

Qualification: CIPD Diploma in Applied Human Resources

Module Name: Understanding the Management of Employment Relations

On-the-job training observations

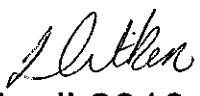
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Signed: 
Date: 26 April 2019

On-the-job Training Observations

(1) Participation in Disciplinary Hearing

The hearing convened was in relation to an employee who served in a frontline manager capacity who had been through the organisational capability management process (in line with the organisational conduct and capability policy) but despite a first and final improvement note and regular review meetings at the prescribed intervals throughout the duration of the process, had failed to achieve the expected performance standards and the employee was invited to a hearing and given the option of being accompanied by a union representation or colleague if he so chose.

During the hearing, the employee provided mitigation in the form of issues he had experienced which, in his view, had a direct impact on his ability to fulfil his role as follows:

- According to policy, an employee should have received four supervision meetings and an annual appraisal over the past twelve months but this individual had only received one supervision, the format of which was amended to that of a performance review meeting which should have been conducted separately in line with the capability management process. This was especially pertinent because he had undergone a number of traumatic life events during the past year and these sessions should have encompassed a welfare component wherein line managers provide the guidance and support to employees that assists them in sustaining their emotional wellbeing.
- Despite having agreed that the performance review meetings had been conducted in within the agreed timeframe during the formal capability management process, recorded discussion sheets and accompanying action plans were not completed on a consistent basis (or signed by the employee) to reflect that he had understood the contents of the discussion and next steps.
- The employee argued that there was a procedural breach as a result of a delay to the hearing following an adjournment and the hearing being reconvened three days later. This delay was necessitated follow a challenge by him during the hearing that the feedback from his stakeholders had taken the form of a compilation statement from the area manager (who he felt had a grudge against him) as opposed to signed statements from each person, evidencing where his practice was deemed

unsatisfactory. These statements were subsequently requested by the Hearing Officer and received.

In his deliberations, the Hearing Officer considered the mitigation and a sanction short of dismissal was arrived at (being that the employee be demoted and his salary reduced commensurate with that of his lower grading). As a supportive measure, it was agreed that his current salary be protected for four months following the effective date of demotion and the revised salary aligned to that at the top of the band for his job category. The employee was given the right of appeal (and advised to do so within 5 working days following the date of the outcome letter) which he chose to avail himself of. The decision taken at the appeal hearing (which he chose to attend unaccompanied) was that the initial decision be upheld. It was conveyed to the employee that there were no further rights of appeal under the NAS process.

When reflecting on the circumstances that pre-empted the above and the events that unfolded both during and immediately following the hearing, it was apparent that there were a number of learnings that could be derived from this case.

When comparing the process that had been undertaken with the Acas Guide to Discipline and Grievances at work and the Acas Code of practice on disciplinary and grievance procedures (The code), there were a number of areas that could potentially give rise to a challenge and possibly an Employment Tribunal claim, albeit that the process itself was largely compliant (in that a robust investigation had been carried out to establish the facts, the employee was offered the option of being accompanied by a colleague or recognised trade union representative at every point in the three stage process (in line with the formal procedure) (Acas (a), 2015), with the exception of:

<i>The Code</i>	<i>What occurred in practice</i>
Employers are required to act consistently.	The line manager was unable to evidence that he had acted in a consistent manner throughout the capability management process as he hadn't documented all of the capability review meetings or complied with the organisational requirement to

	conduct regular supervisions and an appraisal.
Provide relevant witness statements in advance of the disciplinary meeting. Don't unreasonably delay meetings/decisions	As highlighted above, statements were consolidated into one submission in advance of the hearing which resulted in a lengthy adjournment to acquire separate signed statements following a challenge

When discussing the above outcome with the HR Director, she was in agreement that the decision was a suitable one, however, felt that the insights gained from this matter would benefit other areas across the UK and should be shared, as in her view, line managers struggle with the capability and conduct management process and this lack of confidence and clarity translates into an increased risk of Employment Tribunal claims as they fail to deliver comprehensive leadership and management skills to their direct reports when they are undergoing performance issues.

(2) Observation of Employee Representative Meeting

This was the first session of the newly established Wellbeing and Safety Committee and followed a decision taken by the Senior Management Team (SMT) in January 2019 to combine two employee representative meetings. The first being the Safety Action Group and the second being the Staff Communication Network (the employee forum for the NAS). The former was established to provide employees with a voice in relation to their own health and safety (in accordance with the Health and Safety (Consultation with Employees) Regulations 1996 (as amended) and provide a forum where specialist expertise can be shared and the latter, was utilised as a platform to celebrate successes across services, address issues of concern and engage representatives in current business issues. The SMT were of the view that streamlining the objectives, reducing meetings to one per quarter, having employees reselect their representatives (as complaints had been received in regards to the lack of feedback by incumbent representatives) and including wellbeing as a standing agenda item, would improve the effectiveness of these sessions and assist in sustaining attendance levels at meetings (which had proved an issue historically because of capacity constraints and lack of available relief staff in services).

The objectives of this meeting are to foster positive employee relationships and improved business outcomes (CIPD, 2018) by providing a platform for employees to have a voice in the wider business decision making process as well as to expand the environmental health and safety aspects of the agenda to include input from them as to how to shape initiatives designed to improve work, life balance and emotional wellbeing.

The first meeting included the following agenda points:

- Briefing the recently elected representatives of employees (ROE's) about the remit of their role and responsibilities;
- Addressing the local Top X issues and actions to reduce or escalate these.
- Obtaining an update on the findings from the Health and Safety compliance audits.
- Tabling Health and Safety concerns put forward by the ROE's and proposing a timeframe for resolution.

- Wellbeing – review of feedback from employees following introduction of Wellness Recovery Action Plan (WRAP) clinics in services with the highest recorded absences for stress/anxiety.
- Refining voting process for employee of the year.

Given that this was the first meeting since the introduction of the combined format, a large percentage of it related to providing the context to the agenda items for the benefit of ROE's that hadn't fulfilled this type of role previously. The general consensus was that this revised format was preferred and the session was a good balance of employee generated issues / input and core regulatory and compliance topics mandated by the National Safety Committee. The increased focus on wellbeing was welcomed and generated animated discussion as to how moral and the distribution of work were contributing to a number of work related absences.

Following a discussion with the Area Manager for Wales, it was agreed that in order for employees to engage with their ROE's on issues they want tabled for discussion, it is important that they see their input translating into change within their local services (for example, WRAP clinics were requested at all services as employees in the areas that had ran them, felt it had improved their coping mechanisms in work). This was noted as an action and a timeframe agreed for implementation.

Given that one ROE is nominated to attend the UK Staff Forum in London once a quarter, agreement was obtained from the Area Manager that any recommendations approved by the Board as part of the Retention Initiative be tabled for consideration at the next meeting where representatives would be asked to engage employees in their services and vote for their preferred options. This would enable the workforce in Wales to have a voice in determining which contributors (besides pay) they would like implemented in their area (for example: compressed hours, defined career pathways; secondment opportunities).

It is hoped that this forum will serve as an authentic exchange of ideas that will translate into tangible positive outputs for frontline employees, thereby increasing the trust relationship and engagement (Taylor & Woodhams, 2016).

References:

CIPD, (2018). *Employee relations: an introduction*, London: Chartered Institute of Personnel and Development.

Taylor, S. & Woodhams, C., (2016). *Human Resource Management: People and Organisations*. 2nd ed. London: CIPD

Acas (a), 2015. *Code of practice on disciplinary and grievance procedures*, London: Acas Publications.

Acas (b), 2015. *Discipline and grievances at work - The Acas Guide*, London: Acas Publications.