

Employment investigations or disciplinary meetings, 2022

This information is intended to provide helpful tips and reminders for employment investigations, not hard and fast rules, or legal advice.

If you have been requested to attend an investigation or disciplinary meeting:

Seek advice from NZNO early. Do not attend any meetings on your own.

Contact your NZNO delegate and the NZNO Member Support Centre on 0800 28 3848.

Always notify the NZNO Member Support Centre of any investigation or disciplinary meeting so we can provide support to delegates if they are representing you.

Forward copies of any documentation to NZNO. Email nurses@nzno.org.nz.

If you are involved in a Policy, Coroners, Nursing Council or HDC investigation please refer to NZNO fact sheet *Investigations – Your Rights and Responsibilities* available on the NZNO website.

What is the process?

Being informed

You are likely to receive a formal letter from your manager, but you may also be informed verbally. If you are asked in an informal manner about an incident that could lead to you being disciplined, we recommend you do not answer any questions at that stage. All information that you provide can be used to determine the outcome of the investigation and / or disciplinary process and it is best to prepare before answering questions.

The employer should outline what you have been accused of, what policy or rule you may have breached, and what the most serious outcome could be. Outcomes can include a verbal or written warning, final written warning or dismissal, or remedial steps such as training, supervision, or mentoring. The allegations or issues should be specific and clear.

Investigation

The process starts with an investigation to find out if there has been any misconduct or breach of policy. The employer should gather all the facts and give you a chance to respond to any information they use to make decisions.

NZNO strongly advises that you have a delegate or organiser represent you during the investigation.

If you have any cultural requirements that you wish your employer to consider it is best to raise them early. This includes your right to an interpreter if you believe you may have difficulty understanding or explaining in English.

Suspension

NZNO strongly advises that you have a delegate or organiser represent you if your employer is considering suspension.

Your employer may propose that you are suspended during the investigation. However, it should only be possible if there are provisions for suspension in your collective agreement.

Employers most commonly request suspension on the grounds of staff or patient safety or where there is a risk to the employer's ability to undertake a proper investigation.

You must be given the opportunity to comment on a proposed suspension before any suspension is put into effect.

If you are suspended while the investigation is being carried out, you should be paid for the period of suspension.

Disciplinary process

The employer may initiate a disciplinary process if the investigation finds that there are grounds for one to occur.

Any disciplinary action should be proportionate and reasonable. You should be provided with a preliminary decision and given the opportunity to provide feedback, which should genuinely be considered by the employer, before a final decision is made.

Any outcome should be clearly recorded and communicated. Should no action be taken, ensure this is noted on your file. You should be given a letter setting out the outcome or findings of any investigation and / or any remedial steps your employer wishes you to take.

NZNO strongly advises that you have a delegate or organiser represent you if your employer initiates a disciplinary process.

What information are you entitled to?

Any information or evidence relied upon by your employer during the investigation should be provided to you before the meeting, so you have enough time to read, think it through and respond to this information. This can include CCTV footage, witness statements and signed complaints (or notes of complaints if they were made verbally). You may request to know the names of complainants. Your employer may only decline to give you the information on very limited grounds. If this happens, please contact NZNO.

When should meetings happen?

You should be given enough notice to arrange for a support person or advocate to attend the meeting with you, and to prepare a response. If your delegate or support person is unavailable or you require more time to prepare you are entitled to reschedule the meeting.

What should you expect at meetings?

The employer should clearly explain the purpose of the meeting, how the investigation will be run- including what else may need to be done or who else may need to be spoken to - and any possible outcomes or consequences of the meeting.

You should be given a fair opportunity to explain your side of the story and to put forward any information you and your representative consider relevant. Your explanations and responses to questions should be listened to and considered fairly by the employer.

You should be given enough time to think about and respond to questions from your manager or employer. This includes taking a break or adjournment to seek advice about how you should answer the question. You can adjourn to another mutually agreeable date if you require advice.

Your employer will ask questions and should explain more fully if you don't understand. You should not be pressured into answering or agreeing to anything you are not comfortable with or have not had a chance to seek advice about.

Notes of the meeting may be taken by your employer, your support person/advocate, and/or yourself.

Your employer must keep the notes and process confidential. No one should discuss what has been alleged with other staff (except those interviewed as part of the investigation).

Your employer is required to come into the meeting with an open mind. They cannot make any decisions until they have heard your explanation, and all investigations are complete.

Stress

If you are feeling stressed let your employer and advocate know so they can arrange appropriate supports.

You can ask your employer about the Employee Assistance Programme (EAP) or other available counselling.

After the process

If you believe the outcome is unreasonable, you may be able to challenge it through a personal grievance. You can request copies of any related documents from your employer. If you would like to discuss raising a grievance contact NZNO as soon as possible as there is a 90-day time limit for formally raising a personal grievance claim with the employer.

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Mission statement

NZNO is committed to the representation of members and the promotion of nursing and midwifery.

NZNO embraces Te Tiriti o Waitangi and works to improve the health status of all peoples of

Aotearoa/ New Zealand through participation in health and social policy development.

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