

Collective Grievances and Fighting Casualisation

This guidance has been developed by UCU's Anti-Casualisation Committee as a tool in our fight against casualisation.

Collective Grievances – what they are and how to use them

Collective grievances are a method by which a group of staff can take a complaint to their employer about the same issue. They have proved very effective in getting management round the negotiating table and avoid individuals having to fight an injustice on their own.

If local procedures make provision for collective grievances then these procedures should be followed. If there are no provisions for taking grievances collectively then members can make use of their internal individual grievance procedures but submitting the same grievance, at the same time and requesting that all grievances be heard at the same time. This request to 'collectivise' individual grievances should be made through the who can argue that it is in everyone's interest to hear all grievances at the same time.

Collective grievances are useful where either the employer is refusing to engage with UCU collectively on a particular issue or where negotiations have broken down.

Collective grievances can be used to enforce contractual or other legal rights, to get the employer to comply with an agreed procedure or as a method of addressing some sort of injustice in the employment relationship.

Where there is a strong legal case behind the collective grievance it will be harder for the employer to ignore and there will be the option of taking the matter forward to the employment tribunal if the collective grievance is not successful (but be aware of legal time limits).

Collective grievances are particularly useful in fighting aspects of casualisation as staff on casualised contracts often feel vulnerable and may be unwilling to take action alone.

Two FE colleges have now won fractionalisation agreements by using the procedure i.e. getting agreement to move staff on casualised contracts onto permanent part-time or full-time contracts with the same terms and conditions enjoyed by other members of staff.

We have therefore decided to focus our advice on campaigning for fractionalisation of hourly paid staff but the use of collective grievances is not limited to this issue and the same or similar methods will apply to other sorts of anti-casualisation campaigns.

Branch organisation

The collective grievance needs to be supported by your local UCU branch. This is essential, both because it is a secondary course of action following an attempt to negotiate with management, and also because it needs the support of the union branch to be effective.

A collective grievance should be an additional procedure in support of collective bargaining. The purpose of carrying out a collective grievance in this instance is to win fractionalisation for the hourly paid. Thorough preparation needs to be carried out to increase the chance of success, and, if based on a legal right, to increase the chances of a successful hearing at an employment tribunal should the grievance be unsuccessful. In both of the colleges mentioned above, management agreed to fractionalisation, either before going to an employment tribunal, or through mediation.

HPL Recruitment

Preparation includes gathering data from staff on casualised contracts - hourly paid lecturers, staff on fixed term contracts, etc. Asking staff on casualised contracts to play an active role in winning fractionalisation is much more effective for recruitment than saying that the union opposes casualisation. Even for those staff on casualised contracts not included in the grievance, it proclaims the union's seriousness in fighting their corner. It has, in the institutions where it has been undertaken, resulted in considerable recruitment among otherwise hard to reach staff on casualised contracts.

Preparation for the Collective Grievance

Survey

A collective grievance will usually be launched when talks have broken down with management or they are refusing to engage with UCU on a particular issue.

Talk to people and discover exactly what the problems are. Consider where the areas of difference lie between staff on casualised contracts and those who are on permanent full-time or fractional contracts.

From this create a questionnaire using the common areas of difference between the two e.g. asking questions about pay, time allowed for preparation, time provided for personal development and scholarly activity, sick pay provisions, access to institution's resources (such as library, canteen or car parks), training opportunities etc. Then get both staff on casualised contracts and permanent full time or fractional staff to complete this and analyse the results.¹

Comparators

Look at contracts and job descriptions for staff on casualised contracts and permanent full time and fractional staff and compare them carefully. It is helpful (and essential if you are to take a legal case) to find a comparator(s) between the staff on casualised contracts and those on permanent full time or fractional contracts. Comparators are those engaged in the same or broadly similar work having regard, where relevant, to whether they have a similar level of qualification, skills and experience (this is the definition from both the part time workers and fixed-term employees regulations). Find your strongest cases amongst members on casualised contracts – usually those teaching on courses alongside permanent full time or fractional staff, with similar experience and levels of qualifications as their permanent full time or fractional colleagues. For each member of casualised staff find an equivalent permanent full-timer who is paid throughout the year and interview both to discover what they actually do as proof of unequal treatment. All the people used will be named, and so should be prepared for a meeting with management at a later date.

Statement of Grievance

Prepare a statement outlining the basis of the complaint, your attempts to resolve it, and setting out your arguments against the conditions that staff on casualised contracts work under. This statement is initially used to win support among staff on casualised contracts and other staff; it will also be used as a letter to be sent to human resources.

In this document it is important to include an opening paragraph with which all members – including those who are not on casualised contracts, can agree. Make the argument that it engenders bad management and teaching practice. The statement should state that the institution should address any less favourable treatment between staff on casualised contracts and the comparators that you have identified within a fixed period of time.

Building the casework

Once you have the results of the survey, approach staff individually. Explain the procedure to them and show them the statement. Ask them if they are prepared to take part in the collective grievance. Staff who have not yet completed the survey should also be approached. There is every reason why staff not in the union should also be approached with the proviso that, if they want to take part in the collective grievance, they must join the union.

Campaign

Alongside the formal collective grievance stages (see below), the key to a successful procedure is an organisational campaign inside the branch which seeks to publicise the collective grievance, boost the confidence of staff on casualised contracts, win all members to the campaign and recruit staff on casualised contracts.

Organising meeting

Once you have collected sufficient data to be able to identify comparators organise a union meeting on site/campus. It is important to find out the best time to attract the maximum number of staff on casualised contracts. There will, of course, be some such staff who will not be on site that day. Ensure at least two week's notice so that as many as possible can organise to come.

Public meeting

If you are organising meetings across several sites/campuses, consider holding a public meeting to which you can invite a key speaker (e.g. MP, prominent educationalist) and the press. A well organised public meeting can add substantially to the persuasive effect of a campaign. Again, the meeting should highlight the damage to quality of provision as much as the plight of the staff on casualised contracts.

Typical formal stages in a Collective Grievance Procedure

1 Send letter to Human Resources

Setting out the grievance and action that you want the institution to take to address the grievance.

2 Meeting between UCU and Management

Procedures will usually state how quickly such a meeting should be established. At this meeting the UCU branch / LA will seek a resolution to the collective grievance.

3 Group meeting

Collective grievance procedures vary between institutions, but typically move to a third stage, where if there is no resolution, another meeting will be arranged with named staff and management. It is here that all those named in the statement will be in a meeting with management.

4 Directors/Governors meeting / Appeal stage

If there is still a failure to agree, the grievance might move to a fourth stage. Procedures may provide for management to discuss the implications amongst themselves along with the directors of the trust/governors or there may be provision for an appeal panel of some sort.

None of the above stages are statutory. They outline a typical scenario as it often unfolds.

If the grievance is still not resolved at this stage then the branch and affected members will need to consider how and if they can progress the matter. This will usually include discussions with the relevant regional / national official.

Whilst there is no guarantee that a collective grievance will be successful, where the ground work has been done and management know that the whole branch is behind the action they will at least be forced to consider the issues and provide a satisfactory resolution without the need for industrial action or legal cases.

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¹ An effective means of carrying out a survey is to use an online questionnaire, a link to which can be emailed to potential respondents. Another advantage is that the responses are stored online and can be accessed securely by the collective grievance organisers.