

Mid-Kent CIPD Webinar

# Dealing effectively with employee complaints

16 September 2021

**Presented by:**

Louise Brenlund and Sarah Wimsett



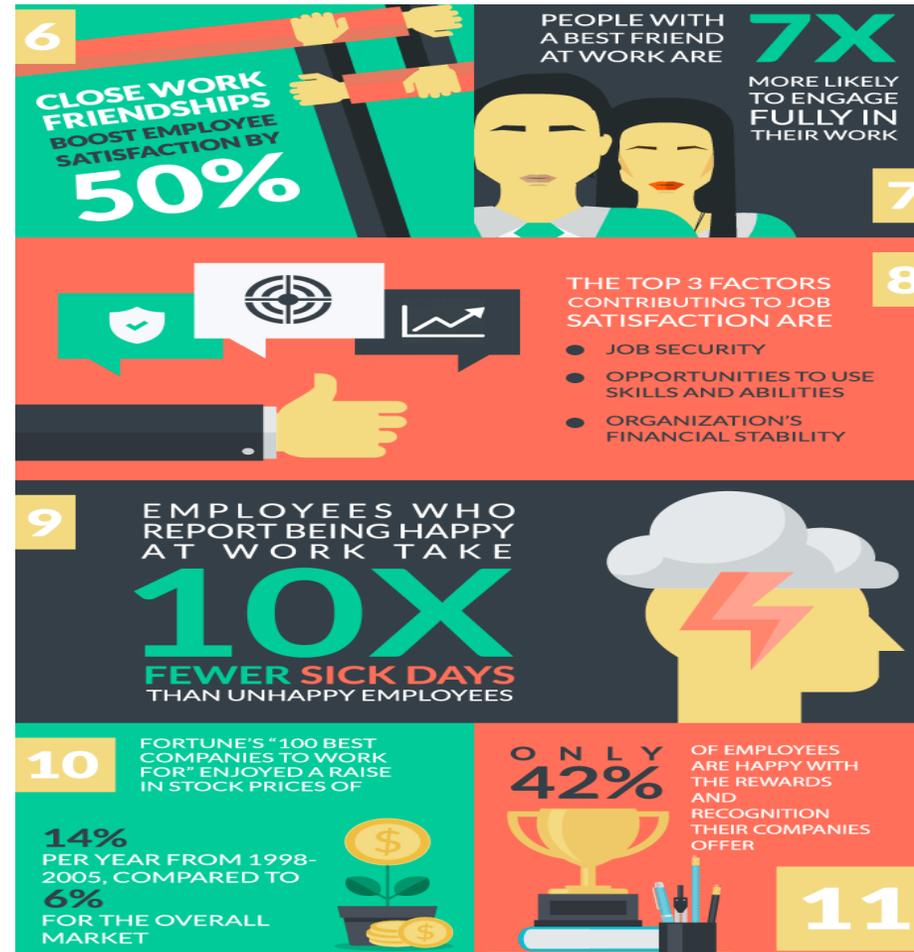
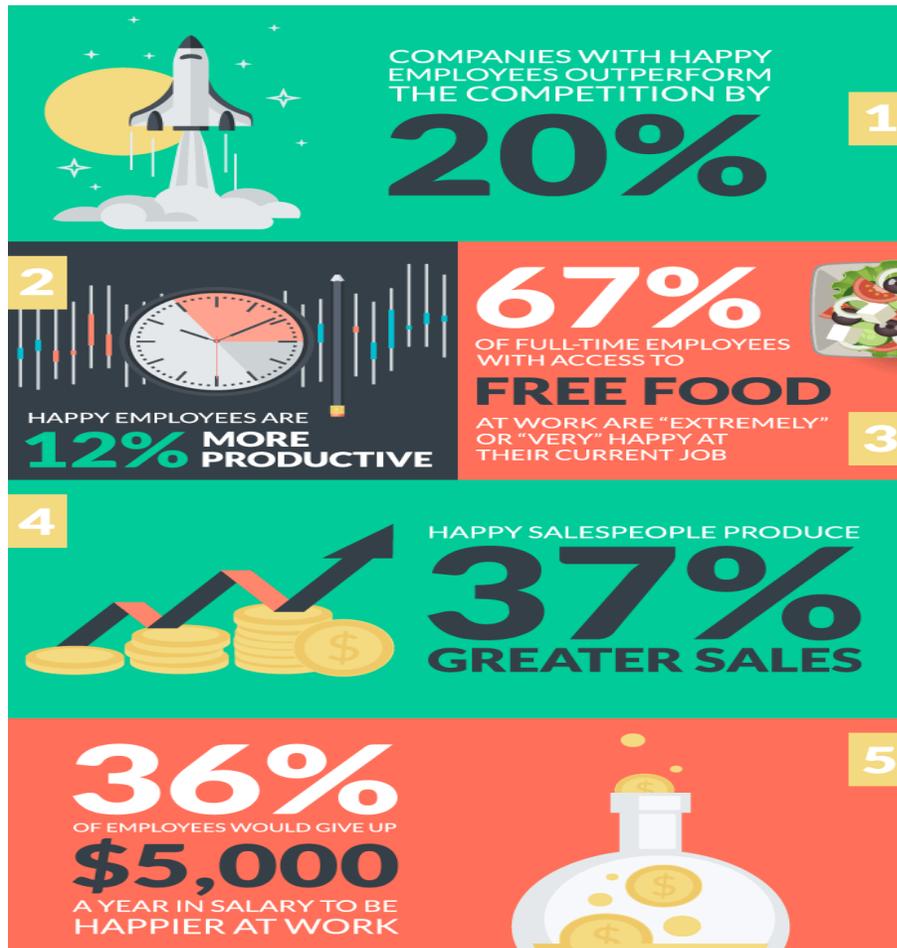
## Today's session

- 01 Grievance procedures and the importance of fair and effective handling
- 02 Key initial steps
- 03 Effective investigations
- 04 Dealing with a formal grievance
- 05 Key problem areas

# Why is it important to deal with employee complaints?

- Common law implies a duty to give proper/prompt redress
- If not addressed could lead to wider risks of discrimination/victimisation
- Reduces the risk of successful Employment Tribunal claims
- Uplift in compensation
- Management time
- Improves workforce relations

# Happy employees - statistics



# What is a grievance?

- Grievances  concerns, problems or complaints
- No grievance statute
- Grievance examples

# ACAS code of practice

**Brachers**  
With you all the way

March 2015  
Code of Practice 1

acas

## CODE OF PRACTICE ON DISCIPLINARY AND GRIEVANCE PROCEDURES

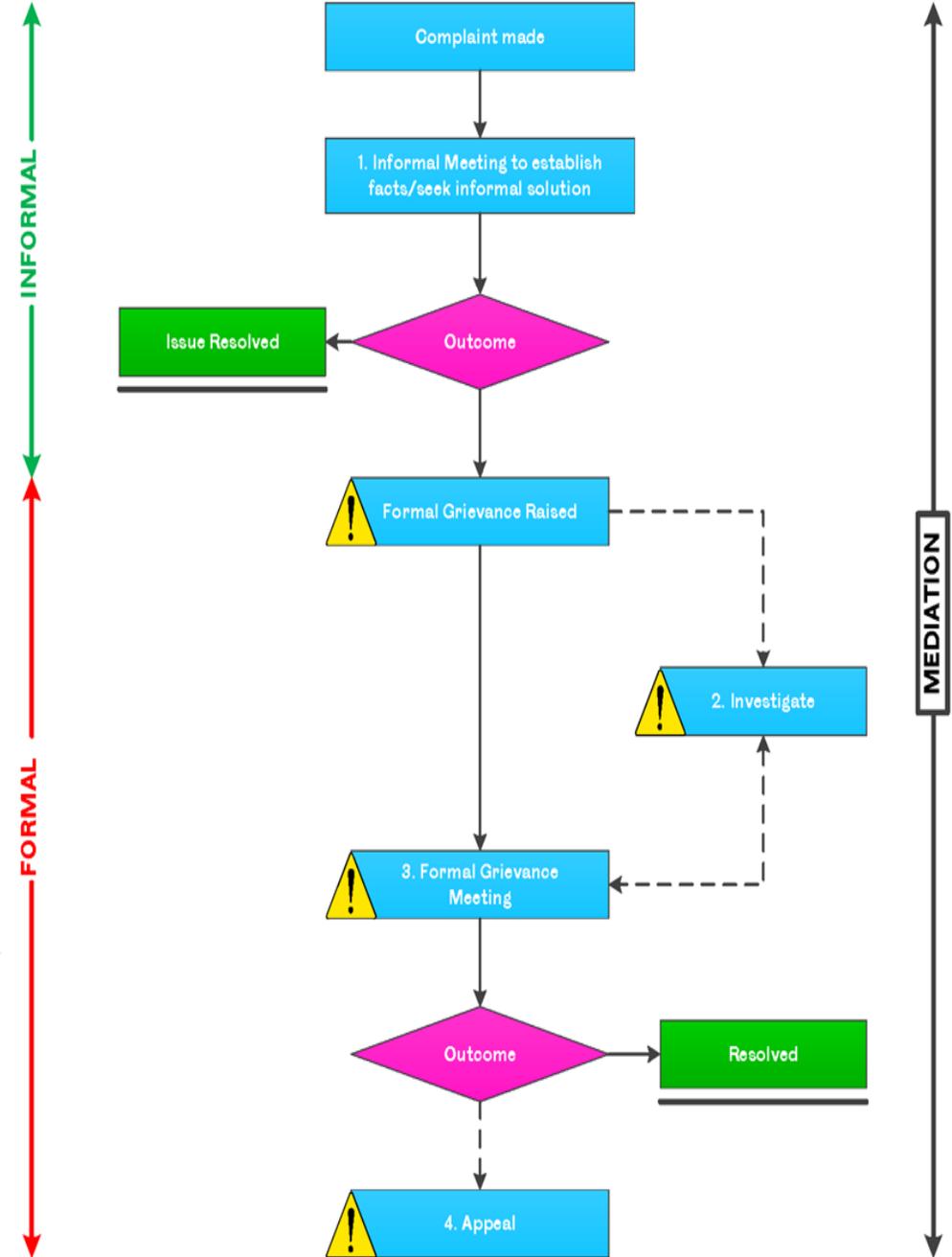
inform advise train work with you

- Employers and employees should act **consistently**.
- Employers should carry out any necessary **investigations**, to establish the facts of the case.
- Employers should **inform** employees of the basis of the problem and give them an opportunity to **put their case** in response before any decisions are made.
- Employers should allow employees to be **accompanied** at any formal disciplinary or grievance meeting.
- Employers should allow an employee to **appeal** against any formal decision made.

# Key steps

- Try to resolve grievances informally where possible
- Rules and procedures – must have a Grievance Policy
- Training
- Mediation

## Action



# Formal grievance procedure

- Grievance letter is received
- Investigation takes place
- Grievance meeting
- Decision is made
- Appeal

# Investigations – Purpose of Investigation

- An investigation is a fact finding exercise
- Restrict recommendations to only suggesting whether any further action may be necessary or beneficial
- Making a decision on a grievance without first completing a reasonable investigation could make the decision unfair

# Investigations – Who should investigate?

## Who should investigate? Consider the following:

- Personal involvement
- Conflict of interest or biased
- Knowledge
- Training and experience
- Availability
- Confidence
- Appeal

# Investigations – Planning and reports

- Create a plan: What facts need to be established?
- What evidence? Documentation, witnesses, physical, audio/visual
- Are there any temporary measures that need to be taken?
- Document findings in an investigation report

# Investigations – Poll

When interviewing, what types of questions should be used?

- Interrogative questions
- Leading questions
- Multiple questions
- Open and closed questions
- All of the above

# Investigations – Witnesses

- Dealing with reluctant witnesses: confidentiality vs anonymity
- No absolute guarantee of anonymity

# Grievance meeting

- “Employers should arrange for a formal meeting to be held without any **unreasonable delay** after a grievance is received” (ACAS code)
- Ideally hold meeting within 5 working days of receipt of the grievance (ACAS guide)
- The roles of investigator and decision-maker may be combined
- Consider reasonable adjustments
- Right to be accompanied

# Conduct of the meeting

- The aim is for an amicable solution
- Remain impartial and objective
- Invite employee to re-state grievance and the resolution they would like
- Adjournment
- Summarise
- Set expectations

# Outcome and right to appeal

## ACAS Code:

- Decision in writing
- No unreasonable delay
- Right to appeal

Keep a record of any grievance cases dealt with including:

- Minutes of meetings
- Notes of interviews
- Notes of any discussions held to determine the outcome

# Problem areas - Grievances during a disciplinary process

- Should you put the disciplinary process on hold?
  - Consider appropriate action
- Is no action an option?
- Key issue whether you handle the disciplinary, fairly taking into account the grievance

# Other problem areas

- Possible false or malicious allegations
- Tactical grievances
- Grievances that repeat earlier complaints
- Grievances after employment has ended

**Any questions?**



# About Brachers' Employment team



Our Employment and HR team take pride in delivering employment law and HR services that are tailored to your needs. We are dedicated to listening and learning about your business to understanding the challenges you face, your ambitions, and how to retain, your key asset, your people.

We are one of the largest employment and HR teams in the South East, working alongside businesses with 60,000 employees in the region. We will always advise you on your options to enable you to make informed choices. We appreciate that business is about taking managed risks. Our commitment to you is that we will not sit on the fence but will make recommendations using the benefit of our judgment and experience.

[www.brachers.co.uk](http://www.brachers.co.uk)