



DISCIPLINARY AND GRIEVANCE ARRANGEMENTS

Reviewed September 2022

1. Many disciplinary and grievance matters can be resolved informally, just by having a quiet word with the employee. But formal policies can help councils deal with employment disputes fairly, consistently and in accordance with equality legislation.
2. Council policies should comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures and Discipline and Grievances at Work – the ACAS Guide (see www.acas.org.uk) In March 2015, ACAS published a revised code of practice that contained minor amendments related to disciplinary and grievance meetings.

Committees and sub-committees

3. Disciplinary and grievance arrangements may be established by full council or by a staffing committee. The authority to decide a disciplinary matter, a grievance or an appeal can be delegated to a sub-committee. This should be confirmed in its terms of reference. Councillors with direct involvement in a disciplinary or grievance matter should not be appointed to a sub-committee or an appeal panel. And an appeal panel should not contain any member who made the original decision.
4. A sub-committee should have three members. This is because:
 - one councillor cannot make a decision on behalf of the council
 - a two-member sub-committee would always allow the Chairman to secure his/her desired outcome by exercising the casting vote in the event of a tie
 - more than three members will probably be unwieldy. It may also make it more difficult to find sub-committee members with no direct involvement and it will reduce the pool of potential appeal panel members.

Meetings

5. Meetings should be arranged as soon as possible but the employee should be given reasonable time to prepare. Proceedings should be minuted. If possible, the minute taker should be an employee
6. The employee and companion (if there is one) must make all reasonable efforts to attend. Employees have a statutory right to be accompanied by a workplace colleague, a trade union representative or a trade union official to a grievance, disciplinary or appeal meeting. The ACAS Code of Practice now clarifies that an employee's request to be accompanied must be reasonable.
7. If the employee's companion is not available on the proposed date, the employee can request a postponement and can propose an alternative date within five working days of the original meeting. If the employee does not attend the disciplinary meeting, he/

she should be given the opportunity to be represented and to make written submissions.

Decisions

8. Employees should be informed, promptly and in writing, of the council's decision. If possible, the decision should be handed to the employee. Disciplinary and grievance decisions should notify the employee of the right to appeal.

The Disciplinary Investigation

In cases of misconduct, an investigation of the facts should be carried out as soon as possible. Other than for allegations of minor misconduct, an investigator should be appointed by the council's staffing committee. The Investigator's role is to submit a report with recommendations to the staffing committee which decides whether further action should be taken. He/she must be independent, fair and objective, and should normally be a councillor. If there are no independent councillors (for example, because they all have direct involvement in the matter), the staffing committee should appoint someone from outside the council. ACAS recommends that anyone appointed as an investigator should, where possible, have had appropriate training.

9. An employee does not have a statutory right to be accompanied to an investigatory meeting. However, the disciplinary procedure permits employees to be accompanied to an investigatory meeting.
10. In cases of poor performance, it may not be necessary to have an investigation. For further information see ACAS booklet "Conducting Workplace Investigations" - <http://www.acas.org.uk/media/pdf/o/5/Conducting-workplace-investigations.pdf>

Mediation

11. Mediation may be appropriate at any stage of the disciplinary or grievance procedure (for example where there have been communication breakdowns or allegations of bullying and harassment). Mediation is a confidential dispute resolution process that requires a council's and the employee's consent. The mediator is an independent person who helps individuals or groups try to find a solution. Mediators do not make judgments or determine outcomes - they ask questions that help to uncover underlying problems, assist the parties to understand the issues and clarify the options for resolving their difference or dispute. See www.acas.org.uk

Data protection

12. Information about disciplinary or grievance matters should be restricted to those involved in the disciplinary process. Any disciplinary action or grievance outcome should remain confidential. The employee's disciplinary and grievance records will be held by the Council in accordance with the General Data Protection Regulation (GDPR) which became law on 25th May 2018 and will, like the Data Protection Act 1998 before them, seek to strike a balance between the rights of individuals and the sometimes, competing interests of those such as the Council with legitimate reasons for using personal information.

LTN	Title	Relevance
38	Data Protection	Explains how personal data should be held
69	ASBO's & Harassment	The Protection from harassment Act 1997
78	Equality Act 2010	Explains the statutory protection from alleged discrimination (against age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) Explains the statutory duties imposed on councils which are aimed at preventing discrimination and promoting equality in recruitment and in the workplace.
79	Staff Pensions	Confirms pension arrangements that apply to local councils
80	Members' conduct and the registration and disclosure of their interests (England)	Explains members' obligations under the Localism Act 2011