

I have to attend a disciplinary hearing

EMPLOYERS SHOULD SEEK to handle cases of minor misconduct or unsatisfactory performance informally. A quiet word is often all that is required to improve conduct or performance.

However, should your employer become further dissatisfied with your conduct or performance, they may seek to invoke their disciplinary procedure against you. A copy of this procedure should be readily available to all employees.

If you receive a letter that states you are to attend a disciplinary hearing, you will need UNISON assistance.

Procedures differ from employer to employer but there are legal rules all employers must follow. These include giving you the right to be accompanied at a disciplinary hearing by a trade union representative.

What is a disciplinary hearing?

- Your employer will have a set of rules and performance standards. These are likely to cover such matters as:
 - Timekeeping
 - Absence
 - Health and safety
 - Discrimination, bullying and harassment
 - Personal appearance
 - The types of conduct that might be considered as 'gross misconduct'
- Employers will also set standards of performance so that employees know what is expected of them. This is usually done as part of an organisation's performance

Important

If you require UNISON representation at a disciplinary hearing, you must have been a member at the time of the incident or when that stage of any sickness or capability procedure was invoked; you cannot join just to get representation.

Our advice is to join UNISON now so you are always covered in these rare individual circumstances but, more importantly, because increased membership density helps us put into practice procedures through collective representation that can prevent some disciplinary issues occurring.

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management which will involve agreeing objectives and reviewing performance on a regular basis.

- These rules or standards should be easily accessible to all employees. They may be in the company handbook or on the Intranet or you may have been given a personal copy when you started work there.
- Disciplinary hearings are likely to follow a perceived breaking of acceptable standards of behaviour or performance by an employee. It is also likely that the individual employee will be aware of the potential for a disciplinary hearing because they have been involved at the investigation stage. See our guide [I have to attend an investigation meeting](#).

How should I be informed of a disciplinary hearing?

- You must be informed in writing and the letter should include the date, time and place of the meeting. It should also detail your right to be accompanied, and what the hearing could result in, ie a formal warning or dismissal etc. You should be informed of the allegations against you, together with the supporting evidence, in advance of the meeting.

Does there have to have been an investigation/investigation meeting first?

- Although employers are strongly advised to carry out fact-finding before they move to a disciplinary hearing, they can move straight to the latter, providing their own policies don't prohibit it.

Can the investigating officer also chair the disciplinary hearing?

- Under normal circumstances, this is not acceptable but it can be allowed in very small organisations with only one or two managers or supervisors. Your UNISON rep can advise in such situations.

Have I the right to be accompanied?

- Workers have a statutory right to be accompanied by a companion where the disciplinary meeting could result in:
 - a formal warning being issued; or
 - the taking of some other disciplinary action; or
 - the confirmation of a warning or some other disciplinary action.
- The statutory right is to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. Employers must agree to a worker's request to be accompanied by any companion from one of these categories.
- The companion should be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the

meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf.

- The employer should allow a companion to have a say about the date and time of a hearing. If the companion cannot attend on a proposed date, the worker can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date. Your UNISON representative or the UNISON branch office support staff may ask you to do this yourself. However, **please don't offer alternative dates without knowing your representative's availability.**

How does a disciplinary hearing progress?

- Each organisation has their own procedures. Therefore, it is impossible to give a definitive answer. However, consideration must be given to the report of any investigation conducted prior to the disciplinary hearing (see our guide [I have to attend an investigation meeting](#)), any answers you give to questions asked by the chair of the panel (or 'disciplining manager') and the case presented by you or on your behalf by the UNISON representative. Some organisations run very formal hearings, others much more informal. Whichever, a good thought to go in with is "nothing that needs saying should be left unsaid."

What happens after the hearing?

- Once again, organisations differ. Some will adjourn the meeting to make a decision on the day, others may want more time and promise a decision within a specified number of days. If your UNISON representative has suggested that further investigation is needed on one or two points, then they will probably suggest a decision is delayed. Whenever a decision is known, it must be put in writing, together with the reasons. You will be given a right of appeal and a time limit under which to lodge it (normally five working days).

General tips

- **It is essential you inform UNISON you have been invited to a disciplinary hearing if you are seeking representation.** Please remember that **to qualify for representation, you must have been a member at the time of the incident or when that stage of any sickness or capability procedure was invoked**; you cannot join just to get representation. You can report this by calling the branch office on 01629 582266 or completing the contact form on our website derbyshireunison.com
- If you have a personal email address, ask your employer to email you any official documentation regarding the hearing. You may not have access to a photocopier (if you are suspended) and this is the easiest way of getting any necessary details to your UNISON rep.