

We are unhappy with one of our expatriate employee's performance and conduct at work. Can we terminate his employment? Assuming the employee works for a private sector employer in the UAE, there is an obligation in the Federal Labour Law for the employer to go through a disciplinary process before issuing any kind of sanction to an employee. In particular:

? An employee must be notified of an allegation within 30 days from its discovery and no disciplinary action shall be imposed more than 60 days from the end of the investigation into the allegation.

? No sanction should be taken against an employee in relation to a disciplinary matter unless he has been informed in writing of the alleged disciplinary offence and has had an opportunity to present his defence to the allegation.

Some employers have a more comprehensive procedure.

While not a requirement, enhanced procedures in favour of the employee can demonstrate the employer's commitment to treating its staff well and fairly. The Labour Law permits an employee who has had his employment terminated to make a claim for arbitrary dismissal, defined as a dismissal for a reason unconnected with the employee's work. If this employee has his employment terminated due to his conduct at work without the disciplinary procedure being followed, then not only will the employer have acted in breach of the Labour Law but this may prompt the employee to make an arbitrary dismissal claim.

This outline should not be used as a substitute for legal advice in any specific situation.

Courtesy Kerry Scott-Patel, Senior Legal Consultant, DLA Piper Middle East

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