

DMCC Guidance Note for Members

Disciplinary Procedures

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Disciplinary Procedures

References to the "Labour Law" are to Federal Law No. 8 of 1980, as amended.

Disciplinary Procedures under the Labour Law

The Labour Law sets out the following statutory minimum disciplinary process which must be followed before imposing any disciplinary sanction:

- Inform the employee, in writing, of the charge against him / her.
- Provide the employee with an opportunity to respond and have his / her statements heard.
- Investigate any statements made by the employee.
- Provide the employee with written notice of the penalty imposed on him/her, including the nature of the penalty, the reason for it, its amount (if relevant) and the penalty which will apply if the employee repeats the offence.
- Retain a written report of the above in the employee's personal file. The report should include details of the penalty imposed on the employee.

Time Limits

- An employee cannot be charged with a disciplinary offence more than 30 days after it was discovered.
- A disciplinary penalty cannot be imposed more than 60 days after the conclusion of the investigation.

Permitted Sanctions

The Labour Law sets out an exhaustive list of sanctions which may be imposed upon an employee (in all cases, after having followed the statutory minimum disciplinary procedure set out above):

- A warning.
- A fine (not exceeding 5 days' gross salary for any one offence, and a maximum of 5 days' gross salary can be deducted from the employee per month).

- Suspension from work with reduced pay for a maximum of 10 days.
- Forfeiture or deferral of a salary increment (the increment can only be forfeited once a year, and a deferral cannot be longer than six months).
- Forfeiture of promotion (only one level of promotion).
- Dismissal with end of service benefits (for a "valid" reason which must be connected to the employee's work).
- Dismissal without end of service benefits (where the employee's conduct falls within one of the exhaustive list of behaviours set out under Article 120 of the Labour Law).

An employer may not impose more than one of the penalties outlined in the Labour Law in relation to a single offence.

Company Disciplinary Policy

Whilst not a legal requirement, member companies may wish to implement a company disciplinary policy. Some of the benefits of doing so are as follows:

- Ensures that both employees and those implementing the disciplinary policy (e.g. managers) are aware of the process to be followed.
- Gives the company an opportunity to state principles of best practice which go over and above the statutory minimum requirements under the Labour Law.
- Can be helpful in clearly explaining to employees' acceptable and unacceptable standards of behaviour.

The DMCC encourages its member companies to consider the following when implementing a company disciplinary policy:

- The policy must, as a minimum, meet the statutory minimum requirements under the Labour Law (summarised above).
- Stress the importance of keeping written records at all stages of the process.
- Adopt a system of escalating warnings so that, ordinarily, an employee is provided with more than one opportunity to address issues communicated by the company. For example, some companies operate a "traffic-light system", with the first "green" offence resulting in a minimum penalty, and any repeat offences resulting in more severe penalties under "amber" and "red" respectively.

Managing Performance

As a matter of best practice, the DMCC encourages its members to adopt the following principles in relation to the management of employee performance:

- Any poor performance / disciplinary policy should stress that the purpose of the process is to support the employee to improve his/her performance to the required standards.
- Performance reviews should be conducted regularly, such as bi-annually and annually, such that they are viewed positively as part of an employee's continuous improvement with the company. These reviews include the supervisor and the employee providing feedback to one another on the past period's performance, targeting key areas for improvement, and setting objectives for the employee's short and long term future.
- Formal bi-annual and annual reviews should be supplemented with informal meetings and open lines of communication, enabling employees to meet with supervisors regularly to discuss aims and objectives, and, where necessary, to discuss and resolve issues as and when they occur.

All discussions relating to an employee's performance should be documented and retained on file.

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