

SECTION 6 – GRIEVANCE AND DISCIPLINARY

In operating these grievance and disciplinary procedures, both employees and managers should recognise the significant change in culture involved and the importance of appropriate training and development.

INDIVIDUAL GRIEVANCE PROCEDURE

Informal State

1. Employees should be informed that if they have a grievance relating to their employment they should discuss it with their line manager.

Formal Stage

2. If the employee is not satisfied with the reply they may proceed to the next stage. At this stage the grievance must be set out in writing. Also at this stage a representative of their union or a fellow employee may if they wish accompany them and take up the matter on their behalf.
3. The line manager should hear the grievance within seven days. There the decision that gave rise to the grievance was made at a higher level, the grievance will initially be heard at that level. The employee will be given a written decision with reasons within seven days, explaining the decision.

Appeal Stage

4. If the employee remains dissatisfied with the decision they may appeal within seven days in writing. This appeal should be heard within seven days by the next highest level of management who have the authority to review and change the original decision. Their decision with reasons must also be in writing. The employee will be given a written decision with reasons within seven days explaining the decision.
5. If the employee is dissatisfied with the decision of the Appeal described at paragraph 4 and the issue has been identified as being one of a serious nature then the grievance shall be reviewed at the corporate level appropriate to the issue (see paragraph 8 of guidance).

Time Limits

6. The time limits referred to above may be varied by mutual agreement.

GRIEVANCE PROCEDURE – GUIDANCE

Preamble

1. The individual grievance procedure is intended to cover the range of concerns, problems and issues which individuals may raise with their employer. It fulfils the statutory requirements, which are set out in the annexes to the ACAS Code of Practice on Grievance and Disciplinary Procedures. Other legal considerations are set out in Appendix A to the procedure.
2. The grievance procedure applies to current employees. Ex-employees are not entitled to use the grievance procedure except as described in the Employment Act 2002, see Annex B of the ACAS Code of Practice.
3. Grievance will normally be raised with the line manager and it is the responsibility of the employer to ensure that employees know who their line manager is. Where grievances are about serious problems such as allegations of bullying, harassment, racism or other unlawful discrimination which suggest major problems, for example of culture or management style, then the appropriate corporate level of the employing authority shall be involved in the appeal (see paragraph 8 below). It is the responsibility of both employer and employee to ensure that grievances are heard fairly, consistently, speedily and at the appropriate level (see paragraph 2 below). The procedure must be made available to all employees so that any grievances they may have can be properly considered.
4. Where separate procedures exist for dealing with grievances on particular issues (for example, the right to request flexible working) these should be used instead of the normal grievance procedure.
5. Employees should be encouraged to seek help with setting out their grievance (for example from representatives of recognised unions). As required under the Disability Discrimination Act 1995 employers must make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves because of a disability.
6. In line with the statutory procedures, employees have the right to be accompanied by a trade union representative or fellow employee at the hearing.
7. Where a grievance involves difficulty in reconciling work and caring responsibilities, managers shall make every effort, subject to the exigencies of the service, not to implement any proposed change until the grievance has been resolved.
8. Grievances should be raised within three months of the management decision causing the grievance, unless otherwise agreed.

Informal Stage

1. Employees should aim to resolve most grievance quickly and informally by discussing them with their line manager. Where the grievance is a complaint against the line manager with whom the grievance would normally be raised, the employee can approach that person's manager or another manager at the same or similar level of authority. If employees are not satisfied with the outcome of this initial informal stage, they may move to the next stage of a formal hearing.

Formal Stage

2. If a grievance cannot be settled informally, it should then be raised formally in writing with the appropriate level of management. Normally, this will be the line manager. Again, where the grievance is a complaint against the line manager with whom the grievance would normally be raised, the employee can approach that person's manager or another manager at the same or similar level of authority.
3. On receiving a formal grievance, a manager should invite the employee to a meeting which should be held in good time¹ and inform them that they have the right to be accompanied by a representative (which could be either their union representative or a fellow employee). They should agree a time and place for the meeting with the employee. It is important that the meeting is not interrupted and that the employee feels their grievance is being treated seriously and in confidence. If an employee's representative cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than seven days after the date originally proposed by the manager. This seven-day time limit may be extended by mutual agreement.
4. The employee will be given a full opportunity to explain their complaint and say how they think it should be settled. If a point is reached in the meeting where it is not clear how to deal with the grievance or further investigations are necessary the meeting should be adjourned to get advice or make further investigations. The manager should give the grievance careful consideration before responding.
5. Where the manager who would normally deal with the grievance cannot be available, another manager should be appointed to hear the grievance.
6. The manager should respond in writing to the employee's grievance in good time explaining the reason for their decision and should let the employee know that they can appeal against the manager's decision if they are not satisfied with it.

¹ Throughout this guidance and procedure "in good time" means as soon as possible and in any case with seven days unless otherwise agreed.

Appeal Stage

7. If the employee informs their manager in good time and in writing that they are unhappy with the decision after the formal grievance hearing, the manager should arrange for an appeal hearing to be conducted in good time. The appeal will be to a manager at a more senior role who has the practical authority to review and change the original decision. This level of authority may depend on the nature of the decision e.g. whether it simply involved application of existing policy or was a decision introducing or changing policy. The employee should be given a written decision and explanation on their appeal as soon as possible and in good time.
8. In addition, as noted in the preamble above, serious cases such as allegations of bullying, harassment, racism or other unlawful discrimination which suggest major problems, for example of culture or management style, will (where the matter remains unresolved) require a further hearing to be conducted by the corporate level of the employing authority which is appropriate to the issue. For example, the appropriate level will be that which both appreciates the wider importance and significance of the issue and has the authority to deal with it.
9. As with the previous stage, the employee should be given a written decision and explanation on their appeal as soon as possible and in good time.

Special Considerations

10. Where either the authority or the recognised union determine that the matter is a collective issue, it may, at any stage, be transferred to stage one of the local negotiation procedure set out in Part C of Section 5.
11. Complaints about discrimination, bullying and harassment in the workplace are sensitive issues. As indicated above, these should merit special attention and it may be helpful for separate procedures, which must meet the relevant statutory requirements, to be developed.
12. It is important to ensure that everyone in the organisation understands the grievance procedures, including the statutory requirements and that managers and employee representatives are training in their use. Employees must be given a copy of the procedures or have ready access to them, for instance on a noticeboard, and they should be included as part of the induction process.
13. Managers and union representatives should take time to explain the detail of grievance procedures to employees.

Keeping Records

14. It is important, and in the interest of both parties, to keep written records during the grievance process. Records should include:
 - the nature of the grievance raised
 - a copy of the written grievance
 - the manager's response
 - action taken
 - reasons for action taken
 - whether there was an appeal and, if so, the outcome; and
 - subsequent developments

15. Copies of meeting records should be given to the employee including any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) some information may be withheld.

Other legal considerations

1. It is important that employers and employees follow the statutory grievance procedure where it applies. The employee should (subject to the exemptions described in Annex C to the ACAS Code) at least have raised the grievance in writing and waited 28 days before presenting any tribunal claim relation to the matter. A premature claim will be automatically rejected by the tribunal although (subject to special time limit rules) it may be presented again once the written grievance has been raised. Furthermore if a grievance comes before an employment tribunal and either party has failed to follow the procedure then the tribunal will normally adjust any award by 10 per cent or, where it feels it just and equitable to do so, by up to 50 per cent, depending on which party has failed to follow the procedure. In exceptional cases compensation can be adjusted by less than 10 per cent or not at all.
2. Wherever possible a grievance should be dealt with before an employee leaves employment. A statutory grievance procedure (“the modified grievance procedure” described in Annex B to the ACAS Code) applies where an employee has already left employment, the standard procedure has not been commenced or completed before the employee left employment and both parties agree in writing that it should be used instead of the standard statutory procedure. It is recommended that the modified procedure described in Annex B is used in such cases. Under the modified procedure the employee should write to the employer setting out the grievance as soon as possible, and not later than three months, after leaving employment and the employer must write back setting out its response within five working days unless otherwise agreed.
3. It should be noted that the appeal stage is part of the statutory procedure and if the employee pursues an employment tribunal claim the tribunal may reduce any award of compensation if the employee did not exercise the right of appeal.
4. Individuals also have the right to raise very serious grievances under the provisions of the Public Interest Disclosure Act 1998. This Act provides protection to employees who raise concerns about certain kinds of wrongdoing in accordance with its procedures.
5. Records should be treated as confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data.