

Please note that this is general information & may not be relevant to your particular matter.

This toolkit should not be taken as legal advice.

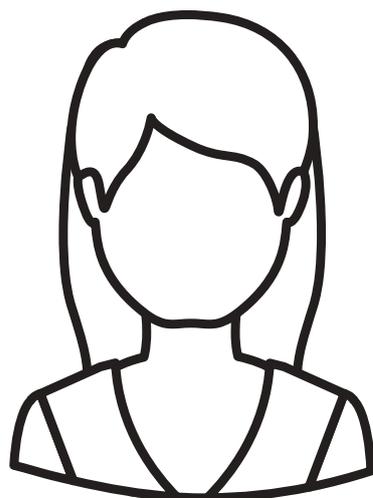


Working Women's Centre SA Inc.

THE WORKING WOMEN'S CENTRE SA INC'S

Toolkit for Disciplinary Meetings:

what do I do?



For further advice or information, please contact the Centre.

Phone: 08 8410 6499 Toll Free: 1800 652 697

Email: wwc@wwc.org.au www.wwc.org.au

TOOLKIT FOR DISCIPLINARY MEETINGS

Your employer may request you attend a disciplinary meeting to discuss allegations of misconduct or performance concerns. This is a reasonable and lawful directive; however, your employer needs to ensure they follow procedural fairness.

The toolkit below may assist you in navigating the process. If you have been called to attend a disciplinary meeting, you should take the following steps immediately:

1. Organise a support person.

You have the right to bring a support person and should organise either a friend or family member to attend. You can also request to bring a trusted co-worker, but it is important that this person does not have a conflict of interest. If you are a union member, you can bring a union official.

2. Request more time.

If you are unable to source a support person or need additional time – you can request this from your employer.

3. Ask for specific details

If you do not have clear allegations with specific details – you can request these from your employer.

Remember, your employer should provide you with at least 24 hours notice of a disciplinary meeting.

TOOLKIT FOR DISCIPLINARY MEETINGS - PART 1

I have been stood down with pay, what does this mean & how long does this last?

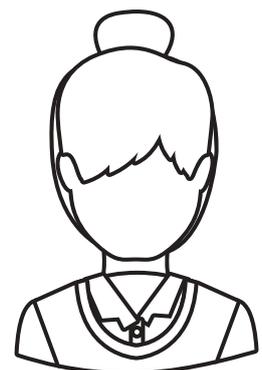
Your employer may stand you down with pay when they are investigating allegations concerning your performance or conduct. This does not mean your employer has decided to terminate your employment. Some workplaces have policies where they remove a person from the workplace while investigating allegations in order to prevent interference in the process and to minimise stress.

The stand-down period typically lasts until the investigation is finalised, and usually finishes when you are delivered with an outcome. It is important that you remain available to attend a disciplinary meeting during the stand-down period.

Can I reschedule a meeting?

It is not unreasonable to request a meeting be rescheduled if it falls on your rostered day off, outside of your working hours or if you are unwell and unable to attend. If you require more time to source a support person, this must be communicated as the reason why you are requesting to reschedule the meeting.

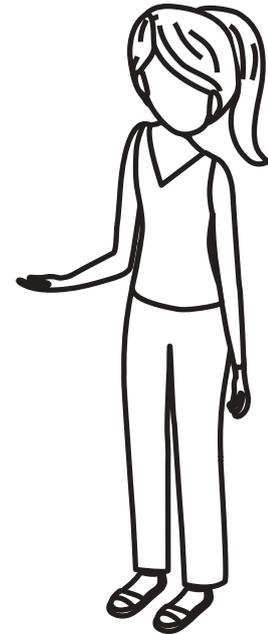
An employer may not agree to delay the meeting if they have already provided you with enough notice, or the allegations are very serious. If you are unwell and you cannot attend the disciplinary meeting, it is important that you obtain medical certificates and provide them to your employer.



TOOLKIT FOR DISCIPLINARY MEETINGS - PART 1

Case Study:

Sarah works the night shift from 5:00pm to 5:00am. She is provided with a letter of allegation before her shift at 5:00pm, and requested to attend a meeting at 4:30pm the next day. Sarah is unable to contact a support person during her shift, and when she arrives home, must balance sleeping with calling a friend. Her friend is also unable to take time off from work on such short notice. Given Sarah's circumstances, it would be unreasonable if her employer were to deny a request to postpone the meeting so that she can organise a support person.



What if my boss calls me in to talk but denies it is a disciplinary meeting?

Sometimes, employers call workers in for meetings but do not expressly use terms such as 'disciplinary meeting' or 'allegations'. A useful way to find out whether a meeting is disciplinary in nature is to ask whether the meeting will have a disciplinary outcome. If your employer says it might, suggests they will let the Human Resources (sometimes called People and Culture) department decide or cannot give you a clear answer – there is a good chance you have been called into a disciplinary meeting. It is a good idea to treat it as such and take all the necessary precautions.

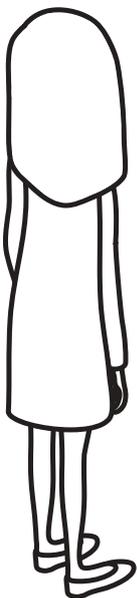
TOOLKIT FOR DISCIPLINARY MEETINGS - PART 1

There is a list of allegations – How do I deal with them?

A disciplinary meeting is often held because allegations of misconduct have been raised with management. Your employer should provide you with clear allegations, preferably in writing to avoid misinterpretation. If the allegations are vague, you are entitled to request specific details such as the date and time of the alleged conduct, the nature of the conduct as well as which policies you are alleged to have breached.

Generally, it is a good idea to ask for the allegations to be put in writing. This is best practice, but it will depend on the circumstances whether your employer will put the allegations in writing.

Case Study



Lin's manager approaches her at work on Monday morning and asks her come into the office for a short chat. Lin finds out her manager is trying to hold a disciplinary meeting without any notice. Lin advises she will hear the allegations however will need sufficient notice to be able to respond and organise a support person. Lin's manager schedules a meeting for the next day and provides her with the allegations in writing.



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Toolkit Part II:

*What are my rights in the meeting &
how do I respond?*



What happens in a disciplinary meeting?

Usually, your employer will read out the allegations and provide any additional evidence to you. They will then ask that you provide a response to the allegations. It is important that you hear all of the allegations before you respond.

What can my support person do?

Your support person can take notes and discuss the allegations privately with you. If you become overwhelmed and have trouble responding, a support person can clarify your responses for you. A support person's role does not extend to answering the questions on your behalf.

TOOLKIT FOR DISCIPLINARY MEETINGS - PART 2

How do I respond to allegations?

You are entitled to respond to the allegations raised and your employer must consider your responses when determining the outcome of the meeting.

When considering your responses to allegations, ensure you provide clear answers and only address the allegations raised. You can request your employer view CCTV footage if you believe it supports your responses. If your employer has mentioned reviewing CCTV footage, you can also request to view this before responding to allegations.

Some employers prefer written responses to allegations. Similarly, to above, make sure you respond clearly and concisely.

It is also good to highlight a record of good behaviour or raise any mitigating circumstances which may have led to the incident in question.

It is important to respond honestly to allegations. It may be unreasonable for your employer to terminate you if you were late once, however they can dismiss you for serious and wilful misconduct if you behave dishonestly and lie.

You can request a short break in the meeting if you need to discuss the allegations privately with your support person, or if you become overwhelmed.

If you have grievances to raise about workloads or other matters, it is best to address these separately and independent to this process.



TOOLKIT FOR DISCIPLINARY MEETINGS - PART 2

What if my boss raises other matters & allegations that I didn't know about?

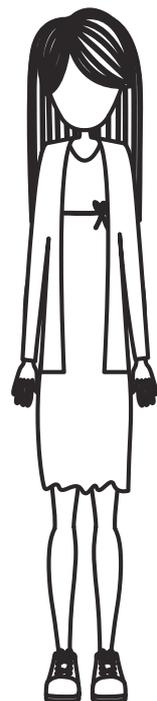
Your boss should stick to the allegations in the letter sent to you, or the allegations listed at the beginning of the meeting. If they raise anything else, you can politely flag that this was not brought to your attention and you will be unable to respond without further details.

Can my boss ask me vague questions?

Generally, your boss should ask specific questions instead of vague questions with open-ended answers.

Case Study

Priya is at a disciplinary meeting with her union support person, and knows only that the allegations concern a breach of company policy on acceptable standards of behaviour. Priya's boss asks her to 'take him through what happened on Tuesday' and asks what she did at work that day. This is an unreasonable question because it could risk Priya further incriminating herself, and does not enable her to address any specific allegation. Priya's support person reminds her boss that the question is very open-ended and that she is entitled to know the allegations before offering any response. Priya's boss reconsiders his approach and provides her with the allegation of speaking rudely to a staff member, and asks her whether she interacted with her during her shift.

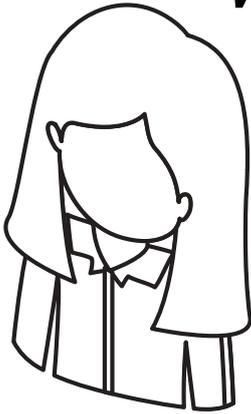




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Toolkit Part III:

What can I expect after the meeting?



What will the outcome of the meeting be? Will I be fired?

A common myth is the 'three strikes and you're out!' principle. There is no requirement for an employer to give three warnings before dismissing a worker, and similarly, there is nothing preventing an employer from issuing more than three warnings.

Each employer has a different approach to determining disciplinary outcomes. It is best practice for an employer to have a clearly defined disciplinary process to ensure both the employer and employee are aware of the processes in place when issues in the workplace emerge.

Employers may issue informal counselling for minor issues, and this outcome is similar to a verbal warning. Other employers operate on a written warning basis. You can dispute a written warning by writing to your employer, however this does not compel them to remove the warning from your file.

TOOLKIT FOR DISCIPLINARY MEETINGS - PART 3

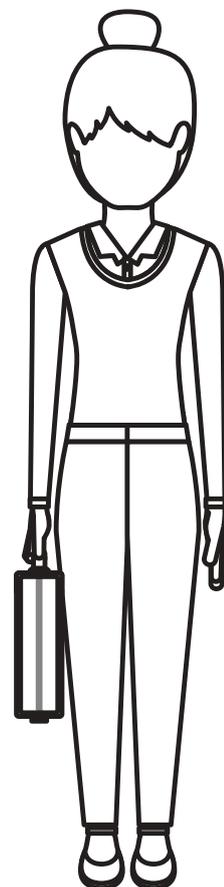
I have been asked to "show cause" - what is this?

Your employer may issue you with a show cause letter following a disciplinary meeting. This is common where the allegations are serious enough to warrant summary dismissal.

A show cause letter requires you to provide compelling reasons as to why your employment should not be terminated. This is usually provided once an investigation has been carried out and when you have provided a response to the allegations. This is a serious step and requires consideration when responding. It is important to draw on a record of good work performance and as well as any mitigating circumstances the employer should consider when determining the fate of your employment.

A show cause opportunity is an important step for the employer to take prior to terminating an employee, and if you have been refused an opportunity to show cause, it is important you contact the Working Women's Centre as soon as possible.

Remember, you only have 21-days to lodge an unfair dismissal claim.



TOOLKIT FOR DISCIPLINARY MEETINGS - PART 3

I have been told that I will be placed on a performance improvement plan - what is it and what do I do?

If your employer has concerns about your performance, they may choose to issue you with a Performance Improvement Plan (PIP). This is a structured plan which aims at providing you with the support and training needed to successfully do your job, and should have clear performance metrics in place. For example, it would be unreasonable if one of the outcomes was to 'be friendlier to colleagues' because there is no tangible way to measure this. It would be reasonable if your employer required you to achieve a particular target which can be measured and examined.

You can request amendments to the plan in consultation with your employer and request further training if needed.

It is also important that your PIP includes catch-ups with your boss or manager – these should be a regular opportunity to discuss progress and any additional support you may need.

I don't agree with the PIP - can I just ignore it?

It is very important that you follow your PIP – even if you disagree with the content. You can dispute your plan and work with your employer to change it to better reflect working conditions. The important thing is that you comply with the requirements.

