



# Disciplinary Hearing Advice

An article that offers advice for disciplinary hearings written by Kuldeep S. Clair of Nationwide Employment lawyers, a professional at law.



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## Facing a disciplinary hearing at work?

Facing a disciplinary hearing at work can be a traumatic and painful experience. Not being aware of your rights, entitlements, the procedure, and what could happen at the end of it, can only make it more stressful.

Receiving detailed advice from a lawyer about your particular circumstances can make all the difference in the way that you present yourself and the evidence in your favour at a disciplinary hearing.

We can provide guidance before the hearing, or if your employer allows it, we can attend the hearing with you to provide you with support. However, there is no automatic legal right to have a lawyer in attendance with you at an internal hearing, and so if your employer wants to be difficult on this point, it usually can.

## So what must the employer do?

The employer must follow the ACAS Code of Practice on disciplinary procedures. A failure to do so could result in a tribunal awarding an uplift in any award by 25%, for unfair dismissal later.

The ACAS guidelines set a minimum standard, and it may be that the procedure in your contract or HR handbook actually puts the requirements at a higher level.

You have the right to be accompanied by a trade union representative or work colleague.

You have the right to an internal appeal under the ACAS code. However, it is always important to also bear in mind the time limit for bringing a claim in the employment tribunal (well within three months from the date of the original dismissal). If you miss that date, you will have lost the possibility of bringing a claim.

The hearing should be a cordial interactive process involving both sides listening to each other and making their cases as well as responding to the opposing case. You should be given the evidence against you in written form in advance, so that you know the case that you have to answer.

You should be allowed to call witnesses, present evidence, and ask questions about the opposing evidence. (This is where our lawyers' skills may come in particularly useful.) You must answer questions put to you yourself, but you can confer privately with your representative.

After the hearing, the employer should adjourn and decide what, if any, penalty to impose.

This could be anything from a verbal warning, written warning, demotion, loss of seniority, suspension without pay for a fixed period, or dismissal (with or without notice, depending on the seriousness of the allegation). You should be informed of the decision in writing.

If a sanction is being imposed, you should be offered the possibility of an appeal, which should be heard by a different manager, who has not been involved in the case to date. This should be dealt with in a similar way, so that the procedure is transparent and fair.

If you have any doubts about your procedure, or would like us to represent you and put your case at the disciplinary hearing, please contact us for a direct chat. We often find that clients who seek advice at an early stage benefit from our representation greatly and we can avoid a dismissal occurring at the outset. Obviously this can be even more cost-effective than representation in a tribunal claim.