



# *GUIDANCE ON* APPEALING A GRIEVANCE OR DISCIPLINARY DECISION

---

**Appealing a disciplinary or grievance outcome**

# Appealing a disciplinary or grievance outcome

The employer should offer the right of appeal. This is so the employee can raise an appeal if they feel:

- i. the disciplinary outcome is too severe
- ii. the grievance outcome is wrong
- iii. any part of the disciplinary or grievance procedure was wrong or unfair
- iv. the employee has new evidence to show

The employer needs to look at the case again to see if:

- i. the procedure was followed in a fair way
- ii. the outcome is fair

The employer should:

- i. hear the appeal
- ii. carry out another investigation, if necessary
- iii. see if a different outcome is appropriate
- iv. provide the final outcome in writing as soon as possible

## The right of appeal

The Labour Regulating Authority Code says that employees should be given the right to appeal a disciplinary or grievance outcome. If an employer does not give the opportunity to appeal, this could be counted against them if the case goes before the Authority.

The workplace should have a policy or guidelines to follow for appeals, otherwise they should follow the Labour Regulating Authority Code of Practice on discipline and grievance and this guide.

## How to appeal

The workplace discipline and grievance policy should tell the employee how to appeal. If not, the employee should raise the appeal in writing to the employer.

The employee should write in a letter or email:

- i. why the outcome was wrong or unfair (for example, if the employee felt the person investigating the case did not get enough evidence)
- ii. what the employee would like to happen next (for example, ask the employer to carry out another investigation or look at the new evidence presented)

An appeal letter template can be found on the [LRA website](#).

The employee should do this as soon as possible or within the timeframe that the workplace might have set in their policy. The Labour Regulating Authority recommends 5 days from receiving the outcome as an appropriate amount of time.

## Who carries out the appeal process

The person who hears the appeal and carries out any further investigation should:

- i. not have been previously involved in the case
  - ii. be more senior than anyone who carried out any part of the case previously
- This might not always be possible, especially in small businesses, but the employer should try and make the process as fair as they can. They could also see if it's possible to bring in an external person to carry out the appeal.

### **Getting ready for an appeal hearing**

After the employee has raised the appeal, the employer or the person carrying out the appeal process should invite the employee to an appeal meeting or 'hearing'.

This should be done as soon as possible and tell the employee in writing:

- i. the date, time and place of the hearing
- ii. about the right to be accompanied

Employers can use the templates in this guide for appeal letters on the [LRA](#) website.

### **The right to be accompanied**

An employee or worker should be allowed to bring a relevant person ('companion') with them to both disciplinary and grievance appeal hearings..

Having a companion can be helpful as it means they can:

- i. give the employee support
- ii. be a neutral person to observe
- iii. speak for the employee if needed

The employee should tell the employer as soon as possible who they want to be their companion so they can make the arrangements in good time.

#### Who can accompany the employee

The employee should choose their companion from one of the following:

- i. a work colleague
- ii. a member of any employee representative committee

Employers must make reasonable adjustments for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects.

Employers can, but do not have to, allow companions who do not fall within the above categories. For example, some employment contracts might allow for a professional support body, partner, spouse or legal representative.

### **What the employee can do in the hearing**

The appeal hearing is the chance for the employee to state their case and ask the employer to look at a different outcome.

It could help for an employee to:

- i. explain why they think the outcome is wrong or unfair
- ii. say where they feel the procedure was unfair
- iii. ask questions about the parts of the procedure they felt were unfair
- iv. present new evidence, if any

- v. listen to the employer's point of view
- vi. refer to the workplace policy or the Labour Regulating Authority Code
- vii. ask how the workplace dealt with any similar cases before

### **What employers should do in the hearing**

In an appeal hearing, the person carrying out the appeal process should:

- i. introduce everyone, explaining why they are there if necessary
- ii. explain the purpose of the meeting, how it will be conducted and what powers the person hearing the appeal has
- iii. ask why the employee is appealing
- iv. look at new evidence, if there is any
- v. after discussing the points, summarise them and end the hearing

They will then need to consider if:

- i. the original outcome was fair
- ii. they need to change the original outcome, if it's clear it was not right
- iii. a new investigation is needed to find out more before making a final decision

### **Carrying out a new investigation**

After hearing your appeal, the employer might decide they need to carry out another investigation.

This would be in cases where they need to:

- i. find or look at new evidence
- ii. re-check the evidence they found
- iii. talk to the same people ('witnesses') again
- iv. find and talk to new witnesses

If so, they would need to follow the steps in the investigation stage in **Annex**.

The person carrying out the appeal investigation should then make a written, confidential report. The employer should show the employee this report.

### **Getting the appeal outcome**

The employer should tell the employee the appeal outcome as soon as possible in writing, including:

- i. the reason for their decision
- ii. whether this is the final decision

#### Delays in getting an appeal outcome

If an employee is concerned the appeal outcome is taking longer than expected, they should speak to the employer.

### **If the employee disagrees with an appeal outcome**

If the employee is not happy with the new outcome, they could:

- i. check their workplace appeals policy for any next steps
- ii. seek legal advice