



POLICIES & PROCEDURES

Pyramid of Arts

Grievances

This grievance policy and procedure sets out the steps to be followed to initiate and resolve grievances in the workplace.

The policy cover issues such as health and safety, terms and conditions of employment, organisational change and equal opportunities. It is important that if you feel dissatisfied with any matter relating to your employment you should have an effective means by which such a grievance can be aired and, where appropriate, resolved.

1. Raising a Grievance Informally

Any employee who has a grievance relating to their employment may raise the matter informally with their manager during the course of normal work. This is not part of the grievance procedure. Only if the matter is not resolved between them should the formal grievance procedure need to be used.

2. Pyramid of Arts Formal Grievance Procedure

Stage 1 – Letter

The employee should put their grievance in writing. The employee does not need to state that their complaint is a formal grievance; however it would be helpful if they would do so.

Stage 2 – Meeting

Once a written grievance has been received by the employer, then the organisation has a responsibility to investigate the matter and to invite the employee to a formal grievance hearing.

The employee may at this stage, if they wish, be accompanied by another employee/work colleague from the organisation or a trade union official or representative in accordance with the provisions of the Employment Relations Act 1999 when requesting that an issue be raised formally.

The employer is required to:

- Record full details of the matter, or accept signed written details of the matter.
- Within 10 working days, provide an answer in writing to the employee with a copy to the representative, if any.

Under the statutory standard grievance procedure, a grievance hearing must not take place unless the employee informs the employer of the basis of their grievance. Also, such a hearing must not take place unless the employer has had a reasonable opportunity to consider their response to that information.

The timing and location of the grievance meeting must be reasonable. Therefore should an employee make a complaint with regards to an unacceptable working environment, the meeting would usually take place away from this environment and in most circumstances the meeting will take place during the employee's normal working hours.

Stage 3 - Appeal

If the employee wishes to appeal against the decision, the employer should be informed within 5 working days.

The employee (and their representative, if applicable) will then be invited to a further meeting, the timing and location of which must be reasonable, as outlined in stage 2.

If possible, a more senior manager than those in attendance at the stage 2 meeting will attend the appeal meeting.

At this meeting the employee may be accompanied as at stage 2.

Following the appeal meeting, the management representative is required to dispatch an answer, in writing, to the employee (and, if applicable, to the representative) within 10 working days.

The decision of the stage 3 management representative will be final.

3. Time Limits

Under the Employment Relations Act 1999, if the employee's chosen companion (fellow worker or union official or representative) is not available on the day of the meeting, the employee may reasonably request that the meeting be held on another day within five working days of the selected date.

The various steps of the procedure should be held within a reasonable time. Often the procedure will give an indication of these times but they should not be fixed, as it may not be possible to meet them. For example, if a detailed investigation is required, time will have to be extended.

In the absence, for any reason, of the appropriate management representative, the procedure may authorise any other executive of Pyramid of Arts to take the necessary action on their behalf. At the request of the employee, however, consideration may be deferred until the return of the appropriate management representative.

Although there are time limits within which answers to grievances are to be given, it is important that grievances are dealt with as quickly as possible, and as close to the level of origin as possible.

Notes:

1. The Employment Rights Act 1996, s.3 requires an employer to specify in an employee's written statement of employment particulars, a person to whom the employee can apply to seek redress of any grievance relating to their employment and the manner in which any such an application should be made.

Although the grievance procedure does not need to be provided as part of the written statement, the document does need to be readily accessible to the employee (e.g. it could be contained in the staff handbook).

2. The employer who fails to ensure this can incur a financial penalty if one of their employees brings a successful claim under the tribunal jurisdictions set out in Sch.5 of the Employment Act 2002. The employee may be awarded two or four weeks' pay: Employment Act 2002, s.38.

An employee may be able to establish constructive dismissal either if the employer has no procedure or fails to deal with a grievance under the procedure. It is an implied term of the contract of employment that the employer will give employees a reasonable opportunity to obtain redress of grievances.

3. A grievance procedure should be simple, set down in writing and rapid in operation. The procedure should provide that grievance proceedings and records should be kept confidential.

4. An employee has a statutory right to be accompanied by a representative at a grievance hearing. A grievance hearing is defined as one 'which concerns the performance of a duty by an employer in relation to a worker' (Employment Relations Act 1999, s.13).

5. The manager dealing with an employee's grievance should respond in writing to the employee setting out the basis on which the grievance is accepted or rejected. It is important that there is not undue delay in responding and that the decision is full and reasoned.

6. It is an implied term of the employment contract that an employer will give employees a reasonable opportunity to obtain redress of grievances. In *W A Goold (Pearmak) Ltd v McConnell* [1995] IRLR 516, the EAT held that the failure of an employer to give employees a reasonable opportunity to obtain redress of grievances was a breach of the implied term of trust and confidence entitling the employee to resign and claim constructive dismissal.

7. An employer should ensure that careful notes are made of grievance hearings. Records of grievance hearings should be retained setting out the nature of the grievance raised, the employer's response, any action taken and the reasons for it. Unsuccessful grievances can be followed by an employee resigning and claiming constructive dismissal. It is therefore important for the employer to have written documentary evidence on how the grievance was handled.

8. Records of grievance hearings should be kept confidential and retained in accordance with the Data Protection Act 1998.

9. Employers should check their grievance procedures to examine if they reflect or are consistent with the statutory grievance procedure. Employers should always follow the requirements of the statutory procedure. Failure to do so could result in an award of compensation being increased by 50%.

Since 1 October 2004, all employers (and employees) have had a legal obligation to follow the statutory grievance procedures.