University of Birmingham

Consideration of Grievances submitted to Council

by Registered Students of the University

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Guidance Note on Consideration of Grievances submitted to Council by Registered Students of the University

1. Preliminaries

1.1 Applicability

Under the University Statutes Council has the power "To entertain, adjudicate upon and if thought fit redress the grievances of … Registered Students who raise a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, concerns matters of University governance, and who have exhausted other internal dispute resolution procedures".

1.2 Such matters are those which affect the student body as a whole or a large group/significant number of students, or which relate to University legislation, procedures or organisational structures on a broad scale. Issues relating solely to a student's individual circumstances are unlikely to be considered valid grounds for the submission of a grievance.

1.3 Timescale

In order to be eligible for consideration, a grievance must be submitted (unless otherwise specified within the appropriate procedure) within one month of the date on which:

(i) the University sent written notification to the individual of the outcome of a prior internal review (e.g. a disciplinary hearing of appeal); or

(ii) the event which is the subject of the grievance is alleged to have taken place.

2. Principles

2.1 The grievance procedure is a way of ensuring that, as far as possible, *bona fide* grievances brought by members of the University (called "Complainants") are heard in a fair and impartial way, and, where upheld, appropriate redress is given. **It is not a method of circumventing or setting aside the professional academic judgement of examiners on the performance of students.**

2.2 The University Council will, in considering grievances, observe the rules of natural justice and procedural fairness, namely:

(i) that whoever takes decisions should be impartial, meaning that there should be no personal interest in the outcome of the case and there should be no real likelihood of bias on the part of the members of the Grievance Committee; and

(ii) that each party must be given reasonable notice of the case and be able to state his or her case and answer arguments put forward against it. A corollary

of this principle is that a body with the power to reach a decision must be able to consider the case fully in the light of all the evidence available. **Consequently, the Grievance Committee is empowered to consider all grievances and to make a decision on them, without reference back to the University's Council save to report on its decision.**

2.3 The Complainant can contact Registry for guidance on the procedure and applicability of submitting a grievance to Council.

3. Presentation of the grievance

3.1 Throughout this procedure reference to the Registrar and Secretary shall include his or her nominee.

3.2 Grievances must be submitted in writing, to the Registrar and Secretary or to the Student Conduct and Appeals Manager, using the prescribed form. Submissions must include all the evidence which the Complainant wishes to submit including, where possible, written statements from others, any other appropriate documentation, and full factual details (names, dates, etc.) ('the supporting documentation'). It is especially important that written submissions are complete and unambiguous. If medical evidence is to be adduced, signed medical certificates or supporting statements must be submitted either by the Complainant or by the medical practitioner at the Complainant's request. Supplementary information or evidence will not be accepted after the specified deadline, save in exceptional circumstances at the discretion of the Chair of the Grievance Committee. It is the responsibility of the Complainant to ensure that the supporting documentation is submitted with the grievance to the Registrar and Secretary or the Student Conduct and Appeals manager in Registry.

3.3 The Registrar and Secretary will consider the grievance and determine whether it raises matters of University governance, and whether all other internal dispute resolution procedures have been exhausted. The Registrar and Secretary will reach a decision based on the information contained in the grievance and will not request or consider any additional evidence or representations before coming to a decision.

3.4 The Complainant will normally be informed of the decision of the Registrar and Secretary as to whether a Grievance Committee is to be convened, and if not, the grounds for the decision within 10 working days of its submission.

3.5 If the Registrar and Secretary or his/her nominee refers the case to a Grievance Committee, the University will submit a succinct written response to the Complainant's case for consideration by the Grievance Committee.

3.6 Where a case is referred to a Grievance Committee, the University should gather such information as is necessary in order to prepare the response to the grievance, and in doing so, may disclose and discuss the grievance with such individuals from whom information is required in order to prepare a complete and accurate response for the Grievance Committee.

3.7 The outcome of a Grievance to the Council may be communicated to the relevant School(s) and any other parties that require details around the outcome.

4. The Grievance Committee

4.1 The Council has delegated its authority to '*entertain adjudicate upon and if thought fit redress the grievances of members, employees and students of the University who may for any reason feel aggrieved*' to a Grievance Committee of the Council, in accordance with the provisions of Statute 19, save that in respect of academic staff the provisions in Section 28 shall continue to apply.

4.2 The Grievance Committee shall comprise one academic member of the Council and two lay members of Council, and one of the lay members shall be appointed as Chair.

4.3 On receipt of a grievance, the Registrar and Secretary shall contact the Pro-Chancellor or Deputy Pro-Chancellor and request that, under the authority delegated to them by the Council, s/he selects a lay member of Council to act as Chair of a specific Grievance Committee. The Chair then selects the other two members of the Grievance Committee, taking into account potential conflicts of interest. The selection of members of a Grievance Committee will, as a normal rule, be completed within five working days. The Registrar and Secretary shall notify the Complainant in writing of the names of the members of the Grievance Committee as soon as reasonably practicable.

4.4 If the Complainant wishes to object to one of the Grievance Committee members they must do so in writing, to the Registrar and Secretary, as soon as possible and in any event within one week from the date of the notification. The only ground for objection is that of possible bias arising from either:

(i) involvement in a related appeal hearing, disciplinary hearing or a related grievance procedure; or

(ii) prior knowledge of the complaint or Complainant.

4.5 The Registrar and Secretary will consider the objection and if, in his or her opinion it is valid, will seek approval from the Pro-Chancellor or Deputy Pro-Chancellor for an alternative member of the Grievance panel to serve.

4.6 Copies of the grievance, all supporting documentation and the University's response will normally be sent to each of the members of the Grievance Committee within ten working days of receipt of the grievance. The Grievance Committee will then carry out a private review of the case, which it will aim to complete within four weeks, if not sooner, of the date on which the documentation is sent to the Committee. Having reviewed the documentation, the Committee will either reach a decision or may decide that it needs to receive further evidence including clarification or further explanation of the matter before it can do so. Additional evidence may be sought in writing from the Complainant, or from the University, via the Registrar and Secretary. Any information obtained in this way will be made available to all parties involved in the case, and additional submissions in writing may be made. Alternatively, the Grievance Committee may decide that an oral hearing is appropriate. The procedure for the conduct of a hearing is set out below.

4.7 Following a review of a grievance, the Committee may decide:

(i) that the grievance should be dismissed; or

(ii) that the grievance shall be upheld in whole or in part;

(iii) that redress should be offered, within the following parameters:

(a) in the form of an explanation of events and, if appropriate, and in consultation with the Registrar and Secretary, with an apology;

(b) in the form of an award of financial compensation for direct losses incurred, after consultation with the Registrar and Secretary;

(c) in the form of referral of the matter to the appropriate Head of School or Corporate Service with directions for further action;

(d) in the form of recommendations for consideration by the University.

4.8 In a grievance concerning a current or former student (not a graduate) relating to an academic appeal, where the Grievance Committee decides that the circumstances investigated by them:

(i) constitute a procedural irregularity, or

(ii) constitute new evidence, (which, if known at the time, might have affected the decision taken by a Board of Examiners [“the Board”])

They will require the Board to convene and to review their original decision in the light of the additional circumstances or information.

5. Full Hearing

5.1 If the Grievance Committee has decided that a hearing should be arranged, the Registrar and Secretary will subsequently determine a day, time and place for the hearing before the Grievance Committee, which shall normally be within four weeks (if not sooner) of the date of the decision of the Grievance Committee that a hearing should be arranged. If necessary, and in exceptional circumstances, the Grievance Committee and the Complainant may mutually agree to a later date for the hearing. The Registrar and Secretary will, as a normal rule, give the Complainant, the Grievance Committee members and any representative/s of the University not less than two weeks written notice of the date of the hearing. The Registrar and Secretary will also indicate any further evidence which the Grievance Committee wishes to receive.

5.2 At the same time the Registrar and Secretary will:

(i) inform the Complainant of the right to be represented or accompanied at the full hearing by an advisor who may be legally qualified (‘Advisor’);

(ii) require the Complainant to indicate whether (s)he wishes the hearing to be public, and if so, their reasons for requesting a public hearing;

(iii) require the Complainant and the University representative to submit as soon as possible and in any event not later than four days before the time fixed for the hearing:

(a) the name and status of any person who will accompany the Complainant or, exceptionally the University;

(b) the names of any witnesses the Complainant or exceptionally the University wishes to call;

(c) a copy of any additional written evidence requested by the Grievance Committee;

(d) exceptionally a copy of any additional evidence which the Complainant or University wishes to submit for prior approval by the Chair of the Grievance Committee. The decision as to the admission of additional evidence by the Chair shall be final.

(iv) provide the Grievance Committee, the Complainant and any University representative with copies of all documentation being considered by the Grievance Committee at least three days in advance of the hearing, together with the names of all parties and witnesses who will be present.

5.3 It will be the responsibility of the Complainant and of the University respectively to summon their own witnesses to the hearing. The Registrar and Secretary will request any additional witnesses, required by the Grievance Committee. **Unless agreed in advance, in writing, the University will not normally accept liability for any costs incurred by the Complainant, their Advisor or their witnesses in attending the hearing.**

6. Order of Proceedings at a Full Hearing

6.1 When the members of the Grievance Committee have assembled, the Registrar and Secretary will inform the Grievance Committee whether the Complainant and the witnesses are present. If the Complainant fails to attend, the Grievance Committee will decide whether to proceed in his or her absence or to adjourn the hearing. The Grievance Committee will not make any adverse inferences from the Complainant's absence. Similarly if any witness fails to attend, the Grievance Committee will decide whether to proceed in his or her absence or to adjourn the hearing. The Grievance Committee will, under normal circumstances, expect the hearing to proceed once all the Grievance Committee members are present.

6.2 The Registrar and Secretary will invite the Complainant and any Adviser and the person representing the University into the room. Any witnesses for the Complainant and / or for the University shall be in attendance outside the hearing and invited to join the hearing when they are needed to give their evidence or report.

6.3 The Chair shall invite all those present to identify themselves at the point when they join the hearing, giving their names and the capacity in which they are present. The Chair will establish whether the Complainant or the Adviser will present the case for the Complainant.

6.4 The Complainant (or the Advisor) may then:

(i) make a statement concerning the grievance;

(ii) call in witnesses in turn in support of the grievance.

6.5 The Complainant's witnesses may:

(i) be questioned by the Complainant;

(ii) be questioned by the person representing the University;

(iii) be questioned by the Grievance Committee.

6.6 The person representing the University may then:

(i) make a statement concerning the case submitted by the Complainant;

(ii) call witnesses in turn to answer to the grievance.

6.7 The University's witnesses may:

(i) be questioned by the person representing the University;

(ii) be questioned by the Complainant;

(iii) be questioned by the Grievance Committee.

6.8 The members of the Grievance Committee may ask for clarification from the Complainant, their Advisor, the University Representative and any witnesses.

6.9 The Complainant (or the Adviser) and the University's Representative may make a final statement to sum up.

6.10 The ruling of the Chair as to whether any question or evidence is or is not permissible shall be final and the normal Rules of Evidence shall not apply. This means that hearsay evidence may be given and admitted, but it shall be for the Chair to rule and for the Grievance Committee to determine, during their private deliberations, what weight should be attached to the evidence.

6.11 If a procedural issue or a regulatory issue arises during the hearing, or during the Committee's deliberations, which may materially affect the outcome of the hearing, the Grievance Committee shall seek further advice (for example from the School or from the University's Legal Services). If a response is not readily available, the Chair shall move that the hearing be adjourned and instruct the Registrar and Secretary to seek a date (after the information has been obtained) on which the hearing may reconvene. Such information shall be supplied to the Complainant and the University Representative prior to the reconvening of the hearing. The Chair shall use all reasonable endeavours to ensure that the hearing is reconvened as soon as reasonably practicable.

6.12 The members of the Grievance Committee will consider, in private, whether or not the grievance should be dismissed or upheld and, if necessary, the manner in which it should be redressed, within the parameters set out in paragraph 16.

6.13 In a grievance concerning a current or former student (not a graduate) relating to an academic appeal, where the Grievance Committee decides that the circumstances investigated by them:

(i) constitute a procedural irregularity, or

(ii) constitute new evidence, (which, if known at the time, might have affected the decision taken by a Board of Examiners [“the Board”])

They will require the Board to convene and to review their original decision in the light of the additional circumstances or information.

6.14 The decision by the Grievance Committee to refer the evidence to the Board does not constitute an acknowledgement that the original decision was wrong unless so specified in the decision. The Board will review the academic decision *ab initio*, and may make such decision as it thinks appropriate within Regulations.

6.15 It is normally expected that the Chair will inform the Complainant on the day of the hearing of the Grievance Committee’s decision as to whether the grievance is dismissed or upheld. The Chair may not necessarily inform the Complainant of the details of any form of redress at this stage, as consultation with the Registrar and Secretary may be required. If for any reason it is impossible to inform the Complainant of the outcome on the day of the hearing, the Complainant will be advised when an outcome can be expected.

7. Confirmation of Decisions

7.1 The Registrar and Secretary will, normally within 4 days of the decision, send the Complainant written confirmation of the Grievance Committee’s decision. The decision of the Grievance Committee is final.

7.2 The Grievance Committee will report its decision to the next subsequent meeting of the Council, together with any recommendations for the consideration of the University, if appropriate.

7.3 The Council grievance procedure exhausts the University’s internal dispute resolution processes. Complainants who remain aggrieved may have recourse to the Office of the Independent Adjudicator, or the Courts, including the employment tribunal system in relation to employment issues.

Notes

Internal sources of redress, prior to submission of a grievance to Council:

(a) Student Concerns and Complaints Process

(b) Academic appeals process (Primary Appeal and Senate Review)

(c) Appeals against the decision of a University Misconduct Committee for academic misconduct and general misconduct

(d) Appeals against the decision of a University Fitness to Practise Committee