
Disciplinary and grievance procedures during the pandemic

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ACAS has published guidance on the conduct of grievance and disciplinary procedures during the pandemic.

THE FACTS

The guidance confirms that the law and the ACAS Code of Practice on disciplinary and grievance procedures still apply during the pandemic, including while social distancing and lockdown measures are in place. Employers will have to consider whether it would be fair and reasonable to carry out the process under the circumstances, including whether all public health guidelines can be followed and whether the process can be carried out remotely.

The guidance states that employees on furlough leave can take part in a disciplinary or grievance procedure (including investigators and decision makers) so long as they are doing it out of their own choice and the procedure takes place in line with public health guidance. There is a risk, however, that this conflicts with furlough rules (particularly in relation to investigators and decision makers), which state that (until flexible furloughing comes into effect) the employee cannot perform any services during furlough. It is also possible that employees who are subject to disciplinary proceedings will not voluntarily attend when they are on furlough.

WHAT DOES THIS MEAN FOR EMPLOYERS?

When considering whether to go ahead with a disciplinary or grievance procedure, employers will need to weigh up the benefits of acting without delay against the limitations of holding a process remotely or where social distancing has to be maintained. Employers should be careful of employees' mental health and wellbeing, and aware of the stress that may be caused both by holding and postponing procedures during intrinsically stressful times.

The ACAS guidance can be found [here](#).

Authors



Ceri Fuller

London - Walbrook
+44 (0)20 7894 6583
cfuller@dacbeachcroft.com



Joanne Bell

Manchester
+44 (0) 161 934 3179
jbelle@dacbeachcroft.com



Zoë Wigan

London - Walbrook
+44 (0)20 7894 6564
zwigan@dacbeachcroft.com