

Manager Briefing for Handling Grievances

Frequently Asked Questions

Is it ok to deal with a grievance informally? Yes - If it's appropriate. Many complaints raised can be dealt with by the employee's manager without recourse to the grievance procedure, particularly if it is clear there is a legitimate complaint that can easily be resolved.

An employee has not submitted a written grievance; does this mean they are barred from bringing a tribunal claim? No – however, failure to follow the ACAS code of practice by submitting a grievance to the employer may result in a reduction in any compensation awarded.

Who should deal with an employee's grievance? Usually the line manager, as they will have an understanding of the issues. Of course, if the manager is the subject of the grievance, it should be a different manager.

What should I do if an employee retracts a grievance? Try and find out why. They may be worried that pursuing the grievance will lead to them being discriminated against, or other repercussions. They could be being bullied. You should ensure that the employee is aware that intimidation resulting from a grievance would be dealt with under the disciplinary procedure and discuss any action that could be taken to enable the employee to pursue the grievance.

What if the employee says they cannot attend the hearing? They should make every effort to attend, but it is not unreasonable to accommodate them if there is a genuine reason and a postponement should be considered.

If rearranged, make it at a time suitable to both employer and employee, and stress to the employee the importance of attending in order that the grievance is handled without further delay.

What if the employee's companion cannot attend? If the companion is unavailable you should postpone the hearing until a time suggested by the employee. This must be reasonable and within 5 working days of the time originally proposed.

What if the employee simply doesn't turn up to the meeting? Try and find out why and explain to them the importance of attending. Rearrange the meeting in consultation with the employee. Should they fail to attend for a second time, consider the reasons and whether it would be reasonable or not to rearrange again, balancing the need to allow the employee a chance to explain their grievance with the need to deal with the grievance in a timely manner. If an employee has repeatedly failed to attend without good reason, it is not unreasonable to make a decision based on the information available.

Is it permissible to anonymise witness statements? Yes. There is no legal requirement to disclose the identity of a witness; however, failure to do so can undermine the employee's right to challenge the evidence. You should explore the reasons why the witness wishes to be anonymous and decide whether to disregard such evidence or whether it holds less weight than a statement from a named witness.

Ideally, you should seek to corroborate the evidence and try and establish at least one named witness. You may need to arrange for the employee to formulate written questions to be put to the anonymous witness through the employer.

You should also make the witness aware that their anonymity cannot be guaranteed. If the matter results in legal proceedings they may be required to attend at a tribunal.

Do employees have the right to be accompanied at a grievance hearing? Yes. If they make a reasonable request, they may be accompanied by a trade union representative or a fellow worker. Situations that may be considered unreasonable include;

- where the chosen companion will not be available to attend within a reasonable time
- where the presence of the chosen companion would prejudice the hearing or involve a conflict of interest
- where there is a suitable companion at the same site but the employee requests a companion from a remote geographical location

There is no requirement for the trade union representatives union to be recognised in the workplace and there is no obligation on either the trade union representative or another worker to accept a request to act as a companion.

There is no requirement for the employee to be a member of the trade union, although in practice it would be unlikely for a trade union to accompany a non member.

How is a grievance hearing defined? A grievance hearing is one that concerns a complaint in relation to an employer's statutory or common law duty to a worker.

Can I reject an employee's choice of companion? Yes – if it is an unreasonable choice as discussed above – e.g. they are unavailable for a substantial time or are involved in the proceedings.

Can the employee be accompanied by a family member of legal representative? No – not unless they have specific contractual rights allowing this – unless of course the family member happens to be a work colleague or trade union official as well.

What is the companion's role at a hearing? They may address the hearing to put the employee's case. They may sum up the case, and respond to any view expressed at the hearing. They may also confer with the employee during the hearing. They are not allowed to answer questions on the employee's behalf. They

are not allowed to address the hearing if the employees does not wish it and they may not prevent the employer from explaining its case.

If the companion is a fellow worker – are they entitled to time off to attend a hearing? Yes – they are permitted paid time off to act as a companion. As well as attending the hearing, ACAS advises that it is good practice to also allow time off for the worker to familiarise themselves with the case and to confer with the worker before and after the hearing.

This also extends to trade union representatives as long as they are employed by the same employer.

What if I fail to allow a worker to be accompanied? If you fail to comply with a reasonable request to be accompanied, or a reasonable request to rearrange the meeting because the companion is unable to attend, the employee can complain to an employment tribunal. If the complaint is well founded, the tribunal can award up to two weeks' pay as compensation.

What if the employee appeals against the grievance decision but does not set out the grounds of the appeal? You should write to them and ask for the grounds for appeal

Is an employee required to submit an appeal in writing? Yes – although if they appeal verbally and refuse to submit their appeal in writing, you would be advised to go ahead with the appeal hearing on this basis.

Who should hear an appeal in relation to a grievance? It should be a more senior manager and they must be grade 15 or above and so part of the leadership job family.

If an employee's grievance turns out to be unfounded – can they be disciplined? No – unless it becomes obvious it was raised maliciously. To discipline them otherwise could be considered victimisation.

[Does the "Acas code of practice on disciplinary and grievance procedures" apply to collective grievances?](#)

No. The [Acas code of practice on disciplinary and grievance procedures \(PDF format, 1.58MB\)](#) (on the Acas website) specifically states that its provisions do not apply to grievances raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative. The employer should have its own collective grievance procedure under which to address these grievances.

What are the consequences of failing to follow the ACAS code of practice on grievance procedures? Should the case proceed to an employment tribunal, if the code of practice has not been followed, any compensation awarded may be adjusted by up to 25%. This may be up or down depending on which party is at fault.

Am I obliged to deal with a grievance raised by an ex-employee? No.

However, depending on circumstances you may be advised to. For example, they may have a dispute that could form the basis of tribunal proceedings and dialogue with the ex-employee could resolve this. You should seek HR advice on these matters.

Does the employee have a right to see the notes? No – but it is good practice to provide them with a copy of notes of any meeting. You may on occasion withhold some information, for example to protect a witness.