



The Scottish Parliament
Pàrlamaid na h-Alba

Grievance Guidance for Managers and Staff

Stiùireadh air Cùisean-gearain
airson Manaidsearan agus
Luchd-obrach

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Introduction

Although staff have no statutory right to be able to raise concerns with their employer, Employment Tribunals are legally required to take the [ACAS Code of Practice](#) into account when considering such cases. All staff may, therefore, raise any concern, problem or complaint that they may have, for example, about his or her:

- work;
- terms and conditions of employment;
- working conditions; or
- working relationships.

Effective handling of grievances is important both in the interests of compliance with the [ACAS Code of Practice](#) and in terms of positive employee and working relations. Everyone involved in a grievance has a role to play in assisting to resolve the issue.

You will find guidance below on the roles and responsibilities of those involved in a grievance as:

- the person raising the grievance;
- the line manager hearing the grievance;
- the person against whom the grievance is raised; and, where appropriate;
- a witness to the incident that is the result of the grievance.

If you are involved in any of the roles above, we expect you to act in a fair and reasonable manner and to make a genuine attempt to resolve the grievance at as early a stage as possible.

ACAS Code of Practice

The SPCB's grievance procedure reflects the requirements of the [ACAS Code of Practice](#) which was issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 and was laid before both Houses of Parliament on 9 December 2008. It came into effect on 6 April 2009.

ACAS Code of Practice (Continued)

A failure to follow the Code does not, in itself, make a person or organisation liable to proceedings. However, Employment Tribunals (ET) will take the Code into account when considering relevant cases. Tribunals will also be able to adjust any awards made in relevant cases by up to 25% for unreasonable failure to comply with any provision of the Code. This means that if the Tribunal feels that the SPCB has unreasonably failed to follow the guidance set out in the Code, this could result in a 25% increase in compensation for an employee who makes a successful claim to an ET. Conversely, if they feel an employee has unreasonably failed to follow the guidance set out in the Code, they can reduce any award they have made by up to 25%.

The SPCB requires all managers to deal with any grievance which is raised, whether or not presented in written form. A grievance which is not presented in writing will be dealt with at an informal level. If an employee wishes to pursue the grievance through the formal process, then the employee must set out the grievance in writing in accordance with Paragraph 10 of the SPCB grievance procedures.

Individuals have a statutory entitlement to be accompanied by a trade union representative or a work colleague (not someone from outwith the organisation) at any stage of the formal grievance process. Although not strictly necessary at the informal stage, a request by an employee to be accompanied at this level will be granted. Whilst the statutory requirement is to allow an individual to be accompanied, the SPCB affords staff a higher level of representation by allowing them to be assisted. Assisted means that the person with who attends with the complainant may:

- 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 SPCB does, however, retain the right to ask the employee questions directly and to expect a direct answer.

Staff should notify the line manager in advance if they intend to be assisted at a meeting, and if so, by whom.

Grievance Guidance for Managers and Staff (English only)

For further information contact:

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