

## UNIVERSITY OF STIRLING CALENDAR - ORDINANCES

### **ORDINANCE 68 UNIVERSITY STAFF**

(Charter reference Statute 17)

#### **Part I**

1. Academic staff and other relevant persons as defined by the Further and Higher Education (Scotland) Act 2005, employed under a contract of employment issued by the University, shall have freedom within the law to hold and express opinion, to question and test established ideas or received wisdom, to develop and advance new ideas or innovative proposals, and to present controversial or unpopular points of view without adverse effect in relation to their entitlements or privileges enjoyed or appointments held or sought.

This Part sets out the procedure which applies to any such member of staff who believes that their freedom, as defined above, has been adversely affected.

2. Any member of staff in the relevant category who believes that their academic freedom has been adversely affected should submit a written account of the specific grievance to the University Secretary, who shall bring it to the attention of the Principal. If it appears to the Principal that the grievance is trivial or invalid, the Principal may dismiss it summarily. If the Principal does not reject the complaint the Principal shall direct the University Secretary to arrange for the grievance to be considered by a panel which shall comprise:
  - (a) a lay member of Court with no prior involvement in the case, who shall be Chair;
  - (b) a member of academic staff nominated by Academic Council with no prior involvement in the case;
  - (c) an external assessor with academic expertise consistent with that held by the person raising the grievance identified by mutual agreement between the member and the Principal.
3. If agreement is not reached within a reasonable period in regard to the appointment of an assessor under para 2 (c) above, the Chair of University Court shall appoint an assessor on the recommendation of Academic Council.
4. The procedure in connection with consideration and determination of the grievance shall be in accordance with the arrangements set out in the relevant Schedule to this Ordinance and shall ensure that the aggrieved person and any person or persons against whom the grievance lies shall have the right to be heard at a hearing and to be accompanied by a fellow member of staff or a trade union representative.

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5. If the member of staff is subject to any of the procedures set out in the Schedules to this Ordinance those procedures shall be suspended until the procedures under this Part have been exhausted. The outcome of the procedures held under this Part shall then be taken into consideration when carrying forward any procedures under the relevant Schedule of this Ordinance.

### **Part II**

6. Subject to the provisions of Part I the procedures for regulating the employment of staff shall be subject to the following Schedules to this Ordinance, viz:
  - (i) General Provisions
  - (ii) Disciplinary Procedure
  - (iii) Grievance Procedure
  - (iv) Redundancy Procedure
  - (v) Appeals Procedure

These Schedules may be amended by the Court following consultation with the trades unions recognised by the Court as representing relevant staff groupings.

## **PART II**

### **I - GENERAL PROVISIONS**

1. The following principles and standards apply to all procedures detailed in Ordinance 68.
2. These procedures apply to all employees of the University and have been developed in consultation with the trade unions recognised by the Court.
3. Reference to the Dean of Faculty (academic areas) and Service Director (Service areas) can also refer to their delegated nominee.
4. The procedures do not apply to self employed persons or staff contracted by other organisations, or on secondment to the University, who are covered by their own employer's procedures.
5. The University is committed to the fair and equal treatment of every person and shall not discriminate on unjustified, irrelevant or unlawful grounds
6. In any matter relating to the meaning of 'academic freedom' in any proceedings under these Ordinances, regard shall be had to Part 1 of this ordinance.
7. The decision of the Chair/Panel on which procedure is to be followed shall be final.

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8. The application of this Ordinance may be modified by the Director of Human Resources and Organisational Development (HR and OD) in cases where a member of staff employed by the University works in, or is managed by employees of, a third party organisation, including in cases of secondment. In particular:
  - a. The Director of HR & OD may authorise managers employed by the partner organisation to take action under these procedures, in conjunction with, or in substitution for, appropriate University Managers;
  - b. Where a member of staff raises a complaint about his/her treatment by a partner organisation or any of its employees, the University shall endeavour to deal with the complaint within the spirit of the Grievance Procedure, as far as is practicable to do so;
  - c. For the avoidance of doubt, action under this Ordinance may be taken in respect of the staff member's conduct or performance during his/her work for the partner organisation.
9. An employee has the right to be accompanied by a fellow worker or trade union representative at any meeting and at any stage of these procedures.
10. An employee may ask for any meeting under the formal stages of these procedures to be postponed, usually on one occasion. Following such a postponement, the University reserves the right to proceed with the meeting in the employee's absence.
11. The Director of HR & OD or delegated deputy must be involved at all formal stages of these procedures.
12. Time limits (other than those for prior notification of meetings or disclosure of documentation before meetings) are indicative – there may be circumstances, particularly in the case of complex cases, where these are not realistic. If it is not possible to respond or take action within the time limits referred to in this Procedure, the employee should be given an explanation for the delay and told when a response can be expected.
13. The time limits may be varied by mutual agreement in individual cases.

### **PART II**

#### **II - DISCIPLINARY PROCEDURE**

##### **1. Scope and Definitions**

- 1.1 The University of Stirling recognises that it is the responsibility of all employees to ensure that acceptable levels of attendance, conduct, behaviour and performance are maintained at all times. This procedure is in accordance with the ACAS Code of Practice 1 and is intended to address situations where the conduct or behaviour of an employee falls below acceptable standards.

##### **2. General Principles**

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- 2.1 The University reserves the right to start disciplinary procedures at any level depending on the seriousness of an alleged offence or where an earlier pattern of unacceptable attendance, conduct or behaviour has been established.
- 2.2 In some circumstances it will be appropriate for the Dean of Faculty/Service Director to make every effort to resolve matters by informal discussion and oral reprimand. Where this fails to bring about the desired improvement the formal disciplinary procedure may be implemented.
- 2.3 Matters of capability/performance will be dealt with under the Capability Procedure (Part II, Schedule II.1) to ensure that employees, who are experiencing performance difficulties, are managed appropriately.
- 2.4 In cases of alleged misconduct formal disciplinary action will not be taken against an employee until the alleged incident has been fully investigated. If deemed appropriate, the employee concerned may be suspended until the investigation has been completed.

### **3. Suspension from duty**

- 3.1 In the context of this procedure, suspension is not a disciplinary act and the employee will remain on full pay, pending investigation. It is a neutral act which does not imply that misconduct has taken place. There should be no implication of guilt as a result of an individual having been suspended.
- 3.2 Under normal circumstances the Principal or University Secretary (and, as appropriate, delegated nominees) will have the authority to sanction a suspension. Suspension may be used because it is considered desirable to have the employee separated from contact with potential witnesses or evidence or to avoid other difficulties that might arise. The suspension will be confirmed in writing to the employee by the Dean of Faculty/Service Director as soon as is practicable within 5 working days, outlining the reason for suspension.
- 3.3 Normally, it is expected that a suspension will last no longer than 2 weeks. If, however, the case is particularly complex and the investigation protracted, it may be necessary to continue the suspension for a longer period.

### **4. Investigation**

- 4.1 When an allegation concerning an employee's conduct is brought to the attention of the manager to whom he/she is immediately accountable the Dean of Faculty/Service Director will inform the employee of the nature of the allegation and that it will be investigated. It will be the responsibility of the Dean of Faculty/Service Director to identify two investigating officers, normally from a different section to the one in which the employee works, to establish the facts of the matter.

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- 4.2 Having completed the investigation and established all the relevant facts, the investigating officers will submit a written report to the Dean of Faculty/ Service Director who will decide on the appropriate course of action. This will be one (or a combination) of the following:-
- (i) no action;
  - (ii) action other than a formal disciplinary sanction, for example counselling, review, setting of standards, retraining, redeployment;
  - (iii) convening a formal disciplinary hearing.

If a disciplinary hearing is convened any written evidence to be used at the hearing will be made available to all parties prior to the hearing taking place. The employee will be informed in writing of the requirement to attend a formal disciplinary hearing. Normally such notice will be given at least 5 working days prior to the hearing.

### **5. Disciplinary Process**

- 5.1 **Stage 1 – Written Notification.** - The Dean of Faculty/Service Director will set out in writing the allegation or reason for disciplinary action and invite the employee to attend a hearing to respond to the allegation or reason for disciplinary action.
- 5.2 **Stage 2 – Hearing** - A disciplinary hearing will take place to consider and discuss the matter. After the hearing the employee will be informed of the decision and advised of their right to appeal.
- 5.3 **Stage 3 – Appeal** - An employee who wishes to appeal will be required to submit the appeal in writing and an appeal hearing will be arranged. An appeal hearing need not take place before dismissal or disciplinary action takes place. After the appeal the employee will be informed in writing of the final decision.
- 5.4 Employees will be given at least 5 working days' notice of any disciplinary hearing. At any disciplinary hearing, the employee will be given the opportunity to state his/her case.
- 5.5 The purpose of the disciplinary hearing will be to decide whether or not disciplinary action is necessary and, if so, to establish what level of disciplinary sanction is appropriate.
- 5.6 Disciplinary decisions will be made by the Dean of Faculty/Service Director conducting the disciplinary hearing who will be wholly responsible for the decision.
- 5.7 A formal disciplinary sanction cannot be imposed without a disciplinary hearing (this excludes cases where a hearing is heard in an employee's absence). Other than in cases of gross misconduct or gross negligence (when the penalty may be dismissal without notice or payment in lieu of notice), no employee will be dismissed for a first offence.

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5.8 An employee has the right to appeal against any disciplinary penalty imposed.

### **6. Outcomes and Sanctions**

6.1 The decision may be that no disciplinary action is required. Disciplinary action, other than that relating to gross misconduct may vary. Kinds of disciplinary action can include the following;

- First written warning
- Final Written warning
- Dismissal (including summary dismissal)

Other sanctions may be appropriate in certain situations.

6.4 Any warnings issued will be confirmed in writing within 10 working days of the decision being made. The warning confirmation letter will contain the reason for the warning, any improvement expected, the duration of the warning and notification of disciplinary consequences of not meeting the requirements of the warning. The letter will also include information on the employee's right of appeal.

6.5 A copy of the written warning will placed on the individual's personal file together with any documents relating to the case.

6.6 **First Written Warning** - A first written warning may be issued if an employee's misconduct is such that the Dean of Faculty/Service Director believes that a first written warning is appropriate. A first written warning will normally be regarded as spent after 12 months.

6.7 **Final Written Warning** - A final written warning may be issued if the employee fails to comply with the terms of a first written warning which remains "live" or the employee's misconduct is serious and, although not considered by the Dean of Faculty/Service Director to be sufficiently serious to justify summary dismissal, justifies the issuing of a final written warning. A final written warning will normally be regarded as spent after 2 years.

6.8 **Dismissal (including Summary Dismissal)** - Dismissal with notice or pay in lieu of notice may be an appropriate disciplinary sanction if an employee fails to comply with the terms of a final written warning which is still live. Summary dismissal without notice payment or pay in lieu of notice will be an appropriate disciplinary sanction if an employee has committed an offence of gross misconduct.

If dismissal is a possible outcome of a disciplinary hearing, this will be indicated clearly in the letter sent by the Dean of Faculty/Service Director requiring the employee's attendance at the hearing.

In cases of dismissal, the employee will be notified in writing of the appropriate notice period (other than in the instance of summary

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dismissal) together with the reason for dismissal, the date at which employment will terminate and details regarding the appeal process.

### **7. Appeals**

- 7.1 An employee has the right to appeal against any disciplinary action taken against him/her as an outcome of the disciplinary process.
- 7.2 An appeal should be submitted in writing to the nominated officer of the University, as stated in the letter detailing the disciplinary decision, within 10 working days of written confirmation of the disciplinary decision and should state the reason(s) for appeal.

### **8. Rights of accredited Union Representatives**

- 8.1 An accredited union representative may not be disciplined formally until all reasonable efforts have been made to discuss the circumstances of the case with the appropriate full time official or any person nominated by the full time official to act on his/her behalf.
- 8.2 Formal disciplinary action will not be taken against an accredited union representative until the appropriate full time official has been notified of the hearing and invited to attend. The full time official may nominate another person to attend the hearing on his/her behalf.

### **9. Conduct not directly related to the place of work**

- 9.1 While it would be normal for only conduct at work, or on University premises, to be taken into account in matters of discipline relating to employment there are certain external matters which can have disciplinary consequences within the University.
- 9.2 The University reserves the right to take appropriate disciplinary action, including summary dismissal, in the following circumstances:
- bringing the University into disrepute
  - misusing the University's name or property
  - breach of trust and confidence
  - obtaining employment with the University by false declaration or concealment of information
  - conviction of a criminal offence which makes the employee ineligible to carry out his/her duties
  - Where continued employment could adversely impact on other staff or students.

### **10. Police or Legal Proceedings**

- 10.1 The University reserves the right to take appropriate disciplinary action in circumstances where there is police involvement or legal proceedings. This will only occur where the nature of the circumstances appear to have a bearing upon the employee's performance of his/her contract of employment with due regard to matters relating to the workplace.
- 10.2 Similarly, the University reserves the right to involve the police or other

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legal authorities in disciplinary matters where this is relevant, for example in cases of fraud, theft or violence.

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## **PART II**

### **SCHEDULE II.1 - CAPABILITY PROCEDURE**

#### **1. Scope and Definitions**

- 1.1 The purpose of the Capability Procedure is to encourage and support employees to achieve and maintain required standards of performance.
- 1.2. Cases of incapacity due to ill health should normally be dealt with under the University's Sickness Absence Management policy. Where, having initially followed the Sickness Absence Policy, it is deemed the issue is one of capability the Capability Procedure will be used. Any subsequent sickness will be considered under the Capability Procedure.
- 1.3 An employee has the right to be accompanied by a fellow worker or trade union representative at any meeting and at any stage of this procedure.

#### **2. What the University expects from Employees**

- 2.1. The University expects employees to:
  - Undertake duties and responsibilities expected of the role and grade
  - Understand the impact of job performance on colleagues, service users and the wider University
  - Clarify expectations, tasks, objectives and behaviours with the line manager if unclear.
  - Bring all relevant issues which may affect performance to the attention of the line manager
  - Co-operate with the line manager to help improve any aspects of performance which are considered to be unsatisfactory
  - Attend meetings to discuss any aspects of performance which are considered unsatisfactory

#### **3. Informal Procedure – What the Employee may expect from the University**

- 3.1 Line managers are expected to discuss any concerns with employees regarding performance and to seek to identify the cause of the performance problem and assist with improving performance. This may be achieved through meetings with the line manager and the use of a work or development plan with appropriate timescales. In cases where capability is affected by temporary health issues which do not warrant the taking of sick leave, the line manager may consider whether it is possible to adjust an employee's workload/working conditions on a temporary basis. If the capability issues arise from a disability, the University has a duty to make reasonable adjustments in the workplace. In these cases HR & OD Services may obtain professional advice through Occupational Health.
- 3.2 The informal approach is aimed at bringing concerns to the attention of the employee, exploring causes, identifying responsibilities and agreeing actions to be taken.

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- 3.3 Where there are concerns about an employee's performance, his/her manager will meet with him/her to reflect those concerns and explore ways of addressing them. The manager may issue advice and guidance to the employee or provide coaching and/or training or take other informal action.
- 3.4 It is advisable to confirm the outcomes of any discussions in writing to the employee. The manager should retain any notes of these informal discussions or meetings.
- 3.5 Following a satisfactory outcome to the use of the informal procedure, the matter will be considered resolved.
- 3.6 Line managers are responsible for providing feedback to employees regarding performance and will advise, normally within agreed timelines, whether or not performance has improved to meet the required standard.
- 3.7 If, following the informal process there is no improvement in performance within the agreed period (normally not less than 3 months), the improvement is not sustained or performance deteriorates further then the next, formal, stage of the procedure will be invoked.

#### 4. Formal Procedure

If performance does not meet acceptable standards, and coaching or other informal action is not considered appropriate or has not succeeded in addressing the problem, the manager will meet with the employee to discuss the issues. The manager will outline the performance issues that have led to the meeting and the employee will be given the opportunity to state his/her case and raise any factors s/he wishes to have considered. If, in the view of the manager, the employee is unable to provide a satisfactory explanation for the performance shortfall, s/he will be advised of:

- The improvement in performance required
- The timescale for improvement
- Any support to be received
- The consequence of not meeting the performance targets

- 4.1. **Written Notification.** - The Dean of Faculty/Service Director will set out in writing the reason for formal action and invite the employee to attend a hearing to respond.
- 4.2. **Hearing** - A hearing will take place to consider and discuss the capability matter. After the hearing the employee will be informed of the decision and advised of their right to appeal.
- 4.3. **Appeal** - An employee who wishes to appeal will be required to submit the appeal in writing and an appeal hearing will be arranged. An appeal hearing need not take place before formal action takes place. After the appeal the employee will be informed in writing of the final decision.

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- 4.4. Employees will be given at least 5 working days' notice of any hearing. At any hearing, the employee will be given the opportunity to state his/her case.
- 4.5. The purpose of the hearing will be to decide whether or not formal action is necessary and, if so, to establish what level of sanction is appropriate.
- 4.6. Decisions will be made by the Dean of Faculty/Service Director conducting the hearing who will be wholly responsible for the decision.
- 4.7. A formal sanction cannot normally be imposed without a hearing (this excludes cases where a hearing is held in an employee's absence). No employee will be dismissed for a first instance of under-performance. However, where an employee commits a single significant error, or a number of substantial errors which are attributable to incompetence or inability to meet the required standards of the job and the actual or potential consequences of that error are, or could be, extremely serious, warnings may not be appropriate. This procedure allows for an employee in this situation to be suspended and the earlier stages of the procedure to be omitted.
- 4.8. An employee has the right to appeal against any penalty imposed.

### **5. Outcomes and Sanctions**

- 5.1 The decision may be that no formal action is required. Formal action, other than that relating to gross misconduct may vary. Kinds of action can include the following;
  - First written warning
  - Final Written warning
  - Dismissal on the grounds of Capability (including summary dismissal)
- 5.2 Other sanctions may be appropriate in certain situations, such as:
  - The extension or renewal of a warning or final written warning issued under this procedure;
  - Withholding an increment of salary
  - The removal of any title or office held in addition to the substantive appointment
  - The transfer of an employee to an alternative post within the University where possible and appropriate.
- 5.3 Any warnings issued will be confirmed in writing within 10 working days of the decision being made. The warning confirmation letter will contain the reason for the warning, any improvement expected, the duration of the warning and notification of disciplinary consequences of not meeting the requirements of the warning. The letter will also include information on the

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employee's right of appeal.

5.4 A copy of the written warning will be placed on the individual's personal file together with any documents relating to the case.

**5.4 First Written Warning** - A first written warning may be issued if an employee's performance record is such that the Dean of Faculty/Service Director believes that a first written warning is appropriate. A first written warning will normally be regarded as spent after 12 months.

**5.5 Final Written Warning** - A final written warning may be issued if the employee fails to comply with the terms of a first written warning which remains "live" or the employee's underperformance is serious and, although not considered by the Dean of Faculty/Service Director to be sufficiently serious to justify summary dismissal, justifies the issuing of a final written warning. A final written warning will normally be regarded as spent after 2 years.

**5.6 Dismissal (including Summary Dismissal)** - Dismissal with notice or pay in lieu of notice may be an appropriate sanction if an employee fails to comply with the terms of a final written warning which is still live.

5.7 If dismissal is a possible outcome of a hearing, this will be indicated clearly in the letter sent by the Dean of Faculty/Service Director requiring the employee's attendance at the hearing.

5.8 In cases of dismissal for reasons of capability, the employee will be notified in writing of the appropriate notice period (other than in the instance of summary dismissal) together with the reason for dismissal, the date at which employment will terminate and details regarding the appeal process.

### **6. Appeals**

6.1 An employee has the right to appeal against any action taken against him/her as an outcome of the capability process.

6.2 An appeal should be submitted in writing to the nominated officer of the University, as stated in the letter detailing the disciplinary decision, within 10 working days of written confirmation of the disciplinary decision and should state the reason(s) for appeal.

## **PART II**

### **III - GRIEVANCE PROCEDURE**

#### **1. Scope and Definitions**

1.1 The University of Stirling recognises that employees may, from time to time, have issues or concerns relating to their work, working environment or working relationships which they may want to address. This grievance procedure sets out how to raise such issues and explains how these issues will be dealt with to ensure that matters are dealt with efficiently and

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effectively and that employees are treated fairly and equally. This Grievance Procedure is in accordance with the ACAS Code of Practice 1.

### **2. Informal Grievance**

- 2.1 If an employee experiences any problems in the workplace, this should be taken up with the immediate Line Manager or the Dean of Faculty/Service Director in an attempt to resolve the matter informally.

It is the role of the Line Manager to seek to find a solution that addresses the concerns of both parties.

If the grievance relates to the Line Manager then the employee should raise the issue with the next most senior person to the Line Manager. Employees that are unsure of who this should be can seek advice from an HR Partner.

If the matter is not resolved satisfactorily through the informal route then employees will have the right to raise a formal grievance.

### **3. Formal Grievance**

- 3.1 The formal grievance procedure has three stages,

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### **3.2 Stage 1 - Raising a Formal Grievance**

- 3.2.1 In order to raise a formal grievance an employee is required to submit this in writing setting out clearly what the issues are. This should be sent to the line manager.
- 3.2.2 If the grievance is about the Dean of Faculty/Service Director then the written grievance should be sent to the Deputy Principal or University Secretary respectively.

### **3.3 Stage 2 - Grievance Hearing**

- 3.3.1 On receipt of a written grievance a grievance hearing will be arranged in order to discuss the issues fully. This may first require an investigation to be carried out to gather the facts surrounding the case.
- 3.3.2 The grievance hearing should normally be arranged to take place within 10 working days of receipt of the grievance and will allow at least 5 working days' notice of the hearing.
- 3.3.3 The grievance hearing will be chaired by a senior member of staff who has not previously had any involvement in the case.
- 3.3.4 If the grievance is against another employee, the employee against whom the grievance has been raised may be invited to attend the same hearing as the employee raising the grievance or given the opportunity to attend a separate hearing. This will be decided by the Chairperson hearing the matter.
- 3.3.5 At the grievance hearing, both sides i.e. the employee raising the grievance and the party against whom the grievance has been raised, will be given the opportunity to state their case. Either party may opt to have their representative speak on their behalf. In cases where witnesses are called, they may be asked to answer questions from the chair, the HR Partner, the employee or the person against whom the grievance has been lodged. In some cases, it may suffice to have written statements from witnesses for reference.
- 3.3.6 Once all the details of the case have been heard, the Chairperson will decide on the outcome based on the facts of the case made available to them. This outcome will be notified to the employee, in writing, within 10 working days of the grievance hearing. If, for some reason, it is not possible to give a response within 10 working days, then the Chairperson will make this known to the employee with an indication of when the outcome will be available.

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### **3.4 Stage 3- Appeal**

- 3.4.1 Once the outcome of a grievance has been communicated an employee has the right to appeal if they believe that the grievance has not been dealt with satisfactorily. Any appeal must be submitted in writing and addressed to the officer of the University who is next most senior to the person who chaired the original grievance.
- 3.4.2 The officer to whom the appeal should be addressed will have been identified to the employee in the letter confirming the outcome of the grievance hearing.

### **4. Issues not considered under the Grievance Procedure**

- 4.1 There are certain issues that will not be considered under the Grievance Procedure, these include:
- any complaints that are deemed, following initial investigation, to be trivial or vexatious; any such complaints may be addressed through the Disciplinary Procedure ;
  - complaints which should be addressed, from the outset, by the Disciplinary Procedure;
  - complaints relating directly to, or regarding, promotion (these will be dealt with under the appropriate appeals mechanism).
- 4.2 Advice and guidance should be sought from HR & OD Services before dismissing a complaint for any of these reasons.

## **PART II**

### **IV - REDUNDANCY PROCEDURE**

#### **1. Scope and Definitions**

- 1.1 For the purposes of this procedure, redundancy is defined in accordance with Section 139 of the Employment Rights Act 1996 or successor legislation.
- 1.2 The pool for selection is the group of employees from which those who are to be made redundant will be drawn. The pool will depend upon the area or areas of activity in which the University's requirements for employees to carry out work of a particular kind have ceased or diminished. The pool will vary depending on the situation and to the extent to which the roles can be deemed interchangeable. In some cases (for example, in relation to a very specialist post), the role may be unique and there will not be a pool, in which case there is no selection decision to be made and the individual is provisionally selected for redundancy on the basis that the position is unique.
- 1.3 Where there is a pool, selection criteria will be developed to determine which employee(s) should be put forward for redundancy. Selection criteria will normally be based on the current and future needs of the Faculty/Service in relation to that specific area of activity.

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### **2. Avoidance of Redundancy and Consultation with trade union representatives**

- 2.1 Before a decision is taken to effect redundancies, the University will consult with individual employees and/or their representatives, having due regard to any consultation required in accordance with Section 188 of the Trade Union and Labour Relations (Consolidation) Act (TULRCA), on how to avoid the redundancies or reduce the numbers involved and, once a decision has been taken to proceed, about the means of effecting redundancies.
- 2.2 The purpose of consultation with trade union representatives in a redundancy situation is to provide as early an opportunity as practicable to share the problem and explore possible options. In some circumstances trade union representatives may be able to suggest alternative ways of addressing the problem faced by the University or, if redundancy is inevitable, ways of minimising hardship.
- 2.3 Where there is a possibility of compulsory redundancy the University will engage in consultation with the appropriate trade union representatives on the following points:
  - the reason for the proposals;
  - the number and descriptions of posts likely to be dismissed as redundant;
  - the total number of employees of that description employed by the University;
  - the period of consultation;
  - the proposed method of selecting the employees who may be dismissed;
  - the proposed method of carrying out the dismissals and timescales;
  - the proposed method of calculating the amount of any redundancy payments to be made to employees who may be dismissed (other than statutory redundancy payment).
- 2.4 Where the University is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the University shall consult about the dismissals with the Campus Trade Unions representing any of the employees who may be affected by the proposed dismissals or who may be affected by measures taken in connection with those dismissals. The consultation shall begin in good time and in any event where the University is proposing to dismiss 100 or more employees, at least 90 days, and otherwise, at least 30 days before the first of the dismissals takes effect.
- 2.5 The consultation will be with local trade union representatives and will include discussion about ways of avoiding dismissal, reducing the number of employees to be dismissed and ways of mitigating the consequences of dismissal.

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### **3. Consultation with employees**

- 3.1 As soon as is reasonably practicable the University will consult with individual employees whose positions are at risk of being made redundant. The procedural steps for individual consultation are set out in Appendix 1.

### **4. Compulsory Redundancy Selection Criteria**

- 4.1 In circumstances where the requirement for staff reduction has been established, the University will undertake a compulsory redundancy exercise involving consultation with the unions and individuals as described above.
- 4.2 Once the pool has been identified the University will, after consultation with the relevant recognised trade union, decide the criteria to be used in selecting staff. The criteria will depend on the individual redundancy situation.
- 4.3 An appropriate method of ranking and weighting the individual factors may be applied following consultation with trade union representatives.

### **5. Procedural Steps for Redundancy**

- 5.1 The individual consultation process will vary in accordance with different redundancy situations, but as a minimum will comply with the following; -

#### **5.2 Invitation to a Meeting**

As soon as is reasonably practicable after a potential redundancy situation has been identified, the University will consult with all employees whose positions are at risk.

#### **5.3 The Meetings**

There will normally be at least two meetings with an employee in a redundancy situation.

The first meeting will be held before any selection decision is taken and the purpose of the meeting is:

- to explain the reason for the proposed redundancy exercise;
- to identify that the employee is “at risk” of redundancy;
- to give the employee a fair opportunity to discuss any factors which may contribute to their selection for dismissal by reason of redundancy;
- to discuss the possibility of suitable alternative work and to consider any other vacancies within the university should they be selected for redundancy;
- to listen to any comments/representations that the employee wishes to make.

- 5.4 Following this meeting and the completion of a selection process the employee will be invited to a second meeting. At that meeting they will be advised if they have been selected for redundancy. The employee will be entitled to see and comment on their own assessment scores against

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criteria. Any comments will be taken into account at this point and a record kept of whether or not the scores require to be amended, any amended scores and the reason for any decision taken to make a change.

- 5.5 If selected for redundancy the employee will be placed on the Redeployment Register which will ensure that they receive notification of all vacancies within the University.

The purpose of the second meeting is to:

- advise if the employee has been selected for redundancy;
- consider any requests for voluntary redundancy;
- review the position in relation to suitable alternative work;
- to listen to any other comments/representations that the employee may wish to make.

- 5.6 Following this meeting the Dean of Faculty/Service Director will inform the employee of their decision. If the decision is to dismiss the employee by reason of redundancy, the written notice will:

- inform the employee that his/her employment will end and the date upon which it will end;
- explain the basis for the decision;
- set out any arrangements in relation to the notice period i.e. whether the University requires the employee to work their notice;
- state details of the payment due;
- advise the employee of his right to a reasonable amount of time off to look for another job or to arrange training;
- give details of outplacement support;
- give details of the right of appeal.

## 6. Compensation

- 6.1 Employees with two or more years' continuous service have the right to a statutory redundancy payment.

- 6.2 Current statutory payments can be found at:

<http://www.direct.gov.uk/redundancy.dsb>

## 7. Outplacement Support

- 7.1 Where restructuring results in a reduction or change in staffing requirements the University will put into practice redeployment, retraining and other services to support affected staff.

- 7.2 The University will seek to provide support and outplacement services to staff at risk of redundancy. Support may include:

- a. generic job seeking skills training and advice e.g. CV writing, interview skills etc;

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- b. time off to look for alternative employment and access retraining facilities;
- c. assistance in finding new employment or education opportunities;
- d. career research facilities;
- e. independent financial advice;
- f. pre-retirement advice/counselling;
- g. in-house re-training for redeployment;
- h. external Career Management.

### **8. Period of Notice**

8.1 The University will try to give employees as much notice as is reasonably practicable, but the minimum periods of notice are as per the employee's contract of employment and subject to statutory consultation requirements. The University may ask the employee to work their notice period, or remain at home to allow them to seek alternative employment, depending on the circumstances of the redundancy.

### **9. Appeals**

9.1 An employee dismissed by reason of redundancy shall have the right of appeal against the decision. The appeal must be lodged in writing 10 working days from the date of the notice of redundancy. The letter must set out the grounds for appeal and a hearing will then be convened at which the decision and appeal shall then be considered by the next level of management as follows:

9.2 The Officer to whom the appeal should be addressed will have been identified to the employee in the letter confirming the redundancy decision.

## **APPENDIX 1**

### **Redeployment Procedure**

To retain and invest in staff and to minimise staff losses as a result of restructuring, the University will seek to offer suitable alternative employment to any employee whose post is at risk of being made redundant. In such circumstances the following will apply.

- Any employee whose post is at risk of being made redundant, or who is under notice of redundancy, will be placed on the Redeployment Register and will receive early notification of all vacancies within the University.
- The HR & OD Office will, with the employee's permission, circulate their CV to Dean of Faculty/Service Director throughout the University to assist in identifying current or future potential vacancies.
- Any post, for which the employee might be suited, with or without a reasonable amount of training, will be viewed as a potential redeployment option. If the post is of the same or lower grade, the

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vacancy shall be suspended whilst an evaluation is undertaken of the individual's suitability for the vacancy.

- If the vacancy has already been advertised, the normal process for administering internal and external candidates' applications will continue, but the post shall not progress to the interview stage.
- The HR Partner will review the vacancy with the Dean of Faculty/Service Director and conduct a matching exercise. Where the match is not sufficient the individual will be informed of this in writing and given reasons and the vacancy will be released for normal recruitment processes.
- If there is a reasonable match between the post and the individual being made redundant, then the individual should be offered a preferential interview alongside any disabled members of staff who are also on the redeployment register. A preferential interview is one that takes place prior to the post being advertised. A preferential interview will not guarantee a job offer.
- Any consequent offer of alternative employment must be made in writing and should explain any differences in the new employment terms. The new position offer must be made before the employment under the previous contract expires or immediately after the previous position ends to ensure continuous service.
- An employee under notice of redundancy has the right to a four week trial period in the alternative role without losing the right to redundancy pay. The trial period allows the employee and the University to assess whether the new position is suitable and if it is not felt to be by either party then the employee's right to redundancy payment under the old contract is preserved.
- In a redeployment situation where the employee is on a higher salary than the grade for the role that they are moving in to, they will maintain their package but will not receive any increments or pay awards until the rate for the new role matches the existing salary.
- If any employee refuses a suitable alternative offer of employment without good reasons, they may lose their right to redundancy pay.

## **PART II**

### **V - APPEALS PROCEDURE**

#### **1. Scope and Definitions**

1.1 The following procedure shall be followed at appeal hearings in respect of appeals made under the following procedures:

- Disciplinary Procedure

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- Grievance Procedure
- Redundancy Procedure
- Fixed Term Contract Procedure
- Any other relevant procedure

### **2. Process**

- 2.1 An appeal should be submitted in writing to the nominated officer of the University, as stated in the letter detailing the decision, within 10 working days of written confirmation of the decision and should state the reason(s) for appeal.
- 2.3 A hearing will then be convened at which the appeal shall then be considered by the next level of management as follows:
- If the decision was made by the line manager the appeal should be addressed to the Dean of Faculty/Service Director,
  - If the decision was made by the Dean of Faculty the appeal should be addressed to a Deputy Principal
  - If the decision was made by a Service Director (Service areas), the appeal should be addressed to the University Secretary
  - If the decision was made by a Deputy Principal, the appeal should be addressed to the Senior Deputy Principal
  - If the decision was taken by the Senior Deputy Principal, Deputy Principal or University Secretary, the appeal letter should be addressed to the Principal
- 2.4 An appeal will not be heard by anyone who has had previous involvement in the case.
- 2.5 If an appeal against dismissal is upheld in favour of the employee, they will be reinstated and reimbursed for all salary lost during the period between the date of dismissal and the date of reinstatement, including any contractual allowances normally paid.
- 2.6 Other than in cases of dismissal an appeal will be chaired by a more senior officer, not involved in the earlier disciplinary decision, supported by an HR Partner. In cases of dismissal and summary dismissal the appeal will be heard by a panel of two or more senior officers.
- 2.7 The appeal will, where practicable, be heard no later than twenty one working days after notification of the receipt of the appeal.

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- 2.8 The appeal hearing will not normally be a full re-hearing of the case. New evidence will only be allowed if good reason is given as to why it was not available at the original hearing. At the hearing the employee will be given an opportunity to state his/her case and to ask questions of the Hearing Panel. The University representative will be asked to present the University's case and can also ask questions of the Hearing Panel. Employees will be entitled to be accompanied by a union representative or work colleague.
- 2.9 The employee (or his/her union representative or work colleague) will be required to submit any new evidence to the HR Partner supporting the appeal at least five working days in advance of the date of the appeal.
- 2.10 The appeal panel shall deliberate in private, but may recall both the University's representative and the employee (and their representative) to clarify any points of uncertainty on evidence already given.
- 2.11 At the appeal stage, the decision shall be reviewed and may be upheld, reduced or dismissed.
- 2.13 The decision of the appeal hearing panel will be communicated to the employee in writing within 10 working days of the appeal hearing.
- 2.14 The decision of the appeal hearing panel will be final and binding. There is no higher internal means of appeal.

(NOTE: - reference to the University's representative above includes both the manager who took the formal action under the procedure which is being appealed against and any other person appointed by the University to present the University's case.)

*Revised Ordinance approved by the University Court: 21 March 2011, 20 June 2016, 10 December 2018*

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