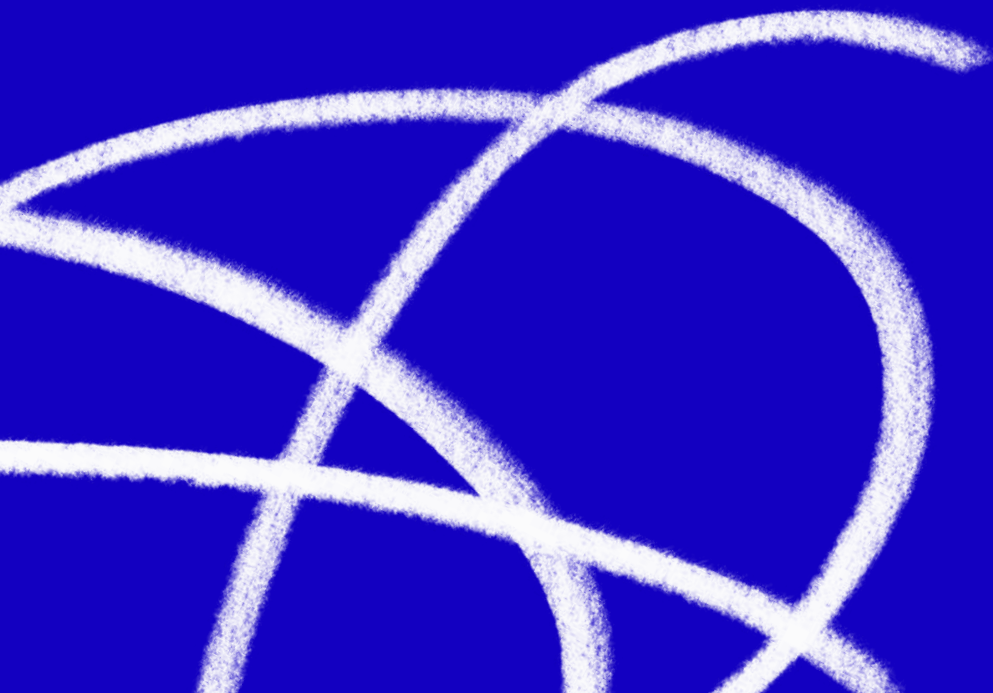




# Disciplinary processes



# Supporting employees' mental health during disciplinary processes

## Points to consider

### 1. Communication

- Stay in touch with the employee throughout the process. Make sure they understand the process by giving them the relevant policy and taking them through the main points step by step.
- Ensure that throughout the process the employee has a point of contact (usually HR) who can explain processes and answer questions.
- Think about the language you use when talking / writing to an employee. There should be no presumption of guilt before the investigation has concluded, and this should be reflected in your language and treatment of the employee.

### 2. Consider the employee as an individual

- While you will be required to follow a standard policy, try to do so in a way which considers the individual's needs.
- Keep an open mind about the individual while the investigation is ongoing. Be aware that an accusation may be seen by the employee as an attack on their integrity which is likely to have a detrimental effect on their mental health whether the accusation is true or not.

### **3. Think about your wellbeing**

- Being involved in a disciplinary process can be stressful for everyone, so take the time to care for yourself.

### **4. Familiarise yourself with policies**

- Do you understand the relevant HR policies? Make sure you read them thoroughly before you begin the process.
- When does your policy state that suspension is necessary? Are other options including working from home or a temporary change of duty more appropriate?
- Ensure everyone has easy access to policies – this may mean giving out printed or emailed copies to staff who do not have access to the company's equipment or intranet.

**At the end of this document there are links to ACAS guidance and the ACAS Code of Practice which sets out minimum standards for disciplinary and grievance procedures.**



## 5. Support for the employee

- The ACAS step-by-step guide to disciplinary procedures recommends that the employee can be supported at a disciplinary hearing by:
  - someone they work with
  - a workplace trade union representative who is certified by their union to act as a companion
  - a trade union official
- It would be good practice to allow someone else to accompany the employee, for example a Mental Health Support Worker or Employment Support Worker.
- Ensure the employee has support during and after the initial meeting when they are informed that they will be going through a disciplinary process.
- If your company has Trade Union links, it is helpful to let them know them that you plan to inform an employee they are being suspended / under investigation, to allow the union time to find a suitable staff member to be available offer support to the employee immediately after they receive the news.



# **Informing the employee that they will be subject to a disciplinary process / suspension**

## **1. Timing and venue**

- Make sure you are holding your meeting at a time which allows the employee to contact you or others later that day if they have questions or need support. For this reason, it is best to hold meetings in the morning. It would not be good practice to hold meetings on Friday afternoons.
- Try to find a space where the meeting can be held discreetly, where the employee can leave quietly afterwards if they choose, or arrange to hold the meeting online if the person would prefer this.
- Check if the person has someone at home or someone who they can contact for support if they are meeting you online.

## **2. Clarity**

- Ensure the employee understands the reason for the disciplinary procedure and make it clear that it will be kept strictly confidential.
- Take the employee through the process step by step and explain what will happen next, and when. Make sure they have a copy of the relevant procedure for reference and include the timeframes involved, if possible, to reduce anxiety and help them to understand when they are likely to hear about the next stage.
- Make sure the employee understands that there will be an investigation and that there is no presumption of guilt at this point. A flow chart or infographic of the process could be helpful.

- Reassure them that they will be dealt with fairly and if multiple people are involved, that all parties will be treated in the same manner.
- It is helpful to clarify when an employee may / may not speak to colleagues, for example “you may not discuss the investigation, but you can say hello if you meet at the supermarket.” Consider the individual circumstances of the case as far as your policy allows, and whether it is necessary to ask the employee not to contact co-workers to ensure a fair investigation, or whether some support from co-workers may be permitted.
- They may want to ask a colleague to accompany them to meetings for support, so you should let them know whether they can do this directly or if they need to go via HR. Give them the contact details for HR.
- The employee should be given a letter informing them of their suspension in writing during the meeting (or by email afterwards), and the manager should ensure the employee has read and understood it. The letter should include the reason for the suspension, what the next step will be and who their point of contact is.

### **3. Give the employee the opportunity to express their feelings**

- Listen to the employee’s point of view and give them time to express themselves.
- Ask if there is anything they need or if there is anyone who they would like you to contact if you are concerned about their mental health.

## **4. Planning for next steps**

- Arrange the next contact you will have with them. This could be at the next meeting or a phone call to check in – it is also helpful to explain what a ‘check-in’ will entail, and that this will not have any bearing on the investigation and is just part of your duty of care to the employee.
- Make sure the employee understands what will happen, for example, “the investigation will begin now, and we will update you on X date.” This should be stated in writing. If the investigation is resolved sooner, or is likely to take longer, you should notify them of the change in date as soon as possible.
- Plan check-in times. Discuss how the employee would like to be supported and whether they would prefer regular check-ins and how that will be done; by phone, email, in person, Teams meetings or to not be contacted unless there is news.

## **5. Help the employee to think about the support they will need after the meeting**

- If the employee has been suspended, where are they going to go after the meeting? Will there be someone at home? Do they live alone? Is there someone outside of work who they can call for support?
- Offer support to the employee to make a phone call to a friend or family member etc who can support them – do not assume they will be able to do this without support.
- If your company is affiliated to a Trade Union, encourage the employee to contact their union rep to talk through options. Depending on local arrangements, some unions may be able to give limited advice to non-members.

- Remind the employee about your company's EAP programme, their GP and local mental health support available such as NHS Talking Therapies and Local Minds and offer support to help them get in touch. Do not simply give them a leaflet or hyperlink.

## **6. During the disciplinary process**

- Check on the employee's mental health when you meet with them. Reassure them that you care and want to make sure that they are happy to proceed with the meeting.
- Do your best not to cancel meetings and give notice and an explanation if a meeting must be cancelled.
- If the employee requests a postponement of the meeting due to ill health or support not being available on the day, allow a postponement within a timescale of five working days.
- A specific HR representative should be assigned to the case who can attend subsequent meetings and be a point of contact for the employee and be a neutral party.
- Provide a brief agenda for the meeting in advance, so that the person knows what to expect and can feel prepared.
- Offer to take breaks during the meeting and reassure them that they can stop the meeting at any time if they feel overwhelmed and need to pause.
- Updates should make it clear which point in the disciplinary process you have reached.
- The employee should be kept updated on the investigation. For example, "we've spoken to witnesses, we are currently collating evidence, it will take another week."
- Make sure the investigation is concluded in a timely fashion to reduce anxiety and minimise worry for the person.



# **The Disciplinary Hearing**

## **1. Letter to be sent before the hearing**

- The ACAS step-by-step guidance on the disciplinary process states that, before the meeting, a letter should be sent to the employee stating clearly what the alleged issue is, sharing evidence from the investigation, informing the employee of any other information they plan to talk about and the date, time and location of the hearing and the possible outcome. Inform the employee of their right to be accompanied.

## **2. During and after the hearing**

- The same consideration should be given to timing, venue and support for the employee and clarity about the process and what happens next as detailed above.
- The employee should be given the chance to express their feelings at the end of the hearing.
- Consideration should be given to how the employee can be supported after the hearing, whether this is by the person who accompanied them or someone else, possibly a friend, family member etc. It may be appropriate to offer to support the employee to contact a suitable person.

## **3. What to do if the employee cannot attend the hearing due to sickness**

- ACAS guidelines state that if the employee is off sick for the disciplinary hearing disciplinary processes should be paused until they return to work.

- If the employee still says they cannot attend or is on extended sick leave, ACAS advises:
  - Considering other locations to meet if visiting the workplace would have an adverse effect on the employee’s mental health.
  - If the employee still refuses or cannot meet ACAS advises the employer to come to a “reasonable decision” based on internal rules, how similar cases have been dealt with in the past, the seriousness of the issue, the employee’s past record and length of service, and getting a medical opinion with the employee’s permission.
- For more information, please see the ACAS guidelines on disciplinary procedures: [www.acas.org.uk/disciplinary-procedure-step-by-step/step-4-the-disciplinary-hearing](http://www.acas.org.uk/disciplinary-procedure-step-by-step/step-4-the-disciplinary-hearing)

## **ACAS Guidance**

### **Guidance on disciplinary procedures:**

The ACAS Code of Practice on disciplinary and grievance procedures sets out the minimum standards which should be followed: [www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures/html](http://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures/html)

### **Guidance on supporting an employee’s mental health during a suspension:**

[www.acas.org.uk/suspension-during-an-investigation/supporting-an-employees-mental-health](http://www.acas.org.uk/suspension-during-an-investigation/supporting-an-employees-mental-health)

### **Step by step guidance on disciplinary procedures:**

[www.acas.org.uk/disciplinary-procedure-step-by-step](http://www.acas.org.uk/disciplinary-procedure-step-by-step)