

## **Handling Grievances**

### **The Grievance Procedure**

The purpose of the Grievance Procedure is to provide a framework within which legitimate grievances can be brought to the attention of management and, hopefully, resolved.

The procedure consists of a series of steps each taking the problem, if unresolved, to the next level of management. Individual grievances usually finish at the Chief Executive or Trust Board level, collective grievances or disputes may have the option of taking the issue to ACAS for arbitration or conciliation.

Each step of the procedure is taken within a set timetable i.e. meetings/grievance hearings have to be arranged within a set deadline unless both parties agree to extend that deadline. The higher up the management hierarchy you progress, generally the more generous the timetable. The obvious advantage of using the Grievance Procedure is to avoid management using delaying tactics. If the timetable of the procedure is not adhered to, you are within your rights to proceed to the next level.

### **The Grievance Hearing**

The manager to whom you are appealing will hear the grievance. The manager to whom you put the grievance originally will normally present the management case explaining why they could not resolve the grievance. You will be expected to put your member(s) case first, this will include explaining the background to the grievance, raising relevant arguments and laying out what you want as a resolution. You can also call witnesses. The management will then put their case and call any witnesses. Both sides are allowed to question each other and all witnesses. Both sides will then be asked to sum up. The hearing is then adjourned whilst a decision is made. You may be informed of the decision on the day or, in more complex cases, some time later.

As the procedure progresses the hearings become more formal and often written 'Statements of Case' are required from both sides. Generally, unless representatives are experienced and confident, Regional Officers will deal with the case from this point.

You should obtain a copy of the Grievance Procedure from Human Resources and familiarise yourself with it.

### **Dealing With a Grievance**

A member or members with a grievance against their manager will expect your help if they cannot resolve the issue for themselves. Individual matters should

always be treated as confidential and should not be discussed with anyone who is not involved. This does not prevent you from seeking advice from your Regional Officer.

When handling either grievance or disciplinary issues, ensure that you begin by establishing the facts. Never meet management when they are better informed than you are. When interviewing the member(s) make sure you have a private place and sufficient time.

You will need to find out:

- The exact nature of the problem and any underlying causes.
- The names of those involved.
- Exactly when the problem occurred.
- If the problem has occurred on more than one occasion, exactly how many times.

Having established the facts you will have to exercise your judgement. You are not obliged to represent members in pursuing invalid grievances. It will only undermine your credibility with management if you do.

Ask yourself:

- Is the grievance valid?
- Are current agreements being followed?
- Are there any wider implications for the rest of the workforce?
- Is the law being broken?
- Are there any health and safety implications?

**If you are unsure your Regional Officer is available to help. They will talk it over with you and you can make a decision together. If you decide that there is not a valid grievance then it may help when you tell the members if you can say that you have consulted your RO.**

If you decide that the grievance is valid then you will need to explain the procedure to the member(s) including the consequences of pursuing the grievance, both if the matter is resolved in their favour and if it is not, and any other options open to them. You will need to be familiar with the grievance procedure in order to do this confidently, so study it in advance.

### **Preparing Your Case**

Before meeting with management you will need to prepare thoroughly, this will give you confidence.

Preparation should include:

- Identifying your aims, including the minimum you will settle for as a resolution.

- Identifying events that clearly illustrate the nature of the problem.
- Gathering evidence which backs up your case e.g. Procedures, agreements, letters, pay slips, contract of employment.
- Identifying witnesses and statements.
- Preparing the member(s) and agreeing what, if anything, they will say.
- Preparing questions you may want to put to management.
- Anticipating any questions management may ask you or the member(s).

**It is always advisable when meeting with management over any issue to take another SoR representative or member with you as a witness and to take notes. However, in individual cases you will have to be aware of confidentiality and gain the individual's consent.**

### **At the Hearing**

- State your case clearly.
- Listen carefully to management's response and take notes.
- Ask any questions you require to ensure that you understand the management's position.
- Make sure that both sides agree on what action is to be taken.

If you are not satisfied with the outcome make this clear and inform the management that you intend to invoke the next stage of the procedure.

**NB.** This may not be possible in the meeting as you may have to consult members before making this decision.

If the matter is not resolved at this stage then you will need to contact your RO if you haven't already done so. They may need to be involved at a future stage so keep them informed of progress. Keep all documentation safe.

### **Conflicts Between Members**

Not all grievances raised by members are against their managers, some involve conflict between SoR members. This creates a complex situation because the SoR is obliged to provide representation to both sides. If this situation arises then contact your RO immediately.

Allegations of harassment of one colleague by another (quite possibly both SoR members) are particularly difficult and require very careful handling. Do not attempt to tackle a harassment case until you have spoken to your Regional Officer.

## Handling Disciplinaries

### The Disciplinary Procedure

The disciplinary procedure lays out the way in which disciplinary matters are to be dealt with. Following the procedure should ensure that management treat individuals in a fair and unbiased way. The aim of the disciplinary procedure should not be to punish but to allow the employee to improve.

The first part of the disciplinary process is often an 'informal' or 'counselling' meeting with the manager. If the manager takes this step they should make it clear to the employee what the problems are, what changes are expected and how the manager is going to help them achieve these changes. This informal stage should also include taking into account personal circumstances that may be affecting behaviour or performance and any training needs. The objective of this stage is to try to prevent the necessity for formal action.

The formal part of the disciplinary process consists of:

- A disciplinary investigation
- A disciplinary hearing
- Outcome which may include disciplinary sanctions

### The Disciplinary Investigation

Before a disciplinary hearing is held an investigation should be carried out to establish whether there is a case to answer. Ideally, the manager who will chair the hearing should not carry out the investigation. During the investigation the investigating manager should seek to establish the facts by interviewing the member and witnesses and looking at available records etc. This person should present the case at the hearing if they find that there is a case to answer. As a result of the investigation they may recommend that there is no case to answer.

During the investigation, if the allegations are serious or it is in the interests of a fair investigation, the member may be suspended on full pay. Suspension is not a disciplinary sanction and should not indicate guilt, however suspension should only happen in the most serious of circumstances. The member should be informed in writing of why they have been suspended and should be given an indication of how long it will last and when it will be reviewed. **If a member is suspended, contact your Regional Officer immediately for advice.**

### The Disciplinary Hearing

Members should be informed of their right to be represented at a disciplinary hearing and the date should be agreed to allow adequate representation. Prior to the hearing you should be supplied with the management 'case' i.e. the allegations, the evidence and details of witnesses. If you are planning to call witnesses you need to inform management.

An appropriate manager should hear the case. Often the procedure will list those managers who can dismiss a member of staff. The level of manager hearing the case may indicate the possible outcome if the member is found 'guilty'.

During the hearing, the manager who carried out the investigation should present the case against the member and call their witnesses. You will be given the opportunity to question the management witnesses and also the manager. When the manager has made their case, you will then be asked to present the case on behalf of your member. This might include taking the member through their own version of events and calling your own witnesses. Management can question you, the member and your witnesses. When both sides have presented all the evidence you will be asked to sum up, management should be asked to speak first.

The meeting will then adjourn whilst a decision is made. The decision may be given on the day or in complex cases after a longer period of time.

## **The Outcome**

Dependent upon the severity of the allegations and whether the case is 'proved' there are a number of possible outcomes:

- The case is not proved and no action is taken.
- The case is proved but no action is taken.
- The case is proved and a disciplinary sanction is imposed.

Disciplinary procedures outline possible sanctions, usually ranging from verbal warnings that stay on the employee's record for 3-6 months to final written warnings lasting for 12-24 months or even dismissal. The severity of the conduct will determine at what level the sanction is set.

All Disciplinary Procedures have an appeals mechanism. **(See Appeals Against Disciplinary Sanctions overleaf)**

## **Dealing With a Disciplinary**

The SoR representative is the first contact for any member threatened with disciplinary action.

You will need to follow many of the steps as described in **Appendix 5: Handling Grievances:**

- Make sure of the facts.
- Make sure that you understand the procedure.
- Make sure that management follow their own procedure – you should make a note of anything that you feel was incorrectly handled in case of the need to appeal.
- Talk to independent witnesses – gather witness statements.
- Ask to see copies of any witness statements taken by management.
- Do not be rushed into a disciplinary hearing, make sure you have time to prepare.
- Contact your RO for advice.
- Advise the member of the possible consequences if the hearing goes against them. This will depend on the gravity of the alleged offence.

**NB.** Contact your Regional Officer immediately if the alleged offence is one which could lead to dismissal e.g. harassment, theft, drink/drug abuse, violence.

### **Preparing Your Case**

Find out if there have been any similar cases and what the outcome was. This can be used to ensure fair treatment.

If the member is admitting the offence then look at mitigating circumstances which might convince the manager to either not take disciplinary action or to be more lenient. These might include:

- Previous tolerance of the same behaviour
- Previous good record
- Lack of information or training
- Domestic circumstances
- Medical reasons
- Unclear or unwritten rules
- Action taken was necessary to get the job done.

### **Appeals Against Disciplinary Sanctions**

All disciplinary procedures have an appeals mechanism. Appeals are usually made to the next level of management except in the case of dismissal when appeal will be to the trust Chief Executive or Trust Board.

Before deciding whether to lodge an appeal you may want to discuss the case with your Regional Officer.

Grounds on which you may wish to appeal include:

- The punishment is unfair – you don't believe that management sufficiently proved their case against the member.
- The punishment is too harsh – although the case was proven the punishment is out of proportion to the offence. This view may be based on precedents set by other similar cases.

Management have used the procedure incorrectly leading to unfairness.