ULSTER UNIVERSITY

STAFF SPECIFIED IN UNIVERITY STATUTES AND ORDINANCES

ACADEMIC & ACADEMIC-RELATED STAFF

1. PART I GENERAL PRINCIPLES AND INTERPRETATION

1.1 This disciplinary Ordinance is made under the relevant Statutes and applies to all members of staff specified in Statutes and Ordinances, regardless of length of service with the exception of the Vice-Chancellor.

1.2 This Ordinance shall not apply to:

(a) removal from an appointment to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated;

(b) the proposed dismissal of a member of staff for redundancy reasons;

(c) subject to the provisions of paragraph 1.14 below, the proposed dismissal of a member of staff due to ill health;

(d) the proposed dismissal of a member of staff where that dismissal would arise as a consequence of the expiry without renewal of a contract of limited duration;

(e) the proposed non-confirmation in post of a member of staff in probation.

1.3 References to "Appropriate Person" in Statute V of the University's Statutes means the Disciplinary Chair as defined by paragraph 2.1, or the Appeal Chair or Appeal Panel (as appropriate) as defined by paragraph 3.2, as the circumstances require.

1.4 Good conduct is essential for the efficient and orderly operation of the University's activities and to ensure the safety and well-being of members of the University and its associates. The purpose of this Ordinance is to provide a constructive framework for dealing with staff conduct and to ensure that disciplinary action, where necessary, is taken fairly and consistently. All steps under this Ordinance will be taken, by all parties, without undue delay. Any time limits in this Ordinance may be extended by the University if it is reasonable to do so.

1.5 At any hearing or meeting convened under Parts 2 or 3 of this Ordinance the member of staff has the right to be accompanied by a work colleague or by a trade union representative, but no right to be accompanied by a legal representative. The member of staff's chosen work colleague or trade union representative may make representations on behalf of the member of staff at the meeting or hearing and may ask questions, but may not answer questions on behalf of the member of staff.

1.6 Prior to the initiation of Part 2 of this Ordinance, it may be appropriate to seek to address concerns regarding minor misconduct through informal discussion. Such discussions will be initiated by the member of staff's line manager and should be held in private and without undue delay whenever there is cause for concern. If such informal discussion does not lead to an improvement in conduct or if informal

discussion is not appropriate (for example, because of the seriousness of the alleged misconduct), the formal part of this Ordinance (contained in Part 2) may be invoked.

Investigations and Suspensions

1.7 Where the University becomes aware of a potential issue of misconduct it will carry out an investigation to establish whether it is appropriate to take further action under this Ordinance. The investigation will be carried out by the member of staff's line manager or an alternative manager, as appropriate and as determined by the University's People and Culture Department; the investigating officer will decide if formal proceedings under Part 2 of this Ordinance should commence.

1.8 Investigative interviews are solely for the purpose of fact finding and do not constitute formal action under Part 2 of this Ordinance. A member of staff has the right to be accompanied by a work colleague or a trade union representative at an investigative interview, but no right to be accompanied by a legal representative.

1.9 In circumstances where the alleged offence is of a serious nature or where the member of staff's continued presence at the University would or is likely to hinder an investigation or the smooth running of the disciplinary process, the member of staff may be suspended from work with full pay while an investigation or disciplinary procedure is ongoing. The suspension will be for no longer than necessary and the member of staff will be informed of the appropriate arrangements. While suspended, the member of staff must not visit University premises or contact any of the University's members of staff or students, unless expressly authorised in writing.

Examples of Misconduct

1.10 The following list gives examples of behaviour which may constitute misconduct and which may lead to disciplinary action under this Ordinance, including, where appropriate, dismissal (with or without notice). This list is not intended to be exhaustive:

Minor Misconduct

- unauthorised absence or poor timekeeping;
- failure to comply with a reasonable request or instruction

- **Major Misconduct**

  - failure, refusal, neglect or inability to perform some or all of the duties of the member of staff's job, and/or to comply with his or her terms and conditions of employment;
  - behaving in such a way as to impinge upon the reputation and standing of the University and/or the faculty in which the member of staff is employed, including misuse of the University's name;
  - material disruption of, or serious improper interference with, the activities of the University or of any member of staff, student, Council member or visitor (other than lawful industrial action);
  - undertaking paid work detrimental to or in conflict with the University's interests without the University's permission;

- **Gross Misconduct**

  - failure to adhere to all aspects of the University's Bullying and Harassment and Equal Opportunities policies, including discrimination or harassment against any student or member of staff of the University, or any visitor to the University, on the basis of gender, sexual orientation, marital or civil partner status, gender reassignment, race, religion or belief, colour, nationality, ethnic or national origin, disability or age, pregnancy, part-time or a fixed-term status;

  - conduct amounting to a criminal offence, even where the member of staff has not been charged or convicted of any such criminal offence and whether committed on University premises or elsewhere;

  - breach of any of the provisions of the University Statutes, Ordinances and Regulations, or any of its policies, codes or procedures with which the member of staff is to comply, such as those dealing with financial matters, Public Interest Disclosure, Data Protection, smoking in the workplace, and other such policies, codes and procedures;

  - action likely to cause injury or impair safety on University premises, or infringement of the University's Health and Safety policy;

  - wilful damage to, or improper or unauthorised use of, University facilities, premises, property or equipment;

  - violent, indecent, sectarian, disorderly, threatening, abusive, behaviour or language (whether in written or verbal form, or any other such form);

  - working in the University or on University business whilst under the influence of alcohol or non-prescription substances;

  - forming inappropriate or intimate relationships with students of the University and as a consequence applying improper bias or unwanted influence in relation to students, whether relating to admission, assessment or otherwise;

  - any form of dishonesty, deception, misappropriate of University monies, fraud or any other form of dishonesty in relation to the University or any related activity, including research and examining;

  - behaving in a negligent manner which causes or might cause unacceptable loss, damage or injury;

  - theft, misappropriation or misuse of University property, or the property of the University's staff, students or visitors, including intellectual property, or whilst on University business.

Clinical Academic Staff

1.11 This Ordinance applies to a member of the University's clinical staff who is required to engage in clinical work or activities and for that purpose to be registered with the General Medical or Dental Council or similar body and/ or to have an honorary or substantive contract or status with a National Health Service Trust or similar body on the same basis as to any other member of staff, apart from as set out in paragraphs 1.12, 1.13 and 1.14 below.

1.12 Where the registration, contract or status referred to in paragraph 1.11 above is terminated, withdrawn or revoked, the Vice-Chancellor or his or her delegate may, having first afforded an opportunity to the member of staff concerned to make representations, dismiss the member of staff concerned without reference to the formal procedure set out in Parts 2 and 3.

1.13 Where the registration, contract or status referred to in paragraph 1.11 above is suspended by the relevant body, the Vice-Chancellor or his or her delegate may, without reference to the formal procedure set out in Parts 2 and 3, but having first afforded an opportunity to the member of staff concerned to make representations, suspend the member of staff from employment with the University for so long as the registration, contract or status is suspended, that suspension from employment to be without pay where the registration, contract or status has been suspended as a substantive disciplinary measure.

1.14 Where sanctions other than removal or suspension have been applied to the registration, contract or status including 'conditions of practice' referred to in paragraph 1.11 above, the Vice-Chancellor or his or her delegate may, without reference to the formal procedure set out in Parts 2 and 3, but first having afforded an opportunity to the member of staff concerned to make representations, suspend the member of staff from employment with the University for so long as the sanctions, other than removal or suspension, have been applied to the registration, contract or status including 'conditions of practice', to enable the investigation to proceed.

Medical Incapacity

1.15 Where it emerges that a member of staff's conduct may have been wholly or partly attributable to a medical condition, the University may postpone or adjourn any hearing or meeting under Parts 2 and 3 of this Ordinance to allow investigation of the member of staff's condition and/or may:

(a) decide that no further action should be taken under this Ordinance; or

(b) decide that it is appropriate to continue to address the matter under this Ordinance, taking into account the member of staff's medical condition as appropriate.

2. PART II FORMAL PROCEDURE

General Principles

2.1 Where disciplinary proceedings are commenced against a member of staff under this Part 2, the University's People and Culture Department will determine an appropriate manager to conduct the disciplinary hearing (**Disciplinary Chair**). The identity of the Disciplinary Chair will be dependent on the member of staff's level of seniority. The Disciplinary Chair will not have been involved in the disciplinary matter to date. The Disciplinary Chair will be accompanied at any disciplinary hearing by a member of the University's People and Culture Department, to service the disciplinary process.

2.2 Where disciplinary proceedings are commenced against a member of staff under Part 2 of this Ordinance, the member of staff will be informed in writing at least 5 working days in advance of the hearing of the following:

(a) the nature of the alleged misconduct including the charges to be answered, the possible sanction which could be imposed and that the member of staff is required to attend a disciplinary hearing to discuss the alleged misconduct;

(b) the proposed date on which the hearing will take place and the identity of the Disciplinary Chair; and

(c) that the member of staff has the right to be accompanied to the hearing in accordance with paragraph 1.5 above. Where a member of staff has already received a final written warning which is not spent and which relates to conduct, or where the alleged misconduct is of a very serious nature, the member of staff will also be informed in writing that dismissal is a possible outcome of the hearing.

2.3 Prior to the hearing, the member of staff will also be provided with:

(a) copies of any documents which will be referred to at the disciplinary hearing by the University; and

(b) where appropriate, any witness statements which will be used at the hearing, except where a witness's identity is to be kept confidential, in which case the member of staff will receive as much information as possible whilst maintaining that confidentiality.

2.4 The member of staff must, at least 72 hours before the disciplinary hearing, provide to the University's People and Culture Department any evidence to which the member of staff intends to refer in his or her defence or mitigation, including the names of any witnesses and copies of their witness statements.

2.5 The member of staff must take all reasonable steps to attend any disciplinary hearings arranged under Part 2 of this Ordinance and/or any adjournment or postponement of such hearings. If the member of staff or the member of staff's chosen work colleague or trade union representative cannot attend at the time specified for a hearing, the member of staff must inform the University's People and Culture Department immediately, and the University will make reasonable efforts to arrange an alternative time. Normally only one postponement will be granted in line with LRA guidance/Code of Practice.

The Disciplinary Hearing

2.6 The purpose of the disciplinary hearing is to review the evidence and to enable the member of staff to respond to the allegations that have been made against him or her.

2.7 The procedure to be followed at the disciplinary hearing shall be at the discretion of the Disciplinary Chair, but shall include:

(a) the allegations of misconduct being put to the member of staff;

(b) the member of staff having an opportunity to respond to the allegations and set out his or her case;

(c) an opportunity to allow the Disciplinary Chair to question any witness who is providing information on behalf of either the University or the member of staff; and

(d) an opportunity to allow the member of staff (and/or his or her representative in line with paragraph 1.5) to respond to the Disciplinary Chair in respect of any evidence given by witnesses on behalf of the University and to question witnesses through the Disciplinary Chair.

2.8 The disciplinary hearing may be adjourned and reconvened at a later date if the Disciplinary Chair needs to carry out additional investigations.

Confirmation of Outcome of Disciplinary Hearing

2.9 The Disciplinary Chair will confirm the outcome of the disciplinary hearing to the member of staff in writing, normally within 10 working days following the disciplinary hearing, or, where the disciplinary hearing has been adjourned and reconvened, normally within 10 working days following the final reconvened disciplinary hearing. The Disciplinary Chair will also provide the member of staff with the reasons for the decision that he or she has reached. If a disciplinary sanction has been imposed (in accordance with paragraph below) the member of staff will be informed of the period that the warning will remain active and the consequences of further misconduct, and will be informed of his or her right of appeal in accordance with Part 3 of this Ordinance.

2.10 If the Disciplinary Chair concludes, following the hearing (including any reconvened hearings following any adjournments, as necessary), that misconduct has occurred, the Disciplinary Chair will impose an appropriate sanction. The Disciplinary Chair may:

(a) where the misconduct is of a less serious nature, impose a first written or final written warning, depending on the severity of the misconduct and, as appropriate, the currency of the member of staff's previous disciplinary record. For the avoidance of doubt, a member of staff may be issued with a final written warning even though he or she has not previously received any disciplinary warnings; or

(b) where the misconduct is sufficiently serious reasonably to warrant such action, dismiss the member of staff, with or without notice;

(c) **in exceptional circumstances**, dismissal may be set aside and replaced by a final written warning and one of the sanctions below (such decision to be at the discretion of the Disciplinary Chair):

(i) demotion and/or loss of title;

(ii) placing restrictions on the member of staff's employment, for example a period of supervision and/or training;

(iii) withholding a pending salary increase; or

(iv) temporarily withholding salary due to the member of staff.

2.11 If the Disciplinary Chair considers a warning to be appropriate, confirmation of the warning will be placed on a member of staff's personnel file and will remain active for the period specified in the warning, 6 or 12 months, after which time it will be disregarded in deciding the outcome of any future disciplinary proceedings.

2.12 If the Disciplinary Chair considers that a sanction under paragraph 2.10(c) is appropriate, confirmation of the sanction will be placed on a member of staff's

personnel file and will remain active for the period specified by the Disciplinary Chair, after which time it will be disregarded in deciding the outcome of any future disciplinary proceedings.

3. PART III APPEALS

General Principles

3.1 If the member of staff is dissatisfied with any sanction imposed under Part 2 of this Ordinance and wishes to appeal, he or she must do so in writing to the University's People and Culture Department within 10 working days following the date on which the member of staff was informed of the relevant decision. The member of staff must set out his or her grounds of appeal in writing and refer to the initiation of the appeals part of this Ordinance.

3.2 The University's People and Culture Department will determine appropriate personnel to conduct the appeal.

(a) In cases where the appeal is against a warning that has been imposed by the Disciplinary Chair under paragraph 2.10(a), or where the appeal is against a sanction that has been imposed by the Disciplinary Chair under paragraph 2.10(c), the appeal will be considered by an appropriate person (the **Appeal Chair**).

(b) In cases where the appeal is against a dismissal imposed by the Disciplinary Chair under paragraph 2.10(b) the appeal will be considered by an appeal panel, comprising of a senior member of University staff, a lay member of Council and an elected member of Senate (the **Appeal Panel**). The identity of the Appeal Chair or the composition of the Appeal Panel (as appropriate) will be dependent on the member of staff's level of seniority. The Appeal Chair or the members of the Appeal Panel (as appropriate) will not have had any previous material involvement with the action which is the subject of the member of staff's appeal and will be senior to the manager who conducted the disciplinary hearing. The Appeal Chair or the Appeal Panel (as appropriate) will be accompanied at the appeal hearing by a member of the University's People and Culture Department to service the appeals process.

3.3 The member of staff will be invited to attend an appeal meeting, which will normally take place within 10 working days of receipt by the University of the appeal. The member of staff will be informed of the identity of the Appeal Chair [or composition of the Appeal Panel (as appropriate)] and of his or her right to be accompanied to the meeting in accordance with paragraph 1.5 above.

3.4 The member of staff must take all reasonable steps to attend the appeal meeting and/or any adjournment or postponement of such meeting. If the member of staff or the member of staff's chosen work colleague or trade union representative cannot attend at the time specified for the meeting, the member of staff must inform the University's People and Culture Department immediately, and the University will make reasonable efforts to arrange an alternative time. Normally only one postponement will be granted in line with LRA guidelines/Code of Practice.

The Appeal Meeting

3.5 The appeal meeting shall normally take the form of a re-hearing of the matter.

3.6 The appeal hearing may be adjourned and reconvened at a later date if the Appeal Chair/ Appeal Panel needs to carry out additional investigations.

Confirmation of Outcome of Appeal Meeting

3.7 The Appeal Chair [or Appeal Panel (as appropriate)] will notify the member of staff of its decision in writing, normally within 10 working days of the appeal meeting, or, where the appeal hearing has been adjourned and reconvened, normally within 10 working days of the final reconvened appeal hearing. The Appeal Chair [or Appeal Panel (as appropriate)] will also provide the member of staff with the reasons for the decision that it has reached. The decision of the Appeal Chair [or Appeal Panel (as appropriate)] will be final.