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## Produced by Human Resources

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## GRIEVANCE PROCEDURE

# POLICY STATEMENT

 Middlesex University aims to be an employer of choice, providing a positive working environment where all of our employees are treated with dignity and respect.

 However, from time to time employees may become concerned about issues at work which affect them personally. While most concerns can be dealt with quickly and informally, there may be occasions where this is not possible. In such cases we will seek to resolve individual grievances in a manner which is as fair and timely as possible.

**2. SCOPE**

 This policy and procedure applies to all Middlesex employees and is intended for grievances:

* arising from a policy or procedure not being applied correctly; or unfair / unreasonable work or working arrangements
* where an employee believes they have been bullied, harassed or discriminated against on the grounds of their sex, race, disability, sexual orientation, age, gender reassignment, maternity, paternity, trade union membership or religion or belief (or other legally protected grounds).

Where a grievance is about non-compliance with, or the outcome of a procedure and an appeal is specifically provided for under that procedure, that appeal provision should be used.

 Progressing an individual grievance may occasionally lead to the recognition that the same issue concerns other members of staff and that the matter might be more properly dealt with under the Procedure for Resolving Unresolved Local Issues (in the Trade Unions Recognition Procedure).

3. GUIDING PRINCIPLES

 The guiding principles that underpin the Middlesex approach to managing staff grievances are:

* line managers and employees seek to resolve work concerns as quickly and as close to their source as possible, using compromise and open minds to find practical shared solutions wherever possible.
* where formal stages are used, both parties review at each stage the possibility of resolving matters informally.
* formal grievances are managed fairly and swiftly to ensure fair grievance resolution, minimal disruption and stress.
* ensuring that work concerns involving possible discriminatory actions are approached with sensitivity and appropriate regard to dignity at work and equality.

## 4. STAGE 1 - INFORMAL PROCEDURE

 If an employee has a grievance relating to his/her employment, the matter should be raised initially with their line manager. In the event that the grievance relates to the line manager it should be referred to the line manager’s own immediate manager.

 Wherever possible, the manager will attempt to resolve the grievance informally. He/she shall enquire into the grievance and will discuss it with the complainant and will provide a written record of the discussion and its outcome within ten working days after the grievance is received. Most grievances will be resolved at this stage.

## 5. STAGE 2 – FORMAL PROCEDURE

5.1 If the grievance remains unresolved following the informal stage, or is considered too serious to be resolved informally, the complainant should write to their Dean/Director within 3 months of the incident/event, providing full details of the formal grievance and how they consider it may be resolved. The template at Appendix 1 should be used. In rare circumstances where the Dean or Director has already had significant involvement in the case, the grievance should be sent to the relevant Executive Line Director.

5.2 The Director/Dean/Executive Line Director may consider the grievance personally or, within 5 working days, appoint the line manager or another Senior Manager to act in this regard as “Investigating Manager”. The manager who undertakes this role as “Investigating Manager” should as far as is reasonably possible, have had no significant prior involvement in the issues complained of. The Investigating Manager will be assisted by a member of HR.

5.3 The Investigating Manager will:

* Arrange an initial meeting with the employee who has raised the grievance within 10 working days to discuss the grievance. At this meeting the employee will be invited to clarify the nature of the grievance, submit any verbal/written evidence and suggest any additional information and or appropriate witnesses.
* Consider whether mediation may be an option.
* Consider if it is necessary to interview relevant witnesses, review further documentation or any other information that may be necessary prior to reaching a decision.
* Where the facts are already clear or no further investigation is necessary the Investigating Manager will confirm the outcome in writing to the employee (see possible outcomes below).
* Where further investigation is considered necessary it should be proportionate to the nature of the grievance and sufficient for a reasonable conclusion to be reached on the available facts. An investigation report should be written, outlining the nature of the investigation and attaching evidence, and other relevant documents. The Investigation report should contain the Investigating Manager’s conclusions and decisions and the right to appeal.
* Circulate the investigation report to all those involved: the employee, any staff complained against, HR, and the union representative.
* Where appropriate arrange a meeting to present their conclusions and decisions. If a meeting is decided on, the investigating manager will invite those required to attend giving at least **5 working days’** notice.

 The decision may include:

* + the grievance is unreasonable/unfounded and no further action is required
	+ Securing an apology
	+ Training and development for some employees or managers
	+ Mediation
	+ An action plan for change, with reviews
	+ Implementing the Disciplinary Procedure.
	+ Moving an employee from one job to another if working relationships have broken down irretrievably. Note: this option may be explored with the complainant even where the grievance has not been upheld.

**6**. **ROLE OF HR**

 HR must be consulted on all formal grievances. HR will advise and support the Investigating Manager throughout the grievance and will attend any investigation meetings and the grievance meeting. HR shall be responsible for ensuring that the grievance procedure operates equitably throughout the institution, that time limits set for the grievance procedure are followed.
Where a grievance alleges discrimination or bullying or harassment the HR Advisor will ensure that the University’s [Promoting a Positive Work Environment document](https://www.intra.mdx.ac.uk/_media/_intranet/document-library/h/HR_bullying_harassment.pdf) is referred to.

**7. RIGHT TO BE ACCOMPANIED**

* The employee has a right to be accompanied at a grievance meeting. The chosen companion may be a fellow University employee, a trade union representative, or an official employed by a trade union. If the trade union representative is not an employee of the University they must be certified by their union as being competent to accompany a worker.
* The companion will be allowed to address the meeting to put and sum up the employee’s case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee’s behalf, address the meeting if the employee does not wish it or prevent the employer from explaining their case.
* Employees do not have the right to be accompanied at investigation meetings. However, the University may allow reasonable requests where this does not delay the investigation.

**8. TIMESCALE GUIDE**

 An initial meeting should be held with the complainant within 10 days of receipt of the grievance. The aim is to then conclude any investigation as quickly as possible. As a guide managers should aim to resolve general grievances within 20 working days. Sensitive or complex grievances by their nature may take longer to investigate and resolve but should normally be dealt with within 35 working days.

**9. RECORDS AND CONFIDENTIALITY**

 Accurate records should be kept detailing the nature of the grievance raised, the response, any action taken and the reasons for it; whether an appeal was lodged and the outcome of the appeal. These records should be kept confidential and retained in accordance with the Data Protection Act (1998) which requires the release of certain information to individuals on their request. Copies of any meeting records should be given to the individual concerned although in certain circumstances some information may be withheld, for example to protect a witness. Only the principle parties to the grievance should receive the written outcome to the complainant, or appeal. Witnesses will not be copied in to this but should be briefed on a need to know basis, as advised by Human Resource Services.

**10. OVERLAPPING GRIEVANCE AND DISCIPLINARY CASES**

 Where an employee raises a grievance during a disciplinary or related process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

**11.** **VEXATIOUS GRIEVANCES**

 Vexatious or frivolous use of the Grievance Procedure may result in disciplinary action being taken against the complainant. A vexatious grievance is one which is raised maliciously or in bad faith. For example, a grievance may be considered vexatious where it is based on deliberate misrepresentations or untruths, with the malicious intent of causing harm to the person against whom the grievance is raised. Similarly, the raising of a series of frivolous / unmerited grievances, or a number of frivolous / unmerited grievances simultaneously against many different people, may also be considered vexatious.

## 12. STAGE 3 – APPEAL

 If the grievance is not resolved to the satisfaction of the complainant or person complained of at Stage 2, a written appeal may be submitted to the Director of Human Resources within **ten** working days of receipt of the written conclusion at Stage 2.

12.1 The appeal must be made in writing and relate to one or more of the following

* A belief that the investigating manager did not follow the **procedure** properly, and that this significantly affected the decision. (A small procedural flaw which would not have influenced the investigation or decision is not sufficient grounds for upholding an appeal.)
* A belief that the manager made a decision about a significant **fact**, which it wasn’t reasonable for him or her to take. (For example, where a manager unreasonably decides that a particular event must have taken place.)
* A belief that the **outcome** of the grievance investigation was one which no reasonable person could have come to. (The fact that the employee disagrees with the manager’s outcome is not a sufficient ground for an appeal.)
* The fact that **new evidence** has come to light, which the employee could not have introduced at an earlier stage, and which could have a significant effect on the decision taken. (Employees cannot present new evidence which was previously available and they could have presented at an earlier stage.)

12.2 The Director of Human Resources will determine who should hear the appeal. This may be the Dean/Director, an Executive Line Director or another Senior Manager, supported by a member of Human Resources, both of whom will not have been significantly involved at an earlier stage.

12.3 The Appeal Manager assisted by a senior member of Human Resource Services will:

* Review the paperwork relating to the management of the grievance so far.
* Gather any other additional information considered necessary to assist the overall understanding of the grievance issue.
* Invite the employee to attend a Stage 3 appeal hearing. Appeal hearings will be arranged as soon as reasonably practicable and should be confirmed in writing to the employee, giving at least 5 working days’ notice of the hearing.
	+ Hold a Stage 3 appeal hearing to listen to the grounds of appeal.
	+ Close the hearing to consider the outcome.
* Come to a decision, as quickly as possible, which addresses the grounds of appeal. The outcome could be:
* Upholding the appeal, in full or in part, with actions to redress the matter.
* Dismissing the appeal.
* Confirm the outcome, with reasons and any redress, in writing to the employee and any other relevant key people. This should normally be done within five working days of the appeal hearing.

 The decision of the manager hearing the appeal is **final.**

# 13. GRIEVANCES RAISED AFTER EMPLOYMENT HAS ENDED

 The University is prepared to receive any written grievances after employment has ended and will take any action it sees as appropriate.

*This revised Grievance Procedure has been developed through consultation and agreement with the recognised Trade Unions (UCU and UNISON) and Executive Briefing Group, in accordance with the Principles set out by the Board of Governors. It was approved by Executive on 23 July 2009.*

*It is due for review in July 2014.*

**FORMAL GRIEVANCE – FLOWCHART Appendix 1**

**Employee raises grievance** in writing within 3 months of incident and submits to line manager and HR

**Investigating Manager and HR advisor appointed**

and meet with employee within 10 days

**Investigation Manager carries out investigation if required** with support from HR

**Appeal**

**Investigation Manager** circulates investigation report with final conclusion/ recommendation Employee(s) informed of right to appeal

A further formal meeting may be held.

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| Staff Grievance Form |
| Your name: |
| Your job title: |
| School/Service: Campus: |
| Your contact number: Daytime Evening |
| What is your grievance? |
|  |
| Did you speak informally to your manager/individual concerned about your grievance? |
| YES/NO Date: |
| Why are you dissatisfied with this response? |
|  |
| What needs to happen to resolve your grievance? |
|  |
| Signed Date |

**Complete this form and hand to your Director/Dean and send a copy to the Director of HR.**