

GUIDANCE ON
GRIEVANCE PROCEDURES

Understanding the options

Raising a formal grievance

Responding to a formal grievance

The grievance meeting

Deciding the outcome

After the grievance procedure

Understanding the options

If an employee has a problem ('grievance') at work it's usually a good idea for them to raise it informally first. The employer should respond even if the problem is raised informally.

A grievance procedure is a formal way for an employee to raise a problem or complaint to their employer.

The employee can raise a formal grievance if

i. they feel raising it informally has not worked

ii. they do not want it dealt with informally

iii. it's a very serious issue, for example sexual harassment or bullying

Following a formal procedure

When an employee raises a formal grievance, their employer should follow a formal procedure.

A workplace should have its own grievance procedure if it employs 10 or more people, otherwise it should follow the steps in this guide and the Labour Regulating Authority Code of Practice on disciplinary and grievance procedures on the Labour Regulating Authority website

If a workplace has its own grievance procedure, it should:

i. follow the Labour Regulating Authority Code, as a minimum

ii. be in writing and easy to find

An example of a grievance procedure is on the Labour Regulating Authority website

An employer must follow a full and fair procedure in line with the Labour Regulating Authority Code for any discipline or grievance case. The procedure an employer has followed will be taken into account if the case reaches the Labour Regulating Authority.

The size of the business or organisation

Regardless of the size of a business or organisation, all employers should follow a full and fair grievance procedure as set out in this guide. They should:

i. make clear they'll deal with grievances fairly and consistently

ii. investigate to get as much information as possible

iii. allow the employee to bring a relevant person to a grievance meeting

iv. give everyone a chance to have their say before making a decision

v. take actions and make decisions as soon as they can

vi. allow the employee to appeal against the grievance outcome

The procedure can be adjusted depending on size. For example, a manager of a small business with one or 2 employees might need to manage the grievance procedure on their own.

The employee should always:

i. raise the grievance as soon as they can

ii. take any actions expected of them as soon as they can

If there are related grievances

If there are 2 or more related grievances, the employer should:

i. still follow the formal procedure, for all the grievances

ii. keep information confidential

iii. consider what each employee wants

iv. explain to the employees how it is dealing with the grievances

There is some flexibility in how to run the grievance procedure in these situations. For example, the employer could decide to have a single meeting to cover all the grievances, if the employees agree.

Each employee still has the right to their own grievance meeting in which employees who are part of the grievance are not present.

Using mediation

Mediation can be used at any stage. Mediation involves an independent, impartial person working with both sides to find a solution.

The mediator can be someone from inside or outside the business. Both sides will need to agree to mediation.

SHG employees have access to 12 trained mediators who can be contacted through HR when using the SHG Bullying & Harassment/Grievance process

Raising a formal grievance

The employee should check their workplace grievance policy to find out:

i. how to raise a formal grievance

ii. who they should send it to

iii. what the full grievance procedure is

If there is no workplace grievance procedure, the employee should approach their line manager first. If they do not feel comfortable doing that, they should approach someone else they feel comfortable talking to (such as another manager or someone in HR).

Employees can also talk to their employee representative committee, if they have one, for advice and support.

How an employee can raise a grievance

The employee with the grievance should put it in writing to whoever is most appropriate – this could be their line manager, HR manager or employer.

A grievance letter template can be found on the Labour Regulating Authority website

A letter or email should include:

i. what the grievance is about

ii. any evidence, for example a payslip or employment contract

iii. what they want their employer to do about it

It's a good idea for the employee to be specific where possible, for example 'I would like to be paid on time in future'.

It's also helpful to be realistic.

Example

An employee believes they have not been paid their correct wages because someone in payroll made a one-off mistake. In this situation it's usually realistic to expect the employer to investigate and amend the payment if necessary. It's not usually realistic to expect payroll staff to be dismissed.

If employers or employees do not follow a formal procedure

Not following a formal grievance procedure can affect:

i. people's morale and confidence at work

ii. the outcome, if the employee later makes a claim to the Labour Regulating Authority

The Authority will take into account whether an employee has a genuine reason for not following a formal procedure. For example, the employee might find it difficult to attend a grievance meeting with someone accused of sexually harassing them.

Responding to a formal grievance

A workplace should have its own formal grievance procedure, and must if there are 10 or more employees. This should follow the Labour Regulation Authority Code of Practice (on the LRA website) for disciplinary and grievance procedures, as a minimum.

If a workplace does not have a formal procedure, it should follow the Labour Regulating Authority Code.

The Labour Regulating Authority Code and the law

You must follow a full and fair procedure in line with the Labour Regulating Authority Code for any discipline or grievance case. The procedure you've followed will be taken into account if the case reaches the Authority.

If anything similar has happened before

To keep things fair an employer should do all of the following:

i. aim to follow the same fair procedure

ii. gather evidence from all sides

iii. consider all the information

Keeping written records

The employer should keep written records of what takes place during the grievance procedure. This includes:

i. what the grievance is about

ii. any decisions and actions taken, and why

iii. whether the employee appeals the grievance outcome

Protecting personal information

The employer should keep all personal information confidential.

If the grievance is about someone else at work

Before getting more information and evidence, the employer should:

i. avoid assuming anything about the grievance or the people involved

ii. be sensitive to the circumstances and needs of the person the grievance is about, as well as the person who raised the grievance

Deciding on any disciplinary action

An employer should not discipline anyone involved in a grievance before getting all the information and evidence they can.

If there are concerns about employees in a grievance case working together while the grievance is looked into, the employer should consider what else they can do in the short term.

For example, where an employee has said that someone at work is bullying them, the employer

could see whether work schedules can be rearranged temporarily so that the two people do not work together. If the employer takes this type of action, they should make clear to the employees that it's not a punishment but a temporary change while they look into the grievance.

Investigating

The employer should investigate the grievance so that they can make a fair decision about the grievance.

You can find out more about investigations in on the Labour Regulating Authority website

If a crime could have occurred

If the grievance could be a criminal matter (for example, it's related to an assault), the police might need to be involved.

Employers and employees should use their own judgement about when to involve the police.

Keep talking

It's important for the employer to keep talking confidentially with:

i. the employee who raised the grievance

ii. anyone else involved in the grievance

Clear, regular and confidential communication can help avoid:

i. misunderstandings

ii. a drop in work morale

iii. stress or other mental health issues

iv. further action, such as more grievances

v. legal action later on

Looking after employees' wellbeing and mental health

Going through a grievance procedure can be very stressful, so it's important that employers consider the wellbeing and mental health of any employees involved.

Looking out for employees' wellbeing and offering support can help prevent:

absence

mental health issues arising

existing mental health issues getting worse

For example, as well as regular communication, the employer could arrange any meetings in a more private and comfortable location if this would help an employee.

Grievances about a customer, client or anyone else who does not work for the business

The employer should follow the formal grievance procedure in the same way.

If a grievance is raised while a disciplinary procedure is taking place

The employer can pause the disciplinary procedure and deal with the grievance first. If the disciplinary and grievance cases are related, the employer can deal with both at the same time.

If a grievance is raised by more than one employee

If more than one person in a workplace has the same grievance, it might be best to raise it collectively.

Using mediation

You can use mediation at any stage.

The grievance meeting

When an employee raises a formal grievance, the employer should arrange to hold a meeting, ideally within 5 working days.

The employer should allow employees enough time to prepare for the meeting.

The employer can arrange for someone not involved in the grievance to:

i. take notes at the meeting

ii. act as a witness if necessary

To keep the procedure fair, the employer should:

i. consider information or evidence from all sides

ii. see if a similar grievance has happened before and aim to follow the same fair procedure

They should also consider whether reasonable adjustments are needed for a disabled employee or anyone they bring with them

Employers should keep a confidential record of:

i. the meeting

ii. evidence they've gathered

iii. any decisions or actions taken

The employee:

i. should do their best to attend the meeting on the date set

ii. can bring any evidence about the grievance (for example, relevant emails) to show and discuss at the meeting.

The right to be accompanied

Any employee or worker should be allowed to bring a companion to a grievance meeting.

The person should choose their companion from one of the following:

i. a colleague

ii. an employee representative committee member (if any)

The employer needs to consider a disabled employee's request to bring someone else for additional support, such as a carer.

It's up to the employer to agree if the person wants to bring anyone else. It can depend on the employer's own grievance procedure policy – for example, some might allow for a spouse or legal representative.

<u>Allowing time</u>

If the employee wants to bring a companion, they should tell their employer who that person is as soon as possible. This is so arrangements can be made in good time.

The companion should also be given enough time to prepare for the meeting (for example, to look at any evidence).

What happens in the meeting

The meeting is the chance for the person who raised the grievance to:

i. explain the grievance

ii. show any evidence they have

It's also the chance for the employer to ask questions, so that they know what steps to take.

What the employer should do

In the meeting the employer should ask the person who raised the grievance to:

i. provide more information about it

ii. discuss how it could be resolved

The employer should also:

i. remain impartial

ii. do their best to understand the feelings of the person raising the grievance

iii. take notes or appoint someone else to take them

iv. go through the evidence

v. take care in deciding on any actions (usually the employer will not need to make an immediate decision)

vi. consider ending the meeting and resuming it at a later date, if they need to investigate statements and facts from the meeting

vii. sum up the main points at the end

They should give the person who raised the grievance the chance to:

i. explain their side

ii. express how they feel – they might need to 'let off steam', particularly if the grievance is serious or has lasted a long time

iii. ask questions

iv. show evidence

v. provide details of any witnesses the employer should contact

What the companion should do

With the permission of the person raising the grievance, the companion is allowed to:

i. take notes

ii. set out the case of the person raising the grievance

iii. speak for them

iv. talk with them during the meeting

The companion cannot:

i. answer questions put to the person raising the grievance

ii. prevent anyone else at the meeting from explaining their side of things

Investigating the grievance

The employer might need to take some time to investigate so they can make a fair decision.

If necessary they can set up another grievance meeting once they have found out more information.

At the end of the meeting

The employer should:

i. give the employee copies of the meeting record and notes taken

ii. tell the employee when they will get a decision.

The amount of time needed for a decision should be in line with the workplace grievance policy, if there is one.

If there are delays, for example if further investigation is needed, the employer should explain how long the delays will be and why.

The employer can withhold some information in certain circumstances (for example, to protect a witness).

Sharing information

The employer should get consent from the person who provided information before sharing it. This might mean the employer needs to make some information anonymous before sharing it.

Deciding the outcome

After following a fair grievance procedure, the employer should decide on the best outcome based on:

i. the findings from meetings and investigations

ii. what is fair and reasonable

iii. what their workplace has done in any similar cases before

The employer should tell the employee of the outcome as soon as possible and in writing.

If the grievance involved other people in the workplace and it was upheld, the employer might need to start a disciplinary procedure.

If the employer decides no action is needed

To make sure there is no bad feeling, the employer should talk privately with the employee.

It's a good idea for the employer to keep a note of how they carried out the procedure for future reference.

The employee's right of appeal

The employer should offer the employee the right of appeal.

This is so the employee can raise an appeal if they feel:

i. the outcome does not resolve the problem

ii. any stage of the grievance procedure was wrong or unfair

For guidance on raising an appeal see the Labour Regulating Authority website

After the grievance procedure

Talking to staff

The grievance outcome and details must remain confidential. However, where appropriate, it can be a good idea for the employer to talk privately with any staff involved in the grievance.

This can help avoid any negative effects on the business, for example:

i. bad feeling

ii. gossip

iii. bullying

iv. low work morale

Keeping a record

No matter what the outcome, it's a good idea for employers to keep a written record of all grievance cases to help with any questions or similar cases in the future.

Records should be:

i. confidential

ii. only be kept for as long as necessary

If the employee needs to take things further

If the employee feels they've tried everything and their problem is still not resolved, they could in some cases make a claim to the Labour Regulating Authority