



## You must be consistent when disciplining employees

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#### **You must be consistent when disciplining employees**

When disciplining an employee for misconduct or inappropriate workplace behaviour, you need to make sure that you treat all employees the same, regardless of years of service or performance. It is important to look at other disciplinary action taken by the business and apply the same disciplinary action for the same offence. For example, if one employee has been given a warning, the other employee who has committed the same or very similar misconduct must also be given a warning.

You must be consistent, if you fail to treat your employees the same it is likely to be considered unfavourably by the Fair Work Commission (FWC) in an unfair dismissal proceeding. The question may be asked, 'why was one employee afforded an opportunity to improve their behaviour, while another employee was dismissed?'.

This is reflected in a recent decision by the New South Wales Industrial Relations Commission.

In *Public Service Association and Professional Officers Association Amalgamated Union of NSW (on behalf of the applicant) and Department of Attorney General and Justice (2014)*, an employee was accused of inappropriate conduct at a work related social function. However, his manager was also seen to engage in the same inappropriate conduct. The employee was dismissed for his conduct and the manager was merely demoted.

The commission agreed that the employee had engaged in inappropriate, unacceptable and unprofessional conduct. The punishment dealt out to him was harsh compared with the treatment given to his colleague. As a consequence, the commission ordered the employee be reinstated to his position, with strict conditions about his conduct.

Source: *Workplace Bulletin*, Jessica Oldfield, 12 May 2014

#### **Conflict resolution - a well kept secret?**

Conflict between parties in the workplace can be difficult without the added issues that can arise through resolution processes. You may have to have that difficult conversation, but it can be done in a way that doesn't offend people or cause further conflict. Avoid escalating the conflict further by being aware of the following common conflict resolution mistakes:

##### 1. Acting without the facts:

- Getting the facts is crucial to the success of the conflict resolution process.
- Find out what was said – what words were used, the tone and the language?
- Why was one employee upset or offended about what another employee said or did?
- You need to be like a detective and get to the bottom of what is really going on. You need to cut

through the innuendo and reserve any judgement which can occur when emotions get high.

## 2. Taking the situation at face value:

- Generally, it is not this particular incident that is the issue – it may simply be the straw that broke the camel's back. In these cases, by the time it comes to a head, there's a lot of history.
- Although other issues may be raised that may be bigger than the 'final straw' incident, you must focus on the details of that situation in order to keep conversations on track towards resolution. Don't let yourself be distracted or sidelined by other issues or personal attacks.

## 3. Failing to actually listen:

- When you finally find out about an employee conflict, the emotional temperature may be at an all-time high. You need to let them know that you understand they are upset and acknowledge what happened.
- Then listen to what they say. When they are finished, you can respond, however you need to remove all judgement and misunderstandings by being very specific, for example:  
Fred has an issue because the other day when you said XXX – it made him feel angry, upset or offended – and the reason he felt that way was because of...'
- Then listen again, until they've said what they need to say. Now is the time to bring it back on track by talking about what you would like them to do and suggest how you would like them to handle it in future – encourage their input so they are involved in the solution.