



GRIEVANCE PROCEDURE

UCC Grievance Procedure

1. Introduction

- 1.1 It is acknowledged that, on occasion, employees may have grievances in the workplace. Effective procedures are necessary to ensure that grievances are handled in accordance with the principles of natural justice and fairness, that employee grievances are fairly examined and processed and that a good employee relations atmosphere is maintained.
- 1.2 For the grievance procedure to operate effectively, all members of management, including supervisory personnel, and all employees and their representatives should be familiar with and adhere to the terms of this procedure.
- 1.3 This procedure will be reviewed and up-dated periodically so that it is consistent with changed circumstances in the workplace, developments in employment legislation and case law, and good practice generally.
- 1.4 It is recommended that employees, in the first instance, make a reasonable effort to have the matter causing concern resolved informally and locally within the Unit concerned as per Section 5 of this procedure.

2. Application of this Procedure

- 2.1 This procedure applies to complaints and grievances brought by employees concerning their employment, which relate to themselves as individuals or working/professional relationships with other employees of the University. By way of example, grievances may be related to complaints in respect of instructions issued by a supervisor/manager, assignment of duties, terms and conditions of employment.

- 2.2 This procedure does not apply to complaints or grievances about decisions in respect of open/external recruitment, promotion, job grading, redeployment/reassignment or issues covered by other University policies, which may include an appeal mechanism. This procedure may not be used to deal with collective disputes between the University and Trade Unions or to negotiate collective changes in terms and conditions of employment.
- 2.3 Consideration of a complaint or grievance under this procedure may be deferred, if other related proceedings concerning the same grievance or individual raising the complaint or grievance are pending or in process.

3. Definitions

- 3.1 **“Aggrieved Party”** means an employee of the University bringing a grievance under this procedure.
- 3.2 **“Days”** means Monday to Friday excluding days when the University is officially closed for business.
- 3.3 **“Employee”** means a person employed by the University in any capacity, and includes an officer of the University, as defined in the *Universities Act 1997* or any statutory amendment or modification thereof.
- 3.4 **“Governing Body”** means the Governing Body of the University or a committee thereof appointed by it for the purpose of exercising its functions under these procedures.
- 3.5 **“Grievance”** means a concern brought by a staff member under this Procedure.
- 3.6 **“Head”** means the academic head of an academic unit [by whatever name titled] or the administrative/research head of an administrative/research unit and shall include a person acting in the capacity of head. For the purpose of this policy, head shall also include a line manager with express authority delegated by the head to carry out the head’s duties under this policy. Where there might exist any doubt regarding the application of this definition in a particular instance, clarification should be sought from the Employee Relations section of Human Resources.
- 3.7 **“Independent Staff Ombudsman or ISO”** means a person or persons appointed by the University following consultation with the UCC Trade Unions in accordance with the terms of reference of the ISO, to perform the duties as set out in this procedure and other relevant duties of the ISO role as specified in the ISO Terms of Reference.

- 3.8 **“Trade Union”** is the representative association chosen by an employee, and recognised by the University, to represent his/her interests with respect to terms and conditions of employment and employee disciplinary matters.
- 3.9 **“Representation”** means, in accordance with section 4.4 of the Schedule to the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order 2000 (SI 146 of 2000) in representing the interests of an employee at each stage in the procedure, the involvement of a colleague of an employee's choice or an officer or member of a trade union but not any other person or body unconnected with the University.
- 3.10 **“Respondent”** means an employee of the University against whom a grievance is brought by an Aggrieved Party. The University recognises that a grievance involving a Respondent will only arise in the case of an inter-employee dispute.
- 3.11 **“Unit”** means the primary academic or administrative department or unit or research unit (by whatever name called) within which an employee works;
- 3.12 **“University”** means University College Cork - National University of Ireland, Cork;

4. Principles

- 4.1 This procedure shall apply to all employees of the University.
- 4.2 An employee who is a member of a trade union may be represented or assisted by said trade union at any level of the grievance procedure. An employee who is not a member of a trade union may be accompanied by a work colleague for the purpose of representation.
- 4.3 The different stages of the grievance procedure should allow the matter to be examined by different persons in a fair, equitable and consistent manner.
- 4.4 All formal grievances must be notified in writing.
- 4.5 Should the Aggrieved Party or Respondent be a Vice President, a Head or a Senior Officer who reports directly to the President, the employee concerned may refer the matter in writing to the President who will nominate an appropriate person to respond to the grievance at the appropriate level of the procedure.
- 4.6 Where the President is the Aggrieved Party or Respondent or in cases where the President has been involved directly in a decision or process which is the subject of the Grievance, such that his/her consideration of the Grievance could be deemed inappropriate or conflicted, the University, through its

Governing Body, will retain the power to deal with such matters. This procedure may be adapted by Governing Body at its sole discretion, depending on the circumstances of the Grievance, in accordance with the principles set out in this procedure.

- 4.7 In the case of industrial relations matters, a dispute may, with the agreement of the parties, be referred to a third party at any stage set out in this procedure.
- 4.8 Pending the exhaustion of the grievance procedures in any case, the employee concerned will comply with any disputed instructions and the principle of “working under protest” will obtain.
- 4.9 Statements, letters and other communications shall be confidential to those involved in this procedure to the greatest extent possible, compliant with the entitlement of those involved to full disclosure to them of all relevant documents. Confidentiality extends only to the processing of the grievance under the procedure so that if the Aggrieved Party or Respondent subsequently seeks redress externally, he or she will not be constrained by the need for confidentiality in having the matter dealt with externally. Furthermore, where natural justice requires disclosure, such obligation will override any undertaking of confidentiality. Inappropriate disclosures will be dealt with under the Disciplinary Procedure (as set down in the University’s Statutes).
- 4.10 Should any of the timelines set out in this policy be breached, the Aggrieved Party should write to the Director of Human Resources specifying the alleged breach.

5. Informal Procedure

- 5.1 It is recommended that employees, in the first instance, make a reasonable effort to resolve the matter causing concern informally through verbal contact with their immediate supervisor or, failing that, with their Head. The Department of Human Resources may be consulted for advice/assistance in this regard.
- 5.2 Before proceeding with formal notification of a grievance under this procedure, it is recommended that the matter be referred, to the Independent Staff Ombudsman, with a view to informal resolution. In certain circumstances, with the agreement of the parties, the ISO may decide that the appointment of a mediator is required to seek to resolve the matter. The ISO will nominate the mediator in such circumstances. Mediation is voluntary, without prejudice and confidential.

6. Formal Procedure

- 6.1 Once a grievance has been notified for formal resolution, specific time limits apply within which the University, the Aggrieved Party, the Respondent and/or their representative must respond. The time limits stipulated in this grievance procedure may be extended by mutual agreement between the University and the employee or the employee's trade union representative.
- 6.2 After the conclusion of the internal stages of this procedure should it be found that the grievance was malicious or vexatious, the President may invoke the University's disciplinary procedures as contained in the University's Statutes.

Stage 1

- 6.3 The Aggrieved Party will notify the grievance to his/her Head in writing. The Head will acknowledge notification of the grievance in writing within five (5) days upon receipt of same.
- 6.4 In the event that the grievance relates to the Head please refer to 4.5 above.
- 6.5 If the Grievance is taken by/or against the President, the Grievance will be notified in writing to the Secretary of the Governing Body.
- 6.6 The Head (or the Governing Body as the case may be) shall consider whether the complaint is to be processed under this Procedure or whether another University Procedure applies.
- 6.7 Following the written notification, the Head shall arrange to meet with the Aggrieved Party and, if the Aggrieved Party wishes, his/her representative within ten (10) days of receipt of the grievance. At this meeting the Head may be accompanied by a member of the Department of Human Resources. The Respondent shall have the right to be met by the Head under this Procedure, to put his/her case and shall have the right to Representation for the purpose of that meeting. The Head may also meet with any other person whom he/she considers relevant to the grievance and request and consider any and all relevant documentation and information (under the University's control) relating to the grievance. The Head may consult with the Department of Human Resources, for guidance purposes.
- 6.8 The Head shall make available to the Aggrieved Party and the Respondent the appropriate documentation on which he/she plans to rely in making his/her decision.
- 6.9 Having considered all of the information relevant to the grievance, the Head will uphold or not uphold the grievance and shall make the Aggrieved Party

and the Respondent and the Department of Human Resources aware of his/her decision not more than twenty (20) days from the date on which the written notification was received. If the Head upholds the grievance, he/she will at the same time recommend what is to be done to resolve the grievance and/or, if appropriate, refer the matter to the relevant authority within the University. If the Head does not uphold the grievance, he/she will state in writing the reasons therefor.

- 6.10 If the grievance is not upheld at Stage 1, the Aggrieved Party may, within ten (10) days of the date of receipt of the decision, refer the grievance to Stage 2 of this Procedure.
- 6.11 If the grievance is upheld at Stage 1, the Respondent may within ten (10) days of the date of receipt of the decision, refer the grievance to Stage 2 of the procedure.

Stage 2

- 6.12 The President, or such person as s/he may nominate for that purpose shall follow a similar procedure to that set out at Stage 1 and shall, within twenty (20) days (where the Grievance is referred to the Governing Body this period may be varied) of the referral, issue his/her findings. The President or nominee may uphold the Grievance or not uphold the Grievance. If the Grievance is upheld the President or nominee may recommend how this matter should be resolved.
- 6.13 A copy of the written report at the outcome of Stage 2 shall be sent to the member of staff bringing the Grievance as well as to the Respondent (where there is a Respondent to the complaint) and any other person who may be deemed to be relevant to the outcome of stage 2.
- 6.14 The decision at Stage 2 will not be subject to any further appeal within the University.

Stage 3

- 6.15 Should the Aggrieved Party or the Respondent be dissatisfied with the decision at Stage 2 and wish to pursue the matter further, he/she may consider that a dispute has arisen and may refer the issue to the Labour Relations Commission or other relevant State body having regard to the nature of the grievance involved.

APPENDIX 1

Procedure For Dealing with Complaints Under the Grievance Procedure of the University which are referred to Governing Body

1. In a complaint under the Grievance Procedure where:
 - (a) The President is the subject of a grievance;
 - (b) The President wishes to submit a grievance, or
 - (c) The matter the subject of the grievance involves the President in such a way that he is prevented by reasons of natural justice from deciding on the complaint

the provisions of the Universities Act 1997, Section 18(4) shall apply: "A governing authority may from time to time, appoint such and as many committees, consisting either wholly or partly of members of the governing authority, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit."

2. The Governing Body shall appoint a Committee as provided for in Section 18(4) of the Universities Act, ["the Committee"] to undertake the Governing Body's role in the Grievance Procedure in such cases.
3. The Committee thus established shall be empowered by Governing Body to investigate the grievance and to issue its findings to the Aggrieved Party and to the President.
4. On establishment of the Committee the grievance will be formally referred to the Committee for processing by the Secretary of Governing Body.
5. The Committee shall have the power to amend the timescales in the Grievance Procedure but in any event shall complete its work and report not later than three months from the date of referral of the complaint by the Secretary of Governing Body.
6. On referral of the grievance and associated documentation to the Committee under the Grievance Procedure, it shall issue to the Aggrieved Party the procedure for the conduct of the investigation of the complaint.
7. The Aggrieved Party will be requested to submit any additional documentation on which s/he intends to rely.
8. The President and any other relevant staff member or University Officer will be asked to forward any records, documentation or information deemed relevant by the Committee.
9. The Committee will meet with the Aggrieved Party and if s/he wishes his/her chosen representative as provided for in the Grievance Procedure. If s/he considers that any other member of the University staff could assist the Committee, that person should be available to meet the Committee also without delay.

10. If the grievance falls under 1 (c) above and if there is a Respondent to the grievance, the Respondent will have the same right of access to the Committee, to submit relevant documentation and to nominate members of the University staff to meet the Committee and the same right to be represented as in each case afforded to the Aggrieved Party. If the grievance falls under 1(a) above the President will have the same right of access to the Committee, to submit relevant documentation and to nominate members of the University staff to meet the Committee and the same right to be represented as in each case afforded to the Aggrieved Party.
11. The Committee will meet with the Respondent and any other staff member or University Officer it deems necessary. If the Respondent considers that any other member of the University staff could assist the Committee, that person should be available to meet the Committee also without delay.
12. The Committee may schedule more than one meeting with any party, should it so decide.
13. The Committee will be at liberty to meet with any other person whom it considers relevant to the grievance and to request and consider any and all documentation and information which it considers directly relevant to the grievance.
14. The Committee will keep a note of its meetings with those requested to meet the Committee as part of this process and will as far as is reasonably practicable agree each note with the person concerned.
15. The Committee, prior to the finalisation of its Report, will make available to the Aggrieved Party, the President and the Respondent [if such exists] and to any other University Officer at its discretion, the documentation provided to it and the agreed meeting notes and give them an opportunity to comment before the Committee reaches a decision.
16. Having considered all of the information directly relevant to the grievance, the Committee will uphold **OR** not uphold the grievance and will make the Aggrieved Party, the Respondent if such exists the President and the Secretary of the Governing Body aware of its decision.
17. The report of the Committee will not be subject to further appeal within the University.
18. If the grievance is not upheld, the Aggrieved Party may refer the complaint to the Labour Relations Commission in accordance with the Grievance Procedure.
19. Governing Body shall receive a verbal report from the Committee that the investigation of the complaint has been completed and a report has been issued.
20. Legal advice will be made available to the Committee through the Office of Corporate & Legal Affairs from one of the University's Legal Framework firms.
21. Administrative support for the Governing Body Committee will be provided by the Office of Corporate & Legal Affairs.

UCC Grievance Procedure Approved by Governing Body on 17 December, 2013

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