



Academic Disciplinary Procedures

Preamble:

The University, in performing its functions shall, have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.

A member of the academic staff shall have the freedom, within the law, in his or her teaching, research and related activities either in or outside the University, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the University, for the exercise of that freedom¹.

It is the responsibility of Heads of Departments to remain informed about the general performance and conduct of academic staff, indeed all staff, within their Department. Where difficulties are identified they should be addressed primarily in an informal manner through advice and where appropriate [for example, where substance abuse is involved] via the Employee Assistance Programme and or other relevant procedures.

Disciplinary action should be corrective and not punitive and those colleagues who have authority to take disciplinary action should ensure that every reasonable step has been taken to resolve difficulties in a collegiate manner.

- * Nothing in this procedure will be taken to diminish an individual's rights at law.
- ** In the case of Professors, Associate Professors and Lecturers appointed by the Senate of the National University of Ireland, this procedure should be read in conjunction with the provisions of Chapter XXXIV of Statute XVII.

1. Objective

The purpose of a disciplinary procedure is corrective, not punitive, and through this procedure the University aims to assist academic staff to maximise their potential, to enhance their careers and for disciplinary problems (for example, conduct, satisfactory performance of duties, attendance and the observance of

¹ *Universities Act, 1997*, Section 14

University rules and regulations) to be addressed in a consistent and open manner.

2. Scope

This procedure relates to all permanent academic staff.

3. General Principles

- 3.1. Disciplinary action is appropriate when a member of academic staff fails to meet satisfactory standards with regard to, for example, conduct, satisfactory performance of duties, attendance and the observance of University rules and regulations.
- 3.2. Minor disciplinary matters can be effectively handled on an informal basis at departmental level and no disciplinary action should be taken without efforts to resolve the matter informally.
- 3.3. Where the matter is more serious but falls short of constituting good cause for dismissal, disciplinary action may be taken in accordance with the procedures laid out below.
- 3.4. At every stage in the formal disciplinary procedure an investigation of the circumstances of the complaint will be carried out; the member of staff will be advised of the nature of the complaint. He/She will also be given copies of this procedure and any relevant documentation, and be given the right to be accompanied by a University colleague or trade union representative at any relevant meeting.
Disciplinary action shall/may only be taken after the employee has had an opportunity to present his/her case and after due consideration has been given to all relevant matters. A disciplinary meeting shall be held with the employee for this purpose.
- 3.5. Normally disciplinary action shall be applied progressively and follow the stages set out in section 5. However, cases may arise where the matter at issue merits dealing with the situation at any level set out in this procedure.
- 3.6. More serious action may be taken where standards of general conduct are breached or where gross misconduct occurs.
 - 3.6.1. Standards of general conduct in the context of this procedure can be understood as normative and professional behaviour such as would be generally expected of the employees of a University and includes the satisfactory performance of duties.
 - 3.6.2. Gross misconduct can be any act or omission, which is so serious as to permit the University to proceed directly to stage 3 of the procedure. The following list, which is by no means exhaustive, gives examples which could constitute gross misconduct:
 - ❑ theft
 - ❑ assault
 - ❑ falsification or removal of documents
 - ❑ being under the influence of alcohol or other substance abuse in the course of one's work
 - ❑ Harassment, including sexual harassment, and intimidation

4. Disciplinary Authority

- a) The prime responsibility for discipline lies with Údarás na hOllscoile, which has delegated this authority, initially, to the President of the University. This in turn has been delegated to colleagues in the University as set out in the stages in Section 5.
- b) The Registrar and Deputy-President has a particular responsibility for academic staff arising from his/her position and Statute. As such he/she can be called on to provide advice and assistance at the informal stage of the procedure. Moreover, he/she will be involved in determining the outcome of appeals against disciplinary action, short of dismissal, and will be a member of the Appeals Panel, where he/she has not been previously involved, in cases involving dismissal.
- c) Members of the Human Resources Office will be available for consultation at any stage of the procedure and no disciplinary action may be initiated without prior consultation with the Human Resources Office to ensure fairness and consistency of practice across the University.
- d) A higher level of management will hear each progressive stage of the procedure wherever possible but invariably by management not previously involved in the case.
- e) Disciplinary Panels shall, except in exceptional circumstances have representation from both sexes.
- f) Training will be provided for those staff who may have a responsibility for discipline and they will be encouraged to attend such training, but in any event any members of staff who have responsibility for academic discipline must be familiar with the procedure.

5. Procedure

Minor failings will be dealt with by means of an informal meeting between Head of Department and staff with the objective of discussing the issues involved and seeking ways of improving the situation. Should such discussions fail to resolve the matter or if the issue is more serious the following procedure will operate.

5.1 Stage 1 - Formal Warning

If conduct or performance of a member of staff does not meet acceptable standards the member of the academic staff will be given a formal Stage 1 warning by the Head of Department. The member will be advised in writing of the reason for the warning, of the required improvement, that it is the first stage of the disciplinary procedure and of the right of appeal.

The Stage 1 warning will be kept on file on the individual's personal file but will be spent for disciplinary purposes after 6 months, subject to satisfactory conduct or performance.

In the case of a Head of Department, the disciplinary authority will lie with the Dean. In the case of a Dean, it will be with the Registrar and Deputy-President. In the case of the Registrar and Deputy-President, the authority will be the President.

5.2 Stage 2 - Warning

If at any time within 6 months of receiving a Stage 1 warning, the required improvement has not been achieved, or if the offence is repeated or if a more serious offence occurs, a written warning may be given to the employee by the Dean of Faculty of primary affiliation.

The written warning will give details of the complaint, the improvement and/or the remedy required and the timescale. It will warn that a complaint may be made to the Director of Human Resources seeking the institution of charges to be heard by a Disciplinary Panel if there is no satisfactory improvement or if there is a further offence and will advise of the right of appeal.

A copy of the written warning will be kept but will be spent for disciplinary purposes after 12 months, subject to satisfactory conduct and performance.

5.3 Stage 3 – Procedures leading to institution of charges

If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure, or in any other case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges to be heard by a Disciplinary Panel may be made to the President.

If satisfied that the complaint has merit, the President shall refer the matter to the Director of Human Resources for action. The Director of Human Resources shall institute such investigations or enquiries (if any) as appear to him/her to be necessary following consultation with an appropriate member of academic staff.

If it appears that a complaint is brought and is unfounded or invalid, the Director of Human Resources, following consultation with the Vice-President carrying responsibility for Human Resources and with others as appropriate, may dismiss it summarily or decide not to proceed further under this Part of the procedure. Where a complaint is vexatious or frivolous the complainant may, in turn, be the subject of disciplinary action.

If it appears that the complaint is sufficient reason for proceeding further under this Part, and if appropriate, the academic staff member may be suspended on full pay until the final decision. The Director of Human Resources shall write to the member of academic staff concerned detailing the allegations and inviting comment in writing.

As soon as practicable the Director of Human Resources, in consultation with the Vice-President carrying responsibility for Human Resources and the Dean of Faculty of primary affiliation, shall consider the matter in the light of all the material then available and may:

- ❑ dismiss it, or
- ❑ deal with it informally if it appears appropriate to do so and if the member of the academic staff agrees in writing that the matter should be dealt with in that way; or
- ❑ prefer a charge or charges to be considered by a Disciplinary Panel to be convened in accordance with the provisions of Section 6 below.

6. Institution of Charges

6.1 In any case where the Director of Human Resources has directed that a charge or charges be preferred, a Disciplinary Panel shall be convened. The Disciplinary Panel shall determine whether the conduct or performance of the member of the academic staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the member's appointment or employment.

The Director of Human Resources shall formulate, or arrange for the formulation of, the charge or charges and shall present, or arrange for the presentation of, the charge or charges before the Disciplinary Panel.

6.2 The Disciplinary Panel

A Disciplinary Panel convened by the Director of Human Resources shall comprise:

- (a) A Chairperson who shall be a senior member of academic staff e.g. Dean, not previously involved;
- (b) one member of Údarás na hOllscoile, not being a person employed by the University; and
- (c) one member of the Academic Council

A member of the Human Resources Office other than the Director shall act as Secretary to the Panel as well as providing advice on procedure, etc.

6.3 Notification of Disciplinary Panel decisions

The Disciplinary Panel shall send its decision, normally arrived at by consensus, on any charge referred to it to each party to the proceedings. It shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of the Appeals Procedure accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

In any case where the charge or charges are upheld, other than where the Disciplinary Panel has recommended dismissal, the action available to the Disciplinary Panel may be

- (a) to discuss the issues raised with the member concerned; or
- (b) to advise the member concerned about his/her future conduct; or
- (c) to warn the member concerned; or
- (d) to impose a penalty short of dismissal, e.g. demotion, redeployment or other action, or
- (e) suspension without pay,
- or
- (f) any combination of any of the above or such further or other action under the member's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case.

6.4 Powers of the President where charges are upheld by Disciplinary Panel

Where the charge or charges are upheld and the Disciplinary Panel finds good cause and recommends dismissal or removal from office, but in no other case, the President, in consultation with a member of Údarás na hOllscoile not employed by the University and having not been previously involved, shall decide whether or not to dismiss, or take lesser action in relation to, the member of the academic staff concerned.

7. Appeals Procedure

As a general principle of the procedure, employees have the right to appeal against any formal disciplinary action taken against them. The Appeals Panel has the authority to uphold, reduce or revoke the original decision. Members of the appeals panel shall have equal standing when hearing an individual's appeal, with decisions normally reached by consensus.

7.1 Appeals in the Cases short of Dismissal

In cases short of dismissal, the appeal shall be heard by a higher level of management, normally the Registrar and Deputy-President in conjunction with another member of UMT and a senior member of academic staff who has not been previously involved with the case. The individual must notify the Director of Human Resources of the intention to appeal in writing, normally within ten working days of notification of receipt of the warning, clearly stating the grounds on which the appeal is to be heard.

The decision of the appeals panel is final and shall normally be notified to the employee in writing by the Director of Human Resources within five working days of the hearing.

7.2 Appeals involving Dismissal

In cases involving dismissal, notification of the intention to appeal must be made in writing and be received by the President within fifteen

working days of the Notification of Dismissal, clearly stating the grounds on which the appeal is to be heard.

On receipt of an appeal the President shall convene an Appeals Panel. The Panel shall normally consist of:

- a) the Registrar and Deputy-President or, in exceptional circumstances, a Vice- President who shall chair the proceedings,
- b) a member of Academic Council,
- c) a member of Údarás na hOllscoile who is not employed by the University

A member of the Human Resources Office other than the Director shall act as Secretary to the Appeals Panel as well as providing advice on procedure, etc.

In specific circumstances, for example, when professional misconduct is alleged which could lead to disbarment, a professional assessor may attend the appeal.

The decision of the Appeals Panel, which is final, shall be formally notified to the employee in writing by the Chair of the Panel within five working days of the hearing.