



Ashdown Human Resources

Misconduct



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What is Misconduct?

Misconduct is bad behaviour on the part of employee. Depending on the exact behaviour in question, how long the employee has worked for you and on what terms will determine your options for dealing with the misconduct.

Examples of misconduct

The most usual types of misconduct are:

- Unauthorised absence
- Lack of confidentiality
- Poor timekeeping
- Dishonesty
- Threatening behaviour to colleagues, clients or third parties
- Carelessness
- Failure to carry out reasonable management instructions

Disciplinary procedure

Misconduct rarely warrants dismissal, and normally a disciplinary warning is appropriate. Further misconduct whilst under a warning is more likely to lead to dismissal. You are still required to carry out a disciplinary process even if the misconduct is clear and admitted.



Investigation

You may need to appoint someone to carry out an investigation, which could entail taking witness statements. Ideally the person carrying out the investigation should not chair the disciplinary hearing. Suspension while carrying out an investigation is not normally required. A full investigation report should be written before deciding whether to instigate the formal disciplinary process.

Disciplinary process

Either your own process or the ACAS process should be followed at all times. Failure to carry out each step of the process adequately (for example a flawed investigation or “leading” witnesses) or an unnecessarily harsh sanction could risk a claim for unfair dismissal if the disciplinary sanction results in eventual dismissal.