

Committee	HR&R		
Agenda Item	13		
Date paper prepared	06/03/2023	Date of committee meeting	15/03/2023
Subject	Grievance Policy		
Author	Jane Lewis, Principal		
Action requested	For review and approval		
Purpose of the paper	To present new Grievance policy for approval		
Brief summary of the paper	Presentation of Grievance policy for approval		
Consultation	SMG, SMT, LNCC		
Resource implications	N/A		
Risk implications	The college needs to have such a policy and so the introduction of this is essential		

<p>Link with strategy</p>	<p>N/A</p>
<p><u>Equality, Diversity and Inclusion</u></p>	<p>N/A</p>
<p>Island Community Impact</p>	<p>N/A</p>
<p>Paper status</p>	<p><input checked="" type="checkbox"/> Open – The paper may be circulated to non-members of the committee and published online without restriction.</p> <p><input type="checkbox"/> Restricted – The paper must not be circulated to non-members or published online until after the committee meeting.</p> <p><input type="checkbox"/> Confidential - The paper must not be circulated beyond the committee members and should not be published online. [Please note papers may still be subject to Freedom of Information requests – see below].</p>

Staff Grievance Policy and Procedure DRAFT

1 Purpose

Shetland UHI's Vision:

Shetland UHI will be an inspirational hub of innovation and learning designed to meet the needs of the people of Shetland, nationally and internationally.

Shetland UHI's Values:

We will achieve our Vision by:

- Working together - Fostering activity and interaction across the organisation and between staff and students.
- Working for Shetland - Addressing skills needs, supporting innovation and applied research for the Shetland economy as the university for Shetland, with the University for the Highlands and Islands (UHI).
- Working sustainably - Embedding sustainability in the curriculum and in our practice.
- Working to become resilient - Encouraging staff development and aspiration, exploring and achieving new income streams.
- Working with partners - Developing relationships with employers, schools, communities, SIC and relevant national and international institutions.

1.1 Shetland UHI will always seek to resolve matters informally in the first instance to achieve resolution swiftly and maintain good employee relations.

1.2 In support of our commitment to informal resolution, a grievance will not be considered as formal until it is received in writing.

1.3 The purpose of this policy statement and the related procedure is to:

- provide a framework within which grievance issues can be resolved in a way which is designed to promote fairness and maintain good employee relations in order to have a motivated and professional workforce able to deliver the operational objectives of Shetland UHI;
- ensure that grievances are resolved promptly, fairly, and consistently;
- identify staff responsible for contributing to the resolution of grievance issues; and,
- ensure that the possibility of damage to sound professional relationships within Shetland UHI is minimised.

1.4 This policy outlines the basis on which informal and formal grievances and collective disputes will be handled and resolved for all staff employed by the Board of Management.

1.5 Where a collective grievance is being raised, the group of staff will nominate one or two colleagues to represent the group at all stages within both the informal and formal stages of the procedure. Where appropriate, the matter may be discussed between the Trade Union(s) and management with a view to reaching a collective agreement.

1.6 Anonymous complainants or complaints on behalf of someone else will not be considered.

2 Scope

2.1 This policy applies to employees of Shetland UHI who joined the organisation from August 2021 and to employees who TUPE transferred from NAFC Marine Centre on 1st August 2021, thereby superseding the previous policy and procedure arrangements that were in place for those employees.

2.2 This policy, and the existing corresponding policy that applies to employees who TUPE transferred from the Shetland Island Council on 1st August 2021, will be superseded by any nationally bargained policy agreed and approved by the NJNC, at a future date.

2.3 Where there is a dispute as to which policy is to be applied within a situation, it is this policy which will be the first point of reference¹.

3 Grievance Issues

3.1 A grievance issue may arise where a member of staff has a problem or concern about their work, working conditions, or relationship with a colleague or manager. The following list gives an indication of the kind of issues which can give rise to a grievance, but is not exhaustive:

- Terms and conditions of employment
- Health and safety
- Work relations
- Working practices
- Working environment
- Organisational change
- Application of policies and procedures

3.2 Issues resulting from a complaint regarding the behaviour, conduct, or work performance of a member of staff are not usually considered to be grievance issues and would normally be considered under the terms of the Staff Disciplinary Policy or Capability Policy and Procedure.

3.3 National agreements, other than the local interpretation of such, are excluded from the scope of this policy.

3.4 Where, after investigation, a grievance is found to be vexatious or malicious, or where there is a continued pattern of unfounded complaints by the same employee, the complainant may be subject to investigation under Shetland UHI's Disciplinary Policy and Procedure and subject to disciplinary action.

¹ By way of example: in a situation involving two employees where one employee TUPE'd from the local authority and the other is employed under UHI Shetland terms and conditions of employment, it is the UHI Shetland policy that will be used to support the grievance process.

4 Procedure

4.1 Informal Consideration

Whenever possible, a grievance should be raised and dealt with informally by the member of staff's line manager.

Where an employee is unable to raise this issue with their direct line manager, the employee may approach a more senior manager, and informal resolution will still be the objective in the first instance. If the employee is unsure who to approach, they may contact HR confidentially for guidance.

Where the informal process fails, or is inappropriate, the formal procedure may be invoked.

4.2 Mediation

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the grievance. Mediation may be particularly relevant where relationships between employees have broken down. Mediation will be used only where all parties involved in the grievance agree. It is not a compulsory part of the grievance process, nor a formal stage in the process, unless it is invoked following formal consideration.

4.3 Formal Consideration

Where the informal process has not resolved an issue, or is not appropriate, the grievance should be submitted in writing by the employee to the relevant Head of Section, where they have not previously been involved.

Where this route is exhausted, the grievance should be submitted in writing to a member of the Senior Management Team who will appoint a Head of Section, not previously involved, to oversee the resolution of the grievance, and who will chair a Grievance Hearing. Some guidance in relation to chairing a Grievance Hearing is provided in Appendix One.

Some guidance to support the submission of a Grievance is provided in Appendix Two.

The employee who raised the grievance will be invited to attend a grievance hearing, within fourteen calendar days of receipt of the formal grievance.

An HR representative will also attend to minute the meeting and ensure the proceedings are conducted fairly.

At the grievance, the employee will also be asked to articulate their views and expectations in relation to resolution of the grievance.

Following the Grievance Hearing, the chairperson will adjourn proceedings to consider their decision. The decision will be communicated in writing to the employee within seven calendar days of the date of the hearing.

4.4 Grievances Raised by Former Staff

Where a grievance or complaint is made by any person who is no longer in employment by Shetland UHI, this will be dealt with under the terms of the Complaints procedure. In these circumstances the issue will be fully investigated, and the complainant will receive written notification of the outcome of their complaint.

4.5 Undertaking Investigations

Where the manager dealing with the grievance decides that the issues being raised require investigation, the process to be followed will mirror the process set out in our Staff Disciplinary Policy and Procedure – this is attached in Appendix Three for reference.

5 General Rights

5.1 Staff Representation

At any, and all stages of the informal procedure, formal procedure and/or of the appeal procedure, the member of staff will have the right to be accompanied by a work colleague, or recognised Trade Union representative.

5.2 Notes

Notes of formal meetings will be taken, and it will not be a verbatim record. The member of staff and his/her nominated representative will receive copies of all written statements or evidence which will be presented at the hearing, prior to the meeting, and will be required to make available copies of any written evidence which they intend to refer to at the hearing, prior to the meeting.

5.3 Confidentiality

At all stages of a grievance, those involved in the investigation must bear in mind the need for confidentiality in order to preserve the integrity of the process and out of respect for those involved.

5.4 Linked Discipline and Grievance Issues

Where a grievance is raised by a member of staff in relation to disciplinary issues under investigation these may be considered through a parallel disciplinary process and grievance process. In these circumstances the discipline and grievance procedures to be followed will be those considered most appropriate within the circumstances to allow a full and open hearing of all relevant points.

6 Appeal Process

6.1 There will be a right of appeal against the outcome of a formal grievance hearing. The employee will be advised of whom to appeal to in writing in the outcome letter.

6.2 An employee who wishes to appeal against the outcome of a formal grievance hearing must do so, in writing, within 14 calendar days of receipt of the outcome letter.

6.3 The appeal should set out the grounds of appeal.

6.4 For the appeal to be considered, the grounds must relate to the a failure to follow the process properly, or must present new evidence not yet considered by the process.

6.5 The appeal hearing will be heard by a more senior member of staff. Where this route has been exhausted, an appeal hearing will be heard by a panel comprising of members of the Human Resources and Remuneration Subcommittee.

6.6 The appeal hearing will take place within 14 calendar days of receipt of the appeal.

6.7 The decision of the appeal is final and there is no further route of appeal.

7 Responsibilities

- All staff - have a formal responsibility to adhere to the requirements and guidelines of Shetland UHI policies, procedures, standards of service quality and recognised professional and behavioural standards, underlined by our values.
- The Senior Management Group - is responsible for approving and leading the implementation of this policy. This shall include the provision of relevant training and guidance to those investigating grievances and to those conducting grievance hearings.
- The Senior Management Group – is responsible for ensuring the proper application of the terms of this policy and procedure.
- Senior Management Group – is responsible for organising the administration and co-ordination of grievance hearings and appeal hearings. They will also provide advice and support as appropriate during investigations and hearings.
- All Managers and Sections Heads - have a duty to ensure the development and maintenance of the working conditions, integrity, and culture of their respective areas and to promote, champion, and uphold our values
- Section Heads – are required to act appropriately, fairly and objectively when asked to chair a Grievance Hearing.

8. Retention of Documentation

6.1 Any documentation relating to a formal grievance process will be retained until the process is completed, and thereafter for a period of 12 months.

6.2 Documentation will be retained on file in line with data retention guidance and thereafter destroyed.

9. Linked Policies

- Equality, Diversity and Inclusion Policy
- Staff Disciplinary Policy and Procedure
- Organisational Restructuring Policy and Procedure
- Redundancy Avoidance Policy and Procedure

- University of the Highlands and Islands Partnership Retention and Disposal Policy

10. Relevant Legislation

- Employment Rights Act 1996 as amended
- Employment Rights Act 2004
- Employment Rights Dispute Resolution Act 1998
- Employment Relations Act 1999
- Data Protection Act 1998 as amended;
- Human Rights Act 1998
- Health and Safety at Work etc. Act 1974;
- Management of Health and Safety at Work Regulations 1999;
- Equality Act 2010

Reviewed	By	Approved
October 2022	HR and OD Lead (new policy)	Yes
October 2022	SMT	Yes
October 2022	LNCC	Yes
March 2023	HR&R	

Appendix One: Guidance for Chairing a Grievance Hearing

The role of the chairperson is to ensure that the views of the aggrieved employee are heard and understood and to afford the opportunity for the aggrieved employee to set out what they would like to see in relation to resolution or addressing of the matter.

The chairperson must ensure that, ahead of a grievance hearing, all relevant information relating to the grievance has been considered. The chairperson may commission an investigation in to the grievance, but this is not an essential requirement and will only be required where there is insufficient information available or known to understand and address the grievance.

The purpose of the hearing is to 'hear' from the employee. Usually, following the hearing, the meeting will be adjourned for consideration of what steps the chairperson feels are reasonable, appropriate, and proportionate to address and resolve the grievance.

Where there is significant or new information presented by the employee at a grievance hearing, the outcome of that hearing may be that the adjournment will be for a longer period to allow for an investigation to take place.

Following the hearing, and with support from HR, the chairperson will be responsible for drafting an outcome letter to the employee which will set out:

- Where there is evidence to support the claims made by the employee
- Where there is insufficient evidence to support the claim made by the employee
- What resolution the employee seeks to address their grievance
- What resolution the chair proposes to address the grievance – this should align with the employee's expectations
- Where a resolution sought by the employee is not reasonable, appropriate or proportionate this should be explained to the employee
- The route of appeal and details of the person the employee can lodge their appeal to
- The timeframe for appeal

Appendix Two: Guidance for Submitting a Grievance

Shetland UHI is committed to resolving grievances informally as far as possible and therefore it is important that you have taken all reasonable steps to try to resolve your problem/complaint informally with your line manager. If your grievance is against your line manager, you should discuss this with your Trade Union representative with the aim of contacting a more senior manager, as set out in the grievance policy and procedure.

After raising your concern with your line manager, if you still remain dissatisfied, you should submit your grievance in writing to the Head of Section. If your grievance concerns the Head of Section, you should submit your grievance to the Depute Principal or Vice Principal who will assign a different Head of Section to hear your grievance.

Within your written notification you should include:

- Your name and Job Title
- The nature of your grievance
- Details as to whether or not you have attempted to achieve informal resolution and whether or not your line manager is aware of your grievance.
- The resolution you are seeking i.e. how the matter could be resolved.

Preparing for the Grievance Hearing

A grievance hearing will be arranged and a time and date set.

If you wish to be accompanied you must confirm the name of this person to the person chairing the grievance hearing ahead of time.

Please be aware that the accompanying you has no right to answer questions on your behalf, but may address the hearing, ask questions and confer privately with you.

Any written documents you wish to rely on or refer to must be shared in advance of the hearing.

The purpose of the hearing is to hear from you and allow you the opportunity to present all the facts and information that form part of your grievance.

The hearing will also seek to identify what you want to see in terms of resolution and you are encouraged to give this consideration ahead of the hearing.

The hearing chair may adjourn to consider what you have said and what resolution measures may be put in place to address your grievance.

You should receive a written response to your grievance within 7 calendar days of the date of the hearing. This will outline the decision and details of what actions, if any, need to be taken, by whom and when. It will also confirm your right to submit an appeal to a more senior manager.

If you feel that your grievance has not been resolved, you may submit an appeal to a more senior manager. When doing this, it is important that you clearly outline the reason(s) for your continuing dissatisfaction. The senior manager hearing the appeal will not re-hear the original grievance in its entirety, but will focus on areas you remain dissatisfied with, following the previous decision.

If you have concerns about how working relationships with other colleagues or your line manager may be affected by your use of the Grievance Procedure, ask the manager considering your grievance for details of who will be responsible for helping to re-establish effective working relationships and how this will be achieved.

The Grievance Procedure does not limit your legal right to external redress, although the Employment Act 2002 does state that you are required to exhaust your employer's internal grievance procedure before bringing a claim to an employment tribunal.

Appendix Three: Conducting an Investigation

Where a receiving manager considers that the grievance requires the undertaking of an investigation, the process will mirror that set out within the Staff Disciplinary Policy and Procedure, as follows:

It is important that all relevant facts are gathered promptly and that the following principles are followed:

1. Where the incident is of a minor nature, following consultation with Human Resources, the manager can proceed to gather the facts relating to the situation. Otherwise, an Investigating Officer should be appointed by the Head of Section or Area, or their nominee, to carry out an investigation. Where an Investigating Officer is appointed, they will be given clear terms of reference in order to enable an investigation to be conducted. The officer who conducts the investigation must not conduct the disciplinary hearing.
2. The employee concerned will be advised that an investigation will be held, the reasons for it, and that they will be required to give a statement to the Investigating Officer and that when the investigation is concluded they will be contacted again.
3. The purpose of the investigation is to find out facts in an open, straightforward manner. This will involve conducting as many interviews as necessary to enable all the information to be drawn together, in order to reach a conclusion. The employee concerned and any witnesses should be seen by the Investigating Officer and asked to provide a detailed statement. Employees will be given the opportunity to have a recognised Trade Union member or colleague present when providing their statement. A draft copy of the statement should be produced for the employee/witness, who should be afforded the opportunity to amend it so that it fully accords with his/her memory of the incident(s) in question.
4. Employees and witnesses have a responsibility to co-operate with an investigation process. Unless there is a justifiable reason, the amended and signed statement must be returned to the Investigating Officer promptly. Each statement should include personal details of the witness, i.e. full name, occupation/post title and length of service (where appropriate). A final copy of the statement should then be processed, signed and dated by the employee, and retained as evidence to support the investigation.
5. The object of this exercise is to ensure that the manager who requested the investigation to be carried out, is clear as to precisely what the complaint is and of the evidence surrounding the incident / event.
6. Each witness should be advised that he/she might be required to appear at any subsequent disciplinary hearing.
7. If, during the course of the investigation, significant new information comes to light, that may alter the course of the investigation, the Investigating Officer should bring this to the attention of the manager who requested the investigation be carried out, in order to seek guidance on whether this new information also requires to be investigated.

8. The Investigating Officer should produce a report which presents information to the relevant manager(s) in order for them to decide what happens next. The report may contain an evaluation about the strength of evidence, however it should not make recommendations about the outcome of the case. All statements made to the Investigating Officer by the employee concerned and any witnesses should be attached to the report.
9. On receipt of the report, the relevant manager should examine its contents and discuss with HR. If the relevant manager feels that further information/clarification is required, the report should be discussed with the Investigating Officer. If necessary, the Investigating Officer will seek the further information/clarification from the employee concerned and/or any witnesses, which may require further statements to be sought.
10. An Investigating Officer, once appointed, should not be changed, unless in exceptional circumstances and then only following reference to the employee's Trade Union / colleague representative, or with the employee directly if no Trade Union / colleague representative has been engaged.