UNIVERSITY OF BIRMINGHAM

ORDINANCES OF THE UNIVERSITY OF BIRMINGHAM

SECTION 3: OFFICES AND EMPLOYMENT

Executive Brief

The first part of this section contains information regarding the senior management positions within the University, such as their method of appointment and their role within the organisation.

The latter part of this section (3.17 onwards) governing various matters related to the employment of academic staff (e.g. discipline, grievance and dismissal).

Section 3: OFFICES AND EMPLOYMENT

3.1 The Chancellor

3.1.1 At the next ordinary meeting of the Council after notification has been received that the Office of Chancellor is, or will become, vacant, the Council shall establish a committee of such constitution and with such powers as Council considers appropriate to enable the committee to submit a suitable nomination or nominations for the Office of Chancellor to the Council at the earliest opportunity. The Council shall submit a nomination or nominations to the next meeting of the Court.

3.2 The Pro-Chancellor

3.2.1 The election of the Pro-Chancellor shall take place at a convenient meeting of the Council prior to the Office becoming vacant, or failing that at the next ordinary meeting after the Office becomes vacant, on the recommendation of the membership committee of Council. The Council shall, after considering a recommendation from the membership committee of the Council, determine whether to hold a closed election, from amongst the Council's Lay Members, or an open election including individuals external to the University who are eligible to be Lay Members of the Council, provided that there is a vacancy in Class IV of Council membership which may be filled by an external individual.

3.2.2 A member of the Council wishing to propose a candidate for the Office of Pro-Chancellor shall send to the Registrar and Secretary at least fourteen days before the meeting of the Council at which the election is to take place a written nomination signed by two members of the Council with a statement that the candidate is willing to stand. The Registrar and Secretary seven days before the meeting shall send to every member of the Council notice of every such nomination and no person shall be elected whose name has not been so notified to every member of the Council.

3.2.3 Every member of the Council shall receive a ballot paper showing the name or names of the person or persons nominated and shall exercise his or her vote by marking the ballot paper and posting the same in the envelope provided so as to reach the Registrar and Secretary before the commencement of the meeting at which the election is to take place.

3.2.4 The Registrar and Secretary shall open the envelopes received at the meeting at which the election is to take place and shall immediately count the number of votes cast for each candidate and declare to be elected the candidate to whom the majority of votes has been given.

3.3 The Deputy Pro-Chancellor

3.3.1 The Council shall appoint a Deputy Pro-Chancellor who shall chair the Council and act as the Pro-Chancellor in the absence or inability of the Pro-Chancellor or a vacancy in that office. The Deputy Pro-Chancellor shall be appointed following an election.

3.3.2 The Deputy Pro-Chancellor shall be elected by the Council at a convenient meeting prior to the Office becoming vacant, or failing that at the next ordinary meeting after the Office becomes vacant, on the recommendation of the membership committee of Council. The Council shall, after considering a recommendation from the membership committee of the Council, determine whether to hold a closed election, from amongst the Council's Lay Members, or an open election including individuals external to the University who are eligible to be Lay Members of the Council, provided that there is a vacancy in Class IV of Council membership which may be filled by an external individual.

3.3.3 Members of the Council wishing to suggest a candidate for the Office of Deputy Pro-Chancellor shall send to the Registrar and Secretary at least fourteen days before the meeting of the Council at which the election is to take place a written nomination signed by two members of the Council with a statement that the candidate is willing to stand. The membership committee of Council shall consider the merits of the nominee(s) in the light of the University's needs and shall put one or more names before the Council. If more than one name is put forward for the office, the Registrar and Secretary shall send a notice seven days before the meeting to every member of Council. No person shall be elected whose name has not been so notified to every member of the Council. An election for the Office shall take place at the Council meeting in accordance with the procedure laid down in Ordinance 3.2 for the election of the Pro-Chancellor.

3.3.4 The Deputy Pro-Chancellor shall be appointed for a first term of office of normally five years, or for a shorter period as the Council may determine. The Deputy Pro-Chancellor may be re-appointed for a second consecutive term of office for a period to be determined by the Council subject to the limitation that, except in exceptional circumstances, he or she shall serve no more than ten years as a member of the Council in any capacity.

3.3.5 The Deputy Pro-Chancellor may be removed for good cause by the Council, after having offered the Pro-Chancellor an opportunity to make a written representation.

3.3.6 The Deputy Pro-Chancellor may resign by writing in a letter signed by him or her and addressed to the Council.

3.4 The Treasurer

3.4.1 There shall be a Treasurer of the University who shall be a Lay Officer of the Council and who shall have such duties as specified by the Council. The Treasurer shall be appointed by the Council following an election.

3.4.2 The Treasurer shall be elected by the Council at a convenient meeting prior to the Office becoming vacant, or failing that at the next ordinary meeting after the Office becomes vacant, on the recommendation of the membership committee of Council. The Council shall, after considering a recommendation from the membership committee of the Council, determine whether to hold a closed election, from amongst the Council's Lay Members, or an open election including individuals external to the University who are eligible to be Lay Members of the Council, provided that

there is a vacancy in Class IV of Council membership which may be filled by an external individual.

3.4.3 The procedure for the election shall follow that laid down in Ordinance 3.3 for the election of the Deputy Pro-Chancellor.

3.4.4 The Treasurer shall hold normally hold office for five years. The Treasurer may be re-appointed for a second consecutive term of office for a period to be determined by the Council subject to the limitation that, except in exceptional circumstances, he or she shall serve no more than ten years as a member of the Council in any capacity.

3.4.5 The Treasurer may be removed for good cause by the Council. The Council shall offer the Treasurer an opportunity to make a written representation.

3.4.6 The Treasurer may resign by writing in a letter signed by him or her and addressed to the Pro-Chancellor.

3.5 The Vice-Principal or Vice-Principals

3.5.1 One or more Vice-Principals shall be appointed by the Council on the recommendation of a joint committee of the Council and the Senate, whose composition shall be specified by the Council.

3.5.2 One or more Vice-Principals shall be appointed with such duties, at such remuneration and upon such terms and conditions as the Council may deem fit and in the case of there being more than one Vice-Principal, one shall be appointed to act for the Vice-Chancellor and Principal pending a vacancy in that Office or during the absence or inability of the Vice-Chancellor and Principal.

3.5.3 One or more Vice-Principals shall be appointed for the period or periods approved by Council.

3.5.4 A Vice-Principal may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.6 Pro-Vice-Chancellors

3.6.1 Pro-Vice-Chancellors may be appointed by the Council on the nomination of the Vice-Chancellor who shall consult the Senate.

3.6.2 Pro-Vice-Chancellors may be appointed with such duties, at such remuneration and upon such terms and conditions as the Council may deem fit and shall hold office for the period approved by Council.

3.6.3 A Pro-Vice-Chancellor may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.7 Deputy Pro-Vice-Chancellors

3.7.1 Deputy Pro-Vice-Chancellors may be appointed by the Council on the

nomination of the Vice-Chancellor who shall consult the Senate.

3.7.2 Deputy Pro-Vice-Chancellors may be appointed with such duties, at such remuneration and upon such terms and conditions as the Council may deem fit and shall hold office for the period approved by Council.

3.7.3 A Deputy Pro-Vice-Chancellor may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.8 Registrar and Secretary

3.8.1 The Council shall from time to time appoint a Registrar and a Secretary of the University, or at its discretion one individual to fulfil both roles, with such duties, for such period and under such terms and conditions and at such remuneration as it shall deem fit.

3.8.2 The individual or individuals employed as Registrar and Secretary may be removed for good cause by the Council.

3.9 Heads of Colleges

3.9.1 The Heads of the Colleges of the University shall be appointed by the Council on the recommendation of a committee, whose composition shall be specified by the Council and which shall include Professors from the College concerned.

3.9.2 The Heads of Colleges shall be employed by the University with such duties, at such remuneration and upon such terms and conditions as set out in the contract of employment, provided always that such duties shall include the following:

(a) responsibility to the Vice-Chancellor for the financial and academic management of the College in the interests of achieving stated University aims and objectives; and

(b) responsibility through the Vice-Chancellor to Council for maintaining and promoting the standards, efficiency and good order of the College in accordance with the policies and procedures laid down in the University Legislation, or determined from time to time by resolutions of Council and or Senate.

3.9.3 A Head of College may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.10 Heads of Principal Academic Units

3.10.1 Heads of Principal Academic Units within a College shall be responsible to the Head of the College for maintaining and promoting the standards, efficiency, financial and human resource management and good order of the unit in accordance with the policies and procedures laid down in the University Legislation, as determined from time to time by resolutions of Senate and/or Council.

3.10.2 Heads of Principal Academic Units shall be ex officio members of the College Board.

3.10.3 The Head of College, while remaining accountable as in Ordinance 3.9, shall determine, in consultation with the College Board, which areas of management shall be devolved to the Heads of the Principal Academic Units.

3.10.4 The University Executive Board shall appoint the heads of the Principal Academic Units within a College, on the recommendation of the Head of College. Where a vacancy occurs in the headship of a Principal Academic Unit, the Head of College shall formally consult members of the Academic Staff of the unit concerned regarding the headship. All such appointments shall be for a specified period of normally three years. The appointment may be renewed for a further period of not normally more than two years.

3.10.5 A Head of a Principal Academic Unit may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.11 Directors of Research and Knowledge Transfer within Colleges

3.11.1 The Head of College, in conjunction with the Pro-Vice-Chancellor with responsibility for research, shall appoint the Director of Research and Knowledge Transfer for the College who shall be responsible to the Head of the College for delivery of a research and knowledge transfer strategy for the College.

3.11.2 Appointment to the Office of Director of Research and Knowledge Transfer shall be for a specified period of normally three years. The appointment may be renewed for a further period of not normally more than two years.

3.11.3 The Director of Research and Knowledge Transfer shall be an ex officio member of the College Board.

3.11.4 A Director of Research and Knowledge Transfer may resign by writing in a letter signed by him or her and addressed to the Head of College.

3.12 Directors of Education within Colleges

3.12.1 The Head of College, in conjunction with the Pro-Vice-Chancellor with responsibility for academic matters, shall appoint the Director of Education for the College who shall be responsible to the Head of College for delivery of a learning and teaching strategy for the College. Appointment to the Office of Director of Education shall be for a specified period of normally three years. The appointment may be renewed for a further period of not normally more than two years.

3.12.2 The Director of Education shall be an ex officio member of the College Board.

3.12.3 A Director of Education may resign by writing in a letter signed by him or her and addressed to the Head of College.

3.13 Directors of University Research Institutes

3.13.1 The University Executive Board shall appoint the Directors of University Research Institutes, on the recommendation of the Head of the College associated with the University Research Institute. Appointment to the Office of Director of a University Research Institute shall be for a specified period of not normally more than five years, renewable for a further period or periods as determined by the University Executive Board.

3.13.2 A Director of a University Research Institute may resign by writing in a letter signed by him or her and addressed to the Vice-Chancellor.

3.14 The Public Orator(s)

The Senate shall have power to appoint Public Orators and to specify their terms of office. It shall be the duty of the Public Orators to present all persons approved by the Senate for Honorary Degrees and to represent the University on special occasions as may be required.

3.15 Appointment of Staff

3.15.1 The conditions of employment, duties, emoluments and salaries of all Staff shall be determined by the Council after appropriate consultation.

3.15.2 Members of Staff, with the exception of those appointed by the Council in accordance with the Statutes and the Ordinances, are appointed by the Director of Human Resources. They are subject to conditions of employment which shall be sent to them on appointment. Amendments, which shall be agreed by due process, shall be notified to them in writing by the Director of Human Resources.

3.15.3 Conditions of employment shall include provision for:

(a) resignation on giving such minimum period of notice as shall be determined;

(b) retirement at such an age and under such conditions as shall be determined, except where appointment is for a predetermined period;

(c) termination following due process under the approved procedures; and

(d) in the case of Academic Staff, termination for good cause or as otherwise provided for by the Statutes.

3.16 Appointment of Professors

3.16.1 Appointments as Professors or to academic posts of professorial status shall be made by the Vice-Chancellor on behalf of the Council on the recommendation of an Electoral Board in accordance with procedures specified by Regulations approved by Senate and Council.

3.17 Title of Emeritus Professor

3.17.1 The Vice-Chancellor shall have power to confer the title of Emeritus Professor upon any Professor of the University on or after his or her retirement so long as the Professor in question does not hold another Office of a similar character. An Emeritus Professor shall, for all purposes of courtesy and on ceremonial occasions, be upon the same footing as other Professors of the University.

3.18 Academic Freedom

3.18.1 This Ordinance addresses the definition of academic freedom as referred to in Statute 14 Clause 1, in the following context:

(a) in accordance with the remit of the University to "further the prosecution of original research" as referred to in The Charter of Incorporation of The University of Birmingham ("the Charter") and relevant scholarly activity;

(b) recognising the provisions of the Charter against discrimination in admission, employment and promotion; and

(c) recognising the principles of academic freedom of members of Staff in Statute 14 Clause 1.

3.18.2 Academic Staff shall strive to exercise and promote professional responsibility and intellectual rigour with regard to standards and methods of teaching and research and the dissemination of such scholarship. Where appropriate, Academic Staff should indicate on whose behalf any statement or publication is made, including whether individual or collaborative and whether issued in a personal, academic, official or representative capacity.

3.18.3 The University's definition of academic freedom is based on that agreed by UNESCO in its Recommendation concerning the Status of Higher Education Teaching Personnel (29/C12, dated 18 July 1997, as adopted on 11 November 1997).

3.18.4 In addition to the rights and restrictions applicable to citizens, Academic Staff as defined in Subsection 1 of the Statute have:

3.18.4 (a) freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;

3.18.4 (b) freedom in carrying out research work without interference or suppression, in accordance with their professional responsibility and subject to nationally and internationally recognised principles of intellectual rigour, scientific enquiry and research ethics;

3.18.4 (c) freedom to disseminate and publish the results of their research subject to clause 3.18.6 (d) below;

3.18.4 (d) freedom of teaching (having regard to relevant programme and/or module specifications as approved by the University, and subject to

conveying knowledge associated with the discipline honestly and at a level appropriate to the students concerned) and discussion without constriction*;*

3.18.4 (e) freedom to express freely their honestly held opinion about the institution or system in which they work (noting that there should be a reasonable basis to any statement of opinion);

3.18.4 (f) freedom from institutional censorship, save where any statement or publication is demonstrably contrary to the law or to natural justice or to other legislation or codes of practice approved by the University for the purpose of avoiding discrimination or harassment;

3.18.4 (g) freedom to undertake professional activities outside their employment, particularly those that enhance their professional skills or allow for the application of knowledge to the problems of the community, in accordance with University practice, policies and legislation and with national laws, providing such activities do not interfere with or conflict with their primary commitments to the University; and

3.18.4 (h) freedom to participate in professional or representative bodies or undertake public duties, in accordance with University practice, policies and legislation, and the terms and conditions of employment.

3.18.5 Limitations to academic freedom under the law include:

3.18.5 (a) the right of individuals under human rights and data protection legislation (the Human Rights Act 2000 and the Data Protection Act 1998 (as amended from time to time)) to personal privacy;

3.18.5 (b) not committing defamation including libel or slander or acts which could also constitute harassment and would be contrary to national legislation and University legislation; and

3.18.5 (c) compliance with specific areas of legislation or established codes of professional conduct such as those covering official or commercial confidentiality, human rights, harassment, and ethics of research involving humans, animals, heritage or the environment.

3.18.6 The requirement upon all Academic Staff to exercise their functions in teaching and research in accordance with accepted norms of research, scholarship and publication includes the following:

3.18.6 (a) a requirement to base their research and scholarship on an honest search for knowledge, with due respect for evidence, impartial reasoning and honesty in reporting;

3.18.6 (b) respect for the work and scholarship of others, by proper acknowledgement of their contribution, authorship or material contribution to any research and/or publication and by the avoidance of plagiarism;

3.18.6 (c) respecting and promoting the principles of intellectual pluralism;

3.18.6 (d) recognition of any specific limitations on publication, intellectual property rights and exploitation, which have been agreed by the University, the School, academic unit, research group or lead researcher with the sponsor of the research or other third party in advance, save where maintenance of the confidentiality would breach a legal obligation or ethical imperative;

3.18.6 (e) avoidance of betrayal, through publication or other dissemination, of research information given or obtained in confidence, without approval or without appropriate steps to maintain the anonymity of the source; and

3.18.6 (f) a requirement in pursuing research and scholarship to comply with norms for the good management of, and accounting for, the resources of the University and/or other sponsors.

3.18.7 Research for pecuniary return to the individual shall be subject to prior written approval by the University as laid out in the terms and conditions of employment.

3.19 Removal from Office as Pro-Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of College, or Such Other Academic Officer as Has Been Designated by Council in Accordance with Section 1 of Statute 14

The procedure to be followed where the University is proposing to remove a person from the office of Pro-Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as has been designated by Council (in accordance with Section 1 of the Statute), where no dismissal from the substantive post is contemplated, under Statute 14 Clause 2(4) shall be as follows.

Part I – Application and Scope

3.19.1 This Ordinance applies to any office of Pro-Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as has been designated by the Council (in accordance with Section 1 of the Statute) and which is distinct from that individual's substantive post as defined by Statute 14 Clause 2(1). The holder of such an office shall hereafter be described as the "office holder".

3.19.2 This Ordinance sets out the procedure to be followed where the University proposes to terminate the period of office of such an office holder referred to in paragraph 1 prior to the prescribed or normal termination date for that office, except where the office itself is abolished, or the period of office of the office holder expires, in which case the person’s tenure of the office will cease automatically.

3.19.3 This Ordinance shall not apply to removal of a member of staff from a substantive post.

3.19.4 If an office holder ceases to hold a relevant substantive post, the office referred to in paragraph 1 held by him or her shall automatically lapse and this procedure is inapplicable.

Part II - Procedure

3.19.5 Where it is considered desirable by the Vice-Chancellor or his or her nominee to terminate the period of office of an office holder prior to the prescribed or normal termination date for the office in question the Vice-Chancellor shall first seek to resolve the position informally, including giving the office holder an opportunity to resign from the office (while retaining his/her substantive post in the University). If it proves not possible to resolve the position informally, the following procedure, as appropriate shall apply:

3.19.5 (a) at any point in the procedure the office holder shall have the right to resign. In such a case, all procedures under this Part shall cease;

3.19.5 (b) the Vice-Chancellor may suspend the office holder from carrying out the duties of the office pending the conclusion of this procedure;

3.19.5 (c) the office holder shall be given details in writing of the reasons for the early termination of the period of office and shall be invited to a hearing by a Panel comprising three persons of the University designated by the Pro Chancellor (or nominee), one of whom shall be designated as Chair by the Pro Chancellor (or nominee) to conduct the hearing;

3.19.5 (d) the Panel shall have discretion to decide on the conduct of the hearing (which should be held in private), including

(i) the calling of witnesses; and

(ii) whether the proceedings should be adjourned at any time.

The Panel will be advised by the Director of Human Resources or a nominee with a personnel qualification and/or experience;

3.19.5 (e) the office holder shall be entitled to be accompanied and/or represented at the Panel Hearing. The office holder's representative may be a member of staff or a trade union representative of his/her choice. The representative may attend the Hearing with the office holder, may speak on the office holder's behalf, but may not, except with the permission of the Chair of the Panel, answer questions (relating to the issues in dispute) on the office holder's behalf;

3.19.5 (f) if the office holder or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which they are both available being normally not later than 14 calendar days after the date first proposed for the hearing;

3.19.5 (g) if the office holder fails to attend the hearing without a valid reason, or is prevented from attending for such a long period, for example by

illness, that the delay involved would be unreasonable, the Panel shall have power to proceed with or continue the hearing in the absence of the office holder. If the office holder is not present at the hearing, he or she shall still have the right to be represented.

3.19.6 The decision of the Panel (by majority, if necessary) whether to terminate the period of office of an office holder shall be given in writing and sent to the office holder. If the decision of the Panel is that the office holder be removed from office, the Panel shall also determine whether or not the removal from office is with immediate effect or whether or not to suspend or continue the suspension of the office holder pending any appeal. The notification of the decision of the Panel will be sent by recorded delivery (or equivalent) to the home address of the office holder.

3.19.7 If the office holder wishes to appeal against the decision of the Panel, he or she should do so in writing to the Vice-Chancellor normally within 14 calendar days of receipt of the decision of the Panel, setting out in full the grounds of his/her appeal.

3.19.8 The appeal will be heard by a Panel ("the Appeal Panel"), convened in accordance with paragraph 9 below.

3.19.9 The Appeal Panel shall comprise three persons (being persons other than members of the Hearing Panel) designated by the Pro Chancellor or his/her nominee to hear the appeal.

3.19.10 The Appeal Panel shall have discretion to decide on the conduct of the appeal hearing in accordance with the provisions set out in paragraphs 5(iv) – (vii) above.

3.19.11 As soon as reasonably practicable after the appeal hearing, the Appeal Panel will make its decision (by a majority if necessary). The Appeal Panel shall be entitled to:

3.19.11 (a) confirm the decision to remove the office holder from office reached by the initial Panel;

3.19.11 (b) allow the appeal.

3.19.12 The decision of the Appeal Panel shall be given in writing and sent to the appellant. The decision of the Appeal Panel shall be final.

3.20 Redundancy Dismissals

The procedure for dismissing members of Staff by reason of redundancy and for the handling of appeals against such dismissals, under Statute 14 Clauses 7 and 8 shall be as follows:

<u>Part I - Application and Scope</u>

3.20.1 This Ordinance applies to members of Staff as defined by Statute 14 Clause 2(1), with the exception of those Staff excluded from the scope of Statute 14 Part II by:

3.20.1 (a) Statute 14 Clause 5(1) (Staff appointed prior to and not promoted after 20 November 1987); and

3.20.1 (b) Statute 14 Clause 2(5) (the Vice-Chancellor).

3.20.2 This Ordinance shall not apply to:

3.20.2 (a) the proposed dismissal of a member of Staff where that dismissal would arise from the expiry without renewal of a fixed term contract;

3.20.2 (b) removal from office as Pro-Vice Chancellor, Deputy Pro-Vice-Chancellor, Head of School or academic unit or such other offices as have been designated by the Council, to which a member of Staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated; and

3.20.2 (c) the proposed non-confirmation in post of a member of Staff at the end of a period of probationary service.

3.20.3 The procedure set out in this Ordinance acknowledges that the proposed dismissal of a member of Staff by reason of redundancy:

3.20.3 (a) may or may not be required to be the subject of prior consultation with appropriate representatives under Section 188 Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA"); and

3.20.3 (b) may or may not be required to be effected by the application of selection criteria to affected members of Staff of a certain description or category and/or within a specific School, or other appropriate unit.

3.20.4 Nothing in this Ordinance shall preclude:

3.20.4 (a) the University from seeking volunteers for dismissal by reason of redundancy;

3.20.4 (b) any member of Staff agreeing to voluntary severance, early retirement (if eligible) or redeployment to another post;

at any time.

Part II – General Principles

3.20.5 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1(1).

Part III – Preliminary Stage

3.20.6 Prior to any request for Council to make a determination in respect of the proposed dismissal of a member or members of Staff by reason of redundancy, under Part IV below, the University shall discharge any legal obligations it may have in respect of collective redundancies under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, or

any legislation which may replace that Act. These include consultation at the earliest opportunity with the Staff concerned and, where appropriate, with the recognised trade union, namely the University and College Union, or any successor to it. The consultations, which will include setting out the reasons for the proposed redundancies, are to be with a view to reaching agreement on avoiding collective redundancies or reducing the number of Academic Staff affected, and mitigating the consequences.

3.20.7 Each member of Staff potentially at risk of dismissal by reason of redundancy shall be advised by the Director of Human Resources or nominee in writing of that fact and of the reasons for the proposed redundancy or redundancies and shall be given an opportunity within an identified period of time, not less than 21 calendar days, to make written representations in respect of that proposal to a person or persons nominated by the Vice-Chancellor for that purpose. Such representations may include, without limitation, suggestions as to how the proposed redundancies could be avoided or their numbers reduced.

3.20.8 A request to Council to make a determination under Part IV below shall be made by the Registrar and Secretary or the Vice-Chancellor's nominee and shall specify the reasons for the proposed redundancy or redundancies, and report the action taken under paragraphs 6 and 7 above.

3.20.9 Council may proceed to make a determination under Part IV below subject to receiving a report under paragraph 8 and Council being satisfied that the steps referred to in paragraphs 6 and 7 have been taken, including, as appropriate, consultation with the recognised Trade Union.

Part IV - Determination by Council

3.20.10 Council shall determine, having regard, where appropriate, to any report received under paragraph 8 and being satisfied in any event that the steps referred to in paragraphs 6 and 7 have been undertaken, whether the proposed redundancy or redundancies shall be effected and whether the procedures in Part V of this Ordinance should be instituted to effect the proposed redundancy or redundancies. Without prejudice to the generality of Council's powers under this paragraph, Council:

3.20.10 (a) may determine that the procedures in Part V shall be instituted to effect some or all of the proposed redundancies and direct that the Senate be informed;

3.20.10 (b) may request further information;

3.20.10 (c) may direct (as applicable or appropriate) that consultation with appropriate representatives and/or discussion with the affected members of Staff shall resume or continue until such further time as Council shall specify; or

3.20.10 (d) may decide that no further action be taken.

3.20.11 If the Council determines under clause 3.20.10 (a) above to institute the procedures in Part V, it shall establish a Panel to oversee the process:

3.20.11 (a) The Panel shall consist of five people, including Academic Staff with knowledge of the area under consideration, appointed by the Council on the Vice Chancellor's recommendation (or that of his/her nominee);

3.20.11 (b) Where the Panel is dealing with a member or members of Staff falling within Statute 14 Clause 19(1), then a representative of the National Health Service or other relevant body may be appointed to the Panel and where this occurs the Panel may consist of more than five members, but shall not exceed seven persons;

3.20.11 (c) No Panel member shall have any conflict of interest in the matter including direct line management responsibility for any of the potentially affected Staff;

3.20.11 (d) The Panel will be advised by the Director of Human Resources or a senior nominee (normally a Deputy or Assistant Director of Human Resources); and

3.20.11 (e) After the Panel has discharged its function as set out in the Council's determination, it shall be dissolved.

Part V - Consultation with Affected Staff

3.20.12 This Part shall apply where Council has determined under Part IV of this Ordinance that the procedures in this Part shall be instituted in respect of any proposed redundancy or redundancies under the circumstances set out leading to the Council's determination.

3.20.13 The member or members of Staff at risk of dismissal under this Part as a result of Council's determination shall be notified in writing:

3.20.13 (a) that Council has determined that the procedure in this Part shall be instituted;

3.20.13 (b) of the identity of the members of the Panel and its adviser appointed in accordance with paragraph 11 above;

3.20.13 (c) of the number of redundancies to be effected as a result of that determination;

3.20.13 (d) of the School or other unit and/or (as appropriate) the categories or descriptions of Staff affected by that determination; and

3.20.13 (e) that he or she is employed in a School or other unit, and/or (as appropriate) falls within a category or description of Staff affected by that determination.

and that accordingly he or she is potentially at risk of dismissal by reason of redundancy under this Part and that he or she shall be consulted individually before any decision to dismiss him/her by reason of redundancy is taken.

3.20.14 Paragraphs 16 - 25 and paragraphs 28 and 29 will apply in respect of any redundancy or redundancies to be effected under this Part by the application of selection criteria to any group of affected Staff.

3.20.15 Paragraphs 26 and 27 and paragraphs 28 and 29 will apply in respect of any redundancy or redundancies to be effected under this Part otherwise than by the application of selection criteria to any group of affected Staff.

Procedure where selection criteria are to be applied

3.20.16 The Panel established by the Council's determination in paragraph 11 of this Ordinance shall determine the provisional criteria to be applied, taking due account of the outcome of consultation (where appropriate) with the recognised trade union and representations made by Staff and by the Head of the School in which the affected Staff are employed.

3.20.17 Each member of Staff in a group of affected Staff to whom this paragraph applies will be notified in writing of:

3.20.17 (a) the relevant group of affected Staff (by School or other unit and/or by category or description) from which redundancies will be effected by the application of selection criteria;

3.20.17 (b) the total number of Staff employed in that group of affected Staff;

3.20.17 (c) the total number of Staff to be dismissed from that group by reason of redundancy;

3.20.17 (d) the provisional selection criteria to be applied by the Panel and the nature of the evidence provisionally to be used by the Panel to determine which members of Staff within the affected group are to be dismissed by reason of redundancy; and

3.20.17 (e) the date, at least14 calendar days from the date of the notification, by which comments on the provisional selection criteria must be received in the Office of the Director of Human Resources.

The Panel will also in writing and by discussion seek comments from the recognised trade union on the proposed selection criteria, specifying the time limit given under sub-paragraph (v) above for the receipt of any comments.

3.20.18 The Panel, having received and considered any comments from affected members of Staff and/or the recognised trade union, will determine the selection criteria to be applied and the nature of the evidence to be used by the Panel to determine which members of Staff within the affected group are to be dismissed by reason of redundancy and shall notify each member of Staff in the affected group in writing of:

3.20.18 (a) the selection criteria and the nature of the evidence;

3.20.18 (b) the date by which they will be informed of the outcome (noting that all the affected Staff will be notified on the same date); and

3.20.18 (c) the time period – at least 14 calendar days - within which to make written representations about and/or provide any information he or she wishes to be taken into account when and if the selection criteria are applied to them, such time period taking full account of the circumstances of the potential redundancy situation.

After the end of the period for affected members of Staff to make written representations, the assessment of affected Staff against the selection criteria shall be carried out by the Panel, which may at any stage invite written clarification relating to the evidence from the members of Staff affected and from the Head of School in which the affected Staff are employed.

3.20.19 After all members of Staff within the relevant group of affected Staff have been assessed against the selection criteria, those Staff provisionally selected for redundancy will be notified of that fact in writing, and shall be provided at least 14 calendar days in advance of the meeting referred to in paragraph 21 with full disclosure of the evidence considered by the Panel in arriving at its decision of his/her provisional selection for redundancy.

3.20.20 Those members of Staff within the relevant group of affected Staff not provisionally selected for redundancy shall be advised in writing that, although not provisionally selected at this stage, the position could change as a result of meetings with or appeals by provisionally selected members of Staff under this Part V or Part VII. If subsequently selected, they shall be informed in writing that they have the same rights to consultation and appeal as those provisionally selected under paragraph 19.

3.20.21 Each provisionally selected member of Staff shall be invited to a separate meeting (exclusive of any other provisionally selected Staff) with the Panel which carried out the assessment of that member of Staff against the selection criteria. At the meeting the application of the selection criteria to that member of Staff shall be explained and the member of Staff shall have the opportunity to challenge the application of the criteria to him/her and make oral or written representations in respect of that assessment.

3.20.22 The member of Staff will have the rights to be present and to be represented at the meeting referred to in paragraph 21 by a member of Staff or trade union representative of his/her choice and accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.20.22 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the hearing.

3.20.22 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Chair of the Panel, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.20.22 (c) If the member of Staff fails to attend the hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Panel shall have power to proceed with or continue the hearing in the absence of the member of Staff. If the member of Staff is not present at the hearing, he or she shall have the right to be represented at the hearing.

3.20.23 Whether on the application of the member of Staff or otherwise, the Panel shall hold further meetings as it, in consultation with the adviser appointed under paragraph 16 above, considers necessary, to allow the member of Staff to challenge the application of the criteria to him/her or to understand further the reasons for his/her selection and to allow those who carried out the assessment of that member of Staff to respond.

3.20.24 The member of Staff shall be informed in writing of any changes to his/her assessment against the selection criteria made as a result of the representations referred to in the meetings under clauses 3.20.21 and 3.20.23 above.

3.20.25 Following the meetings referred to in clauses 3.20.21 and 3.20.23 above, and having taken account of any representations made by the individual member of Staff, each member of Staff selected for dismissal by reason of redundancy shall be notified of that fact in writing and the reasons for their selection. The letter will specify a period of time during which alternative employment for the member of staff shall be sought and considered before proceeding further under this Part.

Procedure where selection criteria not required

3.20.26 The member or members of Staff to whom this paragraph applies shall be notified in writing of the reasons for their proposed dismissal and shall be given at least 14 calendar days notice of a separate meeting (exclusive of any other members of Staff proposed for dismissal) at which they can make oral or written representations and at which they shall have the rights set out in paragraph 22 above. Whether on the application of the member of Staff or otherwise, the Panel shall hold further meetings as it, in consultation with the adviser appointed under paragraph 16 above, considers necessary, to discuss the representations and respond to them.

3.20.27 Following the meeting(s) with each member of Staff concerned, the member or members of Staff shall be advised in writing of the decision taken and the reasons for it. The letter will specify a period of time during which alternative employment for the member of staff shall be sought and considered before proceeding further under this Part.

Notification of Dismissal

3.20.28 Clause 3.20.29 applies after the notification under clause 3.20.25 or 3.20.27 and (if appropriate) after the expiry of any period for seeking and considering the availability of alternative employment, where no such alternative employment has been made available or accepted.

3.20.29 The Vice-Chancellor (or such other person authorised to act on behalf of the Vice-Chancellor under Statute 14, Clause 7(1)(vii)) shall review the record of attempts to re-deploy the member of Staff selected for dismissal on grounds of redundancy and satisfy him/herself that the obligation to seek to secure alternative employment has been fully discharged. If the Vice-Chancellor (or nominee) is not satisfied that the obligation to seek to secure alternative employment has been fully discharged, s/he shall determine a further period during which the availability of alternative employment is sought and considered. When the Vice-Chancellor (or nominee) is satisfied that the obligation has been fully discharged, s/he shall write to the member of Staff to confirm that his or her employment is being terminated by reason of redundancy either with notice or, with the agreement of the member of Staff, with pay in lieu of notice. The Vice-Chancellor (or nominee) will at the same time inform the member of Staff of his/her right to appeal against that dismissal under Part VII, including any applicable time limits for the making of such an appeal. A dismissal will take effect on expiry of notice (or on payment in lieu of notice) whether or not the member of Staff has exhausted his/her right of appeal under Part VII. A member of Staff who is dismissed on grounds of redundancy will normally be offered honorary academic status, initially for a period of three months, during which s/he will remain on the University's redeployment register.

Part VI - Notification of Redundancy Dismissals to Council

3.20.30 Council shall be notified of all dismissals effected under Part V. Following notification to Council, a report of any dismissal will also be given to Senate. Any dismissed member(s) of Staff shall remain anonymous in any report to Council or Senate and in the minutes of meetings at which such reports are considered.

Part VII - Appeals

3.20.31 A member of Staff who wishes to appeal against his/her dismissal under Part V of this Ordinance shall do so in writing to the Registrar and Secretary normally within 28 calendar days of receipt of the written notice of dismissal under paragraph 29. The member of Staff should set out the grounds of his/her appeal.

3.20.32 The appeal will be heard by a Panel (the "Appeal Panel") constituted in accordance with clause 3.20.33 below.

The Appeal Panel shall be appointed by the Pro Chancellor on a case by case basis and in accordance with the following rules:

3.20.33 (a) subject to paragraph (iv) below each Panel shall consist of three persons;

3.20.33 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School or other unit from the appellant) drawn from a list agreed from time to time by

the Senate of the University;

3.20.33 (c) no Panel member shall have had any previous direct or active involvement in the process or decision to dismiss the member of Staff by reason of redundancy, or any conflict of interest in the matter. No person may sit on both the Panel established by the Council under clause 3.20.11 above and the Appeal Panel in a particular case;

3.20.33 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.20.33 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.20.34 The Pro Chancellor shall determine who shall chair the Appeal Panel.

3.20.35 The Registrar and Secretary or his/her nominee shall write to the member of Staff at least 21 calendar days in advance of the appeal hearing:

3.20.35 (a) inviting the member of Staff to an appeal hearing (the "Appeal Hearing");

3.20.35 (b) naming the members of the Appeal Panel and the adviser appointed under sub-paragraph 33(v) above;

3.20.35 (c) reminding the member of Staff that s/he has an inherent right to challenge the membership of the Panel on the grounds of conflict of interest; and

3.20.35 (d) informing the member of Staff of his/her right to be represented or assisted in accordance with paragraph 36 below.

3.20.36 At the Appeal Hearing the member of Staff may be represented by any other person, who may be legally qualified and may also be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings. If the member of Staff or his or her representative is not available at the time proposed for the Appeal Hearing, the meeting shall be postponed to another reasonable time at which they will both be available, being normally not later than 14 calendar days after the date first proposed for the Appeal Hearing. Any representative may attend the hearing with the member of Staff, may speak on the member of Staff's behalf but may not, except with the permission of the Chair of the Appeal Hearing, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.20.37 Subject to clause 3.20.36 above, it shall be for the Appeal Panel at its discretion to determine, in consultation with the adviser appointed under sub-clause 3.20.33 (e) above, the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.20.37 (a) a right to call for additional documents;

3.20.37 (b) determining the extent to which witnesses may be called; and

3.20.37 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The appellant shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced.

The Appeal Hearing will be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

3.20.38 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend in person, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Hearing following an adjournment or postponement. If the member of Staff then fails to attend the Appeal Hearing or any reconvened Hearing following a postponement or adjournment of the Appeal Hearing without reasonable excuse, the Appeal Panel shall be entitled to proceed in his/her absence. If the member of Staff is not present at the Appeal Hearing, s/he shall have the right to be represented at the Appeal Hearing.

3.20.39 The Appeal Panel will make its decision and inform the member of Staff accordingly, normally not more than 14 calendar days after the conclusion of the Appeal Hearing. The Appeal Panel shall be entitled to:

3.20.39 (a) confirm the decision to dismiss the member of Staff;

3.20.39 (b) revoke the decision to dismiss and reinstate the member of Staff with no loss of service; or

3.20.39 (c) remit the decision to be considered further by such person or persons and to such extent as the Appeal Panel shall specify.

3.20.40 The decision of the Appeal Panel shall be final unless its decision falls within clause 3.20.39 (c) and the Appeal Panel decides that it shall not be final.

3.20.41 The Appeal Panel shall prepare and send to the appellant a reasoned written decision (normally within 14 calendar days of making its decision). A report of the Appeal Panel's decision will also be sent to Council. Following notification to the Council, a report will also be sent to the Senate. Any dismissed member(s) of Staff shall remain anonymous in any report to Council or Senate and in the minutes of meetings at which such reports are considered.

3.21 Disciplinary Procedure and Dismissals

Part I: General

3.21.1 This Ordinance sets out the disciplinary procedures referred to in Statute 14 Clause 10 which apply to members of Academic Staff.

3.21.2 This Ordinance applies to members of Staff as defined by Section 1 of the Statute with the exception of the Vice Chancellor. This Ordinance shall not apply to:

3.21.2 (a) Removal from office as Pro-Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as designated by the Council, to which a member of Staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated;

3.21.2 (b) The proposed dismissal of a member of Staff where that dismissal would arise from the expiry of a fixed term contract; and

3.21.2 (c) The proposed non-confirmation in post of a member of Staff at the end of probationary service.

3.21.3 The procedures set out in this ordinance apply to a member of clinical Academic Staff (as defined in clause 19(1) of Statute 14) on the same basis as to any member of Staff, apart from a circumstance in which the honorary clinical contract has been withdrawn when Ordinance 3.25 relating to clinical Staff will apply. Disciplinary action may be taken under this Ordinance against a member of clinical Academic Staff in respect of misconduct, or unsatisfactory or inadequate performance arising in connection with that member of Staff's clinical work as if the work or activities were performed in or for the University.

3.21.4 Prior to the institution of formal procedures under this Ordinance, where appropriate, means shall be sought to deal with concerns about conduct or performance through informal methods. If such informal methods do not resolve the matter, formal action may be taken. However, nothing in this Ordinance shall require the institution of formal proceedings to be preceded by informal action, if the misconduct or performance issue is considered too serious to be addressed through informal methods.

3.21.5 In respect of concerns about performance, the member of Staff shall be informed by the Head of School (or nominee) of the nature of the concerns about his/her performance and invited to a meeting to discuss them. The purpose of the meeting shall be, as appropriate: to explain the minimum satisfactory standards of performance sought by the Head of School (or nominee); to establish whether there are any impediments to the member of Staff achieving the minimum satisfactory standards of performance and how these might be overcome; to offer such support, coaching, mentoring and training as may be considered by the Head of School (or nominee) appropriate in the circumstances; to set reasonable targets for the member of Staff and a time period over which his/her performance will be monitored. During the course, or at the end, of a period of monitoring the member of Staff's performance, the Head of School shall provide feedback to the member of Staff on his/her performance, and may refine any targets and/or set a further period of monitoring, as appropriate. The Head of

School (or nominee) shall consult the Director of Human Resources (or nominee) before any continuation of monitoring beyond 12 months. If the performance of the member of Staff is considered by the Head of School (or nominee) to have reached the minimum satisfactory standards, the member of Staff shall be so informed and advised to maintain those standards.

3.21.6 Issues of misconduct and of unsatisfactory or inadequate performance shall be dealt with under the graduated Disciplinary Warning Procedure specified in paragraph 22 of this Ordinance, unless either:

3.21.6 (a) where the allegation is of misconduct, the member of Staff has previously received a final written warning for an offence of misconduct which has not expired at the date of the allegation ; or

3.21.6 (b) where the allegation relates to unsatisfactory or inadequate performance, the member of Staff has previously received a final written warning for unsatisfactory or inadequate performance which has not expired at the date of the allegation; or

3.21.6 (c) the issue alleged by the Head of School or other person is considered by the Vice-Chancellor, advised by the Registrar and Secretary (or nominee), to be of such seriousness that the matter should be referred to a disciplinary panel to consider whether the member of Staff should be dismissed

in which case, with the agreement of the Director of Human Resources (or a Deputy or Assistant Director of Human Resources), the Procedure for Dealing with Serious Issues in Part V of this Ordinance may apply.

Institution of procedures

3.21.7 The procedures in this Ordinance shall normally be instituted by an 'Appropriate Person' identified by the Director of Human Resources or a senior nominee (normally a Deputy or HR qualified Assistant Director of Human Resources), who shall be:

3.21.7 (a) in the case of a Vice-Principal, Pro-Vice Chancellor, Deputy Pro-Vice-Chancellor or a Head of College, by the Vice Chancellor;

3.21.7 (b) in the case of a Head of School, by a Pro-Vice Chancellor or Deputy Pro-Vice-Chancellor;

3.21.7 (c) in the case of any other member of Staff, by the Head of School or a Head of College.

In each case, before instituting the procedures in this Ordinance, the Appropriate Person shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.21.8 The decision to institute the procedures in this Ordinance and the decision about which procedure should be used shall be in the discretion of the Appropriate Person (advised by the Director of Human Resources or a

senior nominee – normally a Deputy or HR qualified Assistant Director of Human Resources).

3.21.9 In the event that the procedures in this Ordinance are instituted against a member of Staff who, prior to or subsequent to the institution of these procedures, raises a grievance under the relevant Ordinance, the Director of Human Resources or a senior nominee (normally a Deputy or HR qualified Assistant Director of Human Resources) will discuss with the member of Staff (or the member of Staff's representative) with a view to reaching agreement on whether the two proceedings can proceed concurrently or in the alternative which of the two shall proceed first. In the event that it is not possible to reach agreement, the matter will be drawn to the attention of the appropriate Pro Vice-Chancellor who, after consulting with the Director (or Deputy or Assistant Director) of Human Resources, will decide how to proceed in the circumstances.

Relationship with Statute 14 Part IV (Medical Incapacity)

3.21.10 If it emerges that the issue relating to a member of Staff's conduct or performance may be attributable, in whole or in part, to a medical condition, the person or panel considering the issue (advised by the Director of Human Resources or nominee) shall postpone or adjourn any meeting under this Ordinance to allow investigation, taking account of any relevant legislation, of the member of Staff's medical condition, including obtaining, if appropriate, any medical report and:

3.21.10 (a) determine that no further action should be taken under Statute 14; or

3.21.10 (b) direct that the issue be dealt with under Statute 14 Part IV, dealing with incapacity on health grounds; or

3.21.10 (c) continue with proceedings under this Ordinance taking the member of Staff's medical condition into account as appropriate.

Part II: Grounds for Disciplinary Action (the Disciplinary Rules)

3.21.11 Disciplinary action may be taken in respect of the following matters, as set out in Statute 14 clause 9:

3.21.11 (a) conduct (wherever occurring) resulting in the member of Staff accepting a formal police caution, even if the member of Staff is not subsequently charged with or convicted of an offence, where that conduct is of a kind that is judged in all the circumstances to be relevant to the member of Staff's employment by the University;

3.21.11 (b) conviction of a criminal offence by any court of competent jurisdiction, where that offence is judged in all the circumstances to be relevant to the member of Staff's employment by the University;

3.21.11 (c) failure, refusal, or neglect to perform some or all of the duties or to comply with some or all of the conditions attaching to the post, or performing those duties or complying with those conditions in an unsatisfactory or inadequate manner;

3.21.11 (d) conduct of a kind judged to be inappropriate or unacceptable on the part of a holder of the post held by the member of Staff, such as (but not confined to) the following:

(i) breach of any obligation or duty arising under any of the University's regulations regarding financial matters, harassment, equal opportunities, public interest disclosure, health and safety, or data protection or any other rules, regulations or codes binding on the member of Staff;

(ii) wilful damage to or improper use of facilities, premises, property or equipment including equipment owned by, leased or hired to the University or otherwise provided for the pursuance of University duties;

(iii) disruption of, or improper interference with, the activities of those engaged in the activities of the University or any person because of their real or perceived connection with the University (other than any lawful industrial action);

(iv) violent, indecent, disorderly, threatening, abusive, insulting or harassing behaviour or language (whether written, spoken or in any other form);

(v) fraud, deceit, deception or dishonesty in relation to the University or any related activity, including research and examining;

(vi) action likely to cause injury or impair safety;

(vii) divulging information or material received in confidence (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the University's Public Interest Disclosure Procedure or required by law);

(viii) failure to disclose a conflict of interest which has a material impact on the conduct of University business.

Gross misconduct

3.21.12 Gross misconduct is defined as misconduct representing a serious breach of contractual terms, so serious, if proven, as to justify the summary dismissal (ie dismissal without notice or pay in lieu of notice) of a member of Staff. The classification of misconduct as "gross" is likely to depend as much on the context, quality and degree of misconduct involved as on the particular type of activity. For the purpose of providing guidance to members of Staff the following specific examples of gross misconduct are given. This is not in any way an exhaustive list, but merely indicative of the type of behaviour which may be classified as gross misconduct:

theft

fraud

physical violence

serious negligence

serious breach of trust and confidence

serious bullying or harassment

Part III: Disciplinary Warning Procedure

3.21.13 Prior to the institution of procedures under this Part, an investigation into the alleged misconduct or unsatisfactory or inadequate performance will be carried out by a nominee of the Director of Human Resources with a professional personnel qualification or an experienced personnel practitioner in collaboration with a manager or senior member of Academic Staff who is not subordinate to the person making the complaint against the member of Staff, who is not the immediate line manager of the member of staff against whom the allegation has been made and who has no conflict of interest in the matter. The member of Staff shall be informed of who is carrying out the investigation. The purpose of an investigation is to collect evidence in order to enable a determination to be made as to whether *prima facie* the allegation should proceed to a Disciplinary Hearing. A report of the investigation will be prepared, on the basis of which the appropriate person, advised by the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner) shall decide whether to proceed under this Part, or to counsel the member of Staff about his/her future conduct or performance, or that no further action be taken.

3.21.14 During the investigation referred to in clause 3.21.13 above, at any meeting with the member of Staff against whom the allegation has been made, s/he shall have the right to be accompanied by a member of Staff or a trade union representative of his or her choice. S/he shall be given full information about the allegation to enable him/her to respond. S/he shall have the right to nominate individuals to be interviewed as part of the investigation, and the right to submit any documents which may be relevant for the consideration of the persons carrying out the investigation. The member of Staff shall be kept informed of progress of the investigation and, in writing, of its outcome.

3.21.15 Where disciplinary proceedings are commenced against a member of Staff under this Part, the member of Staff shall be informed in writing of the alleged misconduct or unsatisfactory or inadequate performance, provided with a copy of the report prepared under clause 3.21.13 above and invited to a Disciplinary Hearing at which the issue shall be considered. The member of Staff shall receive at least 14 calendar days' notice of the Disciplinary Hearing and shall be given a copy of this Ordinance and reminded of his/her right to be accompanied or represented by a trade union representative or a member of Staff of his/her choice.

3.21.16 The Disciplinary Hearing will normally be conducted by the Appropriate Person instituting the procedures in accordance with clause 3.21.8 above, advised by the Director of Human Resources (or nominee), provided the Appropriate Person is not otherwise involved in the case (eg as a witness)

and has no conflict of interest in the matter.

3.21.17 Where the member of Staff (other than a Vice-Principal, Pro Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of College or Head of School) has previously been given a written warning under the Procedure in this Part, which has not expired at the date of the allegation, the Hearing shall be conducted by a Head of College, or a Pro-Vice Chancellor (or a Deputy Pro-Vice-Chancellor).

3.21.18 The member of Staff shall be provided with copies of any evidence to be considered at the Hearing, including (where applicable) the names of any witnesses from whom it is intended any evidence will be considered at the Hearing and any statements obtained from those witnesses. So far as is reasonable given the circumstances of the case, this material shall be provided in advance of the Disciplinary Hearing. Where such information is provided to the member of Staff on the day of the Disciplinary Hearing, the person conducting the Hearing shall, if requested by the member of Staff, allow an adjournment to give the member of Staff a reasonable opportunity to consider the information.

3.21.19 The member of Staff shall be invited to indicate, if s/he wishes, prior to the Hearing:

3.21.19 (a) whether he or she admits the alleged misconduct or under-performance in whole or in part and, if so, to indicate any grounds of mitigation which he or she intends to advance; and/or

3.21.19 (b) the nature of any evidence he or she intends to call in his/her defence or mitigation, including the names of any witnesses and their relevance to the allegations, and details of any documents to which s/he intends to refer.

Where such information has been provided by the member of Staff on the day of the Disciplinary Hearing, the person conducting the Hearing should consider allowing an adjournment to give those present at the Hearing a reasonable opportunity to consider the information.

3.21.20 The member of Staff will have the rights to be present and to be represented at the Hearing referred to in paragraph 15 by a member of Staff or trade union representative of his/her choice.

3.21.20 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Hearing.

3.21.20 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the person conducting the Hearing, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.21.20 (c) If the member of Staff fails to attend the Hearing without a valid

reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the person conducting the Hearing shall consider the circumstances preventing the member of Staff attending and shall consult the Director (or an Assistant Director) of Human Resources before deciding whether to proceed with or continue the Hearing, in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the Hearing, he or she shall have the right to be represented at the Hearing.

3.21.21 The procedure to be followed in the Disciplinary Hearing shall be at the discretion of the person conducting the Hearing, but shall include:

3.21.21 (a) the detailed allegations being put to the member of Staff, including (if relevant) the calling of any witness or witnesses;

3.21.21 (b) the member of Staff having the opportunity to set out his or her case in response to the allegation(s) and to call any relevant witnesses;

3.21.21 (c) the questioning of any witnesses by both sides; and

3.21.21 (d) the power to adjourn or postpone the Hearing.

3.21.22 Where it is concluded by the appropriate person (advised as set out in paragraph 8 above) or under paragraphs 47 and 48 below that the allegations are proven, one of a series of graduated warnings (an Oral Warning, a First Written Warning and a Final Written Warning) may be given. However, depending on the seriousness of the case, and by agreement with the Director (or an Assistant Director) of Human Resources and with a Pro Vice-Chancellor, the formal procedure may omit the Oral Warning and begin with a First Written Warning; or may proceed directly to a Final Written Warning; or may exceptionally dispense with warnings altogether. In certain circumstances it may be appropriate to repeat a warning at the same level. An Oral Warning will expire after a maximum of one year, and a Written Warning or a Final Written Warning will expire after a maximum of two years.

3.21.23 Following the Disciplinary Hearing, the member of Staff shall be notified in writing:

3.21.23 (a) of the outcome of the Hearing;

3.21.23 (b) of any disciplinary warning issued against him or her, and if a disciplinary warning is issued, the member of Staff shall also be given the information referred to in paragraph 24;

3.21.23 (c) where appropriate, any counselling relating to the misconduct, or the nature of the improvement in performance required to reach minimum acceptable standards and any measures to be taken to assist the member of Staff in improving his/her performance; and

3.21.23 (d) of his/her right to appeal under Part IV of this Ordinance and how that right should be exercised.

3.21.24 A formal warning issued under this Ordinance shall specify precisely the misconduct or unsatisfactory or inadequate performance which has led to the warning being issued, the level of the warning imposed, the duration of that warning (within the maxima specified under paragraph 22 above), and shall, as relevant, state either that further instances of alleged misconduct, or that a failure to maintain minimum satisfactory levels of performance during the period of the warning:

3.21.24 (a) in the case of a warning other than a Final Written Warning, may lead either to further disciplinary action being taken under this Part or in the event of serious misconduct or seriously unsatisfactory or inadequate performance to the Procedure for Dealing with Serious Issues under Part V being instituted (under which a Disciplinary Panel may determine that the member of Staff shall be dismissed);

3.21.24 (b) in the case of a Final Written Warning, may lead to the procedure under Part V being instituted, under which the Panel may determine that the member of Staff should be dismissed.

3.21.25 Warnings shall be disregarded for the purpose of further disciplinary proceedings on their expiry.

Part IV: Appeals against Action under Part III

3.21.26 A member of Staff may appeal under this Part against a disciplinary warning issued under the Disciplinary Warning Procedure in Part III.

3.21.27 Any appeal should be made in writing to the Registrar and Secretary normally within 28 calendar days of receipt of the written notification of the decision concerned. The member of Staff shall set out l the grounds of his/her appeal.

3.21.28 The appeal shall be heard:

3.21.28 (a) in the case of a decision made by a Head of School (or nominee), by a Head of College or a Pro Vice Chancellor (or a Deputy Pro-Vice-Chancellor); or

3.21.28 (b) in the case of a decision made by a Head of College or a Deputy Pro-Vice-Chancellor or a Pro Vice Chancellor, by the Vice Principal or by the Vice Chancellor; or

3.21.28 (c) in the case of a decision by the Vice Chancellor, by the Pro Chancellor (or nominee).

3.21.29 The member of Staff shall be given at least 14 calendar days (which may be reduced by agreement with the member of Staff) written notification of the date and time of the Appeal Hearing and shall be notified of his/her rights to be present and to be represented at the Appeal Hearing by a member of Staff or trade union representative of his/her choice.

3.21.29 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another

reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Hearing.

3.21.29 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the person hearing the appeal, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.21.29 (c) If the member of Staff fails to attend the Hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the person conducting the Hearing shall have power to proceed with or continue the Hearing in the absence of the member of Staff. If the member of Staff is not present at the Hearing, he or she shall have the right to be represented at the Hearing.

3.21.30 Witnesses, other than the member of Staff and the person who made the decision being appealed, may only be heard with permission of the person hearing the appeal.

3.21.31 Following the Appeal Hearing, the member of Staff will be advised of the outcome of the appeal which, without limitation, may include the cancellation of the decision being appealed or the substitution of a lesser penalty or sanction. However, it shall not be open to the person hearing the appeal to increase the severity of the warning being appealed.

Part V: Procedure for Dealing with Serious Issues

3.21.32 Where it is judged by the Appropriate Person (as defined in paragraph 7 above) that circumstances have arisen where this procedure should be instituted in respect of any member of Staff, the allegation shall be reported to the Vice Chancellor (or in his/her absence, the Vice–Principal) in writing, who may consider the matter personally or delegate it for consideration to a specially nominated person.

3.21.33 The Vice Chancellor (or in his or her absence the Vice-Principal) in consultation with the Director of Human Resources or, in his/her absence, a senior nominee (normally a Deputy or Assistant Director of Human Resources) shall be entitled to suspend the member of Staff on full pay pending a final decision on the matter. Any suspensions shall be confirmed to the member of Staff in writing by the Director of Human Resources or a senior nominee (normally a Deputy or Assistant Director of Human Resources).

3.21.34 Unless the Vice Chancellor (or in his/her absence the Vice-Principal) determines that, on the basis of the allegation itself, the allegation should be dismissed as being trivial or without substance or should be dealt with under the Disciplinary Warning Procedure under Part III, the Vice Chancellor or the Vice-Principal shall nominate a person to conduct such investigations as may be considered appropriate and to prepare a report of that investigation.

3.21.35 Before any investigation referred to in paragraph 34 above the member of

Staff shall be given in writing full information about the allegation to enable him/her to respond. S/he shall have the right to nominate individuals to be interviewed as part of the investigation, and the right to submit any documents which may be relevant for the consideration of the person specified in paragraph 34 above. At any meeting with the member of Staff during the course of the investigation, s/he shall have the right to be accompanied by a member of Staff or a trade union representative of his or her choice. The member of Staff shall be kept informed of progress of the investigation and, in writing, of its outcome.

3.21.36 Following receipt of the investigation report, the Vice Chancellor (or the Vice-Principal) shall determine whether:

3.21.36 (a) the allegation should be dismissed as being trivial or without substance;

3.21.36 (b) the allegation be resolved informally, with the written agreement of the member of Staff;

3.21.36 (c) the member of Staff should be counselled as to his/her future conduct or performance;

3.21.36 (d) the allegation should be dealt with under the Disciplinary Warning Procedure in Part III;

3.21.36 (e) the allegation should be heard under this Part and a Disciplinary Panel established.

The member of Staff shall be informed of that decision in writing without delay.

3.21.37 The Disciplinary Panel shall be appointed by the Pro Chancellor on a case-by-case basis and in accordance with the following rules:

3.21.37 (a) subject to sub-clause 3.21.37 (d) below the Panel shall consist of three persons;

3.21.37 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the member of Staff) drawn from a list agreed from time to time by the Senate of the University;

3.21.37 (c) no Panel member shall have had any previous direct or active involvement in the process, or should have any conflict of interest in the matter;

3.21.37 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.21.37 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.21.38 The Pro Chancellor or nominee shall determine who shall chair the Disciplinary Panel.

3.21.39 Where it is decided under clause 3.21.36 (e) above that the matter shall be considered by a Panel under this Part, the member of Staff shall be notified in writing without delay of the detail of the allegation, including a copy of any investigation report, be informed that the matter is being referred to a Disciplinary Panel and subsequently be given no less than 28 calendar days' (or such other period as may be mutually agreed) written notice of:

3.21.39 (a) the date, time and place of the Panel Hearing;

3.21.39 (b) the issues to be considered at the Panel Hearing;

3.21.39 (c) the right to be represented and/or accompanied at the Panel Hearing in accordance with paragraph 40; and

3.21.39 (d) the right to call relevant witnesses at the Panel Hearing.

3.21.40 The member of Staff may be represented at the Panel Hearing by another person, who may be legally qualified, and accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.21.40 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Hearing.

3.21.40 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the person chairing the Hearing, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.21.40 (c) If the member of Staff fails to attend the Hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Panel shall have power to proceed with or continue the Hearing in the absence of the member of Staff. If the member of Staff is not present at the Hearing, he or she shall have the right to be represented at the Hearing.

3.21.41 The member of Staff shall be under a duty to take reasonable steps to attend the Panel Hearing.

3.21.42 No later than 14 calendar days before the Panel Hearing the member of Staff shall be provided with:

3.21.42 (a) copies of all documentary evidence including statements by witnesses to be referred to or relied upon at the Panel Hearing;

3.21.42 (b) the names and designations of any witnesses who will be called to give evidence in relation to the issues being considered at the Panel Hearing*;*

3.21.42 (c) so far as they are known at the time, the names and designations of any person(s) to be present at the Hearing including the members of the Disciplinary Panel, the adviser to the Panel and the name of any person attending to present the allegation(s) to the Panel (who may be legally qualified).

3.21.43 At least seven calendar days in advance of the Panel Hearing, the member of Staff shall:

3.21.43 (a) state whether it is his/her intention to attend the Hearing;

3.21.43 (b) provide names and details of proposed witnesses, as appropriate;

3.21.43 (c) provide copies of all documentary evidence including any statements by witnesses to which he or she wishes to refer at the Hearing. Any documentary evidence not disclosed within this timeframe may be considered at the Panel Hearing only with the consent of the chair of the Panel.

Disciplinary Hearing

3.21.44 The procedure to be followed at the Disciplinary Hearing shall be determined by the Panel in consultation with the adviser appointed under paragraph 37(v) above but must include:

3.21.44 (a) that the member of Staff has the right to be present at or absent from the Hearing;

3.21.44 (b) the presentation of the allegation, along with provision for the calling of witnesses in relation to the allegation;

3.21.44 (c) that, if evidence in support of the allegation(s) is to be given by witnesses, the member of Staff and/or his/her representative shall be allowed to cross-examine the witnesses;

3.21.44 (d) that the member of Staff or his/her representative has the right to make representations, present evidence and call witnesses, who may also be questioned by the person presenting the allegation;

3.21.44 (e) where a number of witnesses is listed, that the Chair of the Panel may seek information from the relevant party as to whether any will be supplying duplicate evidence. If the Chair of the Panel believes there is duplication of evidence, s/he may invite the parties to agree that written statements from some of those witnesses (without their attendance being required at the Hearing) be taken into account together with oral evidence from other witnesses;

3.21.44 (f) either party seeking clarification through the Chair of the Panel from the other party, as appropriate;

3.21.44 (g) that the Panel has the ability to ask questions of all parties and witnesses;

3.21.44 (h) that the Panel has the power to adjourn or postpone the Hearing.

3.21.45 Any Panel Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply.

3.21.46 The Panel may, at its discretion recall the parties or any witness to clarify any relevant issue. In the event that any person is recalled, the person attending to present the allegation to the Panel and the member of Staff and his/her representative shall have the right to be present.

3.21.47 As soon as reasonably practicable after the Panel Hearing, the Panel shall reach its decision (which may be by majority if necessary). That decision shall be sent in writing to the Vice-Chancellor (or in his/her absence to the Vice-Principal) and to each party to the proceedings (together with the Panel's finding of fact and the reasons for its decision and its recommendations, if any, as to the appropriate penalty). The Panel may:

3.21.47 (a) dismiss the allegation(s), in whole or in part;

3.21.47 (b) uphold the allegation(s), in whole or in part;

3.21.47 (c) where the allegation is upheld in whole or in part, may recommend a course of action as it considers appropriate, having regard to the provisions of paragraph 48 below.

3.21.48 Where the allegation is upheld in whole or in part, on receipt of the Panel's report, the Vice-Chancellor (or Vice-Principal) shall decide on the appropriate action, which may include one or more of the following, providing the penalty is not greater than any recommended by the Panel:

3.21.48 (a) only in cases where the member of Staff's conduct is designated as gross misconduct, direct that the member of Staff should be dismissed without notice or payment in lieu of notice;

3.21.48 (b) direct that the member of Staff shall be dismissed either with notice or a payment in lieu of notice;

3.21.48 (c) issue a warning, which may be a Formal Oral Warning, Written Warning or Final Written Warning, in which case the terms of paragraphs 22 and 24 above shall apply. In each case the warning shall set out the conduct or behaviour constituting the act of misconduct, and any improvement or action required with an appropriate time scale. The warning should set out the consequences of non-compliance and of any further misconduct;

3.21.48 (d) any other penalty which may be appropriate in the circumstances;

3.21.48 (e) direct that the member of Staff be counselled as to his/her future conduct or performance, which may include appropriate training;

3.21.48 (f) discuss the issues raised with the member of Staff.

3.21.49 Where the Vice-Chancellor (or Vice-Principal) decides that a member of Staff should be dismissed, or that any other penalty be imposed, the Registrar and Secretary or nominee shall give effect to the decision.

3.21.50 The member of Staff shall be advised of his/her right of appeal under Part VI against the Panel's findings or against any penalty imposed.

Part VI: Appeals against Decisions Taken in Part V

3.21.51 A member of Staff who wishes to appeal against the findings of the Disciplinary Panel, or any penalty imposed, should do so in writing to the Registrar and Secretary normally within 28 calendar days of receipt of the decision of the Disciplinary Panel. The member of Staff should set out the grounds of his/her appeal.

3.21.52 The appeal will be heard by a Panel ("the Appeal Panel") appointed by the Pro Chancellor on a case by case basis in accordance with the following rules:

3.21.52 (a) subject to sub-clause 3.21.52 (d) below each Panel shall consist of three persons;

3.21.52 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the appellant) drawn from a list agreed from time to time by the Senate of the University;

3.21.52 (c) no Panel member shall have had any previous direct or active involvement in the process or decision to dismiss the member of Staff, or any conflict of interest in the matter. No person may sit on both the Disciplinary Panel established under Part V above and the Appeal Panel in a particular case;

3.21.52 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.21.52 (e) The Panel shall be advised by the Director of Human Resources or a senior nominee (normally a Deputy or HR qualified Assistant Director of Human Resources).

3.21.53 The Pro Chancellor shall determine who shall chair the Appeal Panel.

3.21.54 The Registrar and Secretary or his/her nominee shall write to the member of Staff at least 21 calendar days in advance of the Appeal Hearing:

3.21.54 (a) inviting the member of Staff to an Appeal Hearing (the "Appeal Hearing");

3.21.54 (b) naming the members of the Appeal Panel and the adviser appointed under sub-paragraph 52(v) above;

3.21.54 (c) reminding the member of Staff that s/he has an inherent right to challenge the membership of the Panel on the grounds of conflict of interest; and

3.21.54 (d) informing the member of Staff of his/her right to be represented or assisted in accordance with paragraph 55 below.

3.21.55 At the Appeal Hearing the member of Staff may be represented by any other person, who may be legally qualified, and may also be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings. If the member of Staff or his or her representative is not available at the time proposed for the Appeal Hearing, the meeting shall be postponed to another reasonable time at which they will both be available, being normally not later than 14 calendar days after the date first proposed for the Appeal Hearing. Any representative may attend the Hearing with the member of Staff, may speak on the member of Staff's behalf but may not, except with the permission of the Chair of the Appeal Hearing, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.21.56 Subject to clause 3.21.55 above, it shall be for the Appeal Panel at its discretion to determine, in consultation with the adviser appointed under sub-clause 3.21.52 (e) above, the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.21.56 (a) a right to call for additional documents;

3.21.56 (b) determining the extent to which witnesses may be called; and

3.21.56 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The appellant shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced.

The Appeal Hearing will be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

3.21.57 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person, and provide the name of any representative. If s/he wishes to attend in person, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Hearing following an adjournment or postponement. If the member of Staff then fails to attend the Appeal Hearing or any reconvened Hearing following a postponement or adjournment of the Appeal Hearing without reasonable excuse, the Appeal Panel shall be entitled to proceed in his/her absence. If the member of Staff is not present at the Appeal Hearing, he or she shall have the right to be represented at the Appeal Hearing.

3.21.58 The Appeal Panel will make its decision and inform the member of Staff accordingly, normally not more than 14 days after the conclusion of the

Appeal Hearing. The Appeal Panel shall be entitled to:

3.21.58 (a) overturn the findings of the Disciplinary Panel and dismiss the allegations, in which case the Appeal Panel shall remove the penalty imposed and direct that no further action be taken in the matter; or

3.21.58 (b) confirm, in whole or in part, the findings of the Disciplinary Panel, in which case the Appeal Panel shall be entitled to:

(i) confirm the penalty imposed; or

(ii) remove the penalty imposed and substitute any lesser penalty as permitted under clause 3.21.48 above; or

(iii) remove the penalty imposed and impose no penalty.

3.21.59 The decision of the Appeal Panel shall be final.

3.21.60 The Appeal Panel shall prepare and send to the appellant a reasoned written decision (normally within 14 calendar days of making its decision). A report of the Appeal Panel's decision will also be sent to Council. Following notification to the Council, a report will also be sent to the Senate. Any dismissed member(s) of Staff shall remain anonymous in any report to Council or Senate and in the minutes of meetings at which such reports are considered.

3.22 Incapacity on Health Grounds

The procedure for dealing with members of Academic Staff because of incapacity on health grounds, referred to in Statute 14, Clauses 14 and 15 shall be as follows:

Part I - Application and Scope

3.22.1 This Ordinance applies to members of Staff as defined by Statute 14, Clause 2(1) with the exception of the Vice Chancellor.

3.22.2 This Ordinance shall not apply to:

3.22.2 (a) the proposed non-confirmation in post of a member of Staff at the end of a period of probationary service;

3.22.2 (b) removal from office as Pro-Vice Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as has been designated by the Council to which a member of Staff has been elected or appointed and which is distinct from that individual's substantive post; and

3.22.2 (c) the proposed dismissal of a member of Staff where that dismissal would arise from the expiry without renewal of a fixed term contract.

3.22.3 The procedures in this Ordinance apply to a member of the clinical Academic Staff (as defined in Statute 14, Clause 19(1)) on the same basis as to any member of Staff, apart from a circumstance in which the honorary

clinical contract has been withdrawn when Ordinance 3.26 relating to clinical Academic Staff would apply.

3.22.4 This procedure is not intended to apply to misconduct in relation to sickness absence or the misreporting of sickness absence (including the misrepresentation of absence for reasons other than sickness as sickness absence), or persistent absenteeism which is not supported by medical certification, which will normally be dealt with under the Ordinance on Disciplinary Procedure and Dismissals. If, after commencing a procedure under this Ordinance, the Appropriate Person (as defined in paragraph 8 below) or Panel, having sought advice from the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner (which may include seeking a medical opinion), considers that the issue under review may be one of misconduct other than misconduct resulting from any illness or medical condition, he or she may discontinue proceedings under this Ordinance and transfer the matter to the appropriate stage of the Ordinance on Disciplinary Procedure and Dismissals.

3.22.5 Nothing in this Ordinance shall prevent an application being made or accepted at any stage for the member of Staff to retire on ill health grounds.

Part II - General Principles

3.22.6 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1 (1).

3.22.7 The member of Staff will have the rights to be present and to be represented at any meetings held under Parts III, IV and V of this Ordinance by a member of Staff or trade union representative of his/her choice and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings Under Parts IV and V only, the member of Staff may be represented by any person who may be legally qualified.

3.22.7 (a) if the member of Staff or his or her representative is not available at the time proposed, the Hearing shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Hearing;

3.22.7 (b) the representative attending the Hearing with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Chair of the Panel, answer questions (relating to the issues in dispute) on the member of Staff's behalf;

3.22.7 (c) if the member of Staff fails to attend the Hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Panel shall have power to proceed with or continue the Hearing in the absence of the member of Staff. If the member of Staff is not present at the Hearing, he or she shall have the right to be represented at the Hearing.

3.22.8 For the purposes of this Ordinance, the "Appropriate Person" shall be identified by the Director of Human Resources or a senior nominee (normally a Deputy or HR qualified Assistant Director of Human Resources) as being:

3.22.8 (a) the Vice-Chancellor, where the member of Staff is a Vice-Principal, Pro Vice-Chancellor, Deputy Pro-Vice-Chancellor, a Head of College or the Registrar and Secretary;

3.22.8 (b) the Vice- Principal or a Pro Vice-Chancellor or a Deputy Pro-Vice-Chancellor, where the member of Staff is a Head of School;

3.22.8 (c) the Head of College or Head of the relevant School, in the case of any other member of Staff.

The Appropriate Person shall seek advice from the Director of Human Resources or a senior nominee with a personnel qualification or an experienced personnel practitioner.

3.22.9 Those providing or receiving any medical report will seek to ensure that its contents are kept confidential, as the case may be, to the Appropriate Person and his/her adviser, the Panel or Appeal Panel, the representatives of the University attending/presenting at the Hearing, and the member of Staff and his/her representatives, unless the member of Staff requests that the information be divulged to any other individual(s).

3.22.10 A member of Staff on sick leave shall have a responsibility to keep the University informed, where possible, of his/her likely date of return to work.

Part III – Procedure for Dealing with Sickness Absence or Medical Incapacity

3.22.11 The procedure in this Part shall apply where, due to any medical condition, illness or other incapacity, a member of Staff is, or has become, or is likely to become, either permanently or long term temporarily (at least 6 months), unable to perform his or her duties (or any part thereof), either in full or in part, or to be able to do so only with difficulty.

3.22.12 The procedure in this Part may be initiated by the member of Staff (or his/her representative) or the Appropriate Person as defined in paragraph 8 above except that, unless initiated by the member of Staff (or his/her representative), this procedure shall not normally be initiated in a case where:

3.22.12 (a) there is a clear reason for the incapacity, from which the member of Staff is expected to make a full recovery and return to normal duties, normally within a period of six months; or

3.22.12 (b) the member of Staff is undergoing medical investigation and/or active medical treatment where medical opinion on the outcome is not yet determined.

3.22.13 The purpose of this part of the procedure is to explore through confidential

discussions or other communications with the member of Staff, and with the assistance of medical or other expert advice as appropriate, the following issues, as appropriate:

3.22.13 (a) the impact of the member of Staff's medical condition, illness or incapacity; and/or

3.22.13 (b) the likely prognosis for the member of Staff's health and fitness to carry out his or her duties, in full or in part; and/or

3.22.13 (c) where the member of Staff is absent from work, the likely duration of the absence and the likelihood of his or her returning to work on a sustained basis and being fit to carry out his/her duties in full or in part.

3.22.14 The member of Staff may provide and/or the University may seek medical information from the member of Staff's doctor(s), from a specialist Consultant and/or from the University's Occupational Health Physician. On each occasion that medical evidence is requested or sought, whether from the Occupational Health Physician or the member of Staff's doctor(s), the member of Staff will be asked whether s/he wants the recognised Trade Union to be consulted. Where the member of Staff refuses without good reason to supply the requested medical information, the Appropriate Person, having taken the advice of the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner), will proceed using the information available at the time.

3.22.15 Where, on the basis of the discussions described in paragraph 13 above, and on the basis of any medical information obtained under paragraph 14 above, there is an indication of some longer term effect on the ability of the member of Staff to work normally, there shall be:

3.22.15 (a) an investigation to determine any changes or adjustments which could be made to the member of Staff's role or duties or to the facilities and equipment provided, or to his/her work environment, or to the way in which his/her duties are organised or performed, to facilitate the member of Staff's return to, or continuing to, work normally, on a sustained basis; and

3.22.15 (b) where possible, an agreement between the Appropriate Person and the member of Staff on what changes should be implemented. In doing this, account will be taken of legal requirements and University policy in relation to managing disability or ill-health; and/or

3.22.15 (c) action on any other agreed measures to be taken to address or mitigate the issues raised by the member of Staff's ill-health incapacity.

The changes or actions referred to in this paragraph may include the permanent or temporary transfer of the member of Staff to alternative employment or a permanent or temporary variation to the member of Staff's duties or other terms and conditions of employment. Nothing in this Ordinance shall oblige the University to maintain, in making such changes

or taking such action, a member of Staff's existing terms and conditions of employment, in particular (but without limitation) in respect of pay or other remuneration.

Part IV –Removal For Incapacity On Grounds Of Ill-Health

3.22.16 At any face to face meeting or discussion under this Part, the member of Staff shall be entitled to be accompanied by a member of Staff or trade union representative of his/her choice in accordance with paragraph 7 above.

3.22.17 Before proceeding under this Part, the Appropriate Person, having consulted with the Director of Human Resources (or a senior nominee with a personnel qualification or an experienced personnel practitioner), shall seek to reach agreement with the member of Staff on an agreed resolution to the situation, for example by (but not limited to) ill-health retirement.

3.22.18 If it is not possible to resolve the situation under paragraph 17 above or, where appropriate, under Part III of this Ordinance, (for example, but not limited to, a case in which the member of Staff is considered unlikely to make a complete recovery to the point of being able to carry out his/her duties normally, or where the Appropriate Person is satisfied that it is not possible to accommodate the member of Staff's incapacity through reasonable adjustment) the Appropriate Person may request the Registrar and Secretary or his/her nominee to refer the issue(s) to a Panel Hearing under this Part to consider (as appropriate) whether the member of Staff should be removed from the University's employment on grounds of incapacity and/or what other action (including the matters referred to in paragraph 15(i) –(iii) above) should be taken. The Registrar and Secretary (or nominee), in considering whether to refer the issue(s) to a Panel, shall have regard to the member of Staff's entitlement to occupational sick leave or pay and will normally only refer the issue(s) to a Panel after the arrangements for sick leave and sick pay have been exhausted**.**

3.22.19 The Appropriate Person shall inform the member of Staff of the decision to request the Registrar and Secretary or his/her nominee to refer the issues to a Panel under this Part and shall prepare a report summarising the relevant issues, any action taken under Part III of this Ordinance, and the issues which it is proposed that the Panel should consider ("the Report").

3.22.20 In a case where the member of Staff is not able to deal with the matter personally, in addition to the provisions of paragraph 7 above, a guardian, attorney or other legally appointed representative may act in the place of the member of Staff for the purposes of the remainder of this Ordinance. References hereafter to the "member of Staff" will include any guardian, attorney or other legally appointed representative.

3.22.21 The provisions of paragraphs 22 to 30 below shall apply to the appointment and conduct of the Panel Hearing; and the decision of the Panel shall be subject to the right of appeal to a further Panel as set out in paragraphs 31 to 39 below.

3.22.22 The provisions in this section shall apply to any case referred to a Panel

under paragraph 18 above.

3.22.23 The Panel shall be convened in accordance with Part VI of this Ordinance.

3.22.24 The Registrar and Secretary or his/her nominee, having satisfied him/herself that the procedures under Part III and/or clause 3.22.17 above, where appropriate, have been fully complied with, shall inform the member of Staff in writing as soon as possible after receiving the request under paragraph 18:

3.22.24 (a) enclosing a copy of the Report and summarising the case to be considered by the Panel;

3.22.24 (b) inviting the member of Staff to a Hearing before the Panel ("the Panel Hearing") and giving the member of Staff at least 21 calendar days notice of the date of the Panel Hearing;

3.22.24 (c) naming the members of the Panel and its adviser; and

3.22.24 (d) informing the member of Staff of his/her right to be represented or assisted in accordance with clause 3.22.7 above.

3.22.25 The Registrar and Secretary or his/her nominee will also name in this letter the person who will be explaining the University's position to the Panel and this person may be legally qualified.

3.22.26 The member of Staff shall be provided with copies of any documentation or details of any other information which shall be referred to at the Panel Hearing in support of the action recommended in the Report. So far as is reasonable given the circumstances of the case, that material shall be provided sufficiently (normally not less than 14 calendar days) in advance of the Panel Hearing to give the member of Staff sufficient time to prepare. Where such information is provided to the member of Staff less than 14 days in advance of the Hearing, the person conducting the Hearing shall, if requested by the member of Staff, allow an adjournment to give the member of Staff a reasonable opportunity to prepare.

3.22.27 Subject to paragraph 7 above, it shall be for the Panel to determine, in consultation with the adviser appointed under paragraph 40(v) below, the procedure to be followed in preparation for and at the Panel Hearing which may include without limitation:

3.22.27 (a) a right to call for additional documents;

3.22.27 (b) determining the extent to which witnesses may be called; and

3.22.27 (c) deciding whether it would be appropriate to adjourn or postpone the Panel Hearing. If the Panel considers at any time prior to or during the Panel Hearing that it would like further medical or other information of any kind prior to making its decision, the Panel Hearing may be adjourned whilst the information is obtained.

3.22.27 (d) Where the member of Staff refuses without good reason to supply the requested medical information, the appropriate person, having taken

the advice of the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner), will proceed using the information available at the time.

The member of Staff shall have the right to see, question and challenge at the Panel Hearing any witnesses and evidence which may be produced.

3.22.28 The Panel Hearing shall be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

3.22.29 The Panel will make its decision and inform the member of Staff accordingly, normally not more than 14 calendar days after the conclusion of the Hearing. The Panel shall be entitled to terminate the employment of the member of Staff on grounds of ill health or to determine any alternative action that should be taken in respect of the member of Staff.

3.22.30 The Panel shall prepare and send to the member of Staff a reasoned written decision normally within 14 calendar days of making its decision. A report of the Panel's decision will also be sent to Council. Any dismissed member(s) of Staff shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered. Where the decision is to dismiss the member of Staff, the member of Staff will be sent a notice of termination of employment on behalf of the University. The member of Staff shall be notified of his/her right to appeal against the Panel's decision under Part V of this Ordinance.

Part V – Appeals against Decisions Under Part IV

3.22.31 If the member of Staff wishes to appeal against a decision of the Panel to terminate his/her employment on grounds of ill health, he or she shall do so in writing to the Registrar and Secretary normally within 28 calendar days of receipt of the written notice of termination of employment under paragraph 30 above. The member of Staff should set out the grounds of his/her appeal.

3.22.32 The appeal will be heard by a panel (the "Appeal Panel") convened in accordance with Part VI of this Ordinance.

3.22.33 The Registrar and Secretary or his/her nominee shall write to the member of Staff at least 21 calendar days in advance of the Appeal Hearing:

3.22.33 (a) naming the members of the Appeal Panel and the adviser appointed under sub-paragraph 40(v) below;

3.22.33 (b) inviting the member of Staff to an appeal hearing ("the Appeal Hearing") and giving the member of Staff at least 21 calendar days notice of the Appeal Hearing; and

3.22.33 (c) informing the member of Staff of his/her right to be represented or accompanied in accordance with paragraph 7 above.

3.22.34 The Registrar and Secretary or his/her nominee shall also name in this letter the person who will be presenting the reason for the decision to

dismiss, and this person may be legally qualified.

3.22.35 Subject to clause 3.22.7 above, it shall be for the Appeal Panel at its discretion to determine, in consultation with the adviser appointed under sub-clause 3.22.40 (e) below, the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.22.35 (a) a right to call for additional documents;

3.22.35 (b) determining the extent (if any) to which witnesses may be called; and

3.22.35 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing. If the Panel considers at any time prior to or during the Appeal Hearing that it would like further medical or other information of any kind prior to making its decision, the Appeal Hearing may be adjourned whilst the information is obtained. Where the member of Staff refuses without good reason to supply the requested medical information, the appropriate person, having taken the advice of the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner), will proceed using the information available at the time.

The Appeal Hearing will be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The member of Staff shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The member of Staff will be informed before the Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

3.22.36 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Hearing after an adjournment or postponement. If the member of Staff is not present at the Appeal Hearing, s/he shall have the right to be represented at the Appeal Hearing.

3.22.37 The Appeal Panel will make its decision and inform the member of Staff accordingly, normally not more than 14 calendar days after the conclusion of the Appeal Hearing. The Appeal Panel shall be entitled to:

3.22.37 (a) confirm the decision reached by the Panel; or

3.22.37 (b) overturn that decision and/or reinstate the member of Staff with no loss of service and/or institute some such alternative measure as it may consider appropriate; or

3.22.37 (c) remit the decision to be considered further by such person or persons and to such extent as the Appeal Panel shall specify.

3.22.38 The decision of the Appeal Panel shall be final unless it falls within clause 3.22.37 (c) and the Appeal Panel decides that it shall not be final.

3.22.39 The Appeal Panel shall prepare and send to the appellant a reasoned written decision (normally within 14 calendar days of making its decision). A

report of the Appeal Panel's decision will also be sent to Council. Following notification to the Council, a report will also be sent to the Senate. Any dismissed member(s) of Staff shall remain anonymous in any report to Council or Senate and in the minutes of meetings at which such reports are considered.

Part VI – Constitution of Panels

3.22.40 Any Panel or Appeal Panel convened under Parts IV or V of this Ordinance, shall be appointed by the Pro Chancellor on a case by case basis in accordance with the following rules:

3.22.40 (a) subject to sub-clause 3.22.40 (d) below, each Panel shall consist of three persons;

3.22.40 (b) at least one member of the Panel shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the appellant) drawn from a list agreed from time to time by the Senate of the University. The third member of the Panel, who will be its chair, shall be medically qualified and jointly agreed by the Council and the member of Staff concerned (or his/her representative). In default of agreement between the Council and the member of Staff on the medically qualified chair, the chair of the Panel shall be as nominated by the President of the Royal College of Physicians;

3.22.40 (c) no Panel member shall have had any previous direct or active involvement in the process, or any conflict of interest in the matter;

3.22.40 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.22.40 (e) the Panel shall be advised by the Director of Human Resources or a senior nominee with a personnel qualification or an experienced personnel practitioner.

3.23 Fixed-Term Contracts

Part I – Application and Scope

3.23.1 This Ordinance applies to members of Staff:

3.23.1 (a) as defined by Statute 14, Clause 2(1) (other than the Vice Chancellor); and

3.23.1 (b) who are employed under a fixed-term contract as defined in paragraph 2 of this Ordinance.

3.23.2 For the purposes of this Ordinance, a fixed-term contract is a contract which is not of indefinite duration and which contains provision for the

contract to terminate either:

3.23.2 (a) on a specified date or by virtue of the expiry of a fixed-term: or

3.23.2 (b) on the performance of a specific task; or

3.23.2 (c) on the occurrence of a specified event (other than the attainment of the member of Staff of the contractual retirement age) or the failure of a specified event to occur.

3.23.3 This Ordinance shall not apply to the removal from office as Pro-Vice Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as designated by the Council to which a member of Staff has been elected or appointed and which is distinct from that individual's substantive post.

Part II – General Principles

3.23.4 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1(1).

3.23.5 The Vice-Chancellor:

3.23.5 (a) may, pursuant to Statute 14, Clause 16(1) designate any other person or persons as the “Appropriate Person” to deal with the provisions of Part III or IV of this Ordinance on his/her behalf; and/or

3.23.5 (b) shall make arrangements for a person or persons to carry out on behalf of the University, as required from time to time, consultation in accordance with and to the extent required by section 188 Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA") or any legislation which may replace that Act. This includes consultation at the earliest opportunity with the Staff concerned and, where appropriate, with the recognised trade union, namely the University and College Union, or any successor to it.

Part III - Notification to Vice Chancellor or Vice-Chancellor's Nominee

3.23.6 Prior to the expiry of the fixed-term contract (ie allowing sufficient time for consultation under paragraph 5(ii) above and up to paragraph 13 below to be completed and contractual notice to be issued before the expiry of the fixed term), the Vice-Chancellor or the Appropriate Person designated by the Vice-Chancellor under paragraph 5(i) above shall be notified in writing (by the Head of School (or nominee) of the member of Staff concerned):

3.23.6 (a) of the expected date of termination of the fixed-term contract;

3.23.6 (b) whether it is proposed that the contract should be renewed or extended or a contract of indefinite duration should be offered to the member of Staff concerned;

3.23.6 (c) of the reasons for that proposal; and

3.23.6 (d) if it is proposed not to renew the contract, the attempts which have been made to redeploy the member of Staff into another post.

3.23.7 Save where arrangements have already been made for consultation under paragraph 5(ii) above (in which case the steps required under this paragraph will be taken under those arrangements), the Appropriate Person shall designate a person or persons who shall conduct such consultation on the University's behalf. Such person or persons shall report in writing to the Appropriate Person on the steps taken to discharge that obligation and the outcome of that consultation before the Appropriate Person shall proceed further.

Part IV – Meetings and Decision

3.23.8 Following receipt by the Appropriate Person of the notification referred to in paragraph 6 above, and (where applicable) the report under paragraph 7 above, the Appropriate Person will write to the member of Staff concerned to inform him/her of the action which it is proposed shall be taken on the expiry of the fixed-term contract and the reasons for it. The member of Staff will be invited to attend at least one meeting to discuss the proposed action before a decision is taken. At this meeting, consideration will be given to opportunities to redeploy the member of Staff to suitable alternative employment in the University.

3.23.9 The meeting(s) referred to in paragraph 8 will take place before the expiry of the fixed-term contract. The member of Staff will have the rights to be present and to be represented at the meeting referred to in paragraph 8 by a member of Staff or trade union representative of his/her choice and accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.23.9 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the meeting.

3.23.9 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Appropriate Person, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.23.9 (c) If the member of Staff fails to attend the meeting without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Appropriate Person shall have power to proceed with or continue the meeting in the absence of the member of Staff. If the member of Staff is not present at the meeting, he or she shall have the right to be represented at the meeting.

3.23.10 The Appropriate Person will be accompanied by the Director of Human Resources or a senior nominee with a personnel qualification or an experienced personnel practitioner. The member of Staff shall be informed who is to attend the meeting(s) and may suggest others whose attendance

might assist the Appropriate Person in reaching a decision.

3.23.11 Following the meeting or meetings, and after consideration of any oral or written representations made by the member of Staff, the Appropriate Person shall determine whether the employment should terminate, or whether the contract should be renewed or extended, or whether a contract of indefinite duration should be offered, or whether alternative employment should be offered to the member of Staff concerned.

3.23.12 A decision under paragraph 11 not to renew or extend or offer a contract of indefinite duration shall only be taken for one or more of the reasons specified in Statute 14, Clause 16(2).

3.23.13 The Appropriate Person shall write to the member of Staff to inform him or her of the decision taken under paragraph 11 above and the reasons for it. If the decision under paragraph 11 is that the contract be terminated on the expected date of termination of the fixed term contract (ie that the contract be not renewed or extended), the member of Staff shall be notified of his/her right to appeal against the decision under Part V of this Ordinance and shall be given a copy of this Ordinance.

Part V - Appeal

3.23.14 A member of Staff who wishes to appeal against the decision under Part IV of this Ordinance shall do so in writing to the Registrar and Secretary within 28 calendar days of receipt of the written notice of the decision under paragraph 13 above. The member of Staff should set out the grounds of his/her appeal.

3.23.15 The appeal will be heard by a Panel (the "Appeal Panel") constituted in accordance with clause 3.23.16 below.

3.23.16 Any Appeal Panel convened under this Part shall be appointed by the Pro Chancellor on a case by case basis in accordance with the following rules:

3.23.16 (a) subject to sub-clause 3.23.16 (d) below, each Appeal Panel shall consist of three persons;

3.23.16 (b) at least one member of the Appeal Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the appellant) drawn from a list agreed from time to time by the Senate of the University;

3.23.16 (c) no Appeal Panel member shall have had any previous direct or active involvement in the process, or any conflict of interest in the matter;

3.23.16 (d) where the Appeal Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Appeal Panel. Where this occurs the Appeal Panel may consist of more than three members, but shall not exceed five persons; and

3.23.16 (e) the Appeal Panel shall be advised by the Director (or a Deputy or Assistant Director) of Human Resources.

3.23.17 The Pro Chancellor or nominee shall determine who shall chair the Appeal Panel.

3.23.18 The Registrar and Secretary or his/her nominee will write to the member of Staff at least 21 calendar days in advance of the Appeal Hearing:

3.23.18 (a) naming the members of the Appeal Panel and the adviser appointed under sub-clause 3.23.16 (e) above;

3.23.18 (b) inviting the member of Staff to an appeal hearing (the "Appeal Hearing") and giving the member of Staff at least 21 calendar days notice of the Appeal Hearing;

3.23.18 (c) reminding the member of Staff that s/he has an inherent right to challenge the membership of the Panel on the grounds of conflict of interest; and

3.23.18 (d) informing the member of Staff of his/her right to be represented or assisted under paragraph 20 below.

3.23.19 The Registrar and Secretary or his/her nominee shall also name in this letter (referred to in paragraph 18) the person who will be presenting the reason for the decision under Part IV. This person may be legally qualified.

3.23.20 The member of Staff will have the rights to be present and to be represented at the Appeal Hearing referred to in paragraph 18 by a member of Staff or trade union representative of his/her choice and to be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.23.20 (a) If the member of Staff or his or her representative is not available at the time proposed, the Appeal Hearing shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Appeal Hearing.

3.23.20 (b) The representative attending the Appeal Hearing with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Appropriate Person, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.23.20 (c) If the member of Staff fails to attend the Appeal Hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Appeal Panel shall have power to proceed with or continue the Appeal Hearing in the absence of the member of Staff. If the member of Staff is not present at the Appeal Hearing, he or she shall have the right to be represented at the Appeal Hearing.

3.23.21 Subject to clause 3.23.20 above it shall be for the Appeal Panel in its

discretion to determine, in consultation with the adviser appointed under sub-clause 3.23.16 (e) above, the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.23.21 (a) a right to call for additional documents;

3.23.21 (b) determining the extent to which witnesses may be called; and

3.23.21 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The Appeal Hearing will be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The member of Staff shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The member of Staff will be informed before the Appeal Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

3.23.22 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any Appeal Hearing reconvened following adjournment or postponement.

3.23.23 The Appeal Panel shall consider whether the reasons advanced in support of the decision under Part IV are reasonable and supportable and shall be entitled to:

3.23.23 (a) confirm the decision under Part IV;

3.23.23 (b) revoke the decision including reinstating the member of Staff with no loss of service; or

3.23.23 (c) remit the decision to be considered further by such person or persons and to such extent as the Appeal Panel shall specify.

3.23.24 The Appeal Panel will make its decision and provide the member of Staff with its reasoned decision in writing, normally not more than 14 calendar days after the conclusion of the Appeal Hearing.

3.23.25 The decision of the Appeal Panel shall be final unless it falls within clause 3.23.23(iii) and the Appeal Panel decides that it shall not be final.

3.23.26 A report of the Appeal Panel's decision will also be sent to the Council. Any dismissed member(s) of Staff shall remain anonymous in any report to Council or Senate and in the minutes of meetings at which such reports are considered.

3.24 Probation

The procedure to be followed under Statute 14, Clause 17 where the University has appointed a member of Staff subject to review after a period of probationary service shall be as follows:

Part I – Application and Scope

3.24.1 This Ordinance shall apply to members of Staff under Statute 14 Clause 2(1) who have been appointed subject to a period of probationary service.

3.24.2 This Ordinance shall not apply to the proposed dismissal of a member of Staff prior to the end of a probationary period on any ground falling under the application of Statute 14 Parts II, III or IV or under Clauses 18 or 19 of Statute 14.

3.24.3 The probationary period of a member of Staff may be subject to procedures for probationary appointments issued by the University (following negotiation with the recognised trade union) from time to time and in accordance with this Ordinance. In respect of Academic Teaching Staff, these probationary procedures shall provide that a person who has successfully completed probation as a member of the Academic Teaching Staff in a pre-1992 UK university will not normally be required to serve a probationary period.

Part II – General Principles

3.24.4 The length of a probationary period will be specified in a letter of appointment sent to the member of Staff.

3.24.5 Subject to any procedure to the contrary the University shall review the member of Staff's performance in particular against agreed objectives annually during the period of probation, normally around the anniversary of his/her appointment.

3.24.6 With the agreement of the member of Staff, a probationary period may be suspended during long term leave or secondment, for example during a period of long-term sick leave or maternity leave.

3.24.7 Each member of Staff, throughout his/her probationary period, shall have a mentor (who shall not be the Head of School or a line manager of the probationary member of Staff) to provide advice and guidance to the member of Staff. The Head of School shall nominate the mentor and shall, so far as reasonably possible, ensure that the mentor is acceptable to the member of Staff.

3.24.8 Normally the Head of College's decision about the member of Staff's probation shall be made not less than six months after the expiry of the member of Staff's probation period. The probationary status of the member of Staff will continue until such time as a decision based on the final probation report is reached by the Head of College under paragraph 10 or 14 below.

Part III - Process

3.24.9 At the end of the probationary period, a final probation report shall be drafted by the Head of School, who shall seek the comments of the member of Staff before finalising the report and sending it to the Head of College. In the final report, which shall include a report from the member of

Staff's mentor, the Head of School may recommend to the Head of College:

3.24.9 (a) that the probationary period has been successfully completed and, unless the member of Staff is no longer in post, that the appointment be confirmed; or

3.24.9 (b) that the probationary period be extended; or

3.24.9 (c) that the probationary period has not been successfully completed and, as appropriate, that the appointment be not confirmed.

3.24.10 The Head of College shall consider the Head of School's report prepared under clause 3.24.9 above and, following receipt of any clarification which may be required from the Head of School, shall determine how to proceed. In the event that the Head of College decides that the probationary period has been successfully completed, s/he shall inform the Director of Human Resources, and the member of Staff and the Head of School shall be informed accordingly. The member of Staff will be provided with a copy of the Head of School's report.

3.24.11 In the event that the Head of College is minded to determine that the probationary period be extended, or that the appointment be terminated, the member of Staff shall be notified of that fact in writing, and shall be provided with a copy of the report referred to in clause 3.24.9 above. The member of Staff shall be invited to attend a meeting with the relevant Head of College if s/he so wishes and/or to make representations in writing to the relevant Head of College. The member of Staff shall be given at least 14 calendar days notice of the date of any meeting. At any meeting, the Head of College shall be accompanied by the Director of Human Resources (or a nominee with a professional personnel qualification or an experienced personnel practitioner), and may also be accompanied by one or two senior colleagues in an advisory capacity.

3.24.12 At any meeting with the Head of College, the member of Staff will have the rights to be present and to be represented by a member of Staff or trade union representative of his/her choice, and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.24.12 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the meeting.

3.24.12 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Head of College, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.24.12 (c) If the member of Staff, having indicated an intention to attend, fails to attend the meeting without a valid reason, or is prevented from attending for such a long period of time that the delay involved would

be unreasonable in all the circumstances, the Head of College shall consider the circumstances preventing the member of Staff attending and shall consult the Director (or an Assistant Director) of Human Resources before deciding whether to proceed with or continue the meeting in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the meeting, he or she shall have the right to be represented at the meeting.

3.24.13 The procedure to be followed by the Head of College shall be at his/her sole discretion but the meeting should be in private.

3.24.14 Following the meeting referred to in paragraph 11 above, or on receipt of notification that the member of Staff does not wish to attend such a meeting, and having considered any written representations made under paragraph 11 above, the Head of College, in consultation with a Pro-Vice-Chancellor (or a Deputy Pro-Vice-Chancellor) shall decide which action shall be taken pursuant to paragraph 9 and the member of Staff shall be notified in writing of the outcome and reasons for the Head of College's decision.

3.24.15 In the event of non-confirmation of the appointment (subject to the outcome of any appeal under Part IV of this Ordinance) the appointment of the member of Staff shall terminate in accordance with the terms of employment of the member of Staff.

Part IV Appeals

3.24.16 In the event of extension of the probationary period of appointment or non-confirmation of the appointment the member of Staff may appeal in writing within 28 days of receipt of the written notice under clause 3.24.14 above setting out the grounds for such an appeal to a Pro Vice-Chancellor (or a Deputy Pro-Vice-Chancellor), who shall be advised by the Director of Human Resources (or a senior nominee with a professional personnel qualification or an experienced personnel practitioner). Neither the Pro Vice-Chancellor (or Deputy Pro-Vice-Chancellor) nor the Adviser may have had any previous involvement in the case, and both should declare any conflict of interest.

3.24.17 At the Appeal Hearing the member of Staff may be represented by any other person, who may be legally qualified and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings. If the member of Staff or his or her representative is not available at the time proposed for the Appeal Hearing, the meeting shall be postponed to another reasonable time at which they will both be available, being normally not later than 14 calendar days after the date first proposed for the Appeal Hearing. Any representative may attend the Hearing with the member of Staff, may speak on the member of Staff's behalf but may not, except with the permission of the Pro Vice-Chancellor (or Deputy), answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.24.18 Subject to clause 3.24.17 above, it shall be for the Pro Vice-Chancellor (or Deputy) at his/her discretion to determine, in consultation with the Adviser appointed under clause 3.24.16 above, the procedure to be followed in

preparation for and at the Appeal Hearing which may include without limitation:

3.24.18 (a) a right to call for additional documents;

3.24.18 (b) determining the extent to which witnesses may be called; and

3.24.18 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The appellant shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced.

The Appeal Hearing will be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

3.24.19 The member of Staff shall indicate to the Adviser appointed under clause 3.24.16 above whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend in person, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Hearing following an adjournment or postponement. If the member of Staff then fails to attend the Appeal Hearing or any reconvened Hearing following a postponement or adjournment of the Appeal Hearing without reasonable excuse, the Pro-Vice-Chancellor (or Deputy) shall be entitled to proceed in his/her absence. If the member of Staff is not present at the Appeal Hearing, s/he shall have the right to be represented at the Appeal Hearing.

3.24.20 The Pro Vice-Chancellor will make his/her decision and inform the member of Staff accordingly, normally not more than 14 calendar days after the conclusion of the Appeal Hearing. The Pro-Vice-Chancellor (or Deputy) shall be entitled to:

3.24.20 (a) confirm the decision reached by the Head of College under clause 3.24.14 above; or

3.24.20 (b) in a case where the Head of College's decision under clause 3.24.14 above was for the non-confirmation of the probationary appointment, substitute an extension of the probationary period; or

3.24.20 (c) confirm the appointment; or

3.24.20 (d) remit the case to another Head of College, for reconsideration or rehearing, in whole or in part.

3.24.21 The decision of the Pro Vice-Chancellor shall be final unless his/her decision falls within clause 3.24.20 (d) and s/he decides that it shall not be final.

3.24.22 The Pro Vice-Chancellor shall prepare and send to the appellant a

reasoned written decision (normally within 14 calendar days of making his/her decision).

3.25 Dismissal on Other Grounds

The procedure for handling dismissals of Academic Staff under Statute 14, Clause 18 shall be as follows:

Part I - Application and Scope

3.25.1 This Ordinance applies to members of Staff as defined by Statute 14, Clause 2(1) with the exception of the Vice Chancellor.

3.25.2 This Ordinance sets out the procedure to be followed where the University proposes to dismiss a member of Staff under Statute 14, Clause 18(1) that is on grounds of:

3.25.2 (a) some other substantial reason (that is, for reasons other than on the grounds of redundancy, disciplinary action, incapacity on health grounds and those grounds set out in paragraph 2 below) which causes the member of Staff concerned to be unable to carry out the duties of his/her post, of a kind which could lead to the dismissal of an employee holding the position which the employee holds; or

3.25.2 (b) the employee could not continue to work in the position which s/he holds without contravention (either on his/her part or on that of his/her employer) of a duty or restriction imposed by or under an enactment.

3.25.3 The procedure to be followed where the University proposes to dismiss a member of Academic Staff under Statute 14, Clause 18(3), that is on the grounds of reaching their contractual retirement age, or on expiry of any extension to contractual retirement age which may have been granted to an individual member of Staff by the University, will be in accordance with the University's planned retirement policy.

3.25.4 This procedure in this Ordinance shall not apply to:

3.25.4 (a) the proposed non-confirmation in post of a member of Staff at the end of a period of probationary service for any reason;

3.25.4 (b) the proposed dismissal of a member of the clinical Academic Staff by the Vice-Chancellor in the circumstances set out in Statute 14, Clause 19;

3.25.4 (c) the proposed dismissal of a member of Staff where that dismissal would arise from the expiry without renewal of a fixed term contract;

3.25.4 (d) removal from office as Pro-Vice-Chancellor, Deputy Pro-Vice-Chancellor, Head of School, or such other Academic Officer as designated by the Council to which a member of Staff has been elected or appointed and which is distinct from that individual's substantive post; or

3.25.4 (e) the proposed dismissal of a member of Staff on grounds of having reached his/her contractual retirement age or on expiry of any extension to contractual retirement age which may have been granted to an individual member of Staff by the University.

3.25.5 Before instituting proceedings under this Ordinance, the University shall seek to resolve the situation informally.

3.25.6 If after commencing the procedure in this Ordinance the relevant person or Panel, having sought advice from the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner, considers that the issue under review should have been dealt with under Part II (Redundancy), Part III (Disciplinary Procedures) or Part IV (Incapacity on Health Grounds) of Statute 14, rather than under this procedure, s/he or the Panel may discontinue proceedings under this Ordinance and transfer the case to the appropriate stage of the relevant procedure.

Part II - General Principles

3.25.7 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1(1).

3.25.8 The member of Staff will have the rights to be present and to be represented at the Hearing referred to in Parts III and IV of this Ordinance by a member of Staff or trade union representative of his/her choice and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.25.8 (a) If the member of Staff or his or her representative is not available at the time proposed, the Hearing shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the Hearing.

3.25.8 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Chair of the Panel, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.25.8 (c) If the member of Staff fails to attend the Hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Panel shall consider the circumstances preventing the member of Staff attending and shall consult the Director (or an Assistant Director) of Human Resources before deciding whether to proceed with or continue the Hearing, in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the Hearing, he or she shall have the right to be represented at the Hearing.

3.25.9 The Vice Chancellor (or in his or her absence the Vice-Principal) in consultation with the Director (or a Deputy or Assistant Director) of Human Resources shall be entitled to suspend the member of Staff on full pay

pending a final decision on the matter. Any suspensions shall be confirmed to the member of Staff in writing by the Director (or Deputy or Assistant Director) of Human Resources.

Part III - The Investigation and Hearing

3.25.10 The decision to dismiss a member of Staff under this Ordinance shall be taken in any particular case by a Panel of persons convened in accordance with Part V of this Ordinance (the "Panel"). This will only take place after an investigation of the circumstances of the case by an employee or officer of the University appointed by the Registrar and Secretary (or nominee), normally assisted by such others as he or she thinks fit, and a *prima facie* finding that there may be grounds for considering dismissal under this Ordinance by the employee or officer, which finding shall be reported to the Registrar and Secretary (or nominee).

3.25.11 Before a decision is taken to dismiss the member of Staff, the Registrar and Secretary or his/her nominee or some other person appointed by the Vice-Chancellor or his or her nominee acting on behalf of the University ("the Appointed Officer") shall write to the member of Staff concerned:

3.25.11 (a) explaining the circumstances which lead the University to consider dismissing the member of Staff;

3.25.11 (b) naming the members of the Panel and its adviser appointed in accordance with Part V of this Ordinance;

3.25.11 (c) inviting the member of Staff to a hearing before the Panel (the "Panel Hearing") and giving the member of Staff at least 21 calendar days notice of the date of the Panel Hearing;

3.25.11 (d) informing the member of Staff of his/her right to be represented or assisted in accordance with paragraph 8 above; and

3.25.11 (e) informing the member of Staff of the identity of the person who will explain to the Panel the proposed reason(s) for the termination of the member of Staff's employment.

3.25.12 As soon as reasonably practicable but in any case well before the Panel Hearing, the member of Staff shall be provided with copies of any documents, and any other information, which the Panel will be asked to consider at the Hearing.

3.25.13 Subject to paragraph 8, it shall be for the Panel in its discretion to determine the procedure to be followed in preparation for and at the Panel Hearing which may include without limitation:

3.25.13 (a) a right to call for additional documents;

3.25.13 (b) determining the extent to which witnesses shall be called;

3.25.13 (c) deciding whether it would be appropriate to adjourn or postpone the Panel Hearing.

The Panel Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply.

3.25.14 As soon as is reasonably practicable after the Panel Hearing (normally not more than 14 calendar days after the conclusion of the Hearing) the Panel shall reach its decision (which may be by majority if necessary) as to whether the member of Staff should be dismissed, suspended (with or without pay), or whether any other appropriate action (including retraining and/or redeployment to alternative work within the University), or no action, be taken. The Panel shall prepare and send to the member of Staff a reasoned written decision (normally within 14 calendar days of making its decision). A report of the Panel's decision will also be sent to the Council. Any dismissed member(s) of Staff shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered. Where the decision is to dismiss the member of Staff, the member of Staff will be sent a notice of termination of employment on behalf of the University. The member of Staff shall be notified of his/her right to appeal against the decision under Part IV of this Ordinance.

Part IV - Right of Appeal

3.25.15 If the member of Staff wishes to appeal against the Panel's decision, he or she should do so in writing to the Registrar and Secretary or some other appropriate person nominated by the Vice-Chancellor or his or her nominee (the “Appointed Officer”) within 28 calendar days of receipt of the Panel's decision under paragraph14. The member of Staff should set out the grounds of his/her appeal.

3.25.16 The appeal will be heard by a panel (the "Appeal Panel") constituted in accordance with Part V of this Ordinance.

3.25.17 The Registrar and Secretary or Appointed Officer will write to the member of Staff at least 21 days in advance of the Appeal Hearing:

3.25.17 (a) naming the members of the Appeal Panel and the adviser appointed under paragraph 24(v);

3.25.17 (b) inviting the member of Staff to an appeal hearing (the "Appeal Hearing") and giving the member of Staff at least 21 calendar days notice of the Appeal Hearing; and

3.25.17 (c) informing the member of Staff of his/her right to be represented or assisted in accordance with paragraph 8 above.

The Registrar and Secretary or Appointed Officer will also inform the member of Staff of the person who will be explaining to the Appeal Panel the reason(s) for the dismissal. This person may be legally qualified.

3.25.18 Subject to clause 3.25.8 above, it shall be for the Appeal Panel in its discretion to determine, in consultation with the adviser appointed under sub-clause 3.25.24 (e), the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.25.18 (a) a right to call for additional documents;

3.25.18 (b) determining the extent to which witnesses may be called; and

3.25.18 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The Appeal Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The member of Staff shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The member of Staff will be informed before the Appeal Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

3.25.19 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Appeal Hearing following any adjournment or postponement.

3.25.20 The Appeal Panel shall be entitled to:

3.25.20 (a) confirm the decision to dismiss the member of Staff;

3.25.20 (b) revoke the decision to dismiss and reinstate the member of Staff with no loss of service; or

3.25.20 (c) remit the decision to be considered further by such person and to such extent as the Appeal Panel shall specify.

3.25.21 The Appeal Panel will make its decision and provide the member of Staff with its reasoned decision in writing, normally not more than 14 calendar days after the conclusion of the Appeal Hearing.

3.25.22 The decision of the Appeal Panel shall be final unless it falls with sub-clause 3.25.20 (c) and the Appeal Panel decides that it shall not be final.

3.25.23 A report of the Appeal Panel's decision will also be sent to the Council. Any dismissed member(s) of Staff shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered.

Part V - Constitution of the Panel

3.25.24 Any Panel or Appeal Panel referred to in this Ordinance shall be appointed by the Pro Chancellor on a case-by-case basis in accordance with the following rules:

3.25.24 (a) subject to sub-clause 3.25.24 (iv) below, each Panel shall consist of three persons;

3.25.24 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one

shall be a member of Academic Staff (from a different School (or equivalent) from the member of Staff concerned) drawn from a list agreed from time to time by the Senate of the University;

3.25.24 (c) no Panel member shall have had any previous direct or active involvement in the process, or should have any conflict of interest in the matter. No person may sit on both the Panel and the Appeal Panel in a particular case;

3.25.24 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.25.24 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.25.25 The Pro Chancellor shall determine who shall chair a Panel convened under this Ordinance.

3.26 Clinical Academic Staff

3.26.1 This procedure applies to a member of the clinical Academic Staff (referred to throughout as "the member of clinical Academic Staff") who is required to engage in clinical work or activities and for that purpose to be registered with the General Medical Council, or General Dental Council or similar body and/or to have an honorary or substantive contract or status with a National Health Service (NHS) Trust or similar NHS body or any other provider of clinical medical or dental services, approved by the University for the purpose of enabling the member of clinical Academic Staff to practise clinical medicine or dentistry (referred to hereafter as the “Clinical Authority”), or any other member of Staff as defined in any Ordinance made under Statute 14 Clause 19(1).

3.26.2 Where the member of clinical Academic Staff ceases to hold any contract or status referred to in paragraph 1 above and/or to hold the clinical registration referred to in paragraph 1 above, whether that registration, contract or status is terminated, withdrawn or revoked by the Clinical Authority, this procedure shall apply for the purpose of determining whether the contract of employment between the University and the member of clinical Academic Staff should be terminated, or in the case of a suspension of the registration, status or contract referred to in paragraph 1, suspended with or without pay.

3.26.3 Where it is recognised by all concerned that the member of clinical Academic Staff has ceased to hold any honorary or substantive contract to carry out clinical duties through no fault of the member of clinical Academic Staff, the University shall seek alternative clinical duties that the member of clinical Academic Staff could perform for another Clinical Authority and seek to facilitate a new honorary or substantive contract to enable the member of clinical Academic Staff to continue to carry out clinical duties.

3.26.4 The University reserves the right to take action to dismiss the member of clinical Academic Staff prior to the hearing of any appeal to the Clinical Authority by him/her against the termination, withdrawal, revocation or suspension of the contract, status or registration referred to in clause 3.26.1.

3.26.5 The University may at any stage during this procedure, as appropriate, suspend the member of clinical Academic Staff (on full pay) either:

3.26.5 (a) pending the outcome of further action under this procedure; or

3.26.5 (b) for as long as any suspension from the clinical registration, contract or status is in place (and in these circumstances the Vice Chancellor or nominee may decide that no further action is to be taken at this time under this procedure).

3.26.6 On being notified that the member of clinical Academic Staff has ceased, or will cease, to hold any contract or status referred to in clause 3.26.1 above and/or to hold the clinical registration referred to in clause 3.26.1 above, whether that registration, contract or status is terminated, withdrawn or revoked by the Clinical Authority, the Vice Chancellor or nominee may:

3.26.6 (a) make, or cause to be made, such enquiries as he or she considers appropriate before proceeding further under this procedure, and advise the member of clinical Academic Staff in writing of the nature of the enquiries that are being made. The member of clinical Academic Staff shall be invited to comment in person or in writing within 14 calendar days; or

3.26.6 (b) proceed directly to clause 3.26.7 below.

3.26.7 After enquiries have been made under paragraph 6 above or in a case where the Vice-Chancellor (or nominee) decides to proceed without making such enquiries, the Vice-Chancellor, or his/her nominee, shall write to the member of clinical Academic Staff

3.26.7 (a) in the event of the suspension by the Clinical Authority of the clinical registration, contract or status referred to in clause 3.26.1 above, to advise that it is not proposed to terminate his/her clinical contract of employment with the University; or

3.26.7 (b) in the event of a suspension by the Clinical Authority of the clinical registration, contract or status referred to in clause 3.26.1 above, or in the event of a pending appeal by the member of clinical Academic Staff to the Clinical Authority against the termination, withdrawal or revocation of that status, to advise that it is not proposed to proceed further under this procedure for the time being; or

3.26.7 (c) in a case where the clinical contract, registration or status referred to in paragraph 1 has been suspended by the Clinical Authority as a substantive disciplinary measure, to advise that the University is contemplating suspending the member of clinical Academic Staff from the substantive academic contract for the period for which the

clinical contract, registration or status referred to in paragraph 1 has been suspended. The member of clinical Academic Staff shall be invited to a meeting in accordance with sub-clause 3.26.7 (d) below; or

3.26.7 (d) in a case where the clinical contract, registration or status referred to in clause 3.26.1 has been terminated, withdrawn or revoked by the Clinical Authority, to advise that the University is contemplating terminating the contract of employment between the member of clinical Academic Staff and the University. The letter shall explain the reasons for this proposed dismissal and may indicate whether any alternative employment might be available to the member of clinical Academic Staff if the dismissal were to proceed. The member of clinical Academic Staff shall be invited to a meeting. The Vice-Chancellor may conduct the meeting in person or appoint a nominee to do so on his/her behalf to discuss the proposed dismissal. The member of Staff shall be advised of his/her right to be represented at that meeting.

3.26.8 The member of clinical Academic Staff will be given at least 21 calendar days' notice of the meeting referred to in sub-clauses 3.26.7 (c) or (d) above.

3.26.9 The Vice-Chancellor, or his/her nominee, may invite any other member of Staff or representative of the Clinical Authority with knowledge of the circumstances of the case to be present at the meeting, to provide information and to participate in the discussion. The Vice-Chancellor (or nominee) will be advised by the Director (or a Deputy or Assistant Director) of Human Resources, and the University may also be legally represented. The member of clinical Academic Staff will be advised in advance of the meeting of the names of any persons who will be present.

3.26.10 The member of Staff will have the rights to be present and to be represented at the meeting referred to in paragraph 7(iii) or 7 (iv) above and at the Appeal Panel Hearing referred to in paragraph 20 below by a member of Staff or trade union representative of his/her choice and by a legally qualified adviser.

3.26.10 (a) If the member of Staff or his or her representative is not available at the time proposed, the meeting shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the meeting.

3.26.10 (b) The representative attending the meeting with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the Vice-Chancellor (or nominee), answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.26.10 (c) If the member of Staff fails to attend the meeting without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the Vice-Chancellor (or nominee) shall consider the

circumstances preventing the member of Staff attending and shall consult the Director (or a Deputy or Assistant Director) of Human Resources before deciding whether to proceed with or continue the meeting, in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the meeting, he or she shall have the right to be represented at the meeting.

3.26.11 No later than 14 calendar days before the meeting, the Vice-Chancellor, or his/her nominee, shall provide the member of clinical Academic Staff with any written evidence to be considered at the meeting.

3.26.12 No later than seven calendar days before the meeting the member of clinical Academic Staff will provide the Vice-Chancellor or his/her nominee with any written evidence to be considered at the meeting.

3.26.13 The member of clinical Academic Staff shall, at least seven calendar days in advance of the meeting:

3.26.13 (a) confirm receipt of the letter referred to in sub-clause 3.26.7 (c) or (d);

3.26.13 (b) state whether it is his/her intention to attend the meeting, and

3.26.13 (c) provide details of any person whom he or she wishes to be present at the meeting and of his/her representation.

3.26.14 Notwithstanding clauses 3.26.11 and 3.26.12, the Vice Chancellor or his/her nominee may:

3.26.14 (a) produce any further written evidence for consideration at the meeting;

3.26.14 (b) allow the member of clinical Academic Staff to produce further written evidence for consideration at the meeting

where that information is relevant to the issues under discussion. The meeting may be adjourned or postponed to allow such further evidence to be considered.

3.26.15 The member of clinical Academic Staff will take all reasonable steps to attend the meeting. A failure of the member of clinical Academic Staff to attend without reasonable grounds acceptable to the Vice Chancellor or his/her nominee shall not prevent a decision being taken.

3.26.16 At the meeting, the Vice-Chancellor or his/her nominee shall explain to the member of clinical Academic Staff why he or she is considering dismissing or suspending the member of clinical Academic Staff. The member of clinical Academic Staff shall then have an opportunity to make representations and/or present evidence and ask any other person present at the request of the member of clinical Academic Staff to give evidence on his or her behalf. Any such person may be questioned by the Vice-Chancellor or his/her nominee.

3.26.17 The Vice Chancellor or his/her nominee may, after the meeting, decide:

3.26.17 (a) in a case where the contract, registration or status referred to in clause 3.26.1 has been terminated, withdrawn or revoked:

(i) to dismiss the member of clinical Academic Staff; or

(ii) to dismiss the member of clinical Academic Staff but offer alternative employment; or

(iii) not to dismiss the member of clinical Academic Staff; or

3.26.17 (b) in a case where the contract, registration or status referred to in clause 3.26.1 has been suspended as a substantive disciplinary measure:

(i) to suspend the member of clinical Academic Staff from his/her University duties with or without pay, for the period of suspension of the clinical contract, status or registration; or

(ii) to suspend, with our without pay, for some lesser period; or

(iii) not to suspend the member of clinical Academic Staff from his/her University duties

and shall write to the member of Staff accordingly, giving reasons.

Appeal

3.26.18 The member of clinical Academic Staff may appeal against a decision made under paragraph 17 within 28 calendar days of the date of receipt of the written decision. Such appeal should be made in writing to the Registrar and Secretary or his/her nominee, setting out the grounds for such an appeal.

3.26.19 Any Appeal will be heard by a Panel of three persons, at least one but no more than two of whom shall be a lay member of Council or an Emeritus Professor and at least one of whom shall be a member of Academic Staff drawn from a list agreed from time to time by the Senate of the University. No Panel member shall have had any previous active or direct involvement in the process, or should have any conflict of interest in the matter. The Pro Chancellor or nominee shall decide who shall chair the Appeal Panel. The Panel shall be advised by the Director of Human Resources or a senior nominee with a personnel qualification or an experienced personnel practitioner.

3.26.20 No later than 14 calendar days before the Appeal Panel Hearing the member of Staff shall be notified of:

3.26.20 (a) the date, time and place of the Appeal Hearing;

3.26.20 (b) his/her right to be represented and/or accompanied at the Appeal Panel Hearing in accordance with clause 3.26.10 above;

3.26.20 (c) the names of the members of the Appeal Panel and its adviser plus

any person attending the Appeal Hearing to present information, which person may be legally qualified.

3.26.21 Subject to clause 3.26.20 above, it shall be for the Appeal Panel in its discretion to determine, in consultation with the adviser appointed under clause 3.26.19, the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.26.21 (a) a right to call for additional documents;

3.26.21 (b) determining the extent to which witnesses may be called; and

3.26.21 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The Appeal Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The member of Staff shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The member of Staff will be informed before the Appeal Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

3.26.22 The member of Staff shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Appeal Hearing following any adjournment or postponement.

3.26.23 The Appeal Panel will make its decision and provide the member of Staff with its reasoned decision in writing, normally not more than 14 calendar days after the conclusion of the Appeal Hearing.

3.26.24 As soon as is reasonably practicable after the Appeal Hearing, the Appeal Panel will make its decision. The Appeal Panel shall be entitled to:

3.26.24 (a) confirm the decision reached by the Vice Chancellor (or nominee); or

3.26.24 (b) substitute any lesser decision open to the Vice Chancellor under clause 3.26.17 above.

3.26.25 The Appeal Panel shall produce written reasons for the decision normally within 14 calendar days of the Appeal Hearing which will be sent to the member of Staff. A report of the decision will also be sent to Council. Any dismissed member(s) of Staff shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered. The decision of the Appeal Panel shall be final.

3.27 Grievances

The Grievance Procedure for members of Academic Staff referred to in Statute 14 shall be as follows:

<u>Part I - Application and Scope</u>

3.27.1 This Ordinance applies to grievances by members of Staff as defined by Statute 14, Clause 2(1) with the exception of the Vice Chancellor. Where a member of Staff who has raised a grievance leaves the University's employment before the grievance is resolved, with the agreement of the member of Staff, the grievance may either be concluded under this Ordinance or be transferred to the relevant statutory procedure at the point in this Ordinance which has been reached by the date the member of Staff's employment in the University ceases, so that the statutory procedure need not start afresh and cover ground which has already been covered under this Ordinance. Where a former member of Staff raises a grievance after having left the University's employment, provided such grievance is brought to the University's attention normally within three months of the date on which the contract of employment came to an end, the grievance will be handled under any relevant statutory procedure.

3.27.2 As set out in Statute 14, Clause 20(2), this Ordinance applies to grievances by members of Staff concerning their appointment or employment in relation to matters affecting themselves as individuals or their personal dealings or relationships with other Staff of the University, other than:

3.27.2 (a) those for which provision is made elsewhere in Statute 14 or in respect of the outcome of any matter dealt with under Statute 14 (and accordingly, for example, this procedure is not to be used to challenge the outcome or handling of any disciplinary issue dealt with under Statute 14, Part III); and

3.27.2 (b) where the Council, with the agreement of the recognised trade union, has prescribed other procedures to deal with specific types of grievances which are no less favourable to the member of Staff than this Grievance Procedure.

3.27.3 Where a grievance is raised by a member of Staff under this Ordinance and another proceeding under Statute 14 is pending concerning the member of Staff raising the grievance, regardless of which of the two was first raised, the Director (or a Deputy or Assistant Director) of Human Resources will discuss with the member of Staff (or the member of Staff's representative) with a view to reaching agreement on whether the two proceedings can proceed concurrently or in the alternative which of the two shall be processed first. In the event that it is not possible to reach agreement, the matter will be drawn to the attention of the appropriate Pro Vice-Chancellor who, after consulting with the Director (or Deputy or Assistant Director) of Human Resources, will decide how to proceed in the circumstances.

3.27.4 In the event that the person hearing a grievance believes that the substance of the grievance may constitute a disciplinary complaint against another member of Staff, s/he shall consult with the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner) to determine whether and, if so, how a disciplinary allegation should be proceeded with. In the event that a disciplinary allegation arises out of a grievance and is handled under the provisions of Statute 14 section 10, the process of the grievance shall be suspended until the action under Statute 14 section 10 is complete, when the member

of Staff raising the grievance in the first place shall decide whether or not to pursue the grievance any further.

Part II - General Principles

3.27.5 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1(1).

3.27.6 Any hearing or appeal convened under this Ordinance shall be held in private and the normal rules of evidence in a court of law need not apply.

3.27.7 At any hearing convened under this Ordinance to discuss the substance of his/her grievance, the member of Staff will have the rights to be present and to be represented at the hearing by a member of Staff or trade union representative of his/her choice and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.

3.27.7 (a) If the member of Staff or his or her representative is not available at the time proposed, the hearing shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the hearing.

3.27.7 (b) The representative attending the hearing with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the person responsible at the time for seeking to resolve the grievance, or the Chair of the Grievance Panel, answer questions (relating to the issues in dispute) on the member of Staff's behalf.

3.27.7 (c) If the member of Staff fails to attend the hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the person responsible at the time for seeking to resolve the grievance, or the Chair of the Grievance Panel, shall consider the circumstances preventing the member of Staff attending and shall consult the Director (or a Deputy or Assistant Director) of Human Resources before deciding whether to proceed with or continue the hearing, in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the hearing, he or she shall have the right to be represented at the hearing.

Part III

Stage 1

3.27.8 A grievance should in the first instance, as far as is reasonably practicable, be raised within the School for informal resolution. The grievance may be raised with a senior member of Staff of the School, including the Head of School. If the member of Staff bringing the grievance feels it would not be appropriate to raise the grievance within the School, s/he may raise it for informal resolution with another Head of School within the relevant College, who may inquire as to the reasons why the member of Staff feels it is not

appropriate to raise the grievance within the School. The process may include communicating with any person(s) against whom the grievance lies. If the grievance cannot be resolved in this way, then the procedure in paragraph 9 below should be followed.

Stage 2

3.27.9 Where a member of Staff has been unable to raise or to resolve his/her grievance under paragraph 8 above, he or she should put the grievance in writing (in sufficient detail to enable the scope of the grievance to be understood) to the Director of Human Resources who, after consultation with the member of Staff bringing the grievance, shall refer it to a Head of College (or nominee) or a Pro Vice-Chancellor or a Deputy Pro-Vice-Chancellor (the "Appropriate Person") for resolution. The Appropriate Person shall acknowledge receipt of the written grievance, normally within seven calendar days, and shall arrange to meet with the member of Staff (normally within 28 calendar days) to acquaint him/herself with the subject matter of the grievance, seek any clarification which may be required and to determine how to proceed, which may include:

3.27.9 (a) disposing of the grievance as frivolous, vexatious or invalid;

3.27.9 (b) conducting an investigation (which may include communicating or meeting with any person against whom the grievance lies and any others concerned);

3.27.9 (c) seeking to resolve the grievance to the satisfaction of the member of Staff, which may include:

(i) with their consent, holding a meeting between the parties to the grievance;

(ii) recommending the parties to the grievance engage in a formal mediation process;

(iii) seeking, suggesting and/or facilitating physical and/or organisational changes

3.27.9 (d) referring the grievance for consideration by the Vice-Chancellor under clause 3.27.10 below;

3.27.9 (e) any other action which may be appropriate in the circumstances.

At any meeting under this paragraph, any member of Staff shall have the right to be accompanied by a member of Staff or a trade union representative of his/her choice. The Appropriate Person shall ensure that the member of Staff and any person against whom the grievance lies are kept informed of progress with any investigation and in writing of its outcome.

Stage 3

3.27.10 If the Appropriate Person determines under paragraph 9 above that the grievance be referred for the consideration of the Vice-Chancellor, s/he

shall draw the grievance to the attention of the Vice-Chancellor setting out:

3.27.10 (a) details of the grievance; and

3.27.10 (b) details of the steps which have been taken under Stage 2 in relation to the grievance so far, enclosing copies of all relevant correspondence.

If the member of Staff remains dissatisfied following attempts to resolve the grievance under Stage 2 above, s/he may apply to the Vice-Chancellor in writing for redress. In doing so, s/he shall provide the information set out in sub-paragraphs i) – ii) above and setting out the reasons why s/he is dissatisfied with the outcome of Stage 2 to the Vice-Chancellor.

3.27.11 The Vice-Chancellor (or his/her nominee) shall be entitled to:

3.27.11 (a) dismiss the grievance summarily or take no action upon it if he or she considers that the grievance is frivolous, vexatious or invalid; or

3.27.11 (b) in accordance with clauses 3.27.3 and/or 3.27.4 above, delay consideration of the grievance pending the outcome of any other procedures in the University relevant to the subject matter of the grievance; or

3.27.11 (c) seek to resolve the grievance informally; or

3.27.11 (d) decide to refer the grievance to a Panel and request the Pro Chancellor to appoint a Panel in accordance with paragraph 13 below, and notify the member of Staff accordingly.

3.27.12 If the Vice-Chancellor (or his or her nominee) is minded to take action under sub-clauses 3.27.11 (a) – (c) above, s/he shall take this step only after:

3.27.12 (a) writing to the member of Staff to indicate that, on review of the papers, he or she considers it may be appropriate to exercise his/her powers under this paragraph;

3.27.12 (b) inviting the member of Staff to a meeting to make representations, at which meeting the member of Staff may be accompanied by a member of Staff or a trade union representative of his/her choice;

3.27.12 (c) considering any representations made by the member of Staff at that meeting; and

3.27.12 (d) informing the member of Staff how he or she intends to proceed under clause 3.27.11 above.

3.27.13 If the Vice-Chancellor (or his or her nominee) decides to proceed under sub-clause 3.27.11 (d) above, the Grievance Panel ("the Panel"), shall be convened by the Pro Chancellor on a case by case basis and in accordance with the following rules:

3.27.13 (a) each Panel shall consist of three persons (subject to sub-clause 3.27.13 (d) below);

3.27.13 (b) at least one member of the Panel but no more than two shall be a lay member of the Council and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the person raising the grievance) drawn from a list agreed from time to time by the Senate of the University;

3.27.13 (c) no Panel member shall have had any previous direct or active involvement with the member of Staff's grievance, or any conflict of interest in the matter;

3.27.13 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel and where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.27.13 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.27.14 The Pro Chancellor shall determine who shall chair the Panel.

3.27.15 The parties to the grievance shall be the member of Staff raising the grievance and either, as appropriate, the University, represented by an employee or officer of the University (a 'University Representative') appointed by the Registrar and Secretary (or nominee) and/or any other person against whom the grievance lies (referred to below as 'the parties').

3.27.16 The Registrar and Secretary (or nominee) shall write to the parties at least 14 calendar days in advance of the Panel hearing:

3.27.16 (a) naming the members of the Panel (including the adviser appointed under sub-clause 3.27.13 (e) above;

3.27.16 (b) naming the University Representative appointed under clause 3.27.15 above

3.27.16 (c) inviting them to a hearing ("the Hearing"); and

3.27.16 (d) informing the parties that they have the right to be represented or assisted in accordance with clause 3.27.7 above.

3.27.17 Subject to clause 3.27.16 above, it shall be for the Panel at its discretion to determine, in consultation with the adviser appointed under clause 3.27.13 (e) above, the procedure to be followed in preparation for and at the Hearing, which may include without limitation:

3.27.17 (a) determining which documents (if any) should be provided;

3.27.17 (b) determining the extent to which witnesses may be called; and

3.27.17 (c) deciding whether it would be appropriate to adjourn or postpone the Hearing.

The member of Staff shall have the right to see, question and challenge at the Hearing any witnesses and any new evidence which may be produced. The Hearing will be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

3.27.18 The member of Staff shall indicate to the Panel whether or not s/he wishes to attend the Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Hearing and/or any reconvened Hearing after an adjournment.

3.27.19 As soon as is reasonably practicable after the Hearing the Panel will make its decision (which may be by majority if necessary). The Panel shall decide whether the grievance is or is not well founded and any steps that should be taken as a result, including steps to resolve the grievance to the satisfaction of the member of Staff raising the grievance and, where possible, to the satisfaction of all parties.

3.27.20 The Panel shall prepare and send to the parties a reasoned written decision (normally within 14 calendar days of making its decision). A report of the Panel's decision shall also be sent to Council. The names of the parties shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered. Each party shall be notified of his/her right to appeal against the decision taken under clause 3.27.19 above.

Stage 4

3.27.21 If the member of Staff and/or any member of Staff against whom the grievance lies wishes to appeal against the outcome, he or she should do so in writing to the Registrar and Secretary or some other appropriate person nominated by the Vice-Chancellor or his or her nominee (the “Appointed Officer”) within 14 calendar days of receipt of the Panel's decision under clause 3.27.20 above. The member of Staff should set out the grounds of his/her appeal.

3.27.22 The appeal will be heard by a panel (the "Appeal Panel") constituted in accordance with Part IV of this Ordinance.

3.27.23 The Registrar and Secretary or Appointed Officer will write to the member of Staff at least 21 days in advance of the Appeal Hearing:

3.27.23 (a) naming the members of the Appeal Panel and the adviser appointed under clause 3.27.29(5);

3.27.23 (b) inviting the parties (as defined in clause 3.27.15 above) to an appeal hearing (the "Appeal Hearing"); and

3.27.23 (c) informing the parties of their right to be represented or assisted in accordance with clause 3.27.7 above.

The Registrar and Secretary or Appointed Officer will also inform the parties of the person who will be explaining to the Appeal Panel the reason(s) for the decision taken under clause 3.27.19 above. This person may be legally qualified.

3.27.24 Subject to clause 3.27.7 above, it shall be for the Appeal Panel in its discretion to determine, in consultation with the adviser appointed under sub-clause 3.27.29 (e), the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:

3.27.24 (a) a right to call for additional documents;

3.27.24 (b) determining the extent to which witnesses may be called; and

3.27.24 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The Appeal Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The parties shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The parties will be informed before the Appeal Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

3.27.25 Each party shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Appeal Hearing following any adjournment or postponement.

3.27.26 The Appeal Panel will make its decision and provide the parties with its reasoned decision in writing, normally not more than 14 calendar days after the conclusion of the Appeal Hearing.

3.27.27 The decision of the Appeal Panel shall be final.

3.27.28 A report of the Appeal Panel's decision will also be sent to the Council. The parties shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered.

Part IV - Constitution of the Appeal Panel

3.27.29 Any Panel or Appeal Panel referred to in this Ordinance shall be appointed by the Pro Chancellor on a case-by-case basis in accordance with the following rules:

3.27.29 (a) subject to sub-clause 3.27.29 (d) below, each Panel shall consist of three persons;

3.27.29 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different School (or equivalent) from the member of Staff concerned) drawn from a list agreed from time to time by the Senate of the University;

3.27.29 (c) no Panel member shall have had any previous direct or active involvement in the process, or should have any conflict of interest in the matter. No person may sit on both the Panel and the Appeal Panel in a particular case;

3.27.29 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.27.29 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.27.30 The Pro Chancellor shall determine who shall chair an Appeal Panel convened under this Ordinance.