

DEALING WITH EMPLOYEE MISCONDUCT

INTRODUCTION

When dealing with employee misconduct in the workplace, the matters set out below are the common areas of concern for employers which a prudent employer should concern themselves with and have appropriate procedures in place. Malley & Co can offer Employers expert advice, to enable employers to operate a cost effective and fair Human Resource policy.

Initial Investigation

- Advice on taking statements from employees/witnesses. Assessment of seriousness of offences.
- Implications of disciplinary measures taken within the terms of employment agreement.

Internal Disciplinary Meetings

- Advice on preferred format of hearing.
- Relevance of any previous acts.
- Preferred procedure for taking of statements from any witnesses.
- Implications of any disciplinary action taken against employee.
- Procedure for ensuring employee has fair and adequate representation at any hearing. The format of hearing, ensuring fair manner in which allegations can be fairly raised and responded to.
- The implications of previous disciplinary measures taken against other employees.
- Requirements on disclosure of minutes of meeting.

Decision making

- Implications of dismissal/disciplinary action.
- Implications of decisions with rights of fellow employees.
- Implications of outstanding arrears of pay/holiday pay/overtime and other contractual payments.

Responses to Employee Grievances

- What is the effect and preferred manner of settlement?
- The implications of attendances at mediation.
- Costs of mediation.

- Advice on likely outcome of Court Hearing.
- Advice on likely quantum of awards.
- Implications of recent decisions by Employment Relations Authority/Employment Court in the area.
- Implications of Employment Regulations/codes of practice.

If you have any queries or would like clarification of any matters as set out above, you may contact Malley and Co., Lawyers, who will put you in touch with a member of the Employment Department. Alternatively, if you wish to purchase a full Employer set of guidelines referred to in the above circular, they can be purchased for a price of \$150.00 plus GST from Malley & Co., Lawyers, PO Box 1202, Christchurch or Level 10, Anthony Harper Building, 47 Cathedral Square, Christchurch.
