

Burton Latimer Town Council

The Harold Mason Centre
120 High St, Burton Latimer NN15 5RH
townclerk@burtonlatimertown.gov.uk



DISCIPLINARY AND CAPABILITY

PROCEDURES

1. GENERAL

If an employer feels they need to start a disciplinary procedure, they must tell the employee straight away.

They should put this in writing, for example in a letter or an email. This should include:

- information about the alleged misconduct or poor performance
- possible consequences, for example a written warning

The employee should have this information in time to prepare for a disciplinary 'hearing'. This is a meeting where the employer considers all the evidence before making a decision.

The employer must make sure they follow a full and fair procedure throughout.

This is for the protection of the employee, the employer and their organisation.

The importance of following a fair procedure

The [Acas Code of Practice on disciplinary and grievance procedures](#) is the minimum an organisation should follow.

You might have your own code or policy with some differences that better suits your organisation.

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Although the Acas Code is not the law, if a disciplinary case reaches an employment tribunal, judges will take into consideration whether the employer has followed the Acas Code in a fair way.

The Acas Code mainly applies to those legally classed as an employee. But to keep good working relationships, employers should follow the same fair procedure for all workers.

If anything similar has happened before

Employers should check whether their organisation has dealt with a similar situation before.

To ensure fair treatment, employers must follow the procedure and policy in the same way for each disciplinary case.

They should gather evidence and make a decision based on what they know about each case.

Keep talking

It's important throughout the procedure for the employer to keep talking with both the employee being disciplined and any other staff affected.

Clear, regular and confidential communication can help avoid:

- misunderstandings
- a drop in work morale
- stress or other mental health problems

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- further action, for example the employee raising a grievance
- legal action in the future

The employer should keep all personal information confidential.

Looking after employees' wellbeing and mental health

Going through a disciplinary procedure can be very stressful. It's important that employers consider the wellbeing and mental health of their employees.

Looking after the employee's wellbeing and offering support can help prevent:

- absence
- mental health problems
- existing mental health problems getting worse

If the employee raises a grievance

If the employee raises a grievance during the disciplinary procedure, the employer can pause the disciplinary and deal with the grievance first.

It might be appropriate to deal with both at the same time if the grievance and disciplinary cases are related.

[Find out more about dealing with grievances at work](#)

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If the employee wants to resign

The employee might want to resign or feel they have to leave when facing a disciplinary.

This could lead to the employee later claiming [constructive dismissal](#) at an employment tribunal. They can only do this if they have worked for the organisation for 2 years or more.

The employer should try and talk through any concerns with the employee. They should give them the chance to change their decision to resign.

2. INVESTIGATION

The employer may wish to investigate the employee's alleged misconduct or poor performance and this investigation will be undertaken by the Town Clerk or three members of the HR Committee, ensuring that those investigating are impartial.

The investigations will be completed speedily.

3 SUSPENSION

It may be necessary to suspend the employee whilst the investigation takes place. Suspension does not mean that the employee has done something wrong and the wellbeing and mental health of the employee will be considered, with suspension only being considered if it is absolutely necessary. Support for the employee whilst suspended will be offered and the period of suspension will be as short as possible.

4. THE HEARING

Where the investigation shows the employee has a case to answer, he/she will be asked to a disciplinary meeting or 'hearing'. This is a meeting where the employer hears all the evidence before making a decision.

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

The Panel at the Hearing shall consist of three members of the Council who are not members of the HR Committee, who are impartial and who have had no involvement in the preparation of the disciplinary case. Alternatively, the Panel may comprise an independent qualified HR Advisor.

In good time before the hearing, the employer will 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

The employee is entitled to be accompanied at the Hearing by a workplace colleague or a Trade Union representative

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

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- 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 should 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.

Following the Hearing the employer will take some time after the hearing to consider the case carefully before making a decision.

The employer will:

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

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5. THE APPEAL

The employee may wish to appeal the outcome of a Disciplinary Hearing, in which case it will be necessary to notify the Council of that intention within 5 working days of the notice of the decision of the Disciplinary Panel being issued.

The employee will need to supply detail of the reasons for the appeal and an Appeal Hearing will be arranged as soon as possible.

The Panel for the Appeal will comprise three members of the Council who have not been involved in the process and were not members of the Disciplinary Panel, or an independent qualified HR professional.

The decision of the Appeal Panel following the Hearing will be notified as soon as possible and represents the conclusion of the internal process.