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# Grievance Policy

## 1. Purpose

- 1.1 The University is committed to promoting effective working relationships and an environment in which employees feel able to raise work-related issues with their managers.
- 1.2 The purpose of this procedure is, as far as possible, to achieve a fair and prompt resolution to individual grievances. The University aims to settle workplace grievances in a fair manner, as near as possible to the source of the grievance and, at the informal stage.
- 1.3 The policy and procedure are informed by the ACAS code of practice on disciplinary and grievance procedures, professional best practice and advisory frameworks which set out guidance to assist employers, employees and their representative's deal with grievances in the workplace. These can be found on the intranet: [A-Z HR Policies for staff \(newman.ac.uk\)](https://newman.ac.uk/A-Z-HR-Policies-for-staff).

## 2. Scope

- 2.1 This policy and its supporting procedure provides a clear and transparent framework to deal with concerns, problems or complaints raised by employees in the course of their employment in relation to:
  - matters affecting themselves as individuals; or
  - matters affecting their personal dealings or relationships with others in relation to their employment.
- 2.2 The procedure applies to everyone employed by Birmingham Newman University under a contract of employment. Other agents on the University site will be subject to the Complaints Procedure.
- 2.3 **Exclusions** - The procedure cannot be used to challenge formal outcomes in other procedures which have an appeal process, namely:
  - Disciplinary Policy and Procedure
  - Capability Procedure
  - Managing Sickness Absence Policy and Procedure
  - Redundancy Procedure
  - Probation Procedure
  - Whistleblowing Procedure
- 2.4 Where attempts to resolve the work-related issues informally do not work, it may be appropriate for an individual to raise a formal grievance under this procedure. If the complaint relates to discrimination, harassment or victimisation, the matter should be dealt with in conjunction with the Dignity at Work Policy. Complaints under the Dignity at work policy that amount to an allegation of misconduct on the part of another employee may be investigated and dealt with under the Disciplinary Procedure.
- 2.5 Issues that are the subject of collective negotiation or consultation with the University's recognised trade unions or employer association will not be considered under the Grievance Procedure. In these exceptional cases, employees should raise their complaint with their manager and the Human Resources department who will advise on the most appropriate course of action.

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- 2.6 Complaints about any disciplinary action taken against the individual should be dealt with as an appeal under the disciplinary procedure.
- 2.7 Grievances raised while an employee is subject to disciplinary proceedings will usually be heard only when the disciplinary process has been completed. Insofar as a grievance has any bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of those proceedings.
- 2.8 The procedure does not apply to the settlement of collective grievances. In these exceptional cases, employees should raise their grievance with their manager and Human Resources who will advise on the most appropriate course of action.
- 2.9 The University reserves the right, in very exceptional circumstances, where the individual is reluctant to pursue an informal or formal complaint through the Grievance procedure, but the allegation(s) made is deemed very serious in nature, to instigate informal and/or formal management proceedings to address the grievance matter.

### **3. General Principles**

- 3.1 The following principles will apply to the application of this policy:
  - 3.1.1 All grievances will be treated seriously and impartially, investigated promptly, in confidence and with respect by all parties concerned (as outlined with our Dignity at Work Policy and Procedure): [A-Z HR Policies for staff \(newman.ac.uk\)](https://newman.ac.uk/A-Z-HR-Policies-for-staff).
  - 3.1.2 The Grievance Procedure must not be used as a substitute for normal day to day discussions. Wherever possible, it is usually more beneficial for grievances to be resolved informally without recourse to formal procedures. It is expected that everyone will enter into the procedure in good faith, with the aim of resolving a particular issue.
  - 3.1.3 It is recognised that there may be occasions when it is not possible for a grievance to be resolved informally. In such cases the procedure below at Stage 1 should be followed. All parties should be absolutely clear whether any meeting is being held under the informal or formal stage of the procedure.
  - 3.1.4 Any steps taken under the procedure supporting this policy should be taken promptly, unless there is a good reason to extend the timeframe. Further advice should be sought from Human Resources in the case of any change to the timescales laid down in the procedure.
  - 3.1.5 At any stage in the procedure, subject to the agreement of all parties concerned, there may be a suspension in proceedings to facilitate mediation (see 4 below), further fact-finding or other non-adversarial discussions with the aim of promoting resolution of the case.
  - 3.1.6 At any stage in the procedure, the manager dealing with the grievance may, at their discretion, defer consideration of the grievance if other activities which are relevant to the substance of the grievance are pending or in progress. In such cases the parties to the grievance will be advised of the reason for deferring consideration and advised of the revised timescale.
  - 3.1.7 If, on investigation, the grievance is found to be vexatious or trivial the investigating manager may dismiss it without further consideration. Where the investigating

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manager considers the vexatious nature of the grievance to warrant further inspection it may be appropriate for it to lead to disciplinary action. The employee will be advised accordingly.

- 3.1.8 The University recognises that those involved in grievance proceedings may find it an anxious and distressing experience. Everyone involved in the process will be treated with respect.
- 3.1.9 The University will not tolerate abusive and insulting behaviour or conduct from anyone involved in or related to the grievance proceedings and will treat any such behaviour as misconduct under the Disciplinary Procedure.
- 3.1.10 The University may, in exceptional circumstances with the agreement of the employee, vary this procedure as appropriate to a particular case. In the event that it becomes impracticable to continue with the procedure, it may be discontinued. In such cases the University will advise the aggrieved parties of the outcome of their grievance in writing.
- 3.2 **Right to be accompanied** - All employees who are the subject of this procedure will have the right to be accompanied at any formal meetings held under this procedure. This may be by a workplace colleague or recognised trade union representative for those who are members of a trade union. Where the chosen companion is unavailable on the day scheduled for the meeting or appeal, the meeting will be rescheduled, provided that the employee can propose an alternative time within five working days of the scheduled date. Subsequent postponements or cancellation will only be permitted at the discretion of the University.

**Legal representation is not permitted for any party during any stage of the Grievance Procedure, informal or formal.**

- 3.3 **Equality and Diversity** - To ensure fair treatment and, effective resolution, and provision of support by the University in the application of this procedure, all parties to the grievance should provide information about any equality or diversity issues which may be relevant.
- 3.4 **Confidentiality** - All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University. Failure to maintain the appropriate levels of confidentiality may be deemed as a disciplinary-related incident and may therefore be managed in accordance with the University's Disciplinary Policy and Procedure: [A-Z HR Policies for staff \(newman.ac.uk\)](https://newman.ac.uk/A-Z-HR-Policies-for-staff).
- 3.5 **Timescales** - Whilst every endeavour will be made to comply with timescales, due to the complexity and/or specific circumstances of a case, timescales may be extended. In such circumstances, the individuals concerned will be advised of the reasons for an extension and/or potential delay in the process.
- 3.6 **Staff support** – All employees and employee representatives involved in these proceedings are entitled to seek support through the routes outlined in the Dignity at Work Policy and the confidential telephone counselling service provided by the 24/7 Employee Assistance Programme (EAP): [Staff Health and Wellbeing \(newman.ac.uk\)](https://newman.ac.uk/Staff-Health-and-Wellbeing). Individuals can access the EAP by telephoning the free-phone number 0800 107 6147. Additional requests for the support of an independent counsellor will be made to Human Resources who will provide guidance and advice

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on staff support and wellbeing provisions and on the application of the Grievance Policy and Procedure. Other staff support may be sought from trade union representatives and Chaplaincy Services.

#### 4. Mediation

- 4.1 At any stage in this procedure, the parties to the grievance may request that the matter be referred to an independent mediator. Mediation will be used only where all parties involved in the grievance agree.

#### 5. Responsibilities of Staff and Managers

- 5.1 **All staff** have a role to play in helping to create a climate at work where communication channels are kept open so that concerns are discussed and resolved at an early stage. Individuals should be aware of their own conduct and act in accordance with the University's values, avoid collusion and other inappropriate behaviour. There is an expectation that all staff will co-operate fully in any complaint procedure and/or investigation.
- 5.2 **Line managers and staff supervisors** have a particular responsibility to act as role models; respond positively to complaints to avoid them escalating into grievances; and to challenge and stop unacceptable behaviour in the workplace. Please note that any future reference to 'managers' or 'line managers' in this policy document includes supervisors.
- 5.3 Line managers and staff supervisors must notify Human Resources in writing of all formal grievances raised. Where managers and staff supervisors are under a duty of care, in exceptional circumstances they have the discretion to investigate complaints even when the affected parties may be reluctant to proceed.

#### 6. Role of Human Resources

- 6.1 The role of Human Resources is to advise on the operation and application of this policy and procedure, and to take a proactive role in ensuring consistency of application across the University. There is no requirement to advise Human Resources of informal grievances, although employees and managers are strongly encouraged to do so for advice and support.
- 6.2 In reference to 5.3 above, line managers and supervisors must notify Human Resources in writing of all formal grievances raised. Human Resources will then monitor the matter through all necessary stages. Human Resources can also provide additional guidance during the procedure to managers, the employee, companions, and to witnesses.

#### 7. Records

- 7.1 **Informal-** For informal grievances, a written note of the date and nature of the matter together with any agreed outcome should be kept in confidence by the manager in a secure location in accordance with the University's Data Protection Policy and copied to the employee. The notes should be destroyed securely after three years, in accordance with the Data Protection Act 2018 and GDPR and the University's Record Retention policies. In the event the line manager leaves the University before this date, they should ensure that all related documentation is passed to Human Resources.

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7.2 **Formal-** At the end of each stage, a complete record of relevant documentation generated during the various stages of the formal procedure must be passed to Human Resources. These records will remain confidential, monitored under equality legislation, and retained for a limited period in accordance with the Data Protection Act 2018 and GDPR and the University's Records Retention policies.

7.3 A summary of all grievances, outcomes and actions is maintained and general statistics reported for equality monitoring and management purposes. This summary is kept securely and confidentially in accordance with the Data Protection Act 2018 and GDPR and the University's Records Retention policies.

## 8. Review

8.1 This Policy and related Procedure will be reviewed three years, or earlier if legislative changes dictate that this is required, from the date of implementation and earlier if legislation dictates. Any proposed amendments will be subject to consultation. Such amendments will be notified to employees through the normal communication channels and/or e-mail. The Policy and Procedure will be maintained on the Human Resources site on the intranet.

# The Grievance Procedure

## Informal Stage

1. Grievances can often be resolved effectively, quickly and informally through discussion with managers and there is an expectation that every effort will be made to resolve matters informally. Employees are therefore expected to raise any concerns or issues informally with their immediate line manager. If the employee's grievance relates to their line manager, they should refer to point 5 below.
2. Managers will discuss an employee's concerns in confidence with them, make discreet investigations, as appropriate, and attempt to address their concerns as fairly and promptly as reasonable.
3. It is the line manager's responsibility to seek to resolve the grievance informally and to notify the individual of the outcome. This would normally take the form of a summary note of the discussion and its outcome.
4. It is expected that an employee will seek to resolve their grievance informally in the first instance and will only progress to a formal grievance if the issue cannot be resolved by informal means. Where this has been unsuccessful, or circumstances make this route inappropriate, the matter should be raised formally through the Grievance Procedure.
5. If the grievance is against the employee's manager, it should be raised with that person's manager who will seek to resolve the matter informally as appropriate. If the grievance is against the Vice Chancellor, it must be directed to the Chair of Council in the first instance.
6. If the employee is dissatisfied with the outcome of the informal approach or it is not appropriate to use the informal approach due to the nature and/or seriousness of the grievance, then the formal approach should be followed.

## Formal Procedure

### Stage 1-Notification and Investigation

At all times the grievance shall be managed respectfully and the requirements of confidentiality must be fully observed.

- 1.1 If it is not possible to resolve a grievance informally, the employee should raise the matter formally, and without unreasonable delay, by submitting a written case for their grievance. This written statement should set out clearly the nature of the grievance, with supporting evidence where appropriate; what actions the employee has taken to resolve the grievance informally; and the outcome that is sought. It should be sent to their line manager, or where the complaint relates to the line manager, to a more senior manager. The line manager or senior manager will write to the employee acknowledging receipt of the grievance, normally within ten working days of receipt.
- 1.2 Where the grievance is received by the line manager or senior manager, this manager must inform Human Resources of the grievance. Human Resources will then, in conjunction with the manager or senior manager, discuss whether they will

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investigate the grievance or appoint an Investigating Officer to investigate the grievance.

- 1.3 The line manager (or Investigating Officer) will invite the employee to attend a formal grievance meeting to discuss the grievance. The line manager (or Investigating Officer) will be supported by a member of the Human Resources Team. This meeting will normally take place within ten working days of the written acknowledgement. There will normally be a notetaker present within this meeting.
- 1.4 As a result of the grievance meeting, the line manager (or Investigating Officer), in discussion with Human Resources, may determine that it is necessary to make further enquiries or, again in discussion with Human Resources, to appoint an Investigating Officer (if not already appointed) to conduct an impartial and thorough investigation into the background facts or into any allegations made by the employee.
- 1.5 Where the grievance relates to other employees, the individuals involved will be informed in writing of the nature of the complaint and will be invited to an investigation meeting and/or given the opportunity to submit a response. The employee named within the grievance will have the right to be accompanied at any investigation meeting, normally by a work colleague or recognised trade union representative.
- 1.6 Once the line manager (or Investigating Officer) has concluded their investigations, they will inform the employee of their decision pertaining to outcome of their grievance. The line manager (or Investigating Officer) may uphold, partially uphold, or not uphold the grievance.
- 1.7 The decision may be given verbally by the line manager (or Investigating Officer) and will in any event be conveyed or confirmed in writing within ten working days of the grievance meeting or conclusion of the grievance investigation, outlining the employee's right of appeal. Any recommendations for further action will be clearly stated in writing.
- 1.8 If the employee is not satisfied that their grievance has been redressed and they remain aggrieved, they may write to the next level of management within ten working days outlining the grounds of their appeal and redress being sought. This would then trigger Stage Two of the policy and procedure (The Appeal).
- 1.9 The appeal stage is not intended to be a rehearing of the original case. Hence the grounds for appeal should typically fall within one of the following:
  - Procedural error
  - The outcome and recommendations are unreasonable and significantly out of line with the issues considered
  - New information is now available which could not have reasonably been provided when the original outcome was communicate
- 1.10 Where the appeal relates to new evidence there should be a clear statement provided outlining the reason why this was not available for consideration at the previous stage.
- 1.11 In appealing the outcome of their grievance, the employee must still adhere to the requirements for confidentiality available in section 3.4 and continue to have access to support through the University as outlined in section 3.6.



- 1.12 If the complainant has not notified the line manager's next level of management that they are still aggrieved within ten working days of being given a written decision under Stage 1, the grievance shall be deemed to have been settled to the satisfaction of the employee. The employee(s) whom the grievance is against will also be advised in writing of the decision.

## Stage 2 - Appeal

- 2.1 At this stage the grievance appeal will be considered by a more senior manager. The senior manager will have had no prior involvement in the case and will be supported by a member of Human Resources.
- 2.2 Upon receipt of the written appeal, the senior manager will write to the employee acknowledging receipt of the appeal, normally within ten working days. The senior manager will convene a grievance appeal meeting to hear the appeal. This meeting will normally take place within ten working days of the written acknowledgement and the employee will be invited to this meeting in writing.
- 2.3 Where the appeal involves other employees, the employee(s) named in the grievance will be informed of the appeal in writing and invited to the grievance appeal meeting in writing. The named employee(s) will have the right to be accompanied at the grievance appeal meeting, normally by a work colleague or recognised trade union representative.
- 2.4 As a result of the grievance appeal meeting, the senior manager may determine that it is necessary to make further enquiries or to conduct an impartial and thorough investigation into the background facts or into any allegations made by the employee.
- 2.5 If this is the case, once the senior manager has concluded their investigations, they will inform the employee of their decision pertaining to outcome of their appeal. The senior may reject the appeal or may uphold or partially uphold the appeal.
- 2.6 The decision may be given verbally by the senior manager and will in any event be conveyed or confirmed in writing within ten working days of the conclusion of their investigation. Any recommendations for further action will also be clearly stated in the letter. The decision following an appeal is final and there will be no further right of appeal under the University's Grievance Procedure. The employee(s) whom the grievance is against will also be advised in writing of the decision.

## Potential Outcomes

- 3.1 Potential outcomes of the formal stages of the Grievance Policy and Procedure can include:
- i) Grievance not upheld and rejected
  - ii) Grievance partly upheld, and part not upheld
  - iii) Grievance upheld and further action will be taken as a result.
- 3.2 Where the grievance is upheld fully or in part, the University will determine appropriate actions as a result of the grievance. Recommendations can still be made, where appropriate, even when a case is not upheld if this is deemed appropriate to address

particular concerns. Action may be taken under the Disciplinary Procedure where the grievance was not upheld and the allegations made were found to be malicious, vexatious or spurious.

## Potential Disciplinary Action

- 4.1 If the outcome of a formal grievance proposes any disciplinary action, then the Disciplinary Procedure will be invoked. The investigation carried out during the formal Grievance Procedure may also be used as evidence under the disciplinary investigation process prior to a potential disciplinary hearing.

## Former Employees

- 5.1 There is no legal requirement to deal with grievances raised by ex-employees, however the University may consider a grievance raised by a former employee provided it is received within four weeks of the end of employment. Grievances raised by former employees should be submitted in writing to the Director of Human Resources. A modified form of the Grievance Procedure will apply in these circumstances with the complaint being investigated and a final response from the University being sent out to the former employee in writing. Former employees do not have the right of appeal against the decision made.