

**UNIVERSITY OF ABERDEEN**  
**DISCIPLINARY PROCEDURES FOR**  
**ACADEMIC AND ACADEMIC RELATED STAFF**

**1 INTRODUCTION**

The following procedure agreed by the University Court and Aberdeen Association of University Teachers applies to all members of the Academic and Academic-Related Staff and is designed to help and encourage all such employees to achieve and maintain acceptable standards of conduct and performance. The aim is to ensure consistent and fair treatment at all times.

The procedure is based primarily on the Universities Commissioners' modifications to the Ordinances of the University of Aberdeen, approved in October 1992, which applies to all Professors, Readers, Senior Lecturers and Lecturers as well as other staff paid on academic-related salary scales who are required to undertake teaching and/or research duties by the terms of their contract of employment.

This procedure is supplementary to and shall be used in conjunction with the Ordinance in respect of those staff; for the avoidance of doubt in any circumstance where there is apparent conflict between the Ordinance and this procedure, the Ordinance shall have precedence. The procedure is the sole procedure for members of the Academic-Related staff not encompassed by the Ordinance.

The procedure will be applied in all instances where formal disciplinary action is regarded as warranted, other than in the case of minor faults or acts of misconduct where an informal oral reprimand would be more appropriate. It is recognised, also, that counselling may often be a more satisfactory method as a first approach in resolving an individual's problems at work rather than a disciplinary interview.

**2 GENERAL PRINCIPLES**

- i. The procedure shall be guided by the principles of natural justice.
- ii. No disciplinary action will be taken against an employee until the case has been investigated fully.
- iii. The procedure is designed to work as quickly as possible consistent with a thorough investigation of the facts of each case.
- iv. At every stage in the procedure the employee will be advised of the nature of the complaint against him or her, and will be given the opportunity to state his or her case before any decision is made. A minimum of three working days notice will normally be given prior to any disciplinary/appeal interview, unless stated otherwise in the individual stages of this procedure.
- v. At every stage the employee will have the right to be accompanied by a person of their own choosing.
- vi. At every stage the employee will be informed of any disciplinary action taken against them, and the reason for it.
- vii. An employee will have the right to appeal against any disciplinary penalty.
- viii. The procedure may be implemented at any Stage if the alleged misconduct warrants such action.

- ix. Termination of employment under the University's probationary procedures shall be distinct from dismissal under the disciplinary procedures.
- x. Matters of discipline will be handled in strictest confidence at all times.
- xi. The procedure does not apply to:
  - a. termination of a fixed-term contract of employment where it expires under the normal provisions of the contract without being renewed
  - b. termination of employment as a result of redundancy
  - c. resignation by the employee.

### **3 THE PROCEDURE**

#### **3.1 Investigation**

Alleged indiscipline will normally be investigated by the individual's line manager as quickly as practicable. According to the particular circumstances, the Principal may decide that the individual be suspended from duty on full pay during the investigation. Suspension would normally take place where it is considered that it is in the managerial or in the individual's interest to do so.

Where the matter is serious but falls short of constituting good cause for dismissal, the following will apply.

#### **3.2 Stage One: Formal Oral Warning**

Where conduct or performance does not meet acceptable standards the member of staff will be given a formal oral warning. The warning will be delivered by the Head of School/Administrative Section or other appropriate officer, who will explain the reason for the warning and the improvement required, and also advise that it is the first stage of the disciplinary procedure which may be required to be pursued if no improvement is forthcoming. The member of staff will also be advised of his/her right of appeal (see Appendix A).

A brief note of the oral warning will be kept in the individual's personal file and a dated copy passed to the individual for information. It will be regarded as spent after 12 months, subject to satisfactory conduct and performance.

#### **3.3 Stage Two: Written Warning**

If the offence is judged sufficiently serious, or if there is a failure to heed a formal oral warning, the Head of School/Administrative Section will interview the individual and seek an explanation. If the individual's explanation is unsatisfactory the Head of School/Administrative Section, after consultation with the Human Resources Office, will issue a written warning giving details of the complaint, the improvement required and the timescale.

A copy of the written warning will be kept in the individual's file but will be disregarded for disciplinary purposes after two years subject to satisfactory conduct and performance. The individual will also be warned that failure to heed the warning may result in a complaint being made to the University Secretary seeking the institution of charges to be heard by a Tribunal (See 3. below). The member of staff will also be advised of his/her right of appeal.

### 3.4 Stage Three: Dismissal

3.4.1 Where there is no significant improvement following a formal written warning or where the alleged conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking institution of charges to be heard by a Tribunal may be made by the Head of School/Administrative Section, or appropriate Officer, to the Secretary to the University who shall bring it to the attention of the Principal of the University.

The Principal, after investigation, may decide:

- a. to dismiss the case summarily or not to proceed with it under this part of the procedure, if the case is trivial or invalid, if it relates to conduct or performance for which a written warning would have been appropriate but was not issued, or if it relates to an alleged infringement for which there is a standard penalty. OR
- b. to proceed further, in which case the member of staff may be suspended on full pay\* pending a decision.

The Principal will write to the individual seeking comments on the case in writing within 28 days, where it has been decided to proceed further. If the individual fails to comment within this timescale he/she will be considered to have denied the substance and validity of the alleged case in its entirety. On receipt of written comments (if any), the Principal will consider the matter in the light of all information received and may:

- i. dismiss the case OR
- ii. refer it for consideration under Part 1, above OR
- iii. deal with it informally, if the member of staff so agrees in writing OR
- iv. direct the Secretary to the University to prefer a charge or charges to be considered by a Tribunal.

(\*Pay during suspension will normally be on full pay but may be less depending on the individual's current contractual entitlement.)

3.4.2 Where the Principal has decided that a case should be referred to a Tribunal, the University Court will appoint a Tribunal comprising:

- i. a Convener
- ii. a member of Court, not employed by the University (iii) a member of the Academic staff nominated by the Senatus Academicus to hear the charge or charges and to determine whether the conduct or performance of the member of staff concerned constitutes good cause for dismissal, or otherwise constitutes a serious complaint relating to the member's appointment or employment.

Those appointed to the Tribunal shall have had no previous involvement in matters relating directly to the particular case.

The Secretary to the University or his/her deputy shall take charge of the proceedings, forwarding the charge or charges to the Tribunal and to the members of staff concerned seven days in advance of the hearing with all other relevant documents specified therein and make all the necessary administrative arrangements.

The Tribunal hearing will take place as expeditiously as reasonably practicable. Where the member of staff fails without due cause to attend a Tribunal hearing, consideration of the case, at the absolute discretion of the Convener, may proceed in his/her absence.

A charge or charges shall be determined by an oral hearing, the detailed conduct of which is attached at Appendix C, at which the member of staff and his/her representative are entitled to be present and may call and question witnesses upon which the evidence of the case is based. Tribunal shall send its written decision on the case, together with its findings of fact and the reasons for its decision, and its recommendations, if any, as to the appropriate penalty, to the Principal and to each party to the proceedings within one week of the hearing. The member of staff shall be advised of the appeal arrangements and shall be given a copy of the relevant documentation (Appendix A). Where the charge or charges are upheld and the Tribunal recommends dismissal, the Principal shall decide whether:

- a) to dismiss the individual OR
- b) to take some other action (not comprising a greater penalty than that recommended by the Tribunal). Such action may be:
  - i. to discuss the issues with the individual concerned
  - ii. to advise the member staff about his/her future conduct
  - iii. to warn the member concerned
  - iv. to suspend, unpaid, the member concerned for such period as thought fair and reasonable, not to exceed three months after the Tribunal's decision  
OR
  - v. any combination of the above or such other action under the individual's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances.

Any action taken by the Principal will be confirmed in writing and, if appropriate, will make clear the status of any warning, the improvement expected and the timescale.

**Academic and Academic-Related Staff  
Appeals against Disciplinary Action**

At every stage in the procedure the individual will be advised in writing of his/her right of appeal, the procedures relating to which are outlined below.

**A) Appeals Against an Oral or Written Warning**

- i. A member of staff who wishes to appeal against a disciplinary warning shall inform the Secretary to the University, in writing, within two weeks of the warning being issued, giving full details for the grounds of the appeal.
- ii. A Vice-Principal, designated by the Principal, shall hear all such appeals. The Vice-Principal's decision shall be final.
- iii. Arrangements will be made for the appeal to be heard as speedily as possible, and normally within three weeks of the appeal being lodged.
- iv. A brief note of the appeal hearing\* will be made and the decision communicated to the individual normally within three days of the hearing. If the appeal is upheld all reference to the original disciplinary warning will be removed from the individual's record and destroyed. If the appeal is not upheld details will be recorded along with the original warning.

**B) Appeals by Members of Staff who are Dismissed, under Notice of Dismissal or who are otherwise Disciplined.**

- i. A member of staff who wishes to appeal against disciplinary action shall inform the Secretary to the University in writing, within 28 days from the date which the document recording the decision appealed against was sent to the appellant.
- ii. No appeal may be lodged against the findings of fact of a Tribunal, save where, with the permission of the person appointed to hear the appeal, fresh evidence is called on behalf of the appellant at that hearing.
- iii. The Secretary shall advise the Court accordingly and shall inform the appellant that he/she has done so.
- iv. The parties to the appeal shall be the Secretary to the University and the appellant.
- v. The Court shall appoint a person to hear and determine the appeal who is not employed by the University nor a member of the Court, and who holds or has held judicial office or is an advocate or solicitor of at least ten year's standing. Where practicable, this person shall also have experience of Industrial Tribunals.
- vi. The person shall sit alone unless, he/she considers that justice and fairness will best be served by sitting with two other persons:
  - a. one member of the Court not employed by the University
  - b. one member of the Academic staff nominated by the Senatus Academicus.
- vii. The appeal shall be determined by an oral hearing\* at which the appellant and his/her representative are entitled to be present and, with the consent of the person appointed to hear the appeal, may call witnesses.
- viii. Every effort will be made to hear the appeal as expeditiously as reasonably practicable and normally within one month of the appeal being lodged. Papers will be distributed to all parties seven days before the hearing. Where the appellant

without due cause fails to attend an appeals hearing, at the absolute discretion of the Convener, consideration of the case may proceed in his/her absence.

- ix. The person(s) hearing the appeal may uphold or dismiss an appeal in whole or part and may:
  - a. remit an appeal arising from a disciplinary Tribunal for rehearing by a differently constituted Tribunal OR
  - b. substitute any lesser alternative penalty that would have been open to the Principal following the findings by the Tribunal which heard the original case.
- x. Within one week of the hearing the person(s) appointed shall send, in writing, the reason and decision of any appeal together with any findings of fact different from those come to by the disciplinary Tribunal to the Principal and to the parties to the appeal.
- xi. If the appeal is upheld all reference to the disciplinary action will be removed from the individual's record, and the individual will be reinstated and entitled to receive any back payments that might be due.

\* Details of the hearing procedure are attached at Appendix B

## **Academic and Academic-Related Staff Procedure for Hearing a Disciplinary Appeal**

### **1. Documentation**

The Clerk will circulate members of the Appeal Committee and the appellant with the following details, not less than seven days in advance of the hearing:

- a) details of the decision appealed against;
- b) a written statement stating the grounds of the appeal, together with any such details as may be relevant;
- c) a list of any witnesses to be called;
- d) the name of a person, if any, who has agreed to accompany the appellant as adviser at the hearing. The adviser may also submit a written statement in advance.

### **2. The Hearing**

The procedure at the hearing shall be conducted as follows:

- a) The Convener shall outline to the Appeal Committee, the appellant and the adviser, the procedure to be followed (see below).
- b) All discussion and questions shall be directed through the Convener.
- c) The Convener shall call for any statement which the appellant and/or the adviser wishes to make or any comments upon any matters which arise from the material circulated before the hearing. The Committee may cross-examine the appellant and/or the adviser on their statements.
- d) The appellant and the Committee may call witnesses (see (e) and (f) below), to appear at the Hearing (see note below).
- e) The appellant will then call his/her witnesses, if any, who in turn may be cross-examined by the Committee.
- f) The Committees' witnesses, if any, will then be called. The appellant and his/her adviser may question the witnesses through the Convener. The Committee shall require a witness to leave the room after delivering his/her evidence.
- g) After all witnesses have appeared, the appellant and/or his/her adviser may sum up the case.
- h) The appellant, adviser and all witnesses leave the room whilst the Committee concludes its findings.

### **3. The Decision**

The decision of the Committee, which is not subject to further appeal within the University, shall be communicated in writing to the Principal, if appropriate, and to the parties to the appeal.

Notes:

1. The "Committee" may constitute a Vice-Principal, in the case of an appeal against an Oral or Written Warning or, in the case of appeals by members of staff who are dismissed under notice of dismissal, or who are otherwise disciplined, an

appropriate person or persons appointed by the Court as specified in the University Commissioners' Ordinance.

2. Findings of fact by a Tribunal may not be challenged at the Hearing. Witnesses are, therefore, only normally required where new evidence is brought forward by the appellant with the consent of the Committee. In such a case the Committee might also wish to identify its own witnesses.

## Academic and Academic-Related Staff Procedure for a Tribunal Hearing

### 1. Documentation

The Clerk to the Tribunal, who shall be the University Secretary or his/her deputy shall forward to the Tribunal and to the member of staff concerned the following details, seven days in advance of the hearing:

- a) a written statement setting out the charge or charges together with all other relevant documents specified therein;
- b) a list of any witnesses to be called;
- c) the name of a person, if any, who has agreed to accompany the member of staff as representative at the hearing;
- d) any written statement submitted by the member of staff and/or his/her representative.

### 2. The Hearing

The procedure at the hearing shall be conducted as follows:

- a) The Convener shall outline to the Tribunal, the member of staff and his/her representative the procedure to be followed (see below).
- b) All discussion and questions shall be directed through the Convener.
- c) The Convener shall specify the charge or charges against the individual.
- d) The Tribunal's witnesses, if any, will then be called and will be questioned by the Tribunal. The individual and his/her representative may question the witnesses through the Convener. The Tribunal shall require a witness to leave the room after delivering his/her evidence.
- e) The Convener shall call for any statements which the individual wishes to make or any comments upon any matters which arise from the material circulated before the Tribunal hearing. The Tribunal may cross-examine the individual and the representative on their statements.
- f) The individual will then call his/her witnesses who in turn may be cross-examined by the Tribunal.
- g) After all witnesses have appeared the Tribunal may cross examine further the individual and the representative on their statements.
- h) After all witnesses have appeared the individual and/or his/her representative may sum up his/her case.
- i) The individual, his/her representative shall leave the room whilst the Tribunal concludes its findings.

### 3. The Decision

The decision of the Tribunal shall be communicated in writing, together with its findings of fact and reasons for its decision and its recommendations, if any, on the appropriate penalty to the Principal, and to each party to the proceedings, within seven days of the hearing. The individual will also be advised of his/her right of appeal.