

COU16D006

Title: Revised Statute 7: Amendments to Ordinances
Author: Registrar & Secretary
Date: 19 September 2016
Circulation: The Council - 10 October 2016
Agenda: COU16A001
Status: Open

Issue

At its meeting in March Council approved by Special Resolution the revised Statute 7 (essentially the Statute covering disciplinary and dismissal procedures for academic staff) which was subsequently approved by the Privy Council to take effect on a date to be notified. This allowed discussions to proceed with UCU on the necessary Ordinances to give effect to the principles in the revised Statute. A revised Ordinance 6 (applying to the generality of staff which has been agreed with UCU) and a new Ordinance 7 (applying to the Vice-Chancellor which he has agreed) are attached.

Recommendation

Council is invited to approve the revised Ordinances which have been the subject of full and constructive discussions with UCU and the Vice-Chancellor and to propose to the Privy Council that the revised Statute takes effect from 1 December 2016.

Resource Implications

These processes are significantly less resource intensive than those under the previous Statutes.

Risk Implications

N/A

Equality and Diversity

N/A

Timing of decisions

Following this meeting of Council notice will be given to all staff of the implementation of the new Statute and Ordinances from 1 December 2016, and the Privy Council will be invited to give effect to the Statute on that date.

Further Information

Further information is available from the Registrar and Secretary, Mr Brian Summers, tel. 01603 592208, email b.summers@uea.ac.uk

Previous references refer: Council 29 June 2015 (COU14D061), Confidential Minute 80* (COU15M007); Council 11 January 2016 (COU15D031), Minute 42 (COU15M006); Council 14 March 2016 (COU15D040), Minute 55 (COU15M007).

Attachments

Revised Statute 7
Revised Ordinance 6
New Ordinance 7

STATUTE 7

1. This Statute applies to the academic staff. For the purposes of this Statute the academic staff are:
 - 1.1 persons employed by the University under Academic Teaching and Research (ATR) or Academic Teaching and Scholarship (ATS) terms and conditions of employment;
 - 1.2 members of the management and senior administrative staff employed under Administrative, Library and Computer (ALC) terms and conditions of employment; and
 - 1.3 such other members of staff as may be determined by the Council from time to time.
2. Additionally, the guiding principle set out in sub-paragraph 4.1 will apply in the case of persons employed by the University under Research and Analogous staff terms and conditions of employment or Associate Tutor terms and conditions of employment in respect of any procedures of the nature of those referred to in paragraph 6 which apply to such persons.
3. The Council shall ensure that there are in place procedures governing the employment relationship with academic staff including:
 - 3.1 the appointment, development and reward of staff; and
 - 3.2 the ordinances described in paragraph 6 which shall apply to members of the academic staff other than the Vice-Chancellor; and
 - 3.3 an ordinance for the dismissal and removal from office of the Vice-Chancellor.
4. The Council shall approve ordinances to be adopted under paragraph 6 and shall apply the following guiding principles:
 - 4.1 ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges (Academic Freedom);
 - 4.2 enable the University to deliver its mission, vision and associated activities, efficiently and economically;
 - 4.3 apply the principles of justice and fairness; and
 - 4.4 seek to advance the principles of equality and diversity.
5. Any policy or procedure made under paragraph 3, or paragraph 6, shall be construed in its application to give effect to the guiding principles set out in paragraph 4 and for the avoidance of doubt any member of staff to whom this statute applies may raise the principle of Academic Freedom as an issue to be taken into account in any investigation, hearing or appeal in circumstances where these are relevant to the possibility of dismissal or a loss of privileges.

6. The ordinances referred to in sub-paragraph 3.2 are procedures for:
 - 6.1 the handling of disciplinary cases including the dismissal of academic staff for reasons of misconduct and for appeals against disciplinary action. Such procedures shall provide adequate opportunities for improvement including the use of warnings, with summary dismissal only in cases of gross misconduct. Where suspension is considered appropriate, it shall be for no longer than is necessary and will be subject to regular review;
 - 6.2 the dismissal of members of academic staff by reason of redundancy and appeals against such dismissals; any such procedure shall provide for measures which seek to mitigate the requirement for compulsory redundancies and make provision for collective consultation, where appropriate;
 - 6.3 the dismissal of members of academic staff (following confirmation in post after any applicable probationary period) by reason of incapability and appeals against such dismissals; such procedures shall provide adequate opportunities for improvement including the use of warnings;
 - 6.4 the dismissal of members of academic staff on the grounds of ill health or medical incapacity and appeals against such dismissals. In all cases where the dismissal of a member of staff is a possibility, the panel shall give due consideration to advice obtained from the University's occupational health advisers, medical evidence submitted by the staff member from a qualified medical practitioner involved in their treatment and any additional medical evidence (including independent medical evidence) that may be requested by the panel;
 - 6.5 the review of performance and progress of academic staff during any probationary period to which their appointment or employment is subject, and for the dismissal of such staff during or at the end of their probationary period in the event of unacceptable progress or performance, and appeals against such dismissals. The primary purpose of the procedure shall be to enable the member of staff to become effective in the role and where necessary to bring about a sustained improvement in performance and ensure the member of staff has adequate opportunity to achieve this;
 - 6.6 the dismissal of members of academic staff for any reason other than the reasons specified in sub-paragraphs 6.1 to 6.5 and appeals against such dismissals;
 - 6.7 the handling of grievances raised by members of academic staff and appeals against grievance outcomes.
7. The following principles shall be incorporated in the ordinances referred to in paragraph 6:
 - 7.1 procedures shall be applied to enable issues to be resolved informally where appropriate and within a reasonable timescale;
 - 7.2 procedures shall be based upon the principles of natural justice;
 - 7.3 in all cases where dismissal is a possibility, an internal panel shall be convened to determine the case which shall comprise:
 - 7.3.1 a Chair
 - 7.3.2 one senior manager; and

- 7.3.3 one member of the Senate, or a member of the academic staff nominated by the Senate, each being a person whom the member of academic staff facing dismissal could not reasonably perceive to be biased or prejudiced;
 - 7.4 redundancy dismissals arising from departmental closure or significant organisational restructure shall only occur where Council or a committee appointed by Council has approved the proposal;
 - 7.5 appeals against dismissal shall be heard by a panel of three persons which shall include:
 - 7.5.1 one independent member of Council, or another independent person not being a person employed by the University; and
 - 7.5.2 a member of the Senate, or a member of academic staff nominated by the Senate, each being a person whom the member of academic staff facing dismissal could not reasonably perceive to be biased or prejudiced.
- 8. The provisions of this Statute will be applied only insofar as they are not in conflict with legislation which is current for the time being or with any regulations, codes or guidance issued in accordance with the provisions of such legislation.

ORDINANCE 6

Part I	General provisions
Part II	Grievance procedure
Part III	Disciplinary procedure
Part IV	Capability/performance improvement procedure
Part V	Ill health/incapacity procedure
Part VI	Redundancy procedure
Part VII	Procedure for dismissal on other grounds
Part VIII	Fixed-term employment
Part IX	Hearing and appeal panels

PART I: GENERAL PROVISIONS

1 Scope

- 1.1 This Ordinance applies to all academic staff (as defined in paragraph 1 of Statute 7), other than the Vice-Chancellor.

2 Right to be accompanied

- 2.1 The University will determine which procedure is to be followed and the decision will be final.
- 2.2 In all panel hearings constituted under Part IX of this Ordinance and where otherwise provided for under this Ordinance, a member of staff shall have the right to be accompanied by a work colleague or a trade union representative.
- 2.3 The chosen companion may address the hearing and may confer with the member of staff during the hearing, but is not permitted to answer questions on behalf of the member of staff.
- 2.4 If the companion is not available to attend at the time proposed for the hearing in question and will not be available for more than five working days afterwards, the member of staff may be asked to choose someone else to accompany him/her.
- 2.5 A companion will be permitted to take paid time off during working hours, with appropriate adjustments, to attend the hearing. No-one is obliged to act as a companion if they do not wish to do so.

3 Assistance for persons with disabilities

- 3.1 If the member of staff has any disability which may require reasonable adjustments at any meeting or hearing under this Ordinance, the member of staff should request those facilities in advance of the meeting or hearing.

4 Appeals against dismissal

- 4.1 Where the decision of an appeal panel hearing is to reject an appeal against dismissal the date of termination will be the original date notified to the member of staff in the original decision.
- 4.2 Where a member of staff appeals against dismissal, the date on which the dismissal takes effect will not be delayed pending the outcome of the appeal.
- 4.3 Appeals will normally be heard within the notice period in cases of dismissal.

5 Suspension

- 5.1 If suspended from work under this Ordinance the member of staff must not without the prior written authority of the Director of Human Resources or a person nominated on his/her behalf (such authority to be granted, subject to appropriate conditions, in order to enable the member of staff to prepare for any formal proceedings):
- 5.1.1 attend the University premises or have contact with other members of staff, students or funding bodies;
- 5.1.2 access University facilities including email systems and databases.

- 5.2 Suspension will be for no longer than is necessary and will be kept under review, normally every four weeks. The reason(s) for suspension and the initial period of suspension shall be notified in writing to the member of staff.
- 5.3 A member staff retains the right to contact his/her trade union representative when suspended.
- 5.4 Suspension is to be considered a neutral act and will normally be on full pay. It is not a disciplinary penalty. In exceptional circumstances, if the suspension is not on full pay, this would need to be ratified by the Vice-Chancellor.
- 5.5 Suspension must be authorised by the Director of Human Resources or a person nominated on his/her behalf. In limited circumstances (for example, where it is necessary to protect the University's interests, or the safety of other members of staff) and where the Director of Human Resources or a person nominated on his/her behalf is not available, another manager (grade 9 or above) may instruct a member of staff to leave the place of work and stay away until further notice. This must be reported to the Director of Human Resources or, in the absence of the Director of Human Resources, a Human Resources Manager as soon as possible in order that a decision can be made about whether the member of staff should be formally suspended.

6 Definition of 'working days'

- 6.1 A "working day" is any day, Monday to Friday, on which the University is formally open. English bank and public holidays and other days such as at Christmas and Easter when the University is formally closed are excluded.

7 Third party organisations

- 7.1 The application of the procedures contained in this Ordinance may be modified by the Director of Human Resources or a person nominated on his/her behalf in cases where the member of staff employed by the University works in, or is managed by, a third party organisation (for example, where the member of staff is on a joint employment contract). This includes, in particular (but is not limited to), the procedures contained Parts II, III, IV, V, VII and IX of this Ordinance.

8 Time limits

- 8.1 Time limits referred to in this Ordinance are indicative only. There may be circumstances, particularly in complex cases, where it is not reasonable or practicable for the stated time limits to be complied with. Where this is the case, members of staff will be notified accordingly and provided with an explanation for any delay. Time limits may also be varied by mutual agreement and the University would consider any request.
- 8.2 Any meeting or hearing convened under this Ordinance may be adjourned if the person chairing or conducting the meeting or hearing considers this is appropriate.

9 Definitions

- 9.1 "Executive Team" means the University's senior management team comprising the Vice-Chancellor, Pro-Vice-Chancellors, Executive Deans and Registrar & Secretary.
- 9.2 "Senior Manager" means a Head of School or Head of Service.

PART II: GRIEVANCE PROCEDURE

1 Purpose

- 1.1 The purpose of this procedure is to resolve individual grievances promptly, fairly, consistently, and so far as may be possible within the relevant School, Service or other relevant area of the University.

2 Scope

- 2.1 Save as provided in paragraph 2.2, this procedure applies to grievances by members of staff concerning their appointments or employment where those grievances relate to themselves as individuals or their personal dealings or relationships with other staff.
- 2.2 This procedure does not apply to:
- 2.2.1 any complaint about disciplinary action or dismissal or any other matter for which express provision is made elsewhere in this Ordinance;
 - 2.2.2 any complaint relating to grading or promotion decisions, which should be raised through the University's grading or promotion appeals procedure;
 - 2.2.3 grievances concerning two or more members of staff (collective grievances) raised by a representative of a recognised trade union, in relation to which the University's Collective Disputes Procedure applies;
 - 2.2.4 members of staff who are no longer employed by the University;

3 Informal resolution

- 3.1 A member of staff having a grievance should, as soon as reasonably practicable after the subject matter of the grievances arises, raise it informally with their immediate line manager. If the grievance relates to the member of staff's immediate line manager then the matter could be raised with the next level of management.

4 Formal procedure

Stage 1

- 4.1 If a member of staff wishes to raise a formal grievance or if the grievance has not been resolved by informal discussions under paragraph 3.1, the member of staff may, within 10 working days of those discussions having ended, raise the grievance in writing with the Head of School, Service, or other relevant area. If the grievance relates to the member of staff's immediate line manager then the matter should be raised with the next level of management.
- 4.2 The written grievance should clearly state the substance of the grievance (including any relevant facts, dates and the names of individuals involved) and the redress sought. In some situations the member of staff may be asked to provide further information.
- 4.3 The amount of any investigation required will depend on the nature of the grievance and will vary from case to case. It may involve interviewing and taking statements from the member of staff and any witnesses and/or reviewing relevant documents. In some

cases an investigation may be initiated before holding a grievance meeting. In other cases a grievance meeting may be held before deciding what investigation (if any) to carry out.

- 4.4 The Head of School, Service, or other relevant area, or other relevant person in the University will convene a meeting with the member of staff to discuss the grievance as soon as reasonably practicable and, in normal circumstances, within 10 working days of the written grievance being submitted. When convening the meeting the Head of School, Service or other relevant person in the University will inform the member of staff of his/her right to be accompanied. If it is not possible to deal with the matter within this time, the member of staff will be given an explanation for the delay and told when he/she can expect a response.
- 4.5 The purpose of the grievance meeting is to enable the member of staff to explain his/her grievance and how he/she thinks it should be resolved.
- 4.6 Following the grievance meeting it may be necessary to carry out further investigations and hold further grievance meetings as the Head of School, Service, or other relevant area, or other relevant person in the University considers appropriate. Such meetings will be arranged without unreasonable delay.
- 4.7 Normally within five working days of the final grievance meeting, the Head of School, Service, or other relevant person in the University will notify the member of staff in writing of the outcome of the grievance.

Stage 2

- 4.8 If the member of staff is dissatisfied with the outcome of Stage 1, the member of staff may appeal in writing to the Director of Human Resources, within 10 working days of being informed of the Stage 1 outcome, for redress of the grievance.
- 4.9 The written appeal must state clearly why the member of staff is not satisfied with the outcome of Stage 1 and the redress sought.
- 4.10 The appeal will normally be a review of the decision taken at Stage 1. The presentation of new evidence by either party will not usually be permitted, and if there is new evidence, this would need to be exchanged in good time. The Chair of the appeal would decide if the new evidence will be considered.
- 4.11 A grievance appeal meeting will be convened with the member of staff to discuss the grievance appeal as soon as reasonably practicable and, in normal circumstances, within 10 working days of the written grievance appeal being submitted. If it is not practicable to deal with the matter within this time, the member of staff will be given an explanation for the delay.
- 4.12 The grievance appeal meeting will normally be conducted by a member of staff of at least equivalent seniority, another Head of School, Service, or other relevant area, the Registrar & Secretary, a Dean of Faculty, or a Pro-Vice Chancellor.
- 4.13 Normally within 10 working days of the grievance appeal meeting, the manager who conducted the grievance appeal meeting will notify the member of staff in writing of the outcome of the grievance appeal.
- 4.14 This is the final stage of the grievance procedure and there is no further right of appeal.

5 Other procedures and invalid grievances

- 5.1 If the subject matter of a grievance is properly being considered with (or forms the whole or any part of):
- 5.1.1 a determination under Part III (Disciplinary procedure);
 - 5.1.2 a determination under Part IV (Capability/performance improvement procedure);
 - 5.1.3 a determination under Part V (Ill-health/incapacity procedure);
 - 5.1.4 a determination under Part VI (Redundancy procedure);
 - 5.1.5 a determination under Part VII (Dismissal on other grounds);
 - 5.1.6 a determination under Part VIII (Fixed-term employment);
 - 5.1.7 an appeal under the appeals provisions in Part IX (Hearing and appeal panels)

action upon the grievance under the formal stages of this procedure may be deferred until the relevant determination or appeal has been heard or the time for instituting it has passed. The member of staff shall normally be informed of such deferral within 10 working days of a grievance or grievance appeal being submitted under the formal stages of this procedure.

- 5.2 If the matter has been finally determined under the Parts of this Ordinance listed in paragraph 5.1, or other prescribed procedure being no less favourable than the grievance procedure, or the grievance is frivolous, vexatious or invalid, it may be summarily dismissed, or no action taken upon it, and the member of staff shall be notified accordingly, in writing, within 10 working days of the final determination in those other procedures or the grievance being submitted, as appropriate. Such decision should be taken on reasonable grounds.
- 5.3 Written grievances will be placed on the personal file of the member of staff making the grievance together with a record of any decisions taken and any notes or other documents compiled during the grievance process. If members of staff wish to provide comments on a decision, they would be kept on their personal file.

PART III: DISCIPLINARY PROCEDURE

1 Purpose and principles

- 1.1 The purpose of this procedure is to help members of staff to achieve and maintain required standards of conduct and to encourage improvement where necessary.
- 1.2 It is the policy of the University to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and give members of staff the opportunity to respond before taking any formal action.

2 Scope

- 2.1 Where it emerges during proceedings under this Part III that a member of staff's conduct may have been wholly or partly attributable to a medical condition, consideration will be given:
 - 2.1.1 to dealing with this aspect of the case prior to proceeding under this Part III;
 - 2.1.2 to dealing with the case under Part V (Ill health/incapacity procedure).
- 2.2 However, any proceedings under this Part III shall be valid even if they could have been brought or considered under Part V and a member of staff may be subject to a penalty, including dismissal, under this Part III notwithstanding the fact that his/her conduct may have been wholly or partly attributable to a medical condition.
- 2.3 The standards of conduct expected shall be set by the University, Head of School, Service, or other relevant person in the University or those nominated by him/her in accordance with the reasonable requirements of the post. Disciplinary action may be taken where these standards of conduct have not been met. A non-exhaustive list of potential examples of gross misconduct is contained in the Annex of this Part III.

3 Minor conduct issues

- 3.1 Minor conduct issues can often be resolved informally between the member of staff and his/her line manager or another more senior manager. It is important to deal with any concerns at an early stage before negative behaviours become entrenched and potentially more difficult to resolve.
- 3.2 Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

4 Confidentiality

- 4.1 The University will deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All members of staff must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 4.2 Members of staff and anyone accompanying members of staff (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure, unless agreed by all parties.

5 Investigation

- 5.1 When a potential disciplinary matter arises and except in cases where the facts are not in dispute, an investigation will usually be carried out in order to gather the relevant facts and supporting evidence promptly before recollections fade.
- 5.2 The amount of investigation required will depend on the nature of the potential disciplinary matter and will vary from case to case. It may involve interviewing and taking statements from the member of staff concerned and any witnesses and/or reviewing relevant documents. Normally the relevant supervisor or line manager or a person nominated on his/her behalf will carry out the investigation (“the Investigating Officer”), following consultation with HR.
- 5.3 Members of staff should co-operate fully and promptly in any investigation. This will include informing the Investigating Officer of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.
- 5.4 Investigative interviews are solely for the purpose of fact finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.5 Members of staff do not normally have the right to be accompanied at an investigative interview but this would not be unreasonably refused.
- 5.6 Following the investigation, the Investigating Officer may determine:
 - 5.6.1 that there is no disciplinary case to answer;
 - 5.6.2 that the matter can be appropriately dealt with informally;
 - 5.6.3 that the matter should be considered under Part IV (Capability/performance improvement procedure);
 - 5.6.4 that the matter should be considered under Part V (Ill-health/incapacity procedure);
 - 5.6.5 that there are sufficient grounds for consideration of a formal disciplinary warning or dismissal.

6 Suspension

- 6.1 A member of staff may be suspended in circumstances where misconduct is alleged, where there are risks to other parties or property, where relationships have broken down such as to impair efficiency and to assist an investigation into these and similar matters or where it is otherwise justified by the nature or seriousness of the misconduct. Suspension will be for no longer than is necessary and will be kept under review, normally every four weeks. The reason(s) for suspension and the initial period of suspension shall be notified in writing to the member of staff.
- 6.2 Suspension is to be considered a neutral act and will normally be on full pay. It is not a disciplinary penalty. In exceptional circumstances, if the suspension is not on full pay, this would need to be ratified by the Vice-Chancellor.

7 Formal warnings

- 7.1 Where an attempt to resolve a minor matter of concern has failed or where the matter is more serious but falls short of constituting possible good cause for dismissal, consideration may be given to issuing a formal warning.
- 7.2 Depending on the seriousness of the matter, the procedure may be started at any stage.
- 7.3 If the member of staff's conduct does not meet acceptable standards, he/she will normally be given a formal oral warning.
- 7.4 If further misconduct of any kind occurs, or if the misconduct is sufficiently serious to warrant a written warning, but not serious enough to justify a final written warning, the member of staff will normally be given a written warning.
- 7.5 If further misconduct of any kind occurs, or if the misconduct is sufficiently serious to warrant only one written warning, but not serious enough to justify dismissal, the member of staff will normally be given a final written warning.
- 7.6 If further misconduct of any kind occurs and the member of staff still fails to reach the prescribed standards, the matter will be referred for consideration of dismissal under the procedures set out in this Part III.
- 7.7 The purpose of a formal warning is to inform a member of staff that their conduct is below the standard required and if there is no improvement, this could result in further disciplinary action being taken to include dismissal.
- 7.8 A formal warning shall not be issued to a member of staff without the member of staff being required to attend a disciplinary hearing at which they may respond to any concerns raised. In advance of the hearing, the member of staff shall be given:
- 7.8.1 not less than 5 working days' notice of the date, time and venue for the planned disciplinary hearing;
 - 7.8.2 details of the matter(s) that will be considered at the hearing to include reference to any previous informal action taken to resolve the matter(s) if appropriate;
 - 7.8.3 any material that will be considered at the hearing including, if appropriate, any witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality;
 - 7.8.4 notification or their right to be accompanied at the hearing by a work colleague or trade union representative.

8 Conduct of disciplinary hearings where dismissal is not being considered

- 8.1 The disciplinary hearing shall be conducted by a person at an appropriate level of seniority who has not previously been involved in the matter ("the Chair").
- 8.2 The Chair shall set the procedure to be followed as appropriate for the proper consideration of the matter, to include provision for adjournments if necessary. The Chair shall have complete discretion as to the admissibility and presentation of

evidence including any witnesses to be called. In exercising his/her discretion the Chair shall be guided by the requirement that the evidence, written and oral, must be confined to the subject matter of the hearing.

- 8.3 The member of staff may ask relevant witnesses to appear at the hearing, provided sufficient notice is given to arrange their attendance. The member of staff or his/her companion will be given the opportunity to respond to any information given by a witness, and questions might be asked to clarify matters raised in evidence.
- 8.4 Normally within 10 working days of the hearing, the Chair shall write to the member of staff and notify him/her of his/her decision. If there is to be a delay in notifying the decision, the Chair shall contact the member of staff to explain the reason for the delay and inform him/her of the date when notification will be made. The outcome of a disciplinary hearing may be:
- 8.4.1 dismissal of the matter(s);
 - 8.4.2 a referral for informal action under paragraph 3 above; or
 - 8.4.3 or a formal warning under paragraph 9 below.

9 Issuing a formal warning

- 9.1 Prior to issuing a formal warning, consideration shall be given to whether the matter raised would normally be resolved informally and if so whether a reasonable attempt has been made to do so. Consideration will also be given to all relevant factors including the extent to which standards have been breached, the member of staff's previous conduct, position, length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty.
- 9.2 If a formal warning is considered appropriate, the warning shall state:
- 9.2.1 whether it is an oral, written or final written warning;
 - 9.2.2 the Chair's findings;
 - 9.2.3 where appropriate, a reference to any attempt to resolve the complaint(s) informally prior to further action being taken;
 - 9.2.4 the required improvement in conduct;
 - 9.2.5 the consequences, should the required improvement not be achieved and sustained, e.g. further disciplinary action;
 - 9.2.6 the length of time for the warning to operate (normally six months for an oral warning or written warning and 12 months for a final written warning);
 - 9.2.7 the member of staff's right to appeal against the warning and the procedure for doing so.
- 9.3 A copy of the formal warning and notes of the hearing shall be retained on the member of staff's file for the duration of the warning. After the active period, the warning will remain permanently on the member of staff's personal file but will be disregarded in deciding the outcome of future disciplinary hearings.

10 Dismissal and action short of dismissal

- 10.1 Where attempts to resolve matters informally or through issuing formal warnings have failed or where there is an allegation of misconduct sufficient to justify considering dismissal, the Head of School, Service, or other relevant person in the University shall write to the Director of Human Resources to request that a hearing panel be established in accordance with paragraph 1 of Part IX.
- 10.2 If the Director of Human Resources or person nominated on his/her behalf determines that a hearing panel should be established, he/she will request the Registrar & Secretary to establish the panel in accordance with paragraph 1 of Part IX.
- 10.3 The hearing panel, having considered the complaint(s) and any defence to the complaints presented by the member of staff, shall have available the following determinations or penalties, to include a combination of determinations or penalties for any one or all of the complaints:
 - 10.3.1 to dismiss the complaint(s) against the member of staff;
 - 10.3.2 to refer the matter to be dealt with informally under an earlier stage of this procedure;
 - 10.3.3 to refer the matter for a formal warning under an earlier stage of this procedure;
 - 10.3.4 to issue a formal warning to the member of staff;
 - 10.3.5 to dismiss the member of staff with notice in accordance with the provisions of their contract of employment;
 - 10.3.6 to designate the member of staff's conduct as constituting misconduct such as to merit summary dismissal without notice.
- 10.4 Where a panel has determined that a matter be referred for action under an earlier part of this procedure, the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming the panel's decision and advising on the action to be taken and giving a timescale for that action to be taken.
- 10.5 Where a panel has determined a penalty, the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming the penalty and take all such actions as are necessary to implement that penalty to include:
 - 10.5.1 where the panel has designated the conduct as misconduct such as to merit summary dismissal without notice, to forthwith dismiss the member of staff;
 - 10.5.2 in all other cases of dismissal to issue notice of dismissal with notice in accordance with the provisions of his/her contract of employment.
- 10.6 Where the panel has dismissed the complaint(s), the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming this.
- 10.7 When informing the member of staff of the hearing panel's decision (unless the panel has dismissed the complaints), the Director of Human Resources or a person nominated on his/her behalf will inform the member of staff that he/she has a right to appeal against the decision and confirm the arrangements for submitting an appeal.

- 10.8 Any dismissal or notice of dismissal shall be withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed or should be dismissed with notice.

11 Attendance at formal hearings

- 11.1 The member of staff shall make reasonable efforts to attend a formal disciplinary hearing when requested to do so.
- 11.2 If a member of staff fails to attend without good reason, or is persistently unable to do so, a decision may be taken based on the available evidence.

12 Appeals

- 12.1 In all cases of formal disciplinary action, the member of staff has a right to appeal against any sanction imposed. This will be confirmed in writing to the member of staff at the time the sanction is notified, together with confirmation of the arrangements for submitting an appeal.
- 12.2 An appeal against a formal warning is to be submitted to the Director of Human Resources within 10 working days of receipt of written confirmation of the warning being imposed. The appeal shall be submitted in writing and the grounds for appeal shall be stated.
- 12.3 An appeal against a formal warning will normally be heard by a Senior Manager or a member of the Executive Team who has had no previous involvement in the matter ("the Appeal Chair"). The Appeal Chair shall set the procedure to be followed as appropriate for the proper consideration of the complaint, to include provision for adjournments if necessary. The Appeal Chair shall have complete discretion as to the admissibility and presentation of evidence including any witnesses to be called. The appeal hearing will not usually be a rehearing. In exercising his/her discretion the Appeal Chair shall be guided by the requirement that the evidence, written and oral, must be confined to the subject matter of the complaint.
- 12.4 Normally within 10 working days of the appeal hearing, the Appeal Chair shall write to the member of staff notifying him/her of the decision. If there is to be a delay in notifying the decision, the Appeal Chair shall contact the member of staff to explain the reason for the delay and give a date when notification will be made. The Appeal Chair's decision will be final.
- 12.5 An appeal against a decision of the panel under paragraph 10.3 of this Part III, including an appeal against dismissal, or dismissal without notice, is to be submitted to the Director of Human Resources within 10 working days of receipt of written notice of dismissal. The appeal shall be submitted in writing and the grounds for appeal shall be stated. An appeal panel shall be established in accordance with paragraph 1 of Part IX to hear the appeal.

Annex

13 Examples of gross misconduct

- 13.1 The following list provides examples of offences which may be regarded by the University as gross misconduct and/or sufficient to justify dismissal. This list is not intended to be exhaustive:
- 13.1.1 theft, deliberate falsification of records or claims against the University or other acts of dishonesty;
 - 13.1.2 fighting, assault on another person or other physical violence;
 - 13.1.3 abusive behaviour (including violent or offensive language);
 - 13.1.4 physical, verbal or psychological bullying of any type;
 - 13.1.5 fraud;
 - 13.1.6 deliberate damage to University property or interests;
 - 13.1.7 serious breach of health and safety rules or procedures;
 - 13.1.8 serious incapacity through alcohol or being under the influence of illegal drugs, or the sale of alcohol or drugs on University premises;
 - 13.1.9 serious negligence which causes unacceptable loss, damage or injury to persons or University property or finances;
 - 13.1.10 serious act of insubordination (such as a refusal to carry out a lawful instruction);
 - 13.1.11 breach of confidentiality (including a failure to maintain confidentiality in an investigation relating to a complaint of harassment) but subject to the Public Interest Disclosure Act 1998;
 - 13.1.12 any unlawful act of discrimination, victimisation or harassment;
 - 13.1.13 unauthorised computer use or access;
 - 13.1.14 absence without agreement or just cause;
 - 13.1.15 breach of the Anti-corruption Policy;
 - 13.1.16 being convicted of a serious criminal offence (whether committed during the course of your employment or not) or being investigated for such an offence where, in the reasonable opinion of the University, such investigation has resulted in the loss of trust and confidence in the employee by the University or by the general public or students of the University;
 - 13.1.17 misuse of e-mail or of the internet;
 - 13.1.18 serious breach of the Data Protection Act 1998 or serious breach of the University's Data Protection Policy.

PART IV: CAPABILITY/PERFORMANCE IMPROVEMENT PROCEDURE

1 Purpose and principles

- 1.1 The purpose of this procedure is to help and encourage members of staff to achieve and maintain satisfactory performance standards and to encourage improvement where necessary.
- 1.2 It is the policy of the University to ensure that any performance matter is dealt with fairly and that steps are taken to establish the facts and give members of staff the opportunity to respond before taking any formal action. Appropriate timescales should be communicated clearly.

2 Scope

- 2.1 Where it emerges during proceedings under this Part IV that a member of staff's performance/capability may have been wholly or partly attributable to a medical condition, consideration will be given:
 - 2.1.1 to dealing with this aspect of the case prior to proceeding under this Part IV;
 - 2.1.2 to dealing with the case under Part V (Ill health/incapacity procedure).
- 2.2 However, any proceedings under this Part IV shall be valid even if they could have been brought or considered under Part V and a member of staff may be subject to a determination, including dismissal, under this Part IV notwithstanding the fact that his/her performance/capability may have been wholly or partly attributable to a medical condition.

3 Disabilities

- 3.1 Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that should be made to the member of staff's working arrangements. These considerations should take place prior to any formal procedures.

4 Confidentiality

- 4.1 It is the aim of the University to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All members of staff must treat as confidential any information communicated to them in connection with a matter which is subject to this procedure.
- 4.2 Members of staff and anyone accompanying members of staff (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure, unless agreed by all parties.

5 Identifying performance issues

- 5.1 The standards of performance expected shall be set by the University, Head of School, Service, or other relevant person in the University or those nominated by him/her in accordance with the reasonable requirements of the post. If there is a concern that the required standards are not being met, action may be taken under this procedure.

- 5.2 In the first instance, performance issues should normally be dealt with informally between a member of staff and his/her line manager as part of day-to-day management. Positive support and encouragement shall be offered to assist the member of staff in meeting the required standards. Where appropriate, a note of any such informal discussions may be placed on a member of staff's personal file but will be ignored for the purposes of any future capability hearings. The formal procedures should be used for more serious cases, or in any case where earlier informal discussion has not resulted in satisfactory improvement.
- 5.3 Informal discussions may help:
- 5.3.1 clarify the required standards;
 - 5.3.2 identify areas of concern;
 - 5.3.3 establish the likely causes of poor performance;
 - 5.3.4 identify any coaching or training needs; and/or
 - 5.3.5 set targets for improvement and a timescale for review;
 - 5.3.6 identify any means of support to achieve objectives.
- 5.4 In many cases informal discussions will help to resolve performance issues and no further action may be necessary.
- 5.5 Where concerns about a member of staff's performance are identified, an assessment will usually be carried out in order to decide if there are grounds for taking formal action under this procedure. The procedure involved will depend on the circumstances, but may involve reviewing the member of staff's personal file, gathering any relevant documents, monitoring the member of staff's work and, if appropriate, interviewing the member of staff and/or other individuals confidentially regarding the member of staff's work. A review by the relevant Dean of Faculty or Associate Dean or the Registrar can take place if agreed by all parties.

6 Formal capability hearings

- 6.1 If there are grounds for taking formal action regarding alleged poor performance, the member of staff will be required to attend a capability hearing.
- 6.2 The aims of a capability hearing will usually include:
- 6.2.1 setting out the required standards that the University considers the member of staff may have failed to meet, and considering the evidence for that;
 - 6.2.2 allowing the member of staff to ask questions, present evidence, call witnesses, respond to evidence and make representations;
 - 6.2.3 establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement;
 - 6.2.4 identifying whether there are further measures, such as additional training or supervision, which may improve performance;
 - 6.2.5 where appropriate, discussing targets for improvement and a time-scale for review;

6.2.6 if dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

6.3 Depending on the seriousness of the matter, the formal procedure may be started at any stage. However, members of staff will not be dismissed for performance reasons without previous warnings.

7 Conduct of capability hearings where dismissal is not being considered

7.1 A formal warning shall not be issued to a member of staff without the member of staff being required to attend a capability hearing at which they may respond to any concerns raised. In advance of the hearing, the member of staff shall be given:

7.1.1 not less than 5 working days' notice of the date, time and venue for the planned hearing, including the exchange of relevant material;

7.1.2 details of the matter(s) that will be considered at the hearing to include reference to any previous informal action taken to resolve the matter(s) if appropriate;

7.1.3 any material that will be considered at the hearing including, if appropriate, any witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality;

7.1.4 notification of their right to be accompanied at the hearing by a work colleague or trade union representative.

7.2 The member of staff may ask relevant witnesses to appear at the hearing, provided sufficient notice is given to arrange their attendance. The member of staff or his/her companion will be given the opportunity to respond to any information given by a witness, but will not normally be permitted to cross examine witnesses.

8 Dismissal and further action short of dismissal

8.1 Where attempts to resolve complaints informally or through issuing formal warnings have failed or where the matter is sufficient to justify considering dismissal or other penalty, the Head of School, Service or other relevant person in the University shall write to the Director of Human Resources to request that a hearing panel be established in accordance with paragraph 1 of Part IX.

8.2 If the Director of Human Resources or person nominated on his/her behalf determines a hearing panel should be established, he/she will request the Registrar & Secretary to establish the panel in accordance with paragraph 1 of Part IX.

9 Formal capability hearing stages

Stage 1 hearing

9.1 A Stage 1 capability hearing shall be conducted by a person at an appropriate level of seniority. This will usually be the member of staff's line manager or Head of School or Service, or a person nominated on his/her behalf ("the Stage 1 Chair").

- 9.2 Following a Stage 1 capability hearing, if the Stage 1 Chair decides the member of staff's performance is unsatisfactory, the member of staff will be given a written warning setting out:
- 9.2.1 the areas in which the member of staff has not met the required performance standards;
 - 9.2.2 targets for improvement;
 - 9.2.3 any measures, such as additional training or supervision, which will be taken with a view to improving performance;
 - 9.2.4 a period for review;
 - 9.2.5 the consequences of failing to improve within the review period, or of further unsatisfactory performance.
- 9.3 A written warning may be authorised by the Head of School, Service or a person nominated on his/her behalf.
- 9.4 The written warning will normally remain active for six months from the end of the review period. After the active period the warning will remain permanently on the member of staff's personal file but will be disregarded in deciding the outcome of any future capability proceedings.
- 9.5 The member of staff's performance will be monitored during the review period. The Head of School, Service, or a person nominated on his/her behalf will write to inform the member of staff of the outcome:
- 9.5.1 if the University is satisfied with the member of staff's performance, no further action will be taken;
 - 9.5.2 if the University is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
 - 9.5.3 if the University considers that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 2 hearing

- 9.6 If a member of staff's performance does not improve within the review period set out in a written warning, or if there is further evidence of poor performance while the written warning is still active, which was not available at stage1, a Stage 2 capability hearing may be held.
- 9.7 A Stage 2 capability hearing shall be conducted by a person at an appropriate level of seniority. This will usually be the member of staff's line manager or Head of School, Service, or a person nominated on his/her behalf ("the Stage 2 Chair").
- 9.8 Following a Stage 2 capability hearing, if the Stage 2 Chair decides that the member of staff's performance is unsatisfactory, the member of staff will be given a final written warning, setting out:
- 9.8.1 the areas in which the member of staff has not met the required performance standards;

- 9.8.2 targets for improvement;
 - 9.8.3 any measures, such as additional training or supervision, which will be taken with a view to improving performance;
 - 9.8.4 an appropriate timed period for review; and
 - 9.8.5 the consequences of failing to improve within the review period, or of further unsatisfactory performance.
- 9.9 A final written warning may be authorised by the Head of School, Service, or a person nominated on his/her behalf.
- 9.10 A final written warning will normally remain active for 12 months from the end of the review period. After the active period, the warning will remain permanently on the member of staff's personal file but will be disregarded in deciding the outcome of future capability proceedings.
- 9.11 The member of staff's performance will be monitored during the review period. The Head of School, Service or a person nominated on his/her behalf will write to inform the member of staff of the outcome:
- 9.11.1 if the University is satisfied with the member of staff's performance, no further action will be taken;
 - 9.11.2 if the University is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
 - 9.11.3 if the University considers that there has been a substantial but insufficient improvement, the review period may be extended.

10 Stage 3 hearing

- 10.1 A hearing panel will be convened as set out in paragraph 8 of this Part IV.
- 10.2 The hearing panel, having considered the matter and any response presented by the member of staff shall have available the following determinations, to include a combination of determinations for any one or all of the matters:
- 10.2.1 to dismiss the matter;
 - 10.2.2 to refer the matter to be dealt with informally under an earlier stage of this procedure;
 - 10.2.3 to refer the matter for a formal warning under an earlier stage of this procedure;
 - 10.2.4 to issue a formal warning to the member of staff;
 - 10.2.5 to extend an active final written warning and set a further period of review;
 - 10.2.6 to redeploy the member of staff into another suitable role at the same or a lower grade;
 - 10.2.7 to dismiss the member of staff with notice in accordance with the provisions of their contract of employment.

- 10.3 Where a panel has determined that a matter be referred for action under an earlier part of the procedure, the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming the panel's decision and advising on the action to be taken and giving a timescale for that action to be taken.
- 10.4 Where a panel has reached a determination, the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming the determination and take all such actions as are necessary to implement that determination to include to issue notice of dismissal with notice in accordance with the provisions of his/her contract of employment.
- 10.5 Where the panel has dismissed the matter, the Director of Human Resources or a person nominated on his/her behalf shall write to the member of staff confirming this.
- 10.6 When informing the member of staff of the hearing panel's decision (unless the panel has dismissed the matter), the Director of Human Resources or a person nominated on his/her behalf will inform the member of staff that he/she has a right to appeal against the decision and confirm the arrangements for submitting an appeal.
- 10.7 Any dismissal or notice of dismissal shall be withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed.

11 Attendance at formal capability hearings

- 11.1 The member of staff shall make reasonable efforts to attend a formal capability hearing when requested to do so.
- 11.2 If a member of staff fails to attend without good reason, or is persistently unable to do so, a decision may be taken based on the available evidence.

12 Appeals

- 12.1 In all cases of formal action under this procedure, the member of staff has a right to appeal against any decision made. This will be confirmed in writing to the member of staff at the time the decision is notified, together with confirmation of the arrangements for submitting an appeal.
- 12.2 An appeal against a formal warning is to be submitted to the Director of Human Resources within 10 working days of receipt of written confirmation of the warning being imposed. The appeal shall be submitted in writing and the grounds for appeal shall be stated.
- 12.3 An appeal against a formal warning will normally be heard by a Senior Manager or a member of the Executive Team who has had no previous involvement in the matter ("the Appeal Chair"). The Appeal Chair shall set the procedure to be followed as appropriate for the proper consideration of the matter, to include provision for adjournments if necessary. The Appeal Chair shall have complete discretion as to the admissibility and presentation of evidence including any witnesses to be called. The appeal hearing will not usually be a rehearing. In exercising his/her discretion the Appeal Chair shall be guided by the requirement that the evidence, written and oral, must be confined to the subject matter of the complaint.
- 12.4 Normally within 10 working days of the appeal hearing, the Appeal Chair shall write to the member of staff notifying him/her of the decision. If there is to be a delay in notifying the decision, the Appeal Chair shall contact the member of staff to explain the reason

for the delay and give a date when notification will be made. The Appeal Chair's decision will be final.

- 12.5 An appeal against a decision of the panel under paragraph 10.2 of this Part IV, including an appeal against dismissal, is to be submitted to the Director of Human Resources within 10 working days of receipt of written notice of dismissal. The appeal shall be submitted in writing and the grounds for appeal shall be stated. An appeal panel shall be established in accordance with paragraph 1 of Part IX to hear the appeal.

PART V: ILL-HEALTH/INCAPACITY PROCEDURE

1 Purpose and principles

- 1.1 The purpose of this procedure is to ensure that members of staff suffering with a medical condition impacting on their employment are dealt with fairly, including taking into account individual circumstances and the provisions of the Equality Act 2010, where applicable.

2 Scope

- 2.1 Concerns about poor performance or conduct, to include poor attendance, shall normally be raised under Part III (Disciplinary procedure) or Part IV (Capability/performance improvement procedure). However, where it is evident, or where it emerges during proceedings under Part III or Part IV, that performance or conduct may have been wholly or partly attributable to a medical condition, consideration shall be given to dealing with the matter under this Part V.
- 2.2 The decision as to whether the matter shall be dealt with under this Part V or under Part III or Part IV shall be a decision of the Director of Human Resources or a person nominated on his/her behalf. There is no right of appeal against this decision.
- 2.3 A decision to deal with the matter under this Part V shall not invalidate actions taken under Part III or Part IV.

3 Medical reports

- 3.1 Where it has been identified that conduct or performance may have been wholly or partly attributable to a medical condition it will be usual for the University to obtain a report from the member of staff's General Practitioner/Specialist and/or an Occupational Health adviser.
- 3.2 In addition the University may obtain and pay for medical evidence from an independent medical specialist.
- 3.3 Medical evidence may be sought at any stage of this procedure but will normally be sought at an early stage to ensure that the University has obtained relevant information before decisions are made in respect of the member of staff.

4 Consultation meeting

- 4.1 Where it has been identified that conduct or performance may have been wholly or partly attributable to a medical condition, and except in cases of alleged serious misconduct, potentially constituting good cause for dismissal, a reasonable attempt will be made to resolve any concerns through discussion with the member of staff and by providing support.
- 4.2 The standards of conduct and performance expected shall be set by the University, Head of School, Service or other relevant person in the University or those nominated by him/her in accordance with the reasonable requirements of the post. If there is a concern that the required standards are not being met, the appropriate manager shall arrange to meet with the member of staff.
- 4.3 In advance of the meeting, the member of staff shall be given:

- 4.3.1 not less than 5 working days' notice of the date, time and venue for the planned meeting;
 - 4.3.2 details of the concerns(s) that will be considered at the meeting to include reference to any previous informal action taken to resolve the concerns(s) if appropriate;
 - 4.3.3 any material that will be considered at the meeting including medical reports and, if appropriate, any absence records or witness statements (subject to maintaining confidentiality requirements) gathered during an investigation;
 - 4.3.4 notification that they may be accompanied at the meeting by a work colleague or trade union representative.
- 4.4 The concerns shall be discussed with the member of staff including any possible outcome. The aim shall be to identify the reasons why the required standards of conduct or performance are not being met and to determine any support that can reasonably be provided to assist the member of staff in meeting the required standards. It will be important to seek the member of staff's own views on their medical condition, timescale for recovery, and any support that may be required to enable him/her to meet the required standard of conduct or performance. The member of staff's views shall be taken into account when deciding what action to take.
- 4.5 Where a medical condition has a substantial and long term adverse effect on a member of staff's ability to carry out normal day to day activities, the University will act in accordance with the requirements of the Equality Act 2010 and give consideration to, and review with the member of staff, whether reasonable adjustments to working arrangements or the workplace will overcome the practical effects of the disability. Such adjustments (with appropriate adjustments in pay) may include:
- 4.5.1 adjustment to working hours, working conditions or arrangements;
 - 4.5.2 time off for counselling, treatment;
 - 4.5.3 a phased return to work following a long term absence;
 - 4.5.4 a transfer to an alternative post.
- 4.6 The member of staff shall make every effort to attend the meeting. If he/she is unable to attend the meeting due to the medical condition, he/she shall have the opportunity to submit any views in writing. If the medical condition prevents or limits direct communication with the member of staff, provision may be made for communication via another appropriate person.
- 4.7 A note of the meeting, to include a record of the discussion, actions agreed and any period of review shall be sent to the member of staff.
- 4.8 Provision may be made for further consultation meetings which shall be arranged and conducted as above.

5 Investigation

- 5.1 A consultation meeting held in accordance with paragraph 4 above may require investigations to be undertaken either to assist in resolving the difficulties as part of the consultation process or because the difficulties have not been resolved as a result of

that process. In some circumstances an investigation may be required before the first consultation meeting.

- 5.2 An investigation will normally include the seeking of appropriate medical evidence in accordance with paragraph 4 above.
- 5.3 The investigation may be carried out by the relevant manager or by a person nominated on his/her behalf.
- 5.4 It may be necessary to gather further evidence by taking statements from witnesses although confidentiality regarding the member of staff's medical condition shall be maintained as far as possible. The member of staff shall be informed that statements are being taken as part of the investigation and invited to nominate witnesses who may give evidence on his/her behalf.
- 5.5 Following the initial investigation, the Director of Human Resources or a person nominated on his/her behalf may determine:
 - 5.5.1 that the matter should not be pursued further;
 - 5.5.2 that the matter can be appropriately dealt with informally;
 - 5.5.3 that the matter should be considered under Part III (Disciplinary procedure);
 - 5.5.4 that the matter should be considered under Part IV (Capability/performance improvement procedure);
 - 5.5.5 that there are sufficient grounds for further consideration under this Part V.

6 Suspension

- 6.1 If appropriate, the member of staff may be suspended while the matter is being considered. Suspension will be for no longer than is necessary and will be kept under review, normally every four weeks. The reason(s) for suspension and the initial period of suspension shall be notified in writing to the member of staff.
- 6.2 Suspension is to be considered a neutral act and will normally be on full pay. It is not a disciplinary penalty. In exceptional circumstances, if the suspension is not on full pay, this would need to be ratified by the Vice-Chancellor.

7 Medical retirement

- 7.1 A member of staff who is a member of the University's pension scheme, may apply for medical retirement subject to the rules of the scheme. In principle, the University will advise members of staff in this position and explore possible options.

8 Dismissal

- 8.1 Where attempts to resolve concerns about a member of staff's capability or conduct through consultation and support have failed or where attempts to resolve complaints through issuing formal warnings have failed or where there is an allegation of misconduct such as could merit dismissal the Director of Human Resources or a person nominated on his/her behalf shall request the Registrar & Secretary to establish a hearing panel in accordance with paragraph 1 of Part IX to consider whether the member of staff's employment should be terminated on the ground of incapacity on

physical or mental health grounds or on any other ground set out in Part III (Disciplinary procedure) or Part IV (Capability/performance improvement procedure).

- 8.2 Following the hearing panel reaching a conclusion, the Director of Human Resources or a person nominated on his/her behalf shall give effect to any decision of the hearing panel that a member of staff should be dismissed and issue notice of dismissal in accordance with the provisions of their contract of employment.
- 8.3 When informing the member of staff of the hearing panel's decision, the Director of Human Resources or a person nominated on his/her behalf shall inform the member of staff that he/she has the right to appeal against the decision and confirm the arrangements for submitting an appeal.
- 8.4 Any dismissal or notice of dismissal shall be cancelled, withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed or should be dismissed with notice.

9 Appeals

- 9.1 An appeal against dismissal, or dismissal without notice, is to be submitted to the Director of Human Resources within 10 working days of receipt of written notice of dismissal. The appeal shall be submitted in writing and the grounds for appeal shall be stated. An appeal panel shall be convened in accordance with paragraph 1 of Part IX to hear the appeal.

PART VI: REDUNDANCY PROCEDURE

1 Principles

- 1.1 The University will always seek to avoid the need for compulsory redundancies. This procedure is designed to ensure that whenever a reduction in staff numbers may become necessary:
- 1.1.1 this is communicated clearly with all affected members of staff;
 - 1.1.2 affected members of staff are treated fairly;
 - 1.1.3 steps are taken to identify ways of avoiding compulsory redundancies;
 - 1.1.4 the University consults with members of staff and recognised trade unions;
 - 1.1.5 any selection for compulsory redundancy is undertaken fairly, reasonably and without unlawful discrimination.

2 Scope

- 2.1 This procedure does not apply to the expiry of a fixed-term contract which will be dealt with in accordance with Part VIII. For the avoidance of doubt, this procedure will apply to the termination of a fixed-term contract during its term on the grounds of redundancy.

3 Definition of redundancy

- 3.1 Dismissal by reason of redundancy has the same meaning as in section 139 of the Employment Rights Act 1996, or successor legislation.

4 Preliminary Stage

- 4.1 As soon as reasonably practical, following an initial decision that a reduction in the academic staff by reason of redundancy may be necessary, there shall be preliminary consultation with appropriate representatives of the academic staff who may be affected and with the staff themselves. Consultation shall take place irrespective of the number of staff who may be affected, and in advance of any final decision that redundancies will be necessary. The consultation process will reflect the University Guidelines for dealing with Redundancy and Redeployment.
- 4.2 This will be preliminary consultation to enable the parties:
- 4.2.1 to receive and where possible address any questions on the change proposed;
 - 4.2.2 to consider any comments or views as a basis for determining any final decision to proceed with the change or otherwise;
 - 4.2.3 to consider ways of avoiding/reducing the number of dismissals, to include consideration of the likelihood of achieving the change by voluntary means including redeployment;
 - 4.2.4 to consider ways of mitigating the consequences of any dismissals;
 - 4.2.5 to seek to agree protocols for communication and for effecting the change if it is to go ahead, including a timetable for actions.

- 4.3 The following information shall be provided to assist the preliminary consultation process:
- 4.3.1 the reasons for the change proposed;
 - 4.3.2 details of the change proposed to include the number and grades of staff who are at risk of redundancy as a result of the change proposed;
 - 4.3.3 the total number of staff of that grade within the School, Service, Department, Centre or other relevant area.
- 4.4 Staff who are absent from work (e.g. due to maternity leave, sick or other leave) will be sent a copy of the information to their home address and will be invited to participate in the consultation process.
- 4.5 Where the situation is not resolved by agreement and/or voluntary means, the School, Service, Department, Centre or other relevant area or other relevant person in the University area shall notify the Director of Human Resources and seek a determination that formal redundancy procedures should be instituted.

5 Approval by the Council or a member of the Executive Team

- 5.1 Where the proposal that academic staff should be made redundant arises from a departmental closure or a significant organisational restructure, the Council or a committee appointed by Council shall be required to approve the proposal. Where this is the case, the Director of Human Resources or a person nominated on his/her behalf shall inform the representatives of the academic staff who may be affected and the staff themselves of the date that the matter is to be considered for determination by the Council or a committee appointed by Council. In all other cases a member of the Executive Team shall be required to approve the proposal. The Registrar will, when appropriate, consult with the Deputy Chair of Council about the issue of significance.
- 5.2 The Council, or a committee of the Council, or the member of the Executive Team, as appropriate, shall be provided with:
- 5.2.1 details of the area affected;
 - 5.2.2 the reasons(s) for the desired reduction in the academic staff;
 - 5.2.3 a report on the preliminary consultation with the staff representatives and staff likely to be affected and any comments received.
- 5.3 Where the Council, or a committee of the Council, or the member of the Executive Team, as appropriate, determines that formal redundancy procedures should be instituted for the area affected, the Council, or a committee of the Council, or the member of the Executive Team, as appropriate, shall:
- 5.3.1 authorise that a Redundancy Panel be convened with the power to dismiss any member of staff selected for redundancy;
 - 5.3.2 write to the Director of Human Resources or a person nominated on his/her behalf to instruct him/her to make arrangements to establish a Redundancy Panel in accordance with the provisions set out below.

6 Redundancy Panel

- 6.1 The Director of Human Resources or a person nominated on his/her behalf shall inform each member of staff (with a copy to the appropriate representative) in writing:
- 6.1.1 that the Council, or a committee of the Council, or a member of the Executive Team has determined that formal redundancy procedures should be instituted to achieve the desired reduction;
 - 6.1.2 that a Redundancy Panel will be established to consider selection for redundancy to which they will be entitled to make written and oral representations if they so wish;
 - 6.1.3 that they may be assisted/accompanied in making any oral representation to the Redundancy Panel by a work colleague or trade union representative.
- 6.2 The Redundancy Panel shall comprise the persons set out in paragraph 1.2 of Part IX:
- 6.3 The Redundancy Panel shall determine its own procedure for selection of employees for redundancy. When doing so the Redundancy Panel shall take account of any statutory consultation required and any consultation already undertaken under section 4 above which may need to be continued by the Redundancy Panel. The Redundancy Panel will also take account of the number of employees likely to be affected by any redundancies. The Redundancy Panel will meet as required and will consult with the employees and their representatives on all relevant matters including the proposed selection criteria.
- 6.4 Following the Redundancy Panel reaching a conclusion, the Chair of the Redundancy Panel shall send a report to the Director of Human Resources or a person nominated on his/her behalf setting out:
- 6.4.1 details of all the staff in the pool from which any selection for redundancy was to be made;
 - 6.4.2 confirmation of the criteria used to select for redundancy;
 - 6.4.3 details of those staff selected for redundancy and the reasons for their selection.
- 6.5 Following receipt of the report from the Chair of the Redundancy Panel, the Director of Human Resources or a person nominated on his/her behalf shall notify the staff selected for redundancy. Such notification shall include:
- 6.5.1 a summary of the action taken to avoid compulsory redundancies including steps taken to consider alternative employment;
 - 6.5.2 notification that the member of staff has been selected for redundancy and the reason(s) why they have been so selected;
 - 6.5.3 confirmation that the member of staff is to be dismissed by reason of redundancy subject to the outcome of any appeal against redundancy by a relevant person and the date when the dismissal is to take effect;

- 6.5.4 notification of the right to appeal against the decision to dismiss by reason of redundancy and the arrangements for doing so.
- 6.6 Following receipt of the report from the Chair of the Redundancy Panel, the Director of Human Resources or a person nominated on his/her behalf shall notify the members of staff who were in the selection pool but who have not been selected for redundancy that they have not been selected for redundancy subject to the outcome of any appeal against selection by another relevant member of staff.

7 Appeals

- 7.1 An appeal against a decision of the Redundancy Panel that a member of staff is to be dismissed by reason of redundancy, is to be submitted to the Director of Human Resources within 10 working days of receipt of written notice of dismissal. The appeal shall be submitted in writing and the grounds for appeal shall be stated. An appeal panel shall be established in accordance with paragraph 1 Part IX to hear the appeal.

PART VII: PROCEDURE FOR DISMISSAL ON OTHER GROUNDS

1 Application and scope

- 1.1 Action may be taken under this procedure on any ground other than those covered in the procedures contained in Parts III, IV, V, and VI of this Ordinance.
- 1.2 The reason for contemplating dismissal shall be substantial and shall include, but shall not be restricted to:
 - 1.2.1 some other substantial reason of a kind such as to justify the dismissal of a member of staff holding the position which the member of staff held; or
 - 1.2.2 the member of staff could not continue to work in the position which he/she held without contravention (either on his/her part or on that of the University) of a duty or restriction imposed by or under an enactment.

2 Action prior to a hearing panel

- 2.1 Prior to seeking a determination by a hearing panel that a member of staff should be dismissed, the Head of School, Service or other relevant person in the University shall write to the member of staff to notify him/her of the position. The reasons(s) and related evidence for contemplating dismissal shall be given and the member of staff shall be invited to comment.
- 2.2 The member of staff shall have 10 working days to submit his/her comments in writing, and this could include representations for redeployment.
- 2.3 Following receipt of any comments from the member of staff, or if no comments are received within 10 working days, the Head of School, Service or other relevant person in the University shall then consider the matter again.

3 Suspension

- 3.1 If appropriate, the member of staff may be suspended while the matter is being considered. Suspension will be for no longer than is necessary and will be kept under review, normally every four weeks. The reason(s) for suspension and the initial period of suspension shall be notified in writing to the member of staff.
- 3.2 Suspension is to be considered a neutral act and will normally be on full pay. It is not a disciplinary penalty. In exceptional circumstances, if the suspension is not on full pay, this would need to be ratified by the Vice-Chancellor.

4 Dismissal

- 4.1 If having considered the matter further in accordance with paragraph 2.3, the Head of School, Service or other relevant person in the University, determines that it is necessary to seek dismissal of the member of staff he/she shall write to the Director of Human Resources to request that a hearing panel be established in accordance with paragraph 1 of Part IX to consider the matter.
- 4.2 Where a hearing panel determines that a member of staff should be dismissed, the Director of Human Resources or a person nominated on his/her behalf shall give effect to that decision by issuing notice of dismissal to the member of staff with notice in accordance with the provisions of his/her contract of employment.

4.3 When informing the member of staff of the hearing panel's decision to dismiss, the Director of Human Resources or a person nominated on his/her behalf will inform the member of staff that he/she has the right to appeal against the decision, and confirm the arrangements for submitting an appeal.

4.4 Any dismissal or notice of dismissal shall be cancelled, withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed.

5 Appeal

5.1 An appeal against dismissal is to be submitted to the Director of Human Resources within 10 working days of receipt of written notice of dismissal. The appeal shall be submitted in writing and the grounds for appeal shall be stated. An appeal panel shall be established in accordance with paragraph 1 of Part IX to hear the appeal.

PART VIII: FIXED-TERM EMPLOYMENT

1 Application

- 1.1 During the term of the fixed-term contract of employment, members of staff employed on fixed-term contracts shall be subject to the provisions contained within this Ordinance made under:
 - 1.1.1 Part I (General provisions);
 - 1.1.2 Part II (Grievance procedure);
 - 1.1.3 Part III (Disciplinary procedure);
 - 1.1.4 Part IV (Capability/performance improvement procedure);
 - 1.1.5 Part V (Ill-health/incapacity procedure);
 - 1.1.6 Part VI (Redundancy procedure);
 - 1.1.7 Part VII (Dismissal on other grounds).
- 1.2 The procedure to be followed in relation to the expiry and non-renewal of fixed-term contracts of employment is set out in the University's Code of Practice on Fixed-Term Employees.

PART IX: HEARING AND APPEAL PANELS

1 Constitution of hearing and appeal panels

- 1.1 This Part X applies to panels operating under paragraphs 7.3 and 7.5 of Statute 7.
- 1.2 Panels operating under paragraph 7.3 of Statute 7 shall consist of three persons being:
 - 1.2.1 a Chair, who will be a member of the Executive Team;
 - 1.2.2 a Senior Manager;
 - 1.2.3 a member of the Senate, or a member of the academic staff nominated by the Senate.
- 1.3 Panels operating under paragraph 7.5 of Statute 7 (appeal panels) shall consist of three persons being:
 - 1.3.1 a Chair, who will be an independent member of Council or another independent person not being a person employed by the University;
 - 1.3.2 a Senior Manager;
 - 1.3.3 a member of Senate, or a member of the academic staff nominated by the Senate.
- 1.4 The persons comprising the panels shall not have had any previous material involvement with the matter(s) to be determined.
- 1.5 The Registrar & Secretary or person nominated on his/her behalf shall be responsible for securing sufficient nominations under each category to enable panels to be established when required and without undue delay.
- 1.6 The Registrar & Secretary or a person nominated on his/her behalf shall consult through the agreed process with recognised trade unions in relation to a list of persons who are members of the Senate who may be appointed as panel members.
- 1.7 The Vice-Chancellor shall appoint panels operating under paragraph 7.3 of Statute 7.
- 1.8 The Chair of Council or Deputy Chair of Council or Treasurer shall appoint panels operating under paragraph 7.5 of Statute 7.

2 Action prior to hearing and appeal panel hearings

- 2.1 The Registrar & Secretary or person nominated on his/her behalf shall be responsible for taking charge of panel proceedings. To include:
 - 2.1.1 arranging and notifying the member of staff of a date of the hearing, which shall normally be not less than 5 working days and not more than 20 working days from the determination that a panel is required;
 - 2.1.2 notifying or reminding the member of staff of their right to be accompanied by a work colleague or trade union representative;
 - 2.1.3 any necessary administrative and accommodation arrangements to enable the panel to sit;

2.1.4 any necessary administrative and accommodation arrangements for the attendance of witnesses or persons entitled to make oral representations to the panel;

2.1.5 the production and distribution of documents in a timely manner and in accordance with the relevant Parts of this Ordinance to allow for the proper presentation and consideration of the matters before the panel.

3 Conduct of panel hearings

3.1 The Chair shall set the procedure to be followed as appropriate for the proper consideration of the matter to include provision for adjournments if necessary. The Chair shall have complete discretion as to the admissibility and presentation of evidence including the witnesses to be called. In exercising his/her discretion the Chair shall be guided by the requirement that the evidence, written and oral, must be confined to the subject matter of the hearing.

3.2 An appeal hearing will usually be a review rather than a re-hearing of the original decision. Where practicable and depending on the individual circumstances, appeal hearings will be concluded prior to the expiry of a member of staff's notice of dismissal.

3.3 Normally within 10 working days of the final day of the hearing, the member of staff will be notified of the panel's decision. If there is to be a delay in notifying the decision, the member of staff shall be contacted to explain the reason for the delay and informed when notification is likely to be made.

4 Action following a hearing and appeal panels

4.1 Notification of the panel's decision will be given in writing including the reasons for the panel's decision.

ORDINANCE 7 – PROVISIONS AS TO THE VICE-CHANCELLOR

1 General

- 1.1 The Council may dismiss the Vice-Chancellor for conduct, capability or qualifications (to include performance), contravention of a duty or restriction imposed by or under an enactment, or some other substantial reason, in accordance with the procedure prescribed below.

2 Complaint

- 2.1 A complaint seeking the dismissal of the Vice-Chancellor may be made by not less than two members of Council (which may include the Chair of Council) to the Chair of Council.
- 2.2 If it appears to the Chair of Council, on the material before him, that the complaint raises a prima-facie case and that this could, if proved, warrant dismissal or removal from office, he shall request the Council (absent the Vice-Chancellor) to appoint a Tribunal to hear and determine the matter.
- 2.3 If it appears to the Chair of Council that a complaint made to him under paragraph 2.1 does not raise a prima facie case or is trivial or invalid, he may recommend to the Council that no action be taken upon it.
- 2.4 Where a complaint is referred to the Council, the Chair of Council may suspend the Vice-Chancellor from his duties and determine the terms of any suspension.

3 Tribunal

- 3.1 Where the Council has appointed a Tribunal pursuant to paragraph 2.2, it shall instruct a solicitor or other suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.
- 3.2 A Tribunal appointed by the Council shall comprise three members of the Council of which at least two will be independent members.
- 3.3 At the time of appointing the Tribunal the Council may also appoint a Panel to hear any appeal against the decision of the Tribunal (see 4.1 below).
- 3.4 Subject to the principles of justice and fairness, the Tribunal may determine its own procedure. The Vice-Chancellor will have the right to an oral hearing before the Tribunal.
- 3.5 The Tribunal shall send its reasoned decision on any charge referred to it and its recommendation(s), if any, as to the appropriate penalty to the Council and to the Vice-Chancellor drawing attention to the period of time within which any appeal against the recommendation should be made and the method by which the appeal should be made.

4 Appeal and decision of the Council

- 4.1 If the Tribunal recommends dismissal or removal from office and the Vice-Chancellor lodges an appeal, the appeal will be heard by a Panel appointed by the Council

comprising three members of the Council of which at least two will be independent members. Members of the Council who sat on the Tribunal should not sit on the Appeal Panel.

4.2 Subject to the principles of justice and fairness, the Panel may determine its own procedure for the appeal. The appeal will normally be conducted by way of a review of the recommendation of the Tribunal, rather than a re-hearing. The Vice-Chancellor will have the right to an oral hearing before the Panel.

4.3 The Panel shall send its reasoned decisions and the basis for them to the Vice-Chancellor and to the Council.

5 Decision of the Council

5.1 If the Tribunal recommends dismissal and the Vice-Chancellor does not lodge any appeal, or if any appeal Panel endorses a recommendation to dismiss, the Council (absent the Vice-Chancellor) will consider the recommendation of the Tribunal and decide whether or not to dismiss the Vice-Chancellor.

5.2 The Vice-Chancellor will be provided with an opportunity to submit written representations to the Council.

5.3 The Council shall send its decision to the Vice-Chancellor. There will be no further right of appeal.