

Tackling
The **HARD** issues
Labour Law



GEO
GUARDIAN EMPLOYERS ORGANISATION
Reg.No:LR2/6/3/316
Assisting Employers in Labour Law

NEWSLETTER

DRAFTING CHARGES CORRECTLY

Prior to holding a disciplinary hearing, an employer must notify an employee of the allegations or charges against him or her. Schedule 8 of the LRA requires that an employer should notify an employee in writing of the charges “using a form and language that the employee can understand.”

It often happens that chairpersons are faced with the difficult situation of having to proceed with a disciplinary hearing when it is clear that the charges that have been brought against the employee are incorrectly worded.

The most common mistakes that a chairperson encounters is that the charges may not have enough information, not have alternative charges or have a ‘criminal’ element to them.

An example of a charge with insufficient information would be:

- “Absenteeism”

This is not enough information and may result in the employee arguing that he did not have enough time to prepare as the charge was too vague.

It would be better to word the charge as follows:

- “Absenteesim – in that it is alleged that you have been absent from work without permission from x date to x date.”

Adding an alternative charge:

It may also be useful to consider that the employee may also have committed an additional offence that may be related to the main offence. For example, besides being absent, the employee may have failed to contact the company and explain his absence. This would allow for a second charge relating to procedure which, if worded correctly, should read as follows:

- “Failing to follow company procedure in that it is alleged that you failed to contact the company on the first day of your absence being x date”.

Avoid using charges with criminal elements or words:

For example, instead of charging a person simply with ‘Theft’, it is suggested that the following wording would be more appropriate in the sphere of employment law:

- “Unauthorised possession and/or removal of company property in that it is alleged that on the (date) at (time) you were found in possession of (x company property).

Other examples of correctly worded charges:

- Gross insubordination in that it is alleged that on the (date) and in front of other staff members, you acted in an insubordinate manner when you refused to do (add description of the instruction refused).

And/or

- Refusing to obey a reasonable and legitimate instruction in that on the (date) and in front of other staff members, you refused to do (add description of the instruction refused).

Please contact the GEO offices should you need assistance with the drafting of charges 0861 436 436

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Contact us:

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In this issue

- Drafting Charges Correctly

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Examples of Insufficient information

Giving not the right amount of information can be too vague.

Adding Alternative Charge

Additional Offences and how to add them.

Examples of Correct Word Charges

Examples for use.

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