

Dealing with Discrimination at Work

How to use the grievance procedure

“I tried to explain that it was her fault, but they said I should have raised a grievance”

“ I’d been working in a department store for nearly a year. It was all going fine until Claire started in my department. I knew she had a problem with me right away: she blanked me and criticised me in front of customers. Then I realised it was my colour she had a problem with.

During breaks, she’d read out news stories about black people accused of crimes and say things like “one of your lot again...” She’d say crime was “part of black culture”.

I tried to ignore it. I thought there wasn’t much I could do anyway. I put up with it for about 6 months until I found out she had spread rumours that I was stealing from the till – and I lost it!

I went up to her while she was on the shop floor and told her I wasn’t going to let her get away with it anymore. I hoped that might be the end of it, but things only got worse. Claire complained about me to our manager, saying I had threatened her. People who saw me confronting her backed up her story, and I had to go through a disciplinary procedure. I tried to explain that it was her fault, but they said I should have raised a grievance. I couldn’t believe it, I had tried to sort out the problem and instead I got myself in trouble!”

Aisha, London



Contents

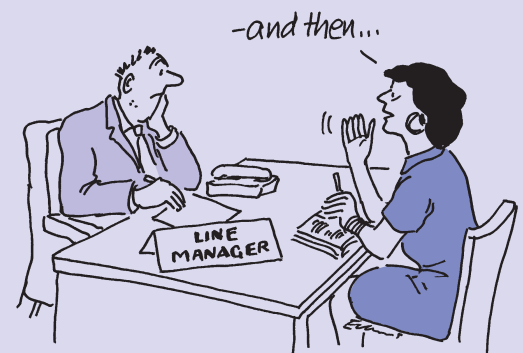
Introduction	2
What is a valid complaint about discrimination?	3
Before you raise a grievance	4
How to raise a grievance	6
After the grievance	9
Q & As	10
Useful contacts	11

Claire’s behaviour amounts to racist harassment, a kind of discrimination. Nobody is allowed to behave in a racist way at work. Employers have a duty to make sure this doesn’t go on in their workplace.

Aisha’s reaction is understandable. But when you have a problem at work, it’s

important to take steps to deal with it before it gets out of hand, and to act with a clear head so you get the best result.

In Aisha’s case, her work didn’t know what had been going on, so when she finally exploded it looked like she had been the troublemaker.





What should Aisha have done?

- Aisha should have kept a diary of what Claire was doing that was upsetting her. Then she would have had a record to show her employers.
- She could have had an informal chat with her line manager. That might have stopped it right away.
- If that didn't work, Aisha could have raised a formal grievance.
- Once Aisha had told her work what Claire was doing, it would be their responsibility to deal with the problem.
- If Claire was allowed to continue acting in the same way, Aisha could have taken her employer to an employment tribunal.

"I was really stressed because I was being sexually harassed at work, and I worried that complaining would only encourage them. But raising a grievance was the best thing I could have done. My employers investigated and upheld my complaint. My work apologised to me, re-located me at my request, and gave me some compensation. As for the bullies, the worst offender got the sack and the others got formal warnings."

Shaira, Ipswich

Introduction

Every employer must have a procedure to deal with employees' problems and complaints (known as grievances). This guide offers practical advice and information about how to use your work's procedure to complain about discrimination. It also provides a useful template for dealing with other sorts of complaints.

If you have a problem at work, it's important to follow the grievance procedure from the beginning.

It gives you legal rights that you might lose otherwise. If your problem is not dealt with properly, you might decide to make a claim at an employment tribunal. This guide doesn't show you how to make a claim at a tribunal, but does explain how you put yourself in a position where you are ready to do so. You won't be able to take a claim at a tribunal unless you have first tried your employer's grievance procedure.

What happens?

1

You have a problem or complaint in relation to your work

This is a **grievance**.

2

Follow your work's grievance procedure

Every employer must have a **grievance procedure**

3

If your work fails to sort out the problem you may be able to go to an employment tribunal

An **employment tribunal** is a less formal court which deals with disputes about employment

Discrimination

Facing problems at work can be daunting, especially when the problem involves discrimination. People often don't complain about it 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; that is why there are laws to ensure employers put a stop to it.

Discrimination is when you are treated worse than other people because of your:

- Sex
- Race or Colour
- Disability
- Nationality
- Ethnic or National Origin
- Religion or Belief
- Sexuality
- Age

This list is not exhaustive. To find out more see the **Useful contacts** section.

What would be a valid complaint about discrimination?

Sometimes it's obvious when you have grounds to make a complaint about discrimination – for example, if someone makes offensive comments about your sexuality or your ethnicity. But it's not always as clear-cut as that. Maybe you are being given worse jobs than everyone else and you believe the real reason is one of the discrimination issues listed on page 2. Another type of discrimination is when there are rules which apply to everyone, but which are harder for you to follow, for example, because of your religion or sex etc.

You can raise a grievance if any of these kinds of discrimination are happening at your work. It doesn't even have to be you that is suffering from the discrimination, you can raise a grievance about discrimination happening to somebody else.

Unfortunately it's a fact of life that we don't all get on with each other. You might not have a valid complaint if it's just a personality clash or you don't like a particular management style.

Don't raise a grievance for the wrong reasons

Don't use the grievance procedure to get back at someone because you are angry. If you feel that you have been unfairly criticised, there are much better ways of defending your position.

You should only raise a grievance in 'good faith'; this means you believe

"A Turkish man came to me for advice. He was offered a 12-month contract after claiming in an interview that his written English was fluent. His boss quickly realised that his written skills weren't up to scratch, and at his 6-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 simply couldn't do the job."

Andy, Adviser, Colchester

Is it a genuine grievance?

"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 kind of thing. It's discrimination."

Anji, Beckenham

Answer: No

Anji may not like the changes, but this is not discrimination. It is a management decision which applies to everyone equally.

"As a practising Muslim, I asked my work to let me take my breaks to coincide with daily prayers. They say no one else gets to choose their breaks so why should they give me special treatment?"

Asar, Leeds

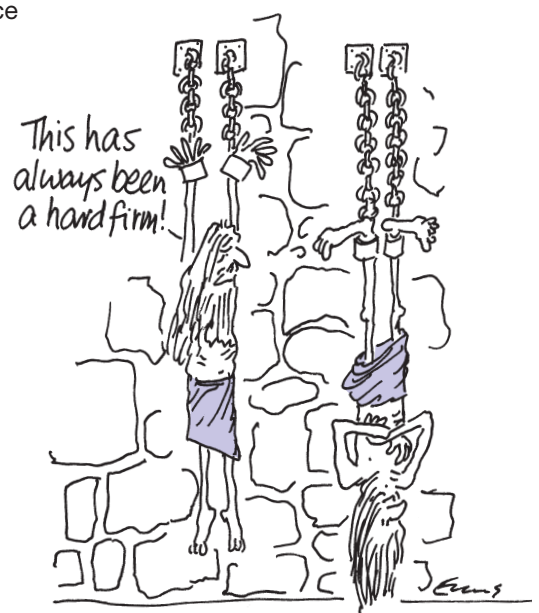
Answer: Yes, possibly

Although Asar is being treated like everyone else, his work has a duty to allow for religious needs, unless there are real practical difficulties in doing so.

that you have a genuine complaint and you are not doing it for some other reason.

If you have been unhappy about the way your work has been treating you, don't store it up for a long time as ammunition. Anyone looking at your grievance will wonder why you never complained about it before, and that could weaken your case.

If you think the real reason you are being criticised is discriminatory and *not* because of the quality of your work or behaviour see the **Discipline and discrimination** section.



MAKE SURE TO FOLLOW THE WORK GRIEVANCE PROCEDURE.

Discipline and discrimination

"I was fed up with the name-calling and jokes about being a lesbian. I told my boss I would make a complaint if he didn't stop. He got his own back on me by giving me a formal warning about 'poor performance'."

Esme, Newcastle

If your employer has taken disciplinary action against you and you believe the real reason is discrimination, you should raise a grievance:

- If you have not yet had your disciplinary appeal meeting, you should put your grievance in writing as soon as possible. You won't have to go through the rest of the grievance procedure if you want to go to a tribunal. Make sure you also appeal against the discipline using your work's disciplinary procedure.
- If you have already had your disciplinary appeal meeting you need to go through the full grievance procedure before you can go to a tribunal. See page 7.

Hello, you gorgeous little insignificant object - I'm the manager



Before you raise a grievance

Once you are clear that you have a genuine grievance you need to decide what you want to do about it. Are you sure that you want to raise a grievance? Will it make things worse? What should you do before speaking to your boss? This section will help you decide what's right for you.

The pros and cons of raising a grievance

Pros

- You might succeed in putting a stop to the discrimination. Things are unlikely to change if you don't make your feelings known.
- If you make your employer aware of discrimination, it's up to them to put a stop to 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 it.
- In many cases, you won't be able to make a claim at an employment tribunal unless you have followed your work's grievance procedures first.

Cons

- It can be stressful. You will probably have to attend meetings with senior management. It's important that you stick with the grievance once you've raised it.
- Raising a grievance may damage work relationships. No one likes to hear criticisms about themselves, even if they're true.
- Think about the practicalities of your situation at work. Are things likely to change soon anyway? It might not be worth raising a grievance if your problem is only temporary.

If you are unsure about whether to raise a grievance, speak to an experienced adviser. If you are a member of a trade union, your representative should be able to help, or you could contact your local advice centre.



Before you take the plunge

1

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.

2

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 raise your grievance, you show willingness, and you are more likely to achieve your aims.

3

Be prepared

If your grievance relates to an ongoing problem, keep a diary of what is happening 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.

"The management knows how sleazy he is with women, but they let him get away with it. Why is it up to me to raise a grievance?"

Lynne, Croydon

It is against the law for your employer to turn a blind eye to discrimination. That could be a grievance in itself.

In the meantime, you may have to take matters into your own hands. By raising a grievance you force your work into a position where they have to do something about it or they could be taken to an employment tribunal.

TALK THINGS THROUGH WITH SOMEONE YOU TRUST...



What if I am treated badly because I raised a grievance?

"It was shocking the way the Kosovans 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

If you raise a grievance about discrimination, it is against the law for your employer to treat you badly because of it. Lawyers call this victimisation. It doesn't matter if the discrimination relates to you or to someone else. It is also against the law to be treated badly for supporting someone else's complaint about discrimination, for example by giving evidence to support their grievance.

If you are victimised in this way you should raise a grievance using your work's procedure. You can make a claim at a tribunal if your work doesn't deal with the problem.

How to raise a grievance

Your work has a duty to tell you what their grievance procedure is. You should be able to find it by looking in your contract, written statement, staff handbook or work Intranet. The procedure should tell you how you raise a grievance, who you should raise it with, and how your grievance will be dealt with. If you can't find it, ask your line manager or personnel officer.

Your work's grievance procedure should allow for both an informal and a formal approach. It's normally best to try the informal approach first.

Once you've decided to raise a grievance, stick with it...

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 grievances you raise in future.

TRY THE INFORMAL APPROACH FIRST -



- BUT MAKE SURE YOU SPEAK TO SOMEONE SENIOR -



- AND MAKE A NOTE OF WHAT WAS SAID, AND THE DATE

The informal approach

- Try talking to your line manager, or another manager or personnel officer who you feel comfortable with.
- Make sure you speak to someone senior, who is in a position to deal with the situation.
- Don't confront the person involved in the discrimination directly. If you do it is in danger of becoming a personal dispute, rather than a grievance for your employer to deal with.
- Immediately after the conversation make a brief note of what was said by both of you, and the time and date you spoke.

The benefit of the informal approach is that it is quicker and less daunting than a formal grievance, and is less likely to damage your working

relationships. It might be all that's needed to sort things out. But remember, even though it's informal, you still need to find out what they are going to do to deal with the problem and follow it up to make sure something is done. If they fob you off, you may have to take a formal approach.

The informal route may not be suitable for you. You might decide things have gone too far to sort it out informally, or perhaps the only person you could speak to is involved in the discrimination. If so, you are better off starting with a formal grievance.

Be aware of time limits (see page 8); if you are at the three-month deadline for raising a written grievance, you might not have time to try the informal approach first.

"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 inform our Managing Partner. I didn't really want to cause a fuss, but she said that it was company policy."

Matt, Nottingham

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

Raising a formal grievance: The three-step procedure

If you decide to raise a formal grievance, employers must use the three-step procedure set out below, sometimes called the statutory grievance procedure. The three-step procedure is a minimum requirement; some employers may have more extensive procedures.



**PUT YOUR GRIEVANCE IN WRITING - WITH
DETAILS - AND KEEP A COPY!**

1 Put your grievance in writing

The first step is to write a letter to the person your work's procedure specifies. The letter should clearly set out what the problem is. There is a useful template of a grievance letter on the DTI website, see **Useful contacts**.

Tips

- If you tried to resolve the problem informally first, mention that in the letter and explain what the outcome was.
- Try to include as much detail as possible about the grievance. The more details your employer has about the problem, the more efficiently they will be able to deal with it.
- You may be wary about accusing people of discrimination in your letter, but it is very important that you do, and that you spell out the type of discrimination you have suffered (for example, racial harassment, or different treatment on the grounds of race). Failure to do so may scupper any later claim you make to the tribunal. If you believe you have been the victim of more than one type of discrimination, you must mention both types in your grievance.
- Try to maintain a professional tone in your letter. It's ok to say how certain behaviour made you feel but don't attack other staff, or use offensive language, as it will undermine what you're saying.
- If you can, say how you would like your work to resolve the problem.
- If you have more than one complaint, set them out in sub-headings, giving examples. Start with the most serious.
- Keep a copy of the letter.

If you don't feel confident about putting your grievance in writing, you can get help from your union or local advice agency.

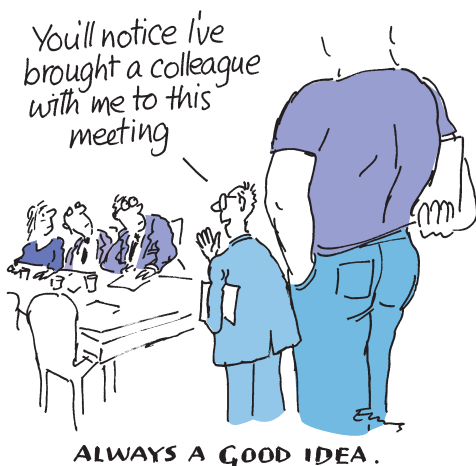
2 Meeting

Your work should respond within 28 days, inviting you to attend a meeting to discuss the grievance. If they don't respond, you can go directly to a tribunal. The meeting should be held fairly soon, at a reasonably convenient time and place for you. You should make every effort to attend.

Your work must allow you to bring a colleague or a trade union representative with you to the meeting. It's a good idea to do this as it will help give you confidence and a witness to what is said.

Tips

- Try not to panic or feel intimidated – you have a right to have your grievance heard.
- Before you go to the meeting, think about what you want to say and how they might respond. Make a list of the issues you want to cover.
- During the meeting, if you, or your employer, say something that you think is important, ask the note taker to record that point.
- Request copies of any notes your employer takes at the meeting, preferably typed. Read them through. If you think anything is incorrect, tell your employer in writing as soon as possible (you could use email), and keep a copy.
- If you bring someone with you, ask them to take notes, or make your own notes immediately after the meeting.



Within a reasonable time after the meeting (usually around 14 days), your employer should let you know what they have decided to do about your grievance. You are responsible for making sure that you are within time limits if you later decide to go to a tribunal, so you need to follow things up.

3 Appeal

If you are not satisfied with the way your work has dealt with your grievance you can appeal against their decision. If you decide to do this, you should notify your work in writing as soon as possible. Your work may set a deadline of when you need to notify them by – try to keep within their timetable, but don't be put off if you miss it.

Don't just repeat what you put in your original letter, you need to respond to the decision they have made. Highlight what you think the decision-maker overlooked or didn't understand about your complaint. The DTI website has an example letter (see **Useful contacts**). Make sure you keep a copy of your letter.

Your work should then arrange another meeting to discuss your appeal, with someone more senior if possible. The same rules apply as for the first meeting.

After the appeal meeting, your work should tell you their decision. Your work may or may not give you further rights of appeal after this. It's advisable to take your grievance as far as you can with your employer – but keep an eye on your employment tribunal deadline!

“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

People often stall because it is stressful, but postponing things can be even worse. You must make every effort to attend meetings. If you appear uncooperative, and the case ends up at tribunal, your employer could argue that you delayed and any award you get could be reduced.

Time limits

- There are strict time limits for making claims to employment tribunals. In most discrimination cases, you need to give your written grievance to your work within three months of the discrimination happening and then wait at least 28 days before making your claim to the tribunal.
- If possible, try to make sure that your written grievance is made within three months of the *first* act of discrimination you want to complain about.
- You will normally have three months from when you gave your work the written grievance to make a claim at an employment tribunal.

Time limits can be complicated and do vary depending on the grievance. You should always get advice from an experienced adviser about what time limits apply to *your* case.

Make a note of deadlines in your diary, and don't leave things until the last minute – you could lose your right to make a claim if you are late.



SLEAZAL LAW...

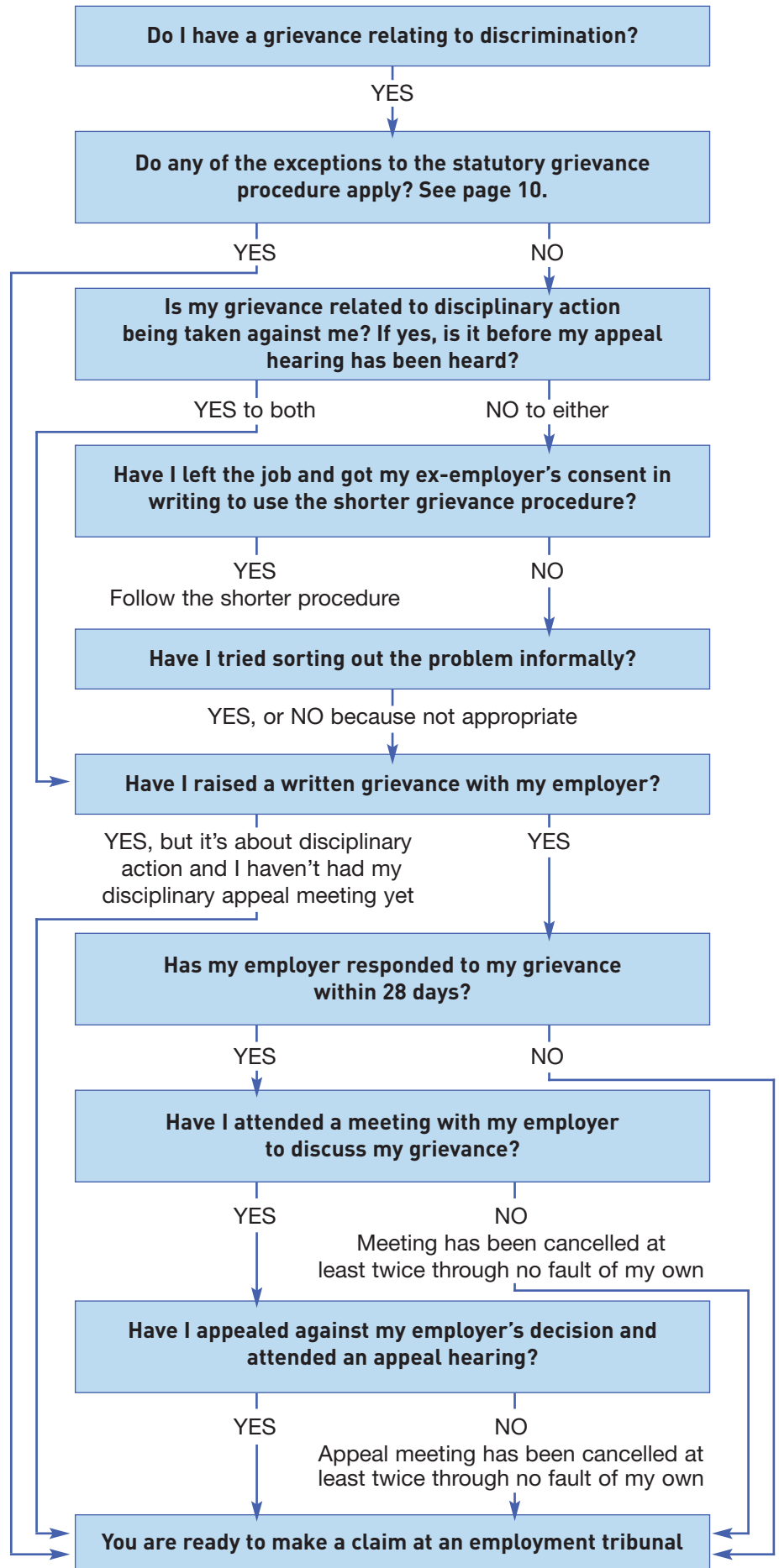
After the grievance

If your problem isn't solved satisfactorily, you may want to take the issue to a tribunal. Not every grievance can be taken to an employment tribunal. If your grievance is about discrimination, you will be able to. If not, look at the employment tribunal website for the full list (see *Useful contacts*).

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 will probably destroy your chances of working for your employer again. However, your work shouldn't be able to get away with discriminating against you and, depending on your case, you may be eligible for financial compensation. You should speak to someone with experience in making discrimination claims – contact your union, local advice agency or law centre.

If you want to have one last chance to resolve things outside the tribunal, you could consider asking an ACAS officer to try to help you reach a solution with your employer. ACAS is an independent, organisation with authority to assist with employment disputes (see *Useful contacts* for more). But you still need to make sure you don't go over your tribunal time limit!

Am I ready to make a claim at an employment tribunal?



Questions and Answers

Q

My employment tribunal deadline is coming up and I am still waiting to hear the outcome of my appeal, what should I do?

A

You *do* have to make every effort to go through the three-step procedure, but if it's going to run over your time limit, you can't afford to wait before making an application to a tribunal. If you are in this position, you should talk to an experienced adviser at your union or local advice agency.

Q

What if I can't attend meetings?

A

If something happens which means either you or your employer can't attend the meeting, your employer should arrange an alternative date. If the same thing happens again, you are entitled to abandon the statutory procedure and go directly to an employment tribunal. But be careful, employment tribunals won't look very kindly on attempts to avoid the procedure – your reason for not attending meetings must be very good and backed up with strong evidence.

Q

My work has access to legal advice, do I need a solicitor?

A

You might feel disadvantaged if your work has a legal adviser. You can get advice from your union, local advice agency or law centre – but you are not entitled to bring a legal adviser with you to meetings.

Q

Do I always need to go through the three-step procedure before bringing a claim at an employment tribunal?

A

Not always, in certain exceptional circumstances you can skip the procedure and go directly to an employment tribunal. The most important exceptions in discrimination cases are:

- Where you are complaining about harassment (sexual or other) and you believe raising a grievance will make the harassment intolerable. This has to be a very serious form of harassment.
- Where someone behaves in such a violent or unpredictable manner that the other person cannot be expected to sit with them in a meeting.
- Where you won't be able to complete the procedure in a reasonable time. For example, if your boss is on long-term sick leave.

It's advisable to check with an adviser if you think any exceptions might apply to your case. For more information about exceptions see the DTI website (see **Useful contacts** section).

Q

Can I raise a grievance after I have left?

A

You can still raise a grievance after leaving your job. You may not have to go through the full three-step procedure if your work agrees in writing that you can use a shorter version. For the shorter version, you follow step 1 of the three-step procedure but request a written response rather than a meeting. If you are unhappy with the response or if you don't hear back in 28 days, you can make a claim at a tribunal.

The grievance procedure *does not* apply if you have been sacked. You should follow your work's dismissal procedure instead. You should get advice about this.

Jargon buster

The jargon	What it means
Employment tribunal	The court where employment disputes are decided. Tribunals are more informal than other kinds of court.
Grievance	A concern, problem or complaint you have in relation to your work.
Harassment	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.
Modified grievance procedure	The shorter grievance procedure you can use if you have left work and your employer has agreed to it in writing.
Statutory grievance procedure	The three-step procedure all workplaces must have for dealing with grievances which could be taken to a tribunal, such as discrimination grievances.
Victimisation	When you are treated badly at work because you have raised a grievance about discrimination or because you helped someone else to do so.
Written statement	If you have been in a job for longer than 2 months, you are entitled to a written statement which sets out the main terms and conditions of your employment. This will include things like your salary, hours, sick leave, and will also set out the grievance procedure, or tell you where you can find it.

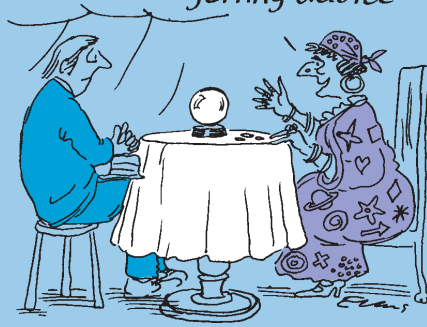
Useful contacts

- **ACAS – www.acas.org.uk – Helpline: 0845 74 74 74 7**
For general information about discrimination at work and assistance with employment disputes
- **Advicenow – www.advicenow.org.uk**
For information about your employment rights and discrimination
- **Commission for Equality and Human Rights – www.cehr.org.uk**
For more information about all kinds of discrimination
- **Department for Trade and Industry (DTI) – www.dti.gov.uk/employment/Resolving_disputes**
For more information about how to deal with problems at work
- **Employment Tribunals Online – www.employmenttribunals.gov.uk**
For more information about how employment tribunals work
- **Trade Union Congress – www.tuc.org.uk**
Know your rights line: 0870 600 4 882
For information about trade unions, and how to find the right trade union for you
- **Community Legal Service Direct**
Community Legal Service Direct is a free and confidential advice service paid for by legal aid. If you live on benefits or a low income, call **0845 345 4 345** for independent advice about debt, education, benefits and tax credits, employment and housing problems.
Helpline: 0845 345 4 345
Minicom: 0845 609 6677
www.clsdirect.org.uk

To find your nearest Advice Service:

You can find an experienced adviser at your nearest advice centre or law centre. Look in the Yellow Pages or use Community Legal Service (CLS) Direct's directory.
www.clsdirect.org.uk
0845 345 4345

*To be perfectly honest -
I think you'd be better off
getting advice*



This leaflet is one of a series published by the Advicenow website.
Download it for free from www.advicenow.org.uk/grievances.

Advicenow is run by Advice Services Alliance
to provide readable accurate information on rights and the law.
It includes a managed web search of 300 rights and legal websites,
plus features, articles, quizzes and cartoons.

*“Advicenow is the liveliest, least stuffy, most
accessible and understandable website on legal
matters that I’ve ever come across.”*

Marcel Berlins, The Guardian

Also see our campaign against the myth of common law marriage at
www.advicenow.org.uk/livingtogether.

The information in this leaflet applies to England and Wales only.

The law is complicated and every case is different. Get advice.

**Written by Jane Bowers with material from Brenda Smith, a caseworker at
the London Discrimination Unit, a project within Lambeth Law Centre.**

Updated October 2007

LDU
LONDON DISCRIMINATION UNIT

**advice
services
alliance**

**Published by Advice Services Alliance
Bramah House, 65–71 Bermondsey Street, London SE1 3XF**

Advice Services Alliance (ASA), the co-coordinating body for UK advice services.

ASA members include advice^{UK}, Age Concern England, Citizens Advice,
DIAL UK, Law Centres Federation, Shelter and Youth Access.

ASA works with its membership and government to develop policy on delivery
of legal and advice services; champions the development of high quality information,
advice and legal services; and provides supporting services to advice networks.

The Advice Services Alliance is a company limited by guarantee,
registered in England and Wales, no: 3533317, registered office 12th floor,
New London Bridge House, 25 London Bridge St, London SE1 9ST

**Plain
English
Campaign**

Plain English Web Award 2004

*Funded by
Community Legal
Service Direct*

**Community
Legal Service**



*Call or click
for free quality legal help
and information*

**0845 345 4 345
www.clsdirect.org.uk**

advicenow.org.uk/grievances