

Employment

The importance of investigating employee grievances

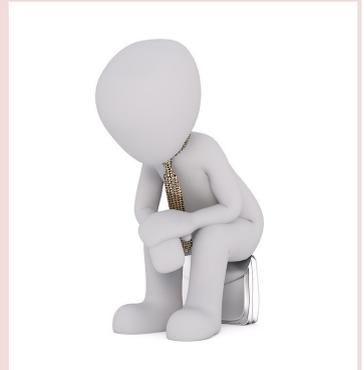
A grievance procedure is a necessary part of the employment relationship. Fundamentally, the Employment Rights Act 1996 requires the employer to notify all employees of a person to whom the employee can apply concerning any grievance and also the manner in which a grievance application should be made.

Where an employee raises a grievance to the employer and the employer carries out a biased investigation or refuses to even consider the grievance then that is likely to be a fundamental breach of contract that would entitle the employee to resign and claim constructive dismissal.

Further to the above, the ACAS Code of Practice on Disciplinary and Grievance Procedures sets out guidance on the necessary steps an employer should take to consider a grievance and an unreasonable failure to comply with the Code of Practice can result in an employment tribunal awarding uplifted compensation if the employee were successful with a legal claim against the employer that related to the grievance.

Despite the legal obligation on an employer to reasonably consider a grievance raised by an employee, many employers find grievances troublesome and may wish to conclude the investigation into the grievance as quickly as possible. But it is worth bearing in mind that a thorough investigation of a grievance can offer many benefits to an employer, including:

- Where a grievance relates to unfair treatment experienced by the employee, it may be possible to prevent that treatment further and so avoid a more serious incident which could result in a breach of contract.
- Where the grievance relates to discriminatory treatment, it may not be possible to undo what has occurred but it can be possible to substantially mitigate any damage by offering the employee an early apology or, if the treatment is continuing, to remove the offending treatment altogether.
- Where a grievance relates to a matter that later becomes a claim in the employment tribunal, a thorough grievance investigation can afford the employer the opportunity to gather and preserve evidence relating to the complaint and so have a better chance of being able to defend the claim.
- Where the grievance relates to inappropriate conduct by the company, an investigation may reveal wider corruption or unlawful behaviour. This can assist the employer with rooting-out criminal conduct within its business that may otherwise go unnoticed.
- Where the grievance relates to very minor or even trivial matters, a thorough consideration of the concern can still be highly beneficial. By providing a clear avenue for raising all kinds of issues, employees will feel empowered to effect changes in the workplace that they consider beneficial. This can lead to a more effective workforce and a more positive work environment.
- Where a grievance relates to bad management, a consideration of the grievance may help identify managers that are performing poorly in their duties and enable the senior management of the employer to take steps to train managers to be better at their management responsibilities.



Whenever an employee raises a concern to their employer, however minor or trivial it may appear on its face, it is worth considering whether it is appropriate to undertake a thorough investigation into the complaint.

If you would like any advice on conducting a grievance investigation please contact a member of our employment legal team.

David Rushmere
Senior Solicitor
E: david.rushmere@3hracs.com



This newsletter is designed to provide general information only. It does not constitute legal or other professional advice and thus should not be relied on. Definitive advice can only be given with full knowledge of all relevant facts. If you would like to discuss any aspect further, please contact us.

3HR Corporate Solicitors Limited is a Solicitors Practice, authorised and regulated by the Solicitors Regulation Authority, No: 597935.
3HR Benefits Consultancy Limited is authorised and regulated by the Financial Conduct Authority. Firm Reference Number: 556015

The registered office of both 3HR Corporate Solicitors Ltd and 3HR Benefits Consultancy Ltd is New Broad Street House, 35 New Broad Street, London EC2M 1NH. Mainline Tel: 0207 194 8140 Web: www.3hracs.com