



The Scottish Parliament
Pàrlamaid na h-Alba

Grievance Guidance for the Appeal Manager

Stiùireadh air Cùisean-gearain
airson Manaidsear an Ath-
thagraidh

17 August 2018



Brief for the Appeal Manager

The appeals stage of the grievance procedure is part of the [ACAS Code of Practice: Discipline and Grievance](#) and if the employee pursues an Employment Tribunal claim, the way in which the appeal is handled may be an important aspect of any Employment Tribunal claim or defence. If you are hearing the grievance appeal you should:

- deal with it promptly (and within the timescales set out in Section 12 of the staff handbook);
- advise the employee of their entitlement to be assisted by a Trade Union representative or colleague;
- hold the hearing at a reasonable time for the employee and giving proper notice so that the employee can inform and consult representatives;
- be prepared to hold the hearing off-campus if the circumstances are such that this might be warranted;
- ensure all relevant facts and documents are available to you and to the employee;
- inform any witnesses or manager that the appeal hearing is taking place and that you may have to contact them at short notice;
- invite the nominated representative from the Human Resources Office, or someone nominated by them, to provide you with procedural advice and to take a note of the meeting on your behalf if you wish;
- ensure that a factual and objective note of the meeting is taken.

Preparation

Remember you are in charge of the process and as part of your preparation for the hearing you should:

- consider carefully the background to the grievance to ensure that you are fully conversant with the detail of the grievance prior to the hearing;
- examine the original decision closely and the reasons for it and consider the ground(s) of appeal;
- consider if you need to make any enquiries before the hearing to clarify matters that are not clear to you; and
- consider any lines of questioning that you may wish to adopt.

The Hearing

When hearing the appeal you should:

- introduce those present and explain why they are there;
- explain that the purpose of the hearing is to consider the appeal against the grievance outcome;
- give the employee the opportunity to tell you why he or she was not satisfied with the original decision and what they think would be a reasonable solution;
- be clear that this is not an opportunity to bring in any new complaints to the procedure and ensure that you do not allow this to happen.

General questioning and discussion

It is up to you to encourage an open and frank discussion and to do this you should:

- keep the approach formal and polite whilst encouraging the employee to talk freely with a view to establishing all the facts;
- be fair and impartial;
- use questions to clarify all the issues and to check that what has been said is understood (reflecting what has been said to you and frequent short summaries are helpful in this regard);
- go through the complaint and the original response to it to obtain more details on why the employee has appealed against the original decision;
- ask open-ended questions – e.g. what happened then? – to get the broad picture and find out whether there is any new evidence since the earlier decision but you should ensure that the basis of the grievance does not change at the appeal stage;
- not get involved in arguments or discussions that may seem to be criticising the complainant or anything that has gone before;
- be careful not to make any remarks that may cause offence.

If you think that any further investigation is necessary, you should adjourn the hearing, conduct any further enquires, and report the outcome once you have reconvened the appeal hearing.

Summing up

At the end of the hearing, you should summarise the main points and check whether the employee has any further points to add.

The decision

You should adjourn the hearing before making a decision. It is preferable for you to come to a decision on the same day so you may wish to adjourn for a period and reconvene at a specific time and invite the employee to return at that time when you will be able to give them a decision.

If you are unable to make a decision straight away, you should tell the employee that this is the case and make arrangements for the hearing to be reconvened at a time by which you expect to have made your decision.

Concluding the Process

When you reconvene the hearing you should inform the employee of your decision, the reasons for it and confirm that this is the final stage of the grievance procedure and that there is no further right of appeal.

You should confirm your decision in writing within 5 working days of the appeal hearing. The note of the meeting should be attached to your letter confirming your decision. You should ask the complainant to confirm that the note is an accurate record of the meeting. If the complainant has any comments on the terms of the note, you should feel able to agree any changes that are acceptable to you. However, if you do not agree to the comments, you should let the complainant know this and attach his or her comments to the note with a record saying that you do not agree with them. This process is a courtesy only and will not hold up any decision being taken.

Records

All of the paperwork connected with the appeal should be given to the Human Resources Office representative who will ensure that it is kept in accordance with the terms of the Data Protection Act.

Confidentiality

The appeal proceedings are confidential and, as such, should not be discussed with anyone other than those who have participated in the process unless it is on a strictly “need to know” basis.

Grievance Guidance for the Appeal Manager (English only)

For further information contact:

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