

# GRIEVANCE POLICY

November 2021

# Contents

1.	Introduction.....	4
2.	Purpose.....	4
3.	Scope .....	4
4.	Guiding Principles .....	5
5.	Roles and Responsibilities.....	5
6.	Stages in the Grievance Policy .....	6
7.	Filing the Grievance. ....	7
8.	Grievance Investigation .....	7
9.	Grievance Meeting .....	8
10.	Grievance Outcome .....	9
11.	Appeals .....	9
12.	Notification of the Hearing .....	10
13.	Appeal Documentation.....	10
14.	The Appeal outcome.....	10
15.	Operational Considerations.....	11
16.	Former Employees, Exit Interviews and Resignation Letters.....	11
17.	Appendix 1 Employee’s notification of grievance .....	13
18.	Appendix 2 Grievance Policy Flowchart .....	16

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## 1. Introduction

- 1.1 This policy has been approved by the People Culture and Engagement Committee which has overall responsibility for the effective operation of this policy and for any subsequent revision and amendment. Day to day responsibility for operating this policy and ensuring its maintenance and review has been delegated to the Chief People Officer.
- 1.2 This policy has been implemented following consultation with the recognised trade unions, UCU and UNISON.
- 1.3 This policy does not form part of any contract of employment, although there are statutory entitlements referenced within it.
- 1.4 The University's Equality Impact Procedure was used in the development of this policy.

## 2. Purpose

- 2.1 Where informal attempts to resolve an issue have been unsuccessful a formal grievance under this policy may be required.
- 2.2 The purpose of this policy is the resolution of grievances fairly, as rapidly as possible and as near as possible to the point that they occur. The earlier that problems or concerns can be discussed, the more likely it is that these can be resolved quickly. Unresolved grievances are likely to detract from the achievement and maintenance of work standards.

## 3. Scope

- 3.1 This policy applies to all University of Portsmouth employees. It does not apply to agency workers or self-employed contractors.
- 3.2 Grievances may range from issues of a relatively straightforward nature through to issues of fundamental importance significantly impinging upon the employee's ability to work effectively. Issues that may cause grievances and result in the instigation of this policy may include:
  - Terms and conditions of employment
  - Health and Safety
  - Work relations (also see Anti-Harassment and Anti Bullying Policy)
  - New working practices
  - Organisational change
- 3.3 This policy may not be used for grievances which are covered by separate University procedures including:
  - Disciplinary action
  - Termination of employment
  - Dignity and Respect
  - Harassment and Bullying
  - Whistleblowing (unless the employee is directly affected by the matter in question or where the employee believes they may have been subjected to retaliatory action in consequence of their act of whistleblowing)

- 3.4 This policy cannot be used to lodge a complaint about the outcome of any other formal policy which has its own appeal process or in relation to a matter which seeks to change an agreement reached with a recognised trade union or is outside the responsibility or control of the University in its role as an employer.

#### 4. Guiding Principles

This grievance policy is designed to help management and employees resolve grievances by:

- Applying the principles of natural justice (avoidance of all bias) to all stages of the policy
- Ensuring consistency of decision making
- Working with union representatives to play a role in advising and offering early support to their members at all stages of the process with a view to seeking an agreed resolution without recrimination as early as possible
- Affording employees the opportunity of putting their case should they have a complaint which they are unable to resolve through regular communication with their line manager
- Fostering good relationships between management and employees by encouraging the speedy and effective resolution of grievances
- Resolving grievances as near as possible to the point that they arise in an atmosphere of trust and confidentiality
- Affording protection and ensuring confidentiality for all involved in the grievance process from unfair retaliatory action which will be investigated and disciplinary action taken if necessary
- Ensuring that managers respond to grievances in a constructive and timely manner
- Ensuring that regard is made to the possible effects on other members of staff, Departments and the University as a whole in any decisions

#### 5. Roles and Responsibilities

- 5.1 **The Commissioning Manager** – The Commissioning Manager will often, but not necessarily be, the employee's line manager. Where the grievance concerns the employee's line manager, the Commissioning Manager may be the line manager above or such senior manager as is nominated by the Chief People Officer or Deputy Directors of HR. The Commissioning Manager will decide in conjunction with HR:

- Whether the complaint can be accepted under this policy and if so whether further information is required
- Whether an investigation is required and if so the scope of the investigation
- The appointment of an investigator and whether the role of Investigating Manager and Meeting Manager should be combined
- If required, the appointment of a separate Meeting Manager

The Commissioning Manager will make such decisions as required in relation to the conduct of the investigation as they arise; for example, if unexpected issues arise which may warrant widening the scope of the investigation.

- 5.2 **The Investigating Manager and the Investigation** – The Commissioning Manager in conjunction with HR will appoint an appropriately trained Investigating Manager. The purpose of an investigation is to establish a fair, balanced and unbiased view of the facts based on the evidence. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the

employee and any witnesses and/or reviewing relevant documentation. The Investigating Manager will report to the Commissioning Manager at the conclusion of the investigation and should inform the scope and direction of the investigation where necessary.

- 5.3 **The Meeting Manager** – Where the roles of the Meeting Manager and Investigating Manager are not combined the Investigating Manager will submit the investigation report to the Commissioning Manager who will appoint a Meeting Manager who will convene a grievance meeting as soon as is reasonably practicable. The purpose of the grievance meeting is to enable the employee to explain their grievance and how they think it should be resolved. The Meeting Manager will reach a decision based on the available evidence and the representations made by the employee. The outcome of the meeting will be provided in writing.

## 6. Stages in the Grievance Policy

### Informal Stage

- 6.1 Most grievances can be resolved quickly and informally through discussion. If an employee has a grievance that involves another member(s) of staff they should first of all endeavour to resolve the matter informally by approaching the person(s) involved and, if necessary, request the involvement of their manager. If the complaint is about the line manager they should speak informally to a more senior manager or HR. This allows for problems to be resolved quickly and normal working relationships to resume.
- 6.2 Employees should be able to demonstrate that they have made every effort to discuss the issue(s) informally, before the formal process is commenced and so should document the informal action they have taken.
- 6.3 During the informal stage, it may be appropriate for HR to explore the use of facilitated meetings or mediation, depending on the nature of the grievance.

### Facilitated Meetings

- 6.4 Facilitated meetings are carried out, with the agreement of all parties, at the informal stage and are often successful in resolving minor issues particularly involving group/team behaviours. The meeting is conducted by an appropriately trained internal member of HR (or external facilitator as appropriate) whose role is to facilitate a resolution. No findings of fact or decisions are made by the facilitator in relation to the grievance. Minutes will not be taken and if the grievance is not resolved information from this meeting will not be admissible within the formal grievance process. If the process is successful a note of the agreed outcome will be retained on the individual personnel file.

### Mediation

- 6.5 Mediation can be used, if appropriate, at any stage of the grievance process and is always voluntary. The investigating manager will consider whether mediation between the parties is appropriate but any party to the process, and HR, can also suggest a referral to mediation.
- 6.6 Mediation will be conducted either by an internally qualified mediator who has had no involvement in the grievance or process or an external mediator as determined by the Chief

People Officer or Deputy Directors of HR.

- 6.7 Further information about Facilitated Meetings and Mediation is available upon request.

#### **Formal Stage**

- 6.8 At all stages of the formal procedure the complainant employee (and any employee who is the subject of the complaint) will have the right to be accompanied by a trade union representative or a UoP work colleague. Any request made by an employee to be accompanied must be within reasonable timescales. What is reasonable will depend on the circumstances of each individual case.
- 6.9 A companion is allowed reasonable time off from duties without loss of pay but no one is obliged to act as a companion if they do not wish to do so. Companions should inform their line manager that they require reasonable time off for this purpose.
- 6.10 The trade union representative or UoP work colleague will be allowed to address the meeting to sum up the employee's case and confer with the employee during the meeting. The trade union representative or UoP work colleague does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employee from explaining their case. If the employee's representative cannot attend on a proposed date for a meeting the employee must notify the person arranging the meeting as soon as possible and is able to suggest an alternative time and date so long as it is reasonable and it is not normally more than 5 working days after the original date.

### **7. Filing the Grievance.**

- 7.1 If a grievance has not been resolved informally the employee bringing the grievance must submit a written grievance in the form attached to this policy at Appendix 1 to their immediate manager (or the manager above if the grievance is about the immediate manager). The manager will then notify HR.
- 7.2 The formal grievance will not proceed until the employee has submitted their grievance using the form at Appendix 1 clearly stating the nature of their grievance with as much detail as possible, including what outcome they are looking for. All relevant evidence should be submitted with the grievance form, including confirmation of a meeting at the informal stage. Information that the informal stage has been undertaken or was not appropriate should also be submitted at this stage with reasons why it was not possible to reach a resolution.
- 7.3 If adjustments are required in relation to the completion of Appendix 1 or the procedure generally, either because of disability or because English is not a first language, this should be raised with HR.

### **8. Grievance Investigation**

- 8.1 Upon receipt of a formal grievance the Commissioning Manager in conjunction with HR will appoint an Investigation Manager and a Meeting Manager. These roles may be combined.
- 8.2 It may not always be necessary to carry out an investigation into a formal grievance. Where a grievance investigation is necessary the Commissioning Manager in conjunction with HR will determine, and agree, the scope of the investigation/grievance for the Investigating Manager.

- 8.3 In order to ensure fairness between the parties grievances must be raised as near as possible to the cause of the complaint. Grievances concerning issues that are more than 6 months old will not usually be investigated unless related to the current issue or there are exceptional circumstances.
- 8.4 The length of time of any investigation required will depend upon the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and witnesses and/or reviewing relevant documents. Witnesses will not suffer any detriment for acting as a witness.
- 8.5 The complainant employee must co-operate fully and promptly in any investigation. This may include informing the Investigating Manager of the names of any relevant witnesses, disclosing any relevant documents and attending interviews as part of the investigation.
- 8.6 The Commissioning Manager will acknowledge receipt of the grievance normally within one week of appointment. If the grievance is unclear or no resolution has been suggested the Commissioning Manager may require further clarification before proceeding further.
- 8.7 The Investigating Manager will contact the complainant, normally within one week of appointment, and invite the complainant to an investigatory meeting see 9 below.
- 8.8 The investigation should be carried out without unreasonable delay. The timescale for completion of the grievance investigation will depend upon the complexity of the case, availability of witnesses and the volume of documentation to be considered. However, the Investigating Manager should advise the complainant and the person against whom the grievance is brought (if any) of the anticipated timescales and keep them informed should the timescale change.

## **9. Grievance Meeting**

- 9.1 An investigation may be instigated before holding a formal grievance meeting where considered appropriate. In other cases a grievance meeting may be held before deciding what investigation (if any) to carry out. In either case the Investigating Manager (or Meeting Manager) will hold a further grievance meeting after the investigation is completed to enable a decision to be made. They may be supported at the grievance meeting by a member of HR.
- 9.2 A formal grievance meeting will be arranged without unreasonable delay after the conclusion of the investigation report. The purpose of the formal grievance meeting is to enable the employee to explain their grievance and make representations so that a decision can be made on the basis of the available evidence and representations. The focus will be on finding a resolution that is acceptable to all parties. At least 5 working days' notice of the grievance meeting will be provided and the employee and companion (if any) should make every effort to attend. An unreasonable/persistent refusal to attend may result in the dismissal of the complaint or a finding being made in the absence of the employee based on the available evidence.
- 9.3 If the grievance is against another employee/s separate meetings with each of the parties involved may be held if this is deemed appropriate. The Manager considering the grievance will decide on the conduct of the meeting and, in particular, who should be present at any meeting. Electronic recordings may not be made during any meetings or hearings under this policy unless agreed as a disability related reasonable adjustment. Covert recordings will be



dealt with as a disciplinary matter. Grievance meetings are not confrontational, but should be constructive and supportive with a view to reaching a resolution.

## **10. Grievance Outcome**

**10.1** At the end of the formal grievance meeting, there will usually be an adjournment for a short period to enable the Manager to arrive at a decision. The decision may be conveyed orally in the presence of the parties and will be confirmed in writing with a rational explanation of the outcomes as soon as reasonably practicable, usually within 5 working days. However, after a lengthy meeting the process may be adjourned and reconvened at another time to consider the decision. In such cases it may be agreed to communicate the outcome in a further meeting before confirming the decision in writing. If the complaint included complaints against a third party they will only be told of outcome in relation to the findings that relate to them. The outcome letter will set out the employee's right of appeal.

## **11. Appeals**

**11.1** In the event of dissatisfaction with a grievance decision, the employee who raised the grievance has the right of appeal. To exercise this right the employee should set out their full grounds of appeal in writing to the Chief People Officer within 10 working days of the issue date of the decision letter.

**11.2** The appeal notification and grounds of appeal will be forwarded to the HR Employment Practice Team who will assist in the coordination of the case and the compilation/distribution of the documentation for the appeal hearing.

**11.3** The appeal hearing will be conducted impartially by a panel of at least two senior managers at Grade 10 or above who have had no previous involvement in the case and are more senior than the manager who determined the grievance. The panel members will be drawn from a different Faculty/Department to the employee and composition will, where possible, reflect equality and diversity principles.

**11.4** Panel membership will be nominated by the Chief People Officer or Deputy Directors of HR. At any appeal hearing, including during subsequent deliberations leading to a decision, the panel may be advised by a member of HR.

**11.5** The employee has the right to be accompanied at the appeal hearing by a UoP work colleague or accredited union representative. The details are set out at section 6.8, 6.9, 6.10.

**11.6** If the grounds of appeal raise new complaints these will not be accepted and must be dealt with as a fresh grievance. If new evidence about the same complaint is raised any documentary evidence in support must be included with the appeal notification and if this involves new witnesses their evidence must be submitted within a written statement. New evidence will only be considered if relevant and there is good reason why this had not been included as part of the

original investigation and meeting. This may delay the listing of the appeal as the Investigator/management may need to undertake further investigation in order to respond. If management provide new information this will be disclosed as a summary including, where

appropriate, copies of additional relevant documents and witness statements. The employee will be provided with a reasonable opportunity to consider the information.

11.7 The appeal hearing will normally be dealt with by way of review of the fairness of the original decision in light of the procedure that was followed and any new information that may have come to light. However, there may be some circumstances where the hearing will be dealt with by way of a re-hearing. This will be at the discretion of the University depending upon the circumstances of the case. In any event the appeal will be dealt with fairly and impartially.

11.8 The appeal panel may need to adjourn the appeal hearing to allow further investigation into any new and relevant points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is convened.

## **12. Notification of the Appeal Hearing**

12.1 The employee will be provided with written details of the appeal hearing which will be arranged without unreasonable delay. This notification will normally be within 10 working days of receipt of the appeal notification and grounds and will include:

- Details of the date time and venue for the appeal hearing
- Confirmation of the right to be accompanied by a UoP work colleague or accredited union representative
- The names of the panel members
- The names of the persons who will be present at the hearing
- The format that the appeal will take
- A guidance note as to the procedure that will be followed

12.2 Upon receipt of this notification, by return, the employee must confirm their attendance, or propose an alternative date in accordance with section 11.4 and provide details of their companion. The employee must take all reasonable steps to attend the appeal hearing and an unreasonable refusal to do so may result in the panel making a decision in the employee's absence on the basis of the available evidence or may result in the panel dismissing the appeal.

## **13. Appeal Documentation**

13.1 The appeal documentation comprising the documentation upon which the parties will rely will be coordinated by the HR Employment Practice Team and sent to the employee, the employee's trade union representative where permission is given by the employee, management and the panel members not less than 10 working days before the hearing date.

## **14. The Appeal outcome**

14.1 The appeal hearing will usually be adjourned for a short period to enable the Panel to arrive at a decision. The decision may be conveyed orally in the presence of the parties and will be confirmed in writing with explanation and rationale of the outcomes as soon as reasonably practicable, usually within 5 working days. However, after a lengthy hearing, the process may be adjourned and reconvened at another time to consider the decision. In such cases it may be agreed to communicate the outcome in a further meeting before confirming the decision in writing. The panel may:

- Confirm or partially confirm the original decision

- Revoke the original decision
- Substitute a different decision
- Make recommendations

14.2 The appeal decision is final. There is no further right of appeal under this Policy

## 15. Operational Considerations

### Confidentiality and Disclosure

15.1 Grievances are of a confidential nature and must be treated as such. Breach of confidentiality by the parties or a witness may be treated as a disciplinary matter. There is no right in the ACAS Code or this policy for an employee who has raised a grievance or provided a witness statement to see the interview notes, evidence or witness statements from the investigation report. The extent of disclosure will depend upon the nature and sensitivity of the complaint and the rights of other employees to preserve their confidentiality under data protection legislation.

### Vexatious, Malicious and Frivolous Grievances

15.2 All grievances will be taken seriously, but only those which raise a legitimate or genuine concern will be heard or investigated. Frivolous or vexatious grievances or any repeat complaints which have already been responded to will not be accepted. Evidence of malicious grievances may result in formal disciplinary action being taken against the employee(s) concerned. Should a complaint not be upheld this will not, of itself, be evidence of a malicious grievance.

### Overlapping Disciplinary and Grievance Issues

15.3 If an employee raises a grievance after disciplinary proceedings have been instigated against them the Chief People Officer will consider suspending the disciplinary proceedings for a short period to consider the implications of the grievance (if any) on the disciplinary process. If the grievance and disciplinary issues are unrelated they can be heard separately otherwise they may be dealt with concurrently where appropriate.

### Collective Grievances

15.4 Neither the ACAS Code nor this policy applies to grievances concerning 2 or more employees raised by a representative of a recognised trade union. These will be dealt with as appropriate to the facts of the case. However, where a group of employees take out a grievance regarding the same subject matter this will be heard using this process i.e. one grievance claim. It may be appropriate for the complainant employees to appoint one or two individuals to present the grievance.

## 16. Former Employees, Exit Interviews and Resignation Letters

16.1 If a grievance is lodged either formally or contained within a resignation letter or made during an exit interview shortly before or after the employment has ended it may not be reasonably practicable to apply this policy.

16.2 There is no explicit requirement in the ACAS Code for an employer to follow a grievance policy



in cases involving former employees. In these circumstances the University reserves the right to deal with such complaints as it deems appropriate which could include an internal review and outcome letter or no action at all. HR will provide the oversight, advice and guidance on benefits to the Institution of completing an internal review.

**17. Appendix 1 Employee's notification of grievance**

This form should be used to submit a grievance in accordance with the formal grievance policy.

You should complete this form, if appropriate with the assistance of your trade union representative, and hand it, with any evidence in support, to your line manager, or their line manager if the grievance is about your line manager. You are advised to keep a copy.

If this is a collective grievance, which is where several employees wish to raise a grievance arising from the same factual situation, please list all the employees involved but nominate up to two employees to act as lead employees who will present the grievance.

Name	
Post Held	
Department/ School/ Faculty	
Nominated second employee if a collective grievance	

If this is a collective grievance list all the employees with details of their roles Departments / School / Faculty on whose behalf this grievance is submitted.

**Describe briefly:**

The nature of your grievance (this should include a full description of the nature of your complaint including any relevant facts, dates and names of individuals involved)
If there are any witnesses to the matters in your complaint list them here

List and attach copies of any documents upon which you wish to rely

On what date did you first raise your grievance and with whom?

What action has been taken in relation to your grievance at the informal stage?

What outcomes/ resolution are you seeking? (please detail actions you would like taken to resolve the situation, e.g. an apology)

Indicate if you would be interested in exploring a resolution through a facilitated meeting or mediation, or if you would like to receive more information about these options

YES/NO/ MORE INFO

Do you wish for a trade union representative to receive copies of all correspondence between us?

YES/NO

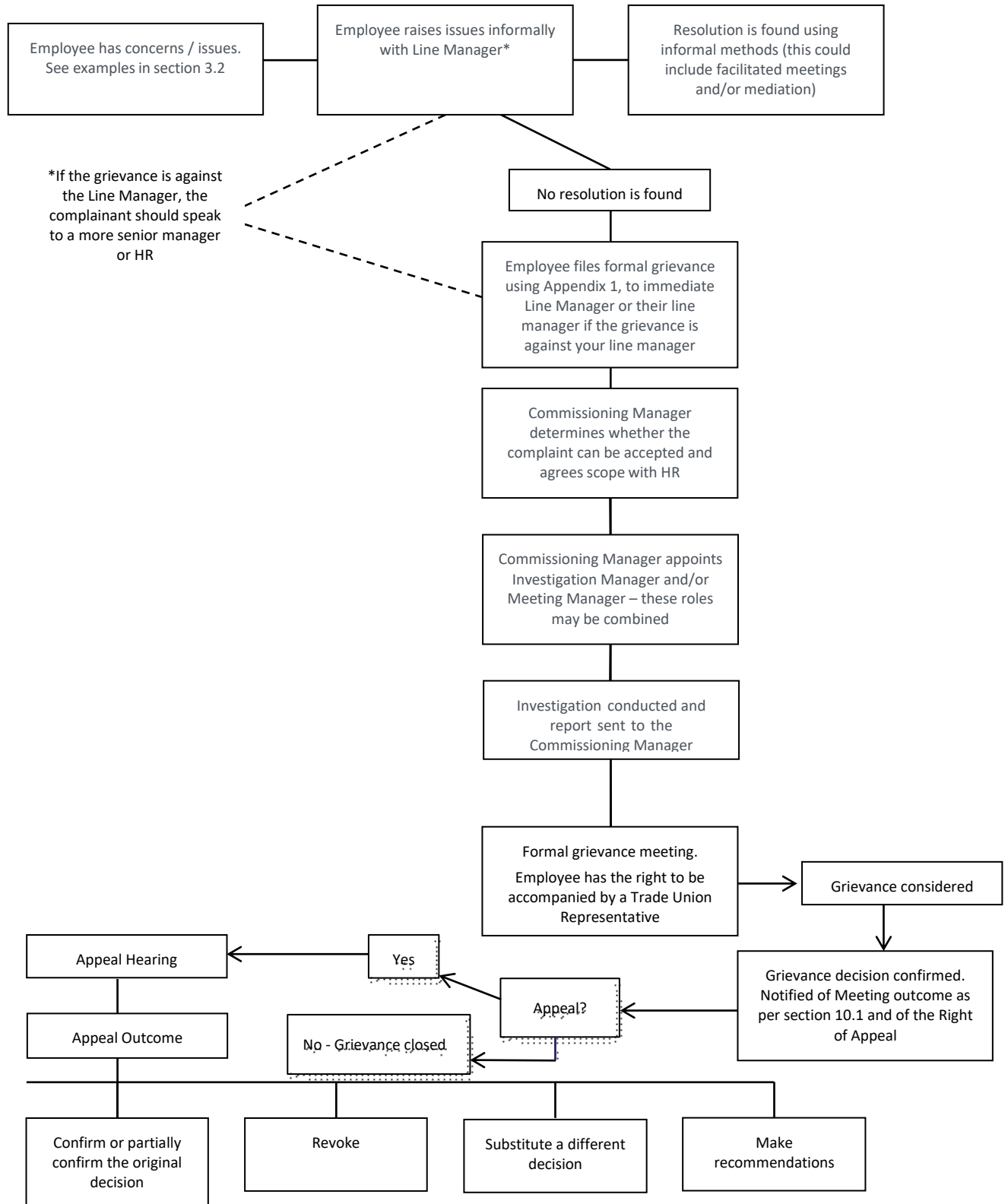
If yes please identify the representative:

This document will be treated as confidential, but it will be necessary for it to be seen by those who are responsible for seeking resolution of the grievance and it may be disclosed, in whole or part to any person who is identified within it.

Signed

Date

## 18. Appendix 2 Grievance Policy Flowchart





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