fair and consistent manner.

### » ACTION CHECKLIST

#### 1. Prepare for the interview

Preparation and planning before the interview are essential to make sure that decisions are made as fairly as possible on the basis of accurate information. The procedure - and the tone in which it is carried out - should be as positive as possible, to preserve working relationships, seek acceptable solutions to problems, help to prevent any recurrence of the problem and facilitate a change in attitude and behaviour.

##### a) Gather all the facts

Obtain any written evidence, such as attendance records or production figures, which highlight the problem. Aim for a balanced view, taking into account any special circumstances inside or outside work that may help

to explain the problem - for example, low staffing levels, increased demand leading to work overload, or the employee's caring responsibilities.

### **b) Check the employee's record**

Find out about the employee's previous disciplinary history, if any. In the case of performance issues there should be an 'audit trail' showing when the matter has been raised informally or through a performance appraisal. Employees should always be made aware of any performance shortcomings, the standards expected of them, and be given time to change their behaviour, before formal disciplinary procedures are initiated.

### **c) Check the organisation's disciplinary procedure**

You should always refer to your HR department to check the policies and procedures in place in your organisation and the options open to you if the employee is found to be guilty of misconduct, bearing in mind their disciplinary record and the seriousness of the offence. In the UK it is important to ensure that you comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures (revised March 2015), which sets out principles for handling disciplinary and grievance issues fairly. While this is not a statutory procedure, tribunals will expect employers to conform to it.

### **d) Look for similar cases and outcomes**

Confer with colleagues to see if they have dealt with similar cases and what the outcomes were. Find out whether the employee is being charged with an offence which is widespread within the organisation, for example, persistent breaking of the dress code or bad timekeeping. Is there any evidence that the employee is being singled out unfairly over an offence which should be tackled at an organisational rather than a personal level?

### **e) Draw up an outline for the interview**

Although no two disciplinary interviews will follow exactly the same path, a brief structure should be mapped out. Start by trying to define what you need to achieve from the interview and note important points that need to be covered. Thought should be given to the reasons, mitigating circumstances or excuses that the employee might give and how these should be recorded and checked at a later date. Consider who should be present at the interview, including witnesses.

## **2. Inform the employee**

The employee should be informed in writing of:

- › the reason why they face a disciplinary interview
- › the time and place of the interview
- › who will be present and who may accompany them at the interview.

In the UK employees have a statutory right to be accompanied at all disciplinary hearings by a fellow worker, a trade union representative or an official employed by a trade union. This companion may address the hearing to put the employee's case, sum up their case or respond on their behalf to any view expressed at the hearing. He or she may confer with the employee during the hearing but does not have the right to answer questions on their behalf or address the hearing if the employee does not wish them to do so, or to prevent anyone, including the employee from making his or her contribution to the hearing.

Determine whether all present should have access to all documents - in some cases this may not be in the employee's best interests.

Remember to give sufficient notice for the employee to prepare their case. The room where the meeting is to be held must be large enough to accommodate those attending. A phone is useful to contact witnesses but arrange for incoming calls to be diverted to avoid unnecessary interruptions.

It is important for notes to be taken during the meeting to ensure that an accurate record is kept, rather than relying on recollections of what was said which may vary or become distorted from person to person or over time. The person responsible for taking notes should be informed in advance, and witnesses contacted to check their availability. If witnesses cannot be present, obtain written statements from them.

### 3. Conduct the interview

Disciplinary interviews are stressful for both the manager and the employee. Their ultimate purpose is to create a satisfactory environment for all employees. Nonetheless, the person conducting the interview needs to stay calm and collected and must not allow the interview to develop into a free-for-all shouting match. Make sure that the employee is aware that the interview is part of a formal disciplinary process.

The length of the interview will depend on many factors, but it may become clear at any stage that either the problem has been resolved or that there needs to be further investigation - in this case the proceedings should be adjourned. Similarly, the interview should be called to a halt if people get heated or the discussion become destructive. There is no set structure for a disciplinary interview, but here is one approach that may be used:

#### a) Introduction

Introduce the people present and explain the reason why they are there (including a manager or individual from the HR department, acting as a witness and taking notes, and any trade union representative).

Explain why a disciplinary interview is being held. Emphasise that it is part of the organisation's disciplinary procedure which exists to ensure that all employees are treated equally and fairly.

Tell the employee how the interview will be structured; that is, the case against them will be presented first; and then they will have an opportunity to respond.

#### b) Present the case against the employee

Detail the case against the employee, including any dates and times that misconduct or breaches of discipline are reported to have occurred. If the case has moved some way along the disciplinary procedure, present an outline of the previous stages, the actions taken and the results. In the case of performance issues it can be helpful to outline what is required to achieve the required standards and highlight reviews, feedback and support which can be offered.

Call on any witnesses to state what they have seen or heard, or know; alternatively, read out the written statements if witnesses are unable to attend.

#### c) Allow the employee to respond

Let the employee reply to the case against them. Allow them to present evidence, including witnesses and statements. Listen carefully to what the employee has to say, and do not interrupt them while they are speaking.

#### d) Discuss the case

Allow both sides to ask questions, particularly about any ambiguities in the evidence or any circumstances which are unclear. Ask open-ended questions to gain a general picture and more precise questions to acquire specific information. It is important to ascertain whether there were any valid mitigating circumstances for the employee's behaviour of which you were unaware. Encourage the employee to suggest ways in which the problem can be overcome.

#### e) Summarise the case

Following the discussion, the main points from both sides should be reiterated and the whole case summarised. When both sides have agreed this to be correct, the interview should be adjourned so that thought can be given to what action is to be taken or whether further investigation will take place. This will also help to allay any suspicions that the outcome was pre-determined. However, try to reach a conclusion as quickly as possible to keep anxiety or doubt to a minimum.

### 4. Inform the employee of the action to be taken

When a decision has been reached the employee and his/her representative should be brought together to be informed of the action to be taken, if any. Actions for improving the situation should be agreed, as appropriate. These may involve the employer as well as the employee. They should be confirmed in writing after the meeting and signed by both parties. In cases concerning performance it may be appropriate to set a date for

review; in cases of misconduct, any further offence will normally trigger the next stage of the formal process so this should also be confirmed in writing. The employee must be given clear guidance on the appeals procedure to follow if they disagree with the result of the interview or think they have been treated unfairly.

## » POTENTIAL PITFALLS

Managers should avoid:

- › failing to check and comply with the organisation's disciplinary procedure
- › assuming guilt before the interview
- › letting the interview become confrontational
- › finishing the interview without setting clear goals for the future

## » ADDITIONAL RESOURCES

### BOOKS

**Human resource management**, 9th ed., Derek Torrington and others, Harlow: Pearson Education, 2014  
See p 599 - The disciplinary interview.  
This book is available as an [e-book](#).

**Managing to manage: the essential guide to people management**, Derek Torrington, London: Kogan Page, 2013  
Chapter 17 - How to conduct a disciplinary interview.  
This book is available as an [e-book](#).

**Vital conversations: making the impossible conversation possible**, Alec Grimsley  
Princes Risborough: Barnes Holland Publishing, 2010

This is a selection of books available for loan to members from CMI's library. More information at:  
[www.managers.org.uk/library](http://www.managers.org.uk/library)

### RELATED CHECKLISTS

- 274** Handling difficult conversations
- 102** Setting up a disciplinary procedure
- 054** Setting up a grievance procedure

### INTERNET RESOURCES

**Advisory, Conciliation and Arbitration Service (ACAS)** [www.acas.org.uk](http://www.acas.org.uk)  
The ACAS Code of Practice on Disciplinary and Grievance Procedures (revised March 2015) and Discipline and Grievances at Work: the ACAS guide can be downloaded from the section on Discipline in the advice and guidance A to Z.

### ORGANISATIONS

**Advisory, Conciliation and Arbitration Service (ACAS) (Head Office)**  
Euston Tower, 286 Euston Road, London NW1 3JJ  
ACAS Helpline: 0300 123 1150 Web: [www.acas.org.uk](http://www.acas.org.uk)



## NATIONAL OCCUPATIONAL STANDARDS FOR MANAGEMENT & LEADERSHIP

This checklist has relevance for the following standards:

Unit DA6 Initiate and follow disciplinary procedures

Unit DC5 Help individuals address problems affecting their performance.



## MORE INFORMATION

**e** [enquiries@managers.org.uk](mailto:enquiries@managers.org.uk)

**t** +44 (01536) 204222

**w** [www.managers.org.uk](http://www.managers.org.uk)

**p** Chartered Management Institute  
Management House, Cottingham Rd, Corby, Northants, NN17 1TT

This publication is for general guidance only. The publisher and expert contributors disclaim all liability for any errors or omissions. You should make appropriate enquiries and seek appropriate advice before making any business, legal or other decisions.

Revised November 2014