

# Suspensions

## Advice for Activist

If there are no provisions for representation at the suspension stage of the Disciplinary Procedure, advise the member to ask whether they can have representation at the meeting.

*(This is the best method of campaigning to modify your employer's procedures.)*

1. Advise members not to answer any questions at this stage and to listen to what the employer is saying.
2. Advise the member to hand over all "Company property" to the manager (swipe card, keys, laptop etc) and leave the premises.
3. Advise members not to communicate directly or indirectly with any fellow colleagues within the organisation even outside of works' time.
4. Instruct members to telephone the UNISON Branch as soon as possible to arrange an appointment. Arrange a meeting to take a statement off the member during the period of their suspension and before the investigatory interview.
5. Get the member to complete a **case form (sections 1 to 6 will suffice at this stage)** before the meeting.
6. At the meeting ask the member about the alleged charges and for names of witnesses. Ask the member if there is any documentation at their workplace which is of relevance to the case. Arrange with the employer for the documentation to be collected.
7. It is important that the member should be honest with you about the allegations.
8. You must take notes at this stage and get the member to sign them. Attach all notes to the **case form**).
9. At the end of your meeting complete the tears off slip attached to the case form and give it to the member.
10. Following your initial meeting use your discretion;
  - Would you like to speak to a more experienced activist or your Regional Officer at this stage?

Remember once a member and **Branch Secretary** has completed and signed the **case form** the case can be referred to your Regional Officer. This can be by email, telephone, face to face or in writing.

## Investigatory Interview

It is important that the member is briefed on what to expect.

Explain the set up according to your procedures: who will be involved in the investigatory interview and what role each person will play.

- Write down the answers the member gives to the questions. A copy of the employer's questions can be requested by your member at the end of the interview for your use.
- Don't allow your member to become distressed during their questioning request 5 minutes adjournment for re-composure. (Remember this is only the investigation the outcome is yet to be determined on whether they are reinstated or have to attend a disciplinary hearing.)
- Do not allow the questions to be repeated once your member has given an answer.
- Object to leading questions.

At the end or adjournment of the investigatory interview the member will receive a letter informing them of the outcome.

If there is to disciplinary hearing, the **case form** must be fully completed

What should you, as a representative, be considering at this stage;

1. The date of the Hearing. Are you available if not rearrange the date with the employer and inform your member.
2. Contact your line manager, inform him/her that you have a date for a disciplinary hearing, and request facility time. It is important to agree additional facility time for preparing the paperwork. Allow two or three hours for this. Arrange a time to suite you and your line manager.
3. Have you got the documentation pack from the employer and any additional paperwork your member may have? (Always ask for this).
4. Is there any witness statements which is crucial to the employer's case?
5. You should always have a UNISON defence statement of case ready for the hearing. (This would apply at any stage of a disciplinary hearing).
6. Arrange to meet your member (as part of your case preparation). The object of this meeting is for you and the member to have:

- A completed defence statement
  - A list of questions to ask witnesses
  - A list of the employer's witnesses who you may want to question on the day of the disciplinary.
  - Witness names or statements that will help the member's case.
7. Advise the member to think about writing a brief statement in their own words. (Always check what they write and advise accordingly, remember your member is likely to be angry and /or emotional)
  8. After meeting with the member type up your defence statement and a brief summary.

**IMPORTANT** Make a copy of all documentation together with defence statement and signed **case form** and send it to your Regional Officer.

In the event of a dismissal your Regional Officer will also need a copy of any grievance submitted by your member and a copy of their letter of appeal.

If there has been an act of Discrimination/Harassment you may have to consider whether a grievance should be lodged.

Tribunal cases will not be accepted unless the internal procedures have been exhausted.

## **DISCIPLINARY HEARING**

It is important that the member is briefed on what to expect.

Explain the set up according to your procedures: who will be involved in the investigatory interview and what role each person will play.

Remember

- If the member is distressed at any time during the disciplinary hearing you can ask for a few minutes to adjourn to consult your member.
- If information comes to light that your member has failed to tell you, ask for a few minutes adjournment to consult your member.
- If you are a new steward you can always ask for a short adjournment so that you can telephone a branch officer for advice.

Once the presentation is complete, and you have read out your UNISON defence statement and questions have been asked, the Hearing Officer will ask for a sum up.

Both sides summarise and the member may want to say a few words. (It is imperative that the member is briefed on what they should say beforehand).

The Hearing Officer will adjourn or may give the decision in writing.

Advise your member to appeal if they are not satisfied with the outcome and to send you a copy of their appeal letter.

## **APPEAL HEARING**

**At this stage all documentation from the disciplinary, copy of Grievance letter, Appeal Letter & fully completed Case Form should be with your Regional Officer a long time before you have a date for the Appeal.**

When you are faced with an Appeal against Dismissal you need to find out what process your employers uses:

There are two types of processes;

1. You argue on the **Grounds of the Appeal** that your member has submitted, therefore all the evidence should be submitted to the Human Resource Officer who is dealing with the Appeal and other documents should be exchanged. Check your procedures or ask the Human Resource Office what process they use.
2. You have another **Disciplinary Hearing** and are able to submit new evidence and exchange documentation with the Human Resource Officer involved in the Appeal.

In order for the Appeal to run smoothly it is important that a written UNISON defence statement is typed up and documentation mentioned is bungled with the statement indexed to their documentation and ours accordingly.

Your member will receive a bundle off the employer's side (depending on your industrial relationship with your employer you should as well. If not get a copy off the member)

Once you have prepared the documentation for the Appeal you will need to arrange a meeting with the Human Resource Officer to exchange documents (this is if we have evidence that came after the dismissal or evidence that the employers have not submitted that was used in the disciplinary)

The idea behind this is that usually the Appeals panel representatives are elected members or Chairs of Trust that have no knowledge of the case and in order for the panel to give an objective decision it helps if the paperwork is in order and accurate.

On the day advise your member of the process and what to expect.

Inform your member that he/she may have to answer questions from the panel members.

The outcome is usually given on the day of the Appeal and is followed up in writing.

**The outcome letter must be sent to your Regional Officer.**

## SAMPLE APPEAL LETTER

Annex B

[date]

Dear [*Manager/Personnel Officer*]

I am writing to appeal against my dismissal on [*date dismissal takes effect*] on the ground that it is unfair and also an act of disability discrimination. As you are aware, I suffer from a disability in that [*outline disability*].

My dismissal was also unfair on the ground that ... [*add any other grounds*].

I look forward to hearing from you about a hearing of my appeal.

Yours sincerely

[NAME OF EMPLOYEE]

**SAMPLE GRIEVANCE LETTER**

**Annex A**

[date]

Dear [*Manager/Personnel Officer*]

I am writing to complain that on [*date*], [*set out brief details including the name of the discriminator and what has occurred*]. As you are aware, I suffer from a disability in that [*outline disability*]. I believe this treatment is an act of disability discrimination [and/or a failure to make a reasonable adjustment contrary to the Disability Discrimination Act].

Please treat this letter as a formal grievance. I look forward to hearing from you within 28 days.

Yours sincerely

[NAME OF EMPLOYEE]