

**Human Resources**



**UNIVERSITY OF LEEDS**

# Procedure Agreement for Support Staff

*Effective November 2021*

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## **A – Introduction**

In line with our core values, the University aims to provide an environment that is open, honest and transparent and where teamwork, mutual respect and diversity are valued. The University aims to assist all staff to work professionally and effectively, to enjoy job satisfaction and to maximise their contribution to the University's vision for world class performance.

It is recognised that from time to time there will be issues that need to be addressed. The purpose of this Procedure Agreement is to provide a clear formal mechanism for addressing such issues in partnership with the Unions and in accordance with the University's core values and with the principles of natural justice in a fair, impartial, open and consistent manner.

Both the University and the Unions accept that issues which do arise are often resolved quickly and satisfactorily by informal means and as near to the point of origin as possible. The Procedure Agreement therefore encourages these informal mechanisms where appropriate.

It is agreed that if an issue covered by the arrangements set out in this Agreement does arise, the parties shall work in partnership to resolve it in line with this Agreement. Accordingly there shall be no stoppage of work, strike, lockout or any other industrial action taken by either side pending such resolution.

The Agreement will be jointly reviewed on a periodical basis (this will normally be biennially, but may be reviewed at any time where changes need to be made).

## **B - General Principles & Glossary of Terms**

### **1. General Principles**

These general principles underpin all the procedures outlined in this Agreement:

- The procedures within this Agreement apply to all support staff employed by the University of Leeds
- All members of staff have a right to be treated equally and with respect
- All investigations should be conducted thoroughly, consistently, fairly and in an appropriate manner
- All procedures will be applied without any distinction as to for example age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation, or membership of a Trade Union
- When issues arise which may be covered by this Agreement, every effort should be made to resolve them through informal means, as near to the point of origin as possible, before formal mechanisms are set in motion
- The Procedures outlined in this Agreement should be applied as sympathetically and supportively as appropriate
- All staff members have the right to be accompanied by a Trade Union representative or a work place colleague at any formal meetings that are called as a result of the procedures outlined in this Agreement. If a staff member's chosen representative is unavailable then they may request a postponement, usually not more than five working days (this 5 day period may be extended by mutual agreement)
- It is the responsibility of the member of staff to decide whether or not they wish to be accompanied at the meeting, and to contact their chosen representative at the earliest opportunity
- Human Resources may be consulted by either party during any of the procedures detailed in this Agreement. They may attend meetings at the request of either party to provide guidance, support or advice
- Management are encouraged to seek the early involvement of their HR Manager/Officer in any of the procedures contained in this Agreement
- In order for issues to be resolved as quickly as possible other appropriate services may be involved in the procedure, e.g. mediation, counselling, occupational health
- All procedures will be applied in a timely manner and their resolution facilitated by the full cooperation of all parties. Timescales for all procedures are detailed within the relevant sections and reasons for any deviance from these timescales should be given. Meetings should take place without unreasonable delay and all parties should make every effort to attend all meetings
- Appropriate levels of confidentiality should be maintained at all times and information only divulged to third parties when absolutely necessary
- The University recognises that there may be factors both inside and outside of a member of staff's working life which may have an impact on their working life. If such factors are brought to

the attention of the University it will, where relevant and reasonable, consider such factors in deciding upon any action

- Line managers and members of staff are both responsible for making sure that open communication is maintained and that discussion takes place at all times throughout informal and formal procedures
- Departments must keep a record of all informal and formal stages of the procedures
- There may be occasional exceptional circumstances where it is not necessary or appropriate to go through each section of the procedure. Where this is the case this will be discussed in full with the staff member and their representative

## 2. Glossary of Terms

This glossary of terms explains what certain words mean as they appear in the Procedure Agreement.

Term	Definition
Appeal	A process followed where the member of staff believes there are grounds to contest a formal decision
Appeal Panel	The panel convened to hear the appeal
Capability	The ability to perform the work for which the person is employed to do (whether assessed by reference to skill, aptitude, health or physical or mental ability)
Capability Caution	A formal warning issued on the grounds of capability
Disciplinary Hearing	Meeting to hear allegations made against an individual regarding their conduct
Disciplinary Manager	Manager hearing a disciplinary case
Dismissal	The termination of a contract of employment by the University
Head of School	For the purpose of this document Head of School will mean: <ul style="list-style-type: none"> <li>• Head of School</li> <li>• Head of Institute</li> <li>• Head of Service as appropriate</li> </ul>
Investigating Officer	Manager investigating issues surrounding allegations / complaint
Suspension	Removal from work and the workplace whilst serious allegations are being investigated

## C - Time Off for Trade Union Duties & Activities

### 1. Introduction

The University of Leeds wishes to continue working in partnership with all the Trade Unions and acknowledges that individuals need reasonable time to undertake duties associated with their Trade Union work. Both the Trade Unions and the University of Leeds recognise that it is in their mutual best interest for each recognised Union to have an adequate number of properly trained people to represent the interests of their members.

In addition, TULRCA 1992 gives Trade Union officials a statutory right to reasonable paid time off to carry out certain Trade Union duties and the Employment Act 2002 makes provision for time off for Union Learning Representatives. The parties recognise their rights and responsibilities under this legislation and the following seeks to provide some clarification as to how the legislative scheme is applied at the University of Leeds.

This procedure applies to UNISON and Unite as the recognised Trade Unions for support staff within the University of Leeds.

This procedure sets out the facilities and provides guidance for dealing with time off for Trade Union duties and related activities.

### 2. Trade Union Officials

A Trade Union Official is an employee of the University who has been elected or appointed in accordance with the rules of the Union to represent the members of that Union who are employees of the University of Leeds.

The number of Officials shall be agreed between the parties from time to time and their names and the constituencies they represent shall be notified in writing to the Director of Human Resources.

The Director of Human Resources will forward this information to the relevant sources, e.g. Heads of Schools.

Changes in representatives shall be similarly notified.

### 3. Definitions

Term	Definition
Duties	Trade Union duties are defined as duties concerned with the negotiations and other functions connected with, for example, pay and reward, terms and conditions of employment, allocation of work duties, engagement and non-engagement of workers, matters of discipline etc.

Activities	<p>Activities of a Trade Union Official can be defined as:</p> <ul style="list-style-type: none"> <li>• Meeting full time Officials to discuss issues relevant to the workplace</li> <li>• Voting in Union elections</li> <li>• Branch, area or regional meetings</li> <li>• Annual conferences</li> </ul> <p>Please note that these are examples of duties and activities, this list is not exhaustive.</p>
Paid time off	<p>Paid time off is defined as time off with normal contractual pay for the period of absence granted, i.e. as if the Official had worked normally during the period in question.</p>

#### 4. Time off

The University of Leeds will grant reasonable paid time off during working hours to allow appropriate Trade Union Officials to:

- Attend meetings with University representatives at all levels
- Attend meetings of University Committees
- Attend meetings on individual grievance and disciplinary matters where the Official is assisting a member of the Union
- Meet with full-time Officials of the Union in connection with specific issues affecting Union members
- Attend formal meetings of the Union, either national, regional or local, where these have been convened by a full-time official to discuss industrial relations matters of relevance to branch members
- Attend joint meetings, working parties and special groups convened as part of the national collective bargaining machinery
- Attend courses organised by the TUC or the Union, subject to operational requirements and the appropriateness of the training course. The Union will provide syllabuses of training courses where required and give reasonable notice where nominations for training are made
- Attend briefings held before or after the meetings described above
- Attend the Union's national conference
- Participate in Health & Safety duties
- Undertake duties associated with the above e.g. preparation for meetings and discussions
- Participate in such other duties as may be agreed by the University and the Union

The majority of the above duties will be organised in advance and the necessary time off is dependent on permission from the Head of School/Service or nominee. Such permission is subject to the departmental exigencies but should not be unreasonably withheld. When seeking permission, Officials should give as much notice as possible however the University recognises that on occasions meetings will be called at short notice. Where possible line managers should recognise this and allow Trade Unions Officials some flexibility.

## **5. Other functions**

### **Meetings**

Whilst there is no statutory requirement that Union members or Officials be paid for time off during working hours for activities relating to their Trade Unions, the University accepts that it is reasonable on certain occasions to grant facilities for meetings during working hours for considering important issues.

Branch meetings will usually be held outside working hours. However it is recognised that the times of work do vary for some staff and in these circumstances if a branch meeting is held when a particular official/member should be working it is expected that they will be granted time off with pay in order to attend.

### **Branch administration**

It is recognised that branch administration, correspondence, maintaining membership records, discussions with members about matters of general interest etc., are ordinarily conducted in the members' and officials' own time.

### **Union Learning Representatives**

Employees who are a member of an independent Trade Union recognised by the University can take reasonable time off to undertake the duties of a Union Learning Representative providing:

- The Union has given the University notice, in writing, that the employee is a learning representative
- The learning representative has been sufficiently trained to carry out the required duties

The functions which a Union Learning Representative is allowed reasonable time off for are as follows:

- Analysing learning or training needs
- Providing information and advice about learning or training matters
- Arranging learning or training
- Promoting the value of learning or training
- Consulting the employer about the above activities
- Preparation to carry out the above activities

- Undergoing relevant training

### **Health and Safety Representatives**

A Union representative is allowed time off for the following duties relating to Health and Safety:

- Attending University Health and Safety meetings
- Attending Health and Safety inspections
- Promoting Health and Safety
- Analysing Health and Safety statistics
- Preparation to carry out the above activities
- Undergoing relevant training

### **Equality and Diversity Representatives**

A Union representative is allowed time off for the following duties relating to Equality and Diversity:

- Attending Equality and Diversity meetings
- Promoting Equality and Diversity
- Analysing Equality statistics
- Preparation to carry out the above activities
- Undergoing relevant training

## **6. Facilities**

The University will:

- Where possible make accommodation available for Union meetings
- Provide notice boards for official Union announcements
- Provide reasonable office accommodation for the Union
- On request provide the Union with reasonable information to enable it to identify its membership
- Provide check off facilities for the deduction of Union subscriptions at source. The Union will be charged an administrative fee for this facility

## **D - The Local Joint Committees**

### **1. The Local Joint Committees**

This Agreement provides for the setting up of Local Joint Committees as follows:

- The Local Joint Committee with Unite
- The Local Joint Committee with UNISON

Each Local Joint Committee shall have the functions, constitution and procedural arrangements as shown below.

#### **Functions:**

- **Negotiation**

The Local Joint Committee is the negotiating body between the University and the internal Union representatives. Matters for negotiation shall comprise those relating directly to pay or conditions of service that affect groups of staff collectively and which are the subject of local determination or local implementation when they are determined nationally.

- **Consultation**

The University recognises the legitimate right of its staff to be consulted about matters that affect them as employees and considers that an effective means of such consultation is through the internal Union representatives in the Local Joint Committee. Such matters include further education and training arrangements, superannuation and car parking, and other issues that may be raised by committees of the Senate or the Council or where a statutory requirement to consult exists.

#### **Constitution**

The constitution of the Local Joint Committee shall be:

- Three members appointed by the University
- Three internal members appointed by the Unions

Either party may, by agreement, invite other people, including the full time trade Union official, to the Committees on an ad hoc basis either to speak on a particular issue, or in an advisory capacity. These requests will not be unreasonably refused.

### **2. General procedural arrangements**

The Director of Human Resources will nominate a Secretary to the Local Joint Committee which will meet no less than three times a year. Additional meetings may be called at the request of either side. The Director of Campus Development (or nominee) will chair all Local Joint Committees.

The quorum of the Local Joint Committee shall be two University members and two internal Union members, with provision for each side to arrange for substitutes if a member is unable to attend a meeting.

The Secretary will produce minutes of the meetings of the Local Joint Committee, for agreement by both sides.

### **3. Procedure for negotiations & the resolution of issues**

Agreements of the Local Joint Committee shall be reached by a majority vote from each side i.e. by at least two of the University members and at least two of the internal Union members.

Each side may be given advice by its principal (detailed below), within individual Union rules, as to the limits within which it may negotiate. Negotiated agreements are always subject to ratification by the principals.

For the purposes of the Agreement, principals are defined as:

- For the University - the Council or the Pro-Chancellor acting on behalf of the Council
- For the Union - the Leeds University branch of the Union

Where agreement in the Local Joint Committee is not reached it will be open to one or both sides jointly to recommend referral to independent conciliation or arbitration through the offices of the Advisory Conciliation and Arbitration Service. In such circumstances, the extent to which any arbitration shall be binding will be determined by the parties at the time, solely in relation to the issue in question.

## **E - Grievance procedure**

*(Updated 06.12.21)*

### **1. Policy statement**

The University is committed to creating a positive working environment. It is recognised, however, that there may be occasions when a member of staff will wish to raise a grievance arising out of their employment and the University will seek to ensure that any grievance is considered fairly.

It is expected that the majority of grievances will be dealt with quickly and satisfactorily through informal discussion. However, when it is necessary to use the formal procedure, the member of staff has the right to have their grievance fully investigated and after careful consideration, to receive a formal response.

The University aims to deal with grievances promptly but allow for full and careful consideration of all the issues.

### **2. Application and scope**

This document sets out the procedure that will apply where a grievance is raised by a member of staff covered under this agreement. Further information about when it may be appropriate to use these procedures can be found in the associated guidance.

### **3. General provisions**

Any member of staff who brings or is the subject of a grievance has the right to be accompanied and represented at any formal meeting under this procedure by a trade union representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting and confer with the member of staff but may not answer questions on their behalf.

Other appropriate options, such as mediation, will be encouraged to assist in the resolution of a grievance. No grievance will be regarded as resolved informally or through mediation without agreement by the person/s raising the grievance.

Where the subject matter of a grievance is substantially the same as matters already being handled under another procedure, such as disciplinary, capability or whistleblowing, the grievance may be considered within or alongside these and new timescales agreed to ensure the processes are concluded with as little delay as possible.

Every effort will be made by all parties to ensure that grievances are resolved in a timely fashion.

Further guidance for staff raising or managing a grievance can be found in the associated guidance document. This will be reviewed and revised from time to time to ensure it remains current and provides relevant information to those involved in the process.

#### **4. Informal stage**

In the first instance, a member of staff who considers that they have a grievance should attempt to resolve the matter informally with the advice and support of their manager or other senior colleagues as appropriate to the case.

#### **5. Formal Stage**

Where informal resolution has not been possible or is inappropriate, the member of staff will put their grievance in writing to the Director of Human Resources, providing full details of their complaint. The Director of Human Resources or nominee will identify one or two individuals ('the investigating officer(s)'), who will be a senior member or members of staff with no prior involvement in the matter.

The investigating officer(s) will seek information and evidence from the parties concerned, who will be given the opportunity to meet with the investigating officer(s).

Connected grievances may be subject to the same investigation.

The investigating officer(s) will report their findings and any recommendations to the Director of Human Resources. The Director of Human Resources or nominee will inform the parties to the grievance in writing of the decision, any recommendations made and of the right of appeal.

#### **6. Appeal**

A member of staff will have the right to appeal against a formal decision under this Procedure. The appeal must be sent in writing to the Secretary within fifteen working days of the date of the decision.

The grounds of the appeal should be clearly stated and should be:

- That the original decision was perverse or unfair on the evidence provided; and/or
- That there has been a procedural defect causing material disadvantage; and/or
- That new evidence has become available which could not reasonably have been taken into account originally.

If the University Secretary (or nominee) considers there are grounds for appeal, a three person panel will be established to hear the appeal, none of whom will have had prior involvement in the case. If there are no grounds for appeal, the appeal may be rejected, and that decision will be final. The staff member appealing will be offered the opportunity of a meeting before this decision is made.

At the appeal meeting the member of staff will be given the opportunity to state their case and raise any factors which they wish to have considered.

The panel will forward the outcome of its deliberation to the Director of Human Resources, who will convey the decision to the member of staff concerned in writing.

The decision of the appeal panel will be final and cannot be further appealed. This concludes the University's internal procedures.

## **F - Conduct procedure**

### **1. Policy statement**

The University and the Trade Unions recognise that it is the responsibility of all staff to ensure that acceptable levels of conduct and behaviour are maintained at all times. The University and the Trade Unions accept that unfortunately, on rare occasions, unsatisfactory conduct and behaviour does occur, and in these circumstances, it is expected that both the University and the member of staff will seek to address the issues positively and promptly.

### **2. Application and scope**

This document sets out the procedure that applies in cases of misconduct and gross misconduct by any member of staff covered under this agreement.

### **3. General provisions**

Members of staff who are the subject of a formal meeting, hearing or appeal under this procedure have the right to be accompanied and represented at any such meeting or hearing by a trade union representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting and confer with the member of staff but may not answer questions on their behalf.

A member of staff being given a disciplinary warning under the formal procedure may have any salary increment falling due during the period of the warning withheld. If an appeal is successful and a warning is removed the salary increment will be reinstated and backdated to its original due date.

Further guidance for staff involved in this procedure can be found in the associated guidance document. This will be reviewed and revised from time to time to ensure it remains current and provides relevant information to those involved in the process.

### **4. Investigations**

An investigation may be conducted if, having taken into account the scope and nature of the alleged misconduct or gross misconduct, the relevant manager considers that this is necessary. This may require holding one or more investigatory meetings and collating evidence for use at any hearing. In such instances, the investigating officer will not hear any subsequent disciplinary case or otherwise take any disciplinary decisions.

Where the University considers it appropriate, the contents of an investigation undertaken under another statutory or other equivalent procedure may be used as part of this procedure.

## **5. Informal procedure**

When a member of staff's conduct is called into question but the line manager does not consider the formal procedure to be necessary in the first instance, they will meet with the member of staff to discuss the issue with them informally.

A written record of informal discussions will be made by the manager and shared with the individual.

## **6. Formal procedure**

At any stage in the disciplinary process, if considered appropriate, the member of staff may be suspended from work without detriment to normal full pay by the Director of Human Resources (or nominee) (the 'suspending officer') or other designated person. Suspension is not a disciplinary penalty and is not an indication of culpability. Any suspension will be reviewed fortnightly by the Director of Human Resources (or nominee) and may be lifted at their discretion.

During any period of suspension, the member of staff will be required to cooperate fully with any investigation and to be available for interview during normal office hours, but, unless agreed by a person designated to authorise a suspension, will not be allowed to enter University premises, other than to attend an investigation or disciplinary meeting; undertake any work; or contact staff or students with regard to work matters, or any other matter related to the investigation. The suspending officer may also deny a suspended member of staff access to the University's e-mail or other digital facilities where they consider it necessary or appropriate in the context of the case.

### **Stage 1 – Potentially leading to a formal warning**

Where the informal process has not led to improved conduct, or where the alleged misconduct is such that the informal process is considered to be inappropriate, the University may consider taking formal action under Stage 1 of this procedure.

The member of staff will be required to attend a formal disciplinary meeting at which the alleged misconduct will be outlined and they will be given the opportunity to respond and state their case. At least ten working days' notice of the hearing will be given in writing to the member of staff, and any documents to be relied on at the hearing will be provided to all parties at least 5 working days before the hearing.

At Stage 1, the formal meeting will be conducted by the head of the relevant school or service or their nominee ('the Disciplinary Manager').

If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff's conduct has not met the required standard, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a formal written warning to be given. If such warning is given the letter will set out the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than 1 year) and the consequences of further misconduct. The letter will also set out the member of staff's right of appeal against the decision. A copy will be placed on the member of staff's personal file and will be removed after the warning expires.

### **Stage 2 – Potentially leading to a final warning**

If the member of staff does not meet the required standard of conduct set out under Stage 1, commits any further misconduct during an existing warning period, or where the alleged misconduct is such that it is appropriate to dispense with Stage 1, the University may convene a formal disciplinary meeting under Stage 2 of this procedure.

The member of staff will be required to attend a formal disciplinary meeting at which the alleged misconduct will be outlined and they will be given the opportunity to respond and state their case. At least ten working days' notice of a hearing will be given in writing to the member of staff, and any documents to be relied on at the hearing will be provided to all parties at least 5 working days before the hearing.

At Stage 2, the Disciplinary Manager will be the dean of the relevant faculty or service equivalent or nominee. The line manager of the member of staff whose conduct is under examination will not be appointed to act as Disciplinary Manager.

If, having considered the evidence, the Disciplinary Manager is satisfied that the member of staff's conduct has not met the required standard, the Disciplinary Manager will write to the member of staff informing them whether it is appropriate for a final written warning to be given and if such warning is given, the nature of the misconduct, the change in conduct required, the period during which the warning will remain active (no longer than 2 years) and the consequences of further misconduct. The Disciplinary Manager may also consider the removal of any title or office held in addition to the substantive appointment. The letter will also set out the right of appeal against the decision. A copy will be placed on the member of staff's personal file and will be removed after the warning expires.

### **Stage 3 – Potentially leading to dismissal**

If the member of staff does not meet the required standard of conduct set out under stage 2, commits any further misconduct during an existing warning period, or where allegations of gross or very

serious misconduct are raised such that it is considered appropriate to dispense with Stages 1 and 2, the University may take formal action under Stage 3 of this procedure.

If there are grounds to indicate that an act of further, or gross, or serious, misconduct may have occurred, the member of staff will be required to attend a formal disciplinary hearing before a three-person panel established by the Secretary or nominee, none of whom will have had prior involvement in the case. The letter requiring attendance at the formal disciplinary hearing will include a statement of the alleged misconduct and will warn the member of staff that one consequence of the hearing may be the termination of their employment with or without notice. The member of staff will be given at least fifteen working days' notice of the hearing, and any documents to be relied on at the hearing will be provided to all parties at least ten working days before the hearing

At the hearing the member of staff will be given the opportunity to state their case and raise any factors which they wish to have considered.

Where allegations are partly or wholly upheld by a panel, the panel may impose sanctions, including but not limited to:

- Dismissal (without notice in the case of gross misconduct)
- Withholding of any forthcoming salary increment
- Demotion to a post of lower grading
- A move to a job elsewhere in the University
- Removal of any title or office held in addition to the substantive appointment
- A formal warning for a duration appropriate to the case

The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation.

The decision, the reasons for that decision and any sanction(s) will be set out in writing and the member of staff will be notified of their right of appeal.

## **7. Appeals**

The member of staff will have the right to appeal against any decision made under the formal stage of this procedure and must specify the grounds of their appeal. The appeal must be made in writing and should normally address one or more of the following possible grounds of appeal:

- That the original decision was, on the evidence, perverse or the penalty/improvement measures unfair
- That there has been a procedural defect causing material disadvantage
- That new evidence has become available which could not reasonably have been taken into account originally

An appeal against a warning at Stages 1 or 2 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The Director of Human Resources or nominee will invite an appropriate senior member of staff who has had no prior involvement in the matter to consider the appeal.

An appeal against a sanction at Stage 3 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel, none of whom will have had prior involvement in the case.

The decision of the appeal panel will be final and cannot be further appealed. This concludes the University's internal procedures.

## **G - Capability procedure**

### **1. Policy statement**

The continued success of the University is dependent upon members of staff achieving and maintaining high standards of performance in their roles. All staff have a responsibility to perform the duties of their role to the required standards and the University is committed to ensuring that the standards are achievable and providing the necessary constructive support, development and encouragement for individuals to do so.

The University is committed to, and has a responsibility for, setting realistic and measurable standards of performance and for explaining these standards to members of staff. These standards will be communicated to staff in a number of ways, including: job descriptions; person specifications; the University's behavioural framework; the appraisal process; inductions, probation review meetings, and regular one to one meetings.

The University recognises that there will be occasions where, for a variety of reasons, staff do not always perform to required standards and in these circumstances, it is expected that both the University and the member of staff will seek to address the performance issues positively and promptly.

### **2. Application and scope**

This procedure sets out the process to be followed if capability issues arise. For the avoidance of doubt, this procedure does not apply where the probation procedure is in force. Further information about the appropriate process to follow where ill health results in capability issues can be found in the policy and guidance related to sickness absence and ill health.

### **3. General provisions**

Members of staff have the right to be accompanied and/or represented at a formal meeting under this procedure by a trade union representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting/hearing and confer with the member of staff but may not answer questions on their behalf.

Throughout this procedure:

- Any ill health or disability will be taken into consideration;
- Managers with responsibilities under the procedure will take appropriate professional advice and refer to the associated guidance;
- Individuals will be given the opportunity to state their case, to raise any factors they wish to have considered and to present evidence; and
- Transfer to a post of lower grading or to the removal of any title or office held in addition to their substantive appointment may be explored where it is considered that this will resolve the issue.

A member of staff being given a capability caution under the formal procedure may have any salary increment falling due during the period of the caution withheld. If an appeal is successful and a caution is removed the salary increment will be reinstated and backdated to its original due date.

Further guidance for staff involved in this procedure can be found in the associated guidance document. This will be reviewed and revised from time to time to ensure it remains current and provides relevant information to those involved in the process.

### **4. Informal procedure**

Where a manager considers there is a shortfall in performance they will raise the concern with the individual as soon as possible, and normally before consideration is given to formal procedures.

An open and honest discussion should be encouraged ensuring the issues and expected performance standards are clearly communicated, appropriate support and guidance is discussed, and timescales for reviewing progress are agreed.

A written record of informal discussions will be made by the manager and shared with the individual.

There may however be circumstances where it is appropriate to refer the matter directly to the formal stage of the procedures. For example, where the capability issue has led to serious consequences or had a significant impact on the University.

## **5. Formal procedure**

### **Stage 1 – Possible issue of a written caution**

Where the member of staff's capability does not meet the required performance standards for their role and informal action or advice has proved ineffective, or where the matter has been referred directly to the formal procedures, the individual will be invited to a Stage 1 review meeting.

The letter inviting the member of staff to the meeting will set out the issues to be considered, give at least ten working days' notice of the meeting, and include any documents to be relied upon at the meeting.

After the meeting, and if deemed appropriate, the manager may issue a written caution to the member of staff that makes clear the improvement that is required, the support that will be made available and the consequences if improvement is not achieved and maintained within the timescale of the caution (which will remain effective for a period not normally exceeding twelve months).

This written caution will be recorded in the form of a letter with a copy to be sent to the member of staff. The letter will also set out the right of appeal against the decision. A copy will be placed on the member of staff's personal file and will be removed after the caution expires.

### **Stage 2 – Possible issue of a final written caution**

If it is considered that the member of staff has not met, or is considered unlikely to meet, the required improvements by the conclusion of the Stage 1 review period, or if the capability issues are sufficiently serious such that it is appropriate to refer directly to this stage, the member of staff will be invited to a Stage 2 review meeting. The letter inviting the member of staff to the meeting will set out the issues to be considered, give at least ten working days' notice of the meeting, and include any documents to be relied upon at the meeting.

At the conclusion of the Stage 2 review meeting, the manager will decide what action, if any, needs to be taken, which may include issuing a final written caution to the member of staff which makes clear the improvement required, the support that will be made available, and the consequences if improvement is not achieved within the timescale of the caution (which will remain effective for a period not normally exceeding twelve months).

This final written caution will be recorded in the form of a letter to be sent to the member of staff. The letter will also set out the right of appeal against the decision. A copy will be placed on the member of staff's personal file and will be removed after the caution expires.

### **Stage 3 – Potentially leading to dismissal**

If the member of staff's performance does not improve as specified in the final written caution issued under the Stage 2 review above, or where the capability issues are sufficiently serious such that it is appropriate to refer directly to this stage, or where gross negligence is alleged, the member of staff will be invited to a formal hearing at Stage 3. This hearing will be arranged by the University Secretary (or nominee) and be heard by a panel of no more than three people with no prior involvement of the case. The member of staff will be advised in writing of the grounds that have led to the hearing being called, including full details of the alleged performance issues, and will be advised that one possible consequence of the hearing may be the termination of their employment. They will be given at least fifteen working days' notice of the hearing, and any documents to be relied on at the hearing will be made available to them at least ten working days in advance.

Where allegations are partly or wholly upheld by the panel, it may impose sanctions including but not limited to:

- Dismissal (without notice in the case of gross negligence)
- A further caution and review period
- Withholding any forthcoming salary increment
- Movement to a suitable alternative post which may include demotion to a post of lower grading
- Removal of any title or office held in addition to the substantive appointment

The panel will forward its decision to the University Secretary or nominee, who will make arrangements for its implementation.

The decision and any sanction(s) will be communicated in writing, with reasons, and the member of staff will be notified of their right of appeal.

## **6. Appeals**

The member of staff will have the right to appeal against any decision made under the formal stage of this procedure and must specify the grounds of their appeal. The appeal must be made in writing and should normally address one or more of the following possible grounds of appeal:

- That the original decision was, on the evidence, perverse or the penalty/improvement measures unfair;
- That there has been a procedural defect causing material disadvantage; or
- That new evidence has become available which could not reasonably have been taken into account originally.

An appeal against a warning at Stages 1 or 2 must be sent to the Director of Human Resources within fifteen working days of the member of staff receiving the decision. The Director of Human Resources or nominee will invite an appropriate senior member of staff who has had no prior involvement in the matter to consider the appeal.

An appeal against a sanction at Stage 3 must be sent to the Director of HR within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel, none of whom will have had prior involvement in the case.

The letter inviting the member of staff to the appeal meeting will set out the issues to be considered, give at least fifteen working days' notice of the meeting, and include any documents to be relied upon at the meeting.

The decision of the appeal panel will be final and cannot be further appealed. This concludes the University's internal procedures.

## **H – Ill Health**

### **Part I - Application and scope**

1. Set out below is the procedure to be followed where a member of staff is unable to perform their duties for reasons of long-term ill-health, incapacity or injury

### **Part II - General provisions**

2. Before action is taken under this procedure the head of school or service, in consultation with the faculty or service Human Resources Manager and, as appropriate, with the Occupational Health service, must consider whether there are reasonable adjustments which could be made to the requirements of a role or to other aspects of working arrangements that would provide support at work and/or assist a return to work.

3. Members of staff who are the subject of a formal meeting or appeal under this procedure have the right to be accompanied and represented at such meeting or hearing by a trade union representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting/hearing and confer with the member of staff but normally may not answer questions on their behalf.

4. In the first instance, absence will be managed in accordance with the University's policies covering absence through illness, which include appropriate review meeting(s).

### **Part III - Medical Advice**

5. In all cases where action under this procedure is under consideration, the Director of Human Resources or nominee will decide whether it is necessary or appropriate for the University to seek to obtain additional medical advice in relation to the member of staff's medical condition. The member of staff is encouraged, in their own interest, to cooperate in this regard. Such advice will ordinarily be sought by the University from the member of staff's general practitioner and/or specialist consultant. In addition, advice may be sought from an occupational health specialist or, in exceptional circumstances, a medical practitioner or consultant appointed by the University, or from any combination thereof. The member of staff may be required to attend medical appointments arranged by the University and may also provide additional medical information - produced by a medical expert - which they feel is relevant. Where an attempt by the University to obtain relevant medical evidence or information has proved unsuccessful, the University may take the decision to apply this procedure nonetheless.

### **Part IV - Formal procedure**

6. Following appropriate review meeting(s) under the University's policies covering absence through illness, if issues of health or incapacity appear unlikely to be resolved within a reasonable timescale and there are grounds to indicate that a member of staff is incapable of performing their duties for

reasons of incapacity caused by ill-health, physical or mental incapacity or injury, they will be invited, in writing, to a formal meeting at which the potential termination of their employment will be considered by a three-person panel to be established by the Secretary or nominee. The membership of the panel shall include one lay member of the Council and a member of the Senate. The member of staff will be advised in writing of the reasons that have led to the meeting being called and will be given at least fifteen working days' notice of the meeting. Copies of any documents to be relied on at the meeting will be given to the member of staff at least ten working days before the meeting.

7. Both in advance of and at the meeting the member of staff will be given the opportunity to state their case, to raise any factors which they wish to have considered and to present evidence.

8. If the member of staff does not attend a meeting despite being given the opportunity to attend on at least two occasions a decision may be taken in their absence, provided that reasonable account has been taken of any constraints on attendance occasioned by the member of staff's ill-health, incapacity or injury, and provided always that the member of staff has been offered reasonable opportunities to make written representations.

9. During its deliberations, the panel may seek advice, and in any case shall ensure that it is guided by expert opinion.

10. The decision following the meeting may include (but will not be limited to) the following outcomes:

- a. that the member of staff be deployed to a different role; or
- b. that the member of staff's employment should be terminated; or
- c. that there are insufficient grounds to dismiss or redeploy the member of staff under this procedure; or
- d. that the member of staff remains in their current role with reasonable adjustments.

In the case of a. or c. above, the panel may, if it considers it necessary, recommend measures to ensure that the member of staff receives appropriate support.

11. The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation.

12. The decision will be notified to the member of staff in writing and the member of staff will be notified of their right of appeal.

## **Part V - Appeal**

13. The member of staff will have the right to appeal against any decision to terminate their employment under this procedure and must specify the grounds of their appeal. The appeal must be made in writing and, without prejudice to the generality of the right of appeal, should normally address one or more of the following possible grounds of appeal: that the original decision was, on the evidence, perverse or the penalty unfair; that there has been a procedural defect causing material

disadvantage; and that new evidence has become available which could not reasonably have been taken into account originally.

14. Any appeal must be sent to the Secretary within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel consisting of the Vice-Chancellor (or a Deputy Vice-Chancellor), a member of the Senate and a lay member of the Council, one of whom may be medically qualified.

15. The decision of the appeal panel will be final and cannot be further appealed. It will be communicated with all due expedition.

## **I – Contravention Procedure**

### **Part I - Application and scope**

1. This procedure is intended to apply in circumstances where the reason for dismissal that the member of staff cannot continue to work in the position which they hold without contravention (either on their part or on that of the University) of a duty or restriction imposed by or under an enactment .

2. Should the nature of a particular situation require an immediate decision, the University would seek to apply as much of this procedure as is possible or appropriate, subject to the circumstances of the case. Where timescales require, the decision would be made by the Director of Human Resources. The right of appeal would remain.

### **Part II - General provisions**

3. Members of staff who are the subject of a formal hearing or appeal hearing under this procedure have the right to be accompanied and represented at such hearing or appeal hearing by a trade union representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the hearing and confer with the member of staff but may not answer questions on their behalf.

### **Part III - The procedure**

4. Where evidence arising from an investigation or provided otherwise indicates a circumstance or reason defined in paragraph 1 above, the member of staff will be required to attend a formal hearing before a three-person panel, the membership of which will be established by the Secretary or nominee and shall include one lay member of the Council. The member of staff will be advised in writing of the issues that have led to the hearing being called, and shall be given at least fifteen working days' notice of the hearing. Copies of any documents to be relied on at the hearing will be made available to the staff member at least ten working days before the hearing.

5. At the hearing, the member of staff will be given the opportunity to state their case and raise any factors they wish to have considered.

6. The decision may include (but will not be limited to) the following outcomes:

- a. that the member of staff should be dismissed on grounds described in paragraph 1 above, with or without notice;
- b. that there are insufficient grounds to dismiss the member of staff under this procedure;
- c. that there are insufficient grounds to dismiss the member of staff under this procedure but that the matters should be considered under an alternative procedure;
- d. that redeployment might be appropriate.

7. The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation. The decision will be notified to the member of staff in writing and the member of staff will be notified of their right of appeal.

## **Part IV - Appeals**

8. The member of staff will have the right to appeal against any decision to terminate their employment under this procedure and must specify the grounds of their appeal. The appeal must be made in writing and, without prejudice to the generality of the right of appeal, should normally address one or more of the following possible grounds of appeal: that the original decision was, on the evidence, perverse or the penalty unfair; that there has been a procedural defect causing material disadvantage; that new evidence has become available which could not reasonably have been taken into account originally.

9. Any appeal must be sent to the Secretary within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel including the Vice-Chancellor (or a Deputy Vice-Chancellor) and either a lay member of the Council or an independent practising lawyer.

10. The decision of the appeal panel will be final and cannot be further appealed. It will be communicated with all due expedition.

## **J - Redundancy Procedure**

*(Updated 07/07/2020)*

### **Part I - Application and scope**

This procedure sets out the process to be followed to dismiss any member of the support staff by reason of redundancy. 'Dismissal by reason of redundancy' and 'redundancy' shall bear the same meanings as set out in Part XI, Chapter 2 of the Employment Rights Act 1996.

Where compulsory redundancies are not anticipated at the outset of a restructuring exercise, Council approval will be sought at the appropriate time if compulsory redundancies subsequently appear likely.

For the avoidance of doubt, this procedure does not apply to the expiry of fixed term contracts where continuous service is less than two years.

In isolated cases where a potential redundancy does not form part of a restructuring exercise and/or relates to a discrete post(s), the Chair of Council will act on Council's behalf.

## **Part II - General provisions**

This procedure applies where the Council has decided that there may need to be redundancies from the support staff:

- a. of the University as a whole; or
- b. of any specific area of the University.

Where this is necessary, the University will use reasonable endeavours to ensure that:

- a. the total number of dismissals by reason of redundancy is kept to a realistic minimum;
- b. members of staff are individually consulted;
- c. trades unions are collectively consulted;
- d. selection for redundancy is based on clear criteria that will be fairly applied and as objective as possible;
- e. all reasonable efforts are made to redeploy or find suitable alternative work for members of staff selected for redundancy; and
- f. support and advice is provided to members of staff selected for redundancy to help them find suitable work should their employment come to an end.

During individual consultation meetings, members of staff under this procedure have the right to be accompanied by a trade union representative or work colleague. The member of staff's chosen companion can take a note of the proceedings, address the meeting and confer with the member of staff but may not answer questions on their behalf.

## **Part III - Procedure**

Where the Council has reached a decision under Part II above, it shall authorise the Secretary or nominee to appoint a Redundancy Panel to act on the Council's behalf, to give effect to its decision and for that purpose:

- a. to consider recommendations regarding members of staff selected for dismissal by reason of redundancy; and
- b. to report its conclusions to the Chair of Council.

The three-person Redundancy Panel shall include a lay member of the University Council.

The Panel members and each member of staff to be considered for redundancy will receive in writing a summary of the process that has been followed to determine the selected members of staff, including steps taken to avoid redundancy through, for example, redeployment and voluntary severance. Each member of staff will be advised that an outcome of the process may be the termination of their employment on grounds of redundancy.

The Redundancy Panel may conclude for each selected member of staff:

- that dismissal on grounds of redundancy is appropriate, in which case it will approve a selection recommendation made under Part II above;

- that dismissal on grounds of redundancy is appropriate, subject to consideration of a specified suggested option;
- that some other option should be considered.

The Panel will report its conclusions to the Chair of Council and forward a summary report to Council via the University Secretary or their nominee. Each member of staff shall be informed of the outcome of the Redundancy Panel's deliberations.

A decision to issue notice of dismissal by reason of redundancy will be made only when consultation with the individual member of staff has taken place. The notice letter will include:

- a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part IV (Appeals) below; and
- a statement as to when the intended dismissal by reason of redundancy will take effect.

## **Part IV - Appeals**

The member of staff will have the right to appeal against any decision to terminate their employment under this procedure and must specify the grounds of their appeal. The appeal must be made in writing and, without prejudice to the generality of the right of appeal, should normally address one or more of the following possible grounds of appeal: that the original decision was, on the information presented, perverse or unfair; that there has been a procedural defect causing material disadvantage; and that new information has become available which could not reasonably have been taken into account originally.

Any appeal must be sent to the University Secretary within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel including the Vice-Chancellor (or a Deputy Vice-Chancellor) and either a lay member of the Council or an independent practising lawyer.

The decision of the appeal panel will be final and cannot be further appealed. It will be communicated with all due expedition.

## **K – Resolution of Substantial Employment Issues**

### **Part I - Application and scope**

1. This procedure is intended to facilitate the resolution of substantial employment cases which do not appear to fall within the scope of other procedures included in the Support Staff Procedure Agreement. The focus of this procedure is to ensure that all attempts are made to identify options for resolution. This may include (but will not be limited to) consideration of options such as mediation, redeployment, relocation and termination by mutual agreement.

2. This procedure will not override any protections afforded to individuals under other legislation, for instance under the Public Interest Disclosure Act and the Equality Act.

## **Part II - General provisions**

3. Members of staff who are invited to a meeting or hearing under this procedure have the right to be accompanied and represented by a trade union representative, legal representative or work colleague. The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting or hearing and confer with the member of staff but may not answer questions on their behalf.

## **Part III - Preliminary stages**

4. Where evidence arising from an initial investigation or arising otherwise indicates that there might be a substantial employment issue not covered by other procedures:-

Stage 1 – the Director of Human Resources will review the evidence and will agree to the matter progressing under this procedure only if satisfied that proceeding does not breach protections afforded to individuals under other legislation (as detailed in paragraph 2 above);

Stage 2 – the member of staff will have the opportunity to request a meeting if they believe that it is inappropriate to consider the matter under this procedure. The member of staff and their representative or colleague will attend a meeting with a member of the University Executive Group and the Director of Human Resources (or nominee) to explain their rationale. If it is considered by the University to be more appropriate for the matter to be dealt with under another procedure included in the Support Staff Procedure Agreement, progress under this procedure will be terminated and the member of staff and their representative will be advised in writing within five working days of the alternative course of action to be followed;

Stage 3 – If it is deemed appropriate at stage 2 for the matter to progress under this procedure, the member of staff may request that other forms of resolution not previously explored are considered. For example, where there is a conflict of interest or a relationship breakdown, consideration should be given to resolutions including mediation, redeployment, relocation and termination by mutual agreement.

5. Where alternative approaches to resolution are deemed inappropriate, or where previous attempts at resolution have failed, the case will proceed in line with Part IV below.

## **Part IV - The procedure**

6. Where a resolution to a substantial employment issue cannot be found, the member of staff concerned may be required to attend a formal hearing before a three-person panel, the membership of which will be established by the Secretary or nominee and shall include one lay member of the Council. The member of staff will be advised in writing of the issues that have led to the hearing being called, and shall be given at least fifteen working days' notice of the hearing. Copies of any documents to be relied on at the hearing will be made available to the staff member at least ten working days before the hearing.

7. At the hearing, the member of staff will be given the opportunity to state their case and raise any factors they wish to have considered.

8. The outcome may include (but will not be limited to) the following:

- a. that no action is deemed necessary;
  - b. that a resolution under paragraph 1 above is appropriate;
  - c. that the member of staff may resign;
  - d. that the member of staff's employment may be terminated by mutual agreement;
  - e. that the member of staff's employment may be terminated by the employer, with or without notice.
9. The panel will forward its decision to the Secretary or nominee, who will make arrangements for its implementation. The decision will be notified to the member of staff in writing and the member of staff will be notified of their right of appeal.

## **Part V - Appeals**

10. The member of staff will have the right to appeal against any decision to end their employment under this procedure and must specify the grounds of their appeal. The appeal must be made in writing and, without prejudice to the generality of the right of appeal, should normally address one or more of the following possible grounds of appeal: that the original decision was, on the evidence, perverse or the penalty unfair; that there has been a procedural defect causing material disadvantage; that new evidence has become available which could not reasonably have been taken into account originally.
11. Any appeal must be sent to the Secretary within fifteen working days of the member of staff receiving the decision. The appeal will be considered by a three-person panel including an independent practising lawyer as Chair and a lay member of the Council.
12. The decision of the appeal panel will be final and cannot be further appealed. It will be communicated with all due expedition.