

Dispute Resolution: Guide for Decision Makers

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This guide has been designed to assist Decision Makers through the dispute resolution process.

Introduction

The dispute resolution process is a potentially stressful experience for those involved and therefore it is important that Decision Makers aim to resolve cases as quickly as possible.

It is also important that Decision Makers keep a written record at all stages of the process.

Decision Makers are strongly encouraged to seek support from [HR Casework](#) who are able to provide ongoing support throughout the dispute resolution process. Casework support can be accessed by phone on [REDACTED] or via email at [REDACTED]

Who should be the Decision Maker?

The Decision Maker is the individual who receives the written complaint. In most cases, this will be the individual's Line Manager, however the Line Manager must not act as the Decision Maker if they could reasonably be perceived as:

- being somehow involved in the dispute;
- being biased;
- having a personal interest in the outcome of the case.

In such cases they should pass the dispute to their countersigning manager or to a different, independent manager to deal with.

What to do when you have received a complaint

If you have received the complaint and have agreed to be the Decision Maker, you should firstly check that the complaint has been submitted within the timescale of **three months**. If it hasn't, you should always carefully consider the circumstances leading to the delay, and review why the individual did not feel they were able to come forward at the time the incident took place. You should not reject a dispute purely on the basis of a delay in reporting the issue and should normally accept any case in relation to sexual harassment or severe forms of alleged bullying, harassment and discrimination regardless of the time elapsed. In these circumstances you should liaise with your HR Business Partner and consider seeking advice from [HR Casework](#).

You should also review what action has already been taken to resolve the issue, including mediation and why this was unsuccessful. If this has not already been considered, and where consideration indicates that the complaint is more appropriate for local resolution and/or mediation, you should inform the complainant that this action should be taken within five working days of receiving the complaint ([Example letter 1 \(Word\)](#)).

What to do if the issue cannot be resolved through local resolution or meditation

If local resolution and/or mediation has been unsuccessful, or is deemed not appropriate (for example, due to the serious nature of the issue), and an investigation is to be initiated, you must inform your HR Business Partner. You must also within within five working days of receiving the complaint;

- write to the complainant to inform them that their dispute will be investigated ([Example letter 1 \(Word\)](#))
- send a notification letter to the subject of the complaint ([Example Letter 1a](#))

(Word))

- complete a [Terms of Reference \(Word\)](#) for the investigation and appoint an Investigator within 5 working days of the Decision Maker deciding to progress an investigation

There may be cases where clear evidence has been provided by the individual in the written complaint and you have sufficient information to make a decision without the need for any further independent investigation. Examples of this could include management decisions relating to approval of annual leave or allocation of work. However, even in straightforward cases that do not require a full independent investigation, you must have a meeting with the complainant to discuss their complaint before making your final decision. This dispute resolution meeting will give you the opportunity to clarify or confirm any aspect of the dispute before giving a considered decision.

Where a complaint has been raised against another individual, you must also inform the subject of the complaint that a complaint has been raised and a decision will be imparted in due course. This should be done in writing and within 5 working days of receiving the complaint.

If an independent investigation is required, the Investigator will write to the subject of the complaint with further details, having taken into account the Terms of Reference provided by the DM.

Assigning an Investigator

In other cases where the evidence is more unclear, you may decide that you need additional information and an Investigator is required. It is your responsibility to assign an Investigator.

In cases that require an independent Investigator, the complainant has the right to request that an Investigator from outside of their business unit is assigned. You will be notified of this request when you receive the written complaint. In cases of alleged bullying, harassment and discrimination, an Investigator from outside of the complainant and subject of the complaint's business unit/s **must** be assigned.

Where an Investigator from outside of the business unit is requested and/or required, the Decision Maker should approach their HR Business Partner to identify a suitable Investigator.

In cases where an Investigator from outside of the complainant and subject of the complaint's business unit/s is required, you must still ensure the assigned Investigator is sufficiently independent and able to conduct an objective and unbiased fact-finding investigation. In practice, this means they will not have any personal or close professional links with the main parties or any other perceived

conflict of interest with the case. They should also have the time needed to ensure a timely conclusion to the investigation is reached. You should speak to your HR Business Partner if you are unable to identify a suitably independent Investigator.

Terms of Reference

Once an Investigator has been assigned, you should create a [Terms of Reference \(Word\)](#) for the investigation, and then share and agree this with the Investigator, e.g. the incident(s), who was involved, the format of the final report, who they are reporting back to. The investigation will then be commissioned using the agreed Terms of Reference. At this point, you must also share the Terms of Reference with the complainant, so that they can understand what is in scope of the investigation from the outset.

Once the investigation is concluded, all the evidence will be analysed objectively and with impartiality by the Investigator, to conclude whether there is a case to answer or not. These findings will be documented in an investigation report for your use as the Decision Maker.

You should check that the report meets the Terms of Reference for the investigation as set out in their original commission. If it doesn't, or if you think there are gaps in the evidence, you should set this out in writing and request any further information you require.

Updating employees

The Decision Maker should make contact with the Investigator on a monthly basis. If/as soon as it becomes apparent that there is likely to be a delay in relation to the timescales around completing an investigation, the Decision Maker **must notify both** the complainant and subject/s of the dispute.

Decision Makers should consider informing both the complainant and the subject of the complaint of the progress of the case on a bi-weekly basis.

Preparing for the dispute resolution meeting

You should write to the complainant within five working days of receiving the complaint (where there is no need for a full, independent investigation), or within five working days of the investigation concluding, with a suitable date and time for a meeting to take place ([Example letter 1 \(Word\)](#)). At the meeting you will confirm the known facts and decide if any further action will be taken.

You should give the complainant at least five working days' notice of the meeting as this will give them time to prepare and identify a Trade Union representative or work colleague to accompany them, if they elect to have one attend. In particularly sensitive cases (for example, sexual harassment), and where an individual may need emotional support, it can help to allow the individual to be accompanied at meetings by a close friend or family member. This is in addition to their Trade Union representative or work colleague.

Whilst it is preferred that the dispute resolution meeting takes place in person, for logistical and other reasons it may be necessary to conduct the meeting virtually. You should discuss arrangements (i.e. which online platform to use) with the complainant and come to an agreement.

If you conduct the interview virtually, it is important that both yourself, the complainant and companion have access to a quiet, private space; this will ensure confidentiality and limit potential interruptions.

The meeting invitation should:

- give the complainant at least five working days' notice of the meeting;
- make clear to the complainant that they have the right to be accompanied by a Trade Union representative or work colleague. If the complainant or their companion cannot reasonably attend the meeting, they should propose new dates to allow the meeting to take place within five working days of the original meeting date. If they do not do this, or fail to attend the re-arranged meeting, consideration of the dispute will go ahead in their absence based on the available information;
- ask the complainant if any specific requirements or adjustments need to be made to enable them to attend the meeting;
- enclose a copy of the ['Guide for Individuals Raising a Complaint'](#)
- enclose the investigation report (if a full investigation has been completed);
- confirm who else will be in attendance during the meeting, such as a note-taker.

You will need to ensure an independent note-taker is present at the meeting to keep a factual record of the discussions that take place.

At the meeting

At the meeting you will:

- introduce all present at the meeting and explain that the meeting is to discuss a dispute and will be conducted with a written record being kept;
- clarify points which aren't clear to ensure a common understanding and to

- establish the facts;
- use open questions (what, how, why) to encourage more information to be shared;
- use precise closed questions only where specific information is needed;
- avoid leading questions;
- allow the complainant to ask questions and present any additional evidence;
- allow an adjournment at any point during the meeting. This can be requested for example, if the complainant would like to consult with their Trade Union representative or companion, if the individual becomes distressed and cannot continue, or for a comfort break. In exceptional circumstances you may need to make further enquiries (in these cases it would normally be better to adjourn at the end of the meeting with a continuation at a later date).

Once the discussion is complete you will:

- summarise the main points of the case;
- make sure you have all the relevant facts and information to make your decision. If you do not, you may need to make further enquiries (in these cases it would normally be better to adjourn at the end of the meeting with a continuation at a later date).
- ask the complainant if there is anything they would like to add, and confirm what their preferred outcome would be;
- let the complainant know when you will make their decision and/or let them know if you need to refer the matter on e.g. in cases where a performance marking is being disputed.

Deciding the outcome

You will then assess the evidence put forward, and decide whether to uphold the dispute if you are satisfied that the dispute is more likely to be justified than not and whether the outcome sought is reasonable.

Before informing the complainant of your decision, you should identify an Appeal Manager in case the complainant appeals the decision. Appeals on dispute matters must be heard, where possible, by someone senior in grade to you. If this is not possible due to operational challenges or another substantial reason, and it is likely to affect the possibility of the appeal being dealt with in a timely manner, an independent manager at the same grade as you may hear the appeal. The Appeal Manager must be impartial and independent, have no prior involvement in the original decision or meeting and have no vested interest in the outcome of the appeal. If you are unable to identify a suitably independent Appeal Manager, you should approach your HR Business Partner for assistance.

Communicating the outcome

You should notify the complainant ([Example letter 2 \(Word\)](#)) and the subject of the complaint ([Example letter 3 \(Word\)](#)) of your decision in writing, within five working days of the meeting. It is at this stage that you should share the investigation report with the subject of the complaint, and at no point prior to this.

You will also notify your HR Business Partner and HR Casework Manager (if you sought support from HR Casework) of the outcome of the dispute resolution process and they will ensure that any further action they recommend is appropriate and achievable. This will conclude your involvement in the case.

If the decision is not to be made within five working days of the meeting, for example, because further investigation is needed, all relevant parties must be given a reason for the delay and told, in writing, when they can expect a decision ([Example letter 4 \(Word\)](#)). You are responsible for making sure that the dispute is progressed promptly, and that unavoidable delays do not occur.

If the dispute is not resolved after **40 working days**, the Decision Maker must inform the HR Business Partner who will arrange for a review to be undertaken. The purpose of the review is to ensure that everything is being done to progress the case, that the correct process is being followed and that there are no unnecessary delays.

End of the dispute resolution process

Once the decision has been made and communicated, there will normally be no further involvement for you.

There may be occasions where an Employment Tribunal (ET) claim has been submitted that is directly linked to the matter you have investigated or determined. You may be asked to contribute to the process as a witness. A HR Case Manager will explain what information is required from you and how the ET process is conducted.

Record keeping

It is important that you keep a written record at all stages of the process. Following the conclusion of the process, you must retain copies of all the documents.

Records must be protectively marked, kept securely and handled in line with [departmental record management policy](#).

At all stages, documentation should be managed in compliance with the requirements of data protection legislation.

Recording on SOP

If you are the Line Manager of the individual raising the complaint, you should update the individual's record by logging onto SOP and accessing **CAB Manager Self-Service > SITs > Dispute Resolution/Grievance**.

Select the applicable member of staff from your hierarchy by clicking on the relevant action icon. If no previous recording has been made, a 'No results found.' message will be displayed under status.

Click on 'Add' to initiate a SOP Dispute

The Line Manager should record:

- the date the dispute case was submitted;
- the reason for the dispute;
- whether the dispute case was upheld, and
- the date of the decision.

If you are not the Line Manager, you should request that SSCL update the individual's record on the SOP system by submitting a [Service Request](#).

Recording of dispute resolution cases related to bullying, harassment and discrimination

If the dispute relates to bullying, harassment and discrimination then you must complete the [RMG20 Harassment, Bullying and Discrimination Form](#) and send it to SSCL through raising a [Service Request](#) (SR). On creating a SR, you must select 'HR' as the SR category, 'Change in CIRC' as the SR type and then 'Harassment, Bullying and Discrimination form'.

Please note – These details should be recorded on SOP when the dispute resolution case has **fully concluded**. If the outcome of the dispute is appealed, this would be once the appeal decision has been imparted.

How to access support

Dispute resolution can be difficult and stressful for those involved, including the individual raising the concern and the subject of the complaint. As the Decision Maker, you should signpost those involved to support services available, and also remember that support is available for you too.

There are various sources of support available:

Line Manager	Can signpost to available support.
Fair Treatment Confidant	Offers listening, support and advice to staff who are feeling worried, anxious or stressed. This may be because of bullying or harassment, being accused of bullying or harassment or associated issues that are causing them concern.
Employee Assistance Programme (EAP)	Provide advice, counselling and legal services.
Mental Health First Aider	Can offer initial support through non-judgemental listening and guidance to those who are experiencing a mental health issue or emotional distress.
Workplace Early Resolution Helpline	The Early Resolution Helpline is a dedicated line for employees to contact HR Case Managers about workplace issues and concerns. It offers a safe environment to talk through issues and concerns, discuss options and identify the best early positive action.
HR Casework Service	Offer Line Managers guidance on how to manage a concern that has been raised under this policy.

Trade Unions	Members can seek advice from their representatives.
Staff Networks	Different networks may be able to offer additional support.
ACAS	ACAS provides free and impartial advice on a range of workplace issues. Access their website at acas.org.uk or call their helpline on 0300 123 1100.