

# HOW?

## Avoiding Staff Grievances and Employment Tribunals

For many voluntary organisations, employing staff to deliver a service to their users is a sign of success, and on the whole this is achieved without problems and relationships are harmonious. However, some organisations find themselves in a grievance situation, which in its worst case could end up in an Employment Tribunal with the organisation accused of, amongst other things, victimisation on the grounds of race, gender, disability or unfair dismissal. The organisation then has to prove that this is not the case and this can have serious implications for board members, staff and users.

In a grievance situation there are several possible outcomes:

- The grievance procedure is put into action and the grievance is upheld and changes are made accordingly. This would be the most positive outcome.
- The grievance is not upheld and the member of staff is not satisfied and takes the organisation to an Employment Tribunal.
- The organisation attends the Tribunal, which can take up to several days to be completed, and a case is not found against them.
- The Tribunal finds against the organisation and awards costs to the member of staff

### Employment tribunals

Around one in four of cases that go to tribunal involve a voluntary organisation.

It could mean that voluntary sector workers are more clued up about employment law and prepared to challenge their employers or that voluntary sector organisations have poor policies and procedures in place.

From October 1st 2004 there will be a statutory requirement for workers and employers to have used a grievance procedure before approaching an Employment Tribunal. If the employee does not use this option they could lose the right to pursue a Tribunal and if the employer does not have such a procedure that could be another point against them in any hearing.

### Why employment tribunals should be avoided

- Even if the organisation does not lose the case it is costly.
- Unless you have someone with legal expertise

on your board/committee, you may have to employ a solicitor and/or barrister.

- You could conduct your own defence but this is very time consuming, preparing documents, and understanding what is required and how to present information in a legal setting.
- Whatever the outcome, a tribunal could affect the reputation and standing that your organisation has with stakeholders, funders, clients or the wider community
- Any new developments which are planned may have to be put on hold as staff and directors do not have the motivation or time to devote to new work.
- Despite keeping information as confidential as possible, other staff may become anxious about their future and the future of the organisation.
- While it is very important to deal with each stage as promptly as possible, it can be very difficult for voluntary governing bodies to do so when they generally have other commitments.

### Doing it the right way

With all of the above in mind, it is important that any organisation employing staff has the correct policies and procedures in place to protect trustees and staff members and that management of staff is handled in an appropriate manner.

### Staff selection

- Keep records of all staff recruitment documents, including advertisements, job descriptions, person specifications, names of panel members, interview dates and order of candidates interviews, scoring for short listing and interviewing, references, reasons for appointing or not for at least six months. (An unsuccessful applicant could challenge the appointment for up to six months). The forms etc of the successful applicant should then be kept on their staff file for future reference.
- It should be clear in recruitment advertisements and the letter confirming appointment if a post is temporary or a fixed term contract. If the fixed term is in excess of two years, the organisation will still have to go through a redundancy procedure at the end of the fixed term and if the contract is issued for over 2 years you could still be taken to a tribunal for unfair dismissal.



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- The successful candidate should also be made aware in writing of any probationary period.
- A contract should be issued to a new employee within two months of employment.

More information is available in the High Peak CVS **HOW?** guides on Recruitment and selection and employing paid workers.

## Policies and procedures

Make sure that all your policies and procedures comply with employment law, are current, up to date and are followed. You could be in a worse position at the tribunal stage if you have a policy in place that has not been followed. Policies an organisation should consider if employing staff (even if it is just a single member of staff) include:

- Grievance procedure
- Recruitment and selection policy
- Equal opportunities policy
- Health and safety policy
- Complaints procedure
- Disciplinary procedures and policy

Policies offer protection to both sides by helping to avoid misunderstandings in what is expected of the organisation or the individual. In many organisations these form the basis of a “staff handbook”.

In addition, an organisation should have employers liability insurance

## Regular feedback and performance appraisal

Clear channels of communication with employees obviously help in avoiding a grievance situation, and supervision sessions and an appraisal system are seen as good practice in aiding this.

If there is a single member of staff employed who reports directly to a trustee board, it may be more appropriate if an individual “line manager” is nominated from the trustees to hold these sessions with the employee. If there are a number of employees, the nominated “line manager” is usually the senior member of staff who liases with the trustee board.

Appraisals and line management sessions should be recorded in writing and a copy kept in the employees staff file. They are an opportunity to formally record personal progress, any areas of concern (on either side), learning and development needs and agreed actions. They should be carried out in accordance with the guidance laid out in the organisation’s policies and procedures.

## Finally

If you are taken to Tribunal, expect that it will be time consuming, emotionally draining, hard work and personally upsetting. Ensuring that your organisation acts in the correct manner will help defend it from charges of misconduct.

## Useful resources

[www.tiger.gov.uk](http://www.tiger.gov.uk)

[www.acas.org.uk](http://www.acas.org.uk)

You can contact the ACAS Helpline on 0845 7474747

A good reference book is The Voluntary Sector Legal Handbook, by Sandy Adirondack, 7<sup>th</sup> edition published 2004. It is available to borrow from our resource library

*Adapted from an article by Sandra Pink – Management Adviser at Links, Chesterfield and reproduced with permission. Additional thanks to Andy Taylor of High Peak CAB for his input.*

*Please note: this article is for guidance only. It should not be considered as exhaustive or expert legal opinion.*



## Who are we?

High Peak CVS works to ensure that local voluntary and community groups can access as much support, advice and information as possible. We help groups in many different areas, such as funding, charity registration, practical services including printing, training and links to training and with legal issues. We have resources, including a meeting room, computers and OHP for use by groups.

**To find out how we can help you, please contact us on 01663 735 350 or email [hello@highpeakcvs.org.uk](mailto:hello@highpeakcvs.org.uk) Visit us at [www.highpeakcvs.org.uk](http://www.highpeakcvs.org.uk)**