

## **FACTSHEET: MANAGING A DISCIPLINARY HEARING**

*Before embarking on a disciplinary hearing, a thorough investigation into the alleged misconduct should have taken place. See our Factsheet: Managing an Investigation.*

1. The disciplining officer is appointed. Where possible, they must be someone who has had no involvement in the investigation to date. The investigating officer hands over to them their report of the investigation and their recommendations for disciplinary action.
2. A letter is sent to the employee to invite them to the hearing. This letter will:
  - Provide the employee with full details of the allegations made
  - Provide copies of relevant statements and evidence including all documentation
  - Advise the date, time and place of meeting
  - Advise statutory right of to be accompanied – colleague or trade union representative
  - Give a minimum 2-5 days' notice of the meeting dependant on complexities to allow the employee chance to prepare
  - Say who else will be present at the hearing
  - State possible outcomes if disciplinary action is taken
  - State how the employee should contact the disciplinary manager to confirm attendance and whether or not they will be bringing a companion with them
3. The disciplinary officer should prepare questions in advance of the hearing and ensure that they have a complete pack of all the notes and letters related to the investigation. They should also review the file of the employee to see if there are any live cautions on file for similar types of incidents.
4. At the hearing itself, the disciplinary officer should welcome and introduce all parties and outline their roles within the meeting. If the employee does not have a companion with them, the disciplinary officer should ask them if they are happy to proceed without and this should be documented within the minutes.

5. The disciplinary officer should then:
  - Read the allegations out exactly as it appears on the letter of invitation to the hearing and explain that they are here to discuss the allegation; listen to the employee's response and decide what, if any action under the Company's Disciplinary Policy is appropriate.
  - Ask the employee if there are any accounts/statements included in the invitation pack that they disagree with. If there are, ask why they disagree.
  - Ask the employee to recall in their own words what happened
  - Explain the seriousness of their alleged behaviour (safety, legal, etc.) and ask if they understand.
  - If there is a history of similar behaviour, ask why there has been a repeat/failure to maintain expected behaviour.
  - Ask the employee if they have any mitigating circumstances for their alleged behaviour that they would like taken into consideration.
  - Ask if the employee has any final comments before the disciplinary officer adjourns to make their decision.
  - Explain that the meeting will adjourn in order for the disciplinary officer to make their decision.
  - Advise how the decision will be communicated i.e. meeting resumed or decision sent in writing and a timescale
  
6. The hearing must be conducted in good faith, having regard to the principles of natural justice i.e. the outcome must not be prejudged or biased.
  
7. Bear in mind that employers do not have to establish guilt in the same way as a criminal court does and the employer need only to believe 'on the balance of probabilities'.
  
8. Where there is no action to be taken this will be explained to the employee and this followed up in writing. Where there is a disciplinary sanction to be given, the disciplinary officer should decide upon appropriate sanction. Sanctions include a Written Warning (normally 6 to 12 months' validity), a Final Written Warning (normally 12 months' validity) or dismissal (with or without notice depending if gross misconduct or not). Demotion may also be considered. This will be confirmed in writing.
  
9. Finally, the employee must be advised of their right of appeal against the decision and how and to whom that must be done.