

## **Grievance Policy and Procedure**

### **1.0 Introduction**

1.1 At the University of Westminster, diversity, inclusion and equality of opportunity are at the core of how we engage with students, colleagues, applicants, visitors and all our stakeholders. We are fully committed to enabling a supportive and safe learning and working environment which is equitable, diverse and inclusive, is based on mutual respect and trust, and in which harassment and discrimination are neither tolerated nor acceptable.

1.2 Within any organisation colleagues will, from time to time, have concerns, problems or complaints regarding their work, working conditions or their working relationships. This policy and procedure outlines how the University can assist in resolving such issues.

### **2.0 Purpose and Scope**

2.1 The aim of this policy and procedure is to provide a fair and transparent process for University colleagues to obtain timely resolution to concerns or problems relating to their employment. This policy and procedure applies to all employees of the University but does not apply to other workers such as agency workers or contractors. The same grievance may not be raised more than once under this procedure.

2.2 This Grievance Procedure does not apply to the consideration of 'whistleblowing' disclosures, which should be raised through the University's Public Interest Disclosure (Whistleblowing) Policy, or to complaints by colleagues about the conduct of students, which will normally be considered in accordance with either the Student Disciplinary Regulations or the Academic Misconduct Regulations, as appropriate.

### **3.0 Informal Resolution**

3.1 It is hoped that most concerns or problems will be dealt with as they arise during regular dialogue between a colleague and their line manager. Colleagues are therefore strongly encouraged to seek to resolve any issues informally through discussion and normal management channels, at a local level. The line manager will endeavour to resolve the matter speedily and fairly. If the concern relates to the line manager, the colleague is encouraged to raise the matter informally with the next appropriate management level. This should enable the matter to be resolved before it is escalated to a formal grievance.

#### **3.2 Mediation**

3.2.1 Mediation is a confidential and voluntary process whereby a neutral third party attempts to help the parties reach agreement in the event of conflicts and disputes. Both parties need to agree to mediation and it can be especially beneficial in problems associated with working relationships. Whilst, depending on the nature of the concern, mediation may be encouraged prior to any formal grievance being raised, colleagues may also request that a matter be referred for mediation at any point during a grievance procedure, where this may offer an appropriate means of addressing the issues raised (this will not usually be

appropriate for cases involving complaints of serious sexual harassment or misconduct). Where the colleague who has raised the grievance consents, a grievance procedure may be suspended pending the outcome of a mediation process.

### **3.3 Support and Counselling**

3.3.1 Colleagues can access 'in the moment' counselling, via the Employee Assistance Programme (EAP), or a longer series of structured counselling sessions, through the University's designated provider. Information on the counselling provision is available on the University intranet at the following locations.

#### **EAP**

[https://universityofwestminster.sharepoint.com/sites/Resources/SitePages/Employee%20assistant%20programme%20\(EAP\).aspx](https://universityofwestminster.sharepoint.com/sites/Resources/SitePages/Employee%20assistant%20programme%20(EAP).aspx)

#### **Counselling**

<https://universityofwestminster.sharepoint.com/sites/Resources/SitePages/Occupational%20Health%20.aspx>

## **4.0 Key Principles**

### **4.1 General**

4.1.1 All genuine complaints and concerns raised by colleagues will be treated seriously and sensitively with proper investigation, proportionate to the issues raised, and carried out in as timely a manner as reasonably possible. Equally, colleagues are expected to raise concerns within a reasonable timeframe.

4.1.2 Colleagues raising complaints and concerns in good faith and those participating in any investigation into a grievance can do so without fear of detriment as a consequence.

4.1.3 Where the grievance has proceeded to a formal hearing, colleagues should regard the first hearing as the substantive hearing and as the best and most appropriate forum for their case to be heard. Whilst there is a right to appeal the outcome of a grievance following a formal grievance hearing, appeals will normally be restricted to matters of procedure or where there is fresh evidence which arose after the first hearing.

4.1.4 Subject to the terms of this policy, the Chair of the hearing or appeal has full discretion to give or make any directions, arrangements or decisions as they deem necessary for the fair and reasonable consideration of the grievance.

### **4.2 Confidentiality and Records**

4.2.1 The grievance procedure will be carried out in confidence, unless otherwise agreed with the parties involved and the University will only share information or evidence relating to a grievance and/or its outcomes with others in compliance with data protection and confidentiality obligations. The Chair will take into account the sensitivities of the particular grievance and the need to maintain professional working relationships.

4.2.2 Electronic recordings are not permitted at any meetings or hearings under this procedure. A colleague who makes a covert recording at any such meeting or hearing, or encourages or instructs another person to do so on their behalf, may be treated as having breached the Colleague Code of Conduct and potentially be subject to disciplinary action. A covert recording will not normally be admissible in proceedings under this Procedure.

4.2.3 Written grievances will be placed on the HR file of the colleague who has raised the grievance (the 'complainant'), along with a record of any decisions taken and any notes or other documents compiled during the grievance process. A copy of the grievance outcome will be placed on the HR file of the colleague who is the subject of the grievance (the 'Respondent').

4.2.4 Grievance records will be processed in accordance with the principles set out in the Data Protection Act 2018 and the General Data Protection Regulations. Grievance records will normally be treated as confidential. However the University retains the authority to use grievance records as appropriate where it is necessary to address wider issues within the University, for example, equal opportunities monitoring, or as part of a related or subsequent University procedure or in the course of external proceedings.

### 4.3 Right to be Accompanied

4.3.1 The colleague who raises a grievance may be accompanied at any stage of the procedure by either a University colleague, or an official employed by a trade union recognised by the University, or another accredited trade union official.

4.3.2 The University also extends the right to be accompanied to colleagues who are a Respondent to a grievance.

4.3.3 Any colleague who wishes to exercise their right to be accompanied must disclose to the University the identity of their chosen companion in good time before the meeting.

### 4.4 Roles and Responsibilities

4.4.1 **The Complainant** should raise the concern or grievance with their line manager within a reasonable timeframe, and as soon as possible following the occurrence of the matter or matters to which they relate, clearly providing all relevant details and stating what they consider to be their desired outcome. The University reserves the right to decline to consider a grievance if it considers that it has not been presented within a reasonable time. The complainant must take all reasonable steps to attend all meetings/hearings convened under this policy and procedure.

4.4.2 The purpose of this Grievance Procedure is to allow colleagues to raise concerns with the University regarding any aspect of their work or working arrangements. However, we recognise that in some cases the focus of a colleague's complaint will be another University colleague. This Grievance Procedure makes provision for those cases and for any individual who is the subject of a complaint, the **Respondent**, to participate in the grievance process. The Respondent must take all reasonable steps to attend any meetings to which they are invited under this policy and procedure.

4.4.3 **The Chair/Appeal Chair** hears the grievance or appeal and has the responsibility to perform their role promptly, fairly, impartially and consistently in accordance with this policy and procedure. The Chair of the grievance hearing will not hear any appeal.

4.4.4 **The HR Representative** provides impartial professional advice and guidance on the grievance procedure. The HR Representative will not participate in the formulation of any substantive decision(s) in the case.

4.4.5 **The Witness** (if relevant) provides factual information about the complaint or other evidence that may be relevant to the issues under consideration. They do so on the understanding that their evidence, where relevant, will normally be disclosed to both the complainant and, where applicable, any Respondent. In exceptional circumstances, the

Chair may choose not to disclose certain elements of the witness's evidence if deemed appropriate in the circumstances and as long as they are fully satisfied that it will not prejudice a fair hearing of the grievance.

4.4.6 **The Companion** accompanying the colleague at the meeting will be restricted to putting their case, summing up that case, and responding on their behalf to any view expressed at the hearing, and conferring with them as needed.

4.4.7 The companion does not have the right to answer questions directed to the colleague.

4.4.8 During any meeting, the colleague and/or their companion may ask for reasonable short adjournment(s) to confer before resuming the meeting.

#### **4.5 Collective Grievances**

4.5.1 Where the same grievance is brought by more than one colleague, the grievance will be treated as a collective grievance. The colleagues must nominate one group representative who must be able to demonstrate to the satisfaction of the University that they have authority to represent, and to share and receive information, on behalf of all colleagues pursuing the grievance. This group representative will act as the spokesperson for the group, will be the contact between the group and the Chair of the grievance and will represent the group at the grievance hearing.

#### **4.6 Bullying and Harassment**

4.6.1 Any colleague who feels that they have been the victim of bullying, harassment, discrimination or victimisation by another colleague may wish to, if they feel comfortable doing so, communicate to the individual that their behaviour is causing offence and that such behaviour is unacceptable. However, if they do not feel comfortable doing so, or if talking to them has no effect and matters cannot be resolved through informal measures, then they may progress straight to a formal grievance.

4.6.2 Please refer to the [Diversity and Dignity at Work and Study Policy](https://myintranet.westminster.ac.uk/files/hr/policies/Diversity-and-dignity-at-work-and-study-policy.pdf) for further guidance and sources of support - <https://myintranet.westminster.ac.uk/files/hr/policies/Diversity-and-dignity-at-work-and-study-policy.pdf>.

#### **4.7 Grievance and Disciplinary Action**

4.7.1 If a colleague raises a grievance during a disciplinary investigation and the grievance and disciplinary are related, it may be appropriate to deal with both cases concurrently. In some cases, it may be appropriate to combine the investigation of grievance and potential disciplinary issues under a single informal investigation process which sits outside a formal grievance or staff disciplinary procedure.

4.7.2 Where a grievance has been raised by a colleague who is to be investigated under the Disciplinary Procedure, and the grievance is both unrelated to and predates the incident or allegation that is to be investigated under the Disciplinary Procedure, the grievance will normally be held first. An exception may be where the disciplinary allegation is of a sufficiently serious nature to warrant suspension and the terms of the suspension prevent the colleague from participating in a grievance process, or where the circumstances of the disciplinary allegation is such that it would not be appropriate to delay the disciplinary process.

4.7.3 The Grievance Procedure should not be used to complain about disciplinary or dismissal action. If an employee is dissatisfied with any disciplinary action, they should submit an Appeal under the appropriate Procedure.

## **4.8 Grievances and other formal procedures**

**4.8.1** Should a colleague be dissatisfied with action taken under any formal procedures (e.g. capability/performance, attendance, conduct etc.), they must refer to the appropriate appeal mechanism in that procedure, where it is available to them.

## **4.9 Grievances Raised in Bad Faith**

4.9.1 One of the principles underlying this procedure is that grievances will be assumed, in the first instance, to have been made in good faith. Acting in bad faith, which includes raising false, frivolous, vexatious, malicious or capricious grievances, will be treated as an extremely serious matter and will normally lead to disciplinary action which could result in dismissal. A complaint made as a means of detracting from proper management of performance, attendance or conduct will not be accepted and may be regarded as acting in bad faith.

## **4.10 Grievances about conduct which may amount to a criminal offence**

4.10.1 Where a complainant raises a grievance which alleges that a Respondent has engaged in conduct that may amount to a criminal offence, the University will support the complainant for example, in supporting them to report a matter to the Police, subject to its confidentiality obligations and obligations under data protection legislation. The University will also provide support to the Respondent.

4.10.2 Where alleged conduct by a Respondent is also subject to police investigation or criminal prosecution, the University may suspend the process under this Grievance Procedure until the police investigation and/or any criminal proceedings have been concluded. The University will consider each matter on a case-by-case basis and may continue with or proceed to take action under this Grievance Procedure (or other University procedure), including but not limited to undertaking an investigation, at its discretion notwithstanding any police investigation and/or criminal proceedings.

4.10.3 When police investigations and/or any criminal proceedings have concluded, the Director of HR or their designated nominee will decide whether the University should continue with or proceed with action under the Grievance Procedure (or other University procedure). Where, following investigation by the Police, a decision has been taken not to proceed to a criminal trial, this does not preclude the University from conducting its own investigations and/or implementing the Grievance Procedure or other University procedure.

## **4.11 Mitigation Measures and Precautionary conditions**

4.11.1 In cases involving complaints of serious harassment or sexual misconduct (such as sexual assault) against a Respondent the University may, at its discretion and at any stage of the Grievance Procedure, consider the application of mitigation measures or precautionary conditions where the University determines that the complainant faces a risk of serious harm to their health, safety and/or welfare from the Respondent.

4.11.2 Measures (whether temporary or otherwise) may, with the agreement of the complainant, include changes to the complainant's working arrangements, including (but not limited to) a change of work location (which may include a move to remote working); a change of line manager; a change to their duties; and/or a move to another team.

4.11.3 Where the measures outlined in paragraph 4.11.2 cannot be implemented or are not deemed appropriate to address the risks identified, the University may at its discretion

impose precautionary conditions on the Respondent in accordance with its powers under the Colleague Disciplinary Policy and Procedure.

4.11.4 The imposition of conditions in accordance with paragraph 4.11.3 are precautionary conditions only imposed by the University in order to protect the best interests of both the respondent and/or the University. They do not constitute disciplinary action or a penalty and do not indicate that the Respondent has committed misconduct nor do they imply that the outcome of this Grievance Procedure has been pre-determined. The precautionary condition(s) will be kept under review with every effort made to ensure that they are in place no longer than the University deems necessary.

## **5.0 Formal Grievance Procedure**

### **5.1 Raising a Grievance**

5.1.1 If informal methods fail to reach a satisfactory outcome, the colleague can raise a formal grievance, and should do so without unreasonable delay.

5.1.2 Formal Grievances must be raised in confidence by the colleague with their immediate line manager. However, if the grievance involves their line manager it should be raised with the next appropriate level of management.

5.1.3 Formal grievances must be raised as soon as possible following the occurrence of the matter or matters to which they relate, and in writing, ideally using the Statement of Grievance Form. The grievance must be specific and include: any relevant facts, dates and names of individuals involved; the steps the employee has taken to informally resolve the complaint; and the complainant's desired outcome.

5.1.4 Any Respondent or Respondents will normally receive a copy of the Statement of Grievance Form, or the relevant parts of that document, so that they are able to offer their response to the concerns as part of this procedure. However, the Chair of the hearing has the discretion to decide if the Statement of Grievance form should be released to any Respondent(s) in full, or in part. The Chair of the Hearing may decide that all or parts of the Statement of Grievance form should not to be released to the Respondent.

5.1.5 If the grievance submission does not make sufficiently clear what it is about, the complainant will be asked to provide clarification before the procedure progresses any further.

### **5.2 Grievance Hearing**

5.2.1 Every effort will be made to hear the grievance as soon as reasonably possible. The University will aim to acknowledge the grievance as soon as reasonably possible and within ten working days of receipt of the grievance. The purpose of the grievance hearing is to enable the complainant to provide full details of their grievance and for the facts to be established, as far as it is possible to do so.

5.2.2 The complainant will receive in writing prior to the hearing the following information:

- The date, time and location of the hearing
- The name of the manager chairing the hearing

- Confirmation of the right to be accompanied at the hearing by either a University colleague, or an official employed by a trade union recognised by the University, or another accredited trade union official.
- Confirmation that an HR representative will attend the hearing.
- An invitation to the complainant to submit any evidence on which they wish to rely at the hearing, including any witnesses they wish to call, and details of any applicable deadline for submission of that evidence.

5.2.3 If the complainant is unable for good reason, or their companion is unable to attend the hearing on the date proposed, the Chair will make arrangements for the hearing to be re-scheduled normally no later than five working days after the original date. Due consideration will be given to the health of the complainant in scheduling meetings. If the chosen companion cannot attend on the rescheduled date the Chair may request the complainant chooses a different companion. If the complainant or companion is persistently unable or unwilling to attend the hearing, unless there are exceptional circumstances (as decided by the Chair), the Chair will make a decision based on the evidence available.

5.2.4 Any Respondent will be notified that a grievance has been raised against them and will be invited to a separate meeting to respond to the allegations and answer questions put to them by the Chair or by an Investigating Officer appointed by the Chair in accordance with paragraph 5.2.7. The Respondent will have the right to be accompanied at the meeting by either a University colleague, or an official employed by a trade union recognised by the University, or another accredited trade union official.

5.2.5 The Chair is responsible for approving the formal written notes of the hearing. Notes of their hearing will be sent to the complainant (and the companion, if the complainant requests this). In the event that the complainant does not agree with the final approved version of the notes, they can lodge an amended copy with HR to be kept on file: however, for all purposes the final Chair approved version of the notes prevails.

5.2.6 At any point, the Chair may decide to carry out further investigation, to establish the facts of the case. This may include, where appropriate, contacting other colleagues who have witnessed a pertinent incident or who may be able to provide other evidence relevant to the issues under investigation. If these investigations occur after the grievance hearing has taken place it may be necessary to hold a further grievance hearing with the complainant.

5.2.7 The Chair may appoint an Investigating Officer to carry out an investigation to establish the facts and/or timeline of events, prior to the hearing. This investigation may involve interviewing and taking statements from the complainant, the Respondent and any witnesses, and/or reviewing relevant documents. It is important to carry out necessary investigations of grievances raised without unreasonable delay to establish the facts of the case. In some cases, this will require the holding of investigatory meetings with the relevant parties before proceeding to any grievance hearing. In others, the investigatory stage will be the collation of evidence by the University for use at any grievance hearing.

5.2.8 If the complainant wishes to call witness(s) to the hearing, the names and details of the witness(s), along with a written statement as to the nature and relevance of their evidence, will be sent to the Chair at least three working days prior to the hearing. However, the Chair of the hearing has the discretion to decide whether they would benefit from hearing from that witness, and whether their evidence is sufficiently relevant.

5.2.9 If the complainant wishes to submit documentation, they must do so at least three working days prior to the hearing.

5.2.10 Once the Chair has considered all the evidence they deem appropriate, the outcome of the grievance will be communicated, in writing, usually within ten working days from completion of the hearing. If there is a delay in communicating the outcome, the complainant will be notified in writing and advised of the revised timescale.

5.2.11 As part of the grievance outcome, follow-up actions may be recommended to address to any issues that have been identified in the grievance process. This may include, for example, recommending coaching or mediation for one or more colleagues and/or the application of appropriate University procedures, including the disciplinary procedure where potential misconduct issues have been identified.

### **5.3 Appeal**

5.3.1 If the complainant's grievance is not settled, to their satisfaction, and they believe there are valid grounds, they have the right to appeal.

5.3.2 They must send their notice of appeal to the Director of Human Resources within five working days from the date of the grievance outcome letter, ideally using the Grievance Appeal Form. The grounds for appeal must include:

- Which parts of the decision the complainant is satisfied with
- Which parts they do not feel have been resolved satisfactorily and the reasons
- The preferred solution should the appeal be successful

5.3.3 Every effort will be made to hear the grievance appeal as soon as reasonably possible, and the University will normally aim to acknowledge the appeal and confirm the date of the formal appeal hearing within ten working days of receipt of the appeal. The complainant will be given the right to be accompanied at the appeal hearing and an HR representative will be present. The appeal will be heard by another manager (nominated by HR) from outside the School or Department and not involved in the original grievance, as far as is reasonably practical. HR will forward the grounds for appeal to the appointed Appeal Chair.

5.3.4 The Appeal Chair will set the date for the appeal hearing and will expect the complainant to make all reasonable efforts to attend at the date stipulated. If the chosen companion has difficulty in attending the hearing on the date stipulated, the complainant must inform the Chair of this and, where the companion is a University employee, the Appeal Chair, in conjunction with the Director of Human Resources, will arrange for the University to take such steps as may be appropriate to release that companion from such other responsibilities as may be causing them difficulty in attending the appeal on the stipulated date. If this still fails to enable the companion to be available, the complainant may request a postponement of up to five days, but must when doing so specify such times and dates in the following five days when both they and their companion are available, giving as many time slots as possible. The Chair has the authority to decide if there are any exceptional circumstances that should be considered before they make a decision to agree to a postponement of the hearing.

5.3.5 The appeal will ordinarily be conducted by way of a review of the decision not to uphold the grievance, as opposed to a rehearing. That is, the appeal will involve a determination as to whether the decision not to uphold the grievance was one which a reasonable person could have made, on the basis of the evidence and arguments which were presented to that decision maker. It will not normally involve a reconsideration of all of the issues in a case, or the presentation of new evidence or documents, or the submission of arguments which could have been but were not advanced previously. The Appeal Chair will ordinarily expect to see only the complainant and their companion. Only in exceptional circumstances would the Appeal Chair be expected to call before them the decision maker



or any other persons, and this will be a matter for the Appeal Chair's discretion. The appeal hearing will be conducted such as to allow the complainant to develop orally their grounds of appeal, and to respond to queries which may be raised by the Appeal Chair.

5.3.6 In exceptional circumstances the Appeal Chair will determine that the appeal will be conducted as a rehearing. Such a decision will be entirely at the discretion of the Appeal Chair.

5.3.7 In exceptional circumstances, e.g. where new evidence has come to light, if the complainant wishes to submit further documentation, they must do so at least three working days prior to the hearing.

5.3.8 The Appeal Chair will make their decision as soon as reasonably practicable after the appeal hearing and will communicate that decision in writing to the complainant; their decision will be final.

## **6.0 Additional Help and Advice**

6.1 If a colleague requires additional help or advice on this policy and procedure they should contact a member of the HR Advisory Support Team or their Trade Union Representative.

6.2 In addition to the support and counselling outlined in section 3.3, colleagues can also access a wide range of health and wellbeing support. Further information on this, as well as information about Trade Union assistance, can be found on SharePoint.

## **7.0 Monitoring and Review**

7.1 The Grievance Policy and Procedure was reviewed in the academic year 2021-22, after consultation with the trade unions.

7.2 This procedure is not incorporated into the individual's contract of employment and it will be reviewed periodically to ensure it continues to reflect legislative changes and best practice. Any further changes made will be subject to prior consultation with the University's recognised trade union representatives.

**Agreed by the Resources Committee on: 28 April 2022**

**Approved by the Court of Governors on: 25 May 2022**

**Effective from: 1 August 2022**

**Review date: August 2025**

### **Digital Accessibility**

We are committed to ensuring our websites and content is digitally accessible according to the Public Sector Bodies Accessibility Regulations (2018). This policy is published on our website; and can be requested in a range of formats e.g. Word, PDF, plain text, alternative formats such as large print or Braille.

To implement this policy, users are asked to access other digital information or systems. For information on the accessibility of this system, the University has published an accessibility statement for each system which outlines accessibility issues we're aware of and how we are working to address them. You can access this from the system. This policy relates to the following digital systems with the following levels of accessibility:

- Sharepoint – partially accessible – [Sharepoint Accessibility Statement](#)
- Microsoft – partially accessible - more on [Microsoft](#) (including support from the Microsoft Disability Answer Desk)

If you need an alternative to using the system to implement the guidelines, please contact HR Advisory Support or HR Services on [HR-Services@westminster.ac.uk](mailto:HR-Services@westminster.ac.uk) and we will support you to do this.

This document has been designed to maximise usability - for example navigating by headings, meaningful hyperlinks, image descriptions, colour/contrast and display options such as magnification and reflow. Should you encounter an accessibility barrier, please report to HR Advisory Support or HR Services on [HR-Services@westminster.ac.uk](mailto:HR-Services@westminster.ac.uk)