Amendments to University Statutes
May 2010

Contents:
- Explanation of proposed amendments (White Pages)
- Annotated amended text of Statutes (Yellow pages)
- Draft HR Regulations under Statute 39 (Blue pages)
PROPOSED AMENDMENTS TO UNIVERSITY STATUTES

1 INTRODUCTION

(i) The University Statutes are the key governance document for the constitution, administration and management of the University. They represent a regulatory framework to which all University policies and processes are subject. The Statutes were introduced as part of the Universities of Durham and Newcastle upon Tyne Act 1963 which established the University in its current form.

(ii) The University Council may, after Consultation with Senate, make amendments to the Statutes, but these amendments will not have effect until they have been approved by Her Majesty in Council.

(iii) There are a number of changes to Statutes which have become necessary in light of changes to UK legislation and as a result of changing practice within the University and the sector.

(iv) The two key changes to Statutes are:

- the removal of the existing Statute 39, which contains unnecessary layers of complexity and is in places inconsistent with modern day good management standards. In its place will be an enabling statute and a set of regulations more appropriate for the University.
- the clarification of the existing status of Maintained and Recognised Colleges and Licensed Halls of Residence which has become necessary following discussions in relation to the Charities Act 2006.

(v) There also a number of other amendments which have become necessary as a result of previous decisions made by the University or due to changing practices, including:

- definition of Lay Members of Council.
- reference to the Companies Act
- change in title of Director of University IT
- meetings of the academic staff
- the transition from DUAU to Team Durham

2 PRELIMINARY NOTES

(i) All of the statute changes proposed require formal consultation with Senate and approval by the University Council. In addition, the accompanying regulations require approval from both Senate and Council. The amendment to statutes and new regulations will be considered at the meeting of Senate on 4 May 2010 and the meeting of University Council on 18 May 2010.

(ii) The changes to statutes require the approval of the Privy Council. Advisors to the Privy Council have seen a draft copy of the proposed changes and have made only one minor textual change.

(iii) The Regulations which accompany the new Statute 39 are not subject to approval by the Privy Council, but approval of Statute 39 is subject to their acceptance by the University Council.

(iv) It is clear that there are other Statutes which it would be beneficial to amend, to reflect changing practice within the University and the sector, or delete, because they are no longer accurate or relevant. However, due to the urgent need for the changes proposed in this document, particularly in relation to Statute 39 and the definitions of colleges, it was decided to proceed with the intention of revisiting other statutes as a separate project in the near future.
3 UNIVERSITY STAFF (STATUTE 39)

(a) THE NEED FOR AMENDMENTS

(i) The existing Statute 39, introduced following the Education Reform Act, deals with discipline, dismissal, redundancy, grievances and appeals. The Government through the Privy Council has indicated that it is no longer insist on universities employing the Statute in its original version.

(ii) There is fair protection for all staff under UK employment law. The existing Statute 39 and procedures introduce additional layers of complexity and are in places inconsistent with modern day good management standards, e.g. with some aspects of the Acas Code of Practice.

(iii) Our experience of using the existing Statute 39 and its procedures is that these can be unnecessarily adversarial, cumbersome and time-wasteful. While the current Statute and procedures have obvious disadvantages for the University in managing its staffing affairs efficiently and effectively, they are also recognised as such by both our staff and the trade union concerned (UCU), who have partnered productively with us in the process of reform.

(iv) Our experience is that the long timescales and multiple stages within existing statutory procedures can create anxiety for our staff when formal decisions may take months to be finalised. This is particularly the case over redundancy where current lengthy procedures require us to manage staff in ways that we think are unacceptable to any good employer.

(v) The wording of the existing Statute 39 has little resonance with providing clear guidance on conduct to staff in the modern age. For example, the definition of ‘good cause’ for dismissal includes “conduct of an immoral, scandalous or disgraceful nature incompatible with the duties…”

(vi) The existing Statute 39 only applies to a minority of staff in a minority of universities in the sector (pre-92 universities). None of our support staff are covered by the existing Statute and procedures, so we have different groups of staff being treated differently, which does not sit well with our single pay framework or with employment law.

(vii) The existing procedures do not sit well with modern approaches to good governance as University Council members are required to make what would be normally be regarded as management decisions. This is particularly the case for redundancy. Our Council members have welcomed the clarity which is provided by the proposed ‘enabling’ Statute and new Regulations.

(viii) The existing Statute is not ‘future proofed’. It may well be the case that future legislation will make it necessary to change it.

(b) THE AMENDMENTS TO STATUTES

(i) In common with many ‘pre-1992’ universities, Durham is taking the opportunity to replace the present Statute with a shorter ‘enabling’ Statute which sets out important guiding principles. It is proposed that this ‘enabling’ Statute, together with the accompanying Regulations, will cover all the required procedures for effective management of:

- Disciplinary matters
- Grievances
- Redundancies
- Performance dismissals
- Removal from office (non-substantive posts)
- Appeals

(ii) The University remains committed to the protection of academic freedom and to the principles of justice and fairness. These important principles have therefore been incorporated into the new ‘enabling’ Statute.
(iii) The University has taken this opportunity to bring **all** of our staff, academic as well as our professional support service staff, within the scope of the ‘enabling’ Statute and set of Regulations, with some particular nuances retained in order to deal with the special nature of academic contracts.

(iv) The special case of the statutory office of the Vice-Chancellor is reflected in specific regulations which underwent a separate drafting process. The regulation was drafted by Director of Human Resources in consultation with Chair of Council and with input from the Registrar and Director of Governance Support.

(c) **CONSULTATION AND LEGAL ADVICE**

(i) A joint working group was established in October 2009 consisting of representatives from HR and campus trade unions, including the full time Regional Officer from the Universities and Colleges Union (UCU).

(ii) The Working Group has held monthly meetings to discuss and agree the terms of the new ‘enabling’ Statute and the detailed Regulations which underpin it.

(iii) Each Regulation has been agreed in principle by the Working Group, and then approved by the HR Steering Group (a sub-group of the University Executive Committee), with the final drafts made available for all staff to view and make comment via the HR and Union web sites.

(iv) The main campus Trade Union (UCU) plans to ballot their members on the changes in early April 2010. The other campus Trade Unions (UNITE, UNISON and GMB) have been fully consulted on the changes and have confirmed that they do not see the need for a ballot as the changes for their members are minimal.

(v) Legal advice has been sought from Pinsent Masons on the wording of the new Statute and the Regulations underpinning it. Pinsent Masons is a leading UK legal practice which is also advising many universities in the HE sector on these issues.
4 COLLEGES AND SOCIETIES (STATUTES 1 AND 14)

(a) COLLEGES, SOCIETIES AND HALLS

(i) The University has three types of college/hall:

- maintained Colleges and Societies
- recognised Colleges
- Licensed Halls of Residence

(ii) These colleges have different statuses:

- The maintained Colleges and Societies are an integral part of the University and are owned, maintained and governed by the University. Maintained Colleges and Societies have no separate legal identity.
- The recognised Colleges and the Licensed Halls of Residence are independent – whilst they are recognised by the University and work with the University, they are independent entities with separate legal identities.

(b) THE NEED FOR AMENDMENTS

(i) As a consequence of the Charities Act 2006 and subsequent secondary legislation, the status of some exempt charities is changing. The University will remain exempt but a 'college or hall' of the University will soon have to register with the Charity Commission.

(ii) We have been clear that only the recognised Colleges and the Licensed Halls of Residence would have to register with the Charity Commission, and that the maintained Colleges, as an integral part of the University, would not. This understanding was supported by HEFCE.

(iii) Following discussions with the Treasury Solicitor’s Department, it was agreed that University statutes should be amended to clarify the status of the maintained Colleges.

(c) THE AMENDMENTS TO STATUTES

(i) The intention of the amendments is to clarify that the maintained Colleges and Societies are an integral part of the University and have no separate legal identity, and to remove any ambiguity relating to the different types of Colleges of the University. All necessary references to ‘Colleges’ within Statutes will refer to the appropriate type of College.

(ii) In addition to the primary changes to Statutes 1 and 14, a number of other amendments have been made to clarify that, by virtue of the maintained Colleges being part of the University, staff of the maintained Colleges are included in references to staff of the University.

(iii) It is not intended that these amendments alter in any way the structure or governance of the colleges and halls, but merely to clarify their status.

(d) LEGAL ADVICE

(i) Legal advice in relation to the definitions of Colleges was sought from Pinsent Masons LLP.
5 Other Statute Changes

(a) Lay Members of Council (Statutes 10 and 11)

(i) The expression ‘teachers or salaried staff’, used in definition of those ineligible to be lay members of Council, is outdated. The expression ‘members of staff’ is simpler and clearly includes all staff of the University.

(b) Companies Act 2006 (Statute 16)

(i) The Companies Act 2006 has superseded the relevant sections of the Companies Act 1985 and Companies Act 1989 to which the University Statutes previously referred.

(ii) This amendment is proposed following legal advice obtained from Dickinson Dees LLP.

(c) Director of University IT (Statute 18)

(i) The specific job title of ‘Director of the Information Technology Service’ is no longer in use, having been stood down during the process of restructuring the provision of IT within the University. The Statutes will be amended to maintain the status quo in relation to membership of Senate by maintaining the membership of the Director of University IT.

(ii) It is anticipated that this definition is sufficiently flexible to prevent the need for future amendment of University Statutes in light of any further changes to departmental and job titles.

(d) Meetings of the Academic Staff (Statute 32)

(i) There is currently a requirement in Statutes for an annual meeting at which the Vice-Chancellor presents a summary of the University’s work. This is no longer necessary in the light of the current methods of communication between the Vice-Chancellor and the staff of the University.

(ii) Given the number of academic staff, the value of such a meeting is likely to be undermined by the logistical difficulties in holding the meeting and the procedural difficulties in enabling consideration of issues. The holding of such a meeting has in practice already been abandoned.

(iii) The Vice-Chancellor provides regular updates through the Vice-Chancellor’s bulletin, distributed to all members of the University staff and other means of communication. The normal practice of the Vice-Chancellor is for him (or an appropriate delegate) to meet with representatives of Academic departments and other units within the University in order to consult with them on specific issues.

(iv) Maintaining the current statute in the University Statutes is restrictive, whilst the amendment is permissive in allowing, but not requiring the meetings to take place. The amended version specifically maintains the right of members of the academic staff, but increases the number of staff required in light of the significant increase in the number employed by the University since this statute was introduced.

(e) DUAU (Statute 42)

(i) DUAU is currently recognised by the University as a Student Union under the 1994 Education Act through inclusion in the University Council agreed Code of Practice for Students’ Unions and JCRs. As a consequence of the Charities Act 2006, DUAU would, under its current governance arrangements, be required to register with the Charity Commission.

(ii) In light of these legislative changes and following a review of governance of DUAU, it was agreed by the University and student representatives that this was not an appropriate way forward. It was agreed that DUAU would be replaced by Team Durham, an operational organisation of the University located within the Department of Sport. Team Durham would therefore not be a Student Union.
(iii) Student representatives voted in favour of replacing DUAU with Team Durham by voting to accept a transitional constitution which places DUAU within Team Durham. The completion of the transition is dependent upon the amendment of University statutes such that DUAU can be formally disbanded.

(iv) The proposal was voted upon at the Durham University Athletic Union Annual General Meeting on 5 May 2009. Representatives were present from 49 University Clubs and all 16 Colleges. Apologies were received from the University Boat Club. All 49 clubs present and all College representatives voted in favour of the proposed change by virtue of voting for a transitional constitution.
Statutes of the University of Durham

insertions are indicated by red emboldened text
deletions are indicated by red text with strikethrough

PRELIMINARY

1. In these Statutes unless the context otherwise requires:
   "the Act" means the Universities of Durham and Newcastle upon Tyne Act, 1963;
   "the appointed day" means the 1st August, 1963;
   "the University" means the University of Durham, including the maintained colleges and societies;
   "convocation" "the council" and "the senate" mean respectively convocation, the council and the
   senate of the University;
   "statutory bodies" means the council, the senate, and the boards of studies of the University;
   "maintained colleges and societies" means colleges and societies maintained by the council as part
   of the University pursuant to these Statutes (having no separate legal identity) and shall so long as
   they continue to be maintained by the University include University College, Hatfield College, Grey
   College, Van Mildert College, Collingwood College, St Mary's College, St Aidan's College, Trevelyan
   College, the College of St Hild and St Bede, St Cuthbert's Society, Ustinov College, #John Snow
   College, George Stephenson College and Josephine Butler College;
   "recognised colleges" means colleges of the University recognised by the council pursuant to these
   Statutes and shall so long as they continue to be recognised by the University include St Chad's
   College and St John's College;
   "colleges" means maintained colleges and societies and recognised colleges;
   "licensed halls of residence" means halls of residence (not being maintained colleges and societies or
   recognised colleges) recognised by the council as licensed halls of residence pursuant to these
   Statutes and shall so long as it continues to be recognised by the University include Ushaw College;
   "affiliated colleges" means Codrington College, Barbados, so long as it continues to be affiliated to
   the University and any other colleges which may hereafter be affiliated to the University under
   Statutes made in that behalf;
   "canon professor" means a professor of the University who is also a canon of the cathedral church of
   Durham;
   "full-time teacher" means full-time teacher even though his appointment as a member of the
   University staff is only temporary or probationary;
   "members of the academic staff" means all those members of the staff of the
   University who are paid on the academic or related staff salary scales or whose salaries are
   determined by reference to those scales;
   "existing" means existing immediately before the appointed day;
   "year" means a calendar year;
   "month" means a calendar month;
   Words importing the masculine gender include the feminine gender.
   Words in the singular include the plural and words in the plural include the singular.

2. As from the appointed day the University shall for every purpose be administered and governed wholly
   and exclusively in accordance with the provisions of the Act and these Statutes notwithstanding any
   existing Acts of Parliament, Charters, Statutes or Orders in Council relating to the University.

3. Existing rules and regulations of the University and of its constituent bodies made under the existing
   Statutes of the University shall remain in force, until they are altered or repealed as nearly as may be
   practicable and so far as they are consistent with these Statutes, except that references in those rules
   and regulations to any body, officer or person shall be construed as references to the body, officer or
   person exercising similar powers or discharging similar duties under these Statutes.

* Added by Council on 7 July 1981.
§ Added by Council on 6 November 1984.
# Added by Council on 12 December 2000.

THE UNIVERSITY

4. The University shall be governed by a Visitor, Chancellor, Vice-Chancellor, Convocation, Council,
   Senate, and Boards of Studies.

THE VISITOR

5. (1) The Lord Bishop of Durham for the time being shall be the Visitor of the University.  
(2) During any vacancy in the See of Durham for more than four weeks the suffragan Bishop of the 
Diocese of Durham for the time being shall perform the duties of the Visitor of the University for 
the duration of the vacancy.*

*Added by Council on 18 February 2003.

THE CHANCELLOR

6. (1) There shall be a Chancellor of the University, who shall *hold office for a fixed period of not 
normally less than five years as determined by the Council or until resignation if sooner. The 
period of appointment may be extended for a further period to be determined by the Council. 
(2) §The Chancellor may resign by writing addressed to the Council and may be removed for good 
cause by Convocation at the instance of the Council. 
(3) The Chancellor shall be the Head of the University, and shall by virtue of his office be a member 
of the Council and of Convocation, and shall preside at all meetings of those bodies at which he 
is present. 
(4) During a vacancy in the office of Chancellor, or during his inability through illness or any other 
cause to perform his duties the duties of that office, other than presiding at meetings of the 
Council, shall be performed by the Vice-Chancellor. 
(5) Upon a vacancy in the office of Chancellor, Convocation shall appoint a Chancellor on the 
nomination of the Council and the Senate sitting in joint session. 

* Amended by Council on 9 November 2004.  
§ Added by Council on 9 November 2004.

*THE VICE-CHANCELLOR

7. (1) There shall be a Vice-Chancellor of the University, who shall also be the Warden of the Durham 
Colleges. He shall have a general responsibility to the Council and the Senate for maintaining and 
promoting its efficiency and good order. He shall be appointed by the Council after consultation 
with the Senate. 
(2) There may# be a ~Deputy Vice-Chancellor of the University. He shall be appointed by the 
Council %after consultation with the Senate and shall hold office for such period, subject to 
Statute 39§, and shall be assigned such duties, as the Council may from time to time determine. 
(3) In addition to the appointment specified under (2) above the Council may, ~after consultation 
with the Senate, appoint one or more Pro-Vice-Chancellors who shall hold office for such period, 
subject to Statute 39§, and shall be assigned such duties, as the Council may from time to time 
determine. 
(4) The Council may, after consultation with the Senate, appoint a Deputy Warden of the Durham 
Colleges who shall hold office for such period, subject to Statute 39 and shall be assigned such 
duties, as the Council may from time to time determine. 
(5) Subject to (6) below, the Vice-Chancellor shall preside at all meetings of the Senate and, in the 
absence of the Chancellor, at all meetings of Convocation. 
(6) During a vacancy in the office of the Vice-Chancellor or during the Vice-Chancellor's inability, 
through illness, absence or other reason, to perform his duties, such duty or duties shall be 
performed by the °Deputy Vice-Chancellor or by one of the other Pro-Vice-Chancellors, 
determined as appropriate by Council.

% Amended by Council on 11 November 2003.  
~ Amended by Council on 9 November 2004. 
° Added by Council on 9 November 2004.  
# Amended by Council on 11 March 2008  
^ Addition agreed by Council on 11 March 2008

THE REGISTRAR AND SECRETARY

8. (1) There shall be a Registrar and Secretary of the University who, under the supervision of the Vice- 
Chancellor, shall be responsible for the conduct of University business. He shall be Secretary of
the Council and of the Senate and shall perform such other duties as the Council may prescribe after consultation with the Senate.

(2) The Registrar and Secretary shall be appointed by the Council after considering the recommendation of a Joint Committee of the Council and the Senate.

THE TREASURER

9. There shall be a Treasurer of the University *who, under the supervision of the Vice-Chancellor, shall be responsible for the financial business of the University, and for such other business *as the Vice-Chancellor may prescribe. The Treasurer shall be appointed by the Council.

* Amended by Council on 13 July 2004.

THE COUNCIL

10. *(1) There shall be a Council of the University, consisting of:

* Ex officio Members
  The Chancellor;
  The Vice-Chancellor;
  The Deputy Vice-Chancellor;
  The Dean of Durham or, during a vacancy in the office, the Vice-Dean;
  The President of the central organisation recognised by the Council for the representation of the students;

* Members appointed by the Council
  Not more than twelve lay members, not being teachers or salaried staff in the members of staff of the University or any of its Recognised Colleges or Licensed Halls of Residence;
  Seven members of the staff of the University, at least five of whom to be academic staff with research and teaching responsibilities and none of whom to be serving members of the University Executive Committee.

(2) The period of appointment of the members appointed by the Council shall be prescribed in the Standing Orders of the Council.


THE CHAIRMAN OF THE COUNCIL

11. *(1) The Council shall appoint, from among its members or otherwise, a Chairman, not being a teacher or salaried officer in member of staff of the University or any of its Recognised Colleges or Licensed Halls of Residence. He shall preside at meetings of the Council in the absence of the Chancellor.

(2) If the Chairman is appointed from among the members of Council, the Council may require him to vacate office if he ceases to be a member of the Council. If the Chairman is appointed from outside the Council, he shall cease to be a member of the Council if he ceases to be Chairman. Subject thereto the Chairman shall hold office for three years.

(3) The Council shall elect from among its members one Vice-Chairman and may elect two Vice-Chairmen. No Vice-Chairman shall be a teacher or salaried officer in member of staff of the University or any of its Recognised Colleges or Licensed Halls of Residence. A Vice-Chairman shall hold office for three years but shall vacate office if he ceases to be a member of the Council before the expiry of the said term.*

(4) Council shall appoint the Vice-Chairman or one of the Vice-Chairmen to preside at particular meetings of the Council from which the Chancellor or the Chairman is absent. +


THE POWERS OF THE COUNCIL

12. *(1) The Council shall exercise all the powers and authority of the University except to the extent to which the exercise of the same may by these Statutes be otherwise prescribed.

(2) The Council shall make regulations for the custody and use of the common seal of the University.
(3) The Council shall be the governing and executive body of the University and shall have the custody, control and disposition of all its property and finances. Subject to the powers of the Senate, the Council shall be responsible for the organisation of teaching and research, including the appointment of †Budget Officers and of *Heads of Departments (Chairmen of Boards of Studies), for the maintenance of discipline and for the regulation of the relations between the Council and the students.

(4) The Council shall review the work of the University and shall take such steps as it thinks proper for the purpose of advancing the interests of the University, maintaining its efficiency, encouraging the prosecution of learning and research therein and for providing facilities for the recreation and well-being of the students.

13. The powers of the Council shall, subject as in these Statutes provided, include the following:-

(1) To appoint all members of the University staff and the staff of the maintained Colleges and Societies;

(2) To fix the salaries and conditions of tenure of posts to which they appoint;

(3) To represent the University in all negotiations for obtaining grants from public bodies in aid of the work of the University;

(4) To establish budget centres within the University for the efficient management of resources and to appoint Budget Officers for each budget centre who shall be *accountable to the appropriate authority as prescribed in the Standing Orders of the Council and of the Senate for the management and supervision of all funds, equipment and resources allocated by the Council to their budget centre. +The appropriate authority shall be accountable to the Council, through the Vice-Chancellor, for the overall budget for which they are responsible. †

(5) To prescribe, after considering the recommendations of the Senate, the dates when the Michaelmas, Epiphany and Easter Terms shall begin and end;

(6) To establish, suspend or abolish any posts other than posts created by these Statutes.

† Added by Council on 22 March 1994.
≠ Addition noted by Council on 3 July 2007.

COLLEGES AND SOCIETIES

14. The Council:–

(1) shall maintain as part of the University University College, Hatfield College, Grey College, St Mary's College, St Aidan's College, St Cuthbert's Society, Van Mildert College, ~%Ustinov College, Trevelyan College, Collingwood College, the College of St Hild and St Bede+, John Snow College, George Stephenson College# and Josephine Butler College and may establish and maintain other maintained Colleges as part of the University; *•

(2) shall, subject to the provisions of these Statutes, continue to recognise as Colleges of the University, St Chad's College and St John's College and may recognise other Colleges in the County of Durham as recognised Colleges in the University. The Council shall have no property in or financial responsibility for the recognised Colleges or any of them which are or is not also one of the maintained Colleges and Societies;

(3) shall, subject to the provisions of these Statutes, continue to recognise as Licensed Halls of Residence Ushaw College, and may recognise other Colleges in the County of Durham as Licensed Halls of Residence. The Council shall have no property in or financial responsibility for the Licensed Halls of Residence; §

(4) shall, after considering the recommendations of the Senate, regulate the admission to the University of part-time and occasional students who are not registered with one of the Colleges.

15. The following provisions shall apply to the recognised Colleges which are not also maintained Colleges and Societies and to Licensed Halls of Residence:–

(1) The appointment of the Head shall require the approval of the Council;

(2) Recognised Colleges and Licensed Halls of Residence shall be open to inspection by or on behalf of the Council;

(3) The recognition of any of the recognised Colleges or Licensed Halls of Residence may be withdrawn by the Council if the foregoing provisions are infringed;

(4) Any proposed change in the constitution or instrument of government of recognised Colleges or Licensed Halls of Residence shall be notified to the Council;

(5) The Council may from time to time or at any time withdraw recognition from any one or more of the recognised Colleges or Licensed Halls of Residence if in its opinion changes have been made in its or their constitution or conduct which unfavourably affect its or their status in the University.

† Added by Council on 22 March 1994.
FINANCIAL PROVISIONS

16. §(1) The University shall have the following powers for the purposes of carrying out its duties as defined in its Statutes, for the time being in force:-

(a) to borrow or raise money in any manner and, in particular, by the issue (whether at par, at a premium or at a discount) of notes, bonds, loan stock, shares, stock, warrants or any other instrument or security of any kind, and generally to raise capital or finance in any form and to obtain all kinds of credit and to refinance, replace or reorganise any capital, finance or credit previously raised or obtained by the University;

(b) by creating or granting a mortgage, charge, pledge, lien or encumbrance of any kind over, or by entering into any other type of transaction, including an option, in relation to, all or any part of the undertaking, property or assets of the University present and future, or in any other manner, to secure or in any other way support the payment or repayment of any moneys, the discharge of any debts and liabilities, and the performance or observance of any obligations or commitments, by the University;

(c) to guarantee, support or secure (whether or not with a view to receiving any consideration or benefit) the payment or repayment of any moneys, the discharge of any debts and liabilities, and the performance or observance of any obligations or commitments, by any person or undertaking (whether incorporated or unincorporated) in relation to any transaction whatsoever which has been or may be entered into by another person or undertaking by entering into any guarantee or other engagement, by creating or granting a mortgage, charge, pledge, lien or encumbrance of any kind over, or by entering into any other type of transaction in relation to, all or any part of the undertaking, property or assets of the University, present and future, by a combination of such methods, by granting or accepting options in relation to all or any of the undertaking, property or assets of the University, present and future, or in any other manner; and to provide indemnities in respect of every kind of claim, proceeding, tax, liability, loss, expense, failure, default or contingency, with or without securing the indemnity by a mortgage, charge, pledge, lien or other encumbrance;

(d) to enter into any agreement or arrangement as to the subordination or priority of any debts or liabilities which have been or may later be incurred by or to the University or as to the ranking of any mortgage, charge, pledge, lien or other encumbrance which has been or may later be created or granted by or to the University or which affects or may come to affect the property, assets or undertaking of the University or any other relevant body or person;

(e) to enter into (i) any contract for differences, (ii) any other contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to the fluctuations in the value or price of property of any description or in any index or other factor designated for the purpose in the contract, and in particular, by reference to fluctuations in any rate of exchange, any rate of interest or any index of stock, bond or commodity prices, and (iii) any contract possessing a feature which is in any way similar or comparable to a feature possessed by any contract covered by (i) or (ii), and to effect all kinds of transactions in relation to any contracts covered by (i), (ii) or (iii) whether or not the contracts were originally entered into by the University;

(f) to carry on any business which the University is authorised to carry on and to further the interests of the University by means of, or through the agency of, any body corporate or incorporate, and whether or not a subsidiary within the meaning of such term in the Companies Act 1985, as amended by the Companies Act 1989, and to make such arrangements as may be considered desirable with a view to supporting the aims, interests or objectives of any body corporate or unincorporate in which the University has an interest by mutual assistance, co-operation or by any other means;

(g) to negotiate, enter into and execute all documents, deeds, instruments, agreements, securities, contracts and undertakings of every kind and description whatsoever relating to or incidental to all of the matters set out in paragraphs (a) to (g) inclusive.

(2) Where money is raised pursuant to the powers of the Universities and College Estates Act, 1925, it may be applied for or towards any of the purposes referred to in the foregoing subsection as well as any of the purposes described in subsection (2) of section 30 of the said Act.

17. (1) The University shall have power to purchase, retain, sell or transfer property, real or personal, and securities (which term includes stocks, funds and shares) of any description whether or not authorised by law for the investment of trust funds, and may also apply moneys to any purpose
which capital moneys arising under the Universities and College Estates Act, 1925, may be applied.

(2) Save as may be otherwise expressly provided in relation thereto the powers conferred by this Statute shall extend to the investment (including the variation of the investment) of all endowments or other funds, including capital moneys arising under the Universities and College Estates Act, 1925.

(3) Unless the terms of the trust provide otherwise, any part of the income of a trust fund not expended in any year may at the discretion of the University be applied as income in any subsequent year or be invested and added to the capital of the fund.

(4) The income of trust funds vested in the University for special purposes shall be applied only for those purposes.

‡ Amended by Council on 2 November 1993.

THE SENATE

18. (1) There shall be a Senate of the University consisting of:-

(a) Ex officio Members, namely:-
   - The Vice-Chancellor;
   - The Deputy Vice-Chancellor;
   - The Pro-Vice-Chancellors;
   - The Heads of Faculties;
   - The Deputy Warden;
   - The Dean of the Graduate School;
   - The Heads of the maintained Colleges and Societies and of the recognised Colleges;
   - The Heads of such of the Licensed Halls of Residence as have not less than twenty-five matriculated students in residence;
   - The Heads of Departments (Chairmen of Boards of Studies);
   - The Librarian;
   - The Director of the Information Technology Service
   - The Director of University IT;

(b) Appointed Members and Co-opted Members, namely:-
   ‡A number of members equal to one-third of the ex officio membership of the Senate to be nominated and elected by the members of the academic staff who are not ex officio members of the Senate. Not less than half of such members shall be Lecturers or Senior Lecturers. Together with, if the Senate so determine, not more than six members to be appointed by co-option.

(c) Three student representatives comprising: the President of the central organisation recognised by the Council for the representation of the students, and two further students as defined in the Standing Orders of the Senate. These student representatives shall attend meetings with the right to speak and to vote except on matters concerning 'reserved area business'. Such areas shall be defined in the Standing Orders of the Senate.*

(2) The appointed members shall hold office for three years and one-third of them shall retire each year. +

(3) The co-opted members shall hold office for two years.*

(4) The Vice-Chancellor, or, in his absence, the Deputy Vice-Chancellor or a Pro-Vice-Chancellor, shall preside at meetings of the Senate. If at any meeting of the Senate the Vice-Chancellor, Deputy Vice-Chancellor and the Pro-Vice-Chancellors are absent the members of the Senate present shall appoint a Chairman from among themselves. +

‡ Amended by Council on 24 March 1987.
× Amended by Council on 6 November 1984.
# Added by Council on 7 July 1981.
§ Amended by Council on 11 July 1967.
* Added by Council on 6 November 1984.
† Amended by Council on 14 December 1999.
% Added by Council on 14 December 1999.
≥ Added by Council on 9 November 2004.
≤ Amended by Council on 3 July 2007.
≥ Amended by Council on 3 July 2007.
≠ Amended by Council on 3 July 2007.
Ω Amended by Council on 3 July 2007.
POWERS OF THE SENATE

19. The Senate shall be the supreme governing body of the University in all academic matters and shall, subject to the powers reserved to the Council by these Statutes, take such measures and act in such manner as shall appear to them best calculated to promote the interests of the University as a place of education, learning and research.

20. The powers of the Senate shall, subject as in these Statutes provided and without prejudice to the generality of the foregoing, include the following:-

1. Subject to the control of the Council in matters of finance, to regulate teaching;
2. To recommend to the Council the establishment of new posts on the academic staff of the University or, if they think fit, to recommend that any vacant post be not filled;
3. To consider the report of any Committee constituted under these Statutes (except Statute 33) for the purpose of appointing a Professor, a Reader, the Librarian or the Heads of maintained Colleges and Societies and to communicate that report with an expression of their views thereon to the Council;
4. To recommend to the Council the appointment of Senior Lecturers, Lecturers and other members of the academic staff whose appointment is not provided for elsewhere in these Statutes;
5. To satisfy themselves that the duties and conditions of service of all members of the academic staff are satisfactory;
6. To regulate and control the conditions qualifying for matriculation and for admission to the various titles, degrees and other distinctions offered by the University, and, subject to the approval of the Council, the fees to be paid in connection therewith;
7. To regulate the admission of persons to courses of study;
8. To institute, subject to the approval of the Council, fellowships, scholarships and other aids to study and research;
9. To regulate all University examinations and to appoint examiners whether external or internal;
10. To supervise the extra-mural work of the University;
11. To make recommendations to the Council on any matter of interest to the University; *
12. To exercise such powers and discharge such duties with regard to the affiliated Colleges as may be prescribed by the terms and conditions on which they are respectively affiliated; *
13. To provide comment to the Council on the appointment of the Deputy Vice-Chancellor (Statute 7(2)) and any Pro-Vice Chancellors (Statute 7(3)); +
14. To regulate the discipline of the University, and to determine in what manner disciplinary powers shall be exercised; *
15. To regulate the use of academic dress in the University; *
16. To take such steps as they think proper for supervising organisations of students, representative of the University; *
17. To undertake and arrange for the inspection and examination of schools and colleges and, subject to the approval of the Council, to charge fees for such inspection and examination; *
18. Except where otherwise expressly provided, to appoint representatives of the University on other bodies. *

† Amended by Council on 14 December 1999.
+ Amended by Council on 9 November 2004.

ACADEMIC DISTINCTIONS

21. The Senate may:-
1. grant degrees and other academic distinctions to persons who shall have pursued in the University a course of study approved by the Senate, and shall have passed the examinations of the University under the conditions laid down in the regulations of the University;
2. grant diplomas, licences or certificates to persons who have pursued a course of study approved by the Senate under conditions laid down by it;
3. grant degrees and other qualifications jointly with other higher education institutions having power to grant such qualifications to persons who have pursued a course of study and passed examinations under conditions laid down in regulations approved by the Senate; +
4. grant honorary degrees, *service degrees, the title of Professor Emeritus or other University distinctions;
5. accept such examinations and periods of study at such Universities and places of learning as the Senate may approve as equivalent to such examinations and periods of study in the University as the Senate may determine;
accept courses of study in any other institution which in the opinion of the Senate possesses the means of affording the proper instruction for such courses as equivalent to such courses of study in the University as the Senate may determine.

22. Except as otherwise provided from time to time in the regulations of the University, the period of study necessary to qualify any student for graduation shall be not less than three academic years, all of which shall be subsequent to the date at which the student has matriculated in the University.

23. The Senate may revoke any degree or other distinction conferred by the University, and all privileges connected therewith if the holder shall have been judged by the Senate, after investigation, to have obtained the degree or distinction unfairly as a result of dishonesty, misrepresentation, plagiarism or falsehood.

+ Added by Council on 17 December 1991.
* Added by Council on 9 July 1974.
§ Added by Council on 6 December 1994.
% Amended by Council on 18 February 1997.

ACADEMIC ELECTORAL ASSEMBLY

+24. (1) There shall be an Academic Electoral Assembly consisting of all members of the academic staff, other than those who are ex officio members of the Senate, together with the Senior Tutor (or one Tutor of equivalent rank) from each of the recognised Colleges or Licensed Halls of Residence.
(2) The Assembly shall appoint its own Chairman and may appoint a Standing Committee.
(3) The Assembly shall meet as often as is necessary to nominate members to the appropriate vacancies in the Senate.
(4) The Chairman may at his discretion hold additional meetings and further meetings shall be called if they are requested in writing by at least twenty members of the Assembly.
(5) Any matter of interest to the University may be discussed at all meetings of the Assembly held under this Statute and recommendations may be made to such one or more of the Statutory Bodies as the Assembly considers appropriate.

+ Amended by Council on 6 November 1984.

TESTS

25. (1) No religious test shall be required of or imposed upon any teacher appointed by the University and no such test shall be required of or imposed upon any student in the University, provided always that where any condition involving such test has been attached by the founder to a benefaction, the regulations made for the administration of the benefaction shall, as far as possible, give effect to the wishes of the founder.
(2) All the degrees of the University shall be open to women on the same terms as to men.

§FACULTIES

26. An aggregate of areas of academic study in which degrees and other academic qualifications are conferred by the University shall be known as a Faculty.

27. (1) There shall be Heads of such Faculties and other groupings as the Council may determine on the recommendation of the Senate.
(2) Heads of Faculties shall hold office for such period as the Council may from time to time determine.
(3) The role and responsibilities of the Officers to which this Statute relates shall be prescribed in the Standing Orders of the Council and of the Senate.

28. (1) The composition and individual membership of each Faculty and other grouping shall be prescribed in the Standing Orders of the Senate and of the Council as shall be the manner of appointment of its Head.
(2) Each Faculty and other grouping shall have such advisory and other powers and duties as may be conferred upon it by standing order of the Council and/or the Senate as appropriate.
BOARDS OF STUDIES

29. (1) There shall be Boards of Studies in such subjects or combination of subjects as the Council on the recommendation of the Senate shall from time to time determine.
(2) Each Board of Studies shall be primarily assigned to one Board of Faculty by the Senate.
(3) Each Board of Studies shall consist of:-
   (a) Ex officio members:-
       All the full-time teachers in the Subject concerned;
       The Head* of the relevant Faculty and such deputies as may be approved by the Vice-Chancellor on the nomination of the Head of Faculty;
   (b) At least two student members; †
   (c) Appointed members:-
       Such other persons as the appropriate *Head* of Faculty may from time to time determine.
(4) After consulting the Senate, the Council shall appoint *Heads of Departments (Chairmen of Boards of Studies)† except where otherwise approved by the Council, the *Head of Department (Chairman of Board of Studies) shall also be appointed the Budget Officer. The role and responsibilities of the Head of Department (Chairman of the Board of Studies) shall be prescribed in the Standing Orders of the Council and of the Senate.
(5) The powers of a Board of Studies shall be as follows:-
   (a) To consider any matter relating to the teaching or administration of its own subject and to make recommendations to such one or more of the Statutory Bodies as may be appropriate;
   (b) To carry out such duties as may be assigned to it, separately or jointly with another Board, or other Boards of Studies, by the appropriate *Head* of Faculty.

CONVOCATION

30. (1) There shall be a Convocation of the University consisting of the Chancellor, the Vice-Chancellor, the Deputy Vice-Chancellor, the *Pro-Vice-Chancellors and all persons hereafter registered as members of Convocation.
(2) A register of members of Convocation shall be kept by the Registrar and, subject to the payment of such fees as may be prescribed by the Council, the *Head of Department (Chairman of Board of Studies) shall also be appointed the Budget Officer. The role and responsibilities of the Head of Department (Chairman of the Board of Studies) shall be prescribed in the Standing Orders of the Council and of the Senate.
(3) Convocation shall hold at least one ordinary meeting in each year. The Vice-Chancellor may at any time at his discretion, and shall upon the requisition in writing of not less than fifty members of Convocation, summon an extraordinary meeting of Convocation.
(4) The quorum of Convocation for the despatch of business shall be twenty members, and if after the expiration of half an hour from the time for which a meeting is summoned, a quorum has not been formed the meeting shall be dissolved.
(5) Notice of meetings of Convocation shall be given by public notice in Durham §and in Stockton-on-Tees and by such other means, including communication to the press, as the Vice-Chancellor and Warden may direct.
Convocation may discuss, and, if they think fit, make representations on any matter whatsoever relating to the University.

Convocation shall appoint the Chancellor on the nomination of the Council and the Senate sitting in joint session.

All questions in Convocation shall be determined by the votes of the majority of the members present and voting.

§ Added by Council on 12 December 2000.
~ Added by Council on 9 November 2004.

CONGREGATIONS

31. Congregations of the University for the conferring of degrees or other academic purposes shall be held in a manner to be prescribed by the Senate and shall be presided over by the Chancellor or, in his absence, by the Vice-Chancellor, †the Deputy Vice-Chancellor *or by one of the Pro-Vice-Chancellors.

* Added by Council on 7 July 1981.
† Added by Council on 9 November 2004.

MEETINGS OF THE ACADEMIC STAFF

32. (1) There shall be an Annual Meeting of all members of the academic staff in each academic year to which the Vice-Chancellor shall present a report on the year's work.
(2) The Vice-Chancellor may at his discretion call additional meetings of all members of the academic staff. Further Meetings shall be called if they are requested in writing by at least thirty-one hundred members of the academic staff.
(3) Any matter of interest to the University may be discussed at all meetings of the academic staff held under this Statute, and their representations shall be forwarded to such one or more of the Statutory Bodies as the meeting considers appropriate.

THE APPOINTMENT AND RETIREMENT OF OFFICERS AND STAFF OF THE UNIVERSITY

33. (1) Professors and Readers of the University and the Librarian shall be appointed by the Council. In the event of a vacancy or impending vacancy, a Committee shall be constituted to make recommendations as to the appointment. The Committee shall consist of the Vice-Chancellor, or the Deputy Vice-Chancellor, or a Pro-Vice-Chancellor, three members appointed by the Senate and three members appointed by the Council. The Committee shall appoint one or more external assessors.
(2) The report of any Committee constituted under this Statute shall be submitted to the Senate and communicated by the Senate to the Council with an expression of the views of the Senate.
(3) The Vice-Chancellor or in his absence the Deputy Vice-Chancellor or a Pro-Vice-Chancellor shall be the Chairman of any Committee appointed under this Statute.
(4) This Statute shall not apply to Canon Professors.

34. (1) There shall be one or more Canon Professors, the number to be determined by the appropriate authorities. +
(2) Such Canon Professors shall be appointed by the Lord Bishop of Durham on the recommendation of the Board of Electors as hereinafter constituted. Nothing in this provision shall restrict the power of the Lord Bishop of Durham to refuse to accept for appointment any candidate recommended by the Board of Electors. +
(3) In the event of a vacancy or impending vacancy the Board of Electors shall be constituted to make recommendations as to the appointment.
(4) The Board of Electors shall consist of the Vice-Chancellor, two members appointed by the Dean and Chapter of Durham, one member appointed by the Council and two members appointed by the Senate.
If they so decide the Board of Electors may co-opt one external assessor.
(5) The Council shall, if practicable and if they are satisfied that proper provision has been made for the grant of superannuation benefits to Canon Professors, direct that these Professors shall retire at such age being not more than seventy years as they may determine.

35. *Heads of maintained Colleges and Societies shall be appointed by the Council after considering the recommendations of a joint Committee consisting of equal numbers of persons appointed by the
Council and by the Senate. The Council representatives on the ○College Council of whichever of the maintained Colleges and Societies a Head is to be appointed shall be members of any such joint committee. No person shall be appointed to the Headship of a College or Society unless it has been established that he is acceptable to any Board of Studies to which he may be assigned as an ex officio member.

36. (1) Senior Lecturers and Lecturers and other members of the academic staff shall be appointed by the Council on the recommendation of the Senate.

(2) To make recommendations for the appointment of a Lecturer, a committee of the Senate shall be formed which shall consist of the Vice-Chancellor, the Deputy Vice-Chancellor, or a Pro-Vice-Chancellor or a Head of Faculty (Chairman of the Board of Studies) concerned and not less than three other persons appointed by the Senate, or, in cases of urgency, by the Vice-Chancellor. If, exceptionally, the Vice-Chancellor, the Deputy Vice-Chancellor or a Pro-Vice-Chancellor or a Head of Faculty is unable to be present the Committee may be chaired by another senior member of a Faculty.

37. In maintained Colleges and Societies all those who are to be appointed Vice-Principals, Senior Tutors, Resident Tutors and Bursars, but who are also to engage in part-time teaching, shall be appointed by the Council after considering the recommendations of a joint committee of the Senate and the ○College Council of the maintained College or Society to which the appointment is to be made.

38. (1) The Vice-Chancellor, the Professors and Readers and all other officers and teachers in the University may retire, on giving due notice, at any time after reaching the age of 60 years, and shall be required to retire not later than the 30th day of September next following the date on which they respectively attain the age of 65 years, provided that the term of office may be extended from time to time for one year or more than one year but for not more than five years in all by the Council.

(2) The provisions of this Statute relating to retirement shall not apply to Canon Professors.

† Amended by Council on 30 October 1985.
* Amended by Council on 4 November 1969.
# Added by Council on 6 November 1984.
† Amended by Council on 9 July 1974.
‡ Amended by Council on 5 November 1974.
% Amended by Council on 14 December 1999.
~ Added by Council on 12 December 2000.
œ Added by Council on 9 November 2004.

UNIVERSITY STAFF

39. (1) This Statute shall apply to all staff employed by the University.

(2) Council shall ensure that in respect of all staff (other than the Vice-Chancellor, in respect of whom separate provision is made) there are in place procedures for:
(a) the handling of disciplinary cases, including the dismissal of such members of staff by reason of misconduct and for appeals against disciplinary action;
(b) the dismissal of such members of staff by reason of redundancy and appeals against such dismissals;
(c) the dismissal of such members of staff (following confirmation in post after his or her probationary period) by reason of unsatisfactory performance and appeals against such dismissals;
(d) the dismissal of such members of staff on the grounds of ill health or medical incapacity and appeals against such dismissals;
(e) the review of performance and progress of such staff during any probationary period to which the appointment or employment is subject, and for the dismissal of such staff during or at the end of their probationary period in the event of unsatisfactory progress or performance;
(f) the dismissal of such members of staff for any reason other than the reasons specified in sub-paragraphs (i) – (v) above;
(g) the removal of staff from any role that is not defined within a member of staff’s substantive contract of employment by reason of unsatisfactory performance or misconduct and appeals against such removal;
(h) the handling of grievances raised by members of staff.
Such procedures shall be set out in regulations.

(3) In determining the procedures to be adopted under paragraph 2, Council shall apply the following guiding principles:

(a) to ensure that academic staff have 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;

(b) to enable the university to deliver the University’s mission and associated activities efficiently and economically;

(c) to apply the principles of justice and fairness;

(d) to apply procedures so that complaints may be resolved at as early a stage as possible and within a reasonable timescale;

(e) to allow members of staff to be accompanied at all stages of procedures by a Durham University work colleague or recognised trade union representative;

(f) to allow provision for the right of appeal in all procedures. In keeping with the principle in (3) (a) appeals against the dismissal of a member of academic staff should be heard by a panel which includes members of Council not employed by the University.

(4) For the purposes of this Statute academic staff shall include any employee of the University who is employed to engage directly in, or carry out, teaching or academic research.

(5) Any Regulation made under this section shall be construed in every case to give effect to the guiding principles in paragraph 3.

(6) For the avoidance of doubt, any procedure adopted by Council for the dismissal of academic staff by reason of redundancy shall not apply to a member of academic staff whose appointment was made, or contract of employment entered into, on or before 19 November 1987, and who has not been promoted after that date.

§ACADEMIC STAFF

39. PART I—CONSTRUCTION, APPLICATION AND INTERPRETATION

Construction

(1) This Statute and any Rule or Regulation made under this Statute shall be construed in every case to give effect to the following guiding principles, that is to say:

(a) to ensure that academic staff have 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;

(b) to enable the University to provide education, promote learning and engage in research efficiently and economically; and

(c) to apply the principles of justice and fairness.

Reasonableness of decisions

(2) No provision in Part II or Part III shall enable the body or person having the duty to reach a decision under the relevant Part to dismiss any member of the academic staff unless the reason for his dismissal may in the circumstances (including the size and administrative resources of the University) reasonably be treated as a sufficient reason for dismissing him.

Application

(3) (a) This Statute shall apply—

(i) to the persons who are defined as "members of the academic staff" in Statute 1; and

(ii) to the Vice Chancellor to the extent and in the manner set out in the Annex to this Statute.

(b) In this Statute any reference to "academic staff" is a reference to persons to whom this Statute applies.

Interpretation

Meaning of "dismissal"

(4) In this Statute "dismiss" and "dismissal" mean dismissal of a member of the academic staff and—

(a) include remove or, as the case may be, removal from office; and
in relation to employment under a contract, shall be construed in accordance with sections 92, 95 and 97 of the Employment Rights Act 1996.

Meaning of "good cause"

(5) (a) For the purposes of this Statute "good cause" in relation to the dismissal or removal from office or place of a member of the academic staff, being in any case a reason which is related to conduct or to capability or qualifications for performing work of the kind which the member of the academic staff concerned was appointed or employed to do, means:

(i) conviction for an offence which may be deemed by a Tribunal appointed under Part III to be such as to render the person convicted unfit for the execution of the duties of the office or employment as a member of the academic staff, or

(ii) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or

(iii) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office; or

(iv) physical or mental incapacity established under Part IV.

(b) In this paragraph:

(i) "capability", in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and

(ii) "qualifications", in relation to such a member, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by that member.

Meaning of "redundancy"

(6) For the purposes of this Statute dismissal shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to:

(a) the fact that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the member of the academic staff concerned was appointed or employed by the University, or has ceased, or intends to cease, to carry on that activity in the place in which the member concerned worked; or

(b) the fact that the requirements of that activity for members of the academic staff to carry out work of a particular kind, or for members of the academic staff to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.

Incidental, supplementary and transitional matters

(7) (a) In any case of conflict, the provisions of this Statute shall prevail over those of any other Statute and over those of the Rules and Regulations and the provisions of any Regulation made under this Statute shall prevail over those of any other Regulations:

Provided that Part III of and the Annex to this Statute shall not apply in relation to anything done or omitted to be done before the date on which the instrument making these modifications was approved under subsection (9) of section 204 of the Education Reform Act 1988.

(b) Nothing in any appointment made, or contract entered into, shall be construed as over-riding or excluding any provision made by this Statute concerning the dismissal of a member of the academic staff by reason of redundancy or for good cause; provided that nothing in this sub-paragraph shall prevent waivers made under section 197 of the Employment Rights Act 1996 from having effect.

(c) Nothing in any other Statute or in any Rule or Regulation made thereunder shall authorise or require any officer of the University to sit as a member of any Committee, Tribunal or body appointed under this Statute or to be present when any such Committee, Tribunal or body is meeting to arrive at its decision or for the purpose of discussing any point of procedure.

(d) In this Statute references to numbered Parts, paragraphs and sub-paragraphs are references to Parts, paragraphs, and sub-paragraphs so numbered in this Statute.

PART II—REduNDANCY

Purpose of Part II

(8) This Part enables the Council, as the appropriate body, to dismiss any member of the academic staff by reason of redundancy.

Exclusion from Part II of persons appointed or promoted before 20 November 1987
(3) (a) Nothing in this Part shall prejudice, alter or affect any rights, powers or duties of the University or apply in relation to a person unless:
(i) his appointment is made, or his contract of employment is entered into, on or after 20 November 1987; or
(ii) he is promoted on or after that date.
(b) For the purposes of this paragraph in relation to a person, a reference to an appointment made or a contract entered into on or after 20 November 1987 or to promotion on or after that date shall be construed in accordance with subsections (3) to (6) of Section 204 of the Education Reform Act 1988.

The Appropriate Body

(10) (a) The Council shall be the appropriate body for the purposes of this Part.
(b) This paragraph applies where the appropriate body has decided that it is desirable that there should be a reduction in the academic staff:
(i) of the University as a whole; or
(ii) of any college, school, department or other similar area of the University by way of redundancy.

(Statute 39 Continued)

(11) (a) Where the appropriate body has reached a decision under paragraph (10)(b) it shall appoint a Redundancy Committee to be constituted in accordance with sub-paragraph (c) of this paragraph to give effect to its decision by such date as it may specify and for that purpose:
(i) to select and recommend the requisite members of the academic staff for dismissal by reason of redundancy; and
(ii) to report their recommendations to the appropriate body.
(b) The appropriate body shall either approve any selection recommendation made under sub-paragraph (a), or shall remit it to the Redundancy Committee for further consideration in accordance with its further directions.
(c) A Redundancy Committee appointed by the appropriate body shall comprise:
(i) a Chairman; and
(ii) two members of the Council, not being persons employed by the University; and
(iii) two members of the academic staff nominated by the Senate.

Notices of intended dismissal

(12) (a) Where the appropriate body has approved a selection recommendation made under paragraph (11)(a) it may authorise an officer of the University as its delegate to dismiss any member of the academic staff so selected.
(b) Each member of the academic staff selected shall be given separate notice of the selection approved by the appropriate body.
(c) Each separate notice shall sufficiently identify the circumstances which have satisfied the appropriate body that the intended dismissal is reasonable and in particular shall include:
(i) a summary of the action taken by the appropriate body under this Part;
(ii) an account of the selection processes used by the Redundancy Committee;
(iii) a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part V (Appeals); and
(iv) a statement as to when the intended dismissal is to take effect.

PART III—DISCIPLINE, DISMISSAL AND REMOVAL FROM OFFICE

Disciplinary Procedures

(13) (a) Minor faults shall be dealt with informally.
(b) Where the matter is more serious but falls short of constituting possible good cause for dismissal the following procedure shall be used:

Stage 1—Oral Warning

If conduct or performance does not meet acceptable standards the member of the academic staff will normally be given a formal ORAL WARNING. The member will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of the right of appeal under this
paragraph. A brief note of the oral warning will be kept but it will be spent after 12 months, subject to satisfactory conduct and performance.

Stage 2—Written Warning

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the member of the academic staff by the Head of Department. This will give details of the complaint, the improvement required and the timescale. It will warn that a complaint may be made to the Registrar and Secretary seeking the institution of charges to be heard by a Tribunal appointed under paragraph (16) if there is no satisfactory improvement and will advise of the right of appeal under this paragraph.

A copy of this written warning will be kept by the Head of Department but it will be disregarded for disciplinary purposes after 2 years subject to satisfactory conduct and performance.

Stage 3—Appeals

A member of the academic staff who wishes to appeal against a disciplinary warning shall inform the Registrar and Secretary within two weeks. The appropriate Pro-Vice-Chancellor shall hear all such appeals and his decision shall be final.
(11) (a) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in paragraph (13), 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 Tribunal appointed under paragraph (16) may be made to the Registrar and Secretary who shall bring it to the attention of the Vice-Chancellor.

(b) To enable the Vice-Chancellor to deal fairly with any complaint brought to his attention under sub-paragraph (a) he shall institute such investigations or enquiries (if any) as appear to him to be necessary.

(c) If it appears to the Vice-Chancellor that a complaint brought to his attention under sub-paragraph (a) relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under paragraph (13) or which relates to a particular alleged infringement of Rules, Regulations or Byelaws for which a standard penalty is normally imposed in the University or within the college, school, department or other relevant area, or is trivial or invalid he may dismiss it summarily, or decide not to proceed further under this Part.

(d) If the Vice-Chancellor does not dispose of a complaint under sub-paragraph (c) he shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if he sees fit, he may suspend the member on full pay pending a final decision.

(e) Where the Vice-Chancellor proceeds further under this Part he shall write to the member of the academic staff concerned inviting comment in writing.

(f) As soon as may be following receipt of the comments (if any) the Vice-Chancellor shall consider the matter in the light of all the material then available and may:

(i) dismiss it himself; or

(ii) refer it for consideration under paragraph (13); or

(iii) deal with it informally himself if it appears to the Vice-Chancellor 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

(iv) direct the Registrar and Secretary to prefer a charge or charges to be considered by a Tribunal to be appointed under paragraph (16).

(g) If no comment is received within 28 days the Vice-Chancellor may proceed as aforesaid as if the member concerned had denied the substance and validity of the alleged case in its entirety.

Institution of Charges

(15) (a) In any case where the Vice-Chancellor has directed that a charge or charges be prefered under paragraph (14)(d)(iv), he shall request the Council to appoint a Tribunal under paragraph (16) to hear the charge or charges and to 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.

(b) Where the Council has been requested to appoint a Tribunal under paragraph (16) the Registrar and Secretary or, if he is unable to act, another officer appointed by the Vice-Chancellor shall take charge of the proceedings.

(c) The officer in charge of the proceedings 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 Tribunal.

(d) It shall be the duty of the officer in charge of the proceedings:

(i) to forward the charge or charges to the Tribunal and to the member of the academic staff concerned together with the other documents therein specified; and

(ii) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.

The Tribunal

(16) A Tribunal appointed by the Council shall comprise:

(a) a Chairman; and

(b) one member of the Council, not being a person employed by the University; and

(c) one member of the academic staff nominated by the Senate.
**Provisions concerning Tribunal procedure**

(17) (a) The procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal shall be that set out in Regulations made under this paragraph.

(b) Without prejudice to the generality of the foregoing such Regulations shall ensure:

(i) that the member of the academic staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;

(ii) that a charge shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed by him to represent him are entitled to be present;

(iii) that the member of the academic staff and any person representing the staff member may call witnesses and may question witnesses upon the evidence on which the case against him is based, and

(iv) that full and sufficient provision is made:

(A) for postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Vice-Chancellor for further consideration and for the correction of accidental errors; and

(B) for appropriate time limits for each stage (including the hearing) to the intent that any charge thereunder shall be heard and determined by a Tribunal as expeditiously as reasonably practicable.

**Notification of Tribunal decisions**

(18) (a) A Tribunal shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the Vice-Chancellor and to each party to the proceedings.

(b) A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

**Powers of the appropriate officer where charges are upheld by Tribunal**

(19) (a) Where the charge or charges are upheld and the Tribunal finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the member of the academic staff concerned.

(b) In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-paragraph (a) to dismiss the member of the academic staff concerned, the action available to the appropriate officer (not comprising a greater penalty than that recommended by the Tribunal) may be:

(i) to discuss the issues raised with the member concerned; or

(ii) to advise the member concerned about his future conduct; or

(iii) to warn the member concerned; or

(iv) to suspend the member concerned for such period as the appropriate officer shall think fair and reasonable, not to exceed 3 months after the Tribunal’s decision; or

(v) 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.

**Appropriate Officers**

(20) (a) The Vice-Chancellor shall be the appropriate officer to exercise the powers conferred by paragraph (19) and any reference to the appropriate officer includes a reference to a delegate of that officer.

(b) Any action taken by the appropriate officer shall be confirmed in writing.

**PART IV - REMOVAL FOR INCAPACITY ON MEDICAL GROUNDS**

(21) (a) This Part makes separate provision for the assessment of incapacity on medical grounds as a good cause for dismissal or removal from office.

(Statute 39 Continued)

(b) In this Part references to medical grounds are references to capability assessed by reference to health or any other physical or mental quality.
(c) In this Part references to the appropriate officer are references to the Vice-Chancellor or an officer acting as his delegate to perform the relevant act.

(d) References to the member of the academic staff include, in cases where the nature of the alleged disability so requires, a responsible relative or friend in addition to (or instead of) that member.

(22) (a) Where it appears that the removal of a member of the academic staff on medical grounds would be justified, the appropriate officer:
(i) shall inform the member accordingly; and
(ii) shall notify the member in writing that it is proposed to make an application to the member's doctor for a medical report and shall seek the member's consent in writing in accordance with the requirements of the Access to Medical Reports Act 1988.

(b) If the member shares that view the University shall meet the reasonable costs of any medical opinion required.

(c) If the member does not share that view the appropriate officer shall refer the case in confidence, with any supporting medical and other evidence (including any medical evidence submitted by the member), to a Board comprising one person nominated by the Council; one person nominated by the member concerned or, in default of the latter nomination, by the Senate; and a medically qualified chairman jointly agreed by the Council and the member or, in default of agreement, to be nominated by the President of the Royal College of Physicians.

(d) The Board may require the member concerned to undergo medical examination at the University's expense.

Termination of Employment

(23) If the Board determines that the member shall be required to retire on medical grounds, the appropriate officer shall direct the Registrar and Secretary or his delegate to terminate the employment of the member concerned on those medical grounds.

PART V – APPEALS

Purpose of Part V

(24) This Part establishes procedures for hearing and determining appeals by members of the academic staff who are dismissed or under notice of dismissal or who are otherwise disciplined.

Application and interpretation of Part V

(25) (a) This Part applies:
(i) to appeals against the decisions of the Council as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II;
(ii) to appeals arising in any proceedings, or out of any decision reached, under Part III other than appeals under paragraph (13) (Appeals against disciplinary warnings);
(iii) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
(iv) to appeals against discipline otherwise than in pursuance of Part III; and
(v) to appeals against decisions reached under Part IV and "appeal" and "appellant" shall be construed accordingly.

(b) No appeal shall however lie against:
(i) a decision of the appropriate body under paragraph (10)(b);
(ii) the findings of fact of a Tribunal under paragraph (18)(a) save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;
(iii) any finding by a Board set up under paragraph (22)(c).

(c) In this Part references to "the person appointed" are references to the person appointed by the Council under paragraph (28) to hear and determine the relevant appeal.

(d) The parties to an appeal shall be the appellant and the Registrar and Secretary and any other person added as a party at the direction of the person appointed.

Institution of Appeals

(26) A member of the academic staff shall institute an appeal by serving on the Registrar and Secretary, within the time allowed under paragraph (27), notice in writing setting out the grounds of the appeal.
Time for appealing and notices of appeal

(27) (a) A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under sub-paragraph (c).
(b) The Registrar and Secretary shall bring any notice of appeal received (and the date when it was served) to the attention of the Council and shall inform the appellant that he has done so.
(c) Where the notice of appeal was served on the Registrar and Secretary outside the 28 day period the person appointed under paragraph (28) shall not permit the appeal to proceed unless he considers that justice and fairness so require in the circumstances of the case.

Persons appointed to hear and determine appeals

(28) (a) Where an appeal is instituted under this Part the Council shall appoint a person described in sub-paragraph (b) to hear and determine that appeal.
(b) The persons described in this sub-paragraph are:
   (i) a person who is the Visitor; and
   (ii) a person not employed by the University holding, or having held, judicial office or being a barrister or solicitor of at least ten years’ standing.
(c) The person appointed shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons.
(d) The other persons who may sit with the person appointed shall be:
   (i) one member of the Council not being a person employed by the University; and
   (ii) one member of the academic staff nominated by the Senate.

Provisions concerning appeal procedures and powers

(29) (a) The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Regulations made under this paragraph.
(b) Without prejudice to the generality of the foregoing such Regulations shall ensure:
   (i) that an appellant is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of his appeal;
   (ii) that an appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by him to represent him are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses;
   (iii) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and
   (iv) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.
(c) The person or persons hearing the appeal may allow or dismiss an appeal in whole or in part and, without prejudice to the foregoing may:
   (i) remit an appeal from a decision under Part II to the Council as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or
   (ii) remit an appeal arising under Part III for re-hearing by a differently constituted Tribunal to be appointed under that Part; or
   (iii) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or persons hearing the appeal may direct; or
   (iv) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Tribunal which heard and pronounced upon the original charge or charges.

Notification of decisions

(30) The person appointed shall send the reasoned decision, including any decision reached in exercise of his powers under paragraph (29)(c)(i), (ii) or (iii), on any appeal together with any findings of fact different from those come to by the Council as the appropriate body under Part II or by the Tribunal under Part III, as the case may be, to the Vice-Chancellor and to the parties to the appeal.

Statute 39 Continued
PART VI - GRIEVANCE PROCEDURES

Purpose of Part VI
The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, within the college, school, department or other relevant area by methods acceptable to all parties.

Application

The grievances to which this Part applies are ones by members of the academic staff concerning their appointments or employment where those grievances relate:
   (a) to matters affecting themselves as individuals; or
   (b) to matters affecting their personal dealings or relationships with other staff of the University, not being matters for which express provision is made elsewhere in this Statute.

Exclusions and Informal Procedures

(a) If other remedies within the college, school, department or other relevant area have been exhausted the member of the academic staff may raise the matter with the Head of the college, school, department or other relevant area.

(b) If the member of the academic staff is dissatisfied with the result of an approach under sub-paragraph (a) or if the grievance directly concerns the Head of the college, school, department or other relevant area, the member may apply in writing to the Vice-Chancellor for redress of the grievance.

(c) If it appears to the Vice-Chancellor that the matter has been finally determined under Part III, IV or V or that the grievance is trivial or invalid, he may dismiss it summarily, or take no action upon it. If it so appears to the Vice-Chancellor he shall inform the member and the Grievance Committee accordingly.

(d) If the Vice-Chancellor is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of):
   (i) a complaint under Part III;
   (ii) a determination under Part IV; or
   (iii) an appeal under Part V
he shall defer action upon it under this Part until the relevant complaint, determination or appeal has been heard or the time for instituting it has passed and he shall notify the member and the Grievance Committee accordingly.

(e) If the Vice-Chancellor does not reject the complaint under sub-paragraph (c) or if he does not defer action upon it under sub-paragraph (d) he shall decide whether it would be appropriate, having regard to the interests of justice and fairness, for him to seek to dispose of it informally. If he so decides he shall notify the member and proceed accordingly.

Grievance Committee Procedure

If the grievance has not been disposed of informally under paragraph (33)(e), the Vice-Chancellor shall refer the matter to the Grievance Committee for consideration.

The Grievance Committee to be appointed by the Council shall comprise:
   (a) a Chairman (who may be a person who is the Visitor); and
   (b) one member of the Council not being a person employed by the University; and
   (c) one member of the academic staff nominated by the Senate.

Procedure in connection with determinations: and right to representation

The procedure in connection with the consideration and determination of grievances shall be determined in Regulations in such a way as to ensure that the aggrieved person and any person against whom the grievance lies shall have the right to be heard at a hearing and to be accompanied by a friend or representative.

Notification of decisions

The Committee shall inform the Council whether the grievance is or is not well-founded and if it is well-founded the Committee shall make such proposals for the redress of the grievance as it sees fit.

(Statute 39 Continued)

† Amended by Council on 14 December 1999.

ANNEX

PROVISIONS AS TO THE VICE-CHANCELLOR

(1) The Council may request its Chairman to remove the Vice-Chancellor from office for good cause in accordance with the procedure described in this Annex.
(a) A complaint seeking the removal from office of the Vice-Chancellor for good cause may be made by not less than three members of the Council to the Chairman of the Council.

(b) If it appears to the Chairman of the Council, on the material before him, that the complaint raises a prima facie case and that this could, if proved, constitute good cause for dismissal or removal from office he shall request the Council to appoint a Tribunal to hear and determine the matter.

(c) If it appears to the Chairman of the Council that a complaint made to him under sub-paragraph (a) does not raise a prima facie case or is trivial or invalid, he may recommend to the Council that no further action be taken upon it.

(d) Where the Council has appointed a Tribunal under sub-paragraph (b) it shall instruct a solicitor or other suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.

(e) A Tribunal appointed by the Council shall comprise:

(i) an independent Chairman; and
(ii) one member of the Council, not being a person employed by the University, and
(iii) one member of the academic staff.

(f) Subject to the principles of justice and fairness the Tribunal may determine its own procedure.

(g) Where a complaint is to be referred to a Tribunal under this Statute shall have effect subject to the following modifications:

(i) for references to a member of the academic staff there shall be substituted references to the Vice-Chancellor;

(ii) for any reference to the office of Vice-Chancellor there shall be substituted a reference to the office of Chairman of the Council;

(iii) for references to a member of the Council, not being a person employed by the University, and an independent Chairman; and

(iv) an independent Chairman;

(h) "Good cause" in this Annex has the same meaning as in paragraph (5) of this Statute.

(i) For the purpose of the removal of the Vice-Chancellor for incapacity on medical grounds, Part IV of this Statute shall have effect subject to the following modifications:

(a) for references to a member of the academic staff there shall be substituted references to the Vice-Chancellor;

(b) for any reference to the office of Vice-Chancellor there shall be substituted a reference to the office of Chairman of the Council;

(c) for paragraph (23) there shall be substituted:

"(23) If the Board determines that the Vice-Chancellor should be required to retire on medical grounds, it shall ask the Chairman as the appropriate officer, to decide whether or not to terminate the appointment of the Vice-Chancellor on those medical grounds."

THE LIBRARIES OF THE UNIVERSITY

40. (1) The charity known as "Bishop Cosin's Library" founded by Charter dated the 20th September, 1669, and the charity known as the "Maltby Library" consisting of the books, maps, engravings, prints and other pictures given or bequeathed by the Right Reverend Edward Maltby, Lord Bishop of Durham and of an endowment settled by an indenture dated the 16th January, 1855, together with their respective endowments shall be managed and administered by the University and the scheme of the Charity Commissioners dated the 2nd December, 1913, affecting Bishop Cosin's Library so far as the same is still subsisting shall be deemed to be amended accordingly.

(2) Bishop Cosin's Library and Maltby Library and the Library maintained by the University shall in future constitute one Library but so that the income from the endowments of Bishop Cosin's Library and of Maltby Library shall respectively be applied for the purposes of those Libraries.

(3) The provisions contained in clauses 17 and 19 of the said scheme, subject to necessary modifications (which clauses as so modified are set out in the appendix to these Statutes), shall remain in force. Save as aforesaid the said scheme is of no effect.
41. (1) There shall be a Students' Union;
    (2) The Students' Union will act in accordance with its Constitution as laid down in the Standing Orders of the Council of the University.

* New Statute made by Council on 7 July 1981 and subsequent Statutes renumbered.

*DURHAM UNIVERSITY ATHLETIC UNION

42. (1) There shall be an Athletic Union;
    (2) The Athletic Union will act in accordance with its Constitution as laid down in the Standing Orders of the Council of the University.

* New Statute made by Council on 7 July 1981 and subsequent Statutes renumbered.

*JUNIOR COMMON ROOMS

43. In each College and Society maintained or recognised by the University there shall be a Junior Common Room or a Students' Representative Council which shall be an independent body for financial purposes. Each Junior Common Room or Students' Representative Council will conduct the affairs of the student members of the College or Society in accordance with the custom or constitution which exists in that College or Society provided that any such powers do not infringe any powers accorded to other constitutions named in these Statutes.

* New Statute made by Council on 7 July 1981 and subsequent Statutes renumbered.

AFFILIATED COLLEGES

44. (1) Subject as in these Statutes provided, Codrington College, Barbados, shall continue to be affiliated to the University on the conditions prescribed by the General Regulations of the University. These conditions may be varied from time to time by the Council with the agreement of the institutions concerned.
    (2) The Council, on the recommendation of the Senate, may resolve that the provisions from time to time in force relating to the affiliation of any College or institution to the University be abrogated, varied or extended from such date as the Council may determine, which date shall not be less than two years from the date of the resolution unless the College or institution agree.
    (3) Any such abrogation, variation or extension shall be without prejudice to the rights of any students who are members of the University at the date of that abrogation, variation or extension+.
    (4) Any affiliated College or institution which is adversely affected by a resolution of the Council under this Statute may at any time within one year after the passing of the resolution represent to Her Majesty in Council that it has been adversely affected by such resolution and Her Majesty in Council may thereupon make such order in the matter as may be thought proper.
    (5) No other College or institution shall be affiliated to the University except under a Statute made in that behalf.

+ Under the provisions of this section and in agreement with Fourah Bay College, the affiliation of the College to the University of Durham was abrogated on 22 February 1967 - the date of the Royal Assent to the Act creating the new federal University of Sierra Leone and reconstituting the College as a constituent College of that University. This abrogation is without prejudice to the rights of students of the College who were members of the University of Durham prior to October 1966.

JOINT ACTIVITIES

45. The University shall, subject to the provisions of these Statutes, have the power to co-operate by means of Joint Boards or otherwise with the University of Newcastle upon Tyne, or any other University *or other higher education institution, for the extension of University teaching and influence in academic matters, and for such other purposes as the Council may from time to time determine.

* Added by Council on 17 December 1991.

PROCEDURE
46. (1) The following provisions shall save and except when other provision is expressly made in these Statutes apply to the Statutory Bodies and each of them:
(a) Any appointed member and the Chairman (other than an ex officio Chairman) may resign his office. Any appointed member and the Chairman (other than an ex officio Chairman) shall except as otherwise provided in the Standing Orders of the Council and the Senate be eligible for reappointment. An appointed member need not be a member of the body which appoints him;
(b) Any appointed member who is required by these Statutes to possess any qualification shall vacate office if he ceases to possess that qualification;
(c) There shall be a quorum at any meeting of any of the Statutory Bodies when ten members or not less than one-third of the members whichever may be the less are present. Every matter shall be determined by the majority of the members present and voting on the question. In case of equality of votes, the Chairman or other presiding officer shall have a second or casting vote;
(d) The Statutory Bodies may determine the time and place of their meetings and the procedure to be followed thereat;
(e) A member of any of the Statutory Bodies who is appointed to fill a casual vacancy shall hold office only for the unexpired term of office of the member in whose place he is appointed;
(f) The Statutory Bodies may appoint such and so many committees consisting either wholly or partly of members of the body as they may respectively think fit; and the provisions of this Statute shall apply to any Committee of any of the Statutory Bodies. #Provided that nothing in this paragraph shall enable the Council to delegate its power to reach a decision under paragraph (10)(b) of Statute 39;
(g) The term of office of the members of any of the Statutory Bodies constituted by these Statutes first appointed shall be reckoned from the appointed day and of any subsequent member other than a member appointed to fill a casual vacancy from the date when his predecessor vacated office;
(h) The Statutory Bodies may make regulations for the purpose of the exercise of any of their powers or the performance of any of their duties; provided that no such regulation shall be repugnant to law or to the Statutes of the University;
(i) The proceedings of the Statutory Bodies shall not be invalidated by any vacancy in their number or by any defect in the appointment or qualifications of the members.
(2) Any person appointed to an office under these Statutes shall except as otherwise provided in these Statutes be eligible for reappointment.

# Added by Council on 12 December 2000.

AMENDMENT OF STATUTES

47. (1) The Council may, after consultation with the Senate, make Statutes altering, adding to or repealing any of these Statutes (except this Statute).
(2) No Statute or part of a Statute made under this Statute shall have effect until it has been approved by Her Majesty in Council.
(3) Notwithstanding anything contained in the Statutory Instruments Act, 1946, the provisions of that Act shall not apply to an Order in Council or other document approving a Statute or part of a Statute made under this Statute.

SAVING FOR TEMPORARY PROVISIONS

48. These Statutes take effect as from the appointed day subject to the temporary provisions set out in the Second Schedule to the Act.

APPENDIX

BISHOP COSIN'S LIBRARY

17. The Library - The Library of Books shall be a public library which shall be open to all residents in the counties of Durham and Northumberland and to other persons provided that the University may from time to time make suitable rules for the regulation of the access to and user of the Library and the conduct of all persons resorting thereto.
18. User of Library Hall or Building - Subject to the exercise of the rights of access to and user of the Library Hall conferred by these provisions:

(a) the right of using the said Hall daily before 1 o'clock pm for purposes in connection with the University shall be vested in the University, save that the Lord Bishop of Durham shall be entitled to use the said Hall for not more than 12 days in each year for Ordination Examinations, and on one day in the year for a meeting in connection with the Society called "The Corporation of the Sons of the Clergy";

(b) the right of using the said Hall daily after 1 o'clock pm shall be vested in the Lord Bishop of Durham, save that the University shall be entitled to reserve the use of the said Hall for the holding therein of the University Convocation on such afternoons as may be agreed upon between the University and the Lord Bishop of Durham;

(c) by mutual arrangement the said Hall may from time to time be used by the Lord Bishop of Durham before 1 o'clock pm and by the University after 1 o'clock as occasion may require.

APPENDIX

REGULATIONS GOVERNING PROCEDURES FOR A TRIBUNAL
ESTABLISHED UNDER STATUTE 39 PART III

GENERAL

These Regulations are made under University Statute 39 paragraph 17 and govern the procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal established in accordance with Statute 39 (16).

In accordance with Statute 39 paragraph 17(b)(ii) no charge shall be determined without an oral hearing at which the member of the academic staff concerned and any person appointed by him/her to represent him/her are entitled to be present and may call witnesses.

The Chair of the Tribunal may set such time limits as he/she thinks appropriate to effect the expeditious hearing and determination of the charge or charges.

The Registrar and Secretary, or if he/she is unable to act, another officer appointed by the Vice-Chancellor, shall act as Secretary to the Tribunal and shall:

- formulate, or arrange for the formulation of, the charge or charges;
- fix the date for the Tribunal, giving notice of at least 20 working days;
- forward the charge or charges to the Tribunal and to the member of academic staff concerned;
- make any administrative arrangements for the summoning of witnesses;
- make administrative arrangements for the production and circulation of documents to the Tribunal and to the member of academic staff concerned;
- present, or arrange for the presentation of, the charge or charges before the Tribunal.

The Chair of the Tribunal shall:

- decide on any adjournments which are necessary or convenient;
- decide all questions of procedure under these Regulations before and during the hearing; this includes the power to set reasonable time limits for each and all of the stages of the procedure and to rule on particular questions, lines of questioning and lines of argument which may be out of order;
- appoint, should this seem to be in the interests of justice, a legal advisor who shall attend the hearing and give advice, during and after the hearing, to the Chair;
- generally conduct all business fairly and expeditiously.

ARRANGEMENTS FOR THE TRIBUNAL

DOCUMENTATION

Documentation from the parties which is to be considered at the Tribunal shall normally be exchanged within the time scales indicated below:

- The charge or charges shall be forwarded to the member of academic staff concerned by close of business no later than 20 working days prior to the date of the Tribunal.
- The member of academic staff concerned shall submit his/her response to the charge or charges by close of business no later than 8 working days prior to the date of the Tribunal.
- Any additional documentation may be produced only at the other party's request or by special permission of the Chair of the Tribunal.
- Neither party shall be permitted to introduce matters at the Tribunal which are not contained in the written documentation presented to the Tribunal.
The agenda and papers for the Tribunal shall be circulated by close of business no later than 5 working days prior to the date of the Tribunal.

CONDUCT OF THE TRIBUNAL

The Tribunal shall be conducted as outlined below:
The Chair shall open the proceedings by explaining the Statutes of the University under which the Tribunal sits and also the possible outcomes of the Tribunal.
The Chair shall then identify those present and shall also identify who shall be responsible for presenting the charge or charges, and who shall be responsible for presenting the case for the member of academic staff, as well as cross-examining any witnesses and making a closing statement for their respective parties.
The Chair shall then make a statement of the procedures that have taken place so far.
The Chair shall then call on the University to present the charge or charges including the calling of any witnesses. The Tribunal members shall have the opportunity to ask questions at this stage.
The Chair shall give the opportunity to the member of academic staff concerned to cross-examine any witnesses for the University. The Chair may cease the questioning at any stage.
The Chair shall then call on the member of academic staff concerned to present his/her case including the calling of any witnesses. The Tribunal members shall have the opportunity to ask questions at this stage.
The Chair shall give the opportunity to the University to cross-examine any witnesses for the member of academic staff concerned. The Chair may cease the questioning at any stage.
The Chair shall invite both parties to make a closing statement, the University first and the academic member of staff concerned last.
The Chair shall then advise the parties when they can expect to hear of the decision.
Variations from the arrangements indicated in 2(b)(i) above may be required by the Chair.
Variations from the arrangements indicated in 2(b)(i) above, at the request of one or both of the parties, shall only be permitted in exceptional circumstances and with the express permission of the Chair.

REPRESENTATION AND WITNESSES

By close of business no later than 10 working days prior to the date of the Tribunal both parties shall inform the Secretary of the Tribunal, who shall on the next working day inform the other party, of those who will represent or accompany them and of any witnesses whom they wish to call.
The parties may make changes to their list of representatives and witnesses. Any such changes shall be notified to the Secretary by close of business no later than 6 working days prior to the date of the Tribunal.
Representatives may be work colleagues or trade union officials. Representatives may be but need not be legally qualified.
Witnesses may attend the whole of the Tribunal.

CONFIDENTIALITY

Both the papers for and the proceedings of the Tribunal are private and confidential but may be used for any subsequent legal proceedings. No one involved in the Tribunal shall make any public statements concerning the charge or charges.

POSTPONEMENTS AND ADJOURNMENTS

The Chair may, of his/her own determination, or at the request of either party and with the consent of the other party, postpone or adjourn the hearing. He/she may also dismiss the charge or charges for want of prosecution, remit the charge or charges to the Vice-Chancellor for further consideration and take such action as he/she deems appropriate in respect of the correction of accidental errors.

APPENDIX
1. GENERAL
(a) These Regulations are made under University Statute 39 paragraph 29 and govern the procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals made in accordance with Statute 39 Part V.
(b) In accordance with Statute 39 paragraph 29(c)(ii) no appeal shall be determined without an oral hearing at which the appellant and any person appointed by him/her to represent him/her are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses.
(c) The person appointed to hear and determine the appeal (hereinafter the Appointed Person) may set such time limits as he/she thinks appropriate to effect the expeditious hearing and determination of the appeal.
(d) The University shall maintain a Council-approved list of persons who could be approached to serve as the Appointed Person in respect of an individual case without prior reference of that case to a meeting of Council.
(e) The University shall appoint a Secretary to the hearing, whose duties shall be to receive submissions, to circulate papers and to attend and make a record of the hearing. The Secretary shall be a senior member of the Registrar’s Department who is not a member of the HR Department. The Secretary shall seek to offer advice on procedure impartially to all concerned.
(f) The duties of the Appointed Person shall include:
(i) Fixing the date for the hearing, giving notice of at least 30 (normally not more than 35) working days.
(ii) Stating, at the time when the date is fixed, whether or not he/she is to sit alone or be accompanied by two other persons; in accordance with Statute 39 (28)(c) and (d).
(iii) Deciding on any adjournments which are necessary or convenient.
(iv) Deciding all questions of procedure under these regulations before and during the hearing; this includes the power to set reasonable time limits for each and all of the stages of the procedure and to rule on particular questions, lines of questioning and lines of argument which may be out of order.
(v) Appointing, should this seem to be in the interests of justice, a legal advisor who shall attend the hearing and give advice, during and after the hearing, to the Appointed Person.
(vi) Generally conducting all business fairly and expeditiously.
(g) One observer from each party shall be permitted.

2. ARRANGEMENTS FOR THE HEARING
(a) DOCUMENTATION
(i) Documentation from the parties which is to be considered at the hearing shall normally be exchanged within the time scales indicated below:
(A) The appellant shall submit his/her case by close of business no later than 20 working days prior to the date of the hearing.
(B) The University shall submit its response by close of business no later than 10 working days prior to the date of the hearing.
(ii) Any additional documentation may be produced only at the other party’s request or by special permission of the Appointed Person.
(iii) Neither party shall be permitted to introduce matters at the hearing which are not contained in the written documentation presented to the hearing.
(iv) The agenda and papers for the hearing shall be circulated by close of business no later than 7 working days prior to the date of the hearing.

(b) CONDUCT OF THE HEARING
(i) The hearing shall be conducted as outlined below:
(A) The Appointed Person shall open the proceedings by explaining the Statutes of the University under which he/she sits and also the possible outcomes of the hearing.
(B) The Appointed Person shall then identify those present and shall also identify who shall be responsible for presenting the case for the appellant and who shall be responsible for presenting the case for the University, as well as cross-examining any witnesses and making a closing statement for their respective parties (hereinafter these individuals shall be referred to as ‘the appellant’ and ‘the University’).
(C) The Appointed Person shall then make a statement of the procedures that have taken place so far and the nature of the University’s action.
(D) The Appointed Person shall then call on the appellant to present his/her case including the calling of any witnesses. The Appointed Person and his/her fellow hearers (if any) shall have the opportunity to ask questions at this stage.

(E) The Appointed Person shall give the opportunity to the University to cross-examine any witnesses for the appellant. The Appointed Person may cease the questioning at any stage.

(F) The Appointed Person shall ask the University to present its case, including the calling of any witnesses. The Appointed Person and his/her fellow hearers (if any) shall have the opportunity to ask questions.

(G) The Appointed Person shall give the opportunity to the appellant to cross-examine any witnesses for the University. The Appointed Person may cease the questioning at any stage.

(H) The Appointed Person shall invite both parties to make a closing statement, the University first and the appellant last.

(I) The Appointed Person shall then advise the parties when they can expect to hear of the decision.

(ii) Variations from the arrangements indicated in 2(b)(i) above may be required by the Appointed Person.

(iii) Variations from the arrangements indicated in 2(b)(i) above, at the request of one or both of the parties, shall only be permitted in exceptional circumstances and with the express permission of the Appointed Person.

(c) REPRESENTATION AND WITNESSES

(i) By close of business no later than 13 working days prior to the date of the hearing both parties shall inform the Secretary, who shall, on the next working day, inform the other party, of those who will represent or accompany them and of any witnesses whom they wish to call.

(ii) The parties may make changes to their list of representatives and witnesses. Any such changes shall be notified to the Secretary by close of business no later than 10 working days prior to the date of the hearing.

(iii) Representatives may be but need not be legally qualified.

(iv) The appellant may be called as a witness at the hearing of his/her appeal.

(v) Witnesses may attend the whole of the hearing.

(d) CONFIDENTIALITY

Both the papers for and the proceedings at the hearing are private and confidential but may be used for any subsequent legal proceedings. No one involved in the hearing shall make any public statements concerning the appeal.

(e) POSTPONEMENTS AND ADJOURNMENTS

The Appointed Person may, of his/her own determination, or at the request of either party and with the consent of the other party, postpone or adjourn the hearing. He/she may also dismiss the appeal for want of prosecution and take such action as he/she deems appropriate in respect of the correction of accidental errors.
Draft Regulations under Statute 39 for Approval by Senate and Council

Part 1 Disciplinary Regulation ................................................................. 2
Part 2 Disciplinary Procedure – Grades 6 to 10............................................. 8
Part 3 Disciplinary Procedure – Grades 1 to 5............................................. 13

Part 1 Grievance Regulation ....................................................................... 18
Part 2 Grievance Regulation Procedure – Grades 6 to 10.............................. 22
Part 3 Grievance Procedure – Grades 1 to 5............................................... 25

Part 1 Ill Health and Absence Regulation .................................................... 28
Part 2 Ill Health and Absence Procedure - Grades 6 to 10............................ 31
Part 3 Ill Health and Absence Procedure - Grades 1 to 5............................... 36

Part 1 Performance Improvement Regulation ............................................. 43
Part 2 Formal Performance Improvement Procedure – Grades 6 to 10 ......... 47
Part 3 Formal Performance Improvement Procedure – Grades 1 to 5 ............ 52

Part 1 Regulation for Dealing with Unsatisfactory Performance During Probation ...... 58
Part 2 Formal Probation Performance Review Procedure – Grades 6 to 10 .... 61
Part 3 Formal Probation Review Procedure – Grades 1 to 5 ......................... 67

Part 1 Redundancy Regulation .................................................................... 72
Part 2 Redundancy Procedure - Grades 6 to 10 ............................................ 76
Part 3 Redundancy Procedure - Grades 1 to 5 ............................................. 80

Part 1 Removal from an Appointed Office Regulation ................................. 84
Part 2 Removal from an Appointed Office Procedure ................................. 84

Part 1 Disciplinary Regulation

1. Introduction

   1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).

   1.2 Where the term ‘line manager’ is used, this refers to the Head of Department, Head of House or the member of staff’s immediate supervisor/manager.

   1.3 References to ‘Department’ also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct disciplinary meetings should be sought from HR.

   1.4 Any reference to Head of Department, Head of House or HR Director also includes any person acting for him/her.

2. Purpose and Scope

   2.1 The Disciplinary Regulation is an aid to good management and should not be viewed only as a means of imposing sanctions.

   2.2 Handled well, disciplinary meetings can:

      a) help to establish and maintain the highest standards of conduct;
      b) encourage members of staff to improve their conduct;
      c) demonstrate to all staff that the University acts fairly and consistently in maintaining these standards.

   2.3 This is not the only route to resolving difficulties and advice should be sought from HR, before invoking the procedures outlined in Part 2 and Part 3 to ensure this is the most appropriate route to take.

   2.4 This Regulation applies to all staff employed by the University who have completed their probation and have been confirmed in post (with the exception of the Vice-Chancellor for whom separate provision is made).

   2.5 For staff on probation, it is expected that the principles outlined below will generally be followed. Heads of Department should seek further advice from HR regarding staff on probation.

3. Responsibility for Managing Discipline

   3.1 Heads of Department and Heads of House have overall responsibility for investigating disciplinary matters and conducting disciplinary meetings for the staff in their departments.

      3.1.1 A Head of Department or Head of House who wishes to delegate responsibility for the conducting of a disciplinary meeting, must agree this in advance with HR.
3.2 The appropriate Divisional Head will handle disciplinary matters concerning a Head of Department or Head of House, for example a Pro-Vice-Chancellor for matters concerning Heads of Academic Departments or the Registrar for matters concerning Heads of Professional Support Departments. Confirmation of the appropriate person should be sought from HR.

3.3 The Vice-Chancellor will handle disciplinary matters for Divisional Heads and Pro-Vice-Chancellors.

3.4 Confirmation of the appropriate person for managing disciplinary matters for any other category of staff, not included in 3.1, 3.2 or 3.3, should be sought from HR.

4. Principles

4.1 This Regulation provides a clear and transparent framework to ensure all staff are treated consistently and issues are dealt with fairly, reasonably and in accordance with employment law.

4.2 The following principles will apply to all stages of the Disciplinary Regulation:

a) Disciplinary issues will be raised and dealt with without unnecessary delay. Meetings, discussions, decisions or confirmation of decisions should not be unreasonably delayed.

b) In all cases, including where dismissal is contemplated as a potential outcome, the member of staff will be informed, in writing, in advance of any disciplinary hearing.

c) No disciplinary sanction will be imposed against a member of staff until the case has been fully investigated.

d) At every stage in the process, the member of staff will be advised of the nature of the complaint and will be given the opportunity to state his/her case before any decision is made.

e) At all stages, members of staff will have the right to be accompanied by a trade union representative or work colleague, i.e. a colleague employed by the University.

f) No member of staff will be dismissed for a first breach of discipline, except in the case of gross misconduct.

g) Staff will have the right to appeal against any formal disciplinary penalty imposed.

h) All staff will be treated consistently, fairly and with respect.

i) Use of an appropriate third party to help resolve the problem, whether internal or external, may be considered where appropriate e.g. a qualified workplace mediator chosen from an approved list maintained by the HR Director.

5. Managing Disciplinary Matters outside the Formal Process

5.1 There will be occasions where the seriousness of the incident in question necessitates the immediate use of the formal parts of this Regulation. However the Regulation does not preclude, in any way, the day-to-day counselling or guidance of staff by their immediate manager. This is encouraged as good management practice to achieve improvements which avoid the need for formal disciplinary action.

5.2 For minor cases of misconduct, particularly with first offences and/or staff who are still fairly new to the University, an informal meeting may bring about the desired improvement and may be more appropriate. Such meetings are not part of the Formal Disciplinary Regulation and under normal circumstances, staff are not accompanied at these informal meetings.

5.3 Notes should be kept of any meetings so that where the misconduct being dealt with informally continues, or is repeated and there is therefore the possibility of formal disciplinary action, there is evidence to show that earlier attempts to understand and address the problem and/or offer support have been made.

5.4 Where such minor misconduct is repeated or further instances of misconduct occur and/or it is clear that an informal approach is not bringing about the desired improvement, the Formal Disciplinary Process should be used.

6. Use of the Formal Disciplinary Process

6.1 Use of the Formal Disciplinary Process may be appropriate if:

a) informal attempts to resolve a problem have not succeeded; or

b) if the member of staff has previously received a warning which is still current at the time of the conduct complained of; or

c) if a first instance of misconduct is sufficiently serious to warrant formal action being taken.

6.2 Misconduct

6.2.1 Among the acts of misconduct which may be the subject of disciplinary procedures are:

a) conduct which disrupts the work effort of others;

b) unsatisfactory attendance at work, e.g. unauthorised absenteeism, lateness, leaving work without permission, overstaying lunch or tea breaks;

c) failing to observe University and agreed local procedures for the recording of working time and attendance, reporting of sickness, and time off work;

d) failing to conform to agreed working practices;

e) refusing or failing to carry out a reasonable management instruction;

f) misuse of the Internet, Email or other University facilities;

g) failing to take reasonable care of University property;

h) using University property, equipment or transport for private use without authorisation;

i) disclosing confidential information without authorisation;

j) failure to comply with the University’s No Smoking Policy;

k) failure to comply with any other University policy.

6.2.2 The above examples are not exclusive or exhaustive and offences of a similar nature will be dealt with accordingly. Any misconduct of a sufficiently serious nature or persistent offences of misconduct, may be deemed as gross misconduct and dealt with accordingly.

6.3 Gross misconduct

If a member of staff is believed to have committed an act of gross misconduct, advice should be sought immediately from HR.
6.3.1 Examples of gross misconduct

Among the acts of gross misconduct, which may result in summary dismissal are:

a) a serious neglect of duty and responsibility;
b) harassment or bullying, or using abusive or threatening language or conduct, or language or conduct of a discriminatory nature in accordance with the University’s Respect at Work and Study Policy and Diversity Policy;
c) bringing the University into serious disrepute;
d) committing a criminal offence which renders the member of staff unsuitable for his/her type of work or which has a serious impact on their relationships with other members of staff or students or could impact on the reputation of the University;
e) serious breach of the University’s Respect at Work and Study Policy;
f) theft of University property, theft from University employees or students, or theft whilst engaged on University business;
g) fraudulently obtaining money, property, confidential information or material advantage from the University;
h) unauthorised entry to computer records;
i) deliberate falsification of official records;
j) deliberate falsification of claims for earnings and expenses;
k) assault or attempted assault or physical violence;
l) malicious damage to University property;
m) incapacity to work due to being under the influence of alcohol / illegal substances;
n) serious breach of health and safety rules;
o) misuse of confidential information of the University;
p) fraudulent misuse of the University’s property or name;
q) misuse of the Internet, Email or other University facilities, such that it is of a serious sexual, racial or other serious matter or is potentially a criminal act;
r) serious failure to comply with any University policy.

6.3.2 The above examples are not exclusive or exhaustive and offences of a similar nature will be dealt with accordingly.

7. Suspension from duty

7.1 Where an allegation of a serious offence has been made against a member of staff, for example an offence that may amount to gross misconduct, it may be appropriate to suspend the member of staff from duty on full pay.

7.2 This will provide an opportunity for a full investigation to be undertaken to gather relevant evidence and determine whether a disciplinary hearing should take place.

7.3 In all cases, suspension may only be carried out on the authority of the HR Director or his/her Deputy following appropriate consultation, normally with the Divisional Head.

7.4 The period of suspension will be as brief as possible and will be kept under review.

7.5 The University may consider alternatives to suspension, for example temporary re-deployment, additional supervision or the restriction of duties, as is deemed appropriate in the circumstances.

7.6 If an incident occurs outside office hours and is considered sufficiently serious to warrant suspension (eg a member of staff is under the influence of alcohol and unfit to work or a physical assault has taken place) the most senior manager available may instruct the member of staff to cease work and not attend work, pending a determination by the HR Director as to whether suspension is appropriate. The manager issuing that instruction should inform HR as soon as practicable on the next working day.

7.7 It should be emphasised that suspension from duty is not a disciplinary measure in itself but is carried out, without prejudice, to permit a full and proper investigation.

7.8 Any conditions of suspension will be notified to the member of staff at the time of suspension and confirmed when the suspension is confirmed in writing. If the member of staff is unavailable he/she will be informed of the decision to suspend in writing. At the time of suspension and in the written confirmation, the member of staff will be informed of the conditions of their suspension, for example, prior permission in order to enter University premises.

7.9 A member of staff who has been suspended from duty will have the suspension confirmed in writing within three working days. The member of staff will be informed of the date on which their suspension will be reviewed if this date falls before the investigation has been completed or before a disciplinary hearing, where appropriate. The member of staff will also be advised that the suspension is not a disciplinary sanction in itself and will also be advised at regular intervals of the manner in which the investigation is to proceed.

7.10 Except for approved leave of absence, the member of staff must remain generally contactable and available during normal working hours in order that he/she can attend meetings. Any change of address or telephone number during this period should be notified immediately to HR.

7.11 In certain circumstances, the University may also have a duty to inform relevant professional bodies of a member of staff’s suspension from duty.

7.12 The member of staff will be informed in writing when the suspension is lifted.

8. Cases involving criminal offences

8.1 A member of staff should not automatically be subject to formal disciplinary action solely as a result of being arrested, charged, convicted or cautioned for a criminal offence which has occurred outside his/her employment.

8.2 In such circumstances, consideration will be given to whether the offence is one that makes him/her unsuitable for his/her type of work or has a serious impact on their relationships with other members of staff or students or could impact on the reputation of the University. Advice should be sought from HR.
9. Confidentiality

9.1 Statements, letters and other communications are confidential to those involved in the disciplinary process.

10. Non-attendance

10.1 Members of staff are expected to attend meetings convened under this Regulation.

10.2 If a member of staff does not attend a disciplinary meeting without good reason, the meeting may proceed in his/her absence. Normally, however, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

10.3 Where a member of staff is persistently unable or unwilling to attend a disciplinary meeting without good cause, the Head of Department or Head of House will make a decision on the evidence available.

11. Union Officials

11.1 If a Head of Department or Head of House believes a union branch secretary/shop steward or other official has, or may have, committed an act of misconduct under the University’s Disciplinary Regulation, advice should be immediately sought from HR.

11.2 Normally, no action will be taken until the circumstances of the case have been discussed with a senior trade union representative or an official employed by the union, after obtaining the member of staff’s agreement.

12. Representation

12.1 All staff have the right at meetings and appeals, under this part of the Regulation, to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representative/work colleague to attend the meeting(s).

12.2 Staff should always be allowed adequate time to arrange representation and members of staff and their work colleagues should make every effort to attend the meeting. If a representative or work colleague is unavailable on the date of the formal meeting, the manager should rearrange the meeting on a suitable alternative date, provided this is within a reasonable timescale eg within five working days after the date initially proposed.

12.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable, paid time off to prepare for and attend the meeting.

12.4 The trade union representative or work colleague accompanying the member of staff is entitled to put the member of staff’s case, to sum up the member of staff’s case, to respond on the member of staff’s behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The representative or work colleague may request adjournments to discuss and give advice to the member of staff.

12.5 The trade union representative or work colleague does not have a right to answer questions on behalf of the member of staff and should not address the hearing if the member of staff does not wish it. Those present must not behave in a way that prevents the manager explaining his/her views or that prevents any other person present from making his/her contribution to the meeting.

13. HR Representation

13.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

13.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

14. Recording of meetings

14.1 Recording of meetings is not permitted.

15. Equal Opportunity

15.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University’s Diversity and Equality Policy.

Part 2 Disciplinary Procedure – Grades 6 to 10

1. Investigation

1.1 The purpose of the investigation is to gather relevant information and to determine if there is a potential disciplinary case to answer. It is not the purpose of the investigation to decide whether a disciplinary offence has occurred, what sanction may be appropriate or to reach definitive findings of fact, although the investigator may report the facts as they appear to him/her at that stage.

1.2 If there is no disagreement concerning the facts because the member of staff admits the misconduct or the Head of Department witnessed all the events and is not otherwise involved, an investigation may not be necessary before a disciplinary hearing is arranged.
1.3 However, in cases where the misconduct is not admitted or if there are conflicting views or evidence, further investigation will usually be appropriate before a decision is taken to proceed further under this part of the Regulation.

1.4 It is important to carry out any such investigations of potential disciplinary matters without unnecessary delay to establish the facts of the case. In some cases this will require holding an investigatory meeting with the member of staff before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the Head of Department for use at any disciplinary hearing.

1.5 Depending on the complexity of the case and to ensure impartiality, the Head of Department will normally appoint an appropriate ‘Investigating Officer’ to carry out the investigation.

1.6 The Investigating Officer will not be the member of staff’s line manager or the line manager of any person making a complaint that led to the disciplinary action, or the person who will conduct any disciplinary hearing.

1.7 At an investigatory interview, the person conducting the investigation should remind the member of staff that the interview itself is not of a disciplinary nature. They should point out, however, that a disciplinary hearing may be convened as a result of it.

1.8 Upon the completion of a disciplinary investigation, the person conducting the investigation will submit a report to the Head of Department which will contain recommendations on whether or not a formal disciplinary hearing should be convened and whether the case is one for which dismissal should be considered as a potential sanction. A copy of that report will be made available to the member of staff at the earliest opportunity.

1.9 If the allegation of misconduct concerns a Head of Department, or if a possible outcome of the disciplinary hearing is dismissal, the report will be provided to the relevant Divisional Head.

1.10 If the allegation of misconduct concerns a member of the University Executive Committee the report will be provided to the Vice-Chancellor.

2. Written invitation to a disciplinary hearing

2.1 Where a formal disciplinary hearing is to take place, the member of staff shall be invited, in writing, to attend that meeting and will be advised, in writing, of the nature of the complaint or allegations against him/her.

2.2 The member of staff shall also be advised of the right to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University.

2.3 The notification should contain sufficient information about the alleged misconduct and its possible consequences to enable the member of staff to prepare to answer the case at a disciplinary meeting.

2.4 If dismissal is contemplated as a possible outcome of the disciplinary hearing, the member of staff must be advised of this in writing when invited to attend the hearing.

2.5 The member of staff shall also receive copies of any written documents (or other written material which may include any witness statements) to which reference will be made at the disciplinary hearing, in advance of any disciplinary hearing.

2.6 The meeting should be held without unreasonable delay, whilst allowing the member of staff reasonable time to prepare their case.

2.7 Reasonable notice, usually at least ten working days, shall be given to the member of staff of the disciplinary hearing, unless agreed otherwise with the member of staff. This will allow adequate time for the member of staff to consult with their trade union representative (if appropriate) and to prepare their case.

2.8 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to hear the disciplinary hearing at least two days in advance of the disciplinary hearing.

2.9 Meetings under this part of the Regulation will normally by chaired by the Head of Department or his/her nominated representative, if agreed with HR in advance. A representative from HR will be present to provide advice and guidance.

2.10 If the allegation of misconduct concerns a Head of Department, the meeting will be chaired by the relevant Divisional Head. If the allegation of misconduct concerns a member of the University Executive Committee, the meeting will be chaired by the Vice-Chancellor.

2.11 If a possible outcome of the disciplinary hearing is dismissal, a panel will be convened to hear the case. The panel will normally consist of a Divisional Head to act as Chair and two other members of staff nominated by the HR Director (or his/her Deputy). A representative from HR will be in attendance to provide advice and guidance.

3. Conducting the meeting

3.1 The purpose of the meeting is to:
   a) present the member of staff with the alleged complaint and go through the evidence gathered during the investigation;
   b) allow the member of staff or their representative the opportunity to present the case, to answer any allegations, to offer an explanation and call any witnesses;
   c) allow the Head of Department and Investigating Officer the opportunity to question the member of staff and his/her representative and any witnesses who have been called.

3.2 Where witnesses are to be called, the Head of Department or member of staff must give at least five working days advance notice that they intend to do this.

3.3 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.
3.4 If required, a further person, normally from HR, will act as note taker during the meeting.

3.5 The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

4. **Overlapping grievance and disciplinary cases**

4.1 Where a member of staff raises a grievance during a disciplinary process, and the grievance and disciplinary cases are related, both cases will normally be dealt with concurrently.

4.2 Where it is not appropriate to deal with both issues concurrently the disciplinary process may be temporarily suspended in order to deal with the grievance.

4.3 The approach will be mindful of the need to avoid multiplicity of procedures and associated delay.

5. **Disciplinary sanctions**

5.1 Where misconduct is established at a disciplinary hearing, the sanctions which may be applied are as follows:

a) informal action only;
b) formal oral warning;
c) formal written warning;
d) formal, final written warning;
e) dismissal (but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome).

5.2 The level of sanction to be applied should be determined according to the seriousness of the misconduct and taking account of any mitigation presented. For the avoidance of doubt, this means that a formal written warning can be issued, notwithstanding that a formal oral warning has not previously been issued. Similarly a formal, final written warning can be issued, notwithstanding that a formal written warning has not previously been issued.

5.3 Any warning issued shall be confirmed in writing and shall:

a) clearly state the reason for the warning;
b) clearly state the period for which the warning will last and (where relevant) details of the expected improvement in conduct and how this will be monitored (with a timescale);
c) state the consequence of any further misconduct during the periods specified in the warning including, where a formal final written warning has been issued, that the consequence of further misconduct could result in dismissal;
d) remind the member of staff of his/her right of appeal and how this shall be exercised.

5.4 Where a warning is given (including an oral warning) a record of the warning will be placed on the member of staff's file in HR and will be kept on that file for the following periods, subject to satisfactory conduct:

- formal oral warning – 6 months, subject to satisfactory conduct;
- formal written warning - 12 months, subject to satisfactory conduct;
- formal, final written warning - 12 months, subject to satisfactory conduct.

These warnings will be considered spent at the end of the designated duration of the warnings.

6. **Dismissal**

6.1 A decision to dismiss shall be confirmed in writing and shall:

a) clearly state the reason for the dismissal;
b) the date on which the employment will terminate;
c) specify whether the dismissal is with or without notice/pay in lieu of notice;
d) remind the member of staff of his/her right of appeal and how this shall be exercised;
e) confirm that the decision will be reported to Council.

6.2 If it is proposed that the Registrar and Secretary, or the Treasurer, be dismissed from post, no decision will be taken until the proposal has been considered by Council.

7. **Appeals**

7.1 A member of staff who wishes to appeal against a disciplinary warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning; full details of the grounds of appeal must be included.

7.2 An appeal against a disciplinary warning, up to and including the level of formal, final written warning, will be heard without unreasonable delay by an appropriate senior manager/officer not previously involved in the case, nominated by the HR Director (or his/her deputy).

7.3 An appeal against dismissal will be heard by an Appeal Panel comprising two Lay Members of Council and one senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.4 An appeal against the dismissal of the Registrar and Secretary, or the Treasurer, will be heard by an Appeal Panel comprising two Lay Members of Council (including the Chair of Council) and one senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.4 In cases of an appeal against dismissal, the decision of the Appeal Panel will be reported to Council.

7.5 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

7.6 A representative of HR will also be present at the appeal hearing.

7.7 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.
7.8 Staff will be entitled to be represented at appeal hearings against decisions reached as part of the Disciplinary Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity), or a trade union representative.

7.9 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents on which he/she intends to rely upon and/or their statement of case to HR as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

7.10 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff’s absence.

7.11 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

   a) that the original decision of the disciplinary hearing be upheld in its entirety;
   b) that the grounds for appeal be found in their entirety and that the disciplinary action be expunged from the member of staff's record or that the dismissal is overturned;
   c) that a lesser sanction be substituted for that imposed by the original disciplinary hearing.

Part 3 Disciplinary Procedure – Grades 1 to 5

1. Investigation

1.1 The purpose of the investigation is to gather relevant information and to determine if there is a potential disciplinary case to answer. It is not the purpose of the investigation to decide whether a disciplinary offence has occurred, what sanction may be appropriate or to reach definitive findings of fact, although the investigator may report the facts as they appear to him/her at that stage.

1.2 If there is no disagreement concerning the facts because the member of staff admits the misconduct or the line manager/Head of Department witnessed all the events and is not otherwise involved, an investigation may not be necessary before a disciplinary hearing is arranged.

1.3 However, in cases where the misconduct is not admitted or if there are conflicting views or evidence, further investigation will usually be appropriate before a decision is taken to proceed further under this part of the Regulation.

1.4 It is important to carry out any such investigations of potential disciplinary matters without unnecessary delay to establish the facts of the case. In some cases this will require holding an investigatory meeting with the member of staff before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the Head of Department or line manager for use at any disciplinary hearing.

1.5 Depending on the complexity of the case and to ensure impartiality, the Head of Department or line manager will normally appoint an appropriate ‘Investigating Officer’ to carry out the investigation.

1.6 The Investigating Officer will not be the member of staff’s line manager, the line manager of any person making a complaint that led to the disciplinary action or the person who will conduct the disciplinary hearing.

1.7 At an investigatory interview, the person conducting the investigation should remind the member of staff that the interview itself is not of a disciplinary nature. They should point out, however, that a disciplinary hearing may be convened as a result of it.

1.8 Upon the completion of a disciplinary investigation, the person conducting the investigation will submit a report to the Head of Department which will contain recommendations on whether or not a formal disciplinary hearing should be convened and whether the case is one for which dismissal should be considered as a potential sanction. A copy of that report will be made available to the member of staff at the earliest opportunity.

2. Written invitation to disciplinary hearing

2.1 Where a formal disciplinary hearing is to take place, the member of staff shall be invited, in writing, to attend the meeting and will be advised, in writing, of the nature of the complaint or allegations against him/her.

2.2 The member of staff shall also be advised of their right to be accompanied by a trade union representative or work colleague.

2.3 The notification should contain sufficient information about the alleged misconduct and its possible consequences to enable the member of staff to prepare to answer the case at a disciplinary meeting.

2.4 If dismissal is contemplated as a possible outcome of the disciplinary hearing, the member of staff must be advised of this in writing when invited to attend the hearing.

2.5 The member of staff will also receive copies of any written documents (or other written material which may include any witness statements) to which reference will be made at the disciplinary hearing in advance of any disciplinary hearing.

2.6 The meeting should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

2.7 Reasonable notice, usually at least five working days, shall be given to the member of staff of the disciplinary hearing, unless agreed otherwise with the member
of staff. This will allow adequate time for the member of staff to consult with his/her trade union representative (if appropriate) and to prepare their case.

2.8 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to hear the disciplinary hearing at least two days in advance of the disciplinary hearing.

2.9 Meetings under this part of the Regulation will normally be chaired by the Head of Department or his/her nominated representative (agreed with HR in advance). A representative from HR will be present to provide advice and guidance.

3. Conducting the meeting

3.1 The purpose of the meeting is to:

a) present the member of staff with the alleged complaint and go through the evidence gathered during the investigation;

b) allow the member of staff or their representative the opportunity to present their case, to answer any allegations, to offer an explanation and call any witnesses;

c) allow the Head of Department and Investigating Officer the opportunity to question the member of staff and his/her representative and any witnesses who have been called.

3.2 Where witnesses are to be called, the Head of Department or member of staff must give at least five working days advance notice that they intend to do this.

3.3 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

3.4 If required a further person, normally from HR, will act as note taker during the meeting.

3.5 The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

4. Overlapping grievance and disciplinary cases

4.1 Where a member of staff raises a grievance during a disciplinary process, and the grievance and disciplinary cases are related, both cases will normally be dealt with concurrently.

4.2 Where it is not appropriate to deal with both issues concurrently, the disciplinary process may be temporarily suspended in order to deal with the grievance.

4.3 The approach will be mindful of the need to avoid multiplicity of procedures and associated delay.

5. Disciplinary sanctions

5.1 Where misconduct is established at a disciplinary hearing, the sanctions which may be applied are as follows:

a) informal action only;

b) formal oral warning;

c) formal written warning;

d) formal, final written warning;

e) dismissal (but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome).

5.2 The level of sanction to be applied should be determined according to the seriousness of the misconduct and taking account of any mitigation presented. For the avoidance of doubt, this means that a formal written warning can be issued, notwithstanding that a formal oral warning has not previously been issued. Similarly a formal, final written warning can be issued, notwithstanding that a formal written warning has not previously been issued.

5.3 Any warning issued shall be confirmed in writing and shall:

a) clearly state the reason for the warning;

b) clearly state the period for which the warning will last and (where relevant) details of the expected improvement in conduct and how this will be monitored (with a timescale);

c) state the consequence of any further misconduct during the periods specified in the warning, including where a formal, final written warning has been issued, that the consequence of further misconduct, could result in dismissal;

d) remind the member of staff of his/her right of appeal and how this shall be exercised.

5.4 Where a warning is given (including an oral warning) a record of the warning will be placed on the member of staff's file in HR and will be kept on that file for the following periods, subject to satisfactory conduct:

a) formal oral warning - 6 months, subject to satisfactory conduct;

b) formal written warning - 12 months, subject to satisfactory conduct;

c) formal, final written warning - 12 months, subject to satisfactory conduct.

These warnings will be considered spent at the end of the designated duration of the warnings.

6. Dismissal

6.1 A decision to dismiss shall be confirmed in writing and shall:

a) clearly state the reason for the dismissal;

b) state the date on which the employment will terminate;

c) specify whether the dismissal is with or without notice/pay in lieu of notice;

d) remind the member of staff of his/her right of appeal and how this may be exercised.

7. Appeals
7.1 A member of staff who wishes to appeal against a disciplinary warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning; full details of the grounds of appeal must be included.

7.2 An appeal against a disciplinary warning up to and including the level of formal, final written warning will be heard without unreasonable delay by an appropriate senior member of staff not previously involved in the case, nominated by the HR Director.

7.3 An appeal against dismissal will be heard by an Appeals Panel comprising three senior members of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.4 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

7.5 A representative of HR will also be present at the appeal hearing.

7.6 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.

7.7 Staff will be entitled to be represented at appeal hearings against decisions reached as part of the Disciplinary Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

7.8 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents on which he/she intends to rely upon and/or their statement of case. This must be provided to HR as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

7.9 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff’s absence.

7.10 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

1. that the original decision of the disciplinary hearing be upheld in its entirety;
2. that the grounds for appeal be found in their entirety and that the disciplinary action be expunged from the member of staff's record;
3. that a lesser sanction be substituted for that imposed by the original disciplinary hearing.

Part 1 Grievance Regulation

1. Introduction

1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).

1.2 Where the term ‘line manager’ is used, this refers to the Head of Department, Head of House or the member of staff’s immediate supervisor/manager.

1.3 References to ‘Department’ also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct grievance meetings should be sought from HR.

1.4 Any reference to Head of Department, Head of House or HR Director also includes any person acting for him/her.

2. Purpose and Scope

2.1 The aim of the Grievance Regulation is to settle a concern, problem or complaint fairly, promptly, in as objective a way as possible and as near as possible to the source of the grievance.

2.2 It is expected that most issues will be resolved in the course of the normal working relationship, without resorting to the use of this Regulation.

2.3 In the first instance, members of staff who are experiencing problems should contact their Head of Department or line manager or an HR Representative to discuss any concerns with the aim of resolving the problem informally eg by the use of qualified workplace mediators where appropriate.

2.4 If the issue cannot be resolved informally, the procedure in Parts 2 and 3 of this Regulation should be followed.

2.5 This Regulation applies to all staff employed by the University (with the exception of the Vice-Chancellor for whom separate provision is made).

3. Principles

3.1 Staff should raise grievances in a timely manner and without unreasonable delay. The University reserves the right to dismiss a grievance without a hearing, if it is brought an unreasonable length of time after the event or decision complained of.

3.2 All parties involved should act in good faith to seek a successful resolution of the complaint at as early a stage as possible.

3.3 Both parties will be treated even handedly. A member of staff raising a grievance under Parts 2 and 3 of this Regulation has the right to have the complaint investigated and handled appropriately and meetings, decisions and confirmation of decisions will not be unreasonably delayed.
3.4 The individual against whom the complaint ('the respondent') is made has the right to respond to the allegations.

3.5 At all stages, members of staff have the right to be accompanied by any formal grievance meeting by a trade union representative or work colleague.

3.6 A malicious or vexatious complaint may give rise to disciplinary proceedings. In such cases the complaint will be dismissed without further action.

3.7 Every effort should be made to resolve complaints informally or at the early formal stages of the procedure.

3.8 A member of staff will have the right to appeal against the findings of the formal stage of the Grievance Regulation.

3.9 All staff will be treated consistently, fairly and with respect.

3.10 Use of a third party to help resolve the problem, whether internal or external, may be considered where appropriate.

4. Departmental issues

4.1 Where a grievance applies to several members of staff within the same department, an individual member of staff may pursue the matter on behalf of the group. The group will be required to confirm, in writing, that they have nominated an individual to proceed on their behalf.

5. Collective issues

5.1 Where a grievance applies to more than one member of staff and one or more of the University's recognised trade unions are involved, in the first instance the matter should be referred to the HR Director or his/her Deputy.

5.2 If the issue cannot be resolved it may be dealt with via a collective grievance raised by the union, with the agreement of the staff involved, using this Regulation.

6. Grievances arising under or relating to other proceedings

6.1 This Regulation may not be used for:
   a) complaints about the institution;
   b) handling of outcome of disciplinary or performance improvement proceedings;
   c) sickness and absence review procedures;
   d) redundancy proposals or selection or dismissal for redundancy;
   e) action taken or proposed under the University's Probationary Procedures.

6.2 It is expected that any such matters should be raised at meetings or appeals under those separate and distinct procedures. For further information on such procedures, please contact HR.

7. Grievances relating to alleged harassment

7.1 Where a grievance relates to allegations of harassment, the member of staff is expected to follow the informal stage of the Respect at Work and Study Policy in the first instance before invoking the formal stages of this procedure. This policy can be found at: www.dur.ac.uk/diversity.equality/contact/respect/

8. Grievances relating to regrading

8.1 The appropriate appeal processes under HERA should be used where a member of staff is dissatisfied with the outcome of a promotion or regrading request. Guidance can be found at www.dur.ac.uk/hr/policies/promotion/grading-review/

9. Whistle-blowing

9.1 The University has a separate procedure (Statement on Whistle-blowing) under which members of staff (among others) may raise allegations or concerns about financial misconduct or malpractice, procedural malpractice or a failure to comply with the requirements of good governance. Any such allegations should be raised via that procedure rather than under this grievance procedure. Guidance can be found at http://www.dur.ac.uk/resources/university.calendar/volumei/current/code.whistleblowing.pdf/

10. Complaints relating to suspected or alleged misconduct in research

10.1 The University has a separate procedure to deal with allegations or complaints of suspected misconduct in research. Any complaints or allegations of misconduct in research should be made via that procedure rather than under this Grievance Regulation. Guidance can be found at http://www.dur.ac.uk/hr/policies/research/soundcorres/

11. Where the complainant ceases to be employed by the University

11.1 This procedure only applies where the member of staff raising the grievance is employed and continues to be employed, by the University.

11.2 The University will not normally hear grievances raised by former members of staff.

11.3 If a grievance has been raised by a member of staff before his or her employment terminates, then this procedure shall apply for so long as the member of staff remains in the University's employment.
11.4 On termination of employment, this procedure shall cease to apply and HR will advise the complainant of the appropriate procedure to be followed.

12. Confidentiality

12.1 Proceedings to address grievances, whether under the informal or formal stages, will as far as practicable, be kept confidential to the parties and their representatives and will only be disclosed as appropriate, bearing in mind the need to resolve the issue fairly.

13. Non-attendance

13.1 Members of staff are expected to attend meetings convened under this Regulation.

13.2 If a member of staff does not attend a grievance meeting without good reason the meeting may proceed in his/her absence. Normally, however, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

13.3 Where a member of staff is persistently unable or unwilling to attend a grievance meeting without good cause, the designated person will make a decision on the evidence available.

14. Representation

14.1 All members of staff have the right at meetings and appeals under this Regulation to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representative/work colleague to attend the meeting(s).

14.2 Staff should always be allowed adequate time to arrange representation and members of staff and their work colleagues should make every effort to attend the meeting. If a representative or work colleague is unavailable on the date of the formal meeting, the manager should rearrange the meeting on a suitable alternative date, provided this is within a reasonable timescale eg within five working days after the date initially proposed.

14.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable paid time off both to attend and prepare for the meeting.

14.4 The trade union representative or work colleague accompanying the member of staff is entitled to put the member of staff’s case, to sum up the member of staff’s case, to respond on the member of staff’s behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The representative or work colleague may request adjournments to discuss and give advice to the member of staff.

14.5 The trade union representative or work colleague does not have the right to answer questions on behalf of the member of staff and should not address the hearing if the member of staff does not wish it. Those present must not behave in a way that prevents the manager explaining his/her views or that prevents any other person present from making his/her contribution to the meeting.

15. HR Representation

15.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

15.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

16. Recording of meetings

16.1 Recording of meetings is not permitted.

17. Equal Opportunity

17.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University’s Diversity and Equality Policy.

Part 2  Grievance Regulation Procedure – Grades 6 to 10

1. Informal stage

1.1 Members of staff should try to address any complaint locally and discuss the matter with their Head of Department or line manager in the first instance.

1.2 Advice and support can be sought from HR and the relevant recognised trade union, however it is not normally expected that trade union and/or HR representatives will be present during discussions between the member of staff and the Head of Department or line manager at this stage.

1.3 If such a discussion does not resolve the matter, or if the complaint is against the Head of Department or line manager, the member of staff should arrange to see an HR representative who will suggest how it might be taken forward informally. It is helpful if the member of staff can give some thought to his/her proposed solution/preferred outcome in advance of the meeting. Please see (web link) for details of HR representatives.

1.4 There is no right to representation at informal meetings but the member of staff may be accompanied by a trade union representative or work colleague if he/she wishes.

1.5 If appropriate, the HR representative will meet with the respondent to advise him/her of the allegations and invite a response.
1.6 If appropriate, the HR representative may set up a meeting with the complainant (see note 1) and the respondent (see note 2) with the aim of facilitating a discussion and reaching a resolution. This may include the use of qualified workplace mediators.

1.7 All parties involved should retain any documentation generated throughout this process to inform managers dealing with the complaint at later stages.

2. **Formal Stages**

2.1 If a resolution cannot be agreed by informal means, the member of staff should put the complaint in writing to the HR Director.

2.2 The written complaint should provide concise details of the nature and circumstances of the allegations, including supporting evidence (with copies of relevant documentation), the names of any witnesses who may be able to assist in the investigation and the proposed solution/preferred outcome for consideration.

2.3 The respondent will be entitled to see the written complaint. Either a copy of the complaint will be sent to the respondent if he/she is already aware of the complaint or the manager, to whom the HR Director may refer the matter, will discuss it in a meeting with the respondent.

3. **Formal Stage 1**

3.1 It is the responsibility of the HR Director to determine the appropriate person to whom the matter should be referred (the 'Designated Person').

3.2 If the Head of Department or line manager has not been involved in trying to resolve the issue, the HR Director will normally refer the matter to departmental level for resolution.

3.3 If the Head of Department or line manager has already been involved in attempting to resolve the issue, or if the grievance concerns the Head of Department or line manager, the HR Director will normally refer the matter to another appropriate member of staff.

3.4 If the grievance involves a Member of the University's Executive Committee, the Director of HR will determine the most appropriate method of dealing with the complaint.

3.5 The Designated Person will invite the complainant, in writing, to a meeting to discuss his/her grievance, without unreasonable delay.

3.6 The complainant may be accompanied by a trade union representative or a work colleague at that meeting. All parties should make every effort to attend the meeting.

3.7 After that meeting, the Designated Person may carry out any investigation that may be necessary. The Designated Person may meet with the respondent to inform him/her of the allegations and invite a response if this has not already happened at an earlier stage and to involve him/her in the proposed solution.

3.8 If appropriate, the HR representative may set up a meeting with the complainant and the respondent with the aim of facilitating a discussion and reaching a resolution.

3.9 Following the meeting and without unnecessary delay, the Designated Person will put his/her findings in writing to the complainant and where appropriate, will set out the action to be taken to resolve the grievance.

3.10 The Designated Person will also provide a copy of his/her findings to the respondent.

3.11 The complainant should be informed that they can appeal if they are not content with the outcome.

4. **Appeal against the outcome of Formal Stage 1**

4.1 If the grievance is not upheld, or the complainant is dissatisfied with the outcome of the meeting, he/she can write to the HR Director asking for the grievance to be considered at Formal Stage 2.

4.2 The complainant must state, in writing, the grounds for his/her appeal and these must be provided to the HR Director within 10 days of receipt by the complainant of the written outcome of the Formal Stage 1 hearing.

5. **Formal Stage 2**

5.1 It is the responsibility of the HR Director (or his/her Deputy) to determine the appropriate person to whom the matter should be referred (the 'Designated Person'), this will be someone not previously involved in the grievance case.

5.2 The Designated Person shall invite the complainant in writing to a meeting to discuss his/her appeal without unreasonable delay.

5.3 The complainant may be accompanied by a trade union representative or a work colleague at that meeting. All parties should make every effort to attend the meeting.

5.4 The purpose of the meeting will be to review the investigation and outcome of Formal Stage 1 and to consider any new evidence.

5.5 After that meeting, the Designated Person may meet with the respondent and involve him/her in the proposed solution.

5.6 If appropriate, the HR representative may set up a meeting with the complainant and the respondent with the aim of facilitating a discussion and reaching a resolution.
5.7 Following the meeting, and without unreasonable delay, the Designated Person will put his/her findings in writing to the complainant and where appropriate, will set out the action to be taken to resolve the grievance.

5.8 The Designated Person will also provide a copy of his/her findings to the respondent.

5.9 The decision at this stage is final; there is no further right of appeal.

No
Note 2: Respondent – the person against whom the complaint is raised

Part 3 Grievance Procedure – Grades 1 to 5

1. Informal stage

1.1 Members of staff should try to address any complaint locally and discuss the matter with their Head of Department or line manager in the first instance.

1.2 Advice and support can be sought from HR and the relevant trade union, however, it is not normally expected that trade union and/or HR representatives will be present during discussions between the member of staff and the Head of Department or line manager at this stage.

1.3 If such a discussion does not resolve the matter, or if the complaint is against the Head of Department or line manager, the member of staff should arrange to see an HR representative who will suggest how it might be taken forward informally. It is helpful if the member of staff can give some thought to his/her proposed solution/preferred outcome in advance of the meeting. Please see (web link) for details of HR representatives.

1.4 There is no right to representation at informal meetings, but the member of staff may be accompanied by a trade union representative or work colleague if he/she wishes.

1.5 If appropriate, the HR representative will meet with the respondent (see note 2) to advise him/her of the allegations and invite a response.

1.6 If appropriate, the HR representative may set up a meeting with the complainant (see note 1) and the respondent with the aim of facilitating a discussion and reaching a resolution. This may include the use of qualified workplace mediators.

1.7 All parties involved should retain any documentation generated throughout this process to inform managers dealing with the complaint at later stages.

2. Formal Stages

2.1 If a resolution cannot be agreed by informal means, the member of staff should put the complaint in writing to the HR Director.

2.2 The written complaint should provide concise details of the nature and circumstances of the allegations including supporting evidence (with copies of relevant documentation), the names of any witnesses who may be able to assist in the investigation and the proposed solution/preferred outcome for consideration.

2.3 The respondent will be entitled to see the written complaint. Either a copy of the complaint will be sent to the respondent if he/she is already aware of the complaint or the manager, to whom the HR Director may refer the matter will discuss it in a meeting with the respondent.

3. Formal Stage 1

3.1 It is the responsibility of the HR Director to determine the appropriate person to whom the matter should be referred (the ‘Designated Person’).

3.2 If the Head of Department or line manager has not been involved in trying to resolve the issue, the HR Director will normally refer the matter to departmental level for resolution.

3.3 If the Head of Department or line manager has already been involved in attempting to resolve the issue, or if the grievance concerns the Head of Department or line manager, the HR Director will normally refer the matter to another appropriate member of staff.

3.4 If the grievance involves a Member of the University Executive Committee, the HR Director will determine the most appropriate method of dealing with the complaint.

3.5 The Designated Person will invite the complainant, in writing, to a meeting to discuss his/her grievance without unreasonable delay.

3.6 The complainant may be accompanied by a trade union representative or a work colleague at that meeting. All parties should make every effort to attend the meeting.

3.7 After that meeting, the Designated Person may carry out any investigation that may be necessary. The Designated Person may meet with the respondent to inform him/her of the allegations and invite a response if this has not already happened at an earlier stage and to involve him/her in the proposed solution.

3.8 If appropriate, the HR representative may set up a meeting with the complainant and the respondent with the aim of facilitating a discussion and reaching a resolution.

3.9 Following the meeting and without unnecessary delay, the Designated Person will put his/her findings in writing to the complainant and where appropriate, will set out the action to be taken to resolve the grievance.

3.10 The Designated Person will also provide a copy of his/her findings to the respondent.
3.11 The complainant should be informed that they can appeal if they are not content with the outcome.

4. **Appeal against the outcome of Formal Stage 1**

4.1 If the grievance is not upheld, or the complainant is dissatisfied with the outcome of the meeting, he/she can write to the HR Director asking for the grievance to be considered at Formal Stage 2.

4.2 The complainant must state in writing, the grounds for his/her appeal and these must be provided to the HR Director within 10 days of receipt by the complainant of the written outcome of the Formal Stage 1 meeting.

5. **Formal Stage 2**

5.1 It is the responsibility of the HR Director (or his/her Deputy) to determine the appropriate person to whom the matter should be referred (the ‘Designated Person’), this will be someone not previously involved in the grievance case.

5.2 The Designated Person shall invite the complainant in writing to a meeting to discuss his/her appeal without unreasonable delay.

5.3 The complainant may be accompanied by a trade union representative or a work colleague. All parties should make every effort to attend the meeting.

5.4 The purpose of the meeting will be to review the investigation and outcome of Formal Stage 1 and to consider any new evidence.

5.5 After that meeting, the Designated Person may meet with the respondent and involve him/her in the proposed solution.

5.6 If appropriate, the HR representative may set up a meeting with the complainant and the respondent with the aim of facilitating a discussion and reaching a resolution.

5.7 Following the meeting and without unreasonable delay, the Designated Person will put his/her findings in writing to the complainant and where appropriate, will set out the action to be taken to resolve the grievance.

5.8 The Designated Person will also provide a copy of his/her findings to the respondent.

5.9 The decision at this stage is final; there is no further right of appeal.

*Note 1: Complainant – the person raising the grievance*

*Note 2: Respondent – the person against whom the grievance is raised*

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**Part 1**  Health and Absence Regulation

1. **Introduction**

1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).

1.2 Where the term ‘line manager’ is used, this refers to the Head of Department, Head of House or the member of staff’s immediate supervisor/manager.

1.3 References to ‘Department’ also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct ill health and sickness absence meetings should be sought from HR.

1.4 Any reference to Head of Department, Head of House or HR Director also includes any person acting for him/her.

2. **Purpose and Scope**

2.1 The purpose of this Regulation is to ensure that the University responds to each case of ill health on an individual, flexible basis while maintaining fairness and common standards. This includes seeking medical advice from the University’s Occupational Health Service at an early stage and consulting with the member of staff and/or their representative.

2.2 The Regulation applies to all staff employed by the University who have completed their probation and been confirmed in post (with the exception of the Vice-Chancellor for whom separate provision is made).

2.3 There are two separate procedures in this Regulation which relate to:

(a) frequent intermittent absence (normally defined by the University as persistent short-term absence); and

(b) long term ill health or sickness absence (normally defined by the University as a continuous period of sickness absence in excess of four weeks or some other medical incapacity where a member of staff is, or has become, unable to perform his/her duties (or any part thereof), either in whole or in part, or to be unable to perform his/her duties to an acceptable standard).

3. **Responsibility for Managing Sickness Absence**

3.1 Heads of Department, Heads of House or line managers have overall responsibility for managing sickness absence and for conducting formal sickness absence meetings for staff in their departments.

3.2 The appropriate Divisional Head has responsibility for managing the sickness absence of a Head of Department or Head of House.
3.2.1 Where it is deemed appropriate for anyone other than the Divisional Head to manage or to conduct formal sickness absence meetings for a Head of Department or Head of House, this must be agreed with HR in advance.

3.3 The Vice-Chancellor has responsibility for managing the ill health or sickness absence of Divisional Heads and Pro-Vice-Chancellors.

3.4 Confirmation of the appropriate person for managing the ill health or sickness absence of any other category of staff not included in 3.1, 3.2 or 3.3 should be sought from HR.

4. **Principles**

4.1 This Regulation provides a clear and transparent framework to ensure all staff are treated consistently and issues are dealt with fairly, reasonably and in accordance with employment law.

4.2 The following principles will apply to all stages of the Ill Health and Absence Regulation:

a) Sickness absence issues will be raised and dealt with without unnecessary delay. Meetings, discussions, decisions or confirmation of decisions should not be unreasonably delayed.

b) Medical information, including reports from the Occupational Health Service and/or the member of staff’s doctor will be considered as appropriate as part of any formal sickness absence meetings.

c) At every stage in the process the member of staff will be advised of the nature of the sickness absence issue(s) and will be given the opportunity to state his/her case before any decision is made.

d) At all stages, the member of staff will have the right to be accompanied by a trade union representative or work colleague.

e) In all cases, including where dismissal is contemplated as a potential outcome, the member of staff will be informed, in writing, in advance of any formal sickness absence meeting.

f) Staff will have the right to appeal against any formal warning imposed or against dismissal.

g) All staff will be treated consistently, fairly and with respect.

4.3 This Regulation refers at various stages to the University obtaining medical reports from its Occupational Health Service and/or the member of staff’s doctor. Where the member of staff refuses to attend Occupational Health or to give consent for medical reports to be obtained or disclosed, the relevant Head of Department or line manager will make their decision as to the appropriate course of action using the information available at the time.

4.4 Nothing in this Regulation shall prevent an application to the appropriate pension scheme being made or accepted, at any stage for the member of staff to retire on health grounds. The initiation of this Regulation and any dismissal taken by the University under this Regulation does not imply that the appropriate pension scheme will accept an application for a member of staff to retire on medical grounds.

5. **Confidentiality**

5.1 Statements, letters and other communications are confidential to those involved in the process.

6. **Non-attendance**

6.1 Members of staff are expected to attend meetings convened under this Regulation.

6.2 If a member of staff does not attend a sickness review meeting without good reason the meeting may proceed in his/her absence. Normally, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

6.3 Where a member of staff is persistently unable or unwilling to attend a sickness absence review meeting without good cause, the Head of Department or line manager will make a decision on the evidence available.

7. **Representation**

7.1 All members of staff have the right at meetings and appeals under this Regulation, to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representation/companion to attend the meeting(s).

7.2 Staff should always be allowed adequate time to arrange representation and members of staff and their work colleagues should make every effort to attend the meeting. If a trade union representative or work colleague is unavailable on the date of the formal meeting, the manager should rearrange the meeting on a suitable alternative date provided this is within a reasonable timescale – eg within five working days after the date initially proposed.

7.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable paid time off both to attend and prepare for the meeting.

7.4 The trade union representative or work colleague accompanying the member of staff is entitled to state the member of staff’s case, to sum up the member of staff’s case, to respond on the member of staff’s behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The representative or work colleague may request adjournments to discuss and give advice to the member of staff.

7.5 The trade union representative or work colleague does not have the right to answer questions on behalf of the member of staff and should not address the hearing if the member of staff does not wish it. Those present must not behave in a way that prevents the manager explaining his/her views or that prevents any other person present from making his/her contribution to the meeting.
8. HR Representation

8.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

8.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

9. Recording of meetings

9.1 Recording of meetings is not permitted.

10. Equal Opportunity

10.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University's Diversity and Equality Policy.

Part 2 Health and Absence Procedure - Grades 6 to 10

This procedure should be read in conjunction with the University’s guidance on managing ill health and absence (web link).

SECTION A

1. Frequent Intermittent Absence Procedure – Formal Stage 1

1.1 In any case where the member of staff’s Head of Department or line manager is concerned about the member of staff's attendance levels, this procedure may be followed.

1.2 When attendance is to be reviewed under this procedure the Head of Department or line manager shall inform the member of staff that he/she is required to attend a Formal Stage 1 meeting under this Regulation. The member of staff shall be provided with the following information at least five working days before the date of the meeting:

   (a) the date, time and place of the meeting;
   (b) their right to be accompanied by a trade union representative or a work colleague, who may make representations on his/her behalf;
   (c) the matters for discussion at the interview;
   (d) the University's/Department's concerns relating to his/her level of sickness absence and advising on the effect the absences are having on work colleagues and the department;
   (e) the possible outcomes under this Regulation.

1.3 The outcome of the meeting may be:

   (a) to take no further action, but a further review period may be implemented;
   (b) to offer support which may include a referral to the University’s Occupational Health Adviser who may require the member of staff to be medically examined and/or request the member of staff's medical records;
   (c) the requirement to provide certification from the first day of absence. This may be for a defined period or, in cases where there is a pattern of repeat occurrences, until further notice;
   (d) to issue a formal, first stage warning.

1.4 The outcomes of the meeting will be confirmed in writing and will include:

   (a) if a formal warning is given, the reason for the warning. This warning should state that, unless there is a marked and sustained improvement in attendance levels over a given period, then the member of staff's continued employment may be at risk;
   (b) if a formal warning is given, details of the right of appeal against the formal warning and how this may be exercised;
   (c) the date of the next review meeting;
   (d) the improvement in attendance that is expected in the period to the next review meeting.

2. Formal Stage 2

2.1 A member of staff who has not shown sufficient improvement in attendance following the Formal Stage 1 meeting, or whose attendance has deteriorated again following some initial improvement, will be informed by the Head of Department or line manager that he/she is required to attend a Formal Stage 2 meeting under this Regulation.

2.2 The member of staff shall be provided with information as detailed in section 1.2 at least five working days before the date of the Formal Stage 2 meeting.

2.3 The outcomes of this stage are as set out in section 1.3. Additionally, the Head of Department or line manager may decide to:

   (a) offer any further help or guidance;
   (b) consider a (further) referral to the University's Occupational Health Adviser for a medical opinion in relation to the persistent absences from work;
   (c) issue a Formal Stage 2 warning or, if there is sufficient justification, a final absence warning. This warning should state that unless there is a marked and sustained improvement in attendance levels over a given period, the member of staff's continued employment may be at risk.

2.4 The outcome of the Formal Stage 2 meeting will be confirmed in writing and will include the information as set out in section 1.4.

2.5 If the member of staff's record improves following this stage, the Head of Department or line manager will write to the member of staff and inform him/her that the improvement is noted, that the improvement should be maintained and that attendance will continue to be monitored.

3. Formal Stage 3

3.1 A member of staff who has not shown sufficient improvement in attendance following a Stage 2 meeting, or whose attendance has deteriorated again following improvement after the Stage 2 meeting, will be informed by the Head of Department
or line manager that he/she is required to attend a Formal Stage 3 meeting under this Regulation.

3.2 The member of staff shall be provided with information as detailed in section 1.2 at least five working days before the date of the Formal Stage 3 meeting.

3.3 The outcomes of this stage are as set out in section 1.3. Additionally the Head of Department or line manager may decide to:

(a) seek a final commitment to improve attendance by the member of staff;
(b) if appropriate, refer the member of staff to the University’s Occupational Health Adviser for a (further) medical opinion in relation to the persistent absence from work;
(c) issue a final absence warning.

3.4 The outcome of the Formal Stage 3 meeting will be confirmed in writing and will include the information as set out in section 1.4. This warning should state that unless there is a marked and sustained improvement in attendance levels over a given period, the member of staff’s continued employment is at risk.

3.5 If the member of staff’s record improves following this stage, the Head of Department or line manager will write to the member of staff and inform him/her that the improvement is noted, that the improvement should be maintained and that attendance will continue to be monitored.

4. Formal Final Stage

4.1 A member of staff who has not shown sufficient improvement, or has shown a deterioration in attendance following the Stage 3 meeting, will be informed by the Head of Department or line manager that he/she is required to attend a Formal Final Stage meeting under this Regulation.

4.2 If a possible outcome of the Formal Final Stage meeting is dismissal, a panel will be convened to hear the case. The panel will normally consist of a Divisional Head to act as Chair and two other members of staff nominated by the HR Director (or his/her Deputy). A representative from HR will be in attendance to provide advice and guidance.

4.3 The Head of Department and/or line manager may also be required to attend the meeting.

4.4 The notification to the member of staff must be given in writing at least 10 days in advance, giving the date, time and place of the meeting, the reason for the meeting and a reminder of his/her right to be accompanied by a work colleague or trade union representative.

4.5 The purpose of the meeting will be:

(a) to inform the member of staff of his/her attendance record and that it shows insufficient improvement;
(b) to consider whether the matter should be referred to the University’s Occupational Health Adviser for a further medical opinion;
(c) to explore the reasons for the lack of improvement;
(d) that if no acceptable reason is given, to consider termination of his/her employment.

4.6 During the meeting, a full discussion of the situation should be held during which reference can be made to the previous meetings and the records of those meetings.

4.7 The possible outcomes of the Formal Final Stage meeting are:

(a) further monitoring of attendance; in such cases the member of staff will be informed that unless there is a significant and sustained improvement, further periods of absence will result in the termination of employment; or
(b) termination of employment.

4.8 The outcome of the Formal Final Stage meeting will be confirmed in writing. If the decision is to terminate employment, the notification shall:

(a) clearly state the reason for the dismissal;
(b) state the date on which the employment will terminate;
(c) specify the period of notice/pay in lieu of notice;
(d) specify whether or not there will be a requirement to undertake any duties whilst the normal period of notice is being served. In most cases there will not be a requirement to carry out work during the contracted or statutory notice period;
(e) remind the member of staff of his/her right of appeal and how this may be exercised;
(f) confirm that the decision will be reported to Council.

SECTION B

5. Long-Term Ill Health Procedure

5.1 This procedure shall apply:

(a) where a member of staff has been absent from work due to ill health for a continuous period in excess of four weeks (such absences are deemed to be ‘long term’) and where the Head of Department or line manager has a reasonable concern that the member of staff may not return to work within a reasonable timescale; or
(b) where due to a medical condition, illness or other medical incapacity, a member of staff is, or has become, unable to perform his/her duties (or any part thereof), either in whole or in part, or to be unable to perform his/her duties to an acceptable standard.

6. Informal Consideration of Long Term Ill Health or Absence

6.1 The purpose of this part of the procedure is to explore through meetings with the member of staff (and/or their representative) and with the assistance of medical or other expert advice as appropriate, the following issues:

(a) the nature of the member of staff’s medical condition, illness or incapacity;
(b) the likely prognosis for the member of staff’s health and fitness to carry out his/her duties;
(c) where the member of staff is absent from work, the likely prognosis for him/her returning to work on a sustained basis and being fit to carry out his/her duties in full and/or to perform them to an acceptable standard;
(d) where relevant, the likely prognosis for the member of staff being able to perform his/her duties, in whole or in part, and/or to perform them to an acceptable standard;

(e) whether any changes can be made to the member of staff’s role or duties or to his/her work environment, or to the way in which his/her duties are organised or performed, in order to resolve the situation and/or (in cases of absence) to facilitate the member of staff’s return to work on a sustained basis;

(f) whether any other action could be taken to address the issues raised by the member of staff’s ill-health incapacity;

(g) consideration of an application for retirement on health grounds (note: this does not imply that the appropriate pension scheme will accept an application to retire on health grounds).

6.2 A member of staff on long term sick leave, shall also have a responsibility to update the Head of Department or line manager regularly on his/her likely date of return to work.

6.3 The University may seek medical information from its Occupational Health Service and/or the member of staff’s doctor(s). This process may be repeated if it is considered appropriate to do so. The stage at which the first and any subsequent meeting(s) are held will depend on the circumstances of the particular case.

6.4 For the avoidance of doubt, the changes or actions referred to in section 6.1 above 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 Procedure 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.

7. Formal Consideration of Long Term Ill Health or Absence

7.1 If it is not possible to resolve the situation by informal consideration, the Head of Department or line manager may refer the issues to the Divisional Head for consideration and he/she shall provide a report which summarises the relevant issues and the action taken under this Procedure and the issues which he/she proposes should be considered.

7.2 The Head of Department or line manager shall inform the member of staff of the decision to refer the issues to the Divisional Head and that he/she will be invited to attend a formal review meeting under this Regulation.

7.3 As a possible outcome of the formal review meeting is dismissal, a panel will be convened to consider the case. The panel will normally consist of a Divisional Head to act as Chair and two other members of staff nominated by the HR Director (or his/her Deputy). The Panel may at their discretion determine which witnesses (if any) shall be called and questioned and whether it would be appropriate to adjourn or postpone the hearing at any time prior to, or during the hearing to obtain further medical information of any kind prior to making their decision. A representative from HR will be in attendance to provide advice and guidance.

7.4 The notification to the member of staff must be given in writing at least 10 days in advance, giving the date, time and place of the meeting, the reason for the meeting and a reminder of his/her right to be accompanied by a work colleague or trade union representative. The member of staff will also be invited to provide any evidence which he/she wishes the panel to consider.

7.5 If the nature of the long term absence or ill health is such that the member of staff is unable to attend the meeting, the member of staff may opt to send a trade union representative or work colleague to act on his/her behalf at the meeting and/or provide a written submission.

7.6 As soon as is reasonably practicable after the meeting, the panel shall reach its decision as to whether the member of staff should be dismissed or as to any alternative action that should be taken in respect of the member of staff. The panel shall produce a reasoned written decision, normally within two weeks, which will be sent to the member of staff. Where the decision is to dismiss the member of staff, the written notification shall:

(a) clearly state the reason for the dismissal;
(b) state the date on which the employment will terminate;
(c) specify the period of notice/pay in lieu of notice;
(d) specify whether or not there will be a requirement to undertake any duties whilst the normal period of notice is being served. In most cases there will not be a requirement to carry out work during the contracted or statutory notice period;
(e) remind the member of staff of his/her right of appeal and how this may be exercised;
(f) confirm that the decision will be reported to Council.

SECTION C

8. Appeals

8.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning; full details of the grounds of appeal must be included.

8.2 An appeal against a formal warning, up to and including the level of Formal Stage 2 warning, will be heard without unreasonable delay by an appropriate senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

8.3 An appeal against dismissal will be heard by an Appeal Panel comprising two Lay Members of Council and one senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

Part 3 Ill Health and Absence Procedure - Grades 1 to 5

This procedure should be read in conjunction with the University’s guidance on managing ill health and absence (see web link).

SECTION A

1. Frequent Intermittent Absence Procedure – Formal Stage 1

1.1 In any case where the member of staff’s Head of Department or line manager is concerned about the member of staff’s attendance levels, this procedure may be followed.

1.2 When attendance is to be reviewed under this procedure, the Head of Department or line manager shall inform the member of staff that he/she is required
to attend a Formal Stage 1 meeting under this Regulation. The member of staff shall be provided with the following information at least five working days before the date of the meeting:

a) the date, time and place of the meeting;
b) their right to be accompanied by a trade union representative or a work colleague who may make representations on his/her behalf;
c) the matters for discussion at the interview;
d) the University's/Department's concerns relating to his/her level of sickness absence and the effect the absences are having on work colleagues and the department;
e) the possible outcomes under this Regulation.

1.3 The outcomes of the Formal Stage 1 meeting may be:

a) to take no further action but a further review period may be implemented;
b) to offer support which may include a referral to the Occupational Health Adviser who may require the member of staff to be medically examined and/or request the member of staff's medical records;
c) the requirement to provide certification from the first day of absence. This may be for a defined period or, in cases where there is a pattern of repeat occurrences, until further notice;
d) to issue a formal, first stage warning.

1.4 The outcomes of the meeting will be confirmed in writing and will include:

a) if a formal warning is given, the reason for the warning. This warning should state that unless there is a marked and sustained improvement in attendance levels over a given period, the member of staff's continued employment may be at risk;
b) if a formal warning is given, details of the right of appeal against the formal warning and how this may be exercised;
c) the date of the next review meeting;
d) the improvement in attendance that is expected in the period to the next review meeting.

2. Formal Stage 2

2.1 A member of staff who has not shown sufficient improvement in attendance following the Formal Stage 1 meeting, or whose attendance has deteriorated again following some initial improvement, will be informed by the Head of Department or line manager that he/she is required to attend a Formal Stage 2 meeting under this Regulation.

2.2 The member of staff shall be provided with information (as detailed in section 1.2) at least five working days before the date of the Formal Stage 2 meeting.

2.3 The outcomes of this stage are as set out in section 1.3. Additionally, the Head of Department or line manager may decide to:

a) offer any further help or guidance;
b) consider a (further) referral to the Occupational Health Adviser for a medical opinion in relation to the persistent absences from work;
c) issue a Formal Stage 2 warning or, if there is sufficient justification, a final absence warning. This warning should state that unless there is a marked and sustained improvement in attendance levels over a given period, the member of staff's continued employment may be at risk.

2.4 The outcome of the Formal Stage 2 meeting will be confirmed in writing and will include the information as set out in section 1.4.

2.5 If the member of staff's record improves following this stage, the Head of Department or line manager will write to the member of staff and inform him/her that the improvement is noted, that the improvement should be maintained and that attendance will continue to be monitored.

3. Formal Stage 3

3.1 A member of staff who has not shown sufficient improvement in attendance following a Formal Stage 2 meeting, or whose attendance has deteriorated again following improvement after the Formal Stage 2 meeting will be informed by the Head of Department or line manager that he/she is required to attend a Formal Stage 3 meeting under this Regulation.

3.2 The member of staff shall be provided with information (as detailed in section 1.2) at least five working days before the date of the Formal Stage 3 meeting.

3.3 The outcomes of this stage are as set out in section 1.3. Additionally the Head of Department or line manager may decide to:

a) seek a final commitment to improve attendance by the member of staff;
b) if appropriate, refer the member of staff to the Occupational Health Adviser for a (further) medical opinion in relation to the persistent absence from work;
c) issue a final absence warning.

3.4 The outcome of the Formal Stage 3 meeting will be confirmed in writing and will include the information as set out in section 1.4. This warning should state that unless there is a marked and sustained improvement in attendance levels over a given period, the member of staff's continued employment is at risk.

3.5 If the member of staff's record improves following this stage, the Head of Department or line manager will write to the member of staff and inform him/her that the improvement is noted, that the improvement should be maintained and that attendance will continue to be monitored.

4. Formal Final Stage

4.1 A member of staff who has not shown sufficient improvement, or has shown a deterioration in attendance following the Formal Stage 3 meeting, will be informed by the Head of Department or his/her nominee that he/she is required to attend a Formal Final Stage meeting under this Regulation.

4.2 If a possible outcome of the Formal Final Stage meeting is dismissal, a panel will be convened to hear the case. The panel will normally consist of a Head of Department (or his/her nominee) to act as Chair and one other member of staff agreed in
advance with HR. A representative from HR will be in attendance to provide advice and guidance. The line manager may also be required to attend the meeting.

4.3 The notification to the member of staff must be given in writing at least five days in advance, giving the date, time and place of the meeting, the reason for the meeting and a reminder of his/her right to be accompanied by a work colleague or trade union representative.

4.4 The purpose of the meeting will be:

a) to inform the member of staff of his/her attendance record and that it shows insufficient improvement;
b) consider whether the matter should be referred to the Occupational Health Adviser for a further medical opinion;
c) explore the reasons for the lack of improvement;
d) if no acceptable reason is given, to consider termination of their employment.

4.5 During the meeting, a full discussion of the situation should be held, during which reference can be made to the previous meetings and the records of those meetings.

4.6 The possible outcomes of the Formal Final Stage meeting are:

a) further monitoring of attendance; in such cases the member of staff will be informed that unless there is a significant and sustained improvement, further periods of absence will result in the termination of employment.
b) termination of employment.

4.7 The outcome of the Formal Final Stage meeting will be confirmed in writing. If the decision is to terminate employment, the notification shall:

a) clearly state the reason for the dismissal;
b) state the date on which the employment will terminate;
c) specify the period of notice/pay in lieu of notice;
d) specify whether or not there will be a requirement to undertake any duties whilst the normal period of notice is being served. In most cases there will not be a requirement to carry out work during the contracted or statutory notice period;
e) remind the member of staff of his/her right of appeal and how this may be exercised.

SECTION B

5. Long-Term Ill Health Procedure

5.1 This procedure shall apply:

a) Where a member of staff has been absent from work due to ill health for a continuous period in excess of four weeks (such absences are deemed to be 'long term') and where the Head of Department or line manager has a reasonable concern that the member of staff may not return to work within a reasonable timescale; or

b) Where due to a medical condition, illness or other medical incapacity, a member of staff is, or has become unable to perform his/her duties (or any part thereof), either in whole or in part, or will be unable to perform his/her duties to an acceptable standard.

6. Informal Consideration of Long Term Ill Health or Absence

6.1 The purpose of this part of the procedure is to explore, through meetings with the member of staff (and/or their representative) and with the assistance of medical or other expert advice as appropriate, the following issues:

a) the nature of the member of staff's medical condition, illness or incapacity;
b) the likely prognosis for the member of staff's health and fitness to carry out his/her duties;
c) where the member of staff is absent from work, the likely prognosis for him/her returning to work on a sustained basis and being fit to carry out his/her duties in full and/or to perform them to an acceptable standard;
d) where relevant, the likely prognosis for the member of staff being able to perform his/her duties, in whole or in part, and/or to perform them to an acceptable standard;
e) whether any changes can be made to the member of staff's role or duties or to his/her work environment, or to the way in which his/her duties are organised or performed, in order to resolve the situation and/or (in cases of absence) to facilitate the member of staff's return to work on a sustained basis;
f) whether any other action could be taken to address the issues raised by the member of staff's ill-health incapacity;
g) consideration of an application for retirement on health grounds (this does not imply that the appropriate pension scheme will accept an application to retire on health grounds).

6.2 A member of staff on long term sick leave, shall also have a responsibility to update the Head of Department or line manager regularly on his/her likely date of return to work.

6.3 The University may seek medical information from its Occupational Health Service and/or the member of staff's doctor(s). This process may be repeated if it is considered appropriate to do so. The stage at which the first and any subsequent meeting(s) are held will depend on the circumstances of the particular case.

6.4 For the avoidance of doubt, the changes or actions referred to in section 6.1 above 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 Procedure 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.

7. Formal Consideration of Long Term Ill Health or Absence

7.1 If it is not possible to resolve the situation by informal consideration, the matter shall be referred to the Head of Department or his/her nominee for formal
consideration. A report will be provided by the line manager which summarises the relevant issues, the action taken under this Procedure and the issues he/she proposes should be considered.

7.2 The Head of Department or nominee shall inform the member of staff of the decision to refer the issues to the Head of Division and that he/she will be invited to attend a formal review meeting under this Regulation.

7.3 As a possible outcome of the formal review meeting is dismissal, a panel will be convened to consider the case. The panel will normally consist of the Head of Department or his/her nominee to act as Chair and at least one other member of staff as agreed in advance with HR. The panel may at their discretion, determine which witnesses (if any) shall be called and questioned and whether it would be appropriate to adjourn or postpone the hearing at any time prior to or during the hearing, to obtain further medical information of any kind prior to making their decision. A representative from HR will be in attendance to provide advice and guidance.

7.4 The notification to the member of staff must be given in writing at least five days in advance giving the date, time and place of the meeting, the reason for the meeting and a reminder of his/her right to be accompanied by a work colleague or trade union representative. The member of staff will also be invited to provide any evidence which he/she wishes the panel to consider.

7.5 If the nature of the long term absence or ill health is such that the member of staff is unable to attend the meeting, the member of staff may opt to send a trade union representative or work colleague to act on his/her behalf at the meeting and/or provide a written submission.

7.6 As soon as it is reasonably practicable after the meeting, the Panel shall reach its decision as to whether the member of staff should be dismissed or as to any alternative action that should be taken in respect of the member of staff. The Panel shall produce a reasoned written decision, normally within two weeks, which will be sent to the member of staff. Where the decision is to dismiss the member of staff, the written notification shall:

   a) clearly state the reason for the dismissal;
   b) state the date on which the employment will terminate;
   c) specify the period of notice/pay in lieu of notice;
   d) specify whether or not there will be a requirement to undertake any duties whilst the normal period of notice is being served. In most cases there will not be a requirement to carry out work during the contracted or statutory notice period;
   e) remind the member of staff of his/her right of appeal and how this may be exercised.

8. Appeals

8.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning; full details of the grounds of appeal must be included.

8.2 An appeal against a formal warning, up to and including the level of

Formal Stage 3 warning, will be heard without unreasonable delay by an appropriate senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

8.3 An appeal against dismissal will be heard by an Appeal Panel comprising three senior members of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).
Part 1  Performance Improvement Regulation

1. Introduction
   1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).
   1.2 Where the term ‘line manager’ is used, this refers to the Head of Department, Head of House or the member of staff’s immediate supervisor/manager.
   1.3 References to ‘Department’ also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct performance improvement review meetings should be sought from HR.
   1.4 Any reference to Head of Department, Head of House or HR Director also includes any person acting for him/her.

2. Purpose and Scope
   2.1 The Performance Improvement Regulation is an aid to good management and should not be viewed only as a means to impose sanctions.
   2.2 Handled well, a formal performance improvement process can:
       a) help to establish and maintain the highest standards of performance;
       b) encourage members of staff to improve their performance;
       c) demonstrate to all members of staff that the University acts fairly and consistently in maintaining these standards.
   2.3 This Regulation applies to all staff employed by the University who have completed their probation and have been confirmed in post (with the exception of the Vice-Chancellor for whom separate provision is made).
   2.4 For further advice for performance issues concerning staff on probation please see (web link).

3. Responsibility for Managing Performance
   3.1 Heads of Department and Heads of House have overall responsibility for managing performance and for conducting performance improvement review meetings for the staff in their departments.
       3.1.1 Where it is deemed appropriate for anyone other than the Head of Department or Head of House to manage performance or to conduct performance review meetings, this must be agreed with HR in advance.
   3.2 The appropriate Divisional Head has responsibility for managing the performance of a Head of Department or Head of House.
       3.2.1 Where it is deemed appropriate for anyone other than the Divisional Head to manage performance or to conduct performance review meetings for a Head of Department or Head of House, this must be agreed with HR in advance.

4. Principles
   4.1 This Regulation provides a clear and transparent framework to ensure all staff are treated consistently and issues are dealt with fairly, reasonably and in accordance with employment law.
   4.2 The following principles will apply to all stages of the Performance Improvement Regulation:
       a) Performance issues will be raised and dealt with without unnecessary delay. Meetings, discussions, decisions or confirmation of decisions should not be unreasonably delayed.
       b) In all cases, including where dismissal is contemplated as potential outcome, the member of staff will be informed, in writing, in advance of any performance review meeting.
       c) At every stage in the process the member of staff will be advised of the nature of the performance issue(s) and will be given the opportunity to state their case before any decision is made.
       d) At all stages the member of staff will have the right to be accompanied by a trade union representative or work colleague.
       e) No member of staff will be dismissed for a first instance of poor performance except in the exceptional instance where the poor performance falls within the University’s definition of gross misconduct.
       f) Staff will have the right to appeal against any formal warning imposed or against dismissal.
       g) All staff will be treated consistently, fairly and with respect.
       h) Use of an appropriate third party to help resolve the problem, whether internal or external, may be considered where appropriate, e.g. a qualified workplace mediator chosen from an approved list maintained by the HR Director.

5. Managing performance issues outside the Formal Process
   5.1 This Regulation in no way precludes the day-to-day counselling or guidance of members of staff by their line manager. This is encouraged as good management practice to achieve improvements which avoid the need for formal action. For minor cases of underperformance, an informal meeting may bring about the desired improvement and may be more appropriate. Such meetings are not part of the formal Performance Improvement Regulation and under normal circumstances members of staff are not accompanied at these informal meetings.
   5.2 Notes should be kept of the meeting so that where the underperformance being dealt with informally continues or is repeated, and therefore there is the possibility of formal action, there is evidence to show that earlier attempts to understand and address the problem and offer support have been made.
5.3 Where further instances of underperformance occur, and/or it is clear that an informal approach is not bringing about the desired improvement, formal performance review meetings should commence.

5.4 For the avoidance of doubt, nothing in this Regulation shall require the institution of formal proceedings to be preceded by informal action, in particular if the performance issue or concern is considered too serious to be addressed through informal methods.

6. Use of the Formal Performance Improvement Process

6.1 Use of the Formal Performance Improvement Process may be appropriate if:

a) informal attempts to resolve a problem have not succeeded; or
b) if the member of staff has previously received a warning which is still current at the time of the conduct complained of; or

c) if a first instance of underperformance is sufficiently serious to warrant formal action being taken.

7. Overlapping grievance and performance improvement cases

7.1 Where a member of staff raises a grievance during a performance improvement process, and the grievance and performance cases are related, both cases will normally be dealt with concurrently.

7.2 Where it is not appropriate to deal with both issues concurrently the performance improvement process may be temporarily suspended in order to deal with the grievance.

7.3 The approach will be mindful of the need to avoid multiplicity of procedures and associated delay.

8. Confidentiality

8.1 Statements, letters and other communications are confidential to those involved in the performance improvement process.

9. Non-attendance

9.1 Members of staff are expected to attend meetings convened under this Regulation.

9.2 If a member of staff does not attend a formal performance review meeting without good reason the meeting may proceed in his/her absence. Normally, however, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

9.3 Where a member of staff is persistently unable or unwilling to attend a formal performance review meeting without good reason, the Head of Department or Head of House will make a decision on the evidence available.

10. Union Officials

10.1 If a Head of Department believes a union branch secretary/shop steward or other official requires actions under Part 2 or 3 of this Regulation, advice should be immediately sought from HR.

10.2 Depending on the circumstances it is advisable to discuss the matter at an early stage with a senior trade union representative or an official employed by the union, after obtaining the member of staff’s agreement.

11. Representation

11.1 All staff have the right at meetings and appeals under this Regulation, to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representative/work colleague to attend the meeting(s).

11.2 Staff should always be allowed adequate time to arrange representation and members of staff and their work colleagues should make every effort to attend the meeting. If a representative or work colleague is unavailable on the date of the formal meeting, the manager should rearrange the meeting on a suitable alternative date provided this is within a reasonable timescale, eg within five working days after the date initially proposed.

11.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable, paid time off both to prepare for and attend the meeting.

11.4 The trade union representative or work colleague accompanying the member of staff is entitled to put the member of staff’s case, to sum up the member of staff’s case, to respond on the member of staff’s behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The representative or work colleague may request adjournments to discuss and give advice to the member of staff.

11.5 The trade union representative or work colleague does not have the right to answer questions on behalf of the member of staff and should not address the hearing if the member of staff does not wish it. Those present must not behave in a way that prevents the manager explaining his/her views or that prevents any other person present from making his/her contribution to the meeting.

12. HR Representation

12.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

12.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.
13. Recording of meetings

13.1 Recording of meetings is not permitted.

14. Equal Opportunity

14.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University’s Diversity and Equality Policy.

Part 2 Formal Performance Improvement Procedure – Grades 6 to 10

1. Initial meeting

1.1 If not already covered in any earlier informal meeting(s), the Head of Department should establish appropriate facts and information to ensure he/she is clear about the alleged underperformance and gather supporting evidence.

1.2 The Head of Department should write to the member of staff informing him/her of the nature of the concerns about his/her performance and inviting the member of staff to a meeting to discuss them.

1.3 The written notification should contain sufficient information about the alleged underperformance and its possible consequences (see section 2) to enable the member of staff to prepare to respond in the initial meeting. The Head of Department should consider possible factors affecting performance.

1.4 The member of staff will also receive, in advance of the meeting, copies of any written documents to which reference will be made in the meeting.

1.5 The purpose of the meeting is to determine whether the member of staff is failing to perform his/her duties to an acceptable standard and if so, what support mechanisms (including but not limited to training needs) may be required to assist the member of staff and whether further formal action should be taken under this Regulation.

1.6 Initial meetings under this Regulation will normally be chaired by the Head of Department (or other appropriate person, as agreed with HR). A representative from HR will be present to provide advice and guidance.

1.7 If the allegation of underperformance concerns a Head of Department, the meeting will be chaired by the relevant Divisional Head.

1.8 If the allegation of underperformance concerns a Divisional Head or a Pro-Vice-Chancellor, the meeting will be chaired by the Vice-Chancellor.

1.9 At the meeting, the nature of the concerns should be explained to the member of staff who will be given an opportunity to respond to them.

2. Outcome of initial meeting to discuss performance

2.1 Where the Head of Department (or other appropriate person) considers it appropriate, he/she should develop an action plan which shall clearly set out the improvement and performance required and the action which the member of staff should take to achieve these requirements.

2.1.1 The action plan shall include details of any support mechanisms available to assist the member of staff to improve his/her performance.

2.1.2 The action plan shall identify the date of the next formal review of the member of staff’s performance and the timetable for any interim meetings to discuss the member of staff’s progress prior to that formal review.

2.1.3 The action plan shall identify clear timescales for the achievement of key objectives.

2.1.4 The action plan may be drawn up during the meeting or drafted in advance for discussion. If drafted in advance, the action plan should be copied to the member of staff in good time before the meeting.

2.1.5 The Head of Department should give careful consideration to any input to the plan from the member of staff. The member of staff’s agreement to the plan should be obtained wherever possible. Targets should be reasonable, unambiguous, appropriate to the role and within the control of the member of staff.

2.1.6 If it is not possible to reach agreement, the Head of Department will have final authority to approve the action plan.

2.2 Following the meeting, the member of staff shall be advised in writing of the outcome of the meeting, confirming the areas in which improved performance is required, the action plan, any support mechanisms to be provided and the date of the first Formal Review Meeting.

3. Formal Review Meetings

3.1 The purpose of the Formal Review Meetings is to assess whether acceptable standards of performance have been reached and maintained, whether further support is required and if further action should be taken under this Regulation.

3.2 The meeting shall review the action plan and the progress made by the member of staff against the set improvement objectives and any other concerns about the member of staff’s performance.

3.3 Where appropriate and if the member of staff agrees, alternative options may also be considered, including seeking redeployment or agreeing changes to the member of staff’s role.

3.4 Formal Review Meetings should continue until the member of staff’s performance has improved to an acceptable standard or the procedure has been exhausted and the member of staff has been dismissed.

3.5 The meetings should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

3.6 Reasonable notice, usually at least five working days notice, of a Formal Review Meeting will be given to the member of staff, unless agreed otherwise with
the member of staff. This will allow adequate time for the individual to consult with their trade union representative (if appropriate) and to prepare their case.

3.7 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the Formal Review Meeting, at least two days in advance of the meeting.

3.8 Where dismissal is not contemplated as a possible outcome, Formal Review Meetings under this Regulation will normally be chaired by the Head of Department (or other appropriate person as agreed with HR).

3.9 If the allegation of underperformance concerns a Head of Department, the meeting will normally be chaired by the relevant Divisional Head.

3.10 If the allegation of underperformance concerns a Divisional Head or a Pro-Vice-Chancellor, the meeting will normally be chaired by the Vice-Chancellor.

3.11 If a possible outcome of the Formal Review Meeting is dismissal, a panel will be convened to hear the case. The panel will normally consist of the Divisional Head to act as Chair and two other members of staff nominated by the HR Director (or his/her Deputy).

3.12 A representative from HR will be present at Formal Review Meetings to provide advice and guidance.

4. Possible outcomes of Formal Review Meetings

4.1 A Formal Review Meeting may result in the member of staff being given oral or written warnings or in the dismissal of the member of staff. If such action is contemplated as a possible outcome the member of staff must be advised in writing before the meeting.

4.2 The outcome of the review meeting may be as follows:

a. Where the member of staff's performance has improved to an acceptable standard:

I. The manager may decide that no further action should be taken under this Regulation or that a further review meeting should be arranged to ensure that the improvement is sustained.

II. The action plan shall be reviewed and amended as considered appropriate and any continuing or further support available to the member of staff, to assist in improving performance, shall be identified.

III. The member of staff shall be encouraged to sustain the improvement performance and continue to be monitored and supported in line with good management practice.

b. Where, since the last meeting under this Regulation, the member of staff has made significant progress in reaching acceptable standards of performance, but further improvement is required:

I. The Head of Department (or other appropriate person) may set a date for a further review meeting.

II. The action plan shall be reviewed and amended as considered appropriate and any continuing or further support available to the member of staff to assist in improving performance shall be identified.

III. The action plan shall be reviewed and amended as considered appropriate, and any continuing or further support available to the member of staff to assist in improving his/her performance shall be identified.

c. Where, since the last meeting under this Regulation, the member of staff has not made significant progress in reaching an acceptable standard of performance:

I. Any mitigating factors (such as ill health or non provision of all or part of any previously identified supporting measures) will be considered.

II. The Head of Department (or other appropriate person) may set a date for a further Formal Review Meeting.

III. The action plan shall be reviewed and amended as considered appropriate, and any continuing or further support available to the member of staff to assist in improving his/her performance shall be identified.

d. Where the outcome of the Formal Review Meeting falls under section (b) and/or (c) above, the Head of Department (or other appropriate person) may also take any of the following additional formal actions:

I. Issue a formal oral warning.

II. If a formal oral warning has previously been issued under this Regulation, issue a formal written warning.

III. If a formal written warning has previously been issued under this Regulation, issue a final written warning.

e. Where the outcome of the Formal Review Meeting falls under section (b) and/or (c) above, and where a panel has been convened in accordance with section (3.11), and where a formal, final written warning has previously been issued under this Regulation:

I. The panel may dismiss the member of staff, but only in cases where the member of staff has been expressly warned prior to the hearing that dismissal is a potential outcome.

II. If a dismissal takes place this shall be reported to Council.

4.3 The outcome of the meeting shall be confirmed, in writing, to the member of staff and any action short of dismissal shall:

a) clearly set out (as appropriate) the areas in which the member of staff's performance is considered to fall below acceptable standards;

b) clearly set out the nature of the improvement required and the action plan for achieving that improvement, highlighting any amendments to the action plan previously issued;

c) include details of any support offered or available to assist improvement;

d) confirm the date of the next review meeting;

e) state the consequence of failure to improve performance;

f) where the outcome is a formal warning, remind the member of staff that if no satisfactory improvement is made, this may, ultimately, result in dismissal;

g) where the outcome is a formal warning, remind the member of staff of his/her right of appeal and how this shall be exercised.

4.4 Where the outcome of the meeting is dismissal, this shall be confirmed in writing to the member of staff and shall:
a) clearly state the reason for the dismissal;
b) state the date on which the employment will terminate;
c) confirm any period of notice/pay in lieu of notice;
d) remind the member of staff of his/her right of appeal and how this shall be exercised;
e) confirm that the decision will be reported to Council.

4.5 If it is proposed that the Registrar and Secretary, or the Treasurer, be dismissed from post, no decision will be taken until the proposal has been considered by Council.

4.6 Where an oral or written warning is given, a record of the warning will be placed on the member of staff's file in HR. These warnings will be considered spent when the member of staff has attained an acceptable standard of performance and the formal review process has come to an end.

5. Appeals

5.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning or dismissal; full details of the grounds of appeal must be included.

5.2 All appeals will be heard without unreasonable delay; notwithstanding the outcome of any appeal, any on-going formal performance review processes should not be unreasonably delayed as a result of the appeal process.

5.3 An appeal against a formal warning up to and including the level of formal final written warning, will be heard by an appropriate senior member of staff not previously involved in the case and nominated by the HR Director (or his/her Deputy).

5.4 An appeal against dismissal will be heard by an Appeal Panel comprising two Lay Members of Council (one to act as Chair) and one senior member of staff not previously involved in the case and nominated by the HR Director (or his/her Deputy).

5.5 An appeal against the dismissal of the Registrar and Secretary, or the Treasurer, will be heard by an Appeal Panel comprising two Lay Members of Council (including the Chair of Council) and one senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

5.6 In cases of an appeal against dismissal, the decision of the Appeal Panel will be reported to Council.

5.7 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

5.8 A representative of HR will also be present at the appeal hearing.

5.9 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.

5.10 Staff will be entitled to be represented at appeal hearings against decisions reached as part of the Performance Improvement Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

5.11 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents upon which they intend to rely and/or their statement of case to HR as far in advance of the meeting as possible, and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

5.12 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff's absence.

5.13 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

a) that the original decision of the Formal Review Meeting be upheld in its entirety;
b) that the grounds for appeal be found in their entirety and that the formal warning be expunged from the member of staff's record or that the dismissal is overturned;
c) that a lesser sanction be substituted for that imposed by the original Formal Review Meeting.

Part 3  Formally Performance Improvement Procedure – Grades 1 to 5

1. Initial meeting

1.1 If not already covered in any earlier informal meeting(s), the line manager should establish appropriate facts and information to ensure he/she is clear about the alleged underperformance and gather supporting evidence.

1.2 The line manager should write to the member of staff informing him/her of the nature of the concerns about his/her performance and inviting the member of staff to a meeting to discuss them.

1.3 The written notification should contain sufficient information about the alleged underperformance and its possible consequences (see section 2) to enable the member of staff to prepare to respond in the initial meeting. The line manager should consider all possible factors affecting performance.
1.4 The member of staff will also receive, in advance of the meeting, copies of any written documents to which reference will be made in the meeting.

1.5 The purpose of the meeting is to determine whether the member of staff is failing to perform his/her duties to an acceptable standard and if so, what support mechanisms (including but not limited to training needs) may be required to assist the member of staff and whether further formal action should be taken under this Regulation.

1.6 Initial meetings under this Regulation will normally be chaired by the line manager (or other appropriate person, as agreed with HR). A representative from HR will be present to provide advice and guidance.

1.7 At the meeting, the nature of the concerns should be explained to the member of staff, who will be given an opportunity to respond to them.

2. **Outcome of initial meeting to discuss performance**

2.1 Where the line manager considers it appropriate, he/she should develop an action plan which shall clearly set out the improvement and performance required and the action which the member of staff should take to achieve these requirements.

2.1.1 The action plan shall include details of any support mechanisms available to assist the member of staff to improve his/her performance.

2.1.2 The action plan shall identify the date of the next formal review of the member of staff's performance and the timetable for any interim meetings to discuss the member of staff's progress, prior to that formal review.

2.1.3 The action plan shall identify clear timescales for the achievement of key objectives.

2.1.4 The action plan may be drawn up during the meeting or drafted in advance for discussion. If drafted in advance, the action plan should be copied to the member of staff in good time before the meeting.

2.1.5 The line manager should give careful consideration to any input to the plan from the member of staff. The member of staff’s agreement to the plan should be obtained wherever possible. Targets should be reasonable, unambiguous, appropriate to the role and within the control of the member of staff.

2.1.6 If it is not possible to reach agreement, the line manager will have final authority to approve the action plan.

2.2 Following the meeting, the member of staff shall be advised in writing of the outcome of the meeting, confirming the areas in which improved performance is required, the action plan, any support mechanisms to be provided and the date of the First Formal Review Meeting.

3. **Formal Review Meetings**

3.1 The purpose of the Formal Review Meetings is to assess whether acceptable standards of performance have been reached and maintained, whether further support is required and if further action should be taken under this Regulation.

3.2 The meeting shall review the action plan and the progress made by the member of staff against the set improvement objectives and any other concerns about the member of staff’s performance.

3.3 Where appropriate and if the member of staff agrees alternative options may also be considered, including seeking redeployment or agreeing changes to the member of staff’s role.

3.4 Formal Review Meetings should continue until the member of staff’s performance has improved to an acceptable standard or the procedure has been exhausted and the member of staff has been dismissed.

3.5 The meetings should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

3.6 Reasonable notice, usually at least five working days, of a Formal Review Meeting will be given to the member of staff, unless agreed otherwise with the member of staff. This will allow adequate time for the individual to consult with their trade union representative (if appropriate) and to prepare their case.

3.7 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the Formal Review Meeting, at least two days in advance of the meeting.

3.8 Where dismissal is not contemplated as a possible outcome, Formal Review Meetings under this Regulation will normally be chaired by the line manager (or other appropriate person as agreed with HR).

3.9 If a possible outcome of the Formal Review Meeting is dismissal, a panel will be convened to hear the case. The panel will normally consist of the Head of Department to act as Chair and two other members of staff nominated by the HR Director (or his/her Deputy).

3.10 A representative from HR will be present at Formal Review Meetings to provide advice and guidance.

4. **Possible outcomes of Formal Review Meetings**

4.1 A Formal Review Meeting may result in the member of staff being given oral or written warnings or in the dismissal of the member of staff. If such action is contemplated as a possible outcome, the member of staff must be advised in writing before the meeting.

4.2 The outcome of the review meeting may be as follows:

a. **Where the member of staff’s performance has improved to an acceptable standard:**

i. The manager may decide that no further action should be taken under this Regulation or that a further review meeting should be arranged to ensure that the improvement is sustained.

ii. The action plan shall be reviewed and amended as considered appropriate and any continuing or further support available to the
member of staff, to assist in improving performance, shall be identified.

III. The member of staff shall be encouraged to sustain the improvement performance, will continue to be monitored and supported in line with good management practice.

b. Where, since the last meeting under this Regulation, the member of staff has made significant progress in reaching acceptable standards of performance but further improvement is required:

I. The line manager (or other appropriate person) may set a date for a further review meeting.
II. The action plan shall be reviewed and amended as considered appropriate and any continuing or further support available to the member of staff to assist in improving performance shall be identified.

c. Where, since the last meeting under this Regulation, the member of staff has not made significant progress in reaching an acceptable standard of performance:

I. Any mitigating factors (such as ill health or non provision of all or part of any previously identified supporting measures) will be considered.
II. The line manager (or other appropriate person) may set a date for a further Formal Review Meeting.
III. The action plan shall be reviewed and amended as considered appropriate, and any continuing or further support available to the member of staff to assist in improving his/her performance shall be identified.

d. Where the outcome of the Formal Review Meeting falls under sections (b) and/or (c) above, the line manager (or other appropriate person) may also take any of the following additional formal actions:

I. Issue a formal oral warning.
II. If a formal oral warning has previously been issued under this Regulation, issue a formal written warning.
III. If a formal written warning has previously been issued under this Regulation, issue a final written warning.

e. Where the outcome of the Formal Review Meeting falls under section (b) and/or (c) above, and where a panel has been convened in accordance with section 3.9, and where a formal, final written warning has previously been issued under this Regulation:

I. The panel may dismiss the member of staff, but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome.

4.3 The outcome of the meeting shall be confirmed, in writing, to the member of staff and any action short of dismissal shall:

a) clearly set out (as appropriate) the areas in which the members of staff’s performance is considered to be below acceptable standards;

b) clearly set out the nature of the improvement required and the action plan for achieving that improvement highlighting any amendments to the action plan previously issued;

c) include details of any support offered or available to assist improvement;

d) confirm the date of the next review meeting;

e) state the consequences of failure to improve performance;

f) where the outcome is a formal warning, remind the member of staff that if no satisfactory improvement is made, this may ultimately result in dismissal;

g) where the outcome is a formal warning, remind the member of staff of his/her right of appeal and how this may be exercised.

4.4 Where the outcome of the meeting is dismissal, this may be confirmed in writing to the member of staff and shall:

a) clearly state the reason for the dismissal;

b) state the date on which the employment will terminate;

c) confirm any period of notice/pay in lieu of notice;

d) remind the member of staff of his/her right of appeal and how this shall be exercised.

4.5 Where an oral or written warning is given, a record of the warning will be placed on the member of staff's file in HR. These warnings will be considered spent when the member of staff has attained an acceptable standard of performance and the formal review process has come to an end.

5. Appeals

5.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the Director of HR within 10 working days of the date of the written notification of the warning or dismissal; full details of the grounds of appeal must be included.

5.2 All appeals will be heard without unreasonable delay; notwithstanding the outcome of any appeal, any on-going formal performance review processes should not be unreasonably delayed as a result of the appeal process.

5.3 An appeal against a formal warning up to and including the level of formal final written warning, will be heard by an appropriate senior member of staff not previously involved in the case and nominated by the HR Director (or his/her Deputy).

5.4 An appeal against dismissal will be heard by an Appeal Panel comprising three senior members of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

5.5 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

5.6 A representative of HR will also be present at the appeal hearing.

5.7 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.
5.8 Staff will be entitled to be represented at appeal hearings against decisions reached as part of the Performance Improvement Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

5.9 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents upon which they intend to rely and/or their statement of case to HR as far in advance of the meeting as possible, and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

5.10 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff’s absence.

5.11 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

   a) that the original decision of the Formal Review Meeting be upheld in its entirety;
   b) that the grounds for appeal be found in their entirety and that the formal warning be expunged from the member of staff’s record or that the dismissal be overturned;
   c) that a lesser sanction be substituted for that imposed by the original Formal Review Meeting.

Part 1 Regulation for Dealing with Unsatisfactory Performance During Probation

1. Introduction
   
   1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).
   
   1.2 Where the term ‘line manager’ is used, this refers to the Head of Department, Head of House or the member of staff’s immediate supervisor/manager.
   
   1.3 References to ‘Department’ also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct probation review meetings should be sought from HR.
   
   1.4 Any reference to Head of Department or HR Director also includes any person acting for him/her.

2. Purpose and Scope
   
   2.1 The Probation Review Regulation should be read in conjunction with the detailed probation guidance for managers and members of staff available from HR (web link).
   
   2.2 The majority of staff achieve the required standard to enable them to pass their probationary period. This Regulation sets out the formal procedure to be followed when a member of staff requires additional support and guidance during their probationary period and should only be used when unsatisfactory performance during probation is identified.
   
   2.3 The procedure detailed in Parts 2 and 3 of this Regulation can be instigated at any stage in the probationary period; however where any probation report indicates that there are performance issues which could lead to the extension of a probationary period, or to a recommendation not to confirm the member of staff’s appointment, this procedure must be instigated by the Head of Department.
   
   2.4 Handled well, a formal probation review process can:

   a) help and encourage members of staff to improve their performance and achieve the required standard to enable them to pass their probationary period;
   b) demonstrate to all members of staff that the University acts fairly and consistently in maintaining these standards.

3. Responsibility for Managing Probation
   
   3.1 Heads of Department and Heads of House have overall responsibility for managing probation, for producing Probation Agreements (or equivalent), for producing probation reports as appropriate and for conducting probation review meetings for the staff in their Departments.

4. Principles
4.1 This Regulation provides a clear and transparent framework to ensure all staff are treated consistently and issues are dealt with fairly, reasonably and in accordance with employment law.

4.2 The following principles will apply to all stages of the Probation Review Regulation:

a) Performance issues during probation will be raised and dealt with, without unnecessary delay. Meetings, discussions, decisions or confirmation of decisions should not be unreasonably delayed.

b) Probation reports will be provided by the Head of Department in accordance with the University’s requirements for that particular role (see web link for details).

c) Where a probation report includes a recommendation to extend the probationary period and/or not to confirm the member of staff in post, a copy will be provided to the member of staff and he/she will be given the opportunity to comment.

d) At every stage in the probation review process the member of staff will be advised of the nature of the probation issues and will be given the opportunity to state his/her case before any decision is made.

e) At all stages, the member of staff will have the right to be accompanied by a trade union representative or work colleague.

f) Where dismissal is contemplated as a potential outcome, the member of staff will be informed, in writing, in advance of any probation review meeting.

g) Staff will have the right to appeal against any formal warning imposed or against dismissal.

h) All staff will be treated consistently, fairly and with respect.

5. Managing performance issues outside the Formal Process

5.1 This Regulation in no way precludes the day-to-day counselling or guidance of members of staff by their line manager. This is encouraged as good management practice to achieve improvements which avoid the need for formal action. For minor cases of underperformance, an informal meeting may bring about the desired improvement and may be more appropriate. Such meetings are not part of this formal Regulation and under normal circumstances, members of staff are not accompanied at these informal meetings.

5.2 Notes should be kept of the meeting so that where the underperformance being dealt with informally continues or is repeated, and there is the possibility of formal action, there is evidence to show earlier attempts to understand and address the problem and offer support have been made.

5.3 Where further instances of underperformance occur and/or it is clear that an informal approach is not bringing about the desired improvement, formal probation review meetings should commence.

5.4 For the avoidance of doubt, nothing in this Regulation shall require the instigation of formal proceedings to be preceded by informal action. In particular, if the performance issue or concern is considered too serious to be addressed through informal methods.

6. Use of the Formal Probation Review Process

6.1 Use of the Formal Probation Review Process may be appropriate if:

a) informal attempts to resolve a problem have not succeeded; or

b) if the member of staff has previously received a warning which is still current at the time of the conduct complained of: or

c) if a first instance of underperformance is sufficiently serious to warrant formal action being taken.

7. Overlapping grievance and probation cases

7.1 Where a member of staff raises a grievance during a probation review process, and the grievance and probation cases are related, both cases will normally be dealt with concurrently.

7.2 Where it is not appropriate to deal with both issues concurrently the probation process may be temporarily suspended in order to deal with the grievance.

7.3 The approach will be mindful of the need to avoid multiplicity of procedures and associated delay.

8. Confidentiality

8.1 Statements, letters and other communications are confidential to those involved in the probation process.

9. Non-attendance

9.1 Members of staff are expected to attend meetings convened under this Regulation.

9.2 If a member of staff does not attend a formal probation review meeting without good reason, the meeting may proceed in his/her absence. Normally, however, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

9.3 Where a member of staff is persistently unable or unwilling to attend a formal probation review meeting without good cause, the Head of Department or Head of House will make a decision on the evidence available.

10. Representation

10.1 All staff have the right at formal probation review meetings and appeals, under this part of the Regulation, to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representative/work colleague to attend the meeting(s).

10.2 Staff should always be allowed adequate time to arrange representation and members of staff and their work colleagues should make every effort to attend the meeting. If a representative or work colleague is unavailable on the date of the formal
meeting, the manager should rearrange the meeting on a suitable alternative date provided this is within a reasonable timescale eg within five working days after the date initially proposed.

10.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable, paid time off both to prepare for and attend the meeting.

10.4 The trade union representative or work colleague accompanying the member of staff is entitled to put the member of staff’s case, to sum up the member of staff’s case, to respond on the member of staff’s behalf to any view expressed at the hearing and to confer with the member of staff during the hearing. The representative or work colleague may request adjournments to discuss and give advice to the member of staff.

10.5 The trade union representative or work colleague does not have the right to answer questions on behalf of the member of staff and should not address the hearing if the member of staff does not wish it. Those present must not behave in a way that prevents the manager explaining his/her views or that prevents any other person present from making his/her contribution to the meeting.

11. HR Representation

11.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

11.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

12. Recording of meetings

12.1 Recording of meetings is not permitted.

13. Equal Opportunity

13.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University’s Diversity and Equality Policy.

Part 2 Formal Probation Performance Review Procedure – Grades 6 to 10

This procedure should be read in conjunction with the University’s guidance on probation (web link).

1. Initial meeting to discuss underperformance during probation

1.1 If not already covered in any earlier informal or probation meeting(s), the Head of Department should establish appropriate facts and information to ensure he/she is clear about the potential underperformance.

1.2 The Head of Department should write to the member of staff informing him/her of the nature of the concerns about his/her performance and inviting the member of staff to a meeting to discuss them.

1.3 The written notification should contain sufficient information about the alleged underperformance and its possible consequences to enable the member of staff to prepare to respond in the initial meeting. The Head of Department should consider possible factors affecting performance.

1.4 The member of staff will also receive, in advance of the meeting, copies of any written documents to which reference will be made.

1.5 The purpose of the meeting is to determine whether the member of staff is failing to meet the requirements of probation and if so, what support mechanisms (including but not limited to training needs) may be required to assist the member of staff and whether further formal action should be taken under this Regulation.

1.6 Initial meetings under this Regulation will normally be chaired by the Head of Department (or other appropriate person as agreed with HR). A representative from HR may be present to provide advice and guidance.

1.7 At the meeting, the nature of the concerns should be explained to the member of staff who will be given an opportunity to respond to them.

2. Outcome of initial meeting to discuss underperformance during probation

2.1 The Head of Department (or other appropriate person) will assess the member of staff’s performance against the Probation Agreement (or equivalent) and if appropriate, develop an action plan which shall clearly set out the improvement and performance required and the action which the member of staff should take to achieve these requirements.

2.1.1 The action plan shall include details of any support mechanisms available to assist the member of staff to improve his/her performance and meet the requirements of probation.

2.1.2 The action plan shall identify the date of the next formal review of the member of staff’s performance and the timetable for any interim meetings to discuss the member of staff’s progress prior to that formal review. There may be additional or alternative meeting dates to those already set out in the Probation Agreement (or equivalent).

2.1.3 The action plan shall identify clear timescales and deadlines for the achievement of key objectives.

2.1.4 The action plan may be drawn up during the meeting or drafted in advance for discussion. If drafted in advance, the action plan should be copied to the member of staff in good time before the meeting.
2.1.5 The manager should give careful consideration to any input to the plan from the member of staff. The member of staff's agreement to the plan should be obtained wherever possible. Targets should be reasonable, unambiguous, appropriate to the role and within the control of the member of staff.

2.1.6 If it is not possible to reach agreement, the Head of Department will have final authority to approve the action plan.

2.2 Following the meeting, the member of staff shall be provided with a written record of the meeting confirming the areas in which improved performance is required, the action plan, any support mechanisms to be provided and if appropriate, the date of the first Formal Probation Review Meeting.

3. Formal Probation Review Meetings

3.1 The purpose of the Formal Probation Review Meetings is to assess whether acceptable standards of performance have been reached and maintained, whether further support is required and whether further action should be taken under this Regulation.

3.2 The meeting shall review the Probation Agreement, action plan and the progress made by the member of staff against the improvement objectives which were set and any other concerns about the member of staff's performance.

3.3 Formal Probation Review Meetings should continue until the member of staff's performance has improved to an acceptable standard and he/she has passed probation and been confirmed in post or the procedure has been exhausted and the member of staff has been dismissed.

3.4 The meetings should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

3.5 Reasonable notice, usually at least five working days notice of a Formal Probation Review Meeting, will be given to the member of staff, unless agreed otherwise with the member of staff. This will allow adequate time for the individual to consult with their trade union representative (if appropriate) and to prepare their case.

3.6 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the Formal Probation Review Meeting, at least two working days in advance of the meeting.

3.7 Formal Probation Review Meetings under this Regulation will normally be chaired by the Head of Department (or other appropriate person, as agreed with HR).

3.8 A representative from HR will be present at Formal Probation Review Meetings to provide advice and guidance.

4. Possible outcomes of Formal Probation Review Meetings

4.1 The outcomes of the Formal Probation Review Meeting may be as follows:

a) if there has been improvement in performance, the member of staff should be encouraged to sustain this and a further review meeting should be arranged to ensure that performance continues to be assessed and any improvement sustained;
b) the Probation Agreement (or equivalent) and action plan shall be reviewed and amended as considered appropriate and any continuing support identified to assist the member of staff in improving his/her performance;
c) if there has not been sufficient improvement in performance, any mitigating factors (such as ill health or non provision of all or part of any previously identified supporting measures) will be considered;
d) where appropriate, an extension of the probationary period may be recommended in accordance with the procedures for that role;
e) where matters are sufficiently serious to justify consideration of non confirmation of appointment, a Formal Probation Review Meeting may also result in the member of staff being given an oral warning, or if an oral warning has already been issued, a written warning may be given.

4.2 The outcome of the Formal Probation Review Meeting shall be confirmed, in writing, to the member of staff and shall:

a) clearly set out (as appropriate) the areas in which the member of staff's performance is considered to be below acceptable standards;
b) clearly set out the nature of the improvement required and the action plan for achieving that improvement, highlighting any amendments to the action plan previously issued;
c) include details of any support offered or available to assist improvement;
d) confirm the date of the next review meeting;
e) state the consequence of failure to improve performance;
f) where the outcome is a formal warning, remind the member of staff that if no satisfactory improvement is made, this may ultimately result in dismissal;
g) where an oral or written warning is given, a record of the warning will be placed on the member of staff's file in HR. These warnings will be considered spent when the member of staff has attained an acceptable standard of performance and has passed probation and been confirmed in post;
h) where the outcome is a formal warning, remind the member of staff of his/her right of appeal and how this may be exercised.

5. Non Confirmation of Employment

5.1 Where a Head of Department intends to recommend that a member of staff should not be confirmed in post and the member of staff has been issued with oral and written warnings, a final probation report shall be provided to the Divisional Head clearly identifying the areas of underperformance and giving examples. The report should also identify any measures taken to address the underperformance, whether formal or informal.

5.2 A copy of the report shall be provided to the member of staff and he/she shall be invited to comment on it in accordance with the procedures for that particular role (web link).

5.3 A panel will be convened to consider the case. The panel will normally consist of the Divisional Head to act as Chair and two other members of staff approved by HR. In the case of academic staff, a sub-group of Academic Progression Committee will be convened to consider the case. The sub-group will
normally consist of a Divisional Head (who shall not be from the same Faculty as the member of staff) and two other members of Academic Progression Committee.

5.4 The Head of Department will be required to attend the meeting to present their recommendation that the member of staff should not be confirmed in post. In the case of academic staff, the relevant Divisional Head will also attend to present the case.

5.5 The meeting should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

5.6 Reasonable notice, usually at least 10 working days notice of the meeting, will be given to the member of staff, unless otherwise agreed. This will allow adequate time for the member of staff to consult with their trade union representative (if appropriate) and to prepare their case.

5.7 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the meeting, at least two days in advance of the meeting.

5.8 A representative from HR will be present at the meeting to provide advice and guidance and to take notes of the meeting.

6. Possible Outcomes of the Meeting

6.1 The panel (or sub-group of Academic Progression Committee for academic staff) may:

a) reject the recommendation of the Head of Department and confirm the member of staff in post;
b) decide to extend the probationary period of the member of staff;
c) accept the recommendation of the Head of Department and dismiss the member of staff (but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome);
d) if a dismissal takes place, this shall be reported to Council.

6.2 The outcome of the meeting shall be confirmed, in writing, to the member of staff and, if the decision is dismissal, shall:

a) clearly state the reason for the dismissal;
b) state the date on which the employment will terminate;
c) confirm any period of notice/pay in lieu of notice;
d) remind the member of staff of his/her right of appeal and how this may be exercised;
e) confirm the decision will be reported to Council.

7. Appeals

7.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning or dismissal; full details of the grounds of appeal must be included.

7.2 All appeals will be heard without unreasonable delay; notwithstanding the outcome of any appeal, any on-going Formal Probation Review processes should not be unreasonably delayed as a result of the appeal process.

7.3 An appeal against a formal warning up to and including the level of formal written warning, will be heard by an appropriate senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.4 An appeal against dismissal will be heard by an Appeal Panel comprising:

a) for academic staff - two Lay Members of Council (one to act as Chair) and one senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).
b) for all other staff – three senior members of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.5 In cases of an appeal against dismissal, the decision of the Appeal Panel will be reported to Council.

7.6 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

7.7 A representative of HR will also be present at the appeal hearing.

7.8 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.

7.9 Staff will be entitled to be represented at appeal hearings against decisions reached as part of this Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

7.10 The member of staff will receive copies of any supporting documentation which the University intends to rely upon, at least five working days in advance of the hearing. The member of staff must also provide copies of any documents upon which they intend to rely and/or their statement of case to HR, as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

7.11 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff's absence.

7.12 In all cases, the person(s) hearing the appeal shall have the authority to reach any of the following conclusions:

a) that the original decision of the Formal Probation Review Meeting be upheld in its entirety;
b) that the grounds for appeal be found in their entirety and that the formal warning be expunged from the member of staff's record or that the dismissal is overturned;

c) that a lesser sanction be substituted for that imposed by the original Formal Probation Review Meeting.

3. Formal Probation Review Meetings

3.1 The purpose of the Formal Probation Review Meetings is to assess whether acceptable standards of performance have been reached and maintained, whether further support is required and whether further action should be taken under this Regulation.

3.2 The meeting shall review the action plan and the progress made by the member of staff against the improvement objectives which were set and any other concerns about the member of staff's performance.

3.3 Formal Probation Review Meetings should continue until the member of staff's performance has improved to an acceptable standard and he/she has passed probation and been confirmed in post or the procedure has been exhausted and the member of staff has been dismissed.

3.4 The meeting(s) should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

3.5 Reasonable notice, usually at least five working days notice of a Formal Probation Review Meeting will be given to the member of staff, unless agreed otherwise with the member of staff. This will allow adequate time for the individual to consult with their trade union representative (if appropriate) and to prepare their case.

3.6 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the Formal Probation Review Meeting at least two working days in advance of the meeting.

3.7 Formal Probation Review Meetings under this Regulation will normally be chaired by the line manager (or other appropriate person, as agreed with HR).

3.8 A representative from HR will be present at Formal Probation Review Meetings to provide advice and guidance.

4. Possible outcomes of Formal Probation Review Meetings

4.1 The outcomes of the Formal Probation Review Meeting may be as follows:

a) if there has been improvement in performance, the member of staff should be encouraged to sustain this and a further review meeting should be arranged to ensure that performance continues to be assessed and any improvement sustained;

b) the action plan shall be reviewed and amended as considered appropriate and any continuing support identified to assist the member of staff in improving his/her performance;

c) if there has not been sufficient improvement in performance, any mitigating factors (such as ill health or non provision of all or part of any previously identified supporting measures) will be considered;

d) where appropriate, an extension of the probationary period may be recommended in accordance with the procedures for that role;

e) where matters are sufficiently serious to justify consideration of non confirmation of appointment, a Formal Probation Review Meeting may
also result in the member of staff being given an oral warning, a written warning may be given.

4.2 The outcome of the Formal Probation Review Meeting shall be confirmed, in writing, to the member of staff and shall:
   a) clearly set out (as appropriate) the areas in which the member of staff's performance is considered to be below acceptable standards;
   b) clearly set out the nature of the improvement required and the action plan for achieving that improvement, highlighting any amendments to the action plan previously issued;
   c) include details of any support offered or available to assist improvement;
   d) confirm the date of the next review meeting;
   e) state the consequence of failure to improve performance;
   f) where the outcome is a formal warning, remind the member of staff that if no satisfactory improvement is made, this may ultimately result in dismissal;
   g) where an oral or written warning is given, a record of the warning will be placed on the member of staff's file in HR. These warnings will be considered spent when the member of staff has attained an acceptable standard of performance and has passed probation and been confirmed in post;
   h) where the outcome is a formal warning, remind the member of staff of his/her right of appeal and how this may be exercised.

5. Non Confirmation of Employment

5.1 Where a line manager intends to recommend that a member of staff should not be confirmed in post and the member of staff has previously been issued with formal warning(s), a final probation report shall be provided to the Head of Department clearly identifying the areas of underperformance and giving examples. The report should also identify any measures taken to address the underperformance, whether formal or informal.

5.2 The member of staff will be invited to a meeting with the Head of Department to discuss the report and the recommendation of the line manager.

5.3 The meeting should be held without unreasonable delay whilst allowing the member of staff reasonable time to prepare their case.

5.4 Reasonable notice, usually at least five working days notice of the meeting, will be given to the member of staff, unless otherwise agreed. This will allow adequate time for the member of staff to consult with their trade union representative (if appropriate) and to prepare their case.

5.5 Any documentary evidence to be relied upon by the member of staff must be provided to the person who is to chair the meeting, at least two days in advance of the meeting.

5.6 A representative from HR will be present at the meeting to provide advice and guidance and to take notes of the meeting.

6. Possible Outcomes of the Meeting

6.1 The Head of Department may:
   a) reject the recommendation of the line manager and confirm the member of staff in post;
   b) decide to extend the probationary period of the member of staff;
   c) accept the recommendation of the line manager and dismiss the member of staff, (but only in cases where the member of staff has been expressly warned, prior to the hearing, that dismissal is a potential outcome).

6.2 The outcome of the meeting shall be confirmed, in writing, to the member of staff and if the decision is dismissal, shall:
   a) clearly state the reason for the dismissal;
   b) state the date on which the employment will terminate;
   c) confirm any period of notice/pay in lieu of notice;
   d) remind the member of staff of his/her right of appeal and how this may be exercised.

7. Appeals

7.1 A member of staff who wishes to appeal against a formal warning or dismissal shall inform the HR Director within 10 working days of the date of the written notification of the warning or dismissal; full details of the grounds of appeal must be included.

7.2 All appeals will be heard without unreasonable delay; notwithstanding the outcome of any appeal, any on-going Formal Probation Review processes should not be unnecessarily delayed as a result of the appeal process.

7.3 An appeal against a formal warning or dismissal will be heard by an appropriate senior member of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

7.4 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

7.5 A representative of HR will also be present at the appeal hearing.

7.6 A member of staff will normally be given at least five working days written notice of the date of an appeal hearing.

7.7 Staff will be entitled to be represented at appeal hearings against decisions reached as part of this Regulation. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

7.8 The member of staff will receive copies of any supporting documentation which the University intends to rely upon, at least five working days in advance of the hearing. The member of staff must also provide copies of any documents on which they intend to rely upon and/or their statement of case to HR, as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.
7.9 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff's absence.

7.10 In all cases, the person hearing the appeal shall have the authority to reach any of the following conclusions:

a) that the original decision of the Final Probation Review Meeting be upheld in its entirety;
b) that the grounds for appeal be found in their entirety and that the formal warning be expunged from the member of staff's record or that the dismissal is overturned;
c) that a lesser sanction be substituted for that imposed by the original Formal Review Meeting.

Part 1 Redundancy Regulation

1. Introduction

1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).

1.2 Where the term 'line manager' is used, this refers to the Head of Department, Head of House or the member of staff's immediate supervisor/manager.

1.3 References to 'Departments' also relate to Schools, Colleges and Professional Support Departments. Confirmation of the appropriate person in these areas to conduct redundancy meetings should be sought from HR.

1.4 Any reference to Head of Department, Head of House or HR Director includes any person acting for him/her.

2. Purpose and Scope

2.1 The University recognises the importance of maintaining and enhancing the efficiency of its operations, while seeking to safeguard security of employment for members of staff. Accordingly, the University will seek to avoid compulsory termination of employment on the grounds of redundancy wherever possible.

2.2 Where there is a potential redundancy situation, the processes outlined in this Regulation shall be applied so that the University’s interests are protected and members of staff are treated fairly and consistently.

2.3 This Regulation sets out the measures that shall be taken to avoid or minimise the need for compulsory redundancies and outlines the process that shall be followed, should redundancies be unavoidable.

2.4 The Regulation applies to all members of staff employed by the University (with the exception of the Vice-Chancellor for whom separate provision is made).

2.5 In order to seek to avoid potential redundancies, the University will discuss workforce planning, funding and organisational issues at the regular meetings of the Joint Consultative and Negotiating groups.

3. Responsibility for Managing Redundancy

3.1 Heads of Departments and Heads of House will normally have overall responsibility for managing redundancy matters and conducting redundancy meetings for members of staff within their departments.

3.2 There may be some circumstances where it would be inappropriate for a Head of Department or Head of House to be responsible for managing a redundancy
process. Where this is the case, affected member(s) of staff and relevant trade union(s) will be duly informed by HR of the member of staff who will lead the process.

4. Definition

4.1 A potential redundancy situation occurs where:

a) The University has ceased, or intends to cease, to carry out any activity for which a member or members of staff are employed; or ceases, or intends to cease to carry out such activity at any particular place; or
b) The University’s requirements for members of staff to carry out work of a particular kind, or for members of staff to carry out work of a particular kind in any particular place, has ceased or diminished or is expected to do so.

5. Consultation

5.1 The University shall undertake meaningful consultation with relevant recognised relevant campus trade union(s) as soon as any proposal highlighting the possibility of redundancies has been formally considered and given provisional approval by the University Executive Committee or the Divisional Head (where he/she is acting with the delegated authority of the University Executive Committee) to proceed to consultation.

5.2 Relevant recognised campus trade union(s) will be consulted as part of the development of final proposals before they are approved by the University Executive Committee or by the Divisional Head.

5.3 In addition to consultation with relevant recognised campus trade union(s), individual consultation will also take place with the members of staff who may be affected by the proposals before final proposals are approved by the University Executive Committee or Divisional Head. Members of staff will be reminded of their right to be accompanied at any stage of this Regulation by a trade union representative or work colleague.

5.4 The purpose of the consultation process is to seek ways to avoid a redundancy situation and/or to reduce the numbers of dismissals and/or to mitigate the effects of the redundancies.

5.5 The formal consultation process shall begin:

a) at least 90 days before the first dismissal is due to take effect, where it is proposed to dismiss, as redundant, 100 or more staff within a period of 90 days or less;
b) at least 30 days before the first dismissal is due to take effect, where it is proposed to dismiss, as redundant, between 20-99 staff within a period of 90 days or less;
c) as soon as is reasonably practicable before the first dismissal is due to take effect, where it is proposed to dismiss, as redundant, fewer than 20 staff.

5.6 To begin formal consultation, the University shall provide the appropriate full time official and the relevant recognised campus trade union(s) and affected members of staff with the following information:

a) the reasons for the proposals;
b) whether a ‘pool for selection’ is appropriate, in some situations a ‘pool’ will not be appropriate;
c) if a ‘pool for selection’ is appropriate, details of how the ‘pool’ is defined and the proposed method of selecting the members of staff who are at risk of dismissal;
d) the total number and description of members of staff it is proposed to declare redundant and the total number of such staff employed by the University;
e) the proposed method of carrying out the dismissals, with due regard to the appropriate procedure as detailed in Parts 2 and 3 of this Regulation, including the period of time over which the dismissals are to take effect;
f) the method of calculating the amount of redundancy payments.

6. Measures to avoid or minimise redundancies

6.1 In considering the appropriateness of the measures outlined in 6.2, the University will be guided by its institutional strategy and financial requirements.

6.2 The University will seek to minimise the need for redundancies by appropriate forward planning. However, where redundancies are proposed, consideration will be given to the following:

a) natural wastage;
b) restricting recruitment and review the use of any agency staff;
c) retraining and re-deployment;
d) reduction or elimination of overtime working;
e) consider short time working, temporary lay-offs or unpaid sabbaticals;
f) consider volunteers for part-time working;
g) consider volunteers for career breaks;
h) seeking applicants for early retirement or volunteers for redundancy;
i) consideration of reward strategies;
j) seeking to make savings in non-staff budgets;
k) seeking alternative funding (eg where funding for a particular project has expired).

7. Redeployment

7.1 Where it is necessary to select staff to be made redundant, the University will seek to identify suitable alternative employment for affected staff in accordance with the University’s Redeployment Policy (web link).

8. Selection criteria

8.1 Where it is necessary to select staff to be made redundant, relevant recognised trade union(s) and affected member(s) of staff will be consulted at the
earliest opportunity on the process to be followed and any criteria to be used, both of which shall be fair, transparent and objective.

8.2 In seeking to agree fair, transparent and objective selection criteria, the most important consideration will be the long-term sustainability of the University and the need to maintain a high quality, balanced workforce with appropriate skills to meet the needs of the University.

9. Non-attendance

9.1 Where individual or group meetings are convened under this Regulation (as detailed in parts 2 and 3) members of staff are expected to attend.

9.2 If a member of staff does not attend a meeting without good reason, the meeting may proceed in his/her absence. Normally, however, the meeting will be adjourned to enable contact to be made with the member of staff to ascertain the cause of his/her absence, unless the meeting has already been adjourned due to previous absence without good reason.

9.3 Where a member of staff is persistently unable or unwilling to attend a meeting without good cause, the meeting may proceed in the absence of the member of staff.

10. Representation

10.1 All members of staff have the right at meetings and appeals under this Regulation to be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University. The member of staff must make all such arrangements for his/her own representation/companion to attend the meeting(s).

10.2 Staff should always be allowed adequate time to arrange representation. Members of staff and their work colleagues should make every effort to attend the meeting. If a trade union representative or work colleague is unavailable on the date of the formal meeting, the manager should rearrange the meeting on a suitable alternative date, provided this is within a reasonable timescale – e.g. within five working days after the date initially proposed.

10.3 Under no circumstances should staff be refused the right of representation. If the trade union representative is employed by Durham University, he/she is entitled to reasonable paid time off both to attend and prepare for the meeting.

11. HR Representation

11.1 A representative from HR will normally be present at meetings under this procedure to provide advice and guidance.

11.2 If required, a further person, normally from HR, will act as note taker during the meeting. The member of staff and his/her work colleague or trade union representative are free to take their own notes if they wish.

12. Recording of meetings

12.1 Recording of meetings is not permitted.

13. Equal Opportunity

13.1 All parties involved in the operation of these regulations shall ensure that the application is in line with the University's Diversity and Equality Policy.

Part 2 Redundancy Procedure - Grades 6 to 10

1. Procedure where selection for redundancy is not required

1.1 In some circumstances the University will propose that there is no requirement for a 'pool for selection'.

1.2 The University shall provide the relevant recognised trade union(s) with the information as outlined in Part 1, section 5.6.

1.3 The University shall consult with the relevant recognised trade union(s) with a view to reaching agreement and seeking ways to avoid or mitigate the effect of the proposed redundancies with regard to current legislation and as outlined in Part 1, section 6.

1.4 In parallel with consultation with relevant recognised trade union(s), the University shall notify the affected member(s) of staff that his/her continued employment is being considered under this Regulation and that his/her employment may be at risk of dismissal on the grounds of redundancy.

1.5 The affected member(s) of staff shall be provided with an opportunity to attend a meeting at which the reason for the proposed redundancy/ies will be explained and alternatives to redundancy explored. The affected member(s) of staff shall be advised of their right to be accompanied at all stages by a trade union representative or work colleague.

1.6 If required, further meetings shall be arranged to discuss the representations made by the affected member(s) of staff, respond to them and further consider alternatives to the proposed redundancy.

1.7 Where, following consultation, the University continues to propose the potential dismissal of a member(s) of staff on the grounds of redundancy, the member of staff will be invited to a meeting with the Divisional Head where he/she will be invited to make any representations he/she wishes regarding his/her selection for redundancy.

1.8 The Divisional Head will also be provided, in writing, with details of the consultation process to enable him/her to review the process in consultation with HR.
1.9 If the Divisional Head determines that a fair process has been undertaken, he/she will instruct HR to inform the member(s) of staff in writing that it has been decided to terminate his/her employment on the grounds of redundancy.

1.10 The member(s) of staff will be given written notice of dismissal on the grounds of redundancy. The notice of dismissal shall include:

a. details of the period of notice and the date their employment will terminate;

b. details of the measures that will continue to be taken during the period of notice to avoid the redundancy;

c. details of any redundancy payments that will be made in the event that alternatives to termination of employment cannot be found;

d. details of his/her right of appeal against dismissal and the appropriate time limits for making such an appeal.

2. Procedure where selection for redundancy is required

2.1 Where a possible redundancy situation arises that may require a selection process, the steps outlined in sections 2.2 to 2.5 shall not be taken without prior authorisation of the University Executive Committee or the Divisional Head (where he/she is acting with the delegated authority of the University Executive Committee).

2.2 The University shall inform the relevant recognised trade union(s) of the appropriate authorisation process which shall be dependent on the circumstances of the proposed redundancy situation.

2.3 The University shall provide the relevant recognised trade union(s) with the information as outlined in Part 1, section 5.6.

2.4 The University shall consult with the relevant recognised trade union(s) with a view to reaching agreement and seeking ways to avoid or mitigate the effect of the proposed redundancies with regard to current legislation and as outlined in Part 1, section 6.

2.5 In addition to consultation with relevant campus trade union(s) the University shall notify the affected member(s) of staff that his/her/their continued employment is being considered under this Regulation and that his/her/their employment may be at risk of dismissal on the grounds of redundancy.

2.6 The affected member(s) of staff shall be provided with an opportunity to attend a meeting at which the reason for the proposed redundancies will be explained and alternatives to redundancy explored. The affected member(s) of staff shall be advised of their right to be accompanied at all stages by a trade union representative or work colleague.

2.7 If required, further meetings shall be arranged to discuss the representations made by the affected member(s) of staff and respond to them and further consider alternatives to the proposed redundancy.

2.8 Where, following consultation with relevant recognised trade union(s) and affected member(s) of staff, the University continues to propose the potential dismissal of the grounds of redundancy, the University Executive Committee or the Divisional Head (where he/she is acting with the delegated authority of the University Executive Committee) will be provided with the final proposal, including details of the consultation process and any representations made by trade union(s) or affected member(s) of staff. The University Executive Committee or the Divisional Head shall review the proposal and the consultation process; and will be requested to authorise the commencement of selection of members of staff for dismissal on the grounds of redundancy.

2.9 The affected member(s) of staff shall be informed in writing of the selection criteria that shall be used to determine which member(s) of staff within the affected group are to be dismissed by reason of redundancy, the timescale for the assessment and the person(s) who will carry out the assessment.

2.10 The affected staff shall also be provided with a period of time within which to make representations about the selection criteria (unless this has already been the subject of consultation with relevant trade union(s) and affected member(s) of staff) or to provide any information to be taken into account when the selection criteria are applied.

2.11 The affected members of staff will be assessed in accordance with the selection criteria. Selection will normally be carried out by the Head of Department and one other member of staff, as agreed with HR. A member of HR will also be present during the assessment process.

2.12 Following the assessment, the affected member(s) of staff will be informed in writing that:

- he/she has been provisionally selected for redundancy and invited to a meeting at which he/she will be provided, in writing, with details of their assessment against the selection criteria, or that;

- he/she has not been provisionally selected for redundancy, but that this situation is subject to change depending on the outcomes of meetings and/or appeals from members of staff who have been provisionally selected for redundancy. Such staff will also be provided in writing with details of their assessment against the selection criteria.

2.13 The member(s) of staff provisionally selected for redundancy will be invited to make representations about his/her assessment to HR and a formal response will be provided by those making the assessment, detailing whether or not the assessment has changed.

2.14 Following any re-assessment as outlined in section 2.13, the member of staff will be invited to a meeting with the Divisional Head where he/she will be invited to make any representations he/she wishes regarding his/her selection for redundancy.

2.15 The Divisional Head will also be provided, in writing, with details of the consultation and selection process to enable him/her to review the process in consultation with HR.

2.16 If the Divisional Head determines that a fair process has been undertaken, he/she will instruct HR to inform the member(s) of staff, in writing, that he/she has been selected for redundancy and their employment will terminate on the grounds of redundancy.
2.17 The member(s) of staff will be given written notice of dismissal on the grounds of redundancy. The notice of dismissal shall include:

a. details of the period of notice and the date the employment will terminate;
b. details of the measures that will continue to be taken during the period of notice to avoid the redundancy;
c. details of any redundancy payments that will be made in the event that alternatives to termination of employment cannot be found;
d. details of his/her right of appeal against dismissal and the appropriate time limits for making such an appeal;
e. confirmation that the redundancy will be reported to Council.

3. Appeals

3.1 A member of staff who wishes to appeal against a dismissal on the grounds of redundancy shall inform the HR Director within 10 working days of the date of the written notification of the dismissal; full details of the grounds of appeal must be included.

3.2 All appeals will be heard without unreasonable delay.

3.3 An appeal against dismissal on the grounds of redundancy will be heard by an Appeal Panel comprising two Lay Members of Council (one to act as Chair) and one senior member of staff not previously involved in the case, nominated by the HR Director, or his/her nominee, from amongst the membership of Senate.

3.4 The decision of the Appeal Panel will be reported to Council.

3.5 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

3.6 A representative of HR will also be present at the appeal hearing.

3.7 A member of staff will normally be given at least 10 working days written notice of the date of an appeal hearing.

3.8 Staff will be entitled to be represented at appeal hearings against dismissal on the grounds of redundancy. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity), or trade union representative.

3.9 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents upon which they intend to rely and/or their statement of case. This must be sent to HR as far in advance of the meeting as possible and no later than two clear working days before the hearing, for distribution to the individual(s) hearing the appeal and the other party or parties involved.

3.10 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member's absence.

Part 3 Redundancy Procedure - Grades 1 to 5

1. Procedure where selection for redundancy is not required

1.1 In some circumstances the University will propose that there is no requirement for a ‘pool for selection’.

1.2 The University shall provide the relevant recognised trade union(s) with the information, as outlined in Part 1, section 5.6.

1.3 The University shall consult with the relevant recognised trade union(s) with a view to reaching agreement and seeking ways to avoid or mitigate the effect of the proposed redundancies with regard to the relevant legislation and as outlined in Part 1, section 6.

1.4 In parallel with consultation with relevant recognised trade union(s), the University shall notify the affected member(s) of staff that his/her continued employment is being considered under this Regulation and that his/her employment may be at risk of dismissal on the grounds of redundancy.

1.5 The affected member(s) of staff shall be provided with an opportunity to attend a meeting at which the reason for the proposed redundancy/ies will be explained and alternatives to redundancy explored. The affected member(s) of staff shall be advised of their right to be accompanied at all stages by a trade union representative or work colleague.

1.6 If required, further meetings shall be arranged to discuss the representations made by the affected member(s) of staff, respond to them and further consider alternatives to the proposed redundancy.

1.7 Where, following consultation, the University continues to propose the potential dismissal of a member(s) of staff on the grounds of redundancy, the member of staff will be invited to a meeting with the Head of Department where he/she will be invited to make any representations he/she wishes regarding his/her selection for redundancy.

1.8 The Head of Department will also be provided in writing with details of the consultation process to enable him/her to review the process in consultation with HR.

1.9 If the Head of Department determines that a fair process has been undertaken he/she will instruct HR to inform the member(s) of staff in writing, that it has been decided to terminate his/her employment on the grounds of redundancy.

1.10 The member(s) of staff will be given written notice of dismissal on the grounds of redundancy. The notice of dismissal shall include;
2. **Procedure where selection for redundancy is required**

2.1 Where a possible redundancy situation arises that may require a selection process, the steps outlined in sections 2.2 to 2.5 shall not be taken without prior authorisation of the University Executive Committee or the Divisional Head (where he/she is acting with the delegated authority of the University Executive Committee).

2.2 The University shall inform the relevant recognised trade union(s) of the appropriate authorisation process which shall be dependent on the circumstances of the proposed redundancy situation.

2.3 The University shall provide the relevant recognised trade union(s) with the information as outlined in Part 1, section 5.6.

2.4 The University shall consult with the relevant recognised trade union(s) with a view to reaching agreement and seeking ways to avoid or mitigate the effect of the proposed redundancies with regard to relevant legislation and as outlined in Part 1, section 6.

2.5 In addition to consultation with relevant recognised trade union(s) the University shall notify the affected member(s) of staff that his/her/their continued employment is being considered under this Regulation and that his/her/their employment may be at risk of dismissal on the grounds of redundancy.

2.6 The affected member(s) of staff shall be provided with an opportunity to attend a meeting at which the reason for the proposed redundancies will be explained and alternatives to redundancy explored. The affected member(s) of staff shall be advised of their right to be accompanied at all stages by a trade union representative or work colleague.

2.7 If required, further meetings shall be arranged to discuss the representations made by the affected member(s) of staff and respond to them and further consider alternatives to the proposed redundancy.

2.8 Where, following consultation with relevant recognised trade union(s) and affected member(s) of staff, the University continues to propose the potential dismissal on the grounds of redundancy, the University Executive Committee or the Divisional Head (where he/she is acting with the delegated authority of the University Executive Committee) will be provided with the final proposal, including details of the consultation process and any representations made by trade union(s) or affected member(s) of staff. The University Executive Committee or the Divisional Head shall review the proposal, the consultation process and be requested to authorise the commencement of selection of members of staff for dismissal on the grounds of redundancy.

2.9 The affected member(s) of staff shall be informed in writing of the selection criteria that shall be used to determine which member(s) of staff within the affected group are to be dismissed by reason of redundancy; the timescale for the assessment; and of the person(s) who will carry out the assessment.

2.10 The affected staff shall also be provided with a period of time within which to make representations about the selection criteria (unless this has already been the subject of consultation with relevant trade union(s) and affected member(s) of staff or to provide any information to be taken into account when the selection criteria are applied.

2.11 The affected members of staff will be assessed in accordance with the selection criteria; selection will normally be carried out by the Head of Department and one other member of staff, as agreed with HR. A member of HR will also be present during the assessment process.

2.12 Following the assessment, the affected member(s) of staff will be informed in writing that:

a) he/she has been provisionally selected for redundancy and invited to a meeting at which he/she will be provided, in writing, with details of their assessment against the selection criteria, or that;

b) if he/she has not been provisionally selected for redundancy, but that this situation is subject to change, depending on the outcomes of meetings and/or appeals from members of staff who have been provisionally selected for redundancy. Such staff will also be provided in writing with details of their assessment against the selection criteria.

2.13 The member(s) of staff provisionally selected for redundancy will be invited to make representations about his/her assessment to HR and a formal response will be provided by those making the assessment, detailing whether or not the assessment has changed.

2.14 Following any re-assessment as outlined in section 2.13, and having taken account of any representations made by member(s) of staff and trade union(s), details of the consultation and selection process will be provided in writing to the Head of Department to enable him/her to review the process.

2.15 If the Head of Department determines that a fair process has been undertaken, he/she will instruct HR to inform the member(s) of staff, in writing, that he/she has been selected for redundancy and their employment will terminate on the grounds of redundancy.

2.16 The member(s) of staff will be given written notice of dismissal on the grounds of redundancy. The notice of dismissal shall include:

a) details of the period of notice and the date the employment will terminate;

b) details of the measures that will continue to be taken during the period of notice to avoid the redundancy;
c) details of any redundancy payments that will be made in the event that alternatives to termination of employment cannot be found;
d) details of his/her right of appeal against dismissal and the appropriate time limits for making such an appeal.

3. Appeals

3.1 A member of staff who wishes to appeal against a dismissal on the grounds of redundancy shall inform the HR Director within 10 working days of the date of the written notification of the dismissal; full details of the grounds of appeal must be included.

3.2 All appeals will be heard without unreasonable delay.

3.3 An appeal against dismissal on the grounds of redundancy will be heard by an Appeal Panel comprising three senior members of staff not previously involved in the case, nominated by the HR Director (or his/her Deputy).

3.4 All appeal hearings will involve the member of staff and the manager who took the action resulting in the appeal.

3.5 A representative of HR will also be present at the appeal hearing.

3.6 A member of staff will normally be given at least five working days written notice of the date of an appeal hearing.

3.7 Staff will be entitled to be represented at appeal hearings against dismissal on the grounds of redundancy. They can be represented by any employee of the University who is a colleague (not acting in a legal capacity) or a trade union representative.

3.8 The member of staff will receive copies of any supporting documentation which the University intends to rely upon at least five working days in advance of the hearing. The member of staff must also provide copies of any documents upon which they intend to rely and/or their statement of case to HR. This must be as far in advance of the meeting as possible and no later than two clear working days before the hearing for distribution to the individual(s) hearing the appeal and the other party or parties involved.

3.9 Members of staff are expected to attend appeal meetings. In exceptional circumstances where the member of staff is unable to attend the appeal hearing, they must inform HR as soon as possible. Should a member of staff request a postponement to an appeal hearing on more than one occasion, the University will normally hold the hearing in the member of staff's absence.

Part 1 Removal from an Appointed Office Regulation

1. Introduction

1.1 This Regulation should be read in conjunction with the revised Statute 39 and any amendments made from time to time (web link).

2. Purpose and Scope

2.1 This Regulation is to be followed when the University is proposing to remove a member of staff from a non-substantive or elected appointment, such as Head of Department, a Deanship or a similar office; where no dismissal from the member of staff’s substantive post is contemplated. The holder of such a post shall hereafter be described as ‘Appointed Officer’.

2.2 This Regulation sets out the procedure to be followed where the University proposes to terminate the appointment of such an Appointed Officer, prior to the prescribed or normal termination date for that appointment.

2.3 This Regulation shall not apply to removal of a member of staff from a substantive post. For the avoidance of doubt, this Regulation shall not apply to the Vice-Chancellor.

Part 2 Removal from an Appointed Office Procedure

1. Procedure

1.1 Where it is proposed to terminate the appointment of an Appointed Officer prior to the prescribed or normal termination date for the appointment, the following procedure shall apply:

1.1.1 The Appointed Officer shall be given details of the reasons for the proposed early termination of the appointment.

1.1.2 The Appointed Officer shall be invited to a hearing by a panel.

1.1.3 The panel shall normally comprise a Divisional Head plus two other senior members of staff, at least one of whom should be at least equivalent to a Head of Department.
1.1.4 The HR Director or his/her nominee shall normally be in attendance at the meeting.

1.1.5 The panel shall have full discretion to decide on the conduct of the hearing.

1.1.6 The Appointed Officer shall be entitled to be accompanied/represented at the panel hearing. The Appointed Officer’s representative may be a colleague or trade union representative of his/her choice.

1.1.7 If the Appointed Officer’s representative is not available at the time of the proposed hearing, the Appointed Officer may request that the meeting is postponed to another reasonable time being not later than five working days after the date first proposed for the hearing. The representative may attend the hearing with the Appointed Officer, may speak on the Appointed Officer’s behalf, but may not answer questions (relating to the issues in dispute) on the Appointed Officer’s behalf.

1.1.8 The decision of the hearing panel whether to terminate the appointment of an Appointed Officer shall be provided, in writing, within 10 working days to the Appointed Officer.

2. Appeals

2.1 If the Appointed Officer wishes to appeal against the decision of the hearing panel, he/she should do so in writing to the Registrar & Secretary within 10 clear working days of receipt of the decision of the panel. The Appointed Officer should set out in full the grounds of his/her appeal.

2.2 The Appeal will be heard by a panel (‘An Appeal Panel’), convened in accordance with section 2.3 below.

2.3 The Appeal Panel shall comprise three persons (being persons other than members of the hearing panel) designated by the Vice-Chancellor to hear the appeal.

2.3.1 The HR Director or his/her nominee will normally be in attendance.

2.4 The Appointed Officer shall be entitled to be accompanied or represented at the appeal hearing. The Appointed Officer’s representative may be a work colleague or trade union representative of his/her choice.

2.5 If the Appointed Officer’s representative is not available at the time proposed for the appeal hearing, the Appointed Officer may request that the appeal hearing is postponed to another reasonable time being not later than five working days after the date first proposed for the appeal hearing. The representative may attend the hearing with the Appointed Officer, may speak on the Appointed Officer’s behalf, but may not answer questions (relating to the issues in dispute) on the Appointed Officer’s behalf.

2.6 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:

a) confirm the decision reached by the hearing panel; or
b) allow the appeal.

2.7 The decision of the appeal panel shall be provided in writing and sent to the office holder. The decision of the appeal panel shall be final.

2.8 In the event it is confirmed that the Appointed Officer’s appointment to an office should be terminated (subject to the outcome of the appeal before mentioned), the appointment of the Appointed Officer shall terminate with immediate effect.
Title: Statutes: Changes and Regulations – The Office of the Vice-Chancellor

Brief description of business item:

Document S/09/56 included:
- An explanation of the proposed changes and rationale – white pages
- Annotated extracts of University Statutes showing the proposed changes – yellow pages
- The new HR Regulations, required by the new Statute 39 – blue pages

This additional document contains the separate regulation covering the specific case of the Vice-Chancellor. The regulation for the Office of the Vice-Chancellor underwent a drafting procedure separate to that of the other regulations, being drafted in consultation with the Chairman of Council and with input from the Registrar and Director of Governance Support.

This regulation should be read in the light of the proposed new Statute 39 and the draft regulations circulated as part of Document S/09/56.

Deadline for action/response and staff to be invited to attend meeting: (if any) None

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Other committee approvals obtained or required (please give date where known):

Approved in principle by UEC on 20 April 2010.

Does the paper contain budgetary proposals? If yes, please complete and attach a budget template, having consulted with the Director of Financial Planning. NO

Author name and contact details: Jack Boyd, Director of HR, x46500

UEC sponsor name (where applicable): Registrar

Is paper to be closed? *Yes/No If yes, please state reason No

Please contact Kate Deeming, Director of Governance Support for advice on scheduling of items to UEC, Senate and Council and for further advice about closed papers. Telephone: 46113 or email: c.t.deeming@durham.ac.uk

Please contact Julie Waterfield, Director of Financial Planning if your paper contains budgetary proposals. Telephone: 46970 or email: j.d.waterfield@durham.ac.uk.

*Note: There is also guidance at http://www.dur.ac.uk/foi/staff/committee/documentation/. A closed paper will be confidential to committee members and will not be placed on the web. ** Strike through as applicable
DURHAM UNIVERSITY

THE OFFICE OF THE VICE-CHANCELLOR

1. This Regulation sets out the applicable procedure for the Council determining that the Vice-Chancellor shall be dismissed and removed from office, for any reason.

2. For the avoidance of doubt, the Vice-Chancellor shall be a member of academic staff for the purposes of Statute 39, paragraph 3 (i) (Academic Freedom).

3. Given the seniority of the post, the Regulations for other University staff covering discipline, grievances, and performance improvement are considered by Council to be inappropriate.

4. The Vice-Chancellor may raise a grievance in relation to his/her employment in writing with a Vice-Chairman of Council, who will establish as soon as practicable a panel of Council members to adjudicate on the matter and decide on the appropriate action to be taken.

5. Issues of performance will be raised with the Vice-Chancellor by the Chairman of Council, who will establish the improvement required and the timescale for improvement. If adequate improvement is not achieved, the matter may result in disciplinary action being taken.

6. Should any disciplinary matters arise Council will establish as soon as practicable a panel of Council members to investigate and recommend to Council the appropriate action to be taken. In order to expedite matters Council may also establish a second panel to hear an appeal should this prove necessary. The Chairman of Council shall have delegated authority to nominate additional members for either panel in the event that those originally agreed by Council are unable to participate.

7. The disciplinary panel should comprise at least 3 members of Council, including a minimum of one academic staff member and a Vice-Chairman of Council who will chair the panel. The appeal panel should comprise at least 3 members of Council, including a minimum of one academic staff member, not previously involved in the case. The Chairman of Council will not be a member of either panel.

8. The Registrar and Secretary shall act as Secretary to the panels.

9. The Vice-Chancellor may be suspended on full pay at any stage of the disciplinary procedure, to allow for an investigation to take place, or in any circumstances where it is considered inappropriate for the Vice-Chancellor to attend work. Suspension will be subject to regular review. Notice of suspension will be confirmed in writing by the Registrar and Secretary.

10. At any meeting of the disciplinary panel at which the dismissal and removal from office of the Vice-Chancellor is to be considered, the Vice-Chancellor will be invited to attend and present to the panel before a decision is made and may be accompanied by a representative. The Vice-Chairman of Council may request the Vice-Chancellor to absent him/herself from any part of that meeting.

11. The disciplinary panel may decide by a simple majority of those present to recommend the dismissal of the Vice-Chancellor and to remove him/her from office and whether such dismissal shall be a summary dismissal (i.e. without notice or payment in lieu of notice) or a dismissal on notice or with a payment in lieu of notice. If the vote shall be equally
divided for and against, the Vice-Chairman of Council shall have a second and casting vote.

12. The disciplinary panel may decide by a simple majority of those present to recommend that no further action is taken or to recommend an appropriate penalty which does not include dismissal and removal from office. If the vote shall be equally divided for and against, the Vice-Chairman of Council shall have a second and casting vote.

13. Where the decision of the disciplinary panel, established under paragraph 6 above, is to recommend dismissal and removal from the office of the Vice-Chancellor, the Vice-Chancellor shall be informed of that fact within 10 working days of the panel reaching its decision.

14. Within 10 days of notification of the panel’s decision the Vice-Chancellor has the right to appeal. The appeal, in writing, shall be made to the Registrar and Secretary who shall convene the appeal panel, established under paragraph 6, to hear the appeal in advance of Council receiving the disciplinary panel’s decision.

15. The appeal panel shall review the process and the reasonableness of the disciplinary panel’s recommendation(s) to Council; it shall not re-hear the case. It shall provide a report to Council and the Vice-Chancellor shall be informed of the appeal panel’s findings within 10 working days of the panel reaching a conclusion.

16. The Chairman of Council may convene a special meeting of Council to consider the report(s) from the disciplinary panel and the appeal panel (in the event that an appeal panel has been convened) and decide the appropriate action to be taken.

17. At any meeting of the Council at which the dismissal and removal from office of the Vice-Chancellor is to be considered, the Vice-Chancellor will be invited to attend and present to Council before a decision is made and may be accompanied by a representative. The Chairman of Council may request the Vice-Chancellor to absent him/herself from any part of the meeting.

18. The Council may decide by a simple majority of those present to accept or reject the Panel’s recommendation(s) in full or in part, or decide alternative appropriate action(s). If the vote shall be equally divided for and against, the Chairman of Council shall have a second and casting vote.

19. The decision of the Council shall be final.