

ESSENTIAL GUIDE TO HANDLING GRIEVANCE CASES

What is a grievance?

Grievances are concerns, problems or complaints that employees raise with their employer.

Grievances can be related to many factors, including:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination

Grievance procedures

Clear grievance procedures will provide a structure for dealing with complaints and ensure that everybody is treated in the same way in similar circumstances and that issues are dealt with fairly and in a reasonable manner.

Grievance procedures will:

- provide individuals with a course of action if they have a complaint which they're unable to resolve through regular or informal communication with their line manager
- provide points of contact and timescales to resolve issues of concern
- identify with whom employees should raise the complaint and identify appropriate sources of support eg HR, employee assistance programmes etc
- provide timescales within which the organisation will seek to deal with the complaint
- provide details of the stages of the grievance procedure, for example, how a complaint may be raised with the next level of management if a satisfactory resolution isn't reached.

If your procedures do not follow the Acas Code of Practice Disciplinary and Grievance Procedures then an employment tribunal will consider this and may adjust any awards made by up to 25% for unreasonable failure to comply.

http://www.acas.org.uk/media/pdf/k/b/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures-accessible-version-Jul-2012.pdf

Handling grievances informally

Individuals should be encouraged to discuss ordinary, day-to-day issues informally with their line manager. This helps concerns to be heard and responded to as soon as possible. Where this has been unsuccessful, or circumstances make this route inappropriate, employers should consider using mediation or some other form of alternative dispute resolution such as 'facilitated discussion'.

If matters can't be resolved by other means, they can be raised formally through the formal grievance procedure.

Handling grievances formally

If formal attempts at resolving a problem have not been successful then an employees may raise a grievance by outlining the nature of their complaint in writing. However, please note that a grievance complaint does not have to refer to a formal grievance procedure. For example, reference to an issue in an email may be treated as a complaint and be addressed through the grievance procedure.

Stage 1

- Invite the employees to a formal grievance meeting
- Hold the grievance meeting
- Make any investigations if necessary
- Confirm the outcome of the grievance meeting

Stage 2

- Appeal hearing
- Confirm the outcome of the appeal hearing in writing

Inviting an employee to a formal grievance meeting

Employees who raise a grievance should be invited to a formal meeting in writing, ideally within 5 working days of receipt of the complaint. The letter should include:

- that they are being invited to a meeting to discuss their grievance
- the date, time and location of the meeting
- who will be attending and their roles
 - determine who is best placed to hear the grievance, for example, if it about a manager, is there another appropriate person who can hear it?
 - arrange for a note taker to attend
- their right to be accompanied by a fellow work colleague or an appropriate trade union representative
- the date by which they should respond to confirm their attendance
- enclose a copy of the grievance procedure (or ensure they know where to find it)

Conducting the Grievance meeting

A grievance meeting is not the same as a disciplinary hearing, the discussion and dialogue may lead to an amicable solution to the complaint. Keep the approach formal and polite and encourage the employee to speak freely. Put care and thought into resolving grievances. They are not normally issues calling for snap decisions and the employee may have been holding the grievance for a long time. Try to make allowances for any reasonable 'letting off steam' if the employee is under stress

and do not to get involved in arguments, give opinions during the meeting or make personal remarks.

Managers should:

- Introduce those present and explain why they are there, for example, notetakers
- Explain the role of the accompanying person
 - they have the right to address the meeting, confer with the employee and ask questions but they do not have the right to answer questions on the employee's behalf
 - if they are not accompanied check that they understand their right and that they are happy to continue unaccompanied
- Explain the purpose of the meeting is for the employee to explain their complaint and say how they think it should be resolved
- Invite the employee to re-state their grievance and provide any documents in support
- Summarise what has been said a specifically list the points of the grievance to check your understanding
- Explain if you consider it may be necessary to investigate any news facts
- Tell the employee when they might reasonably expect a response.

Record-keeping

Always keep records as they will be vital should a case go to an employment tribunal. The type of records to keep are: minutes of meetings, emails, attendance notes, notes of telephone calls, copies of correspondence, evidence submitted for any disciplinary meeting etc.

Records should include:

- the nature of the grievance
- what was decided and actions taken
- the reason for the actions
- whether an appeal was lodged
- the outcome of the appeal
- any subsequent developments

Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken.

Grievance Outcome

Following the meeting and any further investigation, decide on what action, if any, to take. Decisions should be communicated to the employee, in writing, without unreasonable delay (according to your company policy, but preferable, within 5 days) and should set out what action the employer intends to take to resolve the grievance.

Grievances may be upheld or not upheld. There may also be occasions where they may be several aspects to a grievance and where you may partially uphold some elements. If this is the case, the

outcome letter needs to clearly set out the summary of each element and clearly state which parts are being upheld/not upheld with clear reasons.

There may also be occasions where a grievance is not upheld but the case identifies an issue with your policies or procedures which will need to be amended. You should address this as soon as possible after the case.

The employee should be informed that they can appeal if they are not content with the action taken.

Appeals

Where an employee feels that the outcome of a grievance is unfair or unjust they have the right to appeal against the decision. Appeals should be heard without unreasonable delay and ideally, be dealt with impartially by a manager who has not been involved in the case before.

Employees should let employers know the grounds for their appeal in writing. They also have a right to be accompanied at appeal hearings.

Employees should be informed in writing of the results of the appeal hearing as soon as possible.

Grievance Procedures: Frequently Asked Questions

Q What do I do if a grievance is about a fellow employee?

Having a grievance procedure will help in such circumstances. An employee may be the cause of grievances among his or her co-workers. For example, on the grounds of personal hygiene, attitude, or capability for the job.

In such circumstances, deal with these cases carefully and start by talking privately to the individual about the concerns of fellow employees. This may resolve the grievance.

Alternatively, if those involved are willing, an independent mediator may be able to help.

Q Who can attend as an accompanying person?

Accompanying persons will normally be a work colleague or an appropriate Trade Union representative. Employers don't usually have to allow other companions (for example family members or lawyers) but may do so if they wish.

Q Can an employee suggest an alternative date and time for the grievance meeting?

Yes, so long as it is reasonable and not more than five working days after the original date.

Also, the employee should be given sufficient time to prepare for the meeting.

Q What happens if a grievance is received after an employee has left the company?

You may be able to apply a modified grievance procedure if the employer and employee agree in writing and where the employer was not aware of the grievance before the employment ended. The modified procedure would be:

- Stage 1 – employee sets out their grievance and the basis for it in writing and sends to employer
- Stage 2 – the employer sets out their response in writing and sends a copy to the employee.

There is no right of appeal.

Q How do I investigate the complaint?

Ideally, the person conducting the investigation should have no connection with the complaint, so they can find out the facts in a fair and reasonable manner. Finding a person who is unconnected is not always possible in a small business. However, whoever carries out the investigation must do so with an open mind.

That entails talking to all the parties involved and producing written evidence, and being willing to look for evidence supporting the employee and against them. People involved should be asked not to discuss the complaint - and not to rally support for one side or the other.

And remember to keep that open mind, as what you uncover may not be what you expected. For example, someone's fall-out with a colleague could also uncover allegations of bullying.

Q We are a small company and don't have alternative managers to investigate or hear an employee's complaint?

In small firms run by an owner/ manager there will be no alternative manager to raise a grievance with. Make sure that it is clear in your procedures/ staff handbook that you will treat all grievances fairly and objectively even if the grievance is about something you have said or done.

Q What do I do if an employee raises a complaint about something which is beyond my control. For example, the behaviour of a client?

These should be treated in the same way as grievances within the organisation, with the employer/manager investigating as far as possible and taking action if required. The organisation should make it very clear to any third party that grievances are taken seriously and action will be taken to protect their employees.