

The definitive employer's guide to

Grievances



worknest

A grievance is the means by which employees can discuss matters causing them concern.

Even in well run workplaces there are occasional disagreements.

The majority of issues can be resolved informally if they are dealt with promptly. However, in circumstances where this is not the case an employee must be able to utilise a formal grievance procedure.

Grievances are serious matters and should be dealt with promptly. If ignored, a grievance can escalate, lead to an employee feeling ignored, and even result in a tribunal claim.

Informal grievances

An employee may not want to utilise a formal procedure, preferring to take a more informal approach to resolving an issue. It may not always be appropriate to raise a formal grievance in the first instance. Quite often, an employee simply wants to let off steam or a chat. In these cases the grievance can be resolved quickly, normally through discussion with the parties involved.

It is important to note that a manager may sometimes need to instigate the formal procedures even where an employee does not feel it necessary. In particular, cases of alleged harassment, bullying and discrimination should always be dealt with formally.

Formal grievances

Where a grievance is in writing, an employee states that they are raising a grievance, or it is identified that the grievance process is appropriate, it is important that the formal grievance procedure is utilised.

However, it should be noted that grievances may not always be set out in a letter. Emails, appraisal notes, text messages or any other communications may constitute a grievance.

Some employees may be hesitant to come forward with their grievance. This may be due to a fear of the potential repercussions, because they lack the confidence to do so, or simply because they are unaware of the grievance procedure.

Therefore, managers should also be aware of the less obvious ways of airing a grievance such as:

- A grievance concerning one employee reported by another employee. In this situation the Manager could ask the person who has made them aware of the issue to tell their colleague to come forward in person. The Manager could suggest that both employees come forward together if that would help;
- The Stage Whisper. A common way of making a Manager aware of a problem is to say it loud enough for them to overhear. The Manager will then need to use his or her judgement to determine whether it is worth pursuing. The Manager may choose to make a few discreet enquiries of their own to find out if there is substance to the complaint or ask the employee if they would like to utilise the grievance procedure. The onus is then on the employee to brief the Manager in more detail. The employee may decide not to take this opportunity;
- Social event. Some employees use social gatherings as an opportunity to let a Manager know there is a problem. As it is a less formal environment they may feel that the Manager is more approachable. The Manager will need to use his or her judgement as to how to deal with the issues raised.

Sometimes it may not be clear whether a communication is a grievance or not. In these cases, a Manager should schedule a meeting with the employee to discuss their concerns and establish whether the formal grievance procedure would be appropriate.

ACAS Code of Practice

The ACAS Code of Practice on Discipline and Grievance sets out what an employer should do in the event that a grievance is raised.

If a grievance is not dealt with in accordance with the Code and an employee subsequently wins a tribunal claim, the amount of compensation awarded may be increased by up to 25%. On the other hand, if an employee wins a tribunal claim but had failed to utilise the full grievance procedure prior to placing a claim their compensation may be reduced by up to 25%. This is a measure designed to encourage both parties to comply with the Code.



The definitive employer's guide to
Grievances



The Formal Procedure

Once it is established that there is a formal grievance, the employee should ideally put their grievance in writing. This is commonly referred to as 'step one' of the procedure. A Manager may need to ask the employee to put their concerns in writing, or even help them draft it in some circumstances.

Please note that where the grievance is not in writing, a Manager may still need to treat it as a grievance. The employee must then be invited to a grievance meeting. This is commonly referred to as 'step two' of the procedure. The employee must be given at least 24 hours' notice of the meeting and be advised of the right to be accompanied. The purpose of the meeting is to gather facts and ask any relevant questions. The aim is to find out as much information as possible so that an equitable solution can be found.

Ideally, the employee should outline their grievance and suggest how they think the grievance could be resolved. A Manager should avoid telling the employee what he/she thinks the problem is and what the employee should do about it.

Tips for an effective grievance meeting include:

- Plan well. Where possible a Manager should gain a basic understanding of the problem and consider how they will handle it. A Manager should be prepared with a list of questions to ask the employee and have a clear understanding of the procedure. It is also important to be mindful that these situations can be unpredictable and sometimes emotional;
- Listen attentively. Employees are more likely to open up if they are being listened to. If the employee is having trouble explaining their grievance, they should be asked to give examples of incidents/ behaviours that are causing them concern;
- Clarify the situation. At the end of the meeting the Manager should summarise the concerns and ensure that he/she has a full understanding of the issues. Asking questions such as 'is this what you mean' or 'am I correct in thinking that....' will ensure there are no misunderstandings;
- Ask for solutions. An employee will normally have an idea of how their grievance can be resolved. They may also be willing to make some compromises to reach a resolution;
- Tell the employee what happens next. The meeting should be concluded by advising that the concerns will be investigated, of any timescales involved, and an estimated date by which they can expect to receive an outcome.

Once the meeting is complete, a Manager will need to investigate any points made and decide upon a course of action.

Prior to making a decision, a Manager must investigate the points raised in full. This may involve holding investigation meetings, taking witness statements, seeking paperwork or other records, or any other investigations as required.

The Manager should make a decision as soon as possible after carrying out investigations. It is important to consider all angles and the implications of any decision.

For example:

- How will the employee perceive the decision?
- How will other employees be affected?
- What precedents are being set and could they lead to problems in the future?
- Will the decision contradict other policies/procedures?

The outcome can be communicated to the employee in person, but it must always be followed up in writing. The employee should be advised of whether their grievance has been upheld and of any action points moving forward. It is essential that the employee is advised of the right to appeal – this is 'step three' of the process. If an appeal is requested, a further meeting must be arranged with a more senior Manager. Again, the employee should be given at least 24 hours' notice of the meeting and be advised of the right to be accompanied.

Don'ts!

- Never ignore a grievance. Grievances are very serious matters and should always be dealt with immediately. Ignoring a grievance may lead to employees feeling that their views are not relevant, and this will impact upon morale, performance, attitude and retention. Failing to deal with a grievance properly can lead to a very costly tribunal case – particularly where there is a concern relating to discrimination and/or harassment. Failing to follow the procedure may also lead to an increase in any tribunal award of up to 25%;
- Pre-judge. A Manager should have all the facts and have spoken to relevant parties prior to making any decisions;
- Take sides. If the grievance is against another employee, be impartial and stick to the facts.

Bear in mind that even relatively simple grievances can escalate quickly, especially if an employee chooses to talk about it to other members of staff. A business will therefore need to be mindful of the potential for unfavourable publicity, management time spent on putting things right, and the financial consequences of a decrease in productivity.





Workplace Mediation

Workplace mediation is a professional and alternative approach to resolving workplace disputes.

Conflict is an everyday fact of life – in the workplace, it can impact negatively on individuals, teams and organisational efficiency unless it is handled in a constructive way. Workplace mediation is a professional and alternative approach to assist our clients in resolving disputes.

Clients are often faced with breakdowns in working relationships or 'personality clashes'. Mediation is cost effective and at an early stage, can prevent conflict spiralling and becoming entrenched. It is recognised as an effective business tool and through its cathartic effect, it can help individuals identify the underlying issues in any conflict (thereby

giving the best possible chance of success).

Mediation is primarily future focused and encourages the parties to identify how they can work together in the future. Most people don't like conflict but need skilled support to sit down and talk to the other person in a safe and confidential forum

At WorkNest, our Employment Law Advisers are on hand to help you understand your legal obligations and protect your organisation's best interests. Contact us to find out more about our services and what we can do for you.



0345 226 8393



[worknest.com](https://www.worknest.com)



enquiries@worknest.com