

REGULATION 30 GRIEVANCE PROCEDURE

A. GUIDANCE NOTES

Introduction

The University is committed to supporting its staff in carrying out their responsibilities to the highest possible standard within a culture which encourages productive and cooperative working practices. The University will aim to resolve staff grievances by seeking solutions which take into account the needs of all parties involved.

1. General

- 1.1 This procedure has been developed in accordance with the ACAS Code of Practice "Disciplinary and grievance procedures", 2009, and the relevant legislation¹. The procedure allows for grievances about aspects of an individual's employment to be dealt with quickly and in a fair and consistent manner.
- 1.2 This Procedure applies to all University staff and should be applied in accordance with the University's Equality and Diversity Policy.
- 1.3 This procedure and any revisions to it will be collectively agreed with the University's recognised trade unions.
- 1.4 A member of staff has the right to be represented at all meetings held in accordance with the grievance procedure. References to the member of staff in the procedure apply to the member of staff or his/her representative.
- 1.5 The latest version of this procedure will be held on the HR website at <http://www.sussex.ac.uk/humanresources/personnel/policies>

2. Principles

- 2.1 All staff must support the aim of resolving issues of concern relating to their employment informally through discussion with their immediate manager. Where a member of staff feels that his/her concerns have not been addressed adequately through this route, s/he should submit a formal grievance in accordance with the procedure outlined in part B.
- 2.2 Grievances should be addressed speedily to promote productive and harmonious working conditions.
- 2.3 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.

¹ Employment Rights Act, 1996, Section 1; Employment Act 2008

2.4 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.

2.5 Information provided by any party to a grievance will usually be shared with others involved in the grievance, including any other party to the grievance, those interviewed as witnesses, to HR staff involved in the proceedings, to those involved in investigations or hearings and to managers of the parties to the grievance. It is essential that those giving or receiving information during the consideration of a grievance under this procedure maintain confidentiality and privacy at all times during the grievance process. This applies to all documentation and meetings. The grievance statement and the outcome letter will be held within HR on the personal file of the aggrieved member of staff. Other relevant papers will be stored in Human Resources and flagged on the personal file of the aggrieved member of staff.

3. **Responsibilities and rights**

3.1 **Members of staff**

Members of staff are responsible for:

- (i) attempting to resolve any concerns about aspects of their employment at the earliest opportunity, in a constructive and informal way, through regular discussion with their immediate manager;
- (ii) discussing a grievance relating to another member of staff with him/her with the aim of resolving the issue without the need for the grievance procedure;
- (iii) providing managers with as much detail as possible about the issue of concern, and giving them a reasonable opportunity to consider it;
- (iv) making suggestions as to how a grievance could be resolved;
- (v) taking all reasonable steps to attend any meetings associated with the grievance;
- (vi) conducting themselves with dignity, honesty, and integrity to promote an atmosphere of mutual respect, in accordance with the University's equality and diversity and harassment policies.

Members of staff have a right:

- (vii) to seek guidance and advice from a trade union official or Human Resources prior to attending a grievance hearing;
- (viii) to explain their grievances and have them addressed in a fair and constructive manner;
- (ix) not to be treated less favourably than other members of staff as a result of raising a grievance.

3.2 **Managers**

Managers are responsible for:

- (i) providing staff with regular opportunities to raise any issues of concern relating to their work;
- (ii) resolving staff grievances at the earliest opportunity and in a constructive, sensitive and reasonable way, with particular sensitivity given to issues of an interpersonal nature, for example, a complaint of harassment;
- (iii) ensuring that they receive appropriate advice and training relating to the operation of the grievance procedure, subject to such training being provided by the University;
- (iv) consulting Human Resources before taking action under the grievance procedure;
- (v) ensuring that their actions are lawful and do not expose the University to legal liability, either by ill-advised action or negligence;
- (vi) conducting themselves with dignity, honesty, and integrity to promote an atmosphere of mutual respect, in accordance with the University's equality and diversity and harassment policies.

Managers have a right to:

- (vii) request more detailed information about a grievance in order to seek to resolve it.

3.3 **Human Resources**

Human Resources is responsible for:

- (i) training and advising managers on all aspects of the grievance procedure to ensure that staff grievances are resolved at the earliest opportunity;
- (ii) advising members of staff on the grievance procedure;
- (iii) providing training and briefings for managers who may be involved in grievance matters;
- (iv) keeping a formal record of any meetings held under the grievance procedure. This is not a verbatim record but a detailed and accurate summary of the proceedings;
- (v) monitoring the use of the grievance procedure across the University;
- (vi) ensuring that the grievance procedure is applied consistently throughout the University.

4. **Right to be accompanied**

- 4.1 At all stages of the grievance procedure, a member of staff may be accompanied by a fellow worker or trade union representative. The chosen companion will be allowed to address the hearing in order to put the member of staff's case, sum up the member of staff's case, and respond on behalf of the

member of staff to any view expressed at the hearing. The companion does not have a right to answer questions on the member of staff's behalf.

- 4.2 Members of staff must make a reasonable request to the University to be accompanied, for example, it would not be reasonable to request a companion whose presence would prejudice the hearing, or one who is from a remote geographical location if someone suitable and willing was available on site.
- 4.3 Members of staff are required to give notice of the name and relevant details of any companion to the Human Resources representative responsible for the case at least two working days prior to a meeting under this procedure.
- 4.4 If the chosen companion cannot attend on the date proposed and a suitable alternative companion cannot be found, the member of staff may propose an alternative date and time which is reasonable and is normally within five 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.
- 4.5 If the member of staff 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.
- 4.6 If the member of staff'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.
- 4.7 Where a grievance relates to another member of staff, this individual will have the same right to be accompanied as the aggrieved member of staff.

5. **Time limits**

- 5.1 Time limits are set out in the procedure to reinforce the need to deal with grievances as quickly as possible. They must be followed unless varied by mutual agreement.
- 5.2 Working days include all weekdays except days when the University is closed or where minimum service provisions apply.

6. **Exclusions**

- 6.1 The procedure cannot be used to resolve the following:
 - (i) matters relating to statutory deductions from pay which should be referred to Human Resources (Payroll) in the first instance. If the issue cannot be resolved through this route, Payroll staff will advise the individual on the courses of action available to him/her;
 - (ii) appeals against job evaluation outcomes, which should be dealt with under the HERA processes;
 - (iii) appeals against re-grading proposals or other reward payments, which should be dealt with under the pay review procedure;

- (iv) complaints about being subject to the capability procedure, or action taken under that procedure, which should be dealt with under the capability procedure;
- (v) 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;
- (vi) any matter which seeks to change an agreement reached with a recognised trade union, either nationally or locally. Such matters should be referred to the Chair of the relevant Joint Negotiating Committee for consideration by this group (if appropriate);
- (vii) a complaint against an actual or threatened dismissal, which should be dealt with under the appropriate procedure (for example disciplinary procedure, capability procedure or redundancy procedure);
- (viii) allegations which are covered by the University's Whistleblowing Procedures;
- (ix) issues which are outside the responsibility or control of the University in its role as an employer, for example statutory limits on night work or statutory rest periods (as defined by the Working Time Regulations).

6.2 Complaints about harassment or bullying should initially be dealt with under the University's harassment and bullying policy and procedures. Where the harassment continues, or where it is felt that the harassment procedures have not been applied correctly or have not resolved the concern, the grievance procedure should be used. It should also be noted that complaints of harassment may be dealt with under the University's disciplinary procedure rather than the university's harassment and bullying policy and procedure or grievance procedure if this is considered more appropriate.

6.3 At any stage of this Grievance Procedure, the relevant manager/panel dealing with the grievance at that stage, in his/her/its 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
- direct that the grievance should be considered at a formal hearing under any other procedures, for example, staff or student disciplinary procedure, whistleblowing procedure.

It shall be for the relevant manager or panel dealing with the grievance at the relevant stage to determine whether the grievance should be deferred, or should be considered at a formal meeting under another procedure or whether it falls outside this procedure by virtue of this paragraph and their decision on this shall be final. Any such decision should normally be made within 10 working days of receipt of the grievance.

6.4 A collective grievance which applies to more than one person may be dealt with under the procedures specified in Appendix 1.

7. **Statutory changes**

7.1 Any changes to statutory provisions that affect this collective agreement will automatically be incorporated.

8. **Statistical data**

8.1 Statistical data will be collected and reported to the Human Resources Committee, the Equality and Diversity Committee, and the Joint Negotiating Committees in order to meet the University's obligations under the relevant legislation. All reports will be anonymised.

9. **Review**

9.1 This procedure will be reviewed by Human Resources in association with the trades unions in response to relevant statutory changes, changes in University procedures or structures, changes in good practice, or as a result of analysis of the statistical data collected.

B. ACTION BEFORE FORMAL STAGES

1. **Informal Stage**

1.1 In advance of raising the grievance or any informal resolution of matters, the member of staff is encouraged to seek advice from a Human Resources representative to assist with the informal resolution of the complaint or concern. This could take the form of an informal conversation, in confidence, where the Human Resources representative would assist the member of staff in deciding how to progress the matter. Where appropriate, the option of mediation as a means of resolving the grievance will be discussed with the individual prior to any informal or formal action being instigated under this procedure (see 2 below).

1.2 Where a member of staff decides that s/he wishes to pursue the grievance, s/he should raise the matter with his/her line manager ("the relevant manager") either in person or in writing. Even when the grievance relates to actions or decisions of the member of staff's relevant manager, wherever possible the member of staff should commence by raising the matter with him/her in the first instance.

1.3 The relevant manager should allow the member of staff to explain his/her complaint and ask him/her how he/she would like to see the matter resolved.

1.4 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. 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 member of staff and the relevant 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. This could be facilitated by a mediator (see 2 below);
 - (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.
- 1.5 Where necessary, the relevant manager may need to explore the issues further by speaking to other members of staff or seeking advice before meeting again with the member of staff.
- 1.6 The informal stage will normally be completed within ten working days of the matter being raised. Where this is not possible, the reasons for the delay will be communicated to the employee.
- 1.7 Although this is an informal stage in the procedure, the relevant manager should make a summary note of the discussion and its outcome and provide a copy to the member of staff.
- 1.8 If the member of staff is not satisfied with the outcome, he/she may wish to pursue the formal stages of the grievance procedure.
- 1.9 Whilst it is not necessary for a Human Resources representative to attend meetings connected with the informal stage, advice should normally be sought by the relevant manager dealing with the grievance.

2. **Mediation**

- 2.1 Mediation is a process whereby a neutral third party 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 (through Human Resources) 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 Human Resources who will arrange external mediation.
- 2.2 Agreement to mediation does not preclude the member of staff from submitting a formal grievance at a later stage, if mediation is not successful in resolving the complaint. In such circumstances, the member of staff shall still raise any formal grievance promptly.
- 2.3 Further guidance on mediation is available at Appendix 1.

C. **FORMAL STAGES**

1. **Stage 1: Statement of Grievance**

- 1.1 If a member of staff feels that his/her work-related concerns have not been addressed adequately through informal discussion with the relevant manager, s/he should submit to the manager, copied to the relevant Human Resources

representative, details of the grievance **in writing**, setting out as fully as possible his/her specific complaint including any available evidence in support of the complaint and specify how he/she would like to see the matter resolved. Where the grievance relates to the immediate manager, it should be submitted to that person's manager, or, if that person is also involved, to the Director of Human Resources who will nominate a manager outside the individual's immediate area of work. Further information or clarification may be requested where the specifics of the complaint are not clear to the manager or where this is considered useful in undertaking or resolving the grievance. Staff 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, a work colleague, or a trade union representative who will offer help.

- 1.2 The relevant manager shall discuss the grievance promptly with the relevant Human Resources representative and will appoint a manager (who may be him/herself) to deal with the grievance (the "investigating manager"). The investigating manager should normally be appointed within ten working days of receipt of the grievance.
- 1.3 Where a grievance relates wholly or partly to the actions of a named member of staff, this individual will be notified of the grievance by the investigating manager without unreasonable delay, and will receive a copy of the grievance (or that part of that relating to him/her) and any documentation submitted with it.

2. **Stage 2: Investigation and outcome**

- 2.1 Following receipt of the grievance, the aggrieved member of staff shall be invited in writing to attend an initial meeting with the investigating manager and advised of his/her right to be accompanied in accordance with paragraph A4 above. This meeting will normally be held within 15 working days of the Investigating Manager being appointed. The purpose of this meeting is to allow the investigating manager to understand the nature of the grievance and to explore potential solutions. The investigating manager will explain the purpose of the meeting, introduce those present and outline the procedure to be followed. The aggrieved member of staff 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 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 aggrieved member of staff shall be asked to put those in writing if he/she wishes these to form part of the grievance. The investigating manager will arrange for Human Resources to keep a formal record of the meeting which will be copied to the aggrieved member of staff.
- 2.2 It may be appropriate for the investigating manager to undertake a further investigation into the grievance before reaching his/her decision. The investigating manager shall discuss with the aggrieved member of staff the scope of such investigation and the names of any potential witnesses or other members of staff who should be interviewed as part of this investigation. The investigating manager shall explain the proposed next steps and an estimate of the timescale for carrying out any investigation and responding to the aggrieved member of staff. The estimated timescale should be as short as is reasonably practicable, whilst allowing for a full investigation to take place.

- 2.3 Where the grievance concerns (in whole or in part) the actions of any other member of staff, he/she will be given the opportunity to respond in a meeting with the investigating manager to that part of the grievance which covers him/her. This member of staff shall also be informed of his/her right to be accompanied under paragraph A4 above.
- 2.4 It shall be for the investigating manager to determine the extent of the investigation he/she considers necessary to respond to the grievance, including the need to interview any other members of staff. If at any point in the investigation the investigating manager decides that the complaint is unfounded, vexatious or trivial, he/she may decide to reject the grievance without further investigation of the facts and report that decision to the member of staff. If the investigating manager considers that the subject matter of the grievance indicates a potential case of misconduct, he/she may decide that it is more appropriate to cease or put on hold any further consideration of the issues under this procedure, and to refer the issues for consideration under the staff disciplinary procedure.
- 2.5 The investigating manager shall ensure that notes are kept of meetings with the member of staff who has raised the grievance and any person interviewed as part of the investigation into the grievance. These notes will usually be a summary of the meeting, rather than a verbatim note. The members of staff concerned will be given the opportunity to agree or make comments on the notes of the meetings which they have been involved in.
- 2.6 The investigating manager shall normally provide the aggrieved member of staff with the notes of any investigatory meetings with other members of staff and invite the aggrieved member of staff to provide comments on these before the investigation is concluded. Likewise, where the grievance is wholly or partly against another member of staff, this individual will be provided with the notes of any investigatory meetings which relate to the grievance against him/her and give 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 investigating manager. If a further meeting is convened, the member of staff will be reminded of his/her right to be accompanied under paragraph A4 above. In light of these comments, the investigating manager shall decide whether any further investigations or comments from other colleagues are considered necessary.
- 2.7 The investigating 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). This report will normally be produced within 10 working days of the conclusion of the investigation. At the discretion of the investigating manager, a further meeting may take place with the member of staff who raised the grievance 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 aggrieved member of staff a copy of the investigating manager's report. If the grievance is not upheld, the aggrieved member of staff will be advised of his/her right to appeal the decision under the next stage of the grievance procedure. The report will also be provided to any member of staff against whom the grievance has been brought.

2.8 Where recommendations are made in the investigating manager's report, the Human Resources representative will ensure that these are forwarded to the appropriate individuals for action.

3. **Stage 3: Appeal to Grievance Panel**

3.1 A member of staff may appeal against a decision reached under stage 2 by submitting written notification together with all supporting documentation that the individual wishes to be considered to the Director of Human Resources within 10 working days of receiving written notification of the outcome of stage 2.

3.2 The appeal hearing is not designed to re-hear the grievance but to examine the grounds of appeal. Appeals may be raised on one or more of the following grounds:

- (i) that the decision of the investigating manager is flawed because the evidence did not support the conclusion reached;
- (ii) that new evidence not previously available has come to light since the investigating 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.

3.3 The Director of Human Resources (or nominee) will make arrangements for a Grievance Appeal Panel to be convened to consider the appeal. The panel will be appointed by the Vice-Chancellor (or nominee) and will consist of three senior¹ managers (a Chair and two other members) who have not been previously involved in the matter. For academic staff, one of the panel members will be an academic peer, and a second panel member will be a Head of School (but not from the same School as the aggrieved member of staff).

3.4 The investigating manager whose decision is being appealed shall have the opportunity to respond in writing to the grounds of appeal and to any request by the member of staff for witness evidence to be considered at the appeal meeting. The investigating manager may also request permission to call witnesses at the appeal meeting.

3.5 The Grievance Appeal Panel Chair ("the Chair") shall consider the grounds of appeal and shall have discretion at this stage to dismiss the appeal if it is considered to be trivial, vexatious or obviously without merit.

3.6 If the appeal is not dismissed on these grounds, the Chair will invite the member of staff to attend an Appeal Meeting and inform the member of staff of his/her right to be accompanied under paragraph A4 above. The investigating manager whose decision is being appealed shall also be entitled to attend and may be accompanied by a Human Resources representative. A second member of Human Resources may attend to take notes of the hearing. The Chair shall determine the need for any other person (including any witness

¹ Grade 8 or above

named by the member of staff or investigating manager) to attend the Appeal Meeting (in whole or in part) as a witness and where his/her attendance is requested, he/she shall have the right to be accompanied under paragraph A4 above.

- 3.7 The appeal meeting will normally be held within 20 working days of the Grievance Appeal Panel being appointed.
- 3.8 The purpose of the Appeal Meeting is to explore the grounds of the appeal and to determine whether any further investigation into the grievance is required. The member of staff 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. The investigating manager whose decision is being appealed shall be entitled to respond. The Appeal Chair may decide to adjourn and reconvene the meeting to hear witness evidence from any person.
- 3.9 The member of staff will receive written notification of the outcome of the appeal meeting within 10 working days of the later of the date of the meeting (or any reconvened meeting) or the date on which the further investigations concluded.
- 3.10 This is the final level of appeal.

4. **Conduct of a grievance appeal meeting**

- 4.1 The Chair will determine who should attend the meeting. In most cases this will be:
- (i) the Chair and two other panel members;
 - (ii) the aggrieved member of staff;
 - (iii) his/her representative or colleague;
 - (iv) the investigating manager whose decision is appealed;
 - (v) any relevant witnesses identified by the aggrieved member of staff, investigating manager or member of staff against whom the grievance is brought and whose attendance is agreed by the Chair;
 - (vi) a Human Resources representative who will advise on the procedure and keep a formal record of the meeting.
- 4.2 The aggrieved member of staff should ensure that any evidence in support of the grievance is submitted to the Chair at least three working days before the meeting.
- 4.3 Where a grievance relates to another member of staff, this individual will be allowed to attend the hearing as a witness in relation to those aspects of the appeal which relate to the complaint against him/her.
- 4.4 At all meetings, the aggrieved member of staff will have the opportunity to explain the nature of the grievance, and suggest how it could be resolved.
- 4.5 In the event that the Appeal Chair allows any witness to attend the Appeal Meeting, the complainant (or his/her representative) shall have the opportunity

to ask questions of the witness. The investigating manager shall have the opportunity to ask questions of the witness. The Appeal Chair shall also have the right to ask questions of anyone present.

- 4.6 If the Appeal Panel feel that it is appropriate to conduct further investigations or seek advice, the meeting will be adjourned.
- 4.7 At the conclusion of the Appeal Meeting the investigating manager and the member of staff (or his/her representative) shall have the opportunity to sum up his/her case.
- 4.8 Where possible, the Chair should inform the member of staff of the decision at the end of the meeting. This will then be confirmed in writing (including to any person against whom the grievance is brought) within the prescribed timescales.

Record of grievance meetings

- 4.9 A record will be made by Human Resources of all meetings held under the grievance procedure. A copy of the notes will be sent to the member of staff.
- 4.10 It is not the University's normal practice to tape record grievance meetings.

(Appendix 1 - under discussion)
