

Division - Conduct

Academic Staff Conduct

Part 1 - Conduct Addressed

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| Procedures | 1. | (1) The following internal College procedures apply to allegations of misconduct or failure to carry out contractual duties by a member of the academic staff of College. They are without prejudice to the right of College to take or initiate measures, where more appropriate, under the criminal or civil law. |
| Misconduct | 2. | (1) Examples of misconduct governed by these procedures include, but are not confined to,
(a) violence or threats of violence towards other members of the Community or persons having legitimate business with College,
(b) sexual harassment on College premises or in the course of employment,
(c) exploitation, including sexual exploitation, of a student in circumstances which amount to an abuse of authority,
(d) theft on College premises or theft of College property,
(e) fraud, including academic fraud,
(f) malicious damage to College property or other property located on College premises,
(g) refusal to carry out lawful and reasonable directions given by a member of staff authorised to do so,
(h) refusal without excuse to present a College identity card when requested to do so by an authorised person,
(i) serious breaches of College's safety regulations,
(j) carrying out duties under the influence of alcohol or proscribed drugs,
(k) engaging in remunerative employment while on sick leave or otherwise without following established College procedures, and
(l) abuse of the disciplinary code, including the making under it of a false and malicious accusation against a member of staff. |
| Breach | 3. | (1) Examples of failure to carry out contractual duties include, but are not confined to,
(a) consistent failure after due warning to prepare or deliver teaching material to an adequate standard, |

- (b) a pattern of frequent cancellation, without reasonable excuse, of lectures or other classes, or of gross unpunctuality,
- (c) a pattern of unauthorised absence from College, and
- (d) persistent refusal to co-operate with the reasonable requests of a Head of School in respect of teaching or other contractual duties.

Part 2 - Responsibilities of Head of School, Faculty Dean and Senior Dean

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| Complaints | <p>4. (1) Complaints of misconduct or failure of duty by a member of the academic staff shall normally be addressed in the first instance to the Head of School or, where the Head of School is the subject of the complaint, to the Faculty Dean.</p> <p>(2) The Senior Dean, on receipt of a complaint made directly against a member of the academic staff, and if satisfied that an investigation is appropriate, may investigate that complaint.</p> |
| Preliminary Enquiries | <p>5. (1) Where misconduct/breach of duty has been reported or appears to have taken place, the Head of School (or Faculty Dean or Senior Dean where appropriate) shall make preliminary enquiries and, where possible and appropriate, attempt to deal with the matter on an informal basis.</p> <p>(2) Where the allegations are serious, and in particular where possible criminal conduct is involved, it will usually be inappropriate to deal with the matter informally.</p> |
| Interview | <p>6. (1) Where the allegation appears to the Head of School to be reasonably based, and it has not been possible or appropriate to resolve the matter informally, the Head of School shall, following consultation with Human Resources, interview formally the member of staff concerned, giving that member of staff prior notice of the allegation and a full opportunity to respond.</p> <p>(2) The staff member shall be entitled to be represented at the interview.</p> |
| Function | <p>7. (1) Following the interview the Head of School shall,</p> <ul style="list-style-type: none"> (a) if the complaint appears to be unfounded, take no further action, or (b) if the complaint appears to be well founded, do one or more of the following: <ul style="list-style-type: none"> (i) recommend measures to assist the member of staff, (ii) stipulate conditions designed to prevent a recurrence of the conduct in question, |

a representative of Human Resources and/or by a legal adviser.

- Suspension 12. (1) The Senior Dean may, where it appears necessary to do so for the purpose of facilitating enquiries or protecting persons or property, recommend to Board that, pending investigation, the member of staff concerned should be suspended on pay from all or any part of that member's duties, together with any conditions that should apply to such suspension.
- (2) Board shall without delay adopt and implement any such recommendation of the Senior Dean, subject to its right to seek any necessary clarification from the Senior Dean in respect of such recommendation.
- (3) The Senior Dean may in exceptional circumstances order that the suspension should take effect immediately, pending the decision of Board.
- Determinations 13. (1) After completing the investigation the Senior Dean may
- (a) decide not to proceed, having determined that there is insufficient evidence or that the case is otherwise unfounded, or
- (b) with the prior written consent of the member of staff concerned, recommend to Board an appropriate penalty/disposition, or
- (c) in every case in which dismissal is a possible outcome or where otherwise in the opinion of the Senior Dean the nature of the case justifies such action, refer the case for a hearing to the Disciplinary Panel.
- (2) The Senior Dean shall make such determination as soon as possible and subject to the provisions of section 16.
- Disciplinary Panel 14. (1) Where there has been a refusal or failure by the member of staff to give consent under section 13(1)(b) the Senior Dean may refer the case to the Disciplinary Panel in accordance with section 13(1)(c), in which case the Panel shall not be informed of the Senior Dean's recommendation and the case will be heard *de novo*.
- (2) A staff member who objects only to the severity of the penalty/disposition recommended by the Senior Dean may appeal to the Disciplinary Panel in accordance with the procedure set out in sections 36 to 41.
- Dispositions 15. (1) The penalties/dispositions which may be recommended by the Senior Dean under section 13(1)(b) include a written reprimand, fine, suspension for a fixed term with or without pay, withdrawal of privileges, deferment of increment, re-placement on or extension of probation, an order to make restitution and demotion.

- (2) Board shall adopt and implement any such recommendation, subject to its right to seek from the Senior Dean any necessary clarification in respect of such recommendation.

Part 3 - Reference to Disciplinary Panel

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| Reference | <p>16. (1) A reference to a Disciplinary Panel by the Senior Dean under section 13(c) shall be made by written notice to the Registrar, containing a brief specification of each charge against the member of the academic staff.</p> <p>(2) Such notice must normally be received by the Registrar within thirty working days from the date on which the Senior Dean received original notification of the offence.</p> <p>(3) In exceptional circumstances the Senior Dean may serve such notice after the expiry of this time limit. The decision of the Senior Dean to serve such notice after expiry of the normal time limit shall be reviewable by the Disciplinary Panel.</p> |
| Summons | <p>17. (1) A member of academic staff charged with an offence which has been referred to a Disciplinary Panel shall receive a written summons in the name of the Panel, and signed by or on behalf of the Chairperson of the Panel, by recorded delivery or registered post or by personal delivery by any duly authorised employee of College, giving a brief specification of each charge and requiring the member of academic staff on at least ten working days' notice to appear before the Panel.</p> <p>(2) The summons shall be accompanied by a copy of these disciplinary regulations, and shall draw attention in particular to the parties' right to representation, the right to submit written evidence and the right to call witnesses.</p> <p>(3) In appropriate cases, the Chairperson may order that proceedings already instituted pursuant to this section be discontinued.</p> |
| Witnesses and evidence | <p>18. (1) The member of academic staff shall, at least three working days in advance of the hearing, notify the Chairperson of the Panel in writing of the names and addresses of the witnesses to be called, and supply to the Chairperson a copy of any documents to be submitted at the hearing.</p> <p>(2) The member of academic staff may at any time before the hearing, with the permission of the Chairperson, supply to the Chairperson in writing the names and addresses of additional witnesses or copies of additional documents.</p> |

- (3) Copies of all such communications shall be furnished to the Senior Dean as soon as possible following their receipt by the Chairperson.
- Documents** **19.** (1) The Senior Dean shall, at least three working days in advance of the hearing, cause the following documents to be served on the member of academic staff and the Chairperson of the Disciplinary Panel
- (a) a statement of the charges against the member of academic staff;
 - (b) a list of witnesses whom the Senior Dean proposes to call;
 - (c) a summary in writing of the evidence that it is proposed should be given by each of them; and,
 - (d) a list of exhibits (if any).
- Inspection** **20.** (1) The member of academic staff shall have the right to inspect all exhibits.
- Further witnesses and evidence** **21.** (1) At any time the Senior Dean may, with the permission of the Chairperson of the Disciplinary Panel, cause to be served on the member of academic staff and furnished to the Panel a further statement of the evidence to be given by any witness, or a statement from a new witness whose name has not already been supplied to the member of academic staff.
- (2) The Chairperson shall not grant such permission if satisfied that it would be unfair to the member of academic staff to accede to the Senior Dean's request.
- Part 4 - The Disciplinary Panel*
- Functions** **22.** (1) The Disciplinary Panel shall:
- (a) hear cases of offences by members of the academic staff referred to it by the Senior Dean;
 - (b) hear appeals by members of the academic staff against the severity of a sentence/disposition recommended by the Senior Dean;
 - (c) consider matters referred back to it by the Visitors or, where clarification is sought, by Board.
- Composition** **23.** (1) The Disciplinary Panel shall consist of the Chairperson and four members of the academic staff drawn, in respect of each case, from a standing list of thirty persons. Selection from the list shall be on a random basis subject to the requirement that there shall be on every Panel at least one member of each sex. Persons shall be appointed to the standing list by Board, with the agreement of the Academic Staff Association. Any

vacancies shall be filled as they arise and Board shall review the membership of the list every three years.

- (2) The Chairperson shall be a person with legal training and shall be appointed by Board, with the agreement of the Academic Staff Association, to serve for a period of three years or until retirement if that occurs earlier. The Chairperson shall be eligible for re-appointment.
- (3) Board may also appoint a deputy Chairperson, on the same terms and conditions as the Chairperson, who shall act as Chairperson in any case in which the Chairperson is unable to act.
- (4) Members of Board and/or Council, (including members in attendance), Officers of College, assistants to the Junior Dean, permanent staff with less than three years service, or any person adjudged by the Chairperson to have a direct interest in the hearing may not be members of a Disciplinary Panel.

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| Empanelment | 24. | <ol style="list-style-type: none">(1) Fresh staff members shall be empanelled for each offence, or for each group of offences arising out of the same incident or occasion. It shall be the duty of the Registrar to arrange for this empanelling and of the Chairperson to decide if offences may be grouped.(2) The Chairperson has discretion, in exceptional circumstances, to excuse any person from serving on the Panel.(3) An opportunity shall be afforded to the parties to a hearing to object, for stated reasons, to a particular member of the academic staff serving as a Panel member. The Chairperson shall determine whether or not such objection shall be upheld. |
| Representation | 25. | <ol style="list-style-type: none">(1) Members of academic staff who are party to proceedings before a Disciplinary Panel may avail of professional representation or representation by another person of their choice.(2) The Senior Dean may also choose to be so represented.(3) The Chairperson may, in appropriate cases, recommend that College pay any costs reasonably incurred by members of academic staff in their defence. |
| Proceedings | 26. | <ol style="list-style-type: none">(1) Disciplinary Panel hearings shall be open to members of College. The Chairperson may impose such restrictions on admissions as are necessary to ensure the orderly conduct of the proceedings.(2) The Chairperson may, at the request of the member of academic staff or the Senior Dean or on the Chairperson's own initiative, order that proceedings be conducted in private if satisfied that there are good reasons for doing so. The Chairperson may not make |

such order without the consent of the member of academic staff who is party to the proceedings unless there are compelling reasons for doing so.

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| Procedures | 27. | <p>(1) The Disciplinary Panel shall observe formal procedures and shall conduct its business according to the rules set out herein, and provisions to implement and administer such procedures may be set out in Schedule 1.</p> <p>(2) It shall be the duty of the Chairperson, subject to the aforesaid rules, to make rulings on matters of procedure.</p> |
| Penalties | 28. | <p>(1) The penalties which may be recommended by the Disciplinary Panel in respect of offences shall include reprimand, fine, suspension for a fixed term with or without pay, withdrawal of privileges, re-placement on or extension of probation, deferment of increment, demotion and dismissal, as well as, in the case of damage to property or premises, requirement to make good the damage in whole or in part.</p> |
| Service | 29. | <p>(1) The Disciplinary Panel shall be serviced by a full-time member of College staff.</p> <p>(2) In all cases a minute of the proceedings and, where appropriate, a précis of the statements of the parties, the witnesses and the Chairperson shall be kept.</p> |

Part 5 - Hearings in respect of cases referred by the Senior Dean

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| Referral | 30. | <p>(1) The Disciplinary Panel shall meet within twenty-one working days of the referral of a case to it by the Senior Dean in accordance with section 13(1)(c) above.</p> <p>(2) At this meeting the Chairperson has discretion to grant to the member of academic staff a further period of not more than fifteen working days to prepare the case, if so requested by the member of academic staff in writing.</p> |
| Attendance | 31. | <p>(1) The member of academic staff shall attend in person throughout the hearing of the case.</p> <p>(2) If any such member of academic staff does not appear, the Panel may proceed to deal with the charge or charges and, if it considers it appropriate to do so, determine a penalty in his or her absence.</p> |
| No contest | 32. | <p>(1) A member of academic staff wishing to do so may decide not to contest any charge or charges, either in person before the Panel or by letter addressed to the Chairperson prior to the hearing.</p> <p>(2) In either such case the member of academic staff shall appear before the Panel to answer questions, and make</p> |

submissions in relation to the matter of penalty, and to be informed of the Panel's decision.

Procedure

- 33.**
- (1) The Chairperson shall conduct the hearing in accordance with the principles of natural justice and fair procedures.
 - (2) Having opened the proceedings, the Chairperson shall invite the Senior Dean and/or the representative of the Senior Dean to make the case to the Panel, which case has to be established beyond all reasonable doubt. The member of academic staff and/or the representative of the member of academic staff shall then be heard.
 - (3) Where witnesses are called, they may be examined, cross-examined or re-examined by the parties and by members of the Panel.
 - (4) When the presentation of evidence is complete, the Chairperson shall invite the parties or their representatives to address concluding remarks to the Panel.
 - (5) The Chairperson shall then, in the presence of the parties, address the other members (described hereafter as ordinary members) of the Panel, summarising the evidence presented, giving directions as to the proper approach to evidence adduced and instructing them as to their functions.

Decision

- 34.**
- (1) Following the Chairperson's address, the ordinary members of the Panel shall retire to consider their decision in private and in the absence of the Chairperson and the parties.
 - (2) A decision that the charges have been proven shall not be made unless at least three of the ordinary members are in agreement with such verdict.
 - (3) The ordinary members shall nominate from amongst themselves a spokesperson. When a decision has been reached, the spokesperson shall, in the presence of the full Panel and the parties, announce the decision.
 - (4) Where the Panel decides that the charges have been proven, the Chairperson shall, following submissions from the parties, address the Panel on factors relevant to the determination of an appropriate penalty. The ordinary members shall then again retire to consider an appropriate penalty. Their spokesperson shall, in the presence of the full Panel and the parties, announce their decision.
 - (5) The Chairperson may, if of the opinion that the proposed penalty is *ultra vires* or unreasonable, ask the ordinary members to reconsider the matter.
 - (6) Where the four panellists are unable to decide (which decision may be made by simple majority) upon an

appropriate penalty, the penalty shall be determined by the Chairperson.

- Appeal **35.** (1) The Chairperson shall, following announcement of the penalty, inform the member of academic staff of the right to appeal to the Visitors in the event of the Panel's decision being confirmed by Board.

Part 6 - Hearings in respect of appeals against the severity of a penalty/disposition recommended by the Senior Dean

- Appeal against severity **36.** (1) A member of academic staff wishing to appeal, pursuant to section 14, against the severity of a penalty/disposition recommended by the Senior Dean, shall, within seven working days of formal notification of the recommendation, serve notice of appeal to the Registrar, stating briefly the grounds on which the appeal is made.
- (2) The Chairperson of the Disciplinary Panel shall, as soon as possible, after receipt of the note of appeal, call on the Senior Dean for a brief written report of the circumstances of the case and the reasons for the decision. A copy of that written report shall be furnished to the Appellant at least three working days before the appeal hearing.
- (3) A member of academic staff may withdraw an appeal by giving written notification of intention to discontinue to the Registrar.

- Time **37.** (1) The appeal hearing shall take place within twenty-one working days of receipt by the Registrar of the notice of appeal.
- (2) The Appellant shall be given at least seven working days' written notice of the date and place of the hearing. The Appellant shall at the same time be furnished with a copy of these rules and be informed of the right to be represented.

- Hearing **38.** (1) In an appeal hearing before a Disciplinary Panel the Appellant shall be first to present the case, and thereafter the Senior Dean. The Appellant shall be entitled to be heard in reply.

- Result **39.** (1) At the conclusion of the appeal hearing, and following the address and directions of the Chairperson to the ordinary members of the Panel, they shall retire to reach a decision in private.
- (2) The Panel may uphold, set aside or vary the recommendation of the Senior Dean.

- (3) Where the ordinary members are equally divided as to whether the appeal should be allowed or as to whether the recommendation should be varied, the decision of the Senior Dean shall stand.
- Announcement **40.** (1) The decision shall be announced in the presence of the full Panel and the parties and, where the appeal is unsuccessful, the Chairperson shall inform the Appellant of the right to appeal to the Visitors in the event of the Panel's decision being confirmed by Board.
- Rules **41.** (1) In other respects, the rules of procedure in the case of appeals shall be as far as possible the same as those for cases referred under section 13(1)(c).

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