



How to

Use a grievance
procedure to deal
with discrimination
and other problems
at work

advicenow

Making sense of the law and your rights



“I was being sexually harassed at work, and I worried that complaining would make things worse. But making a complaint using the grievance procedure was the best thing I could have done. My employers investigated and agreed with my complaint. The worst offender got the sack, and the others got formal warnings.”

Lucy, Ipswich



“I worked in a big restaurant as a waiter. We weren’t allowed to carry personal possessions into the restaurant, and had to leave them in lockers most of which were broken. My phone got stolen, and when my manager wouldn’t do anything about it, I brought a grievance for compensation for my phone, and to get secure storage. They gave me £80 towards a new phone and a padlock for my locker.”

Lucca, London

This guide shows you how to use your work’s grievance procedure to deal with problems at work, either because you are being discriminated against, or because of other sorts of problems.

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What is a grievance?

A 'grievance' is the word used in the work place, to mean a concern, problem or complaint you have about your work. If you complain to your employer about your work, this is often called 'raising a grievance'.

There may be a particular management style that you don't like, for example communication by email rather than in person. But unless you are singled out from others at your work and treated differently, you are unlikely to have a valid grievance, provided your employer stays within the boundaries of acceptable management practice.

Grievances are normally about things like:

- **Discrimination** (see **page 5**).
- **Terms and conditions of employment.** For example, your employer changes the date you get your pay from the 15th of each month to the 30th.
- **Health and safety.** For example, your office chair loses a wheel. Your boss screws it back in but it is still wobbly. You complain again, but your boss says a new chair is too expensive and that you will have to manage.
- **Work relations.** For example, there are three of you in your team. Only one of you is supposed to take leave at any one time. Two of your workmates keep taking leave at the same time which leaves you under a lot of pressure. No-one does anything about it and your workmates won't agree to sort it out with you.
- **Bullying and harassment** (see **page 8**).



- **Changes in working practices or organisational change.** For example, you work for a small charity. Your job is partly recruiting members, and partly campaigning, about 50:50. After a couple of years, a new lead organiser is appointed. She reviews priorities and decides she wants you to focus solely on recruitment.
- **Things to do with your working environment generally.** For example, your workplace gets very hot in the summer, the windows are stuck and won't open, there's no air-con, and your employer won't do anything about it.

There are a few types of complaint which you can't make using a grievance procedure. For example, you can't use a grievance procedure to complain about being made redundant, or the fact that your employer ends a fixed term contract rather than renewing it. If you are in this position, you may want to get some advice, see **Further help** on **page 29**.

If you and another employee have an identical grievance and are represented by a trade union, then you must use your employer's collective grievance process.

Discrimination

What is discrimination?

Discrimination is only unlawful when you are treated worse than other people because of a particular personal characteristic. The law calls these characteristics 'protected characteristics'. They are:

- **Sex**, including pregnancy or maternity, or whether you are married or single or in a civil partnership.
- **Race**, including colour, nationality, ethnic or national origin.
- **Disability** (this means where you have a physical or mental health condition which has a substantial effect on your day to day activities, and which has lasted or is expected to last for a year or more).
- **Age** (this includes being young as well as old).
- **Religion or belief** (this includes having no religious beliefs).
- **Sexual orientation.**
- **Gender reassignment** or being on the way to gender reassignment.



Discrimination

Good reason to complain about discrimination

Sometimes it's obvious when you have good reason to complain about discrimination – for example if someone makes offensive comments about your sexuality or ethnicity. But it's not always as clear-cut as that. You may have a good reason to complain about discrimination in these circumstances too:

- You are being given worse jobs than everybody else and you believe the reason is because of your protected characteristic.
- Your work has rules which appear to apply to everyone, but they are harder for you to follow, for example, because of your religion or sex. So, for example, if you are a single mother who works part time as a clinic nurse Mondays to Wednesdays, and your employer wants to change your rota so each week you work a different three days and you cannot organise your child care to make this possible, this is likely to be unlawful sex discrimination. This is because a much higher proportion of women than men have childcare responsibilities, and so the impact on women and you in particular is likely to be greater than on a man.

- Your employer's conduct is apparently neutral, but you are worse affected than others because of your protected characteristic. So, for example, if your employer insists that you carry work equipment around between work stations when you have a muscle degenerating disease (a disability) that is likely to be unlawful discrimination for which your employer should make reasonable changes (the law calls this 'adjustments') to help you.
- You have a disability which significantly affects your ability to carry out day to day activities and your employer treats you less favourably because of something connected with your disability.
- If you have a disability and your employer refuses to make reasonable changes or 'adjustments' to your job to enable you to continue working. Reasonable changes could include changing your hours of work, or providing you with equipment to make it easier to do your job, or giving you a desk on the ground floor if you have mobility difficulties and you work in a building without a lift.
- You are treated less favourably because someone connected with you has a protected characteristic. For example, your employer treats you less favourably because your partner or child is transgender.
- You are treated less favourably because you've complained about discrimination or supported someone else's claim – this is called victimisation. If you make a complaint about discrimination, it is against the law for your employer to treat you badly because of it, whether you're complaining on your own behalf or supporting someone else's complaint about discrimination.

You can raise a grievance if any of these kinds of discrimination are happening at your work.



“It was shocking the way the Latvians at work always got lumbered with the worst shifts. I complained about it which didn't go down too well. My boss started giving me the worst shifts too 'since I like them so much ...'.”

Ron, London

No good reason to complain about discrimination

It is not always easy to decide if the problem you have is one of unlawful discrimination, or is a reasonable ground for a grievance, or simply a management decision which can't be challenged.



“Everyone hates taking out the rubbish – it’s always been the job of the newest recruit. Now our manager has decided to use a rota so everyone has to do it. But I’ve been there longest. I shouldn’t have to do that sort of thing. It’s discrimination.”

Anji, Beckenham

Anji isn't being treated unfairly because of a protected characteristic, so she can't complain about discrimination. But if, for example, she had a disability which made carrying rubbish sacks a problem, then she could complain about discrimination because disability is a protected characteristic. However, it is an example of something Anji could raise as a grievance, as it relates to her conditions of employment, and a change in working practices.

If you're not sure if you have a good reason to complain about discrimination, get some advice. See **Further help** on **page 29** for ideas about where to go for advice.

Bullying and harassment

Bullying and harassment often go together, but legally they are slightly different. Bullying doesn't have a legal definition but we all understand what it means. It is intimidating or insulting behaviour, intended to undermine or humiliate you. It is often an abuse of power.

The legal meaning of harassment is where you suffer unlawful discrimination, for example because of your race or sex, through behaviour that is offensive, intimidating or hostile, and where the behaviour is intended to or has the effect of humiliating you. Often behaviour will be both bullying and harassment, but not always.

“When the new manager started, he was horrible. He shouted a lot and banged his fist on the furniture to get attention. He told me off for the least thing and said I needed to speed up or my job was at risk, although I'd had good performance reviews in the past. At first I wondered if it was because I was black. After a few weeks I realised he behaved like this to everyone and we were all frightened of his bullying ways. I felt so stressed that I took a week off work with anxiety. I'd never done this before.

At about the same time one of my colleagues did too. I talked it over with her when she was back, and we had a look at the grievance procedure.

Then we raised his behaviour informally with his line manager. She investigated, and shortly afterwards he was moved to another department.”

Marion, Swansea



Marion's case is an example of bullying, but not harassment, as her new manager abused his power and behaved like this to everyone.

Bullying and harassment

“I am a single parent of a 6 year old who has severe asthma. When it’s bad he has to take time off school. Sometimes the school phones and asks me to collect him. When he has a bad attack I have to take him to Accident and Emergency. My work has been saying that because I have to take time off I’m rubbish at my job, and they’re going to discipline me over my attendance. I get distressed about how they talk to me, and I’m frightened I’m going to lose my job because of my son’s illness.”

**Cara,
Manchester**



In Cara’s case, her child has a disability and she is suffering intimidating and offensive behaviour because of her child’s disability. This means the employer’s behaviour is harassment, a particular kind of unlawful discrimination.

Sometimes bullying is more ‘low level’ and you’re not sure if it really amounts to bullying. Perhaps you are the only one being told you are a few minutes late for work while others appear to get away with the same behaviour so after a while it feels like you are being picked on by your employer? Or your employer makes occasional personal comments about your appearance that aren’t genuinely related to your work’s dress code or your personal hygiene? If what your employer is doing is undermining, unwarranted or offensive then it amounts to an abuse of power and is bullying. The degree of bullying

may be ‘low level’ but it’s still bullying. The question then is whether the bullying is too low level to justify raising it with them. You need to think about whether the problem is serious enough for you to want to resolve it as a grievance, either informally or formally. See **Things to consider before raising a grievance** on page 13.

An employee who is late for work is always going to have difficulty alleging bullying or unfair criticism, even at a low level, because the law often treats lateness for work, at worst, as theft of an employer’s time or as a breach by the employee of the terms of their contract. Different employees in the same organisation may meet different responses to lateness from their employer, quite legitimately. So a train driver has to be punctual for the timetable. A receptionist needs to be there when the phones open. A secretary or researcher might be allowed to make up the work by staying late.

An employer is not likely to sympathise with a complaint along the lines of ‘Everyone else is late. Why am I the only one to get picked on?’ It is possible the employer thinks the person who is ‘picked on’ has wider performance issues than other people. But, if you have a protected characteristic that causes or accounts for your lateness, or the differential treatment becomes very marked, you may want to consider raising a grievance. See **Further help** on page 29 for ideas about where to go for advice about this.

What is the purpose of using a grievance procedure?

The main purpose of a grievance procedure is to resolve a problem. It enables employees to complain about problems in the workplace and get them resolved internally by management before they develop into major difficulties.

You are unlikely to get money compensation as a result of using a grievance procedure. For this you will usually need to take a claim to an employment tribunal. But not all grievances can move on and form the basis for an employment tribunal claim. Contact your trade union or the Advisory, Conciliation and Arbitration Service (ACAS) early in the grievance process to get advice about whether to take your case to an employment tribunal as well. ACAS is an independent organisation that provides free and impartial information and advice on problems in the workplace and employment law. You can find information about how to contact them in **Further help** on **page 29**.

You may also want to use a grievance procedure to:

1. Improve your work situation in the future

A successful grievance can resolve a problem so that something about your work improves in the future.

“I’m a 62 year old woman and I’ve worked in a clothing factory for 30 years. I used to have an assistant to lift the heavy fabric bales, but that was stopped in cutbacks. The bales are too heavy for me now. When I complained to my manager he said maybe I was just too old, and if I didn’t like it there were plenty of strong young blokes who would want my job. I took a grievance, and also complained about age and sex discrimination. I said in the grievance I wanted an apology and for an assistant to help me with the heavy lifting 3 or 4 times a week. They ignored my complaint of discrimination, saying it was banter, but said I could have an assistant to do the lifting three mornings a week. That meant I could manage to stay in the job. I am thinking about whether to bring an employment tribunal claim for compensation as well because of my discriminatory treatment.”

Jane, London

Although Jane’s grievance was partly successful, she now needs to decide whether she wants to take a claim to the employment tribunal against her employer for age and sex discrimination for compensation for injury to her feelings because of how her manager treated her.



What is the purpose of using a grievance procedure

2. Make an immediate difference to your work situation

It is important to tackle a problem while it is still causing difficulties. Don't wait and complain afterwards.

“My line manager kept making really offensive remarks about my sexuality. This went on for about six months. I didn't like to say anything as I was a bit scared of him and was worried about my job. When I got back from holiday last week I found he'd moved on. I'm really relieved, and I'm planning take a grievance about his behaviour.”

Linda, Birmingham



Facing problems at work can be daunting and really stressful, especially when you think that the problem involves discrimination. People often don't complain about discrimination because they worry it will be seen as an over-reaction, or that complaining will only make things worse. But no-one should have to suffer discrimination at work, which is why there are laws to make employers put a stop to it. If Linda had raised a grievance at the time, her employers would have been under a duty to investigate and make a decision, and she could have been saved months of unhappiness. Because she didn't, it is likely that her employers will not be able or willing to investigate now.

3. Complain if you are being unfairly disciplined

“I was fed up with all the jokes about me being a refugee. I thought that it couldn't get any worse. Then my employer sent me a letter calling me to a disciplinary hearing about 'poor performance'.”

Rafiq, Newcastle



If your boss takes disciplinary action against you, and you think the real problem is that they are discriminating against you, you can use your work's grievance procedure to complain. Your employer should consider putting the disciplinary action on hold and hearing your complaint first. Where the disciplinary and grievance cases are related, the ACAS Code of Practice says

What is the purpose of using a grievance procedure

it may be appropriate to deal with both cases at the same time, and you can ask for this to happen. If the disciplinary procedure has been completed and you have been given an unfair disciplinary warning, you can appeal. You can also complain about the discriminatory treatment, and ask that the appeal and your complaint (grievance) are heard at the same time. In Rafiq's case, the discrimination would be because of his race, which includes nationality and national or ethnic origin.

The ACAS Code of Practice on Disciplinary and Grievance Procedures sets out how employers should deal with complaints made by their staff. By law they must follow this code of practice and if your employer doesn't they may have to pay you more compensation if you take a successful claim to an employment tribunal. There is also a guide (Discipline and grievances at work: The ACAS guide). This provides additional information on handling grievances at work. You can find both the code and guide here: www.acas.org.uk/?articleid=2174

4. Complain if you have been disciplined under a disciplinary policy which doesn't give you a right of appeal

All disciplinary procedures should give you a right of appeal. If yours does not, you can raise a grievance as a way of appealing the result of the disciplinary. In your complaint, you will need to point out that there is no appeal in the disciplinary procedure and ask your employer to treat your complaint as your appeal.

What is the purpose of using a grievance procedure

Things to consider before raising a grievance

Before you make a complaint, it is important to think clearly about whether it's what you want to do. Consider discussing your concerns informally with your manager or another suitable person at work before raising a formal complaint.

Mediation

Your employer may have provision for mediation, especially if they're a larger employer. This means getting an outside mediator who is neutral to you and your employer to discuss the issues with both of you. Generally this would happen at an early stage, before the formal grievance process starts. Check your grievance procedure to see if there is provision for this.

The pros and cons of making a complaint

Pros

- You might succeed in putting a stop to the discrimination or other work problem. Things are unlikely to change if you don't make your feelings known.
- If your complaint is about discrimination and you make your employer aware of this, it's up to them to stop it. If they don't do all they reasonably can to stop it, you could take them to an employment tribunal and possibly get compensation. Your work can't be held responsible if they don't know about the discrimination.
- If you don't use the grievance procedure, and instead take the problem straight to an employment tribunal, any compensation you get might be reduced by up to 25%.



Cons

- It can be stressful. You will probably have to attend meetings with senior management.
- Making a complaint may damage work relationships. No one likes to hear criticism about them, even if it's true.
- Think about the practicalities of your situation at work. Are things likely to change soon anyway? It might not be worth making a complaint if your problem is only temporary. You could raise a grievance if, for example, noisy building works outside your office are making it hard to concentrate and get your work done. But is there any point if the problem will be resolved in the next few weeks because you're moving offices? The answer might be different if the building work is also very dusty and affecting your health now.
- If you are unsure about whether to complain about something, speak to an experienced adviser. If you are a member of a trade union, your representative should be able to help. See **Further help** on **page 29** for ideas about where to go for advice.

Things to consider before raising a grievance

Don't do it for the wrong reasons

“A Polish man came to me for advice. He was offered a job after claiming in an interview that his written English was good. His boss quickly realised that his written skills weren't up to scratch, and at his 3-month review they told him he wasn't going to be kept on. He took it very badly and started attacking his boss, calling him racist and demanding his dismissal. But it wasn't racist. He wasn't being kept on because he couldn't do the job.”

Andy, Advice worker



Things to consider before raising a grievance

In this example, there was nothing the employee could do. He had no employment rights and there was no unlawful discrimination if his written English wasn't good enough to do the job. If, on reflection, he agreed that his written English wasn't as good as his spoken English he could ask his employer if they had any other jobs which could make use of the skills he did have or, at worst, ask them if they would provide a positive reference focusing, say, on his punctuality and his spoken English.

You should only use your work's grievance procedure if you have a good reason to. Don't do it in order to get back at someone because you're angry.

If you are unhappy about the way your work has been treating you, don't store it up for a long time before doing something about it. If you do, anyone looking at your complaint will wonder why you didn't do something about it sooner, and that could weaken your case.

Take a step back from the situation

Take a few deep breaths. Think objectively about what or who you are unhappy with, and why. It may help to talk things through with someone you trust to get things in perspective.

What do you want to achieve?

Think about the outcome you want. What would you do if you were the employer? If you can suggest a way forward when you make your complaint, you show willingness, and you are more likely to get at least some of what you want.

Be prepared

If the problem you are complaining about is still happening, keep a diary of each event as a record. Keep safe any other evidence, like emails. Familiarise yourself with how your work's grievance procedure works and make sure you have read any bits of your contract which may be relevant.

Be confident

When people raise grievances, they often start to doubt they are doing the right thing. If you are unlucky, your employer might say things like; "Are you really going to make a fuss about this?"

Prepare to be blocked and discouraged at each stage of the process. If you give up, your situation won't get any better and it could weaken any complaints you raise in future. So stick with your complaint unless your trade union representative or independent adviser suggests you need to re-think what you're doing.



Things to consider before raising a grievance

Grievance procedures

What is a grievance procedure?

A grievance procedure is a written policy, setting out the steps you and your employer should follow to resolve a grievance. Every employer should have one. In most cases it's a good idea to try and resolve the problem informally by discussing it with your line manager first. If this is unsuccessful, then you follow the grievance procedure. Every grievance procedure is likely to have both an informal and a formal stage to it. For more information see **Stages in a grievance procedure** on **page 18**.

In a large organisation, with lots of employees and a personnel or human resources department, the grievance procedure is likely to be a long and detailed document. Even a small organisation should have a grievance procedure, though it is likely to be less detailed.

Some organisations, particularly large ones, will have a separate bullying and harassment policy, and perhaps a whistle-blowing policy. If you think these may apply to you, you should ask for a copy.

Where can I find my grievance procedure?

The grievance procedure should be easily available. If you don't have a copy, always ask for one if you are thinking of bringing a grievance. It will tell you what you need to do. You should have been given a copy or told how to access it when you were given your contract of employment. Have a look in your contract, the staff handbook, or work intranet. If you can't find it, ask your line manager or someone from the human resources or personnel department. Your work has a duty to tell you what their procedure is.



What do I do if there isn't a grievance procedure where I work?

If you cannot find a grievance procedure, or if it turns out there isn't one, follow the basic steps set out in **Stages in a grievance procedure** on **page 18**.

Make your complaint promptly

Check your work's grievance procedure promptly because most grievance procedures have a timescale for bringing a complaint. This is often three months or less from the date the problem happened or started. If you leave it too long, you may find you can no longer use the procedure as a way of sorting out your problem.

Make sure your employer deals with your complaint promptly

Make sure your employer deals with your grievance promptly at every stage. Your work's grievance procedure should have a timescale in it. If your employer isn't complying with this, chase them up by phone or email to find out what's going on. Keep a record of your call or email.

If you want to take a claim to an employment tribunal, you must bear in mind the time limits for doing this. The clock does not stop running because you have lodged a grievance. The basic time limit for an employment tribunal case is 3 months less 1 day from the act you are complaining about. But you must use ACAS's Early Conciliation service first before you can start a claim in the employment tribunal. For more information about this, see **Time limits and employment tribunals** on page 27.

If time passes and you are still waiting for your work's grievance procedure to take its course and it looks like there's a possibility you could miss the deadline, you must lodge your tribunal claim. You can't afford to wait or delay. If you are in this position, you should talk to an experienced adviser at your union or local advice agency quickly, as well as contacting the ACAS Early Conciliation service.

It's a good thing if your employer has an opportunity to deal with your grievance before you go to an employment tribunal, but not if it means missing the tribunal deadline. You are responsible for staying within the time limit for making an employment tribunal claim.



Grievance procedures

Stages in a grievance procedure

The informal stage

Many problems at work are best sorted out informally. The benefit of the informal approach is that it is quicker and less daunting than making a formal complaint, and is less likely to damage your working relationships. It might be all that's needed to sort things out. But it may not be suitable for you if things have already gone too far to sort out informally, or perhaps the only person in a position to sort it out or who you could speak to is the person causing the problem. If so, you may be better off going straight to the formal stage of your grievance procedure.

You might find that if you touch on anything which could be seen as discrimination, alarm bells start to ring with your boss and you won't be able to deal with the problem informally. Employers are often wary of dealing with discrimination because it is such a serious issue and if they don't deal with it properly, they can get in a lot of trouble. Sometimes it is company policy to deal with potential discrimination in a formal way from the outset.



“I've got cerebral palsy and find climbing stairs hard. My office is on the first floor and there is no lift. I told my supervisor that I had a problem. She was really uptight about it and told me to put it all in writing and that she would inform our managing partner. I didn't really want to cause a fuss, but she said that it was company policy.”

Matt, Nottingham

Who do I raise my informal grievance with?

Check your work's grievance procedure. It will probably tell you who to raise an informal grievance with. It might be your line manager. If you have more than one line manager for different areas of your work, it might say which one. It might be someone else altogether. If the procedure doesn't give you this information, then try talking to your line manager, or another manager, or someone from Human Resources or Personnel who you feel comfortable with. If it is your line manager who is responsible for the problem, you will need to find someone who is senior to them to take your grievance to.

Whoever you speak to, they need to be someone in a position to deal with the situation and make recommendations and decisions. A workmate might be sympathetic, but if they don't have the power to make decisions, they are not the person to take your grievance to.

Don't directly confront the colleague responsible for the discrimination or other work problem. If you do, there's a risk it becomes a personal dispute. This makes it more difficult for your employer to deal with as a problem you want them to solve for you. You could also get caught up in a complaint made against you by your colleague.

What do I say?

- Explain what the problem is.
- Explain briefly the impact on you – for example, 'Because my rota's been shifted, it means I miss my train and the next one isn't for 2 hours'.
- Stick to the facts.
- Suggest a solution.

What do I do after the discussion?

After your discussion with your manager, make a note of what you and the manager said, and the date and time that you spoke. It is particularly important to keep a note of the outcome – did your manager say they'd get back to you by a particular date with a decision, for example?

You will need to follow it up if no-one gets back to you to find out what your employer is going to do to deal with the problem.

If you are fobbed off, or there is unreasonable delay in getting back to you, you may have to proceed to the formal stage.

The formal stage

If you have not succeeded in sorting out your problem informally, and you wish to continue with your complaint, you will need to move on to the formal stage. There are three steps in the formal stage.

Step 1

Tell your employer about the problem in writing

Write a letter to your employer that clearly sets out the problem and, if possible, explains what you want them to do to resolve the problem.



Many employers, particularly larger ones, will have a form which they expect you to complete. But they cannot refuse to deal with a letter from you, provided that it is clearly a letter of complaint. If it is easy to get hold of your employer's grievance form, it is better to use that.

Whether you write a letter, or use your employer's form, you should make sure that it is dated and signed, and that you keep a copy. You may be able to send in your grievance by email. If so, again make sure it is dated and that you keep a record.

Your grievance procedure should tell you who to send your complaint to. If it is the person you are complaining about, and the grievance procedure doesn't give you an alternative, you will need to ask whoever is responsible for personnel to tell you who to write to.

Stages in a grievance procedure

What do I put in the letter?

- If you tried to resolve the problem informally first, mention that and say what the outcome was.
- Include enough detail, including the dates of incidents and who was involved, to enable your employer to deal with the complaint. Your employer is unlikely to look at complaints which are more than a few months old, unless they are part of a long chain of events, or there is a very good reason why you are only raising them now.
- If you have more than one complaint, start with the most serious. After your most serious complaint, it is often useful to list your complaints in date order.
- If your complaint is lengthy, use sub-headings, and number your paragraphs and pages to help those reading it find their way about the document.
- Try to stay focused on what you want as the outcome – the solution you are seeking. Say as clearly as you can what steps you would like your employer to take to make things work for you. You may not get everything you want, but unless you ask you won't get.
- Try to maintain a professional and neutral tone. Although it is ok to say how certain behaviour has made you feel, attacks on other staff or offensive language will undermine what you are saying. Remember that you want people to read your complaint with a view to trying to solve it.
- Include copies of any supporting evidence with your letter of grievance.



Example:

“I have epilepsy, and occasionally have to take time off for my condition or to have my medication adjusted. A colleague gave me a copy of an email sent on March 4th 2016 by Chris, one of the men in her department, to his mates, Tom, Gerry and Harry, holding a sweepstake on when I'd next have time off. The next day I showed it to my line manager, Joe Brown, and he said it was just young blokes joshing about and I should relax about it. My complaint is that this is disability discrimination, and I want an apology from my line manager and action taken in respect of Chris. I attach a copy of Chris's email dated March 4th 2016.”

You may be wary about accusing people of discrimination in your complaint. But if this is the reason for your grievance, it is very important that you say so and that you spell out the type or types of discrimination you have suffered. This is because if you want to make an employment tribunal claim and you have not mentioned discrimination

at the grievance stage, it is likely to be very difficult for you to bring it up later. This may reduce your chances of success at the tribunal.

Unfortunately there is no alternative to putting your complaint in writing. This is what the process requires. If you don't feel comfortable or very confident about doing this you may be able to get help. If you are a member of a union, they may help you. Your local advice agency may also be able to help. Alternatively you could ask ACAS if they can help you. See **Further help** on **page 29** for ideas about where to go for help.

Step 2

Having a meeting to discuss your complaint

When your employer gets your letter, they should invite you to a meeting to discuss your complaint reasonably quickly. Often the grievance procedure will set a timetable for this meeting, such as within 5 or 10 working days of your employer receiving your letter. There may be a delay, but it shouldn't be a long one, while your employer investigates what you have said, for example by talking to a colleague if you have made a complaint about them.

Attending the meeting

“On the morning of the meeting I was so nervous I just couldn't face it, so I took the day off sick ...”

Marc, London



You must make every effort to attend the meeting. People often stall because it is stressful, but postponing things can be even worse. If you miss meetings, your

employer is less likely to take you seriously and if you end up going to an employment tribunal later, any compensation you get may be reduced.

Taking someone with you to the meeting

The law requires your employer to allow you to bring a trade union representative or a workplace colleague to the meeting. If you are going to do this, let your employer know in advance so they can make any necessary arrangements such as co-ordinating on available dates with your trade union representative, or ensuring the workplace colleague can be freed up from their work commitments to attend.

If you are taking a workmate with you, your employer must give them time off for the meeting. If that person cannot come with you on the day suggested by your employer, you have a right to move the meeting by up to 5 working days so that they can come. You don't have a right to have a friend or partner with you instead. If you would prefer that, or have a strong reason for such a request, for example you need help with a disability, you will need to ask if it's okay.

Stages in a grievance procedure

Witnesses and evidence

Think about what you will need to prove the facts of your case (the law calls this 'evidence').

- If you have documents you want to use, find them and sort them into date order so you can use them at the hearing.
- Check whether your grievance procedure says that you need to provide copies to your employer in advance. If it does, then you need to do this.
- If there are documents you think are relevant and that only your employer has, for example, an occupational health report on you which you haven't seen, ask your employer for a copy.
- If you want a colleague to be a witness, you should ask them, and if possible get them to give you a short written witness statement. Tell your manager the names of any witnesses you want at the meeting so they can arrange for them to be released from work.

record as good a note as you can of what took place as soon as possible after the meeting.

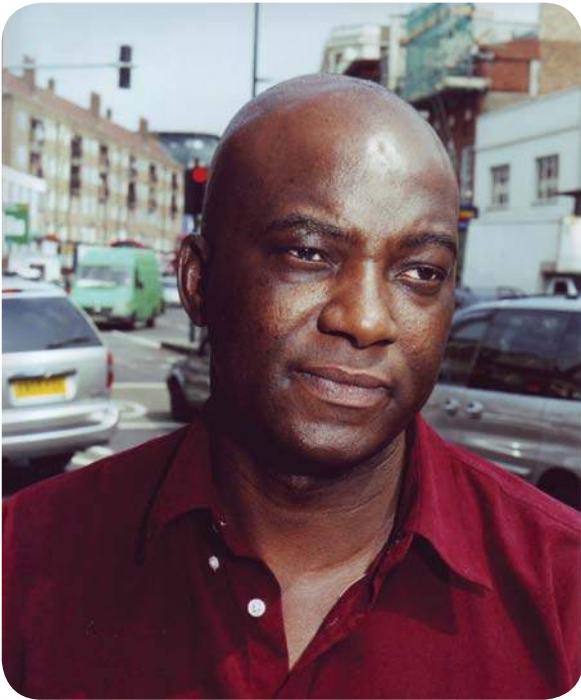
Generally, it is not a good idea to make a secret recording of the meeting. Although employment tribunals often do allow these recordings to be used, there is a risk they give a bad impression about you. Also, if your employer finds out, they might dismiss you for doing this.

Other top tips

- If you or the person accompanying you will need help because of a disability, ask your employer to arrange it.
- If English is not your first language and you sometimes have difficulty saying what you want to say or understanding things, consider asking your employer to arrange for an interpreter.
- Before you go to the meeting, think about what you want to say, and how your employer might respond. Make a list of issues you want to cover, the questions you want to ask, and the outcome you are looking for.
- Try not to panic or feel intimidated – it is your right to have your complaint heard.
- Try and stay calm.

Taking notes at the meeting

It is a good idea to ask for a note-taker to be present. This is very helpful as it means there will be a proper record of the meeting. If your employer has a note-taker, ask them to confirm you will be given a copy before the meeting. If you get these notes, check them to make sure they are accurate as soon as possible. Tell your employer about any inaccuracies promptly. During the meeting if you or your employer says something you think is important, ask the note-taker to record that point. If there isn't a note taker, ask your companion to take notes, or if you are alone ask for a pause to make a note yourself. If all else fails, make sure you



What happens at the meeting?

At the meeting, your employer should give you the opportunity to discuss your problem and to say how you want them to sort it out. When they have heard what you have to say, they may reschedule (the law calls this 'adjourn') the meeting to give them time to investigate your complaint.

What happens after the meeting?

After the meeting your employer should let you know what they have decided to do about your grievance in writing. They should also tell you that you have a right to appeal if you are unhappy with their decision. If they don't, check whether your procedure gives you a right of appeal. They shouldn't tell you their decision at the end of the meeting, as they should take time to think it over.

Your grievance procedure may set out a timetable for when they must let you know and they should give you their decision within this timescale. If they don't, you should chase them.

If they don't give you a decision and yours is the type of grievance that could go to an employment tribunal, decide if you want to do this and stay within the time limits.

Step 3

Appeal

If you are not satisfied with the way your work has dealt with your problem, you can appeal. If you may go to an employment tribunal it is advisable to appeal. This way you can show that you have used all the internal processes available to you.

How long do I have to appeal?

If you decide to appeal, you should tell your employer as soon as possible. You must do this in writing and within the deadline set in the grievance procedure. This is often 5 or 10 working days, but check.

You are responsible for staying within the time limit for an appeal. Make sure that you keep the letter advising you of the decision, and the envelope it came in. Make a note of when you actually received the letter (it is best to mark it on the letter or its envelope). This is because the time for an appeal will run from the date you received the decision, and sometimes the date on the letter is not the same as the date it was posted.

Do your best to get your appeal to your employer within the time limit or they may refuse to look at your appeal. If you have to miss the deadline, explain why it is late.

Stages in a grievance procedure

What do I put in my appeal letter?

Some employers have a two stage appeal process. The first stage is when you tell them you are going to appeal, and the second stage is when you tell them the reasons (the law calls this the 'grounds') for your appeal. If you are not certain whether your employer operates a 2 stage appeal process, it is important that you cover both points in your letter. So tell them that you are going to appeal, and set out all the reasons for your appeal.

Don't just repeat what was in your original grievance letter. You need to respond to the decision they have made. Highlight what you think the decision-maker overlooked, or didn't take enough account of, or didn't understand about your complaint.

You may need to send your employer any additional paperwork that supports your case. Again there is probably a time limit in the grievance procedure for this.

Make sure you keep a dated copy of your letter of appeal.

Meeting to hear your appeal

Your work should then arrange another meeting to discuss your appeal, with someone more senior if possible. In a small workplace, this could be the owner or a management committee member. In a large organisation it could be a different panel of perhaps three people. The same rules apply as for the first meeting.

After the appeal meeting, your employer should give you their decision in writing. You are unlikely to have any further rights of appeal in your workplace after this.



Delays in the grievance process – employment tribunal time limit

Some grievances take a long time to deal with because they are complicated to investigate. Some take a long time because the employer is deliberately being slow. Whatever the reason, if you have a case that you could take to an employment tribunal, you must bear in mind the time limits for doing this.

The basic time limit for an employment tribunal case is 3 months less 1 day from the act you are complaining about. But you must use ACAS's Early Conciliation service first before you can start a claim in the employment tribunal. For more information about this, see **Time limits and employment tribunals** on page 27.

If time passes and you are still waiting for your work's grievance procedure to take its course and it looks like there's a possibility you could miss the deadline, you must lodge your tribunal claim. You can't afford to wait or delay. If you are in this position, you should talk to an experienced adviser at your union or local advice agency quickly.

You are responsible for staying within the time limit for making an employment tribunal claim.

After using your grievance procedure

If your problem isn't solved by using your work's grievance procedure, you may want to take it to an employment tribunal. But employment tribunals can't deal with all the different types of problems that grievance procedures cover. For more information, see **Employment tribunals** on **page 26**.

You don't have to tell a future employer about a grievance you raised with your former employer or about any claims made to an employment tribunal. If your former employer mentions them in a reference, this is likely to be post-termination unlawful victimisation if part of your grievance or employment tribunal claim involved unlawful discrimination. If your new employer treats you less favourably or withdraws a job offer because they discover you have brought a tribunal claim or a grievance for unlawful discrimination, that would also be unlawful victimisation.



Stages in a grievance procedure

Employment tribunals

What is an employment tribunal?

An employment tribunal is a specialist court which deals with disputes between employers and employees about employment rights. The judges are expected to help people who are not represented.

What types of claim can you take to an employment tribunal?

Employment tribunals can deal with claims, for example, about:

- unlawful discrimination,
- unfair dismissal,
- part time work, fixed term contracts and agency worker regulations,
- equal pay,
- payments in lieu of notice, unpaid wages, unpaid holiday pay, and unlawful deductions,
- redundancy payments,
- breach of contract but only after your job has ended, and
- whistleblowing.

For more information about employment tribunals and the claims you can take, see www.gov.uk/courts-tribunals/employment-tribunal. You can contact the customer contact centre for employment tribunals on **0300 123 1024**.

Taking your case to an employment tribunal should be a last resort. It can be a stressful and time-consuming process. In practical terms, it may destroy your chances of working for your employer again. However, your work shouldn't be

able to get away, for example, with discriminating against you and, depending on your case, you may be able to get financial compensation. You should speak to someone with experience of advising on employment rights and discrimination claims – contact your union, local advice agency or law centre.



You can take your case to an employment tribunal without trying to resolve it through your work's grievance procedure, but any compensation you get is likely to be reduced by up to 25% if you don't have a very good reason for not going through the grievance procedure first. An employment tribunal can also increase any compensation by up to 25% if your work doesn't have a grievance procedure, or they failed to deal with your grievance at all, or they seriously failed to follow the ACAS Code of Practice.

Time limits and employment tribunals

Until 2013, you simply had 3 months less 1 day after the act or omission complained of to bring your claim in the employment tribunal. Now there is a step you have to take first, introduced by government to encourage people to settle their grievances without going to the employment tribunal. This involves you using the ACAS Early Conciliation service before you are allowed to start an employment tribunal claim.

Time limits can be very complicated, depending on the complaint. You should always get advice from an experienced adviser about what time limits apply in your case. The most important thing is to make a note of dates and deadlines, and don't leave things till the last minute, as you are likely to lose your right to claim if you are late. Tribunals very rarely give extra time.

Early conciliation

If you can't sort out things directly with your employer, you must notify ACAS of your intention to start an employment tribunal claim, and they will offer you the opportunity to use Early Conciliation. Early Conciliation is a process that involves ACAS working with both you and your employer to find a solution acceptable to both of you. The aim is to avoid the need to take a claim to the Employment Tribunal. You can find more information about this process here: www.acas.org.uk/index.aspx?articleid=4028

You must notify ACAS within 3 months less 1 day from the date the problem you are complaining about happened, and preferably much sooner than that. ACAS will generally want you to use your work's grievance and appeal procedure first, but not if that would mean you miss the deadline for an employment tribunal claim. They will guide you through what you need to do before going to an employment tribunal. You will need to complete the Early Conciliation notification form, or they can be contacted on their helpline: **0300 123 1100**. ACAS services are free.



Fees

You can find more information about the fees you may have to pay to take a case to an employment tribunal here: www.acas.org.uk/index.aspx?articleid=1889

Employment
tribunals

What does it mean?

The Code – refers to the ACAS Code of Practice on Disciplinary and Grievance Procedures. This sets out how employers should deal with complaints made by their staff. By law, your employer should deal with your problems in the way set out in the Code, and if they don't they may have to pay you more compensation if you win an employment tribunal claim.

Employment tribunal – is the specialist court where employment disputes are decided.

Grievance – is the word used in the work place to mean a concern, problem or complaint you have about your work.

Harassment – is a form of discrimination. It involves unwelcome physical, verbal or non-verbal behaviour relating to one of the types of discrimination listed at the beginning of this guide.

Protected characteristic – a particular personal characteristic or feature about you that the law protects from discrimination. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Victimisation – is when you are treated badly at work because you have raised a grievance about discrimination or because you helped someone else to do so.

What does it mean?

Further help

ACAS – Advisory, Conciliation and Arbitration Service

www.acas.org.uk/index.aspx?articleid=1461

Offers free advice and guidance on rights at work and employment law. Monday to Friday, 8am–8pm and Saturday, 9am–1pm. Helpline number **0300 123 1100** or Text Relay: **18001 0300 123 1100**. You can get helpline support in any language – just tell the person you talk to what language you speak.

Equality Advisory Support Service (EASS) helpline

www.equalityadvisoryservice.com

Advises and assists individuals on issues relating to equality and human rights, across England, Scotland and Wales. Telephone: **0808 800 0082** Textphone: **0808 800 0084**. Open Monday to Friday 9am–8pm, Saturday 10am–2pm. Their website offers a translation into Welsh facility, video information about their services for British Sign Language (BSL) users and the facility to speak to an adviser in BSL or text chat.

Disability Law Service

www.dls.org.uk

Provides free legal advice to people with disabilities and their carers about employment law. Call: **020 7791 9800**.



Maternity Action

www.maternityaction.org.uk

Offers advice and information to help you understand and take up your rights and entitlements throughout your pregnancy, maternity leave and return to work. Call: **0845 600 8533**. Open Wednesday and Thursday, 3pm–7pm, and Friday 10am–2pm.

Public Concern at Work

www.pcaw.org.uk

Provides independent and confidential legal advice to workers who are worried about wrong-doing at work and about whether or how to blow the whistle. Advice line: **020 7404 6609**.

Working Families

www.workingfamilies.org.uk

Advises parents and carers about their employment rights including maternity and paternity leave, rights to time off in an emergency, parental leave and flexible working. They can also advise on benefits for families. You can call their Legal Helpline on **0300 012 0312** or email them at advice@workingfamilies.org.uk. Open Monday, Tuesday and Thursday, 10am–1pm and Friday 1pm–3pm. Also open on Mondays 5pm–6pm.

Further help

Mind

www.mind.org.uk

Provides legal information and general advice on mental health related law including discrimination and equality issues. You can contact the Legal Line by calling **0300 466 6463** or emailing **legal@mind.org.uk**

Trade Union Congress

For information about trade unions, and how to find the right trade union for you, see **www.tuc.org.uk**

Law Centres

Employ solicitors and other workers who specialise in helping people with employment, immigration, education, housing, community care, and benefit problems. Find a Law Centre near you here: **www.lawcentres.org.uk/i-am-looking-for-advice**

Citizens Advice Bureaux

Help people resolve their legal, money and other problems by providing free information and advice. Scroll down their homepage to search for a CAB near you: **www.citizensadvice.org.uk**

AdviceUK

A network of advice centres. You can search for your nearest advice centre here: **www.adviceuk.org.uk/looking-for-advice-2**

LawWorks

Connects people in need of legal advice and assistance with lawyers willing to meet those needs for free. It supports 170 legal advice clinics across England and Wales. Most clinics take place in the evening and provide free initial advice to individuals with a particular focus on social welfare issues, employment law, housing matters and consumer disputes. You can find a clinic here: **www.lawworks.org.uk/legal-advice-individuals/find-legal-advice-clinic-near-you**

Solicitors

You can search for a solicitor on the Law Society website here: **http://solicitors.lawsociety.org.uk** You can also search for a solicitor in your area here: **http://find-legal-advice.justice.gov.uk**

Barristers

Some barristers take queries or cases direct from members of the public. They are called 'public access' barristers. The Bar Council has a directory of public access barristers on its website, at **www.barcouncil.org.uk/using-a-barrister/public-access**. If you need help using this service, you can email them at **MemberServices@BarCouncil.org.uk** or phone them on **020 7611 1472**. If you don't use the internet, you can phone the Bar Council on **020 7242 0082** and ask them for help finding the right barrister for you.

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advice**now**.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

This guide was funded as part of the Litigant in Person Support Strategy by the Ministry of Justice.

Advicenow would like to thank Judith Emmett for contributing to and advising on this guide.

Published by Law for Life – July 2016



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