

Step 3: Carrying out an investigation

In a disciplinary or grievance investigation, the person investigating should do their best to:

- be fair and objective
- follow any policies or guidelines your workplace might have
- get as much information on the case as is reasonable
- not try to prove guilt, but get balanced evidence from both sides
- keep the case confidential

In a disciplinary procedure, the person investigating should be finding out if there is an issue that needs to be addressed, not trying to prove guilt.

How long an investigation needs to take

While an investigation should be completed as quickly as possible, it always needs to be thorough and fair.

Some investigations might take longer depending on the case and how many people need to give information.

For example, a simple case might only take a day to gather enough information, whereas a more complicated case could take several weeks.

Your workplace might have timescales for investigations written in their policy. Otherwise, the employer or person investigating should set a reasonable timescale and tell the employee.

If it's found that more time is needed during the investigation, this should be allowed for. Any delays should be explained to anyone involved and written in the investigation report.

Getting physical evidence

The person investigating should get all the information they reasonably can and need for the case.

They should work out what physical evidence is needed based on:

- what's laid out in the investigation plan
- what sources of information they can use
- any time limits, for example records getting deleted

More evidence might come to light as the investigation goes on, so the person investigating should allow for this.

Types of physical evidence could include:

- emails
- paperwork
- receipts
- computer records
- phone records
- CCTV recordings
- attendance records

The person investigating must consider the ways they can get information and:

- follow the law (for example, on data protection or [employment contracts](#))
- respect the employee's right to privacy

You can find out more on:

- [data protection on the Information Commissioner's Office \(ICO\) website](#)
- gathering evidence in the right way in the [Acas guide to conducting workplace investigations](#)

The person investigating should keep a written record of how and why they got any evidence.

Holding investigation meetings

In both disciplinary and grievance investigations, the person investigating might also need to get information from:

- the employee
- other employees involved ('witnesses')
- other witnesses, for example clients or customers

The right to be accompanied

'The right to be accompanied' means that by law, an employee or worker can bring a relevant person ('companion'):

- in a [grievance procedure](#): to any meetings
- in a [disciplinary procedure](#): to a meeting or hearing that will give or confirm a formal warning or other disciplinary action

In a disciplinary investigation meeting, there is no legal right to be accompanied but it's good practice for employers to allow it.

If there's the right to be accompanied

If the employee or worker has the right to be accompanied, they must

choose their companion from one of the following:

- a work colleague
- a workplace 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 a professional support body, partner, spouse or legal representative.

You can find out more about the right to be accompanied in the [Acas guide to discipline and grievance](#).

Sharing information

The employee under a disciplinary investigation or the employee who has raised a grievance case can ask to see any evidence or witness statements.

Under data protection law (GDPR), the employer should get consent from the person who provided information before sharing it.

This might mean the employer needs to make some information anonymous before sharing it.

You can find out more about [data protection on the Information Commissioner's Office \(ICO\) website](#).

Absence from an investigation meeting

If the employee with the disciplinary or grievance issue needs to go to an investigation meeting but does not attend, the person investigating should rearrange the meeting.

The employer or person investigating should see if it would help to make other arrangements.

For example, if the employee is off with stress and is worried about coming to the workplace, they could hold the meeting somewhere else.

If the employee is too sick or keeps refusing to attend, the person investigating will need to look at all other evidence and make a reasonable decision.

They could also look at:

- the seriousness of the disciplinary or grievance issue
- any rules your workplace has about not attending investigation

meetings

- how your workplace dealt with similar cases in the past
- getting a medical opinion on whether the employee is fit to attend the meeting (with the employee's permission)

The employer might decide they need to carry on with the investigation without the employee.

If so, the employer must:

- carry out the investigation in as full and fair a way as possible
- tell the employee

Looking after employees' wellbeing and mental health

Being under investigation can be very stressful, so it's important that employers consider the wellbeing and mental health of their employees.

Looking out for employees' wellbeing and offering support can help prevent:

- absence
- mental health issues arising
- existing mental health issues getting worse

For example, as well as regular communication, the employer could arrange any meetings in a more private and comfortable location if this would help an employee.

See more advice on [supporting an employee with a mental health condition](#)

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