

Grievances

Our expert Imogen Edmunds explains the Grievance procedures, and the key things to consider when your business is handling employee grievances. The Grievance procedure is governed by the Employment Act 2008. It is also worth noting that failure to follow the ACAS Code Of Conduct can prove costly – with awards at tribunal increasing by 25% where an unreasonable failure to comply is found.



Why do we need a grievance procedure?

During the employment relationship, difficulties may arise. Grievance procedures are in place so that when an employee raises an issue/grievance with you, there is a clear process to ensure it's dealt with fairly and consistently.

Grievance procedures are required by law, and must be shared with all employees.

Therefore, we recommend grievance procedures should be included in your staff handbook and your employee will know from the outset exactly the steps you will take to handle their grievance.

You must make sure your procedure is robust, in line with the ACAS code of practice, and most importantly, it's followed.

This will mitigate risks of costly (monetary and time) tribunals and ensure that all employees with grievances are treated fairly and equally.



What do we need to include in a grievance procedure?

- Who the employee should contact about a grievance.
- How to contact this person.

It should also:

- Say that if the problem can't be resolved informally, there will be a meeting with the employee, called a grievance hearing.
- Set out time limits for each stage of the process.
- Identify who to contact if the normal contact person is involved in the grievance.
- Explain how to appeal a grievance decision.
- State that employees can be accompanied in any meetings by a colleague or union representative.
- Outline what happens if a grievance is raised during disciplinary action.

You don't have to include information about the grievance procedure in employment contracts. However, if you do, you must follow the procedure, or the employee could bring a breach of contract claim against you.

Do we need to follow grievance procedures for minor complaints?

Managing conflict effectively is key to a healthy working environment. Therefore, minor complaints can be treated informally and quickly.

For example, the air conditioning is too cold. That can be a quick fix by setting the temperature at a happy medium (although this is always an area of not being able to satisfy everyone!) Line managers or any other employees involved in grievances should be properly trained in the grievance procedure, and know how to implement it.

Handling grievances informally

Line Managers should be approachable, and also encourage employees to discuss day to day issues with them. This avoids the build up frustrations and tensions, which can manifest itself in many ways, such as anger, disengagement, and ultimately an increase in staff turnover.

ACAS have cited that the average cost of replacing an employee is £30,000, of which £25,000 is from the loss of productivity. So encourage your employees to discuss any concerns.

Not only will this encourage increased engagement and subsequent productivity, but it could save you a small fortune!

However, this may not always be successful or circumstances may make this route inappropriate. In these situations, mediation may be an alternative route, or another form of dispute resolution, such as a 'facilitated discussion'.

Employers are keen to resolve conflict at an early stage, and see formal procedures as a last result.

Handling grievances formally

If disputes can't be resolved by informal means, they should be raised formally through the grievance procedure.

You should ensure that employees are aware of the formal route open to them through the grievance procedure, including:

- All stages of the ACAS Code, and any further elements of the organisations own procedures.
- With whom to raise the complaint to, and appropriate sources of support.
- Timescales within which the organisation will seek to deal with the complaint.
- The stages of the grievance procedure.
- An explanation that the employee will have the right to be accompanied to grievance hearings by a colleague or trade union representative.



The Grievance Hearing

Once you have received the formal grievance in writing, you will need to arrange a grievance hearing. At this point, you will need to:

- Write to the employee giving them notice of the hearing and where it is to take place and who will be in attendance. Provide them with reasonable notice so they have time to prepare;
- The above must also include a statement that the employee can bring a (current) colleague or a union representative should they want to;
- Investigate the grievance fully, and if necessary, take statements from witnesses;
- Arrange for another manager to attend to ensure that the hearing is conducted properly;
- Arrange for a note taker to attend.

If the employee cannot attend the hearing, offer them a reasonable alternative date and time. They would have to have a plausible reason for not being able to attend. The employee can also suggest a different time for the hearing if the person accompanying them cannot attend. They must do this within 5 working days after the original proposed meeting time.

You may conduct the hearing without the employee if you have already re-arranged the meeting but the employee fails to attend, or if the employee is on long-term sick and is unable to go to meetings in the near future. They may submit a written statement.

During the hearing, go through the grievance systematically listening to each point in turn, asking further questions, and responding as appropriate.



The Decision

After the hearing, provide the employee with a copy of the meeting minutes. You are able to leave out certain information in certain circumstances, for example, where a witness does not wish to be identified.

After you have decided what action is necessary, write to all involved parties explaining your decision and the reasons behind it. You will also need to outline the right of appeal, and the deadline to submit an appeal.

Appeal

If the employee appeals the decision, there will then be an Appeal Hearing to re-examine the decision. The process is the same as the original hearing, with the addition of the reasoning behind the appeal, and any new evidence.

It is highly recommended (but not always possible) that the appeal hearing should not be heard by the same person who held the original hearing.

After the appeal hearing, you should set out your decision in writing and state this is the final outcome.

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