



'HOW TO' GUIDE

Disciplinary Investigations

An employer should not take disciplinary action against an employee until they have made every effort to establish the facts by conducting a thorough and fair investigation into the alleged misconduct.

Here are the key steps employers should follow to ensure that their disciplinary investigations are conducted in an effective, reasonable and fair manner.

As a minimum, always follow the ACAS Code of Practice, as well as any other additional provisions set out in your organisation's own disciplinary procedures.

As soon as it is decided an investigation is necessary, you should inform the employee concerned and conduct the necessary investigations without unreasonable delay.

Appoint an investigating officer, making sure that they are not connected in any way to the facts giving rise to the disciplinary charge. Ideally the investigation should also be carried out by someone other than the person conducting the disciplinary hearing itself (normally, the investigator is a less senior member of staff).

Consider whether any short-term arrangements need to be put in place whilst the investigation is being carried out. For example, if an employee is being investigated because they are accused of bullying someone else in their team, you may need to see whether work schedules can be rearranged temporarily, so that they do not work together.

Suspension may be appropriate in some instances, for example, where an employer feels there is a real risk that their employee might tamper with evidence, or influence witnesses. It must only be used as a last resort and should not be unnecessarily drawn out. Employees must also be advised that suspension is not an assumption of guilt but a temporary measure whilst the matter is being investigated.

Requests for anonymity and confidentiality from any of the parties involved in the investigation should be taken seriously and honored as far as possible.

The investigating officer should do their best to be fair and objective and to collect as much information as is reasonable; the aim being to gain a balanced view, supported by evidence from both sides, rather than to prove guilt.

Where necessary, investigatory meetings should be held with all concerned, including any witnesses, to obtain their account of the incident or events. Be aware that, the employee accused of misconduct has a right to be accompanied at an investigatory meeting.

Arrange for notes to be taken of any such investigatory meetings by someone not involved in the process and ensure that full records of all proceedings are kept. The note-taker, will also act as an independent witness.

Collect any other data that may be relevant e.g. CCTV footage, attendance reports etc.

Once all the evidence has been collated, prepare a set of witness statements and other relevant documents to be submitted to the disciplinary hearing and to the employee in question in advance of the hearing.