

## Line manager briefing: **handling grievances**

There has been an increasing trend towards devolving responsibility for day-to-day people management down the line over the past few years. As a result, the line managers within an organisation often have responsibility for issues such as employee grievances. But are they managing their reports in line with the law and good practice?

This XpertHR Professional line manager briefing is the perfect training tool to explain the grievance process and ensure that line managers understand their responsibilities. It guides line managers through conducting a grievance hearing, investigating any allegations raised, and giving feedback on the outcome of the grievance. It also explains the right to be accompanied at grievance hearings.

### The line manager briefing covers:

- › The effective management of grievances
  - › the structure of a grievance procedure
  - › general principles of managing grievances
  - › keeping records
- › Dealing with grievances
  - › the importance of acting promptly
  - › the grievance hearing
  - › the right to be accompanied
  - › investigating the grievance
  - › resolving the grievance
- › (Repealed) statutory grievance procedure

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## 1. The effective management of grievances

Grievances are concerns, problems or complaints that employees raise with their employer. A grievance might concern matters such as an employee's work, physical working environment, pay and benefits, working hours, health and safety, working relationships or general treatment at work.

The purpose of a grievance procedure is to allow employees to raise genuine workplace grievances and have them dealt with fairly and objectively without fear of recrimination. The grievance procedure should be in writing, as this helps to clarify the process.

As a minimum, all employers are required to include within the written statement of terms and conditions of employment that must be given to employees a note specifying the person to whom the employee should apply in relation to a grievance, the manner in which the application should be made, and any subsequent steps.

The written statement must be provided within two months of the start of employment.

### The structure of a grievance procedure

It should be possible for most grievances to be dealt with informally by the employee's line manager.

However, as it may not be possible to resolve some grievances informally, the organisation's grievance procedure should also allow employees to raise grievances formally with management or with the HR department if the organisation has one.

Most employers will stipulate in their grievance procedure that an employee who has a formal grievance should, in the first instance, raise it with his or her immediate line manager (unless the line manager is the subject of the grievance - in which case the procedure should set out an alternative).

The procedure should allow for an appeal against the decision taken. However, some employers choose to have a further level of appeal so that an employee can appeal again if he or she still believes that the grievance has not been dealt with adequately, or that the outcome is unfair.

The procedure should make the various stages clear in terms of to whom grievances and appeals should be addressed. If the employer wishes grievances and appeals to be lodged in writing, this should also be set out in the procedure.

Appeals should, wherever possible, be to a more senior manager than the person who dealt with the previous stage of the grievance procedure.

Timescales for dealing with the various stages are also normally stated in the procedure.

It should be made clear that, where an employee appeals against a decision regarding a grievance, he or she must set out the grounds for the appeal, ie why he or she thinks that the manager's decision was unfair or wrong.

At each stage of the formal grievance procedure, it should be a requirement that the outcome of the grievance hearing is put in writing, with a copy provided to the employee and a copy put on file.

### General principles of managing grievances

The grievance procedure should require managers to deal with employee grievances promptly and fairly.

"Promptly" does not mean hastily. It means within as short a timescale as is reasonably practicable, taking into account the possibility of the need to investigate.

Employee grievances should also be dealt with in a consistent manner across the organisation.

### Keeping records

Full confidential records should be kept of all grievances raised, including a record of:

- › the substance of the grievance;
- › all interviews conducted in relation to the grievance;
- › the employer's response to the grievance;
- › any actions taken as a result of the grievance;
- › the reasons for such actions;
- › details of any appeal and its outcome;
- › any subsequent developments.

A copy of the grievance should be kept.

The records should be held confidentially in the employee's personnel file. They should be retained for as long as is necessary to ensure that the grievance has been resolved, ie until there is no possibility of the matter flaring up again.

The records must be kept in accordance with the relevant provisions of the Data Protection Act 1998. Under the Act, individuals have the right to request and be granted access to any documents held about them personally on file or on a computer system. Normally, it will be appropriate to give the employee a copy of the record. The employer should withhold information only if this is necessary in order to avoid disclosing the identity of a witness who has asked for his or her name to be kept confidential.

## 2. Dealing with grievances

It is helpful if managers try to view the raising of grievances constructively. If a grievance is raised, this provides an opportunity for the manager to resolve a workplace problem. Knowing about a problem is much better than remaining ignorant of the fact that an employee is unhappy or disgruntled about some aspect of his or her employment.

Once a manager knows that an employee has a grievance, he or she can discuss the matter with the employee, take on board the employee's point of view and, if possible, provide a solution or part solution.

It is therefore more constructive to view the raising of grievances positively rather than as a nuisance, since adopting a positive attitude may facilitate a satisfactory resolution.

A negative attitude towards the grievance, on the other hand, is likely to alienate the employee and aggravate the situation.

If, for example, the manager refuses to listen to the employee's grievance or declines to take it seriously, or if he or she treats the employee as a troublemaker, the employee may end up with two grievances. The original grievance will remain unresolved and the employee may have a new grievance in respect of the manager's unreasonable and unhelpful response.

Managers need a number of qualities and skills to handle grievances effectively. These include:

- an ability to listen well;
- patience;
- an ability to remain objective when hearing points of view that may not accord with their own;
- empathy;
- the ability to understand the employee's grievance within the larger context of the organisation's needs; and
- good verbal communication skills, in particular the ability to be direct and honest without alienating the employee.

### The importance of acting promptly

If an employee raises a grievance, it will be important for the manager to deal with it promptly.

Dealing with grievances can be time consuming and sometimes not easy, but any delay in tackling and resolving a grievance is likely to make matters worse.

An employee may be experiencing stress as a result of what he or she perceives as a problem at work. This in turn might disrupt working relationships. The existence of the grievance is likely to have an escalating negative impact on the employee's performance and productivity.

### The grievance hearing

On learning that an employee has a grievance, the manager should arrange a hearing.

The aims of the meeting should be to:

- ensure that the employee is given a full opportunity to explain his or her grievance; and
- seek a means of resolving the grievance to the employee's satisfaction if this is possible, taking into account company policies, procedures, rules and the need for consistency and fairness.

The employee will have the right to be accompanied if the hearing is part of the employer's formal procedure.

At the hearing, the manager's main role should be to listen to what the employee has to say. The aim will be to achieve a full understanding of the grievance and how the employee thinks that it should be resolved.

Following the hearing, the manager should give the grievance careful and thorough consideration before coming to any conclusions or making a decision about what to do.

#### Dos and don'ts of conducting grievance hearings

- Do make sure that there will be no interruptions.
- Do make the effort to put the employee at ease.
- Do allow the employee to explain his or her complaint fully.
- Do listen actively to what the employee has to say and take it on board.
- Do distinguish between facts and opinions.
- Do avoid emotional reactions such as anger or impatience.
- Don't interrupt the employee unless this is necessary to keep the discussion on track.
- Don't react negatively, for example by expressing criticism or disapproval.
- Don't adopt a judgmental attitude.
- Don't allow any personal like or dislike of the employee to influence your responses.
- Don't forget to summarise towards the end of the hearing in order to check understanding.
- Don't make any decision about what to do about the grievance until all the facts have been aired and, if necessary, investigated or checked.

## **The right to be accompanied**

All workers are entitled in law to be accompanied, if they wish, at any formal grievance hearing by either a colleague or a trade union official of their choice. If a worker's chosen companion is not available at the proposed time of the grievance hearing, he or she may request a reasonable alternative time for the hearing that falls within five working days of the time originally proposed. In this case, the manager must postpone the hearing as requested.

The worker raising the grievance has the right to determine, within limits, the role that he or she wishes the companion to play at the hearing. If the worker wishes, the companion must be allowed to:

- address the hearing on behalf of the worker, ie put his or her case;
- confer with the worker during the hearing;
- sum up the worker's case; and
- respond on the worker's behalf to any views expressed at the hearing.

The manager is, however, entitled to expect the worker, and not the companion, to answer any questions asked.

In some cases, the worker may wish to bring the companion along simply for moral support rather than for representation.

## **Investigating the grievance**

It may be necessary for a grievance hearing to be adjourned if there is a need for an investigation into any allegations raised by the employee. Any such investigation should be impartial and thorough.

The manager may need to check policies or procedures, discuss what the employee has raised with other employees (confidentially where appropriate), or access the employee's file to check out the history of his or her employment terms or general background.

The manager should remain open minded when looking into the substance of the employee's grievance.

## **Resolving the grievance**

Once the grievance has been investigated, where necessary, and conclusions drawn, the employee should be given feedback on the outcome. Of course, it will not always be possible for the manager to resolve the grievance to the employee's satisfaction, perhaps because giving the employee what he or she wants would breach company policy, cost too much money or be impracticable.

The feedback should consist of an explanation of what action has been taken or will be taken, or an explanation that no action can be taken, together with the reasons for this. This feedback should also be confirmed in writing.

The employee should be informed that he or she has the right of appeal in accordance with the organisation's grievance procedure. Any appeal should be dealt with impartially and, wherever possible, by a manager not previously involved in the case. Where possible, this should be a more senior manager.

The outcome of the appeal should be communicated to the employee in writing, without unreasonable delay.

Once the grievance procedure, including the appeals stage, has been exhausted, the employee should be informed clearly that the grievance procedure is at an end and that there is no further right of appeal. The matter will be closed irrespective of whether the employee accepts the outcome.

## **3. (Repealed) statutory grievance procedure**

In October 2004, statutory grievance procedures were introduced into employment law, requiring employers and employees to take certain procedural steps in relation to grievances. Although the statutory grievance procedures have since been repealed (from 6 April 2009), they continue to apply in Northern Ireland.

Where the statutory procedures apply, the employee will be unable to bring a tribunal complaint where he or she fails to comply with the initial requirements of the procedure.

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