

GRIEVANCE AND DISCIPLINE



THE OBJECTIVES OF THIS CHAPTER ARE TO:

- 1 EXAMINE THE NATURE AND EXPLAIN THE PLACE OF GRIEVANCE AND DISCIPLINE IN THE EMPLOYMENT CONTRACT
- 2 REVIEW THE MILGRAM EXPERIMENTS WITH OBEDIENCE AND USE THEM TO EXPLAIN OUR RESPONSE TO AUTHORITY
- 3 EXPLAIN THE FRAMEWORK OF ORGANISATIONAL JUSTICE IN THE BUSINESS
- 4 EXPLAIN GRIEVANCE AND DISCIPLINE PROCEDURES

Grievance and discipline are awkward words nowadays. They sound rather solemn and forbidding, more suitable for a nineteenth-century workhouse than a twenty-first-century business. They certainly have no place in the thinking of Britain's favourite entrepreneur, Sir Richard Branson:

If you have the right people in place, treat them well and trust them, they will produce happy customers and the necessary profits to carry on and expand the work. (quoted in Handy 1999, p. 86)

We use the words as technical terms to describe the breakdown of mutual confidence between employer and employee, or between managers and managed. When someone starts work at an organisation there are mutual expectations that form the basis of the forthcoming working relationship. We explained in the opening chapter of this book how the maintenance of those mutual expectations is the central purpose of human resource management. Apart from what is written in the contract of employment, both parties will have expectations of what is to come. Employees are likely to expect, for instance, a congenial working situation with like-minded colleagues, opportunities to use existing skills and to acquire others, work that does not offend their personal value system, acceptable leadership and management from those more senior and opportunities to grow and mature. Employers will have expectations such as willing participation in the team, conscientious and imaginative use of existing skills and an ability to acquire others, compliance with reasonable instructions without quibbles, acceptance of the authority of those placed in authority and a willingness to be flexible and accept change.

That working relationship is sometimes going to go wrong. If the employee is dissatisfied, then there is potentially a grievance. If the employer is dissatisfied, there is the potential for a disciplinary situation. The two complementary processes are intended to find ways of avoiding the ultimate sanction of the employee quitting or being dismissed, but at the same time preparing the ground for those sanctions if all else fails.

Usually, the authority to be exercised in a business is impersonalised by the use of roles in order to make it more effective. If a colleague mentions to you that you have overspent your budget, your reaction might be proud bravado unless you knew that the colleague had a role such as company accountant, internal auditor or financial director. Everyone in a business has a role. Most people have several roles and each confers some authority. The canteen assistant who tells you that the steak and kidney pudding is off is more believable than the managing director conveying the same message. Normally in hospitals people wearing white coats and a stethoscope are seen as being more authoritative than people in white coats without a stethoscope.

Dependence on role is not always welcome to those in managerial positions, who are fond of using phrases like, 'I know how to get the best out of people' or 'I have a loyal staff'. This may partly be due to their perception of their role being to persuade the reluctant and command the respect of the unwilling by the use of personal leadership qualities, and it is indisputable that some managers are more effective with some groups of staff than with others, but there is more to it than personal skill: we are predisposed to obey those who outrank us in any hierarchy.

THE MILGRAM EXPERIMENTS WITH OBEDIENCE

Obedience is the reaction expected of people by those in authority positions, who prescribe actions which, but for that authority, might not necessarily have been carried out. Stanley Milgram (1974) conducted a series of experiments to investigate obedience to authority and highlighted the significance of obedience and the power of authority in our everyday lives.

Subjects were led to believe that a study of memory and learning was being carried out which involved giving progressively more severe electric shocks to a learner who gave incorrect answers to factual questions. If the learner gave the correct answer the reward was a further question; if the answer was incorrect there was the punishment of a mild electric shock. Each shock was more severe than the previous one. The 'learner' was not actually receiving shocks, but was a member of the experimental team simulating progressively greater distress, as the shocks were supposedly made stronger. Eighteen different experiments were conducted with over 1,000 subjects, with the circumstances between experiments varying. No matter how the variables were altered the subjects showed an astonishing compliance with authority even when delivering 'shocks' of 450 volts. Up to 65 per cent of subjects continued to obey throughout the experiment in the presence of a clear authority figure and as many as 20 per cent continued to obey when the authority figure was absent.

Milgram was dismayed by his results:

With numbing regularity good people were seen to knuckle under to the demands of authority and perform actions that were callous and severe. Men who are in everyday life responsible and decent were seduced by the trappings of authority, by the control of their perceptions, and by the uncritical acceptance of the experimenter's definition of the situation into performing harsh acts. (1974, p. 123)

Our interest in Milgram's work is simply to demonstrate that we all have a predilection to obey instructions from authority figures, even if we do not want to. He points out that the act of entering a hierarchical system (such as any employing organisation) makes people see themselves acting as agents for carrying out the wishes of someone else, and this results in these people being in a different state, described as the agentic state. This is the opposite to the state of autonomy when individuals see themselves as acting on their own. Milgram then sets out the factors that lay the groundwork for obedience to authority.

1 Family. Parental regulation inculcates a respect for adult authority. Parental injunctions form the basis for moral imperatives, as commands to children have a dual function. 'Don't tell lies' is a moral injunction carrying a further implicit instruction: 'And obey me!' It is the implicit demand for obedience that remains the only consistent element across a range of explicit instructions.

2 Institutional setting. Children emerge from the family into an institutional system of authority: the school. Here they learn how to function in an organisation. They are regulated by teachers, but can see that the head teacher, the school governors and central government regulate the teachers themselves. Throughout this period they are in a subordinate position. When, as adults, they go to work it may be found that a certain level of dissent is allowable, but the overall situation is one in which they are to do a job prescribed by someone else.

3 Rewards. Compliance with authority is generally rewarded, while disobedience is frequently punished. Most significantly, promotion within the hierarchy not only rewards the individual but also ensures the continuity of the hierarchy.

4 Perception of authority. Authority is normatively supported: there is a shared expectation among people that certain institutions do, ordinarily, have a socially controlling figure. Also, the authority of the controlling figure is limited to the situation. The usher in a cinema wields authority, which vanishes on leaving the premises. As authority is expected it does not have to be asserted, merely presented.

5 Entry into the authority system. Having perceived an authority figure, an individual must then define that figure as relevant to the subject. The individual not only takes the voluntary step of deciding which authority system to join (at least in most of employment), but also defines which authority is relevant to which event. The firefighter may expect instant obedience when calling for everybody to evacuate the building, but not if asking employees to use a different accounting system.

6 The overarching ideology. The legitimacy of the social situation relates to a justifying ideology. Science and education formed the background to the experiments Milgram conducted and therefore provided a justification for actions carried out in their name. Most employment is in realms of activity regarded as legitimate, justified by the values and needs of society. This is vital if individuals are to provide willing obedience, as it enables them to see their behaviour as serving a desirable end.

Managers are positioned in an organisational hierarchy in such a way that others will be predisposed, as Milgram demonstrates, to follow their instructions. Managers put in place a series of frameworks to explain how they will exact obedience: they use *discipline*. Because individual employees feel their relative weakness, they seek complementary frameworks to challenge the otherwise unfettered use of managerial disciplinary power: they may join trade unions, but they will always need channels to present their *grievances*.

In later work Milgram (1992) made an important distinction between obedience and conformity, which had been studied by several experimental psychologists, most notably Asch (1951) and Abrams *et al.* (1990). Conformity and obedience both involve abandoning personal judgement as a result of external pressure. The external pressure to conform is the need to be accepted by one's peers and the resultant behaviour is to wear similar clothes, to adopt similar attitudes and adopt similar behaviour. The external pressure to obey comes from a hierarchy of which one is a member, but in which certain others have more status and power than oneself.

There are at least three important differences . . . First, in conformity there is no *explicit* requirement to act in a certain way, whereas in obedience we are *ordered* or *instructed* to do something. Second, those who influence us when we conform are our *peers* (or equals) and people's behaviours become more alike because they are affected by *example*. In obedience, there is . . . somebody in *higher authority* influencing behaviour. Third, conformity has to do with the psychological need for acceptance by others. Obedience, by contrast, has to do with the social power and status of an authority figure in a hierarchical situation. (Gross and McIlveen 1998, p. 508)

In this chapter we are concerned only with discipline and grievance within business organisations, but it is worth pointing out that managers are the focal points for the grievances of people outside the business as well, but those grievances are called complaints. You may complain *about* poor service, shoddy workmanship or rudeness from an employee, but you complain *to* a manager.

HR managers make one of their most significant contributions to business effectiveness by the way they facilitate and administer grievance and disciplinary issues. First, they devise and negotiate the procedural framework of organisational justice on which both discipline and grievance depend. Second, they are much involved in the interviews and problem-solving discussions that eventually produce solutions to the difficulties that have been encountered. Third, they maintain the viability of the whole process which forms an integral part of their work: they monitor to make sure that grievances are not overlooked and so that any general trend can be perceived, and they oversee the disciplinary machinery to ensure that it is not being bypassed or unfairly manipulated.

Grievance and discipline handling is one of the roles in HRM that few other people want to take over. Ambitious line managers may want to select their own staff without HR intervention or by using the services of consultants. They may try to brush their HR colleagues aside and deal directly with trade union officials or organise their own management development, but grievance and discipline is too hot a potato.

The requirements of the law regarding explanation of grievance handling and the legal framework to avoid unfair dismissal combine to make this an area where HR people must be both knowledgeable and effective. That combination provides a valuable platform for influencing other aspects of management. The HR manager who is not skilled in grievance and discipline is seldom in a strong organisational position.

Everything we have said so far presupposes both hierarchy and the use of procedures. You may say that we have already demonstrated that hierarchy is in decline and that there is a preference for more flexible, personal ways of working than procedure offers. Why rely on Milgram's research, which is now thirty years old? Surely we have moved on since then? Our response is simply that hierarchical relationships continue, although *deference* is in decline. We still seek out the person 'in authority' when we have a grievance and managers readily refer problems they cannot resolve to someone else with a more appropriate role. Procedures may be rigid and mechanical, but they are reliable and we use them even if we do not like them.

WINDOW ON PRACTICE

At the end of the twentieth century schoolteaching in Britain saw the widespread introduction of procedures to deal with teacher capability. Research (Torrington *et al.* 2003) showed that these procedures were generally ineffective in restoring capability and effectiveness for teachers who had lost their way, because of the general reluctance by head teachers to use procedures rather than personal leadership in finding solutions. The result was that heads used an inordinate amount of time in dealing with situations and 'incapable' teachers were extremely distressed and frequently ill because matters were never properly dealt with.

WHAT DO WE MEAN BY DISCIPLINE?

Discipline is regulation of human activity to produce a controlled performance. It ranges from the guard's control of a rabble to the accomplishment of lone individuals producing spectacular performance through self-discipline in the control of their own talents and resources.

The Advisory, Conciliation and Arbitration Service (ACAS) has produced a code of practice relating to disciplinary procedures which makes precisely this point:

Disciplinary procedures should not be viewed primarily as a means of imposing sanctions (but) . . . as a way of helping and encouraging improvement amongst employees whose conduct or standard of work is unsatisfactory. (ACAS 2000, p. 6)

First, there is managerial discipline in which everything depends on the leader from start to finish. There is a group of people who are answerable to someone who directs what they should all do. Only through individual direction can that group of people produce a worthwhile performance, like the person leading the community singing in the pantomime or the conductor of an orchestra. Everything depends on the leader.

Second, there is team discipline, where the perfection of the performance derives from the mutual dependence of all, and that mutual dependence derives from a commitment by each member to the total enterprise: the failure of one would be the downfall of all. This is usually found in relatively small working groups, like a dance troupe or an autonomous working group in a factory.

Third, there is self-discipline, like that of the juggler or the skilled artisan, where a solo performer is absolutely dependent on training, expertise and self-control. One of the few noted UK researchers working in the field of discipline concludes that self-discipline has recently become much more significant, as demonstrated in the title of his work, 'Discipline: towards trust and self-discipline' (Edwards 2000).

Discipline is, therefore, not only negative, producing punishment or prevention. It can also be a valuable quality for the individual who is subject to it, although the form of discipline depends not only on the individual employee but also on the task and the way it is organised. The development of self-discipline is easier in some jobs than others and many of the job redesign initiatives of recent years have been directed at providing scope for job holders to exercise self-discipline and find a degree of autonomy from managerial discipline. Figure 25.1 shows how the three forms are connected in a sequence or hierarchy, with employees finding one of three ways to achieve their contribution to organisational effectiveness. However, even the most accomplished solo performer has at some time been dependent on others for training and advice, and every team has its coach.

ACTIVITY 25.1

Note three examples of managerial discipline, team discipline and self-discipline from your own experience.



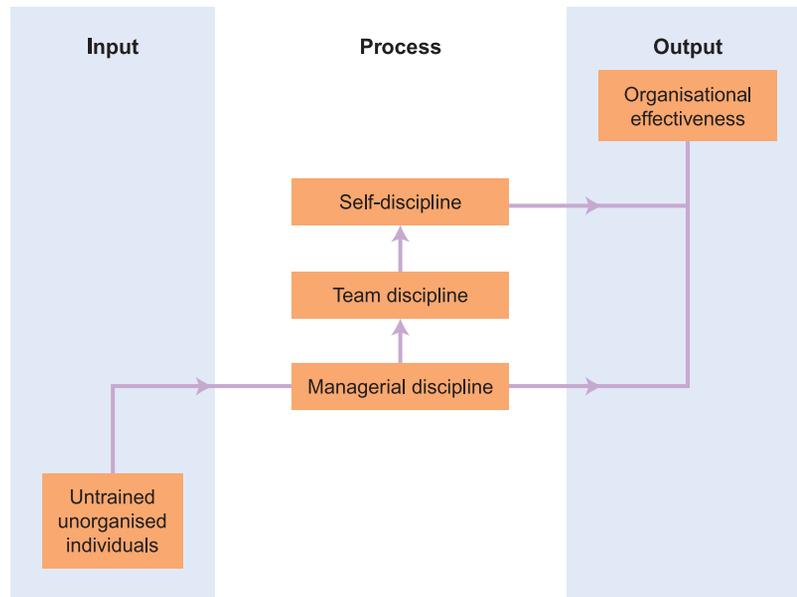


Figure 25.1 Three forms of discipline

Managers are not dealing with discipline only when they are rebuking latecomers or threatening to dismiss saboteurs. As well as dealing with the unruly and reluctant, they are developing the coordinated discipline of the working team, engendering that *esprit de corps* which makes the whole greater than the sum of the parts. They are training the new recruit who must not let down the rest of the team, puzzling over the reasons why A is fitting in well while B is still struggling. Managers are also providing people with the equipment to develop the self-discipline that will give them autonomy, responsibility and the capacity to maximise their powers. The independence and autonomy that self-discipline produces also brings the greatest degree of personal satisfaction, and often the largest pay packet. Furthermore the movement between the three forms represents a declining degree of managerial involvement. If you are a leader of community singing, nothing can happen without your being present and the quality of the singing depends on your performance each time. If you train jugglers, the time and effort you invest pays off a thousand times, while you sit back and watch the show.

WHAT DO WE MEAN BY GRIEVANCE?

Contemporary British texts virtually ignore grievance handling, but the Americans maintain sound coverage. Mathis and Jackson (1994) have a particularly helpful review. Some years ago Pigors and Myers (1977, p. 229) provided a helpful approach to the topic by drawing a distinction between the terms dissatisfaction, complaint and grievance as follows:

- **Dissatisfaction.** Anything that disturbs an employee, whether or not the unrest is expressed in words.

- **Complaint.** A spoken or written dissatisfaction brought to the attention of the supervisor and/or shop steward.
- **Grievance.** A complaint that has been formally presented to a management representative or to a union official.

This provides us with a useful categorisation by separating out grievance as a formal, relatively drastic step, compared with simply complaining. It is much more important for management to know about dissatisfaction. Although nothing is being expressed, the feeling of hurt following failure to get a pay rise or the frustration about shortage of materials can quickly influence performance.

Much dissatisfaction never turns into complaint, as something happens to make it unnecessary. Dissatisfaction evaporates with a night's sleep, after a cup of coffee with a colleague, or when the cause of the dissatisfaction is in some other way removed. The few dissatisfactions that do produce complaint are also most likely to resolve themselves at that stage. The person hearing the complaint explains things in a way that the dissatisfied employee had not previously appreciated, or takes action to get at the root of the problem.

Grievances are rare since few employees will openly question their superior's judgement whatever their private opinion may be and fewer still will risk being stigmatised as a troublemaker. Also, many people do not initiate grievances because they believe that nothing will be done as a result of their attempt.

HR managers have to encourage the proper use of procedures to discover sources of dissatisfaction. Managers in the middle may not reveal the complaints they are hearing, for fear of showing themselves in a poor light. Employees who feel insecure, for any reason, are not likely to risk going into procedure, yet the dissatisfaction lying beneath a repressed grievance can produce all manner of unsatisfactory work behaviours from apathy to arson. Individual dissatisfaction can lead to the loss of a potentially valuable employee; collective dissatisfaction can lead to industrial action.

There are three types of complaint that get progressively harder to handle. The first kind is factual and can be readily tested:

- 'The machine is out of order.'
- 'The stock we're getting now is not up to standard.'
- 'This adhesive won't stick.'

The second type is complaints that are based partly on subjective reactions:

- 'The work is messy.'
- 'It's too hot in here.'
- 'This job is too stressful.'

These statements include terms where the meaning is biologically or socially determined and can therefore not be understood unless the background of the complainant is known; seldom can their accuracy be objectively determined. A temperature of 18 degrees Celsius may be too hot for one person but equable for another.

The third, and most difficult, type of complaint is that involving the hopes and fears of employees:

- 'The supervisor has favourites, who get the best jobs.'
- 'The pay is not very good.'
- 'Seniority doesn't count as much as it should.'

These show the importance of determining not only what employees feel, but also why they feel as they do; not only verifying the facts, which are the *manifest* content of the complaint, but also determining the feelings behind the facts: the *latent* content. An employee who complains of the supervisor being a bully may actually be expressing something rather different, such as the employee's attitude to any authority figure, not simply the supervisor who was the subject of the complaint.

Each type of dissatisfaction is important to uncover and act upon, if action is possible. Action is usually prompt on complaints of the first type, as they are neutral: blame is placed on an inanimate object so individual culpability is not an issue. Action may be quick on complaints of the second type if the required action is straightforward, such as opening a window if it is too hot, but the problem of accuracy can produce a tendency to smooth over an issue or leave it 'to sort itself out' in time. The third type of complaint is the most difficult, and action is often avoided. Supervisors will often take complaints to be a personal criticism of their own competence, and employees will often translate the complaint into a grievance only by attaching it to a third party such as a shop steward, so that the relationship between employee and supervisor is not jeopardised.

ACTIVITY 25.2



Think of an example from your own experience of dissatisfaction causing inefficiency that was not remedied because there was no complaint. Why was there no complaint?

THE FRAMEWORK OF ORGANISATIONAL JUSTICE

The organisation requires a framework of justice to surround the employment relationship so that managers and supervisors, as well as other employees, know where they stand when dissatisfaction develops. An illustration of this is in Figure 25.2.

Organisation culture and management style

The culture of an organisation affects the behaviour of people within it and develops norms that are hard to alter and which provide a pattern of conformity. If, for instance, everyone is in the habit of arriving ten minutes late, a 'new broom' manager will have a struggle to change the habit. Equally, if everyone is in the habit of arriving punctually, then a new recruit who often arrives late will come under strong social pressure to conform, without need for recourse to management action. Culture also affects the freedom and candour with which people discuss dissatisfactions with their managers without allowing them to fester.

The style of managers in handling grievances and discipline reflects their beliefs. The manager who sees discipline as being punishment, and who regards grievances as examples of subordinates getting above themselves, will behave in a relatively autocratic way, being curt in disciplinary situations and dismissive of complaints. The manager who sees disciplinary problems as obstacles to achievement that do not necessarily imply incompetence or ill will by the employee will seek out the cause of

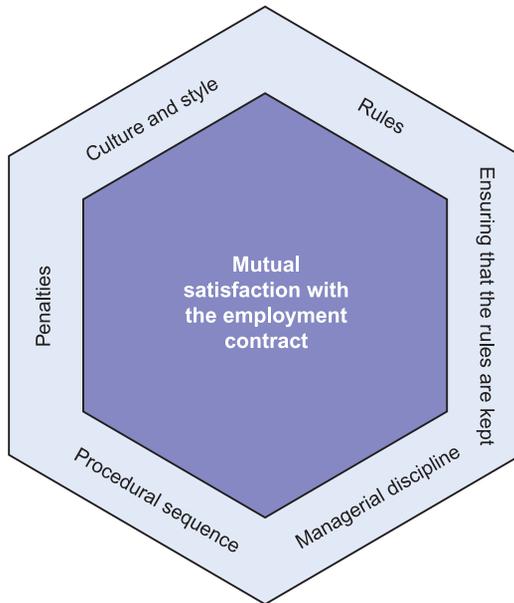


Figure 25.2 The framework of organisational justice

the problem. That problem may then be revealed as one requiring firm, punitive action by the manager, or it may be revealed as a matter requiring management remedy of a different kind. The manager who listens out for complaints and grievances, gets to the bottom of the problems and finds solutions will run little risk of rumbling discontent from people obsessed by trivial problems.

Rules

Every workplace has rules; the difficulty is to have rules that people will honour. Some rules come from legislation, such as the tachograph requirement for HGV drivers, but most are tailored to meet the particular requirements of the organisation in which they apply. For example, rules about personal cleanliness are essential in a food factory but less stringent in a garage.

Rules should be clear and readily understood; the number should be sufficient to cover all obvious and usual disciplinary matters. To ensure general compliance it is helpful if rules are jointly determined, but it is more common for management to formulate the rules and for employee representatives eventually to concur with them. Employees should have ready access to the rules through the employee handbook and noticeboard, and the HR manager will always try to ensure that the rules are known as well as published.

Rules can be roughly grouped into various types:

- 1 **Negligence** is failure to do the job properly and is different from incompetence because of the assumption that the employee can do the job properly, but has not.
- 2 **Unreliability** is failure to attend work as required, such as being late or absent.
- 3 **Insubordination** is refusal to obey an instruction, or deliberate disrespect to someone in a position of authority. It is not to be confused with the use of bad

language. Some of the most entertaining cases in industrial tribunals have involved weighty consideration of whether or not colourful language was intended to be insubordinate.

4 Interfering with the rights of others covers a range of behaviours that are socially unacceptable. Fighting is clearly identifiable, but harassment or intimidation may be more difficult to establish.

5 Theft is another clear-cut aspect of behaviour that is unacceptable when it is from another employee. Theft from the organisation should be supported by very explicit rules, as stealing company property is regarded by many offenders as one of the perks of the job. How often have you taken home a box of paper clips or a felt tip pen without any thought that you were stealing from the employer?

6 Safety offences are those aspects of behaviour that can cause a hazard.

The value of rules is to provide guidelines on what people should do, as the majority will comply. It is extremely difficult to apply rules that do not command general acceptance.

WINDOW ON PRACTICE

In a recent discussion with a group of senior managers, employees identified the following as legitimately taken at will:

paper clips, pencils, disposable pens, spiral pads, local telephone calls, plain paper, computer disks, adhesive tape, overalls and simple uniform.

Among the more problematic were:

- Redundant or shop-soiled stock. One DIY store insisted that the store manager should personally supervise the scrapping of items that were slightly damaged, to ensure that other items were not slightly damaged on purpose.
- Surplus materials. One electricity supplier had some difficulty in eradicating the practice of surplus cable and pipe being regarded as a legitimate perquisite of fitters at the end of installation jobs, as they suspected their engineers were using the surplus for private work. Twelve months later the level of material requisition had declined by 14 per cent.

Ensuring that the rules are kept

It is not sufficient just to have rules; they are only effective if they are observed. How do we make sure that employees stick to the rules?

1 Information is needed so that everyone knows what the rules are and why they should be obeyed. Written particulars may suffice in an employment tribunal hearing, but most people conform to the behaviour of their colleagues, so informal methods of communication are just as important as formal statements.

2 Induction can make the rules coherent and reinforce their understanding. Rules can be explained, perhaps with examples, so that people not only know the rules but also understand why they should be obeyed.

3 Placement or relocation can avoid the risk of rules being broken, by placing a new recruit with a working team that has high standards of compliance. If there are the signs of disciplinary problems in the offing, then a quick relocation can put the problem employee in a new situation where offences are less likely.

4 Training increases awareness of the rules, improving self-confidence and self-discipline. There will be new working procedures or new equipment from time to time, and again training will reduce the risk of safety offences, negligence or unreliability.

5 Reviewing the rules periodically ensures that they are up to date, and also ensures that their observance is a live issue. If, for instance, there is a monthly staff council meeting, it could be appropriate to have a rules review every 12 months. The simple fact of the rules being discussed keeps up the general level of awareness of what they are.

6 Penalties make the framework of organisational justice firmer if there is an understanding of what penalties can be imposed, by whom and for what. It is not feasible to have a fixed scale, but neither is it wise for penalties to depend on individual managerial whim. This area has been partially codified by the legislation on dismissal, but the following are some typical forms of penalty:

a Rebuke. The simple ‘Don’t do that’ or ‘Smoking is not allowed in here’ or ‘If you’re late again, you will be in trouble’ is all that is needed in most situations, as someone has forgotten one of the rules, had not realised it was to be taken seriously, or was perhaps testing the resolution of the management. Too frequently, managers are reluctant to risk defiance and tend to wait until they have a good case for more serious action rather than deploy their own, there-and-then authority.

b Caution. Slightly more serious and formal is the caution, which is then recorded. This is not triggering the procedure for dismissal, it is just making a note of a rule being broken and an offence being pointed out.

c Warnings. When the management begins to issue warnings, great care is required. This is because the development of unfair dismissal legislation has made the system of warnings an integral part of disciplinary practice, and this has to be followed if the employer is to succeed in defending a possible claim of unfair dismissal at tribunal. For the employer to show procedural fairness there should normally be a formal oral warning, or a written warning, specifying the nature of the offence and the likely outcome if the offence is repeated. It should also be made clear that this is the first, formal stage in the procedure. Further misconduct could then warrant a final written warning containing a statement that further repetition would lead to a penalty such as suspension or dismissal. All written warnings should be dated, signed and kept on record for an agreed period. The means of appeal against the disciplinary action should also be pointed out.

d Disciplinary transfer or demotion. This is moving the employee to less attractive work, possibly carrying a lower salary. The seriousness of this is that it is public, as the employee’s colleagues know the reason. A form of disciplinary transfer is found on assembly lines, where there are some jobs that are more attractive and carry higher status than others. Rule breakers may be ‘pushed down the line’ until their contempt is purged and they are able to move back up.

e **Suspension.** This is a tactic that has the benefit of being serious and avoids the disadvantage of being long lasting, as demotion is. The employer has a contractual obligation to provide pay, but not to provide work, so it is easy to suspend someone from duty with pay either as a punishment or while an alleged offence is being investigated. If the contract of employment permits, it may also be possible to suspend the employee for a short period without pay.

The important general comment about penalties is that they should be appropriate in the circumstances. Where someone is, for instance, persistently late or absent, suspension would be a strange penalty. Also penalties must be within the law. An employee cannot be demoted or transferred at managerial whim, and unpaid suspension can only be imposed if the contract of employment allows it.

Procedural sequence

This is the clear, unvarying logic of procedure, which should be well known and trusted. Procedure makes clear, for example, who does and who does not have the power to dismiss. The dissatisfied employee, who is wondering whether or not to turn a complaint into a formal grievance, knows who will hear the grievance and where an appeal could be lodged. This security of procedure, where step B always follows step A, is needed by managers as well as by employees, as it provides them with their authority as well as limiting the scope of their actions.

Managerial discipline

This preserves general respect for the justice framework by managers exercising self-discipline in how they work within it. With very good intentions some senior managers maintain an ‘open door’ policy with the message: ‘My door is always open . . . call in any time you feel I can help you’. This has many advantages and is often necessary, but it has danger for matters of discipline and grievance if it encourages people to bypass middle managers. There is also the danger that employees come to see the settlement of their grievances as being dependent on the personal goodwill of an individual rather than on the business logic or their human and employment rights.

Managers must be consistent in handling discipline and grievance issues. Whatever the rules are, they will be generally supported only as long as they deserve support. If they are enforced inconsistently they will soon lose any moral authority, and will be obeyed only because of employees’ fear of penalties. Equally, the manager who handles grievances quickly and consistently will enjoy the support of a committed group of employees.

The other need for managerial discipline is to test the validity of the discipline assumption. Is it a case for disciplinary action or for some other remedy? There is little purpose in suspending someone for negligence when the real problem is lack of training. Many disciplinary problems disappear under analysis, and it is sensible to carry out the analysis before making a possibly unjustified allegation of indiscipline.

GRIEVANCE PROCEDURE

Managers who believe that it introduces unnecessary rigidity into the working relationship often resent the formality of the grievance procedure: ‘I see my people all

the time. We work side by side and they can raise with me any issue they want, at any time they want . . .' The problem is that many people will not raise issues with the immediate superior that could be regarded as contentious, in just the same way that managers frequently shirk the rebuke as a form of disciplinary penalty. Formality in procedure provides a structure within which individuals can reasonably air their grievances and avoids the likelihood of managers dodging the issue when it is difficult. It avoids the risk of inconsistent ad hoc decisions, and the employee knows at the outset that the matter will be heard and where it will be heard. The key features of grievance procedure are fairness, facilities for representation, procedural steps and promptness.

1 Fairness is needed, to be just, but also to keep the procedure viable. If employees develop the belief that the procedure is only a sham, then its value will be lost and other means will be sought to deal with grievances. Fairness is best supported by the obvious even-handedness of the ways in which grievances are handled, but it will be greatly enhanced if the appeal stage is either to a joint body or to independent arbitration, as the management is relinquishing the chance to be judge of its own cause.

2 Representation can help the individual employee who lacks the confidence or experience to take on the management singlehandedly. A representative, such as a union official, has the advantage of having dealt with a range of employee problems and may be able to advise the aggrieved person whether the claim is worth pursuing. There is always the risk that the presence of the representative produces a defensive management attitude affected by a number of other issues on which the manager and union official may be at loggerheads, so the managers involved in hearing the grievance have to cast the representative in the correct role for the occasion.

3 Procedural steps should be limited to three. There is no value in having more just because there are more levels in the management hierarchy. This will only lengthen the time taken to deal with matters and will soon bring the procedure into disrepute. The reason for advocating three steps is that three types of management activity are involved in settling grievances. Nevertheless, it is quite common for there to be more than three steps where there is a steep hierarchy, within which there may be further, more senior, people to whom the matter could be referred. The reason for there being more steps has nothing to do with how to process grievances but is purely a function of the organisation structure.

The first step is the *preliminary*, when the grievance is lodged with the immediate superior of the person with the complaint. In the normal working week most managers will have a variety of queries from members of their departments, some of which could become grievances, depending on the manager's reaction. Mostly the manager will either satisfy the employee or the employee will decide not to pursue the matter. Sometimes, however, a person will want to take the issue further. This is the preliminary step in procedure, but it is a tangible step as the manager has the opportunity to review any decisions made that have caused the dissatisfaction, possibly enabling the dissatisfied employee to withdraw the grievance. In our experience it is rare for matters to be taken any further unless the subject of the grievance is something on which company policy is being tested.

The *hearing* gives the complainant the opportunity to state the grievance to a more senior manager, who is able to take a broader view of the matter than the immediate superior and who may be able both to see the issue more dispassionately and to

perceive solutions that the more limited perspective of the immediate superior obscured. It is important for the management that the hearing should finalise the matter whenever possible, so that recourse to appeal is not automatic. The hearing should not be seen by the employees as no more than an irritating milestone on the way to the real decision makers. This is why procedural steps should be limited to three.

If there is an *appeal*, this will usually be to a designated more senior manager, and the outcome will be either a confirmation or a modification of the decision at the hearing.

4 Promptness avoids the bitterness and frustration that comes from delay. When an employee ‘goes into procedure’, it is like pulling the communication cord in a train. The action is not taken lightly and is in anticipation of a swift resolution. Furthermore, the manager whose decision is being questioned will have a difficult time until the matter is resolved. The most familiar device to speed things up is to incorporate time limits between the steps, specifying that the hearing should take place no later than, say, four working days after the preliminary notice and that the appeal should be no more than five working days after the hearing. This gives time for reflection and initiative by the manager or the complainant between the stages, but does not leave time for the matter to be forgotten.

Where the organisation has a collective disputes procedure as well as one for individual grievances, there needs to be an explicit link between the two so that individual matters can be pursued with collective support if there is not a satisfactory outcome. An outline grievance procedure is in Figure 25.3.

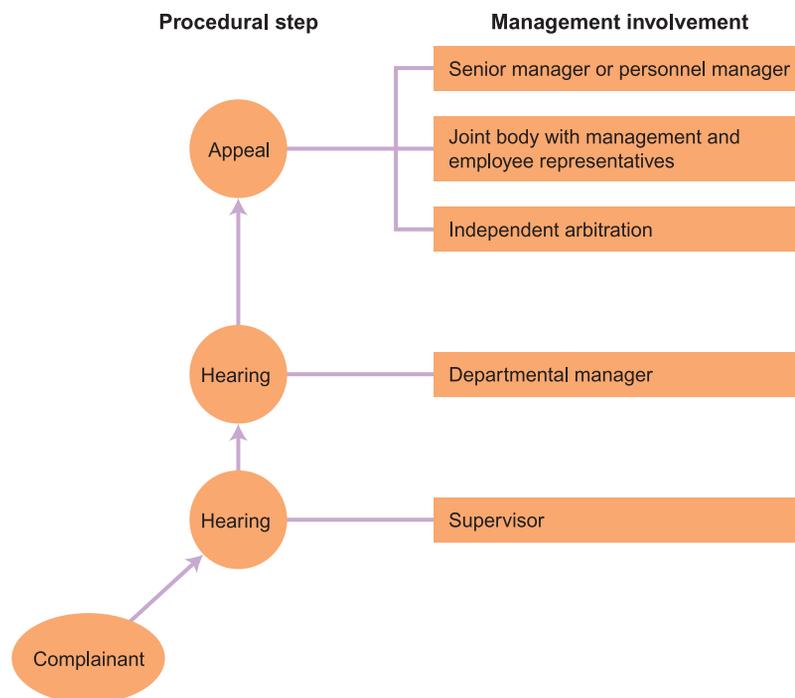


Figure 25.3 Outline grievance procedure

DISCIPLINARY PROCEDURE

Procedures for discipline are very similar to those for grievance and depend equally on fairness, promptness and representation. There are some additional features.

Authorisation of penalties

The law requires that managers should not normally have the power to dismiss their immediate subordinates without reference to more senior managers. Whatever penalties are to be imposed, they should only be imposed by people who have that specific authority delegated to them. Usually this means that the more serious penalties can only be imposed by more senior people, but there are many organisations where such decisions are delegated to the HR department.

Investigation

The procedure should also ensure that disciplinary action is not taken until it has been established that there is a problem that justifies the action. The possibility of suspension on full pay is one way of allowing time for the investigation of dubious allegations, but the stigma attached to such suspensions should not be forgotten.

Information and explanation

If disciplinary action is possible, the person to be disciplined should be told of the complaint, so that an explanation can be made, or the matter denied, before any penalties are decided. If an employee is to be penalised, then the reasons for the decision should be explained to make sure that cause and effect are appreciated. The purpose of penalties is to prevent a recurrence. An outline disciplinary procedure is in Figure 25.4.

ARE GRIEVANCE AND DISCIPLINE PROCESSES EQUITABLE?

For grievance and discipline processes to work they must command support, and they will only command support if they are seen as equitable, truly just and fair. At first it may seem that concern for the individual employee is paramount, but the individual cannot be isolated from the rest of the workforce. Fairness should therefore be linked to the interests that all workers have in common in the business, and to the managers who must also perceive the system as equitable if they are to abide by its outcomes.

Procedures have a potential to be fair in that they are certain. The conduct of employee relations becomes less haphazard and irrational: people 'know where they stand'. The existence of a rule cannot be denied and opportunities for one party to manipulate and change a rule are reduced. Procedures also have the advantage that they can be communicated. The process of formalising a procedure that previously existed only in custom and practice clarifies the ambiguities and inconsistencies within it and compels each party to recognise the role and responsibility of the other. By providing pre-established avenues for responses to various contingencies, procedures

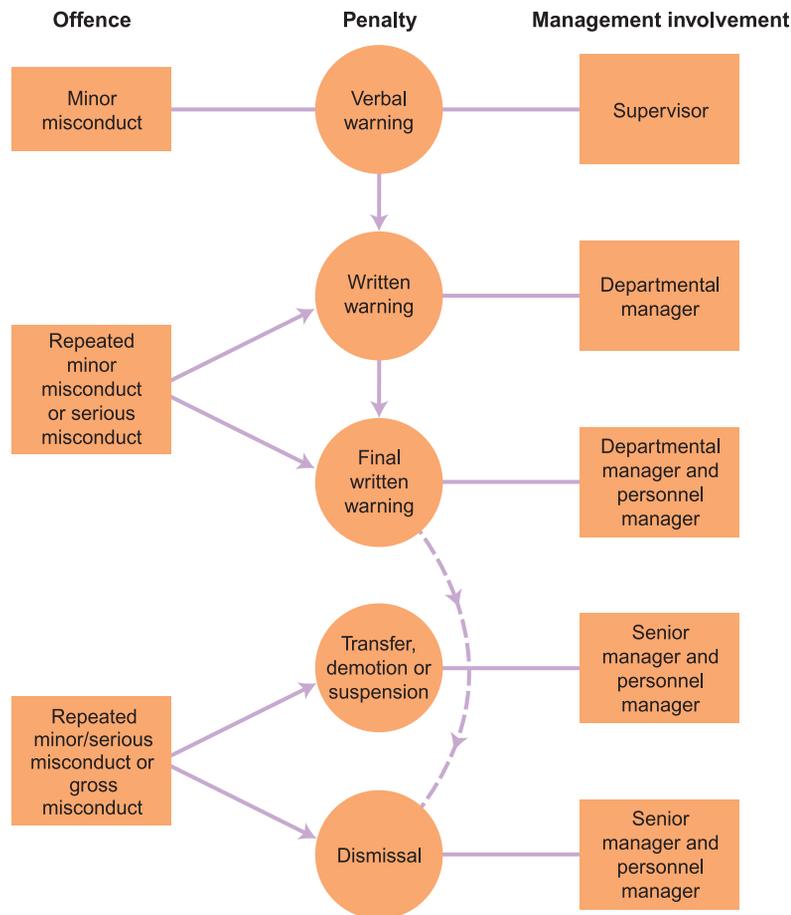


Figure 25.4 Outline disciplinary procedure

make it possible for the response to be less random and so more fair. The impersonal nature of procedures offers the possibility of removing hostility from the workplace, since an artificial social situation is created in which the ritual displays of aggression towards management are not seen as personal attacks on managers.

The achievement of equity may not match the potential. Procedures cannot, for instance, impart equity to situations that are basically unfair. Thus attempting to cope with an anomalous pay system through a grievance procedure may be alleviating symptoms rather than treating causes. It is also impossible through a grievance procedure to overcome accepted norms of inequity in a company, such as greater punctuality being required of manual employees than of white-collar employees.

A further feature of procedural equity is its degree of similarity to the judicial process. All procedures adopt certain legalistic mechanisms, such as the right of individuals to be represented and to hear the case against them, but some aspects of legalism, such as burdens of proof and strict adherence to precedent, may cause the application of standard remedies rather than the consideration of individual circumstances.

There is a nice irony in the fact that equity is best achieved when procedures are not used. Procedure is there in the background and expresses principles for fair and

effective management of situations. All the while the **principles** are followed and the framework for organisational justice is observed, procedure is not invoked. The advantage of this is that individuals, whether employees or managers, are not named and shamed so that matters are much easier to deal with. Only when the matter is dealt with badly does the procedural step come closer.

The existence of the procedure becomes the incentive rather than the means for action to be taken: it is not an excuse for inaction. There have recently been several high-profile cases of medical negligence resulting in doctors being struck off the medical register and therefore being no longer able to practise. In each case it appeared that lapses had been allowed to continue for too long before remedial action was taken.

It is accepted that some employment situations require naming and shaming first, with possible remedial action following. In most sports there is on-the-spot penalising of players for breaking the rules.

WINDOW ON PRACTICE

The 'red-hot stove' rule of discipline offers the touching of a red hot stove as an analogy for effective disciplinary action:

- 1 The burn is immediate. There is no question of cause and effect.
- 2 You had warning. If the stove was red-hot, you knew what would happen if you touched it.
- 3 The discipline is consistent. Everyone who touches the stove is burned.
- 4 The discipline is impersonal. People are burned not because of who they are, but because they touch the stove.

ACTIVITY 25.3

Think of an attempt at disciplinary action that went wrong. Which of the features of the red-hot stove rule were missing?

Notions of fairness are not 'givens' of the situation; they are socially constructed and there will never be more than a degree of consensus on what constitutes fairness. Despite this, the procedural approach can exploit standards of certainty and consistency, which are widely accepted as elements of justice. The extent to which a procedure can do this will depend on the suitability of its structure to local circumstances, the commitment of those who operate it and the way that it reconciles legalistic and bargaining elements.

SUMMARY PROPOSITIONS

- 25.1** The authority of managers to exercise discipline in relation to others in the organisation is underpinned by a general predilection of people to obey commands from those holding higher rank in the hierarchy of which they are members.
- 25.2** The exercise of that discipline is limited by the procedural structures for grievance and discipline.
- 25.3** Grievance and discipline handling are two areas of human resource management that few other people want to take over, and provide HR managers with some of their most significant contributions to business effectiveness.
- 25.4** Discipline can be understood as being managerial, team or self-discipline, and the three types are connected hierarchically.
- 25.5** Dissatisfaction, complaint and grievance form another hierarchy. Unresolved employee dissatisfaction can lead to the loss of potentially valuable employees. In extreme cases it can lead to industrial action.
- 25.6** Grievance and disciplinary processes both require a framework of organisational justice.
- 25.7** The procedural framework of disciplinary and grievance processes is one of the keys to their being equitable.
- 25.8** Effective management of both discipline and grievance is achieved by following the principles of the procedures without invoking them in practice.

GENERAL DISCUSSION TOPICS

- 1** Do you think Milgram's experiments would have had a different outcome if the subjects had included women as well as men?
- 2** What examples can individual members of the group cite of self-discipline, team discipline and managerial discipline?
- 3** 'The trouble with grievance procedures is that they encourage people to waste a lot of time with petty grumbles. Life at work is rarely straightforward and people should just accept the rough with the smooth.'
What do you think of that opinion?

FURTHER READING

Torrington, D.P., Earnshaw, J.M., Marchington, L. and Ritchie, M.D. (2003) *Tackling Underperformance in Teaching*. London: Routledge

This is a report on research regarding teachers' alleged lack of capability. The results, including a number of case studies, are really an object lesson in how *not* to deal with a problem. The reader will easily work out how the matters *should* have been dealt with. Whether they would actually have done any better is debatable. Handling misconduct is easy; handling lack of capability is much more difficult.

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An extensive range of additional materials, including multiple choice questions, answers to questions and links to useful websites can be found on the Human Resource Management Companion Website at www.pearsoned.co.uk/torrington.

