

## GRIEVANCE PROCEDURE

### 1 INTRODUCTION

- 1.1 The College aims to develop a positive working environment where staff are encouraged to resolve differences in an informal way wherever possible. The purpose of this procedure is to provide a framework for constructively resolving grievances.
- 1.2 This procedure applies to all full and part-time employees. It is important that everyone in the College understands it, including the statutory requirements underpinning it. Managers are responsible for making their employees aware of the procedure, including its location on the HR pages of the College intranet.
- 1.3 The grievance procedure is not contractual, does not form part of any employee's contract of employment and may, after consultation and where possible by agreement, with the recognised trade unions, be amended at any time by the College.
- 1.4 This Procedure follows the principles set out in the latest ACAS Statutory Code of Practice '*Disciplinary and Grievance Procedures*' .
- 1.5 Employees have the right to seek individual redress for grievances (concerns, problems or complaints) about their employment. This procedure should be followed to ensure that grievances are resolved internally in an orderly and acceptable manner.
- 1.6 The College will take action, including, where appropriate, disciplinary action, against employees raising malicious, frivolous or vexatious grievances. In such cases the College will, if appropriate, also take steps to restore or repair any damage, real or perceived to the professional reputation of the individual about whom such an allegation has been made.
- 1.7 For academic staff, this Procedure constitutes the relevant Regulation in respect of Grievance matters under paragraph 2 of Statute 18 of the College's Charter and Statutes.

### 2 STAGE 1 - INFORMAL ACTION

- 2.1 In the first instance, employees are encouraged to discuss their grievance informally with their line manager or a representative from Human Resources (HR), to see whether any informal steps can be taken to resolve it before resorting to the formal procedure. Such informal discussions may involve the line manager and any person to whose conduct or decision the grievance relates.

- 2.2** The College would wish all the relevant parties to attempt to resolve matters in the workplace for an agreed period of time after which they should meet again to discuss progress and what further action, if any, needs to be taken.
- 2.3** The College expects that wherever possible, employees will seek to resolve their grievances informally. Employees choosing not to do so will be expected to say why and this may be taken into account in determining the outcome of any formal proceedings. However, if the grievance cannot be settled informally, the formal procedure set out below shall be followed.

### **3 STAGE 2 - FORMAL ACTION**

- 3.1** Employees should put their grievance formally in writing to their line manager unless that person is the reason, or is associated with the reason, for the complaint. In such cases, the employee should make their grievance to their line manager's manager or a manager from HR.
- 3.2** When submitting the grievance the employee must make clear the remedy they seek. It would be helpful to also include such details as would assist the manager in preparing to consider the grievance, including any action already taken by the employee to resolve the grievance thus far.
- 3.3** Setting out a grievance in writing is not always easy, so employees are encouraged to seek help from a colleague or trade union representative if they require it. HR can also advise employees about how to present their grievance if required.
- 3.4** On receiving a formal written grievance the appropriate manager (see para 3.1 above) should contact HR who will give guidance on dealing with the matter in accordance with this procedure and good practice. The manager will normally confirm to the employee within five working days that the grievance has been received and is being progressed as swiftly as possible.
- 3.5** The manager will invite the employee to a meeting to discuss the matter as soon as practicable and without unreasonable delay. However, the meeting will not take place unless:
- the employee has informed the manager in writing of the basis for their grievance and the remedy they seek;
  - the manager has had a reasonable opportunity to consider their response to that information and make any investigations he or she deems necessary, maintaining confidentiality as far as possible in the context of the investigation.

The meeting will be held at a time and location considered reasonable for both parties.

- 3.6** The manager will inform the employee that they have the right to be accompanied at the meeting by an official of a trade union or a work colleague. Grievance meetings are internal proceedings therefore external representatives such as solicitors or family members will not be permitted to attend.
- 3.7** If the employee wishes to be accompanied at the meeting, they must give the name of that person to the manager two working days prior to the meeting. It is the responsibility of the employee to ensure that the person accompanying them is provided with the documentation and information they consider necessary, including the date, time and location of the meeting. The person accompanying the employee at the meeting, may put the employee's case, sum up, confer with the employee but has no

right to answer questions on the employee's behalf or prevent the manager from explaining his or her case. It is normally helpful to agree on the respective roles of the different parties on commencement of the meeting.

- 3.8** If the employee or their companion cannot attend on a proposed date they can suggest another date if reasonable and no later than five working days after the original date proposed by the manager unless otherwise mutually agreed.
- 3.9** If an investigation is required prior to the formal meeting this will be conducted by the manager as quickly as possible and may include interviewing all persons involved and obtaining written statements.
- 3.10** Both the manager and an HR representative will be present at the formal grievance meeting. The role of the manager is to consider the grievance and the role of the HR representative is to advise on procedure.
- 3.11** The grievance meeting will be conducted in a manner that enables both parties to put their case. The employee will be allowed to explain their complaint and the remedy they seek. The manager will give the grievance careful consideration before responding. The manager may adjourn to make further investigations or seek advice before informing the employee of the outcome.
- 3.12** Pending a resolution of the grievance the status quo will be maintained where the College considers it is appropriate and reasonably practicable to do so.
- 3.13** The manager will respond in writing to the employee's grievance, normally within five working days of the meeting. If there is good reason for a delayed response the manager will notify the employee accordingly. The written response will confirm that the employee is entitled to appeal against the manager's decision if they are not satisfied with it.

#### **4. POSSIBLE OUTCOMES**

- 4.1** The manager may, for example:
  - uphold the grievance
  - uphold the grievance in part
  - recommend some form of action (e.g. redefinition of responsibilities or changes to working practices etc.)
  - refer a matter for potential disciplinary action against a person complained about
  - not uphold the grievance and recommend no further action

All outcomes will be communicated in writing to the employee by the manager conducting the meeting together with the reasons for the decision taken. This will also apply to any grievance involving another employee, for example one that had been complained about. If the complaint directly involves another employee, that employee will also be informed of all outcomes

- 4.2** If appropriate, on conclusion of the formal process, and whether the grievance is upheld or not upheld, another manager may be involved so that further conciliation between the parties is attempted with a view to restoring good working relationships.

## **APPEALS AGAINST DECISIONS TAKEN IN ACCORDANCE WITH THIS PROCEDURE**

### **1. THE PURPOSE OF AN APPEAL**

- 1.1** Employees are entitled to appeal against any decision taken in accordance with this procedure, and to be represented at the appeal hearing by an official of a recognised trade union or work colleague.
- 1.2** If, in respect of either of the three grounds upon which appeals are allowed (see 2.1 below), the employee is able to demonstrate that the decision about which they are appealing is unfair, the appeal is the means by which such action is formally withdrawn or amended. If they are unable to do so, the fairness of the decision will be confirmed and upheld.
- 1.3** The College reserves the right to rule the grounds of an appeal out of order and not to allow the appeal to proceed. If the College decides to exercise this option, a written explanation of the reasons will be provided to the employee.

### **2 THE REMIT OF THOSE HEARING AN APPEAL**

**2.1** An appeal will only be held on the following grounds:

- If serious procedural errors may materially have contributed to the outcome of the proceedings against which the appeal has been lodged.

OR

- If new information has come to light, which was not available at the time of the grievance hearing.

OR

- The employee believes that the outcome of the hearing has failed to provide a satisfactory resolution to their grievance, in which case, they would be expected to make clear what further remedy they seek.

Therefore, the function of an appeal is not to conduct a full rehearing of the facts of the case, though it is inevitable that reference will have to be made to the earlier grievance hearing.

### **3 NOTIFICATION OF APPEAL HEARINGS**

- 3.1** An employee wishing to appeal against a decision taken at a grievance hearing should inform the Director of Human Resources in writing. They should state the full grounds of their appeal and provide all necessary supporting documentation. This should be done within ten working days of receipt of written confirmation of the outcome of the grievance hearing.
- 3.2** An appeal hearing will normally be convened within twenty working days of receipt of notification by the Director of Human Resources of the employee's decision to appeal. A copy of the appellant's written statement will be passed to the line manager who conducted the grievance hearing and took the decision in question.

- 3.3** The manager will prepare a written response to the appeal, which s/he will present at the appeal hearing. A copy of this statement will be sent to the appellant, together with details of its date, time and location, not less than five working days prior to the hearing.
- 3.4** If the employee wishes to be accompanied at the hearing, they must give the name of that person to Human Resources two working days prior to the meeting. It is the responsibility of the employee to ensure that the person accompanying them is provided with the documentation and information they consider necessary, including the date, time and location of the meeting. The person accompanying the employee at the meeting, may put the employee's case, sum up, confer with the employee but has no right to answer questions on the employee's behalf or prevent the manager from explaining his or her case. It is normally helpful to agree on the respective roles of the different parties on commencement of the meeting.
- 3.5** Delays caused by the unavailability of the appellant or their chosen representative to attend on given dates without good reason will not be an acceptable ground for postponing the hearing indefinitely, provided the specified notice has been given. Where the employee's representative cannot attend on the date specified, the College will offer an alternative date and time, but it may not be possible to do this more than once. Where mutually agreed, the College may hold the appeal hearing in the employee's absence.

#### **4 AUTHORITY TO HEAR AN APPEAL**

- 4.1** Appeals against the outcome of grievance hearings will normally be held by the manager of the manager who took the decision being appealed against, provided that person has not previously been involved in the case.
- 4.2** In cases of academic staff (as defined in Statute 18), an appeal will be heard by a panel made up of the Principal (or the Principal's nominee - see below) and a person not employed by the College holding, or having held, judicial office or being barristers or solicitors of at least 10 years' standing. In the event of disagreement between the members of the panel the Principal's decision shall be final. Where the Principal determines not to hear the appeal in person, authority to hear the appeal will normally be delegated to the Deputy Principal or appropriate Vice-Principal.

#### **5 ROLES AND RESPONSIBILITIES OF THE OTHER PARTICIPANTS**

##### **5.1 The Appellant**

Having set out the written grounds of their appeal beforehand, the appellant must concentrate on the issue(s) that the appeal has been called to consider. They must not attempt to present all the facts of the case afresh.

##### **5.2 The Appellant's Trade Union Representative/Work Colleague**

If the appellant is to be accompanied, it must be agreed beforehand whether that person is to do so as a "representative", i.e. to speak for them, or as their "colleague", i.e. to support them and act as witness to the proceedings.

An appeal is an internal procedure therefore attendance for this purpose is restricted to other employees of the College or officials of recognised trade unions. Solicitors, family members and all other non-employees will be excluded from appeal hearings.

### **5.3 The Responding Manager**

Having set out their written response to the appellant's case beforehand, the role of the responding manager is to summarise why they took the decision that they did, explaining why their decision was reasonable, given the circumstances.

### **5.4 The HR Adviser**

A senior member of Human Resources will advise those hearing the appeal on matters of procedure, Employment Law and best practice. HR will also provide an administrator to act as clerk to the hearing and take a record of proceedings.

## **6 CONDUCT OF APPEAL HEARINGS**

**6.1** Those hearing the appeal will consider the written submissions of the appellant and responding manager, together with any oral statement they might wish to make. Both sides may question each other and call and question witnesses in support of their case. If witnesses are called, they may only remain at the hearing for the period of their evidence and questioning. At the end of the appeal, both sides will be given the opportunity to sum up.

**6.2** The appellant will receive written notification of the outcome of the appeal within ten working days of the hearing. He or she will also be advised that the outcome of their appeal marks the end of internal consideration of their case.

## **7 OUTCOMES**

The available outcomes under this appeals procedure are as follows:

- To allow the appeal and make appropriate recommendations to adjust the decision.

OR

- To dismiss the appeal.

## **8 SPECIAL CONSIDERATIONS**

**8.1** If the grievance relates to the conduct of another employee of the College that person and their line manager will be informed of the existence of the allegation as soon as possible after receipt.

**8.2** The grievance procedure excludes complaints about disciplinary decisions and dismissals which are dealt with through the appeals process under the Disciplinary Procedure.

**8.3** If an employee has a grievance after their employment has ended they should raise it in writing in the normal way with the relevant manager. The College will then contact them in order to agree the most appropriate way of taking the grievance forward. For example, it may be agreed that this procedure will be followed, but that the former employee will not be required personally to attend the hearing. In such cases, the former employee will be invited to submit a written statement to the hearing, and will be advised in writing of its outcome, and their right of appeal.

**8.4** It is in the interests of both the College and its employees that written records are kept during the grievance process. These will include:

- the nature of the grievance raised
- a copy of the written grievance
- the manager's response
- action taken and the reasons for doing so
- whether there was an appeal and if so, the outcome
- subsequent developments

**8.5** Records will be treated as confidential. Copies of meeting records, including any formal minutes taken, will be given to the employee and a copy placed on their personal file. The College retains the right to withhold some information in certain circumstances, for example to protect a witness.

**8.6** This policy may be subject to review and amendment from time to time in light of changes in legislation, good practice or perceived problems of operation. All policies are subject to formal review every 24 months.