**Homework sheet for Reps Part 2** Online session 1

**Your name:**

Please complete the following tasks and email the completed work to you tutor.

1. You will have started activity E in the session with the tutor playing Alex, please complete the pro-forma below. The procedure and disclosed evidence have been repeated to help you.
2. Watch the video How to improve your listening skills video: <https://www.youtube.com/watch?v=D6-MIeRr1e8>
3. Watch the video (Activity F) on Andy’s investigation meeting, read the invitation letter on page 72 also repeated below on page 14 & 15 of this homework sheet and answer the questions following the letter:

Personal case pro-forma

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| --- |
| **1. Basic details** |
| **Name:** | **Membership number:** |
| **Does this issue pre-date membership?** (tick one) | **[ ]** **[ ]  YES** | **[ ]** **[ ]  NO** |
| **Employer name and work address (including postcode):** As known |
| **Work telephone number:** |
| **Email address:** As known – check you have another email just in case the member is off work |
| **Mobile:** |
| **Home contact details:**As known |
| **Preferred contact details:** (tick one) | **[ ]  HOME** | **[ ]  WORK** |
| **Employer contact details:** (ie HR Advisor or Line Manager as appropriate) |
| **Type of case:** (eg grievance, disciplinary, discrimination, capability, absence-management etc) |
| **Has the member kept a diary of events?** (tick one) | **[ ]  YES**Request a copy | **[ ]  NO**Suggest they do |
| **Has anyone else been involved in advising the member?** (tick one) | **[ ]  YES** | **[ ]  NO** |
| **If yes, who?** |
| **Has member been provided with appropriate contact details for the Rep or Prospect office/Full-time officer who will deal with their enquiry?****[ ]  YES**Name/contact details provided |

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| **2. Outline of case**The following questions are examples to guide you. Ask other questions as appropriate or relevant to the circumstances of the case. |
| **Have you raised the issue with your line manager/HR/anyone else and what, if any, advice was given or action taken?** |
| **When did the issue arise?** |
| **What has happened?** |
| **Who is involved?** |
| **Why has it happened?** |
| **Are there any mitigating circumstances?** |
| **Is it still going on?**  | **[ ]  YES** | **[ ]  NO** |
| **Mitigation to be taken into account?** | **[ ]  YES** | **[ ]  NO** |
| **Timescale/key dates:** |
| **Have any meetings taken place or are any future meetings arranged?** | **[ ]  YES**Give dates and details of any planned meetings | **[ ]  NO** |
| Ask member for copies or any letters, emails or notes relating to the case; attach them to pro-forma. |
| **Are there any witnesses you need to speak to?** | **[ ]  YES** | **[ ]  NO** |
| **If yes, what are the names of the key witnesse****REMEMBER:** It is not your role to undertake an investigation; your role is to support the member |
| **What does the member expect/look for as a solution?** |
| **Make a note of any guidance you have given to the member.** |
| **Make a note of any Prospect materials given/signposted to the member.**E.g. applicable member guides, etc |
| **What are your next steps as the rep?**  |
| **3. Reassure the member…**…that the case will be dealt with confidentially…that the information you have gathered will not be shared with others unless agreed, and it will be kept securely. If they wish to have a copy of this form, please let them have one. |

### Disciplinary and grievance procedures for Activity E

**Overview purpose and scope**

The Disciplinary Procedure is designed to help and encourage all Individuals to achieve and maintain standards of conduct, attendance and job performance and set out the Manager’s framework for dealing with disciplinary matters. The same procedure applies to all Individuals and the aim is to ensure consistent and fair treatment for all.

The Grievance Procedure enables all Individuals to bring to the Manager’s attention any grievance relating to their engagement and to try to resolve such matters satisfactorily. Grievance proceedings will, so far as is reasonably practicable, be kept confidential.

**Principles**

No disciplinary action will be taken until the matter at issue has been fully investigated.

The Individual will not normally be dismissed for a first breach of discipline except in the case of gross misconduct or very serious breach of discipline when the sanction will be dismissal without notice or payment in lieu of notice.

The Individual will have the right to appeal against any disciplinary sanction imposed or the decision of any grievance meeting.

**General provisions**

So far as applicable to a particular circumstance, the following requirements apply to the Disciplinary and Grievance Procedures.

**Timetable**

Each step and action under the Disciplinary and Grievance Procedures must be taken without unreasonable delay.

**Right to be accompanied**

The Individual has the right to be accompanied at any disciplinary or grievance meeting by a fellow Individual or trade union representative who may make representations on his behalf provided the Individual expressly authorises this at the beginning of the relevant meeting. However, the Individual’s companion will not be able to answer questions put to the Individual during the course of the meeting. This right applies to all stages of the disciplinary and grievance process including appeals.

**Meetings**

The timing and location of meetings must be reasonable.

Meetings must be conducted in a manner that enables both the Manager and the Individual to explain their case.

The Manager will endeavour to ensure that the meeting is in a private location and that there are no interruptions.

The Manager should advise the Individual of the right to be accompanied in the written notification of the meeting.

The length of time between the written notification and the meeting should be long enough to allow the Individual to prepare for the meeting. The Individual must take all reasonable steps to attend the meeting and if they or there companion cannot attend on the date suggested they must notify their head of department and propose an alternative date for the meeting to be held within 5 working days of the original proposed date.

No meeting will take place unless the complainant has informed the other party in writing of the cause of the complaint and the other party has had the opportunity to consider a response to the complaint.

**Records**

During the disciplinary or grievance process the Manager will keep written records which may include: the nature of the complaint or the grievance raised; a copy of the written complaint or grievance; the Individual’s defence; the Manager’s response; findings made; any action taken or sanction imposed and the reasons for it; any grievances raised during a disciplinary process; whether there was an appeal and if so the outcome; any subsequent developments.

Such records will be kept on a confidential basis so far as is reasonably practicable and in accordance with the Data Protection Act 1998.

**Potential disciplinary sanctions**

Formal disciplinary action may result in the following disciplinary sanctions being imposed:

* **Verbal warning** – If conduct or performance does not meet acceptable standards the Individual may be given a formal verbal warning. A note of the verbal warning will be kept on the Individual’s personnel file but will usually be disregarded for disciplinary purposes after three months subject to satisfactory conduct and performance.
* **Written warning** – If the misconduct or poor performance is more serious, a formal written warning may be given to the Individual. This will give details of the complaint, the improvement or change in behaviour required and the timescale allowed for this, and state that a final written warning may be considered if there is no sustained satisfactory improvement or change. A copy of this written warning will be kept on the Individual’s personnel file but will usually be disregarded for disciplinary purposes after six months subject to satisfactory conduct and performance.
* **Final written warning** – If the offence is serious or there is a failure to improve performance or conduct during the currency of a prior warning, a final written warning may be given to the Individual. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to dismissal. A copy of this written warning will be kept on the Individual’s personnel file but will be disregarded for disciplinary purposes after twelve months (although in exceptional cases the period may be longer) subject to satisfactory conduct and performance.
* **Dismissal or other sanction** – In certain circumstances, for example a failure to improve conduct or performance where a previous warning has been given or where there is an act of gross misconduct or a serious failure to perform, the disciplinary sanction may be dismissal or the Manager may take some other action short of dismissal such as disciplinary suspension without pay for up to a maximum of five working days.
* If some sanction short of dismissal is imposed, the Individual will receive details of the complaint, and will be warned that dismissal could result if there is no satisfactory improvement. A copy of this written warning will be kept on the Individual’s personnel file but will be disregarded for disciplinary purposes after twelve months (although in exceptional cases the period may be longer) subject to satisfactory conduct and performance.

**Gross misconduct**

The following list provides examples of offences which are normally regarded as gross misconduct. This list is not exhaustive and other serious misconduct may also lead to summary dismissal: theft, fraud, deliberate falsification of records, dishonesty, fighting, assault, violence, unauthorised possession of property belonging to the Manager, damage to the Manager’s property, incapacity for work due to being under the influence of alcohol or illegal drugs, serious negligence which causes unacceptable loss, damage or injury, serious act of insubordination, misuse of confidential information, unauthorised entry to computer records, conviction for a criminal offence arising from or relating to the Individual’s work for the Manager, conduct whether inside or outside working hours which may bring the Manager’s reputation into disrepute, serious or persistent neglect of duties or any material breach or non-observance of those duties – in particular refusal to obey reasonable instructions, unauthorised absence from work (including conduct inconsistent with an alleged sickness, injury or other incapacity).

If the Individual is accused of an act of gross misconduct, the Individual may be suspended from work on full pay while the Manager investigates the alleged offence. If, on completion of the investigation and the Disciplinary Procedure, the Manager is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice

**General**

Following a disciplinary meeting, before making the decision on what disciplinary sanction it should impose, the Manager will take into account the Individual’s disciplinary and general engagement records, length of service and the explanation given by the Individual at the disciplinary meeting.

Before implementing any of the formal sanctions set out above, including after a review of the Individual’s conduct or performance, the Disciplinary Procedure set out below will normally be followed.

At the time of advising the Individual of any sanction to be imposed the Manager should also advise the Individual of the right of appeal.

**DISCIPLINARY PROCEDURE**

**Investigation**

Where a potential disciplinary matter arises, the Manager will endeavour to make necessary investigations to establish the facts promptly. Having carried out such preliminary investigations the Manager will decide whether to take no further action or deal with the matter informally or arrange for the matter to be handled on a formal basis. The Manager may choose to hold an investigatory meeting (as opposed to a disciplinary meeting) with the Individual solely to establish the facts of the case.

**Suspension**

In instances which the Manager considers to be particularly serious (e.g. in cases involving alleged gross misconduct, where relationships have broken down or there is a risk to the Manager’s responsibilities to third parties or the Manager’s property), the Individual may be suspended from work temporarily whilst an unhindered investigation is carried out. Any precautionary suspension of this kind will be reviewed as soon as possible and will not normally exceed 10 working days. Any suspension on this basis should not be considered as a disciplinary sanction or an indication of prejudgement of the matter. The Individual will be paid for all rostered hours and all calls that they would normally be expected to work were they not suspended. There should be no financial detriment to an Individual during suspension or, except where a financial disciplinary sanction is subsequently imposed, on their return to work following suspension.

**Formal procedure**

If the Manager decides to take formal action, the following procedure will be followed:

**Statement of grounds for action and invitation to meeting**

The Manager will prepare a written statement setting out the Individual’s alleged conduct or capability or poor performance, or other circumstances, which may result in a disciplinary sanction (including dismissal) being imposed. The statement will be sent to the Individual who will be invited to attend a meeting to discuss the matter. The statement will contain sufficient detail and any relevant accompanying evidence to enable the Individual to prepare for the meeting. In the event that the Individual is a Union representative, the Manager will send a copy of the statement to a Union full-time official.

**Meeting**

The complaint will be fully explained to the Individual at the meeting and the Manager will go through the evidence that has been gathered. The Individual can make representations and explain their view of the situation and answer any allegations that have been made. The Individual will be allowed to ask questions and present evidence. If appropriate the Individual can call witnesses and will be given an opportunity to raise points about any information provided by witnesses. No disciplinary sanction will be imposed until the meeting has taken place.

Notification of Decision. After the meeting the Individual will be informed of the Manager’s decision. This will be communicated to the Individual in writing within 10 working days of the meeting and the Individual will be notified of their right to appeal against the decision if they are not satisfied with it. If the decision taken is dismissal the Individual will also be provided with written reasons for dismissal, the date on which the engagement will terminate and the appropriate period of notice (if applicable). If it is not possible for the Manager to respond with their decision within 10 working days the Manager will give an explanation to the Individual for the delay and inform them when a response can be expected.

**Appeal**

The Individual has the right to appeal against any disciplinary sanction imposed on them.

**ACAS**

By mutual consent of the Manager and the Union, the services of ACAS may be sought and/or used at any stage of the disciplinary procedure.

**GRIEVANCE PROCEDURE**

**Informal resolution of grievances**

The Manager recognises that misunderstandings or grievances may sometimes occur. It is most important that these grievances are brought out into the open and resolved as fairly, consistently and speedily as possible. In most cases this can be done on an entirely informal basis.

Any grievance should, in the first instance, be raised with the Individual’s head of department (or, where that person is the subject of the grievance, that person’s line manager) who should discuss the matter with the Individual informally within two working days of it being raised.

**Formal resolution of grievances**

Where the grievance cannot be resolved informally and the Individual has a complaint, concern or problem about action which the Manager has taken or is contemplating taking in relation to the Individual or the Individual has a personal grievance or a complaint about any work-related matter which affects his efficiency at work, it should be dealt with under the formal Grievance Procedure below.

**Formal grievance procedure**

Statement of Grievance. The Individual must set out, in a written statement, their grievance and send the statement to his head of department (or, where that person is the subject of the grievance, that person’s line manager). The Individual will be invited to attend a meeting in order to discuss the grievance.

**Meeting**

The Individual will be permitted to explain his complaint and then say how they believe it should be settled.

**Notification of decision**

After the meeting the Individual will be informed of the Manager’s decision. This will be communicated to the Individual in writing within 10 working days of the meeting and the Individual will be notified of their right to appeal against the decision if they is not satisfied with it. If it is not possible for the Manager to respond with their decision within 10 working days the Manager will give an explanation to the Individual for the delay and inform them when a response can be expected.

**Appeal**

The Individual has the right to appeal against the findings of a grievance meeting.

**Appeals**

The Individual has a right to appeal against the finding of a disciplinary or grievance meeting.

If the Individual wishes to appeal, they must inform the Manager in writing within 5 working days of receiving the decision. The Individual will then be invited to attend another meeting.

Where possible the person who made the original disciplinary or grievance decision will not be involved in the decision-making process of the appeal. The appeal will be heard by an appropriate member of senior management. If the appeal relates to a dismissal it will be heard by a member of the Manager’s Board other than the Chairman.

After the appeal meeting the Individual will be informed of the Manager’s final decision and this will be communicated to the Individual within 10 working days of the meeting. If it is not possible for the Manager to respond with their decision within 10 working days the Manager will give an explanation to the Individual for the delay and inform them when a response can be expected.

Where the Individual appeals against any disciplinary sanction imposed on them, the original disciplinary decision (including a decision to dismiss) will be implemented pending the appeal meeting and its outcome.

**Evidence 1**

Email

To: Mr I Black Line Manager

From: Mr R Plum Head of Department

Date 10 February

Dear Ian, As you know we have been under considerable pressure of late and I have had to ask staff to ‘push the boat out’ in order to make sure we are up and running on the latest project. As you will know, everyone needs to contribute and show willing.

Unfortunately, I have had a problem with Alex Roe who has been off sick a great deal. Letting all of us down at key times and has also been unwilling to work late to help get things done. Alex claims that there are family issues and needs some flexibility but Alex knows that ‘deadlines do not wait’ and everyone has to fit in with that. I think the illness is a bit dubious.

When I tried to raise this with Alex the other day (January 22nd I think) Alex told me to just f\*\*k off and leave them alone, Alex burst into tears and I thought Alex was going to be violent but ran off instead. Alex did not return for the rest of the shift.

This behaviour is wrong and just came ‘out of the blue’ but needs to be dealt with. In my opinion this is gross misconduct and I would like you to pursue the case on my behalf.

Many thanks

Roger Plum

**Evidence 2**

Alex Roe Mr I. Black

Technician General Manager

13 Lonely Ave Main Office

London London

7th March

Dear Alex

Invitation to disciplinary hearing

Following recent events where you have abused members of the management team, we have no alternative but to proceed to deal with these incidents at a formal level through the disciplinary procedure. We are using the formal procedure because of the serious nature of the offence and I must inform you that if the hearing concludes that the allegations are proven then this may result in a final written warning or even dismissal.

In particular, you are accused of:

* Irregular attendance with considerable absence due to ‘stress’ during the past year
* Serious insubordination towards a senior colleague and in particular telling your Head of Department Roger Plum to f..k off on the 22nd January this year
* You have not responded to requests to work flexibly and this has caused difficulties for your managers and colleagues

I have therefore concluded that you may be guilty of gross misconduct, an offence I will remind you that could result in your dismissal from your current position in the company. However, I would be interested to hear your side of the story at the hearing in my office this coming Friday.

You have the right to be accompanied by a union representative but please note that they will not be able to speak on your behalf and are present as a witness.

We look forward to seeing you at the disciplinary hearing in my office on the 16th March at 9:00am. I trust this will be convenient.

Yours sincerely Ian Black, General Manager

**Watch the video (Activity F) on Andy’s investigation meeting, read the invitation letter on page 72 and duplicated below and answer the following questions:**

Official Sensitive Personal

Date 6th November

Andy Green, Section Manager

Dear Andy

Investigation

I am writing to advise you that Sarah Grey has been appointed to investigate the possible gross misconduct of yourself by not following health and safety protocols during the tasks performed by staff under your guidance on the week starting the 22nd October. The following accusations will be investigated:

* there were insufficient risk assessments done before the task was undertaken
* staff were asked to cut corners by you that went against company safety procedures.

The purpose of the investigation is to gather and present evidence. The investigation report will show whether, on the balance of probability, there is a case to answer.

Relevant witnesses will normally be interviewed and statements obtained where appropriate. If there are a large number of witnesses, it will be for the Investigation Manager to decide which witnesses to interview.

Sarah will be in touch with you shortly to arrange a date when they can interview you (at which you will have a right to be accompanied by a work companion or trade union representative). If you would like to name any witness to Sarah at this meeting please do so.

You should be aware that any information that emerges from this investigation might be used in any misconduct proceedings against you. If it is decided to instigate misconduct action, the procedures outlined in the companies Misconduct Policy will be followed. You may also find the section ‘Frequently asked questions – Employees’ helpful.

It has been designed to support employees who are subject to misconduct procedures. The Investigation Manager’s report and any other information used in determining whether to proceed with misconduct action will be made available to you. As the accusations are very serious, this may lead to dismissal.

I am giving you this information at this stage so that you are fully aware of the possible consequences of the current process, but obviously this does not mean that I have come to any conclusion yet about the alleged misconduct or what the appropriate sanction would be if the misconduct were proven.

Yours sincerely

Sean Blue, Decision Manager

1. **Did Elaine listen to Andy?**
2. **Did Elaine understand what the management wanted at the meeting?**
3. **Do you think she represented the member correctly?**
4. **Do you think it was appropriate for Elaine to attend?**
5. **What would you have done differently?**