

# Cranfield University Ordinances

## Part B: Staff matters

---

## Ordinances Part B. Cranfield University Staff Ordinances

### Contents

<b>Ordinances Part B.</b>	<b>Cranfield University Staff Ordinances .....</b>	<b>B-2</b>
<b>Ordinance 20</b>	<b>General Provisions.....</b>	<b>B-5</b>
20.1	Application.....	B-5
20.2	Representation and accompaniment.....	B-5
20.3	Witnesses .....	B-5
20.4	Recording of hearings and meetings.....	B-6
20.5	Confidentiality .....	B-6
20.6	Non attendance .....	B-6
20.7	Assistance for members of staff with disabilities.....	B-6
20.8	Suspension.....	B-7
<b>Ordinance 21</b>	<b>Staff posts and conditions of appointment.....</b>	<b>B-8</b>
21.1	Responsibility for staff resourcing .....	B-8
21.2	Duties and responsibilities of staff members.....	B-8
21.3	Absence from duties .....	B-9
21.4	Termination.....	B-10
21.5	Retirement and pensions.....	B-10
<b>Ordinance 22</b>	<b>Disciplinary (Conduct and Capability) procedures .....</b>	<b>B-12</b>
22.1	Application.....	B-12
22.2	Grounds for disciplinary action .....	B-12
22.3	Gross misconduct.....	B-13
22.4	Physical or mental incapacity .....	B-15
22.5	Resolving problems informally .....	B-15
22.6	Investigation .....	B-16
22.7	Suspension.....	B-17
22.8	Formal procedures - Warnings.....	B-17
22.9	Postponement or adjournment pending other proceedings.....	B-18
22.10	Notification to attend a formal disciplinary hearing...	B-18
22.11	Constitution of the hearing panel.....	B-19
22.12	Procedures for the formal disciplinary hearing .....	B-20
22.13	Issuing a formal warning .....	B-21
22.14	Appeals against a written or final written warning.....	B-21

	22.15	Dismissal .....	B-22
	22.16	Appeal against dismissal.....	B-22
<b>Ordinance 23</b>		<b>Redundancy .....</b>	<b>B-23</b>
	23.1	Application.....	B-23
	23.2	Definition of “redundancy” .....	B-23
	23.3	Informal consultation .....	B-23
	23.4	Management report .....	B-24
	23.5	Formal consultation .....	B-25
	23.6	Further consultation and ‘at risk’ notification .....	B-27
	23.7	Redundancy panel process .....	B-28
	23.8	Notification of dismissal .....	B-28
	23.9	Redeployment .....	B-29
	23.10	Appeals procedure.....	B-29
<b>Ordinance 24</b>		<b>Incapacity on grounds of health .....</b>	<b>B-30</b>
	24.1	Application.....	B-30
	24.2	Informal consideration and investigation of ill health or incapacity.....	B-30
	24.3	Medical reports.....	B-31
	24.4	Formal consultation meeting.....	B-32
	24.5	Suspension.....	B-33
	24.6	Medical retirement.....	B-33
	24.7	Dismissal .....	B-34
	24.8	Appeals procedure.....	B-34
<b>Ordinance 25</b>		<b>Review and non-confirmation of probationary appointments .....</b>	<b>B-35</b>
	25.1	Application.....	B-35
	25.2	Probationary periods .....	B-35
	25.3	Performance review principles.....	B-35
	25.4	Formal procedures in consideration of dismissal .....	B-37
	25.5	Appeals .....	B-38
<b>Ordinance 26</b>		<b>Non-renewal of fixed-term contracts .....</b>	<b>B-39</b>
	26.1	Application.....	B-39
	26.2	Action approaching the expiry of a fixed-term contract.....	B-40
	26.3	Dismissal by reason of redundancy .....	B-40
	26.4	Formal procedure for dismissal .....	B-41
	26.5	Appeals procedure.....	B-41

<b>Ordinance 27</b>	<b>Removal from a non-substantive post .....</b>	<b>B-42</b>
27.1	Application.....	B-42
27.2	Informal action.....	B-42
27.3	Formal action.....	B-43
27.4	Procedure for hearing the case.....	B-43
27.5	Conduct of the hearing .....	B-43
27.6	Procedure following the hearing.....	B-44
27.7	Appeal procedure.....	B-45
27.8	Procedure following the appeal hearing.....	B-45
<b>Ordinance 28</b>	<b>Dismissal on other substantial grounds .....</b>	<b>B-46</b>
28.1	Application.....	B-46
28.2	Action prior to a hearing panel.....	B-46
28.3	Suspension.....	B-46
28.4	Hearing panel to consider dismissal .....	B-47
28.5	Written notification to attend a hearing .....	B-47
28.6	Conducting the hearing .....	B-47
28.7	Dismissal .....	B-48
28.8	Appeals against dismissal.....	B-48
<b>Ordinance 29</b>	<b>Resolution of grievances .....</b>	<b>B-49</b>
29.1	Application.....	B-49
29.2	Aim of the procedures .....	B-50
29.3	Stage 1 - Informal procedure .....	B-50
29.4	Mediation .....	B-50
29.5	Stage 2 - Formal procedure .....	B-51
29.6	Stage 3 – Appeal hearing.....	B-52
<b>Ordinance 30</b>	<b>Appeals against dismissal.....</b>	<b>B-54</b>
30.1	Application.....	B-54
30.2	Appeal against dismissal.....	B-54
30.3	Composition of the appeal panel .....	B-55
30.4	Procedure for the appeal hearing.....	B-55
30.5	Procedure following the appeal hearing.....	B-56

## **Ordinance 20    General Provisions**

### **20.1    Application**

- 20.1.1        This Ordinance contains general provisions applicable to all Ordinances contained in Part B.

### **20.2    Representation and accompaniment**

- 20.2.1        Where provided for under the Ordinances a member of staff will have the right to be accompanied at a hearing by a Trade Union Representative or Workplace Colleague of their reasonable choice. The member of staff must make all arrangements for their own representation or accompaniment where they wish to exercise that right.
- 20.2.2        If the Trade Union Representative or Workplace Colleague is not available to attend at the time proposed for the hearing, then the member of staff may propose an alternative time for the hearing to take place. The proposed alternative time must be reasonable and must be within 5 Working Days of the initial date of the hearing.
- 20.2.3        At a hearing, the Trade Union Representative or Workplace Colleague accompanying the member of staff is entitled to put the member of staff's case, to sum up the case, to respond on the member of staff's behalf to any view expressed at the hearing, and to confer with the member of staff. The Trade Union Representative or Workplace Colleague may request brief adjournments to discuss and give advice to the member of staff.
- 20.2.4        The Trade Union Representative or Workplace Colleague does not have the right to answer questions on behalf of the member of staff, should not address the hearing if the member of staff does not wish it, and should not act in a way that prevents the University from explaining its case or prevents another person at the hearing from making their contribution to it.
- 20.2.5        A member of staff chosen to accompany another to a hearing will be entitled to take paid time off during working hours to attend that hearing.

### **20.3    Witnesses**

- 20.3.1        Members of staff who are witnesses in relation to any investigation or proceedings under the Ordinances may be required to provide or affirm written statements. Such statements will normally be viewed by relevant parties, including the member(s) of staff against whom allegations are made.

- 20.3.2 It may be appropriate in some circumstances for the identity of a witness or a witness statement to be kept confidential. Where this is the case relevant parties will be given as much information as possible while maintaining confidentiality.

## **20.4 Recording of hearings and meetings**

- 20.4.1 The electronic recording of hearings and meetings is not normally permissible. In exceptional circumstances, for example where the member of staff has particular needs due to a disability, electronic recording may be allowed, subject to the prior written agreement of the chair of the proceedings.
- 20.4.2 A note-taker, normally a member of HR, may attend hearings and meetings. Where notes are taken during a hearing or meeting, such notes will normally be a summary of key points of discussion rather than a verbatim record.

## **20.5 Confidentiality**

- 20.5.1 Unless notified to the contrary, members of staff must treat as confidential any information communicated to them in connection with the procedures outlined in these Ordinances.

## **20.6 Non attendance**

- 20.6.1 Members of staff are required to take all reasonable steps to attend a meeting or hearing convened under these Ordinances. Failure to attend a meeting or hearing may be treated as misconduct.
- 20.6.2 If a member of staff does not attend a meeting or hearing without good reason, the meeting or hearing may proceed in their absence. Normally, however, the meeting or hearing will be adjourned to enable contact to be made with the member of staff to ascertain the cause of their absence, unless the meeting or hearing has already been adjourned due to previous absence without good reason.
- 20.6.3 Where a member of staff is persistently unable or unwilling to attend a meeting or hearing, a decision will normally be made in their absence on the evidence available. In such circumstances the chair will seek to ascertain via HR whether there are compelling grounds for a further adjournment before proceeding with the meeting or hearing in the absence of the member of staff.

## **20.7 Assistance for members of staff with disabilities**

- 20.7.1 If a member of staff has any disability which may require particular facilities at any meeting or hearing under these Ordinances, they should request those facilities in advance of the meeting or hearing.

## 20.8 Suspension

- 20.8.1 A member of staff may be suspended in circumstances where gross misconduct is alleged, where there are risks to other parties or property, where relationships have seriously broken down such as to impair efficiency, such other reasons as may be appropriate, and to assist an investigation into these and similar matters.
- 20.8.2 Suspension is a neutral act to facilitate an investigation, which should be carried out promptly, and will normally be on full pay. Suspension will not be used as a form of disciplinary sanction and does not imply that any decision has already been made about the allegations.
- 20.8.3 Suspension must be authorised by the HR Director or nominee.
- 20.8.4 The reason(s) for suspension and the initial period of suspension will be notified in writing to the member of staff by the HR Director or nominee.
- 20.8.5 The suspension period will be as brief as practicable and will normally be for a period no longer than 10 Working Days in the first instance. Should it be determined that the suspension is to continue beyond the initial period, the HR Director or nominee will write to the member of staff to explain the reason(s) for continuing the suspension and invite comment in writing. The HR Director or nominee will then re-consider the decision to continue the suspension in the light of any comments received. If the suspension is to continue, the position will be reviewed again at appropriate intervals not normally exceeding 20 Working Days.
- 20.8.6 During the suspension period, the member of staff must not contact colleagues or visit University premises or access University facilities including email and databases without first obtaining authority from the HR Director or nominee. Such authority will normally be granted (subject to any conditions considered appropriate) to enable the member of staff to prepare for any formal proceedings. Members of staff retain the right to contact their Trade Union Representative whilst they are suspended.

## **Ordinance 21 Staff posts and conditions of appointment**

### **21.1 Responsibility for staff resourcing**

- 21.1.1 Each Senior Manager is responsible for planning their own staff requirements within their available budget.
- 21.1.2 Approval of all vacancies and extensions of fixed-term contracts must comply with the Financial Manual.
- 21.1.3 Unless the responsibility rests with the Senate as outlined in Ordinance 4, or with the Remuneration Committee in accordance with Ordinance 3, the following will apply:
  - a. The Vice-Chancellor, following proposals from the HR Director, will be responsible for reviewing and setting staff pay and reward, conditions of employment, HR policy and procedures, and the constitution of interview and promotion boards;
  - b. The HR Director, or other authorised person within HR will be responsible for approving offers of appointment, promotions, reward payments, contractual changes and other associated staff matters.

### **21.2 Duties and responsibilities of staff members**

- 21.2.1 Every member of staff will have the following duties, in addition to any other duties that may be assigned to them:
  - a. to give to the work of their post and to the general interests of the University such time and effort as the terms of their contract require or imply;
  - b. to limit any work, occupation or interests which they may undertake or have outside the University so that they will not interfere with the adequate performance of their duties for the University, and, in accordance with the Financial Manual, to gain prior written approval from the Vice-Chancellor or relevant Senior Manager before any outside work or external consultancies are undertaken;
  - c. to behave at all times in a responsible manner, to take such immediate action as may at any time be requisite for the maintenance of good order in the University, and to report to the Vice-Chancellor or other proper authority any serious breach of good order coming to their attention; and
  - d. generally, to further the objectives of the University and to foster its interests.
- 21.2.2 Heads of School are responsible to the Vice-Chancellor for:



- a. the administration of their School and the control and co-ordination of the teaching and other work carried out therein;
- b. the supervision of the staff and Students of their School and their compliance with the Laws of the University;
- c. the promotion and encouragement of research of an appropriate nature by the staff of the School;
- d. the examination of the Students in the School and their assessment for the award of degrees and other academic distinctions of the University in conformity with the Regulations and requirements of the Senate; and
- e. such other matters as the Laws of the University and the Council, the Senate or the Vice-Chancellor may require.

Other members of the Academic staff will carry out such teaching and examination functions within their academic competence and render such assistance with administration and supervision as the Head of the School to which they are assigned may require.

## **21.3 Absence from duties**

- 21.3.1 A member of staff who is unable to fulfil any duty by reason of sickness, injury or other cause will inform their Line Manager, or in their absence, another appropriate manager, without delay, in accordance with the relevant reporting procedure(s).
- 21.3.2 The remuneration of any member of staff will, subject to the terms of their contract, be abated by the amount of any sickness or injury benefit to which they are entitled under the terms of any scheme or would have so become entitled had they submitted a claim at the proper time.
- 21.3.3 A member of staff who is absent from their duties by reason of sickness or injury for such a period or periods as has been prescribed for their Level by the Vice-Chancellor will, subject to the terms of their contract, and so long as their contract is not terminated, be entitled to receive remuneration in accordance with such scale of allowances, and thereafter will cease to be entitled to remuneration in respect of periods of absence until they have returned to their duties.
- 21.3.4 Every member staff will be entitled, subject to the terms of their contract, to such leave of absence without reduction of remuneration as may from time to time be approved by the Vice-Chancellor, to be taken at a time or times approved by their Line Manager, or in their absence, another appropriate manager

## 21.4 Termination

- 21.4.1 Every contract of employment of a member of staff may be terminated by either party giving notice to the other, unless the Vice-Chancellor makes a justified exception to this rule. The periods of notice are as follows:
- a. Heads of School or Professors - six months' notice, expiring on any quarter-day (i.e. the last day of March, June, September or December).
  - b. Senior members of staff who are on an equivalent grade to that of a Professor - six months' notice, expiring at the end of any calendar month.
  - c. Readers, Senior Lecturers or Lecturers - four months' notice expiring on the thirtieth day of September in any year or by three months' notice expiring on any other quarter-day.
  - d. Any member of Academic staff, not specified in (a), (b) or (c) above, or a member of the Professional staff - three months' notice expiring at the end of any calendar month.
  - e. Contracts of employment for all other staff not specified in (a) to (d) above may be terminated in accordance with minimum statutory notice requirements or by the notice period specified in their contract, whichever is the greater.
- 21.4.2 Where there is a conflict between the notice period stated in 25.5.1 and the notice period stated in the member of staff's contract of employment, the contract of employment will prevail.
- 21.4.3 Notice of termination may be given by the University only after compliance with such parts of Statute 4 as may be relevant, and after compliance with any relevant Ordinance.

## 21.5 Retirement and pensions

- 21.5.1 The University does not operate a retirement age.
- 21.5.2 Staff wishing to retire from their post must terminate their contract of employment by giving the required notice.
- 21.5.3 Every eligible member of the Academic staff and Professional staff who is designated by the Vice-Chancellor for this purpose is entitled to become a member of the Universities' Superannuation Scheme.

- 21.5.4 All other members of staff, not eligible under 21.6.3 above, are entitled to become a member of the Local Government Pension Scheme, or from 1 August 2013 to become a member of the University's defined contribution scheme.
- 21.5.5 Membership of any of the above schemes will be subject to the rules of the schemes in force from time to time.

## Ordinance 22    **Disciplinary    (Conduct    and    Capability)** procedures

### 22.1    **Application**

- 22.1.1    This Ordinance applies to members of staff who have satisfactorily completed their probationary period and been confirmed in post and whose conduct or performance is below the required standard.
- 22.1.2    This Ordinance does not apply to members of staff in their probationary period who have not been confirmed in post. Ordinance 25 (Review and non-confirmation of probationary appointments) will apply to these members of staff.
- 22.1.3    The standards of conduct and performance expected will be set by the University, Senior Managers or those nominated by them in accordance with the requirements of the post.

### 22.2    **Grounds for disciplinary action**

- 22.2.1    Disciplinary action under this Ordinance may be taken, and where found to be justified a penalty imposed to include a formal warning or dismissal (if appropriate) in respect of the following:
- a.    conduct amounting to a criminal offence, whether or not there has been a prosecution and conviction, of a kind that is judged in all the circumstances to be relevant to the member of staff's employment;
  - b.    failure, refusal, neglect or inability to perform some or all of the duties or to comply with some or all of the conditions attached to a post, or performing those duties or complying with those conditions in an unsatisfactory or inadequate manner; or
  - c.    inappropriate or unacceptable conduct by the member of staff, such as (but not confined to) the following:
    - breach of any obligation or duty arising under any of the University's policies or procedures regarding financial matters, dignity at work, public interest disclosure, national security including the [Industry Personnel Security Assurance framework](#), health and safety, data protection or any other rules, regulations or codes binding on the member of staff;
    - damage to, or improper use of the University's facilities, premises, property or equipment;
    - disruption of, or improper interference with, the activities of the University or of any member of staff, Student, Council member or visitor (other than any lawful industrial action);

- violent, indecent, disorderly, threatening, abusive, insulting, or harassing behaviour or language, whether written, spoken or in any other form;
- fraud, deceit, deception or dishonesty in relation to the University or any related activity, including publications, research and examining;
- action likely to cause injury or impair safety; or
- divulging information or material received in confidence (unless the disclosure is permitted under legislation such as the Public Interest Disclosure Act 1998).

## 22.3 Gross misconduct

22.3.1 The following list provides examples of offences which will normally be regarded by the University as acts of gross misconduct. This list is not intended to be exhaustive:

- a. theft, deliberate falsification of records or claims against the University or other acts of dishonesty;
- b. fighting, assault on another person or other physical violence;
- c. abusive or threatening behaviour (including violent or offensive language);
- d. physical, verbal or psychological bullying of any type;
- e. any act of discrimination, victimisation or harassment relating to a protected characteristic including race, colour, nationality, ethnic or national origin, sex, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership, religion or belief, age, or disability;
- f. fraud;
- g. accepting or offering bribes or other secret payments;
- h. deliberate damage to the University's property;
- i. serious breach of health and safety rules or procedures;
- j. serious incapacity through alcohol or being under the influence of illegal drugs;
- k. sale of alcohol on University premises or the possession, use, supply. or attempted supply of illegal drugs;
- l. serious negligence which causes unacceptable loss, damage or injury to persons or the University's property or finances;
- m. serious act of insubordination (such as refusal to carry out a lawful instruction);

- n. serious 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;
- o. unauthorised computer use or access;
- p. absence without good reason;
- q. conduct amounting to a serious criminal offence (whether committed during the course of the member of staff's employment or not) of a kind that is judged in all the circumstances to be relevant to the member of staff's employment;
- r. misuse of e-mail or of the internet (including downloading or transmission of material which is defamatory, pornographic, offensive or obscene, malicious, sexist, racist or protected copyright material);
- s. serious breach of Data Protection legislation, including the Data Protection Act 1998, the General Data Protection Regulation (EU) 2016/679 and related UK legislation, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any related guidance or codes of practice issued by the Information Commissioner, all as amended re-enacted or updated;
- t. conduct that damages or has the potential to damage the University's reputation or its interests;
- u. setting up or assisting a business or engaging in other activities which compete or conflict with the business or aims of the University;
- v. misuse of University resources, including for personal gain;
- w. serious misuse of the University's name;
- x. serious neglect of duties;
- y. making untrue allegations in bad faith against another member of staff.
- z. serious breach of the University's national security protocols which are aligned with the [Industry Personnel Security Assurance framework](#).

## **22.4 Physical or mental incapacity**

- 22.4.1 Where it emerges during proceedings under this Ordinance that a member of staff's conduct or performance may have been wholly or partly attributable to a medical condition, consideration will be given by the HR Director or nominee (having regard to the provisions of the Equality Act 2010 relating to disability, as appropriate), to:
- a. dealing with this aspect of the case prior to proceeding under this Ordinance;
  - b. dealing with the case under Ordinance 24 (Incapacity on grounds of health).
- 22.4.2 However, any proceedings under this Ordinance will be valid even if they could have been brought or considered under Ordinance 24, and a member of staff may be subject to action, including dismissal, under this Ordinance notwithstanding the fact that their conduct or performance may have been wholly or partly attributable to a medical condition, including a disability.

## **22.5 Resolving problems informally**

- 22.5.1 Except in cases of alleged serious or gross misconduct, a reasonable attempt will be made to resolve any minor concerns informally through discussion with the member of staff and by providing reasonable support through coaching and training. It is important to deal with and resolve any concerns at an early stage before negative behaviours become entrenched and potentially more difficult to resolve or performance deteriorates further.
- 22.5.2 If there is a concern that the required standards are not being met, the Line Manager will arrange to meet with the member of staff informally.
- 22.5.3 The aim of the meeting will be to discuss the concerns with the member of staff, identify the reasons why the required standards are not being met and to determine any support or training that can reasonably be provided to assist the member of staff in meeting the required standards.
- 22.5.4 Following the meeting the member of staff will be given a reasonable time to improve. Progress will be reviewed informally and feedback given. Positive support and encouragement will be offered to assist the member of staff in meeting the required standards.
- 22.5.5 The Line Manager will keep their own file note of any informal attempt(s) to address a shortfall in standards.
- 22.5.6 If there is insufficient improvement in conduct or performance, formal disciplinary action will need to be considered such as

the issuing of a formal warning. The member of staff will be advised when formal action is being contemplated.

- 22.5.7 For the avoidance of doubt, informal meetings referred to in 22.5 do not constitute formal disciplinary meetings. Members of staff do not have a right to be accompanied by a Workplace Colleague or Trade Union Representative at these informal meetings.

## **22.6 Investigation**

- 22.6.1 When a potential disciplinary matter has arisen in respect of conduct and except in cases where the facts are not in dispute, it will be usual to carry out an investigation in order to gather the relevant facts and supporting evidence promptly before recollections fade. The investigation may be carried out by the relevant Line Manager or by a person nominated on their behalf.

- 22.6.2 When a potential disciplinary matter has arisen in respect of performance, it will be usual to undertake an assessment to determine if there are grounds for undertaking formal disciplinary action. The assessment may be carried out by the relevant Line Manager or by a person nominated on their behalf.



- 22.6.3 The extent of any investigation or assessment will vary from case to case. It may involve interviewing and taking statements from the member of staff and other individuals, reviewing and collating relevant documents, and monitoring the member of staff's work. Where statements are being taken, the member of staff will normally be informed of this, except where the University considers this may impede the investigation or assessment, and they will also be invited to nominate witnesses who may have relevant information.
- 22.6.4 Following the investigation, the Line Manager or nominee may determine that:
- a) there is no disciplinary case to answer; or
  - b) the matter can be appropriately dealt with informally; or
  - c) the matter should be considered under Ordinance 24 (Incapacity on grounds of health); or
  - d) there are sufficient grounds for consideration of a formal disciplinary warning or dismissal and that the member of staff must be notified to attend a formal disciplinary hearing in line with 22.10.

## **22.7 Suspension**

- 22.7.1 Should it be deemed necessary to suspend the member of staff, this will be handled in accordance with the procedure outlined in Ordinance 20 (General Provisions).

## **22.8 Formal procedures - Warnings**

- 22.8.1 Where an attempt to informally resolve a matter of concern has failed or where the matter is more serious but falls short of constituting grounds for dismissal, consideration may be given to issuing a formal warning.
- 22.8.2 The purpose of a formal warning is to inform a member of staff that their conduct or performance is below the standard required and that a failure to improve their conduct or performance could result in further disciplinary action being taken to include dismissal.
- 22.8.3 Depending on the seriousness of the matter, these formal procedures may be started at any stage.
- 22.8.4 If the member of staff's conduct or performance does not meet acceptable standards, they will normally be given a Written Warning.
- 22.8.5 If further misconduct of any kind occurs or performance does not improve, or if the misconduct or poor performance is sufficiently serious, but not serious enough to justify dismissal,

the member of staff will normally be given a Final Written Warning.

- 22.8.6 If further misconduct of any kind occurs or performance is still unsatisfactory and the member of staff still fails to reach the required standards, the matter will be referred for consideration of dismissal under the procedures set out in this Ordinance.
- 22.8.7 Where formal disciplinary action is being considered against a member of staff who is a Trade Union Representative the normal disciplinary procedures will be followed. The HR Manager or nominee may, however, discuss the matter at an early stage with an official employed by the union after obtaining the member of staff's agreement.
- 22.8.8 A formal warning will not be issued to a member of staff without:
- a. the member of staff being required to attend a formal disciplinary hearing, as outlined in 22.10, at which they may respond to any concerns raised; and
  - b. any necessary investigations having been carried out, as outlined in 22.6.

## **22.9 Postponement or adjournment pending other proceedings**

- 22.9.1 Disciplinary proceedings may be deferred or adjourned by the HR Director or nominee at any stage pending the outcome of proceedings or action by another body or employer (e.g., NHS trust, GMC, Health and Safety Executive, police investigation, criminal proceedings).

## **22.10 Notification to attend a formal disciplinary hearing**

- 22.10.1 If there are sufficient grounds for consideration of a formal disciplinary warning or dismissal, the member of staff will be invited to a formal disciplinary hearing. In advance of the hearing, an HR Manager or nominee will write to the member of staff, giving them:
- a. not less than 5 Working Days' notice of the date for the disciplinary hearing;
  - b. details of the complaint(s) or allegations that will be considered at the hearing to include reference to any previous informal action taken to resolve the complaint(s) if appropriate;
  - c. any material that will be considered at the hearing including, if appropriate, any witness statements gathered during an investigation;
  - d. the names of any witnesses who are to appear;
  - e. notification of their right to be accompanied by a Workplace Colleague or Trade Union Representative;

- f. notification that a formal disciplinary warning, or, as appropriate, dismissal, is a potential outcome of the hearing;
- g. confirmation of who will chair the hearing and the members of the panel;
- h. instruction to provide any documentary evidence the member of staff intends to rely on, together with the names of any witnesses who they may ask to appear, to the manager who is to chair the disciplinary hearing at least 2 Working Days in advance of the hearing.

## 22.11 Constitution of the hearing panel

- 22.11.1 The HR Director or nominee will convene a panel to hear the case. The panel will comprise such individuals as the HR Director or nominee consider appropriate, except where a possible outcome of the hearing is dismissal in which case the panel will be constituted as set out in 22.11.6.
- 22.11.2 The hearing will be conducted by a manager at an appropriate level of seniority (the Chair).
- 22.11.3 In cases relating to misconduct the Chair and members of the panel will not previously have been involved in the matter other than instigating the investigation.
- 22.11.4 In cases relating to performance, except where the possible outcome of the disciplinary hearing is dismissal, the Line Manager may act as Chair or be a member of the panel.
- 22.11.5 An HR Manager or nominee will normally be present at the hearing in the capacity of advisor and/or facilitator, or as a member of the panel.
- 22.11.6 If a possible outcome of the disciplinary hearing is dismissal, the following panel will be convened, comprising members who have not previously been involved in the case:

### *Staff on Levels 1-4*

The panel will normally be chaired by a manager at a higher Level than the member of staff's Line Manager and will include an HR Manager or nominee.

### *Staff on Levels 5-8*

The panel will normally consist of a Senior Manager to act as Chair, another manager of the same or higher Level than the member of staff and an HR Manager or nominee. In addition, for Academic staff a member of Senate from outside the member of staff's School will be nominated by the HR Director to be a member of the panel.

If required, a further person, normally from HR may act as note taker during the hearing.

## 22.12 Procedures for the formal disciplinary hearing

- 22.12.1 The Chair will set the procedure to be followed in the disciplinary hearing to include provision for adjournments if necessary. The Chair will have complete discretion as to the admissibility of evidence. In exercising their discretion the Chair will be guided by the requirement that the evidence, written and oral, must be relevant to the subject matter of the complaint. The procedure will generally include the following steps:
- a. the Chair will facilitate such introductions as are necessary and refer to any matters appropriate to the conduct of the hearing;
  - b. the case against the member of staff will be presented and witnesses called if appropriate. Each witness will be present only to give evidence, to be examined on it and then leave;
  - c. the member of staff or their Trade Union Representative or Workplace Colleague may ask questions of the person presenting the case and respond to any information given by a witness;
  - d. the panel may ask questions of the person presenting the case and their witnesses;
  - e. the member of staff or their Trade Union Representative or Workplace Colleague will state their case and call their witnesses if appropriate. Each witness will be present to give evidence, be examined on it and then leave;
  - f. the person presenting the case may ask questions of the member of staff and their witnesses;
  - g. the panel may ask questions of the member of staff and their witnesses;
  - h. the member of staff or their Trade Union Representative or Workplace Colleague may make any final representations.
  - i. the panel will consider their decision in private.
- 22.12.2 As soon as reasonably practicable and normally within 5 Working Days of the hearing, the Chair will write to the member of staff and the relevant Line Manager (if different from the Chair) and notify them of their decision.
- 22.12.3 If there is to be a delay in notifying the decision, the Chair will contact the member of staff to explain the reason for the delay and inform them of the date when notification will be made.
- 22.12.4 The outcome of a disciplinary hearing may be:
- a. dismissal of the complaint(s);
  - b. referral for informal action under 22.5;
  - c. a formal warning under 22.8; or

- d. dismissal with or without notice. The penalty of summary dismissal without notice will only be issued in circumstances where the member of staff's conduct constitutes gross misconduct.

## **22.13 Issuing a formal warning**

22.13.1 The level of sanction to be applied should be determined according to the seriousness of the misconduct or poor performance, taking into account the member of staff's relevant employment history, any mitigating factors, and any other relevant factors.

22.13.2 If a formal warning is considered appropriate it will be issued in writing and will:

- a. state the complaint(s) in respect of the member of staff's conduct or performance and the panel's findings in respect of those complaint(s) which have led to the decision to issue a warning;
- b. state the level of warning (written or final written) and period for which the warning will last (normally one year for a written warning and two years for a final written warning);
- c. give details of the required improvement in conduct or performance and how this will be monitored;
- d. state the timetable for achieving the improvement in conduct or performance;
- e. state the consequences should the required improvement not be achieved and sustained, e.g., further disciplinary action/dismissal;
- f. where relevant, outline the assistance and support being offered to assist the improvement in conduct or performance; and
- g. refer to the member of staff's right to appeal against the warning and the procedure for doing so.

22.13.2 A copy of the written warning and notes of the hearing will be retained on the member of staff's personal file for the duration of the warning.

## **22.14 Appeals against a written or final written warning**

22.14.1 A member of staff may appeal against a disciplinary warning by writing to the HR Director (if at Level 5-8) or to their HR Manager (if at Level 1-4) within 5 Working Days of receiving notification of the outcome of the hearing, stating their grounds of appeal.

22.14.2 Appeals will be heard without unreasonable delay. An HR Manager or nominee will normally be present in the capacity of advisor and facilitator.

- 22.14.3 For staff Levels 5-8, a Senior Manager will normally hear the appeal. For staff Levels 1-4 the appeal will normally be heard by a manager at a higher Level than the member of staff's Line Manager.
- 22.14.4 The manager hearing the appeal will not have been involved with the case previously.
- 22.14.5 The appeal hearing will usually be a review of the original decision rather than a re-hearing.
- 22.14.6 The decision, which will be notified in writing to the member of staff as soon as reasonably practicable following the appeal hearing, will be final.

## **22.15 Dismissal**

- 22.15.1 A decision to dismiss will be confirmed in writing and will:
- a. state the complaint(s) in respect of the member of staff's conduct or performance and the panel's findings in respect of the complaint(s) which have led to the decision to dismiss;
  - b. state the date on which the member of staff's employment terminates;
  - c. specify whether the dismissal is with or without notice; and
  - d. notify the member of staff of their right of appeal against dismissal.

## **22.16 Appeal against dismissal**

- 22.16.1 A member of staff may appeal against a decision to terminate their employment by following the procedure outlined in Ordinance 30 (Appeals against dismissal)



Representative(s). Such informal consultation may continue during the Management Report stage in 23.4.

## **23.4 Management report**

- 23.4.1 If, following any informal consultation, the University considers that redundancies may be necessary, the relevant Senior manager, with appropriate input from an HR Manager or nominee, will provide the HR Director or nominee with a management report (the “MR”).
- 23.4.2 Where redundancies may affect Academic staff and/or Professional staff, the HR Director or nominee will:
- a. seek approval to proceed from the Vice-Chancellor (or nominee in their absence); and
  - b. notify an Independent member of Council, nominated by the Secretary to Council, of the situation.
- 23.4.3 The MR should include:
- a. the business case setting out the reasons for the proposed redundancies;
  - b. the numbers and descriptions of members of staff who may need to be made redundant;
  - c. the total number of members of staff at that Level within the School, department or other relevant area and the University as a whole;
  - d. where appropriate, the proposed selection pools and the numbers and descriptions of staff in each pool;
  - e. where appropriate, the proposed selection criteria for selecting which members of staff in each pool will be made redundant;
  - f. where appropriate, the reason(s) why a member of staff identified as potentially being at risk of redundancy has not been pooled with other staff;
  - g. details of any related planned reorganisation or restructuring, including any newly created roles;
  - h. the proposed method of carrying out the dismissals including the period over which the dismissals are to take effect;
  - i. the proposed method of calculating the amount of any redundancy pay to be made to members of staff who may be dismissed;
  - j. suitable information about the University's use of agency workers;
  - k. a summary of any informal consultation or dialogue that has occurred with the Trade Union Representative(s);



- l. details of any redeployment opportunities, if available; and
  - m. the likely timetable for any consultation.
- 23.4.4 Any proposed selection criteria will depend on the circumstances and will, as far as possible, be objective and measurable. When scoring, reasonable adjustments will be made to take account of any disability where a failure to do so would put the member of staff at a substantial disadvantage in comparison with a member of staff who is not disabled. The following is a non-exhaustive list of examples of selection criteria that may be used:
  - a. Qualifications and knowledge
  - b. Skills, experience and training
  - c. Performance and aptitude
  - d. Absence record
  - e. Disciplinary record
  - f. Future potential
- 23.4.5 If it is proposed that 30 or more staff within one School, department or other relevant area are to be made redundant within a period of 90 days, the HR Director or nominee will ask the Vice-Chancellor and Secretary to Council to consult with the Chair of Council to determine whether the MR should be discussed at Council before any further action is taken.
- 23.4.6 Where the MR proposes that the posts of Academic staff and/or Professional staff may need to be made redundant, the HR Director or nominee, in consultation with the Independent member of Council referred to in 23.4.2b, will assess whether there may be a case for compulsory redundancies and ensure that the MR contains appropriate proposals to ensure staff are fairly selected. The MR may be returned to the relevant Senior Manager for further consideration and amendment if appropriate.
- 23.4.7 Where the HR Director or nominee, having considered the MR, considers that redundancies may be required, formal consultation will be conducted with the appropriate Trade Union Representative(s).

## **23.5 Formal consultation**

- 23.5.1 Formal consultation will 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 will in any event begin:
  - a. where the University is proposing to dismiss as redundant 100 or more members of staff within a period

- of 90 days or less, at least 45 days before the first of those dismissals takes effect; or
- b. where the University is proposing to dismiss as redundant 20 or more members of staff within a period of 90 days or less, at least 30 days before the first of those dismissals takes effect.
- 23.5.2 Where the University is required to notify the Secretary of State of any proposed redundancies, a copy of the notification will be sent to the appropriate Trade Union Representative(s).
- 23.5.3 An HR Manager, or nominee, will attend any consultation meeting, normally in the capacity of advisor and facilitator.
- 23.5.4 A copy of the MR will be provided to the appropriate Trade Union representative(s) for the purposes of the consultation. The appropriate Trade Union Representative(s) may make written representations in response to the MR during the course of the consultation process.
- 23.5.5 The purpose of the consultation will be to enable the parties to:
- a. receive and where possible address any questions on the proposed reduction in staff numbers and the information provided;
  - b. consider any comments or views as a basis for determining any final decision to proceed with the proposed reduction in staff numbers;
  - c. consider ways of avoiding or reducing the number of dismissals, to include consideration of the likelihood of achieving the change by voluntary or other means which may, depending on the circumstances, include
    - Natural wastage
    - Reviewing the use of agency staff, self-employed contractors and consultants
    - Restricting recruitment in those areas into which affected employees might be redeployed
    - Retraining and/or redeployment
    - Reducing or eliminating overtime
    - Offering unpaid leave/sabbaticals
    - Seeking volunteers for part-time working, job-sharing, partial retirement, or other flexible working arrangements
    - Seeking volunteers for full retirement, or redundancy
    - Identifying suitable alternative work that might be offered to potentially redundant members of staff

- d. consider ways of mitigating the consequences of any dismissals.
- 23.5.6 If the University decides to seek volunteers for redundancy and/or implement a voluntary redundancy scheme, relevant members of staff will be notified of the details including the deadline for submitting any application for voluntary redundancy. Staff who are absent from work (e.g. due to maternity leave, sickness or other leave) will be sent details to their home address.
- 23.5.7 The acceptance of a volunteer for redundancy will be a matter of discretion for the University and the University reserves the right not to offer voluntary redundancy terms or to refuse an application for voluntary redundancy. Where an application for voluntary redundancy is refused the University will, if requested, provide reasons in support of the decision.
- 23.5.8 Following the commencement of formal consultation, the relevant Senior Manager will proceed as outlined in section 23.6 below.

## **23.6 Further consultation and ‘at risk’ notification**

- 23.6.1 The HR Director or nominee will write to each member of staff who has provisionally been identified as being at risk of redundancy (with a copy to the appropriate Trade Union Representative(s)) confirming the following:
- a. that they have been identified as being at risk of redundancy and the reasons why;
  - b. the business case for the proposed redundancies;
  - c. the timetable for consultation and the proposed date on which redundancy notices would be issued;
  - d. if relevant, details of selection pools and the proposed selection criteria that would be applied;
  - e. their entitlement to redundancy pay and how any redundancy payment would be calculated;
  - f. that they will be invited to an individual redundancy consultation meeting with their Line Manager and an HR Manager or nominee at which they have the right to be accompanied by a Workplace Colleague or Trade Union Representative;
  - g. 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;
  - h. details of any potential redeployment opportunities, including any newly created roles, and notification that the member of staff will be provided with copies of job descriptions and person specifications for any roles they confirm they are interested in being considered for.

## 23.7 Redundancy panel process

23.7.1 The HR Director or nominee will establish a redundancy panel to consider who should be selected for redundancy. The panel may need to meet more than once. The panel will comprise the following members:

- Senior Manager, who will act as the chair of the panel (the 'Chair');
- Line Manager;
- HR Manager or nominee.

In addition, for Academic staff and Professional staff who have been identified as being at risk of redundancy, a Senior Manager nominated by the HR Director from outside the affected School, department or other relevant area will be appointed to the panel.

23.7.2 The redundancy panel will determine its own procedure for the selection of members of staff for redundancy. When doing so the redundancy panel will take account of any statutory consultation required and any consultation already undertaken which may need to be continued by the redundancy panel. The redundancy panel will consult with the members of staff and the Trade Union Representative(s) as appropriate, including in relation to scoring against selection criteria.

23.7.3 Following the redundancy panel reaching a decision, the Chair will send a report to the HR Director or nominee, with a copy to the appropriate Trade Union Representative(s), confirming:

- a. details of all the staff in the pool from which any selection for redundancy was to be made;
- b. confirmation of the criteria used to select for redundancy;
- c. details of those staff selected for redundancy from the pool and the reasons for their selection;
- d. details of all the staff selected for redundancy who were not in a pool with other staff and the reasons for their selection; and
- e. dates when dismissal will take effect.

## 23.8 Notification of dismissal

23.8.1 Following receipt of the report from the Chair, the HR Director or nominee will write to the staff selected for redundancy. Such notification will include:

- a. a summary of the action taken to avoid compulsory redundancies including steps taken to consider alternative employment;

- b. confirmation that the member of staff has been selected for and is to be dismissed by reason of redundancy and the reasons why they have been selected;
- c. the date when the dismissal is to take effect;
- d. confirmation that the University will continue to seek to identify alternative employment options for the member of staff prior to the date of dismissal;
- e. details of any redundancy payments that will be paid;
- f. confirmation of arrangements for reasonable time off work with pay to seek alternative work or arrange for training for future employment and any related support; and
- g. notification of the right to appeal against the decision and the arrangements for doing so.

23.8.2 Following receipt of the report from the Chair, the HR Director will make arrangements to notify any members of staff who were at risk of redundancy but who have not been selected for redundancy that they are no longer at risk, subject to the outcome of any appeals against dismissal.

23.8.3 Where appropriate, the HR Director or nominee will notify the Independent member of Council of the outcome of the redundancy process.

## **23.9 Redeployment**

23.9.1 Where suitable alternative employment is being considered for any member of staff at risk of redundancy, the University's policy and procedures on redeployment will apply.

## **23.10 Appeals procedure**

23.10.1 A member of staff may appeal against a decision to terminate their employment by following the procedure outlined in Ordinance 30 (Appeals against dismissal)

## **Ordinance 24 Incapacity on grounds of health**

### **24.1 Application**

- 24.1.1 Concerns about poor performance or conduct, to include poor attendance, will normally be raised under the following Ordinances:
- a. Ordinance 22 (Disciplinary (Conduct and Capability) procedures) for members of staff who have satisfactorily completed their probationary period and been confirmed in post;
  - b. Ordinance 25 (Review and non-confirmation of probationary appointments) for members of staff in their probationary period who have not been confirmed in post.
- 24.1.2 However, where it is evident, or where it emerges during proceedings under Ordinance 22 or Ordinance 25 that an inability to perform to the required standard is wholly or partly due to a mental or physical medical condition, illness, or other incapacity, including a disability, consideration will be given to dealing with the matter under the procedures contained in this Ordinance.
- 24.1.3 A decision to deal with the matter under this Ordinance will not invalidate actions taken under Ordinance 22 or Ordinance 25.
- 24.1.4 The standards of conduct and performance expected will be set by the University, Senior Managers or those nominated by them in accordance with the requirements of the post.
- 24.1.5 A member of staff may, subject to the disability provisions of the Equality Act 2010, be subject to action, including dismissal, under this Ordinance notwithstanding the fact that their conduct or performance may have been wholly or partly attributable to a medical condition or incapacity.

### **24.2 Informal consideration and investigation of ill health or incapacity**

- 24.2.1 Where it has been identified that conduct or performance may have been wholly or partly attributable to a medical condition or incapacity, it will be usual for the matter to be explored and investigated through informal meetings between the Line Manager, the member of staff and an HR Manager or nominee, as appropriate, with the assistance of medical or other expert advice. These meetings may address all or some of the following issues:
- a. the nature of the member of staff's medical condition or incapacity;

- b. whether the member of staff is suffering from a physical or mental impairment which may constitute a disability for the purposes of the Equality Act 2010;
- c. the impact of any impairment on the member of staff, and any measures which have or are being taken to treat or correct the impairment;
- d. the likely prognosis for the member of staff's health and fitness to carry out their duties in whole or in part and/or to perform them to an acceptable standard;
- e. whether any reasonable adjustments or other changes have or can be made to the member of staff's role, duties, or work environment in order to resolve the situation and/or (in cases of absence) to facilitate the member of staff's return to work on a sustainable basis;
- f. where the member of staff is absent from work, the likely prognosis for them returning to work on a sustainable basis and being fit to carry out their duties in full and/or to perform them to an acceptable standard;
- g. whether any action should be taken to address the issues raised by the member of staff's ill-health or incapacity;
- h. where appropriate, consideration of an application for retirement on health grounds under any relevant pension scheme.

24.2.2 During these informal meetings, the member of staff does not have the right to be accompanied by a Workplace Colleague or Trade Union Representative.

## **24.3 Medical reports**

24.3.1 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 HR Manager or nominee to arrange an appointment for the member of staff with the University's medical adviser and/or occupational health adviser with a view to obtaining a report. In addition a report or other medical evidence may be sought from the member of staff's General Practitioner/Specialist and/or another independent medical specialist.

24.3.2 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.

24.3.3 If medical evidence is obtained the University will comply with The Access to Medical Reports Act 1988. If the University is unable to obtain any medical evidence, any decisions in relation to the member of staff's ongoing employment will be made in the absence of such evidence.

reason, decisions in relation to the member of staff's ongoing employment will be made in the absence of such evidence.

## **24.4 Formal consultation meeting**

- 24.4.1 Where informal discussions with the member of staff and any actions taken have not satisfactorily resolved the situation, the member of staff will be invited by the Line Manager to attend a formal consultation meeting.
- 24.4.2 In advance of the meeting, the member of staff will be given:
- a. not less than 5 Working Days' notice of the date and time for the planned meeting;
  - b. details of the concern(s) that will be considered at the meeting to include reference to any previous informal action taken to resolve the concern(s) if appropriate;
  - c. any material that will be considered at the meeting including medical reports and, if appropriate, any absence records;
  - d. notification that they may be accompanied at the meeting by a Workplace Colleague or Trade Union Representative.
- 24.4.3 The concerns will be discussed with the member of staff including any possible outcome (which may include dismissal). The aim will be to identify the reasons why the required standards of conduct or performance are not being met and to determine any further 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 them to meet the required standard before deciding what action to take.
- 24.4.4 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 disability provisions 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 adjustments in pay, as appropriate) may include:
- a. adjustment to working hours, working conditions or arrangements;
  - b. time off for counselling, treatment;
  - c. a phased return to work following a long term absence;
  - d. a transfer to an alternative post.



- 24.4.5 The member of staff must make every effort to attend the meeting. If they are unable to attend the meeting due to the medical condition, they will 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 an appropriate family member or friend as advised by the member of staff.
- 24.4.6 A note of the meeting, to include a record of the discussion, actions agreed and any period of review will be sent to the member of staff.
- 24.4.7 Provision may be made for further consultation meetings which will be arranged and conducted as above.
- 24.4.8 A formal consultation meeting may require investigations to be undertaken in addition to any investigations previously undertaken at the informal consideration stage, either to assist in resolving the difficulties as part of the formal 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 formal consultation meeting. The investigation may be carried out by the Line Manager or nominee.
- 24.4.9 It may be necessary to gather further evidence by taking statements from witnesses. The University will seek to maintain confidentiality regarding a member of staff's medical condition and in the event of any disclosure this will be made in accordance with the Data Protection legislation. The member of staff will be informed if statements are being taken as part of the investigation.
- 24.4.10 Following the investigation, the Line Manager may determine that:
- a. the matter should not be pursued further;
  - b. the matter can be appropriately dealt with informally;
  - c. that the matter should be considered under Ordinance 22 (Disciplinary (Conduct and Capability) procedures) or Ordinance 25 (Review and non-confirmation of probationary appointments), as appropriate; or
  - d. there are sufficient grounds for further consideration under the procedures contained in this Ordinance.

## **24.5 Suspension**

- 24.5.1 Should it be deemed necessary to suspend the member of staff, this will be handled in accordance with the procedure outlined in Ordinance 22 (General Provisions).

## **24.6 Medical retirement**

- 24.6.1 A member of staff, who is a member of the Universities' Superannuation Scheme or Local Government Pension

Scheme, may apply for medical retirement, subject to the rules of the scheme.

## **24.7 Dismissal**

- 24.7.1 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 gross misconduct, a meeting shall be convened to consider whether the member of staff should be dismissed on the ground of incapacity, on physical or mental health grounds or any other ground set out in Ordinance 22 (Disciplinary (Conduct and Capability) procedures) or Ordinance 25 (Review and non-confirmation of probationary appointments), as appropriate.
- 24.7.2 The provisions contained in 24.4 relating to notice of the meeting, representation, presentation and consideration of relevant material and submission by the member of staff of any views in writing will apply.
- 24.7.3 The member of staff will be notified that dismissal will be a potential outcome of the meeting.
- 24.7.4 A Senior Manager will chair the meeting for members of staff who have satisfactorily completed their probationary period and been confirmed in post. The Line Manager will usually chair the meeting for members of staff in their probationary period who have not been confirmed in post. An HR Manager, or nominee, will also normally be present.
- 24.7.5 Following the meeting the HR Manager, or nominee, will give effect to any decision by the Senior Manager or Line Manager that a member of staff should be dismissed by writing to the member of staff issuing a notice of dismissal.

## **24.8 Appeals procedure**

- 24.8.1 A member of staff may appeal against a decision to terminate their employment by following the procedure outlined in Ordinance 30 (Appeals against dismissal).

## Ordinance 25    **Review and non-confirmation of probationary appointments**

### 25.1    **Application**

- 25.1.1    This Ordinance applies to members of staff appointed to a post subject to a probationary period and when dismissal is contemplated during or at the end of the probationary period due to unsatisfactory progress, conduct or performance.
- 25.1.2    This Ordinance also covers any other substantial reason or reasons for the member of staff to be judged unsuitable to be confirmed in post which in other circumstances would fall to be dealt with under other Ordinances.
- 25.1.3    Probation must be satisfactorily completed before the member of staff can be confirmed in post. Failure to satisfactorily complete probation will normally result in termination of employment.

### 25.2    **Probationary periods**

- 25.2.1    The following probationary periods would normally be applied:
- | <u>Level</u> | <u>Normal probationary period</u> |
|--------------|-----------------------------------|
| Level 1      | 1 month                           |
| Level 2      | 3 months                          |
| Levels 3-5   | 6 months                          |
| Levels 6-8   | 1 year                            |
- 25.2.2    The periods outlined in 25.2.1 may be reduced for members of staff on fixed-term contracts.
- 25.2.3    Where there is justification, Academic staff in posts at Levels 6-8 may be subject to a probationary period of up to 2 years.
- 25.2.4    Where there is a conflict between the probationary period stated in 25.2 and the probationary period provided for in the member of staff's contract of employment, the contract of employment will prevail.

### 25.3    **Performance review principles**

- 25.3.1    The standards of performance expected will be set by the University, Senior Managers or those nominated by them in accordance with the requirements of the post.
- 25.3.2    The Line Manager will ensure that the necessary arrangements are in place for managing the probationary period, including provision for regular review of performance, conduct and any other relevant issues and feedback on progress.

- 25.3.3 Support will be provided, as appropriate, to help the member of staff in achieving the required standard.
- 25.3.4 If appropriate, a member of staff may be allocated an individual to act as a mentor or 'buddy' during their probationary period and, where appropriate, for a period after the end of the probationary period.
- 25.3.5 Any performance, conduct or other relevant issues will be raised with the member of staff in a timely manner. As appropriate, the member of staff will be informed of the need for any deficiencies to be rectified and any support and/or training that will be provided to help them achieve the required standard.
- 25.3.6 If it appears that the member of staff may fail to achieve the required standard in the timescale required, the Line Manager will warn them informally that if the deficiencies are not rectified, their appointment is unlikely to be confirmed at the end of the probationary period, or their employment may be terminated prior to the end of the probationary period.
- 25.3.7 The opportunity to rectify deficiencies in 25.3.5 and 25.3.6 shall not apply in the case of serious or gross misconduct.
- 25.3.8 At any time during the probationary period, formal procedures may be commenced that may result in termination of employment during or at the end of the probationary period.
- 25.3.9 Where it emerges during proceedings under this Ordinance that a member of staff's unsatisfactory progress, performance or conduct may have been wholly or partly attributable to a medical condition, consideration will be given by the Line Manager (having regard to the provisions of the Equality Act 2010 relating to disability, as appropriate), to:
- a. dealing with this aspect of the case prior to proceeding under this Ordinance;
  - b. dealing with the case under Ordinance 24 (Incapacity on grounds of health).
- 25.3.10 However, any proceedings under this Ordinance will be valid even if they could have been brought or considered under Ordinance 24, and a member of staff may be subject to action, including dismissal, under this Ordinance notwithstanding the fact that their unsatisfactory progress, performance or conduct may have been wholly or partly attributable to a medical condition, including a disability.

## 25.4 Formal procedures in consideration of dismissal

- 25.4.1 Where deficiencies have not been satisfactorily rectified, the Line Manager will meet the member of staff to consider whether dismissal would be appropriate. This meeting must take place before the end of the probationary period. The member of staff will be provided with a letter normally 3 Working Days in advance of the meeting, to include the following:
- a. the date, time and location of the meeting;
  - b. the reason for the meeting, namely to consider whether the member of staff's employment should be terminated;
  - c. reference to any previous review meeting(s) and/or discussions;
  - d. details of the deficiencies in performance, conduct or relevant matters;
  - e. as appropriate, a statement of the failure on the part of the member of staff to rectify the deficiencies;
  - f. the right to make written or oral representations on the information provided before any decision is made; and
  - g. the right to be accompanied at the meeting by a Workplace Colleague or Trade Union Representative;
  - h. the right to call witnesses where appropriate.
- 25.4.2 An HR Manager or nominee will normally attend the meeting in the capacity of advisor and facilitator.
- 25.4.3 If, following the meeting and following consultation with the HR Manager or nominee, the Line Manager decides that the member of staff's employment should be terminated, the Line Manager will notify the relevant Senior Manager of their decision.
- 25.4.4 The HR Manager, or nominee will notify the member of staff in writing that their employment is to be terminated. If the member of staff has the right of appeal against the decision (as set out in 25.5) they will be informed of the arrangements for submitting an appeal.

- 25.4.5 If, following the meeting and following consultation with the HR Manager or nominee, the Line Manager decides that it would be appropriate to extend the probationary review period or offer an extension to the probationary period, they will notify the relevant Senior Manager. The HR Manager, or nominee, will write to the member of staff notifying them that the probationary period will be extended or offering them an extension, including the reasons for the extension and the revised probationary period end date. Only one extension is normally permitted. This Ordinance will continue to apply during any extended probationary period. If the member of staff rejects such extension their employment will normally be terminated on the grounds that probation has not been completed successfully.

## **25.5 Appeals**

- 25.5.1 Members of staff who are appointed with an initial probationary period of one year or more and whose employment is terminated during or at the end of the initial probationary period or any extension to the probationary period, will be entitled to appeal against the decision in accordance with the procedure outlined in Ordinance 30 (Appeals against dismissal).

---

## Ordinance 26 Non-renewal of fixed-term contracts

### 26.1 Application

- 26.1.1 The definition of a fixed-term contract for the purposes of this Ordinance is a contract of employment that will terminate:
- on a specified date;
  - on the completion of a particular task; or
  - on the occurrence or non-occurrence of any other specific event.
- 26.1.2 This Ordinance applies to the expiry of a fixed-term contract where the period of the fixed-term is one year or more.
- 26.1.3 This Ordinance does not apply to:
- the expiry of a fixed-term contract where the period of the fixed-term is less than one year. In these circumstances the University's policy on the employment of temporary staff will apply.
  - the termination of a fixed-term contract during the term of the contract, when members of staff will be subject to the provisions contained within Ordinance 22 (Disciplinary (Conduct and Capability) procedures), Ordinance 23 (Redundancy), Ordinance 24 (Incapacity on grounds of health), Ordinance 25 (Review and non-confirmation of probationary appointments), Ordinance 27 (Removal from a non-substantive post), Ordinance 28 (Dismissal on other substantial grounds) and Ordinance 30 (Appeals against dismissal).
- 26.1.4 The University may appoint a member of staff on a fixed-term contract where there exists objective reason(s) for doing so. It may subsequently offer further appointments on or extensions of a fixed-term contract where such reasons continue to apply.
- 26.1.5 Whether or not a reason is objective will depend on the circumstances of each case but the University anticipates that the following could be appropriate reasons (this list is not exhaustive):
- where there is no reasonably foreseeable prospect of short-term funding being renewed nor other external or internal funding being available or becoming available;
  - to cover staff absence as appropriate, (e.g., maternity, parental or adoptive leave, long-term sickness, sabbatical leave, or secondment);
  - where the contract is to provide a secondment, career development opportunity, or access to training or work experience (rotation of successive staff through such a post may be envisaged);
  - where work is required on a project that will last for a limited duration or to complete a specified task;
  - where the student or other business demand can be clearly demonstrated as particularly uncertain;

- f. the post requires specialist expertise or recent experience not already available within the University in the short-term; or
  - g. input from specialist practitioners is required.
- 26.1.6 The provisions of this Ordinance have the purpose of ensuring that the dismissal of a member of staff upon the expiry of a fixed-term contract is managed appropriately.
- 26.1.7 Where the member of staff has been continuously employed for 4 or more years on a series of successive fixed-term contracts, the member of staff will automatically be deemed to be employed under an indefinite contract of employment, unless the continued use of a fixed-term contract can be objectively justified.

## 26.2 Action approaching the expiry of a fixed-term contract

- 26.2.1 The Line Manager, or nominee, will ensure where possible that the member of staff employed on a fixed-term contract is kept informed on whether a renewal or extension of the contract is likely to be offered or whether dismissal of the member of staff is to be contemplated on the expiry of the fixed-term.
- 26.2.2 In some circumstances the University may not be in a position to make a decision on whether a renewal or extension of a fixed-term contract is likely to be offered until close to the expiry of the fixed-term, for example where future funding decisions are pending. In such circumstances the University may make an interim extension of a fixed-term contract, if appropriate.

## 26.3 Dismissal by reason of redundancy

- 26.3.1 A dismissal by reason of redundancy for the purpose of this Ordinance has the same meaning as in section 139 of the Employment Rights Act 1996. Therefore, an employee shall be dismissed by reason of redundancy if the reason for dismissal upon the expiry of the fixed-term contract is wholly or mainly attributable to:
- a. the fact that the University has ceased or intends to cease
    - to carry on the business for the purposes of which the member of staff was employed, or
    - to carry on that business in the place where the member of staff was employed, or
  - b. the fact that the requirements of that business
    - for members of staff to carry out work on a particular kind, or
    - for members of staff to carry out work of a particular kind in the place where the member of staff was employed by the University,

have ceased or diminished or are expected to cease or diminish.
- 26.3.2 If the reason for dismissal upon the expiry of a fixed-term contract is redundancy, the member of staff will be eligible for a redundancy payment provided they have sufficient qualifying service.



## 26.4 Formal procedure for dismissal

- 26.4.1 As soon as reasonably practicable before the expiry of the fixed-term contract, the HR Manager or nominee will invite the member of staff to a consultation meeting with the Line Manager, or nominee, at which the member of staff may be accompanied by a Workplace Colleague or Trade Union Representative. The purpose of the meeting will be to:
- a. explain the reason(s) why dismissal is being contemplated;
  - b. receive and where possible address any questions the member of staff may have on the potential dismissal;
  - c. consider any comments or views the member of staff may have in the process of making a final decision;
  - d. consider ways of avoiding or mitigating the consequences of the dismissal;
  - e. discuss any opportunities for alternative employment, where applicable; and
  - f. notify the member of staff of their eligibility for redundancy pay, where applicable.
- 26.4.2 Following the consultation process, the Line Manager, or nominee (having gained any approvals as may be required by the Financial Manual) will notify the HR Manager or nominee that upon the expiry of the fixed term contract, either:
- a. the fixed-term contract is to be extended, setting out the objective reasons in support, or;
  - b. a further fixed-term contract of employment is to be issued, setting out the objective reasons in support, or;
  - c. a further contract is to be issued of indefinite duration, or;
  - d. the member of staff is to be dismissed upon the expiry of the fixed-term contract.
- 26.4.3 If it has been determined that the member of staff is to be dismissed upon the expiry of the fixed-term contract, the HR Manager, or nominee will confirm this in writing to the member of staff, and inform them of their right of appeal.

## 26.5 Appeals procedure

- 26.5.1 A member of staff may appeal against their dismissal by following the procedure outlined in Ordinance 30 (Appeals against dismissal).

---

## Ordinance 27 Removal from a non-substantive post

### 27.1 Application

- 27.1.1 This Ordinance applies to those posts to which a member of staff has been appointed or elected and which is distinct from that person's substantive post. These posts are known as non-substantive posts.
- 27.1.2 This Ordinance only applies when:
- a. dismissal from the non-substantive post is contemplated during the period of appointment to the substantive post; and
  - b. dismissal from the substantive post is not contemplated.
- 27.1.3 This Ordinance does not apply upon the expiry of a fixed-term appointment to a non-substantive post. In these circumstances the University may follow such procedure as it considers appropriate taking into account the provisions contained in this Ordinance, the relevant circumstances, and the length of the fixed-term appointment.
- 27.1.4 When dismissal from the substantive post is contemplated the University will proceed under the relevant Ordinance. Termination of the substantive post will result in automatic simultaneous termination of the non-substantive post.
- 27.1.5 Appointment to a non-substantive post may be made by the University in recognition of additional responsibilities which are beyond those expected of the member of staff's substantive post. Appointment to a non-substantive post must be made by a Senior Manager.
- 27.1.6 The duties and responsibilities of a non-substantive post should be set out in a separate job description. This job description should be given to the member of staff when the offer of a non-substantive post is made.
- 27.1.7 Non-substantive posts are usually held for an agreed fixed period. A post of Pro-Vice-Chancellor or Dean is usually held for a 3 year period. Other non-substantive posts are usually held for a one year period, although other periods may be agreed as appropriate. Typically, non-substantive posts for Academic staff will end on 30 September in any given year. Appointment to such posts may, or may not, be renewed.

### 27.2 Informal action

- 27.2.1 Examples of why a non-substantive post may be terminated during the period of appointment include, but are not limited to:
- a. Organisational restructuring or change in operational requirements;
  - b. Performance or conduct issues.
- 27.2.2 Where organisational restructuring or a change in operational requirements are likely to lead to the termination of a non-substantive post, the relevant Line Manager will hold informal discussions with the post-holder in good time, and in any case, normally at least one month prior to the anticipated termination date.

- 27.2.3 Where there are performance or conduct issues, these will normally be raised informally with the post-holder by the relevant Line Manager. The concerns will be discussed with the member of staff, making clear the improvement required and giving a review date.

### **27.3 Formal action**

- 27.3.1 If following informal action, any relevant reviews, or if the matter is more serious, the member of staff will be notified in writing by the Line Manager that a formal case is to be brought seeking their removal from the appointment to the non-substantive post. The notification will include:
- a. a reference to any previous informal discussion;
  - b. a statement setting out the reasons for formal action;
  - c. the name of the person to whom the matter will be referred and who will consider whether removal from the non-substantive post is to be made. This person shall, if possible, be a person at the next Level of seniority to the Line Manager.
- 27.3.2 The notification referred to above shall be sent to the person who is to consider the case with a request that they deal with the matter.

### **27.4 Procedure for hearing the case**

- 27.4.1 The person hearing the case will chair the hearing panel.
- 27.4.2 On receiving details of the case, the Chair will write to the member of staff informing them of the arrangements for hearing the matter. Such notification will include:
- a. the date and time set for the hearing, giving not less than 5 Working Days' notice of the hearing;
  - b. the name of the HR Manager or nominee who will assist the Chair;
  - c. the names of any witnesses who are to appear;
  - d. a statement informing the member of staff of their right to be accompanied by a Workplace Colleague or Trade Union Representative and to call witnesses on their behalf if appropriate.
  - e. notification that removal from the non-substantive post is a potential outcome of the hearing.
  - f. instruction to provide any documentary evidence the member of staff intends to rely on, together with the names of any witnesses who they may ask to appear at least 2 Working Days in advance of the hearing.

### **27.5 Conduct of the hearing**

- 27.5.1 The Chair will set the procedure to be followed in the hearing to include provision for adjournments if necessary. The Chair will have complete discretion as to the admissibility of evidence. In exercising their discretion the Chair will be guided by the requirement that the

evidence, written and oral, must be relevant to the subject matter of the case. The procedure will generally include the following steps:

- a. the Chair will facilitate such introductions as are necessary and refer to any matters appropriate to the conduct of the hearing;
- b. the case proposing removal from the non-substantive post will be presented and witnesses called if appropriate. Each witness will be present only to give evidence, to be examined on it and then leave;
- c. the member of staff or their Trade Union Representative or Workplace Colleague may ask questions of the person presenting the case and respond to any information given by a witness;
- d. the panel may ask questions of the person presenting the case and their witnesses;
- e. the member of staff or their Trade Union Representative or Workplace Colleague will state their case and call their witnesses if appropriate. Each witness will be present to give evidence, be examined on it and then leave;
- f. the person presenting the case may ask questions of the member of staff and their witnesses;
- g. the panel may ask questions of the member of staff and their witnesses;
- h. the member of staff or their Trade Union Representative or Workplace Colleague may make any final representations;
- i. the panel will consider its decision in private.

## **27.6 Procedure following the hearing**

- 27.6.1 As soon as reasonably practicable and normally within 5 Working Days of the hearing, the Chair will write to the member of staff and the relevant Line Manager and notify them of their decision.
- 27.6.2 If there is to be a delay in notifying the decision, the Chair will contact the member of staff to explain the reason for the delay and inform them of the date when notification will be made.
- 27.6.3 If the decision of the panel is to remove the member of staff from their non-substantive post, written notification will be sent to the post-holder by the HR Manager, or nominee, and will include:
  - a. the reason(s) for the panel's decision;
  - b. the date when the removal is to take effect;
  - c. notification of the post-holder's right of appeal against the decision;
  - d. the name of the person to whom any appeal should be addressed and who will be chair of the appeal hearing (the 'Chair'). This person will normally be a Senior Manager and will, unless there are exceptional circumstances, have had no previous dealings with the matter; and

- e. confirmation that any appeal should be submitted in writing within 10 Working Days of the receipt of notification of the decision to remove the post-holder from the non-substantive post, setting out the grounds for appeal.

## **27.7 Appeal procedure**

- 27.7.1 Details of the reasons for removal from the non-substantive post will be made available to the Chair.
- 27.7.2 Normally within 5 Working Days of receiving the appeal, the Chair will write to the post-holder informing them of the arrangements for hearing the appeal. Such notification will include:
  - a. the date and time set for the hearing which will normally be no sooner than 10 Working Days and no later than 20 Working Days following receipt of the appeal notification;
  - b. the name of the HR Manager or nominee who will assist the Chair at the hearing, if applicable; and who must have had no previous dealings with the matter. The Chair may sit alone if they consider it appropriate; and
  - c. a statement informing the post-holder of their right to be accompanied at the hearing by a Workplace Colleague or Trade Union Representative and to call witnesses on their behalf if appropriate.

## **27.8 Procedure following the appeal hearing**

- 27.8.1 Normally within 5 Working Days of the appeal hearing, the Chair will write to the post-holder and notify them of the decision. If there is to be a delay in notifying the decision, the Chair will contact the post-holder to explain the reason for the delay and inform them of the date when notification will be made.
- 27.8.2 If the decision of the Chair is to uphold the decision to remove the post-holder from the non-substantive post, the notification will include:
  - a. the reason(s) for the decision; and
  - b. confirmation of the date the removal is to take effect from.
- 27.8.3 If the outcome of the hearing is that removal from the non-substantive post will be withdrawn the post-holder will be notified of their reinstatement to the non-substantive post.
- 27.8.4 The appeal decision will be final.

---

## Ordinance 28 Dismissal on other substantial grounds

### 28.1 Application

- 28.1.1 Action may be taken under this Ordinance on any grounds other than those covered in other procedures relating to dismissal or termination as referred to in Statute 4.3.1. a, b, c, d, e, f and h.
- 28.1.2 This Ordinance does not apply to members of staff in their probationary period who have not been confirmed in post. Ordinance 25 (Review and non-confirmation of probationary appointments) will apply to these members of staff.
- 28.1.3 The reason for contemplating dismissal must be substantial and will include, but need not be restricted to:
- a. some other substantial reason of a kind such as to justify the dismissal of the member of staff holding the position which the member of staff held; or
  - b. the member of staff not being able to continue to work in the position which they hold without contravention (either on their part or on that of the University) of a duty or restriction imposed by law.

### 28.2 Action prior to a hearing panel

- 28.2.1 The HR Director or nominee, in consultation with an Independent member of Council, nominated by the Secretary to Council, will decide whether there is a prima-facie case for dismissal and whether procedures contained in this Ordinance should be initiated. This may follow an investigation, if appropriate.
- 28.2.2 If the HR Director or nominee considers there is a prima-facie case and prior to seeking a determination by a hearing panel that a member of staff should be dismissed, the relevant Senior Manager will write to the member of staff to notify them of the position.
- 28.2.3 The reasons(s) for contemplating dismissal will be stated and the member of staff will be invited to comment. Copies of any documents identified as being relevant to the case will be provided to the member of staff.
- 28.2.4 The member of staff will have 10 Working Days to submit their comments in writing, together with any documentary evidence upon which they wish to rely.
- 28.2.5 Following receipt of any comments and evidence from the member of staff, or if no response is received within 10 Working Days, the Senior Manager will then consider the matter further.

### 28.3 Suspension

- 28.3.1 Should it be deemed necessary to suspend the member of staff, this will be handled in accordance with the procedure outlined in Ordinance 20 (General Provisions).

## 28.4 Hearing panel to consider dismissal

28.4.1 If, having considered the matter further in accordance with 28.2, the relevant Senior Manager determines that it is necessary to seek dismissal of the member of staff they will write to the HR Director or nominee to request that a hearing panel be established to consider the matter.

28.4.2 The panel will normally be constituted as follows:

### *Staff on Levels 1-4*

The panel will normally be chaired by a manager at a higher Level than the member of staff's Line Manager (the 'Chair') and will include an HR Manager or nominee.

### *Staff on Levels 5-8*

The panel will normally consist of a Senior Manager to act as chair (the 'Chair'), another manager of the same or higher Level than the member of staff and an HR Manager or nominee. In addition, for Academic staff a member of Senate nominated by the HR Director from outside the member of staff's School will be nominated by the HR Director to be a member of the panel.

If required, a further person, normally from HR may act as note taker during the hearing.

## 28.5 Written notification to attend a hearing

28.5.1 In advance of the hearing the HR Director or nominee will write to the member of staff, giving them:

- a. not less than 5 Working Days' notice of the date for the hearing;
- b. the reason(s) for contemplating dismissal;
- c. any material that will be considered at the hearing including, if appropriate, any witness statements gathered during an investigation;
- d. the names of any witnesses who are to appear;
- e. notification of their right to be accompanied by a Workplace Colleague or Trade Union Representative;
- f. notification that dismissal is a possible outcome of the hearing
- g. confirmation of who will chair the hearing, the members of the panel; and
- h. instruction to provide any documentary evidence the member of staff intends to rely on, together with the names of any witnesses who they may ask to appear, to the Chair at least 2 Working Days in advance of the hearing.

## 28.6 Conducting the hearing

28.6.1 The purpose of the hearing will be to:

- a. present the member of staff with the reason(s) for contemplating dismissal and where appropriate, to consider the evidence gathered during any investigation; and
  - b. allow the member of staff or their Trade Union Representative or Workplace Colleague the opportunity to present their case and to respond to the reason(s) for contemplating dismissal.
- 28.6.2 The Chair will set the procedure to be followed as appropriate for the proper consideration of the matter, to include provision for adjournments if necessary.
- 28.6.3 The Chair will have complete discretion as to the admissibility of evidence. In exercising their discretion the Chair will be guided by the requirement that the evidence, written and oral, must be relevant to the subject matter of the hearing.

## **28.7 Dismissal**

- 28.7.1 Where a hearing panel determines that a member of staff should be dismissed, the HR Director or nominee will issue notice of dismissal to the member of staff.
- 28.7.2 When informing the member of staff of the hearing panel's decision to dismiss, the HR Director or nominee will inform the member of staff that they have the right to appeal against the decision, and confirm the arrangements for submitting an appeal.

## **28.8 Appeals against dismissal**

- 28.8.1 A member of staff may appeal against a decision to terminate their employment by following the procedure outlined in Ordinance 30 (Appeals against dismissal).



---

## Ordinance 29 Resolution of grievances

### 29.1 Application

- 29.1.1 This Ordinance applies to grievances by members of staff concerning their employment where those grievances relate to matters affecting themselves as individuals, or their personal dealings or relationships with other staff. This includes dignity at work issues such as discrimination, bullying and harassment.
- 29.1.2 This Ordinance only applies to a member of staff who is employed by the University. It does not apply to an individual whose employment with the University has ended.
- 29.1.3 This Ordinance does not apply:
- a. to any complaint about dismissal, disciplinary action or any other matter for which express provision is made elsewhere in the Ordinances;
  - b. if the subject matter of a grievance is being properly considered with or forms the whole or any part of an appeal, determination or complaint under a different Ordinance;
  - c. to grievances concerning two or more members of staff raised by a representative of a recognized trade union (collective grievances. These will be dealt with as appropriate to the facts of the case; or
  - d. where any other prescribed procedure(s) apply.
- 29.1.4 It is expected that most issues will be resolved quickly and informally through discussion without resorting to the use of this Ordinance.
- 29.1.5 Where two or more members of staff raise individual grievances that are closely related (for example they relate to the same or similar subject matter) the grievances may, with the agreement of the members of staff who have raised the grievances, be considered together.
- 29.1.6 Where a grievance relates to another member of staff's behaviour, the relevant manager may instigate or recommend the instigation of disciplinary procedures where evidence suggests this is the appropriate course of action. The member of staff's grievance may be suspended pending the outcome of any disciplinary procedures. The outcome of any disciplinary procedures may be communicated confidentially to the aggrieved member of staff who will then be given the opportunity to withdraw their grievance.
- 29.1.7 The University will apply the procedures in this Ordinance so that grievances are resolved at as early a stage as possible and within a reasonable timescale.
- 29.1.8 The University reserves the right to dismiss a grievance if it is brought an unreasonable length of time after the event or matter complained about in circumstances where the facts and/or people involved are no longer readily accessible.

- 29.1.9 A grievance that is judged by the relevant manager to be malicious or vexatious may be dismissed without further action, and may give rise to disciplinary action against the complainant.

## **29.2 Aim of the procedures**

- 29.2.1 The aim of the procedures is to settle or redress individual grievances promptly, fairly and so far as may be possible, within the School, department or other relevant area.

## **29.3 Stage 1 - Informal procedure**

- 29.3.1 A member of staff should raise their grievance informally with their Line Manager as soon as reasonably practicable. The complainant should be prepared to discuss with their Line Manager what action they consider may resolve the grievance. The Line Manager may be able to resolve the problem or explain why particular actions are not possible or appropriate.
- 29.3.2 If the grievance relates to the member of staff's Line manager then the matter should normally be raised with the next Level of manager.
- 29.3.3 During any informal meetings the member of staff does not have the right to be accompanied by a Workplace Colleague or Trade Union Representative, except for Dignity at Work cases (as defined in the University's Dignity at Work Policy) where the member of staff relies on the support of a Dignity at Work Advisor as provided for in the Dignity at Work Policy.
- 29.3.4 Any documentation generated during this informal stage should be retained by the relevant manager for the purpose of any further informal complaints or subsequent formal procedures.

## **29.4 Mediation**

- 29.4.1 Mediation may help two or more parties reach a mutually acceptable resolution to a grievance. If following initial discussion with relevant parties the Line Manager considers that mediation has a reasonable prospect of being effective, they will take steps to arrange this through the relevant HR Manager.
- 29.4.2 The mediation process will be confidential and facilitated by an impartial, independent and appropriately trained internal or external mediator. The outcome of the mediation process will be communicated to the relevant parties.
- 29.4.3 The mediator's role is not to support or gather evidence in favour of either party but to deal even-handedly with both parties. The mediator may suggest options, proposals and solutions for consideration by the relevant parties.

## 29.5 Stage 2 - Formal procedure

- 29.5.1 Where the grievance cannot be resolved informally or through mediation, the member of staff (the 'Complainant') should submit a formal written grievance case to the relevant Senior Manager, as soon as reasonably practicable, with a copy being sent to the HR Manager.
- 29.5.2 The grievance case should be as brief as possible and state:
- a. the substance of the grievance and include supporting evidence (including copies of relevant documentation);
  - b. the names of any witnesses who may be able to assist with the investigation; and
  - c. the proposed solution or preferred outcome for consideration.
- 29.5.3 If the relevant Senior Manager to whom the formal grievance is submitted is the Vice-Chancellor, the Vice-Chancellor shall refer it to another Senior Manager and inform the Complainant that they have done so.
- 29.5.4 If the relevant Senior Manager to whom the formal grievance is submitted has had previous involvement at the informal stage, they will refer it to another Senior Manager and inform the Complainant that they have done so.
- 29.5.5 Where another member of staff is the subject of the grievance (referred to as the 'Respondent'), the Senior Manager will normally meet with the Respondent to give them the following:
- a. a letter explaining that a formal grievance has been raised against them, giving them a time-frame for a written response;
  - b. a copy of the written grievance case and any relevant evidence/documentation; and
  - c. details of the procedure which are to be followed.
- 29.5.6 The Respondent's written response may include any supporting evidence (with copies of relevant documentation) and the names of any witnesses who may be able to assist with the investigation.
- 29.5.7 If the grievance relates to a Dignity at Work matter, e.g. discrimination, bullying or harassment, it may be necessary for the appropriate manager to advise the Complainant and Respondent of any necessary protocols that will need to be in place relating to contact and communication between them until notified otherwise.
- 29.5.8 The Senior Manager will convene a meeting with the Complainant to discuss the grievance as soon as reasonably practicable and, in normal circumstances, within 10 Working Days of the written grievance being submitted (or within 20 Working Days where a Respondent is involved). 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 they can expect the meeting to be convened. The Complainant will be informed of their right to be accompanied by a Workplace Colleague or Trade Union Representative.

- 29.5.9 Any written response from the Respondent will normally be sent to the Complainant at least 2 Working Days prior to the meeting to discuss the grievance.
- 29.5.10 The Senior Manager may carry out or initiate any investigation that may be necessary. The amount of any investigation required will depend on the nature of the matters raised and will vary from case to case.
- 29.5.11 If the grievance involves a Respondent, the Senior Manager would normally meet with the Respondent as part of the investigation to discuss the grievance and to involve them in the proposed solution if appropriate. The Respondent will be informed of their right to be accompanied by a Workplace Colleague or Trade Union Representative or a Dignity at Work Advisor acting in that capacity.
- 29.5.12 The Senior Manager will notify the relevant parties, in writing, of their decision as soon as reasonably practicable. If the decision is unlikely to be made within 10 Working Days of the meeting with the Complainant (within 20 Working Days where a Respondent is involved), the relevant parties will be given an explanation for the delay a date on which the outcome will be made known.
- 29.5.13 The Complainant will be informed that they can appeal if they are not satisfied with the outcome.
- 29.5.14 An HR Manager or nominee will normally attend any meeting in the capacity of advisor and facilitator.
- 29.5.15 Where the outcome of a formal grievance is to instigate disciplinary procedures against another member of staff, evidence gathered as part of the grievance process may be used to supplement or provide for the investigatory stage of the disciplinary procedures.

## 29.6 Stage 3 – Appeal hearing

- 29.6.1 If the Complainant is dissatisfied with the outcome of Stage 2, they may appeal in writing to the HR Director, within 10 Working Days of being informed of the outcome of Stage 2. The written appeal statement must state why the Complainant is not satisfied with the outcome of Stage 2.
- 29.6.2 If a Respondent is involved in the grievance, they will normally be sent a copy of the written appeal statement.
- 29.6.3 The HR Director or nominee will convene an appeal panel comprising members who have not previously been involved in the grievance case. The panel will normally meet within 15 Working Days of receipt of the appeal statement.

### Appeal Panel constitution

Senior Manager (the 'Chair')

HR Manager or nominee

- 29.6.4 For grievances raised by Complainants on Levels 5-8, there will be an additional panel member nominated by the HR Director, or nominee, of at least Level 7 from outside the Complainant's School, department or other relevant area.
- 29.6.5 The Chair may appoint a note-taker to take notes. This would normally be somebody from HR.
- 29.6.6 The Complainant will be given written confirmation at least 5 Working Days in advance of the time and place of the hearing, together with the names of the panel members and the right to be accompanied by a Workplace Colleague or Trade Union Representative.
- 29.6.7 The purpose of the appeal hearing will be to review the investigation and outcome of Stage 2.
- 29.6.8 If a Respondent is involved in the grievance, they will normally be required to attend the appeal hearing to put forward their view of events. They would be given written confirmation at least 5 Working Days in advance of the time and place of the hearing, together with the names of the panel members and the right to be accompanied by a Workplace Colleague or Trade Union Representative.
- 29.6.9 Without unreasonable delay and normally within 5 Working Days, the Chair will put the panel's findings in writing to the member of staff and other relevant parties and where appropriate will set out any action to be taken.
- 29.6.10 The decision at this stage is final and there is no further right of appeal.

---

## Ordinance 30 Appeals against dismissal

### 30.1 Application

- 30.1.1 This Ordinance applies to members of staff who have been dismissed under the following Ordinances and who have a right to appeal under those Ordinances:
- a. Ordinance 22 (Disciplinary (Conduct and Capability) procedures)
  - b. Ordinance 23 (Redundancy)
  - c. Ordinance 24 (Incapacity on grounds of health)
  - d. Ordinance 25 (Review and non-confirmation of probationary appointments)
  - e. Ordinance 26 (Non-renewal of fixed-term contracts)
  - f. Ordinance 28 (Dismissal on other substantial grounds)
- 30.1.2 An appeal hearing will normally be a review of the original decision rather than a re-hearing of the case. Following the appeal hearing the University may confirm the original decision, revoke the original decision, or substitute a different penalty.
- 30.1.3 If a member of staff appeals against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal.

### 30.2 Appeal against dismissal

- 30.2.1 A member of staff wishing to appeal against a dismissal should, within 10 Working Days of receipt of written notification of the decision, submit their appeal in writing to the HR Director (for staff on Levels 5-8) or the HR Manager (for staff on Levels 1-4), setting out the grounds for appeal.
- 30.2.2 Upon receipt of the appeal, the HR Director, HR Manager or nominee will establish an appeal panel in accordance with 30.3 below and will undertake the necessary administration to include:
- a. arranging a date for the hearing, which will normally be not less than 5 Working Days and not more than 20 Working Days from the receipt of the appeal submission;
  - b. distributing any relevant documentation to the member of staff and other relevant parties, including panel members at least 2 Working Days prior to the hearing date.
  - c. notifying the member of staff of the arrangements and that they may be accompanied by a Workplace Colleague or Trade Union Representative at the appeal hearing
  - d. notifying the relevant staff involved in the dismissal decision or having presented evidence at the dismissal hearing that they must make themselves available on the day of the appeal hearing.

### 30.3 Composition of the appeal panel

30.3.1 The appeal panel will consist of the following persons, none of whom will have had previous dealings with the case:

Staff Members on Levels 1-4

Senior Manager, or nominee (the 'Chair')

HR Manager or nominee

Staff Members on Levels 5-8

Independent Member of Council (the 'Chair')

Senior Manager

Member of Senate (if dismissal relates to an Academic staff member)

HR Manager or nominee

30.3.2 Where this Ordinance applies to an appeal against dismissal pursuant to Ordinance 25 (Review and non-confirmation of probationary appointments), Ordinance 26 (Non-renewal of fixed term contracts) or Ordinance 27 (Removal from a non-substantive post), an Independent member of Council will not be required to be a member of the appeal panel.

30.3.3 If required, a further person, normally from HR, may act as note taker during the hearing.

### 30.4 Procedure for the appeal hearing

30.4.1 The Chair will set the procedure to be followed as appropriate for the consideration of the matter, to include provision for adjournments if necessary.

30.4.2 The Chair will have complete discretion as to the admissibility of evidence. In exercising their discretion the Chair will be guided by the requirement that the evidence, written and oral, must be relevant to the subject matter of the hearing.

30.4.3 The relevant staff involved in the dismissal decision, or having presented evidence at the dismissal hearing, together with the person who conducted any investigation, should be available on the day of the appeal hearing if called by the Chair.

30.4.4 The rules of evidence applicable in the courts will not apply.

30.4.5 The procedure will generally include the following steps:

- a. the Chair will facilitate such introductions as are necessary and refer to any matters appropriate to the conduct of the hearing;
- b. the Chair will make provision for witnesses to give evidence, as appropriate. Any witness called shall be present only to give evidence, to be examined on it and then leave;
- c. the Chair, or the manager who chaired the dismissal hearing, supported by the HR Manager or nominee as appropriate, will

- summarise the conclusions reached at the dismissal hearing and the evidence on which those conclusions were based;
- d. the member of staff or their representative will be asked to state their case with reference to the grounds of appeal previously stated and not normally extending beyond those grounds;
  - e. the member of staff may request that oral evidence be given by witnesses on their behalf. Where such evidence was given at the original hearing, it shall be for the Chair to decide whether it would be most appropriate to hear from the witnesses directly or to consider the notes of evidence taken at the original hearing;
  - f. the Chair will conduct a review of the evidence heard at the original hearing and consider the points raised by the member of staff or their representative. Where the dismissal hearing heard evidence from witnesses, the Chair may decide to consider the written record of their evidence, or to recall them to give evidence in person to the appeal hearing;
  - g. the member of staff or their representative will be given the opportunity to question the original decision, to raise points about any information provided by witnesses either at the original hearing or at the appeal hearing, and to make further representations;
  - h. the panel may question the member of staff and raise points about any information provided by witnesses;
  - i. each side will then summarise the issues they regard as important to the appeal;
  - j. the panel will take into account any mitigating factors put forward by the member of staff when reaching its decision;
  - k. the Chair will inform the member of staff when a decision will be made on whether or not the appeal has been successful and that the decision will be final.
  - l. the panel will consider their decision in private.

## **30.5 Procedure following the appeal hearing**

- 30.5.1 Normally within 10 Working Days of the appeal hearing, the Chair will write to the relevant parties notifying them of the panel's decision including the reason(s) for the decision. If there is to be a delay in notification, the Chair will contact the relevant parties to explain the reason for the delay and give a date when notification will be made.
- 30.5.2 The decision of the appeal panel is final.
- 30.5.3 Where the decision of the appeal panel is to reject the appeal the date of termination will be the date notified to the member of staff in the original decision and this will be confirmed to the member of staff in writing