

HELP! I'm raising a grievance

Guidance for UNISON West Midlands Community members

UNISON members working in the Community & Voluntary Not for Profit Sector (CVS) often work in fragile working environments against a backdrop of funding cuts, constant restructures and work demands. Work related issues can often be left unresolved as members are unsure of organisational structures and how to use them.

What is a "grievance"?

A "grievance" may be explained as the opposite or reverse process to a "disciplinary"- employers use the "disciplinary" process to address issues with employees; the employee, under Employment Rights Act 1996 can use the grievance procedure to raise concerns, problems or a complaint to their employer, which can be about:

- Terms and conditions such as pay, hours of work or place of work.
- New working practices and organisational changes including H&S.
- The way you are being treated at work -bullying, victimisation.
- Discrimination.

What is the point of a grievance?

Think carefully about what you are trying to achieve when raising a grievance? It may not achieve anything other than antagonising your employer. Consider what outcome you want from raising your grievance and discuss this with UNISON as soon as possible.

- What are the alternatives to raising a grievance?
- Are other people affected by the same issue/concern, if so contact them and discuss raising a collective grievance?
- What outcome are you seeking and is it realistic?

Time limits

There is no legal rule about how long after an event an employee can complain about it- unless your organisation policy states a timescale. It is important to follow the grievance procedure fairly soon after the issue/incident arises. The disadvantages of raising concerns going back in time is that no one can remember what happened and important documents you wish to rely on may not be available or witnesses may have left the organisation.

There are strict timelines for bringing claims to an employment tribunal. Your grievance "complaint/issue" must be within the 3 months less than 1 day "limitation date" to lodge such claims.



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Contact UNISON direct to discuss if your issue is within the timescale to raise a grievance.

The grievance procedure

All employees should be informed of the procedure on how to "take out"/ "raise" a grievance under section 1 of the Employment Rights Act 1996. Employers must provide a written statement of particulars no later than two months after they start work and this MUST include details of a grievance procedure.

Contact your employer and request a copy of your grievance policy/ procedure at the earliest opportunity. Read and make a note of any informal procedure.

Informal procedure

Most grievance procedures require the employee to address all issues by raising them informally firstly by speaking to your line manager or someone from Human Resources/Personnel.

If you feel you cannot speak to your line manager contact another member of the management team - it is important to follow the informal process and explain how and why this was unsuccessful. Bypassing the informal process and escalating to formal stages can be counterproductive and impact on your working relationship.

Formal procedure

Request a copy of your employment contract. Some policies are "*contractual*" and provide more than statutory rights. Check your employment contract for any references to "*contractual policies*".

Ask your employer to provide copies of any contractual policies which may apply to you. This is particularly important, as UNISON members working in the Community not for profit sector may have TUPE transferred from NHS or Local Government employers. These policies may provide you with additional timescales, guidance and rights relating to grievance procedures.

If your employer fails to follow a *contractually binding* grievance policy you may be able to claim breach of contract.

Keep a note of dates when you receive any communication from your employer. Use the template at the end of this guide.



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Writing the Grievance

Do the issues affect you directly? The grievance should always come from the employee raising the complaint. Some members think a letter from their UNISON rep will "frighten the employer" and lead to some sort of resolution or settlement- This is not true and in some cases can lead to entrenched positions.

Set out your letter using the headings below- Check your grievance policy. It may include a template similar to the one below which you may be required to complete.

TEMPLATE GRIEVANCE (wording)

Your name and home address- workplace may be required if you work for a larger organisation.

Employers name and address-

Your complaint/issue -Set out the dates, facts and information in the order in which it happened.

Identify people/witnesses involved and what they did or said.

For each incident/complaint explain who, what when and why.

If you have information/documents to support your complaint include this in the grievance or say you can provide this if needed.

Effect on you – Explain any personal, work related effects the complaint/issue has had on you. For example, ill health, financial impact.

Informal procedure- Say what happened when you tried to resolve this matter informally and why it hasn't worked.

Solution- Suggest a way you want your complaint to be addressed and explain what outcome you want. For example, apology, review of policy and procedures, reduced workload.

There are advantages and disadvantages of providing too much or too little detail- However, the benefits of providing detail at a later stage include being able to provide face to face explanation of what happened and the impact it had on you.

Request written acknowledgement to your grievance letter and request a meeting to be held to discuss your grievance issues. Explain that you will be accompanied at the grievance meeting and dates/times to be mutually agreed.

REMEMBER Keep a copy of your grievance letter and note the date it was sent to your employer.



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UNISON Caseform

It is a condition of your membership that you complete the caseform as soon as possible to ensure you are represented and supported. Complete all sections and include a copy of your grievance letter and the date it was sent (*if applicable*) Guidance on how to complete the caseform will be included with the caseform. **If you require assistance or have specific needs call UNISON Direct for advice.**

The caseform is a legal and binding contract, setting out terms and conditions and understanding that UNISON is your sole representative. You should bring your UNISON CASEFORM with you when you meet your Rep/Caseworker.

Grievance invite letter

Your grievance policy may include timescales for inviting you to a grievance meeting or grievance hearing. Check - the timescales and date of any correspondence from your employer.

Contact UNISON Direct as soon as you receive a letter and DO NOT AGREE OR CONFIRM ATTENDANCE TO A MEETING BEFORE CHECKING REP/CASEWORKER IS AVAILABILITY.

As a minimum, your employer should write to you and provide the following:

- Acknowledgement of your grievance letter
- Proposed date, time, venue for the meeting
- Name of the person chairing the meeting
- Notification on the right to be accompanied
- Any policies or procedures relating to your grievance such as grievance procedures, bullying and harassment policies.

Regardless of what your contract says- the law, under Section 10 of the Employment Relations Act 1999 entitles employees to be accompanied at a disciplinary meeting by a Trade Union representative **or** work colleague.

Right to be accompanied

The letter should always say you have a right to be accompanied under the ACAS CODE OF PRACTICE by:

- A work colleague- usually a friend who works with you
- A trade union representative – either a UNISON rep or workplace contact who is accredited by UNISON.
- An official employed by a trade union-Branch employed Caseworkers.



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The person who attends with you is called a "*chosen companion*". You do not have the right to bring anyone else to the meeting unless you require an interpreter or advocate for disability issues. Remember to inform UNISON Direct/Branch office if you require support.

Check directly with your Rep/Branch Caseworker if the date and time of the grievance meeting is suitable. If not- Request a postponement immediately and in writing.

If your employer refuses to change the date:

- Ring **UNISON DIRECT on 0800 085 7857**, who will inform your rep/Branch caseworker to contact you. Your Rep/Branch Caseworker will contact your employer directly or provide you with the details of their availability for the meeting. Pass on details of your employer to your Rep/Branch Caseworker when they contact you.
- **PLEASE NOTE – ONLY your assigned Rep/Branch Caseworker can provide dates and times of availability**
- Inform your employer that you will be accompanied by a UNISON rep/Branch Caseworker and pass on their details. Inform your employer that you have a legal right to be accompanied by your "*chosen companion*" and **The ACAS CODE OF PRACTICE entitles you to change the original date to enable you to be accompanied by a Trade Union Rep as long as the date is within 5 working days of the original date.**

Template letter to postpone within 5 working days or/requesting additional information:

Dear (*insert name*)

Re: Grievance meeting – Invite letter received xxxx dated xxxxx

I am writing to inform you that I cannot attend the grievance meeting on (*insert date/time/venue*) because my UNISON rep is unavailable to accompany me. I understand that I am entitled to have a postponement to any reasonable timescale within 5 working days of the original date.

I would like to be accompanied at the grievance meeting by (*insert name and contact details of Rep/Branch Caseworker*) I agree to you contacting them directly to rearrange the date and time for the meeting.

I will require a private room for an hour before the start of the meeting to prepare my case with my UNISON rep. Please provide these details in your letter confirming the new arrangements. Thank you.

Yours sincerely cc name of REP/CASEWORKER



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Preparing for a grievance meeting

- Use a personal email account to communicate with your UNISON Rep/Caseworker and not your employers email account.
- Use the template below to make notes- start with the date you joined UNISON and the dates of the issues/complaints in your grievance letter.
- Inform your Rep/Caseworker if you know of any other UNISON members with similar complaints.

The Grievance Meeting

Your Rep/Branch Caseworker will meet with you an hour (*dependent on case*) beforehand to prepare for grievance meeting. They may meet you in a public place or at your place of work (*pre-arranged with the employer*) before the meeting commences. UNISON reps/Caseworkers will **not** meet you at home or independently to discuss the merits of your grievance or to prepare for the meeting.

Please bring **all** letters and relevant information with you to the meeting.

Be honest with your Rep/Branch caseworker as they can only help you if they have full facts of your case. Your Rep/Branch Caseworker will discuss:

- The grievance procedure
- The role of Chair, Investigation officer, HR
- What they can and can't say at the meeting
- Potential outcomes
- Appeal process

Inform your Rep/Branch Caseworker of any updates such as new job, annual leave, personal circumstances before the meeting starts and remember to switch your mobile to vibrate or silent mode during the meeting.

Meeting times can vary considerably; from 1 to 2 hours to over 2 days for more complex cases. You may want to consider bringing any medication you may need, light refreshments and bottled water. Your Rep/Caseworker will discuss any specific requirements with you.

During the meeting, you have a right to request adjournments to discuss any matters with your Rep/ Branch Caseworker. You should be prepared to answer any direct questions from the Chair or HR adviser. Your Rep cannot answer on your behalf.

The panel Chair will conclude the hearing by asking you directly if you have anything else to add.



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Summarise by:

- Explaining the impact of the issue or complaint on you
- Showing a cooperative attitude
- Highlight management/procedural mistakes (*if appropriate*)
- Provide details of any colleagues willing to provide information or witness statements.

Grievance Outcome

The ACAS Code recommends that a formal grievance outcome should be communicated within a "*reasonable timescale*" – check your policy /procedure for any prescribed timescales.

Contact your Rep/Branch Caseworker as soon as you receive a letter from your employer informing you of the outcome. It is highly unlikely that your Rep/Branch Caseworker will be provided with a copy of the letter.

Appeal

You have the right to appeal if you are unhappy with the outcome of the grievance meeting. Check the time limits for lodging your appeal. You should submit a written appeal as soon as possible using the following template: **DO NOT WAIT FOR YOUR REP TO SEND IN THE APPEAL-Details can be added at a later stage.**

APPEAL LETTER/WORDING

Date

Dear (*insert name*)

Re: Grievance Appeal

I received your letter dated (*insert date*) on the (*insert date you received the letter*) informing me on the outcome of my grievance meeting held on the (*insert date*)

The grounds of my appeal are: (*delete/amend as necessary*)

1. (*I have additional information relating to my complaint*)
2. (*The policy/procedure was not followed correctly*)
3. (*Insert other grounds of appeal- I wish to raise additional appeal points at the meeting*)
4. (*I disagree with the conclusion of the grievance which did not take into account my evidence/explanation*)
5. I reserve the right to bring any additional appeal points after discussion with my Rep.



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I will be accompanied at the appeal meeting by *(insert name and contact details of Rep/Branch Caseworker)*

Please provide me with the full minutes and notes/transcription of the meeting, to enable me to confirm they are accurate.

Please copy my UNISON Rep named above on all correspondence.

Thank you.

Yours sincerely

NAME

CC (name of Rep/Branch Caseworker)

ACAS Code of Practice

The ACAS Guide to Discipline and Grievance at Work (the "ACAS Guide") explains the process on how grievances should be dealt with by employers and provides guidance for employees. Failure to follow the recommended Code of Practice could result in a reduction of an increase of an employment tribunal award. You can access the ACAS Code of Practice via this link <http://www.acas.org.uk/index.aspx?articleid=2174>

References

UNISON- Get help with issues at Work
<http://www.unison.org.uk/get-help/help-with-problems-at-work/>

ACAS Disciplinary and Grievance Code of Practice
<http://www.acas.org.uk/index.aspx?articleid=2179>

Tamara Lewis – Employment Law Advisers handbook

Timeline/Chronology		
Date/Time	Incident/Meetings	Witness(s)/correspondence
<i>Xx/xx/xxx</i>	<i>Joined UNISON</i>	<i>UNISON membership</i>

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