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Nicky is the owner of HR Support Consultancy. She has a BA(Hons) in Business Studies, is a member of the Chartered Institute of Personnel and Development and has been a practising HR manager for more than 20 years. HR Support Consultancy has provided the BVNA Members Advisory Service (formerly known as the Industrial Relations Service) since it began in 2002.

# What is misconduct?

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Misconduct is bad behaviour. It can be anything from minor misdemeanours to very serious bad behaviour which in the work place is referred to as serious misconduct. The most serious misconduct is gross misconduct and is things like theft, violence, fraud, negligence and serious insubordination.

Sometimes an employee will behave in a way that is not acceptable and/or against the workplace rules. If this is a fairly minor thing, a good employer will normally have a quiet word. Hopefully the employee will realise that they shouldn't have done what they did and will improve their conduct. This is dealing with the issue informally.

If the misconduct is more serious, or if minor misconduct continues, then a more formal approach is likely to be used to manage the situation. This is when the employer will use their disciplinary process. This is a formal process of investigation(s), meeting(s) and warning(s) that usually step from verbal, to written to final written and eventually dismissal. (It is possible for a disciplinary record to start at any point in this process and does not have to start with a verbal warning). This process can vary in its detail between employers.

There should always be an opportunity to appeal against any warning or dismissal that your employer has decided is an appropriate outcome. Sometimes an employer will set a period of time for an employee to demonstrate an improvement and sometimes training might be given. The purpose of the disciplinary process is to bring about improvements in the employee, not to just issue a sanction.

You can usually find your company's disciplinary procedure in either your contract or in a staff handbook. If your employer does not have this then the ACAS code of practice is expected to be adhered to and if

things escalate to an employment tribunal the tribunal will expect this to have taken place. However, it is not mandatory for your employer to follow this code.

In a case of gross misconduct, it is possible to be 'summarily dismissed'. This means dismissed without notice. Normally if an employee is dismissed they do receive notice (or pay in lieu of notice). However, it is still good practice for the employer to follow their disciplinary procedure in these cases.

In cases of gross misconduct the employer may suspend the employee while he/she conducts an investigation into what has happened. There are several reasons why this might be a good idea but it does not mean the employee is guilty and they should receive their full pay whilst on this period of suspension.

A recent survey from the Institute of Business Ethics has said that one in five British employees was aware of misconduct in their workplace last year but only 51% of employees reported this. There are probably various reasons for this.

If you are aware of misconduct you should report it to your employer. There is protection for 'whistle blowing' if you are reporting anything that is in the public interest, but a good employer should not cause a detriment to any employee who reports a concern about misconduct.

Some of the conduct that is expected of you will be outlined in various policies that your employer has and you should be given the opportunity to familiarise yourself with these when you start a new job.

**For further support with this or any other HR issue, BVNA members can call the BVNA Advisory Service Helpline on 01822 870270 or email [nickyackerley@hrsupportconsultancy.co.uk](mailto:nickyackerley@hrsupportconsultancy.co.uk).**