

GRIEVANCE POLICY AND PROCEDURES

1. Purpose

The University aims to settle genuine workplace grievances quickly, as near as possible to the source of the grievance and, where possible, at the informal stage. The purpose of this policy is to provide a means for individual employees or groups of employees to raise concerns on such areas as their terms and conditions of employment, health and safety, new working practices, equal opportunities, and relationships at work and have them dealt with fairly and objectively.

Most concerns can be dealt with quickly and informally by an individual's line manager. However if an employee is unhappy about the treatment that they have received or about any aspect of their work, and their attempts to resolve the matter informally have been unsuccessful, it may be appropriate for a formal grievance to be raised under this policy.

It is not appropriate to raise trivial matters via the formal grievance procedure – these should be resolved at the informal stage.

2. Scope

This Policy and supporting procedures apply to all UK based University employees and are designed to ensure that the University's approach to dealing with grievances is fair and consistent.

If the complaint relates to harassment or bullying, the matter should be dealt with under the Harassment and Bullying Policy and Procedure. If the complaint relates to a protected disclosure, ie a disclosure concerning an alleged criminal offence or other wrongdoing, then the Public Interest Disclosure Policy (Whistleblowing Policy) should be followed.

Employees not based in the UK will normally have a separate policy and process due to differing local Labour laws. This will be explicit in the appropriate contract terms and conditions.

3. Key Principles

The University is committed to ensuring a working and learning environment in which all staff are treated fairly and with respect. This policy promotes fairness, reasonableness and consistency and is in keeping with the Spirit of Heriot-Watt –

valuing and respecting everyone and supporting an environment for creating and sustaining a sense of pride and belonging.

The key underlying principles are:

- The procedure supporting this policy is intended to establish the facts quickly and to deal consistently with grievances.
- All complaints will be treated seriously, investigated promptly and in confidence.
- Grievances should be raised shortly after the event(s) that caused the complaint.
- No decision on the outcome of a formal grievance will be made before the case has been fully investigated.
- There is a right of appeal against the outcome of the Grievance Procedure.
- All employees have the right to be accompanied to the hearing of a formal grievance by a companion who is either a work colleague or a trade union official.
- The application of this policy and its supporting procedures recognise the right of academic freedom as set out in the Statutes and Ordinances.

The outcome of an investigated complaint may lead to disciplinary action being taken in line with the relevant Disciplinary Procedures.

The term 'employee' should be read in this policy and procedure to mean either an individual employee or a group of employees. Although the Grievance Procedure can be used when a group of employees has a complaint, matters that are covered by a trade union bargaining process (ie collective terms and conditions) will not be considered under the Grievance procedure. In these situations the concern should be raised with either the relevant trade union or with Human Resources.

Complaints that an employee may have about any disciplinary action taken against them should be dealt with through the appeals procedure outlined in the Disciplinary Procedure.

Grievances raised during disciplinary proceedings may result in disciplinary proceedings being suspended for a short period while the grievance is investigated or, where the grievance and disciplinary cases are related, may be heard concurrently during the course of the disciplinary process.

The making of malicious, vexatious or spurious allegations may give rise to action under the Disciplinary Procedures.

4. Responsibilities of Staff and Managers

All employees have a clear role to play in helping to create a climate at work where communication channels are kept open so that concerns are discussed and resolved at an early stage. In particular, employees should be aware of their own conduct; act in accordance with the University's values; avoid colluding with inappropriate behaviour; and co-operate fully in any complaint procedure and/or investigation.

In addition, **managers and supervisors** have a particular responsibility to act as role models; respond positively to complaints to avoid them escalating into grievances; and to challenge and stop unacceptable behaviour in the workplace.

Managers and supervisors have a responsibility to manage underperformance or concerns regarding an employee's conduct. During these discussions, managers/supervisors should give constructive feedback to help the employee understand what he or she has done that is unsatisfactory, why it is unsatisfactory and how to improve in the future. This should be done in a constructive, encouraging style, following the University's Performance Management Policy.

5. Time Limits

If at any stage of the grievance it is not possible to respond within the specified time limit, the employee must be given an explanation for the delay and informed of when a response can be expected.

6. Right to be Accompanied

An employee may be accompanied at any formal stage of the grievance procedure by a companion who is either a work colleague or trade union representative.

The companion may present all or part of the employee's case, however the employee should be prepared to answer questions or clarify any points during the grievance procedure.

It is the employee's responsibility to contact and make arrangements with their own companion. Employees who are accompanying a fellow employee to a grievance hearing are entitled to be paid for the time off work to do so.

Legal representation is not permitted during the grievance procedure for any party.

7. Role of Human Resources Department

The role of the Human Resources Department is to advise on the operation and application of this policy and procedure, and to take a proactive role in ensuring consistency of application across the University. There is no requirement to advise Human Resources of informal grievances, although the Human Resources Partner can be approached for advice if necessary.

Human Resources must, however, be notified of all formal grievances raised. The relevant Human Resources Partner will monitor the matter through all necessary stages. Human Resources can also provide additional guidance during the procedure to managers, the employee, any companion, and to any witnesses.

8. Records

Informal

For informal grievances, a written note of the date and nature of the matter together with any agreed outcome should be kept in confidence by the manager and copied to the employee. The note should be destroyed securely after three years, in accordance with the Data Protection Act 1998 and the University's Record Retention policies.

Formal

At the end of each stage, a complete record of all appropriate documentation generated during the various stages of the formal procedure must be passed to the Human Resources Partner. These records will be kept confidential, monitored under equality legislation, and retained for a limited period in accordance with the Data Protection Act 1998 and the University's Records Retention policies.

A summary of all grievances, outcomes and actions is maintained and general statistics reported for equal opportunity monitoring and FOI purposes. This summary is kept securely and confidentially with personal data removed in accordance with the Data Protection Act and the University's Records Retention policies.

9. Review

This Policy and related Procedure will be reviewed 3 years from the date of implementation and earlier if legislation dictates. Any proposed amendments will be subject to consultation in accordance with Ordinance 53. Such amendments will be notified to employees through the normal communication channels and/or e-mail. The Policy and Procedure will be maintained on the Human Resources Website.



GRIEVANCE PROCEDURE

The University recognises that formal grievances can be a stressful and upsetting experience for all parties involved, whether grievances are upheld or not. The purpose of the Grievance Procedure is to resolve issues in the workplaces quickly and fairly to minimise any stress caused during the process.

1. Informal Approach

Most grievances are best resolved informally. If an employee has a complaint relating to their work, he/she should first ask to talk to their line manager, or where the complaint relates to the line manager, with a more senior manager. The complaint does not need to be submitted in writing and it will not be recorded on Human Resources files. At the meeting, both the employee and the manager will explore in confidence how the matter could be resolved informally, and both parties will agree on any actions to be taken and dates by when actions will be taken. A written note of the date and nature of the matter together with any agreed outcome should be kept in confidence by the manager and copied to the employee.

Because the meeting is informal and such meetings are good management practice, there will be no right for the employee to be accompanied by a companion.

If the employee is dissatisfied with the outcome of the informal approach or it is not appropriate to use the informal approach due to the seriousness of the grievance, then the formal approach should be followed.

2. Formal Approach

At all times the grievance shall be dealt with as tactfully as possible and the requirements of confidentiality must be fully observed.

Submission of Written Grievance

If an employee wishes to raise a formal grievance, the employee should put their grievance in writing. This written statement should set out clearly the nature of the grievance, with supporting evidence where appropriate; what actions the employee has taken to resolve the grievance informally; and the outcome that is sought. It should be sent to either the line manager, (or where the complaint relates to the line manager, to a more senior manager) or to Human Resources. Where the grievance is received by the line manager or senior manager, this manager must inform Human Resources of the grievance.

Grievance Hearing

A management representative should be appointed to hear the grievance and establish the facts. The management representative will not be part of the management structure of the parties involved in the grievance nor will he/she have any involvement with the matter being complained about; will be senior to the parties involved; and have no conflict of interest. Respecting the right to conserve Academic Freedom, the role of management representative will be given to an individual with appropriate technical knowledge. Such appointments will be made subject to avoiding current and potential conflicts of interest.

Where specialist technical knowledge is identified as required by the Investigating Manager, an independent arbitrator may be called upon in instances where no appropriate internal expert is available. The relevant Human Resources Partner can help identify an appropriate representative to take this role. In most cases it will be possible for the Head of School, in discussion with HR to determine such appointments. In more complex cases, either a Dean of the University or the Vice Principal or delegated nominee will be consulted to make an appropriate appointment. Where an issue relating to Academic Freedom exists or has been raised by the individual, then a Dean or the Vice Principal or delegated nominee must be consulted and it may be appropriate that a lay member of Court hears the case.

The management representative will invite the employee to a hearing in writing so that his/her grievance can be discussed. The letter inviting the employee to the hearing should:

- State that the hearing will be held under the University's Grievance Procedure;
- State the time, date and location of the hearing, and the attendees (the management representative who will hear the case, the relevant Human Resources Partner who will be in attendance, and a note taker, also in attendance);
- Inform the employee that he or she has the right to be accompanied at the hearing, and that Human Resources should be informed of the name of this companion prior to the hearing;
- Ask whether any reasonable adjustments are required for either the employee or companion;
- Inform the employee that if they have any documentation they wish to use during the hearing, they should submit this, prior to the hearing, to Human Resources.

The hearing should be held without unreasonable delay after a grievance is received.

If, for genuine reasons, either the employee, respondent, or companion cannot attend on the date of the hearing, the hearing will be postponed to another date and time within five working days of the original date. When a companion is not available at the revised date, the employee must choose another companion.

At the hearing, the employee will have the opportunity to state his/her case and how they think it should be resolved. The grievance hearing can be adjourned at any stage during the proceedings if this appears necessary, for example, to investigate any claim made.

Minutes of the hearing will state the nature of the grievance, what was decided and actions to be taken, and the reasons for the actions. A copy of the minutes will be given to the employee. The employee will be asked to check if the document is an accurate summary of the discussion and then sign it.

Following the hearing, if the grievance is against another employee (the 'respondent'), the management representative must arrange to speak directly with the respondent to make them aware that they are the subject of a grievance. It is important this is done in person, where possible, due to the sensitivity of the matter and due to the potential distress this may cause. This should be followed up in writing to let them know a grievance has been submitted, enclosing all the evidence being considered and informing them of the time, date and location of a meeting where they can respond to the grievance against them. The respondent also has a right to be accompanied by a trade union representative or work colleague. The University has a duty of care to all employees, and recognises the importance of offering support to all parties during in the grievance process, including the respondent. This can involve external counselling where appropriate.

The management representative may wish to interview others in connection with the grievance and this will be done through separate meetings. These witnesses have a right to be accompanied by a trade union representative or work colleague. If interviews with others are to take place following the hearing, the employee should be informed of this and of when they might reasonably expect a decision.

Where the grievance has been raised collectively (by more than one person), the above process may be followed for each individual employee who has raised the grievance. Equally, it may be appropriate for all employees to attend the hearing together; or for one person to be appointed "spokesperson" by the others depending on the nature of the grievance.

After the Hearing

The management representative will, where possible, within five working days of the hearing and any subsequent investigation, reply in writing to the employee advising of the outcome of the hearing, and of the right of appeal. Good practice suggests that it is preferable to inform the employee in person and hand the letter over confirming what has been relayed verbally.

If the grievance has been against another employee, this respondent will also be advised of the outcome.

3. Appeal

In the event that the employee feels that his/her grievance has not been satisfactorily resolved, he/she has the right to appeal against the outcome of the grievance. An appeal must be submitted to the Director of Human Resources in writing within ten

working days of receipt of the written confirmation of the grievance outcome, stating the grounds of appeal.

An appeal hearing is not a rehearing of the original grievance but it will consider those specific areas with which the employee remains dissatisfied. Grounds of appeal will normally be due to further evidence being available which was not previously considered at the original investigation, insufficient consideration of specific factors during the investigation, a flaw in the procedure which could have influenced the final outcome, or where the outcome does not appear appropriate based on the findings of the hearing and any subsequent investigation.

The Director of Human Resources will appoint an appropriate person to deal with the appeal. The person appointed will normally be senior to the original management representative and will be presented with all the material available at the original hearing. Where specialist technical knowledge is identified as required by the appointed Chair of the Appeal Panel, an independent arbitrator may be called upon in instances where no appropriate internal expert is available. Where the appeal relates to Academic Freedom, a Dean or the Vice Principal or delegated nominee must be consulted and it may be appropriate that a lay member of Court hears the appeal.

Appeals will be heard without unreasonable delay and at a time and place which should be notified to the employee in advance. A Human Resources Partner and, where practicable, a note taker will be in attendance at the appeal hearing.

The employee has a right to be accompanied at an appeal hearing by a companion who is either a work colleague or a trade union representative. Employees should be informed in writing of the outcome of the appeal hearing where possible within five working days.

The decision of the appeal will be final.

4. Potential Outcomes

Potential outcomes of the formal stages of the Grievance Policy and Procedure can include:

- 1) Grievance not upheld
- 2) Grievance partly upheld, and part not upheld
- 3) Grievance upheld and further action will be taken as a result.

Where the grievance is upheld fully or in part, the University will determine appropriate actions as a result of the grievance. Recommendations can still be made, where appropriate, even when a case is not upheld in order to prevent similar complaints being raised in future. Action may be taken under the Disciplinary Procedure where the grievance was not upheld and the allegations made were found to be malicious, vexatious or spurious.

5. Potential Disciplinary Action

If the outcome of a formal grievance proposes any disciplinary action then the disciplinary procedure will be adopted. The investigation carried out during the formal Grievance Procedure will also take the form of the investigation prior to a disciplinary hearing.

6. Former Employees

There is no legal requirement to deal with grievances raised by ex-employees, however the University will consider a grievance raised by a former employee provided it is received within four weeks of the end of employment. Grievances raised by former employees should be submitted to the Director of Human Resources in writing. A modified form of the grievance procedure will apply in these circumstances with the complaint being investigated and a final response from the University being sent out to the former employee in writing.