

GRIEVANCES

Grievance procedures enable individuals to raise issues with management where they believe their rights have been infringed, or where they have concerns about how they have been treated by a manager, a colleague or a customer.

Grievances can relate to terms and conditions of employment, health and safety, work relations, bullying and harassment, discrimination, the working environment, new working practices or organisational change.

Many complaints and grievances can be best resolved informally in discussion with the individual's immediate line manager. Where it is not possible or appropriate to resolve a grievance informally, it is best to deal with it under a formal grievance procedure.

Some workplaces have distinct procedures for handling different types of grievance, such as bullying and harassment or health and safety.

The same good practice principles should apply to all procedures. Depending on the size of the organisation, grievance procedures may have different stages. However, individuals should always have a right to appeal an outcome from an initial grievance hearing that they are not satisfied with. This is a requirement of the Acas Code of Practice on Disciplinary Procedures and Grievances.

Role of the rep: checking and negotiating grievance procedures

- › Check any existing workplace grievance procedures comply with the Acas Code of Practice and that they contain good practice elements.
- › Attempt to negotiate improvements to the procedures, including:
 - › ensuring the right to be represented applies to all grievance meetings including where the individual is requesting improved terms and conditions
 - › clear time limits for managers to hear and respond to grievances
 - › ensuring individuals will not be disciplined or victimised for raising a grievance

- the use of a collective grievance procedure where more than one member is affected by the same issue.

Advising and representing members in grievances

Before the hearing

- › Check that the individual is a member of the union.
- › Arrange release time for you and the member and a quiet place to meet where you will not be interrupted.
- › At the meeting put the member at ease and find out what the key issues are and make a note of them. You might find the following open questions helpful:
 - Who? Names of the people involved
 - What? Nature of the problem
 - Where? Relevant locations
 - When? Dates and times
 - Why? Reasons why the problem occurred
 - How? The problem came about
- › Get a copy of the member's contract of employment or the relevant staff handbook.
- › Identify and familiarise yourself with the relevant procedure and inform the member of the key stages.
- › Assess whether:
 - the grievance is valid
 - any existing agreements have been followed
 - the law has been broken
 - there are any health and safety implications
 - there may be discrimination or trade union victimisation
- › Discuss the potential outcomes, including the possible consequences if the grievance is not upheld by management.
- › Ensure that the grievance is put in writing to the employer as soon as possible.
- › Check for any legal time limits.
- › If you are unsure about the merits of a claim, seek advice from a more experienced rep, or speak to your full-time or regional official.

**CHECKLIST****Grievance procedures**

Grievance procedures should:

- › be clear and in writing
 - › be made widely available to all workers
 - › provide for proceedings and records to be kept confidential
 - › have specified time limits to avoid delays, including time limits for hearings and for employer responses
 - › provide for at least an initial meeting with a manager who is not the subject of the grievance
 - › provide a right to appeal (to a more senior manager, where possible) if an individual is not happy with the outcome
 - › permit individuals to be accompanied or represented at all grievance meetings and appeal meetings
 - › ensure that opportunity is provided for the individual or their rep to put their case and for management to respond at all meetings and appeals
 - › require that the outcome of meetings and appeals should be recorded, including any action points
 - › allow workers and their reps to see, comment on and amend records of all meetings.
- › Encourage the member to be involved in helping with the case, for example by keeping a diary of incidents, gathering information, identifying possible witnesses.
 - › Consider whether other members may be affected by the same issue and whether the issue should be dealt with through collective bargaining or as a collective grievance.
 - › At the end of the meeting, summarise the issues and discuss what to do next and agree with the member who will do what and when, including timescales.
 - › Talk to potential witnesses.
 - › Keep records and case notes in a secure place. These records contain confidential personal data about the member and are covered by data protection laws.
Ensure that the relevant procedure is being followed properly. If the employer seeks to delay the procedure, including a hearing, request written reasons.

At the hearing

- › Assist the member to put their case effectively.
- › Listen carefully to the employer's response and take notes.
- › Ensure that managers do not try to turn a grievance hearing into a disciplinary proceeding.
- › Clearly set out the outcome that the member is seeking, for example:
 - improved terms and conditions of employment
 - compensation for employment rights that have been breached
 - training for managers.
- › Make sure any outcomes are recorded.

The types of argument that reps may be able to use in grievance procedures include:

Terms and conditions of employment

Many grievances arise because employees believe that they are not receiving the terms and conditions they are entitled to, as set out in the staff handbook, the individual's contract of employment or in statutory rights.

- › Statutory rights: relying on statutory rights can be a good negotiation tool in grievances. These rights include basic rights, including the national minimum wage, unfair deductions from pay, statutory holiday entitlements, working time rules, family-friendly rights and rights contained in the Equality Act 2010.
- › Collective agreements: wherever possible, it is best to be able to point to a negotiated agreement, which will often contain better conditions than statutory rights.
- › Custom and practice: even where there is no written evidence, reps may also be able to rely on custom and practice if a benefit has regularly been provided or management has allowed a practice to continue and members have benefited. Custom and practice should not be changed without agreement.

Health and safety

Where a grievance relates to a health and safety issue, it may be possible to use safety reps' reports which identify risks or hazards in the workplace that may not have been dealt with by the employers.

Precedents

It is worth investigating the outcomes in similar grievances. The Acas Code states that employers should act consistently when dealing with grievances.

Comparisons

It may be important to gather information about other workers' terms and conditions, particularly where an individual believes they are being discriminated against. Some workers have a right to equal treatment on a pro rata basis, for example part-time workers are entitled to the same holidays as a full-time worker on a pro rata basis depending on their hours of work.

Personal circumstances

In some grievances it may also be useful to refer to an individual's personal circumstances. For example, an individual's caring responsibilities will be very relevant where an individual is requesting flexible working patterns or parental leave.

After the grievance meeting

The employer should inform the member of the outcome of the grievance meeting. The employer may decide to carry out investigations to check if the grievance is valid and substantiated. In this case, they should reconvene another meeting to discuss the outcomes, at which the individual has the right to be accompanied.

The rep should:

- › discuss with the member whether they would like to appeal if they are not satisfied with the outcome and the chances of any appeal succeeding
- › seek advice on whether the case should be pursued to an employment tribunal if this has not already been done.

Remember that employment tribunal deadlines are very short. If tribunal deadlines are missed, the member is unlikely to be allowed to pursue their claim.

Appeals

Before the appeal meeting, meet and discuss with the member the possible outcomes of the appeal. Discuss what the aim of the appeal should be and any consequences for the member if they decide to appeal.