

## Step 4 The hearing

Where the investigation shows the employee has a case to answer, the employer should ask them to a disciplinary 'hearing'. This is a meeting where the employer hears all the evidence before making a decision.

### Preparing for the hearing

The hearing should be held as soon as possible after the investigation, while giving reasonable time for the employee to prepare.

In good time before the hearing, the employer should put in writing to the employee:

- the alleged misconduct or performance issue
- any evidence from the investigation
- any other information they plan to talk about
- the date, time and location of the hearing
- information on the employee's right to be accompanied to the hearing
- the possible outcomes

Employers can use our [letter templates for giving an employee notice of a disciplinary hearing](#).

The employee can also bring evidence to the hearing, for example emails, to show and talk about.

### The right to be accompanied

By law, an employee or worker has 'the right to be accompanied' at a disciplinary hearing. This means they can bring a 'companion' with them.

#### Who the employee or worker can bring with them

The employee or worker must choose their companion from one of the following:

- someone they work with
- a workplace trade union representative who's certified by their union to act as a companion
- an official employed by a trade union

Employers might allow companions who do not fall within the above categories. For example, a partner or legal representative.

Under discrimination law, employers must make [reasonable adjustments](#) for disabled employees. This might mean allowing someone else to be their companion. For example, a support worker or someone with knowledge of the disability and its effects.

#### Requesting a companion

If the employee wants to bring a companion, they must make a 'reasonable request' to their employer.

To make a reasonable request, the employee should:

- tell their employer the name of the companion and whether they're someone they work with or a trade union representative
- give their employer enough notice, so they can make arrangements for the companion to attend the meeting

The companion should also be given enough time to prepare for the meeting, for example to look at any evidence.

## What happens in a disciplinary hearing

The hearing is the chance for both the employer and employee to state their case. Everyone, including the employee's companion, should make every effort to attend.

The employer should:

- explain the employee's alleged misconduct or performance issue
- go through the evidence
- make sure someone takes notes

The employee should be given the chance to:

- set out their case
- answer any allegations
- ask questions
- show evidence
- call relevant witnesses – giving them good notice
- respond to any information given by witnesses
- choose if their companion can speak for them at the hearing

The employee's companion must be allowed to:

- set out the employee's case
- respond for the employee to any comments or points made at the meeting
- talk with the employee during the hearing
- take notes
- sum up the employee's case at the end of the hearing

The employer might agree to allow the companion to answer questions on behalf of the employee. But this is not a legal requirement.

You can find more detailed advice on holding disciplinary hearings in the [Acas guide to discipline and grievances at work](#).

## At the end of the hearing

The employer should take some time after the hearing to consider the case carefully before making a decision.

The employer should:

- tell the employee what happens next and give a timeframe
- take a written confidential record of the hearing

## If the employee is absent or off sick

If the employee is absent or off sick for the disciplinary hearing, the employer should contact them and rearrange it.

The employer should also check if it would help to make other arrangements. For example, holding the hearing somewhere else if the employee is worried about coming to the workplace.

In some circumstances, an employee might still be too sick or not willing or able to attend. The employer will need to decide whether to carry on without them.

The employer could look at:

- any rules their organisation has for not attending disciplinary hearings
- how their organisation dealt with similar cases in the past
- the seriousness of the disciplinary issue
- the employee's disciplinary record, general work record, work experience, position and length of service
- getting a medical opinion on whether the employee is fit to attend the hearing (with the employee's permission)

The employer might decide they need to carry on with the hearing without the employee. If they do, they should tell the employee and give them the chance to submit a written statement.

They should consider all the evidence and tell the employee of their decision in writing. They should also tell them of their right of appeal.

[Find out more about managing sickness absence](#)

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