

**PROGRESSIVE DISCIPLINE**

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**Overview**

- The Basics of Progressive Discipline: What it is and why we use it
- Keys to Successful Progressive Discipline
- The Four Steps of Progressive Discipline



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**What is Progressive Discipline**

- Progressive discipline is a:
  - Reasonable process
  - Designed to correct problematic behaviour
  - Where failure to correct behaviour leads to more serious consequences
- Usually consists of four stages
  - Counselling
  - Written warning (sometimes preceded by a verbal warning)
  - Final written warning or suspension
  - Termination



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## Why do we do it?

- To correct problematic behaviour because turnover is costly
- To build a case for just cause dismissal
  - Daley v. Depco



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## Policy

- Clearly set out steps
- Without written policy, suspension may not be permissible
- Allow for deviation from step process, don't make it to rigid
- Don't have inflexible sequence, i.e. 3 strikes you're out
- Be careful of wording, ambiguities will be interpreted against the organization
- Make sure employees are aware of the policy
- Team it up with policies on unacceptable behaviour



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## 3 Pillars

- Fair
- Consistent – In every circumstance
- Without bias – In the same way for all



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**Keys to Successful Progressive Discipline**



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**1. View Discipline Positively**

- In its most general sense, **discipline** refers to systematic instruction given to a disciple. *To discipline* means to instruct a person to follow a particular code of conduct.
- Positive references include:
  - Academic discipline – a sphere of knowledge in which an person has specialized knowledge, i.e. psychiatry, pediatrics, nursing
  - A virtue – Gretzy was extremely disciplined, getting up at 5:30 every day of the week to practice



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**Positive Perspectives**

- Focus on what the employee must learn to meet expectations of the organization
- Protect the ego – emphasize not just problems – but opportunities
- Emphasize the positive impact of improvement



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## Beware of Negative Perspectives

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- Viewing discipline strictly as punishment leads to:
  - Imposing negative consequences
  - Hoping it will lead to positive results
  
- Psychological studies show generally punishment doesn't work


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## 2. Collaboration vs. Conflict

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- The discipline process is not done to but for the employee
- Not solely dependent on employee but also responsibility of manager
- Managers shouldn't be shocked or surprised. "It" happens. Managing bad behaviour is a major part of management duties
- Employee should be involved in:
  - Identifying causes of problematic behaviour
  - Creating appropriate solutions for correcting behavior


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## 3. Earlier is Better

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- Managers avoid addressing issues
  - Too busy
  - Avoid conflict
  
- Avoidance exacerbates situation :
  - Managers get more upset about repeat offences even when they have not addressed them
  - Managers react more harshly


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## Don't Delay

- Delay sends a message to the target employee and to others that behaviour will be tolerated
  
- Condoning misconduct may lengthen the progressive discipline period



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## 4. Symptoms vs. Cause

- Nothing will work if we don't address the real reason for the misconduct
  - Lack of skills
  - Lack of fit/interest with position
  - Personal problems



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## THE 4 STEPS OF PROGRESSIVE DISCIPLINE



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## BEFORE YOU START

- A. Analyze the situation
  - How is this affecting the productivity of the organization?
  - How important is this person to the organization?
  - Is this a probationary employee?
  - How much time are you willing to spend managing it?
  - What are the legal/business ramifications of terminating the employee?



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## BEFORE YOU START - TWO

- B. Analyze the Issue
  - Isolated incident or pattern of behaviour
  - Long term vs. short term employee
  - Intentional misconduct vs. incompetence
  - Extenuating medical or other personal issues



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## BEFORE YOU START - THREE

- B. Clarify your goal
  - Determine the specific behaviour you want to change
  - Pick your battles -- Can't fix difficult personalities
  - Focus on the behaviour, not the personality
- When things go awry, remember your goal



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**COUNSELLING**



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**Set out the Issue**

- Informal, friendly but clear and firm
- Identify:
  - the problem behaviour
  - why it is a concern
  - the desired behaviour
  - how to achieve it



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**Behaviour**

- Focus on desired behaviour, not on the personality
- Try not to be judgmental, focus on what needs to improve and how that can assist the employee



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## Dealing with the Difficult Person

- Be clear:
  - About the specific behaviour in issue
  - That it is effecting moral
  - That the goal is to have a harmonious work place
  - That the employee will benefit as well from a more positive working relationship and
  - About the specific behaviour that is expected

*Example* "We need to improve your working relationship with X"....

*Example* "The best way to improve this working relationship is...."



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## Be Clear on Process

- Counselling -- joint effort to help you
  
- Failure of counselling to correct behaviour can lead to further discipline up to and including termination



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## Understanding the Cause

- Common causes of problem behaviour
  - Completely unaware
  - Deficient skill set; trying to cover up
  - Dislike of job, work environment, co-worker, management, organization
  - Personal problems
  - Personality traits



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**Probing for the Cause**

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- Use questioning techniques outlined in investigation seminar
  - Start with general probing questions
    - Tell, describe, explain
    - Use what, where, why, when and how
  - Be an active listener
    - Summarize or echo back what employee said
    - Use silence -5 seconds and then "I'm still listening"
    - Use prompts, i.e. nodding, "go on"

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**Summarize Causes**

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- Take notes – shows employee you are interested in what they have to say
  
- Before moving on to possible solutions, summarize the causes you've identified to ensure
  - You both understand the information and
  - All causes have been identified

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**Fight the Urge to Fight**

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- Expect defensiveness and irrationality
- Avoid arguing for sake of trying to change someone's opinion
- Should point out which suggested causes are unreasonable and why
- If person is really upset; suggest reconvening in 24 hours
- The suggested causes tell you a lot about chance of success and what next step will be

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## Problem Solving

- Try to jointly create solution; training, supervision, change of job functions
- Write down possible solutions
- Choose best solution
- Specify who has to do what and by when
- Support employee but emphasize his responsibility to correct the behaviour
- Express confidence in his ability to do this



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## Dealing with the Difficult Person

- Especially important to emphasize you will assist, he/she is not alone
- Listening is especially important
- Set goals
- Provide real tips and guidance
- Give plenty of feedback



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## Documentation

- Recommend short memo to employee
  - Confirm subject matter discussed
  - Required course of action
  - Any time lines imposed



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## Follow Up

- Agree on a follow up date to discuss progress or problems
- Have the follow up meeting regardless of outcome



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## Follow up of a Success

- Remind them of issue and course of action last agreed upon
- Congratulate
- Ask employee to describe his efforts and the results
- Let employee know his efforts are appreciated



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## Follow up of Failure: Try Again

- Remind them of issue and course of action last agreed upon
- If going to continue the counselling and try another possible solution
  - Discuss efforts made and why they might have failed
  - Choose another possible solution and be specific re: what and when
  - Discuss possible repercussions of failure (discipline)



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## Follow up of Failure : Discipline

- Remind them of issue and course of action last agreed upon
- Advise problem continues to exist
- Behaviour must be corrected
- Administer discipline, i.e. written warning



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## Human Rights

- If cause is related to protected ground (disability, family status) than accommodation may be required
- Duty of accommodation does not require organization to accept consistently substandard performance
- Even with accommodation, employee must be able to perform essential duties of job



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## Stress Leave

- Stress not a medical disability under Human Rights Code
- Get medical certification of recognized medical disability from specialist, not GP
- Ability to participate in progressive discipline or performance appraisals is an essential feature of job



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**FINAL STEPS OF PROGRESSIVE DISCIPLINE**



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**Investigation**

- Before imposing warnings, suspension or termination, must be more certain than in counselling that conduct actually occurred
  - Investigation may be required
  - Have to make a finding, even if disputed, that conduct occurred



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**Correcting Behaviour Remains the Goal**

- As in counselling, have meeting and identify
  - the problem behaviour
  - why it is a concern
  - the desired behaviour
  - how to achieve it



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## Form of Written Warning

- Specify
  - the behaviour and how it violates Organization's policies, expectations, etc.
  - Reference to any investigation and findings made
  - Impact of behaviour on Organization
  - Attempts that Organization has made to assist and results
  - What is expected and timelines
  - Consequences of failure to correct



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## Final Written Warning

- Same as written warning with emphasis that it is final



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## Suspension

- 1-3 days is sufficient
- Unpaid only if specified in policy
- Discussion first - accompanied by written document
  - Specific dates of suspension and required return to work date
  - Emphasize final warning



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## Termination

- ❑ Never terminate on the spot
- ❑ Culminating incidents vs. single incidents
- ❑ Deliberate with legal counsel regarding termination with or without cause



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## QUESTIONS



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