



Employee Difficult Behaviour
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Question

How do you handle an employee who deflects blame, always has an answer, and initiates complaints or grievances when confronted, perpetuating a recurring cycle of difficulties?





Employee Difficult Behaviour

Deflects blame, multiple grievances, recurring cycle of difficulties

Agenda

- Grievance management- challenges and risks
- Policies and procedures
- Grounds for termination?
- Avenues for Resolution
- Practical steps

Speaker



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Grievance Management

Challenges



Grievance Management

Challenges

- Recent spike in employee relations issues
- Grievance = complaints regarding terms and conditions, working environment or relationships.
- Multiple grievances:
 - time consuming
 - burden on management
 - impact on morale
- Challenges and risks
- Importance of appropriate policies and procedures



Legal Risks



Termination of Employment

Unfair Dismissal Claim

- **Requirements to bring a claim**
- One years' length of service (except for protected terminations)
- **Time limits and extension of time limits**
 - Six month time limit from effective date of termination
 - Can be extended for a further six months
- **Constructive unfair dismissal**
 - *Bridgehill Taverns v Deirdre Walsh, Cassidy v Bol*
- **Remedies**
 - Reinstatement
 - Reengagement
 - Compensatory award - The maximum compensatory award is 2 years remuneration (not just basic salary), representing actual financial loss.
 - For a whistleblowing UD, the maximum award rises to 5 years.



Discrimination

Bringing a claim to the Workplace Relations Commission

- **Requirements to bring a claim**
 - Not just employees
 - No service requirement
 - 9 protected grounds (age, gender, disability, race, etc)
- Discrimination / Discriminatory Dismissal
- **Victimisation**
 - *O'Reilly v DCU*
- **Time limits and extension of time limits**
 - 6 month time limit from alleged discriminatory act
 - Potential extensions of up to a maximum of 12 months
- **Remedies**
 - Declaration
 - Financial compensation of up to a maximum of two years



Whistleblowing

The Protected Disclosures Act 2014, Protected Disclosures (Amendment) Act 2022

- **‘Relevant information’** is information
 - which a worker **reasonably believes** tends to show one or more relevant wrongdoings
 - which came to their attention in connection with their employment.
- Even if the information is proved to be **incorrect**, you are still protected
- **The intent of the disclosure is irrelevant**
- Relevant wrongdoings **do not** include
 - Workplace grievances which are **exclusively personal**
 - Disputes with your employer about your contract
- **Protection from penalisation**



Policies and Procedures



**IF YOU WOULD JUST FILL OUT THIS
COMPLAINT FORM**

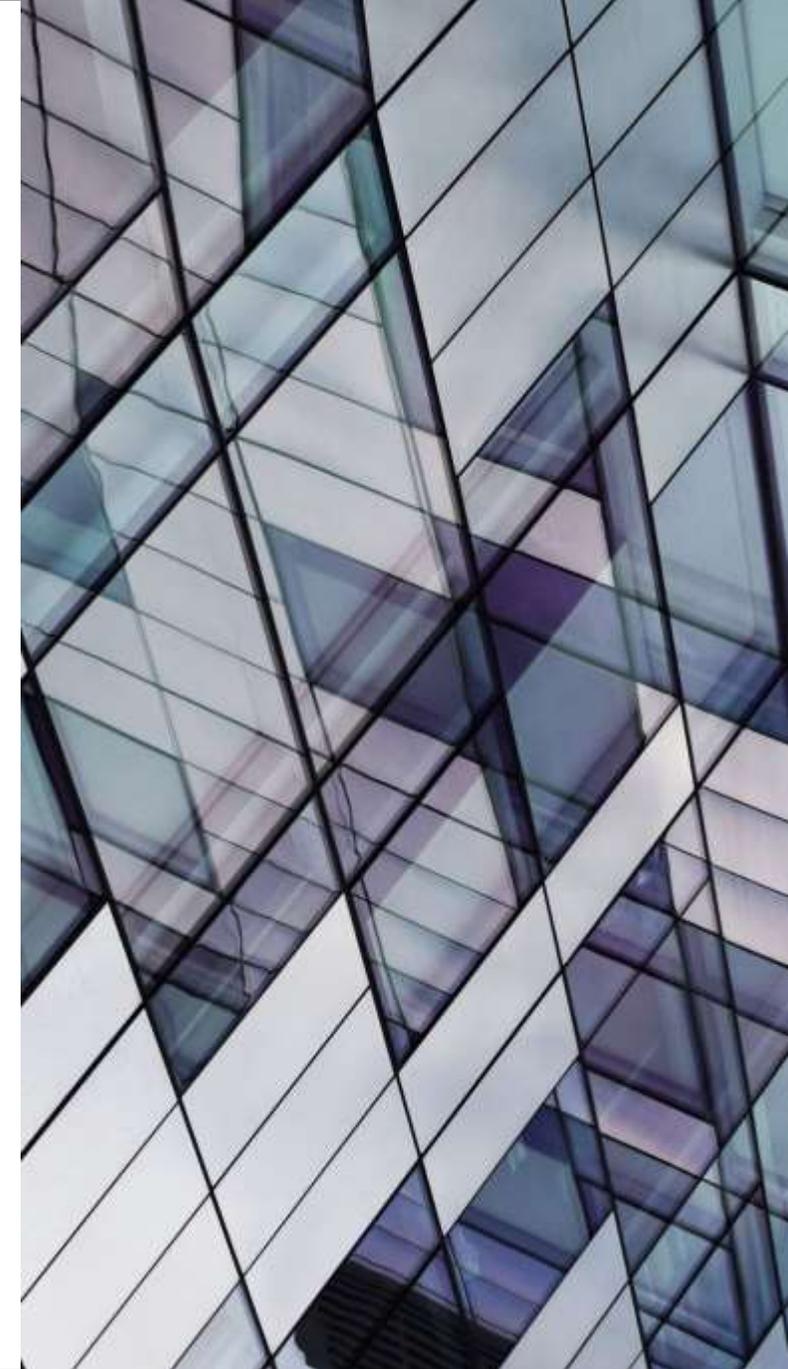
THAT WOULD BE GREAT

makeameme.org

Grievance Policy

Importance

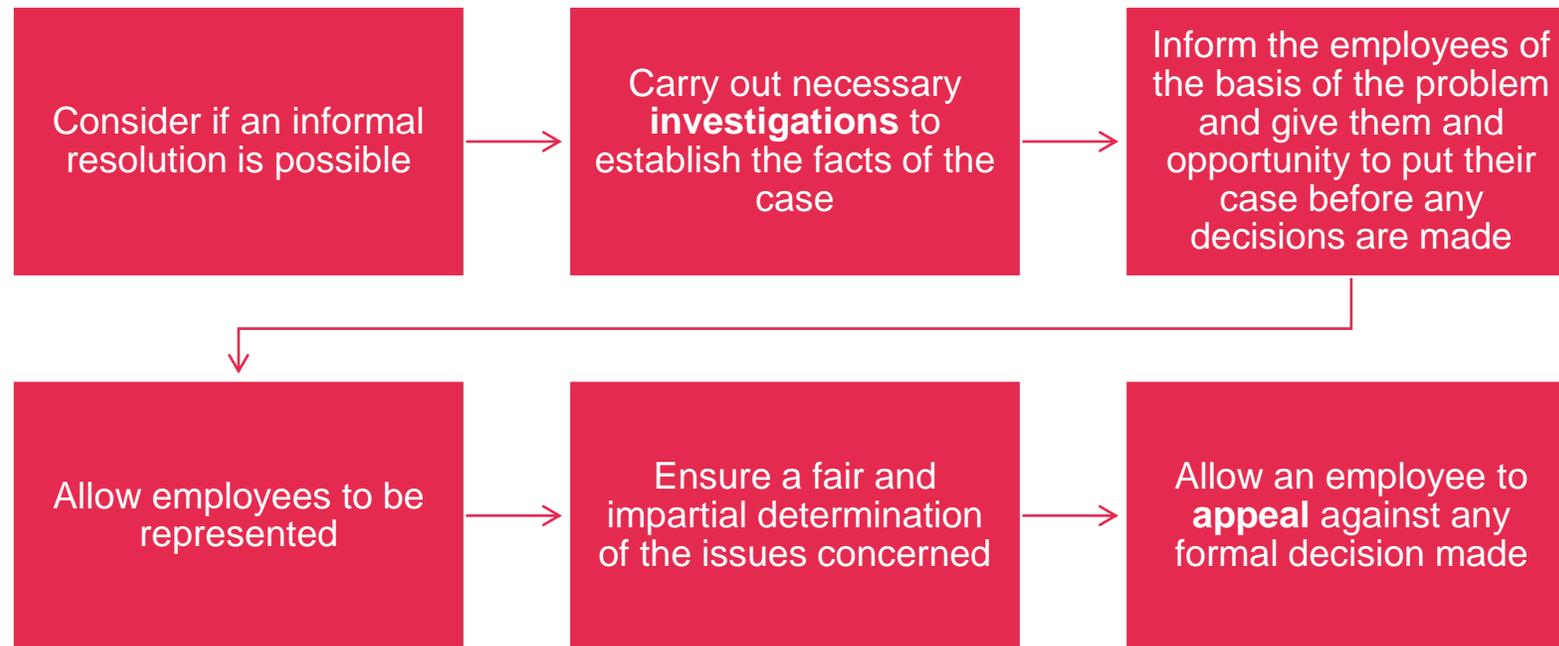
- Process for handling workplace complaints
- Consistency, transparency, fairness
- Resolution internally without recourse to litigation
- Process, timescales, contact points
- WRC Code of Practice



WRC Codes of Practice

Disciplinary and grievance procedures

The codes are not legally binding, but they will be considered by the WRC.
It is important to comply with the general principles of natural justice and fair procedures.



You should also ensure that you follow the terms of your own internal disciplinary and grievance policies.

Whistleblowing Policy

Importance

- Obligation all private sector organisations 50+ employees, all public sector
- Derogation until 17 Dec 2023 - 50-249 employees
- Requirement to establish **formal reporting channels and procedures**
- Secure and confidential
- Reports in writing or orally
- Specified timelines for dealing with a protected disclosure
- Acknowledge, follow up and give feedback
- Offence - failure to establish, operate and maintain internal reporting channels and procedures

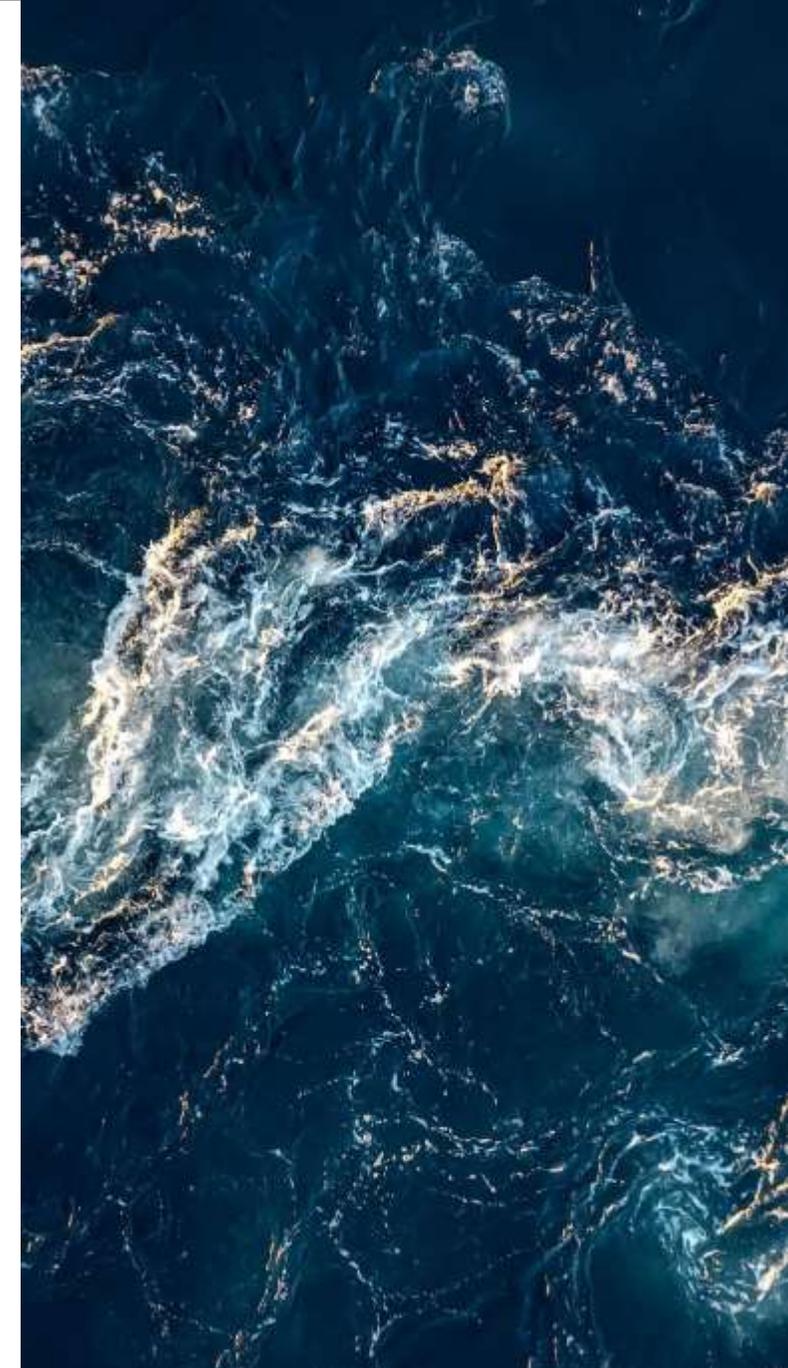


Grounds for termination?



Multiple frivolous complaints

- ***Hope v British Medical Association (UK EAT)***
 - Numerous complaints of vexatious, frivolous nature
 - Failure to follow management instruction
 - Fair warning and adherence to procedures
 - Band of reasonable responses
 - **Caution!** Fact specific



Resolution and other options



Resolution

- Exit discussions – off the record?
- Mediation
- Coaching
- External consultant
- Other grounds for dismissal?



Practical Steps



Practical Steps

Managing multiple complaints and grievances

- Adherence to and creating awareness of policies and procedures
- Replication or new complaint?
- Keep records!
- Management guidance and training
- Explore informal resolution
- Single contact point
- Carefully consider context and potential risk factors
- Identify root cause



Questions?



Thank you!

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