



OCMS STUDENT GRIEVANCE AND COMPLAINT PROCEDURE

PART 1: INTRODUCTION

1. Definition of Complaint

Within the OCMS Student Grievance and Complaint Procedure (the OCMS complaint procedure), 'complaint' may take the following forms, inter alia:

- (a) A matter arising from a student's educational experience, other than disputes relating to examinations or progression, except in the OCMS Stage;
- (b) A matter regarding academic and/or administrative support or other services provided by OCMS;
- (c) A matter regarding alleged harassment by any member of the OCMS community;
- (d) A matter arising from alleged discrimination by any member of the OCMS community in relation to gender, race, disability, sexual orientation or otherwise.

Separate University of Middlesex Appeals Procedures exist for disputes relating to examinations or progression for registered students.

2. OCMS Complaint Procedure

The University and OCMS would wish to see any grievance or dissatisfaction resolved through the internal complaint procedure at OCMS. The University's complaint procedure should only be invoked in the case of after a complaint has been investigated and no resolution found using OCMS' internal procedure.

The OCMS complaint procedure comprises two stages:

- (a) informal action
- (b) formal complaint.

OCMS hopes that most grievances can be resolved on an informal basis, and students are asked to pursue the informal complaint procedure before invoking the formal complaint stage.

3. Principles underlying the OCMS Complaint Procedure

The procedure for resolving a complaint informally and for making a formal complaint are underpinned by the principles set out below.

(a) *Right to representation*

The complainant and the alleged perpetrator will have the right to be accompanied by a supporter at any meeting which forms part of the process. The following may be called upon as a supporter, providing he/she is not involved in the matter:

- the complainant's OCMS Mentor/ House Tutor/Stage Leader;



- a chosen member of staff;
- a fellow student.

The supporter may ask questions, but not speak on behalf of complainant or otherwise represent their interests in a legal or professional capacity.

(b) *Independence of investigation*

The Third Party Monitor will lead the investigation.

Those assigned duties to process the complaint should not themselves be implicated in the matter.

(c) *Right to respond*

The alleged perpetrator will be made aware of the complaint at an early stage and be given the right to respond.

(d) *Right of appeal*

The complainant and the alleged perpetrator have the right to appeal.

(e) *Confidentiality*

Complaints will be dealt with confidentially, as far as practicable, and when it is felt necessary to apprise other relevant OCMS members of particular information, this will be discussed and explained to the complainant and alleged perpetrator as appropriate.

(f) *Sensitivity and timeliness*

Complaints should be taken seriously and dealt with sensitively and in a timely manner, albeit allowing for due process.

(g) *Victimisation*

Care must be taken to ensure that the complainant suffers no detriment and is protected against victimisation or retaliation for making the complaint, both whilst enrolled with OCMS and afterwards. Similarly, care must be taken that any member/s of OCMS who give evidence in the case are not victimised.

(h) *Malicious complaints*

OCMS will endeavour to protect all its members against frivolous or malicious complaints. Disciplinary action may be taken against the perpetrator of such complaints.

(i) *Data Protection*

A record of misconduct issues and investigations, including unsubstantiated cases, will be stored securely until one year after the end of enrolment.

4. Role of Third Party Monitor

The role of the Third Party Monitor is to enable and to document the informal and formal grievance and complaint processes.

5. Documentation

Student members of OCMS who believe that they are being subjected to harassment and bullying are advised to keep a diary of events and witnesses, and copies of any emails or documents.



PART 2: INFORMAL STAGE PROCEDURE

1. Informal Stage (1)

1.1 Local intervention

If a student member of OCMS believes that s/he is the subject of an unfair academic judgment (OCMS stage only), harassment, or bullying and wishes to make a complaint, s/he should initially speak to their Stage Leader (or if s/he is the alleged perpetrator, to another Stage Leader) about their grievance.

The Stage Leader will listen to the student's concerns and explain the informal options and formal processes open to the complainant to resolve the situation, as set out in the OCMS Student Grievance and Complaint Procedure below.

Where an incident or series of incidents is sufficiently serious to warrant immediate formal action, the Stage Leader should refer the matter to the Dean, who will initiate a full investigation.

1.2 Process for informal action by the student

Unless there is good reason otherwise, the complainant should talk to the alleged perpetrator alone or with a friend (as defined above) to let him/her know about the behaviour that is causing them distress. The complainant should make it clear that their behaviour is unwanted and should not be repeated, as well as discuss what he/she would like to see changed. The complainant should document the conversation, should it later need to be entered in evidence.

If the complaint is an academic one, the complainant should discuss the issue with the faculty member in question, to try to understand how they arrived at the academic judgment. They should retain documents pertinent to the judgment and document any conversations.

Should there be good reason for the complainant not to speak directly with the alleged perpetrator, the complainant should write to him/her (keeping a copy of the letter should further action becomes necessary). The complainant should set out the matter clearly, explaining their problem with the academic judgment or why the behaviour is offensive, what the complainant would like to see changed and how he/she would like it resolved. Where there are multiple complaints that differ in substance, they should be stated separately.

In many cases, the offending behaviour can be resolved at this early stage in the process. However, even if the complaint is addressed satisfactorily at this stage, it is advisable for the Third Party Monitor to record details of any approach to the alleged perpetrator whether verbal or written, as this may be relevant should there be a recurrence of the unwanted behaviour.

2. Informal Stage (2)

2.1 Dean's action: informal inquiry

If the complainant does not wish to invoke or is dissatisfied with the outcome of Informal Stage (1), the complainant should write to the Dean (or to the Executive Director of OCMS, if the Dean is the alleged perpetrator) setting out the nature of the complaint, the alleged behaviour on which the complaint is based, and what has been done to try to resolve the matter and the redress he/she is seeking for a satisfactory resolution.



The Dean will instruct the Third Party Monitor to conduct an informal inquiry into the alleged offending behaviour in order to:

- Establish the facts as far as reasonably practicable;
- Determine whether the complaint has foundation and merits a response;
- Seek to achieve a resolution within the spirit of OCMS' ethos (see Part 1, para. 1.3).

This inquiry will be conducted in a confidential, low key manner and according to the principles above. Like Informal Stage (1), the aim of this stage of the procedure is to resolve the situation early and with as little distress to the complainant as possible.

The responsibilities of the Third Party Monitor are to:

- Establish a confidential file;
- Gather written statements and responses from all parties involved;
- Clarify the nature of the grievance/s;
- Determine whether cultural misunderstandings have been involved.
- Establish whether the complaint has substance;
- Determine which procedures would be appropriate to follow if the complainant invokes the formal complaint procedure;
- Enquire what redress the complainant is seeking and invite alleged perpetrator to respond, in the hope that resolution will be achieved.

The process of this informal inquiry may involve the following:

- (a) After receiving agreement from the complainant, the Third Party Monitor will speak to the alleged perpetrator, explaining the nature of the complaint and who has made it. The alleged perpetrator will be given the opportunity to respond. Any written complaint or written response will be made available to both parties.
- (b) The Third Party Monitor will arrange, if appropriate and agreed by the complainant, a meeting between the parties involved in order to try to seek reconciliation between them.
- (c) Where it is necessary, Third Party Monitor may make confidential and informal inquiries as he or she sees fit, to gain further insight into the situation.
- (d) If necessary, and at an appropriate time, Third Party Monitor should provide advice and information on how to make a formal complaint.
- (e) Meetings should be documented, with a record of the outcomes sent to both parties. A note of any agreed action and support should be kept for reference purposes.

3. Outcomes of Informal Stages (1) or (2)

3.1 Where harassment has occurred

Where the informal procedure reveals, *prima facie*, that an actionable problem exists, the steps to resolve the problem and prevent the situation recurring must be discussed with the complainant. Action to be taken could include the following:

- (a) Obtain a commitment from the perpetrator that the behaviour will not be repeated.
- (b) Give an informal caution to the perpetrator.



- (c) Counsel the complainant and other staff about the incident.
- (d) Offer counselling interviews, with the alleged perpetrator to let him/her know that his/her behaviour is unacceptable and clarify what is expected of him/her in future. There may be a need to set targets, monitor progress, identify training needs, review work practices, provide additional supervision and set ground rules for behaviour to support the establishment of a positive working relationship.

3.2 In the case of an academic complaint (OCMS stage) The Academic Dean will convene a meeting with the House Tutor, Appropriate Stage Leader to arrive at the following:

They in the case of an academic complaint at the OCMS stage, will determine which of the following is the most appropriate way forward:

- (a) The academic decision be explained by the Academic Dean to the complainant's satisfaction, and it stands.
- (b) Through investigation, they discover that the academic judgment was unfair, and shall be changed to alleviate the grievance.
- (c) The outcome is unsatisfactory, and proceed to the formal stage.

3.3 Where a case of harrassment is not substantiated

If, on the balance of probability, it cannot be decided whether the incident(s) occurred, the Dean should:

- (a) Make known the appropriate standard of behaviour required by OCMS of its members.
- (b) Identify training needs and provide appropriate training.

3.3 Independent mediation

Where the problem remains unresolved, with the consent of both parties, the Dean will instruct the Third Party Monitor (TPM) to serve as a mediator.

The role of the TPM will be to seek a resolution by a process that may involve the following:

- (a) Meeting separately with both parties to discuss the case and try to agree acceptable terms for a resolution.
- (b) Where both parties agree, the TPM will arrange a joint meeting to discuss and seek to resolve the issues.
- (c) Seeking to restore good working relationships by making recommendations which all parties involved in the complaint will be invited to accept.
- (d) If the recommendations are agreed, the TPM will take steps to ensure that they are implemented in a timely manner.

3.4 Where the alleged perpetrator does not accept his/her responsibility

Where the alleged perpetrator, after mediation, does not accept his/her responsibility or is not responsive to remedial action, formal proceedings may be initiated.

If the student member of OCMS considers that the complaint has not been dealt with satisfactorily using informal channels including independent mediation, then he/she may invoke OCMS' formal complaint procedure.



3.5 Malicious complaints

Where the alleged perpetrator alleges that the complaint is malicious, he/she should send a written and signed statement to the Dean of the grounds on which he/she makes this allegation. This statement should be acknowledged in writing upon receipt. The complainant should be given a confidential copy of the statement of alleged malicious complaint. Any written response by the complainant will be copied confidentially to the alleged perpetrator.

4. Record of Informal Stages

A record of the case, how it was pursued and investigated under the informal procedure and the outcome, including unsubstantiated cases, will be stored securely until one year after the end of enrolment, engagement, or employment.

PART 3 FORMAL STAGE PROCEDURE

1. Conditions for using the Formal Complaint Procedure

OCMS' formal complaint procedure should be used:

- a) Where the complainant, the alleged perpetrator, or both remain/s dissatisfied with the outcome of the informal stage processes and he/she/they invoke the formal procedure.
- b) For academic complaints not appropriately resolved through the informal procedure.
- c) For cases of serious harassment.

Proven cases of misconduct under OCMS' formal complaint procedure may lead to disciplinary action the purpose of which will be to substantiate or disprove the allegations and if appropriate, determine the disciplinary sanction.

2. Making a Formal Complaint

Where the complainant wishes to invoke the formal procedure, he/she should send a formal, written complaint to the Dean (or to the Executive Director, if the Dean is the alleged perpetrator). The signed complaint should include the following details:

- The nature of the original complaint with reference, where possible, to dates, times and places of incidents on which the alleged grievance is based;
- Whom the complaint is being made against;
- Names of any witnesses to the incidents;
- Any actions which have already been taken to resolve the matter, with details of who was involved and the response received;
- A statement of why they are still dissatisfied;
- The remedy being sought by him/her, clearly stated.

Where there are complaints that differ in substance, these should be listed so that they can be investigated and a conclusion reached on each separate allegation.

The formal complaint should be acknowledged in writing upon receipt. The alleged perpetrator should be given a confidential copy of the formal complaint and the formal complaints procedure as



soon as is reasonably possible. Any written response by the alleged perpetrator will be copied confidentially to the complainant.

3. Formal Investigation

3.1 Purpose of the formal investigation

The Dean (or the Executive Director, if the Dean is the alleged perpetrator) shall form an investigating team composed of three members selected from staff, the Council of Trustees, or appropriate external members to look into the complaint. The investigation should be conducted as soon as reasonably practicable.

The role of the investigating team will be:

- (a) To interview the complainant, the alleged perpetrator and any other relevant people such as named witnesses.
- (b) To decide whether the grievance is well founded and there is a case to answer, taking into account all the evidence gathered.
- (c) To propose appropriate action to redress the grievance.
- (d) To ascertain if there are any institutional or service issues raised by the investigation.
- (e) To produce a joint report of the investigation for consideration by the Dean/ Executive Director.

This joint report should contain an accurate record of the complaint and investigation, the names of the parties, dates, nature and frequency of incidents, action taken and monitoring. The investigators should outline any proposals for action resulting from their findings to redress the grievance, including whether a formal disciplinary hearing should be brought under the appropriate Disciplinary Procedure. If the investigators cannot agree on a joint report, they should report separately to the Dean/ Executive Director.

3.2 The formal investigation process

The investigation should be conducted in accordance with the following procedures:

- (a) The times of interviews and other meetings should be arranged at the outset to avoid delays. If anyone is unavailable to attend a meeting reasonable attempts will be made to find an alternative date or to consider other mechanisms
- (b) The complainant and alleged perpetrator should be interviewed separately. All elements of the case against the alleged perpetrator should be put to him or her.
- (d) People who were present when an incident is alleged to have taken place and anyone indicated as having relevant evidence about the matter should be interviewed. Witnesses should be advised that the matter is confidential and should not be discussed outside the investigation.
- (e) All documentation relating to the complaint will be reviewed.



- (f) The complainant, alleged perpetrator and witnesses may need to be recalled clarify additional issues arising from the investigation.
- (g) Any member of OCMS who is required to attend a formal investigation interview will be advised of the issue(s) to be discussed and given the opportunity to be accompanied by a 'friend' not acting in a legal capacity. This representation rule applies to all meetings called as part of the investigation.
- (h) Detailed confidential notes should be taken of each interview. Written statements must be agreed and signed by the interviewee. The interviewee may provide any further comments or information that he or she feels is appropriate.

3.3 Outcome of the formal investigation

After considering the investigation report/s, the Dean/ Executive Director will decide upon the appropriate course of action and make their decision known in writing to the complainant, the alleged perpetrator and any other members of OCMS who are involved.

- (a) Where it is deemed that a complaint is upheld:

either (i) The Dean/ Executive Director will seek to resolve the complaint by setting out requirements and/or making recommendations which all parties involved will be invited to accept. These could include inter alia: the complainant to receive a written apology from the perpetrator; the perpetrator receiving a written reprimand; one or both parties to participate in some form of counselling or staff development.

If the recommendations are agreed, the Dean/ Executive Director will seek to act expeditiously.

or (ii) The Dean/Executive Director may decide that disciplinary action should follow under OCMS' Disciplinary Procedure and refer the matter to the Executive Director, or to the Chair of the Executive Committee if the Executive Director convened the formal investigation.

- (b) Where it is deemed that the complaint cannot be substantiated, the Dean/ Executive Director will make known the appropriate standards of behaviour required by OCMS of its staff and student members, and identify training needs and provide appropriate staff development.

4. Appeal

4.1 The complainant and the alleged perpetrator each have the right to appeal against the outcome of the formal investigation.

4.2 An appeal should be submitted in writing, to the Executive Director/ Chair of the Executive Committee, and within 10 working days of receiving the outcome of the formal stage.

The person receiving the appeal shall:

- Establish an appeal file;
- Acknowledge the receipt of the appeal;

The panel will be made up of members of the Council of Trustees not previously involved in the case and, in the absence of new evidence, will not review the substance of the complaint, but the process only, and will:

either



- Decide that procedure was followed properly and enforce the implementation of the recommendations made at the end of the formal stage;

or

- Decide that procedure was not properly followed and require a new investigation.

4.4 If the complainant or alleged perpetrator wishes to take the matter further, he or she may write to the OIA.

5. Record of Informal Stages

A record of the case, how it was pursued and investigated under the formal procedure and the outcome, including unsubstantiated cases, will be stored securely until one year after the end of enrolment, engagement, or employment.

February 2017