

## Facing disciplinary action at work?

If your employer has concerns about your conduct or a complaint about your work, they may consider taking disciplinary action. There are a number of reasons why your employer may decide to take disciplinary action against you. These can include:

1. your conduct or behaviour at work (or, in some cases, even when not at work); or
2. your absence; or
3. your capability or standard of work; or
4. some other, substantial reason.

Your employer may have adopted specific procedures for dealing with 2 and 3 above (absence and capability) in which case those particular procedures should be used. If not, the disciplinary procedure will usually apply.

Your employer may at first try to sort out their concerns by talking to you informally which could resolve the matter - for example by giving a verbal, informal warning. Unfortunately there is usually no appeal against informal warnings. Employers may however decide to start their disciplinary procedure, which could lead to disciplinary action and, in some cases, a detrimental sanction such as demotion, loss of pay or even dismissal.

If your employer decides to take any disciplinary action against you, they should always follow their adopted disciplinary procedure. This is usually found in the staff handbook, staff intranet or included in or attached to your contract. All disciplinary procedures should comply with the Acas Code of Practice for Disciplinary and Grievance Procedures. This is the minimum standard expected and a failure to comply although



when considering whether a dismissal is unfair. Many employers' disciplinary procedures will be more favourable than the minimum recommended by the Acas Code of Practice.

## Initial Investigation

You may be interviewed as part of an investigation prior to convening a disciplinary hearing. Many employers will allow you to be accompanied by a trade union rep or work colleague at investigatory meetings, even though there is unfortunately no legal right at this stage. If you are not advised that you can be accompanied, you should ask the employer if you can be.

## The allegations

If the employer decides to move to a formal disciplinary hearing you should be advised exactly what the allegations are against you prior to the meeting. Your employer should inform you what the alleged incidents are, when they occurred, why those incidents are considered to be misconduct and provide you with copies of all evidence they intend considering at the hearing. This should be in writing and should contain sufficient information in advance of the hearing to enable you to prepare and respond to the allegations. The letter should also advise you of the potential outcome (e.g. dismissal) should any of the allegations be upheld.

## The right to be accompanied

The letter inviting you to the hearing should also advise you of your right to be accompanied, either by a fellow worker (i.e. someone who also works for your employer) or by a trade union representative. You are strongly advised not to attend unaccompanied. If you are having difficulty arranging representation or you or rep cannot attend cannot attend on the proposed date ask the employer to postpone the meeting to a later, mutually convenient date. The Acas Code of Practice recommends that if you propose an alternative that is within 5 days of the original date, the hearing should be held on that alternative date.

Unfortunately it is not always possible for the union to provide a representative at every disciplinary hearing – there may be no rep available in the area or on the date proposed (even if rearranged). If this is the case, you are strongly advised not to attend unaccompanied but to ask a trusted work colleague to attend with you. It is most important to have someone present during the meeting - not only as a companion to support you, but to take notes for you and act as a witness if required in the future. If you are accompanied by a work colleague, they should be entitled to reasonable time off with pay to attend - so long as they have given reasonable notice and sought permission from the employer.

Irrespective of whether they can provide you with a representative at the disciplinary your UNISON Branch should still be able to offer you some basic advice on what to say and expect at the hearing.

## **Obtain a copy of your employer's disciplinary procedure**

If your employer has not already provided you with a copy of their disciplinary procedure, then request one. Make sure both you and your companion have read it before the hearing. The employer should always follow their adopted procedures. If they do not, ask them why and if you think this has disadvantaged you at all tell them.

## **Prepare**

Attending a disciplinary meeting can be a very stressful and daunting experience and it is easy to forget to mention certain points or get sidetracked by the employer's agenda. You are therefore advised to prepare notes or a statement to take into the meeting with you. If you write a statement, make sure you have enough copies for everyone present. There is then a record of what representations you have made and a much reduced risk of them being ignored.

## **The disciplinary hearing**

You should always attend your disciplinary meeting unless you have a very good reason

not to. If you can't attend tell the employer as soon as possible and let them know why. Make sure you or your companion take your own, independent record of the meeting rather than relying solely on any employer's notes or minutes.

## **Disciplinary outcome and appeal**

You should be advised of the disciplinary outcome either at the end of the disciplinary hearing or by letter shortly afterwards. In either case you should receive the decision in writing. The employer's letter should confirm what was considered at the meeting, including a summary your representations, advise you of the decision taken and why, and confirm any formal sanction. The letter should also advise you of your right to appeal and to whom.

If you believe you have been unfairly dismissed you should appeal. Your appeal should be in writing and include your grounds (brief reasons why you disagree with your employer's decision). Arrangements should then be made for an appeal to be heard by a manager who has had no prior involvement in the case and is no less senior to the manager making the original decision.

Finally, if you believe you may have a legal claim against your employer you should contact your branch without delay to request they assist you to complete and submit a UNISON Caseform for Assistance to Regional Office. As there are strict legal deadlines (usually three months minus one day) to challenge disciplinary dismissals at the Employment Tribunal it is most important that you don't delay.

UNISON Caseforms can be downloaded from the UNISON South East website at:

**[www.unisonsoutheast.org.uk/how\\_to\\_get\\_help](http://www.unisonsoutheast.org.uk/how_to_get_help)**

