

HUMAN RESOURCES POLICIES & PROCEDURES/REMOVAL FROM APPOINTMENT

Policy Guidelines & Procedures Governing Removal from Appointment of Substantiated Academic & equivalent Administrative Staff on Terms of Service A

Under the existing Terms of Service A for academic & equivalent administrative staff, a substantiated staff member may be removed from appointment on grounds of redundancy, misconduct, inefficiency or other good cause. Removal from appointment is a serious matter and will only be used as a last resort after all other efforts have failed. In the event that removal cannot be avoided, this document provides clear policy guidelines and procedures to be followed in investigating into the case and to remove, if appropriate, a substantiated academic & equivalent administrative staff member from appointment in accordance with what is set out in Clause 16 and Appendix F of Terms of Service A.

REMOVAL ON GROUNDS OF MISCONDUCT, INEFFICIENCY OR OTHER GOOD CAUSE

Informal Procedures

2. Clause 16.3 of Terms of Service A stipulates that a substantiated appointee may be removed from appointment on grounds of misconduct, inefficiency or other good cause. Before a recommendation is submitted to the President and Vice-Chancellor to initiate a process of removal from appointment by the Council, there should be procedures for an internal enquiry within the University Administration to investigate into the alleged case initiated by a Head of Department/Office or a Dean of Faculty/School.

3. Any allegation of misconduct or complaint on inefficiency against a staff member should be investigated in the first instance by the staff member's Head of Department/Office who should ascertain if there are objective evidences in support of the allegation or complaint. The Director of Human Resources should be kept informed of such investigations and, if considered appropriate and necessary, a senior staff member of the Human Resources Office would be sent to assist the Head of Department/Office in his/her meetings with the staff concerned, by serving as a witness and keeping records of the meetings. Depending on the seriousness of the allegation/complaint, the complexity of the situation and the sensitivity involved, the investigation could conclude with one of the following actions :

- (a) the issue of a verbal/written warning/advice;
- (b) the filing of a record of the investigations;
- (c) a mutually agreeable resolution; or
- (d) a recommendation to the Committee of Enquiry.

4. In the event that the conclusion is to issue a written warning to the staff member concerned, the warning letter should clearly specify :

- (a) his/her inadequacies;
- (b) the improvement expected of him/her;
- (c) the time allowed for making the improvements; and
- (d) the consequences of failure to make the necessary improvements.

Investigation by the Committee of Enquiry

5. If the informal procedures fail to produce the desired positive results, the Faculty/School/Office concerned should write to notify the Human Resources Office of its intention to set up a Committee of Enquiry to formally consider removal from appointment of a substantiated staff member on the grounds of misconduct, inefficiency or other good cause.

5.1 Membership

- (a) For *academic staff*, the Committee of Enquiry shall be chaired by the Dean and shall comprise the following members :
 - (i) two co-opted Heads of Departments (in addition to Head of the relevant Department who will be present to give evidences but should not be involved in the final decision);
 - (ii) two co-opted substantiated colleagues from within the Faculty/School (one from within the relevant Department and another from outside the relevant Department); and
 - (iii) a staff member of the Human Resources Office at or above the Administrative Officer rank to serve as secretary.
- (b) For *administrative staff*, the Committee of Enquiry shall be chaired by the Vice-President (Administration) & Secretary and shall comprise the following members :
 - (i) the other two Vice-Presidents;
 - (ii) two co-opted substantiated senior administrative staff : one at the Head of Office level (in addition to Head of the relevant Office who will be present to give evidences but should not be involved in the final decision), and the other at or above the Assistant Secretary level; and
 - (iii) a staff member of the Human Resources Office at or above the Administrative Officer rank will serve as secretary.

5.2 Evidences

- 5.2.1 In the case of alleged *misconduct*, the Committee of Enquiry should consider if the case can be substantiated. Misconduct may refer to a wide variety of situations where the appointee could be involved in dishonesty, breach of terms and conditions of service, breach of regulations and conditions governing fringe benefits, convicted criminal offence, conduct of an immoral, scandalous and disgraceful nature, continued unauthorized absence, wilful damage to University property, physical violence, wilful negligence of duties or refusal to perform any of his/her duties, wilful non-compliance with University regulations and/or any lawful/reasonable request from the University or from any authorized officers acted on behalf of the University, and actions which bring disrepute to the University or other staff members.

- 5.2.2 In the case of *inefficiency*, the Committee of Enquiry should consider if there are evidences demonstrating that the staff member concerned has failed persistently to perform his/her duties up to the expectations of the Department/Office, whether efforts have been made to warn him/her to improve on his/her performance and whether he/she has been given opportunity to improve on his/her performance. If the staff member concerned is recommended to be removed from appointment on the grounds of *any other good cause*, the Committee must be satisfied that the cause in point is a valid one.

5.3 Procedures

- 5.3.1 The relevant Faculty/School/Office shall inform the Human Resources Office in writing of the need to set up a Committee of Enquiry to consider an allegation of misconduct or a recommendation on removal from appointment.
- 5.3.2 The Committee of Enquiry shall be formed within 7 working days of the receipt of the written request.
- 5.3.3 The Committee will meet to consider the case within 30 working days of the receipt of the recommendation. The staff concerned shall be notified in writing by the Committee secretary of the reason for enquiry at least 20 working days before the Committee will meet to consider his/her case. The staff concerned will also be notified of his/her right to appear before the Committee and present his/her own case in person, and to answer any questions which may be asked by Committee members.
- 5.3.4 In case of urgency, the Chairman of the Committee could consult with the President & Vice-Chancellor to consider if the staff concerned should be suspended from duty during the process of enquiry.
- 5.3.5 The Head of Department/Office shall be responsible for preparing evidences of the case in question, while the staff concerned shall be invited in writing to present his/her own evidences in defence of his/her case to the Committee. All evidences should be presented to the Committee via the Committee secretary at least 7 working days before the date of the meeting.
- 5.3.6 The staff concerned should clearly indicate his/her wish to appear or not before the Committee in writing to the Committee secretary at least 7 working days before the meeting.
- 5.3.7 The staff concerned may be accompanied by a friend who is a staff member of the University (provided that such a colleague has not been admitted as a solicitor or barrister in any jurisdiction), who may provide advice and moral support for the staff concerned, at the meeting of the Committee. Legal representation will not be permitted at the meeting.

5.3.8 The Committee shall resolve to decide on one of the following courses of action :

- (a) to make a recommendation to the President & Vice-Chancellor to initiate the process of removal from appointment, if there are adequate evidences in support of such a recommendation; or
- (b) to make a recommendation to the President & Vice-Chancellor to send a letter of warning/reprimand to the staff concerned, with or without any of the following prescribed sanction measures, such as :
 - (i) withholding or deferring the award of annual increments,
 - (ii) suspension of eligibility for a particular kind of fringe benefit,
 - (iii) fine payable on demand;
 - (iv) compensation for damage or loss;
 - (v) suspension of employment in full or reduced pay;
 - (vi) reduction in salary concomitant with demotion.
- (c) to document the case for future reference; or
- (d) to dismiss the case if there are inadequate evidences in support of either (a) or (b) above.

5.3.9 All recommendations of the Committee shall be reached by votes of not fewer than half of the total number. In the case of an equality of votes, the Chairman of the Committee shall have a casting vote.

5.3.10 The Committee shall submit a written report to the President & Vice-Chancellor within 10 working days after the meeting.

5.3.11 The staff concerned will be notified of the result of the enquiry in writing within 7 working days of the approval of the President & Vice-Chancellor of the recommendations of the Committee.

Investigation by the Committee on Termination of Appointment

6. In the event that the Committee of Enquiry decides to make a recommendation on removal from appointment to the President & Vice-Chancellor and if the President and Vice-Chancellor agrees that there are adequate evidences in support of such a recommendation, then Clause 16 of Terms of Service A can be invoked, and a Committee on Termination of appointment shall be formed to investigate into the relevant case. Under exceptional circumstances, in the absence of any recommendation from the Committee of Enquiry, the President & Vice-Chancellor should have the absolute discretion to initiate the process on removal from appointment of any academic or equivalent administrative staff, including the Vice-Presidents, the Deans of Faculties/Schools and Heads of Offices, if he is satisfied that there are adequate evidences in support of such investigation.

6.1 Membership

The Committee of Termination of Appointment shall be constituted by the Chairman of the Personnel Committee of Council, comprising 5 members of the Personnel Committee (of which at least 2 must be lay members) and to be chaired by one of the lay members.

6.2 Procedures

- 6.2.1 Upon the recommendation of the President & Vice-Chancellor to initiate the process of removal of an appointee from appointment based on the recommendation of the Committee of Enquiry, the Committee on Termination of Appointment shall be formed to investigate into the relevant case. The Committee shall be constituted by the Chairman of the Personnel Committee of Council and must be set up within 10 working days upon receipt of the recommendation.
- 6.2.2 The Committee will meet to consider the case within 30 working days after it is set up.
- 6.2.3 The staff concerned shall be notified in writing, at least 20 working days before the meeting of the Committee, of all allegations made against him/her and his/her right to appear before the Committee and present his/her own defence in person, and to answer any questions which may be asked by Committee members, and to call any witnesses.
- 6.2.4 The staff concerned shall clearly indicate his/her wish to appear or not before the Committee in writing to the Committee Secretary at least 7 working days before the meeting.
- 6.2.5 The Chairman of the Committee of Enquiry /the President & Vice-Chancellor, as the case may be, shall be responsible for preparing evidences of the case in question and may call any witnesses. Evidences and names of the witnesses to be called should be submitted to the Committee secretary at least 7 working days before the meeting.
- 6.2.6 The staff concerned will be invited in writing to present his/her own evidences in defence of his/her case to the Committee. Evidences and names of the witnesses to be called should be submitted to the Committee secretary at least 7 working days before the meeting.
- 6.2.7 The staff concerned shall be entitled to be accompanied by a friend who is a staff member of the University (provided that such a colleague has not been admitted as a solicitor or barrister in any jurisdiction), who may provide advice and moral support for the staff concerned, at the meeting of the Committee. Legal representation will not be permitted at the meeting.
- 6.2.8 All decisions of the Committee shall be reached by votes of not fewer than half of the total number. In the case of an equality of votes, the Chairman of the Committee shall have a casting vote.

- 6.2.9 The Committee shall submit a written report to the Chairman of the Personnel Committee and copy it to the President & Vice-Chancellor and the Chairman of the Committee of Enquiry within 10 working days after the meeting.
- 6.2.10 The staff concerned will be notified of the result of the investigation in writing within 10 working days upon the decision of the Committee.
- 6.2.11 The procedure relating to the removal from appointment or suspension of the Academic Vice-President and Vice-Presidents shall be identical with that specified in the foregoing paragraphs except that
- (a) the power to suspend or take other such action as may be necessary shall rest with the Chairman of the Council or, in his absence, the Deputy-Chairman;
 - (b) the Committee which is to consider and decide upon such removals shall be the Council itself and that being so no right of appeal shall be allowable; and
 - (c) The Council shall have absolute discretion to decide on the extent to which the rights and advantages of the appointment shall be forfeited.

Appeal

7. In accordance with the Terms of Service, any staff member who is removed from appointment consequent upon the decision of the Committee on Termination of Appointment may appeal to the Council whose decision shall be final. Such an appeal must reach the Council within 30 working days from the date of notification to the staff concerned of the decision of the Committee on Termination of Appointment. Upon receipt of the appeal, the Chairman of Council shall decide if there are adequate and reasonable grounds to re-consider the case based on any new evidences and/or new arguments presented, and accordingly decide whether or not to form a **Committee of Appeal** to consider all the evidences presented and then make a recommendation to the Chairman of Council whose decision will be final.

7.1 Membership

The Committee of Appeal shall be constituted by the Chairman of Council as follows:

- (a) a lay Council member as Chairman;
- (b) 3 other Council members; and
- (c) Another lay Council member or, as considered necessary by the appeal authority, an external member.

The Council members should not have been involved in the original proceedings of the Committee on Termination of Appointment.

7.2 Procedures

- 7.2.1 The staff concerned may lodge an appeal in writing to the Council. The appeal must be received within 30 working days from the date of notification to him/her of his/her termination of appointment.
- 7.2.2 A Committee of Appeal, as constituted by the Chairman of Council, shall be formed within 10 working days upon receipt of the appeal to investigate into the case.
- 7.2.3 The Committee shall meet to consider all the evidences presented and review the record of the proceedings and the recommendations previously made within 30 working days of receipt of the appeal.
- 7.2.4 The Committee may receive or obtain new evidences or request the staff concerned to provide additional information, which must be submitted to the Committee at least 7 working days before the meeting.
- 7.2.5 The Committee shall submit a written report within 10 working days after the meeting to the Chairman of Council, whose decision shall be final.
- 7.2.6 The staff concerned will be notified of the result of his/her appeal within 5 working days upon the decision of the Chairman of Council.

REMOVAL ON GROUNDS OF REDUNDANCY

8. According to Clause 16 of Terms of Service A, a staff member "may be removed from appointment by the Council in any case where it has decided on or required to make a change in the University staffing requirement, in consequence of which the appointee is made redundant in that the staffing need which he/she was appointed to fill no longer exists." In each and every case when changes in staff requirements result in redundancy, the following steps should be taken :

- 8.1 Upon the recommendation of the President & Vice-Chancellor, the Chairman of the Personnel Committee shall constitute a Committee on Termination of Appointment to consider the redundancy situation;
- 8.2 The membership and working procedures of the Committee shall be the same as proposed in pars. 6.1 & 6.2 above, except that there are no allegations made against the staff and there is no need for the staff concerned to defend his/her case;
- 8.3 The Committee shall look for evidences of genuine need in changes of staffing requirements and that whether efforts have been made to offer re-deployment or re-training opportunities to the staff concerned;
- 8.4 In the event that removal from appointment cannot be avoided, the Committee shall recommend for the severance arrangements, including length of notice period, terminal benefits and the offer of a compensation package as appropriate.