GRIEVANCE POLICY AND PROCEDURE

January 2006
1. Purpose and Scope

The University recognises the importance of maintaining good working relationships and it seeks to achieve a working environment in which problems can be discussed and easily resolved at an early stage by encouraging open and honest communication. All University employees have the right to seek individual redress for any grievance that relates to their employment with the University. This grievance procedure will be followed in respect to all employees of the University other than those initiated by senior post holders as defined under the Articles of Government.

The aim of the procedure is to deal with any grievance at an appropriate level within a reasonable timescale and to the satisfaction of all those involved.

N.B. The following document is a detailed and comprehensive one, but the simple rules concerning when and how to initiate a grievance can be found on pages 3, 4 and 5.

2. Policy principles

2.1 It is in the interest of the University, its students and staff that individual grievances (complaints, concerns or problems) felt by employees can be resolved fairly and promptly. Many grievances can be, and are better, resolved informally. The grievance procedure is intended for use only in those circumstances where informal resolution is impractical, or has failed, or is inappropriate because of the seriousness of the matter.

2.2 Grievances may concern any matter over which the employer has control and which arises for the employee in the course of, and connected with his/her employment. This may include for example both complaints about the purposeful behaviour of other employees, including managers, and complaints about the unintended or unconsidered effects on individuals of policy or operational decisions where the motives of those responsible are not being questioned. The grievance procedure, however, will not be available:

- in cases which are the subject of collective disputes or which are more appropriately dealt with under any agreed collective bargaining or disputes procedure.
- normally when proceedings are taking place under the disciplinary, probationary or capability procedures (although a grievance may still be lodged) unless it is agreed there are grounds for hearing the grievance first. Due consideration will however be given, especially in stage 4 disciplinary proceedings or their equivalent in the other procedures, as to whether the grievance should be dealt with first or whether another line manager of equivalent grade should deal with the disciplinary,
capability or probationary case. Where normally the disciplinary, capability or probationary hearing proceeds first any penalty from that hearing will not be decided on until after the grievance has been subsequently heard. Nothing shall preclude the employee from pursuing the grievance under the grievance procedure following the consideration of the disciplinary, capability or probationary case.

- for complaints of bullying and harassment. The University has a separate procedure for dealing with these issues and employees should follow this procedure in these cases.

- in respect of the same grievance raised within the previous six months, unless any action decided upon by management to redress the grievance has not been implemented or has proved inadequate to redress the situation.

(iii) The University may adopt the disciplinary procedure for serious complaints about behaviour which may constitute misconduct such as discrimination on grounds of race, gender, disability, sexual orientation or religion/belief. Employees should bring any such complaint under the grievance procedure in the first instance but, after due investigation, the complaint may be dealt with under the disciplinary procedure if appropriate. The disciplinary procedure might also be used, after due investigation, following a grievance hearing or appeal if it has been concluded that misconduct may have occurred or that the grievance itself may be malicious. No formal disciplinary action can be taken by the University as a result of a grievance except after use of the disciplinary procedure. The pre-procedure investigatory stage of the disciplinary procedure however does not apply in these circumstances, an appropriate investigation already having been conducted through the grievance process. In these cases it is the Chair of the relevant grievance hearing/appeal who makes the disciplinary case on behalf of the University and not the complainant.

(iv) The procedure will be applied promptly and without unreasonable delay. Every effort will be made to ensure that meetings and decisions occur in good time and within the timescales set out in the procedure. In some circumstances however, such as when the matter is a complex one or when relevant personnel are unavoidably not available, it may not be possible to adhere rigidly to those timescales. The employee will be informed of any reason(s) for delay and consulted on any proposed revised timescales. Any action decided upon by management to redress any grievance will also be applied without unreasonable delay.

(v) All complaints under the procedure will be treated with discretion, and all proceedings and records will be kept as confidential as is practically possible and as is consistent with achieving a fair and thorough investigation.
(vi) The procedure will be applied fairly, reasonably and consistently across the University and both the employee and any employee complained against have the right to a serious and unbiased consideration of the complaint.

(vii) Individuals will normally be expected to attend hearings under the grievance procedure unless they have reasonable grounds to believe that by doing so they would come to some serious physical or mental harm: their property or some third party is threatened or the other party has harassed them and this may continue.

(viii) Employees bringing a grievance have the right to appeal against the University's decision with respect to that grievance in the manner provided for below (see section 5). Any employee complained against does not have the right of appeal under this policy but may take out a separate grievance once the procedure has been completed, or use any disciplinary hearings as the forum for appeal.

(ix) In applying this policy, the University will have regard to the need to ensure staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions. The University will also have regard to the need to ensure that such freedom is exercised in a way which does not unduly infringe on the legitimate rights and interests of others.

(x) It is important to ensure that all managers and workers’ representatives should be familiar with the use and operation of the procedure.

3. Pre-procedure

(i) The University expects those with line management responsibilities to act quickly to attempt to resolve grievances informally whenever requested to do so by an employee.

(ii) Where an employee has a complaint against a fellow employee, including a manager, they should attempt to resolve the matter informally through discussion with the other person(s), if this is practical and appropriate. In many situations this may be easier if the informal discussion is widened to include a work colleague or trade union representative and/or an appropriate line manager. In these circumstances the assisting manager and the employee may find it helpful to keep a note of the informal meeting.

(iii) When a grievance cannot be resolved informally, either because informal discussion has failed to produce agreement or because the matter is too serious, complex or intractable, the employee may proceed to the formal procedure.

(iv) Where the grievance is common to more than one trade union member,
it may be appropriate for employees to approach the relevant trade union to consider whether the matter is best dealt with through collective machinery rather than through the grievance procedure. Where the latter route is inappropriate, it might still be appropriate to consider a joint grievance where the matter is mainly one concerning policy or procedures, rather than a complaint about the alleged detrimental behaviour of an individual.

(v) Where the grievance involves terms and conditions and other contractual matters, or matters of employment law, the issue may be resolvable by informal discussion with the HR department prior to making a decision to proceed formally. In such informal discussions the employee may wish to also involve a trade union representative or work colleague. Trade union members are advised to involve a TU representative.

(vi) For teaching staff there is a separate informal procedure for issues arising from work loading which should be activated first before proceeding to the formal grievance procedure.

(vii) Grievances concerning agreed university policies should in the first place be referred to the appropriate university fora.

4. The procedure: the grievance hearing

(i) The right to be accompanied

Employees bringing a grievance have a statutory right to be accompanied by a trade union representative or fellow employee at all stages of the procedure. The University extends this right to any employee who may be the subject of any complaint if it is of a nature which could later result in any form of informal or formal reprimand under the disciplinary procedure or pre-procedure. This latter will not apply to grievances which are solely concerned with a review of policy or a rectification of an oversight and where there is no suggestion of negligence or purposeful detrimental conduct on the part of the other employees(s). The decision concerning whether it is appropriate for someone complained against to be accompanied will be taken by HR in consultation with that person and, if they desire, their potential trade union representative or accompanying colleague.

The trade union representative(s) or work colleagues(s), along with the employee(s), will be consulted on the timing of hearings and will be given the same documentation as is sent to the employee. Trade union representatives will be given, if necessary, reasonable time off work to familiarise themselves with the case, to confer with the worker to

*NB* Employment tribunals will normally expect employees to have attempted to resolve such grievances internally prior to any complaint to a tribunal.
prepare a case and to attend proceedings. A trade union representative may be a full-time official of the union.

(ii) **Trade union representative**

No grievance hearing involving a complaint against a trade union representative, if it is of a nature which could potentially later result in disciplinary action, will proceed until the circumstances of the case have been notified to a full-time official of the union.

(iii) **Initiating a formal grievance**

The complainant should gather any extant evidence, and set down in writing:

i. the reasons for the grievance and the names of any person(s) party to the grievance.

ii. if possible, an indication of the nature of the redress the employee is seeking.

iii. if the grievance is one that has previously been dismissed at a hearing or appeal, an indication of any new, extra or previously overlooked evidence and of any developments in the persistent grievance (NB such a grievance cannot be raised within six months of the previous hearing/appeal).

(iv) If the written grievance does not include this information, or at least the information at point i, Human Resources will request that the employee provides it before taking forward the grievance process.

NB Individuals may wish to seek advice from Human Resources or their union representative in relation to recording the above.

The above information and extant evidence should be sent to the HR Department which will, according to the guidelines in (iv) below, designate a Chair of the grievance hearing and to whom HR will send the grievance, extant evidence and any other relevant material to the case (such as relevant information from any previous hearing/appeal concerning the same grievance). If the matter is in relation to an action/decision of either the Deputy Vice Chancellor or Vice Chancellor then the grievance and evidence should be sent directly to the Director of Human Resources.

(v) **Designating the Chair of the grievance hearing**

The designated Chair should be jointly acceptable to both sides.

The Chair will vary with the nature of the grievance and the grade of any person complained against, according to the following guidelines:
- if the grievance is a complaint against an employee who is not a member of Senior Management (i.e., not a member of the Core Executive or not reporting directly to the VC or DVC), the Chair will normally be the line manager of the person complained against.

- if the grievance is a complaint against a member of Senior Management, excluding the VC and DVC, the Chair will normally be a member of the Core Executive, who is unconnected to and has no prior knowledge of the case, and who will act as delegate of the VC, although in some cases the VC may be Chair. The procedure to be followed in cases involving a complaint against the VC or DVC is given below.

- if the grievance relates to an employment or contractual matter, the Chair will be the HR Director or, especially in cases where the Director has already been involved in the issue, another Senior Manager from a different department to the complainant acting as a delegate of the HR Director. The Chair must be made aware by HR of any relevant context of employment law or collective agreement.

- if the grievance concerns a matter currently under consideration by the disciplinary or capability procedures or to a manager involved in those proceedings, the Chair will normally be the manager designated as Chair for the disciplinary or capability proceedings. Whether the grievance hearing is taken before such proceedings or after the proceedings (but before deciding the final disciplinary/capability outcome) is discussed in the disciplinary policy and procedure document.

- if the grievance relates to a matter which has already been through the grievance hearing/appeal procedure in the past (for example a complaint that a remedy for a grievance has not been implemented or has proved inadequate, or a grievance previously dismissed at a hearing or appeal but which the complainant feels persists), the Chair will be a manager of at least equivalent grade to the manager who conducted the last grievance (not appeal) hearing and will have had no previous involvement with the case.

- if the grievance is not about the behaviour of an individual or individuals but one where any redress requires the modification of the content or/and the application of policies or procedures internal to a department, function, subject group or faculty, the Chair will normally be the line manager with the relevant responsibility and discretion to effect any necessary changes to redress the grievance. Where redress of the grievance would require modification of the content or/and application
of University-wide policies or procedures, or would involve significant consultation by a line manager with (usually other) members of Senior Management from outside the department of the complainant, the Chair will normally be a member of the Core Executive, who is unconnected to and has no prior knowledge of the case, and who will act as delegate of the VC.

- where the Chair of the hearing would normally be the line manager of the complainant or of any person complained against, or the line manager to whom the complainant’s line manager reports, the complainant may have, in their written grievance, presented a case for an alternative Chair. In such circumstances HR will consult on the issue with the complainant and her/his TU representative or work colleagues and a mutually agreed alternative Chair may be designated, who will be of at least equivalent managerial grade to the normal Chair.

- where the grievance is a complaint against the Deputy Vice Chancellor then the chair of the hearing will be the Vice Chancellor.

- where the grievance is a complaint against the Vice Chancellor then the chair of the hearing will be a member of the Governing Body.

(vi) Setting up a grievance hearing

The designated Chair, upon receipt of the grievance and all relevant extant information from HR, will, in conjunction with HR, organise a grievance hearing.

However in some serious cases the manager designated as Chair may decide that the matter is really a disciplinary issue and, in a consultation with HR, may instead initiate a pre-disciplinary investigation prior to possible subsequent use of the disciplinary procedure. In such situations it is the manager who promotes the disciplinary case on behalf of the University and not the employee.

The manager so designated as Chair will in stages:

- write to the employee, with a copy to HR, acknowledging the grievance and inviting the employee to agree a mutually convenient time and date for a hearing to consider the grievance, as well as reminding the employee of their right to be accompanied.

- write (with a copy to HR) to any employee who is the subject of the grievance or who is relevant to the redress of the grievance, informing them of the details of the grievance and the pending
grievance hearing, including any extant evidence and reminding them of the right to be accompanied at the hearing (if the nature of the grievance warrants accompaniment – see right to be accompanied).

- liaise with the complainant to agree a mutually convenient time and date for a hearing, which should balance the need for promptness with the availability of personnel and providing sufficient time for relevant parties and their trade union representatives / work colleagues to prepare their case; normally a hearing should occur within 15* working days of first receipt of the grievance but must allow time for at least 5 working days notice of the hearing.

- send a formal letter of notice of a hearing to the employee and to any subject of or significant party to the grievance, confirming the time, date and place of the meeting (bearing in mind the notice requirement above), giving details of the matters to be discussed at the hearing and enclosing the guidelines on the procedure to be followed at the hearing; the letter(s) should also make it clear that further documentation may be presented by any party but that this should be normally made available at least 24 hours before the hearing, and that there is a right to call witnesses, who should be identified at least 24 hours before the hearing and will, if necessary, be given time off work to attend the hearing.

The Chair must make every effort to complete the stage within 15 working days of the Chair’s first receipt of the grievances but it is recognised that there may be circumstances, such as the unavoidable absence of key personnel or a reasonable request by the complainant or the subject of a grievance, for a longer timescale when the time constraint cannot be complied with. In such circumstances a hearing may be arranged or postponed to a date later than 15 days after first receipt of the grievance so long as the employee bringing the grievance is consulted and agrees to the proposed date of the hearing.

(vii) Witnesses

Witnesses will be given time off work to attend any hearing called under the grievance procedure and, unless there is good cause not to do so, are expected to attend; in exceptional circumstances, upon agreement with the Chair and the relevant parties, a witness need not appear in person but may give written evidence or give his/her evidence or responses to questions through a third party. The complainant and any subject of a grievance should ensure their witnesses are aware of the procedure for the conduct of hearings and are available to attend; any difficulties with regard to the latter should be notified to the HR Department. Witnesses have the right to be accompanied.
(viii) In the event that, due to for example ill health, an employee is unable to attend a grievance hearing, the University will ordinarily re-arrange the hearing for a subsequent date within the following two weeks. If the employee is still unable to attend, the University will ask the employee to either make submissions in writing and send them in advance of the hearing and/or arrange for it to be attended by a trade union representative or colleague on their behalf. If the employee is unable or unwilling to comply with this due to ill health, the matter will be considered closed. In these circumstances, the employee will not be entitled to raise the same or similar issues again, unless there is further, recent evidence to add. This does not remove the employee’s right to raise a grievance about a completely different issue at any time.

(ix) The Grievance Hearing

Details of the procedure to be followed at a hearing are given in the Annex to this document and are designed to give a full and fair airing to the grievance. The precise application of procedure will vary according to the nature of the grievance and the response to it of any subject of the grievance or person responsible for the policy leading to the grievance. For example:

- where the grievance is not contested the hearing may be mainly concerned with exploring remedies, although the Chair and/or the complainant may still wish for other parties to be present or for witnesses to be called to assist this process.

- where the grievance involves a complaint about the behaviour of another employee the hearing may take a mainly accusatory form where it is important to observe strict rules of natural justice for both sides (and where the accused has the right to be accompanied).

- where the grievance is a request for a review of the effect of policy, procedures or operational decisions on the individual, the hearing may mainly take the form of the mutual exploration of the problem by both sides, conducted by the Chair. In many cases the Chair will be the manager with the responsibility and/or discretion to redress the grievance if it is judged to be valid, but where this is not the case, and where the nature of the grievance make it appropriate, the Chair will ensure that the responsible manager is present throughout the review.

- Where the grievance involves an employment or contractual matter the grievance may also take the form of a review, with a relevant line manager present if appropriate.

In all cases the Chair will ask the complainant to state or re-iterate any particular remedies they are seeking to redress the grievance but any remedies that may be finally proposed are in the Chair’s discretion. The Chair
will be assisted by a representative of the HR Department and it is the responsibility of the HR Department to ensure a detailed and accurate record of proceedings and of decision(s) of the Chair.

The employee and/or trade union representative/colleague will present their case and call any witnesses to support their case. The names of any witnesses to be called should be conveyed to the Chair normally at least 24 hours before the hearing, as should any additional written evidence not conveyed at the initiation of the grievance. Should this not be possible, any additional evidence or witnesses would need to be mutually acceptable and if necessary an adjournment may be called for. The subject of any complaint, the responsible line manager (where the grievance is in the form of a review) and the Chair (if not the same as the latter manager) will have full opportunity to question the employee and/or trade union representative/colleague and witnesses.

Any person complained against and their trade union representative/colleague will also present their case and call any support witness, with the names of the latter and any written evidence conveyed to the Chair at least 24 hours before the hearing. The complainant and the Chair will have full opportunity to question this employee and/or trade union representative/colleague and witnesses.

In the case of a complaint about the behaviour of an individual both sides will be given an opportunity to summarise their case at the end of the meeting. In the case of a review the complainant and/or trade union representative/colleague will have the opportunity to summarise their case but the relevant line manager, if he/she is not the Chair, will also be invited to make a final general comment at this stage.

At the end of the hearing the Chair will adjourn the meeting to consider all the facts and will give the individual an indication of when a decision will be made, which normally should be within 5 working days of the hearing. When a decision has been made the Chair will inform the employee and his/her trade union representative/work colleague and any subject of a grievance and their trade union representative/work colleague and/or any relevant line-manager at a reconvened meeting and confirm the decision in writing. A copy of the employee’s grievance, the record of the hearing and the decision and any solution proposed will be lodged with HR and provided to all parties normally within 5 working days of the reconvened meeting. It is the responsibility of the Chair to ensure that action is taken to effect any solution proposed, including the initiation of any subsequent action under the University’s disciplinary procedure.

The letter sent to the employee confirming the decision of the Chair will also inform the employee of their right to appeal against the decision, including any remedies that are proposed, by invoking the appeal stage of the grievance procedure.
5. The procedure: appeal stage

(i) The complainant has the right to appeal against the outcome of a grievance hearing. Except in the case of a complaint against the VC or DVC or a case where the Chair of the grievance hearing was the VC, where the procedure is set out below, an appeal must be made in writing to the HR Department within 10 working days of the complainant’s receipt of the decision of the grievance hearing. Any appeal should state whether there are any special grounds for appeal, such as new evidence, the failure of the remedial action to achieve the required or necessary outcome, procedural irregularities, unfairness or the completeness or the quality of the evidence. Such grounds will also be considered at the appeal in addition to the grievance. An appeal hearing does not have the power to dismiss a grievance which has already been accepted as valid at a grievance hearing but can alter any proposed remedy or reverse any decision to dismiss the grievance made by the Chair of the grievance hearing. The statutory right to be accompanied for complainants and for employees complained against applies to appeal hearings.

(ii) HR will designate a Chair for the appeal hearing to whom all relevance material will be sent, according to the following guidelines:

- where the Chair of the grievance hearing was a manager below the level of Senior Management, the appeal Chair will be a member of Senior Management. HR will consult with the complainant and trade union representative/colleague to determine an appropriate Chair previously uninvolved in the case. In many cases this may be the Senior Manager to whom the Chair of the grievance hearing reports.

- where the Chair of the grievance hearing was a member of Senior Management, the appeal Chair will be the VC or the DVC acting as the VC’s delegate.

- where the Chair of the grievance hearing was the VC, the appeal Chair will be a member of the Governing Body.

- where the Chair of the grievance hearing was a member of the Governing Body, the appeal Chair will be another member of the Governing Body who has not previously been involved in the grievance.

(iii) The appeal hearing will normally be held not later than 15 working days after notice of appeal has been received but must allow time for at least 5 working days notice of the hearing. The procedure for setting up and conducting an appeal hearing is similar to the procedure for grievance hearings discussed in Section 4 (v), (vi) and (vii), with the exception of the need to inform the employee of their right to appeal in the letter sent
concerning the outcome of the hearing. The outcome of an appeal hearing is final, although the employee will be informed that they may initiate a further future grievance on the same matter if a remedy proposed is not implemented or proves inadequate after a reasonable elapse of time, and also may re-open the grievance after the elapse of at least six months if the employee feels the grievance persists but has been dismissed at appeal. The employee will be advised that the chance of a reversal of judgement on the same grievance is enhanced if there are further developments in the grievance, or new evidence or an alleged flaw in the conduct of the previous appeal hearing. It is the responsibility of the Chair of the appeal hearing to ensure that any outcome proposed as a result of the hearing is carried out.

Further details of the procedure to be followed at a grievance hearing are given in the annex to this document.

6. Keeping records

(i) It is important and in the interest of both the University and employees that written records are made during the grievance process. It is the responsibility of the HR Department to ensure that detailed and accurate records are made. Such records should include:

- The nature of the grievance
- A copy of the written grievance
- The employers response
- Action taken
- Reasons for action taken
- Whether there was an appeal and if so the outcome
- Subsequent developments

(ii) Records should be treated as confidential and in accordance with the principles of the relevant legislation.

(iii) Copies of meeting records should normally be given to relevant employees including any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) the employer might withhold some information

7. Modified procedure when the individual has left employment

(i) In circumstances where the individual has left employment with the University but wishes to pursue a grievance a modified procedure will apply if:

(a) the University was not aware of the grievance before employment ended;

or
(b) the University was so aware but the normal grievance procedure had not started or been completed by the time employment ended and both the University and the individual have agreed in writing that the modified procedure, rather than the normal grievance procedure, shall apply.

An employment tribunal may expect an individual to have attempted to invoke the modified procedure before considering any case the individual may wish to pursue. The individual should also make themselves aware of any legal time-limits involved.

(ii) the modified procedure is as follows:

- the former employee should set down in writing the nature of the grievance and send it to the Director of Human Resources, who will appoint an investigator.
- the investigator within 15 working days, will examine the grievance and will send a response to the individual concerned outlining the outcome.’

Review

This procedure will be reviewed 2 years from the date of agreement/implementation or earlier by mutual agreement between the unions and management.
ANNEX

GUIDELINES ON PROCEDURES TO BE FOLLOWED FOR A FORMAL HEARING

Notice of a Hearing

1. Upon receipt of the written grievance the designated Chair will write to the member of staff acknowledging the grievance and inviting him/her to agree a mutually convenient time and date for the formal hearing at which it will be considered. In addition the Chair will remind the employee of the right to be accompanied. The letter will be copied to HR.

2. The Chair will write to any employee who is the subject of the grievance, or who is relevant to the redress of the grievance, informing them of the details of the grievance and the pending hearing, including any extant evidence. In addition the Chair will remind the individual(s) of the right to be accompanied where such accompaniment is warranted (see right to be accompanied in main body of the document). The letter will be copied to HR.

3. The Chair will liaise with the complainant to agree a mutually convenient time and date for the hearing. Normally a hearing should take place within 15 working days of first receipt of the grievance ensuring that at least 5 working days notice of the hearing is given.

4. The Chair will then send a formal letter of notice of the hearing to the employee and to the subject or significant party to the grievance giving the following details:

   - the date, time and place of the hearing;
   - the matters to be discussed;
   - the guidelines on the procedure to be followed at the hearing;
   - advising that any further documentation should be made available at least 24 hours before the hearing;
   - advising of the right to call witnesses who should be identified at least 24 hours before the hearing, and advising that, if necessary, they would be given time off to attend;

5. The complainant and the subject of the grievance should ensure that their witnesses are aware of the procedures for the conduct of hearings and that they are available to attend.

The Hearing

Stage 1

The person who is conducting the hearing (the Chair) will ask the employee and/or trade union representative/colleague to present the details of his/her grievance and to state any particular remedies that are being sought. Previously identified witnesses may usually be called one at a time to give evidence.

Stage 2
A person who is the subject of the grievance, his/her trade union representative/colleague, and the Chair, may ask questions of the employee and of his/her witnesses.

In the case of a review of policy outcomes or an employment/contractual grievance, and when the relevant responsible line manager significant to the redress of the grievance is not the Chair, the line manager may, in addition to the Chair, ask questions of the employee and his/her witnesses.

Each witness will withdraw from the hearing before another witness is called. The Chair may ask a witness to remain on stand-by if it is felt there may be a need to recall them at stage 5 of the proceedings.

Stage 3

The Chair will ask a person who is the subject of the grievance and/or his/her representative to make their case in response. Witnesses may be called one by one to give evidence on behalf of the member of staff who is the subject of the grievance.

In the case of policy decision review or an employment/contractual grievance the relevant line manager will be invited to respond unless that manager is also the Chair. Witnesses which the line manager and/or Chair deem relevant to enlightening the grievance, and which have not been called by the complainant, may be called one by one.

Stage 4

The person who has brought the grievance, his/her trade union representative/colleague, and the Chair, may ask questions of an employee who is the subject of a grievance and of his/her witnesses or, in the case of policy decision review or employment/contractual grievances, of the responsible line manager and his/her witnesses, and of any witnesses called by the Chair. The complainant and his/her trade union representative/colleague may not however question the Chair where the chair is also the responsible line manager (but who would not therefore have given a response to the grievance at Stage 3).

Each witness will withdraw from the hearing before another witness is called. The Chair may ask a witness to remain on stand-by if it is felt there may be a need to recall them at stage 5 of the proceedings.

Stage 5

After the completion of the previous four stages the Chair may recall any witness for further questioning and may also ask further questions of either party and/or their trade union representatives/colleagues.

The Chair may also at this stage decide that more evidence should be obtained or that more time is needed to study evidence that has been presented and he/she may
adjourn the hearing to enable this to be done. Such an adjournment should be as short as possible. If the hearing can only be resumed on another day the timing will be by mutual agreement.

Stage 6

In the case of a complaint against another employee, when all the evidence has been heard both individuals (and/or their trade union representatives/colleagues) shall be given the opportunity to summarise their respective positions. The employee bringing the grievance will be asked to summarise first, followed by the member of staff who is the subject of the grievance.

In the case of a policy decision review or employment/contractual matter, when all the evidence has been heard the complainant (and/or trade union representative/colleague) will be given the opportunity to summarise his/her position first, followed by the relevant responsible line manager, unless this latter is the Chair, whose summary therefore will only occur at Stage 8.

The employees will be told that they will be informed of the outcome normally within 5 working days. Both parties will then withdraw.

Stage 7

The Chair, together with any person(s) attending as adviser(s), will deliberate in private, taking account of all the evidence given and the general principles of the grievance policy

Both parties may be recalled to clarify any point of uncertainty on evidence already given.

Stage 8

The Chair will give his/her decision to both parties (including the trade union representatives/colleagues) and/or any relevant line manager at a reconvened meeting. The decision will then be confirmed in writing and will include the right of appeal in accordance with the appeals section of the procedure. A copy of the grievance, the record of the hearing and the decision and any solution proposed will be lodged with HR and provided to all parties normally within 5 working days of the reconvened meeting. The Chair will be responsible for ensuring that any proposed solution is implemented, including the initiation of any subsequent remedial action.

NB

a) Throughout the proceedings the HR Department will ensure that a detailed and accurate record is made. The record will be made available to the employee and his/her representative.

b) In exceptional circumstances, upon agreement from both parties, a witness need not appear in person but may give his/her evidence or
responses to questions through a third party. Information or accusations from persons who, without good cause, refuse to appear as a witness are likely to be discounted.

PROCEDURE TO BE FOLLOWED FOR AN APPEAL

Notice of Appeal

1. The member of staff will write to the Director of Human Resources stating the grounds upon which the appeal is based within 10 working days of receipt of the decision of the grievance hearing. Such grounds may include new evidence, procedural irregularity or unfairness. The letter should be accompanied by any documentation the employee wishes to be taken into account. The appeal hearing will be held at a mutually convenient time not later than 10 working days after notice of the appeal. The Director of Human Resources will then designate a Chair to hear the appeal and will forward the relevant documentation to him/her.

2. Upon receipt of the written appeal the designated Chair will write to the member of staff acknowledging the appeal and inviting him/her to agree a mutually convenient time and date for the formal hearing at which it will be considered. In addition the Chair will remind the employee of the right to be accompanied. The letter will be copied to HR.

3. The Chair will write to any employee who is the subject of the grievance and to the Chair of the original grievance hearing, informing them of the details of the appeal and the pending hearing, including any extant evidence. Any individual(s) who are subject(s) of the grievance will be reminded of the right to be accompanied where such accompaniment is warranted (see right to be accompanied in main body of the document). The letter will be copied to HR.

4. The Chair will liaise with the complainant to agree a mutually convenient time and date for the appeal hearing. Normally a hearing should take place within 15 working days of first receipt of the grievance ensuring that at least 5 working days notice of the hearing is given.

5. The Chair will then send a formal letter of notice of the appeal hearing to the complainant, any employee who may be the subject of the grievance and to the Chair of the original grievance hearing, giving the following details:

- the date, time and place of the hearing;
- the matters to be discussed;
- the guidelines on the procedure to be followed at the hearing;
- advising that any further documentation should be made available at least 24 hours before the hearing;
- advising of the right to call witnesses who should be identified at least 24 hours before the hearing, and advising that, if necessary, they would be given time off to attend;
6. The complainant and any subject of the grievance should ensure that any witnesses they wish to call are aware of the procedures for the conduct of appeal hearings and that they are able to attend.

The complainant has the right to ask HR to endeavour to ensure that all witnesses can be called, who the complainant feels were important to the decision at the grievance hearing, if these have not already been named by any subject of the grievance.

**Appeal Hearing**

**Stage 1**

The Chair of the appeal hearing will ask the manager who chaired the grievance hearing to present his/her findings in the presence of the member of staff bringing the appeal and his/her representative.

**Stage 2**

The member of staff concerned or his/her representative and the Chair of the appeal hearing may ask questions of the Manager who chaired the original grievance hearing.

**Stage 3**

The Chair of the appeal hearing will ask the complainant and/or their trade union representative/colleague to state their case for the appeal and the redress they are seeking, in the presence of the manager who chaired the original grievance hearing and, if the grievance is a complaint against another employee, the employee complained against and their trade union representative/colleague. Previously identified witnesses may be called one at a time to give evidence or be questioned by the complainant and his/her trade union representative/colleague.

**Stage 4**

The Chair of the appeal hearing, the manager who chaired the original grievance hearing and, in the case of a complaint against another employee, the employee complained against and their trade union representative/colleague, may ask questions of the complainant, his/her representative and any witnesses called by them.

**Stage 5**

If the grievance is a complaint against another employee, the Chair of the appeal hearing will ask the person who is the subject of the grievance and/or his/her trade
union representative/colleague to make a response if they so wish to the appeal case made by the complainant. Previously identified witnesses may be called one at a time to give evidence.

If the grievance involves a review of policy or employment/contractual issues the Chair will move instead from stage 4 to stage 7 of the hearing guidelines.

Stage 6

If stage 5 applies, the Chair of the appeal hearing, the manager who chaired the original grievance hearing and the complainant (and his/her trade union representative/colleague) may ask questions of the person who is the subject of the grievance (and his/her trade union representative/colleague) and any witnesses called.

Stage 7

If, as a result of the evidence given by the manager who chaired the original grievance hearing, by the complainant and his/her trade union representative/colleague and, if stage 5 applied, by the person complained against (and his/her trade union representative/colleague), the Chair of the appeal is of the opinion that more evidence should be obtained or there is a need to call and question some witnesses, he/she may adjourn the hearing to enable this to be done.

Stage 8

When all the evidence has been heard the complainant (and/or his/her trade union representative/colleague) and the manager who chaired the original grievance hearing shall be given the opportunity to summarise their respective positions. The employee bringing the appeal will be asked to summarise first, followed by the Chair of the original grievance hearing. The latter should indicate if, as a result of evidence heard at the appeal hearing they would now change or modify their decision made at the original hearing.

After the summaries have been made, the manager who chaired the original grievance hearing, the complainant, any employee who may be the subject of the grievance and trade union representative(s)/colleague(s) shall withdraw.

Stage 9

The Chair, together with any person(s) attending as adviser(s), will deliberate in private, taking account of all the evidence and the general principles of the grievance policy. The Chair will then give his/her decision, and the reasons for the same, to the member of staff bringing the appeal, the manager who chaired the original grievance hearing, and any employee who is the subject of the grievance, specifying any subsequent action to be taken. Employees and their trade union representatives/colleagues will normally be notified within 5 working days of the end of the appeal hearing. The decision of the Chair is the appeal hearing is the final stage of the grievance procedure.
It is the responsibility of the Chair to ensure that any subsequent action proposed is carried out.

NB Throughout all appeals the HR Department will ensure that a detailed and accurate record is made. The record will be made available to the employee and his/her representative.
ADDENDUM TO GRIEVANCE PROCEDURE

PRESENTATION OF EVIDENCE

REFERENCE: Section 4 v, Annex: Notice of a Hearing, point 4

Please note that whilst the procedure allows for the presentation of evidence up to 24 hours prior to any hearing, this time requirement should be treated as a minimum.

If large quantities of paperwork are required to support/defend a case these should be provided in good time (i.e. more than 24 hours before) with a view to ensuring that the other side is fully able to absorb their contents prior to the hearing.

Should large volumes of evidence be presented at a late stage then it may be necessary to postpone the date of the hearing to a mutually agreed later date.

The above statement does not preclude the submission of non extensive documentation up to 24 hours before the hearing.