

MODEL: Policy outlining procedure when an employee goes off sick during disciplinary process

Policy

This policy covers the scenario whereby an employee goes on sickness absence during a disciplinary process. This policy may need to be applied at any time after the disciplinary process has commenced, such as after the employee has received the disciplinary hearing invite letter or just before during or after the disciplinary hearing. It may also apply before during or after the appeal.

The organisation's policy is that both the organisation and its employees should make every effort to attend disciplinary hearings, but if an employee is persistently unable or unwilling to attend the hearing without good cause, the organisation will make a decision on the evidence available. This avoids causing the disciplinary proceedings to be long and drawn out.

The organisation will draw on guidance from Acas on how employers should manage this situation which states that employers and employees should make every effort to attend the disciplinary meeting. It goes on to state that, where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, the employer should make a decision on the evidence available.

Procedure

The organisation will write to the employee when it receives notification of sickness absence to be taken by the employee during ongoing disciplinary proceedings.

The organisation does not usually conduct disciplinary hearings or appeal hearings with employees while they are on sickness absence. The hearings are usually adjourned until after the sickness absence has come to an end.

The person chairing the proceedings (Hearing Chair) will write to confirm the stage of the disciplinary proceedings currently reached and confirm cancellation of any disciplinary hearing arranged during the period of sickness absence.

The letter should also set out a proposed new date/time for the disciplinary hearing to be adjourned until. This will be arranged for after the employee's sickness absence is due to or expected to end.

This also applies to appeal hearings, and adjourned disciplinary hearings or appeal hearings.

In circumstances where there is no expected date for when the sickness absence is due to end, the Hearing Chair will instead indicate that the disciplinary proceedings or appeal have been put on hold until the employee indicates they are well enough to return to work.

The Hearing Chair will usually rearrange a disciplinary hearing or appeal hearing up to two further times, as the employee may submit further fit notes setting out further periods of sickness absence from the workplace, or otherwise indicate they are unable to attend through sickness. Each letter should confirm that the earlier disciplinary hearing or appeal hearing has been postponed and set out briefly the reasons why.

For the third attempt at rearranging the disciplinary hearing or appeal hearing, the Hearing Chair will confirm in the invite letter that if they are not able to attend the third hearing, then a decision on the allegations or the appeal will be made in the employee's absence.

The organisation and the Hearing Chair will use its discretion in relation to this, taking into account the nature of the employee's illness, any indication (or not) of return to work, the allegations being made and the severity of the disciplinary issues and possible outcomes.

Where the employee involved is seriously ill, progression of the procedure will be subject to discussion between HR and senior management if the steps outlined above would prove inappropriate.

Hearings proceeding in absence of employee

If the organisation decides to proceed, or has no option left but to proceed, with a disciplinary hearing or appeal hearing in the absence of an employee, it will be important for the Investigating Manager and the chair of the hearing(s) to confirm that the facts being relied upon by the organisation have been carefully checked, in the absence of any possible explanations being provided by the absent employee.

The chair of the disciplinary hearing or appeal hearing will write to the employee setting out the outcome of the disciplinary or appeal hearing, together with the reasons for the decision. If disciplinary sanctions have been imposed, the reasoning will be set out in the outcome letter together with the right of appeal against the decision, to a different nominated individual.

Policy Review

This policy will be reviewed every two years unless organisational or legal changes necessitate an earlier review.

Doc: 2019_DP SA	Date Adopted:	Date Reviewed:
--------------------	---------------	----------------