

Importance of the Employees Disciplinary Record

The courts have endorsed the concept of corrective and progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employees behaviour through a system of graduated disciplinary measures such as counselling and warnings.

When deciding whether or not to impose the penalty of dismissal, the employer should in addition to the gravity of the misconduct consider factors such as the employees circumstances including length of service, previous **disciplinary record** and personal circumstances

Specific mention is made in the Schedule 8: Code of Good Practice of the Labour Relations Act (LRA) regarding disciplinary records in that Employers are to keep records for each employee.

The Code of Good Practice has made such provision in order to assist the chairperson of a disciplinary hearing in applying her mind properly in recommending a suitable sanction.

Employers should determine the length of the validity of warnings in the employment contracts and/or policies. Common practice has been that only offences of a similar nature can result in stronger disciplinary action.

Generally, Employers should structure their policies such that a warning can only progress to a higher level if the previous warning given was of same or similar offence. Although, the LRA doesn't specifically state that

this is the way it must be done, the progression of warnings from one level to a higher one, gives effect to the LRA's vision of corrective and/or progressive discipline.

The Code of Good Practice provides that dismissal at first instance is generally not appropriate except for cases where the misconduct is serious and makes a continued employment relationship intolerable. Showing that such steps have been followed can be advantageous for Employers in ensuring procedurally and substantively fair dismissals.

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