

Major changes to the original draft published on the Statute 24 webpage are highlighted in yellow.

No changes since 11 April 2017 version

Grievance policy and procedure

In summary:

The grievance policy and procedure provides a framework for the consideration of grievances in a fair, consistent, timely and effective manner. Grievances are concerns, problems or complaints that employees raise with their employer. Employees are encouraged to carefully consider the nature of their grievance and wherever possible to explore resolution informally prior to commencing the formal procedure.

The grievance policy and procedure applies to all University employees.

This policy and procedure is underpinned by the principles outlined in Statute 24 that academic employees have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.

Purpose

1.1. The grievance policy and procedure provides a framework for the consideration of grievances in a fair, consistent, timely and effective manner. Grievances are concerns, problems or complaints that employees raise with their employer. Employees are encouraged to carefully consider the nature of their grievance and wherever possible to explore resolution informally prior to commencing the formal procedure.

1.2. The grievance procedure would be normally be invoked in relation to employment issues, for example:

- terms and conditions of employment;
- organisational changes;
- Equality and Diversity;
- new working practices;
- working environment;
- work relations;
- Health and Safety;
- complaints under the Dignity at Warwick policy.

This list is illustrative and not exhaustive.

2. Scope

2.1. The grievance policy and procedure applies to all University employees.

3. Principles

3.1. This policy and procedure is underpinned by the principles outlined in Statute 24 that academic employees have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.

3.2 The grievance policy and procedure have been developed in accordance with the ACAS Code of Practice and relevant legislation.

3.3. Where a grievance has been lodged in line with the grievance procedure, all those concerned shall seek to maintain a situation that does not unnecessarily aggravate the grievance and ensure the confidentiality of the matters raised.

3.4 The resolution of some issues will require an element of compromise. Where possible, the University shall seek to resolve the matter to all parties' satisfaction, however, in certain situations this may not always be possible.

3.5. In circumstances where a grievance may apply to more than one person and where a Trade Union is involved then it may be appropriate for the problem to be resolved within existing collective agreements between the Trade Union(s) and the University.

3.6. Where there are a number of individuals with the same grievance then the employees concerned should still submit individual grievances, but it may be deemed appropriate to have a single investigation, with one Investigating Officer and one grievance hearing.

3.7 The grievance procedure does not normally relate directly to the following, unless the grievance falls outside the remit of the following policies.

- grievances relating to job evaluation should be addressed through the job evaluation appeals procedure
- grievances in relation to the disciplinary procedure should be addressed via the disciplinary procedure's appeal process
- grievances about the management of underperformance procedure should be dealt with under the management of underperformance appeals procedure.
- grievances about requests for flexible working should be addressed through the appeals process within the flexible working guidance
- grievances relating to service provision where a service user feels that their expectations have not been met should be dealt with under the University complaints and feedback procedure
-). grievances about the non -renewal of fixed term contracts or redundancy appeals should be dealt with via an appeal against the dismissal
- issues which are outside the responsibility or control of the University in its role as employer, for example statutory limits on night work or breaks.

3.8 A former employee does not have a right to submit a grievance using the University's grievance procedure; however the University will consider on a case by case basis how to deal with grievances from employees who have raised issues within three months of leaving the University's employment. Where a grievance is received after an employee has left the University's employment, the department should notify their link HR Adviser who will be able to provide appropriate advice.

4. Responsibilities

4.1. Manager/Head of Department¹

4.1.1. Managers/Head of Departments are responsible for:

¹ Manager/Head of Department (or nominated representative) refers to the relevant person responsible for managing the grievance raised.

- i. providing employees with regular opportunities to raise any issues of concern relating to their work;
- ii. resolving employee grievances at the earliest opportunity and in a constructive and reasonable way;
- iii. ensuring that they receive appropriate advice and training relating to the operation of the grievance policy and procedure;
- iv. consulting their link HR Adviser before taking any action under the grievance policy and 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, and integrity to promote an atmosphere of mutual respect, in accordance with the University's Single Equality Scheme and Dignity at Warwick policy.

Managers have a right to

- i. request more detailed information about a grievance in order to seek to resolve it;
- ii. attempt to resolve grievances informally as part of day to day management.

4.2. Human Resources

4.2.1. HR are responsible for:

- i. Training and advising Managers/Heads of Department on all aspects of the grievance policy and procedure
- ii. providing guidance to individuals and departments as required;
- iii. monitoring the use of the grievance policy and procedure across the University with any feedback or areas of concern to be notified to the JCC;
- iv. ensuring that the grievance policy and procedure is applied as far as possible consistently throughout the University.

4.3. Employees

4.3.1. Employees 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 employee with him/her where possible, with the aim of resolving the issue informally and 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 they might wish their grievance to be resolved;
- v. attending any meetings associated with the grievance including mediation where appropriate;
- vi. conducting themselves with dignity, and integrity to promote an atmosphere of mutual respect, in accordance with the University's Single Equality Scheme and Dignity at Warwick policy.

Employees have a right

- i. to seek guidance and advice from a Trade Union representative or an HR Adviser prior to attending a grievance hearing;
- ii. to explain their grievance and have it addressed in a fair and constructive manner;
- iii. not to be treated less favourably than other employees as a result of raising a grievance;
- iv. not to be treated less favourably than other employees as a result of having a grievance raised against them;
- v. to be accompanied by a work colleague or Trade Union representative at any meeting relating to their grievance.

5. Informal Procedure

- 5.1 It is the expectation of the University that as many grievances as possible will be resolved informally at an early stage.
- 5.2 An employee who has a complaint or problem relating to their employment should first approach their manager/Head of Department to discuss the matter.
- 5.3 The intention of this informal stage is to try to resolve matters before they become more serious, and to facilitate communication and resolution within the team/ work area. The manager/Head of Department should meet with the employee to understand the issues, informally investigate the issues raised and try to resolve matters as expediently as possible. The manager/Head of Department should then communicate the outcomes to the employee.
- 5.4 Whilst it is not necessary for a member of Human Resources to attend meetings connected with the informal stage, it is expected that the Head of Department/manager will seek advice from Human Resources.
- 5.5 If unable to approach their manager for any reason, employees should approach their Head of Department unless the grievance relates to the Head of Department in which case the employee should contact the Director of HR (or nominated representative)/ Chair of Faculty/ Director/ a relevant senior officer of the University.

6. Mediation

- 6.1 The University uses mediation as an effective mechanism to resolve issues expediently and effectively. The informal stage of the grievance process includes a mediation stage, subject to the agreement of all parties.
- 6.2 ACAS promotes the value and benefit of mediation and notes in particular that:
“mediation is especially effective when used at the initial phase of any disagreement, before conflict escalates in the workplace. An early intervention can prevent both sides from becoming entrenched and the difference turning into a full-blown dispute. If the disagreement is resolved early on, there is less chance of the working relationship breaking down irrevocably. This improves the likelihood of maintaining good and productive employment relations in the longer term”.
- 6.3 Mediation is a process of alternative dispute resolution which allows employees to help to clarify the issues involved and explore options for resolution. Mediation will be conducted with someone not involved in the grievance process and individuals within the process will decide the terms of resolution. Employees are expected to attend all meetings in connection with the mediation process. This does not preclude an employee from pursuing a formal grievance but the grievance would be placed on hold during the mediation process and only resumed if mediation is not successful.

7. Representation

- 7.1 At each stage of the formal grievance procedure the employee and other relevant parties have the right to be accompanied by a work colleague or Trade Union representative. When arrangements for meetings are confirmed it will be the employee’s responsibility to notify their chosen representative of the arrangements, and to notify the Chair of the hearing of the name of the person accompanying them. The employee is responsible for providing their companion with a copy of all relevant paperwork.
- 7.2 There is no requirement for a work colleague to accept a request to accompany an employee. Trade Union representatives are also subject to Trade Union rules on potential representation.
- 7.3 In cases where the University feels that the choice of representative might affect the integrity of the process, this will be discussed with the employee and the University may reasonably request that they nominate an alternative representative.
- 7.4 Availability of a work colleague or trade union representative should not prohibit the expedience of the process or cause unreasonable delay, and the employee may be asked to identify alternative representation in the event of delay of more than five working days.

8. Formal procedure

- 8.1 If the issue is not resolved informally or via mediation and if they have not already done so the employee should put their grievance in writing to the Head of Department, stating that they wish to raise a formal grievance, noting the nature of the grievance and the resolution they would wish to see. The Head of Department must ensure that the grievance is copied to the link HR Adviser.

- 8.2 If it is not appropriate to submit the grievance to the Head of Department (e.g. because they are the subject of the grievance), the grievance should be submitted to the Director of HR (or nominated representative)/ Chair of Faculty/Director or a relevant senior officer of the University confirming why the Head of Department has not been approached.
- 8.3 The employee should ensure they incorporate all the areas they wish to raise as part of their grievance within the written grievance letter, as they will not be able to raise any new issues at a later stage unless by agreement with the University.
- 8.4 Where the Head of Department (or nominated representative) with advice from HR considers the grievance so trivial as to not warrant consideration under the grievance procedure this will be confirmed in writing to the employee by the Head of Employee Relations.
- 8.5 Where a grievance is raised against any other individual(s), the Head of Department (or nominated representative) must consult with the link HR Adviser in the first instance to agree how and when to notify any individual(s) named in the grievance as soon as is practicable. In such circumstances, due regard must be taken of the rights of information, hearing and representation for all people involved at all stages of the grievance.

9. Investigation

- 9.1 An investigation prior to a grievance hearing will depend on the seriousness and complexity of the case. In some cases this will require the holding of an investigatory meeting, however, in others the investigatory stage will be the collation of evidence for use at the grievance hearing.
- 9.2 Where the matter is more complex or in potentially more serious cases, it will be appropriate for an Investigating Officer to be appointed by the Provost, Registrar, Senior Officer or to those to whom they have delegated authority (known as the Commissioning Officer) in liaison with the relevant HR Adviser.
- 9.3 Where appointed, the role of the Investigating Officer will be:
- to investigate all areas specified by the Head of Department (or nominated representative) and determine the level and extent of the investigation required based on the grievance raised;
 - to interview any witnesses identified by the Head of Department (or nominated representative) , and any other person they reasonably consider to be appropriate;
 - to notify any witnesses of the access to information details provided in Section 15.3 of this procedure;
 - to provide a written report outlining the findings from the investigation to the Head of Department (or nominated representative).
- 9.4 Guidelines for Investigating Officers can be found in <TO BE INSERTED>
- 9.5 Investigations should normally be concluded within six weeks, with any delays appropriately communicated.

- 9.6 Where mediation has been used in an earlier stage of the process, no information arising from the mediation process will be considered as part of the formal investigation as mediation is entirely confidential. The only information included in the investigation would be whether mediation had taken place or if an employee had not participated in mediation as this may be relevant to the ultimate outcome and recommendations.
- 9.7 **At the conclusion of the investigation, the Investigating Officer's report will be sent to the Head of Department or in potentially more serious cases the Commissioning Officer of the investigation as specified in 9.2.**
- 9.8 Once the Head of Department/Commissioning Officer (or nominated representative) has received the Investigating Officer's report and has established that the investigation has covered all the areas required to continue, they will convene the grievance hearing to consider the investigation report, hear any additional information from all parties involved, consider possible resolutions, and following the hearing the Chair/Panel will reach a decision. A member of HR will attend the hearing to advise on procedure.
- 9.9 Access to information should be considered on a case-by-case basis, following consultation with the link HR Adviser. Generally, if the grievance relates to another individual, he/she should be provided with sufficient information in order to be able to provide any relevant information in relation to the grievance raised.
- 9.10 The employee raising the grievance will receive a copy of the investigation report in advance of the grievance hearing. Any requests for access to information would be dealt with in accordance with the requirements of the Data Protection Act 1998 and should not delay the grievance procedure. In exceptional circumstances, for example, where it is deemed that the release of the report may be damaging to other parties, the report may be withheld or **redacted with the agreement of the HoD/Commissioning Officer, and with advice from HR.**
- 9.11 If the outcome of the grievance results in initiation of the disciplinary procedure then the subject of the disciplinary procedure would be able to see all the relevant information in order that they may present information in relation to the matters raised.

10. Grievance Hearing

- 10.1 The hearing will normally be chaired by the Head of Department (or nominated representative) for non-academic employees. For grievances submitted by academic employees the hearing will normally be chaired by the Head of Department (or nominated representative) or the Chair of Faculty or Pro-Vice-Chancellor. The Chair of the hearing will be accompanied by a minimum of one other appropriate manager. Where it is deemed appropriate by the Chair of the grievance hearing the Investigating Officer may be invited to attend the hearing. All parties will be informed of the date of the hearing at least ten working days in advance and will be provided with a copy of the investigation report and any other papers to be considered at the hearing. The employee will be required to submit any further evidence for the hearing at least five working days in advance of the hearing.

- 10.2 In all grievance hearings a HR representative will be present to advise on process.
- 10.3 If during the grievance hearing it becomes clear that additional information is required, then it may be necessary to conduct further investigation and to adjourn the grievance hearing until such time as this has been completed. The Head of Department (or nominated representative) in conjunction with the link HR Adviser, may then appoint or ask the existing Investigating Officer to conduct any relevant investigation and submit a written report of their findings to the Head of Department/Chair of the grievance hearing.
- 10.4 The employee can be accompanied to the grievance hearing by a work colleague or Trade Union representative. The companion may address the hearing and sum up the employee's case and confer with the employee. The companion does not have the right to answer questions on the employee's behalf, nor to address the hearing if the employee does not wish them to do so. The employee is responsible for taking their own record of the meeting and recording devices will not be permitted except in exceptional circumstances and following agreement in advance by all parties. Where requested, the University's record of the meeting will be shared with parties present at the meeting.
- 10.5 The grievance hearing should normally be held within three weeks of receipt of the written grievance or submission of the investigation report unless a longer period is required for practical reasons.
- 10.6 The employee may propose an alternative time and date if the chosen companion is not available for the hearing at the time proposed. The Head of Department/Chair of the hearing must accommodate the request provided that it is reasonable.
- 10.7 Where an employee fails to attend a grievance hearing without reasonable cause, the meeting may either be reconvened or the hearing may proceed in the employee's absence and a decision taken based on the information available to the Chair/Panel.
- 10.8 The Head of Department/Chair of the hearing will confirm the outcome of the hearing in writing to the employee who raised the grievance, normally within five days of the conclusion of the hearing, giving full details of the right to appeal and to whom to address any such appeal.
- 10.9 Where a named individual is the subject of a grievance, the Head of Department/Chair of the hearing will confirm the outcome of the hearing to the subject of the grievance immediately after the employee who raised the grievance has been informed of the outcome.
- 10.10 The Head of Department will be notified of the outcome of any grievances involving members of their Department.

11. Appeal

- 11.1 If the employee does not feel that there has been a satisfactory resolution to their grievance, they should put their appeal in writing to the relevant HR Manager who will forward a copy to the Head of Employee Relations. The letter of appeal must include:

- details of the original grievance;
- grounds for the appeal (see below); and
- an indication of the resolution being sought.

11.2 Grounds for the appeal will normally come under one or more of the following headings.

Further evidence not previously considered at an earlier stage

The employee can demonstrate that relevant evidence was not considered in the original investigation or was not available to the grievance hearing when reaching the decision.

Process or Procedural aspects

The employee can identify areas of the procedure which were not implemented correctly or appropriately, and as a consequence could have influenced the final outcome or decision.

Final Decision not appropriate

The employee considers that the decision cannot be sustained on the basis of the findings of the grievance hearing.

11.3 Any appeal must be lodged within two weeks of receipt of written notification of the original decision from the Head of Department/Chair of the grievance hearing.

11.4 The appeal will be heard as soon as practicable and normally no later than four weeks after the appeal has been received, unless this time line needs to be extended.

11.5 The individual to whom the appeal is addressed will establish a grievance appeals committee to hear the appeal, in liaison with the department's link HR Adviser. The Chair of the appeal hearing will write to the employee with notice of the membership of the grievance appeal committee and a date for the grievance appeal hearing.

12. Grievance Appeals Committee

12.1 The grievance appeals committee will normally consist of the Head of Department, or where the Head of Department has been involved previously, another appropriate senior employee who will normally chair the committee, and at least one other senior employee who has had no involvement previously in the grievance submitted. Where the grievance has been submitted by an academic employee the second independent committee member will be a senior academic employee. A member of HR will attend the committee to advise on procedure.

12.2 The grievance appeals committee will be asked to consider if the original decision was inappropriate on the grounds of appeal specified by the employee who submitted the grievance. The grounds for the appeal will be considered when deciding the necessity for, or extent of, any new investigation or re-hearing.

12.3 All parties to the grievance will be notified of the decision of the grievance appeals committee in writing as soon as practicable following the meeting, but normally within two weeks. The decision will be final and will conclude the University's grievance procedure.

13. Withdrawal of a grievance

- 13.1 If an employee raises a grievance and then wishes to withdraw the grievance, they will need to write to the individual managing the grievance, confirming that they are withdrawing the grievance.
- 13.2 The University reserves the right to continue to investigate any matter which has been brought to the attention of the University if there is a requirement to address this as a duty of care to others or under legislation.

14. Malicious/vexatious grievances or grievances repeating allegations

- 14.1 Where there are reasonable grounds to believe that an employee has invoked the grievance procedure without good reason or with malicious intent or otherwise vexatiously, the grievance will be considered as potential misconduct and the employee may be subject to action under the disciplinary procedure.
- 14.2 Where the University reasonably believes that the subject matter of a grievance has already been considered under a University procedure, it reserves the right not to investigate or otherwise proceed with the grievance.

15. Record keeping and access to information

- 15.1 Written records will be kept at each stage of the formal procedure. In all formal cases a HR representative will be present at grievance hearings and any appeal hearing, and where required will advise on process. The employee is responsible for taking their own notes of the meeting, and recording devices will not be permitted, except in exceptional circumstances and following agreement by all parties at the hearing.
- 15.2 Employees should note that in order to maintain a fair, transparent and equitable process, the written notification of the complaint and any relevant supporting documents will be made available to the person against whom the grievance is raised so that they can adequately respond.
- 15.3 Witnesses will be advised that their witness statement may be seen by either party to the grievance, unless the University believes that witnesses' identity should remain confidential.
- 15.4 Where a grievance relates to a protected characteristic the matter will be brought to the attention of the University's Equality and Diversity Adviser

16. Confidentiality

- 16.1 All information relating to a grievance will be treated confidentially and maintained in compliance with the Data Protection Act, 1998. Information relating to the grievance will be shared with only those who have a legitimate requirement to see the documentation as part of the resolution of the grievance or any consequent procedure.

- 16.2 It is expected that all parties will be sensitive to the nature of such proceedings, including matters discussed and any evidence provided. Breach of confidence, by any person, may compromise the integrity of the procedure and may lead to disciplinary action. This does not preclude individuals from seeking appropriate advice and support in relation to the grievance.
- 16.3 Where the University continues to investigate any matter as a duty of care or a legislative requirement then it may be necessary to share the information with appropriate external authorities. Any such requirement will be communicated to the employee.

17. Timescales

- 17.1 The timescales set out in the formal procedure are indicative of what is required for a grievance to receive an appropriately prompt response. However, it is recognised that in some cases additional time may be required and as such the timescales may be extended subject to the mutual agreement of all parties.

18. Breaches of the policy/procedure

- 18.1. All employees are responsible for ensuring that University policies and procedures are adhered to and implemented in a consistent and fair way. Where queries or issues arise, the link HR Adviser should be contacted for guidance.
- 18.2 The University of Warwick recognises that no-one should be discriminated against or disadvantaged by virtue of being a member of a Trade Union.

19. Diversity and Inclusion

- 19.1 All individuals have the right to raise a grievance without any distinction on the grounds of age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation.

20. Equality Impact Assessment

- 20.1 The University of Warwick recognises its responsibility to ensure that no-one is discriminated against or disadvantaged in relation to a protected characteristic which include: age, disability, sex, trans & gender reassignment, maternity, paternity and adoption, marriage and civil partnership, race, religion or belief, or sexual orientation. For further information, please refer to the University's Diversity and Inclusion website:

<http://www2.warwick.ac.uk/services/humanresources/workinghere/equality/>

- 20.2 The Grievance policy and procedure has been assessed as being of high relevance to our duties under equality legislation, and the University will review its impact on equality and diversity, identify any inequalities by regular monitoring, and take action where necessary.