



Introduction

Even the most regulated and well-disciplined organization will face the prospect of discipline at some stage. It may be a simple case of poor attendance or it may be an allegation of sexual harassment. There could be some genuine confusion whether your employee is lazy and uncooperative or just unable to carry out their duties. If you are a manager you may be asked to take on the role of an independent investigator to look into allegations of expense account fiddles. The principal aim of this book is to help with all these difficult and potentially hazardous tasks.

Despite the fact that people have been in paid employment for many hundreds of years, it is only within my working life that concepts such as 'unfair dismissal', 'discrimination', harassment', 'redundancy', 'whistle-blowing' and 'formal grievance' have entered the employment arena. The rights and duties of the employer are now balanced by those of the employee.

Employers cannot take arbitrary action; their decisions need to be reasonable and fair. However, when tackled correctly, managers *can* deal with ill discipline and misconduct effectively. The position taken throughout this book is that all parties need to operate within the legal framework and context.

If you, the employer, find yourself in the throes of an employment tribunal it can prove to be a 'no-win' situation. Unless the claim can be

proved to be malicious or vexatious it is unlikely costs will be awarded against the employee or ex-employee. Representation costs and management time will cost thousands – even if you win! Avoiding litigation is so much better. This book is aimed at developing the knowledge, skills and systems to deal with modern concepts of discipline within employment and with grievances raised by employees.

There comes a point in any business when enforcing discipline is necessary or a formal grievance must be addressed. A failure to deal with issues such as lateness, bullying and minor theft can have a major effect on the morale of other workers who see their colleagues getting away with ill discipline.

It is at these times when the tactics and techniques covered in the book are crucial. Your aim must be to get back to normal relations as soon as possible. If this is not possible and drastic action, such as a dismissal, is necessary, you should be able to achieve this in an effective and fair manner. While you can never prevent litigation you can put yourself in a favourable position to defend such action if it is taken. This book is not about dealing with employment tribunals claims; it is about seeking to deal with issues before this stage. My experience is that a well-documented and effective process before a dismissal often results in the claim being dropped.

IS DISCIPLINE NECESSARY?

An organization without discipline is a recipe for poor relationships, an unhappy working environment and imperfect cooperation between staff and management. It is an organization where a lack of respect, oppressive conduct, autocratic supervision, bullying, harassment and discrimination could be rife and unchecked. Production and quality control problems will be everyday issues and the employees are unlikely to show pride in their work.

Furthermore, it is likely that customer relations will deteriorate and so will orders. Recruitment will become a problem as the reputation of the company spreads, probably by the tales of ex-employees dismissed unfairly or those who have left after being treated badly. Remember, the best workers, those who can easily find employment, will leave first. Poor discipline often manifests itself in inadequate maintenance of equipment, sloppy paperwork, badly kept company vehicles, staff wasting hours playing computer games or gossiping, and employees spending too much time scanning the situations vacant pages of newspapers.

industries, such as mining, construction and farming, often resulting in injury and loss of life. While some would argue that the 'health and safety' culture has progressed too far in society, it is clearly necessary in the employment arena.

Finally, health and safety has embraced issues such as work-related stress and other psychological and psychiatric illnesses.

'EMPLOYEE' AND 'WORKER'

Our focus throughout this book is on managing discipline and grievance within employment. It will be useful to devote a few lines to the meaning of the word 'employee'. It is probably best stated by Wallington (2007):

Since the late nineteenth century, the cornerstone of the law relating to employment has been the contract of employment. This is so in relation not only to long-standing common law rights and obligations but also in relation to the modern statutory rights which can normally only be exercised by an 'employee'. Thus, a person whose employment has been terminated may be able to claim unfair dismissal or a redundancy payment, and a pregnant employee may be able to insist on returning to her employment after childbirth. The legislation gives such rights to employees, and then defines an employee quite simply as someone 'under a contract of employment' (which is not then further defined).

An employee is treated differently from a self-employed worker, independent contractor or agency staff (although this may change). Generally speaking an employee is someone who shares a mutuality of obligations with the employer and answers 'yes' to the following questions:

1. Does the worker undertake to provide their own time, work and skill in return for remuneration?
2. Is there a sufficient degree of control to enable the worker fairly to be called an employee?
3. Are there any other factors inconsistent with the existence of a contract of employment?

The distinction is important because, although health and safety and working time rules apply to all workers, discipline, rights to submit grievances, and incidentally employment tribunals, are concerned only with employees.

CHANGE AND CHANGE MANAGEMENT

It has been said that the only constant in industry and commerce is 'change'. The nature of work was subject to enormous change during the 18th, 19th and 20th centuries. For example, a great deal of manufacturing industry has migrated to developing countries and has been replaced by new sectors such as service industries and IT. Many workers have had to be retrained and 'socialized' into new working environments.

This has also had an impact on how discipline standards are set and enforced. There are examples of coal miners moving to small IT-based manufacturing, and workers from clothing factories moving to call centres or the service industry. Many organizations have a workforce with very different cultural backgrounds. In addition, migration has introduced workers with different origins, standards and expectations.

On the subject of change, it is now the fashion to embark on periodic change management programmes within many organizations. This process is sometimes accompanied by a structural reorganization and changes in management with new responsibilities. Revised reporting lines create confusion, and if not subject to careful planning, consultation and communications could present discipline problems. Structural and organizational change does often result in an increase in grievances.

THE NEW MANAGER

Discipline is sometimes a problem for the new manager. This is particularly so if their predecessor adopted a more relaxed or tolerant style. A newly appointed manager should be careful not to become drawn into accepting or condoning dubious practices, even if they have been commonplace, for example:

- initiation ceremonies with new recruits;
- falsification of timesheets in respect of work times and overtime;
- playing dangerous practical jokes;
- minor theft of goods or products.

Again, the manager would be well advised to issue a warning before launching into individual disciplinary action. Equally so, it would be wrong to take no action under the assumption that matters will improve. The longer these things are left the more difficult it becomes. Remember, the situation has the potential to reflect adversely on your capability as a manager. Case study 1 includes this possibility.

You are advised to study Chapter 2 on 'proactive discipline' carefully; this should be a good starting point in your efforts to create a disciplined environment if the one you inherit on transfer or promotion is less than satisfactory.

CHAPTER OUTLINES

This is not a book on employment law although the advice does reflect recent legislation and 'best practice'.

Chapter 1 deals with the dynamic legal framework including change to take effect during 2009, the policies and procedures within individual organizations and the guidance provided by the Advisory, Conciliation and Arbitration Service (ACAS). It sets out the practical skills, techniques and tactics necessary to support these sources in a manner that will be relevant to most situations.

Chapter 2 deals with the concept of *proactive discipline*. The word 'proactive' means 'tending to initiate change rather than reacting to events', and this is precisely what this chapter is about. Very few owners or managers relish dealing with discipline formally, and this chapter is about avoiding it wherever and whenever possible. Concepts such as management responsibilities, standard setting and, surprisingly, recruitment will be dealt with here. Use of the probation clause and induction are explained and good practice recommended.

By way of contrast, **Chapter 3** addresses *reactive discipline*, the skills and tactics necessary to take the right actions at the right time. The difference between internal and external complaints is dealt with. Managers need the skill to recognize that an apparently minor issue, like absenteeism or conduct outside work, has the potential to develop into a grievance or discipline investigation.

Chapter 4 deals with the subject of grievances, including whistleblowing, which can be the precursor to a discipline case although it often stands alone. Grievances can be seen by some as a potential source of aggravation and by others as a means of resolving employee concerns. While many of the skills necessary to investigate and resolve a grievance are the same as with discipline investigations, the subject requires separate treatment.

Chapter 5 is a brief but important look at issues relating to suspending employees from their duties pending discipline investigations. In addition, advice is given on the reintroduction of suspended staff to the workplace.

Although not normally a discipline issue, the concept of capability often gets confused with discipline and in many organizations it is regrettably

contained in the same policy. For this reason and the fact that getting a capability dismissal wrong can lead to similar legal sanction, **Chapter 6** deals with this matter.

Discipline and grievance issues arise in a multitude of areas, and **Chapter 7** looks at these in some detail. Issues ranging from harassment and bullying to discrimination, and even drugs and alcohol are set in the context of discipline and grievances. An employer needs to ensure that staff are treated fairly and do not suffer any detriment or victimization as a result of being different in any way.

In order to reach a conclusion on whether an allegation is substantiated or not, an investigator needs to establish the facts. Evidence and evidence gathering are addressed in **Chapter 8**. This includes an examination of the burden and standard of proof required in discipline cases. In addition, we look at the increasingly difficult area of IT-related evidence and the misuse of IT. We introduce the concept of 'points to prove', which leads directly into the following three chapters.

In **Chapter 9** we take a look at investigation techniques and skills. This is a key element of the book and is necessarily based on the concepts already addressed. The investigator's skill set is designed to provide a wide range of tools for any investigator. While the detailed investigation of financial irregularities is outside the scope of this book, some advice and guidance is given on this complex area.

One special skill is at the core of any investigation, and this is interviewing. **Chapter 10** looks at this separately and in some detail. A variety of interviewing models are presented and set against a variety of situations and witness.

Logically, the next stage should be report writing and **Chapter 11** tackles this. The grading of findings and recommendations is the key to the decisions others must take. The making of extraneous recommendations is also addressed.

As far as the investigating officer is concerned, the disciplinary hearing is usually the end of the matter. **Chapter 12** looks at this from the perspective not only of the investigator but of the chair and others who may be involved in the disciplinary hearing. Appeals are a specific issue in both discipline and grievance cases, and we look at grounds of an appeal and how to deal with appeals. Any discipline and grievance can cause ripples in an organization. Dealing with the follow-up or aftermath needs to be part of the overall strategy, and we look at this.

Chapter 13 contains the case studies referred to throughout the book. **Chapter 14** contains a series of precedents and specimen documents.

1

Setting the structure

THE BASICS

The discipline and grievance procedures of any employer, no matter how small, are subject to specific legal requirements. An employer can agree to more complex and detailed arrangements; however, employers cannot contract to any procedure less robust than that basic or minimum procedure set out by law and Advisory, Conciliation and Arbitration Service (ACAS) codes. The contract of employment or written particulars of employment required by law (Employment Rights Act 1996 section 1(2)) must contain, among other matters, 'the disciplinary rules and procedures, and the name of a person to whom the employee can apply they are dissatisfied with any disciplinary action, or seeking redress of any grievance relating to her employment' (Employment Rights Act 1996 section 3(1)).

As an alternative the law does allow for these items to be contained in separate documents such as staff handbooks provided these are reasonably accessible and referred to in the main statement.

If your company does not conform to these minimum requirements, urgent action needs to be taken to ensure that its system is put right. You are strongly advised to set about drafting a set of policies relating to discipline and grievance. The ACAS website (www.acas.org.uk) is a good starting point.

If your organization has comprehensive discipline and grievance policies and procedures you may be tempted to pass on this section; I would ask you to resist this impulse. There are a variety of associated matters to bear in mind and there are also significant changes afoot during 2009 which I shall explain.

It is essential that any managers considering disciplinary action or who may be appointed as investigating officers should be fully conversant with their organization's policies and procedures, the relevant legislation and the relevant ACAS codes of practice.

STATUTORY DISPUTE RESOLUTION PROCEDURES

The standard dismissal and disciplinary procedures apply when an employer contemplates dismissing or taking relevant disciplinary action against an employee. They will remain in force until April 2009 at the earliest.

'Relevant disciplinary action' means action short of dismissal taken against the employee on account of conduct or capability, but does not include the giving of oral or written warnings. Relevant action could include (for example):

- demotion or downgrading, which would, however, only be lawful if the particular course of action was authorized in the employee's contract of employment as a disciplinary penalty;
- reallocation of duties following an ill-health absence;
- awarding a lower bonus than usual because of poor performance.

You are advised to follow your organizational policy in every case, even minor issues.

Although the focus of this book is the internal discipline and grievance process, it is important that managers know the basic procedures that might be followed in the event that their actions were scrutinized should a case end up in a claim.

As I write, employers are required to follow a *specific statutory minimum procedure* if they are contemplating dismissing an employee or imposing some other disciplinary penalty (see above) that is not suspension on full pay or a warning. If an employee is dismissed without the employer following this statutory procedure, and makes a claim to an employment tribunal, providing they have qualifying service of one continuous year (a continuous year is not necessary in discrimination, whistleblowing or a range of other matters) the dismissal will be automatically ruled unfair.

The statutory procedure is the current minimum requirement, and even where the relevant procedure is followed the dismissal may still be unfair if the employer has not acted reasonably in all the circumstances. What started as a relatively minor issue could escalate into a claim if it is not dealt with correctly.

In small organizations (and this is not specifically defined) it may not be practical to adopt all the detailed good practice guidance set out in ACAS codes of practice. Employment tribunals will take account of an employer's size and administrative resources when deciding whether it acted reasonably. However, all organizations regardless of size must follow the minimum statutory procedures. The procedures introduced in 2009 will be more 'friendly' to the small employer in an attempt to keep cases out of court and to reduce costs.

From a practical point of view, some managers in small firms may see the dismissal of an employee for poor attendance to be a simple matter. It might be something like 'warn them once then sack them next time'. I know from my work acting for claimants in Citizens Advice Bureaux and for respondents (employers) in private practice that this is not the case. Furthermore the lesson can be quite expensive. You must have and follow a fair and consistent procedure.

Standard statutory dismissal and disciplinary procedure (DDP)

This procedure applies to dismissal and disciplinary action short of dismissal based on either conduct or capability (although I strongly recommend a specific process in the area of capability/incompetence). It also applies to other dismissals such as expiry of a fixed-term contract, redundancy and retirement. In these areas, redundancy and retirement have their specific processes to be adhered to. The new Employment Bill will remove the non-renewal of a fixed-term contract and redundancy from the list of terminations required to follow a set procedure.

Step 1: statement of grounds for action and invitation to meeting

- The employer must set out in writing the employee's alleged conduct or characteristics which lead it to contemplate dismissing the employee or taking disciplinary action.
- The employer must send the statement or a copy of it to the employee and invite the employee to attend a meeting to discuss the matter.

Step 2: the meeting

- The meeting must take place before action is taken, except in the case where the disciplinary action consists of suspension.
- The meeting must not take place unless:
 - the employer has informed the employee what the basis was for including in the statement under Step 1 the ground or grounds given in it; and
 - the employee has had a reasonable opportunity to consider their response to that information.
- The employee must take all reasonable steps to attend the meeting.
- After the meeting, the employer must inform the employee of its decision and notify them of the right to appeal against the decision if they are not satisfied with it.
- Employees have the right to be accompanied at the meeting.

Step 3: appeal

- If the employee wishes to appeal, they must inform the employer.
- If the employee informs the employer of their wish to appeal, the employer must invite them to attend a further meeting.
- The employee must take all reasonable steps to attend the meeting.
- The appeal meeting need not take place before the dismissal or disciplinary action takes effect.
- Where reasonably practicable, the appeal should be dealt with by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).
- The employer must inform the employee of its final decision.
- Employees have the right to be accompanied at the appeal meeting.

If the employee refuses to attend the meeting and has no reasonable excuse, such as sickness, insufficient time to prepare or unavailability of the 'companion' (in which case it should be rearranged once), the matter should be heard in their absence.

Modified statutory dismissal and disciplinary procedure

Step 1: statement of grounds for action

- The employer must set out in writing:
 - the employee's alleged misconduct which has led to the dismissal;
 - the reasons for thinking at the time of the dismissal that the employee was guilty of the alleged misconduct;

- the employee's right of appeal against dismissal.
- The employer must send the statement or a copy of it to the employee.

Step 2: appeal

- If the employee does wish to appeal, they must inform the employer.
- If the employee informs the employer of a wish to appeal, the employer must invite them to attend a meeting.
- The employee must take all reasonable steps to attend the meeting.
- After the appeal meeting, the employer must inform the employee of its final decision.
- Where reasonably practicable the appeal should be dealt with by a more senior manager not involved in the earlier decision to dismiss.
- Employees have the right to be accompanied at the appeal meeting.

The Regulations state that the modified procedure may be used where the employee has committed an act of very serious misconduct and the circumstances are such that it is reasonable for the employer to dismiss the employee immediately without carrying out an investigation. The modified procedure requires only that the employer should write to the employee after the dismissal explaining the reason for the dismissal and allow them a right of appeal.

This procedure may be acceptable in small and medium business in the specific circumstances set out above. However, larger organizations, and in particular public sector bodies, may find that their policies do not allow use of the modified procedure. The alternative is to suspend the employer against whom the allegation is made, conduct an investigation, a discipline hearing, and if appropriate dismiss the person at the end of this process. It is good practice to use the standard procedure wherever possible.

ACAS CODE OF PRACTICE ON DISCIPLINARY AND GRIEVANCE PROCEDURES

The ACAS code of practice of October 2004 is the current version. This excellent document gives wide-ranging advice on dealing with discipline and grievances. Many of its principles are included in this book. If you are responsible for discipline or you may be called on to undertake an investigation, you must be aware of the code.

A failure to follow any part of the code, including the sections of an advisory nature, does not in itself make a person or organization liable to

proceedings. In this respect the code is not law in itself. However, employment tribunals take the code into account. This means that if a discipline case does reach the stage of an employment tribunal claim, the conduct of the investigator and employer will come under scrutiny not only against the relevant law but against the advice in the ACAS code.

ORGANIZATIONAL POLICIES AND PROCEDURES

The law requires employers to have a discipline and grievance procedure. This, together with the ACAS code, is enough to ensure that their actions are steered along the correct path.

However, many organizations choose to draft a specific discipline and grievance policy relevant to their needs. This normally follows a process of consultation with trade unions and other consultative bodies. These policies establish a more complex process and explain the procedure in more detail, give guidance in areas such as suspension, investigation, hearings and appeals, and contain elements over and above the statutory minimum procedure. They may set out formats for the various letters to be used and the final disciplinary report. However, it is stressed that discipline procedures should be seen as a way of helping and encouraging employees rather than simply imposing sanctions.

My advice is that organizational policies should always be followed closely; failure to do so could result in internal challenges at a discipline hearing or give grounds for an appeal.

MISCONDUCT AND GROSS MISCONDUCT

Many discipline policies set out the types of behaviour that could be deemed to be *misconduct*, such as:

- absenteeism – particularly short-term and unpredictable;
- poor timekeeping;
- refusal to obey instructions: depending on the circumstances this could be seen as serious;
- administrative breaches: again the circumstances may make this a serious issue;
- breaches of standing operating procedures;
- minor health and safety breaches;

3 EXAMPLE – SUSPENSION LETTER

Personal and confidential

Dear XXX,

I am writing to confirm the decision given verbally to you at the meeting on time/date held following the receipt of (a) serious allegation(s) regarding your conduct at work. At the meeting I informed you that you would be suspended from duty, on full pay, as of that date in accordance with the disciplinary procedure laid down in the Discipline Policy (copy attached).

The allegation(s) against you is/are as follows.

(i) It is alleged that you have ... at ... on ... in

In view of the seriousness of this/these allegation(s), which could amount to serious misconduct if substantiated, I have decided that an investigation will be carried out. The investigating manager will be XXX.

Subject to the outcome of the investigation, a formal disciplinary hearing may be convened to consider the above allegation(s). You will remain suspended from duty, on the appropriate rate of pay, until the investigation has been completed, and if a hearing is necessary, until the outcome of the meeting is decided.

During the period of your suspension, which does not constitute disciplinary action, you may not enter company premises, contact other staff members or use any of the facilities of the company without prior permission. [State any other conditions, eg hand in keys, security passes, equipment, papers.]

Due to the serious nature of the allegations I have to advise you that, if this/these allegation(s) should be substantiated you could be summarily dismissed from your post without notice.

During your period of suspension all contact with the company should be via Mrs Joan Smith, HR manager. Please contact her if you have any queries about this matter.

Yours sincerely,

4 WITNESS STATEMENT

CONFIDENTIAL STATEMENT FORM

Heading

(Witnesses shall be reminded before making their statements that their evidence could be made available to the employee under investigation.)

Employee's name _____

Position/job _____

Date _____

Place _____

Times _____

Persons present _____

Investigating Officer _____

Witness _____

INSERT STATEMENT HERE

Footer

This statement is true. I have been told I can add, alter or amend anything I wish. I have made this statement of my own free will.

Name of witness _____ Date _____

Signature _____

Investigating Officer _____ Date _____

Signature _____

Note: A similar format could be used to record interview notes.

5 EXAMPLE – NOTICE OF A DISCIPLINARY HEARING

Dear XXX,

The investigation into the complaint by Mrs Spencer is now complete. Copies of the documents relating to this case are attached, including agreed facts and admissions together with statements by Mrs Spencer and witnesses to the incident, Mr Jones and Mrs Clarke.

I am writing to inform you that you are required to attend a disciplinary hearing at my office on 16 June 2008 at 11.00 am. At the hearing, I will consider the allegation that you swore at a cleaner, Mrs Susan Spencer, and threw her cleaning materials across the office, the allegation that you accused the cleaner of stealing property from your desk, and the allegation that you had been drinking.

The allegations if proven would amount to gross misconduct under the company's disciplinary procedure, and could therefore result in your dismissal.

You are entitled, if you wish, to be represented at the hearing by a work colleague or a trade union representative. [or 'I have sent a copy of this letter to your trade union representative.'] Your suspension from duty will continue until the disciplinary process has been completed.

Yours sincerely

Director

6 EXAMPLE – DISMISSAL LETTER

Dear XXX,

I write to confirm the outcome of the disciplinary hearing on 16 June 2008 in my office.

The allegations were that on 1 April 2008 you that you swore at a cleaner, Mrs Susan Spencer, and threw her cleaning materials across the office, that you accused the cleaner of stealing property from your desk, and that you had been drinking. You denied all three allegations.

After considering the evidence, I am satisfied that the allegations are true and substantiated. In view of this I reached the conclusion that you have been guilty of gross misconduct and you were therefore summarily dismissed from employment, without notice, with effect from 16 June 2008. You will be paid up to and including 16 June 2008.

You have the right to appeal against this decision, and if you wish to do so, this appeal should be made in writing to the managing director within 10 days.

Yours sincerely

Director

7 EXAMPLE – 'NOT PROVEN' LETTER

Dear XXX,

I write to confirm the outcome of the disciplinary hearing on 16 June 2008 in my office.

The allegations were that on 1 April 2008:

- a) you swore at a cleaner, Mrs Susan Spencer, and threw her cleaning materials across the office,
- b) you accused the cleaner of stealing property from you desk, and
- c) you had been drinking.

You denied all three allegations.

After considering the evidence, I am satisfied that the allegations a) and b) were unfounded. In addition, I reached the conclusion, after hearing the evidence and your submission, that allegation c) was unsubstantiated.

In view of this you were reinstated with immediate effect and no further action will be taken against you in respect of these matters. This matter will not be placed on your personal file.

Yours sincerely

Director

9 EXAMPLE – NOTICE OF APPEAL HEARING LETTER

Dear XXX,

You have appealed against the written warning/final written warning/notice of dismissal confirmed to you in writing on 16 June 2008.

Your appeal will be heard by Dr Judith Smithers, managing director, in her office at 12 noon on 20 June 2008.

You are entitled to be accompanied by a work-based colleague or trade union representative.

The decision of this appeal hearing will be final and there is no further right of review.

Yours sincerely

Human resources manager

10 EXAMPLE – NOTICE OF RESULT OF APPEAL HEARING

Dear XXX,

You appealed against the decision of the disciplinary hearing held on 16 June 2008 that you be given a warning/be dismissed in accordance with the company's discipline procedure. The appeal hearing was held on 20 June 2008. I sat as chair and I was accompanied by a fellow director, Peter Lord.

I am now writing to confirm the decision taken by Jane Smith, the director who conducted the appeal, that the decision to dismiss you without notice stands/the decision to be revoked [specify if no disciplinary action is being taken or what the new disciplinary action is].

You have now exercised your right of appeal under the discipline procedure and this decision is final.

Yours sincerely

Chair of appeal hearing

A SERIES OF LETTERS RELATING TO CAPABILITY

11 EXAMPLE LETTER – NOTICE OF DECISION TO INVOKE THE FORMAL PROCEDURES

Confidential

Dear XXX,

I am writing to inform you that after the company has provided appropriate training, advice and support, your conduct/performance is still unsatisfactory. I have therefore decided to formally invoke the capability procedure, a copy of which is attached.

You are entitled, if you wish, to be accompanied by a work-based colleague or trade union representative at any stage in these formal procedures.

Yours sincerely

Manager

12 EXAMPLE LETTER – NOTICE OF INITIAL REVIEW MEETING

Dear XXX,

I am writing to tell you that you are required to attend an initial/review meeting at time/date/location.

At this meeting the question of formal proceedings being brought against you in accordance with the capability procedure will be considered.

You are entitled, if you wish, to be accompanied by a work-based colleague or trade union representative.

Yours sincerely

Manager

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14 EXAMPLE LETTER – CONFIRMATION OF DISMISSAL (FOLLOWING PREVIOUS WARNINGS)

Dear XXX,

On [date of last stage letter] you were informed in writing that you would be given a final written warning in accordance with Stage [2/3] of the capability procedure. In that letter you were warned that if your performance did not improve, you were likely to be dismissed.

At the hearing held on [time/date] it was decided that your performance was still unsatisfactory and that you will be dismissed.

I am therefore writing to you to confirm the decision that you be dismissed in accordance with Stage [2/3] of the capability procedure and that your date of termination will be [date]. The reasons for your dismissal are [...].

You will be paid up to [date] and your final salary payment will include [period] weeks' pay in lieu of notice.

You have the right of appeal against this decision, in writing to the managing director, within 10 working days of receiving this decision.

Yours sincerely

Manager