

## The Ordinances Part 3: Dismissal, Discipline, Grievance Procedures and related matters pursuant to Statute 7

### 3.5 Disciplinary Procedure

#### *Part I : Introduction and Definitions*

1. This Ordinance is promulgated in accordance with the provisions of Part III Clause 10 of Statute 7 and sets out procedures in relation to discipline and dismissal.
2. In this Ordinance, unless the context indicates otherwise:-
  - i. 'The Statute' shall mean Statute 7;
  - ii. 'member of staff' shall mean any member of staff as defined by Clause 1(1) of The Statute;
  - iii. in relation to any decision or action that the University is required to make or to perform under this Ordinance, 'the University' shall mean: any member of staff who usually makes such decisions or performs such actions on behalf of the University, or who in the normal course of events may reasonably be expected to do so;
  - iv. a reference to 'clinical staff' shall be taken to mean a reference to any member of staff defined in Clause 20(1) of The Statute;
  - v. references to Deans shall be construed so as to include references to Heads of Professional Services or other equivalent units (and vice versa), and where there is no Dean, Head of Professional Service or equivalent unit, the President and Vice-Chancellor or his or her nominated representative may appoint a member of staff from such Faculty, Professional Service or equivalent unit to undertake the duties required of a Dean or Head of Professional Service by this Ordinance;
  - vi. references to University postholders (including those referred to in sub-paragraph (v) above) shall be construed to refer either to the postholder or to an appropriate member of staff nominated by the postholder to act with full authority on the postholder's behalf;
  - vii. where a post is held jointly by two or more postholders, a reference to the postholder shall be construed as a reference to any or all postholders holding that post, and any action authorised or required under this Ordinance may be taken by any such postholder.

#### *Part II : Application and Scope*

3. This Ordinance applies to members of staff as defined by Clause 1(1) of The Statute with the exception of the President and Vice-Chancellor, namely:-
  - i. members of the academic staff;
  - ii. members of staff with a grade of Level 4 or above in the University's grading structure, or an equivalent grade.
4. This Ordinance shall not apply to:-
  - i. removal from appointment as Pro Vice-Chancellor or Dean, or such other posts as have been designated by the Council, to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated;

- ii. the proposed dismissal of a member of staff where that dismissal would arise from the expiry without renewal of a fixed-term contract;
  - iii. any member of staff during his or her probationary period;
  - iv. the proposed dismissal by way of retirement of a member of staff;
  - v. the proposed dismissal of a member of staff for reasons of redundancy;
  - vi. members of staff who are considered medically unfit (a separate procedure will apply).
5. This procedure applies to clinical staff on the same basis as to any member of staff, apart from the two situations set out below:
  - i. in the situation referred to in Clause 20(2) of The Statute, this Ordinance shall not apply and the President and Vice-Chancellor or his or her nominated representative may dismiss or suspend a member of clinical staff, having first afforded an opportunity to the member of staff concerned to make representations; and
  - ii. disciplinary action may be taken against a member of clinical staff in respect of conduct or incapacity arising in connection with that member of staff's clinical work or activities as if the work or activities were performed in and for the University.

**Relationship with Ordinance 3.6 (Capability Procedure)**

6. Capability issues will normally be dealt with separately under Ordinance 3.6 (Capability Procedure). However, the University reserves the right to deal with matters under whichever Ordinance it deems appropriate, considering the circumstances and the information available.

**Relationship with Ordinance 3.7 (Incapacity on Health Grounds Procedure)**

7. If it emerges that a member of staff's conduct or performance may be attributable, in whole or in part, to a medical condition, the person or panel considering the issue may:-
  - i. postpone or adjourn any action or hearing under this Ordinance to allow investigation of the member of staff's medical condition, including obtaining, if appropriate, any medical reports;
  - ii. taking into account available medical evidence or advice, determine that:-
    - (a) no further action should be taken under this Ordinance (or Part III of The Statute), and may also, as appropriate, direct that the issue should be dealt with under an appropriate stage of Ordinance 3.7 (Incapacity on Health Grounds Procedure); or
    - (b) continue with proceedings under this Ordinance, taking the member of staff's medical condition into account as appropriate.

*Part III : General Principles*

8. The University recognises that good conduct is essential for the efficient and orderly operation of its activities and to ensure the safety and wellbeing of members and associates. The University has a responsibility, therefore, to make clear to its members of staff what is required of them in terms of both behaviour and performance and to provide guidance and/or training where necessary.
9. The grounds for disciplinary action are set out in Part IV of this Ordinance, which gives examples of conduct which the University considers inappropriate or unacceptable. Each case will be judged on its own merits and in accordance with the evidence and circumstances presented. The University therefore has absolute discretion to determine which stage of the procedure will be applied in any particular case, taking into account the matters under consideration.

### **Academic Freedom and General Principles**

10. This Ordinance shall be construed to give effect to the guiding principles set out in Clause 2(1) of The Statute, namely:-
- i. to ensure that those members of staff identified in the Ordinance prescribed by clause 1(2) of The Statute have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, with due regard for the need to respect others and promote the best interests of the University and academic learning, without placing themselves in jeopardy of losing their jobs or privileges;
  - ii. to enable the University to provide education, promote learning and engage in research efficiently and economically; and
  - iii. to apply the principles of justice and fairness.

### **Confidentiality**

11. Throughout any proceedings under this Ordinance, the University shall seek to ensure that confidentiality is maintained. However, this shall not preclude the University from disclosing information where necessary for the discharge of duties or as required by law, nor shall this preclude the University, where appropriate, from disclosing information about any outcome under this Ordinance.
12. There may be cases where it is appropriate to preserve confidentiality in relation to the identity of witnesses, where there is reasonably perceived to be a need to protect any member of staff from the risk of intimidation or retribution. Likewise, it may be necessary to adapt these procedures where it is considered undesirable for any one person to give evidence in the presence of another.

### **Right to be accompanied**

13. At any hearing convened under this Ordinance the member of staff may be represented or accompanied by a workplace colleague or trade union representative. If a member of clinical staff is called to a hearing under this Ordinance in relation to a proposal to terminate his or her employment and the hearing will involve consideration of issues related to the member of staff's clinical conduct or competence, the person conducting the hearing (or chair of the panel as appropriate) may permit the member of staff to be represented or accompanied by a member of his or her defence organisation. Such a representative may be legally qualified but he or she will not, however, be representing the member of clinical staff in any legal capacity.
14. If the member of staff's representative is not available at the time proposed for the hearing, the member of staff may request that the hearing be postponed to another reasonable time and must offer a date which is not later than five working days after the date first proposed for the hearing. The representative may attend the hearing with the member of staff and may speak on the member of staff's behalf, but that representative may not answer questions (relating to the issues in dispute) on the member of staff's behalf.

### **Investigations**

15. No disciplinary action will be taken against a member of staff until the case has been investigated by a Dean or Head of Professional Service or his or her nominee as appropriate.

### **Suspension**

16. The President and Vice-Chancellor or his or her nominated representative may, as a precautionary measure where this is considered appropriate and in the best interests of the University or of its students or staff, suspend a member of staff from duty at the normal rate of pay pending the outcome of an investigation or hearing. Any suspension and its terms shall

be confirmed to the member of staff in writing by the Director of Human Resources or his or her nominee.

### **Grievances**

17. Any grievance which raises issues which are the subject of proceedings under this Ordinance shall not be considered under the Grievance Ordinance, but should be raised through the procedures in this Ordinance. If the member of staff has concerns regarding the conduct of any investigation under paragraph 22 below, he or she should raise the matter as soon as possible with the person instituting the procedure (see paragraph 21 below).

### *Part IV : Overview of Disciplinary Procedures*

#### **Grounds for Disciplinary Action**

18. Disciplinary action may be taken, and where found to be appropriate, a penalty imposed, in respect of the following:-
- i. 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 by the University;
  - ii. failure, refusal or neglect to perform some or all of the duties or to comply with some or all of the conditions attaching to the post; or failure, refusal or neglect to perform these duties or to comply with those conditions in a satisfactory or adequate manner;
  - iii. conduct by the member of staff that is judged to be inappropriate or unacceptable in view of his or her post.

#### **Informal Action**

19. Prior to the institution of formal procedures under this Ordinance, it may be appropriate to deal with concerns about standards of conduct through informal methods. If such informal methods do not lead to an acceptable standard of conduct, formal action may be taken. However, for the avoidance of doubt, in order to institute formal proceedings it is not necessary to precede this by informal action.

#### **Formal Action**

20. Where a member of staff is considered to have breached the University's standards of conduct, formal action may be taken under the procedures set out in this Ordinance as follows:-
- i. a preliminary investigation, followed by:
  - ii. either:-
    - (a) the Procedure for Dealing with Less Serious Matters (Part V below); or
    - (b) the Procedure for Dealing with More Serious Matters and Gross Misconduct (Part VII below).

#### **Institution of procedures**

21. The procedures referred to in paragraph 20 above shall normally be instituted:-
- i. in the case of a Vice-President, Pro Vice-Chancellor or the Chief Operating Officer: by the President and Vice-Chancellor;
  - ii. in the case of a Dean: by the President and Vice-Chancellor;
  - iii. in the case of a Head of Professional Service: by the Chief Operating Officer;
  - iv. in the case of any other member of staff: by the Dean or Head of Professional Service or his or her nominee.

### **Preliminary Investigation**

22. Before making a decision whether to take further action under this Part, the person instituting the procedure under paragraph 21 above (the 'Initiator') shall appoint an appropriate person (the 'Investigator') to conduct an investigation and shall inform the member of staff that an investigation is to take place. The Investigator shall gather such information as may be required and shall, normally within fifteen working days of his or her appointment, prepare a report detailing the findings of his or her investigation (the 'Investigation Report'). The investigation may be extended if necessary and where this occurs the member of staff shall be advised accordingly.

### **Preliminary determination**

23. The Investigation Report shall be submitted to the Initiator. The Initiator shall make a preliminary determination, normally within three working days, taking into account advice from Human Resources, as to whether no further action should be taken or whether the matter should be dealt with under the Procedure for Dealing with Less Serious Matters (Part V below), the Procedure for Dealing with More Serious Matters and Gross Misconduct (Part VII below) or under another Ordinance such as the Capability Ordinance. The Initiator's preliminary determination is entirely at his or her discretion, but the Initiator shall have regard to the nature and seriousness of the matters under investigation and may seek such advice as he or she deems appropriate.
24. If the Initiator determines that the matter shall be dealt with under the Procedure for Dealing with More Serious Matters and Gross Misconduct, the Initiator shall bring this to the attention of, and shall submit a copy of the Investigation Report to, the President and Vice-Chancellor or his or her nominated representative.

### **Less serious matters**

25. Issues of alleged misconduct shall normally be dealt with under the Procedure for Dealing with Less Serious Matters in Part V of this Ordinance if it is considered that the allegation(s) of misconduct are such that if upheld, a sanction consisting of a warning (whether First-Level Warning or Second-Level Warning) would be appropriate.
26. Non-exhaustive examples of less serious matters could include: unsatisfactory timekeeping; unauthorised absence; a minor breach of one of the University's procedures or policies; failure to carry out a reasonable instruction; misuse of University facilities, premises, property or equipment; or such other conduct where the appropriate sanction is likely to be a warning (whether First-Level or Second-Level).

### **More serious matters**

27. Issues of alleged more serious misconduct or gross misconduct shall normally be dealt with under the Procedure for Dealing with More Serious Matters and Gross Misconduct in Part VII of this Ordinance if there has been repeated misconduct, if there is an unexpired warning on the member of staff's file at the date of the alleged misconduct, or if it is considered that the alleged misconduct is such that, if proven, a sanction other than or in addition to a warning may be appropriate such as:-
- i. dismissal (whether with or without notice);
  - ii. in exceptional circumstances, reasonable reimbursement in respect of damage to University or individual property;
  - iii. withholding a forthcoming increment in salary;
  - iv. other action short of dismissal (the panel may offer the member of staff regrading or demotion where this is considered to be appropriate in all the circumstances).

28. Non-exhaustive examples of more serious misconduct (which may amount to gross misconduct) could include: disclosure of confidential information without authorisation; a persistent refusal to carry out a reasonable instruction without adequate cause; failure to conform to University or departmental working practices where these are reasonably and properly required; serious infringement of health and safety rules; wilful damage to University facilities, premises, property or equipment; discrimination against a member of staff, student or visitor of the University on the grounds of race, sex, age, disability, sexual orientation, religion or belief; physical violence, threatening or inappropriate behaviour towards a member of staff, student or visitor of the University; any form of bullying, intimidation or harassment; inappropriate conduct in relation to a child, young person or vulnerable adult; theft, including fraud or falsification offences; a serious breach of one of the University's procedures; fraud or plagiarism in connection with academic research, or failure to comply with the University's Research Ethics policy; breach of the University policy on substance misuse; conduct that may constitute a criminal offence relevant to the member of staff's employment; conduct that may constitute bribery and corruption; misuse of the Internet, email or other University facilities and misuse of the University's name or bringing the University into disrepute.
29. No member of staff shall be dismissed for a first instance of misconduct unless that instance of misconduct constitutes gross misconduct.

*Part V : Procedure for Dealing with Less Serious Matters (Disciplinary Warnings)*

**Disciplinary hearing**

30. Where disciplinary proceedings are to be instituted against a member of staff under this Part, the member of staff shall be informed in writing of the nature of the alleged misconduct and requested to attend a disciplinary hearing at which the issue shall be considered. The member of staff will have a full opportunity to respond to the allegations against him or her and shall be asked to present any additional information in support of his or her case, to indicate whether he or she admits the alleged misconduct in whole or in part and to provide any grounds of mitigation which he or she feels relevant. The member of staff shall receive at least ten working days' notice of the disciplinary hearing, and shall be given a copy of this Ordinance and reminded of his or her right to be represented or accompanied in accordance with the provisions of paragraph 13 above.
31. The disciplinary hearing will usually be conducted:-
- i. in the case of a Vice-President, Pro Vice-Chancellor or the Chief Operating Officer: by the President and Vice-Chancellor;
  - ii. in the case of a Dean: by the President and Vice-Chancellor;
  - iii. in the case of a Head of Professional Service: by the Chief Operating Officer;
  - iv. in the case of any other member of staff: by the Dean or Head of Professional Service or his or her nominee.
32. A member of Human Resources appointed by the Director of Human Resources or his or her nominee shall be present at the disciplinary hearing in an advisory capacity.
33. The member of staff shall be provided in advance of the disciplinary hearing with copies of any evidence to be considered at the disciplinary hearing, including the Investigation Report and (where applicable and subject to the provisions of paragraph 12 above) the names of any witnesses from whom it is intended that evidence will be considered at the disciplinary hearing and any statements obtained from those witnesses.
34. The member of staff shall indicate, at least five working days prior to the hearing, the nature of any evidence that he or she intends to present in his or her defence or mitigation, including the names of any witnesses and their relevance to the allegations of misconduct and shall provide copies of any documents to which he or she intends to refer.

35. The member of staff shall have the right to be represented or accompanied at the disciplinary hearing in accordance with the provisions of paragraph 13 above.
36. If the member of staff is or becomes unable to attend the disciplinary hearing, he or she should notify the person who is due to conduct the hearing as soon as possible, giving the reasons for the non-attendance. A member of staff who fails to attend a disciplinary hearing without good cause shall be informed that if he or she fails to attend any rearranged hearing without good cause, the matter may be considered in his or her absence.

#### **Procedure at hearing**

37. The procedure to be followed at the disciplinary hearing shall be at the discretion of the person conducting the hearing, which may include without limitation:-
  - i. the allegation(s) of misconduct being put to the member of staff, including if relevant the calling of any witnesses;
  - ii. the member of staff having the opportunity to raise questions of any witnesses called. The manner in which such questions are to be raised is at the discretion of the person conducting the hearing;
  - iii. the member of staff having the opportunity to set out his or her case in response to the allegation(s) of misconduct and to call any relevant witnesses;
  - iv. the questioning of any witnesses called by the member of staff;
  - v. the power to postpone or adjourn the hearing;
  - vi. the power to continue the hearing in the absence of a party, witness or representative where, in the opinion of the person conducting the hearing, no good cause has been put forward for an adjournment.
38. Where it is concluded that the member of staff has committed any act of misconduct, a formal warning may be issued. The warning may be a First-Level Warning or Second-Level Warning, as is considered appropriate having regard to the gravity of the misconduct and any previous unspent disciplinary record. For the avoidance of doubt, a member of staff may be issued with a Second-Level Warning even though he or she has not previously received any First-Level Warning under this Part.

#### **Notification of decision**

39. Following the disciplinary hearing, the member of staff shall be notified in writing, normally within five working days:-
  - i. of the outcome of the hearing;
  - ii. of any disciplinary warning issued and the misconduct which has led to the warning being issued, and whether the warning is a First-Level Warning or a Second-Level Warning;
  - iii. of his or her right to appeal under Part VI and how that right should be exercised;
  - iv. in the case of a First-Level Warning:-
    - (a) that the warning will be retained on his or her file and will be regarded as spent after one year subject to satisfactory conduct and/or performance;
    - (b) that further instances of misconduct may lead either to further disciplinary action being taken under this Part or, in the event of more serious misconduct, to the Procedure for Dealing with More Serious Matters and Gross Misconduct under Part VII being instituted (under which a Disciplinary Panel may determine that the member of staff shall be dismissed);
  - v. in the case of a Second-Level Warning:-

- (a) that the warning will be retained on his or her file and will be regarded as spent after two years subject to satisfactory conduct and/or performance;
- (b) that further instances of misconduct may lead to the procedure under Part VII being instituted (under which a Disciplinary Panel may determine that the member of staff shall be dismissed).

*Part VI : Appeals against Action under Part V*

- 40. A member of staff (in this Part referred to as the 'Appellant') may appeal under this Part against a disciplinary warning issued under the Procedure for Dealing with Less Serious Matters in Part V.
- 41. Any appeal shall be made in writing to the Director of Human Resources within ten working days of receipt of the written notification of the decision concerned. The Appellant shall set out in full the grounds of his or her appeal and, if the Appellant is proposing to rely upon new evidence, he or she should provide details and a copy of any relevant documentation.
- 42. The appeal shall be heard:-
  - i. in the case of a decision made by a Dean or Head of Professional Service or his or her nominee: by a person drawn from a list of persons approved by the President and Vice-Chancellor to hear appeals;
  - ii. in the case of a decision made by a Vice-President, a Pro Vice-Chancellor or the Chief Operating Officer: by another Vice-President or by the President and Vice-Chancellor;
  - iii. in the case of a decision made by the President and Vice-Chancellor: by the Chair of the Council or his or her nominee.

A member of Human Resources appointed by the Director of Human Resources or his or her nominee shall be present in an advisory capacity.

- 43. The person hearing the appeal shall have full discretion to decide on the conduct of the appeal hearing. Without limitation, the person hearing the appeal shall have power to continue a hearing in the absence of a party, witness or representative if no good cause (in the opinion of the person hearing the appeal) is put forward in support of a request for an adjournment.
- 44. The Appellant shall be given written notification of the date and time of the appeal hearing and shall be notified of his or her right to be represented or accompanied in accordance with paragraph 13 above.
- 45. Where the Appellant fails to attend the appeal hearing without good cause, the appeal may proceed in the Appellant's absence.
- 46. The appeal shall not normally take the form of a re-hearing of the evidence and witnesses other than the Appellant and the person who made the decision being appealed may only be heard with permission of the person hearing the appeal. However, if there is evidence that could not reasonably have been presented at the hearing, and/or if new evidence has emerged since the hearing, this may be presented at the appeal.
- 47. Following the appeal hearing, the Appellant will be advised in writing, normally within five working days, of the outcome of the appeal which, without limitation, may include the cancellation of the decision being appealed or the substitution of a lesser penalty or sanction. However, it shall not be open to the person hearing the appeal to increase the severity of the warning being appealed.
- 48. The decision of the person hearing the appeal shall be final.



*Part VII : Procedure for Dealing with More Serious Matters and Gross Misconduct*

**Decision to proceed following receipt of Investigation Report**

49. Following receipt of the Investigation Report referred to in paragraph 24 above, the President and Vice-Chancellor or his or her nominated representative shall determine whether, in the light of its findings:-
- i. the matter should be dismissed as being without substance;
  - ii. the matter should be dealt with under the Procedure for Dealing with Less Serious Matters (Disciplinary Warnings) in Part V;
  - iii. the matter should be heard by a Panel under this Part;
  - iv. the matter should be resolved informally (if it appears to the Vice-Chancellor or his or her nominated representative appropriate to do so and if the member of staff agrees in writing that the matter should be dealt with in that way);
- and the member of staff shall be informed in writing of that decision.

**Disciplinary Panel Hearing**

50. Where the President and Vice-Chancellor or his or her nominated representative determines that the matter should be heard by a Panel under this Part, the Disciplinary Panel shall be convened by the Director of Human Resources or his or her nominee on a case-by-case basis in accordance with the following rules:-
- i. subject to sub-paragraph (v) below, each panel shall consist of three persons;
  - ii. at least one member of the panel shall be a lay member of the Council and one shall be a member drawn from a list agreed from time to time by the Senate. The third member may be another lay member of the Council or may be chosen from among the senior management of the University, such as a Vice-President, a Pro Vice-Chancellor, Chief Operating Officer, Dean or Head of Professional Service who shall chair the panel unless the panel resolves otherwise;
  - iii. if the hearing will involve consideration of issues related to a member of clinical staff's clinical conduct or competence, the chair of the panel may permit the member of clinical staff to be represented or accompanied by a member of his or her defence organisation. Such a representative may be legally qualified but he or she will not, however, be representing the member of clinical staff in any legal capacity;
  - iv. no panel member shall have had any previous involvement in the case;
  - v. where the panel is dealing with a member of clinical staff then a representative of a National Health Service or other relevant body may be appointed to the panel: where this occurs the panel may consist of more than three members, but shall not exceed five persons.
51. The Director of Human Resources or his or her nominee shall appoint a member of Human Resources to act as Secretary to the Disciplinary Panel.
52. The member of staff shall be notified in writing of the nature of the allegation(s) and given no less than ten working days' written notice of:-
- i. the date, time and place of the Panel Hearing;
  - ii. so far as they are known at the time, the names of the persons to be present at the Panel Hearing including the members of the Disciplinary Panel, and the name of any person attending to present the case to the Panel;

- iii. the issues to be considered at the Panel Hearing (and the member of staff shall be provided with a copy of the Investigation Report and any documents to be referred to or relied on at the Panel Hearing);
  - iv. his or her right to be represented or accompanied at the Panel Hearing;
  - v. his or her right to call relevant witnesses at the Panel Hearing;
  - vi. the names of any witnesses who will be called to give evidence in relation to the issues being considered at the Panel Hearing;
  - vii. the potential outcome(s) of the Panel Hearing including, if dismissal is a possible outcome, a statement to that effect;
  - viii. a reference to this Ordinance.
53. The member of staff may be represented or accompanied at the Panel Hearing in accordance with the provisions of paragraph 13 above.
54. If the member of staff is or becomes unable to attend the disciplinary hearing, he or she should notify the Secretary to the Disciplinary Panel as soon as possible, giving the reasons for the non-attendance. A member of staff who fails to attend a disciplinary hearing without good cause shall be informed that if he or she fails to attend any rearranged hearing without good cause, the matter may be considered in his or her absence.
55. At least five working days in advance of the Panel Hearing, the member of staff shall:-
- i. provide details of proposed witnesses and of his or her representative;
  - ii. provide copies of any documents to which he or she wishes to refer at the hearing. Any documentary evidence not disclosed within this timeframe may only be considered at the disciplinary hearing with the permission of the Panel.
56. The procedure to be followed in preparation for and at the disciplinary hearing shall be at the discretion of the Panel, which may include without limitation:-
- i. which documents (if any) shall be provided for the Panel's consideration and at what stage;
  - ii. the allegation(s) of misconduct being put to the member of staff, including if relevant the calling of any witnesses;
  - iii. the member of staff having the opportunity to raise questions of any witnesses called. The manner in which such questions are to be raised is at the discretion of the Panel;
  - iv. the member of staff having the opportunity to set out his or her case in response to the allegation(s) of misconduct and to call any relevant witnesses; and
  - v. the questioning of any witnesses called by the member of staff.
57. The Panel may, at its discretion:-
- i. postpone or adjourn the hearing including (without limitation) where the member of staff, his or her representative, the person presenting the complaint, any witness or any member of the Panel is or becomes unable to attend;
  - ii. continue the hearing in the absence of a party, witness or representative where, in the opinion of the Panel, no good cause has been put forward for an adjournment;
  - iii. recall the parties or any witness to clarify any relevant issue. In the event that any person is recalled, the member of staff and his or her representative shall also (subject to paragraph 12 above) be entitled to be present.

### Notification of decision

58. The Panel shall produce a reasoned written decision, normally within ten working days of the Panel Hearing, which will be sent to the member of staff. A report of the decision will also be sent to the Council and to the Dean or Head of Professional Service. The Panel may:-
- i. dismiss the complaint(s), in whole or in part; or
  - ii. uphold the complaint(s) in whole or in part; and
  - iii. where the complaint is upheld in whole or in part, act as it considers appropriate, which may include one or more of the following:-
    - (a) in cases where the Panel determines that the member of staff's conduct constitutes gross misconduct, directing that the member of staff be dismissed without notice or payment in lieu of notice;
    - (b) directing that the member of staff be dismissed either with notice or with a payment in lieu of notice;
    - (c) in exceptional circumstances, directing the member of staff to make reasonable reimbursement in respect of damage to University or individual property;
    - (d) issuing a warning, which may be a First-Level Warning or a Second-Level Warning. In each case the warning shall set out the conduct or behaviour constituting the act of misconduct, and any improvement or action required with an appropriate time scale. The warning should set out the consequences of non-compliance and of any further misconduct;
    - (e) withholding a forthcoming increment in salary;
    - (f) other action short of dismissal (the Panel may offer the member of staff regrading or demotion where this is considered to be appropriate in all the circumstances).
59. Where the Panel decides that a member of staff should be dismissed, the Director of Human Resources or his or her nominee shall give effect to the Panel's decision and the member of staff shall be advised of his or her right to appeal under Part VIII against the Panel's findings or against any penalty imposed.

### *Part VIII : Appeals against Decisions under Part VII*

60. A member of staff (hereafter called the 'Appellant') who wishes to appeal the findings of the Disciplinary Panel, or any penalty imposed by the Disciplinary Panel, should do so in writing to the Director of Human Resources within ten working days of the date of written notification of the Disciplinary Panel's decision. The Appellant should set out in full the grounds of his or her appeal and, if the Appellant is proposing to rely upon new evidence, he or she should provide details and a copy of any relevant documentation.
61. The appeal will be heard by a panel (the 'Appeal Panel') convened by the President and Vice-Chancellor or his or her nominated representative on a case-by-case basis in accordance with the following rules:-
- i. subject to sub-paragraph (v) below, each Appeal Panel shall consist of three persons;
  - ii. at least one member of the Appeal Panel shall be a lay member of the Council and one shall be a member drawn from a list agreed from time to time by the Senate. The third member may be another lay member of the Council or may be chosen from among the senior management of the University, such as a Vice-President, a Pro-Vice-Chancellor, Dean, Chief Operating Officer or Head of Professional Service who shall chair the Appeal Panel unless the Appeal Panel resolves otherwise;
  - iii. if the Appellant is a member of clinical staff and the appeal hearing will involve consideration of issues related to his or her clinical conduct or competence, the chair

- of the Appeal Panel may permit the Appellant to be represented or accompanied by a member of his or her defence organisation. Such a representative may be legally qualified but he or she will not, however, be representing the member of clinical staff in any legal capacity;
- iv. no panel member shall have had any previous involvement in the member of staff's case, and accordingly no person may sit on both the Disciplinary Panel and the Appeal Panel in a particular case;
  - v. where the panel is dealing with a member of clinical staff then a representative of a National Health Service or other relevant body may be appointed to the panel: where this occurs the panel may consist of more than three members, but shall not exceed five persons.
62. The Director of Human Resources or his or her nominee shall appoint a member of Human Resources to act as Secretary to the Appeal Panel.
  63. An appeal under this Part shall not normally take the form of a re-hearing of the evidence and witnesses may be called only with the Appeal Panel's permission. However, if there is evidence that could not reasonably have been presented at the hearing, and/or if new evidence has emerged since the hearing, this may be presented at the appeal.
  64. No later than ten working days before the Appeal Panel Hearing the Appellant shall be notified by the Secretary to the Appeal Panel of:-
    - i. the date, time and place of the Appeal Hearing;
    - ii. his or her right to be represented or accompanied at the Appeal Hearing in accordance with the provisions of paragraph 13 above; and
    - iii. so far as they are known at the time, the names of the persons to be present at the hearing including the members of the Appeal Panel, and the name of any person attending to present the reason for the decision to dismiss on behalf of the University.
  65. The Appellant may be represented or accompanied at the Appeal Hearing in accordance with the provisions of paragraph 13 above.
  66. At least three working days before the Appeal Hearing the name and the address of the Appellant's representative must be notified in writing to the Secretary to the Appeal Panel.
  67. The Appellant shall take all reasonable steps to attend the Appeal Hearing and/or any adjournment or postponement of the Appeal Hearing. Where the Appellant indicates to the Appeal Panel that he or she does not wish to exercise his or her right to be heard or fails to attend or leaves the Appeal Hearing or any postponement or adjournment of the Appeal Hearing without good cause, the Appeal Panel shall be entitled to proceed in the Appellant's absence.
  68. The procedure to be followed in preparation for and at the Appeal Hearing shall be at the discretion of the Appeal Panel, which may include without limitation:-
    - i. determining which documents (if any) shall be provided for the Appeal Panel's consideration and at what stage;
    - ii. determining the extent (if any) to which witnesses may be called and questioned; and
    - iii. deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.
  69. The Appeal Panel shall notify the Appellant in writing of the reasons for its decision, normally within ten working days of the Appeal Hearing. A report of the decision will also be sent to the Council and to the Dean or Head of Professional Service. The Appeal Panel may:-
    - i. uphold the decision reached by the Disciplinary Panel;

- ii. overturn that decision and reinstate the member of staff and/or impose some lesser or alternative sanction; or
  - iii. remit the matter to a further new Disciplinary Panel, or to such person or persons as the Appeal Panel shall specify, for reconsideration or rehearing, in whole or in part.
70. The decision of the Appeal Panel shall be final.
71. Any dismissal under this procedure shall remain in force pending the outcome of an appeal. If the decision to dismiss is overturned, continuity of employment shall be restored.