

## PERSONAL GRIEVANCE CLAIMS

1. A personal grievance is a legal claim that a worker can bring against an employer or former employer if they consider that they have been treated unfairly or unjustifiably. This can include where they have been:
  - 1.1 unjustifiably dismissed;
  - 1.2 disadvantaged by some unjustifiable action by their employer;
  - 1.3 discriminated against;
  - 1.4 sexually or racially harassed; or
  - 1.5 treated adversely for a prohibited reason.
2. Common claims include where employees have been dismissed or consider that they have been disadvantaged, for example, having been suspended without a good reason, demoted or given a warning unfairly.
3. In raising a personal grievance claim an employee must make the employer aware that there is a grievance, what it is about and how the employee wants it to be dealt with. Any personal grievance must be raised within 90 days of the action amounting to the grievance either taking place or the employee becoming aware of it, although exceptions to this can apply.

### What is the best response?

4. We recommend seeking advice where a personal grievance claim has been raised and, in doing this, it is helpful to collate key documentation like the applicable employment agreement and any policy, and make a timeline of your version of events, to provide to your advisor. There is no specific timeframe for response to a claim, but where an employee is still working for you when they raise their claim, your good faith obligations to be active and constructive, responsive and communicative in maintaining a productive employment relationship apply and will usually mean a response is needed.
5. In addition, if an employee has asked for the reasons for their dismissal, these must be provided within 14 days. If there has been a request for information, an employer must still comply with its obligations under the Privacy Act 2020 to respond within 20 working days.
6. Once a grievance has been raised, an employee has three years to progress their claim in the Employment Relations Authority, if the parties cannot resolve the dispute. To do this the employee must lodge a Statement of Problem. This is a formal process with set timeframes, and an employer is required to file a Statement in Reply within 14 days of the Statement of Problem being served on it.
7. Parties to a personal grievance must first attend mediation with the Ministry of Business, Innovation and Employment before the Employment Relations Authority will investigate and determine a claim, and advice on strategy and representation in this forum is recommended.
8. Good ground work in an employer's initial response to the personal grievance can be invaluable should a personal grievance claim reach this stage, including to manage an employee's expectations in support of the employer's response strategy.

**Our team of specialist workplace lawyers throughout the country are always happy to answer your questions, [contact us here](#)**

*Disclaimer: We remind you that while this e-resource provides commentary on employment law, health and safety and immigration topics, it should not be used as a substitute for legal or professional advice for specific situations. Please seek legal advice from your lawyer for any questions specific to your workplace*