

Grievance Procedures for Support Staff

1. Scope

The following procedures are available to help staff raise issues and concerns about their work, working environment, or working relationships. The aim is to deal with issues speedily, fairly, in accordance with good employment practice and informally where possible. In working and employment relationships there will be inevitable differences in aims and viewpoints, which may lead to conflict. All staff should appreciate the need to compromise when working with others, and should look to resolve areas of conflict to maintain a stable working environment. The principle purpose of the grievance procedure is to achieve a satisfactory resolution to a particular problem, either informally or formally. Formal grievance procedures should normally be a last resort. The University has a separate policy and procedures to deal with harassment and bullying and a separate Whistle blowing Policy to deal with concerns about perceived irregularities in the running of the University or of the activities of colleagues within the University.

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.

Any amendments to these procedures will be the subject of consultation between the University and representatives of recognised Campus Unions.

2. Definitions

In this document the following definitions apply:

- (i) The University means the Council of the University which is the executive governing body of the University which formally employs all members of staff
- (ii) Heads of Unit includes Heads of Sub-Units.
- (iii) A manager is any member of staff who on behalf of the Council has formal responsibilities as an employer for other members of staff.
- (iv) Grievances according to the ACAS Code of Practice on disciplinary and grievance procedures are concerns, problems or complaints that employees raise with their employers.

3. Matters Excluded from this Procedure

These procedures do not apply in the following situations:

- (i) Where the University has taken or intends to take disciplinary proceedings against a member of staff, then no matters relevant to those disciplinary proceedings can be considered where the disciplinary procedures provide for an appeal, 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. Such a grievance raised during the disciplinary process will normally be heard at a disciplinary appeal meeting.

- (ii) Where a member of staff is aggrieved at a job grading decision the matter will be dealt with in accordance with the provisions of the relevant Job Grading Scheme.
- (iii) Where a member of staff wishes to make a personal submission for transfer of his/her post to another staff category, this will be dealt with under the provisions of the Job Grading Scheme.
- (iv) Administration of the superannuation regulations.
- (v) Issues that are complaints of bullying, harassment or discrimination as defined under the Bullying and Harassment Policy, which will be considered under that Policy.
- (vi) Where a member of staff has not been selected after interview the judgement of the selectors could not be the subject of a grievance, except where this relates to an allegation of discrimination. However, a grievance may be raised about a procedural irregularity in the recruitment procedure.

People Hub Advisers are available to give advice about the procedures to be followed where a matter is excluded from these procedures.

4. Mediation

Under either the informal or formal steps in this procedure, if both parties to a grievance agree, independent third party mediation to help address the grievance may be provided either through the line manager, another manager in a different department in the Unit who has not previously been involved in the grievance or through the People Hub, as appropriate. This would involve a meeting or meetings with the parties, either separately or together. At any stage in the procedures, subject to the agreement of all parties involved, there may be a suspension of the procedure to facilitate mediation, fact finding, or other discussions which might be likely to promote the chances of the resolution of the matter at as early a stage as possible.

5. Accompaniment

At any interview held under this procedure, the member of staff has the right to be accompanied by a local trade union representative, a nominated friend who is a member of the university staff, or a full-time Trade Union official. Subject to the member of staff's wishes, the chosen companion should be allowed to address a meeting to put the case, sum up the case, respond on the member of staff's behalf to any views expressed at the meeting or hearing, and confer with the member of staff during the meeting. Where the chosen companion cannot attend on a date proposed for a meeting an alternative date and time can be offered by the member of staff, so long as it is reasonable and falls before the end of five working days from the original date proposed. (This period can be extended by agreement of the parties.)

6. Informal Steps

Informal conciliatory measures in addressing grievances are in everyone's interest to ensure that grievances are dealt with quickly, fairly, confidentially and at the most appropriate level. Wherever possible such grievances should be considered through informal discussion between the member of staff, other parties where appropriate, and his/her manager, without the use of the formal stages of the procedure. Where a grievance relates to another staff

member, the staff member raising the grievance should try to resolve it through informal discussion with the other member of staff where possible. Dealing with grievances in this way can help to reach a speedy resolution of problems.

Where appropriate, specific actions, with timescales and responsibilities should be agreed (which will be put in writing to those people who will be taking the action), either to resolve the matter and/or to ensure the problem does not arise again. Recourse should normally only be made to formal steps under these procedures after informal measures have been fully exhausted. An informal approach may be made to a more senior manager than the immediate manager, if that is considered a helpful way to try and address the issue. Informal action will not be regarded as a part of formal proceedings, and will not necessarily result in any further action.

7. Confidentiality

Where grievances relate to particularly sensitive issues, and/or are against another member of staff the need for confidentiality should be discussed and agreed by the manager hearing the grievance with the parties to the grievance. In addition, if a grievance is not resolved informally the parties to a grievance should maintain confidentiality during any formal investigation. If either party considers there is good reason to breach this, advice should be obtained from the manager hearing the grievance.

8. Role of the People Hub

Whilst it is not necessary to involve the People Hub at the informal stage, the People Hub may be contacted by any party to the grievance for advice on the procedures at the formal and informal stage. Where a grievance moves into the formal stage, the People Hub should be consulted by the manager, and kept informed of action to be taken; a member of the People Hub will, whenever possible attend meetings held under the formal procedures, and will be present at any Appeal Committee meeting.

9. Formal Steps

A formal statement of the grievance should be made in writing. This should be a full statement, containing all the facts and details that the staff member wants to present for consideration. It should contain specific details of the complaint, who the complaint is being made against (where this is appropriate), details of any witnesses, any actions already taken, and what outcome to the complaint is being sought. Either party to a grievance may provide the names of any witnesses. The manager considering the grievance will be responsible for contacting witnesses, as appropriate, in order to ensure a clear understanding of the situation. The statement should be signed and dated, and submitted to the appropriate manager as detailed in the procedures below. Members of staff raising grievances and members of staff against whom grievances have been raised, should not approach potential witnesses to discuss the evidence that they can give, once the grievance has been submitted and the person against whom it is made has been informed.

9.1 First Stage

The member of staff should put their grievance in writing, to their immediate manager, or a more senior manager (if s/he feels that this is appropriate), making it clear that the grievance is being raised under the formal grievance procedure. Where the complaint is against the line manager, the matter should be raised with a more senior manager.

Where the grievance is against the Head of Unit, the matter should be raised with the Group People Director (or the University Secretary where the Group People Director is the Head of Unit) who will arrange for a Senior Manager from another Unit to hear the grievance.

The manager will consider the matter, normally at a meeting with the person raising the grievance which should be arranged within 5 working days of receipt of the grievance, and will investigate and consult with others as appropriate in order to ensure a clear understanding of the situation. Where the grievance is about another member of staff the manager will speak to the person against whom the grievance has been raised, explaining the nature of the grievance, and who has made it. The person will be given a copy of the written grievance and given the opportunity to respond (any written response will be given to the person raising the grievance). If after separate discussions with the parties involved it is clear that there are differing views and perceptions of the situation, the manager may decide to convene a 'joint meeting' allowing for evidence to be heard from both parties, and any witnesses, if appropriate, before making a response. Both parties to the grievance would have the opportunity to question any witness called to the meeting. A meeting may need to be adjourned and reconvened to give time to look into issues that are raised in discussion. The Manager will give a response in writing normally within 5 working days of receiving the written complaint, or within 5 working days of a meeting if one has taken place, stating whether further action is appropriate, and, if so, how the grievance is to be addressed, including any agreed action(s) for the parties (see also Section 10). If it is not possible for the manager to respond within 5 working days, the member of staff should be advised when a response can be expected, which should be as soon as possible after this date. A member of the People Hub will normally be in attendance at the meeting to advise on procedures and to provide support in resolving the grievance.

9.2 Second Stage

If the person raising the grievance believes that the matter has not been resolved at the First Stage the member of staff may raise the matter with the Head of Unit in writing, within 5 working days of receiving the response, setting out the reasons for believing the grievance is still unresolved.

Where a Head of Unit has considered a grievance at the first formal stage, the matter should be raised with the Group People Director (or the University Secretary where the Group People Director is the Head of Unit) who will arrange for a Senior Manager from another Unit to hear the grievance.

(Where a Senior Manager from another Unit has heard the grievance at the First Stage, a Senior Manager from an alternative Unit will be asked to hear the grievance at the Second Stage.)

The grievance will normally be considered by the Head of Unit, who will investigate and consult with others as appropriate, and will meet with the member of staff to discuss the matter. Where the grievance is about another member of staff the manager will speak to the person against whom the grievance has been raised, explaining the nature of the grievance, and who has made it. The person will be given a copy of the written grievance and given the opportunity to respond (any written response will be given to the person raising the grievance). If after separate discussions with the parties involved, it is clear that there are differing views and perceptions of the situation, the manager may decide to convene a 'joint meeting' allowing for evidence to be heard from both parties, and any witnesses, if appropriate, before making a response. Both parties to the grievance would have the opportunity to question any witness called to the meeting. The meeting may need to be

adjourned and reconvened to give time to look into issues that are raised in discussion. Following the meeting, which should normally be arranged within 10 working days of receipt of the Second Stage grievance, the Head of Unit or his/her nominee should reply in writing with details of whether further action is appropriate, and if so how the grievance might be addressed, including any agreed action(s) for the parties (see also Section 10). Where it is not possible to respond within 10 working days of the meeting the member of staff should be advised when a response can be expected, which should be as soon as possible after this date. A member of the People Hub will normally be in attendance at the meeting to advise on procedures and to provide support in resolving the grievance.

9.3 Appeal

9.3.1

Where the grievance has not been resolved at the Second Stage the member of staff may appeal:

- if there is a matter of substance not previously considered;
- or, if there is material new evidence not previously available;
- or, if the grievance procedures have not been followed correctly.

An appeal should be made in writing to the University Secretary within 5 working days of receiving the response under Stage 2, stating the grounds for the appeal. The Secretary, in consultation with the Group People Director, will determine whether the criteria above apply. Where there is a matter of substance not previously considered, or if there is material new evidence not previously available, the Secretary will have discretion to decide whether it is appropriate and fair to refer the complaint back to the Second Stage.

9.3.2

Where the appeal meets the criteria, the Secretary will arrange for an Appeal Committee to be established as soon as possible. The Committee will consist of one member appointed by the staff side of the relevant Negotiating Committee (or, where there is no Negotiating Committee, by the Branch Secretary or equivalent Officer of the relevant Union), one member appointed by the Secretary, both of whom will be Open University employees, and a Chair acceptable to the Secretary and staff side officer(s).

9.3.3

The Appeal Committee will normally meet within 15 working days of its establishment. A member of the Central Secretariat will provide administrative support to the Appeal Committee as Committee Secretary. Guidance for conduct of an Appeal Committee meeting is set out in Appendix 2 to this Grievance Procedure.

9.3.4

The Chair of the Appeal Committee will notify the parties to the grievance in writing normally within 15 working days of its meeting, whether the grievance is or is not well founded, and if it is well founded any proposals for redress. A copy of this notification will also be provided to the Secretary and the Group People Director.

9.3.5

The decision of the Appeal Committee is final so far as the University's procedures are concerned.

10. Records

It is important that adequate documentation under the formal stages of the procedures is produced which includes the outcome, the reason for the outcome, and any agreed actions; this may form part of the written response to the member of staff raising the grievance. Should a grievance be taken to the next formal stage, it will be essential to have clear documentary evidence of the preceding stage(s). Copies of any written response to a grievance which will include any findings as a result of meetings with witnesses should be provided to the parties to the grievance, and the manager if not one of the parties to the grievance.

Documentation relevant to a formal grievance raised including the statement of the grievance, the response and any action taken will be held confidentially in the Unit, and in the People Hub for a period of 2 years. If actions or undertakings regarding future relationships with the employee have arisen from the decision, the record will be held in the People Hub for the duration of the employment. Parties to the grievance will be advised if this action is taken.

11. Group Grievances

These procedures may also be suitable as a means of addressing identical and collective grievances of groups of staff. Agreement must be reached between the Group People Director (or nominated Deputy) the staff concerned, and/or their representatives, to use these procedures. If it is agreed to follow these procedures action will begin at a stage appropriate to the circumstances, having regard to the fact that the group may involve staff from more than one Unit. If it is not agreed to use this procedure, resolution of the collective issues will need to be through the normal process of collective bargaining under the relevant procedure agreement.

12. Time Limits

Time limits set out in these procedures are intended to reinforce the need to deal with grievances as quickly as possible, and should be followed unless varied by mutual consent.

13. Issues of Principle

A grievance which relates to the interpretation of an agreement negotiated with recognised Campus Unions, locally or nationally, will be referred to the Group People Director (or nominated Deputy) who will discuss with the local Union Official, the appropriate interpretation. If necessary and where there is a disagreement on the correct interpretation between the Group People Director, and the local Union Officer, this matter will be referred to the appropriate Negotiating Committee, or relevant Union Official.

14. Resignation

Where an employee who has registered a grievance leaves the employ of the University, the grievance procedure will cease unless, exceptionally, other employees may be affected by the outcome. An employee who has left the University cannot subsequently raise a grievance

under these procedures. This does not affect any rights that apply to a former employee under any statutory grievance procedures.

NOTE 1: Nothing in this procedure shall preclude resort by a member of staff to any proceedings to which she/he may be entitled under law.

NOTE 2: The Pro-Chancellor will act in the place of the Vice-Chancellor or the University Secretary where it is not appropriate for the Vice-Chancellor or the University Secretary to consider a particular complaint, and will decide any subsequent process.

Grievance Procedure Guidance for Conduct of Appeal Committee

- (i) The Chair is responsible for ensuring that the issues are explored thoroughly and fairly to achieve a fair and considered outcome.
- (ii) Those present at the Appeal Committee meeting will be:
 - The Chair
 - The member appointed by the staff side.
 - The member appointed by the Secretary
 - The parties to the grievance (including, where relevant, the person against whom a grievance is raised) and the manager who has considered the grievance at the Second Stage.
 - Representative(s), or friend of the parties to the Grievance if requested (see Clause 5 of the procedures)
 - A member of the People Hub will be in attendance to advise on issues of procedure and policy.
 - A member of the Central Secretariat will be Committee Secretary and provide administrative assistance, including taking a record of the meeting.
- (iii) The Chair will explain the purpose of the meeting, introduce the parties and outline the procedures which will be as follows:
 - The complainant will be invited to state his/her case first
 - The complainant may be questioned for the purpose of clarification through the chair by a person against whom a complaint has been made.
 - The complainant may call witnesses
 - The line manager/Head of Unit and/or other party will then present his/her case
 - The line manager/Head of Unit and/or other party/parties may be questioned for the purpose of clarification through the chair
 - The line manager/Head of Unit and/or other party/parties may call witnesses
 - Witnesses will be called one at a time and will remain in the meeting only when they are giving evidence or being questioned; witnesses may be questioned by either party and the members of the Appeal Committee.
 - After each side's case has been presented the person raising the grievance, the line manager/Head of Unit and/or other party/parties will each be asked to sum up. The parties to the grievance have a right to be present during the hearing. The Committee will not hear evidence from either party without the other party being present, unless a party to the Grievance has declined to be present at the Appeal Committee meeting.
- (iv) 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. Any

documentation being considered as part of the meeting will be made available to the parties to the Grievance at least 5 working days in advance of the meeting.

- (v) The parties to the Grievance should send details of their representatives, and any witnesses as soon as possible to the Committee Secretary. The Committee can itself call witnesses as well as the parties to the Grievance.
- (vi) The Committee has the authority to adjourn the proceedings or to dismiss the appeal at any time. The Committee shall at its discretion decide all matters of procedure and evidence and will be guided by the requirement to deal fairly and reasonably with all parties to the Grievance.
- (vii) The Committee will reach its conclusion without any of the parties directly being involved in the issue being present, but they may be recalled if the Committee wishes to explore the possibility of a settlement/resolution.