

Hearings and appeals

What to expect if you are on a panel

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Purpose of this session

To have a discussion on hearings and appeals to help you prepare

Meetings may be held for a number of reasons

Our focus today is grievance and disciplinary cases.

ACAS code of practice

You need to be aware of this key requirement

Disciplinary

- Establish the facts of the case [*the investigation*]
- Inform the employee of the problem
- Hold a meeting to discuss [*the hearing*]
- Right to be accompanied
- Decide on appropriate action
- Right of appeal

Grievance

- Receive the grievance
- Establish the facts of the case [*the investigation*]
- Hold a meeting to discuss [*the hearing*]
- Right to be accompanied
- Decide on appropriate action
- Right of appeal

Managing the meeting/hearing

The person chairing the meeting will be responsible for managing it.

May be a difficult conversation, stressful, emotions running high

Remain objective and calm at all times (seek to defuse the situation if required)

Are there any adjustments you need to make to the process?

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Grievance
meetings

Requirements of dealing with a grievance

⇒ If the matter cannot be dealt with informally, then a meeting needs to be held with the aggrieved

If the matter cannot be dealt with informally, then a meeting needs to be held with the aggrieved

May need investigation before or after meeting

Meeting involves the aggrieved and a manager or panel

What happens at the meeting

The employee will explain their grievance and how they think it should be resolved

Adjourn if investigation needs to take place

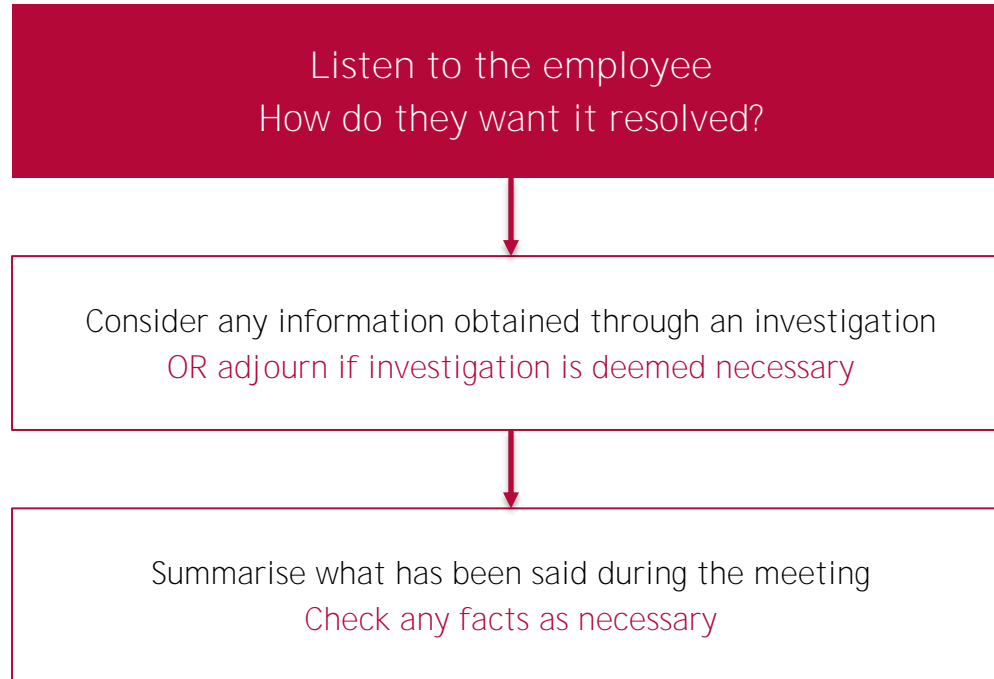
Think about what has been said – don't make snap decisions

Sum up the main points

Tell the employee when they will receive an outcome

Try to encourage discussion and dialogue to lead to a solution

What happens at the meeting?



Attending hearings

You may be asked to attend as the sole decision maker or as part of a panel

You may be asked to chair the meeting and so you will then manage its conduct

The organisation may have a scheme of delegation about who can conduct hearings (and at what level of sanction)

Format of a hearing

If you chair, you will need to:

Make introductions and explain the R³/₄

What is expected of you?

Make sure you:

- have read the information beforehand – the disciplinary pack will be sent out in advance, including any submission from the employee

- are objective and impartial

- give the employee the opportunity to state their case and answer the allegations

Considering the facts

Closing the meeting

Allow each party to sum up their case

Ask the employee if they have had the opportunity to state their case

Adjourn the meeting to make the decision

What should you consider at an appeal?

To look at:

- the employee's grounds of appeal

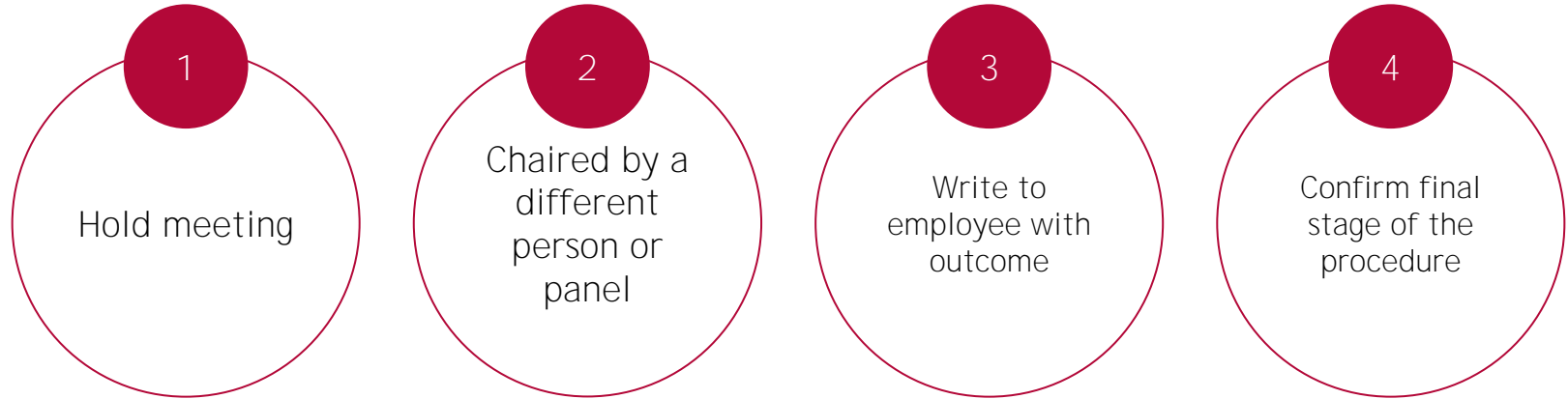
- your policy and how it handles appeals

To consider:

- Review hearing or a full re-hearing?

- Check policy – does it allow for both?

Appeal process



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Getting it right

Why getting it right is important

Claims – unfair dismissal, constructive dismissal, discrimination

ACAS uplift

In unfair dismissal claims, employment tribunals will consider the size and resources of the employer

Essential last steps

Ensure there are records kept:

- Nature of the issue

- What was decided and actions taken

- Detail of any appeal

Records should be kept confidential and in accordance with the Data Protection Act 2018

Dealing with case work in the current situation

Certainly with grievances then it is likely that you can continue to deal with them remotely

Misconduct hearings and appeals, can be continued but more likely to be pushed back

Likely that the union will agree to an appeal being held against a dismissal

Considerations in the current situation

Furlough

Right to be
accompanied

Social Distancing

Use of technology

Reasonable
adjustments

Hardcopy evidence

Coming up

How not to get caught out at an employment tribunal Ì

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