

# GRIEVANCE PROCEDURE AT WORK

All employees have a right to be treated fairly in the workplace. Sometimes you may feel this is not happening and want to bring the matter to your employer's attention.

Very often you can raise a grievance informally through a conversation with your manager. If this does not resolve the issue, or if the matter is very serious, you may feel the only way to deal with your complaint is through filing a formal grievance.

## What is a grievance procedure for?

The grievance procedure is outlined by the [ACAS code](#) on Disciplinary and Grievance Procedures, also known as the Code. Any internal procedures detailed in your staff handbook should conform with the Code.

A grievance is defined as a complaint by an employee about an action which an employer has taken, or is contemplating taking, which affects the employee. Grievances can cover trivial matters or much more significant issues, such as changes in the workplace, terms and conditions (including pay), favouritism and bullying.

We frequently talk to callers who are considering raising a grievance and who feel nervous about this. It is understandable as an employee that you would want your grievance heard, but you may feel concerned that you may suffer a detriment in the workplace as a result. The ability to bring a grievance is a statutory right protected in law to prevent this happening.

## What is the grievance policy?

It is a written policy for dealing with grievances which helps to make it clear how to raise a grievance and what will happen if you do. It also makes sure you can find out your rights, such as the right to be accompanied at grievance hearings.

Some employers provide external mediators to help with certain types of grievance, or if a grievance cannot be resolved informally, before resorting to formal procedures. A written procedure can explain how and when mediators may be used.

The Acas Code recommends that your employer introduces a written, specific and clear grievance procedure. If you unreasonably fail to follow the good practice and advice in the Code (as outlined below), you risk a decrease of up to 25 per cent in any subsequent Employment Tribunal award made against your employer.

All businesses are required to include details of the grievance (and disciplinary) procedures that apply to employees in their employees' written statements of terms and conditions or to give an indication of where employees can find and read them. They are also required to give the name or title of the person to whom employees can apply if they want redress for grievances (or are dissatisfied with disciplinary decisions).

The key to handling grievances in the workplace are set out in the Code as follows:

1. You must let your employer know the nature of the grievance.
2. Your employer will need to investigate the grievance appropriately.
3. Your employer should invite you to at least one meeting to discuss the matter and try to resolve the issues.
4. Your employer must allow you to be accompanied to the meeting by a trade union representative or work colleague.
5. Your employer must notify you of what they decide is the necessary outcome.
6. You must be allowed to appeal if the grievance is not resolved to your satisfaction.

### **Does the grievance have to be in any particular form?**

There is no prescribed form for the grievance other than it has to be in writing. If your employer isn't sure if your complaint is a formal grievance, your employer can ask you if that is your intention and to put the complaint in writing if you have not done so. There are cases when a complaint by an employee should be treated as a grievance even though it is not apparent that is one. This can include:

- where the word 'grievance' has not been used in a document.
- a resignation letter setting out problems could be considered a grievance if a complaint is made in the terms of the letter.
- the employee has not followed the documented grievance procedure.
- the grievance did not come directly from the employee. For example, it could come in the shape of a letter from their solicitor or notes made by a manager following a meeting with an employee to discuss allegations that they have been bullied.

### **The grievance procedure**

A formal meeting should be held as soon as possible after your grievance is submitted – the Code recommends that it be held 'without unreasonable delay'. You (and your companion) should make every effort to attend the meeting.

Your employer may want to carry out an investigation into the facts behind the grievance, or adjourn the meeting to carry it out, particularly if the grievance

concerns another employee. In that case the investigation will usually start with a discussion with other employees about the issues raised. If that does not resolve the matter, your employer may wish to involve an independent mediator. It is important that issues and actions which form the basis of your grievance should be kept as confidential as possible.

At the meeting, you should have an opportunity to explain your grievance and suggest how you would like it resolved. The meeting is not a disciplinary hearing and the aim is to reach a solution through discussion and dialogue. You should also feel you have had a proper opportunity to get your grievance heard. At the end of the meeting you should be informed when you can reasonably be expected to receive a decision (given any time limits in the procedure). The suggested procedure for small organisations in the guide to the Code suggests that this should be within 24 hours.

Once your employer has decided on the action to be taken (if any), you need to be told in writing, as soon as possible. The letter should tell you how to appeal if you are not happy with the action being proposed. For further information on the grievance process please see the [.GOV website here](#).

### **The role of the companion**

If the grievance meeting is about a contractual or statutory duty your employer owes you, you have the right to be accompanied to that meeting. In practice, it is usual for employees to have the right to be accompanied whatever the nature of their grievance.

The companion can be:

- a colleague
- a trade union representative who is not employed by the union but has been certified as competent to deal with such matters
- an employed official of a trade union

To be accompanied by a trade union official, the union does not have to be recognised and the employee does not have to be a member of it. You must make a reasonable request first, saying who you want your companion to be. Your handbook may allow you to bring other companions, such as a legal representative. If you suffer with a disability and have

difficulty understanding the situation, your employer may allow you to bring a companion (such as a support worker) with knowledge of your disability and its impact.

The Code recommends a companion be allowed to participate as fully as possible in the hearing. This includes being able to confer with the employee, address the hearing to put and sum up the worker's case, to respond on behalf of the worker to any views expressed at the meeting and to ask questions of witnesses. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it, or prevent the employer from explaining their case.

## The appeal process

To appeal the outcome of the grievance you must do so in writing within the time given.

The appeal should then be heard without unreasonable delay, and you should be told where and when it will take place, and be reminded that you have a statutory right to be accompanied at the hearing. The appeal should, if possible, be heard by a manager who is more senior than the manager who made the decision being appealed and who has not previously been involved or, if that is not possible, by a different manager. In any event, the appeal must be conducted impartially.

As soon as possible, you should be notified of the appeal decision in writing. If this is the end of the grievance procedure (in the case of a small firm it usually will be) it should say so in the letter. However, in larger firms there may be a further right of appeal to a director, for example. If so, you should be notified of that further right.

## What happens after the grievance?

Callers often ask what the outcome of a grievance will be and this of course depends on the nature of the grievance. It is not the case that all grievances will result in a positive outcome as an employer may decide, after consideration and investigation, that the grievance has no merit or that it is not necessary to make any changes.

In other situations you may find changes to the workplace are made or that other members of staff face disciplinary proceedings. You are not able to direct your employer to a particular course of action or to insist on an outcome. Any action taken against another employee will be confidential.

Unfortunately once this procedure is exhausted the party bringing the grievance can generally take no further action unless the matter is one for which a legal remedy may be sought.

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