

Review of disciplinary, dismissal, and grievance procedures: A White Paper

24 November 2008

SUMMARY

1. This white paper builds on the earlier green paper of January 2008 (*Reporter*, 2007–08, p. 404). It sets out in developed form the policy of the Council and the General Board after considering the responses received to that consultation. Its purpose is to consult widely on the suggested means of carrying forward that policy before bringing forward, in a further Report, legislation for the approval of the University.

2. The aim is

- (i) to amend the disciplinary, dismissal, and grievance procedures for University officers to reflect modern employment law and practice (through the establishment of fair and timely processes, provision for mediation, and clearly expressed codes), and to ensure that similar procedures apply to all members of staff of the University;
- (ii) to provide a better balance than currently exists between statute and regulations and codes of practice, introducing codes that draw on ACAS guidelines and other best practice; and
- (iii) to ensure that the University's procedures are both proportionate and fair.

3. The main proposals are

- to replace the whole of the current Statute U (Academic staff) by a much shorter Chapter (Removal from office, discipline, and grievances) immediately following Chapter I (General provisions) of Statute D (University officers), the purpose of which is to embed essential safeguards, leaving detailed regulations to be determined by the University by Grace, and those regulations to be supplemented by codes of practice issued by the Council†;
- to retain in the new Statute the fundamental statement of academic freedom (to be supplemented by a proposed code of practice on academic freedom) and to retain the principle that University officers in Schedule J (colloquially referred to as University Teaching Officers) shall not be made redundant without a redundancy situation having been approved by the University – but the current similar protection for other University officers will be removed, so that in their case only the normal safeguards of employment law will apply;
- to modify the detail, but not the essence, of the disciplinary process for University officers short of dismissal; but to reduce the current two-stage judicial element of the process for dismissal (University Tribunal with appeal to the Septemviri) to a single element, at the appeal stage, of judgment by a committee of peers;
- to enable grievances to be dealt with more expeditiously and effectively through provision for mediation and through provision for their consideration by a single person, rather than a committee, although it will be open for the competent authority to appoint a committee if that appears desirable.

4. The Council and the General Board believe that their proposals provide a way of achieving aims (ii) and (iii) above. It can be seen from the glossary of staff-related terms and the effect of the proposed changes, shown at Annex B to the white paper, that substantial progress would be made towards the achievement of the unifying aim (i), which builds on the pay and grading restructuring and the single salary spine developed through the Framework Agreement. Subject to the outcome of this work, the Council and the General Board intend to review the procedures for unestablished academic and academic-related staff and for assistant staff to progress further towards unification.

5. This white paper sets out fully detailed proposals; for the Council and the General Board believe that the University will wish to see such detail. The proposed statutory amendments, the new regulations, and the codes of practice have been drafted with the benefit of extensive legal advice. They will be further reviewed in the light of this consultation before legislation is brought forward for the approval of the University.

Introduction

1. The Council and the General Board issued a green paper in January 2008 seeking the views of the University in a review that they are conducting of the disciplinary, dismissal, and grievance procedures for University officers.

2. They have considered carefully the responses received to that initial consultation, and now, at this second stage of consultation, put forward definite proposals to the University in this white paper.

3. The proposals will be reviewed in the light of the comments received on them and revised definitive proposals for changes of Statutes and Ordinances will then be put forward for approval in a Joint Report to the University.

The aim

4. The last radical change of the disciplinary, dismissal, and grievance procedures for University officers occurred in 1993 when Statute U was made by the University Commissioners under the Education Reform Act 1988. Much has changed in employment law since then and the framework created by the Commissioners, which was never fully adapted to meet the needs of universities, fails to provide a proportionate and efficient means of dealing with the diverse circumstances in the context of university employment. Further detailed background was provided in the Annex to the green paper, which is reproduced at Annex A hereto.

† The proposed codes deal with academic freedom; probationary periods (developed from the current General Board guidance on probation); disciplinary action conducted by a responsible person; removal on medical grounds; appeal against selection for removal or dismissal on grounds of redundancy; the retirement of University officers and for the continuation of employment beyond the normal retirement age; and the redress of grievances.

5. The aim of the University – initiated with the creation in 1999 of a single Personnel Division; developed through the Human Resources Strategy of the University of 2002; and carried forward by the approval of the unified pay and grading structure in 2005 – has been to develop a comprehensive and coherent strategy of human resources policy and practice for the equal treatment of staff by ensuring that variations between different groups are justified on reasonable and objective grounds. This current review is a further step in the achievement of that aim.

The green paper

6. In their green paper, the Council and the General Board said that, to achieve equal treatment for all staff, they would like employment matters to be dealt with under a Statute that sets out the essential framework and that empowers the Council, after consultation with the General Board, to determine all other details of the necessary codes as it sees fit from time to time and as circumstances and the law change.

7. In seeking to identify those areas which should distinguish the University from other employers and where safeguards were needed in addition to those provided by general employment law, they had concluded that the guiding principles of academic freedom should continue to be given statutory force in their current terms. With that single fundamental concern they asked

- (a) whether it was desirable that, so far as possible, there should be a single set of procedures for discipline, dismissal, and grievances for all University staff;
- (b) if not, then in what respects were different procedures needed, and why;
- (c) was there anything else than academic freedom that should be given statutory force; and
- (d) if so, what and why.

Responses to the green paper

8. The responses to the green paper are available at <http://raven.intranet.admin.cam.ac.uk/committee/council/Site%20Images/disciplinaryresponses.pdf>. Most of the comments made were generally supportive and do not require further discussion here. Some, however, made points of substance that have influenced the Council and the General Board in the formulation of their current proposals. Those points, with commentary, follow:

- *Has the Education Reform Act 1988 been repealed? What does the Act require in relation to the University Statutes?*
The Education Reform Act 1988 remains in force, but it would not inhibit the University in reforming Statute U. The Act constituted the University Commissioners with the duty to make statutes for universities complying with certain conditions specified in the Act, but it did not seek to prevent the subsequent modification of those statutes and did not entrench any of the specified conditions.
- *The legislative exception from redundancy under Statute U for academic staff holding the same posts as they occupied on 20 November 1987 needs to be maintained in any revision.*
The Act specifically protected the existing interests in relation to redundancy of those in established academic positions before 20 November 1987. The Council and the General Board accept that such protection should continue to be afforded by the University Statutes.
- *Protection should be given to whistle-blowing as well as to academic freedom.*
The position of ‘whistle-blowers’ is protected by the general law through the Public Interest Disclosure Act 1998. The Council and the General Board do not consider that any additional special protection is needed, though account has been taken in the drafting of the regulations to ensure that breach of confidentiality should not be a disciplinary offence in such circumstances.
- *All University staff should be treated equally, but only if the rights of senior members of the University to be judged by an independent tribunal of their peers is preserved.*
The Council and the General Board have sought to simplify procedures generally and, so far as possible, to formulate them in a way that can be applied across staff groups in the University. That is particularly the case with the disciplinary process for University officers, which would be simplified to conform to the statutory ACAS process, while providing for a hearing before an independent tribunal of peers at the appeal stage. A code of practice would be introduced in relation to academic freedom in order to amplify the guiding principles (to be retained in Statute) and in order to signal its fundamental importance to the University.
- *The control of the Regent House over the size and shape of the University’s academic structure should be maintained.*
The Council and the General Board accept that. They propose to retain the current requirement of Statute U, II, 4 that a decision of the Regent House should be necessary to declare a redundancy situation in relation to University officers in Schedule J (that is to say University officers entitled to sabbatical leave). They do not, however, consider that that provision should extend (as currently) to University officers generally, or should extend to unestablished academic staff.

- *Dispute resolution procedures could be common to all University staff. Provision for mediation should be included.*

The Council and the General Board agree.

9. The proposals now put forward conform to the dispute resolution procedures of the Employment Act 2002. The Employment Bill currently before Parliament proposes to repeal the sanctions for non-compliance with those procedures. Nevertheless the Council and the General Board consider that those procedures, in providing for a hearing and a right of appeal in disciplinary and grievance matters, define the requirements of fair process and they have no intention of modifying their proposals in consequence of the passage of the Bill.

The current framework for discipline and grievances

10. To assist in the reading of this paper, Annex B shows a glossary of staff-related terms used and the effect of the proposed changes.

11. The current framework is as follows:

Statutes

Statute U (Academic Staff) makes detailed provision for the discipline and dismissal of University officers other than the Chancellor, High Steward, Deputy High Steward, and Commissary.

Statute B, VI (Discipline and the University Courts) deals with the discipline of both senior and junior members of the University, and with the University Courts. It thus affects University officers, but in their capacity as members of the University rather than as University staff. Part of the material relating to the University Tribunal and the Septemviri is currently contained in Statute U, rather than in Statute B, VI.

Statute D (University officers) concerns University offices generally and also various specific University offices. Chapter I (General Provisions) and Chapter II (Duties and Leave of Absence) deal with general matters, but not including discipline and dismissal.

Statute A, II, 3 deals succinctly with employment matters generally:

Subject to the provisions of the Statutes regarding University officers, the University may engage persons for employment in the service of the University, may determine their salaries and pensions (if any), and may prescribe the conditions of their service.

Ordinances

The General Regulations for Discipline are at page 196 of *Statutes and Ordinances*.

Various regulations appear under the heading 'University Courts' at pages 200 to 209 of *Statutes and Ordinances*:

- Regulations for the Initiation of Proceedings before the University Tribunal, the Court of Discipline, or the Summary Court
- Regulations for the Appointment of Members of the University Tribunal
- Rules of Procedure for the University Tribunal
- Regulations for the Appointment of Members of the Court of Discipline
- Rules of Procedure for the Court of Discipline
- Regulations for the Summary Court
- Regulations for Medical Boards
- Regulations for the Septemviri
- Regulations for Grievance Committees

The General Regulations for University Officers are at page 645 of *Statutes and Ordinances*. The only reference there to discipline or dismissal is the provision (in Regulation 1(i)) for an appeal to the Septemviri by a University officer not in Schedule J whose office has been terminated at the end of a probationary period.

Certain general employment matters appear under the heading 'Employment by the University' at pages 154 to 158 of *Statutes and Ordinances*:

- Regulations for the Flexible Working Policy
- Regulations for Assistant Staff
- Regulations for the Contributory Pension Scheme

The University's Equal Opportunities Policy is at pages 151 of *Statutes and Ordinances*, and its Race Equality Policy at page 153.

Codes of Practice

Except as mentioned above, procedures relating to University staff who are not University officers are dealt with in codes of practice and similar documents, which may be found on the Human Resources Division website at <http://www.admin.cam.ac.uk/offices/hr/>.

The proposed new framework

12. The proposed new structure is as follows:

Statutes

Statute U would be repealed in its entirety and replaced by a new and much shorter Statute D, IA (Removal from Office). But Statute U, VII (Removal of the Vice-Chancellor from office) would be transferred to Statute D, III (The Vice-Chancellor).

Minimal changes only are proposed to Statute B, VI (Discipline and the University Courts) in order to enable it to stand freely of Statute U.

Ordinances

The General Regulations for Discipline and the various regulations for the University Courts would remain unchanged.

A new set of regulations for removal from office, discipline, and grievances is proposed, which would provide the framework for codes of practice.

Codes of Practice

New codes of practice are proposed as follows:

Code of Practice for academic freedom

Code of Practice for probationary periods

Code of Practice for disciplinary action conducted by a responsible person

Code of Practice for removal on medical grounds

Code of Practice for appeal against selection for removal or dismissal on grounds of redundancy

Code of Practice for the retirement of University officers and for the continuation of employment beyond the normal retirement age

Code of Practice for the redress of grievances

Guidance

Guidance on mediation is proposed.

The detail

13. The Council and the General Board think that the University will be helped by seeing the proposals in complete draft form.

14. The material is presented as follows:

Statute D, IA

This is shown at Annex C with a brief commentary on the sections.

Statute D, III

Three new sections are shown at Annex D to replace the current Statute U, VII concerning the removal from office of the Vice-Chancellor.

Statute B, VI

This is shown at Annex E in amended form, with new material in bold type and deleted material struck through. Sections imported from the current Statute U are so identified and shown in amended form.

Regulations for removal from office, discipline and grievances

These are shown at Annex F with a brief commentary on the regulations.

Codes of Practice

These are shown at Annex G.

Guidance on mediation

This is also shown at Annex G.

15. The numbering of Statutes and of their sections would be reviewed, and minor consequential changes of Ordinance, not shown here, would also be necessary. It is also intended to add the list of officers in the Notice 'Study leave for the Holders of Certain University Offices' (*Statutes and Ordinances*, p. 653) to Schedule J and to rescind that Notice.

Request for comments

16. The Council and the General Board seek comments on their proposals set out in this paper by 3 February 2009. They intend to publish all the responses that they receive, unless otherwise requested. Responses should be sent to the Registry, University Offices, The Old Schools, Trinity Lane (email registrar@admin.cam.ac.uk). The following open meetings have been organized for all staff:

Monday, 12 January (5–6.30 p.m.)

Lady Mitchell Hall, Sidgwick Site

Tuesday, 13 January (5–6.30 p.m.)

Cockcroft Lecture Theatre, New Museums Site

Monday, 19 January (5–6.30 p.m.)

William Harvey Lecture Theatre, Addenbrooke's

The Council has agreed that the White Paper should also be put up for discussion on 3 February 2009.

17. They will then prepare a Joint Report for the amendment of Statutes and Ordinances. Comments on all aspects, including detailed drafting, are very welcome now, but there will be an opportunity at the time of the Joint Report or thereafter to comment further on the draft codes of practice.

ANNEX A

Review of disciplinary, dismissal, and grievance procedures – background to the Review

The Personnel Committee* agreed in June 2003 that a working group should be established to review the University's discipline, dismissal, and grievance procedures. Work was done by officers on drafting revisions to grievance, discipline, and change procedures, but was put on hold once the pay and grading and CHRIS projects got underway. At the time the drivers for undertaking a review were identified as including:

- the recommendation in the Bett Report (1999) that there should be changes in chartered universities' 'Model Statute' (Statute U at Cambridge) relating to the discipline, dismissal, and grievance of academic staff
- issues in relation to the 'Model Statute' concerning the termination of fixed-term contracts (particularly those of contract research staff) and the termination of probationary appointments
- the Follett Review (2001) and its aim of modernizing the appraisal, disciplinary, and reporting arrangements in universities and NHS Trusts for academic staff who undertake clinical duties and NHS staff who undertake academic duties
- the need to review procedures covering all staff groups to ensure compliance with the Regulations under the Employment Act 2002 on workplace disputes resolution; subsequent experience has shown that 'technical' breaches of these provisions have resulted in some terminations being held to be automatically unfair and the Regulations are being reviewed during 2007
- the ACAS code (2002) encompassing guidance both for establishing effective disciplinary and grievance procedures and their fair application
- the HEFCE initiative, *Rewarding and developing staff in higher education*, under which universities were expected to take proactive action to tackle poor performance
- the drafting of a Revised Model Statute (RMS) (2003) by the Zellick Group approved by the Boards of Universities UK and the University and Colleges Employers Association (UCEA) and endorsed by the Privy Council
- the organizational need for greater flexibility, including staff restructuring

The role of the working group is to make recommendations to the Personnel Committee* on:

- any necessary revisions to arrangements for staff not covered by Statute U
- proposals for any changes to Statute U and associated Ordinances (to be brought forward as a Report to be drafted with legal advice)
- guidelines relating to discipline, dismissal, and grievance procedures for all staff groups

The Committee noted that, with regard to clinical academic staff, work was ongoing nationally to establish a framework for co-operation between NHS Trusts and universities for dealing with staff management issues, including disciplinary action.

Existing disciplinary and grievance procedures for unestablished academic and academic-related staff and assistant staff generally follow the ACAS model. The process for addressing any problem is explained, time limits for taking any formal steps are included, and issues such as who may accompany or represent staff at disciplinary or grievance hearings is dealt with.

While the original Model Statute has been criticized as being 'too prescriptive, legalistic, lengthy and expensive' (UCEA Circular 01/22), its articulation in Statute U is lacking in certain respects. For example:

- Statute U, II (Redundancy) only provides for consultation with the member(s) of staff concerned after the Regent House has already decided on a reduction in staff by way of redundancy and does not provide at all for collective redundancy consultation (pursuant to the Regulations giving effect to the EC Collective Redundancy Directive (98/59/EC))
- Statute U, III (Discipline, etc.) does not indicate how the responsible person is to undertake an investigation into a possible disciplinary/dismissal offence and, contrary to the Regulations under the Employment Act 2002 on workplace disputes resolution, makes no provision for a disciplinary hearing and for an individual to be accompanied at such a hearing prior to the issue of an oral warning
- Statute U, VI (Grievance procedures) does not set out any time limits for the completion of stages in the procedures. It does provide for a Grievance Committee to be appointed, but the relevant Ordinance (*Statutes and Ordinances*, p. 209) concerning how the Committee should conduct itself is brief to the point of giving the Committee little useful guidance on how to proceed.

A copy of the disciplinary and grievance procedures covering unestablished academic and academic-related staff and assistant staff is available at <http://www.admin.cam.ac.uk/offices/hr/policy/grievance/> and a copy of Statute U is available at <http://www.admin.cam.ac.uk/univ/so/pdfs>.

A number of institutions are taking steps to review their discipline, dismissal, and grievance procedures. The case for a review and potential change at Cambridge is suggested as:

- (i) a successful organization will have procedures for dealing with staff issues that comply with employment legislation, are clear and workable, and provide for matters to be dealt with promptly and at an early stage;
- (ii) Statute U is not compliant with current employment legislation in a number of areas, including that it does not facilitate dealing with disputes without unreasonable delay;
- (iii) the Higher Education environment is increasingly competitive and Cambridge must have available the appropriate procedures for reviewing and managing its staffing issues that will likely be available at other institutions.

A number of actions can be considered as contributing to the Review:

- initial drafting of common grievance and disciplinary procedures

* now the Human Resources Committee

- guidance issued to institutions on the Dispute Resolution Regulations (2004) and the Ending of Fixed Term Contracts (revised 2006)
- policies on dealing with bullying and harassment and maintaining Dignity at Work (2006)
- an outline protocol for co-operation between Universities and NHS Trusts in dealing with staff management issues (UCEA, 2005)
- the impact of the pay and grading project in raising expectations of equal treatment across staff groups

ANNEX B

Glossary of staff-related terms and the effect of the proposed changes

Terms defined by Statutes and Ordinances

Academic staff	<p>By Statute U, I, 3, this refers to every person who holds any of the other University offices specified or referred to in Statute D, I, 1(a), except the offices of Chancellor, High Steward, Deputy High Steward, and Commissary.</p> <p>The term is thus almost exactly synonymous with the term <u>University officer</u>. For that reason it is proposed to discontinue the use of the term under the proposals set out in the White Paper.</p>
Assistant staff	<p>By Regulation 2 for Assistant Staff, <i>Every person employed by the University, unless he or she is a University officer or belongs to one of the classes of persons specified in the Schedule to these general regulations, shall have the status of University assistant.</i></p> <p>Thus every person employed by the University who is not a <u>University officer</u> is a member of the <u>assistant staff</u>, unless they fall within some specifically <u>excluded class</u>. The list of <u>excluded classes</u> is shown below.</p>
Competent authority	<p>By Statute D, I, 1(b), <i>In any Statute or Ordinance the term competent authority in relation to a University institution or a University officer shall mean either the Council or the General Board, according as the institution concerned is under the supervision of the Council or the General Board.</i></p>
Established post	<p>By Regulation 5 for Assistant Staff, <i>The competent authority shall, after consultation with the Head of the institution concerned, prescribe for each institution in which University assistants are employed a maximum number of assistants who may be employed in each of the several categories [specified in the Schedule published in accordance with Regulation 3(b)]; and they shall be empowered to specify conditions relating to the continuance, amendment, or administration of any such establishment so prescribed. (The words in square brackets are now redundant.)</i></p> <p>An <u>established position</u> is a post within the establishment of an institution as defined by Regulation 5 above.</p>
Establishment	<p>By General Regulation 1(a) for University officers, <i>A University office shall be established in a Faculty, Department, or other institution by the competent authority concerned.</i></p> <p>The <u>establishment</u> of an institution thus comprises its <u>University offices</u> and its <u>assistant staff</u> in <u>established positions</u>.</p>
Schedule J	<p>This lists the <u>University offices</u> whose holders are entitled to leave under Statute D, II, 5 (sabbatical leave). The list is shown below.</p>
University assistant	<p>This term is synonymous with member of the <u>assistant staff</u>.</p>
University office	<p>A <u>University office</u> is a place established by or under Statute D, I, 1(a). See <u>University officer</u>.</p>
University officer	<p>By Statute D, I, 1(a), <i>The University officers shall be those persons only who hold any of the University offices of Chancellor, Vice-Chancellor, Pro-Vice-Chancellor, High Steward, Deputy High Steward, Commissary, Proctor, Orator, Registrar, Librarian, Director of the Fitzwilliam Museum, Esquire Bedell, University Advocate, and Deputy University Advocate; any University office specified in Schedule J; or any other University office established by Statute or Ordinance.</i></p> <p><u>University officers</u> include both various generic categories, such as University Lecturers and Computer Officers, and the holders of specifically named offices, such as the Director of the Botanic Gardens. The University officers are listed in Part I of the Officers Number of the <i>Reporter</i>, published each Michaelmas Term.</p>

Schedule J

UNIVERSITY OFFICES WHOSE HOLDERS ARE ENTITLED TO LEAVE UNDER STATUTE D, II, 5

Professors
 Readers
 University Senior Lecturers
 University Lecturers
 Assistant Directors of Research
 Senior Assistants in Research
 University Pathologist in the Department of Veterinary Medicine*
 Director of Biotechnology
 Assistant Directors of Development Studies
 Assistant Directors of Studies in International Relations
 Director of the Melville Laboratory for Polymer Synthesis
 Director of the Institute of Criminology
 Director of the Scott Polar Research Institute
 Director of the Botanic Garden
 Executive Director of Research in the Faculty of Economics

* for the present holder of this office

UNIVERSITY OFFICES WHOSE HOLDERS MAY APPLY FOR STUDY LEAVE ON THE SAME CONDITIONS AS UNIVERSITY OFFICERS SPECIFIED IN SCHEDULE J

see paragraph 15 of the paper: it is proposed to add these officers to Schedule J and to rescind this list

Faculty of Earth Sciences and Geography

Curator of the Sedgwick Museum
 Senior Assistant Curator of the Sedgwick Museum
 Assistant Curator of the Sedgwick Museum

Faculty of Physics and Chemistry

John Couch Adams Astronomer

Faculty of Archaeology and Anthropology

Director and Curator of the Museum of Archaeology and Anthropology
 Senior Assistant Curator of the Museum of Archaeology and Anthropology
 Assistant Curator of the Museum of Archaeology and Anthropology

Faculty of Biology

Senior Assistant Curator in the Museum of Zoology
 Assistant Curator in the Museum of Zoology

Faculty of Engineering

Superintendent of the Engineering Workshops

Faculty of Clinical Medicine and other Faculties concerned

Clinical Lecturer.

Departments, etc., independent of any Faculty

Director of the Agricultural Economics Unit
 Director and Curator of the Whipple Museum of the History of Science
 Director of the Centre for Business Research
 Director of the Cambridge Endowment for Research in Finance
 Deputy Director of the Isaac Newton Institute of Mathematical Sciences

Excluded classes from Assistant staff status

SCHEDULE OF CLASSES OF PERSONS EXCLUDED FROM THE STATUS OF UNIVERSITY ASSISTANT

- (a) University officers,
- (b) Departmental Demonstrators,
- (c) persons receiving non-pensionable payments for occasional or temporary duties in connection with teaching, demonstrating, or examinations,
- (d) persons engaged in a temporary pensionable or non-pensionable capacity to take part in research work upon terms and conditions not applicable to University assistants,
- (e) persons engaged by the Press Syndicate,

- (f) persons engaged in the Estate Management and Building Service in a non-pensionable capacity while undertaking professional training,
- (g) persons other than University officers, engaged in work at the University Farm, either as agricultural workers or as clerical, secretarial, or technical workers,
- (h) persons engaged as estate workers on the Madingley Estate,
- (i) persons engaged by the Local Examinations Syndicate, other than University officers,
- (j) the staff of the Agency for the Legal Deposit Libraries,
- (k) the staff of the ADC Theatre,
- (l) the staff of the University Centre,
- (m) persons engaged in a temporary pensionable or non-pensionable capacity to undertake administrative or technical work upon terms and conditions not applicable to University assistants, who have been placed in this category after consultation with the Assistant Staff Committee,
- (n) any person engaged as Occupational Nurse to assist the Consultant Occupational Physician.

Terms in common use

Certain employment terminology (not fully reflected in Statutes and Ordinances), in common usage in the University and in the Higher Education sector generally, is explained below.

Academic staff	The term is used (in a different sense to that defined in Statute U) to refer to <u>University officers</u> and other persons employed by the University with duties of teaching or research.
Academic-related staff	This term is used to describe <u>University officers</u> and other persons employed by the University holding offices or posts of a similar level to those held by <u>academic staff</u> .
Assistant staff	This term is used to describe persons by in the University who are neither <u>academic staff</u> , nor <u>academic-related staff</u> , nor in an <u>excluded class</u> (see the list above).
Contract research staff	This term is used to describe <u>research staff</u> employed on a fixed-term basis.
Established assistant	This term describes a <u>University assistant</u> working for 16 hours or more a week who has completed 12 months' continuous service.
Research staff	This term is used to describe persons employed by the University in <u>unestablished positions</u> and who are engaged primarily in research.
University Teaching Officer (UTO)	This term is commonly used for a <u>University officer</u> in <u>Schedule J</u> , notwithstanding the discontinuance in 1973 of the use of the terms University Teaching Officer and University Administrative Officer in Statutes and Ordinances.

The effect of the proposed changes

Staff category	Process	Current provision	Proposed provision
Vice-Chancellor	Removal from office	Complaint by 3 members of Council to Chancellor; hearing by University Tribunal; appeal to Septemviri	Complaint by 3 members of Council to Chancellor; hearing by Septemviri; appeal to court comprising High Steward, Deputy High Steward, and Commissary
	Removal for medical incapacity	As for University officers	No special provision
	Grievances	No provision	No provision
University officer in Schedule J	Discipline	By head of institution: investigation then warning, or complaint to Vice-Chancellor, or reference under B, VI; appeal under grievance procedure By Vice-Chancellor: investigation then reference to University Tribunal, or reference to head of institution, or reference under B, VI. University Tribunal: removal, or lesser penalty; appeal to Septemviri	By head of institution: investigation then warning or (subject to leave for proceedings from Vice-Chancellor) removal, or reference under B, VI; appeal to committee of 3 persons appointed by competent authority

Staff category	Process	Current provision	Proposed provision
	Removal for medical incapacity	Consideration by competent authority; reference to Medical Board of 3 persons; appeal to Septemviri	Consideration by competent authority; reference to medical committee of 3 persons; appeal to committee of 3 persons appointed by competent authority
	Removal for redundancy	Decision by University to make redundancies; selection for redundancy by Redundancy Committee of 5 persons; approval of selection by University; appeal to the Septemviri	Decision by University to make redundancies; selection for redundancy by competent authority; appeal to committee of 3 persons appointed by competent authority
	Grievances	Reference to head of institution; reference to Vice-Chancellor; reference to Grievance Committee of 3 persons appointed by Council	Reference to head of institution; possible mediation; reference to one or more persons appointed by Human Resources Committee
	Probationary period	Code of practice issued by competent authority Decision of Appointments Committee; appeal to Septemviri	Code of practice issued by Council Decision of Appointments Committee; appeal to committee of one or more persons appointed by competent authority; power of competent authority to direct reappointment
University officer not in Schedule J	Removal for redundancy	As for University officer in Schedule J	As for University officer in Schedule J, but no decision by University to make redundancies required
	Other processes	As for University officer in Schedule J	

Staff category	Process	Current provision*
Unestablished academic and academic-related staff	Discipline	By head of institution: investigation then warning, or reference to disciplinary committee of two University officers in institution appointed by secretary of competent authority. Disciplinary committee: dismissal, or disciplinary transfer, or warning. Appeal to committee of three persons appointed by secretary of competent authority
	Removal for medical incapacity	No specific provision
	Removal for redundancy	No specific provision, general employment law requirements apply
	Grievances	Reference to head of institution; reference to Chairman of Faculty Board or of relevant Council of School; reference to grievance committee of three persons appointed by Human Resources Committee; reference to committee of three persons appointed by secretary of competent authority
	Probationary period	Codes of practice issued by competent authority for academic staff, academic-related staff, and contract research staff
Assistant staff	Discipline	By head of institution: investigation then warning, or dismissal. Appeal against warnings to the Human Resources Committee. Appeal against dismissal to University and Assistants Joint Board, and then (for established assistants only) to Council

Staff category	Process	Current provision*
	Removal for medical incapacity	No specific provision
	Removal for redundancy	No specific provision, general employment law requirements apply
	Grievances	Reference to head of institution; reference to Director of Human Resources; reference to University and Assistants Joint Board
	Probationary period	Code of practice issued by competent authority

* Subject to the outcome of the current proposals, the Council and the General Board intend to review the procedures for unestablished academic and academic-related staff and for assistant staff to progress further towards unification.

ANNEX C

Statute D, IA

THE UNIVERSITY OFFICERS

CHAPTER IA

REMOVAL FROM OFFICE, DISCIPLINE, AND GRIEVANCES

1. This Chapter and any Ordinance made under this Chapter and any rule, code of practice, guidance or other provision made under such Ordinance shall be construed in every case to give effect to the following guiding principles, that is to say:
 - (a) to ensure that University officers have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;
 - (b) to enable the University to provide education, promote learning, and engage in research efficiently and economically;
 - (c) to apply the principles of justice and fairness.

These are the guiding principles of academic freedom, currently in Statute U, I, 1.
2. No holder of an office specified in Schedule J shall be removed from her or his office by reason of redundancy otherwise than on the authority of a decision by the University
 - (a) that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the officer concerned was elected or appointed, or has ceased, or intends to cease, to carry on that activity in the place in which the officer concerned works or worked; or
 - (b) that the University's requirements for officers to carry out work of a particular kind, or for officers to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.

This section requires a decision by the Regent House to make redundant a university office in Schedule J as does the current U, II, 4, which however extends more widely to all University offices.
3. The University shall establish by Ordinance, and may vary from time to time, the reasons for which and the procedures under which a University officer may be removed from her or his office. The procedures so specified may include a requirement for a University officer to undergo a medical examination at University expense where, in the circumstances of the case, it is reasonable to do so.

Reasons for removal from office and procedures for removal are to be specified by Ordinance. They may include provision requiring medical examination at the University's expense.
4. The University shall establish by Ordinance, and may vary from time to time, the reasons for which and the procedures under which a University officer may be subject to disciplinary sanctions in relation to her or his office.

Reasons for discipline and disciplinary procedures are to be specified by Ordinance.
5. The University shall establish by Ordinance, and may vary from time to time, the circumstances in which and the procedures whereby a University officer may be suspended from the duties of her or his office or excluded from University premises or facilities without loss of stipend pending the completion of procedures under section 3 or 4 of this Chapter.

Suspension or exclusion from University premises or facilities pending the completion of removal or disciplinary procedures is to be provided for by Ordinance.

6. The University shall establish by Ordinance, and may vary from time to time, procedures for the redress of any grievance by a University officer concerning her or his appointment or employment.
Grievance procedures are to be established by Ordinance.
7. Any Ordinance made under this Chapter may authorize the Council to issue rules, codes of practice, guidance or other provisions in relation to matters to which that Ordinance applies.
Any Ordinance under D, IA may be supplemented by rules, codes of practice or other provisions made by the Council. This provision is included for the avoidance of doubt – it is thought that the point would in any case be covered by A, III, 4.
8. The competent authority shall have power to direct any Board of Electors, Appointments Committee or other body to elect or appoint any person to a University office in consequence of any process of appeal against removal from office conducted under this Chapter.
This is new. It is included to enable an effective right of appeal against non-reappointment at the end of a probationary period.
9. Nothing in this Chapter shall preclude any University officer from being disciplined in her or his capacity as a member of the University under Statute B, VI.
This, and a corresponding provision at Statute B, VI, 3A, make clear the separation of the jurisdictions under Statute B, VI, applying to members of the University, and under Statute D, IA, applying to University officers.
10. No University officer shall be removed from her or his office by reason of redundancy unless
 - (a) her or his appointment was made, or contract of employment was entered into, on or after 20 November 1987; or
 - (b) he or she was promoted on or after that date.
 This section shall be construed in accordance with subsections (3) to (6) of section 204 of the Education Reform Act 1988.
This section preserves the interests of officers appointed before 20 November 1987 and not promoted since that date and replicates the current Statute U, II, 2 and 3 and the corresponding provision in section 204(2) of the Education Reform Act 1988.
11. Where a University officer also holds a contract of employment with the University then references to office in this Chapter, or in any Ordinance made under this Chapter or in any rule, code of practice, guidance or other provision made under such Ordinance, shall be taken to include such employment, and references to removal from office shall be taken to include termination of such employment with the University, save that, where a University officer holds a contract of employment with the University which is not contingent on, or does not relate to, the holding of any office, then that contract of employment shall not be terminated by a decision to remove the University officer from office unless the person or body making that decision determines otherwise.
Statute D, IA applies to University officers. This section brings within its scope any employment under a contract with the University that the officer may also hold.
12. Any finding of fact by a court of law or by a University Court, and any order of such court, shall be admissible in evidence in any procedures under this Chapter.
This section, which corresponds to the current Statute B, VI, 22, provides for the admissibility in evidence, in any procedures under the Statute, of any finding or order of a court of law or of a University Court.
13. This Chapter shall not apply to the Chancellor, High Steward, Deputy High Steward, Commissary or Vice-Chancellor. Sections 8A to 8C of Statute D, III shall apply to the Vice-Chancellor.
The Chancellor, High Steward, Deputy High Steward, and Commissary are excluded from the scope of the Chapter (as they are from the current Statute U), as is the Vice-Chancellor, who is placed instead under an amended Statute D, III; see Annex D immediately below.

ANNEX D
Statute D, III

CHAPTER III

THE VICE-CHANCELLOR

The following new sections replicate, with minor simplification, the current provisions of Statute U, VII (Removal of the Vice-Chancellor from office). Sections 1 to 8 and sections 9 and 10 of the existing Statute D, III remain in their current form.

- 8A. Any three members of the Council may make a complaint to the Chancellor seeking the removal from office of the Vice-Chancellor.
- 8B. If it appears to the Chancellor that the complaint is trivial or unjustified, he or she may determine that no further action shall be taken upon it.
- 8C. If it appears to the Chancellor, on the evidence presented, that the case alleged could, if proved, constitute sufficient cause for dismissal or removal of the Vice-Chancellor from office, he or she shall direct that the case be considered by the Septemviri, who shall have jurisdiction to hear the matter and to remove the Vice-Chancellor from office. Within ten working days after the date of such removal, the Vice-Chancellor may appeal in writing to the Chancellor. The appeal shall be heard and determined by a special court comprising the High Steward, the Deputy High Steward, and the Commissary.

ANNEX E
Statute B, VI

CHAPTER VI

DISCIPLINE AND THE UNIVERSITY COURTS

Section 1 and sections 8 to 27 remain unaltered. The purpose of the amendments to other sections is to bring into Statute B, VI the provisions relating to the University Courts that are currently in Statute U, III and U, V.

Amendments to sections 2 to 7 and section 28 are shown below with new material in bold type and deleted material struck through, and with material imported from Statute U marked accordingly.

...

- ~~2. There shall be a court called the University Tribunal, constituted in accordance with Statute U, III, 5, and a court called the Septemviri, constituted in accordance with Statute U, V, 3. These courts shall have no jurisdiction over the Chancellor, the High Steward, the Deputy High Steward, or the Commissary.~~
- 2A. *(from U, III, 5)* There shall be a court, called the University Tribunal, which shall consist of a Chairman, who shall be a legally qualified member of the University, and four members of the Regent House. The method and period of appointment of the Chairman and of the other members shall be prescribed by Ordinances made under this section. The Registry, or a deputy appointed by the Registry, shall be Clerk of the University Tribunal.
- 2B. *(from U, V, 3)* There shall be a court, called the Septemviri, which shall consist of a Chairman, who shall be a legally qualified member of the University appointed by Grace for four years, and six members of the Regent House appointed singly by Grace for two years; provided that:
 - (a) a member of the Septemviri who is appointed after the commencement of proceedings before the Septemviri shall take no part in those proceedings;
 - (b) a member of the Septemviri whose membership would otherwise terminate during any such proceedings shall remain a member in respect of those proceedings until they are concluded;
 - (c) no person shall be a member of the Septemviri during any period in which he or she is a member, or has been elected or appointed but not yet become a member, of the Council or the General Board, save as provided in (b) above; and in that case such a person shall not attend a meeting or receive papers for a meeting of the Council or of the General Board, and such continued membership of the Septemviri shall constitute a sufficient cause of absence from meetings of either of those bodies.
 Five members of the court shall constitute a quorum.
- 2C. *(from B, VI, 2: see above)* Neither the University Tribunal nor the Septemviri shall have jurisdiction over the Chancellor, the High Steward, the Deputy High Steward, or the Commissary.
3. The University Tribunal shall adjudicate, in accordance with the provisions of this ~~Chapter Statute~~, when a University officer, a member of the Senate, or a person not *in statu pupillari* who holds either a degree or the title of a degree is charged with an offence against the discipline of the University, or with grave misconduct; provided that, ~~in the case of a charge against a person to whom Statute U does not apply~~, the University Advocate shall have determined under section 28 of this Chapter, **or shall have been directed by the Vice-Chancellor**, that the charge shall be the subject of proceedings before the Tribunal. ~~All proceedings before the Tribunal shall be subject to the provisions of Statute U, III, 10-14.~~
- 3A. Nothing in this Chapter shall preclude any University officer from being removed from office or otherwise disciplined under Statute D, IA.
- 3B. *(from U, III, 10)* ~~Where if the Vice-Chancellor has directed~~ the University Advocate **has preferred to prefer** a

- charge or charges, the Clerk of the Tribunal shall notify the ~~person charged member concerned~~ of the date, time, and place to attend the Tribunal, and of the charge or charges, and shall send the member any documents specified therein. The University Advocate shall present the charge or charges to the Tribunal, shall make any necessary administrative arrangements for the summoning of witnesses and the production of documents, and shall be generally responsible for the proper presentation of the case to the Tribunal.
- 3C. *(from U, III, 11)* The procedure to be followed in respect of the preparation, hearing, and determination of charges by the Tribunal shall be prescribed by Ordinances made under this section.
- 3D. *(from U, III, 12)* Without prejudice to the generality of the foregoing, such Ordinances shall ensure:
- (a) that the ~~person charged member of the academic staff concerned~~ is entitled to be represented by another person, whether such person is legally qualified or not, in connection with and at any hearing by the Tribunal;
 - (b) that a charge shall not be determined without an oral hearing at which the ~~person charged member concerned~~ and any person appointed by the member to represent her or him are entitled to be present;
 - (c) that witnesses may be called, both on behalf of the ~~person charged member~~ and by the University Advocate, and that such witnesses may be questioned concerning any relevant evidence;
 - (d) that full and sufficient provision is made for postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Vice-Chancellor for further consideration, and for the correction of accidental errors;
 - (e) that appropriate time limits are set for each stage of the proceedings (including the hearing) to the intent that the charge shall be heard and determined by the Tribunal as expeditiously as is reasonably practicable.
13. *(from U, III, 13)* ~~If the charge or charges are upheld, the Tribunal shall determine the appropriate penalty (if any), which may be:~~
- ~~(a) if the Tribunal finds that the conduct or performance of the member of the academic staff concerned constitutes good cause for dismissal, the removal of the member from office;~~
 - ~~or (b) such lesser penalty under the member's contract of employment or terms of appointment, including any penalty specified in Statute B, VI, 4, as appears to the Tribunal fair and reasonable in all the circumstances of the case.~~
- ~~If the Tribunal determines that dismissal is the appropriate penalty, the Chairman of the Tribunal shall have power to impose that penalty. If the Chairman does not impose the penalty of dismissal, or if the Tribunal has determined that some lesser penalty is appropriate, the Tribunal may impose a sentence in accordance with the provisions of Statute B, VI, 4.~~
4. **If the charge or charges are upheld, the The** University Tribunal may impose any of the following sentences either singly or in combination:
- (a) deprivation or suspension of membership of the University;
 - (b) deprivation or suspension of degree or title of degree, or postponement of, or disqualification from, admission to degree;
 - (c) deprivation or suspension of the status of Master of Arts;
 - (d) a fine;
 - (e) an order to pay compensation;
 - (f) deprivation or suspension of the right to use University premises or facilities;
 - (g) any sentence considered by the Tribunal to be lighter;
- or may, notwithstanding that a person charged has been found to have committed an offence, resolve not to impose any sentence; provided that any person who is deprived of membership of the University or whose membership of the University is suspended shall thereby suffer deprivation or suspension of degrees and titles of degrees during the continuance of such deprivation or suspension.
- 4A. *(from U, III, 14)* The Clerk of the Tribunal shall notify the ~~Vice-Chancellor, the University Advocate and the person charged, and the member concerned~~ of the Tribunal's decision on any charge referred to it. Such notification shall include the Tribunal's findings of fact regarding the charge, the reasons for its decision and the penalty (if any) determined by the Tribunal. The Clerk of the Tribunal shall draw attention to the period of time within which any appeal should be instituted ~~by ensuring that a copy of Chapter V of this Statute is sent to the member concerned.~~
5. Any person sentenced by the University Tribunal may appeal to the Septemviri ~~within twenty-eight days after notice of the Tribunal's decision. Such an appeal shall be subject to the provisions of Statute U, V, 4-9.~~
- ...
- (from U, V, 4)* ~~A member of the academic staff may institute an appeal~~ ... by serving on the Registry notice in writing setting out the grounds of the appeal. A notice of appeal shall be served within twenty-eight days of the date on which the document notifying the decision appealed from was sent to the appellant, provided that the Septemviri shall have power to hear an appeal submitted after that date if they consider that justice and fairness so require in the circumstances of the case.
- 5A. *(from U, V, 5)* The Registry shall inform the Septemviri of any notice of appeal received and of the date when it was served, and shall inform the appellant that this has been done.
- 5B. *(from U, V, 6)* The procedure to be followed in respect of the preparation, consolidation, hearing, and determination of appeals shall be prescribed by Ordinances made under this section.
- 5C. *(from U, V, 7)* Without prejudice to the generality of the foregoing, such Ordinances shall ensure:
- (a) that an appellant is entitled to be represented by another person, whether such person is legally qualified or not, in connection with and at any hearing of an appeal;
 - (b) that an appeal shall not be determined without an oral hearing at which, in addition to the University

Advocate, the appellant and any person appointed to represent the appellant are entitled to be present and, with the consent of the Septemviri, to call witnesses;

- (c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution, and the correction of accidental errors;
- (d) that the Septemviri may set appropriate time limits for each stage of the proceedings (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as is reasonably practicable.

5D. ~~(from U, V, 8) The Septemviri may allow or dismiss an appeal in whole or in part. and, without prejudice to the foregoing, may:~~

- ~~(a) remit an appeal from a decision under Chapter II (or any issue arising in the course of such an appeal), to the competent authority for further consideration as they may direct;~~
- ~~(b) remit an appeal from a decision under Chapter III to be heard again either by the same Tribunal or by a differently constituted Tribunal to be appointed under the provisions of that Chapter;~~
- ~~(c) substitute any lesser alternative penalty that might have been imposed in respect of the original charge or charges under the provisions of Chapter III;~~
- ~~(d) remit an appeal arising under Chapter IV to be heard again either by the same Medical Board or by a differently constituted Medical Board to be appointed under the provisions of that Chapter.~~

5E. ~~(from U, V, 9) The Clerk of the Septemviri shall notify the decision of the Septemviri on any appeal, including any decision reached in the exercise of their powers under section 8 above, together with any findings of fact different from those reached by the University competent authority under Chapter II or by a Tribunal under Chapter III, as the case may be, to the Vice-Chancellor, to the University Advocate and, and to the appellant.~~

6. The Septemviri shall act as a court of appeal and

- (a) shall hear appeals by persons ~~to whom Statute U applies, in accordance with the provisions of Statute U, V;~~
- ~~(b) shall hear appeals by other persons~~ charged before the University Tribunal from findings or sentences of the Tribunal, and shall have power to quash a finding or to vary a sentence to any sentence within the limits of the power of the Tribunal;
- ~~(b e)~~ shall hear appeals by persons charged before the Court of Discipline from findings or sentences of that court and shall have power to quash a finding or to vary a sentence to any sentence within the limits of the power of the Court of Discipline.

Notice of a meeting to hear an appeal from the Court of Discipline shall be given to the Head of the College of which the person making the appeal is a member.

7. ~~The Subject to the provisions of Statute U, the~~ University Tribunal and the Septemviri shall have power to make rules of procedure except in so far as such rules may have been determined by Ordinance; provided that, if any question of law or of interpretation or application of any of the rules of procedure arises during the course of a hearing, or if a question of procedure arises which cannot be resolved by reference to those rules, the matter shall be decided by the Chairman, whose decision shall, for the case which is being heard, be final.

...

28. Every complaint against a person who comes within the jurisdiction of the University Tribunal or the Court of Discipline ~~(other than a complaint against a University officer under Statute U)~~ which requests that a matter be made the subject of proceedings before either of those courts shall be considered by the University Advocate, provided that only a member of the Regent House shall be entitled to make a complaint alleging that a person who comes within the jurisdiction of the University Tribunal has committed grave misconduct, and that only a member or an employee of the University shall be entitled to make a complaint alleging that a person who comes within the jurisdiction of either of those courts has committed an offence under the general regulations for discipline. It shall be the duty of the Advocate to determine whether the person against whom the complaint is made shall be charged and if so before which court; provided that the Advocate shall reject any complaint

- (a) if it does not specify the name, and College (if any), of the person against whom it is made;
- or (b) if in the Advocate's opinion the evidence presented is not sufficient to enable her or him to decide whether the person should be so charged;
- or (c) if in the Advocate's opinion a complaint is vexatious, frivolous, or trivial;
- or (d) if in the Advocate's opinion a complaint of grave misconduct is not of sufficiently direct concern to the University to justify its being brought before the University Tribunal.

No proceedings shall be initiated before any of the University courts established by or under this **Chapter Statute**, ~~other than proceedings under the provisions of Statute U,~~ unless the Advocate has so determined in accordance with this section and with any Ordinance made under this **Chapter Statute** or has been so directed by the Vice-Chancellor under section 3 of this Chapter.

ANNEX F

Regulations for removal from office, discipline, and grievances

GENERAL

1. The responsible person, in relation to any particular officer, shall be either (i) the Head of the appropriate Department or other institution, or the Chairman of the Board, Syndicate, or other body which is chiefly concerned with the officer's duties; or (ii) such other University officer as the secretary of the competent authority may determine. If any doubt arises as to the identity of the responsible person, it shall be resolved by the decision of the secretary of the competent authority.

The responsible person is defined (essentially the Head of Department of the officer concerned); but another officer may be substituted in that role by the secretary of the competent authority, as may be necessary, for example, in the event of a conflict of interest.

2. Unless otherwise specified, the responsible person may delegate any duty under these regulations, or under any rule, code of practice, guidance or other provision made under these regulations, to any other person, and references to the responsible person shall include references to such other person as appropriate.

The responsible person may delegate.

3. The following shall apply to any proceedings under these regulations:

- (a) the manner of their conduct shall be determined by the person conducting them;
- (b) they may be discontinued where the person conducting them so decides; and discontinued proceedings may be recommenced afresh; and a new person shall be substituted for the person conducting the proceedings before discontinuance where such substitution is desirable in the interests of fair procedure;
- (c) they shall be conducted in private; but if the person conducting them considers it proper and expedient to do so, he or she may permit the attendance of any person (whether as a companion, or representative, or in a secretarial capacity, or for any other purpose) and such permission may be made subject to conditions;
- (d) the person conducting them shall maintain a full written record of those proceedings.

References in this regulation to the person conducting proceedings shall be taken to refer also to the persons conducting proceedings, and those persons may act through one of their number for the purpose of this regulation.

This provides for proceedings to be in private and controlled by the person or persons conducting them.

4. The Council shall promulgate, and shall from time to time review and revise, a code of practice for academic freedom. In pursuance of Statute D, IA, 1, regard shall be had to that code in the conduct of all matters under these regulations.

A code of practice for academic freedom is to be introduced to which regard is to be had in connection with matters conducted under the regulations.

PROBATIONARY PERIODS

5. The Council shall promulgate, and shall from time to time review and revise, a code or codes of practice for probationary periods.

Codes of practice are introduced in these matters; and

6. The code or codes of practice shall set out the procedures to be followed in relation to the confirmation or termination of office at the end of a probationary period and shall provide for appeal by an officer whose appointment is not confirmed.

must include provision for appeal.

REASONS FOR DISCIPLINE AND REMOVAL FROM OFFICE

7. No person shall be removed from a University office unless the reason for removal may in the circumstances (including the size and the administrative resources of the University) reasonably be treated as a sufficient reason for removal of the officer concerned.

This reflects the current Statute U, I, 2.

8. A University officer may be subject to disciplinary action (which may include removal from her or his office) in the event of her or his

- (a) conviction for an offence such as to render the person convicted unfit for the performance of the duties of her or his office or for employment by the University; or
- (b) an offence of gross misconduct or misconduct otherwise incompatible with the duties of her or his office or with employment by the University; or
- (c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of her or his office; or

(d) physical or mental incapacity such as to render the officer unfit for the performance of the duties of her or his office or for employment by the University.

Without prejudice to the generality of the foregoing, such circumstances may include

- refusing to comply with reasonable requests from a person in authority;
- incapacity to perform the duties of office effectively due to alcohol or drug abuse;
- bullying or harassment of any member of the University staff or student;
- making malicious accusations against any member of the University staff or student;
- acts of unlawful discrimination against any member of the University staff or student;
- misconduct in research;
- breach of duty regarding non-disclosure of confidential information (otherwise than arising from the officer making a protected disclosure);
- breach of the University or Department regulations, rules, policies or procedures relating to safety, finance or any other matters; and
- breach of any other conditions of office or employment.

References in this regulation to any member of the University staff or student shall include, where appropriate, a member of the staff of a College or of any institute, unit or other organization associated with the University and a student of any institution.

This paragraph draws on Statute U, I, 5, but replaces the expression 'conduct of an immoral, scandalous, or disgraceful nature' in Statute U, I, 5(b) with the more appropriate expression from modern employment law 'gross misconduct' and provide instances of misconduct which may (depending on the circumstances of the case) amount to gross misconduct.

9. Action may be taken in respect of a University officer (which may include removal from her or his office) in the event of physical or mental incapacity such as to render the officer unfit for the performance of the duties of her or his office or for employment by the University.

This makes specific reference to the provision of Regulation 8 above.

DISCIPLINARY PROCEDURE

10. If it appears to the responsible person or to the Vice-Chancellor that there are grounds for believing that the conduct or performance of an officer is or has been unsatisfactory, the responsible person shall inquire into the matter. The responsible person may also

(a) suspend the officer from the performance of her or his duties without loss of stipend, and

(b) exclude the officer from all University premises or facilities,

pending a final decision; but shall only do so if he or she considers such action necessary in the interests of the health and safety of any person or for the protection of University property.

If there are grounds for thinking that conduct or performance is unsatisfactory, the responsible person must investigate, and may (but only to protect health and safety or University property) temporarily suspend and exclude.

The responsible person may decide after investigation either

(a) to take no formal action; or

(b) to take disciplinary action.

If it is decided to take no formal action against the officer, any suspension or exclusion under Regulation 10 above shall cease.

Either no formal action results and any suspension or exclusion must cease forthwith, or disciplinary action ensues.

12. If it is decided to take disciplinary action, or if action under Statute B, VI is taken by the University Advocate, against the officer, the responsible person may

(a) suspend the officer from the performance of her or his duties without loss of stipend, and

(b) exclude the officer from all University premises or facilities,

pending a final decision, if he or she considers it expedient to do so, (in the case of action under Statute B, VI) after consultation with the University Advocate.

If action is taken against an officer, the responsible person (after consultation with the University Advocate in the case of B, VI action) may suspend or exclude, but only for so long as the action remains pending.

13. The responsible person shall review regularly any decision to suspend or exclude an officer under either Regulation 10 or Regulation 12 above. Any such suspension or exclusion shall cease on the completion or discontinuance of the action against the officer.

Suspension or exclusion must be reviewed regularly, and must cease on the completion or discontinuance of action against the officer.

14. The Council shall promulgate, and shall from time to time review and revise, a code of practice for disciplinary action conducted by a responsible person. Such a code of practice shall permit the imposition of initial or final warnings or removal from office and shall provide for appeal by an officer against any disciplinary sanction imposed.

A code of practice for disciplinary proceedings is to be introduced, which must provide for initial and final warnings and for removal from office, and which must provide for appeals.

15. No University officer shall be removed from office as a result of disciplinary action conducted by a responsible person unless, before its completion,
- (a) the officer has been notified in writing of that fact;
 - (b) the officer has been given a fair opportunity to put forward a defence on the basis that removal from office is a possible outcome; and
 - (c) the Vice-Chancellor has authorized the action to proceed on that basis.

Before its completion, fair notice that disciplinary action may lead to removal from office must be given to the officer concerned and the action must be authorized by the Vice-Chancellor.

REMOVAL FOR INCAPACITY ON MEDICAL GROUNDS

16. In this section of these regulations and in any rules, code of practice, guidance or other provision hereunder
- (a) references to medical grounds are references to capability assessed by reference to health or any other physical or mental quality; and
 - (b) references to an officer include, in cases where the nature of the incapacity so requires, a responsible relative or friend or other person having authority to act on behalf of that officer in addition to (or instead of) the officer.

This paragraph defines certain terms (currently in Statute U, IV, 2).

17. If it appears to the responsible person that the removal from office of a University officer on medical grounds should be considered, he or she shall refer the matter without delay to the secretary of the competent authority. The responsible person may also
- (a) suspend the officer from the performance of her or his duties without loss of stipend, and
 - (b) exclude the officer from all University premises or facilities,
- pending a final decision; but shall only do so if he or she considers such action necessary in the interests of the health and safety of any person or for the protection of University property. Any such suspension or exclusion shall be confirmed or varied by the secretary of the competent authority, after consultation with the responsible person, as soon as reasonably practicable.

If there are grounds for thinking that removal on medical grounds should be considered, the responsible person must refer the matter to the secretary of the competent authority, and may (but only to protect health and safety or University property) temporarily suspend and exclude; but as soon as the secretary of the competent authority is informed then the responsible person must act in accordance with her or his direction.

18. If it appears to the competent authority that the removal from office of a University officer on medical grounds should be considered, the secretary of the competent authority
- (a) shall inform the officer accordingly, giving notice of the reasons;
 - (b) shall notify the officer in writing that it is proposed to make an application at University expense to the officer's medical practitioner for a medical report and shall seek the officer's consent in writing in accordance with the requirements of the Access to Medical Reports Act 1988;
 - (c) may, at that time or at a later stage, require the officer to undergo medical examination at University expense by a qualified medical practitioner nominated by the competent authority; and
 - (d) may, after consultation with the responsible person,
 - (i) suspend the officer from the performance of her or his duties without loss of stipend, and
 - (ii) exclude the officer from all University premises or facilities,
 pending a final decision, if he or she considers it expedient to do so.

If the competent authority think that removal on medical grounds should be considered, then various steps are to follow; those steps replicate and modify slightly the current Statute U, IV, 3 and the final sentence of the current Statute U, IV, 6.

19. The secretary of the competent authority, in consultation with the responsible person, shall review regularly any decision to suspend or exclude an officer under either Regulation 17 or Regulation 18 above. Any suspension or exclusion shall cease on the completion or discontinuance of proceedings under this section of these regulations.

Suspension or exclusion must be reviewed regularly, and must cease on the completion or discontinuance of proceedings.

20. If in the light of any medical report obtained under Regulation 18 above the competent authority are satisfied that a University officer should be required to leave her or his office on medical grounds, and if the officer accepts the opinion of the competent authority, the office shall terminate on those grounds.

The officer may agree to removal on medical grounds – this replicates the current Statute U, IV, 4;

21. If the officer does not agree that her or his removal from office on medical grounds should be considered, or if after a medical report has been obtained the officer declines to leave her or his office on medical grounds, the competent authority may direct that removal should be considered in accordance with the code of practice referred to in Regulation 22 below.

if not, the matter is to be dealt with in accordance with a code of practice for removal on medical grounds; and

22. The Council shall promulgate, and shall from time to time review and revise, a code of practice for removal on medical grounds. Such a code of practice shall provide for removal from office on those grounds and shall provide for appeal by an officer against any such removal.

such a code of practice is to be introduced, which must allow for removal from office on those grounds, and which must allow for appeals.

REDUNDANCY

23. Where the competent authority decide
 (a) to propose that redundancies should be made affecting an institution under their supervision, and
 (b) the proposal, if implemented, would result in the removal of a University officer from office by reason of redundancy

they shall engage in such consultation as they consider desirable, having regard to the legal obligations of the University, before deciding whether to confirm or modify their proposal.

Where the competent authority decide to propose redundancies they must consult.

24. Where a selection for redundancy needs to be made, the competent authority shall identify criteria for selection and shall engage in such consultation as they consider desirable, having regard to the legal obligations of the University, before deciding on such criteria.

They must then identify selection criteria and consult.

25. The competent authority shall then apply those criteria as confirmed or modified to select University officers for removal from office by reason of redundancy. No person shall be removed from office by reason of redundancy without first being offered a meeting to discuss the matter.

Those criteria must then be applied to select for redundancy.

26. Each person selected to be removed from office by reason of redundancy (whether following selection or otherwise) shall be advised in writing of

- (a) the action taken by the competent authority under the provisions of this section of these regulations;
 (b) the selection criteria used (if any);
 (c) her or his right of appeal and the time within which any appeal must be instituted; and
 (d) the date on which the removal from office is to take effect.

Each person so selected must be given a separate notice of that selection containing certain specified information, including a dismissal date.

27. The removal from office shall take effect from the specified date unless, before that date, the competent authority have withdrawn in writing the notice under Regulation 26 above. Such withdrawal shall not prevent removal from office following a fresh notice.

28. The competent authority shall consult on any modified proposal or any modified criteria if they consider it desirable to do so, having regard to the legal obligations of the University.

Modification of redundancy proposals may lead to further consultation.

29. The competent authority shall report to the University if the authority of the University is required under Statute C, II, 1 or Statute C, III, 2 or Statute C, V, 1 or Statute D, IA, 2, and in such a case no removal from office shall take effect before the necessary authority for a redundancy situation has been granted by the University.

A report must be approved by the University if that is required by Statute – which it will be for University offices in Schedule J – before any removal can take effect.

30. The Council shall promulgate, and shall from time to time review and revise, a code of practice for appeal by any person selected for removal against any such removal.

A code of practice is to be introduced for appeals.

RETIREMENT

31. The Council shall promulgate, and shall from time to time review and revise, a code of practice for the retirement of University officers and for the continuation of employment beyond the normal retirement age specified in Statute D, I, 11.

A code of practice is to be introduced for continuation of employment beyond the normal retirement age.

GRIEVANCES AND MEDIATION

32. The Council shall promulgate, and shall from time to time review and revise,
(a) a code of practice for the redress of grievance by members of the University staff, and
(b) guidance on mediation.
A code of practice is to be introduced for the redress of grievances, and guidance on mediation is to be provided.
33. The code of practice for grievances shall require that grievances are addressed informally in the first instance, so far as is appropriate in the circumstances of the case; shall provide for the possibility of mediation; and shall provide for formal review. The code may provide for certain specified cases in which a grievance shall proceed immediately to the formal review stage.
The code must provide for grievances to be dealt with, so far as possible, informally; for the availability of mediation; and for formal review: it may provide for certain cases to proceed at once to formal review (though in fact that is not considered necessary at present and does not appear in the proposed draft code).
34. Where the formal review of a grievance results in recommendations to the competent authority, they shall respond to those recommendations. Where it results in recommendations to some other University body or to a University officer, the competent authority may require a response to those recommendations from that body or officer as the case may be.
The competent authority must respond (and may require others to respond) to any recommendations of a formal review. This is to be understood in the light of Regulation 4 requiring privacy of proceedings; it is not intended that grievances will result in the publication of their outcome.
35. In the absence of provision to the contrary, no grievance shall be entertained in relation to any action taken or any decision made under any disciplinary procedure within the University that includes provision for appeal (including any action take or decision made in any appeal under the procedure) otherwise than in accordance with the provision for appeal.
Grievances within the context of a disciplinary process must be pursued through appeal.
36. Where the person conducting any process under a disciplinary procedure within the University considers that the subject matter of a grievance of a defendant in that process relates to or overlaps with the subject matter of the disciplinary process, he or she may direct that the grievance be considered by her or him within the disciplinary process and not otherwise.
Grievances relating to a disciplinary process may be brought within that process

ANNEX G

Codes of practice and guidance relating to removal from office, discipline, and grievances**Code of Practice for academic freedom***Rights and freedoms of those in academic positions**Individual rights and freedoms: academic freedom, publication rights, and the international exchange of information*

1. Access to the academic positions in the University will be based solely on appropriate academic qualifications, competence, and experience and will be equal for all members of society without any discrimination.
2. Those in academic positions will enjoy within the University freedom within the law of thought, conscience, religion, expression, assembly, and association. They will not be hindered or impeded in exercising within the University their civil rights as citizens, including the right to contribute to social change through freely expressing their opinion of state policies and of policies affecting higher education, and will not suffer any penalties simply because of the exercise of such rights.
3. The University will seek to maintain academic freedom, that is to say, the right of those in academic positions, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the University, freedom from institutional censorship, and freedom to participate in professional or representative academic bodies. They may fulfil their functions without discrimination of any kind and without fear of repression. The University will seek to maintain its democratic atmosphere.
4. Those in academic positions have the right to teach without any interference, subject to accepted professional principles including professional responsibility and intellectual rigour with regard to standards and methods of teaching. They will not be forced to instruct against their own best knowledge and conscience or be forced to use curricula and methods contrary to national and international human rights standards. The University will determine its own curriculum.
5. Those in academic positions have the right to carry out research work without any interference, or any suppression, in accordance with their professional responsibility and subject to nationally and internationally recognized professional principles of intellectual rigour, scientific inquiry, and research ethics. They are encouraged to publish and disseminate their research results in order to assist them to acquire the reputation which they merit, as well as to promote the advancement of science, technology, education, and culture generally. To that end, they will be free to publish, as authors or co-authors, the results of research and scholarship in books, journals, and databases of their own choice, and under their own names.
6. Those in academic positions have the right to undertake professional activities outside of their employment, particularly those that enhance their professional skills or allow for the application of knowledge to the problems of the community, provided such activities do not interfere with their primary commitments to the University in accordance with its policies and regulations and with national laws and practice where they apply.

Self-governance and collegiality

7. Those in academic positions have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the government of the University and to criticize the functioning of higher education institutions, including the University, while respecting the right of other sections of the academic community to participate, and they also have the right to elect a majority of representatives to academic bodies within the University.
8. The principles of collegiality include academic freedom, shared responsibility, the policy of participation of all concerned in internal decision-making structures and practices, and the development of consultative mechanisms. Collegial decision-making should encompass decisions regarding the administration and determination of policies of higher education, curricula, research, extension work, the allocation of resources, and other related activities, in order to improve academic excellence and quality for the benefit of society at large.

Duties and responsibilities of those in academic positions

9. Those in academic positions in the University should recognize that the exercise of rights carries with it special duties and responsibilities, including the obligation to respect the dignity and rights of all members and staff of the University, to respect the academic freedom of other members of the academic community, and to ensure the fair discussion of contrary views. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research on an honest search for truth. Teaching, research, and scholarship should be conducted in full accordance with ethical and professional standards and should, where appropriate, respond to contemporary problems facing society as well as preserve the historical and cultural heritage of the world.
10. In particular, the individual duties of those in academic positions in their academic freedom are:
 - (a) to teach students effectively within the means provided by the University; to be fair and equitable to female and male students and treat those of all races and religions, as well as those with disabilities, equally; to encourage the free exchange of ideas between themselves and their students; to be available to them for guidance in their studies; and to ensure, where necessary, that the minimum content defined in the syllabus for each subject is covered;

- (b) to conduct scholarly research and to disseminate the results of such research or, where original research is not required, to maintain and develop their knowledge of their subject through study and research, and through the development of teaching methodology to improve their pedagogical skills;
 - (c) to base their research and scholarship on an honest search for knowledge with due respect for evidence, impartial reasoning, and honesty in reporting;
 - (d) to observe the ethics of research involving humans, animals, the heritage or the environment;
 - (e) to respect and to acknowledge the scholarly work of academic colleagues and students and, in particular, to ensure that authorship of published works includes all who have materially contributed to, and share responsibility for, the contents of a publication;
 - (f) to refrain from using new information, concepts or data that were originally obtained as a result of access to confidential manuscripts or applications for funds for research or training that may have been seen as the result of processes such as peer review, unless the author has given permission;
 - (g) to ensure that research is conducted according to the law; that it does not violate international codes of human rights; and that the results of the research and the data on which it is based are effectively made available to scholars and researchers in the University, except where that might place respondents in peril or where anonymity has been guaranteed;
 - (h) to avoid conflicts of interest and to resolve them through appropriate disclosure and full consultation, so that they have the approval of the University;
 - (i) to handle honestly all funds entrusted to their care for the University for research or for other professional or scientific bodies;
 - (j) to be fair and impartial when presenting a professional appraisal of academic colleagues and students;
 - (k) to be conscious of a responsibility, when speaking or writing outside scholarly channels on matters which are not related to their professional expertise, to avoid misleading the public on the nature of their professional expertise;
 - (l) to undertake such appropriate duties as are required for the collegial governance of institutions of higher education and of professional bodies.
11. Those in academic positions should seek to achieve the highest possible standards in their professional work, since their status largely depends on themselves and the quality of their achievements.
 12. Those in academic positions should contribute to the public accountability of the University and of higher education institutions generally without, however, forfeiting the degree of institutional autonomy necessary for their work, for their professional freedom, and for the advancement of knowledge.

Derivation

13. This code of practice is modelled on the Recommendation concerning the Status of Higher-Education Teaching Personnel adopted by the General Conference of United Nations Educational, Scientific and Cultural Organization in Paris on 11 November 1997.

Code of Practice for probationary periods

The responsible person

1. The responsible person, in relation to an officer, is the Head of the appropriate Department or other institution, or the Chairman of the Board, Syndicate, or other body which is chiefly concerned with the officer's duties. He or she is responsible for the duties assigned by this code of practice, but may delegate their actual performance to other persons, and in particular may appoint another person to oversee the probationary period. References to the responsible person should be read accordingly.
2. It is the duty of the responsible officer to ensure that a full and accurate written record is kept in relation to each probationary period of which he or she has oversight.
3. Where any concerns or uncertainties arise in relation to this code, the responsible officer should consult the Human Resources Division without delay. Their role is to advise on the requirements of fair procedure. It is not to influence the judgment of the responsible person in relation to the probationary process. Employment is a complex area of law in which the need to decide matters fairly and to avoid unlawful discrimination is especially important.

What is probation?

4. Probation is the period of the appointment during which a new member of staff will show capability to undertake the duties of the position to which he or she has been appointed, and during which he or she will receive guidance and support to that end.
5. Instances of misconduct, rather than lack of capability, should be dealt with separately in accordance with the relevant disciplinary procedures and not under this code of practice.

Starting work

6. It is the duty of the responsible person to meet the new officer individually when he or she starts work. That meeting should discuss the officer's duties, mutual expectations, and the new officer's development needs.
7. It is the duty of the responsible person to assign a mentor to each new officer on appointment. The mentor should be an experienced senior colleague able to give advice and to provide valuable links and support over the whole range of the new officer's duties. The new officer should be able to share problems and concerns with his or her mentor in confidence.
8. It is the duty of the responsible person to ensure that the following are made clear to and are understood by the new officer:

- the duties to be performed;
 - that the work of probationary staff is monitored to ensure that any problems that occur are discussed with the probationer as and when they arise;
 - the identity of the mentor assigned to the new officer, and the mentor's role;
 - the training and development activities in which the new officer will be expected to participate;
 - that an overall view of the officer's progress, commitment, and general contribution to the work of the institution will be formed during the probationary period, and how that will be done; and
 - that clear evidence of consistent, satisfactory performance of duties during the probationary period will be required for an appointment to be confirmed upon its completion.
9. It is the duty of the responsible person to make a record of the meeting and to copy it to the new officer.

The probationary period

10. It is the duty of the responsible person, during the course of the probationary period, to gather information as to progress at appropriate intervals. So far as is reasonably practicable, that information should bear on the full range of duties as well as on general contribution. It should be gathered from all relevant and appropriate sources.
11. It is the duty of the responsible person to meet the probationary officer at least once a year to review progress. Standard forms, provided by the Human Resources Division, must be completed by the responsible person and by the probationary officer. Where concern arises about aspects of the officer's performance, the responsible person should notify the Human Resources Division, who will advise on the steps to be taken, probably including holding more regular progress review meetings.
12. Performance will be assessed against the criteria appropriate for the office held; it will therefore be concerned with appropriate outputs. There must be no doubt that the probationary officer has been performing according to all the relevant criteria and at an appropriately high level. Where concerns arise about the performance of a probationary officer (whether or not at a progress review meeting), he or she should be notified in writing of those concerns without delay.
13. A new mentor may be appointed by the responsible person at any time; but such an appointment will not normally be made except at the request of the probationary officer or of the current mentor, or where replacement is necessary (for example, where the current mentor is leaving the University).

Early confirmation of appointment

14. Where the responsible person is of the view that the appointment of the probationary officer should be confirmed before the end of the specified period of probation, he or she will so notify the Human Resources Division, who will advise.

Agreed extension of the probationary period

15. Where the responsible person is of the view that probationary period should be extended because factors beyond the probationary officer's control have left insufficient time for a fair assessment of suitability, or where the probationary officer has made a request to that effect, the responsible person will so notify the Human Resources Division, who will advise.

Final assessment

16. The Human Resources Division will notify the responsible person of the time at which to make a final assessment and the evidence which should be assembled for that process.
17. It is the duty of the responsible officer, when the evidence is assembled, to arrange in writing to meet the probationary officer to discuss the final assessment.
18. If the responsible person intends to confirm the officer's appointment, or to recommend it for confirmation, he or she will so notify the probationary officer when arranging the meeting. Otherwise the responsible person will say that that is not the case and will notify the probationary officer of her or his right to be accompanied at the meeting by another officer or University employee or by a trade union official.
19. It is the duty of the responsible person, after the meeting, to write to the probationary officer either
- saying that the appointment is confirmed, or is to be recommended for confirmation; or
 - saying that the probationary period is extended and by what period, and specifying the steps that should be taken by the probationary officer to improve performance during the extended probationary period; or
 - giving notice of dismissal, and notifying the officer of her or his right of appeal against that decision; or
 - saying that a recommendation, other than confirmation, is to be made to the Appointments Committee and the nature of that recommendation.
20. Where the matter is referred to the Appointments Committee, the Secretary of the Committee will write to the probationary officer with the decision of the Committee. If the decision is to extend the probationary period, the letter will say by what period and will specify the steps that should be taken by the probationary officer to improve performance during the extended probationary period. If the decision is not to reappoint, the letter will say that and will tell the officer of her or his right of appeal against that decision.

Appeal

21. Within ten working days after the date of the letter of non-confirmation resulting in termination of office, the officer may appeal in writing to the secretary of the competent authority setting out the grounds of appeal.
22. On receipt of an appeal, the competent authority will appoint one or more persons to inquire into the

matter and (unless the appeal is withdrawn) to report. The person or persons inquiring into the matter will not report before the appellant has been afforded the opportunity of a meeting at which he or she may be accompanied by an officer or University employee or by a trade union official.

23. Where, after considering the report of the person or persons inquiring into the matter, the competent authority allow an appeal, they may exercise their powers under Statute D, IA, 8 and Statute D, XVII, 7(b) and may direct reappointment for an extended probationary period of a specified term or until the retiring age. Where a direction for reappointment is made then it will be effective (if need be retrospectively) from the date of termination of the appellant's appointment.
24. The decision of the competent authority will be final in the matter.

Code of Practice for disciplinary action conducted by a responsible person

Notifying the Human Resources Division

1. Where, after investigation, the responsible person has decided to take disciplinary action against an officer under Regulation 11 of the regulations for removal from office, discipline, and grievances, he or she should notify the Human Resources Division without delay, who will inform the secretary of the competent authority.
2. The role of the Human Resources Division is to advise on the requirement of fair procedure. It is not to influence the judgment of the responsible person in the disciplinary action taken. The involvement of the Division in all cases – however apparently straightforward – is essential, as employment is a complex area of law in which the need to decide matters fairly and to avoid unlawful discrimination is especially important.

Writing to the officer

3. The first step is for the responsible person to write to the officer. The letter should contain enough information for the officer to be able to understand both what it is that he or she is alleged to have done wrong and the reasons why it is not acceptable. It should also invite the officer to a meeting at which the matter can be discussed, and it should inform the officer of her or his right to be accompanied at the meeting. The officer should be given copies of any documents that will be produced at the meeting.
4. If the responsible officer is of the view that removal from office may be justified, the letter should state that fact and the letter should be copied to the Vice-Chancellor. The meeting should not take place on the basis that removal from office is a possible outcome unless the Vice-Chancellor has authorized the action to proceed on that basis under Regulation 15 for removal from office, discipline, and grievances.

The right to be accompanied

5. The officer has the right to be accompanied by another officer or University employee or by a trade union official. The officer must make a reasonable request (not necessarily in writing) to the responsible person to be accompanied. For example, a request to be accompanied by a person who is a material witness or who has a conflict of interest in the matter at issue would probably not be reasonable. For a person to qualify as a trade union official, he or she must be certified in writing by the union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. The officer has no right to insist on being accompanied by a particular person against that person's will.
6. Before the hearing takes place, the officer should tell the responsible person whom he or she has chosen as a companion. It can sometimes be helpful for the companion and responsible person to make contact before the hearing.

Holding a meeting

7. Where possible, the timing and location of the meeting should be agreed with the officer and with any companion of the officer. The length of time between the letter and the meeting should be long enough to allow the officer to prepare but not so long that memories fade. The responsible person should hold the meeting in a private location and ensure there will be no interruptions.
8. At the meeting, the responsible person should explain the complaint against the officer and go through the evidence that has been gathered. The officer should be allowed to set out her or his case and to answer any allegations that have been made. The officer should also be allowed to ask questions, present evidence, call witnesses, and be given an opportunity to raise points about any information provided by witnesses.
9. If the officer cannot attend a meeting the responsible person should be informed in advance as soon as possible. If the failure to attend has arisen as the result of circumstances outside the officer's control and unforeseeable at the time the meeting was arranged (for example illness), the responsible person should arrange another meeting. A decision may be taken in the officer's absence if he or she fails to attend the re-arranged meeting without good reason. If the officer's companion cannot attend on a proposed date, the officer can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the responsible person. That five-day time limit may be extended by mutual agreement.
10. The companion should be allowed to address the hearing in order to:
 - put the officer's case;
 - sum up the officer's case; and
 - respond on the officer's behalf to any view expressed at the hearing.

The companion can also confer with the officer during the hearing. It is good practice to allow the companion to participate as fully as possible in the hearing, including asking witnesses questions. But the

companion has no right to answer questions on the officer's behalf, or to address the hearing if the officer does not wish it, or to prevent the responsible officer from conducting the proceedings in any way.

Decide on outcome and action

11. Following the meeting the responsible person must decide whether any disciplinary sanction is justified or not. Where it is decided that no formal action should be taken the officer should be so informed. Where it is decided that some disciplinary sanction is justified the responsible person will need to consider what form it should take. Before making any decision, account should be taken of the officer's disciplinary and general record, her or his length of service, actions taken in any previous similar case, the explanations given by the officer and – most important of all – whether the intended disciplinary sanction is reasonable under the circumstances.
12. Where the responsible person decides that a disciplinary sanction, other than removal from office, is justified by reasons that include a failure or inability to perform, or unsatisfactory performance of, the duties of office, he or she shall consider what steps should be taken to assist the improvement of the officer's performance.

Action: initial warning

13. Where the conduct or performance of the officer is judged to have been unsatisfactory, but not such as to require removal from office, the responsible person may issue an initial warning, which will state in writing:
 - the nature of the unsatisfactory conduct or performance;
 - the improvement that is required;
 - the timescale for achieving that improvement;
 - a review date; and
 - any support that will be provided to assist the officer.
 It should further say that it represents the initial stage of a formal procedure and that failure to improve could lead to a final warning and, ultimately, to removal from office. It should refer to the officer's right of appeal.
14. A copy of the warning should be kept and used as the basis for monitoring and reviewing performance over a specified period not exceeding a year.

Action: final warning

15. Where possible an officer should be given at least one chance to improve her or his conduct or performance before a final written warning is issued. However, if the officer's misconduct or unsatisfactory performance – or its continuance – is sufficiently serious, it may be appropriate to move directly to a final warning.
16. A final warning should also normally be given where there is a failure to improve or change behaviour in the timescale set by an initial warning at the first formal stage but only after fresh disciplinary action has been taken and the officer given a chance to present her or his case at a meeting.
17. A final warning will specify in writing details of the nature of the unsatisfactory conduct or performance. It should warn the officer that failure to improve or modify behaviour may lead to removal from office or to some other penalty. It should refer to the officer's right of appeal.
18. A final warning should specify a period, not exceeding two years, after which it will normally be disregarded for disciplinary purposes.

Action: removal from office

19. Where, during the course of a disciplinary action, the responsible person concludes that the conduct or performance of the officer may be such as to justify removal from office, and notice of that fact has not already been given under paragraph 4 above, the responsible person should inform the officer forthwith and should offer to adjourn the meeting for a reasonable time. The responsible person should also inform the Vice-Chancellor as soon as reasonably practicable. No resumed or further meeting should take place on the basis that removal from office is a possible outcome unless the Vice-Chancellor has authorized the action to proceed on that basis under Regulation 15 for removal from office, discipline, and grievances.
20. Where, following consideration of the matter after a disciplinary meeting, the responsible person concludes that the conduct or performance of the officer may be such as to justify removal from office, and notice of that fact has not already been given under paragraph 4 or paragraph 19 above, the responsible person should notify the officer in writing, copying that letter to the Vice-Chancellor, and invite the officer to a further meeting for further consideration of the matter. No further meeting should take place on the basis that removal from office is a possible outcome unless the Vice-Chancellor has authorized the action to proceed on that basis under Regulation 15 for removal from office, discipline, and grievances.
21. Where, following consideration of the matter after a disciplinary meeting and any adjourned meeting under paragraph 19 above or any further meeting under paragraph 20 above, the responsible person concludes that the conduct or performance of the officer is such that the officer should be removed from office, the responsible officer should write to the officer removing her or him from office and referring to the officer's right of appeal.

Appeal

22. An appeal must be made in writing to the secretary of the competent authority within ten working days after the date of the initial or final warning or notice of removal from office, as the case may be, and must state the grounds of appeal. No ground not specified in the notice of appeal will be considered by the appeal committee without the consent of the chairman.

23. The competent authority will appoint, from a panel maintained by the Council, an appeal committee of three members who have no previous involvement in the matter to hear and determine the appeal, and will appoint one member as chairman. If the competent authority consider that there is a need for particular technical knowledge or expertise, they will have regard to that need in the appointment of members and may request the Council to appoint an additional person or persons to the panel for that purpose.
24. The appeal will be determined following an oral hearing, at which the appellant and the responsible person will be entitled to make a statement and to address the appeal committee. The appellant may be accompanied by a University officer or employee or by a trade union official, who may represent the appellant.
25. Before the appeal hearing, the appellant and the responsible person should submit and exchange written statements. No witnesses may give evidence to the appeal committee except with the consent of the chairman.
26. The procedure to be followed will be decided by the chairman of the appeal committee, and may include the setting of time-limits for each stage of the proceedings, including the hearing, in order that the appeal should be heard and determined as expeditiously as is reasonably practicable. The chairman will notify the appellant and the responsible person promptly of her or his procedural decisions.
27. Following the hearing of the appeal, the appeal committee will consider the facts of the case and may allow or dismiss an appeal, in whole or in part. The chairman will write to the appellant, the responsible person, and the secretary of the competent authority notifying them of the decision.

Derivation

28. This code of practice, except for the final section, is modelled on the Code of Practice on Disciplinary and Grievance Procedures issued by the Advisory, Conciliation and Arbitration Service under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 and brought into effect by the Employment Code of Practice (Disciplinary and Grievance Procedures) Order 2004 (SI 2004/2356).

Code of Practice for removal on medical grounds

Notifying the competent authority

1. Where the responsible person believes that the removal from office of a University officer on medical grounds should be considered, he or she should notify the secretary of the competent authority without delay.
2. Where the responsible person has notified the secretary of the competent authority under paragraph 1 above, or whether the responsible person is notified by the secretary of the competent authority that it appears to the competent authority that the removal from office on medical grounds should be considered, the responsible person should thereafter act in accordance with the advice of the secretary of the competent authority in the matter.

Writing to the officer

3. The first step is for the secretary of the competent authority to write to the officer in accordance with Regulation 18 and to follow the process in Regulation 20 of the regulations for removal from office, discipline, and grievances. Only if that does not result in a consensual course of action will the formal process specified below be needed.

Formal consideration of the matter

4. The competent authority will constitute a medical committee of three persons, one of whom will normally be medically qualified, to consider and determine the matter and will appoint one member as chairman of the committee.
5. The chairman of the medical committee will arrange for a meeting of the committee with the officer concerned, informing the officer in writing of her or his right to be accompanied at the meeting. The officer should be given copies of any documents that will be produced at the meeting.
6. The secretary of the competent authority is entitled to be a party to the proceedings and may appoint a representative to act for her or him for that purpose.

The right to be accompanied

7. The officer has the right to be accompanied by another officer or University employee or by a trade union official. The officer must make a reasonable request (not necessarily in writing) to the secretary of the medical committee to be accompanied. For example, a request to be accompanied by a person who is a material witness or who has a conflict of interest in the matter at issue would probably not be reasonable. For a person to qualify as a trade union official, he or she must be certified in writing by the union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. The officer has no right to insist on being accompanied by a particular person against that person's will.
8. Before the hearing takes place, the officer should tell the secretary of the competent authority whom he or she has chosen as a companion.

Holding a meeting

9. The conduct of the meeting will be in the hands of the chairman, who must ensure that
 - the officer has received the whole of the written evidence that is before the medical committee;

- the officer is given the opportunity to set out her or his case and to respond to any evidence before the committee;
 - the officer is given the opportunity to ask questions, present evidence and call witnesses;
 - the officer's companion is allowed to confer with the officer during the hearing and to represent the officer by putting and summing up her or his case and responding on her or his behalf to any view expressed at the meeting (though the companion has no right to answer questions on the officer's behalf, or to address the committee if the officer does not wish it, or to prevent the chairman from conducting the proceedings in any way).
10. If the officer cannot attend a meeting he or she should inform the secretary of the medical committee in advance as soon as possible. The chairman will then decide how to proceed, having regard to the requirements of fair procedure, the rights of the officer concerned, and the need to achieve a resolution of the matter.
 11. Where the medical committee are of the view that the officer should undergo medical examination by a qualified medical practitioner nominated by the competent authority, they will ask the secretary of the competent authority to act under Regulation 18(c) of the regulations for removal from office, discipline, and grievances

Deciding on the outcome

12. Following the meeting the medical committee will decide whether or not the officer should be removed from her or his office on medical grounds. The chairman will write to the officer and to the secretary of the competent authority notifying them of the decision. If the decision is to remove from office, the letter should refer to the officer's right of appeal.

Appeal

13. An appeal must be made in writing to the secretary of the competent authority within ten working days after the date of the decision letter of the medical committee, and must state the grounds of appeal. No ground not specified in the notice of appeal will be considered by the appeal committee without the consent of the chairman.
14. The competent authority will appoint an appeal committee of three members, one of whom will normally be medically qualified, who have no previous involvement in the matter to hear and determine the appeal, and will appoint one member as chairman.
15. The appeal will be determined following an oral hearing, at which the appellant and the secretary of the competent authority (or her or his representative) will be entitled to make a statement and to address the appeal committee. The appellant may be accompanied by a University officer or employee or by a trade union official, who may represent the appellant.
16. Before the appeal hearing, the appellant and the secretary of the competent authority (or her or his representative) should submit and exchange written statements. No witnesses may give evidence to the appeal committee except with the consent of the chairman.
17. The procedure to be followed will be decided by the chairman of the appeal committee, and may include the setting of time-limits for each stage of the proceedings, including the hearing, in order that the appeal should be heard and determined as expeditiously as is reasonably practicable. The chairman will notify the appellant and the responsible person promptly of her or his procedural decisions.
18. Following the hearing of the appeal, the appeal committee will consider the facts of the case and may allow or dismiss an appeal, in whole or in part. The chairman will write to the appellant, the responsible person, and the secretary of the competent authority notifying them of the decision.

Code of Practice for appeal against selection for removal or dismissal on grounds of redundancy

1. An appeal must be made in writing to the secretary of the competent authority within ten working days after the date of the notice of selection, and must state the grounds of appeal. No ground not specified in the notice of appeal will be considered by the appeal committee without the consent of the chairman.
2. The competent authority will appoint an appeal committee of three members and will appoint one member as chairman.
3. The appeal will be determined following an oral hearing, at which the appellant and the secretary of the competent authority (or her or his representative) will be entitled to make a statement and to address the appeal committee. The appellant may be accompanied by a University officer or employee or by a trade union official, who may represent the appellant.
4. Before the appeal hearing, the appellant and the secretary of the competent authority (or her or his representative) should submit and exchange written statements. No witnesses may give evidence to the appeal committee except with the consent of the chairman.
5. The procedure to be followed will be decided by the chairman of the appeal committee, and may include the setting of time-limits for each stage of the proceedings, including the hearing, in order that the appeal should be heard and determined as expeditiously as is reasonably practicable. The chairman will notify the appellant and the responsible person promptly of her or his procedural decisions.
6. The chairman of the appeal committee may decide to hear jointly one or more appeals where he or she is of the view that it would be fair and expedient to do so.
7. Following the hearing of the appeal, the appeal committee will consider the facts of the case and may allow or dismiss an appeal, in whole or in part. The chairman will write to the appellant, the responsible person, and the secretary of the competent authority notifying them of the decision.

Code of Practice for the retirement of University officers and for the continuation of employment beyond the normal retirement age

The normal retirement age

1. The normal retirement age specified in Statute D, I, 11 for a University officer is the end of the academical year in which he or she attains the age of sixty-seven years.
2. Statute D, I, 11 prevents the continuation of an officer in her or his University office after the normal retirement age. Therefore any continuation of employment will be in an unestablished post on terms determined in accordance with this code of practice.
3. Except with the consent of the competent authority, any continuation of employment will be for a period not exceeding three years. A former University officer who is continued in employment may apply for a further continuation at the end of that period in accordance with this code of practice (disregarding paragraph 7 and applying paragraph 18 below).

Scope of the code of practice

4. This code of practice applies to University officers. It may be applied to such other categories of University staff as the competent authority may determine.
5. Where the institution or body which is chiefly concerned with the officer's duties is within a School, then the procedure described in the following paragraphs will apply. Where that is not the case, then a similar procedure approved by the competent authority will apply.

Application for the continuation of employment

6. The Human Resources Division will write at the beginning of the academical year at the end of which an officer reaches the normal retirement age telling the officer of her or his retirement date and the steps to be taken to request continuation of employment after that date. The letter will be copied to the responsible person for the officer concerned.
7. However, in order to allow for forward planning, at least a year earlier than that the responsible person will discuss with the officer her or his future plans and will write to the officer asking that any application for the continuation of employment should be received in writing on the form provided for that purpose not later than 31 October twenty-three months before the normal retirement age. Such an application may be for full-time or part-time employment and should state a new proposed date of retirement. It should be accompanied by the officer's full *curriculum vitae*.
8. On receipt of an application for the continuation of employment, the responsible person will write to the officer inviting her or him to a meeting to discuss the matter at which the officer has the right to be accompanied by a University employee or by a trade union official. If the officer so wishes, he or she may notify the responsible person in writing that such a meeting is not required.
9. Applications for the continuation of employment will be considered by a Retirement Committee constituted by the School, who will receive
 - (a) the officer's application and *curriculum vitae*;
 - (b) any additional written evidence from the officer;
 - (c) a report from the responsible person, which will include
 - (i) a statement of the benefits to the institution or body chiefly concerned with the officer's duties of retaining the services of the officer, weighed against the benefits of discontinuing or replacing those services;
 - (ii) a statement of the resource implications for the institution or body;
 - (iii) an undertaking that the institution or body will assume financial responsibility for the continuation of employment, or a statement of the extent to which that is not the case and the reasons for it;
 - (iv) an assessment of the application against the forward plans for the institution or body, and a statement of the plan for the future discontinuance or replacement of the officer's services; and
 - (v) a recommendation for the approval (and on what terms, if different from those of the application) or for the rejection of the application;
 - (d) a report from the Head of the School, which will include
 - (i) a statement of the benefits to the School of retaining the services of the officer, weighed against the benefits of discontinuing or replacing those services;
 - (ii) a statement of the resource implications for the School;
 - (iii) a report on any statement by the responsible person that the institution or body concerned with the officer's duties is unwilling to assume financial responsibility for the continuation of employment; and
 - (iv) an assessment of the application against the forward plans for the School.
10. The Council of the School, after consultation with the Human Resources Division, may approve any policies in amplification of this code of practice. Any such policies shall be made public and shall be specifically notified to all officers nearing the retiring age.
11. The Retirement Committee will send the papers relating to each application, together with the minute recording their recommendation on it, to the Council of the School for approval. Where the recommendation is for the continuation of employment, the minute should state the recommended terms of that continuation. All applications received by 31 October in accordance with paragraph 7 above should be considered as a gathered field by the Retirement Committee and by the Council of the School, and the Council of the School should aim to complete the process by the following 31 March.

12. The papers and the minute recording the decision of the Council of the School in respect of each application will be sent to the Human Resources Division and to the competent authority, accompanied by an undertaking by the School to assume financial responsibility for all continuation of employment.
13. The officer will be notified in writing by the secretary of the competent authority of the decision to offer a continuation of employment or to reject the application for continuation. The decision letter will specify a date by which the officer must accept any offer of continuation in writing (after which it will lapse), and (unless an offer is made on the terms applied for) will tell the officer of her or his right of appeal against that decision.

Appeal

14. Within ten working days after the date of the decision letter, the officer may appeal in writing to the secretary of the competent authority setting out the grounds for appeal.
15. On receipt of an appeal, the competent authority will appoint one or more persons to inquire into the matter and (unless the appeal is withdrawn) to report. The person or persons inquiring into the matter will not report before the appellant has been afforded the opportunity of a meeting at which he or she may be accompanied by an officer or University employee or by a trade union official.
16. After considering the report of the person or persons inquiring into the matter, the competent authority may dismiss the appeal, or may offer a continuation of employment on such terms as it may see fit.
17. The decision of the competent authority will be final in the matter.

Late applications

18. Where an application for the continuation of employment is received later than the date specified in paragraph 7 above, the responsible person shall at once notify the Human Resources Division, who will advise on the process to be followed. That process will, so far as is reasonably practicable, follow the procedure specified above.

The management of conflict of interest

19. Where the officer concerned is the Head of the appropriate Department or other institution, or the Chairman of the Board, Syndicate, or other body which is chiefly concerned with her or his own duties, the responsible person shall be the Head of the School.
20. Where the officer concerned is the Head of the School, the responsible person shall be the secretary of the competent authority (both in relation to the office of Head of School and in relation to any other office held by the officer concerned, but in respect of any other office the secretary of the competent authority shall seek the advice of whomever would otherwise be the responsible person).
21. No officer shall receive any papers or participate in the discussion of any body in relation to her or his own application for the continuation of employment.
22. The responsible person for an officer shall not participate in any discussion by the Retirement Committee of that officer's application (but may participate in such discussion by the Council of the School).

Annual review

23. During the Easter Term of each academical year, the papers from Schools and comparable authorities will be received by the Human Resources Committee, who will review the operation of this code of practice and will report to the Council and to the General Board.

Code of Practice for the redress of grievances

General

1. Every member of staff has a right to raise any concerns, problems or complaints relating to her or his terms and conditions of appointment or employment, unless the matter is subject to other agreed procedures. The purpose of this code is to resolve such grievances as informally, fairly, consistently, and speedily as possible.
2. Most grievances should first be raised informally by the member of staff with her or his line manager or other person to whom the member looks for instruction and guidance.
3. A member of staff may at any time withdraw a grievance or may agree that it has been resolved.
4. The purpose of this code of practice is to provide an appropriate means for University staff to seek redress of workplace concerns. Where after investigation a grievance is found to be vexatious or malicious and without any reasonable foundation, disciplinary action may follow.

Mediation

5. At the first and second stage of the grievance procedure the aggrieved member of staff and the person responsible for considering the grievance shall consider whether to refer the matter to mediation.

First Stage

6. If the grievance cannot be resolved by informal discussions, then the member of staff may make a written complaint to the Head of the institution in which her or his appointment is held.
7. If the grievance directly concerns the Head of the institution, the member of staff should write to the Director of Human Resources, who will appoint a person to act in place of the Head of institution in the Second Stage of the grievance procedure.
8. On receipt of a written grievance a Head of institution should notify the Human Resources Division without delay, who will inform the secretary of the competent authority.

9. That applies also in the case of a written grievance from a former member of staff relating to her or his previous appointment or employment
10. The role of the Human Resources Division is to advise on the requirement of fair and correct procedure. The involvement of the Division in all cases – however apparently straightforward – is essential, as employment is a complex area of law in which the need to decide matters fairly and to avoid unlawful discrimination is especially important.

Second Stage

11. The Head of the institution will arrange a meeting with the member of staff, if possible within five working days after receipt of the complaint, and will inform the member of her or his right to be accompanied, confirming that information in writing.
12. The member of staff has the right to be accompanied by a University employee or by a trade union official. The member must make a reasonable request (not necessarily in writing) to be accompanied. For example, a request to be accompanied by a person who is involved in the substance of the grievance would probably not be reasonable. For a person to qualify as a trade union official, he or she must be certified in writing by the union as having experience of, or having received training in, acting as a worker's companion at disciplinary or grievance hearings. The officer has no right to insist on being accompanied by a particular person against that person's will.
13. Before the hearing takes place, the member of staff should tell the Head of institution whom he or she has chosen as a companion. It can sometimes be helpful for the companion and the Head of institution to make contact before the hearing.
14. Where possible, the timing and location of the meeting should be agreed with the member of staff and with any companion of the member. The meeting should be held in a private location and there should be no interruptions. If the member's companion cannot attend on the proposed date, the member can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the responsible person. That five-day time limit may be extended by mutual agreement.
15. At the meeting, the member of staff should be allowed to explain the complaint and say how he or she thinks it should be settled. If a point in the meeting is reached where the Head of institution is not sure how to deal with the grievance or believes that further investigation is necessary, he or she should adjourn the meeting to get advice or to investigate further.
16. The companion should be allowed to participate as fully as possible in the meeting, and to confer with the member of the staff during the course of the meeting. But the companion may not answer questions on the member's behalf; nor address the meeting if the member does not wish it; nor prevent the Head of institution from conducting the proceedings in any way.
17. The Head of institution should give the grievance careful consideration before responding
18. The Head of institution should write to the member of staff within a reasonable time, and normally not more than five working days after the meeting, responding to the grievance and referring to the member's right of appeal. Where it is not possible to respond within five working days the member should be given an explanation for the delay and told when a response can be expected

Third Stage

19. If the member of staff wishes to appeal, he or she may, within ten working days after the date of the letter of response, write to the Director of Human Resources asking that the grievance be referred to the Human Resources Committee.
20. On receipt of such a request, the Human Resources Committee will appoint one or more persons to inquire into the grievance with a view to resolving it, and to report.
21. If the grievance is withdrawn, or agreed to have been resolved, by the member of staff who made it, then the person or persons inquiring into the grievance shall not be obliged to proceed further or to report.
22. The Human Resources Committee will decide, after consideration of the report, what action (if any) to take.
23. The Human Resources Committee and the person or persons appointed to inquire into the grievance shall proceed with all reasonable speed.

Rules of inquiry

24. The following rules shall apply as regards an inquiry under the Third Stage of the grievance procedure:
 - The parties to the grievance shall be the member of staff aggrieved and those other persons whom the person or persons inquiring into the grievance may identify as parties.
 - Before any report is made, each party to the grievance shall be heard. Such a hearing need not be by all of the persons (if more than one) inquiring into the grievance, and need not be in the presence of other parties.
 - Each party to the grievance shall be entitled to be represented or accompanied at any hearing by a trade union officer or another member of staff.
 - Subject to the above rules, the conduct of the inquiry shall be determined in a way considered just and fair by the person or persons conducting it.

Derivation

25. This code of practice is modelled on the Code of Practice on Disciplinary and Grievance Procedures issued by the Advisory, Conciliation and Arbitration Service under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 and brought into effect by the Employment Code of Practice (Disciplinary and Grievance Procedures) Order 2004 (SI 2004/2356).

Guidance on mediation*What is mediation?*

1. Mediation is a process of discussion with an independent person to help two sides find a way of resolving the issues between them and moving on.

Is mediation the best course?

2. It may well be, if the two sides want to find a way forward and maintain and carry forward a productive working relationship. It may not be, if the main concern of either side is the determination of the rights and wrongs of an issue or the establishment of legal rights.

What authority does the mediator have to decide the matter?

3. None. The mediator's role is to help the parties find common ground, but he or she cannot tell them what to do. It is not for the mediator to make judgments in the matter.

Who are the parties to a mediation?

4. The parties will include the aggrieved person and the person against whom the grievance lies.

Is the Head of institution or her or his representative a party?

5. That will depend on the circumstances of the matter and the mediator will advise.

How does the mediator work?

6. It is for the mediator to decide how he or she will go about the task. Commonly, however, the mediator will begin by talking to both parties separately.
7. The mediator will want to know your views and how you feel about things, and will want to know what you think should be done. The mediator may have her or his own ideas and suggestions and want your reaction to them. The mediator may encourage you to understand what the other party thinks and feels, and will want any ideas that you have as to a middle way.
8. Each side should speak frankly, because the mediator has to have a full understanding of the situation to do a proper job. Nothing that you say will be passed on by the mediator to anyone else without your consent.
9. When the time is right, the mediator will bring the two sides together and give each the opportunity to speak to the other and say what they feel without interruption. The mediator may then ask questions, as will have happened already in private session, and may suggest solutions for comment.

What if all goes well?

10. The mediator will write down what is agreed and ask both sides to sign to confirm its accuracy.

Must I stick to what I have signed?

11. You will be expected to do your best to do that, otherwise there is little point in the whole process. However any agreement reached will not be legally binding unless both sides have specifically asked for that, in which case you will be given the opportunity to take legal advice before signing other than provisionally.

What if it does not work?

12. At any time the mediator or either party may decide that mediation is unlikely to work and should be discontinued.

What then happens to the grievance?

13. It is unresolved and the formal process under the code of practice for grievances remains.

Can either side (or the Head of institution) insist on mediation?

14. No. Moreover either side can withdraw its agreement at any time.

Who will the mediator be?

15. The Council of the University will maintain a panel of persons willing to act as mediators. The mediator will be selected by the Registry from that panel and will be someone who has had no previous dealings with the parties involved.

Where will the mediation take place?

16. It will be held somewhere other than the institution concerned. A venue with at least two rooms will be needed for the mediator to meet privately with the two sides.

Can I bring a representative or friend?

17. Yes, but the mediator should be notified of who you propose to bring in advance as both sides need to know who is attending.

How do I prepare for mediation?

18. The mediator may give you guidance on preparation when the mediation is arranged. The parties may be asked to write down in advance the problem they want the mediator to help with and a short account of events. The mediator will also normally have received copies of papers relating to a grievance in order to help her or him prepare for the mediation.

Can I ask for recommendations from the mediator?

19. Yes, but both sides have to agree to that. If both sides agree, the mediator will provide written recommendations after the conclusion of the mediation process, but will only provide them if the mediation fails. (If it succeeds, there will be a record, prepared at the time, of what is agreed.)

Do I have anything to lose by mediation?

20. Not really. If mediation fails the grievance procedure will continue to be available.

Are there any conditions for mediation?

21. It is a strict condition of mediation that the parties to the process should maintain confidentiality. In particular it is a strict condition that the mediator should not be asked to give evidence on the content of the mediation at a later date.

Derivation

22. This code of practice is modelled on the Advisory Conciliation and Arbitration Service Mediation Procedure.

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