

UNIVERSITY OF WOLVERHAMPTON DIGNITY AT WORK AND STUDY POLICY

Incorporating Complaints Procedures For Staff and Students

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SECTION A - GENERAL POLICY STATEMENT

The University of Wolverhampton is committed to a positive and mutually-supportive working and studying environment where members of staff, students and visitors are valued and

respected. We acknowledge the following basic entitlements for all members and prospective members of our community in line with our corporate mission and values:

- to be treated with respect and dignity;
- to be treated fairly;
- to receive encouragement to reach their full potential.

We are fully committed to maintaining a positive and diverse environment for individuals which enables people to work and study productively together, where dignity and respect are paramount, equality is promoted, and in which all feel valued and included.

Harassment or bullying can have very serious consequences for individuals and the University as a whole. Harassment or bullying may make people unhappy; it can cause them stress; affect their health and impact upon their family and social relationships. Stress may affect their attendance and work performance and could cause them to leave their job or study programme altogether. Effects on the University can include loss of morale, poor work performance, poor student retention, the increased turnover of staff, legal claims and damage to the institution's reputation.

The University will not tolerate harassment or bullying of any kind. All allegations of harassment and bullying will be promptly and thoroughly investigated and, if appropriate, disciplinary action taken.

This Dignity at Work policy outlines what individuals can expect from the University in terms of ensuring their basic rights and, in turn, it offers a clear indication of the responsibilities individuals have regarding their own attitudes and behaviour.

This policy and associated procedures should be used instead of the Grievance Procedure in situations where complaints arise between members of staff and students that could fall within the definitions of discrimination, harassment, bullying and victimisation as given below.

1. DEFINITIONS

Harassment, Bullying, discrimination and victimisation can occur in different types of relationships, regardless of personal bias and stereotypes. For example, it is possible for a junior colleague to bully a person in a more senior role; for a student to harass a member of staff; or a woman to victimise a man.

Discrimination

Unfair discrimination may be direct or indirect and is unacceptable and unlawful. It is where an individual is treated less favourably than other persons on grounds of the following protected characteristics as defined in the Equality Act 2010:

- age
- disability
- race, colour or nationality, ethnic/national origin;
- religion or belief
- gender
- sexual orientation;
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity

Direct discrimination is defined by the Act as occurring when one person is treated less favourably than another person is, has been or would be treated in a comparable situation on the grounds of one of the above characteristics.

Direct discrimination by association is defined by the Act as treating someone less favourably than another person because they are associated with a person who has a protected characteristic.

Direct discrimination by perception is defined by the Act as treating one person less favourably than someone else because you incorrectly think they have a protected characteristic.

Indirect discrimination is defined by the Act as a situation in which an apparently neutral provision, criterion or practice puts an individual having a particular protected characteristic at a disadvantage compared with other people.

Bullying

Bullying is usually seen as a form of harassment that is characterised by:

“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”.

(ACAS definition).

There is an important distinction to be made between bullying and firm management. Staff should not interpret firm and fair management as bullying. Firm management may involve setting demanding performance targets, but these must be fair, achievable and appropriate to the person's job role and level of responsibility. Examples of this are:

- issuing of reasonable instructions;
- setting and monitoring performance standards;

- disciplining staff for proven misconduct, or;
- taking appropriate action where unsatisfactory work or unacceptable levels of absence have been identified.

Where it is necessary to address performance, this should be done in a fair, supportive and constructive manner via the appropriate University procedure.

Harassment

Harassment is unwanted physical, verbal or non-verbal conduct that has the purpose or effect of;

- violating a person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment which interferes with an individual's learning, working or social environment.

Harassment is also unlawful under the Equality Act 2010 where the above conduct is of a sexual nature (sexual harassment) or is related to a protected characteristic such as age, disability, gender reassignment, pregnancy and maternity (including breastfeeding), religion.

Harassment is unacceptable, whether or not it is associated with a protected characteristic.

In determining whether or not the unwanted conduct has the effect referred to, the factors that must be taken into account are:

- the perception of the complainant;
- the other circumstances of the case; and
- whether or not it is reasonable for the conduct to have that effect.

Victimisation

Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained of discrimination (including bullying or harassment), whether formally or otherwise, or has supported someone to make a complaint or given evidence in relation to a complaint. Provided that someone has acted on information that they genuinely believe to be true in raising or supporting a complaint, they have the right not to be victimised as a result, and the University will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against the person carrying out the alleged victimisation.

What do bullying and harassment look like?

The terms bullying and harassment are often used interchangeably. Both may be caused by an individual or a group of individuals.

Harassment and bullying may be manifested in a variety of forms, all of which are offensive and unacceptable to the University of Wolverhampton whether the harassment or bullying is between students; between staff and student(s); between student(s) and staff; or between staff.

Harassment and bullying may be difficult to recognise but usually manifest themselves as deliberate unpleasant and unwanted behaviour, which may or may not be deliberate, and is often repetitive and persistent. However, a single incident can be harassment. The

incident(s) do not have to be face to face, but may be via written communication, email, social media or phone. (See appendix A for examples).

One of the effects is to make the victim feel uncomfortable, patronised, humiliated or threatened. It also has the effect of maintaining existing inequalities of power and opportunity. It results in:

- making a job or study difficult to do;
- creating an intimidating or hostile working or learning environment;
- affecting the health or safety of individuals by causing stress;
- endangering career and job prospects.

Its effects are to make the victim feel one or more of the following: uncomfortable, patronised, humiliated, intimidated, threatened, degraded or that their dignity has been violated. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient. Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a “joke” may offend another person. However it must also be reasonable for the conduct to be seen as offensive.

Appendix A provides further information on specific forms of harassment and bullying.

2. APPLICATION AND SCOPE

This policy covers bullying, harassment and discrimination of and by managers, employees, students, agency staff, and anyone else engaged to work at the organisation, whether by direct contact with the organisation or otherwise. If the complainant or alleged harasser is not a student or is not employed by the organisation, e.g. if the worker is employed by an agency, this policy will apply with any necessary modifications; e.g. as the organisation is unable to dismiss the worker they would instead require the agency to remove the worker, if appropriate, after investigation and disciplinary proceedings.

The policy covers these behaviours in the workplace, place of study or in any other work-related setting outside the workplace, e.g. business trips and work or study- related social events organised by the University, and use of social media.

2.1 Manager’s responsibilities:-

Managers have a duty of care for all their staff, which includes a duty to prevent harassment, bullying and unfair discrimination taking place. Managers should make their staff aware of the contents of this policy during the course of the member of staff’s personal induction into the Faculty/ Department. Employers are responsible in law for the acts of their employees. Managers should also be aware that unfair discrimination, harassment and bullying can have serious consequences such as: -

- poor morale and poor employee relations;
- loss of respect for managers and supervisors;
- poor performance;
- lateness or absence;
- ill health;
- resignations; or
- damage to University reputation.

Managers / Supervisors have a responsibility to promote a culture free from unacceptable behaviour, where employees are supported in challenging such behaviour. Where

allegations are made, they should provide support for all parties and manage any allegations of unfair discrimination, harassment or bullying as quickly as possible. This means managers should:-

- use their judgement in correcting standards of conduct or behaviour which could be seen as offensive, and remind staff of the University's policy, whether or not a complaint has been made.
- Take the allegation seriously (as it may take considerable courage to raise an issue), seek advice from HR as appropriate and explore the nature of the unacceptable behaviour in order to decide on the appropriate next step.

2.2 Staff responsibilities

Fellow staff can also contribute to preventing unfair discrimination, harassment or bullying by: -

- being aware of the problems which unfair discrimination, harassment and bullying can cause and by ensuring that their conduct does not contribute to an incident of such behaviour;
- bringing to the attention of their colleagues that certain language, conduct or behaviour is causing concern or offence to either themselves or other staff;
- or, if that is not possible reporting the matter directly in confidence to their manager;
- providing support to colleagues, who believe they are being harassed, discriminated against or bullied.

2.3 Student responsibilities

All students should:-

- behave in a professional and responsible manner, with respect for staff and students;
- not participate in, or condone, any act of harassment or bullying;
- modify their behaviour if they become aware that it is unacceptable, even if no formal or informal complaint is made;
- encourage anyone who they believe is on the receiving end of behaviour which may constitute harassment or bullying to seek appropriate support and assistance;
- offer appropriate assistance to any person who they feel may be on the receiving end of behaviour which may constitute harassment or bullying;
- draw to the attention of the appropriate manager or tutor any behaviour which causes them concern or if they feel a culture is developing within a teaching group which they believe is leading to harassment or bullying.

3. GENERAL PRINCIPLES

The following principles will apply to the application of this procedure: -

3.1 Informal resolution - Wherever possible complaints should be resolved informally without recourse to formal procedures. It is expected that individuals will enter into the procedure in good faith, with the aim of resolving a particular issue. Managers or others seeking to resolve issues should also approach the process with that aim in mind. This procedure should not be used as a substitute for normal day to day discussions.

3.2 Serious complaints - There may be occasions when it is not possible for a complaint to be resolved informally. In such cases the procedure below at Stage One should be followed. All parties should be absolutely clear whether any meeting is being held under the informal or formal stage of the procedure. Formal complaints should be made within a maximum of three months from the last incident(s) occurring or the conclusion of an attempt at informal resolution and should be submitted on the form provided at appendix C as below.

3.3 Complainant / Respondent - For the purposes of this policy the person(s) making the complaint will be known as the complainant(s) and the person(s) who is the subject of the complaint will be known as the respondent(s).

3.4 Use of mediation - At any stage in the procedure, subject to the agreement of all parties concerned, there may be a suspension in proceedings to facilitate mediation (see section 4 below), fact-finding or other non-adversarial discussions with the aim of promoting resolution of the case.

3.5 Deferral - At any stage in the procedure, the manager dealing with the complaint may, at his/her discretion, defer consideration of the complaint if other activities which are relevant to the substance of the complaint are pending or in progress, e.g. sickness absence of the respondent. In such cases the parties to the complaint will be advised of the reason for deferring consideration. The timescale by which consideration of the complaint will recommence will be made clear.

3.6 Inappropriate use of the procedure - Following an investigation the outcome could result in no further action and the employee will be advised according to the stage of the complaint. If, on investigation, the complaint is found to be malicious, vexatious or trivial no further action will be taken regarding the complaint, however consideration will be given, to referral of staff to the Disciplinary Policy and Procedure or the referral of students to the Student Code of Conduct and Disciplinary Procedure in extreme cases.

3.7 Discontinuation - The University may, with the agreement of the employee or student, vary this procedure as appropriate to a particular case. In the event that it becomes impracticable to continue with the procedure, it may be discontinued. In such cases the University will, explain why it has been discontinued and advise the parties of the outcome of the complaint, in writing.

3.8 Right to be accompanied - All employees who are the subject of this procedure will have the right to be accompanied at any formal meetings by a trade union representative or work colleague. With regard to informal meetings a request to be accompanied may be made and this will be considered. All students who are the subject of this procedure will have the right to be accompanied at any meeting by a Student Union representative or fellow student.

3.9 Equality and Diversity - To ensure fair treatment and, where appropriate, provision of support by the University in the application of this procedure, employees and students

should be invited to provide information about any equality or diversity issues which may be relevant. The University will provide reasonable adjustments and support to ensure that all participants are able to access the process appropriately e.g. with provision of an interpreter.

3.10 Confidentiality – In order to protect the reputation of all parties associated with a complaint, all parties involved in this procedure must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University.

3.11 The Right of Complainants - It takes courage to make a complaint and the University undertakes to treat complaints seriously and sympathetically and to act promptly. The University undertakes to make every effort to ensure that members of staff or students who make complaints of unfair discrimination, harassment or bullying will not subsequently be subject to victimisation. Any complaint from a member of staff about such victimisation should be brought directly to the attention of the HR Business Partner with responsibility for the Faculty or Department. Any complaint from a student about such victimisation should be brought directly to the attention of the Head of the Conduct and Appeals Unit.

3.12 Timescales - Whilst every effort will be made to comply with timescales, due to the complexity and or specific circumstances of a case, timescales may be extended. In such circumstances the individuals concerned will be advised of the reasons for any delay.

The general expectation is that the majority of unfair discrimination, harassment and bullying processes will be completed within three working months. Consideration needs to be given however, to the effect of leave, the number of witnesses and sickness absence which may cause unavoidable delays. Where such delays occur all parties should be kept informed of progress on a regular basis.

3.13 Format of the meeting - In the interest of expediency the University has adopted a practice which allows both the complainant (and their representative) and the respondent (and their representative) to be present in the same room. However, the complainant has the right to request that the respondent is not present. The respondent will have the opportunity to put their case to the Chair in a separate meeting. It must be stressed that if the complaint is proven and there is an allegation of misconduct, the matter will be referred to the University's Staff Disciplinary Policy and Procedure or the Student Code of Conduct and Disciplinary Procedure and any resulting disciplinary hearing must follow the appropriate rules and procedures.

3.14 Involvement of Human Resources In cases involving staff, a member of the Human Resources team should be consulted and will advise at any stage of the process. HR will also support the Chair at any formal meeting.

3.15 Keeping notes – It is important that notes are kept at all stages of this procedure, including the informal stage. It is the responsibility of the manager chairing the meeting to ensure notes are taken. The Human Resources Department will ensure that full and detailed notes are taken at staff related formal stage meetings. These notes must detail the nature of the complaint, the University's response, the action taken and the reason for the action. The complainant may request a copy of the notes if they wish to pursue their complaint to a higher level. These notes must be confidential to the parties.

3.16 Duty of care - Where an individual member of staff does not complain about behaviour which in the view of other witnesses may constitute unfair discrimination, harassment or bullying, formal procedures may still be invoked by the appropriate manager, following consultation with the HR Business Partner, even where the affected individual does not wish to pursue his/her complaint. Similarly in the situation where a member of staff states to their line manager that they believe they have been subjected to unfair discrimination,

harassment or bullying but do not wish to pursue the matter, and give reasons for that decision, that line manager has a legal responsibility for the duty of care for that member of staff and must give serious consideration to pursuing the case, even if the employee wishes no action to be taken. In such instances, managers should be sensitive to ensuring that the complainant is kept informed throughout the process.

3.17 Advice - Staff or students can seek the confidential advice, guidance and counsel of their trade union representative, Occupational Health, Equality and Diversity Unit, and in addition for staff, the relevant Human Resources Business Partner for the Faculty / Department.

3.18 Investigations - The complaint must be investigated promptly and objectively. Investigations must be, and be seen to be, objective and independent. Decisions can then be made as to what actions can be taken. Please refer to the University's Code of Practice on carrying out investigations (appendix D).

3.19 Redress sought – It is important when raising a complaint, that the complainant explains what redress they feel would be appropriate to resolve the situation, e.g. for the offending behaviour to stop.

3.20 Witnessing Unfair Discrimination, Harassment or Bullying - Witnesses to behaviour, perceived to be, unfair discrimination, harassment or bullying, can provide important help and support for the individual concerned, especially when the person appears unwilling or unable to take action. There may be several steps:

- the witness might speak informally to the individual to tell them what he/she has observed;
- the witness might wish to discuss the incident and agree to make notes, respecting the privacy of the person concerned;
- the witness may encourage the individual to talk with a Staff Union Representative, Occupational Health, Equality and Diversity Unit and in the case of staff, the Human Resources Department;
- the witness should be prepared to give evidence of the unfair discrimination, harassment or bullying at either the informal or formal stages of the Procedure and has the right to complain of any subsequent victimisation directly to the HR Business Partner, or the Conduct and Appeals Unit if they are a student, should they suffer this.

3.21 Communication – it is important that all parties are kept informed at all stages whilst a complaint is going through this process.

3.22 Sources of support during the process – parties involved in the process may be offered and have access to a number of different sources of support, including: the student Counselling Service; Occupational Health; mediation; Equality and Diversity Unit.

3.23 Staff Student Relationships – it is important that the University guidance on staff - student relationships is followed where appropriate.

4. MEDIATION

At any stage in this procedure, the parties to the complaint may request that the matter be referred for mediation. Mediation is likely to be most appropriate in cases involving interpersonal relationships. There may, however, be circumstances in which alternative non-

adversarial discussions may be undertaken with the aim of promoting a speedy resolution. Individuals who enter into mediation will still be able to revert back to the complaints procedures under the Dignity at Work Policy if they feel mediation has not resolved the situation.

Mediation is voluntary and will take place only if all parties agree. It is, however, hoped that individuals will recognise the benefits of seeking to resolve issues via mediation and will be amenable to and cooperate with this approach.

Please refer to Appendix F – Guidance on Mediation.

SECTION B - PROCEDURES FOR DEALING WITH COMPLAINTS UNDER THIS POLICY

1. Allegations against members of staff by other members of staff – Informal Procedure

In some cases it may be possible to rectify matters informally. Sometimes an individual is not aware that their behaviour is unwelcome; an informal discussion can lead to a greater understanding and an agreement that the behaviour will cease.

- Staff (either individually or as a group) who consider they have been subjected to unfair discrimination, harassment or bullying should, in the first instance, and if they feel they are able to, tell the person who has allegedly unfairly discriminated against them or subjected them to harassment or bullying, to stop. This request can be made either orally or in writing, but it is sensible to keep a written diary/record of all the events, collect evidence and document the outcome.
- However, if the complainant feels unable to make this request they may wish to seek the help/advice of their line manager, a trade union officer, a member of the Human Resources Department or the Equality and Diversity Unit and, if appropriate, for them to make contact on their behalf.
- At this initial informal stage another option may be for the appropriate line manager(s) to meet with both parties, initially, at least, separately, in order to ascertain how both parties see the situation and whether the complaint has arisen from a misunderstanding, misinterpretation, ignorance, or insensitivity. It may then be appropriate to meet with both members of staff together in order to explore the issue from both perspectives in an effort to reach a resolution, agreed by both parties.
- It is important that matters are dealt with immediately, thoroughly and fairly in respect of both parties at the informal stage. If an informal meeting has been held, a written record of the meeting, what was discussed and the outcome, should still be made and copies of what was agreed given to both parties.
- In instances where inappropriate behaviour has occurred, as an alternative to formal disciplinary action, coaching, training (e.g. unconscious bias training) or counselling can play a vital role by providing the opportunity to resolve the complaint without need for any further or formal action. This may involve referral to an external or internal counsellor/coach. Counselling may also be offered to help support the complainant as well as the respondent.

2. Allegations against members of staff by other members of staff - Formal Procedure

Stage One – Formal Complaint

In those cases where: -

- the issue of unfair discrimination, harassment or bullying has not been resolved through informal means;
- the initial act of discrimination, harassment or bullying has continued, or;
- where the initial act of discrimination, harassment or bullying was determined by the senior manager to be of a serious nature; (see appendix A for examples)

the Dean of Faculty or Head of Corporate Services Department (or nominee) will, as soon as is practicable and within fifteen working days of receiving the formal complaint, make a decision as to whether an independent investigation should be commissioned to look into the case. Advice should be sought from the relevant HR Business Partner and the decision will depend on the nature and complexity of the issues involved. The investigation may be carried out by an internal or external independent investigator.

If the Dean of Faculty or Head of Corporate Services Department (or nominee) decides that the case is unlikely to warrant independent investigation, a formal meeting at Stage One with the member of staff, in accordance with the general principles (see Section 3) will be arranged. The member of staff has the right to be represented at this meeting by a recognised Trade Union representative or a University-based colleague.

The possible outcome of the meeting could be that the matter is resolved satisfactorily and no further action needs to take place. However, at this stage, it may be the case once the details of the complaint have been heard, that further investigation will be required after all. If this is the case, the stage one hearing will be adjourned, pending the conclusion of the investigation and the receipt of the investigation report.

In those cases where the Dean of Faculty or Head of Corporate Services Department (or nominee) has commissioned an independent investigation to look into the case, a formal meeting at Stage One with the member of staff, in accordance with the general principles (see Section 3), will be arranged once the final investigation report is available and the findings and recommendations are understood. Arrangements should also be made for the Dean of Faculty or Head of Corporate Services Department (or nominee) to meet formally with any respondent(s) to communicate outcomes.

The outcome at Stage One could be that:-

- the complaint is upheld;
- the complaint is not upheld;
- the complaint is partially upheld.

A summary of the report, including conclusions and recommendations will be made available to the complainant and where appropriate to any respondent(s) named in the complaint. In the formal meeting, the complainant will be given a full rationale as to how the final decision has been reached and also have the opportunity to comment on the findings of the investigation and seek clarification on any further issues that may have arisen.

If the decision is to uphold or partially uphold the complaint, a recommendation may be made that there is a case to answer under the University's Disciplinary Procedure. All parties will be informed of this, and that a hearing will be arranged at an appropriate stage of the University's Disciplinary Procedure, in their respective formal meetings. .

Written outcomes of formal meetings held at Stage One of the procedure will be issued within five working days of the meeting date. The right of appeal against this decision, where appropriate, will also be given in the written outcome letter.

Special consideration may need to be given as to how to handle communication to witnesses, as it is paramount that this communication is handled sensitively and that the level of detail provided is appropriate.

It is also the responsibility of the Chair of the Stage One formal meeting to clearly state any management recommendations that have been made. These could include a review of current practice or process in a particular area, training courses for particular individuals or other such interventions.

Where there is the necessity for involved parties to restore working relationships and work together productively in the future, the Chair of the Stage One formal meeting may make specific recommendations around mediatory interventions. The recommendation may be that this mediation is undertaken either in-house or by an external facilitator.

Investigations

Where the Dean of Faculty or Head of Corporate Services Department (or nominee) makes the decision that an independent investigation needs to be commissioned, all reasonable steps must be taken to establish the facts of the case promptly.

Depending on the circumstances the Dean of Faculty or Head of Corporate Services Department (or nominee) and/or an appropriate senior manager will contact their respective HR Business Partner to commission the independent investigation in line with the University's Code of Practice for Formal Investigations (see appendix D). Investigations may only be carried out by a member of staff who has attended the University's training course on higher level investigations, or by an appropriately experienced external consultant.

It may be appropriate that the complainant and the alleged respondent do not continue to work together during the investigation and dependent on operational demands one or both of the parties may be moved to a meaningful role elsewhere. Movement of roles does not imply guilt but assists and protects the individuals involved during the investigation. As a last resort suspension of the respondent on full pay may be implemented. (See Appendix E).

Potentially if there is found to be a case to answer following an investigation, then the Dean of Faculty or Head of Corporate Services Department (or nominee) may refer the matter to an appropriate stage of the University's Staff Disciplinary Procedure. Serious acts of unfair discrimination, harassment or bullying or where the alleged respondent has a current final warning for a similar or related offence, may be referred directly to Stage Three (Dismissal) of the University's Staff Disciplinary Procedure.

Stage Two – Appeal

If the complainant is not satisfied with the resolution/outcome at Stage One, then they may request an appeal on one or more of the following grounds:

- A procedural irregularity has occurred in the conduct of the investigation or procedure at stage one;
- The outcome at stage one was unreasonable based on the available evidence
- New evidence has come to light

The complainant may:

- request that a panel of three appropriate members of staff be convened to hear the appeal. Two members of the panel will be of senior management level, ideally the third member of the panel should reflect the grade, status and protected characteristic, of the complainant (where the complaint refers to this) or other factor on which the complaint is based. Panel members will have received appropriate guidance before they are able to participate; or
- request that the complaint be heard by the Vice-Chancellor or his nominated deputy in this matter.

Such requests must be in writing and addressed to the relevant Human Resources Business Partner. The note must state:

- why the employee is dissatisfied with the outcome at stage one;
- which of the above options is preferred;
- the redress sought – it is important that the complainant explains what redress they feel would be appropriate to resolve the situation.

This request must be lodged with the relevant Human Resources Business Partner within fifteen working days from the date the written decision following Stage One is received by the complainant.

Requests from the complainant to invoke an appeal at Stage Two will not be considered if they are received outside the fifteen working day time limit unless there are extenuating circumstances acceptable to the University. Staff must lodge the request for an extension of this time limit with the relevant HR Business Partner within the fifteen working days' time limit.

The VC/nominated deputy or panel will meet with the complainant to hear their appeal, ideally within ten working days of the appeal being received. The Chair of the stage one hearing will also be in attendance unless there are good reasons why this would not be appropriate. The aim is to review the decision made at stage one but exceptionally the Chair of the appeal may feel it necessary to review the whole complaint from the outset.

The outcome at Stage Two could be that:-

- the appeal is upheld;
- the appeal is partially upheld;
- the original decision from Stage One is upheld;
- the original decision from Stage One is partially upheld.

If the decision is to uphold or partially uphold the appeal, a recommendation may be made that there is a case to answer under the University's Disciplinary Procedure. If this is the case, the VC / nominated deputy or the Chair of the Panel should communicate this recommendation back to the relevant Dean of Faculty or Head of Corporate Services department.

The VC / nominated deputy or the Chair of the Panel will notify the complainant, in writing, of the outcome of the hearing within five working days following the date of the hearing. The complainant will be given full rationale as to how the final decision has been reached. If it is not possible to respond within this time period the complainant will be given an explanation for the delay and a date when the decision can be expected. This situation will usually occur when the panel needs to speak to other employees to gather further information prior to the decision.

The VC / nominated deputy or the Chair of the Panel should also make clear who is responsible for communication back to involved parties. This may be the respondent and / or any relevant managers or witnesses that may have been involved. Special consideration may need to be given as to how to handle communication to witnesses, as it is paramount that this communication is handled sensitively and that the level of detail provided is appropriate.

The outcome should also clearly state any management recommendations being made. These could include a review of current practice / process in a particular area, training courses for particular individuals (e.g. unconscious bias training) or other such interventions.

Where there is the necessity for involved parties to restore working relationships and work together productively in the future, the Chair of the Stage Two Appeal hearing may make specific recommendations around mediatory interventions. The recommendation may be that this mediation is undertaken in-house or by an external facilitator.

The decision of a Stage Two Appeal Hearing is final.

Intervention Prior to Stage Two Appeal Hearing

It is the University's aim that wherever possible complaints should be resolved through informal channels. The Director of Human Resources or their nominated deputy in this matter will, if the complainant is willing, seek to resolve the matter before the second and final appeal stage of the procedure is invoked. The formal process is suspended whilst the intervention takes place. The respondent must be kept informed that this is the case.

The Director of Human Resources or their nominated deputy will convene a meeting with the complainant and his / her representative within ten working days of receipt of the appeal.

If an informal resolution is not forthcoming, an appeal hearing under Stage Two of the procedure will be arranged. The Director of Human Resources, or their nominated deputy in this matter, will, within fifteen working days of receipt of the written request for a Stage Two Appeal Hearing, or within five days following the informal attempt to resolve the matter, write to the complainant to invite them to a Stage 2 hearing.

3. Allegations against members of staff by students – Informal Procedure

In some cases it may be possible to rectify matters informally. Sometimes an individual is not aware that their behaviour is unwelcome; an informal discussion can lead to a greater understanding and an agreement that the behaviour will cease.

- Students (either individually or as a group) who consider they have been subjected to unfair discrimination, harassment or bullying should, in the first instance, and if they feel they are able to, tell the person who has allegedly discriminated against them or

subjected them to harassment or bullying, to stop. This request can be made either orally or in writing, but it is sensible to keep a written diary/record of all the events, collect evidence and document the outcome.

- However, if the complainant feels unable to make this request they may wish to seek the help/advice of the Students' Union.
- At this initial informal stage another option may be for the appropriate line manager(s) to meet with both parties, initially, at least, separately, in order to ascertain how both parties see the situation and whether the complaint has arisen from a misunderstanding, misinterpretation, ignorance, or insensitivity. It may then be appropriate to meet with the student and staff member together in order to explore the issue from both perspectives in an effort to reach a resolution, agreed by both parties.
- It is important that matters are dealt with immediately, thoroughly and fairly in respect of both parties at the informal stage. If an informal meeting has been held, a written record of the meeting, what was discussed and the outcome should still be made and copies of what was agreed given to both parties.
- In instances where inappropriate behaviour has occurred, as an alternative to formal disciplinary action, coaching, training (e.g. unconscious bias training) or counselling can play a vital role by providing the opportunity to resolve the complaint without need for any further or formal action. This may involve referral to an external or internal counsellor/coach. Counselling may also be offered to help support the complainant as well as the respondent.

4. Allegations against members of staff by students - Formal Procedure

Stage One – Formal Complaint

In those cases where: -

- the issue of unfair discrimination, harassment or bullying has not been resolved through informal means;
- the initial act of discrimination, harassment or bullying has continued, or;
- where the initial act of discrimination, harassment or bullying was determined by the senior manager to be of a serious nature; (see appendix A for examples)

the student may request that the complaint is dealt with formally. He/she should put this request in writing on the form provided at appendix C of this procedure and send this to the Conduct and Appeals Unit. The Conduct and Appeals Unit will liaise with the relevant senior member of staff in the Faculty or Service Department.

the Dean of Faculty or Head of Corporate Services Department will as soon as is practicable and within fifteen working days of receiving the formal complaint make a decision as to whether an independent investigation should be commissioned to look into the case. If the Dean of Faculty or Head of Corporate Services Department decides that the case is unlikely to warrant independent investigation, a formal meeting at Stage One with the student, in accordance with the general principles (see Section 3) will be arranged. The student has the

right to be accompanied at this meeting by a representative from the Students' Union or fellow student.

The possible outcome of the meeting could be that the matter is resolved satisfactorily and no further action needs to take place. However, at this stage, it may be the case once the details of the complaint have been heard, that further investigation will be required after all. If this is the case, the stage one hearing will be adjourned, pending the conclusion of the investigation and the receipt of the investigation report.

In those cases where the Dean of Faculty or Head of Corporate Services Department has commissioned an independent investigation to look into the case, a formal meeting at Stage One with the student in accordance with the general principles (see Section 3), will be arranged once the final investigation report is available and the findings and recommendations are understood. Arrangements should also be made for the Dean of Faculty or Head of Corporate Services Department to meet formally with any respondent(s) to communicate outcomes.

The outcome at Stage One could be that:-

- the complaint is upheld;
- the complaint is not upheld;
- the complaint is partially upheld.

A summary of the report, including conclusions and recommendations will be made available to the student and where appropriate to any respondent(s) named in the complaint. In the formal meeting, the complainant will be given full rationale as to how the final decision has been reached and also have the opportunity to comment on the findings of the investigation and seek clarification on any further issues that may have arisen.

If the decision is to uphold or partially uphold the complaint, a recommendation may be made that there is a case to answer under the University's Staff Disciplinary Procedure. All parties will be informed of this, and that a hearing will be arranged at an appropriate stage of the University's Disciplinary Procedure, in their respective formal meetings. .

Written outcomes of formal meetings held at Stage One of the procedure will be issued within five working days of the meeting date. The right of appeal against this decision, where appropriate, will also be given in the written outcome letter.

Special consideration may need to be given as to how to handle communication to witnesses, as it is paramount that this communication is handled sensitively and that the level of detail provided is appropriate.

It is also the responsibility of the Chair of the Stage One formal meeting to clearly state any management recommendations that have been made. These could include a review of current practice or process in a particular area, training courses for particular individuals or other such interventions.

Where there is the necessity for involved parties to restore working relationships the Chair of the Stage One formal meeting may make specific recommendations around mediatory interventions. The recommendation may be that this mediation is undertaken either in-house or by an external facilitator.

Investigations

Where the Dean of Faculty or Head of Corporate Services Department makes the decision that an independent investigation needs to be commissioned, all reasonable steps must be taken to establish the facts of the case promptly.

Depending on the circumstances the Dean of Faculty or Head of Corporate Services Department and/or an appropriate senior manager will contact their respective HR Business Partner to commission the independent investigation in line with the University's Code of Practice for Formal Investigations (see appendix D). Investigations may only be carried out by a member of staff who has attended the University's training course on higher level investigations, or by an appropriately experienced external consultant.

It may be appropriate that the complainant and the alleged respondent do not continue to work together during the investigation and where appropriate and possible alternative arrangements are made to facilitate this. Any such arrangements do not imply guilt but assist and protect the individuals involved during the investigation. As a last resort suspension of the respondent on full pay may be implemented. (See Appendix E).

Potentially if there is found to be a case to answer following an investigation, then the Dean of Faculty or Head of Corporate Services Department may refer the matter to an appropriate stage of the University's Staff Disciplinary Procedure.

Where a Dean of Faculty following an investigation, believes that unfair discrimination, harassment or bullying may have had an impact on a student's assessment, they should seek advice from the Academic Registrar.

Stage Two – Appeal

If the complainant is not satisfied with the resolution/outcome at Stage One, then they may request an appeal on one or more of the following grounds:

- A procedural irregularity has occurred in the conduct of the investigation or procedure at stage one;
- The outcome at stage one was unreasonable based on the available evidence
- New evidence has come to light

The complainant may:

- request that a panel be convened to hear the appeal. Two members of the panel will be of senior management level, the third member of the panel will be the President of the Students' Union or their nominee. Panel members will have had no previous involvement in the complaint and will have received appropriate guidance before they are able to participate.

Such requests must be in writing and addressed to the Head of the Conduct and Appeals Unit. The request must state:

- why the student is dissatisfied with the outcome at stage one;
- the redress sought – it is important that the complainant explains what redress they feel would be appropriate to resolve the situation.

This request must be submitted to the Conduct and Appeals Unit within fifteen working days from the date the written decision following Stage One is received by the complainant.

Requests from the complainant to invoke an appeal at Stage Two will not be considered if they are received outside the fifteen working day time limit unless there are extenuating circumstances acceptable to the University.

The Head of the Conduct and Appeals Unit or nominated deputy in this matter, will, within fifteen working days of receipt of the written request for a Stage Two Appeal Hearing, or within five days following the informal attempt to resolve the matter, write to the complainant to invite them to a Stage 2 hearing.

The panel will meet with the complainant to hear their appeal, ideally within ten working days of the appeal being received. The Chair of the stage one hearing will also be in attendance unless there are good reasons why this would not be appropriate. The aim is to review the decision made at stage one but exceptionally the Chair of the appeal may feel it necessary to review the whole complaint from the outset.

The outcome at Stage Two could be that:-

- the appeal is upheld;
- the appeal is partially upheld;
- the original decision from Stage One is upheld;
- the original decision from Stage One is partially upheld.

If the decision is to uphold or partially uphold the appeal, a recommendation may be made that there is a case to answer under the University's Staff Disciplinary Procedure. If this is the case, the Chair of the Panel should communicate this recommendation back to the relevant Dean of Faculty or Head of Corporate Services department.

The Chair of the Panel will notify the complainant, in writing, of the outcome of the hearing within five working days following the date of the hearing. The complainant will be given full rationale as to how the final decision has been reached this will include a "Completion of Procedures Letter" as required by the Office of the Independent Adjudicator*. If it is not possible to respond within this time period the complainant will be given an explanation for the delay and a date when the decision can be expected. This situation will usually occur when the panel needs to speak to other employees to gather further information prior to the decision.

The Chair of the Panel should also make clear who is responsible for communication back to involved parties. This may be the respondent and / or any relevant managers or witnesses that may have been involved. Special consideration may need to be given as to how to handle communication to witnesses, as it is paramount that this communication is handled sensitively and that the level of detail provided is appropriate.

The outcome should also clearly state any management recommendations being made. These could include a review of current practice / process in a particular area, training courses for particular individuals (e.g. unconscious bias training) or other such interventions.

Where there is the necessity for involved parties to restore working relationships the Chair of the Stage Two Appeal hearing may make specific recommendations around mediatory interventions. The recommendation may be that this mediation is undertaken either in-house or by an external facilitator.

The decision of a Stage Two Appeal Hearing is final.

Intervention Prior to Stage Two Appeal Hearing

It is the University's aim that wherever possible complaints should be resolved through informal channels. The Head of the Conduct and Appeals Unit or nominated deputy in this matter will, if the complainant is willing, seek to resolve the matter before the second and final appeal stage of the procedure is invoked. The formal process is suspended whilst the intervention takes place. The respondent must be kept informed that this is the case.

The Head of the Conduct and Appeals Unit or nominated deputy will convene a meeting with the complainant and his / her representative within ten working days of receipt of the appeal.

If an informal resolution is not forthcoming, an appeal hearing under Stage Two of the procedure will be arranged in accordance with the general principles (see Section 3).

***The Office of the Independent Adjudicator for Higher Education**

If having exhausted all Stages of the University's internal complaints procedure, the student considers that the University has failed to consider and respond to their complaints appropriately, they can refer the case to the Office of the Independent Adjudicator (OIA). This office provides an independent scheme for the review of student complaints.

In order to refer their case to the Office of the Independent Adjudicator the student will require a Completion of Procedures Letter. A Completion of Procedures letter will be issued when all applicable stages of the complaints procedure have been exhausted. The letter will be issued in accordance with the format prescribed by the Office of the Independent Adjudicator.

Details of the rules of the scheme and information about how to make an application for review by the OIA are available at their website - www.oiahe.org.uk.

5. DEALING WITH OTHER COMPLAINTS

Allegations against Senior Managers

Where an allegation of unfair discrimination, harassment or bullying is made by a member of staff against a Dean of Faculty or Head of Corporate Services Department, then the Vice-Chancellor (or his/her designated representative) will deal with the matter, acting in the role of Dean of Faculty or Head of Corporate Services Department as described above. Where an allegation is made against the Vice-Chancellor or a member of the Offices of the Vice-Chancellor, this must be referred to the Board of Governors.

Allegations involving a Third Party

If a member of staff feels they have grounds for a complaint against a third party, such as an agency member of staff, placement providers, contractors etc, then they should put their complaint in writing to the appropriate manager without delay. The manager should contact the third party to seek to resolve the issue. It may be necessary as part of the process to liaise with other senior managers who are responsible for allowing the third party onto University premises.

Similarly, a student may have grounds for complaint associated with a placement they undertake or an organisation at which they are a volunteer, as part of their studies. They

should make their academic supervisor aware of the complaint without delay. The academic supervisor should contact the organisation to seek to resolve the issue. The policies and procedures of the third party will apply in this case.

Allegations against Students by other students

Where an allegation of unfair discrimination, harassment or bullying is made by one student against another student, and the allegation arises from behaviour on University premises or from behaviour directly related to the student's academic activities, the matter should be pursued following advice from the University's Conduct and Appeals Unit. Information can be found at <https://www.wlv.ac.uk/media/wlv/pdf/UW-Student-Complaints-Procedure.pdf>.

Where the behaviour takes place on Student Union premises or involves an officer of the Students Union acting in an official capacity, the matter should be taken up under the Student Union's own harassment procedures.

Allegations against Students by Members of Staff

Staff who feel that they are being subjected to bullying, harassment or victimisation in any form by a student, should take action following the advice in the sections above. The informal procedure under Section B may involve making the student aware of their behaviour and its effect, either by the member of staff raising this directly, or by involving the line manager or other Faculty staff as appropriate in trying to resolve the situation informally. In more serious or persistent cases, the matter may be more appropriately dealt with via the Student Code of Conduct and Disciplinary procedure through the Conduct and Appeals Unit.

6. TRAINING

Relevant courses are available via the corporate staff development programme and these include:-

- Managing people for Success
- Managing staff performance issues
- Chairing meetings for managers
- Manager investigation training
- Unconscious Bias training
- Dignity at Work training

7. LAW RELATED TO THIS DOCUMENT

Equality Act 2010

Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (SI 2011/1064)

Draft Equality Act 2010 (Specific Duties) Regulations 2011

Health and Safety at Work etc Act 1974

Protection from Harassment Act 1997

Management of Health and Safety at Work Regulations 1999 (SI 1999/3242)

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APPENDIX A

Examples of Harassing and/or Bullying behaviour can be found at

<http://www.acas.org.uk/media/pdf/o/c/Bullying-and-harassment-at-work-a-guide-for-employees.pdf>

APPENDIX B

Guidelines on Dealing with Complainants and Respondents

Care must be taken to ensure any investigation does not cause unnecessary distress to any party including respondents, complainants, management and investigators. Managers need to encourage movement past the complaint to a resolution where appropriate.

Complainants

In general, Deans of Faculty, Heads of Corporate Services Department and senior staff should follow these guidelines when dealing with such complaints:

- a) they should ensure they are familiar with this Policy;
- b) they should see the individual promptly. The individual will have the opportunity to be accompanied/represented by a University-based colleague or union representative;
- c) they should go through the Procedures within this Policy with the individual explaining the steps to be taken;
- d) they should listen carefully to the Individual and ensure that they are aware that the complaint is being taken seriously;
- e) they should tell the individual that the nature of the complaint will have to be explained to the alleged offender and should ensure that the individual is kept informed of the progress of such discussions;
- f) they should ensure that the events are fully documented and that all corroborative evidence has been taken in the shortest possible time. It is essential that an individual conducting investigations should not prejudge. Both parties must be given the opportunity to present their case, and if necessary bring witnesses;

In the case of alleged sexual harassment, wherever possible, a senior staff member of the same gender will be required to carry out the investigation. Similarly in cases where a complaint has been raised relating to any of the other protected characteristics it would be advisable, where possible, that an individual with the same protected characteristic is involved in the investigation.

Respondents

Individuals who have been complained against must also be dealt with, with sensitivity as such accusations can be upsetting. In general, Deans of Faculty, Heads of Corporate Services Department and senior staff

- a) should give the alleged offender details of the complaint and the opportunity to reply, as quickly as possible. The alleged offender will have the opportunity to be accompanied/represented by a University-based colleague or union representative;
- b) should ensure they are familiar with this Policy
- c) should go through the Procedures within this Policy with the individual explaining the steps to be taken;

- d) keep the alleged offender fully informed of the progress of the case throughout.
- e) ensure that confidentiality is maintained to protect the reputation of the parties concerned.

The person against whom a complaint is made may feel frightened or threatened, even that their job/study is at risk. Extreme defensiveness may follow and this does not help investigations and conciliation. Calmness and detached listening may help to reduce agitation, acknowledge their feelings if possible and set out the reality of the situation for them if necessary.

It is sometimes difficult to deal with the defensive response of the individual complained against. Many resort to attack as the best means of defence. Outrage, hurt and incredulity are also common responses. While acknowledging these feelings individuals dealing with the complaint should be aware that offence can be given unknowingly and emphasise that the aim of the investigation is to establish a good working environment, not to concentrate on punishing or blaming at this stage.

In some cases, the individual who is the subject of a complaint may be totally unaware of the impact of his/her behaviour or actions and may genuinely be distressed at the complaint. He/she should be asked to reflect on his/her behaviour and the possibility that he/she might be at fault, whether consciously or not.

He/she should be reminded that any enquiry will be dealt with discretely and impartially, but that unfair discrimination, harassment and bullying are taken very seriously by the University.

Those who believe they have been unfairly complained of may seek advice from work colleagues, their trade union representative or from the Human Resources Department if a member of staff. Students may seek advice from study colleagues, Faculty staff, Conduct and Appeals Unit staff or the Students Union, following the principle of confidentiality (point 3.10 of this procedure).

APPENDIX C



STRICTLY PRIVATE AND CONFIDENTIAL

FORM FOR REGISTERING A COMPLAINT UNDER THE DIGNITY AT WORK AND STUDY POLICY

The Dignity at Work and Study Policy can be found on the HR website.

Your details: -

Name	
Address	
Are you a member of staff or a student?	
Job title	
Department and Campus	
Contact telephone numbers: Daytime: Mobile:	
Student number (if a student)	

Name of the person against whom you are raising the complaint	
What is this person's relationship with the University (e.g. a member of staff, a student or a visitor?)	
Briefly describe your complaint (including where the incident happened, dates and times, names of any witnesses, the effect or impact this has had on you). Attach copies of any relevant documents. Continue on a separate sheet if necessary and securely attach it to this form.	

Have you taken advice from anyone? YES <input type="checkbox"/> NO <input type="checkbox"/>
Have you tried to deal with the situation informally? YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, how did you do this?
What was the outcome?
If you have not tried to deal with it informally, why not?
What outcome are you seeking, that will resolve this complaint for you?

Signature of complainant Date

If you are a member of staff, please return this form to your Dean of Faculty/Head of Department and send a copy to the HR Business Partner for your Faculty/Department at:
HR Department, 2nd floor MX Building, Camp Street, WOLVERHAMPTON WV1 1AD

If you are a member of staff, and your complaint is against a senior member of staff, please return this form to the Director of HR and send a copy to the HR Business Partner for your Faculty/Department at:
HR Department, 2nd floor MX Building, Camp Street, WOLVERHAMPTON WV1 1AD

If you are a student, please return this form to the Conduct and Appeals Unit, The Gateway at the George, Wulfruna Street, WOLVERHAMPTON WV1 1LY or email to complaints@wlv.ac.uk.

APPENDIX D

Code of Practice on the Conduct of Internal Independent Investigations (Staff)

Definition “Independent investigations” for the purposes of this code of practice means any collection and examination of evidence by means of written testimony, statements or evidence of personal accounts in pursuance of the University policies and procedures, carried out by a trained independent investigator, which fall within the scope of this code of practice.

Scope Policies and procedures to which this code will apply are: Disciplinary; Grievance; Unfair Discrimination, Harassment and Bullying procedure; and independent review as contained in the Managing Absence and Workplace Rehabilitation Policy/Procedure (stress related absence, and any other policies and procedures developed in the future.)

Principles

- This code of practice is for the use of all parties involved in the process.
- Human Resources Business Partners are available for advice and guidance to all parties throughout.
- For the purposes of this code of practice where the investigation originates from a complaint, the employee who has made the complaint is described as the complainant and the employee against whom the allegation is made is described as the respondent.
- All investigations must be carried out thoroughly and fairly and in the best interests of natural justice.
- All investigations must be carried out in a timely manner with the minimum of delay.
- All investigations will be dealt with in confidence, unless that is incompatible with a thorough investigation. The reputation(s) of all the parties to any investigation must be respected.
- A terms of reference document will be drawn up by the investigating officer upon commencement of the investigation and this should be circulated to the complainant and the respondent.
- If, following an investigation, the investigating officer determines the complaint or grievance is trivial, malicious or vexatious, then the University reserves the right to refer the matter to its disciplinary procedure.
- Should further allegations come to light during the course of the investigation, which are linked to the original complaint, the investigating officer reserves the right to include these in the investigation. The terms of reference document should be amended accordingly and reissued to the complainant and the respondent.
- It is important to note that when employees make verbal complaints about another employee whose actions are in breach of the University’s statutory duty and they ask that no action is taken, the complainant must be told that the University and the line manager who hears the complaint have legal responsibility to pursue that complaint to a conclusion irrespective of the complainant’s wish.

On Receipt of a Complaint or Observed Acts of Misconduct

- Circumstances warranting investigation arise from a variety of sources, for example; these may be a written or verbal complaint about the conduct of an employee or an observation by a line manager. The line manager must, after an initial exploration of the facts including meeting with the member of staff, and within 3 working days, decide whether: -
 - There is not a case to be responded to; or
 - There is a case to be responded to and the matter can be resolved informally; or
 - The complaint is a serious matter that needs to be investigated formally.

This decision must be communicated to the originator/complainant and respondent.

Anonymous complaints will not normally be investigated unless the complaint refers to a breach of the employer's statutory duty.

Where there is no case to answer, no record of this should be retained on file.

Precautions During Investigations

- The respondent must be told that an investigation will take place, except in cases of suspected or alleged theft, fraud or dishonesty where disclosure may hamper investigations.
- In any matter under investigation and especially in cases of alleged harassment, bullying or discrimination reasonable control measures should be put into place in order to protect the reputation of all parties.
- If the initial impression of the investigator that the complaint may suggest potential gross misconduct or the presence of the respondent on University premises may potentially hamper a full and proper investigation then serious consideration should be given to suspension on full pay. For conditions relating to suspension on full pay please refer to the University's Disciplinary Procedure under the section entitled 'Suspension of Full Pay'.

Who normally carries out the investigation?

- All investigations should be carried out by a more senior person than either the complainant or the respondent.
- In a case of a complaint being made about the Vice-Chancellor then the matter will be referred to the Board of Governors.
- In the cases of harassment, bullying, discrimination, serious or gross misconduct the investigating officer should not work with or have immediate and direct line responsibility for either party.

Investigations should not be carried out by employees who have personal relationships or connections with either the complainant or the respondent.

Investigations must be carried out in a Timely Manner

- Staff who complain verbally will be asked to confirm their complaint in writing within 5 working days. However if the situation warrants it, for example if the complainant is in an emotional state, then a statement will be made by the manager receiving the complaint and the complainant will be asked to sign it. If the complainant refuses to sign and the manager believes the complaint to be of a serious nature then the complainant will be told that an investigation will take place.
- Wherever possible investigations must be completed within four working weeks of the complaint being acknowledged. In exceptional circumstances if the investigations cannot be completed within the four-week period then the complainant and respondent must be notified and reasons given together with a revised date.
- If the manager tasked with carrying out the investigation is subsequently unable to undertake the investigation within a reasonable time scale, then the responsibility must be allocated to another manager of equal seniority where possible.
- Where the investigation is unable to be completed in due time then all the involved parties must be notified.
- If the complainant or the respondent or indeed any witnesses, work outside normal operating hours, they must be required to attend a meeting with the investigating officer either during normal office hours or be interviewed during the actual shift. Where necessary time off in lieu or exceptionally, additional payment will be made.

Witness Statements

- The investigating officer(s) will be entitled to interview any employee who he/she feels could provide any information to assist the investigation. This must include the complainant and the respondent.
- Witnesses may be asked to give the investigating officer a written and signed testimony in addition to being interviewed.
- After the meeting employees will be sent a copy of their own interview/record of the meeting and asked to sign it as a true and accurate record or, alternatively to detail on record any parts with which they do not agree, indicating and signing their preferred version(s). The investigating officer may wish to take their own record of the meeting. However, if support with note taking is required, a note taker who is bound by confidentiality, should be present at the interview with the employee/witness. Ideally the record of the meeting should be returned within 5 working days of receipt.
- They should be informed that any record of their investigation meeting and statement may be referred to in any future action and that they may be required to attend any hearing that is necessary.
- The possibility of anonymised witness statements are permitted when the witness seriously believes that there is a genuine threat of retaliation or intimidation by the respondent. The statement should not contain any references to the witness that would make it easy for he/she to be identified but not to the extent to make the statement meaningless. Please refer to your Human Resources Business Partner for guidelines on the making of anonymous statements.

- Consideration should be given to disabled employees/witnesses to provide any reasonable adjustments such as special aids or arrangements that may be required.

The Conduct of Investigations

- All parties will be required to observe confidentiality except in the case of a breach of statutory duty.
- The purpose of the meeting is to ask questions relating to the allegation(s) to establish the facts and record the responses. Employees should be assured that no opinion has yet been reached as to the validity of the allegations or the outcome of the investigations.
- The witness should be told that they may be required to attend any subsequent hearing(s) as a witness.
- Employees may, if they wish, request a short adjournment during the course of the interview.
- The member of staff being interviewed does not have the right to ask the investigating officer questions other than those relating to the investigation process itself.
- During the course of the investigation the investigating officer may recall any employee who has been interviewed to obtain any clarification on any point or ask further questions.

The Role of a Companion

- The investigating officer will give serious consideration to all requests to be accompanied made by employees involved in an investigation, for example where the complainant/respondent feels intimidated by the process or where the nature of the complaint is very sensitive and the complainant/respondent would welcome “moral” support. There is however, no statutory right for employees to be accompanied.
- It is not normal practice for witnesses to be accompanied when evidence and/or statements are taken, however if witnesses feel there are extenuating circumstances, the investigating officer will consider the request for a companion.
- In those situations where an employee can be accompanied the following must apply: -
 - The companion can only be a lay representative or a paid official of a trade union recognised by the University or a work-based colleague.
 - The companion cannot be anyone who has any other role in the proceedings.
 - The companion may accompany the employee but not answer any questions on the employee’s behalf, but they may raise any procedural issues that may arise or require clarification of the process.
 - It is the employee’s responsibility to nominate a trade union officer or work-based colleague to accompany them.

Once the Investigation has been completed

- The Investigating Officer will consider the evidence collected and submit a report to the manager who has commissioned the report within five days of the investigations being concluded.

That report must include:

- (a) A record of how the investigation was conducted and from whom evidence was collected;
- (b) copies of all statements and testimonies;
- (c) copies of any documentation other than statements which were material to the findings and recommendations;
- (d) a statement of his/her findings; and
- (e) a recommendation of the action to be taken:
 - to dismiss the complaint because on investigation it has no substance; or
 - the outcome from the investigation is that there is a case to answer and the complaint is referred to the appropriate stage of the University's disciplinary procedure
 - the complaint was trivial, malicious and/or vexatious.

APPENDIX E

Guidelines on Suspension

Suspension on Full Pay

The Vice-Chancellor has delegated his authority to suspend staff on full pay to members of the Office of the Vice Chancellor, Deans of Faculty and Heads of Central Services Departments. The decision to suspend on full pay should be taken only after consultation with the relevant Human Resources Manager and must be agreed with the Director or Deputy Director of HR.

In cases of alleged misconduct the University may consider the suspension of a member of staff on full pay. This is to allow an investigation into the alleged misconduct to take place quickly and/or where relationships have broken down and/or where there are risks to the University's property or its responsibilities to other parties or for some other good and urgent cause.

The decision to suspend should be taken only after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. Where there is the possibility of an alternative measure to achieve the same result, e.g. temporary relocation of the member of staff to an alternative team/campus, this should be done to avoid the need to suspend.

The suspension should take place by meeting with the member of staff where possible and the employee may request to be accompanied by a trade union representative or work based colleague. Staff should receive written confirmation of the reasons for and terms of the suspension at the meeting. If this is not possible, confirmation should be provided within 24 hours. A copy of the suspension letter should also be sent to the Clerk to the Board of Governors. The suspension will be effective immediately and the member of staff will leave the university premises.

Staff who are suspended on full pay may not for the period of the suspension enter any building or premises owned operated or occupied by the University of Wolverhampton, make use of any of the University's facilities or contact any member of staff or student without the express permission of the Vice-Chancellor or his nominated deputies in this matter; the Director of HR, relevant HR Business Partner, Dean of Faculty or Director of Central Service Department. This may include suspension of their IT account. However, access to documents etc in order to prepare the case will normally be provided.

Staff must ensure, whilst suspended on full pay that they are readily available to attend meetings or hearings called by the University. For example, staff should not make arrangements to go on holiday whilst on suspension without the express permission of the Vice-Chancellor or his nominated deputies in this matter, namely the Director of Human Resources, relevant HR Business Partner, Dean of Faculty or Head of Central Service Department.

Any member of staff who has been suspended on full pay and that suspension lasts for more than 21 consecutive days has the right to appeal against the suspension to the Staff Disciplinary Committee of the Board of Governors. Appeals must be in writing and addressed to the Clerk to the Board of Governors, Wulfruna Street, Wolverhampton, WV1 1SB

Permission to enter University premises in order for a member of staff to contact or consult with their trade union officer or work-based colleague will not be unreasonably withheld.

APPENDIX F

Guidance on Mediation

1. What is mediation?

Mediation is a voluntary and confidential process whereby a neutral trained mediator intervenes in a workplace conflict or dispute to assist the parties in reaching a satisfactory outcome. Mediation creates a safe environment where parties are able to communicate and work towards the restoration of a positive working relationship. It is a structured process that enables parties to identify, consider and discuss their own and each other's current and future needs, and agree a mutually beneficial way forward.

The outcome of mediation is often an agreement which focuses on improving relationships and resolving conflict. It is the parties involved in the mediation, not the mediator, who decide on the terms of the agreement.

Essential principles of mediation are:

- It is available to all staff
- Both parties must be willing to engage in mediation
- It is a confidential process
- The mediator should be appropriately trained and impartial
- It can happen at any time, with formal processes being put on hold for the duration of the mediation

It aims to:

- improve communication and understanding in work relationships
- ease transitions back to work after a long-term absence or formal process
- provide a flexible, tailored solution that meets the needs of all involved
- encourage individuals to take charge of their own decisions and to accept responsibility for the consequences of those decisions.
- resolve conflict and reduce stress, tension, and anxiety around a difficult relationship
- resolve disputes speedily and at an earlier stage than through formal procedures.

The outcome of successful mediation is for **both** parties to feel that the outcome is fair, reasonable and appropriate in the circumstances.

2. What is the role of the Mediator?

Mediators:

- play an impartial and confidential role.
- work with the parties involved to consider future needs, expectations and options.
- facilitate discussion between the parties
- clarify underlying feelings to help parties understand each other
- support parties to generate ideas and agreements for the future
- ensure that both parties are given the opportunity to speak and listen
- are not there to support one party, or to make a final decision if parties fail to make a decision.
- do not judge who is right or wrong, do not blame the parties involved and do not tell people what to do.

3. Who can request mediation?

Anyone can request mediation: any employee, or group of employees, a manager or supervisor on behalf of their staff.

4. In what situations is mediation most appropriate?

Mediation can be particularly effective when:

- the parties know each other
- maintaining a work relationship between the two parties is important
- one party feels uncomfortable "confronting" the other side unless someone else is present
- when tensions or emotions are getting in the way of effective communication
- the parties work in close proximity or for other reasons cannot avoid the conflict situation
- the parties doubt their own ability to resolve the problem
- the issues are complicated by an emotional element (e.g. anger, distress or anxiety)
- the parties' actions are impacting on others either directly or indirectly
- one or both parties wish to avoid formal proceedings.

5. In what situations is mediation not an appropriate option?

Although mediation is suitable for attempting to resolve conflict in many situations, there are occasions when it is not appropriate. For example, when:

- one or both parties are unwilling to participate
- one or both of the parties wants somebody to make a decision or judgement (e.g. disciplinary proceedings)
- parties do not wish for the case to remain confidential
- criminal or illegal activity is involved
- the parties involved have no control over the issue the dispute relates to

If one of these scenarios becomes apparent during mediation, the process should be ended.

6. The Mediation Process

The mediator will provide both parties with a copy of this document and make initial contact, often by telephone. They will request a broad outline of the case to ensure that it is appropriate for mediation.

Assuming mediation is appropriate, both parties should indicate their willingness to proceed.

The mediator will arrange a suitable venue, where there will be no interruptions and confidentiality will be preserved. Ideally this will be at a neutral location. The mediation process will normally take place over one day.

Stage 1 – Pre-meeting with each party

The mediator will meet both parties individually for the purpose of:

- Explaining the role of the mediator and the process of mediation, including confidentiality
- Gaining commitment to the process
- Defining the core issues and identifying the ideal outcome expected by both parties
- Explaining to the parties that they will only get out of the process what they are prepared to put into it.

Stage 2 – Second pre-mediation meeting

The mediator will meet both parties individually again to:

- Explore in detail the issues raised at the first meeting and any additional issues from each participant's point of view.
- Facilitate ideas and potential ways forward between each of the participants
- Encourage each party to listen to the other's perspective
- Assist with the development of trust, empathy, respect and understanding
- Agree a way forward and prepare for the joint meeting

Stage 3 – The mediation joint meeting

Setting the scene:

- Agreeing the agenda
- Welcome and introductions
- Setting the boundaries and ground rules
- Explaining and agreeing the process
- Mediator's clarification and summary of the agreed areas of dispute

Exploring the issues:

The mediator will:

- Explore the issues with the parties – using appropriate methods to clarify the problem and identify progress to date
- Encourage communication between both parties
- Manage any conflict during the early stages of discussion
- Encourage a mutual understanding about the problem
- Check understanding and clarify assumptions
- Identify any concerns about the issues
- Encourage a change of focus from the past to the future
- Summarise areas of consensus and disagreement

Building agreements:

Mediation will work towards:

- Generating options
- Evaluating options
- Encouraging problem-solving
- An acceptance or acknowledgment of conciliatory gestures
- Encouraging both parties to move from a non-negotiable stance – focussing on a future resolution rather than the past problem
- Constructing agreements
- Checking and recording agreements
- Creating a dispute resolution agreement
- Identifying "what next" if no agreement is reached

Close and follow-up

- The session will be concluded when both parties agree that they have dealt with the complaint and have reached a mutual agreement with a clear understanding of what has been agreed.
- An agreement will be drawn up in clear unambiguous language for signing by both parties.
- It will be agreed who retains copies (e.g. the line manager may, by mutual agreement, have
- a copy in order to check and monitor that any agreed action is followed through and maintained.) Confidentiality will be respected.
- The mediator will then close the session and arrange follow-up
- All notes made during the process are usually destroyed

5. Formal Procedures

If there appears to be no prospect of the parties reaching an agreement the mediator will end the mediation.

Where it has not been possible or appropriate to resolve a complaint informally, through the mediation process or the behaviour has continued despite attempts to resolve the complaint informally, employees may wish to pursue complaints via the University's formal processes.

Any documentation produced as a result of the mediation process may not be used under any subsequent formal procedures.

6. Monitoring

The outcomes of mediation will be recorded for monitoring purposes only to check the effectiveness of the process. The information will remain confidential and will not disclose the names or departments of the parties involved.

Copies of the Agreement will be retained by both parties and where appropriate by the line manager. No information relating to the outcome of the mediation process will be recorded on an individual's personal file.

Confidentiality Agreement to Mediation

Confidentiality is central to the success of the mediation process. As such, all participants involved in mediation are asked to sign this standard agreement prior to or at the first meeting.

The purpose of this agreement is to ensure that all parties are able to participate fully, openly and honestly during the mediation process.

1. Any information or documents received or developed during the mediation process will not be used for any purpose other than that for which it was intended.
2. All information received by me during the mediation process is done so in the knowledge that it must remain confidential and will not be disclosed to anyone else. However, documents which would in any event need to be disclosed at either Employment Tribunal or Court Hearing will not become privileged by reason of having been referred to in the Mediation and will therefore still need to be disclosed.
3. All discussions during the mediation process are “without prejudice” and “privileged” which means that nothing that is said by anyone during the process may be put forward as evidence in any subsequent internal determination process, appeal, Employment Tribunal or Court action.
4. Both parties undertake to listen to each other’s point of view.
5. Both parties undertake to be co-operative towards resolving the complaint.
6. Both parties agree to remain respectful towards each other.

Signed.....Date.....

Signed.....Date.....

APPENDIX G

Sources of Further Information

Human Resources Business Partner for your Faculty/Department

http://www.wlv.ac.uk/staff/services/humanresources/humanresources/who_we_are/h_r_advisoryteams.aspx

Trade unions – UCU and UNISON (staff); NUS (students)

<http://wlv.web.ucu.org.uk>
www.ucu.org.uk/
www.unison.org.uk/

HR website

<http://www.wlv.ac.uk/staff/services/humanresources/humanresources.aspx>

Policies and procedures including but not limited to the following

- Staff Grievance Procedure
- Staff Disciplinary Policy and Procedure
- Student Disciplinary Procedure
- Guidelines on Poor performance
- Managing Absence and Workplace Rehabilitation Policy/Procedure
- Policy for using University IT resources
- Student charter
- University Complaints procedure
- Student Complaints procedure
- ICT acceptable use policy
- Exit Procedure
- Data Protection
- Safeguarding Policy
- Drug and Alcohol Abuse policy for staff

University Strategic Plan 2012 -2017

<http://www.wlv.ac.uk/default.aspx?page=11707>

Occupational Health Service

<https://www.wlv.ac.uk/staff/services/occ-health/>

ACAS

www.acas.co.uk/index.aspx?articleid=1461