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Disciplinary, Appeals and Grievance Procedures - Academic Staff

Extracted from Charter, Statutes and Ordinances 2011

Part III: Discipline, Dismissal and Removal from Office

Disciplinary Procedures

- i) Minor faults shall be dealt with informally.
- ii) Where the matter is more serious but falls short of constituting possible good cause for dismissal the following procedure shall be used:

Stage 1 - Oral Warning

If conduct or performance does not meet acceptable standards the Member of the Academic Staff will normally be given a formal ORAL WARNING. The Member will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of the right of appeal under this paragraph. A brief note of the oral warning will be kept but it will be spent after 12 months, subject to satisfactory conduct and performance.

Stage 2 - Written Warning

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the Member of the Academic Staff by the Dean of the Faculty, School or Department or equivalent officer. This will give details of the complaint, the improvement required and the timescale. It will warn that a complaint may be made to the Pro-Rector (Operations) seeking the institution of charges to be heard by a Tribunal appointed under paragraph 16 if there is no satisfactory improvement and will advise of the right of appeal under this paragraph. A copy of this written warning will be kept by the Dean of the Faculty, School or Department or equivalent officer but it will be disregarded for disciplinary purposes after 2 years subject to satisfactory conduct and performance.

Stage 3 - Appeals

A Member of the Academic Staff who wishes to appeal against a disciplinary warning shall inform the Pro-Rector (Operations) within two weeks. The Pro-Rector (Academic) shall hear all such appeals and his decision shall be final.



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Preliminary examination of serious disciplinary matters

i) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in paragraph 13, or in any other case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges to be heard by a Tribunal appointed under paragraph 16 may be made to the Pro-Rector (Operations) who shall bring it to the attention of the Rector and Vice-Provost.

ii) To enable the Rector and Vice-Provost to deal fairly with any complaint brought to his attention under sub-paragraph (i) he shall institute such investigations or enquiries (if any) as appear to him to be necessary.

iii) If it appears to the Rector and Vice-Provost that a complaint brought to his attention under sub-paragraph (i) relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under paragraph 13 or which relates to a particular alleged infringement of rules, Regulations or Ordinances for which a standard penalty is normally imposed in the College or within the Faculty, School, Department, Institute or other relevant area, or is trivial or invalid he may dismiss it summarily, or decide not to proceed further under this Part.

iv) If the Rector and Vice-Provost does not dispose of a complaint under sub-paragraph (iii) he shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if he sees fit, he may suspend the Member on full pay pending a final decision.

v) Where the Rector and Vice-Provost proceeds further under this Part he shall write to the Member of the Academic Staff concerned inviting comment in writing.

vi) As soon as may be following receipt of the comments (if any) the Rector and Vice-Provost shall consider the matter in the light of all the material then available and may:

a) dismiss it himself; or

b) refer it for consideration under paragraph 13; or



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- c) deal with it informally himself if it appears to the Rector and Vice-Provost appropriate to do so and if the Member of the Academic Staff agrees in writing that the matter should be dealt with in that way; or
 - d) direct the Pro-Rector (Operations) to prefer a charge or charges to be considered by a Tribunal to be appointed under paragraph 16.
- vii) If no comment is received within 28 days the Rector and Vice-Provost may proceed as aforesaid as if the Member concerned had denied the substance and validity of the alleged case in its entirety.

Institution of Charges

- i) In any case where the Rector and Vice-Provost has directed that a charge or charges be preferred under paragraph 14(vi)(d), he shall request the Council to appoint a Tribunal under paragraph 16 to hear the charge or charges and to determine whether the conduct or performance of the Member of the Academic Staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the Member's appointment or employment.
- ii) Where the Council has been requested to appoint a Tribunal under paragraph 16 the Pro-Rector (Operations) or, if he is unable to act, another officer appointed by the Rector and Vice-Provost shall take charge of the proceedings.
- iii) The officer in charge of the proceedings shall formulate, or arrange for the formulation of, the charge or charges and shall present, or arrange for the presentation of, the charge or charges before the Tribunal.
- iv) It shall be the duty of the officer in charge of the proceedings:
 - a) to forward the charge or charges to the Tribunal and to the Member of the Academic Staff concerned together with the other documents therein specified; and
 - b) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.



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The Tribunal

A Tribunal appointed by the Council shall comprise:

- a) a Chairman; and
- b) one Member of the Council, not being a person employed by the College; and
- c) one Member of the Academic Staff nominated by the Senate.

Provisions concerning Tribunal procedure

- i) The procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal shall be that set out in Ordinances made under this paragraph.
- ii) Without prejudice to the generality of the foregoing such Ordinances shall ensure:
 - a) that the Member of the Academic Staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;
 - b) that a charge shall not be determined without an oral hearing at which the Member of the Academic Staff concerned and any person appointed by him to represent him are entitled to be present;
 - c) that the Member of the Academic Staff and any person representing the staff Member may call witnesses and may question witnesses upon the evidence on which the case against him is based; and
 - d) that full and sufficient provision is made:
 - i) for postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Rector and Vice-Provost for further consideration and for the correction of accidental errors; and
 - ii) for appropriate time limits for each stage (including the hearing) to the intent that any charge thereunder shall be



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heard and determined by a Tribunal as expeditiously as reasonably practicable.

Notification of Tribunal decisions

- i) A Tribunal shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the Rector and Vice-Provost and to each party to the proceedings.
- ii) A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

Powers of the appropriate officer where charges are upheld by Tribunal

- i) Where the charge or charges are upheld and the Tribunal finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the Member of the Academic Staff concerned.
- ii) In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-paragraph (i) to dismiss the Member of the Academic Staff concerned, the action available to the appropriate officer (not comprising a greater penalty than that recommended by the Tribunal) may be:
 - a) to discuss the issues raised with the Member concerned; or
 - b) to advise the Member concerned about his future conduct; or
 - c) to warn the Member concerned; or
 - d) to suspend the Member concerned for such period as the appropriate officer shall think fair and reasonable, not to exceed 3 months after the Tribunal's decision; or
 - e) any combination of any of the above or such further or other action under the Member's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case.



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Appropriate Officers

- i) The Rector and Vice-Provost shall be the appropriate officer to exercise the powers conferred by paragraph 19 and any reference to the appropriate officer includes a reference to a delegate of that officer.
- ii) Any action taken by the appropriate officer shall be confirmed in writing.

Part V: Appeals

Purpose of Part V

This Part establishes procedures for hearing and determining appeals by Members of the Academic Staff who are dismissed or under notice of dismissal or who are otherwise disciplined.

Application and interpretation of Part V

- i) This Part applies:
 - a) to appeals against the decisions of the Council as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II of Statute 23;
 - b) to appeals arising in any proceedings, or out of any decision reached, under Part III other than appeals under paragraph 13 (Appeals against disciplinary warnings);
 - c) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
 - d) to appeals against discipline otherwise than in pursuance of Part III; and
 - e) to appeals against decisions reached under Part IV of Statute 23and “appeal” and “appellant” shall be construed accordingly.
- ii) No appeal shall however lie against:
 - a) a decision of the appropriate body under paragraph 10(ii);
 - b)



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- c) the findings of fact of a Tribunal under paragraph 18(i) save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;
 - d) any finding by a Board set up under paragraph 22(iii).
- iii) In this Part references to “the person appointed” are references to the person appointed by the Council under paragraph 28 to hear and determine the relevant appeal.
- iv) The parties to an appeal shall be the appellant and the Pro-Rector (Operations) and any other person added as a party at the direction of the person appointed.

Institution of Appeals

A Member of the Academic Staff shall institute an appeal by serving on the Pro-Rector (Operations), within the time allowed under paragraph 27, notice in writing setting out the grounds of the appeal.

Time for appealing and notices of appeal

- i) A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under sub-paragraph (iii).
- ii) The Pro-Rector (Operations) shall bring any notice of appeal received (and the date when it was served) to the attention of the Council and shall inform the appellant that he has done so.
- iii) Where the notice of appeal was served on the Pro-Rector (Operations) outside the 28 day period the person appointed under paragraph 28 shall not permit the appeal to proceed unless he considers that justice and fairness so require in the circumstances of the case.

Persons appointed to hear and determine appeals

- i) Where an appeal is instituted under this Part the Council shall appoint a person described in sub-paragraph (ii) to hear and determine that appeal.



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- ii) The persons described in this sub-paragraph are persons not employed by the College being persons holding, or having held, judicial office or being barristers or solicitors of at least ten years' standing.
- iii) The person appointed shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons.
- iv) The other persons who may sit with the person appointed shall be:
 - a) one Member of the Council not being a person employed by the College; and
 - b) one Member of the Academic Staff nominated by the Senate.

Provisions concerning appeal procedures and powers

- i) The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Ordinances made under this paragraph.
- ii) 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 be legally qualified or not, in connection with and at any hearing of his appeal;
 - b) that an appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by him to represent him are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses;
 - c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and
 - c) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.



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- iii) The person or persons hearing the appeal 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 Part II to the Council as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or
 - b) remit an appeal arising under Part III for re-hearing by a differently constituted Tribunal to be appointed under that Part; or
 - c) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or
 - d) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Tribunal which heard and pronounced upon the original charge or charges.

Notification of decisions

The person appointed shall send the reasoned decision, including any decision reached in exercise of his powers under paragraph 29(iii)(a), (b) or (c), on any appeal together with any findings of fact different from those come to by the Council as the appropriate body under Part II or by the Tribunal under Part III, as the case may be, to the Rector and Vice-Provost and to the parties to the appeal.

Part VI: Grievance Procedures

Purpose of Part VI

The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, within the Faculty, School, Department, Institute or other relevant area by methods acceptable to all parties.

Application

The grievances to which this Part applies are ones by Members of the Academic Staff concerning their appointments or employment where those grievances relate:



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- a) to matters affecting themselves as individuals; or
- b) to matters affecting their personal dealings or relationships with other staff of the College,

not being matters for which express provision is made elsewhere in this Statute.

Exclusions and Informal Procedures

- i) If other remedies within the Faculty, School, Department, Institute or other relevant area have been exhausted the Member of the Academic Staff may raise the matter with the Dean of the Faculty, School, Department, Institute or other relevant area.
- ii) If the Member of the Academic Staff is dissatisfied with the result of an approach under sub-paragraph (i) or if the grievance directly concerns the Dean of the Faculty, School, Department, Institute or other relevant area, the Member may apply in writing to the Rector and Vice-Provost for redress of the grievance.
- iii) If it appears to the Rector and Vice-Provost that the matter has been finally determined under Part III, IV or V or that the grievance is trivial or invalid, he may dismiss it summarily, or take no action upon it. If it so appears to the Rector and Vice-Provost he shall inform the Member and the Grievance Committee accordingly.
- iv) If the Rector and Vice-Provost is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of):
 - a) a complaint under Part III;
 - b) a determination under Part IV; or
 - c) an appeal under Part V

he shall defer action upon it under this Part until the relevant complaint, determination or appeal has been heard or the time for instituting it has passed and he shall notify the Member and the Grievance Committee accordingly.

- v) If the Rector and Vice-Provost does not reject the complaint under sub-paragraph (iii) or if he does not defer action upon it under



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sub-paragraph (iv) he shall decide whether it would be appropriate, having regard to the interests of justice and fairness, for him to seek to dispose of it informally. If he so decides he shall notify the Member and proceed accordingly.

Grievance Committee Procedure

If the grievance has not been disposed of informally under paragraph 33(v), the Rector and Vice-Provost shall refer the matter to the Grievance Committee for consideration.

The Grievance Committee to be appointed by the Council shall comprise:

- a) a Chairman; and
- b) one Member of the Council not being a person employed by the College; and
- c) one Member of the Academic Staff nominated by the Senate.

Procedure in connection with determinations; and right to representation

The procedure in connection with the consideration and determination of grievances shall be determined in Ordinances in such a way as to ensure that the aggrieved person and any person against whom the grievance lies shall have the right to be heard at a hearing and to be accompanied by a friend or representative.

Notification of decisions

The Committee shall inform the Council whether the grievance is or is not well-founded and if it is well-founded the Committee shall make such proposals for the redress of the grievance as it sees fit.