



GUIDE TO GRIEVANCE & DISMISSAL PROCEDURES

The statutory grievance and dismissal procedures were introduced with the aim of promoting good employment relations and helping to minimise potential legal liabilities. These procedures are the minimum required and in order to avoid liability for unfair dismissal an employer still has to act reasonably and fairly.

Statutory Grievance Procedure

A grievance is "a complaint by an employee about action which his employer has taken or is contemplating taking in relation to him." It is only where a complaint cannot be settled informally, or where this approach is inappropriate, that the

statutory procedure is invoked.

Step 1 - The employee sets out the grievance in writing and sends it to his employer.

Step 2 - The employer invites the employee to a meeting which the employee must take all reasonable steps to attend. Following the meeting the employer notifies the employee of its decision and of his right of appeal.

Step 3 - If the employee wishes to appeal he informs the employer, who invites the employee to attend a further meeting. Where possible a more senior manager should deal with the appeal.

Following the meeting the employer informs the employee of its final

decision.

Modified Procedure

The modified procedure applies where:

- The employee has ceased to be employed;
- The employer was unaware of the grievance before the employment ceased, or was aware of the grievance, but the standard grievance procedure had not commenced or had not been completed; and
- The parties agree in writing that the modified procedure should apply.

The employee sets out his grievance in writing, together with the basis for



Statutory Dismissal Procedure

The standard dismissal procedure applies where an employer is contemplating dismissal, including on the grounds of capability, conduct, redundancy, non-renewal of a fixed-term contract or retirement. The procedure does not apply where the sanction is a warning, demotion or suspension.

Step 1 - The employer sets out in writing the circumstances which lead it to consider dismissing the employee and sends a copy of this statement to the employee, inviting him to attend a meeting to discuss the matter.

Step 2 - The meeting should not take place until the employer has informed the employee of the basis for the allegations made under Step 1. The employee must take all reasonable steps to attend. Following the meeting, the employer informs the

employee of its decision and offers the right of appeal.

Step 3 - The employee informs the employer of his intention to appeal. The employer invites the employee to attend a further meeting. This meeting does not need to take place before the dismissal or disciplinary action takes effect.

Following the meeting, the employer informs the employee of its final decision.

Modified Procedure

The modified procedure applies where:

- The employer dismissed the employee without notice on the basis of his conduct;
- The dismissal took place at the time the employer became aware of the misconduct (or immediately after);

- The employer was entitled to dismiss for gross misconduct without notice or payment in lieu of notice; and

- It was reasonable for the employer to dismiss without investigating the circumstances.

Step 1 - The employer sets out in writing the nature of the alleged misconduct that led to dismissal, the evidence and the fact that the employee has the right of appeal and sends this to the employee.

Step 2 - The employee informs the employer if he wishes to appeal. The employer invites the employee to attend a meeting which the employee must take all reasonable steps to attend. Following the meeting, the employer communicates its decision to the employee.



it and sends it to the employer. The employer sets out its response in writing to the employee.

When Does the Procedure Not Apply?

Neither the standard nor the modified procedure apply where:

- The employee has ceased to be employed, neither procedure has been commenced and it has ceased to be reasonably practicable to comply with either procedure.
- The grievance is that the employer has dismissed or is contemplating dismissing the employee.
- The employee has been subjected to harassment.

- An appropriate representative has raised a grievance on behalf of at least two employees and the matter is to be dealt with collectively.

- There is an alternative collectively agreed dispute resolution procedure.

Tribunal Claims

An employee will not be able to present a complaint to a Tribunal about a matter which should have been dealt with under the statutory grievance procedure unless he has first set out his complaint in writing and sent it to his employer. The employee then has to wait 28 days before presenting a complaint to the Tribunal.

The time limits for bringing a Tribunal claim may be automatically extended by three months to allow the statutory grievance

procedure to be complied with.

Adjustment of Awards

If an employee fails to complete the statutory grievance procedure before commencing proceedings and this was wholly or mainly attributable to him, the Tribunal may reduce any compensation by between 10% and 50%. On the other hand, if the statutory grievance procedure has not been completed before proceedings are commenced due wholly or mainly to a failure by the employer, the Tribunal may increase any compensation by between 10% and 50%.



When Does the Procedure Not Apply?

Neither the standard nor modified procedures apply in the following circumstances:

- Certain collective redundancies;
- Dismissal then re-engagement in certain situations;
- Industrial action dismissals; and
- Constructive dismissals.

A Tribunal will still consider the normal unfair dismissal rules relevant to the particular situation.

Consequences of a Failure to Comply

If the failure is wholly or mainly attributable to the employer, if the employee has one year's service, the dismissal is automatically unfair. Where a dismissal is automatically unfair,

there will usually be a minimum basic award of four weeks' pay. Compensation may be increased by between 10% and 50%. The compensatory limit for unfair dismissal is not affected by the new procedures and any adjustments cannot take the award above this limit.

General Requirements

These requirements apply to all the procedures, whether standard or modified:

- Each step must be taken without unreasonable delay;
- The timing and location of meetings must be reasonable;
- Both parties should be given the opportunity to state their case;

- The employee is entitled to be accompanied at any meeting by a workplace colleague or a trade union representative.

This is intended to be a general guide to statutory grievance and dismissal procedures and is not a substitute for taking advice before reaching a decision on your individual problems. If you would like any further information on this, or any other employment or pensions issue, please contact a member of the Employment & Pensions Group.



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