



University
of Exeter

ORDINANCE 32

PROCEDURE FOR DISMISSAL ON OTHER GROUNDS

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 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:
 - 2.1.1 dismissal because the member of staff could not continue to work in the position which they held without contravention (either on their part or that of their employer) of a duty or restriction imposed by or under an enactment; or
 - 2.1.2 dismissal of a member of clinical academic staff whose honorary NHS contract is withdrawn or whose medical registration is revoked or suspended; or
 - 2.1.3 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;
 - 2.1.4 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. Managers who are members of UEB, PSDLT, Faculty Executive Boards, Professional Services Divisions' Senior Leadership Teams (or their appointed Deputies/nominees) 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 their 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 Leadership Team from a different Faculty/Professional Services Division.
- 5.4 The appeal panel may confirm that the employment should be terminate 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 35.

ORDINANCE 35

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.)