Chapter 7

Discipline and Grievance

What the Chapter Covers

This chapter has a very practical, skills-oriented bias. It deals with two important individual issues that go to the very heart of the employment relationship: discipline and grievance. The first can come into play if and when it seems likely that an employee has transgressed an organisational rule, and the second can lead to the use of a procedure that is invoked by an employee who perceives that he or she has been treated unfairly or unjustly by a manager or supervisor. Because this apparent similarity can create an impression that the two processes are essentially the same thing, but operate in contrary directions, the chapter commences with a theoretical examination of them, from first principles. From then on the chapter considers the two processes separately by:

• exploring their aims
• considering legal implications of the processes, or lack thereof
• describing a scheme for the effective handling of the process
• describing the effects of some of the factors that can influence the effectiveness of handling

Three broad themes run throughout the chapter. First, that despite their apparent similarities, discipline and grievance are two separate procedures, that serve different purposes, have different criteria of justice and effectiveness, and capabilities to control behaviour.

Second, since it is now a legal requirement that all organisations should have procedures for handling disciplinary and grievance issues, it is in an organisation’s own interests that these procedures should operate in a fair and equitable way.

Third, because discipline and grievance differ in fundamental ways, the things that stand in the way of effective handling the processes, are, of necessity, different.
New Concepts Introduced in Chapter

Bullying and harassment procedures: a procedure that enables an employee to formally complain about bullying or harassment which he/she believes that he or she has been subject to

Capability procedure: a variant of disciplinary procedures that is primarily designed to uncover reasons for an employee’s incapacity to perform the job for which he/she was employed

Causal attribution: a special type of perception in which, when observing a certain pattern of behaviour in another person, the observer also attributes a cause for the person behaving in this way

Custom and practice arrangements: unwritten and informal workplace rules that regulate work and employment

Deterrence approach (to discipline): the use of disciplinary action to provide an unpleasant consequence following a rule transgression, to deter an employee from future transgressions of the same nature.

Discipline: some action taken against an individual who fails to conform to the rules of an organisation of which they are a member

Equal pay (for work of equal value) procedure: a procedure that enables an employee to contest the pay grade for his/her job on the grounds that it entails duties and responsibilities equal to some other organisational role

External attribution: the cause of a person’s behaviour is assumed to be connected with a factor in his/her environment

Grading appeals procedure: a procedure that enables an employee to contest the pay grade for his/her role

Grievance: with respect to conditions of employment where a situation appears contrary to the provisions of collective agreements, the individual contract, work rules, laws or regulations or custom and practice

Gross misconduct: transgression of one of the rules of employment established by the employer, which is constitutes a serious breach of contractual terms and results in a fundamental breakdown in the employment relationship.

Internal attribution: the cause of a person’s behaviour is assumed to be connected with his/her psychological characteristics, e.g. personality etc.

Minor misconduct: transgression of one of the rules of employment established by the employer

Position power: the degree of freedom of action in a supervisor or manager’s role
**Punishment approach (to discipline):** an ‘eye for an eye’ and ‘tooth for a tooth’ philosophy, which emphasises taking retribution for having transgressed an organisational rule

**Rehabilitation approach (to discipline):** the use of the disciplinary process to show an employee that certain behaviour is unacceptable, with the aim that in the future she or he will voluntarily adopt patterns of behaviour that are acceptable

**Statutory minimum procedure (discipline):** a set of stages that must be followed by all organisations who contemplate dismissing an employee, or imposing a disciplinary penalty that goes beyond suspension on full pay, or a warning

**Substantive rules of behaviour:** rules that are normally found in employee handbooks and disciplinary procedures that proscribe certain actions on the part of employees

**Two faces of justice concept:** that discipline and grievance are both processes that afford opportunities for the parties in employment relations (employer and employee) to obtain justice, ultimately by ensuring that the other party can be forced to observe

**Whistleblower procedure:** a procedure that enables an employee to formally complain (as per the provisions of the Public Interest Disclosure Act of 1998) about bullying or harassment to which an individual believes he or she has been subject, subsequent to having made public his/her concerns about unethical or unfair organisational practices
Teaching Materials in Textbook

Pause for Reflection Exercises: Hints for Completing

Exercise on page 213: rules and student conduct

Question 1
Like members of any other organisation, students are often required to observe certain rules of conduct. However, for a university or college they are usually intended to emphasise that as well as being a place that provides an education, it does so as a social community, where respect and conduct towards other people (e.g. consideration for other students and staff) receives a strong emphasis. If you have difficulty getting started on this question, cast your mind back to when you first joined the institution, as a fresher. You were almost certainly given documents then, which set-out the rules.

Question 2
Although the word ‘discipline’ is very unlikely to have appeared in the title of any document you received, try to draw parallels between the procedures that are applied to yourself and procedures used for industrial discipline. For example, there will usually be something that tells you how (and by who) any transgression by yourself would be drawn to your attention.

Exercise on page 216: student discipline

Question 1 & 2
The procedures that can be applied to students are often designed to cover a wide variety of potential transgressions. Sometimes however, there are different procedures that cover more specific transgressions. Therefore, try to examine whether simple ‘rule breaking’ (i.e. late submission of assigned work) would be dealt with under the same procedure as something more severe, such as cheating/plagiarism, or non-payment of fees.

Question 3
The answer here is almost certainly yes, although its severity is likely to vary significantly in different institutions. Try to explore these differences, and whether you can identify reasons why they exist.

Exercise on page 225: student dissatisfactions

Questions 1 and 2
After having answered a similar question earlier in the chapter about discipline, you will probably have little difficulty with this one. Once again it is worthwhile looking at documents such as ‘student handbooks’ that might well have been handed out when they were inducted as a fresher.
Critical Discussion Questions: Hints for Completing
As with the Pause for Reflection Exercises, the Critical Discussion Questions are help you discuss competing ideas with co-students.

Exercise on page 231: management power and discipline and grievance
The statement for discussion invites the you to debate the assertion that managerial power can adversely affect the resolution of grievance or disciplinary cases. Think about what you have read and studied thus far regarding management actions, or how managers may approach a particular issue, and then relate it to discipline and grievance handling.

Exhibits

There is one exhibit in this chapter, Exhibit 7.1 which gives an extract from the ACAS (2009) Code of Practice on Disciplinary Procedures setting out the principles that should be observed.
Exercise 7.4: Disciplinary Interviewing Workshop

General Brief

The aim of this workshop is to develop skills in handling face-to-face encounters on disciplinary matters. Students will be placed in groups of three people, and the exercise as a whole is divided into three rounds, during which each person in the group will, in turn, play thee roles: that of an interviewer (a supervisor); a person who is interviewed (employee); and an observer. Note that the observer role is not a passive one, but is extremely important for analysis and feedback purposes.

The order in which these roles are played is:

<table>
<thead>
<tr>
<th>Round 1</th>
<th>Round 2</th>
<th>Round 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case 7.4A</td>
<td>Case 7.4B</td>
<td>Case 7.4C</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Student 1</td>
<td>Student 3</td>
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<tr>
<td>Employee</td>
<td>Student 2</td>
<td>Student 1</td>
</tr>
<tr>
<td>Observer</td>
<td>Student 3</td>
<td>Student 2</td>
</tr>
</tbody>
</table>

The workshop may consist of all three ‘rounds’ plus a short plenary session; or just one ‘round’, followed by a plenary. If the latter is used, it is important to share your experiences with others who fulfilled different roles. An indicative outline of timing for one round of the exercise is as follows:

<table>
<thead>
<tr>
<th>Round 1:</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>read briefs and prepare for interview</td>
<td>10-15 min</td>
</tr>
<tr>
<td>interview</td>
<td>10-15 min</td>
</tr>
<tr>
<td>feedback from observer</td>
<td>5-10 min</td>
</tr>
<tr>
<td>Plenary session</td>
<td>10 min</td>
</tr>
<tr>
<td></td>
<td>35-50 min</td>
</tr>
</tbody>
</table>

You will be given separate role briefs during the exercise.
Supplementary Teaching Materials: GRIEVANCE

Exercise 7.5: Grievance Interviewing Workshop

General Brief

The aim of this workshop is to develop skills in handling face-to-face encounters on grievance matters. Students will be placed in groups of three people, and the exercise as a whole is divided into three rounds, during which each person in the group will, in turn, play each role (or one of them): that of an interviewer (a supervisor); a person who is interviewed (employee); and an observer. Note that the observer role is not a passive one, but is extremely important for analysis and feedback purposes.

The order in which these roles are played is:

<table>
<thead>
<tr>
<th>Round 1</th>
<th>Round 2</th>
<th>Round 3</th>
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</thead>
<tbody>
<tr>
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<td><strong>Case 7.5B</strong></td>
<td><strong>Case 7.5C</strong></td>
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<td>Supervisor</td>
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<tr>
<td>Employee</td>
<td>Student 2</td>
<td>Student 1</td>
</tr>
<tr>
<td>Observer</td>
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<td>Student 2</td>
</tr>
</tbody>
</table>

The workshop may consist of all three ‘rounds’ plus a short plenary session; or just one ‘round’, followed by a plenary. If the latter is used, it is important to share your experiences with others who fulfilled different roles. An indicative outline of timing for one round of the exercise is as follows:

- **Round 1:**
  - read briefs and prepare for interview: 10-15 min
  - interview: 10-15 min
  - feedback from observer: 5-10 min
  - Plenary session: 10 min

- **Total:** 35-50 min

You will be given separate role briefs during the exercise.
Useful Sources of Additional Material

Books and Journal Articles


Harcourt, M. and S. Harcourt (2000) ‘When can an employee refuse unsafe work and expect to be protected from discipline? Evidence from Canada’, *Industrial and Labor Relations Review*, Vol. 53 (4), pp. 684-703. An interesting examination of 272 Canadian arbitration and labor relations board decision about the validity of management decisions to discipline employees who refused to work in unsafe conditions. The conclusion reached was that arbitration boards tended to place the refusal to work in unsafe conditions as secondary to management’s right to manage.


Varman, R. and D. Bhatnagar (1999) ‘Power and politics in grievance resolution: managing meaning of due process in an organisation’, *Human Relations*, Vol. 52 (3), pp. 349-82. Using a political perspective the study examines the process of grievance resolution. The sources of power of the key actors and the influence tactics they used vis-à-vis each other were found to determine the whether the cases were decided in favour of the grievant or not.
Web-based Materials

http://www.businesslink.gov.uk/bdotg/action/layer?topicId=1074207501 A general guide to disciplinary and grievance procedures produced by ACAS, that is subdivided into a host of different topics.

http://www.cipd.co.uk/subjects/emplaw/discipline A general handout produced by CIPD that covers both discipline and grievance.

http://www.acas.org.uk/CHttpHandler.ashx?id=880&p=0
ACAS 2008 draft code on handling discipline and grievance in the workplace


http://www.thompsons.law.co.uk/ltext/11570001.htm
Thompsons is a firm of solicitors. Their web site contains lots of information on legal matters, including guidance on dispute and grievance procedures.

http://www.admin.ox.ac.uk/ps/managers/grievance/griev_str.shtml A useful guide for managers that explains how to conduct a grievance hearing.
Multiple Choice Questions

Try the following multiple choice questions to test your knowledge of the information in Chapter 4. You should note that each question has only one correct answer, and this is one of the four alternatives (a), (b), (c) or (d) listed below the question. When you have answered the questions, move to the grid at the end of this chapter to see the correct answers.

*This activity contains 12 questions*

1. Discipline and grievance are often portrayed as the two complementary faces of (industrial) justice, which can be called into question because they:
   a. use different criteria of justice
   b. have different capabilities to control behaviour
   c. have different criteria of effectiveness
   d. all of the above

2. A punishment philosophy with respect to the use of discipline:
   a. emphasises taking retribution against an employee for having transgressed an organisational rule
   b. uses disciplinary action to provide an unpleasant consequence after a rule transgression to deter the employee from transgressing again
   c. used discipline to show an employee that certain behaviour is unacceptable, with the aim that he or she will voluntarily adopt more acceptable patters of behaviour in the future
   d. uses discipline to justify dismissing the employee

3. A rehabilitation philosophy with respect to the use of discipline:
   a. emphasises taking retribution against an employee for having transgressed an organisational rule
   b. uses disciplinary action to provide an unpleasant consequence after a rule transgression to deter the employee from transgressing again
   c. used discipline to show an employee that certain behaviour is unacceptable, with the aim that he or she will voluntarily adopt more acceptable patters of behaviour in the future
   d. uses discipline to justify dismissing the employee

4. A deterrence philosophy with respect to the use of discipline:
   a. emphasises taking retribution against an employee for having transgressed an organisational rule
   b. uses disciplinary action to provide an unpleasant consequence after a rule transgression to deter the employee from transgressing again
c. used discipline to show an employee that certain behaviour is unacceptable, with the aim that he or she will voluntarily adopt more acceptable patterns of behaviour in the future

d. uses discipline to justify dismissing the employee

5. Which of the following most accurately describes the current legal status of organisational procedures for handling discipline and grievance

a. while all organisations should have procedures for handling discipline, this is not necessary for grievance procedures

b. all organisations should have procedures for handling discipline and grievance

c. while all organisations should have procedures for handling grievance issues, this is not necessary for disciplinary matters

d. there is no legal requirement for organisations to have either disciplinary or grievance procedures

6. Which of the following is used in some organisations as an alternative way of handling cases in which it is alleged that an employee is unable to perform the job for which he or she has been employed.

a. a gross misconduct procedure

b. a grading appeals procedure

c. an equal pay (for work of equal value) procedure

d. a capability procedure

7. The scheme for effective handling of discipline given in your text stresses that the first stage in disciplinary handling should be approached by a supervisor or managers as:

a. a tentative exploration to reach a decision about whether or not to enter disciplinary procedures

b. a very formal interview in which the employee has an opportunity to counter any accusations of guilt made about him/her

c. an experience that constitutes a short, sharp shock

d. a friendly, social occasion

8. Which of the following could be argued to be variants of the grievance procedure, which are used to handle special types of employee dissatisfaction?

a. a grading appeals procedure

b. an equal pay (for work of equal value) procedure

c. a bullying and harassment procedure

d. all of the above

9. According to Briggs (1981) effectiveness in grievance handling exists where the procedure facilitates:

a. openness and honesty

b. conflict management and agreement clarification
c. the ability to handle individual and collective disputes through the same procedure
d. an easy movement (where necessary) to disciplinary procedures

10. Torrington et al. (2002) argue that the use of grievance procedures in many organisations is rare because:

a. there is overwhelming evidence that most employers treat their employees fairly and justly
b. employees have a lack of confidence in their trade unions to represent them effectively
c. few people would wish to risk antagonising their superior by questioning his or her judgement
d. most employees would rather use an external body such as the Citizens Advice Bureau to take up a complaint

11. A number of scholars such as Colquitt et al. (2001) have shown that if an employee successfully pursues a grievance, there are tendencies for superiors to:

a. treat the employee more favourably and leniently in the future
b. to resign from their jobs
c. avoid contact with the employee in the future
d. retaliate against the employee at the next opportunity

12. According to Turner and Robinson (1972) handling dissatisfactions quickly and at the lowest possible managerial level has been shown to result in:

a. lower absenteeism
b. lower labour turnover
c. a more cooperative employment relations climate
d. higher productivity
### Answers to Multiple Choice Questions

<table>
<thead>
<tr>
<th>Question Number</th>
<th>Answer</th>
<th>Level of Difficulty</th>
<th>Page Number</th>
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<tr>
<td>2</td>
<td>A</td>
<td>Easy</td>
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<td>3</td>
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