

## Appeals

Six months have passed since you overhauled the disciplinary system. The new Marketing and Sales director, G Malcolm, was busy with the development of the new German subsidiary which was already growing rapidly. To assist this growth you have recently visited Russia to investigate the possibility of selling the new valve systems to the expanding natural gas industry. The new disciplinary system appeared to be working well as there had been a considerable reduction in the number of staff involved in such actions.

However you are concerned that in certain departments, discipline is still being exercised arbitrarily and is not subject to sufficient independent control. This concern had been strengthened by the fact that the company had become involved in a number of employment tribunal actions, both in the UK and Germany, two of which had meant that the company had spent large sums of money in settlements. This suggested that the appeals procedure used by Burke needed to be improved.

Currently it consisted of the involvement of the line manager, followed by the relevant director, with the matter finally passing to you as managing director. You had found it difficult to go against the decision of the relevant department heads as this would be taken as a lack of confidence in their judgement. As a result you have tended to support the decisions that directors have taken even though some of them have been in your view questionable. Another worry concerned those employees that complained about particular aspects of company activity.

Employees were given the responsibility in their job descriptions of bringing to the notice of their line managers procedures that were either unsafe, contravened national legislation, or company rules. Of the 3 employees in the Production Department who had exercised this right all had subsequently been subject to disciplinary procedures and eventual dismissal, though the disciplinary offence had not related to their complaints. None of these employees had appealed against the decision, but the coincidence of complaints about company procedure leading to dismissal on other grounds is of obvious concern to you. What might be a further example of this had come to your attention on your return from Eastern Europe.

It appeared that one of the employees in the Production Department, T Jefferson, was now facing dismissal for misconduct. The employee had appealed against the decision, claiming that it was unfair and also that the action had only been taken because of his comments on the lack of safe working practices. The union representative supported the appeal, and has also made a complaint about the poor safety record in the foundry. The representative has also commented on the fact that you as managing director have persistently refused to invest in the necessary handling equipment to make the area safe, even though the company could well afford such a sum. Another issue raised at the same time by the union representatives was the failure of Burke Engineering to act in a consistent fashion on a number of regional initiatives on the employment of the disabled and minority groups.

You feel that something must be done to make sure that the company continues to take note of such employment issues. You have collected the various documents that appear to be relevant to the case and are considering how this and future appeals should be organised. It would, in your opinion, be ideal if safety issues and company adherence to employment legislation could be included as part of this review.

### **Item one**

From Sedgefield, Production director To MD

T Jefferson appeal. The investigation of the fire brigade into the fire in number 1 toolshed suggested that they suspected a lighted cigarette left in the main wastebin as the most likely cause. As T Jefferson is the sole smoker amongst the staff (which is against the fire safety regulations produced after consultation with the fire brigade) I supported the decision of D Johnson, the production manager, to dismiss Jefferson for gross misconduct.

I have turned down the appeal which was made to me verbally on the 15th, but Jefferson has demanded that a further appeal be made to the managing director as stated in company policy. Jefferson is still suspended on full pay, pending the results of the appeal procedure.

### **Item two**

From D Johnson Production Manager To Production Director

T Jefferson. The fire brigade investigation into the cause of the fire (attached) clearly blamed a lighted cigarette for the start of the blaze. As T Jefferson is the only smoker in number 1 toolshed and is already in receipt of two written warnings for smoking contrary to all regulations, I have decided to terminate employment on the grounds of gross misconduct. Jefferson has naturally appealed against this dismissal, and I pass the documents on the case onto you for your decision.

Item three.

The Production Director, From Midlands Fire Department

We have investigated the fire in number 1 toolshed, and can find no evidence of either arson or that fire regulations were not complied with. There appears to be strong grounds to suspect that the fire started near the waste area, and as the electric wiring was in good shape, the most likely initial cause would have been a smoldering cigarette. However this cannot be proven as no cigarette was found. There are obviously alternative explanations such as friction or a lighted match that could have caused the fire. I would suggest that you improve your sprinkler system so that the amount of damage likely to be caused by further fires reduced.

### **Item four**

To T Jefferson From D Johnson

Written warning. I have pointed out to you and others the clearly published company regulations concerning safety and care necessary on the shopfloor. There have been two cases where you have been verbally warned about the problems of cigarette smoking and the need to ensure that no cigarette smoking occurred within the building. You have however persisted in smoking within the confines.

Having been seen by both myself and S Hamilton, the shift supervisor, you are formally warned that any further contravention of the regulations will be lead to further disciplinary procedure. This written warning will last for six months and will be canceled at the end of this period should no further problems arise.

### **Item five**

From T Jefferson To Production Director

Appeal against written warning. I wish to appeal against the decision to give me a written warning following my smoking outside toolroom 1. The rules clearly state that no smoking should occur during work. I was not smoking during work, nor was I smoking close to machinery or equipment. Many other employees smoke away from their machinery, and I do not see why I should be singled out for such treatment.

### **Item six**

To T Jefferson From D Johnson

Final warning. As you have failed to meet the demands of the initial written warning, you are hereby given the final warning that should you contravene safety regulations within the next 6 months, dismissal will automatically follow.

### **Item seven**

From T Jefferson To Production Director

Appeal against final warning. I wish to appeal against the decision to give me a final warning following my smoking outside toolroom 1. I state again that company rules clearly state that no smoking should occur during work. I was not smoking during work, nor was I smoking close to machinery or equipment. Many other employees smoke in the same area and I do not see why I should be singled out for such treatment.

On this final occasion I was starting to light my cigarette as I left the building and this was considered to be smoking on the premises. It can only be my complaints about the lack of direction in the machining section and the failure to note the accidents in the book as required under the Health and Safety Act.

### **Item eight**

From AEU To Production director

Dismissal of T Jefferson

1. We, as members of the union are dismayed by the dictatorial attitude of management in the action taken in respect of T Jefferson.
2. The grounds for dismissal are totally inadequate. There is no firm evidence that Jefferson is the cause of the fire, as not only is there no proof that a cigarette started the fire, there is no evidence that Jefferson was the individual concerned. The action has been taken entirely on supposition and unfounded allegation. We would also point out that management are incorrect in their assertion that T Jefferson is the sole smoker in number 1 toolshed.
3. On both occasions that Jefferson has been found smoking it has been in the male washrooms, which while technically part of number 1 toolroom are outside the fire doors leading into the production area. T is adamant that he never smoked within the confines of the production area, and is supported in this by all members of the production staff.
4. Jefferson has on a number of occasions complained about the procedures in number 1 toolshed. T has claimed that the lack of direction concerning the speed of work required has led to a consistent lowering of safety standards and to a number of small accidents. None of these small accidents have been logged as they should be in the accident book. The production director has claimed that they are too minor for such a procedure. The law states that this is not the case.
5. T Jefferson is a highly skilled loyal worker who consistently been one of the most productive and effective members of the production staff. T is actively involved in all the changes that have taken place within Burke since joining the company 15 years ago.

### **Item nine**

From T Jefferson To Production Director

Safety problems. There is an increasing trend towards problems in number 1 toolshed. The main issue is that poor scheduling of work, has meant that individuals are placed under enormous pressure to complete particular valves within the required timescale. This has meant that safety procedures (especially the failure to use the interlock procedure on the milling machines) has had to be discarded.

There have been a crop of minor accidents such as small burns and cuts. None of these have been entered in the accident book as is required under the Health and Safety at Work Act. I am bringing this matter to your attention as I am required under the company rules and regulations. It is obvious that a major accident is likely to occur unless the work scheduling and control in the number 1 toolshed is improved.

### **Item ten**

From GWMU To Managing Director

Foundry accidents. We are increasingly concerned about the poor safety record in the foundry area which is caused by the primitive handling arrangements that are in place. We bring this to your attention with the warning that should any serious accident happen as a result of your continual refusal not to invest in the necessary sophisticated handling equipment that industrial action is likely to be taken.

### **Item eleven**

From: J Barnes, Regional Officer AEU To J Franklin

Factory employment policy. We have had a continuing number of representations from our members in your factory concerning discrimination in employment. We have found that you employ substantially below the national average of racial minorities and only two disabled, though it is clear that your record on the recruitment of women is excellent.

I am sure that you are aware of the Midlands Employer Initiative on Minorities (MEIM) to which your company agreed three years ago, and that you will be prepared to start making sure that your recruitment policies reflect those that were laid down in that document.

### **Action**

How should you as J Franklin approach the problem of handling the appeal and dealing with problems such as this? Are the current structures inadequate to provide an independent review of appeals and complaints on procedures?