

## **Regulation pertaining to dismissal on grounds not covered by other specific Regulations**

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## **1. Application**

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- 1.1 This Regulation is made pursuant to the College's Ordinance Relating to Dismissal, Grievance Procedures and Related Matters for Academic Staff.
- 1.2 These procedures apply to all academic employees with the title of Lecturer, Senior Lecturer, Reader and Professor, and any other academic title, as adopted by the College.

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## **2. Introduction**

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- 2.1 This Regulation sets a framework for considering the dismissal of members of academic staff on grounds other than those for which other specific Regulations have been adopted by the College. Its purpose is to ensure that such cases are considered fairly, that (save as otherwise specified in this Regulation) no decision is taken unless the member of staff has had the opportunity to make representations, be accompanied a trade union representative or work colleague regarding his/her proposed dismissal, and to provide for a right of appeal.
- 2.2 This Regulation applies when it is proposed to terminate the employment of any member of staff for reasons other than:
  - a) misconduct
  - b) capability
  - c) incapacity on health grounds
  - d) redundancy
  - e) non-confirmation in post at the end of a probationary period
  - f) retirement
  - g) the termination, withdrawal, revocation or suspension of registration, contract or status.
- 2.3 Examples of proposed dismissals to which this Regulation may apply are:
  - a) the proposed dismissal of a member of staff who has been employed to cover the absence of a member of staff or College employee (the substantive post holder) - for example during the substantive post holder's absence on research or sabbatical leave, secondment, or maternity leave - on the basis that the substantive post holder is due to return to his/her employment or if the substantive post holder is not so returning, that the substantive post is to be advertised
  - b) where the member of staff's employment cannot be continued without the College or the member of staff contravening any statutory duty or restriction. In such cases, the College may need to terminate the employment with immediate effect, in which case the stages of the Procedure set out in paragraph 4.1 to 4.4 below will not apply, but the member of staff shall still have the right to appeal against his/her dismissal.
  - c) the proposed dismissal of a member of staff by reason of a breakdown in one or more working relationships.

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### **3. Right to be accompanied**

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- 3.1 Members of staff may be accompanied at formal meetings or hearings under this procedure by a work colleague or a trade union representative. The companion will be able to confer with the member of staff during the meeting or hearing and will be allowed to address the meeting or hearing in order to put forward and sum up the member of staff's case, respond on the member of staff's behalf to any view expressed at the hearing and ask questions of clarification. The companion is not permitted to answer questions on the member of staff's behalf.
- 3.2 Should the chosen companion be unavailable to attend the meeting or hearing on the first notified date, the member of staff may request a postponement and the member of staff may suggest an alternative date within five working days of the date originally notified. Where it is not possible for the representative to attend on the alternate date, the member of staff shall choose an alternative person to accompany him/her to the meeting or hearing.
- 3.3 The member of staff and companion shall make every effort to attend meetings or hearings under this procedure. It is the member of staff's responsibility to notify his/her chosen companion of the details of the meeting or hearing including the date, time and location of the meetings as well any relevant documentation relating to his/her case.
- 3.4 If a member of staff or his/her companion becomes unable to attend any meeting or hearing for reasons that were unforeseeable at the time of arranging the meeting, the member of staff will be notified of a new date, time and location for the meeting. If a member of staff or his/her companion fails to attend a meeting or hearing without good reason, the College reserves the right to proceed with the meeting or hearing in the absence of the member of staff or his/her companion.

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### **4. Procedure**

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- 4.1 The Director of Human Resources or his/her nominee will write to the member of staff setting out the reasons for the proposed termination of the member of staff's employment and invite him/her to a meeting with a nominated person, who will chair the meeting, to discuss the proposal. If practical, the member of staff will be provided with copies of any relevant documentation to be considered at the meeting.
- 4.2 The member of staff will be advised of his/her right to be accompanied as set out under paragraphs 3.1 to 3.4 above.
- 4.3 At the meeting, the reason for the proposed dismissal will be explained to the member of staff, who will have the opportunity to respond before any decision is taken.
- 4.4 Following the meeting, the member of staff will be informed in writing as to whether or not he/she will be dismissed. If his/her employment is terminated, he/she will be informed whether the dismissal is with notice or with a payment in lieu of notice, and will be advised of his/her right of appeal.

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## 5. Appeals

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- 5.1 A member of staff who wishes to appeal against a decision taken under paragraph 4.4 above should do so in writing to the Director of Human Resources within ten working days of receipt of the decision. The member of staff should set out the grounds of his/her appeal in full.
- 5.2 The appeal will not take the form of a re-hearing of the evidence (unless the Chair of the Panel determines, in his/her absolute discretion, that this is necessary to properly dispose of the appeal) and witnesses may be called only with the Appeal Panel's permission.
- 5.3 The nominated person set out in paragraph 4.1 above shall be asked to provide written comments on the grounds of appeal. A copy of these written comments will be provided to the member of staff in advance of the appeal hearing.
- 5.4 The appeal will be heard by a Panel comprising two people nominated by the Director of Human Resources or his/her nominee one of whom will be appointed as Chair and take charge of proceedings.
- 5.5 At the Appeal Hearing the member of staff shall present his/her grounds of appeal and the person who made the initial decision shall have an opportunity to respond. The Appeal Chair/member of the Appeal Panel may question anyone present at any stage. After each side's case has been presented, the Appeal Chair will provide an opportunity for both parties to sum up.
- 5.6 The Appeal Chair shall normally produce a written decision within 10 working days of the date of Appeal Hearing which will be sent to the member of staff.

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