



# *GUIDANCE ON* **GRIEVANCE PROCEDURES**

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**Understanding the options**

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# 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 .....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.

## Allowing time

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:

the outcome does not resolve the problem

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