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Meetings, Disciplinarys and Investigations

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Negotiation

- Sometimes you will need to negotiate with your managers to get the best outcome. It is important to remember that sometimes this will not be exactly what you want.
- The aims of negotiation are to achieve an outcome, while preserving a working relationship.
- Go into any discussion with an open mind, and be willing to hear the other person's perspective.
- Focus on the problem and not the person.
- Being constructive and developing solutions to a problem will go a long way in any negotiation. Its much easier to solve a problem if the person with the issue comes prepared with some solutions that will reduce or resolve any problems.
- Ultimately, you want the best outcome for members, but if that's not possible, make sure that the outcome is fair.

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Organizing a Meeting with Your Employer/Manager

Remember that presentation and planning are critical for successful negotiation and representation.

Make sure that you have –

- Clear objectives. Ask yourself what do you want to achieve?
- Workplace support. Your colleagues and you have discussed this matter and are in agreement with your objectives
- All the relevant facts – use the experience and knowledge of the members in your workplace
- The key arguments of your case
- Anticipate management's response. If you know their argument this will help you prepare your argument to counter it
- A fall-back position or second option

You might consider letting your employer or manager know about the issues you want to discuss prior to any meeting. This can help speed up the process and avoids the response, "We need to think about this." It also allows you to set the agenda of the meeting.

If the issue is too large or complex then adjourn the meeting and seek advice from your Organiser.

Remember: Don't get in over your head.

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- NUPE does not encourage delegates to undertake disciplinarys and represent members.
- However, occasionally, people will be asked to either support a member and very occasionally asked to represent them – but, only if an organiser is unavailable.
- There is a difference between a representative and a support person
 1. Representatives can speak on behalf of a member and act as their advisor
 2. Support people do not represent - they are there to listen, observe and take notes

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Investigations and Disciplinarys

- Be aware that a preliminary investigation is just that – it is supposed to establish the facts around what happened and members may be asked to provide statements or answer questions.
- They are obliged to be ‘responsive and communicative’ and not to ‘mislead or deceive’ as part of their good faith obligations under current employment laws
- An investigation can lead to the establishment of a **case to answer**, so even at this stage a member should be warned that any information they provide may be used in subsequent disciplinary proceedings and they should also be given the right of representation.
- Disciplinarys are different. The member should be provided with any allegation(s) that have been made, all the information surrounding the allegation(s) and a warning of the possible consequences should the allegations be substantiated.
- The member should also be given the right to be represented.

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- If you or a member are asked to attend an investigation make sure the following procedures have been followed:
- Has the purpose of the meeting been clearly explained to the member?
- Has the member been given a warning that any information they provide may be used in subsequent disciplinary proceedings?
- Has the member been given the right to representation including enough time to receive and consider advice?
- If the answer is no – then the employer needs to undertake these things prior to any meeting

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- If you or a member are asked to attend an investigation make sure the following procedures have been followed:
- Have the allegation(s) been clearly spelt out?
- Have the possible consequences (dismissal/final warning/warning) been identified?
- Has the member been given all the information/evidence pertaining to the allegation including any witness statements, notes of interviews written and/or electronic evidence?
- Is the decision maker for the employer present at the meeting?
- Has the member been given the right to representation including time to seek and consider advice?
- The Employer must undertake these duties prior to any meeting. If they have not then the member is being treated unfairly.

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- If you are asked to represent a member:
- Remember Unions don't 'defend' we 'represent'. That means it's not your job to judge the member but to get them the best deal you can in the circumstances. These will include whether or not they're guilty, whether there are any mitigating circumstances, and how the wider membership view what's happened.
- Have pen and paper and take notes in all meetings. Don't be afraid to slow things down so you can make an accurate note.
- Sometimes the employer wants to have agreed minutes of this kind of meeting. As a rule it's better you keep your own notes and the employer keeps theirs. In the event of a subsequent dispute the parties have their notes.
- Don't be afraid to ask for more time before or during the meeting. The employer has had plenty of time to prepare for this – you need time too.
- Don't be afraid to ask for help from your Organiser or NUPE National Office. Trust your instincts, when in doubt ask for help. If the employer balks at any delay this may involve be polite but firm in holding your ground.