

## Appealing a disciplinary or grievance

### 1 . What an appeal is

An appeal is used to review whether a decision that's been made should be overturned or changed.

Your employer should offer you the right of appeal. This is so you can raise an appeal if you feel:

- your [disciplinary outcome](#) is too severe
- your [grievance outcome](#) is wrong
- any part of your disciplinary or grievance procedure was wrong or unfair
- you've been [dismissed for an unfair reason](#)
- you have new evidence to show

If you appeal, your employer needs to look at your case again to see if:

- the procedure was followed in a fair way
- the outcome was fair

They should:

- hear your appeal
- carry out another [investigation](#), if necessary
- see if a different outcome is appropriate
- provide the final outcome in writing as soon as possible

### The right of appeal and the law

The [Acas Code of Practice on disciplinary and grievance](#) 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 to employment tribunal.

Your organisation should have a policy or guidelines you can follow for appeals. If not, you should follow [the Acas Code](#) and this guide.

You can also speak with your trade union, if you have one, to get advice and support.

### 2. How to appeal

Your organisation's disciplinary and grievance policy should tell you how to appeal. If not, you should raise your appeal in writing to your employer.

Write in a letter or email:

- why you think your outcome was wrong or unfair – for example, if you felt the person investigating your case did not get enough evidence
- what you would like to happen next – for example, you could ask if your employer can carry out another investigation or look at the new evidence you have found

You should do this as soon as possible or within the time period that your organisation might have set in their policy. Acas recommends 5 working days from receiving your outcome as an appropriate amount of time.

Use our:

- [grievance appeal letter template](#)
- [disciplinary appeal letter template](#)

## Who carries out the appeal process

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

- not have been previously involved in your case
- be more senior than anyone who carried out any part of your case previously

This might not always be possible, especially in small organisations. However, your employer should try and make the process as fair as they can. If possible, they could also bring in an external person to carry out the appeal.

## 3. Preparing for a hearing

After you have raised the appeal, your employer or the person carrying out the appeal process should invite you to a 'hearing'. This is a meeting where your employer hears all the evidence to make a final decision.

They should do this as soon as possible and tell you in writing:

- the date, time and place of the hearing
- about your right to be accompanied

Employers can use the [Acas templates for disciplinary appeal letters](#).

## The right to be accompanied

By law, an employee or worker can bring a 'companion' (relevant person) with them to both disciplinary and grievance appeal hearings. This is called 'the right to be accompanied'.

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

- give you support
- be a neutral person to observe
- speak for you if you need them to

You should tell your employer as soon as possible who you want to be your companion so they can make the arrangements in good time.

## Who you can bring with you

You must choose your companion from one of the following:

- someone you work with
- a trade union representative who's certified or trained in acting as a companion
- an official employed by a trade union

Under discrimination law, 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 someone from a professional support body, partner, spouse or legal representative.

## What you can do in the hearing

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

It could help for you to:

- explain why you think the outcome is wrong or unfair
- say where you felt the procedure was unfair
- ask questions about the parts of the procedure you felt were unfair
- present new evidence, if you have it
- listen to your employer's point of view
- refer to your organisation policy or the [Acas Code of Practice on disciplinary and grievance procedures](#)
- ask how your organisation has 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:

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

They will then need to consider if:

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

## Carrying out extra investigation steps

After hearing your appeal, your employer or the person they have assigned might decide they need to carry out further investigation steps.

This would be in cases where they need to:

- find or look at new evidence you've raised
- re-check the evidence they found

- talk to the same people again
- find and talk to new witnesses

If so, they would need to follow the steps in the [investigation stage](#).

The person carrying out the appeal investigation should then write up a confidential report. Your employer should show you this report.

If the extra investigation steps find new or more serious information about you, your employer should not increase the original disciplinary outcome, unless your disciplinary policy allows this.

Instead, your employer should start a new disciplinary procedure to investigate these new findings.

## 4. Getting the outcome

Your employer should tell you the appeal outcome as soon as possible in writing, including:

- the reason for their decision
- whether this is the final decision

## Delays in getting an appeal outcome

If you are worried your appeal outcome is taking longer than you expected, you should tell your employer. If you have a trade union representative, you could also ask them to help follow it up.

[Find out how to raise a problem at work](#)

## If you disagree with an appeal outcome

If you are not happy with the new outcome, you could:

- check your organisation's appeals policy for any next steps
- [contact the Acas helpline](#) to talk through your options
- find out how to [raise a problem at work](#)

## 5. Appealing a dismissal

Appealing a dismissal means asking your employer to overturn or change the decision to dismiss you. It should be handled in the same way as any other appeal.

## If your appeal is not successful

If your appeal against the dismissal is not successful, the dismissal remains in place and takes effect from the original date you were dismissed.

## If your appeal is successful

If your appeal against the dismissal is successful, you will usually be automatically reinstated in your job.

If you're reinstated, the original decision to dismiss you is overturned. This means the dismissal is considered to have never happened. This is known as a 'vanishing dismissal'.

If this happens, you would be reinstated in your job retrospectively. This means your employer will usually have to treat you as having been employed the entire time. They should:

- check you are paid for any wages lost since the original dismissal date
- confirm your length of service has no breaks in it

Being reinstated can have an effect on the legal claims available to you. For example, it is unlikely that making a claim to an employment tribunal for unfair dismissal would be successful.

### **If you do not want your job back**

Before appealing a dismissal, you should consider if you would like your job back. This is because if the appeal is successful this will usually happen automatically.

If you do not want your job back, you should:

- check if your employment contract gives other options after an appeal – for example, it might say that your employer needs you to agree to the appeal outcome before making any changes
- consider a different way for questioning your employer's handling of your dismissal – for example, [raising a grievance](#)

If you've already raised an appeal and decide you do not want to be reinstated, it is possible to withdraw it. You must do this before the appeal decision is made.

In this situation you should make it very clear that you're withdrawing your appeal. It's a good idea to put this in writing to your employer.

## **Get more advice and support**

If you need more advice on appealing a dismissal, you can:

- speak to a trade union representative, if you have one
- [contact the Acas helpline](#)
- [get legal advice](#)

