

Statute 21 Grievance Procedures for Academic¹ and Academic Related Staff

(Please note that Supplementary Guidance to Statute 21 and Ordinance XVIII Grievance Committee follow on from the Statute)

Part VI Grievance Procedures

Purpose of Part VI

31. The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, within the faculty, school, department or other relevant area by methods acceptable to all parties.

Application

32 The grievances to which this Part applies are ones by members of the academic staff concerning their appointments or employment where those grievances relate –

- (a) to matters affecting themselves as individuals; or
- (b) to matters affecting their personal dealings or relationships with other staff of the University,

not being matters for which express provision is made elsewhere in this Statute.

Exclusions and Informal Procedures

33 (1) If other remedies within the faculty, school, department or other relevant area have been exhausted the member of the academic staff may raise the matter with the Head of the Faculty, school, department or other relevant area.

(2) If the member of the academic staff is dissatisfied with the result of an approach under subparagraph (1) or if the grievance directly concerns the Head of the faculty, school, department or other relevant area, the member may apply in writing to the Vice-chancellor for redress of the grievance.

(3) If it appears to the Vice-Chancellor that the matter has been finally determined under Part III, IV or V or that the grievance is trivial or invalid, he may dismiss it summarily, or take no action upon it. If it so appears to the Vice-Chancellor he shall inform the member and the Grievance Committee accordingly.

¹ As defined by the OU Charter and Statute, the term academic staff is deemed to include research staff

(4) If the Vice-chancellor is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of) -

- (a) a complaint under Part III;
- (b) a determination under Part IV; or
- (c) an appeal under Part V

he shall defer action upon it under this Part until the relevant complaint, determination or appeal has been heard or the time for instituting it has passed and he shall notify the member and the Grievance Committee accordingly.

(5) If the Vice-Chancellor does not reject the complaint under sub-paragraph (3) or if he does not defer action upon it under sub-paragraph (4) he shall decide whether it would be appropriate, having regard to the interests of justice and fairness, for him to seek to dispose of it informally. If he so decides he shall notify the member and proceed accordingly.

Grievance Committee Procedure

34 If the grievance has not been disposed of informally under paragraph 33(5), the Vice-Chancellor shall refer the matter to the Grievance Committee for consideration.

35 The Grievance Committee to be appointed by the Council shall comprise -

- (a) a Chairman; and
- (b) one member of the Council not being a person employed by the University; and
- (c) one member of the academic staff nominated by the Senate.

Procedure in connection with determinations; and right to representation

36 The procedure in connection with the consideration and determination of grievances shall be determined in Ordinances in such a way as to ensure that the aggrieved person and any person against whom the grievance lies shall have the right to be heard at a hearing and to be accompanied by a friend or representative. (Ordinance Xviii attached)

Notification of decisions

37 The Committee shall inform the Council whether the grievance is or is not well-founded and if it is well-founded the Committee shall make such proposals for the redress of the grievance as it sees fit.

Supplementary Guidance to Statute 21: Grievance Procedures

1. General Principles

- 1.1 This supplementary guidance does not form part of the employee's contract of employment but has the status of good employment practice and is intended to resolve problems that individuals may raise about their work, working conditions or relationships with colleagues as fairly, efficiently and as speedily as possible.
- 1.2 This procedure applies to staff on Academic, Academic Related and Research terms and conditions of service. Separate arrangements apply to Associate Lecturers and other categories of staff
- 1.3 In many instances the quickest and most effective way of resolving a work problem or issue is for the matter to be discussed without unreasonable delay between the member(s) of staff concerned and the person to whom they are responsible day to day. Most problems should be resolvable informally through this dialogue.
- 1.4 Members of staff should bear in mind that change is inevitable in any successful organisation and that normal and reasonable changes to working practices do not of themselves constitute a cause for grievances. On the other hand management recognises that staff have a right to raise any concerns and to have these considered and addressed.
- 1.5 Members of staff may at any time consult with their appropriate trade union representative who may be involved in, or may, with the consent of the member of staff, deal directly with the issue raised by the member of staff.
- 1.6 Grievances must be raised within 90 days of the events giving rise to the complaint. There is an expectation on both sides that issues being dealt with informally, or through a process of conciliation or mediation, will either have been resolved or escalated to formal procedures within a 90 day period. The 90 day period may be extended by mutual agreement between all of the parties to any complaint raised in writing (including e-mail). If the complaint is not resolved informally, or by conciliation or mediation, within the 90 days (or any agreed extension), there is an obligation on the manager dealing with the issue to give notice to the complainant that the complaint will lapse unless it is raised as a formal grievance under paragraph 4 within 10 working days of the receipt of such notice.
- 1.7 Meetings will be arranged as soon as possible following consultation between all parties. All parties will be expected to comply with agreed arrangements. In the event of the complainant or any other party becoming unavailable for unforeseen circumstances, one alternative date or schedule of dates will be arranged following further consultation. No further alternative

arrangements will be made unless the party requesting the change is certified to be medically unfit to attend the meeting or meetings. The University will cover the cost of medical certification.

- 1.8 For OU staff working in Wales, the University welcomes complaints submitted in Welsh or English, these staff may also choose to respond to complaints in Welsh or English

2. Circumstances where this procedure does not apply

- 2.1 Where the substance of the member's complaint is or was the subject of disciplinary action taken against the member, except where the member of staff's complaint is that the action amounts, or could amount, to unlawful discrimination, or that the disciplinary action is taken for reasons other than conduct or capability. Any formal grievance raised during the disciplinary process will normally be heard at any disciplinary appeal meeting.
- 2.2 Where the substance of the member's complaint is subject to other agreed procedures, provided that those procedures provide for a right of appeal and as agreed with the OUBUCU from time to time (for example, bullying and harassment, job grading, academic promotions).
- 2.3 If any resolution of the issue raised by a member under these procedures depends on any interpretation of any agreement between the OUBUCU and the University or of any national agreement with the UCU and the member and Head of Unit disagree on that interpretation, then that disagreement shall be referred in the first instance to the University Secretary for clarification, and then if necessary to the Joint Chairs of the Negotiating Committee, acting on behalf of the Committee, as soon as possible. The decision of the Joint Chairs of the Negotiating Committee stating the interpretation to be used shall be sent to the member and Head of Unit and the matter shall be dealt with on the basis of that interpretation. The Head of Unit and member of staff will meet within ten days of the receipt of the decision, to discuss the issue on that basis.
- 2.4 Where more than one member of staff raises a complaint which has common principles, the Joint Chairs of the JNC may agree that the complaint may be dealt with as a collective grievance under the same procedures as are applied to individual grievances.

3. Definitions

- 3.1 References to Academic Staff in the Statute Grievance Procedure and in Ordinance XVIII will also be deemed to refer to Academic-Related and Research Staff.
- 3.2 In the statutes PART III refers to Discipline, Dismissal and Removal from office; PART IV refers to removal for incapacity on Medical Grounds and PART V refers to Appeals.
- 3.3 'Day' means a day on which the University is open for work. Time periods referred to in the Guidance may be extended by agreement.

4. Resolving Grievances

- 4.1 Where a member of staff raises an issue relating to their employment they shall in the first instance raise the matter with the line manager, Head of Unit or nominee.

Where attempts to settle issues informally have failed or are inappropriate then, except for the exclusions in section 2 above, the statute procedures shall apply. However any of the parties may propose that the alternative route of conciliation or mediation be followed. Both parties would need to agree to mediation and it would not be appropriate for all grievances, however it can be a useful way of resolving some interpersonal conflicts.

- 4.2 As a matter of good practice before dismissing a complaint as trivial the Vice-Chancellor will consider the option of discussing the matter with the President of OUBUCU in an endeavour

to reach some sort of consensus. This clause does not detract from the statutory authority of the Vice-Chancellor under 33(3) of the Statute.

- 4.3 When members of staff wish to raise an issue formally relating to their employment by the University they shall, in the first instance, raise the matter with the Head of Unit or nominee in writing making it clear that the issue is being raised as a formal grievance. The Head of Unit or nominee shall consult with the People Hub on the relevance of any agreement between the OUBUCU and the University or of any national agreement with the UCU to that issue. The Head of Unit or nominee shall arrange to discuss the matter with the member within ten working days.
- 4.4 The member of staff has the right to bring to that meeting a companion, so long as the companion is a member of staff of the University or an accredited union representative. The companion does not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case. If the companion or union representative is not available on the proposed date of the meeting then one alternative date will be offered. If this is inconvenient then an alternative companion or union representative will need to be present as no further re-arrangement will be made.
- 4.5 The Head of Unit or nominee shall consider the matter, consulting the People Hub if necessary and will give a written reply to the member of staff and his/her representative as soon as possible and in any event within ten working days of the discussion.
- 4.6 If the matter is not resolved by the Head of Unit to the member of staff's satisfaction he/she may, within fifteen working days of receipt of a reply from the Head of Unit, apply in writing to the Vice-Chancellor for redress of the grievance. The application shall state the case and grounds of the application and shall include copies of any documents the member of staff relies upon and of the Head of Unit's written decision under 4.5 above. Any application which does not make clear the grounds (dissatisfaction with the result is not sufficient), or is not submitted in full within the timescale, will be rejected.
- 4.7 The grievance shall be considered by the Vice-Chancellor or his/her nominee. The Vice-Chancellor or nominee shall arrange to discuss the matter with the member normally within ten working days. In addition the OUBUCU may make written representations on behalf of the member. The employee has the right to be accompanied at the meeting as set out in 4.4 above. Copies of all documents considered by the Vice-Chancellor (or nominee) in connection with this grievance will be made available to the member of staff, the other party to the Grievance and their Head of Unit (if different).
- 4.8 The Vice-Chancellor's or nominee's decision would be communicated in writing to the member of staff and to the OUBUCU if the member so wishes. This may include recommendations for further action. The individual must notify the Vice-Chancellor (or nominee) within 15 working days of receipt if he/she is not satisfied with the outcome of this process and wishes to proceed to a Grievance Committee.

5. Grievance Committee

- 5.1 A Standing Panel shall be appointed from each of the three categories in 35(a), (b), and (c) of the statute. Grievance Committee membership shall be drawn from these Panels as and when required. Each member appointed to the Standing Panel shall agree to make him or herself available to serve on a number of designated days during the course of the year.
- 5.2. The panel for category (b) will be the members of Council who are not Open University employees. The panel for category (c) in respect of academic and research staff will consist of ten potential appointees elected by the academic and research staff and nominated by Senate.

- 5.3 In respect of academic-related staff, category (c) of the membership, the Panel shall consist of ten potential appointees elected by the academic-related staff.
- 5.4 The member of the committee under category (c) will be from a sub- unit different to that of the member of staff bringing the grievance.
- 5.5 The University and the OUBUCU recommends that the Grievance Committee considers exercising its power to make a constructive conciliation of the matter, where appropriate.

6. Status of Decisions under this Procedure

- 6.1 Each grievance is unique. Consequently, decisions arrived at under these procedures which are accepted by the parties concerned without the involvement of OU UCU do not set a precedent for future cases in which OU UCU is involved. Issues raised in future, similar cases in which OU UCU is involved will be considered on their merits. It is acknowledged, however, that the provisions of this paragraph will not permit the re-opening of cases which have been settled.
- 6.2 In order to avoid escalation of any matter subject to these procedures, it is agreed that in the event of any differences arising between the parties which cannot be resolved neither party will take action which will further aggravate the differences which have arisen, and the parties will endeavour to work together harmoniously pending a settlement or until the agreed internal procedures have been exhausted.

Ordinance XVIII Grievance Committee

Preamble

This Ordinance establishes procedures for hearing and determining Grievances by the Grievance Committee under paragraph 36 Part V1 of Statute 21. It should be read in conjunction with Part V1 of Statute 21, which defines the purpose of the Grievance Procedures, and sets out the initial stages of the Procedures, and any University guidelines from time to time in force.

In any case of conflict the provisions of Statute 21 take precedence over this Ordinance.

1. The Grievance Committee

- 1.1 The composition of the Grievance Committee is as set out in paragraph 35, Part V1, of Statute 21. The quorum for any meeting of the Grievance Committee shall be the full membership.
- 1.2 All proceedings of the Grievance Committee and all evidence placed before it shall be confidential.
- 1.3 Once a member of the Grievance Committee is involved in the consideration of a grievance, he or she shall (except for medical reasons) continue to complete the enquiry. If a member of the Grievance Committee becomes unavailable to continue during the course of a hearing, a substitute shall be appointed.
- 1.4 A member of staff, as determined by the University Secretary not previously connected with the case, shall provide administrative assistance to the Grievance Committee.
- 1.5 Once a Grievance Committee has been appointed the Secretary to the Grievance Committee shall, as soon as possible, inform the complainant and the Head of Unit, and or other party to the case, of the right to make written representation to the Grievance Committee in advance of the meeting of the Committee, the right to attend and make oral representations, and to call and cross-examine witnesses.
- 1.6 The parties to any hearing before the Grievance Committee shall be the member of staff who has sought redress of a grievance (the complainant), and the person(s) against whom the grievance lies. If the grievance lies against the University or any officer of the University, the Secretary, or such other person as the Vice-Chancellor (or Chair of

Council) may appoint (the University Representative) shall take charge of the proceedings for the University.

- 1.7 No grievance, which has been referred to the Grievance Committee for consideration, shall be determined without an oral hearing at which the parties and any representative appointed by them shall be present. Notwithstanding this the Grievance Committee may proceed with the hearing in the absence of a party who fails to attend, provided that the party (or appointed representative) has received due notification of date, time, place of a hearing, unless the party has made a prior written request for the postponement of the hearing for reasons which should have been stated in the request, and are considered satisfactory by the Chair of the Grievance Committee.

2. The Grievance Committee Procedure

- 2.1 The Grievance Committee shall complete its task as expeditiously as possible, and in any case shall normally conclude its proceedings no later than 50 working days from its establishment.
- 2.2 Both parties to a grievance have a right to be present during the hearing, and to be accompanied by a friend or a representative who is a member of the University staff. Each party shall send details of the representation, if any, promptly to the Secretary of the Grievance Committee.
- 2.3 All documents to be considered by the Committee should be submitted in advance, and the Committee may call for such other oral or written evidence as may be required.
- 2.4 The complainant and the Head of Unit and/or other party to the Grievance shall receive copies of all documentation seen by the Committee, at least 20 working days in advance of the hearing.
- 2.5 Either party to the Grievance may present written or oral evidence and call relevant witnesses. The names of witnesses to be called by either party must be notified to the Grievance Committee not later than 10 working days prior to the date of the hearing. The Committee can itself include witnesses as well as the parties to a grievance. Witnesses may be questioned by either party and the members of the Committee.

The Committee is empowered to decline to receive evidence from a witness where it cannot be shown to the satisfaction of the Committee that the purported evidence is materially germane to the case under consideration. The Committee will be the final arbiter of whether a witness is relevant. Members of the Committee shall not conduct individual investigations outside meetings.

- 2.6 The complainant's case shall be presented first.
- 2.7 The Committee has the authority to adjourn the proceeding or to dismiss the case at any time.
- 2.8 The Committee will arrive at its conclusion without any of the parties directly being involved in the issue being present, but may be recalled if the Committee seeks to explore the possibility of a settlement. The Chair of the Committee shall try to ensure that its conclusions are arrived at with the agreement of all the members, on the understanding that where votes are taken, the voting figures are included in the Committee's report to the Council.
- 2.9 The Grievance Committee shall at its absolute discretion decide all other matters of

procedure and evidence. In exercising this discretion, the Committee shall be guided by the requirement to deal fairly and reasonably with all parties to the grievance.

3. Notification of Decisions

- 3.1 The Grievance Committee shall inform the Council and the member of staff in writing whether the grievance is or is not well found, and if it is well found such proposals for redress as it sees fit. Consideration may be given by the Committee to the effective date of implementation of any resolution to a grievance.
- 3.2 A copy shall be sent to the friend or representative accompanying the member of staff, the Head of Unit, the other party to the grievance, if different.
- 3.3 The decision of the Grievance Committee is final, so far as internal procedures are concerned. Nothing in the foregoing provisions shall preclude resort by an individual to any proceedings to which he/she may be entitled under law.