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University Governance

University Ordinances

Ordinance XXXVI

Staff Disciplinary and Dismissal Appeal Procedures

(Version effective from 10 July 2015 until 1 July 2020)

1. This ordinance shall apply to all staff to whom paragraph 3 of Statute XXI refers^[1]. Provisions for all other staff shall be found in the relevant Conditions of Service.

2. An employee has the right of appeal against any formal disciplinary action taken. Appeals may be submitted on the following grounds:

- a) A failure to follow procedure which thereby led to an unjust outcome.
- b) The imposition of an inappropriate penalty considering the facts of the misconduct and mitigating circumstances.
- c) A perverse finding by the disciplinary manager.
- d) New evidence which was not available to the appellant at the disciplinary hearing has become available.

2. Appeal Against Formal Verbal Warning, or Formal Written Warning, or Final Written Warning, or Downgrading, or Transfer to Alternative Employment

2.1 In disciplinary cases involving the issue of a Formal Verbal Warning, or Formal Written Warning, or Final Written Warning, Downgrading or Transfer to Alternative Employment, the employee shall have the right to appeal to the next management level. Such an appeal must be lodged in writing with the Director of Human Resources, within 14 days^[2] of the warning being notified in writing and should set out in full the grounds for the appeal. The appeal will normally be heard within 21 days of receipt of the notice of appeal and every effort will be made to seek a mutually convenient time. Where this time scale cannot be met, for good cause, both parties will be fully informed.

2.2 Witnesses are not normally required for the purposes of the appeal hearing. If the appellant or management wish to call a witness, they should explain the reasons in their appeal statement.

2.3 The employee shall have the right of appearing personally, either alone or accompanied/represented by a trade union representative (including a full time officer), or a University colleague of their choice.

2.4 The appeal will be heard by the appropriate manager in accordance with the agreed table of authority, who will not have previously been directly involved in the case, in the presence of:-

- The appellant and representative, if applicable
- The management representative.
- An HR Adviser who will provide advice and assistance on the use of the procedure.

2.5 The employee or his/her representative should be given at least 10 days' notice of the date of the appeal hearing. The Director of Human Resources shall send a copy of each Statement and any other supporting documentation, to the Appellant and the management representative respectively and copies of both Statements, to the members of the Appeal Panel, no later than 7 days before the appeal hearing.

2.6 At the end of the hearing, both sides shall have the opportunity to sum up their cases, but the employee, or their representative, shall have the right to speak last.

3. Appeal Against Dismissal

3.1 Appeals against dismissal, whether for reasons of conduct, capability/qualifications, redundancy, contravention of a duty or restriction imposed by or under an enactment, or 'some other substantial reason' will be considered in accordance with the following procedure. In every case of dismissal, the employee concerned will be advised of their right of appeal and referred to this document.

3.2 An appeal against dismissal shall be heard by a panel of three persons for all appeals except those against the termination of a fixed term contract. The composition of the panel shall be as follows:

- a Chair, who shall be a lay member of Council
- a member, who shall not be from the same department or section as the appellant, shall not have a line management relationship with the appellant and who shall not have been involved in the action which led to the appeal.
- a member, nominated by the appellant, who must be an employee of the University, who must not have been involved in the action which led to the appeal, and who may be a member of the union recognised by the University as appropriate to the appellant's employment.

3.3 Appeals against the termination of a fixed term contract will be heard by the relevant Dean/Director of Professional Service.

3.4 An employee who wishes to appeal against dismissal shall notify the Director of Human Resources, in writing, of the intention to appeal and indicate a nominee to the Appeals Panel. This must be done within 21 days of receiving notice of dismissal.

3.5 Upon receipt of the notice of appeal, the Director of Human Resources will make arrangements for the appeal to be heard by an Appeal Panel.

3.6 The Director of Human Resources shall write to the Appellant and the responsible manager, requiring them to prepare and submit, no later than 14 days before the appeal hearing, their respective Statements of Case, including copies of any relevant documents, details of any new evidence relevant to the case and a list of any witnesses they intend to call in support of their respective cases.

3.7 When both statements have been received, the Director of Human Resources shall send a copy of each Statement, to the Appellant and the management representative respectively and copies of both Statements, to the members of the Appeal Panel, no later than 10 days before the appeal hearing.

3.8 The Appellant and the management representative shall each have the right of appearance at the Appeal Hearing. In the event of an Appellant choosing not to attend the Appeal, or failing to attend, the Appeal Panel may hear the appeal in that person's absence.

3.9 The Appellant may be accompanied/represented by a trade union representative (including a full time officer) or a University colleague of their choice.

3.10 If the Appeal Panel feels that a witness has been called unnecessarily, it shall ask the relevant person to explain the significance of the witness. If the Appeal Panel, on receipt of this additional information feels that the witness is not required, the witness will not be permitted to attend.

3.11 The Appeal Panel shall attempt to reach a unanimous decision, but where this is not possible, a majority opinion shall be conclusive. The Panel may adjourn its proceedings, if necessary, but it shall make every effort to conclude its proceedings on the same day.

3.12 The Chair of the Appeal Panel shall advise all parties to the appeal of the Panel's decision as soon as possible and the decision shall be confirmed in writing to the employee and the representatives, within five days

4. Suggested Order for Conduct of Dismissal Appeal Hearings

4.1 The Chair of the Appeal Panel will have discretion to run the Hearing in the most appropriate way, dependent on the circumstances and grounds of appeal. It is envisaged that the majority of Hearings will follow the format outlined below. However, if the grounds of appeal are that the process followed was procedurally flawed, it may be appropriate to run the appeal hearing as a re-hearing of the case.

4.2 The Chair of the Appeal Panel will open the hearing by introducing those present, outlining the grounds upon which the employee has appealed, explaining how the hearing will be conducted, explaining the roles of those attending and the possible outcomes. The hearing will normally be conducted as follows:

4.3 The Appellant, or their representative shall present the grounds of appeal introducing any new evidence and any witnesses.

4.4 The management representative and the Appeal Panel, may ask questions of the Appellant and witnesses.

4.5 The management representative shall respond to the Appellant's case.

4.6 The Appellant, or their representative and the Appeal Panel may ask questions of the management representative and witnesses.

4.7 The management representative shall sum up the University's case.

4.8 The Appellant, or their representative, shall sum up the Appellant's case.

4.9 Both sides shall withdraw until the Panel reaches a decision.

4.10 The Appeal Panel shall deliberate in private and shall be able to recall both parties to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point in question.

4.11 The Appeal Panel has the following decisions available to it:

- to dismiss the appeal
- to uphold the appeal and to reduce or remove the disciplinary penalty

The Appeal Panel decision is final.

4.12 The Chair of the Appeal Panel shall normally announce the Panel's decision to the parties in person and confirm in writing, but where this is not practicable, the parties will be advised in writing, as soon as possible and within 5 days.

[1] Staff where a substantial proportion of their duties involve the provision of teaching, learning or research.

[2] Throughout this procedure "days" refers to calendar days, unless specified otherwise.

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