

WHAT?

What is the complaint/issue/dispute – is there a legitimate issue etc?

What are there mitigating circumstances to defend the breach?

Is there precedence regarding similar situations?

What are there reasons/evidence to prove there was no breach?

What is the company's policy regarding the alleged issue in dispute?

What is the worker's understanding of the issue and does that correspond with the basis of the allegations?

What does the legislation provide for i.e. is there a legal defence?

WHO?/WHERE?

Who is impacted by the issue in dispute? (is it collective or an individual issue)

Who can advise you of the policy/s, procedures for the case – do your research!

Who are the management representatives conducting the hearing? (each stage of the disciplinary/grievance hearings should be conducted by someone independent)

Who made the allegations and was there a formal complaint made?

Who are the witnesses to the incident and is there CCTV footage to view as part of your preparation?

Where did the accident/incident take place?

Where was the witness or witnesses at the time of the accident/incident?

WHEN?

When did the accident/incident take place?

When was the allegation/s first investigated and by whom?

When were the witness statements & information gathered to prosecute the investigation/disciplinary/grievance process? (protracted time-frames)

When was the allegation put to the individual concerned?

When was the grievance lodged?

When was the policy/procedures given to the member, how were these circulated to staff and were staff advised about the consequences of breaching them?

When was company training given to the individual and was it adequate and sufficient, was there induction training?

WHY?

Why is there a breach of a policy or procedure & is there a legitimate reason for the breach if any?

Why was the member not advised of their right to representation during the disciplinary or grievance process?

Why was the member not advised of their right to a witness during the disciplinary or grievance process?

Why did the company fail to advise the accused about the nature of the meeting in advance?

Why was there no evidence (witness statements/CCTV) offered by the company to the accused in order to allow the individual reflect and prepare a defence?

Why was the employer's policy and procedures relied on by management representatives to prosecute the disciplinary sanction not communicated appropriately to all staff? (sometimes changes to existing policies are not presented to current staff for their information, this can be used as a defence)

HOW?

How was the investigation process conducted? (was it impartial, fair & comprehensive)

How were the initial disciplinary/grievance hearings conducted? (were they impartial, fair & comprehensive)

How was the policy/procedure relied on by the company to discipline their staff communicated to their staff

How were staff informed, taught the policy, procedure e.g. group briefings, company intranet site, E-Learning, classroom learning?

6 PRINCIPLES OF EFFECTIVE REPRESENTATION

1. Prepare to plan your case (*research methodology & information gathering*)
2. Plan your case (*Identifying & referencing the relevant information*)
3. Present your case (*Disciplinary or Grievance Hearing*)
4. Prepare to reflect on the outcome (*Post Hearing Analysis*)
5. Prepare to appeal the outcome (*combination of step 1&2*)
6. Present your appeal (*external or internal appeal hearing*)

THOUGHT PROVOKING QUESTIONS FOR THE DISCIPLINARY/GRIEVANCE PROCESS

A representative's guide to asking the right questions at the right time in the right place during the disciplinary/grievance process

The list of questions are not an exhaustive list and should only be used as a thought provoking guide to assist the union representative



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