

# Grievance Procedure

September 2016

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# Grievance Procedure

## Summary

### What is this Procedure about?

The University is committed to supporting staff in carrying out their role and responsibilities to the highest standard within a supportive culture which encourages and aims to provide cooperative and clear working practices.

### Who is this Procedure for?

This is for all staff employed by the University.

### How does the University check this Procedure is followed?

The Human Resources Department will check that this Procedure is followed.

### Who can you contact if you have any queries about this Procedure?

The Human Resources Department should be the first point of contact for any queries by emailing [hrenquiries@port.ac.uk](mailto:hrenquiries@port.ac.uk). Information is also available via the **Frequently asked questions (FAQ)** section of the HR webpages.

## Introduction

1. This Procedure has been approved by the Board of Governors in the exercise of its powers and duties as prescribed in the Articles of Government. The Procedure has been agreed between University management and representatives of the trade unions and replaces the Procedures previously incorporated in the contracts of employment of the relevant members of staff. This Procedure applies to all grievances first notified in writing on and after 7 September 2016.
2. The University is committed to supporting staff in carrying out their role and responsibilities to the highest standard within a supportive culture which encourages and aims to provide cooperative and clear working practices. The University will aim to resolve staff grievances at the earliest opportunity by seeking solutions which take into account the needs of all parties involved.
3. The University's Equality Analysis Impact Procedure was used in the development of this Procedure and is available on request. This Procedure will be reviewed on a regular basis by Human Resources (HR) for the following purposes:
  - To ensure that the Procedure gives all staff the opportunity to raise a grievance.
  - To ensure that the Procedure does not directly or indirectly discriminate against anyone raising a grievance.
  - To ensure that the University of Portsmouth creates an environment where all staff are able to raise concerns and can be confident they have been listened to.
  - To strengthen the University of Portsmouth's commitment to equality of opportunity and valuing diversity.

Evidence that will be used to assess the success of this Procedure will include:

- Number and type of formal staff complaint (HR).
- Number of grievances raised related to gender/bullying and harassment/disability/religion (HR).
- Feedback from trade unions.
- Feedback from Faculties/Departments.

## Purpose

4. The purpose of the Procedure is the settlement of grievances fairly, as rapidly as possible and as near as possible to the point of origin. The Procedure can only be operated fairly if all parties cooperate fully. The earlier problems or concerns can be discussed, the more likely it is that these can be resolved quickly and whilst they remain minor.
5. Grievances raised by individual members of staff may be of a relatively straightforward nature or of fundamental importance significantly impinging upon the member of staff's ability to work effectively. Unresolved grievances are likely to detract from the achievement and maintenance of work standards.

6. This Grievance Procedure will also be followed for collective grievances (multiple or group). In collective grievances, if two or more members of staff are involved in raising the grievance, the investigating manager may call in another manager to help manage the meetings with staff.
7. If a grievance is raised in response to another grievance (a counter grievance), or in response to action being taken under another policy or procedure (for example, Disciplinary), the Director of Human Resources shall decide the order in which the matters are dealt with. In most cases these matters will be dealt with concurrently. The University reserves the right to instigate disciplinary action if the case is judged to be vexatious or defamatory.

## Scope

8. All University employees except the holders of senior posts as defined in the Articles of Government may have recourse to the Procedure.
9. Where the grievance is brought against a holder of a senior post as defined in the Articles of Government, the responsibility for hearing the grievance lies with the Board of Governors (Standing Orders of the Board of Governors and its Committees, 10.2 (vii)). The advice of the Director of Human Resources, and if desired a trade union representative, should be sought before such a grievance is presented.
10. This Procedure is not to be used as a substitute for or in addition to appeals against decisions under either the Management of Under-Performance Procedure or Disciplinary Procedure.
11. This Procedure may not be invoked on any matter which seeks to change an agreement reached with a recognised trade union.
12. A grievance alleging potentially criminal behaviour must be referred to the Director of Human Resources for advice. The matter will be referred to the relevant external authority as appropriate, and any external investigation is likely to take precedence over University procedures.
13. The Procedure may not be used for raising issues which are outside the responsibility or control of the University in its role as an employer.

## People involved

14. In this document we refer to:
  - The person bringing the grievance. Where a grievance is a collective grievance, the aggrieved individuals may choose to have that grievance presented by a single representative.
  - The person against whom the grievance is brought. A grievance may be brought against several people, in which case the Procedure applies to all of them.
  - The investigating manager. This is the person who directly manages the person bringing the grievance, and will investigate the grievance. However, if the grievance is brought against that person then the line manager of the direct manager will be involved at Stage 2 instead, or a manager who has had no previous involvement in the case could be commissioned to carry out the investigation. The investigating manager will progress the case at Stage 2, and if there is an appeal, then present the case at Stage 3.
  - Others from whom statements may be taken in the course of resolving the grievance who may be involved at Stages 2 and 3.

## Consequential action

15. A grievance might allege actions that are disciplinary offences. For example, the University has policies in relation to discrimination and bullying and harassment, and a grievance might reveal potential breaches of these. If disciplinary action results, the person bringing the grievance becomes a witness in any disciplinary procedure. Following the conclusion of the disciplinary procedure the person who brought the grievance will be notified that HR procedures have been followed and advised that it will not be possible to provide any further information as to do so would breach the third party's data protection rights. Relevant policies and codes of practice are listed in Appendix 1.

## Guiding principles

16. Grievances should be examined carefully and dealt with as quickly as possible following this Procedure. Delays may make the situation worse and may give members of staff the impression that managers are reluctant to deal with their complaints.
17. Grievances should be resolved wherever possible through informal discussion between the member of staff, their manager or their manager's manager and the person against whom the grievance is brought. Union colleagues may also be involved in early resolution of grievances.

18. The principles of natural justice should apply to all stages of the Procedure. Natural justice refers to certain fundamental principles of justice we have as a society, such as a right to a fair hearing, an explanation of reasoning behind a decision and impartiality. Those holding a grievance, those identified in a grievance and those who are the subject of a grievance all have rights and they are equally entitled to the principles of natural justice.
19. Issues should be stated clearly, including any desired or suggested resolutions so that they can be considered by all relevant parties.
20. The person bringing the grievance and the person against whom the grievance is brought should be reconciled in an open and expeditious manner.
21. Any person involved in the grievance process should be protected from bullying and harassment as a result of their involvement. Any bullying and harassment will be investigated and disciplinary action will be taken if necessary.
22. Managers should respond to grievances in a constructive and timely manner, so that confidence and trust between all staff involved is enhanced or restored.
23. The approach adopted in the resolution of a grievance will depend on the issues raised. In some cases a problem solving or a corrective approach may be suitable; in others, conciliation or mediation may be appropriate.
24. When reaching a decision on a grievance, managers should consider the possible effects on other members of staff, Departments and the University as a whole.
25. Individuals who properly seek resolution of grievances brought in good faith as reasonably-held beliefs will not be treated less favourably by the University for having done so.

## Facilitated meetings

26. Human Resources could carry out facilitated meetings with the two parties to bring about early resolution to grievances. These are normally discussed at during the informal stage of any grievance and can help in resolving minor issues if both parties are agreeable to participating in holding facilitated meetings.

## Raising concerns or problems informally

27. It is considered good practice for staff to speak to their manager to raise concerns or problems informally with a view to seeking a resolution. If the staff member's concern or problem is related to their manager, they should seek to resolve the issue informally with their manager's line manager or Human Resources. Informal discussions with HR are often helpful for staff to engage in so they can be clear of their options and also aim to resolve the grievance informally if appropriate.
28. The person bringing the grievance needs to be clear on their concerns or issues, how they feel it could be resolved and any relevant timescales. It is advisable to summarise the concerns from the discussion in an email.
29. It is important to note that any agreed or suggested management or HR outcomes are given sufficient time to take effect or at least trialled before a staff member considers referring the issue to the Grievance Procedure.

## Operational considerations

The following considerations apply in all steps of the Procedure below.

### Confidentiality and disclosure

30. Grievances are of a confidential nature and should be treated as such. Those against whom a grievance is made shall have a right to see and respond to statements made about them in a grievance. The person bringing the grievance has a right to see such responses. If confidentiality is breached by any party involved in the grievance, appropriate action could be taken against them using HR policies and procedures.

### Malicious or false complaints/grievances

31. Any complaint is treated seriously by the University. It should therefore be noted that anyone found to be making a mischievous or malicious complaint will have appropriate action taken against them, which may include disciplinary action. Should a complaint not be upheld, this will not, of itself, be evidence of a malicious or mischievous complaint.

### Representation

32. The person bringing the grievance and the person against whom the grievance is brought are entitled to representation by a trade union representative or fellow employee at any stage of the Procedure.

## Human Resources

33. Support is available from Human Resources to all individuals involved. Managers dealing with grievances must seek advice and guidance from HR Advisers at all stages of the Procedure. In complex grievances, HR Business Partners may be involved.

## Timescales and resolution

34. Timescales are included in the Procedure. In some cases, those involved may request a longer timescale, but in all cases either the timescale is met in full, or the request for an extension is made as soon as possible, and within the timescale set out in the Procedure.
35. If the person bringing the grievance, or a person against whom the grievance is brought, fails to participate in the Procedure of the grievance process (for example by not attending a meeting or responding within the appropriate timescale), the reasons will be investigated by the person who convened the meeting or by the Director of Human Resources. Illness or other reasonable explanations will lead to deadlines being extended or meetings rearranged without prejudice to the operation of the Procedure.
36. If the person bringing the grievance decides not to continue to pursue the grievance, they must confirm this in writing to the convenor of any meetings.
37. If the person bringing the grievance has accepted a suggested resolution he or she must confirm their acceptance in writing to the manager who is investigating their grievance.
38. The person against whom the grievance is brought will be informed of the resolution by the manager investigating the grievance. Additionally, they will be provided with the relevant findings about the grievance against them as well as recommendations and learning points.

## External mediation

39. Independent external mediation is available to help to resolve grievances. Mediation can be used at any stage of the grievance process and is always voluntary.
40. The investigating manager should always consider whether external mediation between the parties might provide a route to resolution of the grievance. The individual bringing the grievance or the individual against whom the grievance is brought may also suggest mediation to the investigating manager.
41. If mediation has been discussed, the investigating manager will include this in his or her response to the individual bringing the grievance, whether or not mediation is eventually agreed.
42. If the individual bringing the grievance and the individual against whom the grievance is brought accept a proposal from the investigating manager to seek mediation, the Director of Human Resources, or his or her representative will contact the parties to arrange for the matter to be referred to a mediator external to the University.
43. The investigating manager will consider the outcome of the mediation and may then call another meeting with the individual bringing the grievance. The meeting should take place as soon as practicable after receipt of the mediation outcome by the investigating manager.
44. The investigating manager will then report to all relevant parties of the outcome(s) of the mediation. The outcome(s) of the mediation need to be followed through on a timely basis until the matter is concluded.
45. The University, through the Director of Human Resources, shall make the decision on the external mediator to be used in any mediation process.

## The Grievance Procedure

### Stage 1 – Raising the grievance

46. The person bringing the grievance must submit a written grievance to their immediate manager (or to the manager above if the grievance is about the immediate manager). A form to set out the written grievance is attached to this policy (Appendix 4). For support in preparing and responding to a written grievance, please see the Guidance Notes at the end of this document (Appendix 2).
47. The written grievance must:
- State clearly the issue(s) being raised under Stage 1 of the Grievance Procedure.
  - Specially set out the reason(s) for the grievance.
  - Explain the reasons why it has not been possible to resolve the grievance informally or reason(s) for raising the grievance formally without seeking any informal route.

- Submit all relevant evidence with the grievance form. If further information is available at a later stage this should be submitted to the investigating manager as soon as possible.
- Set out clearly and concisely how the staff member believes the grievance could reasonably be resolved, with outcomes.

The person bringing the grievance should also consider whether a facilitated meeting or mediation may help in resolving the matter.

## Stage 2 – Grievance investigation

48. It is important that the manager investigating the grievance understands the reasons for the grievance and is provided with all the relevant information at the outset. Therefore, if the grievance is unclear or no resolution has been suggested, the manager may request further information or clarification prior to acknowledging receipt of the grievance.
49. The manager sends a written acknowledgement of receipt to the person bringing the grievance. The letter will explain that a grievance meeting will be arranged as soon as possible, disclose details of who will be involved in the investigation and will include a copy of the Grievance Procedure.

## The grievance meeting

50. The investigating manager will arrange a grievance meeting without unreasonable delay, normally within ten working days where practicable, of receiving the written grievance and all the related information/evidence. This can be extended by mutual agreement.
51. The investigating manager will write to the individual raising the grievance to provide details of the date, time and venue of the grievance meeting, providing five working days' notice of the meeting. The letter will also set out the right for the staff member to be accompanied at the grievance meeting by a trade union representative or a workplace colleague.
52. The right to be accompanied must not delay the progress of the investigation. If the chosen person is unavailable on the scheduled date, the meeting will be rescheduled provided that the staff member proposes an alternative time within five working days of the scheduled date.
53. The investigating manager will proceed with the grievance meeting in the following way:
  - Introductions and reasons for the grievance meeting.
  - The member of staff will explain the reasons for their grievance, detail all key matters/evidence and the resolution(s) sought.
  - The investigating manager and member of staff should discuss whether it would be appropriate to consider mediation to resolve the grievance.
  - The investigating manager will summarise the main points of the meeting, the investigation to be carried out and agree this with the member of staff. The investigating manager will confirm these points in writing within five working days.
54. In some circumstances, the investigating manager may be able to resolve the grievance without an investigation and inform the member of staff of this once a decision has been made.
55. If further investigations are required the investigating manager will carry these out as soon as possible, this may require further meetings with the member of staff who raised the grievance, the person whom the grievance is against, meetings with other relevant individuals and/or the written evidence.
56. The investigation should be carried out without unreasonable delay and completed within three to six weeks of the grievance meeting. However, it may be that due to the complexity of the grievance the timescales may need to be longer. The investigating manager should advise the staff member raising the grievance and the person against whom the grievance is brought of the anticipated timescales for the investigation and keep them informed should further time be required.
57. Once the manager has concluded the investigation, a report of the investigation with recommendations and a decision on the grievance will be sent to the staff member who raised the grievance. The report will also be sent to the person the grievance has been raised against. The written responses should be completed within ten working days of the conclusion of the investigation. If additional time is needed to complete the report, the investigating manager should mutually agree this with the person raising the grievance.
58. The report on the grievance investigation should contain the following:
  - A list of the individuals or members of staff who formed part of the grievance investigation.
  - The key findings in relation to the grievance raised.
  - Any other related or relevant factors taken into account.
  - The decision made, including any action(s) to resolve the grievance.
  - The person's right of appeal if they feel their grievance has not been dealt with satisfactorily or resolved.
  - An appeal must be submitted to the Clerk to the Board of Governors within ten working days.



59. The person bringing the grievance will consider the written response of the investigating manager. If they wish to appeal, this needs to be submitted within ten working days of receiving the written response.
60. All relevant parties to the grievance investigation will, only if it is relevant, be informed of any recommendations/outcomes that affect or impact on them.

### **Stage 3 – Appeal**

61. If the person bringing the grievance appeal is dissatisfied with the outcome of Stage 2, then they may present their grievance for the consideration of an Appeal Panel comprising of three members, one member of UEB as chair and two governors. The person against whom the grievance has been made will be informed of the appeal.
62. The individual bringing the grievance appeal must present their grievance to the Clerk to the Board of Governors within ten working days of the conclusion of Stage 2. The written material to be submitted to the Clerk by the individual bringing the grievance must be:
  - The original grievance.
  - The evidence submitted to the investigating manager.
  - The written response(s) from the investigating manager.
  - A written statement from the person bringing the grievance explaining why they remain dissatisfied with the outcome of Stage 2 and clear reasons for their appeal.
  - If the individual bringing the grievance had previously declined an invitation to seek resolution of their grievance through the use of mediation, a statement setting out why they chose not to participate in mediation.
63. Within ten working days of the receipt of the grievance appeal, the Clerk to the Board will acknowledge receipt and advise on the arrangements to be made to hear the appeal. An HR Business Partner or senior member of the Department of Human Resources not previously involved in the grievance will be in attendance to provide good employment practice advice to the Appeal Panel.
64. The Appeal Panel will consider the appeal and provide a written decision to the person bringing the grievance within five working days.
65. The individual against whom the grievance is brought will be informed in writing by the Chair of the Appeal Panel of the outcome of the appeal panel hearing.
66. This decision is the final outcome of the grievance.

### **After employment grievance**

67. If a grievance is lodged just before employment has ceased or ended, it may not be reasonably practical to apply the normal Procedure above. In such cases the University will investigate such a grievance/complaint and respond to it in writing. There is no right of appeal.
68. Grievances raised after the employment has ceased or ended will not be investigated and the matter will be considered closed with no right of appeal.

## Appendix 1

### University policies and codes of practice

University policies and codes of practice which may be relevant to the consideration of grievances held by staff members:

- Disciplinary Procedure
- Management of Under-Performance Procedure
- Investigation Guidelines
- Managing Sickness Absence Procedure
- Equality and Diversity Policy
- Disability Guidance
- Dignity and Respect Policy
- Relationships: guidelines for the professional conduct of staff (found within the Declaration of Interests Policy)
- Gender Reassignment and Trans Equality Policy
- Religion and Belief Policy
- Organisational Change Policy: Redeployment and Redundancy

These documents are available in the Document Warehouse at [www.port.ac.uk/accesstoinformation/policies/](http://www.port.ac.uk/accesstoinformation/policies/).

## Appendix 2

### Guidance notes

#### Roles

The role of the investigating manager and the Appeal Panel in considering grievances is to:

- Deal with all parties in a fair and consistent manner.
- Take a written record of the meeting and all information provided.
- Draw out salient points.
- Make findings of fact.
- Base conclusions and recommendations on those facts, as well as how the grievance could be resolved.
- Seek to find resolution rather than pass judgement.
- Convey a reasoned response to the individual raising the grievance.
- Take such action as is appropriate to, or required by, their conclusions.
- The role of the Department of Human Resources staff is to:
  - Advise all involved in an independent manner and make available to all parties involved relevant documentation as requested.
  - Advise individuals about the Grievance Procedure and explain how it works. This includes support to those holding grievances and to those who have had a grievance submitted against them.
  - Advise managers about the Grievance Procedure and explain how it works.
  - Provide good employment practice advice to managers.
  - Be in attendance to provide good employment practice advice to the Human Resources Committee Appeal Panel.

**NB.** All employees have recourse to support from the 24 hour employee assistance programme. Details are available from the Department of Human Resources or at [www.port.ac.uk/staffessentials/generalinformation/Wellbeing/employeeassistanceprogramme/](http://www.port.ac.uk/staffessentials/generalinformation/Wellbeing/employeeassistanceprogramme/).

The role of the trade union representative or work colleague is to act at the request of the individual who holds the grievance or the employee against whom the grievance is held, i.e.:

- To give support to the individual.
- To accompany the individual at meetings.
- To put points and raise questions on behalf of the individual at meetings.

#### Investigating manager

In addition to the above, the investigating manager may also find it useful to consider the following points:

- A mediated solution to a grievance can be considered at any stage of the Procedure. Further advice on how mediation might assist and how it can be arranged is available from the Department of Human Resources.
- The continuation or restoration of good working relationships is a key objective in the resolution of grievances.

#### Individuals making a grievance

Grievances are important to individuals and need to be fully articulated and addressed in a serious manner. They must also be properly recorded. For this reason written grievances should be set down on the attached *pro forma* (Appendix 4).

Individuals who properly seek resolution of grievances brought in good faith as reasonably held beliefs will not be treated less favourably by the University for having done so.

#### Mediation

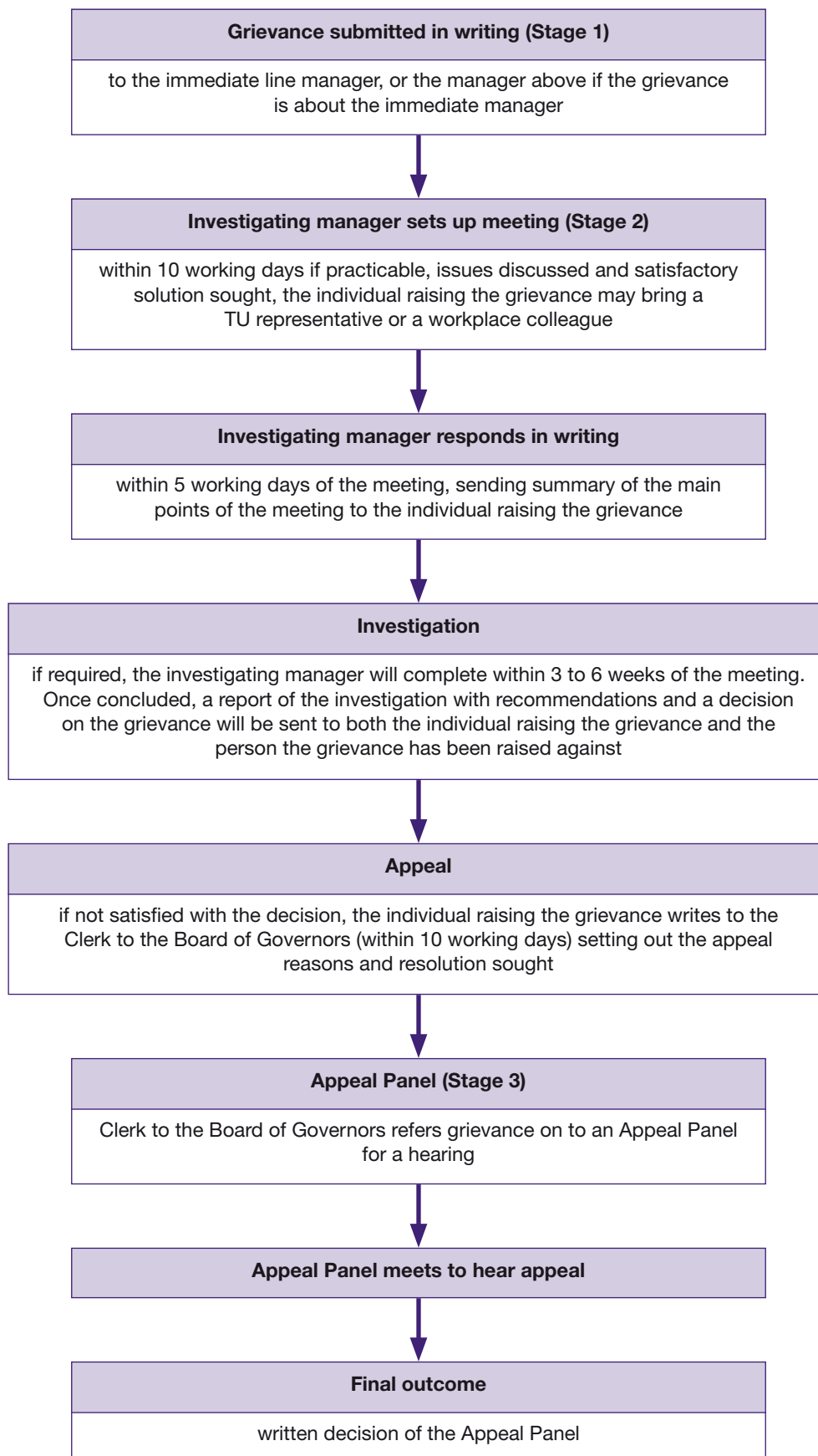
Advice on how the involvement of an external mediator may assist in resolving a grievance can be obtained from the Department of Human Resources. Information on how mediation works is also available from ACAS at [www.acas.org.uk](http://www.acas.org.uk).

#### Frequently asked questions

Information is also available via the **Frequently asked questions (FAQ)** section of the HR webpages.

## Appendix 3

### Diagram of the Formal Grievance Procedure



**Reminder – mediation can be considered at any stage of the Grievance Procedure.**

## Appendix 4

### Written Grievance Form

**CONFIDENTIAL**

#### WRITTEN GRIEVANCE FORM

**Name:**

**Department:**

**STATEMENT OF GRIEVANCE**

(Continue on a new sheet if necessary. Normally no longer than 3 to 4 sides of A4. Please attach any appendices to the form.)

**Key details of events:**

**WRITTEN GRIEVANCE FORM (continued)**

[Large empty rectangular box for writing the grievance details]

**Key dates:**

**Key witnesses:**

**WRITTEN GRIEVANCE FORM (continued)**

**Resolution/Outcome being sought:**

(It will help to resolve your grievance if you can outline some preferred outcomes/resolutions at this stage.)

**Signed:**

**Date:**

This document will be treated confidentially, but necessarily it will be seen by those who are responsible for seeking resolution of the grievance and will be shown to any parties who are identified in it.  
You should also attach all relevant evidence to this grievance paperwork.

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