

Grievance

Guidance Note

Grievance



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Introduction

Grievances are concerns or complaints that employees raise about their terms and conditions of employment, other employees or their employer. All employers should have a procedure to deal with grievances and should follow it.

When it comes to grievances, best practice and the basic principles are laid out in the statutory Acas Code of Practice. Failure to follow this Code does not give rise to claims in itself but may lead to a Tribunal upholding a complaint of, for example, unfair dismissal or discrimination. In such cases, there may also be an uplift of up to 25% in any compensation ultimately awarded to the employee by the Tribunal. Most claims must be brought within three months of the act complained of.

Written procedure

Your grievance procedure should be set out in your Employee Handbook.

The Acas Code requires that the procedure be fair and transparent. You should ensure that all employees and managers know where to find the procedure and how to use it.

If an employee's grievance is not dealt with properly and they walk out as a result, they may claim to have been constructively dismissed and, subject to qualification, they will be able to make a claim for unfair dismissal against you.

To successfully defend such claims, you will need to show that you carried out a fair and reasonable process to deal with the grievance, taking into account all the circumstances of the case.

Grievance hearings

If possible, both employees and employers should aim to settle grievances informally. If the issue is not resolved informally, then the employee may raise it formally.

Where an employee formally raises concerns, problems or complaints in relation to their working environment, their terms and conditions or other employees, you should follow the structured approach laid out in your grievance procedure.

On receiving a formal grievance, you must write to the employee and invite them to a formal grievance meeting as soon as reasonably practicable. The employee should be reminded of their right to be accompanied by a fellow worker or trade union representative at the grievance meeting. Reasonable notice of the meeting (no less than two working days) should be given.

At the meeting, you should listen carefully to the employee's complaint and consider all evidence presented by them. It might be necessary to adjourn a grievance hearing in some cases in order to carry out an investigation into their complaints. Where you adjourn to investigate, you should re-convene the meeting to enable the employee to comment on the outcome of your investigation.

After the meeting, you should consider matters in detail and decide whether to uphold any aspect of the grievance and, if so, what steps should be taken to resolve the matter. You should then write to the employee, without unreasonable delay, confirming the outcome of the grievance hearing and, if you reject the grievance, notifying them of their right to appeal.

It may be the case that, as a result of one employee's grievance, another employee is found to have breached the employer's rules and action needs to be taken against that second employee. If this is the case, you should then follow the process set out in your disciplinary or performance management procedures.

Appeals

An employee whose grievance has not been upheld must be given an opportunity to appeal. It is suggested that you set a time limit for appeal, such as five to ten working days from receipt of the grievance decision.

A more senior person who has not been involved with the case should hear the appeal.

The appeal hearing should consider all the grounds the employee has raised as to why they do not agree with the original decision. The appeals officer needs to be satisfied that the original grievance finding was correct and reasonable in all the circumstances. The appeal decision should be confirmed to the employee in writing as soon as possible.

Where an employee raises a grievance during a disciplinary process (it is not uncommon, for example, for an employee to allege that the manager who has brought the disciplinary charge against the employee is bullying or victimising the employee), you may decide to temporarily suspend the disciplinary process to deal with the grievance or simply deal with both issues at the same time if they relate to the same issue.

The right to be accompanied

**Employees have the right to be accompanied at grievance hearings (and appeals).
In practice, it is safest always to offer the right to be accompanied.**

The person who accompanies the employee can be either a fellow worker or a trade union official. An employee acting as a companion to another employee can take paid time off work to prepare for and attend a hearing.

The companion/union representative should be allowed by the employer to put forward the employee's case, respond to any views expressed and confer with the employee. The companion/union representative cannot answer any questions put to the employee.

If an employee's chosen companion cannot attend a grievance meeting at a time proposed by you, the employee can ask for a postponement of up to five working days.

If an employee is refused the right to be accompanied, they can bring a claim at a Tribunal and could be awarded up to two weeks' pay for the refusal. In accordance with the Acas Code of Conduct, they may be entitled to a 25% uplift on any compensation awarded.



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