

EMPLOYEE GRIEVANCES

Summary

- Employers are required by law to provide details to employees of the person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his/her employment and how the employee should make this application.
- Employees should aim to resolve most grievances informally with their line manager but if a grievance cannot be settled informally, the employee should raise it formally with management.
- Grievances should be resolved as quickly as possible and all details should remain confidential.
- Employees have the right to be accompanied at meetings by a work colleague or trade union representative.
- Training should be provided to managers on how to manage grievances fairly and consistently.
- Written records should be kept for future reference.

Why have grievance procedures?

Grievance procedures allow employers to deal with grievances fairly, consistently and speedily. Employers must ensure that procedures are available to employees so that their grievances can be properly considered.

When drawing up grievance procedures, it is beneficial to involve everybody they affect, including managers, employees and, where appropriate, their representatives. See sample grievance procedure at Appendix 17A.

Grievance procedures should allow employees to raise issues with management and should:

- be simple and in writing;
- enable an employee's Line Manager to deal informally with a grievance, if possible;
- keep proceedings confidential; and
- allow the employee to have a companion at meetings.

Issues that may cause grievances include:

- Terms and conditions of employment;
- Health and safety;
- Work relations;
- Bullying and harassment;
- New working practices;
- Working environment;
- Organisational change;
- Equal opportunities.

Where separate procedures exist for dealing with grievances on particular issues e.g. harassment and bullying, these should be used instead of the normal grievance procedure. All such procedures should comply with the requirements of the Code of Practice on disciplinary and grievance procedures published by the Labour Relations Agency.

It is possible for the grievance procedure to form part of the contract of employment but this is not recommended. Rather, it is advisable for the grievance procedure to be separated from the contract so that if an employer fails to comply with any part of the procedure, the employee will not have grounds to claim breach of contract or to resign and claim constructive dismissal.

Employers should take reasonable steps to ensure that everyone in the organisation understands the grievance procedures and that supervisors, managers and employee representatives are trained in their use. Employees should be given a copy of the full procedures or have ready access to them, for instance on a notice board or as part of an induction process.

Dealing with grievances in the workplace

Employees should aim to resolve most grievances informally with their line manager. This has advantages for all workplaces, particularly where there might be a close personal relationship between a manager and an employee. It also allows for problems to be resolved quickly. However, it is not always possible to resolve grievances informally and circumstances, such as the serious nature of the grievance, may dictate that the formal grievance procedure is the way to proceed. If a grievance cannot be settled informally, the employee should raise it formally with management, using the formal grievance procedure.

A failure to follow the grievance procedure in those cases which a tribunal can hear, may mean that the tribunal adjusts an award upwards or downwards by a percentage of up to 50 per cent to reflect that the provisions of the Code of Practice on disciplinary and grievance procedures published by the Labour Relations Agency have not been reasonably followed by either the employer or the employee. In the case of the employer this may be a failure to offer an appeal/right of accompaniment etc. In the case of the employee an award may be reduced if the tribunal believes the employee has unreasonably failed to cooperate with the employer during the grievance process i.e. by failing to attend a scheduled grievance meeting on numerous occasions etc.

SECTION 17

Under the Disability Discrimination Act 1995 employers are required to make reasonable adjustments throughout the grievance process. This may include assisting employees to formulate a written grievance if they are unable to do so because of a disability.

Letting the employer know the nature of the grievance

If it is not possible to resolve a grievance informally the employee should raise the matter formally, and without unreasonable delay, with his/her manager. If the complaint is against his/her manager the employee should be allowed to approach that person's manager or, if that is not reasonably practicable, another manager in the organisation. Where this is not possible, the manager should hear the grievance and deal with it as impartially as possible.

The employee should raise the grievance in writing setting out the nature of the grievance and how it might be resolved. Setting out a grievance in writing might not be easy especially for those employees whose first language is not English or who have difficulty expressing themselves on paper. In these circumstances the employee should be encouraged to seek help, for example from a work colleague, a trade union or other employee representative.

Holding a meeting with the employee to discuss the grievance

Employers should arrange for a formal meeting to be held without unreasonable delay after a grievance is received. Workers have a statutory right to be accompanied at any such meeting.

Employers, employees and their companions should take reasonable steps to attend the meeting and employees should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any further investigation that may be necessary.

Deciding on appropriate action

Following the meeting, the employer should decide on what action, if any, to take. The decision, and a full explanation of how the decision was reached, should be communicated to the employee, in writing, without unreasonable delay. Where appropriate, the decision should set out what action the employer intends to take to resolve the grievance. The employee should be informed that they can appeal if they feel that their grievance has not been satisfactorily resolved.

Appeals

If the employee feels that their grievance has not been satisfactorily resolved they should have the opportunity to appeal. An appeal should be made without unreasonable delay, advising the employer in writing of their grounds for appeal. An employer should hear the appeal without unreasonable delay and at a time and place which should be notified to the employee in advance. The appeal should be dealt with impartially and wherever possible by a manager who has not previously been involved in the case. Workers have a statutory right to be accompanied at any such appeal hearing. The outcome of the appeal should be communicated to the employee in writing without unreasonable delay.

Overlapping grievance and disciplinary issues

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. There may be situations where the employer may find it more convenient to deal with both issues concurrently.

Collective grievances

The provisions of the Labour Relations Agency Code do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. These grievances should be handled in accordance with any collective grievance process an organisation may have.

Keeping records

It is important, and in the interests of both employer and employee, to keep written records during the grievance process for future reference. Records should include:

- **a copy of the written grievance;**
- **the employer's response;**
- **action(s) taken;**
- **the reason for action(s); and**
- **the outcome of any appeal.**

Records should be treated as confidential and kept in line with Data Protection Act 1998, which gives the right to request access to personal data. Records such as formal minutes should be given to the employee. The employer may withhold information relating to protection of a witness in some circumstances.

APPENDIX 17A

SAMPLE (Text in red to be deleted before issuing. Text on blue background to be amended as appropriate)

INDIVIDUAL GRIEVANCE PROCEDURE

The aim of this procedure is to give an employee an opportunity to raise a grievance either informally and/or formally and to discuss this with their employer with a view to having it resolved.

General Principles

- Grievances should be raised as soon as possible, to allow issues to be resolved quickly.
- Employees should be given the opportunity to explain their grievance and how they think it should be resolved.
- If the employee's grievance is against their line manager they may raise the matter with another manager in the organisation, where possible.
- The employer will ensure that the timing and location of all meetings under this procedure are reasonable.
- As far as is reasonably practicable, appeal hearings will be conducted by a manager more senior than the manager who took the decision which is being appealed. This does not apply where the most senior manager attended the hearing at which the decision being appealed was taken.
- Employees will be entitled (where reasonably requested) to be accompanied to any grievance or appeal hearing by a fellow worker or Trade Union Official (who may be either a full-time official employed by a union or a lay union official who has been reasonably certified in writing by his/her union as having experience of, or as having received training in, acting as a worker's companion).
- Employers, employees and their companions should take reasonable steps to attend grievance and appeal meetings.
- Records shall be kept detailing the nature of the grievance raised, the employer's response, any action taken, the reasons for it and other information relevant to the process. These records shall be kept confidential.
- There may be circumstances where the employer and employee feel it would be beneficial to involve a third party to help in resolving the issue, through for example a process of mediation. In this instance the grievance procedure may be temporarily set aside.

Mediation is a process whereby an independent third party intervenes in a workplace dispute to assist the parties to reach a satisfactory outcome.

The Labour Relations Agency can provide a mediation service to assist the parties. Further information on mediation is available on the Agency's website www.lra.org.uk or by telephoning 028 9032 1442.

Dealing with a grievance informally

If an employee has a grievance or complaint to do with their work they should, in the first instance and, wherever possible, discuss it with their line manager. They may be able to agree a solution informally.

Formal grievance

If it is not possible to resolve a grievance informally, or the employee does not feel it is appropriate to do so, they should raise the matter formally in writing to **(insert job title)**. The written grievance should contain details of the nature of the grievance and how they feel it might be resolved.

Grievance hearing

The **(insert job title)** will call the employee to a meeting to discuss their grievance. This will normally be held within 5 working days from receipt of the complaint in writing. Employees should be allowed to explain their grievance and how they think it might be resolved. The employee will be entitled to be accompanied at this meeting. Following the meeting the **(insert job title)**, (within 5 working days), will advise the employee in writing what, if any action they have decided to take along with a full explanation of how the decision was reached. The employee should be informed that they can appeal (and to whom the appeal should be made) if they feel that the grievance has not been satisfactorily resolved.

Appeal

If the employee wishes to appeal they should let **(insert job title)** know in writing stating their reason(s) for appeal. This should be done within 5 working days of the grievance hearing decision being communicated in writing to them. Within 5 working days of receipt of the appeal an appeal meeting will take place. The appeal will be conducted by **(insert job title)**. The employee will be entitled to be accompanied at this meeting.

Following the meeting **(insert job title)** will advise the employee in writing of the outcome of the appeal, no later than 5 working days from the appeal being heard. This decision is final.

APPENDIX 17B

INVITE TO INVESTIGATORY MEETING – COMPLAINT/GRIEVANCE AGAINST ANOTHER MEMBER OF STAFF - EMPLOYEE RAISING A GRIEVANCE

Date _____

Name and Address _____

Dear XXXX

RE: MEETING

I write to confirm that I have been informed of a complaint made by you in relation to [insert name of employee].

I would now like to meet with you to discuss the matter in further detail and have made arrangements to meet you in Venue on Date at Time. XXX (from Human Resources)* will accompany me to take a contemporaneous note of the interview. You may be accompanied by a trade union representative or a workplace friend / colleague.

I would like to emphasise that this matter and matters discussed in the course of the meeting are confidential. They should not be discussed with anyone other than your chosen trade union representative or accompanying workplace friend / colleague if you chose to have one accompany you.

If you have any queries regarding this letter, please do not hesitate to contact me on XXXXXXXXX.

Yours sincerely

NAME

*Delete if appropriate

NOTE – THE WORDING ABOVE SHOULD BE AMENDED AS REQUIRED

APPENDIX 17C

INVITE TO INVESTIGATORY MEETING FOLLOWING COMPLAINT - PERSON AGAINST WHOM A COMPLAINT HAS BEEN MADE

Date _____

Name and Address _____

Dear XXXX

RE: INVESTIGATORY MEETING

I am writing to confirm that a complaint has been made in relation to your alleged behaviour as a line manager to a member of staff who reported to you. *

I would now like to meet with you to discuss the matter in further detail and have made arrangements to meet you in Venue on Date at Time. XXX (from Human Resources)* will accompany me to take a contemporaneous note of the interview. You will be entitled to receive a copy of these notes. You may be accompanied by a trade union representative or a workplace friend / colleague.

You may also provide a written explanation in advance of the meeting. Any such explanation should be submitted to me by Time and Date.

The purpose of this meeting is to establish the facts to assist us to make a decision on what, if any, disciplinary penalty or alternative measures may be appropriate. I draw your attention to the company Disciplinary Procedures, also attached for further information.

I would like to emphasise that this matter and matters discussed in the course of the interview are confidential. They should not be discussed with anyone other than your trade union representative or workplace friend / colleague if you choose to have one accompany you.

Yours sincerely

NAME

*Delete as required

NOTE – THE WORDING ABOVE SHOULD BE AMENDED AS REQUIRED