**Grievance**

**Policy and Procedure**

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1. Policy

* 1. This policy and procedure is for use where employees have an individual grievance. Its aim is to:

* resolve issues in a quick and timely manner
* provide a clear and effective process which will enable staff to raise a grievance or problem about work, including any incidents of harassment or bullying
* enable Queen Mary University of London (QMUL) to address grievances in a way that is timely, reasonable, fair and lawful
* enable senior managers to review decisions to ensure that the organisation deals fairly with staff; and in a consistent and transparent manner
  1. Whilst grievances are a line management responsibility, these can be a difficult area and Human Resources (HR) will be able to provide advice as necessary. However, most staff issues will be dealt with as part of the normal management processes and problems should be addressed as they arise.

1.3 QMUL will ensure that the policy and the procedures are carried out in a non-discriminatory manner, taking account of individual circumstances and respecting confidentiality. The policy will be implemented in accordance with the principles of natural justice QMUL’s statements on equality and diversity (Dignity at QMUL Statement) health and safety and other relevant policies and legislation in force at the time.

1.4 Line managers are responsible for managing issues and should be competent in managing, investigating and dealing with grievances in an effective and sensitive way, taking advice from Human Resources (HR) as necessary.

2. Scope

2.1 This policy covers employees employed by QMUL whether working full time or part-time, or on fixed term or permanent contracts.

2.2 This policy cannot be used to raise matters over which QMUL has no discretion.

2.3 This policy cannot be used when action has taken place under other Policy and Procedures that have their own appeal processes. It should not be used for complaints by or about students, whistle-blowing, academic misconduct such as plagiarism etc. Where this is the case, the employee will be directed to the relevant process.

3. General Principles

3.1 The employee should normally raise an issue within three months of an event complained about occurring or becoming known or if a series of events within three months of the last event becoming known.

3.2 Line managers should deal with grievances as soon as possible and seek to identify the most pragmatic solution to the problem at hand, including referral to QMUL’s internal mediation service. If it is unlikely to be resolved informally then formal investigation of the grievance may be required.

3.3 Timeframes are not specified in this document as in reality no case is standard, each requiring assessment and judgement. As an average, formal grievances should not take longer than 6-8 weeks, balanced by the need for a thorough investigation. However, it is entirely proper if the situation demands to take either a longer or shorter time than recommended in the procedures.

3.4 If it is not appropriate for the line manager to deal with a particular case for example, the grievance is brought against the line manager or they are unavailable, another manager of equal or higher seniority will be sought (by HR) to manage the case. Similarly, the line manager must have the necessary authority to remedy the matter being complained about; where this is not the case, the issue should be handled by a manager with sufficient authority.

3.5 There will be cases where the line manager may not be the appropriate person to deal with the grievance, for example, where it is alleged that they are the cause of the grievance or are compromised in other ways. In these circumstances, a manager independent of the people and issues concerned will be appointed to manage the grievance. This will be discussed between the line manager and HR as necessary.

3.6 If a complaint is about an employee in another department, the grievance will normally be handled by the line manager of the person being complained about, since they are likely to have authority to resolve the matter. In any dispute about who should deal with a grievance, the parties should take advice from the Director of HR or their nominee.

3.7 Employees are encouraged to raise and resolve issues informally and as soon as possible with their line manager, the line manager’s manager, or if that is not possible or appropriate, with HR.

3.8 Employees have the right to be accompanied by a Trade Union representative or work colleague at all formal stages of the procedure.

Collective Issues

3.9 Grievances are, by their nature, a complaint against an action that affects an individual. They should not be raised for matters that are covered by collective bargaining arrangements where any remedies can be pursued through that process although the implementation of policies may be subject to grievances.

3.10 Where several people have the same grievance or an incident affects several people, consideration will be given to discussing the issue with the relevant trade union(s)in the first instance**.** Where this is not deemed appropriate and after consulting those raising the grievance, a decision will be made (by HR) on the most appropriate way to proceed that has the best chance of reaching a satisfactory outcome.

3.11 This could either be allowing each case to stand on its own merits or, for the purpose of any investigation, treating the several grievances raised as if it was one. Representatives may be nominated to attend the meeting/hearing where several employees have raised issues of the same nature.

3.12 The intention will be to ensure issues can be raised and properly investigated and decided upon, making sure that even if it is taken as a single case affecting several people no one individual will be singled out or isolated.

4. Responsibilities

4.1 Line managers are responsible for:

* determining, (with HR advice as necessary), how serious any allegations are when a grievance is submitted. If the grievance involves the line manager, the case should be submitted to the line manager’s manager, or a different line manager where appropriate
* deciding with the individual concerned whether an issue should be dealt with informally
* meeting the employee as soon as practical after the grievance is submitted to discuss the issue(s) and where possible agree what action the line manager proposes to take
* considering whether, in cases of bullying or harassment, the person making the grievance needs interim relief from a particular working environment or location
* setting a provisional meeting/hearing date (if required) and, where necessary, initiating an investigation once it is decided that formal action is warranted
* ensuring the employee is given adequate notice of any formal meetings, typically not less than **10 working days**
* providing details of the grievance to any employee who is subject to the grievance
* providing notice of a formal meeting/hearing which may initially be done verbally but must be followed in writing and include:
* the date of the hearing, time and venue
* the right to be accompanied
* keeping the matter as confidential as possible, limiting those informed of the issue to those that need to know in order to handle and remedy the matter, and recognising the right to confidentiality of the complainant and any person being complained about
* ensuring that reasonable adjustments are carried out

4.2 Employees are responsible for:

* attempting to resolve problems at work or grievances informally with management (usually the line manager, although if the complaint is about that person, it may be raised with the line manager’s manager) where appropriate
* attending investigation meetings and hearings as required by the Investigating Officer and/or responsible managers
* exercising their statutory rights to secure a representative who is a Trade Union Representative or work-place colleague if they wish to be accompanied at formal meetings,
* carrying out their normal duties whilst the grievance is under investigation. However, if the grievance itself means that it is not possible for the individual to carry out their normal duties this should be discussed with the manager dealing with the grievance
* Keeping matters confidential, only discussing issues with relevant people such as a line manager, investigating officer, HR and their representative.

The chosen representative or companion may:

* take notes
* confer with the employee
* address the meeting
* respond on behalf of the employee to any view expressed at the meeting

The chosen representative or companion may not:

* answer questions on behalf of the employee
* address the meeting if the employee indicates that he or she does not wish the companion to do so

4.3 Human Resources are responsible for:

* briefing and advising managers on the implementation of these policies and procedures
* ensuring that appropriate documentation is provided to the employee
* appointing an investigator
* ensuring panels as convened as necessary and arranging the managers to sit on them
* keeping a record of meetings
* attending panels to provide advice and guidance
* providing impartial advice to manager throughout the proceedings.

5. Informal Resolution

5.1 It is good practice and *usually more effective* to deal with issues as close to the point of origin as possible and as informally as possible. However, informal action should be an integral part of normal management practice and not regarded as an additional step in the process.

5.2 The employee does not usually have the right to be accompanied to informal meetings and HR will not be present at the meeting. The meeting will normally take place between the manager and the employee.

Mediation

5.3 Formal investigations into grievances such as harassment cases can be a valuable way of examining conflict between two or more employees. However, such an approach may also raise expectations that one party will be vindicated and the other condemned. In practice, therefore, such processes may have the unintentional effect of entrenching attitudes, undermining professional relationships and collaborative working and fostering an adversarial approach.

5.4 QMUL offers mediation as an option. However, it can only be considered if both parties agree to engage seriously in attempting to resolve their dispute through mediation. Information and guidelines about entering into a mediation agreement are contained within the following documents:

* [Information on Mediation](http://www.hr.qmul.ac.uk/docs/Working%20at%20QM/55721.doc)
* [Staff Mediation Service Guidelines](http://www.hr.qmul.ac.uk/docs/Working%20at%20QM/55588.doc)
* [Agreement to Mediate](http://www.hr.qmul.ac.uk/docs/Working%20at%20QM/55585.doc)
* [Mediation Agreement Template](http://www.hr.qmul.ac.uk/docs/Working%20at%20QM/55722.doc)

6. Formal Grievances

6.1 The employee may raise the matter as a formal grievance. The employee may do this, for example, if the matter was so serious as to warrant formal action or they are dissatisfied with:

* the steps taken to resolve the matter
* the time taken to progress the matter
* the outcome

6.2 A formal grievance should be raised in writing and should include:

* brief details of the problem they are seeking to resolve including relevant facts, dates and names of individuals involved
* the solution they are seeking

A formal grievance checklist can be found in Appendix 1.

6.3 Managers and employees will co-operate to ensure that the initial meeting or written response takes place within **20 working days**; the employee is entitled to reasonable notice of any meeting, normally of at least **10 working days.**

Investigation

6.4 HR will appoint an Investigating Officer (where appropriate). The investigating officer must determine whether there is a need to investigate the matter further or whether there is enough evidence for a determination to be made on the basis of information provided.

6.5 The investigating officer should have had no previous involvement in the case and should be independent of the issues concerned. Investigations should be completed within 20 working days. This may be extended in exceptional circumstances.

6.6 An investigation may be a useful way of establishing some or all of the facts outside the confines of a grievance meeting or hearing. This may be useful if the case is complex or the facts disputed.

6.7 Investigation interviews are a formal part of the procedure, therefore the employee has the right to be accompanied by a Trade Union Representative or work-place colleague.

6.8 It is important that all those involved in investigations including witnesses maintain strict confidentiality. It is a disciplinary offence to breach such confidentiality.

6.9 It is important at the outset to estimate how long any investigation is likely to take and set a date where the employee can attend a formal meeting should one be necessary. Any investigation must be completed at least 10 working days before the meeting so that timescales can be met.

6.10 The investigating officer will normally write a report following the outcome of the investigation. Where matter are straight forward, the report may take the form of a letter. In more complicated cases it may need to be longer.

6.11 The report including all evidence will be made available to the employee raising the grievance, without undue delay. Any employees subject to the grievance may also receive a copy of the sections of the report relating to their involvement. The report may be redacted where necessary (e.g. to protect third parties and ensure compliance with personal data protection obligations) or to ensure that only pertinent information is given to people receiving the report.

6.12 The investigation is only to establish the facts and not about expressing personal views or opinions. The Investigating Officer’s report will not determine any outcomes but may make recommendations based on the facts established.

7. Outcomes of investigation

7.1 Following completion of the investigation, the line manager will either:

* Provide the employee with a written response to the grievance stating whether the grievance has not been upheld, partly upheld or upheld and suggesting a remedy; or
* Arrange a meeting with the employee before reaching a decision (and follow process in 8 below). Any decision will be communicated to the employee in writing within **5 working days;** or
* Arrange a hearing.

7.2 The individual will retain the right to appeal if they are not satisfied with the outcome or remedy proposed in accordance with paragraph 7.1 above, and this should be submitted within **10 working days** of receipt of the outcome letter.

8. Formal Meeting

8.1 If the employee is not satisfied with the outcome following the investigation, they may request a meeting with the line manager. The meeting is to enable the employee to make their case before a final decision is made.

8.2 Following hearing verbal representations and if it is deemed necessary, the manager hearing the case may decide to call for an adjournment pending further enquiries of investigations.

8.3 The line manager will provide the employee with a written response to the grievance within **5 working days** of the meeting stating whether the grievance has been:

* not upheld
* partly upheld
* upheld and provide a suggested remedy (where applicable)

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9. Formal Hearing

9.1 If the circumstances are such that a formal hearing is required one will be convened as soon as possible (normally no longer than 20 days) following the submission of the investigation report.

9.2 Whilst each case must be based on its own merits, the type of circumstance that may warrant a hearing are:

* where the facts are contested
* where it is beneficial to hear and question witnesses
* where the case is of a serious nature that may lead to disciplinary action against another employee if the complaint is upheld (e.g. bullying or harassment)
* where for the sake of natural justice, fairness and transparency it is prudent to do so.

9.3 It will remain a management prerogative whether to have a meeting or hold a hearing. Employees or their representatives may request a hearing and any such request will be properly considered.

9.4 A notification will be sent to the employee inviting them to attend the formal hearing. The employee will normally be given 10 working days’ notice of the hearing. The notification will include:

* confirmation of the date, place and time of the hearing
* the reason(s) for the hearing
* a copy of the investigation report, including all witness statements and evidence
* details of any witnesses being called by management to the hearing and of all those attending the hearing
* a statement that the employee may ask their witnesses to submit written statements in advance of the meeting (the employee must make their own arrangements in this respect)
* a requirement that where possible, all relevant evidence is to be submitted prior to the hearing
* a reference to the right of the employee to request special assistance (e.g. any reasonable adjustments in relation to disability)
* a statement advising them to take all reasonable steps to attend the hearing, but if unable to do so to give as much notice as possible before the date of the hearing with reasons for non-attendance
* a statement that the employee has the right to be accompanied by a Trade Union representative or work-place colleague

9.5 When a hearing does take place the Chair will:

* conduct the hearing to establish the relevant facts, ensuring fairness, good order and natural justice
* rule on any disputes about procedure
* allow all the parties to:
* put their side of the matter
* hear the case put by the other side
* ask questions, bring evidence and call and question witnesses.

At the end of the hearing, the panel will decide what action, or if necessary, further information is required.

9.6 The decision should be reached as soon as possible and confirmed in writing normally no later than **5 working days** and will specify whether the grievance is:

* whether the grievance has not been upheld
* partly upheld or
* upheld

The letter should provide an explanation for any decisions and provide a suggested remedy where applicable

The manager/Chair will also state what action they intend to take with timescales given where necessary.

9.7 Whether the grievance has been upheld or not, where working relationships have been damaged, and no simple remedy is available, the manager/Chair may consider the value of arranging additional resource to resolve the matter. This may take the form of arbitration, mediation, counseling or some other support for some or all of the parties.

9.8 When a complaint of bullying is upheld this will normally lead to disciplinary action being taken against the perpetrator.

10. Panels

10.1 All panels, including appeal, will consist of three managers who should be independent of the people and issues concerned. The Chair should be senior to those previously involved. Where practicable and without causing significant delay, all panel members should be senior to those previously involved. At least one should come from the same Faculty/Directorate as the employee.

11. Appeals

11.1 An employee may appeal if not satisfied by the remedy offered following the formal stage. An employee may appeal on one or more of the following grounds:

* the procedure was applied incorrectly
* the findings of the meeting/hearing were unfair
* the action taken was inappropriate in the circumstances of the case
  + new evidence has come to light that was not available at the time of the hearing

An appeal must be submitted in writing and sent to HR within **10 working days** of the receipt of the written outcome. The grounds for appeal must be clearly stated in accordance with paragraph 11.1 above.

11.2 The appeal hearing will be as soon as practicable from the date of receipt of the appeal letter and normally within 20 working days. The conduct of the appeal hearing will be in accordance with Appendix 2.

11.3 The employee may be accompanied at the hearing by a Trade Union representative or work-place colleague and will have the opportunity to state the grounds for his or her appeal and to question any evidence presented during the appeal.

11.4 An appeal panel will be convened, consisting of a senior manager of the Faculty or School/Institute/Department or their nominee plus two other managers, one of whom should be from a different Faculty/School/Institute/Department. At least one panel member should be from the same job family (Academic or Professional) as the employee. The hearing will be convened without unreasonable delay and normally within **20 working days** of receipt of the written appeal.

11.5 The panel will:

* conduct the meeting to consider the grounds of appeal
* rule on disputes about procedure
* allow all the parties to:
* put their side of the matter
* hear the case put by the other side
* ask questions, bring evidence and call witnesses
* reject any ground of appeal that is not valid and explain the reason for the rejection
* explore any options which may permit the issue to be resolved
* determine a fair and proportionate course of action for redressing the matter, should they uphold the complaint, taking into account the interests of QMUL and the employee(s).

11.6 The panel hearing the appeal will decide to uphold or reject the appeal and will notify all relevant parties in writing of their decision and the reasons for it without unreasonable delay and normally within **5 working days** of the hearing.

No further right of appeal will be available.

12. Attendance at Meetings and/or Hearings

12.1 The employee (and their representative) should make every effort to attend formal meetings and/or hearings. Employees have the right to be represented at all formal stages of the procedure whether investigations, formal meetings or formal hearings. The right of the employee to be accompanied is balanced by the responsibility they have for securing any such representative. If the employee’s representative cannot reasonably attend on a proposed date, they may suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed. This five-day limit may be extended by mutual agreement.

12.2 Where the employee fails to attend a meeting or hearing without an adequate explanation, the panel or hearing manager may decide to continue with the meeting or hearing in the employee’s absence.

12.3 Where an employee is persistently unable or unwilling to attend a meeting or hearing without good cause a decision will be made to proceed to a hearing based on the evidence available.

12.4 Where an employee cannot attend a meeting or hearing, and if agreed by the panel, they will be given the opportunity to submit written evidence and / or to nominate their representative to speak on their behalf.

13. Discipline

13.1 If a grievance is upheld QMUL may take disciplinary action against those being complained about.

13.2 If the evidence reveals that the grievance is ‘vexatious’ this could lead to a disciplinary investigation.

Discipline Connected with Grievances

13.3 Where an employee raises a grievance in connection with or during the disciplinary process, and where the grievance and disciplinary cases are related, the Director of HR, following consultation with appropriate parties, will give consideration to temporarily suspending the discipline until the grievance is concluded or running them concurrently. The outcome of the grievance must be known before the disciplinary hearing.

13.4 If an employee raises a grievance during the disciplinary process but not related to it, the cases may be run in parallel.

14. Equality & Diversity

14.1 Managers and employees have a responsibility to promote QMUL’s Equality and Diversity policies and standards of conduct by treating others with respect, valuing diversity and maintaining and preserving dignity at work. Managers are required to recognise and consider any relevant issues whilst operating the grievance process and during the course of day-to-day interactions with colleagues and employees.

14.2 Wherever possible panel members and Investigating Officers should be chosen to represent the diversity of employees at QMUL.

15. Equality Impact Assessment

15.1 Statistics will be compiled and monitored on numbers of cases by type and at an organisational level and by Faculty/School/Institute/Department covering all grade groups and subdivided by equality monitoring categories as determined by the Equality and Diversity Steering Group. Reports will be provided to EDSG, QMSE, and the recognised trades unions as appropriate.

16. Revision or Termination of this Policy and Procedure

16.1 This policy and procedure will be periodically reviewed with the recognised Trade Unions.

Formal Grievances

A formal grievance must be set out in writing and should include the following:

* full name
* job title
* School/Institute/Department
* the name, job title and school/institute/department of any other people involved in the complaint where possible
* a chronological description of any incidents including dates
* an explanation (if one is needed) of why the incidents are a cause for complaint
* any steps already taken to resolve the grievance
* a statement of the remedy sought
* any preferred approach to resolving the grievance e.g. informally or through mediation or arbitration or some other process.

Managers Responsibilities

Managers should ensure that they:

* develop an action plan to tackle the problem and monitor to ensure that there is no recurrence
* are clear about their role in any informal or formal process that the employee has opted for (mediation, informal complaint, or formal complaint)
* take into account the employee’s wishes about how the case is to be handled. Often employees do not want the person they are complaining about to be disciplined provided that:
* the harassment or bullying stops
* there is someone to support them
* the University is committed to tackling the issue
* they will not be victimised
* consider overruling the employee’s desire to deal with the matter informally if for example, in some cases, QMUL’s duty of care for the employee’s health, safety and welfare (or the health safety and welfare of others) may require that the matter is dealt with first as a formal complaint then as a disciplinary matter
* understand the standard of proof required is as in disciplinary cases. (Often cases of harassment, especially sexual harassment, are not witnessed or involve subtle or ambiguous actions. In reaching a decision about what happened, managers have only to make up their minds on the *balance of probabilities*).
* Understand that if it is one person’s word against another’s managers are entitled to believe one person and not the other. The belief needs to be genuine and reasonable - on the balance of probabilities and an explanation should be given.

Investigating Officers

Investigating Officers (and panel members) should use the correct tests for bullying, harassment and discrimination which rely on impact rather than intent.

Conduct of Meetings

The Chair will ensure that everyone is aware of the purpose of the meeting.

The Chair will ensure that all documents have been received and that each party has a set plus copies of the relevant policy and procedure.

In the event that a new document and/or evidence has been tabled during the hearing, agreement will be sought that it is acceptable.

The Chair and panel will keep an open mind and listen carefully to all that is said.

Procedure

The employee (or his/her representative) will have the opportunity to put their case forward and call any witnesses.

The Investigating Officer will have the opportunity to ask questions of the employee and of any witnesses.

The panel conducting the hearing shall than have the opportunity to ask questions of the employee and witnesses.

The Investigating Officer will put forward the case in the presence of the employee and his/her companion and may call witnesses.

The employee (or his/her representative) will have the opportunity to ask questions of the Investigating Officer and any witnesses.

The panel conducting the hearing will have the opportunity to ask questions of the Investigating Officer and of any witnesses.

The employee (or his/her representative) followed by the Investigating Officer followed by the will have the opportunity to sum up their cases if they wish.

Witnesses

As a general rule witness statements will be used on their own unless either side also asks for a witness to be present. Any witnesses called by the employee or management will attend the hearing to give their account of the matter unless, in exceptional circumstances, sensitive issues have arisen and the Chair agrees that it would be inappropriate for any such witnesses to be present. If this is the case, the Chair will discuss alternative methods for hearing evidence.

Witnesses will only be present to answer questions on their evidence, and will not be present for other parts of the process unless required to do so by the Chair of panel.

Adjournments

The Chair may adjourn the proceedings at any stage if this appears necessary or desirable. Similarly requests for adjournment should be addressed to the Chair.

The Decision

The panel conducting the hearing will deliberate in private only, calling QMUL’s representative and the employee (or his/her representative) to clear points of uncertainty on evidence already given.

All parties will be informed of the decision, reasons for that decision and the action to be taken in writing, **normally within 5 working days**. If the grievance is not upheld the employee will also be informed in writing of the right of appeal.

Conduct of an Appeal Hearing

An appeal hearing will be conducted in the same way as a hearing except that the presentation of cases will be made in reverse order with the employee presenting their case first, followed by the management representative.