

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

### 3.3 Removal from Office Procedure (non-substantive posts)

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

1. This Ordinance is promulgated in accordance with the provisions of Clause 1(4) of Part 1 Statute 7 and sets out the procedures for the removal of members of staff from non-substantive posts prior to the prescribed or normal termination date.
2. In this Ordinance, unless the context indicates otherwise:-
  - i. 'The Statute' shall mean Statute 7;
  - ii. 'member of staff' shall mean any member of staff as defined by Clause 1(1) of The Statute;
  - iii. in relation to any decision or action that the University is required to make or to perform under this Ordinance, 'the University' shall mean: any member of staff who usually makes such decisions or performs such actions on behalf of the University, or who in the normal course of events may reasonably be expected to do so;
  - iv. a reference to 'clinical staff' shall be taken to mean a reference to any member of staff defined in Clause 20(1) of The Statute;
  - v. references to the President and Vice-Chancellor shall be construed to refer either to the President and Vice-Chancellor or to another member of staff nominated by him or her to act with full authority on his or her behalf;
  - vi. 'line manager', in relation to any of the posts referred to in paragraph 3 below, shall mean:
    - (a) in relation to the Pro Vice-Chancellor: the President and Vice-Chancellor;
    - (b) in relation to a Dean: the President and Vice-Chancellor;
    - (c) in relation to an Associate Dean: the Dean of the relevant Faculty;
    - (d) in relation to any other post designated by the Council under paragraph 3 below: the person to whom the Council resolves that such a post will report.

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

3. This Ordinance shall apply to the removal from office of members of staff, prior to the prescribed or normal termination date, from the following posts:
  - i. Pro Vice-Chancellor;
  - ii. Dean;
  - iii. Associate Dean;or from such other posts as have been designated by the Council, to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post.
4. Such non-substantive posts are referred to in this Ordinance as 'additional posts' and a member of staff holding such a post is referred to in this Ordinance as 'the postholder'.
5. The procedure set out in this Ordinance shall apply where removal from an additional post is contemplated prior to the prescribed or normal termination date and dismissal from the

substantive post is not contemplated. However, this Ordinance shall not apply if the member of staff's substantive post is one of the posts enumerated in paragraph 3 above.

6. In the event that a postholder is removed from his or her substantive appointment, his or her appointment to a post referred to in paragraph 3 above shall lapse automatically and the procedure set out in this Ordinance shall not therefore apply.
7. Nothing in this Ordinance shall prevent the University from removing the postholder from his or her additional post before the hearing of any appeal by the postholder against such removal from office.

#### *Part III : General Principles*

##### **Confidentiality**

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

##### **Right to be accompanied**

10. At any hearing convened under this Ordinance the postholder may be represented or accompanied by a workplace colleague or trade union representative. If the postholder's representative is not available at the time proposed for the hearing, the postholder may request that the hearing be postponed to another reasonable time, and must offer a date which is not later than five working days after the date first proposed for the hearing. The representative may attend the hearing with the postholder and may speak on the postholder's behalf, but that representative may not answer questions (relating to the issues in dispute) on the postholder's behalf.

##### **Departure from an additional post by mutual agreement**

11. Nothing in this Ordinance shall prevent a postholder from relinquishing an additional post by mutual agreement with the University at any time.

#### *Part IV : Procedure*

12. In any instance in which the postholder's line manager considers that there are possible grounds for terminating the appointment of a postholder from his or her additional post, the line manager may, according to the nature and circumstances of the case, make or cause to be made such investigation as he or she deems appropriate.
13. If the line manager considers it desirable to terminate the appointment of the postholder prior to the prescribed or normal termination date for the post in question, the postholder shall be informed in writing of the reasons for the proposed early termination, and requested to attend a hearing at which the matter shall be considered. At the hearing the postholder may respond to the issue(s) raised by the University, present any additional information in support of his or her case and provide any grounds of mitigation which he or she feels relevant. The postholder shall be given a copy of this Ordinance and reminded of his or her right to be accompanied or represented by a trade union representative or a workplace colleague.
14. The hearing will usually be conducted:-
  - i. in the case of the Pro Vice-Chancellor: by the President and Vice-Chancellor;

- ii. in the case of a Dean: by the President and Vice-Chancellor;
  - iii. in the case of an Associate Dean: by the Dean.
15. The Director of Human Resources or his or her nominee shall be present at the hearing in an advisory capacity.
16. The postholder shall be provided in advance of the hearing with copies of any evidence to be considered at the hearing, including (where applicable) the names of any witnesses from whom it is intended that evidence will be considered at the hearing and any statements obtained from those witnesses. Where such information has not been provided to the postholder in advance of the hearing, the person conducting the hearing shall allow an adjournment to give the postholder a reasonable opportunity to consider the information.
17. The postholder shall, prior to the hearing, indicate the nature of any evidence that he or she intends to present in his or her defence or mitigation, including the names of any witnesses and their relevance to the matters under consideration and shall provide copies of any documents to which he or she intends to refer.
18. The postholder shall have the right to be represented at the hearing in accordance with the provisions of paragraph 10 above.
19. If the postholder is or becomes unable to attend the hearing, he or she should notify the person who is due to conduct the hearing as soon as possible, giving the reasons for the non-attendance. A postholder who fails to attend a hearing without good cause shall be informed that if he or she fails to attend any rearranged hearing without good cause, the matter may be considered in his or her absence.
20. The procedure to be followed at the hearing shall be at the discretion of the person conducting the hearing, which may include without limitation:-
  - i. the issues being put to the postholder, including if relevant the calling of any witnesses;
  - ii. the postholder having the opportunity to raise questions of any witnesses called. The manner in which such questions are to be raised is at the discretion of the person conducting the hearing;
  - iii. the postholder having the opportunity to set out his or her case in response to the issues and to call any relevant witnesses; and
  - iv. the questioning of any witnesses called by the postholder;
  - v. the power to postpone or adjourn the hearing;
  - vi. the power to continue the hearing in the absence of a party, witness or representative where, in the opinion of the person conducting the hearing, no good cause has been put forward for an adjournment.
21. The person conducting the hearing shall, after the hearing, decide whether or not the postholder should be removed from appointment to the additional post and/or may make any other determination that he or she considers appropriate.
22. Following the hearing, the postholder shall be notified in writing:-
  - i. of the outcome of the hearing and the reasons for the decision;
  - ii. of his or her right to appeal under Part V of this Ordinance.

#### *Part V : Appeals*

23. A postholder (referred to in this Part as the 'Appellant') who wishes to appeal the outcome of a hearing conducted under Part IV should do so in writing to the Director of Human Resources within ten working days of the date of written notification of the decision.

24. The Appellant shall set out in full the grounds of his or her appeal and, if the Appellant is proposing to rely upon new evidence, he or she should provide details and a copy of any relevant documentation.
25. The appeal shall normally be heard:-
  - i. in the case of a decision made by a Dean: a Vice-President;
  - ii. in the case of a decision made by the President and Vice-Chancellor: by the Chair of the Council (or by another lay member of the Council appointed by the Chair of the Council to act on his or her behalf);such person having had no previous involvement in the case.
26. The person hearing the appeal shall have full discretion to decide on the conduct of the appeal hearing. Without limitation, the person hearing the appeal shall have the power to continue a hearing in the absence of a party, witness or representative if, in the opinion of the person hearing the appeal, no good cause is put forward in support of a request for an adjournment.
27. The Director of Human Resources or his or her nominee shall be present at the hearing in an advisory capacity.
28. The Appellant shall be given written notification of the date and time of the appeal hearing and shall be notified of his or her right to be accompanied by a trade union representative or workplace colleague.
29. Where the Appellant fails to attend the appeal hearing without good cause, the appeal may proceed in the Appellant's absence.
30. The appeal shall not normally take the form of a re-hearing of the evidence and witnesses other than the Appellant and the person who made the decision being appealed may only be heard with the permission of the person hearing the appeal. However, if there is evidence that could not reasonably have been presented at the hearing, and/or if new evidence has emerged since the hearing, this may be presented at the appeal.
31. As soon as reasonably practical following the appeal hearing, the Appellant will be advised in writing of the outcome which may be, without limitation, to uphold or overturn the decision being appealed.
32. The decision of the person hearing the appeal shall be final.