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INFORMATION NOTE NO 1

REVISED APRIL 2011

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 these out in writing or refer to reasonably accessible documents which provide 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/er2.htm>

We have used the term employees throughout the remainder of this Note but the information also applies to workers. For information on employee/worker status see 'Worker' at http://www.lra.org.uk/a-z_of_employment/w-employment-atoz.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 employees raising the matter verbally with their line manager. This could allow for early and quick resolution of employees' complaints. If a grievance cannot be settled informally, employees should raise it formally with management. The grievance procedure detailed below provides a framework for dealing with grievances in a formal manner. An Industrial Tribunal can take into account any **unreasonable** failure to follow the grievance aspects of the Agency's Code of Practice on Disciplinary and Grievance Procedures and may financially penalise employers or employees.

Let the employer know the nature of the grievance

If it is not possible to resolve a grievance informally employees should raise the matter formally, without unreasonable delay, with their manager. If the complaint is against their manager employees should be allowed to approach their manager or, if that is not reasonably practicable, another manager in the organisation. Where this is not possible, the manager should hear the grievance and deal with it as impartially as possible.

Employees should raise the grievance in writing setting out the nature of the grievance and how it might be resolved. Setting out a grievance in writing might not be easy, especially for those employees whose first language is not English or who have difficulty expressing themselves on paper. In these circumstances employees should be encouraged to seek help, for example, from a work colleague, a Trade Union or other employee representative.

Hold a meeting with the employee to discuss the grievance

When a grievance is received employers should arrange for a formal meeting to be held without unreasonable delay.

Employees have a statutory right to be accompanied at any such meeting.

Employers, employees and their companions should take reasonable steps to attend the meeting.

Employees should be allowed to explain their grievance and how they think it should be resolved. Consideration should be given to adjourning the meeting for any further investigation that may be necessary.

Decide on appropriate action

Following the meeting, employers should decide on what action, if any, to take. The decision, and a full explanation of how the decision was reached, should be communicated to employees, in writing, without unreasonable delay. Where appropriate, the decision should set out what action employers intend to take to resolve the grievance. Employees should be informed that they can appeal if they think that their grievance has not been satisfactorily resolved.

Appeals

If employees feel that their grievance has not been satisfactorily resolved then they should have the opportunity to appeal. An appeal should be made without unreasonable delay, advising employers in writing of the grounds of appeal.

Employers should hear the appeal without unreasonable delay and at a time and place which should be notified to employees in advance.

The appeal should be dealt with impartially and, wherever possible, by a manager who has not previously been involved in the case.

Employees have a statutory right to be accompanied at an appeal hearing.

Drawing-up grievance procedures

In drawing-up grievance procedures it is good practice to involve everyone they will affect, eg, managers, employees and, where appropriate, their representatives. 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 employees' line manager to deal informally with a grievance, if possible;
- keep proceedings confidential; and
- allow employees 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 and that supervisors, managers and employee representatives are trained in their use. Employees should be given a copy of grievance procedures or have ready access to them, for instance, on a noticeboard or issued to 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 grievance hearings 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 companion at grievance hearings.

For the purposes of this right, a grievance hearing is defined as a meeting at which employers deal with a complaint about a legal duty owed by them to an employee. The duty may arise from statute or common law, for example, contractual commitments - an employee's request for a pay rise is unlikely to be a contractual right unless a right to an increase is specifically provided for in the contract. Alternatively, the request may raise a statutory issue about equal pay or National Minimum Wage.

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

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

The companion can also confer with the employee during the hearing. The companion has no right to answer questions on the employee's behalf, or to address the hearing if the employee does not wish it. Employees 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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