

# GRIEVANCE PROCEDURE FOR EMPLOYERS

Where an employee does not feel they are treated fairly in the workplace, they may wish to bring the matter to their employer's attention.

An employee can raise a grievance informally through a conversation with their manager. If this does not resolve the issue, or if the matter is very serious, they may feel the only way to deal with their 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 a 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.

The ability to bring a grievance is a statutory right protected in law to prevent an employee from suffering detriment in the workplace as a result of the grievance.

## What is the grievance policy?

It is a written policy for dealing with grievances which helps to make it clear to an employee how to raise a grievance and what will happen if they do. It also informs the employee of any rights they may have, 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. This is optional. A written procedure can explain how and when mediators may be used.

The Acas Code recommends that an employer introduces a written, specific and clear grievance procedure. Any failure by an employer to follow the good practice and advice in the Code (as outlined below), will risk an increase of up to 25 per cent in any damages an employer may have to pay.

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. An employee must inform their employer know the nature of the grievance.
2. The employer will need to investigate the grievance appropriately.
3. The employer should invite the employee to at least one meeting to discuss the matter and try to resolve the issues.
4. The employer must allow the employee to be accompanied to the meeting by a trade union representative or work colleague.
5. The employer must notify the employee of what they decide is the necessary outcome.
6. An employee must be allowed to appeal if the grievance is not resolved to their 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 an employer is not sure if the complaint is a formal grievance, clarification should be sought from the employee. 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 a grievance has been received – the Code recommends that it be held 'without unreasonable delay'. An 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, an employer may wish to involve an independent mediator. It is important that issues and actions which form the basis of the grievance should be kept as confidential as possible.

At the meeting, an employee should have an opportunity to explain their grievance, provide any evidence they have in support of their grievance and suggest how they would like it resolved. At the end of the meeting an employer should inform the employee when they can reasonably be expected to receive a decision (given any time limits in the procedure). You should also speak to any witnesses that have been identified as part of this grievance process.

Once an employer has decided on the action to be taken (if any), the employee must be told in writing, as soon as possible. The letter should tell the employee how to appeal if they are not happy with the action being proposed.

## The role of the companion

If the grievance meeting is about a contractual or statutory duty owed to an employee, they 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.

If an employee suffers with a disability and has difficulty understanding the situation, an employee may wish to consider allowing the employee to bring a companion (such as a support worker) with knowledge of the 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, an employee must do so in writing within the time given.

The appeal should then be heard without unreasonable delay, and the employee should be told where and when it will take place and be reminded that they 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, the employee 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 notify the employee of that further right.

## What happens after the grievance?

It is not the case that all grievances will result in the employer supporting the upholding of the employee's grievance. Often, after consideration and investigation,

the grievance is found to have no merit or that it is not necessary to make any changes.

In other situations, it may be appropriate for an employer to make changes to the workplace or that other members of staff face disciplinary proceedings. Any action taken against another employee will be confidential.

Once the grievance 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.

---

*NOTE: Please be aware there are links contained within this factsheet that may take you to external sites, we are not responsible for their content. This is a general advice and information factsheet only and should not be treated as a definitive guide and does not constitute legal or professional advice. We are not a law firm and information is not intended to create a solicitor client relationship. Law Express does not accept any responsibility for any loss which may arise from relying on information contained in this factsheet. This is not a substitute for legal advice and specific and personal legal advice should be taken on any individual matter. If you need more details or information about the matters referred to in this factsheet please seek formal legal advice. This factsheet is correct at time of going to print. The law set out in this factsheet applies to England, unless otherwise stated.*

**Copyright © 2024 by Law Express**

All rights reserved. This article or any portion thereof may not be reproduced or used in any manner whatsoever without the express written permission of the publisher.