REVISED DISCIPLINARY, GRIEVANCE AND OTHER DISMISSAL PROCEDURES INTRODUCED UNDER STATUTE 29.

ORDINANCE 32

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ORDINANCE 32

Part I: PRINCIPLES AND STANDARDS

1 The following principles and standards apply to all procedures detailed in these Ordinances.

2 These procedures apply to all members of staff except those engaged on a claims basis and Graduate Teaching Fellowships.

3 Where there is an issue as to the meaning of ‘academic freedom’ in any proceedings under these Ordinances, regard shall be had to the agreement with the University and College Union regarding the definition of academic freedom dated 31 July 2009.

4 The decision of the appropriate manager/panel on which procedure is to be followed shall be final.

5 The application of these Ordinances/Procedures may be modified by the Director of Human Resources in cases where a member of staff employed by the University works in, or is managed by employees of, a third party organisation, including in cases of secondment. In particular:
   - the Director of Human Resources may authorise managers employed by the partner organisation to take action under these procedures, in conjunction with, or in substitution for, appropriate University Managers;
   - where a member of staff raises a complaint about his/her treatment by a partner organisation or any of its employees, the University shall endeavour to deal with the complaint within the spirit of the Grievance Procedure, as far as is practicable to do so;
   - for the avoidance of doubt, action under these procedures may be taken in respect of the member of staff's conduct or performance during his/her work for the partner organisation.

6 An employee has the right to be accompanied by a fellow worker or trade union representative at any meeting under the formal stages of these procedures.

7 An employee may ask for meetings under the formal stages of these procedures to be postponed for up to one week, on one occasion only. Following such a postponement, the University reserves the right to proceed with the meeting in the employee’s absence.

8 The Director of Human Resources must be involved at all formal stages of these procedures. References to the Director of Human Resources include a designate of the Director of Human Resources.

9 Time limits (other than those for prior notification of meetings/disclosure of documentation before meetings) are indicative – there may be circumstances, particularly in the case of complex cases, where these are not realistic. If it is not possible to respond or take action within the time limits referred to in this Procedure, the employee should be given an explanation for the delay and told when a response can be expected. The time limits may be varied by mutual agreement in individual cases.

10 References to academic managers in these procedures means staff in the academic job families with line management responsibility.
Part II: GRIEVANCE PROCEDURE

1  Purpose and Principles

1.1  The purpose of this procedure is to resolve individual grievances promptly and fairly and as near to their source as possible.

2  Scope

2.1  A grievance may be raised about any matter concerning work or conditions of employment except:

2.2.1  actions or decisions taken under the disciplinary, capability/performance, probation, redundancy, ill health/incapacity, fixed term contract or other dismissal procedures or the initiation of those procedures. Complaints about these matters should be considered at hearings under these procedures.

2.2.2  grading decisions, which will be managed through the appropriate grading appeal procedure;

2.2.3  collective disputes, which will be managed through the collective disputes procedure;

2.2.4  grievances raised by former employees: this procedure shall not apply to any grievance raised by an employee after termination of his/her employment. This procedure shall cease to apply if, during the course of the procedure, the employment of the employee terminates. In such circumstances, the University shall notify the former employee of the appropriate procedure, if any, to be followed.

2.3  At any stage of this Grievance Procedure, the relevant manager/panel dealing with the grievance at that stage may, if other proceedings (for example, disciplinary procedures or a redundancy procedure) concerning the employee and relevant to the subject matter of the grievance are pending or are in progress or for any other good reason, in his/her/its discretion:

•  direct that the grievance should be considered at a formal hearing under any other procedure; or

•  defer consideration of the grievance (in whole or in part).

It shall be for the relevant manager or panel dealing with the grievance at the relevant stage to determine whether the grievance should be deferred, or should be considered at a formal meeting under another procedure or whether it falls outside this procedure by virtue of this paragraph and their decision on this shall be final.

3  Informal Resolution

The employee is first expected to attempt, as far as is reasonably possible, to resolve the grievance informally through discussions which should normally involve the employee’s immediate line manager (or other appropriate manager where their concern relates to their immediate supervisor/line manager) but may also involve any person(s) to whose conduct the grievance relates. Employees may wish to seek advice from a trade union representative or, for issues covered by the Policy on the Protection of Dignity at Work and Study, a Harassment Adviser, to facilitate the informal resolution of their concerns.

4  Formal Procedure

4.1  If the grievance cannot be resolved informally through discussions, because informal discussions are inappropriate or have failed to resolve the grievance, then the employee should write to their College Dean/Head of Service (or other appropriate manager) indicating that they wish the matter to be considered under the formal Grievance Procedure.

4.2  The issue about which the employee is aggrieved, and the remedy sought, should be clearly stated.
4.3 The College Dean/Head of Service may dismiss a grievance which he or she considers trivial or vexatious or invalid without following the full Grievance Procedure either on receipt of the grievance or at any point under Stage 2.

5 Stage 1: Mediation

5.1. Upon receipt of a formal grievance, the College Dean/Head of Service will refer the grievance to the Director of Human Resources who, where mediation is considered appropriate, will contact the employee (and others who may be the subject of the grievance) with a view to resolving the grievance through mediation, in accordance with the University's Mediation Procedure.

6 Stage 2: Grievance Meeting

6.1 Where mediation is not appropriate or where following mediation the employee confirms in writing that their grievance remains unresolved, the Director of Human Resources will refer the grievance back to the College Dean/Head of Service. In certain circumstances it may be necessary to delay a Grievance Meeting while the employee’s grievances are investigated and this will normally include discussing details of the grievance with other employees and individuals who are the subject of the complaint. The employee may also be asked to provide additional information about their grievance before a Grievance Meeting can be arranged. Following any investigation, the College Dean/Head of Service may:

- arrange a Grievance Meeting in accordance with paragraph 6.2;
- direct that the grievance should be considered under any other procedure in accordance with paragraph 2.3;
- dismiss the grievance in accordance with paragraph 4.3.

6.2 A Grievance Meeting will (subject to paragraph 7.5) be held with the College Dean/Head of Service or an appropriate manager authorised by the College Dean/Head of Service who may be accompanied by a representative of the Director of Human Resources. The Grievance Meeting should normally be held within two weeks of the completion of Stage 1 or any investigation.

6.3 At least one week before the date of the Grievance Meeting, the manager responsible for the Grievance Meeting should write to the employee:

- advising of the date, time and venue of the Grievance Meeting;
- advising of the right of the employee to attend the meeting in person and to be accompanied by a fellow worker or trade union representative;
- enclosing a copy of the outcome of any investigation, including statements from any witnesses and other relevant evidence;

6.4 At the Grievance Meeting:

- the employee may put their case in person or through the trade union representative or fellow worker accompanying them prior to witnesses being called or other evidence taken;
- the manager responsible for the Grievance Meeting may hear evidence from witnesses and the employee may arrange for witnesses to attend and give evidence;
- the manager responsible for the Grievance Meeting may question any witnesses;
- the employee or the trade union representative or fellow worker accompanying them may also question witnesses, although the manager responsible for the Grievance Meeting may determine that all questions are directed through him/her.

No additional written evidence may be introduced at this stage.

6.5 Within one week of the Grievance Meeting, the manager responsible for the Grievance Meeting should write to the employee advising of their decision.
7  **Stage 3: Appeal**

7.1 If the employee continues to be aggrieved following notification of the outcome of the Grievance Meeting, they may appeal to a Grievance Appeal Meeting.

7.2 The appeal must be submitted in writing to the Director of Human Resources within two weeks of the date of the written outcome of the Grievance Meeting. The appeal should provide a full written statement of the grievance to be considered, together with the remedy sought.

7.3 The appeal will be a review of the decision taken at Stage 2. No new evidence may be presented to the Grievance Appeal Meeting, nor any witnesses called, unless the Grievance Appeal Meeting is satisfied that there are exceptional reasons why such evidence or witnesses were not produced at the Stage 2 Grievance Meeting and that it is necessary in the interests of fairness, in reviewing the decision taken at Stage 2, for the Grievance Appeal Meeting to consider this evidence or hear from the witnesses concerned.

7.4 The Grievance Appeal Meeting should normally be held within four weeks of the receipt of the employee’s appeal.

7.5 The Grievance Appeal Meeting will be conducted by the College Dean/Head of Service or, if they conducted the Stage 2 Grievance Meeting or are the subject of the grievance, another College Dean/Head of Service, the Registrar and Secretary or a Deputy Vice-Chancellor authorised by the Director of Human Resources.

7.6 At least one week before the date of the Grievance Appeal Meeting, the Director of Human Resources should write to the employee:

- advising of the date, time and venue of the Grievance Meeting;
- advising of the right of the employee to attend the meeting in person and to be accompanied by a fellow worker or trade union representative;
- enclosing a copy of any relevant documentation, including statements from any witnesses and other relevant evidence;

7.7 The Director of Human Resources will consider any representations made by the employee who has lodged the grievance to him/her in writing in advance of the Grievance Appeal Meeting regarding the manager appointed under paragraph 7.5 to conduct the Grievance Appeal Meeting. The Director of Human Resources may arrange for another manager to consider the appeal in accordance with paragraph 7.5 or explain in writing his reasons for not doing so.

7.8 The Grievance Appeal Meeting will follow the procedure set out below unless otherwise mutually agreed by the parties.

7.9 Within one week of the Grievance Appeal Meeting, the manager responsible for the Grievance Appeal Meeting should write to the employee advising of their decision.

7.10 The decision of the Grievance Appeal Meeting is final within the procedures of the University.

8  **Appeal against Dismissal of a Grievance under Paragraph 4.3**

8.1 If the employee wishes to appeal against a finding of a College Dean/Head of Service that the grievance is trivial or vexatious or invalid, then he/she shall do so under the Stage 3 Appeal Procedure. The appeal must be submitted in writing to the Director of Human Resources within two weeks of the date of the written notification of the College Dean/Head of Service.

8.2 The purpose of the Grievance Appeal Meeting in these circumstances will be to consider whether the College Dean/Head of Service’s decision that the grievance is trivial, vexatious or invalid, was correct. The substance of the grievance will not be considered any further than is necessary to do this.
8.3 The Grievance Appeal Meeting may:
- uphold the College Dean/Head of Service's decision that the grievance was trivial/vexatious/invalid. In this case there shall be no further right of appeal under this Procedure and the employee will be advised of this in the notification of the decision of the Grievance Appeal Meeting; or
- allow the appeal on the basis that the grievance is not trivial/vexatious/invalid. In this case the employee shall be entitled to have his/her grievance considered under Stage 2 (Grievance Meeting) of the procedure above. In this case, the grievance shall be remitted to the College Dean/Head of Service or other manager whose decision was appealed, for further consideration under Stage 2 (Grievance Meeting) above. In exceptional cases, the Grievance Appeal Panel may remit the case for consideration under Stage 2 by another manager authorised by the Director of Human Resources, but only if the Grievance Appeal Panel are satisfied that this is essential for a fair and impartial consideration of the grievance.

8.4 The Grievance Procedure does not allow a further grievance to be brought against the College Dean/Head of Service in respect of their decision to dismiss a grievance under paragraph 4.3 or 5.2.

9 Procedure to be followed by Grievance Appeal Meeting (other than in cases covered by paragraph 8)

9.1 The Complainant (or representative) shall present the case and may call witnesses in succession, who may be questioned by the Complainant (or representative), by the Respondent (or representative) and by the person conducting the Grievance Appeal Meeting;

9.2 The Respondent (or representative) shall reply and may call witnesses who may be questioned by the Complainant (or representative), by the Respondent (or representative) and by the person conducting the Grievance Appeal Meeting;

9.3 The Complainant (or representative) shall have the right to present a summary of his/her case.

9.4 The Respondent (or representatives) shall have the right to present a summary of his/her case.

9.5 The person conducting the Grievance Appeal Meeting shall withdraw to determine their decision.

(Note: the Respondent is the manager who considered the grievance at stage 2.)
Part III: DISCIPLINARY PROCEDURE

1 Purpose and Principles

1.1 The purpose of the disciplinary procedure is to help and encourage employees to achieve and maintain required standards of conduct and attendance. The aim of the procedure is also to ensure that when disciplinary action needs to be taken, it is applied consistently and fairly in every case.

1.2 Before any formal disciplinary sanction is applied, an employee will be advised of the nature of the complaint and given an opportunity, with reasonable notice, to state their case at a disciplinary hearing.

1.3 There may be occasions when, depending on the seriousness of the misconduct involved, it will be appropriate to enter the procedure at the stage of a final warning or at the dismissal stage (which may include dismissal without notice).

1.4 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.

1.5 The employee has the right to appeal at each stage of the formal procedure.

1.6 Although the usual disciplinary standards must apply to trade union representatives, no formal disciplinary sanction will be applied in respect of an employee who is an accredited Trade Union representative until the circumstances of the case have been discussed with the local senior representative of the Union concerned or a full-time official.

1.7 The University will endeavour to deal with disciplinary matters promptly and without undue delay and expects the member of staff to co-operate to achieve that aim.

1.8 Where any part of this Procedure is being or has been applied, the University will not disclose that fact or the details of the issues to other members of staff or anyone outside of the University except where this is required under law or a duty of care or any other University procedure or to facilitate any investigation or where a limited disclosure is justified by the circumstances.

2 Scope

2.1 This procedure does not apply to formal action or dismissals taken under the procedure for probation.

3 Authority to take formal Disciplinary Action

3.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, College Deans, Heads of Service and College Managers are authorised, subject to any appropriate training, to take disciplinary action at all stages detailed in paragraph 7, including the authority to dismiss, in accordance with this procedure and following consultation with the Director of Human Resources.

3.2. Disciplinary action under this procedure in respect of staff in the academic job families will be taken by academic managers.

3.3. The Director of Human Resources may authorise other named managers (subject to any appropriate training) to take defined levels of disciplinary action in accordance with this procedure, in consultation with the Director of Human Resources.

4 Investigation

4.1. Where there are grounds for considering disciplinary action against a member of staff the Director of Human Resources may commission an appropriate person or person(s) to investigate the circumstances. The purpose of the investigation is to gather evidence and to enable a decision to be taken on whether the matter should proceed to a formal hearing under this procedure.

- If there are witnesses to an incident, or a person makes an allegation against someone else, such persons will be interviewed and notes of the interview/a statement from the individual interviewed will be produced.
If appropriate, as part of the investigation, the employee may be interviewed. This will not be a disciplinary hearing, but will be for the purpose of investigating the matter before a decision is taken as to whether or not a disciplinary hearing is warranted.

Only in exceptional circumstances where there is, for example, a genuine concern for personal safety will the Director of Human Resources permit statements to be anonymised.

The manager who has undertaken the investigation, and any managers who have been interviewed, cannot take part in any subsequent disciplinary hearing except to give evidence.

4.2. When the investigation is concluded, the Director of Human Resources must decide:

- whether no action is necessary; or
- whether the matter should be dealt with outside the formal disciplinary procedure; or
- whether it is necessary to consider the matter under the formal disciplinary procedure.

5 Suspension

5.1. An employee may be suspended on normal pay during an investigation or prior to a disciplinary hearing when the alleged misconduct is such that the outcome may be dismissal.

- suspension from duty is not a pre-judgement of guilt and is not a disciplinary penalty;
- suspension can only be taken (and lifted) by a manager authorised to take disciplinary action, following consultation with the Director of Human Resources, or by the Director of Human Resources;
- the reasons for the suspension must be stated clearly to the employee in writing;
- the period of suspension will be as brief as possible and must be kept under review;
- whilst suspended, an employee must not contact fellow workers or visit University property or access University facilities including email and databases without first obtaining authority from the Director of Human Resources: such authority would be granted (subject to any conditions considered appropriate) to enable the member to prepare their response. Staff retain the right to contact their Trade Union representative.

5.2. In circumstances where it is necessary to protect the University's interests (for example, safety), and where an authorised manager is not available to suspend an employee, a manager may instruct the employee to leave the place of work, and stay away until further notice. This must be reported to an authorised manager and the Director of Human Resources as soon as possible so that they can determine whether the employee is to be formally suspended in accordance with paragraph 5.1.

5.3. In exceptional circumstances, it may be appropriate to move an employee from their normal place of work where this will allow an objective investigation.

6 Addressing issues prior to the use of the Formal Procedure

6.1. In cases of minor breaches of discipline (eg lateness for work, careless mistakes, lack of attention to detail/instructions/procedures), the immediate supervisor should discuss these concerns with the employee. Appropriate action at this stage may include:

- support and training
- advice and guidance
- counselling.

6.2. The purpose of this discussion is to ensure that the employee is:

- aware of the concerns;
- knows what is required to meet expected standards of conduct;
made aware of the timescale over which an improvement is required;
made aware of the consequences of not achieving the required standard.

6.3. In certain circumstances it will be necessary for the discussion and outcome to be confirmed in writing.

6.4. This is not a stage in the formal Disciplinary Procedure.

7 Stages in the Disciplinary Procedure

7.1. Unless there is no case to answer, or it is more appropriate to deal with the issue(s) outside the formal Disciplinary Procedure, the manager who is to conduct the hearing must advise the employee in writing, at least one week before the date of the disciplinary hearing:
- that there will be a disciplinary hearing under the disciplinary procedure;
- of the date, time and venue of the disciplinary hearing;
- of the allegations;
- of the possible outcomes under the disciplinary procedure;
- enclosing a copy of any statements from witnesses and other relevant evidence;
- of their right to be accompanied by a fellow worker or trade union representative.

7.2. The purpose of the disciplinary hearing is to give the employee an opportunity to state their case and to answer the allegations that have been made.

7.3. At the disciplinary hearing, the manager conducting the hearing may hear evidence from witnesses and the employee may arrange for witnesses to attend and give evidence. The manager conducting the hearing may question any witnesses. The employee or the trade union representative or fellow worker accompanying them may also question witnesses, although the manager conducting the hearing may determine that all questions are directed through him/her.

7.4. Following a disciplinary hearing the manager conducting the hearing may take one of the following courses of action, according to the circumstances of the case:
- to take no formal disciplinary action.
- to give a formal written warning if there has been either a repeated minor breach in conduct, or a first but more serious breach of discipline. (Examples: Appendix 1).
- to give a final written warning if there has been an insufficient response to previous warnings and conduct is still unsatisfactory, or in the case of a first but sufficiently serious breach of discipline. (Examples: Appendix 1).
- to give the employee notice of dismissal if, following a final written warning, conduct remains unsatisfactory and the employee still fails to reach or maintain the prescribed standards.
- to dismiss the employee summarily without notice and without there having been any previous disciplinary warnings when there has been gross misconduct. (Examples: Appendix 1).

8 Written Confirmation and Time Limits

8.1. Within one week of the hearing, the decision must be confirmed in writing to the employee. The letter must specify:
- the level of the action taken (or the fact that no formal action was taken) and the reasons for that action;
- any remedial action required of the employee and the consequences of any recurrence of misconduct, including any dates for review (in the case of a first or final warning);
- that the employee has a right of appeal and how to exercise that right (see paragraph 10);
8.2. Records of formal disciplinary action will be held by Director of Human Resources and by the relevant unit.

9 Appeals

9.1 An employee has a right of appeal against any formal action under the formal Disciplinary Procedure.

9.2 The right of appeal must be exercised within two weeks of receipt of the letter of confirmation of disciplinary action.

9.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.

9.4 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case. In the case of an appeal against a final warning or against dismissal, the panel will be drawn from members of the Senior Management Group from a different College/Service.

9.5 The University will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties.

9.6 The appeal panel may:

- uphold the disciplinary action taken; or
- withdraw the disciplinary action taken; or
- reduce the level of disciplinary action taken.

9.7 The appeal will be a review of the decision taken by the disciplining officer. No new evidence may be presented to the Appeal Panel, nor any witnesses called, unless the Appeal Panel is satisfied that there are exceptional reasons why such evidence or witnesses were not produced at the disciplinary hearing and/or that it is necessary in the interests of fairness, in reviewing the disciplinary manager's decision, for the Appeal Panel to consider this evidence or hear from the witnesses concerned.

9.8 The decision of the appeal panel (communicated in writing to the employee) shall be final within the procedures of the University.

9.9 The procedure to be followed at appeal hearings is detailed in Ordinance 33.

Appendix 1

The following lists are not comprehensive or exhaustive, but indicate the kind of misconduct that might result in formal disciplinary action, including summary dismissal, in certain circumstances, following application of the procedure above and applying the test of reasonableness and subject, where appropriate, to specific University policies (see Appendix 2).

Examples of misconduct

The following examples of behaviour may, within this procedure, lead to a formal written warning where the level of misconduct is minor or less serious:

- shortfalls in timekeeping and attendance;
- disregarding safety regulations;
- misuse of University property.

The following examples of behaviour may, within this procedure, lead to a final written warning where the level of misconduct is more serious:

- bullying or harassment;
- breach of confidence;
- refusal to follow a reasonable instruction;
- failure to comply with University policies;
- behaviour bringing disrepute to the University;
- plagiarism.

**Gross misconduct**

The following examples of behaviour at work may be regarded as gross misconduct, and, if judged as such within this procedure, may lead to summary dismissal:

- dishonesty, theft, fraud, or serious misuse of University property, including malicious damage to University property;
- theft from or violence to other members of the University or members of the public including malicious damage to their property;
- obscene or indecent behaviour or sexual misconduct or the circulation of offensive material;
- serious bullying or harassment;
- serious breach of security or of financial procedures;
- serious breach of confidence;
- serious incapability whilst on duty brought on by misuse alcohol or illegal drugs;
- being in the possession of illegal drugs;
- severe breach of health, safety and hygiene rules or acting in a manner dangerous to others;
- behaviour bringing the University into serious disrepute;
- serious insubordination;
- professional incompetence or gross negligence;
- serious intentional unlawful discrimination;
- serious cases of plagiarism;
- where the employee has stopped attending work without authority and reasonable explanation;
- Offer, make or accept bribes to influence or show favour to an individual or organisation based in the UK or overseas.

Note: Serious misconduct outside of work may need to be dealt with under the formal disciplinary procedure where it is considered there is an effect upon the employment relationship and may, in appropriate circumstances, be regarded as gross misconduct.

**Appendix 2**

The University will, where appropriate in the particular circumstances of the case, take account of the following University procedures and policies before a decision is taken following a disciplinary hearing:

- Data Protection
- Financial Regulations and other regulations, policies and procedures regarding (inter alia) procurement income, expenditure, Professional Development Accounts and expenses issued by the University
- Fraud Policy
- Policy for Protection of Dignity at Work and Study
- Public Interest Disclosure Policy and Procedure
• Regulations for the Use of Computing Facilities (These Regulations summarise the appropriate use of University IT Facilities and apply to all members of the University in their use of University IT Facilities)
• Student Complaints Procedure
• Code of Professional Conduct: Relations Between Staff and Students and Between Staff
• Policy and Guidelines On Substance Abuse
• Code of Good Practice in the Conduct of Research, including Annex, Guidance on the Reporting and Investigation of Misconduct in Research
• Code of Conduct, including guidance on gifts and Hospitality

This list is not comprehensive or exhaustive. The University may, from amend these policies and procedures and agree new policies and procedures which may be relevant to disciplinary matters.
Part IV: CAPABILITY/PERFORMANCE PROCEDURE

1 Purpose and Principles

1.1 The purpose of the capability/performance procedure is to help and encourage employees to achieve and maintain required standards of performance. The aim of the procedure is also to ensure that when action needs to be taken, it is applied consistently and fairly in every case.

1.2 Managers are expected to regularly review the performance of the staff they manage, giving timely feedback and providing appropriate support and training.

1.3 Before any formal sanction is applied under this procedure, an employee will be advised of the nature of the complaint and given an opportunity, with reasonable notice, to state their case at a meeting.

1.4 There may be occasions when, depending on the seriousness of the alleged shortfalls in performance, it will be appropriate to enter the procedure at the stage of a final warning or at the dismissal stage which may include dismissal without notice. (Paragraph 5).

1.5 The employee has the right to appeal at each stage of the formal procedure (paragraph 7).

1.6 Although the usual performance standards must apply to trade union representatives, no formal sanction will be applied in respect of an employee who is an accredited Trade Union representative until the circumstances of the case have been discussed with the local senior representative of the Union concerned or a full-time official.

1.7 The University will endeavour to deal with matters under this procedure promptly and without undue delay, and expects the member of staff concerned to co-operate to achieve that aim.

1.8 Where any part of this Procedure is being or has been applied, the University will not disclose that fact or the details of the issues to other members of staff or anyone outside of the University except where this is required under law or a duty of care or any other University procedure or to facilitate any investigation or where a limited disclosure is justified by the circumstances.

2 Scope

2.1 This procedure does not apply to formal action or dismissals taken under the procedure for probation.

3 Authority to take formal action under this procedure

3.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, College Deans, Heads of Service and College Managers are authorised, subject to any appropriate training, to take action at all stages detailed in paragraph 5, including the authority to dismiss, in accordance with this procedure and following consultation with the Director of Human Resources.

3.2. Formal action under this procedure in respect of staff in the academic job families will be taken by academic managers.

3.3. The Director of Human Resources may authorise other named managers (subject to any appropriate training) to take defined levels of action in accordance with this procedure, in consultation with the Director of Human Resources.

4 Addressing issues prior to the use of the Formal Procedure

4.1. In cases of minor shortfalls in performance, the immediate supervisor should discuss these concerns with the employee. Appropriate action at this stage may include:

- support and training
- advice and guidance
- counselling.
4.2. The purpose of this discussion is to ensure that the employee:
- is aware of the concerns;
- knows what is required to meet expected standards of performance;
- is made aware of the timescale over which an improvement is required;
- is made aware of the consequences of not achieving the required standard.

4.3. In certain circumstances it will be necessary for the discussion and outcome to be confirmed in writing.

4.4. This is not a stage in the formal Procedure.

5 Stages in the Capability/Performance Procedure

5.1. Prior to any formal meeting under this procedure, the manager who is to conduct the meeting must advise the employee in writing, at least one week before the date of the meeting:
- that there will be a meeting under the Capability/Performance procedure;
- of the date, time and venue of the meeting;
- of the concerns about their performance;
- of the possible outcomes under the Capability/Performance procedure;
- enclosing a copy of any statements from witnesses and other relevant evidence;
- of their right to be accompanied by a fellow worker or trade union representative.

5.2. The purpose of the meeting is to give the employee an opportunity to state their case and to answer the allegations that have been made.

5.3. At the meeting, the manager conducting the meeting may hear evidence from witnesses and the employee may arrange for witnesses to attend and give evidence. The manager conducting the meeting may question any witnesses. The employee or the trade union representative or fellow worker accompanying them may also question witnesses, although the manager conducting the meeting may determine that all questions are directed through him/her.

5.4. Following a meeting the manager conducting the meeting may take one of the following courses of action, according to the circumstances of the case:
- take no formal action.
- give a formal written warning if there has been either a repeated minor breach in performance, or a first but more serious shortcoming in performance.
- give a final written warning if there has been an insufficient response to previous warnings and performance is still unsatisfactory.
- give the employee notice of dismissal if, following a final written warning, performance remains unsatisfactory and the employee still fails to reach or maintain the prescribed standards.
- to dismiss the employee summarily without notice and without there having been any previous warnings under this procedure in cases of serious shortfalls in performance.

6 Written Confirmation and Time Limits

6.1. Within one week of the meeting, the decision must be confirmed in writing to the employee. The letter must specify:
- the level of the action taken (or the fact that no formal action was taken) and the reasons for that action;
• any remedial action required of the employee and the consequences of any recurrence
  of unsatisfactory performance, including any dates for review (in the case of a first or
  final warning);
• that the employee has a right of appeal and how to exercise that right (see paragraph
  7);
• in the case of a written warning, that the warning will be disregarded for further
  purposes under this procedure after six months (for a first warning) or twelve months
  (for a final warning), unless there are circumstances which justify a longer period and
  which are explained in the letter of confirmation.

6.2. Records of formal action will be held by Director of Human Resources and by the relevant
  unit.

7 Appeals

7.1 An employee has a right of appeal against any formal action under the formal
  Capability/Performance Procedure.

7.2 The right of appeal must be exercised within two weeks of receipt of the letter of
  confirmation of formal action under the formal Capability/Performance Procedure.

7.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the
  Director of Human Resources.

7.4 An appeal will be heard by a panel comprising two senior managers who have had no
  previous involvement in the case. In the case of an appeal against a final warning or
  against dismissal, the panel will be drawn from members of the Senior Management Group
  from a different College/Service.

7.5 The University will aim for an appeal to be heard within four weeks of the appeal being
  lodged, unless otherwise agreed between the parties.

7.6 The appeal panel may:
  • uphold the action taken; or
  • withdraw the action taken; or
  • reduce the level of action taken.

7.7 The appeal will be a review of the decision taken by the manager conducting the meeting
  under paragraph 5 above. No new evidence may be presented to the Appeal Panel, nor
  any witnesses called, unless the Appeal Panel are satisfied that there are exceptional
  reasons why such evidence or witnesses were not produced at the formal meeting under
  paragraph 5 above, and/or that it is necessary in the interests of fairness, in reviewing the
  manager’s decision, for the Appeal Panel to consider this evidence or hear from the
  witnesses concerned.

7.8 The decision of the appeal panel (communicated in writing to the employee) shall be final
  within the procedures of the University.

7.9 The procedure to be followed at appeal meetings is detailed in Ordinance 33.
Part V: ILL HEALTH/INCAPACITY PROCEDURE

1 Purpose and Principles

1.1. The purpose of this procedure is to ensure that the University responds to each case of ill health on an individual, flexible basis while maintaining fairness and common standards, including seeking medical advice from the University’s Occupational Health Service at an early stage and consulting with the employee and/or their representative.

1.2. At each stage of the formal procedure and before any formal action is taken under this procedure: the University will:

- give the employee reasonable, written notification of meetings;
- send to the employee details of the medical information available to the employee’s managers and Human Resources;
- advise the employee that they have the opportunity to present their own medical evidence;
- advise the employee of their right to be accompanied by a fellow worker or trade union representative;
- apply the University's Code of Practice on Managing Absence and Attendance.

1.3. The University reserves the right to proceed with meetings under this procedure in the absence of the employee if they are not well enough to attend in person.

1.4. These procedures refer at various stages to the University obtaining medical reports from its Occupational Health Service and/or the employee's doctor. Where the employee refuses consent for medical reports to be obtained or disclosed the relevant manager or panel will make their decision as to the appropriate course of action using the information available at the time.

1.5. Nothing in this Procedure shall prevent an application to the appropriate pension scheme being made or accepted at any stage for the employee to retire on ill health grounds. The initiation of the Procedure and any dismissal taken by the University under this Procedure does not imply that the appropriate pension scheme will accept an application for the employee to retire on ill health grounds.

2 Scope

2.1. This procedure does not apply to formal action or dismissals taken under the procedure for probation.

2.3. There are two separate procedures in this Ordinance which relate to:

- recurrent short term sickness absence; and
- long term sickness absence or other medical incapacity.

3 Authority to take formal action under this procedure

3.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, College Deans, Heads of Service and College Managers are authorised, (subject to any appropriate training), to take action at all stages detailed in paragraphs 4 and 5, including the authority to dismiss, in accordance with this procedure and following consultation with the Director of Human Resources.

3.2. Formal action under this procedure in respect of staff in the academic job families will be taken by academic managers.

3.3. The Director of Human Resources may authorise other named managers (subject to any appropriate training) to take defined levels of action in accordance with this procedure and following consultation with the Director of Human Resources.
4 Procedure for Recurrent Short-term Sickness Absence

4.1 In any case where an employee's manager is concerned about the employee's attendance level, this procedure may be followed.

4.2 When the absence levels of an employee are to be reviewed under this procedure, the manager must advise the employee in writing, at least one week before the date of the meeting:
   - that there will be a meeting under the Ill Health/Incapacity procedure to discuss the employee's attendance;
   - of the date, time and venue of the meeting;
   - of the concerns about their attendance and absence record, including a summary of his/her absence record for the relevant period;
   - of the possible outcomes under the Ill Health/Incapacity procedure;
   - of their right to be accompanied by a fellow worker or trade union representative.

The purpose of the meeting will be to consider the total absence pattern and its effect on the work area, to explore the employee's views and to identify action that may support or assist.

4.3 At the meeting, if it appears to the manager that there was or may have been an underlying medical condition causing the absence, the manager may adjourn the meeting to refer the employee to the University's Occupational Health Service.

4.4 At the end of or after the meeting (or reconvened meeting), the manager will decide on the appropriate action to be taken, if any, and will send the employee a letter confirming this. The manager's decision may be:-
   - to take no formal action, but a further review period may be implemented;
   - to give the employee a formal caution in relation to his/her absence levels;
   - to give a final caution, where the employee has previously been given a formal caution;
   - to give the employee notice of dismissal, where the employee has previously been given a final caution.

4.5 If the manager decides to give the employee a caution, the manager should set out in his/her letter the next review date and the level of improvement in attendance that is expected in the period to the next review date (‘the Review Period’). The caution shall state that if the employee's absence levels do not improve to a satisfactory level, the University may consider dismissing the employee as a result of his/her sickness absence.

4.6 At the end of any Review Period, the manager may:
   - write to the employee informing the employee that he/she will be removed from this formal procedure;
   - repeat the review process above and, following the meeting under paragraph 4.4, issue a further formal caution or final caution or where the employee has previously been subject to a final caution, give the employee notice of dismissal.

4.7 The employee will have the right to appeal against a caution or notice of dismissal issued under the Procedure for Recurrent Short-term Sickness Absence in accordance with paragraph 6 below.

5 Procedure for Long Term Sickness Absence or Medical Incapacity

5.1 This procedure shall apply:
   - where an employee has been absent from work due to ill-health for a period in excess of four weeks (such absence being deemed to be 'long term' for the purposes of this Procedure) and where, applying the University’s Code of Practice on Managing
Absence and Attendance, the University has reasonable concern that the employee may not return to work within a reasonable timescale; or

- where, due to any medical condition, illness or other incapacity, an employee is, or has become, or is considered to have become or likely to become, unable to perform his/her duties (or any part thereof), either in whole or in part, or to be able to do so only with difficulty, or to be unable to perform his/her duties to an acceptable standard.

Part A: Informal Consideration

5.2 The purpose of this part of the procedure is to explore through meetings with the employee (and/or their representative), and with the assistance of medical or other expert advice as appropriate, the following issues, as appropriate:

5.2.1 the nature of the employee's medical condition, illness or incapacity;

5.2.2 the likely prognosis for the employee's health and fitness to carry out his/her duties;

5.2.3 where the employee is absent from work, the likely prognosis for him/her returning to work on a sustained basis and being fit to carry out his/her duties in full and/or to perform them to an acceptable standard;

5.2.4 where relevant, the likely prognosis for the employee being able to perform his/her duties, in whole or in part, and/or to perform them to an acceptable standard;

5.2.5 whether any changes can be made to the employee's role or duties or to his/her work environment, or to the way in which his/her duties are organised or performed, in order to resolve the situation to the satisfaction of the employee and the University and/or (in cases of absence) to facilitate the employee's return to work on a sustained basis; and/or

5.2.6 whether any other action could be taken to address the issues raised by the employee's ill-health incapacity.

5.3 An employee on long term sick leave, shall also have a responsibility to update the University regularly on his/her likely date of return to work.

5.4 The University may seek medical information from its Occupational Health Service and/or the employee's doctor, and may refer the employee to be examined by the Occupational Health Service or a doctor nominated by the University. This process may be repeated if it is considered appropriate to do so. The stage at which the first and any subsequent meeting(s) are held will depend on the circumstances of the particular case.

5.5 For the avoidance of doubt, the changes or actions referred to in paragraphs 5.2.5 and 5.2.6 above may include the permanent or temporary transfer of the employee to alternative employment or a permanent or temporary variation to the employee's duties or other terms and conditions of employment. Nothing in this Procedure shall oblige the University to maintain, in making such changes or taking such action, an employee's existing terms and conditions of employment, in particular (but without limitation) in respect of pay or other remuneration.

Part B: Formal Consideration

5.6 If it is not possible to resolve the situation to the satisfaction of the employee or the manager, the manager may refer the issues to the Director of Human Resources for consideration (under paragraph 5.7 of this procedure), as appropriate, whether the employee should be dismissed and/or what other action (including the matters referred to in paragraphs 5.2.4 and 5.2.5 above) should be taken. The manager shall inform the employee of the decision to refer the issues to the Director of Human Resources. The manager’s report should summarise the relevant issues and the action taken under this Procedure and the issues which it is proposed should be considered.

5.7 Human Resources shall inform the employee in writing as soon as possible after receiving the reference under paragraph 5.6 above:
5.8 Decisions taken under this part of the Procedure will be taken by a manager with no previous involvement in the case (the ‘manager’). The manager may, at their discretion, determine which witnesses (if any) shall be called and questioned and whether it would be appropriate to adjourn or postpone the hearing at any time prior to or during the hearing to obtain further medical information of any kind prior to making their decision.

5.9 As soon as is reasonably practicable after the hearing, the manager shall reach his/her decision as to whether the employee should be dismissed or as to any alternative action that should be taken in respect of the employee. The manager responsible for considering the case shall produce a reasoned written decision, normally within two weeks of the hearing, which will be sent to the employee. Where the decision is to dismiss the employee, the employee will be sent a notice of termination of employment on behalf of the University.

5.10 The employee shall be notified of his/her right to appeal against the manager's decision in accordance with paragraph 6 below.

6 Appeals

6.1 An employee has a right of appeal against any formal action under this Ordinance.

6.2 The right of appeal must be exercised within two weeks of the date of the written outcome of the manager’s decision.

6.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.

6.4 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case. In the case of an appeal against a final warning or against dismissal, the panel will be drawn from members of the Senior Management Group from a different College/Service.

6.5 The University will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties.

6.6 The appeal will be a review of the decision taken by the manager under paragraph 4 or paragraph 5. No new evidence may be presented to the Appeal Panel unless the Appeal Panel is satisfied that there are exceptional reasons why such evidence was not produced at the meeting which led to the decision under appeal and/or that consideration of this evidence is necessary in the interests of fairness, in reviewing that decision.

6.7 Where appeal is against action taken by the manager under the Procedure for Recurrent Short-term Sickness Absence, the appeal panel may:

- confirm the decision of the manager; or
- overturn that decision and substitute one of the lesser outcomes referred to in paragraph 4.4

and shall send a letter to the employee confirming this.

6.8 Where appeal is against action taken by the manager under the Procedure for Long Term Sickness Absence or Medical Incapacity, the appeal panel may:

- confirm the decision of the manager; or
- overturn that decision and/or reinstate the employee and/or impose any other action that the appeal panel considers appropriate is to be taken in the circumstances.

and shall send a letter to the employee confirming this.
6.9 The decision of the appeal panel (communicated in writing to the employee) shall be final within the procedures of the University.

6.10 The procedure to be followed at appeal hearings is detailed in Ordinance 33.
Part VI: PROCEDURE FOR NON-RENEWAL OF A FIXED TERM CONTRACT

1 Purpose and Principles

1.1. The purpose of this procedure is to ensure that decisions made on the expiry of fixed term contracts are taken consistently and fairly in every case, taking account of relevant employment law and good employment practice.

1.2. The University will consider redeployment for staff who are identified as being ‘at risk’ through the application of the Procedure for non-renewal of a fixed term contract, in accordance with the University’s Redeployment Procedure, until their employment with the University ends.

2 Scope and definitions

2.1 This procedure applies to all staff employed by the University of Exeter on a fixed term basis, except those engaged on a claims basis and Graduate Teaching Fellowships, who will have completed one year’s service on or before the expiry of their fixed term employment where the reason for the proposed dismissal is the non-renewal of the fixed-term contract on its expiry.

2.2 This procedure does not apply where the grounds for the proposed dismissal are discipline, capability/performance, ill health/incapacity, retirement or circumstances covered by the procedure for dismissal on other grounds or to dismissals taken under the procedure for probation.

2.3 For the purposes of this Procedure, a fixed-term contract is a contract which is not of indefinite duration and which contains provision for the contract to terminate on a specified date or by virtue of the expiry of a fixed-term, or on the performance of a specific task or on the occurrence of an event or the failure of a specified event to occur.

2.4 This Procedure shall not apply to the removal from appointment as Deputy-Vice Chancellor, Dean or College Dean or such other posts as have been designated by the Council to which an employee has been elected or appointed and which is distinct from that individual’s substantive post, where dismissal from the substantive post is not contemplated.

2.5 UK Employment Law defines the ending, ie non-renewal, of a fixed-term appointment on its expiry as a dismissal: consequently, this procedure uses the term ‘dismissal’.

3 Stages in the Procedure

3.1 At least one month before the notice period, the nominated manager in the College/Service will write to the employee explaining the circumstances which may result in their dismissal and invite them to a meeting to discuss the issue. Normally there should be a minimum of two weeks’ notice of the meeting but this time limit may be varied by mutual agreement. The nominated manager may be accompanied by a representative from Human Resources. The employee has the right to be accompanied by a fellow worker or trade union representative.

3.2 The purpose of the meeting is to review the circumstances which may result in the employee’s dismissal and for the employee to make any representations before a decision is made.

3.3 Following the meeting, the manager may determine that the employment should be terminated in accordance with the employee’s current contract or take any other action other than dismissal which is justified by the circumstances.

3.4 Normally within one week of the meeting, the University will confirm the decision in writing to the employee. The letter will specify the decision and (where the decision is that the employment should be terminated) that the employee has the right of appeal and how to exercise that right.
4. **Appeal**

4.1 An employee has a right of appeal against a decision made under this procedure to terminate their employment. The appeal will be a review of the decision appealed against.

4.2 The right of appeal must be exercised within two weeks of the date of the letter confirming the decision taken by the nominated manager. The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.

4.3 An appeal will be heard by the College Dean/Head of Service or other senior manager not previously involved. The University will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties.

4.4 The manager hearing the appeal may confirm that the employment should be terminated in accordance with the employee’s current contract or take any other action other than dismissal which is justified by the circumstances.

4.5 The decision of the appeal body shall be final within the procedures of the University.

4.6 The procedure to be followed at appeal hearings is detailed in Ordinance 33.
ORDINANCE 34

Part VII: REDUNDANCY PROCEDURE

1 Principles

1.1 Before a decision is taken to effect redundancies, the University will consult with individual employees and/or their representatives, having due regard to any consultation required in accordance with Section 188 of the Trade Union and Labour Relations (Consolidation) Act ("TULRCA"), on how to avoid the redundancies or reduce the numbers involved and, once a decision has been taken to proceed, about the means of effecting redundancies.

1.2 The University will consider redeployment for staff who are identified as being ‘at risk’ through the application of the Redundancy Procedure, in accordance with the University’s Redeployment Procedure, until their employment with the University ends.

1.3 Nothing in this Procedure shall preclude the University from seeking volunteers for dismissal by reason of redundancy or oblige the University to seek volunteers; and nothing in this Procedure shall preclude any employee agreeing to voluntary severance at any time or oblige the University to accept applications for voluntary severance.

2 Scope and definitions

2.1 For the purposes of this procedure, redundancy is defined in accordance with Section 139 of the Employment Rights Act 1996 or successor legislation.

2.2 This procedure does not apply to the proposed dismissal of an employee where that dismissal would arise from the expiry without renewal of a fixed term contract (where a separate procedure applies).

2.3 The pool for selection is the group of employees from which those who are to be made redundant will be drawn. The pool will depend upon the area or areas of activity in which the University’s requirements for employees to carry out work of a particular kind have ceased or diminished. The pool will vary from situation to situation depending on the extent to which there are other roles undertaking the same or similar work and the extent to which these roles can be deemed interchangeable. In some cases (for example, in relation to a very specialist post) the role may be unique and there will not be a pool, in which case there is no selection decision to be made and the individual is provisionally selected for redundancy on the basis that the position is unique.

2.4 Where there is a pool, selection criteria will be developed to determine which employee(s) should be put forward for redundancy. Selection criteria will normally be based on the current and future needs of the College/Service in relation to that specific area of activity.

3 Determination by the Vice-Chancellor’s Executive Group

3.1 Where the dismissal of an employee or employees by reason of redundancy is being considered, the manager shall (in consultation with the Director of Human Resources and taking account of guidance issued by Human Resources on managing restructuring and redundancy) submit a report to the Vice-Chancellor’s Executive Group advising of:

- the reason for the proposed redundancies;
- the Services, Colleges or other units within which it is proposed that the dismissals would take place ("the affected units");
- the total number of redundancies proposed and their categories or descriptions;
- the total numbers of employees employed in the affected unit of each such category or description;
- the proposed timescale over which it is proposed that the redundancies would take place;
the proposed pool for selection and the proposed criteria for selection (or an explanation why an individual employee has been provisionally selected for redundancy on the basis that the position is unique), including whether the procedures in paragraph 6 or paragraph 7 of this Procedure should be instituted to effect the proposed redundancy or redundancies;

the consultation which will take place with employees in the affected units and appropriate representatives of the employee(s).

3.2 After considering a report under paragraph 3.1, the Vice-Chancellor’s Executive Group will authorise the commencement of consultation on the proposals set out in the report (as modified, if appropriate, by the Vice-Chancellor’s Executive Group), in accordance with paragraphs 4.1 and 4.2, and, subject to the outcome of this consultation (and unless significant changes are agreed so that paragraph 4.3 applies) the implementation of the proposed redundancy or redundancies.

4 Consultation

4.1 Following a decision by the Vice-Chancellor’s Executive Group under section 3.2, the manager shall (in consultation with the Director of Human Resources and taking account of guidance issued by Human Resources on managing restructuring and redundancy) consult with employees in the affected unit(s) and with appropriate representatives of the employee(s) in accordance with and to the extent required by Section 188 TULRCA.

4.2 The discussion and consultation will include:

- the reason for the proposed redundancies;
- the Services, Colleges or other units within which it is proposed that the dismissals would take place ('the affected units');
- the total number of redundancies proposed and their categories or descriptions;
- the total numbers of employees employed in the affected unit of each such category or description;
- the proposed timescale over which it is proposed that the redundancies would take place;
- the proposed pool for selection and the proposed criteria for selection (or an explanation why an individual employee has been provisionally selected for redundancy on the basis that the position is unique).

4.3 If, following this consultation, there are any significant changes to the proposals set out in the report made to the Vice-Chancellor’s Executive Group under paragraph 3.1 (as modified, if appropriate, by the Vice-Chancellor’s Executive Group), a further report shall be made to the Vice-Chancellor’s Executive Group.

5 Authority to take formal action under this procedure

5.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, College Deans, Directors of Professional Services and College Registrars are authorised, following appropriate training, to take action under this procedure and following consultation with the Director of Human Resources.

5.2. Formal action under this procedure in respect of staff in the academic job families will be taken by academic managers.

5.3. Following appropriate training, the Director of Human Resources may authorise other named managers to take action under this procedure and following consultation with the Director of Human Resources.

5.4. References in paragraph 6 of this procedure to ‘the manager’ may mean a panel of managers authorised to take formal action under this procedure who are involved in the selection decision.
6 Procedure where a pool exists

6.1 Following consultation under paragraph 4, the manager authorised under paragraph 5 above (‘the manager’) will inform in writing those employees falling within the pool for selection:

- the pool for selection from which redundancies will be effected by the application of selection criteria;
- the total number of staff employed in that group of affected staff;
- the total number of staff to be dismissed from that group by reason of redundancy;
- the selection criteria to be used to determine which employees within the affected group are to be dismissed by reason of redundancy;
- who will assess the staff within the affected group against the selection criteria;
- when the assessment of affected staff against that criteria will take place.

6.2 Taking account of guidance issued by Human Resources on managing restructuring and redundancy and the procedures notified to employees under paragraph 6.1, the manager shall decide who shall be given notice of dismissal on the grounds of redundancy. Before an employee is given written notification of dismissal on the grounds of redundancy, they will be invited to attend a meeting with a nominated manager to explain why the employee is at risk of redundancy, advise the employee of their right to appeal and allow the employee to ask questions about their selection for redundancy. The employee may be accompanied at this meeting by a fellow worker or trade union representative.

6.3 Following the meeting, written notification will sent to employees who are to be dismissed. The written notification shall:

- summarise the reasons for the dismissal and why they were selected;
- advise them of their right to appeal;
- give notice of dismissal on the grounds of redundancy.

6.4 Those employees within the relevant group of affected staff not provisionally selected for redundancy shall be advised in writing that, although not provisionally selected at this stage, that position could change as a result of meetings with or appeals by provisionally selected employees under this Procedure.

7 Procedure where a pool does not exist

7.1 The employee to whom this paragraph applies shall be notified in writing of the reasons for their proposed dismissal and shall be invited to a meeting at which they can make oral or written representations. For the avoidance of doubt, such representations may include representations as to alternatives to dismissal.

7.2 Taking account of all the information provided and the representations made, the manager shall decide whether the employee shall be given notice of dismissal on the grounds of redundancy.

7.3 Following the meeting, the employee shall be advised in writing of the decision taken and the reasons for it. Where the decision is that the employee is to be dismissed, the letter shall:

- summarise the reasons for the dismissal and why he/she was selected;
- advise him/her of the right to appeal;
- give notice of dismissal on the grounds of redundancy.

8 Appeal

8.1 An employee has a right of appeal against a decision made to select them for redundancy following the application of the procedure in paragraph 6 or paragraph 7. An employee cannot appeal on the decision to institute redundancy procedures
made in accordance with paragraph 4 of this procedure.

8.2 The right of appeal must be exercised within two weeks of the date of the written outcome of the manager’s decision.

8.3 The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.

8.4 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case drawn from members of the Senior Management Group.

8.5 The University will aim for an appeal to be heard within four weeks of the appeal being lodged, unless otherwise agreed between the parties.

8.6 The appeal will be a review of the decision taken by the manager.

8.7 The appeal panel may:
   - confirm the decision to dismiss the member of staff;
   - revoke the decision to dismiss and reinstate the member of staff; or
   - remit the decision to be considered further in accordance with the procedure in paragraph 6 or paragraph 7, as the Appeal Panel shall specify.

8.8 The decision of the appeal body shall be final within the procedures of the University.

8.9 The procedure to be followed at appeal hearings is detailed in Ordinance 35.
Part VIII: PROCEDURE FOR DISMISSAL ON OTHER GROUNDS

1 Principles

1.1 If after commencing the procedure in this Ordinance the University considers that the relevant case should have been dealt with under Redundancy Procedure, Disciplinary Procedure, Capability/Performance Procedure or the Ill Health/Incapacity Procedure, rather than under this procedure, the University may transfer the case to the appropriate stage of the relevant procedure. It shall be for the University to determine the appropriate procedure to be followed and its decision shall be final.

1.2 Nothing in this Ordinance shall prevent the University from informing and consulting with the relevant member of staff (or with appropriate employee representatives) or from considering alternatives to dismissal prior to commencing this procedure.

2 Scope

2.1 This Ordinance sets out the procedure to be followed where the University proposes to dismiss an employee on one of the following grounds:

2.2.1 dismissal because the member of staff could not continue to work in the position which he/she held without contravention (either on his/her part or that of his/her employer) of a duty or restriction imposed by or under an enactment; or

2.2.2 dismissal of a member of clinical academic staff whose honorary NHS contract is withdrawn or whose medical registration is revoked or suspended; or

2.2.3 dismissal for some substantial reason (other than redundancy, conduct, performance, retirement or incapacity on health grounds) of a kind such as to justify the dismissal of a member of staff holding the position which the member of staff held;

2.2.4 dismissal arising from the expiry without renewal of a fixed term contract where the reason for the expiry and non-renewal of the fixed term contract is not redundancy.

2.2 This procedure does not apply to dismissals taken under the procedure for probation.

3 Authority to take formal action under this procedure

3.1. The Vice-Chancellor, Registrar and Secretary, Deputy Vice-Chancellors, College Deans, Heads of Service and College Managers are authorised, subject to any appropriate training, to take action at all stages detailed in paragraph 4, including the authority to dismiss, in accordance with this procedure and following consultation with the Director of Human Resources.

3.2. Formal action under this procedure in respect of staff in the academic job families will be taken by academic managers.

3.3. The Director of Human Resources may authorise other named managers (subject to any appropriate training) to take defined levels of action in accordance with this procedure and following consultation with the Director of Human Resources.

4 Procedure

4.1 The manager authorised to take action under paragraph 3 above will write to the employee, at least one week before the date of the hearing:

- explaining the circumstances which lead the University to consider dismissing the member of staff;
- inviting the member of staff to a hearing;
- informing the member of staff of his/her right to be accompanied by a trade union representative or fellow worker;
- providing copies of any documents, and any other information, which will be considered at the hearing; and
- advising of any witnesses who will attend the hearing.
4.2 As soon as is reasonably practicable after the hearing the manager shall reach a decision as to whether the member of staff should be dismissed or take any other action other than dismissal which is justified by the circumstances.

4.3 Normally within one week of the meeting, the University will confirm the decision in writing to the employee. The letter will specify the decision and the reasons for it and (where the decision is that the employment should be terminated) that the employee has the right of appeal and how to exercise that right.

5 Appeal

5.1 An employee has a right of appeal against a decision made under this procedure to terminate their employment. No new evidence may be presented to the Appeal Panel unless the Appeal Panel is satisfied that there are exceptional reasons why such evidence was not produced at the meeting which led to the decision under appeal and/or that consideration of this evidence is necessary in the interests of fairness, in reviewing that decision.

5.2 The right of appeal must be exercised within two weeks of the date of the letter confirming the decision taken by the nominated manager. The appeal, stating the grounds on which it is made, must be in writing addressed to the Director of Human Resources.

5.3 An appeal will be heard by a panel comprising two senior managers who have had no previous involvement in the case. In the case of an appeal against a final warning or against dismissal, the panel will be drawn from members of the Senior Management Group from a different College/Service.

5.4 The appeal panel the appeal may confirm that the employment should be terminated in accordance with the employee’s current contract or take any other action other than dismissal which is justified by the circumstances.

5.5 The decision of the appeal body shall be final within the procedures of the University.

5.6 The procedure to be followed at appeal hearings is detailed in Ordinance 33.
Part IX: PROVISIONS AS TO THE VICE-CHANCELLOR

1 A complaint seeking the dismissal of the Vice-Chancellor may be made by not less than three members of the Council to the Chairman of the Council.

2 If it appears to the Chairman of the Council, on the material before him/her, that the complaint raises a prima facie case and that could reasonably lead to dismissal or a formal warning regarding his/her conduct or performance, he/she shall request the Council to appoint a Tribunal to hear and determine the matter.

3 If it appears to the Chairman of the Council that a complaint made to him under paragraph 1 does not raise a prima facie case or is trivial or invalid, he/she may recommend to the Council that no further action be taken upon it.

4 Where a complaint is to be referred to a Tribunal, the Chairman of the Council may suspend the Vice-Chancellor from his duties. Whilst suspended, the Vice-Chancellor must not contact fellow workers or visit University property or access University facilities including email and databases without first obtaining authority from the Chairman of the Council: such authority would be granted (subject to any conditions considered appropriate) to enable the Vice-Chancellor to prepare his/her response. The Vice-Chancellor retains the right to contact his/her Trade Union representative.

5 When the Council has appointed a Tribunal under paragraph 2 it shall instruct a solicitor or other suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.

6 A Tribunal appointed by the Council shall comprise:
   (a) an independent Chairman; and
   (b) one member of the Council, not being a person employed by the University; and
   (c) one member of the academic staff.

   Members of the Council who made the complaint under paragraph 1 should not sit on the Tribunal.

7 The Tribunal may determine its own procedure, or vary the appropriate procedure in the Ordinances, and notify this in writing to the Vice-Chancellor, provided that the Vice-Chancellor shall have the right to appear at a hearing in person.

8 Following the hearing, the Tribunal may, according to the circumstances of the case:
   - take no formal action; or
   - give a formal warning or final warning; or
   - give notice of dismissal; or
   - dismiss the Vice-Chancellor summarily without notice.

9 The Tribunal shall send its decision and its reasons to the Chairman of the Council and to the Vice-Chancellor drawing attention to the period of time within which any appeal should be made and the method of lodging an appeal.

10 Upon receipt of an appeal, the Chairman of the Council shall appoint an Appeal Panel. An Appeal Panel shall comprise:
   (a) an independent Chairman; and
   (b) one member of the Council, not being a person employed by the University; and
   (c) one member of the academic staff.

   Members of the Council who made the complaint under paragraph 1 or who sat on the Tribunal should not sit on the Appeal Panel.
11 The appeal will be a review of the decision taken by the Tribunal. No new evidence may be presented to the Appeal Panel, nor any witnesses called, unless the Appeal Panel is satisfied that there are exceptional reasons why such evidence or witnesses were not produced at the disciplinary hearing and that it is necessary in the interests of fairness, in reviewing the disciplinary manager’s decision, for the Appeal Panel to consider this evidence or hear from the witnesses concerned.

12 The appeal panel may:
- uphold the action taken; or
- withdraw the action taken; or
- reduce the level of action taken.

13 The Appeal Panel shall send its decision and its reasons to the Chairman of the Council and to the Vice-Chancellor. Where the Tribunal decided to dismiss the Vice-Chancellor and, in the event of an appeal by the Vice-Chancellor, this decision has been upheld by an Appeal Panel, the Chairman of the Council shall instruct the Registrar and Secretary to dismiss the Vice-Chancellor.
ORDINANCE 33

PROCEDURE TO BE FOLLOWED BY APPEAL PANELS

The following procedure shall be followed at appeal hearings in respect of appeals made under the following procedures:

- Disciplinary Procedure
- Capability/Performance Procedure
- Ill Health/Incapacity Procedure
- Redundancy Procedure
- Fixed Term Contract Procedure
- Procedure for Dismissal on Other Grounds

1. The University's representative shall put the case in the presence of the appellant and their representative.
2. The appellant (or their representative) may ask questions of the University's representative.
3. The appeal panel may ask questions of the University's representative.
4. The appellant (or their representative) shall put their case in the presence of the University’s representative.
5. The University's representative may ask questions of the appellant.
6. The appeal panel may ask questions of the appellant.
7. The University's representative may sum up the University’s case.
8. The appellant (or their representative) may sum up the appellant’s case.
9. The University’s representative and the appellant and their representative shall withdraw.
10. The appeal body shall deliberate in private, but may recall both the University’s representative and the appellant (and their representative) to clear points of uncertainty on evidence already given.

(Note: reference to the University’s representative above includes both the manager who took the formal action under the procedure which is being appealed against and any other person appointed by the University to present the University’s case.)