

Your guide to a disciplinary investigation



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Who is this guide for?

The guidance and information in this guide is for all NHS Wales employees, except medical and dental staff and resource bank workers.

Why have I been given this guide?

You have just received a formal investigation letter and we know that this can be a very challenging time. You are likely to be feeling all sorts of emotions and you may find it difficult to take in what is happening.



We want to support you as much as we can and hope this guide helps you deal with some of the questions and feelings you may have. We would advise you to read it alongside the information that you have been given by your manager/Commissioning Manager. Alongside the letter, you will also have received a copy of our Disciplinary Policy and Process that sets out the process from an organisational and legal view. While it's important to read it through, the policy may not provide answers to all of your questions.

This guide is different, because it has been designed around you and the questions and feelings you may have and to support you through the investigation process from beginning to end.

What is the guide for?

This guide provides the answers, explanations and information you'll be looking for at various points in this process. It also points you to where you can find out more if you have specific queries and to colleagues and services who can help and support you.

How do I use this guide?

The guide has been designed so you can easily find the information you need and can keep everything all in one place.

It is split into sections. You don't have to read it from start to finish and most people come back to different parts of it at different times. The contents list will help you find what you need when you need it.

As well as information, you'll find helpful suggestions, including what to think about and write down before and during your meetings, and there are notes pages provided for that.

Some people find it useful to make a note of contact details and there's space here for you to do that, too. That way you'll have everything in one place to go back to as you need it.



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1. The process

Sometimes, you may feel frustrated that the disciplinary investigation process isn't moving as quickly as you feel it should. Investigations are carried out as quickly as possible, but there are some important reasons why they can take longer than you might first think.

To be as clear as possible about what has, and has not happened, the investigation must be carried out thoroughly and fairly. It must give you, and other people, opportunities to explain your position and be carried out properly according to the [ACAS code on disciplinary and grievance procedures](#) to protect all employees. This can take time, as it may need to cover different work areas and require the involvement of several witnesses, and even other organisations.

You will be updated when matters progress and, if you have any questions about the investigation between updates, you can get in touch with the Investigating Officer at any time. Their contact details are in the letter you received informing you that an investigation was required. If you have concerns that the investigation is not progressing quickly enough, you can also contact the Commissioning Manager, who is the person who wrote that letter.



1.1 What exactly is a disciplinary investigation?

When we receive a claim (you'll hear this usually referred to as an allegation) that someone has done something wrong at work, we will first consider if there is a way of working it out informally. If it can't be - mostly because of the nature of the claim/s - a formal disciplinary investigation usually has to be carried out.

Before deciding the most appropriate course of action to take, a fact-finding exercise will be completed. The fact-finding assessment collects all the relevant information so that the organisation can understand the facts of what has actually happened and consider the best course of action to take.

If, following the fact-finding assessment, further investigation is required, you will be notified of the precise allegations that are going to be investigated. This will be carried out as thoroughly as possible, gathering evidence from you and anyone else involved, so that everyone is treated fairly.

If at any point we can see another, informal way of resolving the issue, we can end the formal investigation at that stage.

At the end of the investigation, an investigation report is prepared. This is the point when we can tell you what will happen next.

1.2 What happens after the investigation?

If the investigation report shows there is no case to answer, the process stops there.

If there is a case to answer, there will be a disciplinary hearing as the next step. This is a meeting where the findings of the report are discussed and you have another opportunity to give your side of things in person, too. It is usually run by the Deciding Officer and will involve other people too, as part of a panel. They then decide if any disciplinary action is appropriate, such as a warning, for example.

If there is no disciplinary case to answer, there will not be a disciplinary hearing. An alternative course of action may be proposed, such as an informal process or a referral to an alternative policy.



1.3 Who runs the investigation and how is it carried out?

The Commissioning Manager is the person who has decided that an investigation is necessary and is usually a senior member of staff. They have also set out its purpose in detail, known as its 'terms of reference'. This is the same person who sent you the letter informing you of this decision.

The Commissioning Manager appoints an Investigating Officer. This is likely to be someone who is not connected to the matter being investigated and who understands the organisation and how it works. They should also be trained in conducting investigations.

The Investigating Officer's role is to confirm the facts of what did, or did not, happen through a fair, objective and thorough investigation. Their role is fact-finding and reporting. They do not make judgements, or decisions, and don't provide recommendations. Based on the Investigating Officer's findings, which they put into an Investigation Report, the Commissioning Manager decides if there is a case to answer.

Typically, investigations are handled internally, and both the Commissioning Manager and Investigating Officer are employees of your organisation. In some cases, it may be more appropriate for an externally appointed Investigating Officer to be appointed.

It's worth noting down the name and contact details of your Commissioning Manager and Investigating Officer in the Useful Contacts table on page 18.



1.4 Why exactly am I being investigated?

The allegations that are being investigated are explained in the letter you received from the Commissioning Manager. They have looked at these and decided that an investigation is required to gather the facts of what has and hasn't happened.

You will probably have lots of questions about the allegations and the investigation – and you have the right to ask them. Some of these will be answered here, but it's important that you ask all the questions you have. If there are allegations that you don't understand, you should get in touch with the Commissioning Manager who sent you the letter, where they have also included their contact details.

1.5 How long will the investigation take?

It is really difficult to give a general idea as it depends so much on your own individual case, but it's not a quick process. The investigation needs to be thorough and follow a fair process and so it can take a number of months.

As an average, the whole disciplinary process can take a minimum of four months from the start of the investigation to the final decision.

However, if your case is complex or involves lots of other people or organisations, it can take much longer. While it is essential to take the time to investigate properly, we understand that the wait is difficult and so every effort is made to complete the process as quickly as possible.

Please remember that you can contact the investigating officer to request an update at any time during the investigation.



1.6 Will I be able to work while the investigation is going on?

Often, it's possible for you to keep working with no changes to your role required. In some cases, it may be appropriate for your role to be adjusted while an investigation and disciplinary process is happening. This may be required in order to protect you, your own and the investigation's confidentiality or to prevent any further concerns from arising.

Sometimes, working in another, similar role is possible and this is known as a 'temporary redeployment'. If it's possible, it can be a more practical and productive temporary arrangement and could help keep you occupied while also avoiding any potential tensions at your usual workplace.

If you want to talk about your working arrangements while the process is ongoing, it's best to speak to your line manager.

Sometimes, suspension from the workplace is necessary. This is considered as a last resort and the decision is reviewed regularly. Suspension under these circumstances is referred to as a neutral act - which means that it is not a sanction. Your pay is unaffected and will remain the same throughout this suspension.

1.7 How often will I be updated on what's going on?

The investigation starts as soon as you receive your letter informing you that it is happening.

You will be invited to a meeting with the Investigating Officer. After that, you may have periods of time when you don't receive any formal updates because the investigation is ongoing and there isn't yet anything to report.

Waiting between updates during the investigation can be particularly challenging. You may feel as if you don't know what is going on or concerned that you haven't heard anything. Please don't worry, and you will be updated on progress as it is made.

If you feel you need some reassurance, please don't worry on your own. You can contact the Investigating Officer for an update at any time - just bear in mind they may not have very much to tell you. You can also ask anyone providing you with professional support to do this on your behalf, such as a trade union representative.

1.8 When, and how, can I respond to the allegations? How do I prepare for that?

The key meeting where you can respond to the allegations is with the Investigating Officer who will contact you to make arrangements. It will be organised somewhere easy for you to get to and at a time that is reasonable for you to make.

You may want someone to attend the meeting with you - usually a union representative or colleague.

The Investigating Officer will ask you questions about the allegations. This is your opportunity to provide your point-of-view and your version of events.

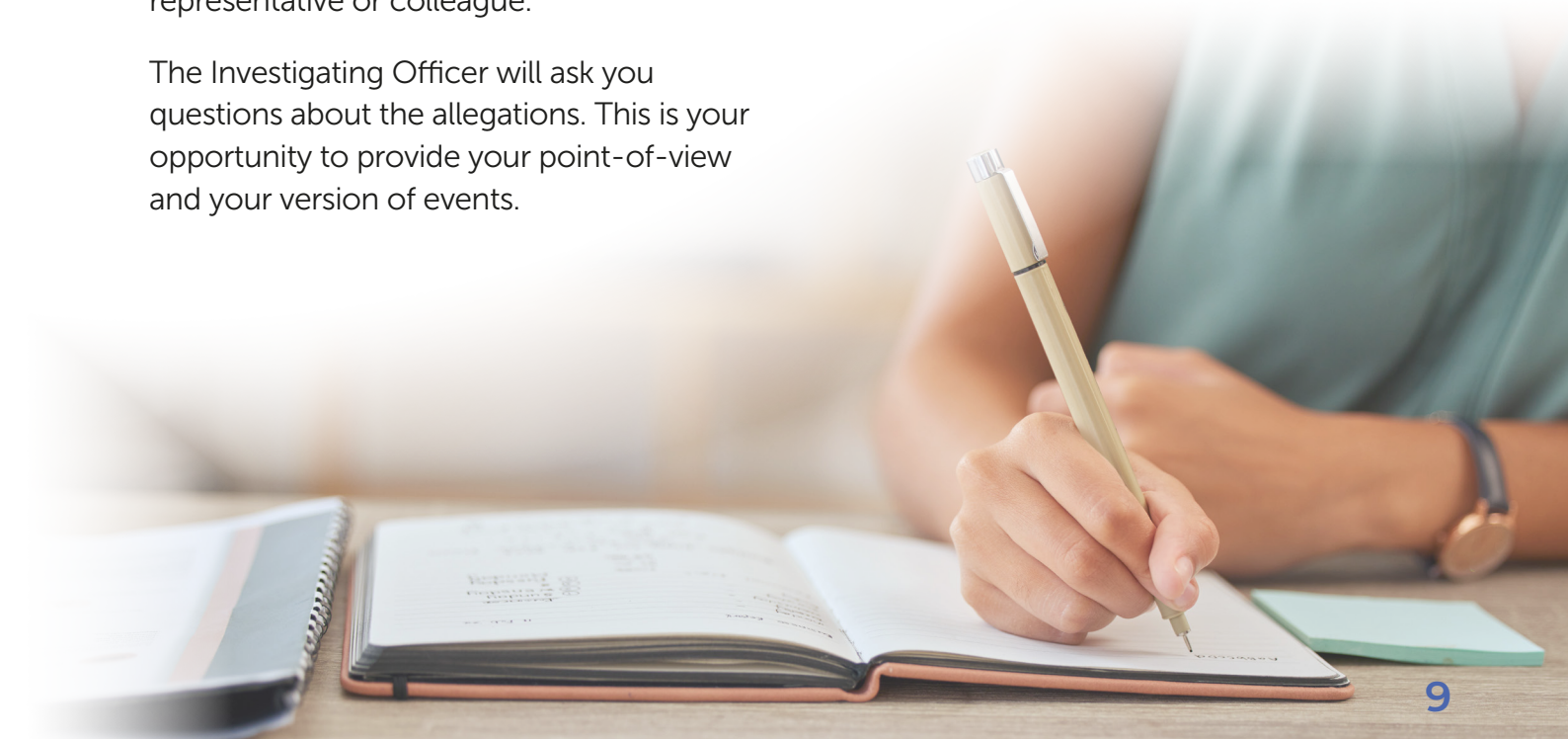
Preparing thoroughly will help you do that, so it's a good idea to make sure you:

- Gather any relevant information and put it in a clear order to talk through in the meeting;
- Write down some bullet points or notes to refer to during the meeting. One way of doing this is to look at the allegations and list the things you want to raise in response to each of them;
- Make a note of anything you're not sure about and make sure you are clear on everything before the meeting;

Some people can find the meetings hard. If you need a break to collect your thoughts, you can ask to pause the meeting at any point.

After the meeting you will be given a written statement of what you have said to check and sign. If you disagree with anything that has been recorded, you can request an amendment before signing.

The Investigating Officer may, or may not, need to meet with you again later in the investigation. If they do, they will write to you to arrange a follow up meeting.





1.9 I don't want to go to the meetings on my own. I think I might not remember everything that is said, or forget to ask something I need to know. Who can come with me?

You will attend at least one meeting during the investigation, and it's a good idea to bring someone with you for exactly those reasons. That can be someone you work with or a trade union representative, if you're a member. (If you join a union after the process has started, they may not be able to represent you but, in some cases, they can provide advice.)

With or without union representation, the investigation process and disciplinary hearing are carried out in exactly the same way, and you are not disadvantaged without trade union representation.

However, trade union representatives are trained to support their members through disciplinary investigations and hearings. They are familiar with the policies and they will be able to come to meetings with you. If you are a member of a union, you should contact them to discuss your case and arrange representation.

1.10 What happens once the Investigating Officer has completed the investigation?

The Investigating Officer writes the investigation report and provides it to the Commissioning Manager.

The report sets out all the facts that the investigation could, and could not, confirm. It also outlines any relevant circumstances that should be taken into account when considering what happens next.

1.11 What happens to me after the investigation has finished?

After reading the report, the Commissioning Manager decides if a disciplinary hearing is necessary. This is a meeting where they, and possibly a panel of other people, discuss the report in detail. You will also be invited to attend in person to give your version of events.

Another outcome is that there is no disciplinary case to answer. This means that a disciplinary hearing is not required. Alternative actions may include learning and/or training, or consideration of an alternative policy or process - for example, performance improvement.

If a disciplinary hearing is required, you will receive all of the information that has been gathered during the investigation. This will include the investigation report and all the witness statements and evidence that have been gathered.

You will receive this information at least 14 days before the disciplinary hearing, so that you have plenty of time to prepare for the hearing. Again, you can have someone to come with you to the hearing, and it's a good idea to prepare in advance so you say everything you want to. You can feel anxious or under pressure and looking at your notes can be very helpful, rather than relying on your memory.

You will have the opportunity to ask for witnesses to be invited to provide evidence at the hearing, where you will be able to ask them questions. Again, you should plan for this, to make sure that you ask them everything that you want them to confirm.

The disciplinary hearing has five possible results, which might be confirmed to you at the hearing, but often the decision is sent to you in writing within 7 days.

These vary a lot according to the nature of the claims and the investigation's findings. It's important to stress that dismissal is rare and can only happen if there is an allegation of gross misconduct, or if previous disciplinary warnings have not been adhered to.

One possible outcome is that there is no case to answer. If the hearing finds that you do have a case to answer, the outcome will be one of the following disciplinary actions or sanctions:

1. **A written warning.** The warning stays on your record for a specified period of time and is then removed so long as there are no further warnings during that time. In the case of a final written warning, there are serious conduct or capability issues that you must address and, if the matter happens again, you may be dismissed.
2. **Other disciplinary action short of dismissal.** This may include an offer of an alternative role, for example.
3. **Dismissal.** This is when you do not return to work and receive payment equal to your notice period.
4. **Summary dismissal.** This is when you do not return to work and do not receive any payment of notice.

While only allegations of gross misconduct can lead to summary dismissal from your position, even if you are facing an allegation of gross misconduct, it does not necessarily mean you will be dismissed.

1.12 Can I appeal the outcome of the disciplinary process?

Yes - all employees have the right to appeal against the outcome of a disciplinary. The letter you receive after the disciplinary process has been complete will tell you how to appeal, as well as informing you of the outcome.

You will have 14 days after you receive that letter to tell us that you are going to appeal. You also need to give your reasons for appealing. These could be that you think the penalty is too harsh or that the process has not been fair, for example.

1.13 What happens if I leave the organisation during the disciplinary process?

Typically, as a conclusion will still need to be reached, the process still continues if you leave the organisation. We would always advise you not to resign during the process, if the only reason for resigning is expecting that the process will stop. You should discuss what would happen to the investigation if you resign with the Commissioning Manager, who will advise on a case-by-case basis.

More detailed information on the process is contained within the [NHS Wales Disciplinary Policy and Procedure](#) (click to see an electronic version). A copy was also sent to you along with this handbook and the official letter informing you of the investigation.

The [ACAS Guide to Conducting Workplace Investigations](#) is also useful and clear on the process. ACAS is the neutral organisation that works with employers and employees to address problems in the workplace. This guide is aimed at employers, but may also be useful for you, as you go through the process.

2. My pay and pension

You may be concerned that you will be paid less while the investigation is underway, particularly as it can take a long time. Please don't worry. While an investigation and the disciplinary process is ongoing, even if you are not working, as a direct employee, your basic pay and benefits are totally protected, including your pension. If you are suspended from work, it's important to remember that this is to protect you and the investigation. It is not in any way a disciplinary sanction, so there is no reason your pay could be affected.

2.1 How long am I paid for while the investigation is going on?

As a direct employee you will be paid your basic salary, plus any regularly paid supplements as normal throughout the investigation period. You won't be eligible for overtime payments.

This applies whether you are suspended while it is going on, have restricted duties, or are redeployed to do another type of work.

If you usually receive enhanced pay for working unsocial hours, your pay will stay the same, even if you aren't working unsocial hours during the disciplinary process.

If you notice any change to your pay, you should speak to your line manager so this can be sorted out.



2.2 What about my pension?

If you're a member of the NHS pension scheme, both you and your organisation will continue to pay into your pension in the usual way throughout the investigation and disciplinary process.

If you have any concerns about your pension, our pensions team can help. It's worth noting down their contact details in the Useful Contacts table on page 18.

2.3 What happens if I am suspended or redeployed into another area while the investigation is going on?

Your salary will remain exactly the same. If you have to travel further than normal, you can claim mileage expenses.

If you do work in another role during the process, this will be a temporary arrangement and your terms and conditions remain the same.

3. My colleagues and confidentiality

While it is fairly expected that people know when an investigation is underway, the details of the investigation should be kept confidential wherever possible.

Keeping the details confidential means you and others are less likely to feel under pressure, or that you're being talked about or rumours are growing. It also protects the fairness of the investigation, because it stops details being discussed by witnesses and colleagues.

3.1 Will my colleagues be told about the investigation?

This is a confidential process, and no details will be shared publicly.

Individual colleagues will only be told about the investigation and allegations if they are involved as witnesses and are being asked to provide evidence. Even then, your name may not be used.

However, when your colleagues are interviewed, they may be able to work out who is involved because of the questions being asked. In all cases, everyone who is interviewed is asked to keep everything confidential throughout the investigation so that it can remain fair, and everyone is protected.

3.2 Why have I been told that I can't speak to anyone else about this apart from the Investigating Officer, my trade union representative or HR?

We appreciate that this is a difficult ask of you at this time: it's a hard process to go through, and you may really want to talk things through with one or several colleagues.

However, to ensure an investigation is carried out properly and as quickly as possible, and to protect everyone's confidentiality, including your own, all those involved are required not to discuss it with anyone else. This is to avoid discussion among colleagues who don't have the full facts, which can threaten the investigation and cause more upset.

Just because there is an investigation, it does not automatically mean that the allegations will be proven. Therefore, the fewer people who are aware of the investigation, the easier it will make it for you to return to work.



3.3 What if my colleagues ask me what is going on?

If you're not sure how to explain why you're temporarily working elsewhere, or absent from work, for example, the best thing to do is agree with your line manager what information you can share.

3.4 I've been suspended and some of my close colleagues are messaging me to see how I am. Is it okay for me to talk to or meet with them?

Your colleagues will not have been officially informed that you have been suspended. You can agree with your line manager what you would like your colleagues to be told about your absence from work.

You can, of course, still socialise with colleagues outside of work, which you may find helpful and may stop you feeling isolated. However, we would encourage you not to discuss the investigation or what it is about for the above reasons.



4. Support and looking after yourself

This can be a stressful time when you may feel anxious and isolated. Please do make sure that you have both the professional and personal support you want around you.

If you're a union member, they can give you advice and support throughout the process. Whether you're a union member or not, there are different kinds of support available to you, including from colleagues, family and friends as well as mental health professionals.



4.1 I understand the need for confidentiality, but this process is hard and I need to talk things through. Who can I talk to?

It's very important for you to have support during this time and you'll naturally want to talk things through with family members or friends. That is fine so long as they don't work for your employer or any organisation associated with the matter being investigated.

To keep details confidential, we'd still recommend that you only share details of the investigation with one or two trusted family members, or close friends.

As your employer, we're also keen to provide you with support. We can work with you as soon as the investigation starts to identify a particular colleague or friend within the organisation whom you can talk to. We'll need to agree with you who that is, again to maintain everyone's confidentiality, including your own, and to make sure the investigation isn't compromised.

If this is something you would like to do, you should speak to the Commissioning Manager.

4.2 As well as, or instead of my trade union representative/work colleague, I'd really like to bring a friend or family member to support me. Are they allowed to come into the meetings?

Within an investigation meeting, you can take a break to speak to anyone of your choice outside of it, including a friend or family member.

If you feel you need support from a friend or relative at your meetings, this is not normally part of the process, so you should speak to the Commissioning Manager and your trade union representative. They will advise on what is required to arrange this, it is called 'a reasonable adjustment' to support you.

4.3 I feel I may need some professional emotional support – is any available to me?

Yes, you have a number of options. You should have received a list of support services alongside your investigation letter: if you didn't, please contact HR or your line manager.

Professional psychological support is available via your employee wellbeing team, or from organisations such as Canopi, the free and confidential mental health support service for health and social care workers in Wales. You can refer yourself to [Canopi](#) – see page 18 for contact details.

NHS Wales also has an emergency 24/7 mental health service – dial 111 and press Option 2.

4.4 What if my trade union representative is unable to attend a meeting?

If your trade union representative is unavailable, you can ask for the meeting to be re-arranged for when you are both available. It's important that these meetings are not delayed, so we try to make sure that everyone has as much notice as possible.



4.5 What happens if I don't feel able to attend one of the meetings or the hearing?

It's natural to feel anxious or stressed ahead of these meetings. If you feel anxious to the point where attending feels too difficult, there is a process in place for this, which is referral to Occupational Health for an assessment. You should speak to your line manager or the Commissioning Manager who will refer you.

4.6 What can I expect if I am referred to Occupational Health?

The manager should share their written referral with you before they send it to Occupational Health. When they receive it, Occupational Health will arrange for a professional within their team to see you. This will probably be an Occupational Health Nurse.

A face-to-face or online appointment will be arranged and you will be sent the details. The appointment is likely to last for approximately half-an-hour. After the consultation is complete, a draft report will be sent to the Investigating Officer and your line manager, so long as you have given your consent. With advice from Occupational Health, reasonable adjustments can be made to support you through the process.

5. Returning to work

Going back to work after an investigation is hard and you may wonder about when, and how, you want to return.

The first thing to remember is that the experience may have affected you in a number of ways. Please don't underestimate the time it may take you to process the experience and recover enough to feel able and confident to come back to work.

You must put your emotional wellbeing first and make sure you feel ready to return before you do. When you are ready, we will support you, in any way we can.

You may want to discuss a phased return or perhaps a return to an alternative department on a temporary or permanent basis.

5.1 When this is all over, I don't feel I can go back and work in the same job, department and with the people who have been involved in this. What are my options?

It's understandable that, after a difficult process like this, it can feel too much to go back to the same job and working environment. You may have lost confidence and require some additional training or support.

Your line manager will meet with you very soon after the process has been completed to discuss how you're feeling, how and when you want to move forward and what options are available. We believe you need care and support after going through an investigation at work, and your line manager will prepare a return-to-work plan with you.

This will typically cover when, where and how you return and include any extra support you may need to deal with any

anxieties or concerns you may have. Once you begin your return, your line manager will regularly check-in with you and be available and open to listen and discuss how you are finding going back.

Your trade union representative can also provide advice and guidance about your return to work.

5.2 Do I have to include this investigation on future job applications? Should I do so?

Some job applications include a direct question about investigations. If the result is that there is no case to answer, there is no need to include it in any application. If there has been a case to answer, it is always in your best interest to be upfront about it, not least because it shows you are honest. Also, if you do leave it out, that can sometimes result in the job offer being withdrawn. You can also speak to your trade union representative for advice.

6. The disciplinary investigation process in a nutshell

An allegation, or claim is made to your employer

The organisation decides the claim cannot be dealt with informally. The Commissioning Manager decides a disciplinary investigation is necessary, sets out what it will cover and appoints an Investigating Officer.

You receive a letter from the Commissioning Manager setting out all of the above, including this guide, and a copy of the NHS Wales Disciplinary Policy and Process.

This is the best time to arrange who you'd like to come with you to any meetings. Talk to your union if you're a member or speak to the Commissioning Manager about having a colleague with you.

The Investigating Officer contacts you to arrange a formal meeting.

You prepare for the meeting, together with anyone who is coming with you, so you can explain your version of events.

You attend the meeting.

It's a good idea for you and/or the person attending with you, to make notes of what is said.

The Investigating Officer provides you with a copy of your witness statement for you to sign or change if you feel it isn't accurate.

The Investigating Officer completes the investigation report and submits it to the Commissioning Manager.

The Deciding Officer decides if a disciplinary hearing is required. You will receive the investigation report and all evidence gathered at least 21 days before the hearing to help you prepare.

If there is a hearing, you prepare as before, together with anyone who is coming with you, so you can explain your version of events.

The final outcome is confirmed as no case to answer or a disciplinary sanction within 7 days of the hearing.

Soon after the outcome is confirmed, you meet with your line manager to discuss your return to work.

7. Useful contacts

Use this table to make a list of names of the individuals involved in your investigation so that you have all their details to hand.

Role	Name	Contact details
Commissioning Manager		
Investigating Officer		
Deciding Officer		
Trade union representative		
Accompanying colleague		
Line manager		

Organisation	Name	Contact details
Employee Wellbeing team		
Canopi		0800 058 2738 https://canopi.nhs.wales/
NHS Wales emergency mental health support		Dial 111 and press Option 2

8. Explanation of some of the terms used in this guide

Term	Description
ACAS	Advice Conciliation and Arbitration Service The neutral organisation that works with employers and employees to address problems in the workplace.
Allegation(s)	The concern(s) made against you that are being investigated.
Disciplinary investigation	The formal fact-finding exercise that follows when an allegation is made and the matter can't be sorted out informally. It collects all the relevant information so that the organisation can understand the facts of what has and hasn't happened.
Deciding Officer	The person who receives the investigation report and makes a decision as to whether it proceeds to a hearing.
Commissioning Manager	The person who decides that the investigation is required.
Investigating Officer	The person appointed by the Commissioning Manager to run the investigation and prepare the investigation report.
Investigation terms of reference	The detailed purpose of the disciplinary investigation and what it will cover, prepared by the Commissioning Manager.
Temporary redeployment	Working in another, similar role during the investigation.
Investigation report	The report prepared by the Investigating Officer at the end of the investigation and provided to the Commissioning Manager. It includes all the facts that the investigation could, and could not, confirm and outlines any relevant circumstances that should be taken into account when considering what happens next. It may also include the investigator's own conclusions on whether or not there is a case to answer.

Term	Description
Reasonable adjustments	Reasonable adjustments are changes an employer makes to remove or reduce a disadvantage, normally related to someone's disability or mental health.
Disciplinary hearing	The meeting where the Deciding Officer and possibly a panel of other people discuss the investigation report in detail. You will also be invited to attend to give your version of events in person.
No case to answer	This means that the disciplinary investigation has found that you have done nothing wrong, and so no disciplinary action will be taken. It may mean that there are learnings for the organisation and/or for you, such as training.
Disciplinary action/sanction	Action taken to address wrongdoing at work. This includes a written warning; other disciplinary action short of dismissal; dismissal (extremely rare); summary dismissal (extremely rare)
Written warning	A type of disciplinary sanction. You return to your role and the warning stays on your record for a specified period of time and is then removed so long as there are no further warnings during that time.
Other disciplinary action short of dismissal	A type of disciplinary sanction. This may include an offer of an alternative role, for example.
Dismissal (extremely rare)	A type of disciplinary sanction. This is when you do not return to work and receive payment equal to your notice period.
Summary dismissal (extremely rare)	A type of disciplinary sanction. This is when you do not return to work and do not receive any payment of notice.
Occupational Health nurse	A registered nurse who provides confidential and objective advice and guidance on work-related health issues.



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