



Employee Disciplinary Procedures

Effective from May 2013

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Preamble

These procedures and regulations are made under the Articles of Government of the University and UK employment legislation. Words used in these procedures and regulations shall have the meanings assigned to them in the Articles of Government. In the case of conflict between these procedures and regulations and the Articles of Government, the Articles of Government shall take precedence.

All employee disciplinary procedures and appeals against dismissal approved by the Council before May 2013 shall be rescinded.

Reference to the Vice Chancellor below includes individuals to whom the Vice Chancellor has delegated their powers. In the case of dismissal of an employee this shall be a member of the Senior Management Team. The Vice Chancellor remains responsible for the fair operation of these Procedures.

The names of committees and titles of posts may change from time to time. This shall not invalidate the powers of the equivalent successor committees or post-holders.

In the case of doubt, the University Secretary and Clerk to the Council shall have authority over the interpretation of the text of the Procedures, on behalf of Council.

All University formal documents relate to the strategies, policies, procedures and regulations of the University having been approved by the appropriate formally recognised and constituted body. All University employees and students are required to adhere to the formal processes and regulations of the University.

This document should not be read in isolation as other University processes/formal documents could be relevant. A full listing of all formal documents is available on the University's website.

If required this formal document is available in an alternative format such as Braille, tape, disc, email or a larger font size. Please contact the Human Resources Directorate.

Employee disciplinary procedures

1 Introduction

- 1.1 The University, through good management practice, its' employment policies and employee development aims to help and encourage employees to achieve and maintain satisfactory standards of conduct. In the event that a problem occurs which requires formal action, the procedures given below are to be followed.
- 1.2 The aim of the *Employee Disciplinary Procedures* is to ensure all employees are treated fairly, consistently and sensitively in relation to cases of unsatisfactory conduct and any action that may be taken as a result. The University seeks also to implement the procedures lawfully and openly and consistent with the principles of natural justice. Whilst all cases should be dealt with as promptly as possible, thoroughness is also an important factor to ensure the most appropriate course of action is taken in the light of all available evidence.
- 1.3 It is the responsibility of the HR Services Director to implement, monitor and review the procedures to ensure they are fully effective and consistently applied across the University.

2 Scope and definitions (see also section 4)

- 2.1 These procedures apply to all employees. For trade union representatives no disciplinary action will be taken against a trade union representative until the circumstances of the case have been discussed with the appropriate full-time official of the relevant union to avoid such action being misconstrued. For members of the Senior Management Team in addition to this policy please refer to the Governance Handbook Boards and Committees which details the procedures for the Senior Employee Special Committee.
- 2.2 Where concerns about an employee relate to his or her ability to perform his or her role reference should normally be made in the first instance to the *Employee Capability Procedures*.
- 2.3 Problems of absence related to genuine cases of illness and other issues with sickness absence should normally be dealt with under the *Sickness Absence Management Procedures*.
- 2.4 Where matters relate to drug or alcohol abuse, reference should normally be made in the first instance to the *Employee Alcohol and Substance Abuse Policy*.
- 2.5 Where an employee has a complaint about any issue where disciplinary procedures would appear to be inappropriate, reference should normally be made in the first instance to the *Procedures for Individual Employee Grievances*.
- 2.6 Definitions:

"Days" means working days, which, for the purposes of these procedures are Monday to Friday other than bank holidays or other days when the University is closed to all employees and students.

"Disciplinary action" means the administration of a penalty.

The "employee" means the person whose case is being considered.

The "employee's representative" or "representative" means the person accompanying the employee or representing them who will normally be a trade union representative or work colleague.

"Human Resources Adviser" or "HR Adviser" or "HRA" means any senior member of the Human Resources Department.

The “line manager” means the immediate manager of the employee. In these procedures sometimes it may be appropriate for an alternative manager to act in their place.

“Member of the Senior Management Team” means any Senior Employee so designated by Council and appointed to the Senior Management Team.

“Personal file” means the individual, confidential employment record, both electronic and paper records maintained for each employee and held by the Human Resources Directorate.

The “senior manager” or “relevant senior manager” means the Pro Vice Chancellor, Dean, Director or Head who has overall responsibility for the faculty/school/directorate in which the employee works.

“Senior Employees” means the holders of senior posts, under the Articles of Government, as designated from time to time by Council.

“Suspension” means the exclusion of an employee from University premises other than for the purpose of attending meetings in connection with these procedures. Suspension pending investigation is not a penalty and pay will not be suspended. Suspension without pay for up to 5 days may be used as a penalty.

3 Principles

- 3.1 No disciplinary action will be taken against an employee unless the case has been fully investigated and the action is reasonable in the circumstances. However, in cases of alleged gross misconduct and some instances of serious misconduct (see Section 4), employees may be suspended on full pay prior to investigation (see Section 6.2).
- 3.2 The employee will be advised in writing of the nature of the allegation against them and will be given the opportunity to state their case at a disciplinary hearing before any decision is made. Email is an acceptable form of written communication from both the University and employee.
- 3.3 No employee will be dismissed for a first disciplinary offence except in the case of gross misconduct (see sections 4 and 6), when the penalty will normally be dismissal without notice. However, repeated or persistent misconduct could lead to dismissal with notice in accordance with the procedure described in section 6.
- 3.4 An employee has the right to be accompanied at any meetings related to the disciplinary process by either their trade union representative or a work colleague. This cannot be either a member of the legal profession or a family member. Where an employee is accompanied the representative can address the hearing to put across/sum up the individuals' case/evidence, respond to any views which have been expressed by others, and confer with the individual. However, they may not answer a question on behalf of the individual.
- 3.5 At all stages of the procedure an employee may also be accompanied by an appropriate person to provide support in the case of disability or language issues.
- 3.6 Any employee who has been under suspension for 3 weeks or more may appeal against suspension, or any decision taken to impose a disciplinary penalty, or the level of penalty awarded or against dismissal.
- 3.7 If an employee fails to attend a disciplinary interview or disciplinary or appeal hearing without good reason, a decision may be taken in their absence.
- 3.8 The University will provide training to managers and supervisors in the appropriate handling of disciplinary issues under these procedures. This can be in the most appropriate form e.g. briefings, e learning and formal classroom based and where appropriate records will be kept in HR.

3.9 These procedures will operate within the context of the University's equality and diversity policies and schemes.

3.10 A note taker will always be present at the meeting and notes taken. Only in exceptional circumstances will the meeting be recorded and will only be allowed with the agreement of all parties.

4. Definitions of misconduct

Minor shortcomings

4.1 Minor shortcomings would cover a range of issues that are usually best dealt with informally. These would include, for example, poor timekeeping or attendance, excessive personal telephone calls, or conduct of a similar nature.

Misconduct

4.2 Misconduct can be defined as improper behaviour on the part of an employee that damages the proper functioning of the University's business. It is not possible to give a complete list of types of behaviour that qualifies as misconduct: many will be less serious examples of the types listed in 4.3 below and some other examples are given below. This also includes misconduct off duty where this affects other employees or the reputation of the University, this may include University organised trips.

- persistent poor time-keeping;
- unauthorised absences;
- failure to carry out reasonable instructions;
- breach of IT acceptable use policy;
- negligence of a minor kind;
- minor breaches of health and safety;
- misuse of equipment or facilities.

Gross misconduct and serious misconduct

4.3 The term "Gross misconduct" is used to describe misconduct that is so serious that the University would be justified in dismissing the employee without notice even for a first offence. It is considered serious enough to breach the employment contract between an employee and the University, making any further working relationship and trust impossible. Whilst it is not possible to produce a definitive list of offences that could be deemed gross misconduct, some examples are given below:

- serious dishonesty such as theft, fraud, deliberate falsification of records or salary or expenses claims;
- falsifying any information given in applying for a post and/or failure to declare criminal convictions;
- fighting, assault on another person or threatening behaviour;
- deliberate damage to University property;
- serious bullying or harassment or any other form of discrimination;
- serious infringement of health and safety policy and procedures;
- serious incapability through alcohol or drug abuse or serious breach of the *Drugs and Alcohol Policy*;
- serious negligence that causes unacceptable loss, damage or injury;
- proven, intended unauthorised entry to computer records and intended misuse of computer records, or serious breach of confidentiality under the *Data Protection Policy*;
- undertaking unauthorised private paid work at a time when the employee should be working for the University;
- wilfully ignoring responsibilities or reasonable instructions on a repeated basis, particularly, where there is a serious risk to other employees and/or students;
- gross negligence in repeatedly failing to attend to or undertake the duties of the post.

- behaviour or actions that are deemed to bring the University into disrepute.

'Serious misconduct' is conduct in the areas above which, judging the case in its context, falls short of 'gross misconduct'. If substantiated, it would not normally lead to dismissal. Where dismissal is recommended, full notice will be given.

5 Preliminary procedure for dealing with disciplinary issues

- 5.1 The standards of conduct expected of all employees will be made clear by line managers and through written guidance and should be reinforced in a constructive way by line managers through on-the-job training and in documents such as job descriptions, where clear conduct or behaviour will be determined. Minor shortcomings in conduct by an employee should be addressed by the line manager as they occur with the aim of encouraging and helping the employee to improve. A spoken reprimand or warning may be given to the employee at any time. A brief written note of any agreed action should be confirmed with the employee and kept on their file until the next PDR.
- 5.2 Progress should be reviewed at regular intervals until satisfactory conduct is achieved. It should be made clear to the employee by their line manager what needs to be done to improve over a defined period of time and what further action will be taken if they fail to improve. The employee must also be given the opportunity to state their case and have this point of view recorded. Appropriate, mutually agreed, employee development and support will be provided. These courses of action, however, should not be confused with action taken under the formal procedure. Where it is not possible to resolve problems informally or where the severity of the allegation warrants it, the formal procedure below should be followed.

6 Formal procedure

- 6.1 Where an incident occurs, or an allegation is made against an employee, or there has been a failure to improve during the preliminary stage in 5 above, the line manager should make an initial assessment of the case and follow the procedure given below.

Suspension from duty

- 6.2 Where the case appears to involve gross misconduct, an employee may be suspended from duty by the Vice Chancellor or nominee (in this instance the most senior employee on duty) pending a disciplinary investigation. Suspension will take immediate effect and will be on full pay.
- 6.3 In all cases, the Vice Chancellor or nominee or the relevant senior manager is responsible for ensuring that the employee is told clearly that they are suspended on full pay, the reason for the suspension, that it does not constitute disciplinary action nor is a presumption of guilt, that it will be for as short a time as possible whilst the investigation is being carried out and that they will be called back for meetings, and possibly a disciplinary hearing, at which they have the right to be accompanied by a representative. The HR Services Director, or nominee, will write to confirm the suspension, setting out the grounds on which the decision has been taken.
- 6.4 However, suspension may only be confirmed following an initial investigation of the case and a report made to the HR Services Director who will advise the Vice Chancellor or nominee. In the event that an incident occurs outside normal office hours, a decision should be made by the most senior employee present in the light of evidence available at the time and the incident reported to the relevant senior manager and the HR Services Director the next day or at the earliest opportunity.
- 6.5 Any employee who has been under suspension for 3 weeks or more may appeal to the University Council against the suspension by writing to the University Secretary and Clerk to the Council stating the grounds for appeal. Any appeal will be considered by a Council member as soon as is practicable, normally within 10 days, and the suspension will continue to operate pending the determination of the appeal.

- 6.6 A line manager may also send an employee home for up to 5 days, with immediate effect and on full pay, where circumstances appear to warrant such action in order to preserve the well-being of the University community. This does not constitute formal suspension under these procedures, although formal suspension may ensue. If suspension does not follow, the employee may return to work at the end of the specified period. The line manager will write to the employee confirming the number of days that the employee is to remain at home.

Investigation

- 6.7 In all cases of alleged misconduct, a full investigation of the matter will be carried out as quickly as possible and in any case within 20 days, normally by the relevant line manager who will act as Investigating Officer (IO). In the event that the line manager is implicated in the misconduct, or if there are reasonable grounds for the employee to think that the line manager will not be impartial, an Investigating Officer of similar standing from within the University, who has had not previous involvement in the case, will be appointed by the HR Services Director or nominee.
- 6.8 A Human Resources Advisor (HRA) will be assigned to the case and will be available for clarification and advice on procedures to both the employee and their representative and the relevant managers at all stages of the procedure.
- 6.9 The employee concerned will be informed of the allegation, and that an investigation is being undertaken and by whom. The IO will request a meeting with the employee to establish the facts and responses to the allegation. The employee is entitled to be accompanied by a representative.
- 6.10 The IO will interview all employees/persons connected with the allegation, who the IO deems relevant, and will gather any relevant documentation or statements as soon as possible.
- 6.11 After consideration of the relevant statements, documentation and interviews, within 5 days unless there has been prior notification to all parties informing of an extension the IO will make a full report recommending an appropriate course of action. This may be:
- that the matter should be dropped as there is no evidence to support the allegation;
 - that there is some substance to the allegation but other possible solutions or support should be arranged informally, such as. counselling; or
 - that the matter should go forward to a full disciplinary hearing.
- 6.12 When making this decision, the IO must be clear about the nature of the allegation, take any mitigating circumstances into account and consider each case on its merits.

Disciplinary meeting

- 6.13 No penalty may be administered without a formal disciplinary meeting first taking place at which the employee is given the opportunity to state his or her case and answer the allegations that have been made. A disciplinary meeting to hear the disciplinary case will be convened as follows:
- a) Where dismissal is a possible outcome, that is for cases of alleged **gross misconduct** or **serious misconduct** or in the case of repeated misconduct where the employee is under a Final Written Warning, those hearing the case will normally comprise of; the Vice Chancellor or nominee and a senior manager which can be; the Academic Dean, Head of School or Directorate Director and a member of the HR Directorate who has had no previous involvement in the case (and who has undergone appropriate training) acting as an adviser. The Vice Chancellor or nominee will chair the meeting and appoint a note taker. In the event that the relevant senior manager is implicated in the misconduct, or if there are reasonable grounds for the employee to think that the senior manager will not be impartial, a senior manager of similar standing from within the University, who has had not previous involvement in the case, will be appointed by the HR Services Director.

For members of the Senior Management Team the constitution of the panel is included in the Governance Handbook Boards and Committees which details the procedures for the Senior Employee Special Committee.

- b) Where dismissal is not expected to be an outcome, that is for other cases of alleged misconduct than those in a) above, those hearing the case will normally comprise of at least the relevant senior manager or nominee and another member of management from within the faculty/school/ central service. The senior manager or nominee will chair the meeting and appoint a note taker. Where possible, the senior manager conducting the meeting should not have had any significant prior involvement in the case. If they have been so involved, a senior manager of similar standing from within the University, who has had not previous involvement in the case, will be appointed by the HR Services Director or nominee. Where a second manager is not available from the faculty/school/directorate, a manager from another faculty/directorate who has had no prior involvement in the case may attend. The HRA will attend the meeting to act as an adviser.
- 6.14 The employee will be invited to attend the meeting. At least 10 days written notice will be given and the notice will specify the allegation/s which instigated the disciplinary action and attach the report of the IO and supporting evidence. The employee will be invited to make a written response and to submit evidence, including the names of witnesses who will attend the hearing, within 5 days to the relevant HR Business Partner. The employee has a right to be accompanied by a representative and will be informed of this when invited to attend the meeting. The senior manager or nominee will ensure that the venue is appropriate to the hearing. If the employee cannot be available on the date stated one further opportunity will be offered after which the disciplinary meeting may take place in the employee's absence. The IO will also be invited to attend the meeting to present the evidence in their report.

Evidence

- 6.15 The IO's report and all supporting evidence will be collated, placed in chronological order with a covering index and submitted to those hearing the case no later than 5 working days prior to the date of the disciplinary meeting. Any written response and supporting evidence the employee wishes to submit in response to the allegation and IO's report will be circulated to those hearing the case and the IO at the same time. In exceptional circumstances, and by agreement of all parties, additional evidence may be submitted within the 5 days prior to the meeting.
- 6.16 No other documentation may be presented at the disciplinary meeting itself unless all parties agree to its inclusion. If any new material facts emerge during the meeting, which are likely to have a bearing on the outcome, the parties will have discretion to agree that the meeting should be adjourned in order for an investigation to be carried out and re-convened at the earliest opportunity. The Chair will make the final decision.

Disciplinary meeting - process

- 6.17 The purpose of the disciplinary meeting is to consider the evidence presented by all parties and decide whether further action is required, for example by imposing a disciplinary penalty.
- 6.18 Where dismissal is a possible outcome the employee will be advised of this prior to the meeting. Under Article 9 of the Articles of Government 2010, the employee or their representative will be given an opportunity at the meeting to make a full statement of the case against dismissal. The employee will also be told of their right of appeal.
- 6.19 The disciplinary meeting will normally be conducted as follows:
- a) the Chair will invite the IO to confirm the allegation and present the evidence on which it is based. Once the IO has presented the evidence and responded to any relevant questions they will leave the meeting.

- b) witnesses¹ will be called, if attending, and/or written statements read to support the allegation;
- c) the employee will be asked to respond to the allegation and present his or her case;
- d) witnesses will be called for the employee, if attending, and/or written statements read;
- e) general questioning by both parties and discussion will then take place;
- f) the meeting may be adjourned at any time where those hearing the case or the employee and their representative need to confer privately or for any good reason;
- g) the employee will be given the opportunity to make a final statement including a statement of mitigating circumstances and good character if not included earlier in the presentation of the employee's case;
- h) the Chair will summarise the main points of discussion after the questioning is completed;
- i) the meeting will be adjourned whilst the decision is considered.
- j) those hearing the case will take into account the seriousness of the offence, any current previous warnings on file and, having come to a judgement about the facts and provisional penalty, any mitigating factors which may lead them to modify the penalty. Disciplinary action is limited to the penalties outlined in Section 6.20 below;
- k) the meeting will be reconvened, if circumstances allow, and the employee advised of the decision. If it is decided that disciplinary action should be taken, the employee will be advised of the action and of the right to an appeal and that they will receive a letter to this effect. If the meeting is not reconvened, the Chair will seek to relay the decision personally within 3 days of the hearing.

Disciplinary Penalties

6.20 Where it is deemed necessary to take disciplinary action, the following penalties are available to the disciplinary meeting:

a) Penalties available for misconduct:

- *Written Warning*

For most cases of misconduct, a written warning will be given to the employee. The letter will give details of the complaint, the improvement required and the timescale in which improvement is expected. It will warn that further action will be considered if there is no satisfactory improvement in the timescale stated and will advise of the right of appeal. A copy of the written warning will be kept on their Personal File but will be disregarded for disciplinary purposes after the specified term (a maximum of 12 months), subject to satisfactory service.

- *Final Written Warning*

If there is failure to improve during the currency of a prior written warning for the same kind of offence or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a final written warning will be given to the employee. This will give details of the complaint, will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A copy of the final written warning will be kept on their Personal File but will be spent after the specified term (a maximum of 12 months), subject to satisfactory service

b) Other Penalties

The following penalties may be considered in addition to a final written warning depending on the circumstances of the case:

- *Withholding incremental progression*: this may only be instigated where evidence suggests that the misconduct has affected the overall performance of the role. It is not to be used as a "fine".

¹ Witnesses will be asked to withdraw having given their evidence, but may be recalled if necessary.

- *Compulsory transfer to a post at a lower grade and salary*: this is a technical dismissal and may only be considered where dismissing the employee could have been justified had the alternative post not been available. For instance, this might be more acceptable in the case of a newly promoted employee being offered a role of less responsibility, if available.
- *Suspension with loss of pay for up to 5 days*: this penalty may be used for misconduct of various kinds and is separate from temporary suspension pending investigation which is not a penalty.

c) Penalties available for Gross/ Serious / Repeated Misconduct:

- *Dismissal*

In the case of Gross Misconduct, the penalty is dismissal without notice. In the case of repeated or persistent misconduct (where the employee has a final written warning for the same kind of offence which is still in force) and some cases of serious misconduct, the normal penalty will be dismissal with notice. The disciplinary meeting may, however, where there are mitigating circumstances, impose a Final Written Warning, and, where appropriate, another penalty (see b above).

Notification of Decision

- 6.21 The employee will receive a letter confirming the decision of the disciplinary meeting, giving reasons for the decision and advising the employee of his or her right of appeal as soon as possible and no later than 5 days after the meeting. The employee will also receive a copy of the notes taken at the hearing no later than 10 days after the hearing, and will be asked to check them for any factual inaccuracies, if the employee does not agree with the notes, the original set of notes will stand but the employee may submit a notated version which will be kept on file.
- 6.22 A copy of the letter will be kept on the employee's Personal File for the period stated at the hearing in accordance with University policy on record management and will be disregarded for disciplinary purposes after that period.

Disciplinary procedures and grievances

- 6.23 In the course of a disciplinary process, an employee might raise a grievance that is related to the case. If this happens, the Chair of the disciplinary hearing will consider suspending the disciplinary procedure for a short period while the grievance is dealt with. The Chair can also decide to go ahead with the original hearing if they consider the grievance does not have a bearing on the disciplinary hearing. The HR Services Director or nominee will advise on this and depending on the nature of the grievance, may suggest another manager to deal with the continuation of the disciplinary process.

7 Appeal procedure

- 7.1 The employee has the right to appeal against the finding of the disciplinary meeting and/or level of penalty awarded following the disciplinary hearing as follows:

Appeal against penalty short of dismissal

- 7.2 An appeal against a penalty for misconduct should be made in writing to the HR Services Director within 5 days of receipt of the letter conveying the outcome of the hearing, stating clearly the reasons for the appeal (see 7.3 below) and it should be signed by the employee.

- 7.3 The valid grounds for appeal are:

- material procedural irregularity
- disregard of material evidence

- demonstrable prejudice or bias on the part of any person forming the judgement
- perversity of judgement in the face of the evidence presented
- the penalty is not proportionate to the employee's misconduct
- the penalty exceeds the authority of the person/s forming the judgement
- other similar grounds specified by the employee.

The employee must submit appropriate evidence and the names of any witnesses in support of his or her appeal.

- 7.4 A panel comprising the Vice Chancellor or nominee and another member of the Senior Management Team who has not had any prior involvement in the case will be convened by the HR Services Director, or nominee, within 10 working days of receiving the appeal. A Note taker will be appointed. The employee has the right to appear before the panel in person, accompanied by their representative, to state their case. The decision reached will be final and will be conveyed in writing to the parties concerned within 5 working days.

Appeal against dismissal

- 7.5 Employees have the right to appeal to an Employee Appeals Panel which includes members of the University Council, this should be made in writing to the University Clerk to the Council within 5 days of receipt of the letter conveying the outcome of the hearing, stating clearly the reasons for the appeal (see 7.6 below) and it should be signed by the employee.

- 7.6 The valid grounds of appeal are:
- material procedural irregularity;
 - disregard of material evidence;
 - perversity of judgement in the face of the evidence presented;
 - demonstrable bias or prejudice on the part of any person forming the judgement;
 - the action exceeds the authority of the person/s forming the judgement;
 - other similar grounds specified by the employee.

Constitution of the Employee Appeals Panel

- 7.7 An Employee Appeals Panel is made up of 2 Independent or Co-opted Council members, both of whom will have senior management experience and a member of the Senior Management Team of the University who has had no previous involvement in the case.
- 7.8 The employee and student Council members may not be members of the panel. The Chair of the Panel is appointed by the Chair of Council or the Deputy Chair. The Secretary to the panel is the University Clerk to the Council. A note taker is appointed by the Clerk to the Council or the HR Directorate.
- 7.9 For the constitution of the panel where the employee at the Disciplinary is a member of the Senior Management Team please refer to the Governance Handbook Boards and Committees regarding the constitution of the Senior Employee Special Committee.

Calling a meeting of an Employee Appeals Panel

- 7.10 The University Clerk to the Council arranges for the panel to meet as soon as possible, normally within 20 days of receiving the statement of appeal.
- 7.11 The University Clerk to the Council invites the Vice Chancellor to nominate a management representative to represent the University's case for dismissing the employee, who would normally be the Chair of the disciplinary meeting. The employee's statement of appeal is sent to the management representative.
- 7.12 The employee has the right to be accompanied at the meeting by their trade union representative or a work colleague. This cannot be either a member of the legal profession or a family member.

- 7.13 At least 7 days before the panel is due to meet, the University Clerk to the Council notifies all parties of the time, date and venue of the appeal hearing. If the employee or their representative cannot attend on that occasion then a further opportunity is provided for the panel meeting. If, without good reason, the employee is unable to attend a second time, the appeal may take place in the absence of the employee.
- 7.14 The University Clerk to the Council invites the University management representative to respond in writing to the employee's initial statement of appeal, to collate written evidence and call witnesses to support the case for dismissing the employee.
- 7.15 The University Clerk to the Council invites the employee to add to their statement of appeal, to collate written evidence and to call witnesses to support their appeal against dismissal.
- 7.16 The University Clerk to the Council sends the statement of appeal and all the information in 7.14 and 7.15 above to the members of the Panel, the employee and the University's representative at least 5 days before the meeting of the Panel.

Proceedings of the Employee Appeals Panel

- 7.17 The proceedings of the panel are not invalidated by the absence of the employee, their representative, the University management representative or any witnesses if they have been given a reasonable opportunity to be present.
- 7.18 No other person attends the meeting of the panel than those mentioned above.
- 7.19 The Chair of the Panel conducts the proceedings in an efficient way, while safeguarding the fairness of proceedings. Subject to allowing a full airing of views, he or she may guide the participants in minimising repetitious, irrelevant or frivolous evidence.
- 7.20 The Chair determines the order of proceedings which will normally be as follows:
- a) the employee states their case;
 - b) the employee calls witnesses in turn² whom any panel member or the University management representative may question;
 - c) the University management representative states the University's case;
 - d) the University management representative calls witnesses in turn³ whom any panel member or the employee may question;
 - e) the employee, their representative and University management representative ask questions of each other and make responses;
 - f) the University Clerk to the Council asks questions where further clarification is needed;
 - g) the Chair sums up the evidence and asks the parties to make a final statement;
 - h) the University management representative sums up and makes a final statement;

² Witnesses will be asked to withdraw having given their evidence

³ Witnesses will be asked to withdraw having given their evidence

i) the employee sums up and makes a final statement; this may include statements of mitigation and references of good character (in the case of dismissal on disciplinary or sickness grounds);

j) the panel retires into closed session to consider its decision.

7.21 At the request of the employee, University management representative or panel member, the meeting may be adjourned for a period of time agreed by all parties.

7.22 The Employee Appeals Panel has delegated authority from Council to decide on one of the following outcomes, either to:

a) confirm the decision to dismiss the employee; or

b) confirm the decision to dismiss the employee subject to such conditions as the panel may determine; or

c) rescind the decision to dismiss the employee; or

d) rescind the decision to dismiss the employee subject to such conditions as the panel may determine.

Having reached its judgement on the facts, the panel takes the employee's statement of mitigation and references of good character into account and confirms or modifies the outcome.

7.23 The panel reaches its' final decision by a simple majority and, if time allows, this is relayed orally to the employee, their representative and the University management representative as soon as the decision has been made. If this is not possible the decision will be confirmed in writing within 10 days of the meeting.

7.24 The University Clerk to the Council arranges for a formal record of the proceedings to be made, to be confirmed by the panel, taking into account comments on factual accuracy by the employee, their representative and the University management representative. A copy of the record is sent to all participants. In the case of actions to be taken the Clerk to the Council issues the confirmed decision before completing the full record of the proceedings.

8 Confidentiality and Disciplinary Records

8.1 With the exception of the individual concerned and their representative, all informal and formal meetings will be kept strictly confidential between those involved, and will not be disclosed to third parties except where they are clearly within the scope of the procedure or appropriate consent has been obtained.

8.2 Notes will be taken at meetings at each stage of the procedure as a record of proceedings and to form the basis of a letter informing the employee of the outcome. These will be confirmed with all parties concerned. A copy of all documentation will be kept confidentially by the Human Resources Directorate in accordance with the Data Protection Act 1998. Copies of written warnings will be held on the employee's Personal File in the Human Resources Directorate. These records will be disregarded for disciplinary purposes after the specified period of time (maximum of 12 months), subject to satisfactory conduct, except where the Vice Chancellor or nominee believes and specifies to the employee and their representative that the particular circumstances demand otherwise.

9 Criminal Offences

9.1 Criminal offences that occur outside employment should not normally be treated as an automatic reason for disciplinary action. However, consideration will be given to the seriousness and nature of the offence in relation to the University's and employee's work or reputation, or the effect on other employees or students, before making a decision. If it is

decided to invoke disciplinary proceedings, the procedures as set out above for either misconduct or gross misconduct shall be applied as appropriate. Where the conduct requires prompt attention, the University need not await the outcome of any criminal prosecution before taking fair and reasonable action.

- 9.2 If an employee is suspected of being involved in a criminal offence within their employment with the University, the Vice Chancellor or nominee will decide whether or not to refer the matter to the Police for prosecution proceedings, but the normal disciplinary procedure will apply.

10 Monitoring and reporting

- 10.1 The application of the procedures will be monitored by the Human Resources Directorate, including details of age, ethnic origin, gender and disability, to ensure consistency of approach and compliance with relevant legislation.
- 10.2 All dismissals will be reported to the University Council through its Resources Committee as a reserved item. A summary report of disciplinary cases, excluding the identities of those involved, will be presented annually to the Local Joint Committee.

Prepared by:	HR Directorate with University Secretary and Clerk to Council	Date:	May 2013
Final Approval by:	Governance Committee May 2013		
Review Date:	May 2016		
Updated on:	May 2013		

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