



B7.1 Procedure for complaints – Apprentice Employers

Academic year 2019/20

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Procedure for Complaints – Apprentice Employers

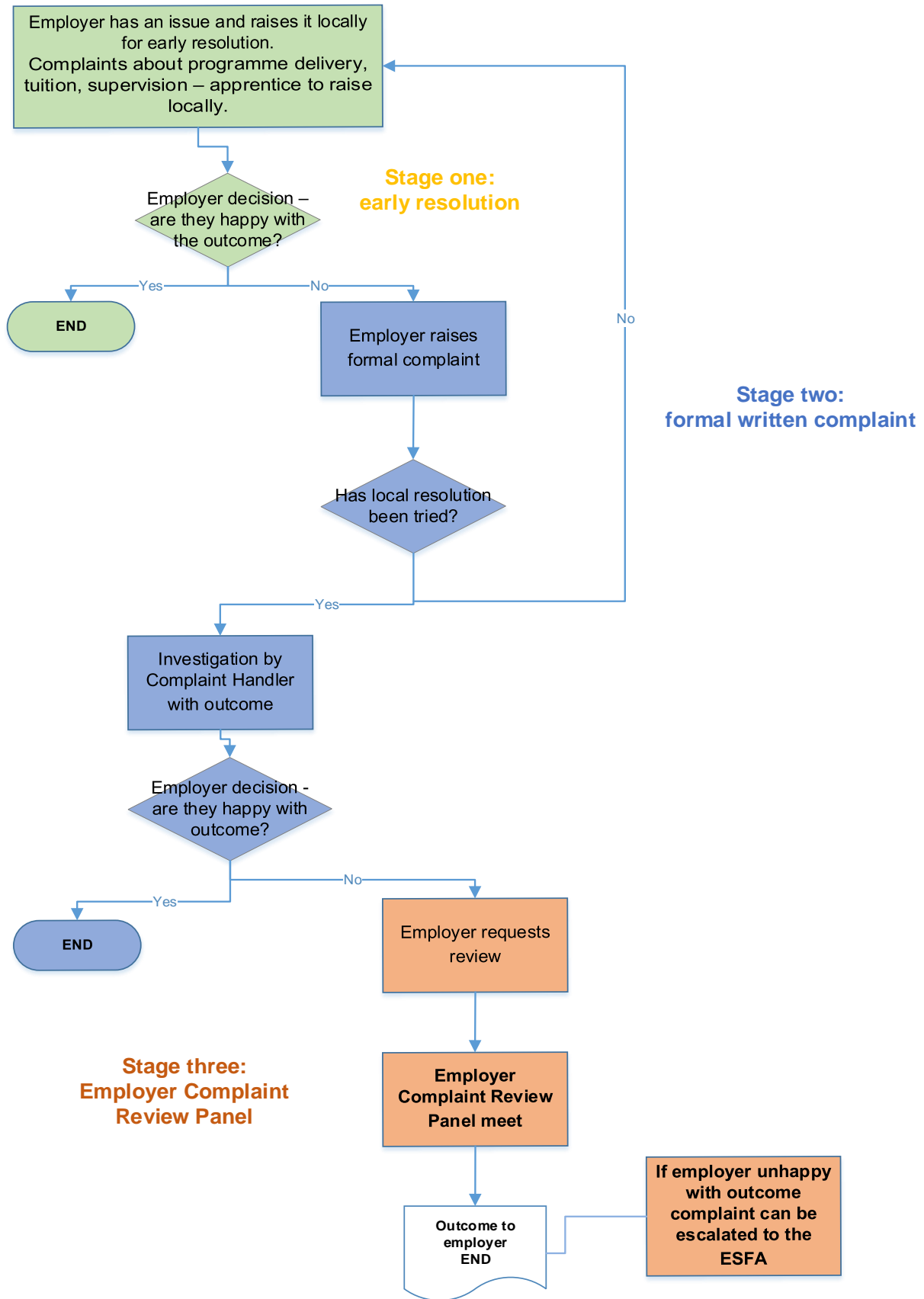


Figure 1: Complaint procedures

Introduction and scope

1. This *Procedure for complaints – Apprentice Employers* applies to an employer who directly contracts (partially or fully) apprenticeship training with the University and is in receipt of a signed Apprenticeship Training Services Agreement with the University.
2. The University is committed to considering and investigating complaints from employers. The University emphasises the importance of seeking a resolution through discussions at the earliest opportunity. Despite the University's efforts to resolve complaints employers are advised that there is no guarantee that the remedy they are seeking will be provided.
3. The University operates an internal [Procedure for complaints](#) for any complaints that apprentices may have, and it encourages them to use it, especially as they are likely to be more familiar with the details and circumstances of the complaint. Where possible, employers and their apprentices should agree whether to submit an Employer Complaint under this procedure or a [Student complaint using the procedure for complaints](#). A complaint will not be considered where the substance of the complaint can be shown to relate to a matter that has already been the subject of a complaint by the employer and/or any relevant apprentice(s) that is either in progress or has already been concluded. The University also operates a number of internal procedures that may help apprentices to resolve their particular issues (e.g. in relation to Academic Appeals and Extenuating Circumstances). *The Procedure for complaints – Apprentice Employers* is not a substitute for those procedures and apprentices must follow the prescribed timelines within those procedures if they want to rely on them.

Third party requests

4. Complaints and requests to review a complaint outcome are made by the employer. An application cannot be made by a third party on behalf of the employer.

Reasonable adjustments

5. Reasonable adjustments to the processes within this *Procedure*, including the extending of deadlines for employer responses, will be made upon the production by the employer of relevant third party evidence which demonstrates the need for those adjustments.

Exceptional circumstances

6. In exceptional circumstances it may be appropriate to amend the procedures set out in this *Procedure*, for example, where strict application of the *Procedure* would result in substantial unfairness to the employer and/or any relevant apprentice(s) or the employer and/or relevant apprentice(s) are in some way at risk because of health or disability. Such cases will be rare and each will be treated on their own merits.

Definition of a complaint

7. The University defines a complaint as:
'An expression of dissatisfaction against the University, either in part or as a whole, where an employer is seeking a certain outcome or remedy.'
This *Procedure* sets out the mechanism for complaints to be progressed through three escalating stages: stage one - early resolution; stage two - formal written complaint; and stage three - complaint review.
8. Complaints can be made about the following:
 - provision or delivery of programmes and/or modules; and/or

- provision or delivery of academic, administrative or other services delivered by the University.
9. This *Procedure* does not apply to dissatisfaction with the following areas:
- (i) outcomes of academic decisions;
 - (ii) outcomes of panels and hearings in relation to extenuating circumstances, academic misconduct, disciplinary matters, academic appeals, support to study and fitness to practise, (see [Regulations for extenuating circumstances](#), [Regulations for academic integrity](#), [Employer disciplinary regulations](#), [Regulations for academic appeals](#), [Procedure for support to study](#) and [Regulations for fitness to practise](#));
 - (iii) the imposition of a Managed Exclusion Order (see [Regulations for Managed Exclusion Orders](#));
 - (v) services provided by third parties; and/or
 - (vi) the discharge of the employer's obligations under the Education and Skills Funding Agency Funding Rules.
10. A complaint will not be considered where the substance of the complaint can be shown to relate to a matter that has already been the subject of a complaint by the employer and/or any relevant apprentice(s) that is either in progress or has already been concluded.

Burden of proof

11. When making a complaint or a request to review a complaint outcome it is for the employer to show how the circumstances of which they have complained have affected them and/or their apprentice(s).

Standard of proof

12. The standard of proof applied by a Complaint Handler and Complaint Review Panel is that of the balance of probability; that it is more likely than not something was or was not the case.

Confidentiality

13. Employers can be assured that making a complaint will not affect their or any apprentice's relationship with the University. The University therefore deals with all complaints made by employers in confidence, to the extent that this is compatible with making enquiries and holding meetings to consider the matter.

Data protection

14. The University collects and processes a variety of personal data about the employer in order to fulfil relevant Regulations (see [Employer Privacy Notice](#)). This personal data may be provided by the employer or collected from other departments within the University or taken from publicly available sources such as social media or, in the case of apprenticeships, provided by the apprentice(s). The University processes personal data for this purpose in its legitimate interests. Where the employer wishes to share any special category data about the apprentice in support of any complaint, the employer will need to supply to the University a copy of the apprentice's consent to that sharing. More detail on the types of data collected and how it is used can be found in the Employer Privacy Notice, available at the above link.
15. The employer has the right to submit a complaint via this *Procedure*. The employer must provide the University with a copy of the apprentice's written consent for the employer to share any of their personal data with the University that is the subject of,

or relates to, the complaint. If the employer does not provide the University with a copy of such written consent, the University may not be able to progress and determine the outcome of the complaint.

Timeliness

16. The University's *Procedure for complaints – Apprentice Employers* is designed to tackle the source of a complaint quickly, so that it does not detract from the continuation of the apprenticeship programme for the employer and their apprentice(s). Hence, this *Procedure* emphasises the importance of early approaches to achieving immediate resolutions to difficulties. It makes specific provision for such approaches at the beginning of the process.
17. An employer wishing to make a complaint should do so at the time, or as soon as possible after, they believe that they have experienced poor service. A complaint by an employer after the passage of weeks or months, or at the end of their contract, is likely to be more difficult to pursue and resolve than one made near to the time the employer believes that they have experienced poor service.

Vexatious and malicious complaints

18. Where a service area, a Complaint Handler, the Office of Student Complaints, Appeals and Regulations (OSCAR), a Complaint Review Panel or the Chief Student Officer considers that a complaint appears vexatious or malicious they refer the matter for review to the University Secretary and General Counsel.¹ Following review if it is decided that the complaint is unjustified, vexatious, or malicious the University Secretary and General Counsel may direct that the complaint is dismissed and write to the complainant accordingly.
19. If a complaint made by a current employer is considered to be vexatious or malicious the matter may be referred to the Education and Skills Funding Agency.

Stage one: early resolution

20. An employer making a complaint will find it helpful to keep a note of the attempts they have made to have the matter addressed, when they made approaches, and to whom they spoke. They may also find it helpful to discuss the matter with their Apprenticeship Business Development Manager at the University.
21. Employers may also seek support and advice from the Apprenticeships Team at apprenticeships@surrey.ac.uk.

Complaints about programme/module delivery, tuition and supervision

22. Where an employer believes that their apprentice(s) is experiencing problems with the delivery of a programme/module or tuition or supervision that is not helping them to attain the required learning outcomes, the University expects that the first step will be for the apprentice(s) to discuss their concerns with the relevant tutor or supervisor and describe the difficulties they are experiencing. If this does not address the matter the apprentice(s) will find it helpful to discuss their concerns with the Programme Leader, Module Leader, Postgraduate Research Director or their equivalent to see if they can provide an immediate resolution, before making a formal complaint.

¹ The Office of the Independent Adjudicator defines examples of vexatious complaints/appeals as including: those that are obsessive, harassing or repetitive; insistence on pursuing non-meritorious appeals and/or unrealistic, unreasonable outcomes; insistence on pursuing meritorious appeals in an unreasonable manner; appeals which are designed to cause disruption or annoyance; demands for redress which lack any serious purpose or value.

Complaints about other services and facilities

23. Where an employer believes that their apprentice(s) is experiencing poor service that is hampering their learning or other aspect of their experience, or falls short of the service that they were led to expect, the University expects that the first step will be for the apprentice(s) to discuss their concerns with the person or persons providing the service and describe the difficulties they are experiencing. If this does not lead to improvement and before making a formal complaint, the apprentice will find it helpful to ask that the matter is escalated to the manager of the service who will be expected to determine if they can provide an immediate resolution and inform the employer.

Outcome

24. If, following the raising of a complaint at this stage, the employer receives a response and is satisfied with the outcome then the complaint is deemed to be closed. If the employer is not satisfied with the outcome they may proceed to Stage two.

Stage two: formal written complaint

25. Where complaints made under stage one are not acknowledged or do not lead to resolution to the satisfaction of the employer then the employer can make a formal written complaint. This is done via submission to OSCAR of the complaint form which is provided on the OSCAR [web pages](#). If OSCAR is the subject of the complaint, the form is submitted to the Chief Student Officer.
26. In completing the complaint form the employer identifies the area complained about and states the nature of their complaint. They will need to demonstrate that stage one has not led to resolution. Former employers should state why the complaint was not raised during the time they were an employer of an apprentice. Using the form the employer should state and describe:
- (i) the poor service that is the focus of the complaint;
 - (ii) how often the poor service has been experienced, with dates and times;
 - (iii) the effect of the poor service on the employer and/or their apprentice(s);
 - (iv) the nature and number of their attempts to bring their complaint to the attention of the University;
 - (v) why the outcome of stage one is not acceptable.

Statement of the remedy sought

27. The employer is asked to state the remedy they are seeking through making their complaint. A remedy might take the form of:
- an apology;
 - official acknowledgment that poor service was provided and a statement of how the University will make recompense (for example, by refunding charges for a service or facility that did not work as it should have done); and/or
 - agreement to review or amend how the University provides a service or conducts a procedure.
28. The complaint form directs complainants to provide copies of any supporting evidence they wish to be considered in the assessment of their case including details of the steps followed at stage one. If there is no indication that local resolution has been tried as described at stage one, the complaint will normally be returned to the employer to raise it with the relevant area.

Submitting a formal complaint and the role of the Complaint Handler

29. For the purposes of this *Procedure*, OSCAR, or the Chief Student Officer in the case of complaints about OSCAR, assigns a Complaint Handler to deal with the complaint. Complaint Handlers are as follows:

- for complaints about an apprenticeship programme – a member of the Apprenticeship Team
- for complaints about a service (for example Accommodation, Library and Learning Support Services, Catering, IT, Academic Registry, Security) – the Director of the relevant service or nominee

All Complaint Handlers must undertake the training provided by the Academic Registry before taking on the role.

30. An employer may request an alternative Complaint Handler in cases where the Complaint Handler or nominee is the subject of the complaint.
31. An employer making a formal complaint should retain a copy of their completed complaint form, any evidence submitted with it, and their covering letter for future reference.
32. Where OSCAR or the Complaint Handler has requested the employer to provide additional information and the employer has failed to provide the necessary information within 10 working days of receiving the request, the employer will be sent a further reminder and warned that their complaint will be closed if a response is not received within a further calendar month.

Complaints concerning members of staff

33. Where a complaint concerns the behaviour of members of staff, the Complaint Handler will seek advice from the University's Human Resources Department on how to handle that aspect of the complaint. This may result in the complaint being referred to the Human Resources Department for consideration under the relevant HR policies and procedures.

Complaints linked to academic appeals and/or requests for the consideration of extenuating circumstances

34. In some circumstances an apprentice may make an academic appeal and the employer submits a complaint at the same time. The apprentice may wish to use the outcome of the employer's complaint to support their academic appeal. This may also be used for a request for the consideration of extenuating circumstances through securing formal recognition that there were deficiencies in the delivery of a service that they experienced. It is important that those administering the academic appeal and administering the complaint should know that the two are linked. In such a case the complaint is normally dealt with before the appeal is processed.
35. Where an apprentice submits an academic appeal and there is an associated complaint which they wish to be linked, this should be clearly stated:
- on the standard complaint form that asks the employer to set out the remedy they are seeking and in the covering letter that the employer submits with the completed and signed standard form.
 - in the apprentice's statement of their appeal against the University's academic decision

Investigating a complaint

36. On receiving a formal complaint via OSCAR the Complaint Handler acknowledges its receipt and records the nature of the complaint and when it was received.
37. Within five working days of receiving a complaint, the Complaint Handler invites the employer to a meeting. The employer may be accompanied by a colleague who may be the relevant apprentice(s). The purpose of this meeting is to:
 - set out how the University's complaint procedure works;
 - explore and establish the focus of the employer's complaint; and
 - establish whether it is possible at this stage for the University to provide a remedy for the matter that is the focus of the complaint.
38. The meeting may either be in person or via telephone/Skype. The employer has the option to decline the meeting, in writing, although the employer should be aware that this might make it more difficult for the Complaint Handler to explore the complaint fully.
39. The University's procedures are not legal procedures. Where an employer insists on legal representation at a meeting the University will similarly require that it is legally represented. In these circumstances it may take longer to convene the meeting.
40. If, in the course of the meeting, the Complaint Handler comes to the view that it is possible for the University to provide a remedy they will suggest this to the employer, indicating the nature of the possible remedy and how it will address the employer's complaint. The Complaint Handler will also suggest a timescale for implementing the remedy suggested. The employer may accept the remedy or request a period of time in which to give it further consideration.

Outcome of the investigation

41. Following the meeting between the Complaint Handler, the employer, and any accompanying individual, the Complaint Handler sends a note of the discussions to the employer within five working days. The note summarises the employer's complaint, any remedies that have been suggested, whether they were accepted or rejected or whether additional investigation is required. A copy of this note is retained by the Complaint Handler for their records and any subsequent proceedings.
42. If it is not possible to come to a remedy at the meeting, the Complaint Handler will investigate the complaint further. After making any necessary enquiries, the Complaint Handler will come to a view as to whether or not it is possible for the University to provide a remedy for the employer's complaint. The outcome of the further investigation will be communicated to the employer in writing normally within 50 working days from receipt of the formal written complaint. If it is not possible for the University to provide a remedy for the employer's complaint the Complaint Handler will explain why this is so and offer suggestions for alternative courses of action.
43. Upon receipt of the Complaint Handler's note, either following the first meeting or after further investigation, the employer has 10 working days to respond and either accepts or rejects the outcome. Where the employer confirms that they are content, or will not be taking the matter forward, the matter is closed.
44. Where the employer does not acknowledge receipt of the Complaint Handler's note, or does not otherwise respond within 10 working days, the matter is closed.

Request for an Employer Complaint Review Panel (eCRP)

45. Where the employer is not satisfied with the outcome of the discussion with the Complaint Handler and they submit a request within 10 working days of receiving the

Complaint Handler's note, then an Employer Complaint Review Panel (eCRP) will be convened. Requests should be submitted to OSCAR in accordance with published requirements as to the format, content and length of submission. Further details are available on the OSCAR [web pages](#). If the request is received on time it will be assigned to an OSCAR Case Manager.

46. If a request to review a complaint outcome is received after the 10 working day deadline, the employer will be asked to provide any good reasons as to why the request is late. The evidence will be considered by two OSCAR Case Managers who will determine whether the good reasons are valid. If the two Case Managers cannot come to an agreement a third Case Manager will be consulted and a majority decision will be made. A decision on the validity of the good reasons will normally be made within five working days of receiving the information. If the good reasons are not deemed valid, the request will not be considered. If there are valid good reasons the request will be accepted and assigned to an OSCAR Case Manager.

Grounds for requesting an Employer Complaint Review Panel

47. When requesting that a formal Employer Complaint Review Panel is convened the employer is required to show that they have evidence to demonstrate that one or more of the following grounds apply:
- that the Complaint Handler failed to follow the University's regulations and/or procedures or failed to follow them with due care;
 - that the Complaint Handler has shown bias or prejudice towards the employer and/or apprentice(s) in the way that they have handled the complaint;
 - that the Complaint Handler has found that the employer's complaint was justified but the remedy suggested was not reasonable;
 - that relevant new evidence has become available that should be considered and there are valid reasons why it was not presented earlier; and/or
 - that the decision of the Complaint Handler was unreasonable and/or the outcome was not proportionate in all of the circumstances.

Stage three: Employer Complaint Review Panels

48. Employer Complaint Review Panels are convened by OSCAR, other than when OSCAR is the focus of the complaint. When this is the case, the Employer Complaint Review Panel may be organised by another unit within the Academic Registry. Employer Complaint Review Panels conduct their business in accordance with the [Regulations for hearings by panels](#) which detail how panels work, including, where relevant, the right of an employer to attend a hearing and to be accompanied. It is expected that those asked to attend a hearing will acquaint themselves with the [Regulations for hearings by panels](#).

Membership of an Employer Complaint Review Panel

49. The membership of an Employer Complaint Review Panel comprises three members of staff from the pool of trained panel members as follows:
- a permanent University Chair;
 - a member of University staff.

A member of OSCAR is in attendance as Secretary to the Employer Complaint Review Panel.

50. For complaints related to delivery of programmes/modules and supervision and other aspects of learning opportunities the Chair will be the Academic Director of Student

Progression and Learning Gain or their nominee. For complaints related to service delivery in other areas the Chair will be the Chief Operating Officer or their nominee. Members of an Employer Complaint Review Panel should have no current academic or personal connection with the employer (or apprentices) who are considered by the Employer Complaint Review Panel or have had any previous connection with the employer's complaint.

Procedure

51. When convening an Employer Complaint Review Panel OSCAR writes to the employer, normally within 10 working days of the request, to confirm that the Employer Complaint Review Panel will take place. The employer does not attend the Employer Complaint Review Panel, unless requested to under paragraph 53 below. OSCAR will write to the employer with:
 - information about the proposed membership of the Employer Complaint Review Panel that will meet to review their complaint;
 - the date proposed for the meeting;
 - an outline of the procedure the Employer Complaint Review Panel will follow; and
 - a copy of the documentation to be considered by the Employer Complaint Review Panel.
52. The Employer Complaint Review Panel may request to meet the Complaint Handler to assist the Employer Complaint Review Panel with evidence and information but the Complaint Handler does not participate in the Employer Complaint Review Panel's private discussions.
53. The Employer Complaint Review Panel may request to meet the employer to assist the Employer Complaint Review Panel with evidence and information. In which case the employer may be accompanied by a work colleague who may be the relevant apprentice(s). Where an employer insists on legal representation at the Employer Complaint Review Panel meeting the University will similarly require that it is legally represented. In these circumstances it may take longer to convene the meeting.
54. Where new evidence is provided as a result of the Employer Complaint Review Panel meeting by either the Complaint Handler or the employer this evidence will be shared with the other party and the Faculty or service area if relevant.

Findings and outcomes of an Employer Complaint Review Panel

55. An Employer Complaint Review Panel should satisfy itself that it has sufficient information from all sources to determine whether the stage two process has followed the University's procedure with due care, whether the Complaint Handler has shown bias or prejudice, and whether the remedy proposed was reasonable. An Employer Complaint Review Panel may decide that it needs more information before coming to a decision. In which case the Employer Complaint Review Panel will adjourn until the required information has been provided.
56. An Employer Complaint Review Panel may come to one of four findings:
 - (i) that the complaint should be upheld and a remedy suggested;
 - (ii) that the complaint should be upheld and the Executive Dean of the Faculty or the Director of the relevant service asked to ensure that the subject of the complaint is addressed. For a complaint that is upheld about one or more members of University staff, the Employer Complaint Review Panel will consider whether to refer the matter to the University's Human Resources Department for consideration under the relevant HR policies and procedures;

- (iii) that the complaint should be rejected but the Executive Dean of the Faculty or Director of the relevant service asked to suggest where a service or a facility might be improved; or
 - (iv) that the complaint should be rejected.
57. Following the meeting of an Employer Complaint Review Panel the Secretary conveys the findings of the Employer Complaint Review Panel to the employer and all relevant parties in writing within five working days. The Secretary's letter also states that it constitutes a completion of the University's procedures. Where the Employer Complaint Review Panel has made recommendations that a matter be referred to the University's Human Resources Department the letter to the employer states that fact but provides no further or personal information.
58. The findings of an Employer Complaint Review Panel may also be provided for the University Executive Board.
59. Employers have the right to escalate a complaint to the Education and Skills Funding Agency. For more details see:
<https://www.gov.uk/government/publications/complaints-about-post-16-education-and-training-provision-funded-by-esfa>