

GRIEVANCE & DISCIPLINARY HEARINGS

1. INTRODUCTION

Since the repeal of the Statutory Dispute Resolution Procedures in April 2009, grievance and disciplinary hearings are now regulated by an ACAS Code of Practice. The code however only provides guidance to employers and is not legally binding, a failure to follow it therefore will not automatically result in a penalty rather the Employment Tribunal may make an adjustment of +/- 25% for unreasonable failure to comply with it.

The code is the minimum procedure that should be followed however does not apply to redundancy dismissals or the non-renewal of fixed-term contracts.

Both sets of procedures should be in writing and be clear, fair and specific.

Ideally both disciplinary and grievance issues should be dealt with informally, only if this cannot be achieved should the following procedures be followed.

2. DISCIPLINARY PROCEDURES

a) *Investigation:*

In the majority of cases a simple collation of evidence will be all that is required however an employer may hold an investigatory hearing which should not, in itself, result in disciplinary action.

During this stage the employee should be given the opportunity to put forward an explanation. Furthermore reps should attempt to obtain indemnities for any third party who takes part on behalf of the member.

A failure to hold an investigation into the issue may result in any resulting dismissal being unfair.

b) *Informing the Employee*

If after consideration of the evidence it is decided that there is a disciplinary matter the employee should be informed in writing with sufficient information provided to enable them to prepare their case. Details of all evidence to be considered should be provided together with the date, time, venue of the hearing and any possible penalties.

c) *Disciplinary Hearing*

Both parties should provide advance notice if they intend to call witnesses. At the hearing both parties have the opportunity to present their case and evidence.

d) *Outcome*

The employee should be informed in writing of the outcome. If there is a case found against the employee, depending on the seriousness of the offence, it is normal for an initial warning to be given; a decision to dismiss should only be taken by a manager with the requisite authority whereby the employee is to be informed as soon as possible and informed of their right to appeal.

e) *Appeal*

An employee has the right to appeal and should submit written grounds of appeal. The hearing should be heard by a manager who has not previously been involved and the employee should be notified in writing of the outcome.

3. GRIEVANCE PROCEDURES

a) *Informing Employer*

There is no specified format, the employee only need set out their grievance in writing and submit it to a manager who is not the subject of it.

b) *Grievance Meeting*

The hearing should be within 5 working days of the grievance being received, however this is not an obligation.

If any investigation is required the hearing should be adjourned.

c) *Outcome*

The employee should be informed in writing without unreasonable delay of the outcome of the hearing, and be informed of their right to appeal.

d) *Appeal*

The employee should inform the employer in writing of his/her grounds of appeal without unreasonable delay. The hearing should be heard by a manager not previously involved.

4. RIGHT TO BE ACCOMPANIED

Employees have the right to be accompanied to both disciplinary and grievance procedures, the right does not however apply to investigation meetings or informal discussions.

a) *Who may be a companion?*

A companion may be either:

- a trade union official;
- a trade union representative
- a colleague of the employee

There is no requirement for the union to be recognised and also no legal obligation for an individual to act as a companion if they do not wish to.

b) *Reasonable request:*

For the right to be engaged the employee must make a reasonable request. The request need not be in writing and it is enough for the employee to inform the employer of the identity of their companion.

c) *Role of Companion*

During the hearing the companion can:

- put the employee's case;
- confer with the employee;
- rephrase the employer's questions in order for the employee to understand;
- respond to any view expressed at the hearing on behalf of the employee.

The companion cannot however answer questions directly asked of the employee, or address the hearing if to do so would go against the employee's wishes.

c) *Reschedule of hearing*

If the companion cannot attend the scheduled hearing the employer should reschedule it for another time proposed by the employee. The employee should propose an alternative date within 5 days of the initial proposed hearing.

d) *Paid Time Off*

If the companion is a colleague of the employee (including a union rep who is a colleague) they are entitled to paid time off to attend the hearing.

Employers are also encouraged to allow time off for the companion to familiarise themselves with the case.

e) *Refusal*

Where the right to be accompanied is refused the employee can take the matter to the Employment Tribunal provided it is brought within 3 months of the date of refusal.

A successful action will entitle the employee to an award of compensation up to a maximum of two weeks pay with the upper limit currently standing at £350.

5. SUSPENSION OF DISCIPLINARY

If an employee raises a grievance during a disciplinary process, the disciplinary can be suspended until resolution of the grievance. If however the two are related it may be more appropriate to deal with the issues concurrently.

6. EMPLOYMENT TRIBUNAL PROCEEDINGS

If an employee feels they have been unfairly dismissed as a result of a grievance or disciplinary procedure they have three months less one day from the date of the dismissal to lodge proceedings.

7. FURTHER INFORMATION

Further information can be found at: www.acas.org.uk.

If you are to be subjected to an investigation or disciplinary hearing, or if you wish to take a grievance, you should in the first instance contact your Mother or Father of Chapel. If there is no MoC or FoC then you should contact your NUJ Official.

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