Grievance Advice

Questions and answers

Q1. What is the best way to resolve workplace issues or problems?

Problems are best resolved informally. Formal complaints may take considerably longer to resolve and potentially cause tension among colleagues or between employees and managers.

In the first instance, employees should make every effort to resolve their problem themselves. If they are uncertain about how to proceed, or feel that this may not be safe or could make things worse, they should talk to their manager, trade union representative, a work colleague. Also Respect contacts for bullying, harassment and discrimination.

Q2. How long does it take to resolve a grievance?

Every case is different and the length of time it takes to resolve a grievance will depend on individual circumstances. However, the aim is to conclude it as soon as possible.

Q3. How will cases be monitored to ensure that they are resolved as soon as possible?

Each case must be reviewed by a senior manager if it is not resolved after 40 working days. This is to ensure that everything is being done to progress the case, that the correct process is being followed and that there are no unnecessary delays. To ensure that this review is carried out within the prescribed timeframe, managers should inform their Divisional Director (DD) and People Expert Services as soon as they start the formal grievance process.

Q4. What happens if an employee has a relationship issue with their line manager?

Employees need to follow their line manager’s reasonable day-to-day instructions. If they have a problem that is related to their relationship with their line manager it is best to discuss the issue openly. If this is not possible, they can talk to their countersigning manager and ask for help.

Q5. What types of issues are suitable for resolving informally?

It is almost always worth using the informal route, particularly where the employee (or manager) feels the formal process would only add to the timescale and would not add value to the final outcome. For example, general disagreements between employees where there is no claim of bullying, harassment or discrimination but employees simply have different opinions or styles, or where an employee disagrees with an element of work allocation following a management instruction.

Q6. What if a formal grievance is raised without trying to resolve the problem informally first?

Unless there are exceptional circumstances, it is expected that employees will try to resolve the issue informally in the first instance and this is in everybody’s best interest. The manager should ask the employee why they have not tried to resolve the complaint informally, and consider whether it is appropriate for informal resolution.
Q7. How do managers reassure employees that informal complaints will be taken as seriously as formal ones?

Managers should communicate the following messages as part of their day-to-day management activities:

- using the informal process does not mean that complaints are being treated any less seriously than the formal ones. The informal approach is used because everybody wants to resolve issues as quickly as possible;
- addressing complaints informally is often much quicker and less contentious and stressful while the same outcomes are usually achieved;
- employees still have a right to raise a formal complaint at any time during or after the informal stage;
- if the informal process has started and it becomes clear that it is not appropriate to resolve the issue informally, the formal grievance process should be used.

Q8. What is workplace mediation?

Mediation can be an effective and powerful way of addressing workplace disputes. It gives people the opportunity to come together to discuss their complaints openly, to be listened to in a safe environment and to reach a solution that is acceptable to everyone.

Mediation is a structured informal process which can be initiated where all sides agree to it. The benefit of mediation to everyone is:

- any agreement reached will remain confidential;
- trust and confidence between people is more likely to be preserved.

Q9. Do employees have to take part in workplace mediation?

Workplace mediation is voluntary. Everyone who takes part wants a solution to the problem or issue. Employees are expected to seriously consider and participate in mediation, particularly if it is recommended as an outcome from a grievance.

Q10. Who can accompany an employee to a formal meeting?

Employees have a right to be accompanied by a companion at formal grievance meetings. A chosen companion may be a trade union representative or a work colleague. They cannot be a friend, relative or legal representative.

If there is a reasonable adjustment in place that includes the employee being supported in meetings, this must be extended to grievance meetings.

To exercise the right to be accompanied employees must make a reasonable request. It would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the grievance meeting.

Q11. What is the companion’s role?

The companion is allowed to:

- put forward and sum up the employee’s case.
• respond on behalf of the employee to any views expressed at the meeting
• confer with the employee.

The companion does not have a right to:
• answer questions posed by management on the employee’s behalf
• address the meeting if the employee does not wish it
• prevent the employee and/or manager from explaining their case.

Q12. What are the responsibilities and rights of an employee where a grievance has been raised against them?

The employee’s responsibilities are to:
• maintain professional relationships with others in accordance with the departmental conduct policy
• co-operate fully during the grievance process and seriously consider taking part in workplace mediation if asked
• attend fact-finding or investigation meetings, if requested
• maintain confidentiality and ensure that sensitive information is protected appropriately.

Employees have the right to:
• be informed about a grievance raised against them
• explain their position to the manager conducting the investigation.

Q13. What are the responsibilities of a witness?

A witness is responsible for:
• maintaining confidentiality
• providing truthful and comprehensive statements and answers
• attending meetings with the manager conducting the investigation
• volunteering information which they feel may be relevant to the investigation
• reporting any attempts to influence their statement to the manager conducting the investigation.

Q14. Who will be able to see a witness statement?

A witness statement will be attached to the investigation report and will be provided to the employee who raised the grievance. This is to ensure openness and transparency in the investigation process. Companions will also see the report, as will those managers included in the investigation or disciplinary meeting.

Q15. Can witnesses attend the grievance meeting?

 Witnesses would not normally attend decision meetings.

Q16. Do witnesses have the right to be accompanied at the grievance meeting?
There is no right for witnesses to be accompanied when giving statements. However, managers will have the discretion to decide when this would be appropriate based on the merits of the case. It is important to consider all relevant evidence.

Q17. Can the identity of a witness be withheld?

In the interests of fairness it is important that witnesses identify themselves. However, in exceptional circumstances the identities of individuals can be withheld; for instance, where there is a genuine fear of serious risk to personal safety.

The fact that a member of staff making an allegation, or a witness, simply does not wish to be identified will not be sufficient cause to withhold identity.

Even where it is agreed that identity can be withheld it is not possible to guarantee anonymity should the case progress to Employment Tribunal.

Q18. What happens if the manager handling the complaint unexpectedly becomes absent from/leaves work?

Short absences are part of the everyday working environment. If the absence becomes long-term or is permanent, the countersigning manager may arrange for another manager to take over handling the grievance case.

Q19. What happens if the manager dealing with the complaint moves to another job during the grievance process?

Wherever possible, the process will continue with the manager who started it, as they know the facts of the case best.

If this is not possible, the manager must ensure a thorough handover of the case to the new manager, including all notes and other relevant documentation. Once the handover is complete, the new manager should arrange to meet with the employee quickly to make sure that the grievance process is not disrupted.

If the new manager is not in place at the time, the employee’s countersigning manager may appoint somebody else to take over the case.

Q20. What happens if the employee raising the grievance becomes absent from work?

Being unfit to attend work does not necessarily mean that the employee is unfit to attend the grievance meetings. This will depend on the nature of the employee’s illness. An Occupational Health referral may be of benefit; but, where the OH report proves difficult to obtain, managers should consider other ways to progress the grievance case, for example communicating by telephone, meeting at a neutral place or location near the employee’s home, or inviting the employee to submit a written statement. Wherever possible and appropriate, cases should be progressed and resolved quickly.

Q21. How should managers treat other personal issues?

Managers should consider any known temporary or permanent outside factors, such as personal issues, that may have affected the employee and which the employee is prepared
to share. Managers should remind the employee about available support such as the Employee Assistance Programme (EAP).

Q22. Several employees have submitted grievances on the same matter. What happens if one employee refuses to be part of the collective grievance and wants their grievance to be dealt with separately?

Where a collective grievance is brought, or otherwise supported by a trade union, there is no right for an individual employee to opt out of the grievance being heard collectively.

However, where an employee has raised a grievance which is then dealt with as a collective grievance by the department, and the employee does not agree to be part of the collective grievance or does not want the elected spokesperson to represent them, the department may decide to deal with the employee’s grievance individually.

This decision will always be at the department’s sole discretion and it may happen where there are issues of employee confidentiality and/or the grievance includes material issues specific to the individual.

In all cases, the individual grievance should be heard at the same time or shortly after the collective grievance has been heard.

Q23. Where can employees get more help?

Employees can obtain help and advice from their line manager, trade union representative and/or, work colleague. Also Respect contacts for bullying, harassment or discrimination. If stress or anxiety is affecting them during the process, they may contact the Employee Assistance Programme.

Q24. What does ‘independent manager’ mean?

An ‘independent manager’ means someone who is impartial and independent of the case. It can be a manager from within the same management chain or from a different part of the department but they should have no prior knowledge of the details of the case. Appeal Managers must also be from a different division.

Q25. What happens if the discipline procedure is started as a result of a grievance raised against another employee or manager? Who gets to see the investigation report including witness statements?

If the grievance procedure investigation has established that there is a discipline case to answer, there is no need to start the discipline procedure investigation from the beginning. However, further investigation as part of the discipline procedure may be necessary.

The employee who raised the grievance will see the grievance investigation report, including witness statements, where appropriate. Companions will also see the report, as will those managers included in the investigation or disciplinary meeting.

However, if there is a further investigation under the discipline procedure, the employee who raised the original grievance will not be informed about any of the details of the process, will not see the discipline investigation report or know the decision - this is personal and confidential to the person undergoing the discipline process.
The employee who is the subject of the discipline procedure will see the discipline investigation report, including the witness statements, where appropriate. Employees and managers need to be aware that:

- any confidential information in the report (such as names, dates of birth and addresses) will be redacted
- sharing the report with any person other than those with a legitimate reason, such as, for example, companions, will be viewed as serious misconduct.

Q26. Can Bullying, Harassment and Discrimination (BHD) complaints be dealt with informally?

BHD complaints should always be treated seriously, but this does not necessarily mean going straight to the formal procedure, particularly when the employee themselves raise the issue/problem informally and agrees that it may be possible to rectify the matter informally. Sometimes people are unaware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. It may be that the individual will choose to do this themselves, or they may need support from a manager or an employee representative.

However, where it is not possible to resolve the issue/problem informally or a BHD complaint is submitted as a formal grievance, it should be investigated and resolved following the formal grievance procedure.

Both informal and formal approach should be documented properly, so it is clear what the employee’s desired outcome was and why a certain approach was taken.

Last amended on 18/11/2013