

## The Ordinances Part 3: Dismissal, Discipline, Grievance Procedures and related matters pursuant to Statute 7

### 3.12 Grievance Procedure

#### *Part I : Introduction and Definitions*

1. This Ordinance is promulgated in accordance with the provisions of Part VI Clause 21 of Statute 7 and sets out the procedure for dealing with grievances by members of staff who fall within its scope.
2. In this Ordinance, unless the context indicates otherwise:-
  - i. 'The Statute' shall mean Statute 7;
  - ii. 'member of staff' shall mean any member of staff as defined by Clause 1(1) of The Statute;
  - iii. in relation to any decision or action that the University is required to make or to perform under this Ordinance, 'the University' shall mean: any member of staff who usually makes such decisions or performs such actions on behalf of the University, or who in the normal course of events may reasonably be expected to do so;
  - iv. a reference to 'clinical staff' shall be taken to mean a reference to any member of staff defined in Clause 20(1) of The Statute;
  - v. references to Deans shall be construed so as to include references to Heads of Professional Services or other equivalent units (and vice versa), and where there is no Dean, Head of Professional Service or equivalent unit, the President and Vice-Chancellor or his or her nominated representative may appoint a member of staff from such Faculty, Professional Service or equivalent unit to undertake the duties required of a Dean or Head of Professional Service by this Ordinance;
  - vi. references to University postholders (including those referred to in sub-paragraph (v) above) shall be construed to refer either to the postholder or to an appropriate member of staff nominated by the postholder to act with full authority on the postholder's behalf;
  - vii. where a post is held jointly by two or more postholders, a reference to the postholder shall be construed as a reference to any or all postholders holding that post, and any action authorised or required under this Ordinance may be taken by any such postholder.

#### *Part II : Application and Scope*

3. This Ordinance applies to members of staff as defined in Clause 1(1) of The Statute with the exception of the President and Vice-Chancellor, namely:-
  - i. members of the academic staff,
  - ii. members of staff with a grade of Level 4 or above in the University's grading structure, or an equivalent grade.
4. The procedure set out in this Ordinance applies to grievances raised by members of staff concerning their employment, which relate to themselves as individuals or their personal dealings or relationships with other staff of the University.
5. However, this procedure does not apply:-
  - i. to grievances, complaints or appeals for which provision is made in other Ordinances under The Statute; or

- ii. in respect of the outcome of any matter dealt with in other Ordinances under The Statute; for example in relation to redundancy (Part II of The Statute), discipline, capability and dismissal (Part III of The Statute), dismissal for reasons of medical incapacity (Part IV of The Statute) or other dismissals (Part V of The Statute); or
  - iii. to grievances, complaints or appeals where the Council has prescribed other procedures.
6. Any grievance which raises issues which are the subject of a disciplinary or other process shall not be considered under this grievance procedure, and must be raised through that disciplinary or other process.

*Part III : General Principles*

7. The aim of the procedure set out in this Ordinance is to settle or redress individual grievances brought by a member of staff promptly and fairly, and as far as possible in a manner acceptable to all the parties involved.
8. Grievances that apply to more than one person or to a group of staff may be dealt with together if, following discussions with the members of staff and/or their representatives, it seems sensible to do so, and this decision shall be at the University's discretion.
9. The University or the member of staff may propose mediation or similar initiatives aimed at resolving the grievance at any informal or formal stage of this procedure.
10. Grievances that are raised under this Ordinance should normally relate to a particular event or series of events that have occurred within a period of six months prior to the raising of the grievance.

**Dignity at work**

11. The University is committed to protecting members of staff from discrimination, harassment and bullying in the workplace and recognises that members of staff who feel they are subject to such behaviour may need additional support and advice in relation to raising concerns or grievances about these matters.
12. If a member of staff feels that he or she is subject to discrimination, harassment or bullying, he or she should refer to the University's policies and guidance in these areas and/or seek advice from Human Resources on the sources of support available and on raising issues either informally or formally under this Ordinance or under other procedures.

**Confidentiality**

13. Throughout any proceedings under this Ordinance, the University shall seek to ensure that confidentiality is maintained. However, this shall not preclude the University from disclosing information where necessary for the discharge of duties or as required by law, nor shall this preclude the University, where appropriate, from disclosing information about any outcome under this Ordinance.
14. There may be cases where it is appropriate to preserve confidentiality in relation to the identity of witnesses, where there is reasonably perceived to be a need to protect any member of staff from the risk of intimidation or retribution. Likewise, it may be necessary to adapt these procedures where it is considered undesirable for any one person to give evidence in the presence of another.
15. Members of staff should understand that in some circumstances their demand for confidentiality may make it difficult for the University to deal with the matters raised by them. Members of staff are advised to discuss any concerns with a member of Human Resources, trade union representative or (if appropriate) a harassment contact.

### **Right to be accompanied**

16. At any meeting or panel hearing held under this Ordinance the member of staff raising the grievance (the 'Complainant') may be represented or accompanied by a workplace colleague or trade union representative. If the Complainant's representative or companion is not available at the time proposed for the hearing, the Complainant may request that the meeting or hearing be postponed to another reasonable time which is no later than five working days after the date first proposed for the hearing. The representative may attend the hearing with the Complainant, may speak on the Complainant's behalf but may not answer questions (relating to the issues in dispute) on the Complainant's behalf.
17. A member of staff against whom a grievance is raised shall also have the right to be represented or accompanied by a workplace colleague or trade union representative at any meeting or panel hearing held under this Ordinance.
18. A member of Human Resources shall be entitled to attend any meeting or panel hearing held under this Ordinance in an advisory capacity.

### *Part IV : Informal Resolution Stage*

19. It is expected that most issues will be dealt with and resolved as part of the normal day-to-day management process, and through discussion with and between members of staff.
20. Where issues arise that cannot be so resolved, the Complainant may raise the issue as a grievance under this Ordinance.
21. The Complainant shall first be expected to attempt, as far as is reasonably possible and appropriate, to resolve the grievance on an informal basis through discussions under the Informal Resolution stage of this Ordinance. These should normally involve the Complainant's immediate line manager (or his or her manager if the line manager is the subject of the grievance), and any person(s) against whom the grievance is being contemplated or raised. The discussions should explore the nature and background of the concern, problem or complaint and seek possible solutions to resolve the issue at this stage. A note should be made of the meeting and main areas of discussion and any actions agreed as a result.
22. In some cases, the University may propose that mediation between the Complainant and a person who is the subject of the grievance takes place as an appropriate way forward to help find a resolution to the problem, provided that both parties are willing to explore this option. Mediation may be undertaken with a University mediator or a mutually agreed third party.
23. If the grievance cannot be resolved in this way, either because informal discussions are, in a particular instance, inappropriate, or because they have failed to resolve the grievance, then the formal procedure below should be followed.

### *Part V : Formal Resolution stages*

24. The aim of each of the stages detailed below is to seek to resolve the grievance and identify any actions that may need to be taken as a consequence of such resolution.

#### **Stage 1**

25. The 'Stage 1 Manager' shall normally be the Complainant's Dean or Head of Professional Service or his or her nominee. If such person is the subject of the grievance being brought, the Complainant should raise the matter with a Vice-President, a Pro Vice-Chancellor or the Chief Operating Officer, as appropriate. If a Vice-President, a Pro Vice-Chancellor or the Chief Operating Officer is the subject of the grievance, the Complainant should raise the matter with the President and Vice-Chancellor. Should the President and Vice-Chancellor be the subject of the grievance, the Complainant should raise the matter with the Chair of the Council or his or her nominated representative.
26. The Complainant should write to the Stage 1 Manager, giving sufficient detail to enable him or her to understand and consider the scope of the grievance, and indicating the extent and

outcome of any attempts to resolve the grievance informally as provided for in Part IV above and why the outcome of such attempts is felt to be unsatisfactory.

27. The Stage 1 Manager shall, in conjunction with Human Resources, consider whether the grievance is concerned with matters which should be investigated by the University under other procedures and shall advise the Complainant accordingly if this is the case.
28. Where the grievance is to be dealt with under the formal procedure in this Part, the Stage 1 Manager shall make or cause to be made such investigation as he or she deems appropriate, according to the nature and circumstances of the case and shall inform the Complainant, normally within five working days of receipt of the written grievance, that an investigation is to be made and its anticipated timescale. The investigation may be extended if necessary and where this occurs the Complainant shall be advised accordingly. As part of this investigation, clarification may be sought from the Complainant on any aspect of the grievance and on the outcome sought by the Complainant. The Stage 1 Manager shall, unless he or she deems it to be inappropriate, discuss the grievance with any person to whose conduct the grievance relates.
29. Following any investigation the Stage 1 Manager shall write to the Complainant inviting him or her to attend a meeting at which the Complainant may explain his or her grievance and the outcome sought. The Stage 1 Manager shall also inform the Complainant of his or her right to be represented or accompanied at the meeting in accordance with paragraph 16 above.
30. A member of Human Resources shall be present at the meeting in an advisory capacity.
31. After the meeting the Stage 1 Manager shall inform the Complainant in writing, normally within ten working days of the meeting, of his or her response to the grievance and any action to be taken as a result. The Stage 1 Manager may make any recommendation that he or she considers appropriate. If the Stage 1 Manager's finding is that the grievance is frivolous or vexatious or invalid, the Stage 1 Manager shall record this finding, and the reasons, in his or her written notification.
32. The written notification shall indicate the procedure for the Complainant to proceed to Stage 2 if he or she is not satisfied with the Stage 1 Manager's response.

#### **Stage 2**

33. If the Complainant is not satisfied with the Stage 1 Manager's response, he or she should appeal to the Director of Human Resources, normally within ten working days of the Stage 1 Manager's written notification of the outcome, setting out:-
  - i. full details of the grievance;
  - ii. details of the steps he or she has taken in attempting to resolve the grievance so far, enclosing copies of all correspondence with the Stage 1 Manager;
  - iii. reasons why he or she is dissatisfied with the outcome of Stage 1 of the procedure and the outcome sought.
34. If the Complainant's appeal is against a finding by the Stage 1 Manager that the grievance is frivolous, vexatious or invalid, the Director of Human Resources shall appoint a manager of appropriate seniority to hear the appeal. The person appointed to hear the appeal shall invite the Complainant to a meeting at which he or she may be represented or accompanied in accordance with the provisions of paragraph 16 above. The purpose of the meeting is to consider whether the Stage 1 Manager's finding that the grievance is frivolous, vexatious or invalid was justified. A member of Human Resources shall be present at the meeting in an advisory capacity. Following the appeal meeting the person appointed to hear the appeal shall notify the Complainant in writing, normally within five working days, whether his or her decision is to:-
  - i. uphold the finding of the Stage 1 Manager, in which case there shall be no further right of appeal and the written notification to the Complainant shall state this fact; or

- ii. overturn the finding of the Stage 1 Manager, in which case the Complainant shall be notified in writing that the matter will be referred to a panel under paragraph 35 below.

The Director of Human Resources shall be given a copy of the written notification of the decision.

35. In all other cases the Director of Human Resources or his or her nominee shall convene a panel (the 'Grievance Panel') on a case-by-case basis in accordance with the following rules:-
  - i. subject to sub-paragraph (v) below, each Grievance Panel shall consist of three persons;
  - ii. at least one member of the Grievance Panel shall be a lay member of the Council and one shall be a member drawn from a list agreed from time to time by the Senate. The third member may be another lay member of the Council or may be chosen from among the senior management of the University, such as a Vice-President, a Pro Vice-Chancellor, Chief Operating Officer, Dean or Head of Professional Service who shall chair the Grievance Panel unless the Grievance Panel resolves otherwise;
  - iii. if the hearing will involve consideration of issues related to a member of clinical staff's clinical conduct or competence, the chair of the Grievance Panel may permit the member of clinical staff to be represented or accompanied by a member of his or her defence organisation. Such a representative may be legally qualified but he or she will not, however, be representing the member of clinical staff in any legal capacity;
  - iv. no panel member shall have had any previous involvement in the case;
  - v. where the panel is dealing with a member of clinical staff then a representative of a National Health Service or other relevant body may be appointed to the panel: where this occurs the panel may consist of more than three members, but shall not exceed five persons.
36. The Director of Human Resources or his or her nominee shall appoint a member of Human Resources to act as Secretary to the Grievance Panel.
37. The Complainant shall be given no less than ten working days' written notice of:-
  - i. the date, time and place of the Grievance Panel Hearing;
  - ii. his or her right to be represented or accompanied at the Grievance Panel Hearing;
  - iii. so far as they are known at the time, the names of the persons to be present at the hearing including the members of the Grievance Panel and any person appointed to present the background to the matter on behalf of the University;
  - iv. a copy of any documents to be referred to or relied on at the hearing;
  - v. the names of any witnesses who will be called to give evidence in relation to the issues being considered at the Grievance Panel Hearing;
  - vi. a reference to this Ordinance.
38. The Complainant may be represented or accompanied at the Grievance Panel Hearing in accordance with paragraph 16 above.
39. At least five working days before the Grievance Panel Hearing the name and address of the Complainant's representative must be notified in writing to the Secretary to the Grievance Panel.
40. The Complainant shall take all reasonable steps to attend the Grievance Panel Hearing and/or any adjournment or postponement of the Grievance Panel Hearing. Where the Complainant indicates to the Grievance Panel that he or she does not wish to exercise his or her right to be heard or fails to attend or leaves the hearing or any postponement or adjournment of the

hearing without good cause, the Grievance Panel shall be entitled to proceed in the Complainant's absence.

41. The procedure to be followed in preparation for and at the Grievance Panel Hearing shall be at the discretion of the Grievance Panel, which may include without limitation:-
- i. determining which documents (if any) shall be provided for the Grievance Panel's consideration and at what stage;
  - ii. determining the extent (if any) to which witnesses may be called and questioned;
  - iii. deciding whether it would be appropriate to adjourn or postpone the Grievance Panel Hearing;
  - iv. determining whether and to what extent any person(s) to whose conduct the grievance relates may attend the Grievance Panel Hearing to answer allegations and make representations (in which case he or she will be entitled to be represented or accompanied in accordance with paragraph 17 above and be notified in advance of the details of the Complainant's grievance).

#### **Notification of decision**

42. Following the hearing, the Grievance Panel shall decide whether the grievance is or is not well-founded and what actions, if any, should be taken as a consequence. The Grievance Panel shall issue its reasoned written decision, normally within ten working days of the panel hearing, which will be sent to the Complainant. A report of the decision shall also be sent to the Council and, if applicable, to the person(s) against whom the grievance was raised and to the Stage 1 Manager.
43. The decision of the Grievance Panel shall be final.

#### **After employment**

44. Where, after employment has ceased, it is not reasonably practical to apply the normal procedure above, the former member of staff shall set down in writing the nature of the alleged grievance and send it to the Director of Human Resources. The University will consider the grievance and either respond in writing or invite the member of staff to a meeting to discuss the grievance.