

GRIEVANCE POLICY

HR

NB. This policy is available on the University of Cumbria website and it should be noted that any printed copies are uncontrolled and cannot be guaranteed to constitute the current version of the policy.

POLICY SCHEDULE	
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Policy lead contact	HR
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A. POLICY

1. Introduction

- 1.1 The University is committed to providing a positive and supportive working environment for all employees and recognises a formal grievance policy and procedure is necessary for the effective operation of the University by encouraging all employees to raise problems which cannot be resolved informally. The University also recognises that formal grievance policy and procedure is a necessary part of ensuring that all individuals are treated fairly and consistently.
- 1.2 A grievance is a problem, concern or complaint somebody may raise about any act or omission by the University, which has a negative impact on their work, working conditions or relationships with colleagues and specifically the circumstances listed in [Appendix 1](#). This policy shall apply to all grievances (including collective grievances if appropriate to the circumstances, although amendments to the procedure may be made to accommodate collective grievances). Note: there are separate procedures in relation to job evaluation and grading of roles.
- 1.3 The formal procedure should only be invoked following all attempts to resolve the grievance informally, unless this is not reasonably feasible.
- 1.4 The University and the recognised trade unions strongly encourage employees with a grievance to approach their immediate line manager (unless paragraph 4.3 applies) promptly and informally in the first instance. Where deemed appropriate informal approaches, i.e. facilitated meetings, mediation etc. may be considered as a means of resolving an issue. However, where employees are unable to resolve the grievance informally then the procedure outlined below provides a formal process for addressing the issue

- 1.5 In any complaints of alleged bullying, harassment, violence or discrimination, the person receiving the allegation should contact HR before any action is taken. In cases where an employee makes a number of allegations but refuses to engage in an investigation process, the University reserves the right to conduct an investigation based on the information received.

2. Equality, Diversity and Inclusion Statement

- 2.1 The University values equality and diversity and is committed to maintaining an environment where its employees, students and visitors are treated fairly and with respect at all times. It aims to ensure that its actions and working practices comply with both the spirit and intention of the Human Rights Act (1998) and the Equality Act (2010) which relates to the protected characteristics of age, disability, gender reassignment, marriage & civil partnerships, pregnancy & maternity, race, religion or belief, sex and sexual orientation.
- 2.2 The University supports the need to make reasonable adjustments for disabled employees whose condition means that they cannot fully participate in the process; the University will work with the individual to provide appropriate support. For example, in addition to a chosen companion, it may be appropriate to allow a suitable specialist to attend meetings.
- 2.3 For employees whose first language is not English, it may be appropriate to allow them to be accompanied by someone who can provide support with communication in English. In all cases it is the responsibility of the employee to request such support from a member of HR or their line manager as soon as possible.

3. Scope

This policy and procedure applies to all employees of the University of Cumbria, who work under a contract of employment, with the exception of holders of senior posts¹ for whom separate procedures apply.

4. Aims and Objectives

- 4.1 The aims of this policy and procedure are to:
- 4.1.1 resolve promptly and fairly employee complaints that cannot be resolved in the course of day to day relationships;
 - 4.1.2 provide points of contact and timescales to resolve issues of concern; and
 - 4.1.3 inform employees and managers of the procedures which will apply to hear formal grievances.

¹ Holders of senior posts are those posts referred to in the Memorandum and Articles of Association as "Vice-Chancellor, and the holders of such other senior posts of the University as the Board of Directors shall from time to time determine"

- 4.2 This policy and procedure also provides:
- 4.2.1 managers with advice and support on handling work related grievance issues; and
 - 4.2.2 employees with support and information about the University's approach to handling work related grievance issues.
- 4.3 Employees should seek to resolve any concerns they may have informally with their line manager, in the first instance, and this is recommended. Where a grievance involves the employee's immediate line manager, then the procedure should be invoked at the next level of management.
- 4.4 Wherever possible, matters will be dealt with and resolved informally. If deemed appropriate, or at the request of either party (and in agreement with both parties), a mediator or facilitator may be requested to engage with both parties to seek to support the resolution of the matter.
- 4.5 If the matter remains unresolved the formal process detailed below should be followed.
- 4.6 At each level at which a grievance is heard the matter must be dealt with without unreasonable delay and a reply given to the employee as soon as practicable. Normally, formal grievances will be heard and investigated (where appropriate) within 4 weeks of the grievance being raised. However, it is recognised that in exceptional cases / complex grievances, it may not be possible to adhere to this limit and new timeframes will be agreed, where applicable.
- 4.7 Where it is not practicable to adhere to the time limits stated, all relevant parties will normally be advised of the reason why. The ACAS Code states that where an employee is persistently unable or unwilling to attend a Grievance meeting/hearing without good cause the employer should make a decision from the evidence available. The University defines persistently as an employee failing to attend two scheduled times for the same meeting/hearing (namely failing to attend a reasonably re-arranged meeting/hearing at the set date and time having previously agreed to attend or having previously failed to inform the University of an inability to attend the date or time suggested and arranged).
- 4.8 The timing and location of the meeting/hearing must be reasonable and in all circumstances investigation meetings/hearings will be conducted with impartiality and fairness. The employee must take all reasonable steps to attend meetings/hearings that have been arranged.
- 4.9 The employee will have the right to be accompanied by a "companion" at any grievance meeting/hearing. The chosen companion may be a work colleague, a trade union representative or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

- 4.10 Where appropriate, a meeting/hearing may be adjourned to allow further investigation into matters or issues raised to take place. On the advice of HR, an Investigating Officer may be appointed.
- 4.11 The University reserves the right, where deemed appropriate, to appoint a panel to hear a grievance.
- 4.12 Consideration should be given (and advice sought) as to whether the matter also needs to be referred to the relevant professional body.
- 4.13 Employees involved in a grievance process will be offered appropriate support (emotional and professional), both during and following an investigation. This may take the form of:
- Occupational Health support
 - Employee Assistance Programme (EAP)
 - HR support
- 4.14 At any point during the formal procedure an employee may withdraw their grievance by confirming the withdrawal in writing to the person hearing the grievance.

5. Roles and Responsibilities

In order to support the implementation of this policy, it is the responsibility of:

5.1 Managers

- a) to establish if informal means (where appropriate) i.e. facilitated meetings, mediation etc. can resolve the issue first;
- b) to comply with the grievance policy and procedure;
- c) to ensure employees are aware of the policy and procedure; and
- d) to ensure the fair and consistent application of the policy and procedure.

5.2 Employees

- a) to be aware of the grievance policy and procedure; and
- b) to aim to settle any concerns informally with their Line Manager where possible in the first instance.

5.3 HR

- a) to ensure that the grievance policy and procedure is readily available and understood;
- b) to provide advice, training, support (including administrative support) and guidance on its application;
- c) to review and monitor the operation and effectiveness of this policy and procedure; and
- d) to ensure compliance with legal obligations and the ACAS Code of Practice.

6. Definitions/Authorities

Under this policy, the following authorities apply:

Policy / Process	Delegated Powers	Delegated Right of Appeal
Grievance Policy	Line manager (or delegated other person if the grievance involves the line manager) unless where a line manager does not have the authority to resolve a grievance, then another manager with the appropriate level of authority will be identified by HR to hear the grievance	As far as is reasonably practicable, by a more senior person than the person who conducted the first meeting, and who has not previously had a material involvement in the matter

UNIVERSITY OF CUMBRIA

POLICY DOCUMENT CONTROL SCHEDULE

All University of Cumbria Policies must include a completed Policy Document Control Schedule consisting of the Policy Schedule (see front cover) and Review Schedule and (see below) which should be completed as appropriate.

REVIEW SCHEDULE				
Version no.	Review interval	Reviewed by	Approved by	Date of Approval
V01	2008/2009	HR	EPC/JNCC	June 2007
V02 – 010311	2013/2014	Denise Mace	EPC/JNCC	February 2011
V03 - 01122011	2014/2015	Gill Wilson	EPC/JNCC	November 2011
V04 – 010813	2013/2014	Nicky Allen	EPC/JNCC	June 2013
V05 - 020118	2019/2020	Sam Fryers	EPC/JNCC	February 2017

B. PROCEDURAL GUIDELINES

The following procedural guidelines will apply, however on occasions, and for exceptional/other good reasons, there may be the need to vary the procedures to suit individual cases/circumstances, and accordingly the University reserves the right to amend the procedures. The University will consult with the recognised union(s) regarding any proposal to vary the procedure.

1. Informal Process

- 1.1 The University will seek to resolve matters quickly and informally through discussion, wherever possible, e.g. through a facilitated meeting of parties. The University is committed to ensuring that differences and difficulties can be resolved amicably through open communication. This is more likely to produce effective solutions, minimise conflict and allow employees to maintain positive working relationships.
- 1.2 Before an employee raises a grievance, if at all possible, they should discuss the situation informally with the individual(s) concerned. Sometimes they may not be aware that their behaviour or actions are causing a problem. Often, issues can be resolved at this point through discussion and clarification. The employee should seek advice from their line manager, HR or a trade union representative.
- 1.3 If an issue cannot be resolved as detailed above, employees who wish to try to resolve their grievance informally should discuss the issue with their line manager in the first instance; in a situation where the employee feels that their concerns relate to their line manager, they may wish to raise these informally with a manager of either the same level or more senior.
- 1.4 The manager should follow up any discussions outside of the formal procedure with a note to the employee confirming their discussion, and any agreed actions and development.
- 1.5 Where a grievance is raised in writing (The Grievance Form (HR5) may be useful), the University and the person receiving the grievance will explore with the employee informal ways of resolving the grievance, where appropriate, before instigating the formal procedure.

2. Mediation

- 2.1 At any stage in this procedure, mediation may be employed to help resolve the issue. If both/all parties agree to mediation, the grievance procedure will be put on hold whilst the mediation takes place. In the event that no mutually acceptable solution is reached, through the mediation process, the procedure will be reconvened from the point where it was put on hold.
- 2.2 If the grievance is resolved through mediation, the mediator will assist the parties to draft a written agreement that will be signed by both parties as acceptance of its terms.

3. Formal Process

- 3.1 If attempts to resolve concerns informally or via mediation prove unsuccessful for the employee and they feel that the matter is sufficiently serious to address formally, they should raise their grievance in writing, and without unreasonable delay, by completing the Grievance Form (HR5). This written statement will form the basis of the subsequent grievance hearing and any investigations so it is important that the employee:
- sets out clearly the nature of their grievance;
 - indicates the reasonable outcome/ resolution that they are seeking (e.g. an apology or a change within process);
 - focuses on the facts of the situation; and
 - provides clear evidence for the facts and figures (as part of the evidence it may be advisable to call upon witnesses, however it is important to first consider whether a witness has something relevant to say to support the grievance)
- 3.2 Upon receipt of a formal grievance the line manager should contact HR before any action is taken. HR will provide further guidance and support and will appoint a Grievance Officer. This may be the line manager if appropriate , or another manager. In some cases, it may be appropriate to address a grievance in writing, without the need to convene a grievance hearing; this option will only be taken with the employee's agreement.
- 3.3 In cases where an employee has alleged some form of bullying, harassment, violence or discrimination, the line manager (or person receiving the allegation) should contact HR for advice. Where appropriate, the Grievance Officer may invite the employee to a meeting to discuss the grievance, even if the employee has not made a written statement of grievance or completed the Grievance Form (HR5).
- 3.4 The Grievance Officer will invite the employee raising the grievance to an initial meeting to discuss the grievance and during this meeting the employee raising the grievance must specify the outcome they are seeking and what, if any, actions they have already taken to resolve the issue informally. This will normally be within a period of 14 calendar days from receipt of the grievance. The employee shall be advised of the following:
- (a) the date, time and venue of the meeting;
 - (b) the entitlement to be represented or accompanied by another of the University's employees or a trade union official;
 - (c) the right to provide details of witnesses considered to be relevant.
- 3.5 Where appropriate, a meeting/hearing may be adjourned to allow further investigation into matters or issues raised to take place or to invite others whose attendance is deemed relevant / helpful. Where possible the investigation will take place within 14 calendar days from the date of the adjournment to allow the original meeting to reconvene.

- 3.6 If either the employee or the Grievance Officer wishes to refer to any documents or call any witnesses during the meeting, copies of the documents and details of the witnesses should be made available to the Grievance Officer or the employee, as appropriate, in advance of the meeting/hearing and normally at least three calendar days before the meeting.
- 3.7 The Grievance meeting/hearing must be conducted in a manner that enables the employee and any other appropriate party to explain their case.
- 3.8 Once a Grievance Officer has completed the investigation they must summarise their findings in a report, which may include witness statements, with any recommendations. A copy of the report should be made available for the employee who raised the grievance.
- 3.9 Written confirmation of the outcome of the grievance meeting will be sent to the employee within 7 calendar days of the grievance meeting/hearing date. A grievance can, on occasion, be upheld in part. In addition to giving a full written explanation of the outcome, the Grievance Officer may detail actions to be taken and the timescales. Any actions from the grievance will be monitored jointly by the appropriate manager and HR to ensure the actions are completed.

4. Trade Union Representatives

If a grievance is brought against a Trade Union representative or officer, the matter should be referred to the Head of HR & OD who should engage with the relevant Regional Union official before the matter is progressed. This is in order to determine whether the grievance is against the Union or the individual acting in a non-union capacity.

5. Vexatious Grievances

The purpose of the grievance procedure is to ensure that the appropriate channels are available through which employees can raise genuine concerns. Where, after an investigation, a grievance is found to be vexatious or malicious, or where there is a continued pattern of unfounded complaints by the same employee, the complainant may be subject to disciplinary action.

6. The Appeal

- 6.1 An employee has the right to appeal against the outcome of a grievance meeting. Written notice of the appeal, setting out the grounds for the appeal, must be sent to the Head of HR & OD, within 7 calendar days of receiving the outcome of the grievance meeting.
- 6.2 An employee can appeal against the outcome of a grievance on the following grounds:
- Procedural irregularity
 - New evidence not previously available for good reason.
- 6.3 As far as is reasonably practicable, the appeal must be conducted by an Appeal

Officer, who is a more senior person than the Grievance Officer and who has not previously had a material involvement in the matter. HR will advise as appropriate.

- 6.4 The appeal will be heard as soon as possible and the employee shall be entitled to 7 calendar days' notice of the date, time and venue of the appeal, unless an earlier date has been mutually agreed.
- 6.5 The appeal will normally take the form of a review of the original investigation.
- 6.6 The decision of the Appeal Officer will be communicated to the employee in writing within 7 calendar days of the appeal meeting date.
- 6.7 The decision of the Appeal Officer shall be final.

Appendix One

THE FOLLOWING ARE EXAMPLES OF SITUATIONS WHICH WILL NORMALLY BE DEALT WITH UNDER THE GRIEVANCE PROCEDURE. IT IS NOT AN EXHAUSTIVE LIST

- a) alleged equality discrimination as defined within the Equality Act 2010;
- b) allegations of unfair treatment e.g. Harassment and Bullying;
- c) alleged detriment owing to Trade union membership, activities and Union recognition rights;
- d) alleged detriment as a result of holding office as an elected Trade union representative or running as a candidate for such an office;
- e) cases involving a dispute relating to equality of pay;
- f) an allegedly unlawful deduction from an employee's wages or the receipt, by the University, of an unlawful payment from the employee;
- g) alleged detriment owing to the employee carrying out activities to promote health and safety or representing workers on a health and safety committee, or taking part in the election of or running of a safety committee;
- h) alleged detriment in relation to a practice of the University contrary to the Working Time Regulations 1998;
- i) a complaint relating to an employee's rights under the Working Time Regulations 1998;
- j) alleged detriment on the grounds that a person has exercised the right to time off with remuneration for study or training;
- k) alleged detriment on the grounds that a worker has made a protected disclosure;
- l) alleged detriment on the grounds that a worker has taken leave for a family or domestic reason;
- m) circumstances that could give rise to what is referred to as a complaint of constructive unfair dismissal;
- n) a dispute surrounding an employee's right to a redundancy payment (and/or the amount);
- o) alleged detriment in relation to an employee's rights in relation to the National Minimum Wage;
- p) alleged detriment on a ground that an employee has acted, or proposed to act as an information and consultation representative or has sought to enforce a right under the Transnational Information and Consultation etc. Regulations 1999.