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Human Resources Notes

"*The aim of* Human Resources Notes *is to provide concise information on topical human resource management issues to guide effective people management practices*." Peter Fisher, Executive HR Consultant (THCS)

In this issue

Ten tips for an effective induction programme

Induction when an employee starts a new job is an important part of an employment relationship. When done well, induction quickly familiarises a new employee with the work environment and instils a sense of belonging. It sets the employee on a path to effective performance. A quality induction programme supports staff retention.

Here are ten tips for an effective induction programme:

(1) Begin before the employee starts a job. In addition to the usual official documents, a manager should send the employee a personal letter which sets the context for the new employee's role. The letter may include information about the induction programme, the employee's role and how it contributes to the organisation's success. The manager can send relevant work information with the letter such as a departmental strategy or project plan.

(2) Phase the induction. An induction programme should have three phases – pre-employment; an employee's first day; and the period from a new employee's second day to the end of the induction programme, typically around eight weeks.

(3) Dedicate time to meet the new employee first thing on day-one. The new employee must have the manager's undivided attention when she meets her new manager. If necessary, ask the employee to come in a bit later on day one when 'start-up' issues have been dispensed with.

(4) Have the employee's workstation ready. IT should organise computer and phone access before a person starts. A desk, chair and essential stationery should be in place. A gift is a nice touch. If you are an FMCG company for example, a product hamper creates a good impression.

(5) Plan for meaningful work on day one. Think of the employee's sense of accomplishment when they arrive at home on day one and announce, "I sold ten widgets on my first day!"

(6) Meet regularly. A manager should dedicate more time to an employee when they start to get direct feedback on how the employee is settling in. These meetings can be tied into performance management and probation monitoring.

(7) Assign a peer. Appoint a co-worker to assist with the departmental integration of a new employee. This promotes communication about the organisation on a different level and ensures that the employee does not feel isolated while they establish connections with colleagues.

(8) Communicate policies and procedures. Many organisations place the onus on a new employee to familiarise themselves with policies and procedures. This is fine and should be supplemented with direct training or discussion on key policies. Examples of policies worthy of specific attention are health & safety; alcohol and drug use; employment equity; and sexual harassment. It is also an opportunity to tell the new employee stories which provide insight into

organisation culture. Share 'legends' like how the company grew in record time to market dominance, or how a director flew half way around the world to personally resolve a customer complaint.

(9) Schedule training. Most new employees will need organisation specific training such as performance management or CRM. Not everything can get done immediately, so create certainty by scheduling necessary training at the outset.

(10) Be flexible. An induction programme should take place within a standardised framework, but managers should take into account the differing needs of employees and modify the programme accordingly. For example, some people may flourish in a highly structured environment while others want to create a less structured environment.

A well implemented induction programme can be a catalyst for a long and mutually beneficial employment relationship. ■

Guilty plea in a disciplinary enquiry

What happens when an employee pleads guilty in a disciplinary enquiry? Can the chairperson give a [silent] sigh of relief and move directly to evidence on an appropriate disciplinary measure?

The Labour Appeal Court (LAC) considered the question of an employee's guilty plea in a case concerning the dismissal by South African Tourism of a Finance & Admin Manager. One of the misconduct charges which led to the employee's dismissal was fraud and dishonesty in the use of the Country Manager's computer access code to perform three purchasing transactions. At the disciplinary enquiry the employee pleaded guilty to this charge. In the LAC, the employer was defending its decision to dismiss.

The employer argued that the CCMA commissioner (in the initial proceedings) should not have determined that the employee was not guilty when he had pleaded guilty.

The LAC found that "even though the disciplinary inquiry is not a criminal trial, it has certain features akin to such a trial. In a disciplinary hearing, for example, there is (a) charge(s) of misconduct to which an employee may either plead guilty or not guilty, which is similar to a plea to a criminal charge. Fairness and logic dictates that the same safeguards that apply in a criminal trial with regard to a plea of guilty, should also apply in disciplinary hearings where the employee faces dismissal."

The LAC said that the chairperson of a disciplinary enquiry should question the charged employee to ascertain whether he or she admits the allegations in the charge to which he or she has pleaded guilty. And, the chairperson must ensure that the charged employee appreciates what that admission entails. The chairperson must be satisfied that in pleading guilty, an employee has freely, voluntarily and unequivocally admitted to all the elements of the charge.

The employee won his case. By accepting a plea of guilty at face value and 'fast forwarding' to sanction an employer is at risk of being found to be unfair.

Monare v South African Tourism (JA45/14) [2015] ZALAC 47; [2015] JOL 34587 (LAC) (11 Nov 2015) Coppin JA Musi JA et Makgoka AJA concurred ■

Do previous warnings count?

Disciplinary enquiry chairpersons are often required to consider previous warnings when determining an appropriate sanction for misconduct. In this case note, the Labour Appeal Court (LAC) offers some guidance on when previous warnings are relevant and can be taken into account.

A driver at a retail pharmacy was dismissed after he shouted and swore at his employer during a telephone conversation. He denied being angry and said he had to speak loudly because he was at a municipal office and there was a lot of background noise. He was found guilty of gross misconduct and dismissed.

At the CCMA, the commissioner found that the employer's conduct leading up to the verbal altercation mitigated the misconduct and ought to have softened the instinctive reaction to dismiss the employee. Despite there being a valid final warning on the employee's file, the commissioner found the dismissal to be unfair and awarded the employee six months' compensation.

The employer took the matter on review to the Labour Court without success and then appealed to the LAC.

In court it emerged that the employee had received three final warnings prior to the altercation with his employer. About 38 months before being dismissed, the employee got a final warning valid for 12 months for using a company vehicle without permission and being in an accident for which he was responsible. Some 19 months before being dismissed, the employee got a final warning for time and attendance issues.

Then, 11 months before dismissal, the employee got his third final warning for failing to pay back money owed to the employer. The employer put the final warning in the following terms, "an extension of the [existing] final written warning. Any misdemeanours in the future will immediately result in a hearing which could lead to instant dismissal. Should this occur, all previous disciplinary actions and warnings accumulated against you will be used at that time."

The LAC referred to a previous judgement which held that if an employer relies on an employee's previous disciplinary record, then the employer must prove which regime applies in the particular workplace. The LAC found that in this case, the last final written warning makes plain which regime applied. The third respondent was told in no uncertain terms that his entire disciplinary record would be used against him. The LAC set aside the commissioner's award and found the employee's dismissal to be fair.

When asked to consider previous warnings in deciding on an appropriate sanction, a chairperson should consider what the contract of employment between the parties, or, the applicable collective agreement, provides or what the established practice is in a particular workplace. The employer must prove which regime applies in the particular workplace.

Dorrainn Bailiff Investments (Pty) Ltd v CCMA (JR86/2011, JA8/2015) [2016] ZALAC 20 (26 May 2016) per CJ Musi JA [Waglay JP and Murphy AJA concurring] ■

The contents of Human Resources Notes *do not constitute legal advice. For specific professional assistance tailored to your needs, always consult an expert.*