



Prepare yourself

1. Preparation is Key!!
2. Collect all the facts of the case. You should carry out a thorough investigation, by checking the personnel file for relevant information and talking to relevant persons.
3. Ensure that you have gathered information from witnesses, if relevant. Ideally this should be in the form of written witness statements - get these signed and dated. If you have not got statements and just facts that happened and recorded in the personnel file then make sure you have copies to give the individual.
4. Remember, until the final part of the meeting you cannot suggest they are dismissed
5. The first part is to check what course of action to take is, as a result of recent behaviour according to Company Policy and Procedure
6. Check that you are fully familiar with your disciplinary procedure and follow it.

Prepare the individual it involves

1. Ensure that they have been fully notified - in writing - in advance of the disciplinary meeting. Bear in mind the following:
 - they must be given sufficient notice of the meeting, so that they can adequately prepare. In practice this will normally be more than 24 hours.
 - Tell them in advance:
 - a. that the meeting is a formal disciplinary meeting;
 - b. that they may bring a representative along if desired;
 - c. the date, time and location of the meeting;
 - d. that the meeting could result in disciplinary action and at potentially what level;
 - e. that the meeting will provide the opportunity to state their case;
 - f. full details of the allegations and the basis for these so that they understand what it is they are alleged to have done wrong, the reasons why this was/is not acceptable, so they can properly consider a response.

(note: you should consider carefully whether to give only the evidence to the individual, or the statements without identifying the witness, as in some cases you may consider it important to maintain the witnesses' confidentiality (chiefly harassment or bullying cases but also where there is genuine fear of reprisal).
2. Ensure that they have a copy of the disciplinary procedure.



Introduction

1. Before starting the meeting, try to ensure that there will be no interruptions - divert your phone, and turn off your mobile!
2. You should take the lead in introducing the meeting:
 - Introduce those present and their roles. (The individual's representative is present to observe, listen and take notes only but may ask questions and put forward any salient points on behalf of the individual.)
 - If the individual has not brought a representative you should ask their reasons for not being accompanied and check that they want to progress. If the individual indicates at any time during the meeting they wish to postpone to bring a representative you should take the decision to postpone and offer an alternative time, even if the time is deferred to later in the day.
 - Confirm that the purpose of the meeting is to discuss the situation and to determine whether or not formal disciplinary action is appropriate.
 - Confirm the structure and timing of the meeting.

Recording the meeting

1. Ensure a written record of what is being said at the meeting is taken by a nominated person.
2. Explain to the individual (and their representative if present) that you are taking notes and that they will be given a copy of these. If doing a tape/digital recording, ensure you gain permission and explain the purpose of recording.
3. Document everything fully - so that there can be no arguments afterwards as to what was said and what action was taken.

The case

1. You should outline the allegations against the individual. Presenting supporting evidence, witness statements etc.
2. It is important to take a formal but polite approach throughout the meeting. Do not argue. Avoid contact or gestures that may be considered threatening.
3. **IMPORTANT:** Also stress any support the company has given during times of poor conduct e.g. training, pay, coaching, listening ear, sympathetic viewpoint, 2nd chances, explanations, other support etc



The individual's response

1. The individual should be asked/invited and encouraged to respond to the allegations made. It is critically important that you remain unbiased and use the disciplinary meeting to gather and understand the information.
2. You need, therefore, to fully explore:
 - what information they would like you to consider ;
 - what they agree with;
 - what they disagree with and why;
 - what supporting evidence there may be;
 - what, if any, mitigating circumstances they would like you to consider.
 - In some cases, it may be appropriate to offer a short adjournment before they respond to the allegations made.
 - what other support/actions could the company have taken/done?
3. Keep an open mind and ask questions. Listen carefully to the answers.
4. Allow the individual or representative to ask relevant questions.
5. Call any witnesses and allow time for both you and the individual to question them. Ensure that witnesses are only present whilst they are actually giving evidence.
6. If things become heated, or if you want to check out particular facts, do remember that you can adjourn the meeting at any stage to take advice.
7. At the end of the meeting, summarise what has happened and then consider an adjournment before making your decision.

Adjournment

1. It is good practice to adjourn before announcing your decision. This allows you to:
 - carefully consider what has been said
 - interview other people, if relevant and especially if any new points came out of the meeting
 - check your disciplinary procedure
 - consider precedents and how similar situations have been handled in the past
 - reach an objective decision.
2. An adjournment also allows them to consider if there is anything else they wish to add.
3. The adjournment allows you to act fairly and to be seen as doing so.



Decision

1. Following the adjournment, check they have anything they wish to add (and fully consider it, if so. If necessary, take another adjournment.)
2. You and any other Company Representative must keep an open mind and decide whether they are guilty on the balance of probabilities. If they are to be believed guilty of the alleged misconduct, the next stage is to determine the appropriate level of disciplinary action to take:

In arriving at your decision, consider:

- the previous disciplinary record;
 - their length of service;
 - the seriousness of the misconduct;
 - precedents - how previous comparable instances have been handled. You are expected to treat people fairly and consistently and it would be unfair to dismiss one employee for an incident for which another employee received a verbal warning.
 - any mitigating circumstances or provocation.
3. Confirm your decision with a concise explanation. If the decision is for formal disciplinary action, then this should be confirmed in writing via a verbal warning, a written warning, or a final written warning. In the worst case you will need to dismiss, either with notice or, if they are believed guilty of gross misconduct, without notice may be appropriate if this is in line with company policy and employment law guidelines.

Note that, other than in cases of gross misconduct, a tribunal is unlikely to find a dismissal fair unless a final written warning was given prior to the dismissal.

4. The individual must be informed of his right of appeal, and the manner and timescale in which to do so. [and for disciplinary action short of dismissal, you should confirm what standard of conduct or performance is required of the individual, what support is available to help them to succeed, the timescale for achieving this improvement, a review date, and what will result if there is no improvement or a repetition of the misconduct in question]

Rescheduling meetings

1. If either you or the individual or their representative request a re-arrangement a new meeting date and time should be set.



Appeals

1. If an appeal against the decision is made, an appeal hearing will need to be arranged, again following the principles above.
2. An appeal hearing is a further meeting with the individual - not just a review of the paperwork. Where possible, the appeal should be heard by another director/senior manager
3. **NEW!!!** The new statutory procedures do not require an employee to put an appeal in writing - so do allow appeals which are lodged verbally, or by email etc. They also do not impose a deadline by which the individual must appeal - the only requirement is that they should appeal "without unreasonable delay", so whilst you may indicate 5 days in your letter if they appeal out of this time you may well need to consider it if they could not have foreseen the delay outside of 5 days.
4. Where they feel that a warning has been unfairly awarded, because of discrimination or personal vendetta etc, it would be better to allow them to raise a grievance against this.