



Mr. Stephen Taylor – Exeter University, UK

1

Discipline and Dismissal



STEPHEN TAYLOR
Senior Lecturer in HR Management
University of Exeter


2

AGENDA


-  Introducing discipline and dismissal
-  Discipline as a tool of performance management
-  Legal matters
-  Conclusions

3


DISMISSAL




Personal, human



Legal



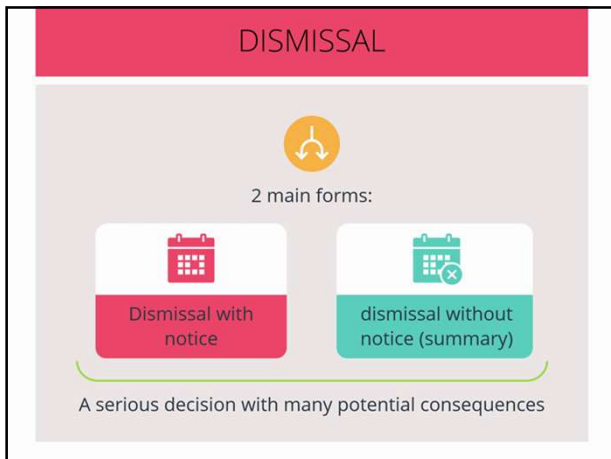
Termination of a contract of employment

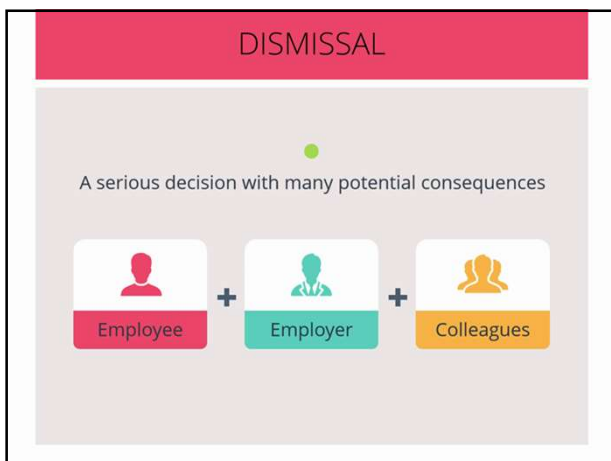


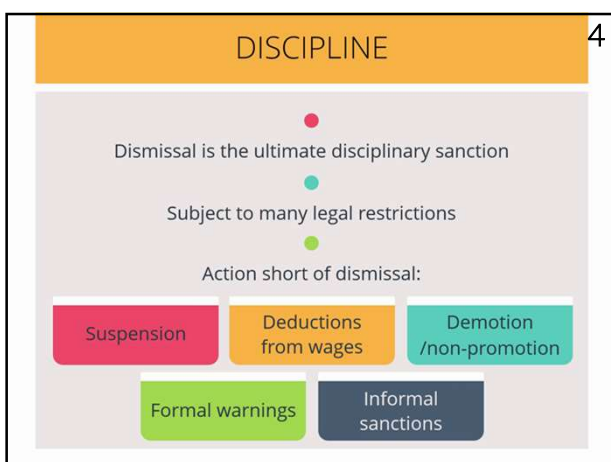
The employer decides to bring the relationship to an end



Mr. Stephen Taylor – Exeter University, UK

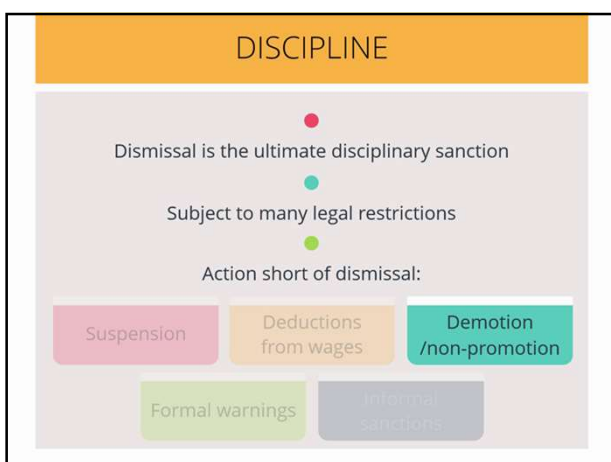




















Mr. Stephen Taylor – Exeter University, UK

DISCIPLINE & PERFORMANCE MANAGEMENT
5



How discipline is/can/should be/has been used in the management of performance

●
 Often downplayed in the research and 'good practice' handbooks

●
 Decades of research on motivation & leadership styles

●
 Recent research on employee engagement

DISCIPLINE & PERFORMANCE MANAGEMENT



Encouraging discretionary assets

●
 Holy grail of effective performance management


Management styles characterized by control and fear are less effective than the ones characterized by positive motivation

DISCIPLINE & PERFORMANCE MANAGEMENT
6

●
 Critical for a number of reasons:



The movement-motivation distinction



Asinine approaches to management

● Not very appropriate for humans
● No real need for people to be engaged in the nature of the work



Mr. Stephen Taylor – Exeter University, UK

DISCIPLINE & PERFORMANCE MANAGEMENT

Critical for a number of reasons:

The movement-motivation distinction

Asinine approaches to management

Attacks symptoms, not causes

DISCIPLINE & PERFORMANCE MANAGEMENT

Critic or skeptical theories of the extent to which discipline can take a meaningful or helpful role

Theory X and Theory Y

- The Human Side of Enterprise*, by Douglas McGregor
- Two extreme forms of management
- Theory X — Workers are lazy, not naturally work-inclined
- Theory Y — Understand that work is as natural as play, have a natural inclination to work

DISCIPLINE & PERFORMANCE MANAGEMENT

Critic or skeptical theories of the extent to which discipline can take a meaningful or helpful role

Theory X and Theory Y

Equity Theory

- John Stacy Adams
- Emphasis on fair dealing and treating people equitably
- People modulate their effort according to how they perceive the treatment they get



DISCIPLINE & PERFORMANCE MANAGEMENT

Critic or skeptical theories of the extent to which discipline can take a meaningful or helpful role

Theory X and Theory Y

Equity Theory

Total Quality Management (TQM)

● W. Edward Stemming

● "Replace supervision with leadership"

THE CASE FOR USING DISCIPLINE

●
 Has to be done rarely and in a measured way

●
 One element in the management toolkit

Misconduct

Performance

THE CASE FOR USING DISCIPLINE

Misconduct

● Conduct:
 Rules and standards that have to be followed to create a level of trust between members of the team and managers

Performance

● Ensuring attendance
● Meeting minimum standards
● Achieving & sustaining excellence

No role for discipline



THE CASE FOR USING DISCIPLINE

Misconduct

- **Conduct:**
Rules and standards that have to be followed to create a level of trust between members of the team and managers

Performance

- Ensuring attendance
- Meeting minimum standards
- Achieving & sustaining excellence

Most of the work done in motivation

COMMITMENT AND CONTROL

Commitment
(Purcell et al 2003)

Ability to perform
Motivation to perform
Oppportunity to perform

+

Control
(Bloom et al 2012)

- **Bloom's Model**
- Targets
- Incentives
- Monitoring

EFFECTIVE DISCIPLINE AT WORK

Has a role to play, but should be used as a last resort

Apparent fair dealing, follow procedures, ensure consistency

Appeal systems

Sanctions should be appropriate and not perceived as arbitrary

Constructive intent should be stressed — Warnings, positive assistance, counselling



Mr. Stephen Taylor – Exeter University, UK

EMPLOYMENT LAW

10

Dismissal Law
— vary among countries

← Easy Difficulty to Dismiss Hard →

USA	UK	Netherlands
<p>Employment at will</p> <p>Levels of compensations for contract breaches are very high</p>	<p>Employment tribunal system</p>	<p>Most restrictive dismissal regime</p> <p>Unlawful to dismiss someone without permission</p>

EMPLOYMENT LAW

11

Multinational Human Resource Management and the Law:
Common Workplace Problems in Different Legal Environments
(Finkin & Gershenfeld, 2013)

- Provide good examples and case studies
- Helpful in understanding how varied the systems are around the world
- Ask different contributing countries to comment on how their country would deal with particular situations in given case studies

EMPLOYMENT LAW

Case Study:

54 year-old long standing employee with a good performance history, but performance has declined lately

- He's now the weakest salesperson in the department
- What is the legal position for dismissal in your country?



Mr. Stephen Taylor – Exeter University, UK

EMPLOYMENT LAW		
Country	Position	Attributes
USA	Yes	No restrictions, depending on the State
Japan	No	Lifetime employment tradition "Abusive dismissal" is outlawed Possible if warned and supported
Germany	No	Possible with warnings "Two thirds rule" Strong protection of older employees
Brazil	No	Ten year rule Dismissal fund
Australia	Yes	Lawful with warnings and procedures Age discrimination law







UK DISMISSAL LAW

13

“The band of reasonable responses”

Could it be said that the employer acted reasonably?

Procedure


Consistency


Mitigating Factors


Appropriate Response

UK DISMISSAL LAW

Outcomes

Reinstatement

Re-engagement

Compensation

Awards vary from a few hundred pounds to many thousands pounds

+ Process and tribunal costs

CONCLUSIONS

14

Do not base your approach to performance management on discipline and the threat of dismissal

Use discipline sparingly and as a last resort

Always follow fair and equitable procedures



Mr. Stephen Taylor – Exeter University, UK