



Bulletin 134

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Step 1 Letters – Employers Must Spell Out the Consequences

Just as employers thought they had the correct recipe for a 'Step 1' disciplinary invite, the Employment Appeal Tribunal (EAT) has added a further ingredient into the mix.

In the recent case of Zimmer -v- Brezan, EAT upheld a finding by the Reading Employment Tribunal that Mr Brezan had been automatically unfairly dismissed. This was because at the time the employer decided to dismiss, Mr Brezan was not aware that he was at risk of dismissal, despite knowing that his conduct was under investigation.

The EAT held that for the Statutory Procedures to be satisfied, the employee must be explicitly informed that they are at risk of dismissal in the 'Step 1' letter. It is not enough for an employer to merely set out the matters which have caused dismissal to be contemplated. This clarification of the 'Step 1' requirements follows good employment practice in ensuring that both employees and employers are fully aware of the possible outcomes of the disciplinary hearing.

In order to safeguard themselves from future problems, employers must include in the 'Step 1' letter a brief but explicit statement warning the employee of potential dismissal if this is being contemplated.

👉 Practical Tip

Although rules of procedure will change again when the Statutory Procedures are replaced on 6th April 2009 by the new ACAS Code of Practice, making sure employees are aware of the potential consequences of the disciplinary meeting is expressly referred to in the new Code of Practice, underlining the importance of getting your disciplinary invite letter right.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

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