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INFORMATION NOTE NO.1

REVISED SEPTEMBER 2007

EMPLOYEE GRIEVANCES

This Information Note provides guidance on general principles in relation to employee grievances. It is not a substitute for the Agency's Code of Practice on Disciplinary and Grievance Procedures. The Code should be considered in full prior to any actual grievance proceedings. This can be downloaded from the Publications section of the Agency's website

Current legislation provides that an employee is entitled to receive from their employer, within two months of commencing employment, a written statement of the main terms and conditions of employment. The written statement must specify a person to whom an employee can apply for the purpose of seeking resolution of any grievance relating to his/her employment, how the employee should make such applications and any further steps in this process which are available to the employee. In the case of further steps the written statement can set out these out in writing or refer to reasonably accessible documents which provides more detail.

→See Department of Employment and Learning Employment Rights Booklet er 2 *Written statement of employment particulars*
<http://www.delni.gov.uk/index/publications/pubs-employment-rights/erbooklets/written-statement-of-employment-particulars.htm>

Why have grievance procedures?

Grievances are concerns, problems or complaints that employees may raise with their employers. Grievance procedures help employers to deal with grievances fairly, consistently and speedily and avoid the need for legal action. Guidance on drawing up grievance procedures is set out below.

Dealing with grievances in the workplace

Grievance procedures should allow for and encourage informal resolution of grievances. This may involve the employee raising the matter verbally with their line manager. This could allow for early and quick resolution of employee complaints. If a grievance cannot

be settled informally, the employee should raise it formally with management. The Statutory Grievance Procedure (detailed below) provides a framework for dealing with grievances in a formal manner. There is also a requirement on employees to follow this procedure before pursuing certain claims to the Industrial Tribunal.

The standard statutory grievance procedure

Under the standard statutory procedure, where it applies, employees must:

Step 1

Inform the employer of their grievance in writing;

Step 2

Be invited by the employer to a meeting to discuss the grievance and be notified of the decision. The employee must take all reasonable steps to attend this meeting;

Step 3

Be given the right to an appeal meeting if they feel the grievance has not been satisfactorily resolved and following this meeting be notified of the final decision.

It is important that employers and employees follow the statutory grievance procedure where it applies. An employee must wait at least 28 days after sending the letter at Step 1 of the procedure to their employer before presenting a claim to the Industrial Tribunal. A premature claim will be rejected automatically by the tribunal although (subject to special time limit rules) it may be presented again once the written grievance has been raised with the employer. Furthermore if a complaint is presented to the Industrial Tribunal and either party has failed to follow the Statutory Grievance Procedure then the tribunal has the authority to increase or reduce awards by 10 – 50% depending on the individual circumstances of the claim.

There are a few limited circumstances where an employee may argue that they do not need to follow the Statutory Grievance Procedure and details of this can be found in the Agency's Code of Practice on Disciplinary and Grievance Procedures under Annex F and it is recommended that further advice be sought on this matter.

→See Agency Code of Practice on Disciplinary and Grievance Procedures

The modified grievance procedure

Wherever possible a grievance should be dealt with before an employee leaves employment. Where this is not possible then the Modified Grievance Procedure provides a framework for dealing with grievances that may arise after the contract of employment has come to an end.

The steps are:

Step 1

The employee must send a written explanation of their grievance to their employer, stating the basis for their complaint.

Step 2

The employer must set out his/her response in writing and send it to the employee.

The employee and the employer must agree in writing to follow the Modified Procedure.

Drawing up grievance procedures

In drawing up grievance procedures it is good practice to involve everyone they will affect, e.g. managers, employees and, where appropriate, their representatives and this should make the procedure more acceptable to all concerned.

Grievance procedures should make it easy for employees to raise issues with management and should:

- Be simple and put in writing;
- Enable an employee's line manager to deal informally with a grievance, if possible;
- Keep proceedings confidential; and allow the employee to have a companion at meetings.

Grievances could arise from the following issues:

- terms and conditions of employment;
- health and safety;
- personal relationships at work;
- bullying and harassment;
- new working practices;
- working environment;
- organisational change; and
- equal opportunities.

It is important to ensure that everyone in the organisation understands the grievance procedures including the statutory requirements and supervisors, managers and employee representatives are trained in their use. Employees should be given a copy of the grievance procedure or have ready access to them, for instance on a notice board or issued them during the induction process.

Employers should take the time to explain the detail of grievance procedures to employees, paying particular attention to those employees who may have reading difficulties or for whom English is not their first language.

The right to be accompanied

Employees have a statutory right to be accompanied at a grievance hearing by a companion. A companion may be a work colleague or a Trade Union official. The Trade Union Official may be either a full-time official employed by a Union or a lay Union official who has been reasonably certified in writing by his/her Union as having experience of, or as having received training in, acting as a worker's companion at grievance hearings.

For the purposes of this right, a grievance hearing is defined as a meeting at which an employer deals with a complaint about a legal duty owed by him/her to a worker, whether the duty arises from statute or common law (for example contractual commitments). For instance, an individual's request for a pay rise is unlikely to fall within the definition, unless a right to an increase is specifically provided for in the contract or the request raises a statutory issue about equal pay.

The workers companion should be allowed to address the hearing in order to:

- put the worker's case;
- sum up the worker's case;
- respond on the worker's behalf to any view expressed at the hearing.

The worker's companion can also confer with the worker during the hearing. The companion has no right to answer questions on the worker's behalf, or to address the hearing if the worker does not wish it. Workers whose employers fail to comply with a reasonable request to be accompanied may present a complaint to a tribunal.

Guidance on drawing up a grievance procedure, tailored to suit the needs of your particular organisation, is available free of charge from the Labour Relations Agency.

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