

Commercial Contract

GRIEVANCE HANDLING PROCEDURE



*Empowered lives.
Resilient nations.*



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Grievance Handling Procedure

Pro-Gole (Right to do Business)

Legal Services, B&SDS

LEGAL SERVICES, SMEDA

The Legal Services (LS) department is a part of Business & Sector Development Services Division of the Small Medium Enterprises Development Authority and plays a key role in providing an overall facilitation and support to the small businesses. The LS believes that information dissemination among the small businesses on the existing legal & regulatory environment and business to business and business to client contracting is of paramount importance and plays a pivotal role in their sustainable development.

In order to facilitate small businesses, the LS, under the Pro-GOLE (Right to do business) project, a joint SMEDA-UNDP initiative for supporting the small businesses, has developed user-friendly contract templates.

Pro-GOLE, (Right to do Business)

The UNDP has partnered with the Small and Medium Enterprises Development Authority to initiate and execute the Pillar 4 (Right to do business) component of the UNDP PRO-GOLE project which seeks to enhance the legal awareness and mobility of marginalized/ informal businesses. Under the project legal services outreach shall be extended to small businesses including home based enterprises, small shopkeepers, growers, women entrepreneurs, hawking vendors etc. In addition, small business shall be mobilized to access legal services.

The Need for Commercial Contracts Templates

In an increasingly complex and competitive industry, it is vital that suppliers and purchasers are fully protected against legal and commercial risks. To counter such risks, a viable solution; available as- of the shelf commercial contract templates- will provide the users with first class ready to use support. With obligations properly set out and liabilities accurately defined, the users will be in a far better position to look after their rights and interests and move forward from their marginalized positions to being active players of the economy. The Legal Service Providers can equally take benefit of these templates for their professional and business development.

Disclaimer

The information contained in this template is meant to facilitate the businesses in documenting transactions with reference to employment matters. However, SMEDA, UNDP or any of their employees or representatives accept no responsibility and expressly disclaim any and all liabilities for any and all losses/shortfalls caused by or motivated by recommendations from the information contained within this document. Although SMEDA's ambition is to provide accurate and reliable information; yet, the document is not an alternative to expert legal advice and should ideally be used in conjunction with the same. Any person using this document and or benefiting from the information contained herein shall do so at his/her own risk and costs and be deemed to have accepted this disclaimer.

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13. GRIEVANCE HANDLING PROCEDURE

Grievances – Complaints

A grievance or a complaint includes any type of problem or concern about your involvement in the environment as far as association with the Business is concerned.

Any person may make a report of a grievance or complaint to the management of the Business where any issue directly concerns the operation of the Business, of the activities of its personnel. The grievance or complaint may be in writing or verbal.

Key Principles

Confidentiality

Only the people directly involved in the grievance or complaint can have access to the information relevant to that complaint. Your details will be kept completely confidential should it be possible, however the principle of natural justice may require disclosure of your details to the party you are making an allegation against. Disclosure of your details is at the discretion of the person handling the complaint.

Impartiality

All sides get the chance to tell their side of the story. No assumptions will be made nor any action taken until all relevant information has been collected and considered.

Free of Repercussion or Victimization

Management takes all necessary steps to ensure the parties involved in a grievance or complaint are not victimized in lodging or assisting with information concerning a grievance or complaint. Disciplinary action should be expected where victimization or repercussion is sought against people involved in a grievance or complaint handling issue.

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Vexatious or Malicious Complaints

Discipline should be expected if it is discovered that a party used this process against a person where the facts given were found to be deliberately untrue.

Self Resolution

Opportunity may be given for the complaint or grievance to be resolved between parties without intervention from the Business representatives on an official basis.

Sensitivity

All grievances and complaints will be dealt with appropriately, which means with seriousness and sensitivity.

Timely

It is the objective of the Business to deal with any grievance or complaint as quickly as possible.

Process - what to do if you have a complaint/grievance

Step 1

Work out the best way to handle the situation. If you are not sure how to handle the problem yourself, options include speaking to your manager, or the concerned staff of the Business for advice and guidance.

Step 2

If you feel comfortable with your relationship with the other person involved, try to sort the situation out directly between yourself and that person. Sometimes things happen unintentionally and the matter could be sorted out with an explanation and an apology. This should be done as close to the incident of concern to avoid confusion.

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Step 3

1. If you are unable to handle the matter yourself, approach the [designation] who will be the appointed grievance/complaint handler. If the grievance or complaint is about the grievance/complaint handler himself, you should contact the [designation].
2. The Grievance/Complaint Handler will, wherever practical, within ____ working days:
 - Speak with you to obtain full details concerning your grievance or complaint and discover your wishes for a resolution.
 - Speak with all witnesses they believe have information relevant to the complaint.
 - Decide whether at the least, the issue is serious enough that, if proven, it would be a breach of discipline and/or any other related policy.
 - Explain the process required to continue towards a resolution of the issue.
 - Refer you, if necessary, to people who could provide advice or support.
 - Decide the most appropriate person to handle the complaint or grievance. (If the Grievance/Complaint Handler has a conflict of Interest, the matter will be referred to another appropriate officer.)
3. It is not a breach of confidentiality to speak to any witnesses or parties involved. Only the required number of people will be spoken to about the issue and they will not be told any more information than they need to know.
4. Where contradiction in accounts of the issue is encountered, the Grievance/Complaint Handler may seek more information from all parties.

Step 4

1. A decision will then be made on how to resolve the issue and inform all parties.
2. Where the grievance involves an allegation of a 'less serious' nature (e.g. Breach of Code of Behavior, or anything non-criminal) and the main facts are not in dispute, the situation will be mediated. This means assistance

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will be given to you and the person or persons about whom you have complained, to come to a joint decision on how to resolve the issue.

3. A confidential record of the issue will be kept and the matter will go no further, however the record will be placed on the files of the accused persons.
4. Where the grievance/complaint involves an allegation of a 'more serious' nature (e.g. Discrimination, Harassment) and the main facts are not in dispute, the Grievance Handler will recommend appropriate remedial action through the Board or its representative Complaints Committee. Where the facts are in dispute and Grievance Handler is unable to determine the course of events, the matter will be referred to the Board or its representative Complaints Committee.
5. Where the grievance/complaint involves an allegation of a criminal matter, the Grievance Handler will advise the Board immediately and refer the matter to the appropriate authorities.
6. All parties involved in the matter will be advised at all stages of the progress of the complaint/grievance.
7. All parties have the right to appeal through the Board to the Complaints Committee.

Kinds of remedial action available:

- Encouragement of mediation between parties
- Encouragement of appropriate apology to be issued in consideration of circumstances
- Counseling the person who behaved in an inappropriate manner
- Dismissal of the accused from the organization
- Referral of the grievance/complaint to an external organization

Grievance Handlers will take into account:

- Seriousness of the breach and the policy statements referring to the type of issue
- The state of mind or the intention of the individual/s responsible
- Types of action previously taken in relation to similar incidents
- If any circumstances exist which should convince the Grievance/Complaint Handler to deal with the issue differently

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The Business aims to have a resolution to any complaint or grievance within a 14 day period from the moment the complaint is received.

Record Keeping

The Grievance Handler will keep written notes of:

- Interviews with all parties to a grievance/complaint.
- Action taken to resolve the grievance or to refer the matter on.

Notes will be kept securely by the Grievance/Complaint Handler and retained by the Business afterwards.

Support

The person making a complaint/grievance and the person/people against whom a complaint/grievance has been made are entitled to support throughout the process. A support person may be a friend, relative or other designated person. The role of the support person is to provide moral and emotional support for the person involved. This person does not say anything during the process and is bound by confidentiality which will be explained at commencement of the process.