

Grievance procedures



Overview

A good grievance procedure often helps to resolve issues, complaints and problems between employers and employees at an early stage, without the need for more formal action. However, the procedure – and following it correctly - is also important if you intend or later need to take a claim to an Employment Tribunal.

When to use a grievance procedure

Problems that you may want to raise with your employer could relate to:

- Your terms and conditions of employment
- Your pay and working conditions
- Discrimination and/or harassment, or
- Anything else affecting your relationship with your employer.

If you have concerns about any of these issues it is usually well worth raising them informally with your employer first to see if they can be resolved in this way. However, if you have already done so, and there has been no improvement in the situation you may wish to raise a formal grievance. It is worth checking first to see whether your employer has a specific policy covering what you wish to raise (e.g. a bullying and harassment policy). If so you should use that policy. The Employment Tribunal will treat any written complaint as a grievance.

Grievance procedures

If you raise a grievance with your employer, it should follow the procedures set out in the ACAS

Code of Practice on Disciplinary and Grievance Procedures. These are, however, only a minimum standard and your contract of employment may contain a grievance procedure that is superior. If it does, your employer must apply those higher standards when dealing with your grievance.

You have the right to be accompanied by a colleague or a trade union representative at both the initial grievance meeting to discuss the allegations and any subsequent appeal meeting. While the choice of the accompanying person is yours, you are not entitled to be accompanied by anyone other than a fellow worker or trade union official unless your contract, or a general agreement, allows it. In some circumstances an employer may allow an employee to be accompanied by a solicitor, but they are not legally bound to do so.

If you are not a trade union member, and do not have a trade union which operates in your workplace, Slater and Gordon Lawyers may be able to arrange for a trade union representative to accompany you. Please ask for further details.

The main steps - The ACAS Code sets out the main steps which an employer should follow when dealing with grievances:

- The employee should let their employer know in writing the nature of their grievance
- The employer should hold a meeting to discuss the grievance
- The employer should allow the employee to be accompanied at the meeting
- The employer should decide on appropriate action
- The employer should communicate in writing its decision about what action should be taken
- The employer should allow the employee an appeal if the matter is not resolved.

The ACAS Code advises that, where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance.

Complying with the procedures in the ACAS Code

If you later bring a claim in the Employment Tribunal, for example for unfair dismissal or discrimination, the Tribunal has the power to increase any compensation to be awarded to you by up to 25% if your employer has unreasonably failed to follow

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the ACAS code in dealing with your grievance; for example, by failing to offer you a right of appeal.

But, if the Tribunal finds that you have unreasonably failed to comply with the ACAS code, for example by failing to attend a meeting to discuss your grievance your compensation may be reduced by up to 25%. Therefore it is crucial to comply with all the steps of the above procedures.

Time limits for bringing claims

The normal time limit for bringing a claim in the Employment Tribunal is three months less one day from the date on which the event or act you are complaining about took place.

Mandatory ACAS Early Conciliation

If you are thinking about making an employment tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer early conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.

There are changes to time periods within which to lodge claims to allow for the period during which a claim is with ACAS. The period within which a claim is with ACAS will not count for calculation of time limits; and if the time limit would usually expire during that period, or within the month after the certificate is issued, then you will have up to one month following receipt of the conciliation certificate in which to lodge a claim.

The process makes the calculation of time limits in employment tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: www.acas.org.uk.

The time limit will not be extended where an internal grievance is lodged first. You will however need to follow the ACAS Code of Practice on Discipline and Grievance Procedures (which can be downloaded from the ACAS website). This is aimed at assisting parties to resolve disputes within the workplace. If your claim is successful but the Tribunal considers that you have failed to comply with the Code, your compensation could be reduced by up to 25%. (There are also penalties on the employer if they do not comply with the Code).

Grievance meetings

Before the meeting - On receiving your written grievance, a manager should invite you to a meeting as soon as possible.

It is good practice for your employer to agree with you a time and place for the meeting.

You should be told that you have the statutory right to be accompanied at the meeting. If you or your companion cannot attend you have the right to have the meeting postponed for up to five working days.

If you have any special requirements - for example, if English is not your first language or you have a disability which may make participation at the hearing difficult – you may request relevant assistance. For instance, you can ask your employer for a translator or sign language interpreter to be present at the meeting.

At the meeting - You should be allowed to explain your complaint and how you think that it should be resolved.

If your employer reaches a point in the meeting where they are not sure how to deal with the grievance, or feel that further investigation is necessary, consideration should be given

to adjourning the meeting to allow time for such further investigation.

How will you be informed of the outcome?

Once the decision has been made you should be informed in writing without unreasonable delay.

Appealing the outcome of the grievance

You should be allowed a right of appeal against the outcome of the grievance meeting, in accordance with the ACAS Code, and your employer should let you know of this option.

Wherever possible, the appeal should be dealt with by a manager who has not had previous involvement in your case.

You are also entitled to be accompanied at any appeal meeting by a colleague or trade union representative, in the same way that you are entitled to be accompanied at the original grievance meeting.

As with the original decision, the employer should write to you with a decision on your appeal without unreasonable delay.

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