

## HR Guidance

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# Dealing with employee grievances

This business development briefing sets out how a business should respond if an employee raises a grievance.

## Dealing with employee grievances

*Fairways HR guidance only provides an overview of the law in this area. For a complete understanding of how it may affect your particular circumstances in the workplace please contact one of our Consultants.*

### Why is it important to follow the Acas Code?

#### It can avoid a potential claim

The Acas Code of Practice on Disciplinary and Grievance Procedures was introduced to help businesses and employees resolve grievances in the workplace. Dealing with a grievance effectively can avoid employment tribunal claims by allowing the issue to be resolved internally.

#### It can affect the level of compensation

- If an employee's claim is successful, but either the business or the employee has failed to follow the Acas Code, the level of compensation awarded can be affected:
  - » if the business unreasonably failed to follow the Code, the employment tribunal may increase the employee's compensation by up to 25%; or
  - » if the employee unreasonably failed to follow the Code, the employment tribunal may reduce their compensation by up to 25%.
- This regime applies to the majority of claims brought in an employment tribunal, including those related to:
  - » discrimination;
  - » unfair dismissal; and
  - » breach of contract

### How should grievances be handled?

#### The grievance should be raised in writing

- A grievance can be any concern, problem or complaint an employee raises with the business.
- If a grievance cannot be resolved informally, the employee should raise it in writing with a manager. If the grievance concerns their line manager, the grievance should be raised with another manager.
- A failure to raise the grievance in writing does not prevent an employee bringing an employment tribunal claim. However, in these cases, less compensation may be awarded.

## How should grievances be handled? (continued)

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### The business should hold a meeting and investigate the complaint

- A meeting should be held with the employee to enable them to explain their grievance and how they think it should be resolved.
- If the matter needs further investigation, the meeting should be adjourned and resumed after the investigation has taken place.
- When the meeting is concluded, the business should communicate its decision promptly in writing, including details of any action it intends to take to resolve the grievance.

### The employee can bring a companion

An employee has a legal right to bring a companion (a fellow worker or a trade union representative) to a grievance meeting.

### The employee has a right of appeal

- The business should inform the employee they have a right of appeal when the decision is communicated. If the employee is not satisfied with the outcome, any appeal must be made in writing and must specify the grounds of the appeal. If a tribunal claim is brought without first going through the appeal process, any compensation awarded may be reduced.
- The appeal should, if possible, be dealt with by a manager who has not been previously involved. The employee should be informed in advance of the time and place of the appeal hearing and may bring a companion. The business should communicate its decision promptly in writing.

### Handling grievances during a disciplinary procedure

Employees often submit grievances during disciplinary procedures, either regarding the procedure itself or the circumstances leading up to the initiation of that procedure. The business must decide whether to suspend the disciplinary procedure to fully investigate the grievance or, if the issues are related, deal with them both concurrently.

## **Practical steps businesses can take to improve their grievance procedures**

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- Involve employees or their representatives in developing workplace procedures and make sure those procedures are transparent and accessible to employees.
- Train managers:
  - » how to handle grievances effectively;
  - » when to involve HR;
  - » how to spot potential legal claims.
- Encourage managers to resolve issues quickly and informally before they get to a formal grievance stage.
- Allow employees to put their side of the story at a meeting before undertaking any necessary investigation and again before making a decision.
- Keep written records, including minutes of meetings.
- Communicate decisions effectively and promptly, setting out reasons.