

Grievance Procedure

PART 1: GENERAL INFORMATION

PURPOSE

1. The aims of this procedure are:
 - (a) to protect the interests of staff, so that grievances are considered quickly, fairly, and consistently, and at the appropriate level of management;
 - (b) to give guidance to managers who have responsibility for the maintenance of good employee relations;
 - (c) to lawfully, non-discriminatorily, and effectively address employee concerns;
 - (d) to acknowledge that employees have Academic freedom as defined in the Education Reform Act 1988, Section 202 (2), "To ensure that staff have freedom within the law to question and test received, wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges" and as described in the 1997 UNESCO recommendation;
 - (e) to ensure that all employees are aware of their responsibilities regarding raising problems and concerns and will not suffer detriment for doing so;
 - (f) to allow the University to carry out its responsibility for resolving issues as soon as possible.

SCOPE AND DEFINITIONS

2. This procedure applies to all employees of the University.
3. This procedure is to be used for the resolution of an individual or collective grievance, defined as follows:
 - (a) "Grievance": Subject to paragraph 4, an individual employee may raise as a grievance under this procedure any matter relating to their employment, for example relating to:
 - (i) the duties of their post;
 - (ii) working conditions and environment;
 - (iii) School/department policies or procedures.
 - (b) "Collective Grievance": Subject to paragraph 4, a group of employees may raise as a collective grievance any matter relating to their employment, which is common to them all, for example relating to:
 - (i) the allocation of duties to a particular group of staff;
 - (ii) working conditions and environment;
 - (iii) the operation of any agreement or machinery established for collective bargaining or consultation purposes other than in 4(i) below.
4. This procedure is not applicable to any grievances or complaints regarding:
 - (i) nationally agreed terms and conditions, policies, practices or agreements;

- (ii) complaints about being subject to the sickness absence management policy, or action taken under that policy, which should be dealt with under the sickness procedure;
- (iii) complaints about the instigation of disciplinary proceedings against an individual, action taken under the disciplinary procedure, or the operation of the disciplinary procedure, which should be dealt with under the disciplinary procedure at the same time as the alleged misconduct is being considered;
- (iv) any matter which seeks to change an agreement reached with a recognised trade union, either nationally or locally;
- (v) a complaint against an actual or threatened dismissal, which should be dealt with under the appropriate procedure;
- (vi) allegations which are brought under the University's Whistle-blowing Procedures;
- (vii) allegations which are appropriate for the University's Dignity at the University Procedures.

PRINCIPLES

- 5. Grievances should be addressed speedily to promote productive and harmonious working conditions.
- 6. Subject to the agreement of all parties involved in the grievance, the procedure may be suspended at any stage for mediation, or alternative non-adversarial discussions with the aim of promoting a more speedy resolution of the grievance. It is recommended that mediation or other non-adversarial discussions should wherever possible take place at an early stage, preferably before formal procedures are commenced.
- 7. Solutions on some issues will require an element of compromise and it must be accepted that it may not always be possible to resolve an issue to the total satisfaction of everyone involved.

RELATIONSHIP WITH OTHER PROCEDURES

- 8. At any stage of this Grievance Procedure, the relevant Manager/Panel dealing with the grievance at that stage and having taken advice from Human Resources, in their discretion, may:
 - defer consideration of the grievance (in whole or in part) if other proceedings (for example, disciplinary procedures or a redundancy procedure) concerning the employee and relevant to the subject matter of the grievance are pending or are in progress or for any other good reason; or
 - refer the grievance for consideration under another more appropriate procedure.

STATUS QUO

- 9. The circumstances or arrangements which gave rise to the grievance or collective grievance will continue while the procedure is being followed until it is exhausted, unless any of the following apply:
 - (i) there is, in the judgement of the University, a danger to the health, safety or welfare of any employee, student, or member of the public resulting from the continuation of the existing circumstances or arrangements;
 - (ii) to continue the circumstances or arrangements could incur external financial or statutory penalties on the University, or on the individual staff members or group of staff members.

RIGHT TO BE ACCOMPANIED

10. At all formal stages of the grievance procedure, an employee or group may be accompanied by a fellow worker or by a trade union representative or official (certified by the relevant trade union to act in the capacity of 'companion' under Section 10(3) of the Employment Relations Act 1999) or a work colleague of his or her choice. The chosen companion will be allowed to address the hearing in order to put the employee's case, sum up the employee's case, and respond on behalf of the employee to any view expressed at the hearing. The companion does not have a right to answer questions on the employee's behalf.
11. If the chosen Companion cannot attend on the date proposed and a suitable alternative companion cannot be found, the employee may propose an alternative date and time which is reasonable and is within up to ten working days of the original date set (exceptional arrangements may be needed during vacation periods). The University will make the necessary arrangements to postpone the meeting.
12. If the employee is disabled, it may be appropriate to allow him/her to be accompanied by a suitable person because of his/her disability, in addition to any chosen companion.
13. If the employee's first language is not English, it may be appropriate to allow him/her to be accompanied by someone who can provide support with communication in English.
14. Where a grievance relates to another employee, this individual will have the same right to be accompanied as the aggrieved employee.

HUMAN RESOURCES DEPARTMENT

15. The role of Human Resources staff is to provide advice and assistance on the use of the Informal and Formal Grievance Procedure.
16. The Head of Department/Head of School/Head of Division/Manager must consult with a member of the Human Resources Department prior to a hearing being held under the Formal Grievance Procedure, and a member of the Human Resources Department must be in attendance at the meeting.

DATA PROTECTION ACT

19. All written documentation in relation to any part of this procedure should be considered within the University's Data Protection Policy.
20. Information that is not current or relevant should not be held on a line manager's file.
21. Special consideration has to be given as to whether the information is of a 'sensitive' nature.

PART 2: INFORMAL PROCEDURE AND MEDIATION

INFORMAL PROCEDURE

22. It is the expectation of the University that as many grievances as possible will be resolved informally at an early stage. This informal stage is not part of the Formal Procedure and will normally be dealt with in an informal meeting on a one-to-one basis with the immediate supervisor/manager at which the supervisor/manager should allow the employee to explain his/her complaint and ask him/her how he/she would like to see the matter resolved and the remedy being sought.
23. In contrast to formal grievance proceedings, informal resolution is not a process which involves detailed investigation into the complaint, the making of decisions on disputed issues of fact or attributing blame or fault. The focus of informal resolution is on exploring whether the complaint or concern can be resolved through discussion and in particular by agreement on ways of avoiding similar issues arising in future. This may include:

- (i) exploring and discussing the reason for the decision or action which has given rise to the grievance and considering whether there have been any misunderstandings on either side;
 - (ii) the employee and the supervisor/manager and any other employee to whom the grievance relates explaining their views and feelings on the issue in question to better understand each other's position;
 - (iii) considering whether alternative ways of communicating or working with each other could have prevented the issue arising or might avoid similar issues arising in future.
24. Where necessary, the supervisor/manager may need to explore the issues further by speaking to other employees or seeking advice before meeting again with the employee. This will normally be carried out within five working days. Where this is not possible, the reasons for the delay will be communicated to the employee.
25. Although this is an informal stage in the procedure, the supervisor/manager should make a summary note of the discussion and its outcome and provide a copy to the employee.
26. Whilst it is not necessary for a member of Human Resources to attend meetings connected with the informal stage, advice should normally be sought by the supervisor/manager dealing with the grievance.
27. As a means to informal resolution the employee or group making the complaint may wish to pursue Mediation as set out in 28 and 29 below. Where informal resolution or mediation is unsuccessful the employee(s) may then wish to pursue the Formal Procedure as set out in paragraph 30 below or, where more appropriate, another University procedure.

MEDIATION

28. Mediation is a process whereby an independent third party, including a trained university employee or external professional mediator, attempts to help the parties reach agreement in the event of a dispute. It may be requested or recommended at any stage in dealing with a grievance that the University appoint a mediator to help towards a resolution, if both parties are agreeable. It is usually preferable, however, for any mediation to take place before formal grievance proceedings are commenced. The first contact should be with the Human Resources Adviser, who will arrange mediation.
29. Agreement to mediation does not preclude the employee from submitting a formal grievance at a later stage, if mediation is not successful in resolving the complaint. In such circumstances, the employee shall still raise any formal grievance promptly.

PART 3: FORMAL GRIEVANCE PROCEDURE

Stage 1: Statement of Grievance

30. If an employee or group of staff feels that his/her or their complaint or concerns have not been addressed adequately through informal discussion, the individual or group should raise the grievance in writing with the immediate supervisor/manager/Head of School/Head of Division. In the case of grievances arising in Professional Services the grievance shall be raised with the appropriate Head of Department. A copy should be sent to the Director of Human Resources. Where the grievance relates to the immediate manager, it should be submitted to that person's manager.
31. The written grievance should give full details of the grievance, setting out as fully as possible the specific complaint including any available evidence in support of the complaint. The written complaint should also specify how the person or persons making it would like to see the matter resolved. Further information or clarification may be requested where the specifics of the complaint are not clear to the person receiving the grievance or where this is considered useful in undertaking or resolving the grievance. Employees who have difficulty in formulating a written grievance, for

example, due to a disability or because English is not their first language, should contact Human Resources or their trade union representative for support and advice.

32. The person receiving the written grievance shall raise the grievance promptly with the Director of Human Resources who will nominate a Manager (who, so long as the grievance does not relate to them, may be the person who received the grievance) to deal with the grievance.
33. If the person raising the grievance objects to the Manager selected, they should raise this immediately with the Director of Human Resources, clearly stating the reasons for their objection. The Director of Human Resources will consider the validity of the objection before confirming or replacing the selected Manager.
34. Where a grievance relates wholly or partly to a named employee, this individual will be notified of the grievance and will receive a copy of the grievance (or that part of that relating to him/her) and any documentation submitted with it.

Stage 2: Investigation and outcome

35. Following receipt of the grievance, the Complainant shall be invited in writing to attend an initial meeting with the Manager and advised of his/her right to be accompanied in accordance with paragraph 10 above. The purpose of this meeting is to allow the Manager to understand the nature of the grievance and to explore potential solutions.
36. The meeting will usually take place within 7 working days of receipt of the written grievance by the Director of Human Resources, or as soon as reasonably practicable thereafter.
37. The Manager will explain the purpose of the meeting, introduce those present and outline the procedure to be followed. The Complainant or his/her companion will then be invited to state his/her case as set out in the statement of grievance and may be questioned, for the purposes of clarification and to establish the scope of the grievance. If further details or examples emerge at the meeting that were not included in the original statement of grievance, the Complainant shall be asked to put those in writing if he/she wishes these to form part of the grievance. The Manager will arrange for a member of Human Resources (or nominee) to keep a record of the meeting (a summary note rather than a verbatim transcript) which will be copied to the Complainant. The note should be agreed, signed and dated by the Complainant to be included as part of the investigation report. Where agreement cannot be reached the individual should give written reasons for the disagreement and these should be attached to the report.
38. It may be appropriate for the Manager to order a further investigation into the grievance before reaching his/her decision. The Manager shall discuss with the Complainant the scope of such investigation and the names of any potential witnesses or other employees who should be interviewed as part of this investigation. The Manager shall explain the proposed next steps and an estimate of the timescale for carrying out any investigation and responding to the Complainant.
39. Where the grievance concerns (in whole or in part) the actions of any other employee, he/she will be given the opportunity to respond in a meeting with the Manager to that part of the grievance which covers him/her. This employee shall also be informed of his/her right to be accompanied under paragraph 10 above.
40. It shall be for the Manager to determine the extent of the investigation he/she considers necessary to respond to the grievance, including the need to interview any other employees. If at any point in the investigation, the Manager decides that the complaint is unfounded, vexatious or trivial, he/she may decide to reject the grievance without further investigation of the facts. The Manager must advise the Complainant in writing that he/she is minded to dismiss the grievance and give the Complainant an opportunity to make representations as appropriate. The Manager should make a final decision based on the evidence and report this decision to the Complainant. If the Manager considers that the subject matter of the grievance indicates a potential case of misconduct, he/she may decide, following advice from Human Resources, that it is more appropriate to cease or put on hold any further consideration of the issues under this procedure. Should he/she so decide, the

Manager shall refer the issues to Human Resources to arrange for consideration under the staff disciplinary procedure.

41. The Manager shall ensure that notes of the meetings with the Complainant and any person interviewed as part of the investigation into the grievance are kept in line with the University's Data Protection Policy. These notes will usually be a summary of the meeting, rather than a verbatim note. The employees concerned will be given the opportunity to agree or make comments on the notes of the meetings in which they have been involved.
42. The Manager shall normally provide the Complainant with the notes of any investigatory meetings with other employees and invite the Complainant to provide comments on these before the investigation is concluded. Likewise, where the grievance is wholly or partly against another employee, this individual will be provided with the notes of any investigatory meetings that relate to the grievance against him/her and given the opportunity to provide comments on these before the investigation is concluded. These comments may be provided at a meeting or in writing, at the discretion of the Manager. If a further meeting is convened, the employee will be reminded of his/her right to be accompanied under paragraph 10 above. In light of these comments, the Manager shall decide whether any further investigations or comments from other colleagues are considered necessary. The Manager will have discretion not to disclose all the details where the interests of witness confidentiality prevail.
43. The Manager shall prepare a report which will usually summarise the nature of the grievance, the investigation that has taken place, the decision on the grievance and the reasons for that decision, and any recommendation considered appropriate to resolve the grievance or address its cause (whether or not the grievance is upheld). At the discretion of the Manager, a further meeting may take place with the Complainant in order to orally communicate the decision that has been taken on the grievance. In any event, the outcome of the grievance shall be communicated in writing by sending the Complainant a copy of the Manager's report.
44. If the grievance is not upheld, or upheld only in part, the Complainant will be advised of his/her right to appeal the decision under the next stage of the grievance procedure. The report, or relevant part, where the grievance has been brought against more than one individual, will also be provided to any employee against whom the grievance has been brought.

Stage 3: Appeal to Grievance Panel

45. An employee may appeal against a decision reached under stage 2 by submitting written notification to the Director of Human Resources within seven working days of receiving written notification of the Manager's report. The written notification of appeal must specify the grounds of appeal relied on (see paragraphs 46 and 47 below).
46. The Appeal Hearing is not designed to re-hear the grievance but to examine the grounds of appeal. The Director of Human Resources will decide, upon receipt of the appeal, whether the grounds are valid. Where the Director of Human Resources decides that the grounds are not valid, he/she will write to the Complainant setting out the reasons why the appeal has been rejected. Appeals may be raised on one or more of the following grounds:
 - (i) that the decision of the Manager is flawed because the evidence did not reasonably support the conclusion reached;
 - (ii) that new evidence not previously available has come to light since the Manager's report;
 - (iii) that any action proposed was inappropriate in the circumstances of the case;
 - (iv) that there has been a failure to follow procedure which has affected the decision taken by the relevant Manager;
 - (v) that there was evidence of prejudice or bias by the Manager.

47. The written notification of appeal should set out in full the detailed grounds for appeal and any relevant documents or records not submitted at Stage 1 or 2. If the appeal grounds refer to new evidence not previously available, the person raising the appeal shall state whether he/she wishes to call witnesses at the Appeal Hearing and if so, shall provide their names and an explanation of the evidence these potential witnesses can provide and how this relates to the grounds of appeal.
48. The Human Resources Department will arrange for the grievance to be heard by a Grievance Appeal Panel acting with the delegated authority of Council. Members of the Panel will be nominated by the Registrar and will consist of:
- (i) a Chair, who will be a Professorial employee, from a different department to that of the party or parties raising the grievance or collective dispute;
 - (ii) a lay member of Council;
 - (iii) a third member who will be selected from:
 - (a) staff of Professorial status from a different department to that of the Chairperson and to that of the party or parties raising the grievance or collective dispute; or
 - (b) (where the grievance is brought by an employee in Professional Services), a professorial equivalent employee from a different support department to that of the party raising the grievance or collective dispute.
49. The Complainant will be informed of the Panel membership and will have the opportunity of making reasonable objections to the nominated Chair or third member above. The final decision on the membership of the panel remains with the Registrar.
50. The Grievance Appeal Panel will normally be convened within 21 working days from receipt of the appeal by the Director of Human Resources or, after consultation with both parties, as soon as practicably possible.
51. Where a Complainant requests that the hearing is postponed due to illness, unavailability of the companion or other reason, an alternative date will be arranged. Where a postponement is agreed, this should be confirmed in writing with the new date for the hearing.
52. If the Complainant is absent due to sickness, the University must consider if the Appeal Hearing can be delayed until the return of the employee. Advice should be sought from the Director of Human Resources before a decision is made.
53. Following two postponements at the request of the Complainant over a period of 4 weeks, for reasons other than ill health, the appeal will be considered to have been withdrawn. Advice should be sought from the Director of Human Resources before this decision is made.
54. If the Appeal is withdrawn, written confirmation will be sent to the Complainant.
55. The Human Resources Department will request the Manager to submit, at least five working days prior to the Appeal Hearing, a written response to the grounds of appeal and to any request by the employee for witness evidence to be considered at the Panel Hearing. The Manager may also request permission to call witnesses at the Panel Hearing. The Human Resources Department will circulate the submitted cases to the Grievance Appeal Panel and to both parties at least three working days in advance of the Panel Hearing. Additional information may be tabled at the Hearing at the discretion of the Chairperson.
56. The Manager whose decision is being appealed shall also be entitled to attend the Panel Hearing and may be accompanied by a member of Human Resources. A member of Human Resources will be present throughout the Hearing. The Chair shall determine the need for any other person (including any witness named by the Complainant or by the Manager) to attend the Panel Hearing (in whole or in part) as a witness.

57. Where a grievance relates to another employee, this individual will be allowed to attend the Panel Hearing as a witness in relation to those aspects of the appeal which relate to the complaint against him/her. The Complainant (and companion) and the Manager will attend at the start of the meeting.

Procedure for the Panel Hearing

58. The Chair will introduce Panel members, the Complainant (and companion) and Manager and explain the background to the appeal and which issue(s) is/are to be determined by the Panel. The Chair will draw the attention of members to the written documentation.
59. The Chair will invite the Complainant or Complainant's companion to present the substance of the appeal. The Complainant will be given the opportunity to explain his/her grounds of appeal and to make representations on any further investigation or action which is required to resolve the grievance to his/her satisfaction.
60. The Complainant or Complainant's companion may, with permission from the Chair, call witnesses to appear before the Panel. Only one witness may appear before the Panel at any one time. Witnesses may make a statement, and may be questioned by the Complainant, the Complainant's companion, by members of the Panel, and by the Manager. The witness will withdraw at the conclusion of the questioning.
61. When the presentation of the Complainant's side is completed, the Manager will be invited by the Chair to present the Management case. Witnesses may be called, and questioned, in the same manner as in paragraph 60 above.
62. When the presentation of the Manager's case is completed, the Chair will ensure that members of the Panel have no further questions, before asking the Complainant (and companion) and the Manager to withdraw. If the Grievance Appeal Panel believes that it is appropriate to conduct further investigations or seek advice, the meeting will be adjourned.
63. The Grievance Appeal Panel will discuss the case in private and reach a decision. The Panel must either dismiss the grievance in whole or in part, or allow it in whole or in part. In the case of an individual grievance the decision of the Grievance Appeal Panel will be final.
64. The Chair will convey the Panel's decision orally to the Complainant and/or the Complainant's companion and to the Manager, and this will be confirmed in writing, setting out the reasons for the decision.
65. The Complainant will receive written notification of the outcome of the Grievance Appeal Hearing within ten working days of the date of the (final) Hearing.
66. This is the final level of appeal.

STATUS OF GRIEVANCE PROCEDURE

67. This procedure was agreed by the University Council October 2012.
68. This procedure has been agreed by the recognised trade unions (at present UCU, Unison and Unite) under the Collective Bargaining process as described in the Recognition Agreements and Trade Union and Labour Relations (Consolidation) Act 1992 s178.