DISCIPLINARY AND APPEALS PROCEDURE (Academic Staff)

1. INTRODUCTION

1.1 Purpose

1.1.1 The primary purpose of this procedure is to ensure acceptable standards of conduct are met and maintained.

1.2 Scope

1.2.1 This procedure applies to all Academic staff at grade 8 or above[1] as specified in Part 1.3 of Section 31 of the University Statutes in so far as they relate to discipline, dismissal, and removal from office on disciplinary grounds and appeals against decisions made under this procedure. In the case of any conflict between this procedure and the University Statutes (including any amendments to the Statutes), the relevant sections of the University Statutes shall prevail.

1.2.2 If a grievance is raised which is material to a disciplinary case, it will normally be considered within the context of the disciplinary investigation and this procedure.

1.2.3 All parties involved in these procedures must ensure that they maintain, as appropriate, the confidentiality of the process within and outside the University.

2. PROCEDURE

2.1 Levels of Misconduct

2.1.1 There is no code automatically assigning particular sanctions to particular offences. Managers will take full account of the specific circumstances of each case in deciding what the sanction should be.

2.1.2 The list below is not exhaustive and is illustrative only of the types of matters which may be reviewed in accordance with these disciplinary procedures. Each disciplinary offence, if considered to

[1]This procedure is not applicable to academic staff prior to progression to grade 8; they should refer to the University's Probationary Procedure and/or Disciplinary and Appeals Procedure (Staff) as appropriate.

be sufficiently serious, could be regarded as gross misconduct and therefore constitute 'good cause' for dismissal (see section 2.1.4, below).

Examples of misconduct might include:

a) refusing or neglecting to comply with reasonable and legitimate management instructions;

b) breach of any legal requirements placed upon a member of staff by virtue of their employment with the University;

c) refusing or neglecting to comply with University policies, procedures, rules and regulations;

d) rude, offensive, or unacceptable behaviour towards colleagues, students, or others;

e) bullying, harassment or offensive behaviour, of a physical, verbal, written or psychological nature towards colleagues, students or others;

f) negligence;

g) failure to disclose any situation which may be a potential conflict of interest, for example, professional, personal, financial or employment related;

h) negligent infringement of Health and Safety policies, rules, or procedures;

i) negligent infringement of data protection policies, rules, or procedures;

j) insubordination (i.e. engaging in activities that could undermine the confidence in, or authority of, management);

k) being an accessory to a disciplinary offence;

l) negligent damage to property of the University;

m) incapacity or unacceptable behaviour due to alcohol or the misuse of drugs;

n) unauthorised absence, or poor timekeeping;

o) unauthorised use of or unauthorised removal from the University of the property of the University;

p) smoking in a University building or other designated no smoking area;

q) breach of any academic or professional standards, including, inter alia, plagiarism;

r) research misconduct (see Research Misconduct Procedure);

s) obstruction or attempted obstruction of others in the performance of their duties to the University;

t) abuse of any statutory or other leave, including for example parental leave or sick leave;

u) failure to comply with the University's IT Conditions of Use;

v) failure to comply with the University's NeverOK Hub (Condition of Registration E6: Harassment and Sexual Misconduct single comprehensive source of information);

w) breach of any University employment policies or procedures;

x) any form of unlawful discrimination;

y) gross misconduct as defined in 2.1.4 below.

2.1.3 In this procedure the term "good cause" means:

a) conviction for an offence which may be deemed by a Tribunal appointed under Part III of Statute 31 (which is contained within Stage 3 of these procedures) to be such as to render the person convicted unfit for the execution of the duties of the office or employment as a member of the academic staff; or

b) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or

c) conduct constituting failure or persistent refusal or neglect or inability[2] to perform the duties or comply with the conditions of office.

2.1.4 The following is a list of actions which, in addition to being included in the disciplinary offences above, could be regarded as gross misconduct and could therefore constitute “good cause” for summary dismissal (as defined in Section 2.1.3 above). This list is purely illustrative and is not exhaustive of the types of action which could amount to gross misconduct:

a) inappropriate disclosure of confidential information relating to examinations or any other form of assessment;

b) plagiarism;

c) gross negligence in the performance of duties or responsibilities which may cause unacceptable loss, damage, or injury;

d) failure to disclose a substantial conflict of interest;

e) lack of fairness in carrying out the marking of examination papers or any other form of assessment;

f) fraud, for example falsification of qualifications or expenses;

[2] Inability to perform duties will be managed using the Performance Capability Procedure. However, in situations in which removal from office is contemplated. Part III of Statute 31 will apply instead of Stage 4 of the Performance Incapability Procedure and Part V of Statute 31 will apply to appeals under the procedure.

g) failure to comply with the University's Personal Relationships Policy Statement and Procedure for Disclosing Relationships or to Raise Concerns (Staff & Student Relationships), for example failure to declare a personal relationship, abuse of power or repeated relationships which contravene the policy.

h) acts or threats of physical violence towards other members of staff, students of the University or other persons performing duties or services for the University or towards any other person who is lawfully upon University premises;

h) theft of, or wilful damage to, property of the University, or of other members of staff of the University, or of students of the University or of other persons performing duties or services for the University;

i) provision of inaccurate or misleading information in the initial application for employment which would have influenced the employment decision;

j) provision of false or inaccurate information in response to a specific request/requirement laid down by the University, at any time;

k) engaging in unauthorised employment during contracted hours with the University or during periods of sick leave or other periods of absence from work;

l) serious infringement of the health or safety regulations of the University;

m) serious breach of the Data Protection Regulations of the University;

n) serious bullying, harassment or discrimination[3];

o) breach of the University's Sexual Violence and Misconduct policy;

p) repeated or serious cases of incapacity due to alcohol or misuse of drugs;

q) serious breach of the University's IT Conditions of Use;

r) refusing or neglecting to comply with reasonable and legitimate management instructions;

s) breach of confidentiality;

t) conviction of a criminal offence which prevents a member of staff from being able to fulfil their contractual duties or which makes continued employment untenable;

u) any act or omission that amounts to the repudiation of the contract of employment.

2.2 Investigations

[3] Incidences of harassment or discrimination in any form may, (dependent upon the nature and degree involved) be considered as gross misconduct. Harassment or discrimination of any nature or degree, however, may be considered to be a disciplinary offence.

2.2.1 If a decision is taken to undertake an investigation into allegations against a member of staff, an appropriate manager will be assigned to conduct the investigation (hereafter referred to as Investigating Manager) Investigating Manager.

2.2.2 It is the purpose of the investigation to establish whether there is a 'prima facie' disciplinary case to be answered. It is not the purpose of the investigation to decide, if a prima facie case is established, what sanction may be appropriate, if the manager hearing the disciplinary meeting establishes that misconduct has occurred. The Investigating Manager will report the facts as they appear to them and will submit an investigation report, to another appropriate manager. If the manager receiving the investigation report determines that a disciplinary meeting needs to be arranged, the member of staff will receive a copy of the report in advance of the meeting.

2.2.3 Investigation Guidelines have been produced by the University to assist the Investigating Manager to conduct an appropriate investigation. Investigations will be conducted in as timely a manner as possible, and wherever possible within 4 weeks of the start of the investigation. Progress of investigations will be reviewed by People and Organisational Development on a fortnightly basis.

2.2.4 Where the disciplinary process considers allegations of harassment or sexual misconduct of a University student, the investigation and any subsequent disciplinary meeting must consider the content of the University's Never OK Hub.

2.3 Disciplinary Action and Stages (Not including dismissal)

2.3.1 Informal Stage

2.3.1.1 Minor lapses of conduct will be dealt with informally. This may include an informal investigation into the facts. Following an informal meeting, standards of acceptable conduct will be clarified and expected improvement set out in writing.

2.3.1.2 Standards set out in this manner will not form part of the formal disciplinary procedure. They should be issued merely as an aid to try to ensure conduct is of an acceptable standard.

2.3.1.3 If a member of staff is dealt with under the informal stage of this procedure, and meets the required standards, this will not normally form the basis of subsequent formal disciplinary action. However, failure to meet standards issued at the informal stage of this procedure may lead to the instigation of the formal stages and may be referred to during those procedures.

2.3.1.4 Where a member of staff's conduct is considered to be unsatisfactory, the manager may first of all consider whether guidance/advice or training might be a more appropriate and effective method of addressing the issues. If such guidance/advice or training is offered to any member of staff and the individual declines or does not complete or adequately comply with the guidance/advice or training and as a result there continue to be ongoing concerns, they may be subject to disciplinary action in accordance with this procedure.

2.3.2 Formal Disciplinary Action

2.3.2.1 Managers should seek the advice of the People and Organisational Development Department prior to initiating any formal action under this procedure. This will ensure fair and equitable

application throughout the University. Further details of the general principles applying to the formal stages of this procedure can be found at Annex A.

2.3.2.2 The University has a responsibility to ensure that managers using and operating this procedure have the necessary skills and support, therefore People and Organisational Development Department will provide full guidance and support to managers.

2.3.2.3 Where there is an allegation of misconduct, the Investigating Manager must ensure that the case is investigated before any decision to proceed with disciplinary action is taken.

2.3.2.4 Formal disciplinary action may be taken if:

a) informal attempts to resolve a problem have not succeeded; or

b) the member of staff has previously received a warning which is still current at the time of the alleged misconduct; or

c) a first instance of alleged misconduct is sufficiently serious to warrant formal action being taken.

2.3.2.5 Where an allegation of a serious offence has been made against a member of staff, it may be appropriate to suspend the member of staff from duty (refer to Annex A).

2.3.2.6 Arrangements for disciplinary meetings, including the documentation that should be sent to the member of staff can be found in Annex A.

2.3.2.7 A Manager/Advisor, People and Organisational Development Department will normally attend suspension, disciplinary and appeal meetings convened under stages 1 and 2 of this procedure.

2.3.3 Warnings

2.3.3.1 Where misconduct is established at a disciplinary meeting, the sanctions which may be applied are as follows:

- formal oral warning (stage 1 warning);
- formal written warning (stage 2 warning).

2.3.3.2 The level of sanction to be applied should be determined according to the seriousness of the misconduct and taking account of the circumstances of the case including any mitigation.

2.3.3.3 The outcome of the disciplinary meeting will be confirmed in writing, normally within five working days of the decision, and shall:

a) state the disciplining manager's rulings on the allegations;

b) state the penalty imposed, if any;

c) state the period of the warning (see 2.3.3.4);

d) state the consequence of any further misconduct during the period of the warning, including, where relevant, that the consequence of further misconduct may be an escalation of disciplinary warnings and ultimately dismissal;

e) remind the member of staff of their right to appeal and how this right may be exercised.

2.3.3.4 Where a warning is given, a record of the warning will be placed on the member of staff's file in the People and Organisational Development Department and retained in line with the University Record Retention Schedule. The warning will be considered spent at the end of the warning period, in accordance with the designated duration of the warning as specified in Statute 31 as shown below, unless otherwise specified.

Formal Oral Warning (stage 1 warning) 12 months Formal Written Warning (stage 2 warning) 2 years

2.3.3.5 Where a period of long-term absence, whether planned or unplanned, would render a warning meaningless, the period of operation for the warning may be suspended during the absence, thus extending the date on which the warning expires. Alternatively, the date on which the period of warning will commence may be deferred until the member of staff resumes their duties.

2.3.3.6 Where a member of staff with a current formal warning on file moves to an alternative role within the University the warning will remain in place for the designated warning period. Where a member of staff is on a fixed-term contract, and is given a formal warning, this can be continued beyond the end of the fixed-term contract where the contract is extended, or the member of staff secures alternative employment within the University.

2.3.4 Appeals Against Disciplinary Warnings

2.3.4.1 Any member of staff, who is issued with a formal warning under Section 2.3 of this Procedure, will have the right to appeal. Any such appeals will be heard by the Deputy Vice-Chancellor.

2.3.4.2 Appeals should be lodged, in writing to the Chief People Officer, People and Organisational Development, within ten working days of the date on which the letter confirming the outcome of the disciplinary meeting is sent, detailing the grounds for appeal.

2.3.4.3 The member of staff will be notified of the date of the appeal meeting within ten working days of the receipt of the appeal (the meeting itself will not normally take place within this timescale although every effort will be made to hold the meeting as soon as possible). This timescale may be extended by mutual agreement.

2.3.4.4 A member of staff will be given at least five working days written notice of the date of an appeal meeting.

2.3.4.5 In advance of an appeal meeting, the member of staff must provide, in good time, and normally no later than five working days prior to the appeal meeting, copies of any documents on which they intend to rely on and/or their statement of case. The member of staff will also receive, in good time, and normally no later than five working days prior to the appeal meeting, copies of any documentation on which the University intends to rely.

2.4 Procedure Where Dismissal is Contemplated

2.4.1 Stage 3 Dismissal[4]

2.4.1.1 Please note that Stage 3 of these Procedures, below, replicates Part III of the University Statute 31 and for ease of reference adopts the numbering of the University Statute 31. Clause 13 of the University Statute 31 is incorporated in Stages 1 and 2 of these Procedures (see Section 2.3, above). The procedure detailed in Part III of the University Statute 31 applies to contemplation of dismissal on the grounds of both misconduct and performance. Whilst the University has a separate procedure for managing performance capability, it expressly refers to the University Statutes where dismissal is contemplated. The procedure below will therefore also apply in these circumstances.

2.4.1.2 The complete text of the University Statutes is available from the University website.

Preliminary examination of serious disciplinary matters

14.1 If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in clause 13, or in any other case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges to be heard by a Tribunal appointed under clause 16 may be made to the Chief People Officer, People and Organisational Development, who shall bring it to the attention of the Vice-Chancellor.

14.2 To enable the Vice-Chancellor to deal fairly with any complaint brought to their attention under sub-clause (1) the Vice-Chancellor shall institute such investigations or enquiries (if any) as appear to them to be necessary.

14.3 If it appears to the Vice-Chancellor that a complaint brought to their attention under subclause (1) relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under clause 13 or which relates to a particular alleged infringement of rules, regulations or by-laws for which a standard penalty is normally imposed in the University or within the Board, Faculty, School, Institute, Delegacy, Department or other relevant area, or is trivial or invalid the Vice-Chancellor may dismiss it summarily, or decide not to proceed further under this Part.

14.4 If the Vice-Chancellor does not dispose of a complaint under sub-clause (3) the Vice-Chancellor shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if the Vice-Chancellor sees fit, the Vice Chancellor may suspend the member on full pay pending a final decision.

[4] The term 'dismissal' as used in this Procedure is intended to include the term 'removal from office' as used in Statute 31.

14.5 Where the Vice-Chancellor proceeds further under this Part they shall write to the member of the academic staff concerned inviting comment in writing.

14.6 As soon as may be following receipt of the comments (if any) the Vice-Chancellor shall consider the matter in the light of all the material then available and may –
(a) dismiss it themselves; or
(b) refer it for consideration under clause 13; or
(c) deal with it informally themselves if it appears to the Vice-Chancellor appropriate to do so and if the member of the academic staff agrees in writing that the matter should be dealt with in that way; or
(d) direct the Chief People Officer, People and Organisational Development, to prefer a charge or charges to be considered by a Tribunal to be appointed under clause 16.

14.7 If no comment is received within 28 days the Vice-Chancellor may proceed as aforesaid as if the member concerned had denied the substance and validity of the alleged case in its entirety.

Institution of Charges
15.1 In any case where the Vice-Chancellor has directed that a charge or charges be preferred under clause 14(6)(d), the Vice Chancellor shall request the Council to appoint a Tribunal under clause 16 to hear the charge or charges and to determine whether the conduct or performance of the member of the academic staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the members appointment or employment.

15.2 Where the Council has been requested to appoint a Tribunal under clause 16 the Chief People Officer, People and Organisational Development, or, if the Chief People Officer is unable to act, another officer appointed by the Vice-Chancellor shall take charge of the proceedings.

15.3 The officer in charge of the proceedings shall formulate, or arrange for the formulation of, the charge or charges and shall present, or arrange for the presentation of, the charge or charges before the Tribunal.

15.4 It shall be the duty of the officer in charge of the proceedings
(a) to forward the charge or charges to the Tribunal and to the member of the academic staff concerned together with the other documents therein specified, and
(b) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.

The Tribunal
16. A Tribunal appointed by the Council shall comprise:
(a) a Chair; and
(b) one member of the Council, not being a person employed by the University; and
(c) one member of the academic staff nominated by the Senate.

Provisions concerning Tribunal procedure
17.1 The procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal shall be that set out in Ordinances made under this clause.

17.2 Without prejudice to the generality of the foregoing such Ordinances shall ensure –
(a) that the member of the academic staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;
(b) that a charge shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed by them to represent them are entitled to be present;
(c) that the member of the academic staff and any person representing the staff member may call witnesses and may question witnesses upon the evidence on which the case against them is based; and
(d) that full and sufficient provision is made –
(i) for postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Vice-Chancellor for further consideration and for the correction of accidental errors; and
(ii) for appropriate time limits for each stage (including the hearing) to the intent that any charge thereunder shall be heard and determined by a Tribunal as expeditiously as reasonably practicable.

Notification of Tribunal decisions
18.1 A Tribunal shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the Vice-Chancellor and to each party to the proceedings.

18.2 A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this clause.

Powers of the appropriate officer where charges are upheld by Tribunal.
19.1 Where the charge or charges are upheld and the Tribunal finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the member of the academic staff concerned.

19.2 In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-clause (1) to dismiss the member of the academic staff concerned, the action available to the appropriate officer (not comprising a greater penalty than that recommended by the Tribunal) may be –
(a) to discuss the issues raised with the member concerned; or
(b) to advise the member concerned about their future conduct; or
(c) to warn the member concerned; or
(d) to suspend the member concerned for such period as the appropriate officer shall think fair and reasonable, not to exceed 3 months after the Tribunals decision; or
(e) any combination of any of the above or such further or other action under the members contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case.

Appropriate officers

20.1 The Vice-Chancellor shall be the appropriate officer to exercise the powers conferred by clause 19 and any reference to the appropriate officer includes a reference to a delegate of that officer.
(2) Any action taken by the appropriate officer shall be confirmed in writing.

2.4.2 Preparation, Hearing and Determination of Charges by a Tribunal

2.4.2.1 As specified above, Clause 17.1 of University Statute 31 requires the University to set out the procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal in Ordinances. The University Ordinance D1[5] has therefore been replicated below.

1. TRIBUNAL PROCEDURES
The Tribunal appointed under Statute 31.16 shall adopt the following procedure:

(a) Representation the member of the academic staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;

(b) Oral Hearing a charge shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed by them to represent them are entitled to be present. All written evidence to be relied upon at the Tribunal Hearing by both sides shall be exchanged not later than seven days prior to the date of the Tribunal.

(c) Procedure at Hearings the member of the academic staff and any person representing the staff member may call witnesses and may question witnesses upon the evidence on which the case against them is based.

2. POWERS AND DUTIES OF THE TRIBUNAL
(a) The Tribunal shall be empowered at any stage
(i) to postpone or adjourn the proceeding and shall not unreasonably refuse the request of the member of staff or of the officer in charge of the proceedings to do so,
(ii) to dismiss the charge or charges for want of prosecution,
(iii) to remit the charge or charges to the Vice-Chancellor for further consideration and for the correction of accidental errors,

[5] Should this Ordinance be altered or reassigned, this Procedure will be updated accordingly.

(b) The Tribunal shall ensure that the member of staff is aware of their rights under the Statutes including the right of appeal.

3. PROCEEDINGS

(a) The Chief People Officer, People and Organisational Development, or where they are unable to act, another officer appointed by the Vice-Chancellor, shall within 14 days of a charge being preferred at the direction of the Vice-Chancellor ensure that the member of staff concerned receives notification in writing:

(i) of the details of the disciplinary charge,

(ii) of the date and place of the hearing, such date to be not earlier than 3 weeks from the date of notification,

(iii) of the right to call witnesses and requiring the member of staff concerned to inform the Secretary to Council at least 7 days in advance of the meeting of the Tribunal of the names of any such witnesses,

(iv) of the entitlement to be represented by another person who may be legally qualified or not and of the requirement to notify the Secretary to Council of the details of such representation at least 7 days in advance of the meeting of the Tribunal.

(v) of the requirement to exchange all written evidence to be relied upon not later than 7 days prior to the date of the Tribunal.

(b) The Tribunal shall proceed as expeditiously as possible consistent with the need to observe the principles of justice and fairness and, wherever possible, set itself a time-table after hearing representations from the member of staff concerned for the presentation of the charge or charges, the hearing of witnesses and the determining of the case.

2.4.2.2 The member of staff must be informed, in writing, that an outcome of the Tribunal hearing could be dismissal.

2.4.2.3 Where an allegation of dismissal for good cause due to gross misconduct is substantiated, dismissal may be a summary dismissal, i.e. without notice or payment in lieu of notice.

2.4.2.4 Before any final decision is taken in respect of dismissal, each individual situation will be judged upon its own merits with due regard for the principles of equity and fairness while taking into account the full circumstances of the case.

2.4.3 Stage 4 Appeal

2.4.3.1 Please note that Stage 4 of this procedure replicates University Statute 31 Part V and for ease of reference adopts the numbering of the University Statute 31. The complete text of the University Statutes is available from the University website.

Purpose of Part V[6]

24. This Part establishes procedures for hearing and determining appeals by members of the academic staff who are dismissed or under notice of dismissal or who are otherwise disciplined.
Application and interpretation of Part V

25.1 This Part applies -
(a) to appeals against the decisions of the Council as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II[7];
(b) to appeals arising in any proceedings, or out of any decision reached, under part III[8] other than appeals under clause 13 (Appeals against disciplinary warnings);
(c) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
(d) to appeals against discipline otherwise than in pursuance of Part III; and
(e) to appeals against decisions reached under Part IV[9] and "appeal" and "appellant" shall be construed accordingly.

25.2 No appeal shall however lie against -
(a) a decision of the appropriate body under clause 10(2);
(b) the findings of fact of a Tribunal under clause 18(1) save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;

(c) any finding by a Board set up under clause 22(3).

25.3 In this Part references to "the person appointed" are references to the person appointed by the Council under clause 28 to hear and determine the relevant appeal.

25.4 The parties to an appeal shall be the appellant and the Chief People Officer, People and Organisational Development, and any other person added as a party at the direction of the person appointed.

Institution of Appeals
26. A member of the academic staff shall institute an appeal by serving on the Chief People Officer, People and Organisational Development, within the time allowed under clause 27, notice in writing setting out the grounds of the appeal.

[6] Part V - Appeals

[7] Part II - Redundancy

[8] Part II - Redundancy

[9] Part IV – Removal for Incapacity on Medical grounds

Time for appealing and notices of appeal
27.1 A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under sub-clause (3).

27.2 The Chief People Officer, People and Organisational Development, shall bring any notice of appeal received (and the date when it was served) to the attention of the Council and shall inform the appellant that they have done so.

27.3 Where the notice of appeal was served on the Chief People Officer, People and Organisational Development, outside the 28 day period the person appointed under clause 28 shall not permit the appeal to proceed unless the Chief People Officer, People and Organisational Development, considers that justice and fairness so require in the circumstances of the case.

Persons appointed to hear and determine appeals
28.1 Where an appeal is instituted under this part the Council shall appoint a person described in sub-clause (2) to hear and determine that appeal.

28.2 The persons described in this sub-clause are persons not employed by the University holding, or having held, judicial office or being barristers or solicitors of at least ten years standing.

28.3 The person appointed shall sit alone unless they consider that justice and fairness will best be served by sitting with two other persons.

28.4 The other persons who may sit with the person appointed shall be -
(a) one member of the Council not being a person employed by the University; and
(b) one member of the academic staff nominated by the Senate.

Provisions concerning appeal procedures and powers
29.1 The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Ordinances made under this clause.

29.2 Without prejudice to the generality of the foregoing such Ordinances shall ensure -

(a) that an appellant is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of their appeal;
(b) that an appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by them to represent them are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses;
(c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and
(d) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.

29.3 The person or persons hearing the appeal may allow or dismiss an appeal in whole or in part and, without prejudice to the foregoing, may -
(a) remit an appeal from a decision under Part II to the Council as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or
(b) remit an appeal arising under Part III for re-hearing by a differently constituted Tribunal to be appointed under that part; or
(c) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or persons hearing the appeal may direct; or
(d) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Tribunal which heard and pronounced upon the original charge or charges.

Notification of decisions
30. The person appointed shall send the reasoned decision, including any decision reached in exercise of their powers under clause 29(3)(a), (b) or (c), on any appeal together with any findings of fact different from those come to by the Council as the appropriate body under Part II or by the Tribunal under Part III, as the case may be, to the Vice-Chancellor and to the parties to the appeal.

3. ROLES AND RESPONSIBILITIES

3.1 For the avoidance of doubt, where a role title, department, faculty or professional service area is named and it is no longer in existence, it should be read as the equivalent role or department, faculty or professional service area. Should individuals remain uncertain, clarification can be sought from a senior member of staff within the management line.

3.2 Responsibility for applying the provisions of this procedure lies with the Vice-Chancellor and University's Senior Management Team. This responsibility may be delegated to appropriate academic reviewing managers.

4. RELATED POLICIES AND PROCEDURES

- Research Misconduct Procedure
- Disciplinary and Appeals Procedure (Staff)
- Probationary Procedure
- Never OK Hub (Condition of Registration E6: Harassment and Sexual Misconduct single comprehensive source of information)
- Dignity & Respect Policy Statement and Procedure for a Member of Staff to Raise a Complaint of Bullying or Harassment
- Sexual Violence and Misconduct Policy Statement
- Procedure for Managing Staff Disclosure and Formal Allegations of Sexual Violence and Misconduct (staff)
- Student Personal Relationships Policy Statement and Procedure for Disclosing Relationships or to Raise Concerns (Staff & Student Relationships)

- Conflicts of Interest Policy
- Conflicts of Interest Procedure and Guidelines

5. REVIEW, APPROVAL & PUBLICATION

5.1 As a general principle, the procedure will be reviewed by People and Organisational Development Department, in consultation with recognised Trade Unions after three years or where operational and/ or legislative requirements change. Any revisions will be approved in accordance with UEC and Council procedures, where applicable.

5.2 This procedure is not contractual and is not intended to be incorporated into individual terms and conditions of employment. It may be subject to review, amendment, or withdrawal.

5.3 Nothing in this procedure will in any way detract from or impinge upon an individual member of staff's statutory employment rights or those contained in the Charter and Statutes of the University. Where changes to a statutory provision, or to the University Charter and Statutes, affect this procedure, the University retains the right to amend the procedure accordingly.

5.4 This procedure will be published on the University policy zone web page and will also be accessible via the People and Organisational Development Department web pages.

5.5 Equality issues have been taken into account during the development of this procedure and all protected characteristics have been considered as part of the Equality Analysis undertaken.

5.6 The University will monitor the outcomes in respect of staff entering the formal stages of the procedures in order to meet its statutory equality duties.

6. ANNEXES

Annex A: General principles applying to the formal stages of the academic staff disciplinary and appeals procedure.

Annex B: Summary of the disciplinary process (stages 1 & 2)

7. DOCUMENT CONTROL INFORMATION

Document Name	Disciplinary and Appeals Procedure (Academic Staff)
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	Disciplinary and Appeals Procedure (Staff) Probationary Procedure Never OK Hub (Condition of Registration E6: Harassment and Sexual Misconduct single comprehensive source of information) Dignity & Respect Policy Statement and Procedure for a Member of Staff to Raise a Complaint of Bullying or Harassment Student Personal Relationships Policy Statement and Procedure for Disclosing Relationships or to Raise Concerns (Staff & Student Relationships) Conflicts of Interest Policy Conflicts of Interest Procedure and Guidelines
For Office Use – Keywords	

ANNEX A: GENERAL PRINCIPLES APPLYING TO THE FORMAL STAGES OF THE DISCIPLINARY AND APPEALS PROCEDURE (ACADEMIC STAFF)

A1. Definitions and Principles

A1.1 No disciplinary action will be taken against an accredited representative of a recognised Trade Union until the matter has been discussed with an employed Trade Union Official of the Union concerned.

A1.2 The disciplinary procedure may be initiated at an informal or formal stage depending on the seriousness of the alleged offence.

A1.3 Staff will not be dismissed for a first breach of discipline, except in the case of gross misconduct that constitutes 'good cause'.

A1.4 Members of staff will have the right of appeal against any formal action under this procedure, up to and including dismissal and will be advised of this right and the procedure for submitting an appeal, as appropriate.

A1.5 Any member of staff who has been involved in determining the outcome of a disciplinary meeting will automatically be excluded from playing such a role in an appeal meeting.

A2. Right to be Accompanied

A2.1 Members of staff have a right to be accompanied at all formal meetings convened under any procedure that could result in:

a) a formal warning;
b) dismissal;
c) the confirmation of a warning or dismissal (such as an appeal meeting).

A2.2 In line with statutory rights, the representative may be: a) a University work colleague; or b) an Official employed by a Trade Union, or a lay Trade Union Official[10].

A2.3 Where applicable under the University Statute 31 (parts III and V), staff may instead be entitled to be represented by another person, whether such person be legally qualified or not.

A3. Arrangements and Principles for Formal Meetings

[10] Lay Trade Union officials not employed by the University will be required to provide proof in writing that they have been certified by their union as having experience of, or having received training in, acting as a representative at such meetings.

A3.1 These arrangements and principles apply to formal disciplinary meetings convened under stages 1 and 2 of this procedure (i.e. where dismissal is not contemplated) and appeals against disciplinary sanctions at these stages.

Arrangements for Tribunal Hearings convened under the University Statute 31 (Clause 14) can be found in Section 2.4, above.

A3.2 If a formal meeting is to be convened under this procedure (i.e. a meeting that could result in a formal warning or dismissal), the member of staff should be given a reasonable opportunity to consider their response to the issues to be discussed. The member of staff will receive the following, in writing, at least five working days in advance of the meeting:

a) the date and time and location of the meeting;

b) details of the alleged misconduct, and any other related information, which leads the University to contemplate taking formal action (which may include dismissal) against the member of staff;

c) the name of the person who may be asked to present the case to the manager conducting the disciplinary meeting;

d) the names of any witnesses;

e) the member of staff's right to be accompanied;

f) any other documentation to which the University will refer.

A3.3 Not later than two working days before the meeting the member of staff should similarly provide:

a) the name and status of the member of staff's representative, if any;

b) any documents the member of staff may wish to rely on at the meeting;

c) the names of any witnesses.

A3.4 Where reasonable adjustments need to be made relating to a disability, the member of staff should inform the manager in advance of the meeting so that appropriate action may be taken.

A3.5 The role of the person conducting the disciplinary meeting is to adjudicate impartially based on evidence provided to the disciplinary meeting. The member of staff will be given an opportunity to present their case and any evidence in mitigation of the alleged misconduct.

A3.6 At the disciplinary meeting the alleged misconduct will be explained and witness evidence may be called. The manager conducting the disciplinary meeting shall consider the allegations made against the member of staff and go through the evidence that has been gathered. The Investigating Manager will normally attend to present their report and to answer questions on it from the member of staff and the manager conducting the disciplinary meeting. The member of staff will be afforded an opportunity to present their case and any evidence in their defence.

A3.7 Consideration will be given to re-scheduling the meeting where a key witness is unable to attend.

A3.8 Each party may ask questions of the witnesses called by them or by the other party.

A4. Failure to Attend a Meeting

A4.1 If a member of staff fails to attend a meeting without reasonable justification and without notifying the manager in advance, the meeting may go ahead in the member of staff's absence, based on the available evidence. The outcome of the meeting will be communicated to the member of staff in writing.

A4.2 If the representative cannot attend the meeting on the proposed date, the member of staff can offer an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

A4.3 All members of staff are expected to cooperate with any requests from the University for evidence to support their reasons for non-attendance at meetings. This can include medical evidence and/or a statement from the member of staff justifying their non-attendance with supporting documentation, if it is available.

A5. Time Limits

A5.1 Time limits are included in these procedures in order to ensure that matters are dealt with promptly and without undue delay. However, in complex matters it may be appropriate to extend these time limits.

A6. Suspension (pending Investigation and/or a Disciplinary Meeting)

A6.1 Where an allegation of a disciplinary offence has been made against a member of staff, it may be appropriate to suspend the member of staff from duty pending a disciplinary investigation and/or disciplinary meeting. Suspension from duty is not a disciplinary measure in itself and will be reviewed to ensure that it is not unnecessarily protracted. Suspension will normally be limited, but not necessarily restricted, to circumstances in which:

a) the member of staff may interfere, or compromise any investigation;

b) there are difficulties in the relationship between the member of staff and other people (e.g. colleagues, students etc) with whom they would normally expect to come into contact in the workplace, which would be exacerbated by continuing to work in close proximity;

c) the safety of staff and the University's duty of care to its employees may be compromised by the presence of the member of staff at work;

d) it is necessary to protect the University's interests (e.g. for reasons of safety or financial probity).

A6.2 In these circumstances, a suspended member of staff will receive their normal pay, i.e. the pay the member of staff would have received had they not been suspended from duty, although if the individual is, at that time, also absent for another reason whilst suspended, (e.g. sickness absence, parental leave, maternity/adoption/paternity leave) the individual will receive the appropriate pay for absence for that reason. Except for approved leave of absence, the member of staff must remain contactable and available during normal working hours in order that they can attend meetings. Any changes of address or telephone number during this period should be notified immediately. Members

of staff who would be unable to work due to sickness whilst suspended are expected to inform their manager and submit medical certificates in the normal way; similarly, they will be expected to request any annual or other leave in the normal way.

A6.3 Suspension will provide an opportunity for a full investigation to be undertaken to gather relevant evidence and determine whether a disciplinary meeting should take place. Suspension may only be carried out with the agreement of the Vice-Chancellor. The University may consider alternatives to suspension, for example temporary re-deployment, additional supervision, or the restriction of duties, as is deemed appropriate in the circumstances.

A6.4 Any conditions of suspension will be notified to the member of staff at the time of suspension and confirmed in writing at the same time the suspension is confirmed. The conditions will be the minimum necessary to protect the integrity of an investigation and/or any subsequent disciplinary meeting. If a member of staff is unavailable to attend a suspension meeting, they will be informed of the decision to suspend in writing. At the time of suspension, and in the written confirmation, the member of staff will be informed of the conditions of their suspension. For example, they may not be allowed to enter University premises without prior approval. The individual's personal circumstances will be taken into consideration in relation to the terms of the suspension (for example, staff living on campus).

A6.5 The period of suspension is to be kept to a minimum and will last no longer than four weeks before the situation is formally reviewed. If suspension continues beyond the initial 4-week period, the situation will be regularly reviewed thereafter.

A6.6 A member of staff who has been suspended from duty will have the suspension confirmed in writing within three working days. They will also be advised how the investigation will proceed.

ANNEX B: SUMMARY OF THE DISCIPLINARY PROCESS (STAGES 1 & 2)

This diagram provides a general overview of the disciplinary process (excluding serious disciplinary matters that may involve suspension and/or those that could result in dismissal).