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1 INDICATIVE POWERS OF THE UNIVERSITY

- 1.1 Paragraph 4 of the Charter sets out that the University shall have all of the powers of a natural person to do all lawful acts that are conducive or incidental to the attainment of the objects of the University.
- 1.2 The powers of the University shall include but are not limited to the powers to:
 - 1.2.1 award and revoke degrees and other distinctions (including without limitation, diplomas, joint degrees, dual degrees, certificates, fellowships, honorary degrees, honorary fellowships, memberships and associateships) in its own name and/or jointly with other education institutions;
 - 1.2.2 prescribe the conditions under which persons shall be admitted to the University or to any particular course of study therein;
 - 1.2.3 admit Graduates of other Universities to Degrees of equal or similar rank in the University;
 - 1.2.4 confer Degrees of the University on any persons who hold office in the University as Professors, Readers, Lecturers, or otherwise, or who shall have carried on research therein under conditions laid down in its Statutes or Ordinances;
 - 1.2.5 provide instruction in such branches of learning as the University may think fit and to make provision for research and for the advancement and dissemination of knowledge in such manner as the University may determine;
 - 1.2.6 affiliate to other institutions or branches or departments thereof, and to recognise selected members of the staff thereof as teachers of the University, and to admit the members thereof to any of the privileges of the University;
 - 1.2.7 accept attendance at courses of study in other institutions or branches or departments thereof in place of such part of the attendance at courses of study in the University and upon such terms and conditions and subject to such regulations as may from time to time be determined by the University;
 - 1.2.8 co-operate by means of Joint Boards or otherwise with other institutions for the conduct of examinations and for such other purposes as the University may from time to time determine;
 - 1.2.9 enter into any agreement for the incorporation within the University of any other institution, and for taking over its rights, property, and liabilities, and for any other purpose not repugnant to the Charter;
 - 1.2.10 institute Professorships, Readerships, Senior Lectureships, Lectureships, and any other such offices required by the University, and to appoint to such offices;
 - 1.2.11 institute and award Fellowships, Scholarships, Studentships, Exhibitions, Bursaries and Prizes;
 - 1.2.12 establish and maintain and to administer and govern institutions for the residence of the students of the University whether Colleges, Halls, or Houses,
 - 1.2.13 make provision for research and advisory services and with these objects to enter into such arrangements with other institutions or with public bodies as may be thought desirable;
 - 1.2.14 provide for the printing and publication of research and other works which may be issued by the University;

- 1.2.15 demand and receive fees;
 - 1.2.16 invest any monies in the hands of the University and available for investment;
 - 1.2.17 to borrow money and give guarantees, whether in pursuance of continuing arrangements or not;
 - 1.2.18 take such steps as may from time to time be deemed expedient for the purpose of procuring and receiving contributions to the funds of the University and to raise money in such other manner as the University may determine and in so doing to enter into financial instruments and arrangements such as hedges, derivatives and swaps, but always subject to applicable legal restrictions;
 - 1.2.19 act as trustees or managers of any property, legacy, endowment, bequest, or gift for purposes of education or research, or otherwise in furtherance of the work and welfare of the University, and to invest any funds representing the same;
 - 1.2.20 obtain through the College of Arms a grant of armorial bearings, which shall be duly recorded in the said College;
 - 1.2.21 enter into engagements and to accept obligations and liabilities in all respects without any restrictions whatsoever and in the same manner as an individual may manage his or her own affairs;
 - 1.2.22 to provide indemnity insurance for the members of Council of the University or any other officer of the University in relation to any such liability as is mentioned in Ordinance 1.3, but subject to the restrictions specified in Ordinance 1.4.
 - 1.2.23 do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University as a place of education and of learning and of research.
- 1.3 The liabilities referred to in Ordinance 1.2.22 are any liability that by virtue of any rule of law would otherwise attach to the person so indemnified in respect of any negligence, default, breach of duty or breach of trust of which s/he may be guilty in relation to the University.
- 1.4 The following liabilities are excluded from Ordinance 1.2.22:
- 1.4.1 fines;
 - 1.4.2 costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the person so indemnified;
 - 1.4.3 liabilities to the University that result from conduct that the person so indemnified knew or must be assumed to have known was not in the best interests of the University or about which the person concerned did not care whether it was in the best interests of the University or not.

2 THE COUNCIL

- 2.1 In addition to its functions defined in the Charter the Council's functions shall include, without limitation:
- 2.1.1 to approve Ordinances on any matters in respect of which Ordinances are required to be made by the Charter, the Statutes or these Ordinances or which in the view of the Council should be governed by Ordinance provided that no Ordinance shall be made by the Council until the Senate shall have had an opportunity of considering and reporting thereon to the Council;
 - 2.1.2 to make Regulations for any purpose for which Regulations are or may be authorised to be made provided that no Regulation shall be made by the Council until the Senate shall have had an opportunity of considering and reporting thereon to the Council;
 - 2.1.3 to amend or refer back any recommendation of the Senate required by these Statutes, the Ordinances and Regulations to be made to the Council, provided that any recommendation of the Senate which it is desired to adopt with an amendment shall be referred again to the Senate for consideration and report before it is finally adopted by the Council;
 - 2.1.4 to review the teaching and instruction of the University after consultation with the Senate;
 - 2.1.5 to entertain, adjudicate upon and, if thought fit, redress any grievances of the Officers of the University, the Professors and academic staff, the Graduates or the Students who for any reason feel aggrieved; and
 - 2.1.6 to provide for the welfare of the students and staff of the University.
- 2.2 From time-to-time the Council may adopt a statement of its Primary Responsibilities or equivalent document to assist its work.
- 2.3 Subject to the provisions of the Charter and the Statutes, the Council may delegate any of its functions as it sees fit.
- 2.4 The Chair and the members of the Council may resign by writing addressed to the Director of Governance and Assurance.

3 THE ELECTION OF MEMBERS OF STAFF TO THE COUNCIL

- 3.1 The members of the academic staff and non-academic staff of the University eligible to vote in the election of members of Council referred to in Paragraphs 8(b) and (c) of the Charter or to stand as candidates for election shall be taken to comprise the following:
 - 3.1.1 In the case of academic staff, Professors, Readers, Senior Lecturers, Lecturers, Senior Teaching Fellows, Teaching Fellows, Teacher Practitioners, Senior Research Fellows, Research Fellows, Research Associates, Senior Experimental Officers and Experimental Officers other than those who are excluded by virtue of their appointment to the office of Vice-Chancellor, Deputy and Pro-Vice-Chancellor.
 - 3.1.2 In the case of professional services staff, all staff except those listed in 3.1.1 above.
- 3.2 The Director of Governance and Assurance (Secretary to Council) shall maintain the electoral roll of those eligible to vote in accordance with the provisions of this Ordinance. This electoral roll shall be conclusive evidence that any person whose name appears therein at the time of claiming to vote, or being elected, is entitled to vote or to be elected as the case may be, and that any person whose name does not appear therein is not so entitled.
- 3.3 The Director of Governance and Assurance (Secretary to Council) shall be responsible for the conduct of the election of members of Council under Paragraphs 8(b) and (c) of the Charter. The Secretary shall invite nominations, each supported by the signatures of not less than six electors and the election shall be conducted by ballot of those entitled to vote in accordance with 3.1 above.

4 THE ELECTION OF THE STUDENT REPRESENTATIVE TO THE COUNCIL

- 4.1 The elected student representative on the Council referred to in Paragraph 8(d) of the Charter shall be elected from and by the students of the University.
- 4.2 Only those students in attendance at the University at the time of holding the elections shall be entitled to vote. Only those students in attendance at the University at the time of holding the election and who will be in attendance at the University during their period of office if elected, are eligible to stand for election.
- 4.3 The procedure for the conduct of the election shall be as provided for the election of student members of the Senate set out in Ordinance 8.

5 THE JOINT COUNCIL AND SENATE COMMITTEE FOR THE APPOINTMENT OF THE VICE-CHANCELLOR

- 5.1 The Joint Committee of the Council and the Senate referred to in Statute 2.1 shall consist of the following members:
- 5.1.1 The Chair of the Council who shall be Chair ex-officio;
 - 5.1.2 Four members of the Council appointed by the Council and not being members of the staff or students of the University;
 - 5.1.3 Four members of the staff of the University appointed by the Senate; and
 - 5.1.4 The President of Kent Union, ex-officio.

6 THE SENATE

- 6.1 The Senate shall consist of the following persons:
- 6.1.1 The Vice-Chancellor, who shall be Chair;
 - 6.1.2 The Deputy Vice-Chancellor(s);
 - 6.1.3 Director of Divisions;
 - 6.1.4 Six representatives from the Portfolio Directors for Education and undergraduate Student Experience, Research and Innovation, and Graduate Studies and postgraduate Student Experience.
 - 6.1.5 Thirty representatives of the academic staff in the Divisions, to include:
 - 6.1.5.1 six elected heads of academic schools or departments, one per Division, defined in the Ordinances; and
 - 6.1.5.2 Four elected representatives of each Division
 - 6.1.6 The Dean of the Graduate and Researcher College, the Dean for Internationalisation and the Dean for Europe.
 - 6.1.7 The Chair of the Research Ethics and Governance Committee;
 - 6.1.8 The Directors of Education, Research and Innovation Services, Student Services and Information Services.
 - 6.1.9 Five representatives of the students of the University, this to comprise:
 - 6.1.9.1 The President of the Students' Union;
 - 6.1.9.2 The Vice-Presidents for Academic Experience and Postgraduate Experience Education;
 - 6.1.9.3 Two elected student representatives: one to be an undergraduate student and one to be a postgraduate student.
- 6.2 The members of Senate described in Ordinance 6.1.1, 6.1.2, 6.1.3, 6.1.6, 6.1.7, 6.1.8,, 6.1.9.1 and 6.1.9.2 shall be members of Senate for so long as they hold the office described above.
- 6.3 The members of Senate described in Ordinance 6.1.4 shall hold office two years, in accordance with the pre-determined rota, beginning on the first day of August in the year in which their identified term begins. The members of Senate described in Ordinance 6.1.5.1 and 6.1.5.2 shall hold office for two years beginning on the first day of August in the year in which they are elected and shall be eligible for re-election provided that any person who has at any time completed a period of four consecutive years in office shall not be so eligible before the expiry of one year from the end of the last such period.
- 6.4 The members of the Senate elected in accordance with Ordinance 6.1.9.3 shall hold office for a period of one year beginning on the first day of August of the year in which they are elected and shall be eligible for re-election provided that no student who has at any time completed a period of two consecutive years in such office shall be so eligible before the expiry of one year from the end of the last such period.
- 6.5 The Senate shall, in addition to all other powers vested in it by the Charter and the Statutes, have the following powers:
- 6.5.1 Education at the University;

- 6.5.1.1 to support the advancement of education within the University, and to require reports on such education from the Boards and Committees of Senate;
- 6.5.1.2 to regulate and have oversight of the instruction and teaching of the University and the examinations held by the University, subject to the provisions of the Charter and Statutes;
- 6.5.1.3 to have oversight for the maintenance of academic standards, with strategic and operational responsibility delegated to the relevant Boards and Committees of Senate, who will report to Senate in regards the maintenance of academic standards by way of both routine report and an annual update;
- 6.5.2 Research and Innovation at the University;
 - 6.5.2.1 to support and encourage research and innovation within the University, and to require reports on such research and innovation from the relevant Boards and Committees of Senate;
 - 6.5.2.2 to regulate and have oversight of the research and innovation of the University and the related examinations held by the University, subject to the provision of the Charter and Statutes;
- 6.5.3 Awards of the University
 - 6.5.3.1 to authorise the award of Degrees (other than Honorary Degrees), Diplomas, Certificates and other distinctions to persons who have satisfied the conditions of the award;
 - 6.5.3.2 on what it shall deem to be good cause to deprive persons of any Degrees or other distinctions conferred on them, and to revoke any Diplomas or Certificates granted to them by the University;
 - 6.5.3.3 to consider the names of persons to receive Honorary Degrees, as recommended by the Joint Committee of the Council and the Senate, and to approve or disapprove the names of persons proposed to receive such Degrees, and notify Council of such, given the joint responsibility of Council to approve or disapprove the same as outlined in Ordinance 25.3;
- 6.5.4 Examiners of the University;
 - 6.5.4.1 to appoint internal examiners;
 - 6.5.4.2 to appoint external examiners provided that there shall be at least one external and independent examiner for the final examinations prescribed for any Degree of Bachelor, and also for the examinations prescribed for any higher Degree;
 - 6.5.4.3 to suspend or remove examiners for negligence or misconduct during their term of office and, in case of death, illness or resignation of an examiner, or in case of his suspension or removal, to appoint a substitute who shall have authority to act during the examination in progress or next ensuing;
- 6.5.5 Academic Governance of the University
 - 6.5.5.1 to approve the Academic, Education and Research related strategies of the University and have oversight of the implementation and monitoring of such strategies undertaken by the relevant Board and Committee of Senate through the receipt of both routine report and an annual update;

- 6.5.5.2 to scrutinise academic performance against targets and measures of success set out in the University's Academic, Education and Research Strategies;
- 6.5.5.3 to report to the Council as may be required on all Statutes, Ordinances and Regulations or make recommendations for proposed changes thereof;
- 6.5.5.4 to review, amend, refer back, control or disallow any act of any Committee of a Division and to give directions to any such body;
- 6.5.5.5 to control, subject to the Ordinances and Regulations, the admission of persons to courses of study in the University and their continuance in such courses;
- 6.5.5.6 to prescribe the academic dress to be worn by the various officers and members of the University, and the occasions on which it shall be worn; and
- 6.5.6 Students of the University
 - 6.5.6.1 to promote and oversee the affairs of Students of the University regarding all relevant aspects of student life;
 - 6.5.6.2 to make and enforce Regulations for the discipline of the Students of the University;
 - 6.5.6.3 to expel on the recommendation of the Vice-Chancellor any Student deemed to have been guilty of grave misconduct;
- 6.5.7 Partnerships of the University
 - 6.5.7.1 to consider recommendations for major academic partnerships ensuring they are in line with the academic strategy of the University;
 - 6.5.7.2 to recommend approval of major academic partnerships to Council after consideration and appropriate due diligence;
 - 6.5.7.3 to have oversight, via routine reports from the relevant Boards and Committees of Senate, of major academic partnerships ensuring that they meet the objectives of the University;
- 6.5.8 The Council and the Senate
 - 6.5.8.1 to assure the Council of the academic standards and quality of the education and research at the University;
 - 6.5.8.2 to make recommendations to the Council on any matter referred to the Senate by the Council;
 - 6.5.8.3 to make recommendations to the Council on any academic matters;
 - 6.5.8.4 to discuss and declare an opinion on any matter whatsoever relating to the University;
 - 6.5.8.5 to fix, subject to any conditions made by the Founders which are accepted by the Council, the times and mode and conditions of competition for Fellowships, Scholarships, Exhibitions and Prizes, and to regulate examinations for them, and to award the same;
 - 6.5.8.6 to exercise all such powers as are or may be conferred on the Senate by the Charter, Statutes, Ordinances and Regulations and to do such other acts and things as the Council shall authorise.

- 6.6 One-third of the total membership of the Senate shall constitute a quorum. In the absence of a quorum, no business shall be transacted other than the adjournment of the meeting. At the adjourned meeting, the business for which the original meeting was called may be completed in the absence of a quorum. The manner of summoning the adjourned meeting, and the period of notice to be given, shall be prescribed in the Standing Orders.

7 THE ELECTION OF MEMBERS OF THE ACADEMIC STAFF TO THE SENATE

- 7.1 The members of the Academic Staff of the University eligible to stand in the election of the members of the Senate referred to in Ordinance 6.1.5.1 will be from those who hold the post of the Head of School or Department. The members of the Academic Staff of the University eligible vote in the election of the members of the Senate referred to in Ordinance 6.1.5.1 and 6.1.5.2 or to stand as candidates for election for members of 6.1.5.2 shall comprise the following:

Professors, Readers, Senior Lecturers, Lecturers, Senior Teaching Fellows, Teaching Fellows, Teacher Practitioners, Senior Research Fellows, Research Fellows, Research Associates, Senior Experimental Officers and Experimental Officers other than those who are excluded by virtue of their appointment to the office of Vice-Chancellor, Deputy and Pro-Vice-Chancellor, as Director of Division, Portfolio Director, Dean of the Graduate and Researcher College, Dean for Internationalisation and Dean for Europe..

- 7.2 The elections shall be from constituencies consisting of the eligible voters respectively of the Division of Arts and Humanities, the Division of Natural Sciences, the Division of Computing, Engineering and Mathematical Sciences, the Division of Kent Business School, the Division of Human and Social Sciences, and the Division for the Study of Law, Society, and Social Justice. The Directorate of Governance and Assurance shall maintain the electoral roll of those eligible to vote in each constituency. This electoral roll shall be conclusive evidence that any person whose name appears therein at the time of claiming to vote, or of being elected, is entitled to vote or to be elected as the case may be and that any person whose name does not appear therein is not so entitled.
- 7.3 Within the total number of elected members prescribed by Ordinances 6.1.5.1 and 6.1.5.2, the Directorate of Governance & Assurance will annually determine the number of vacancies, taking into account the elected members of Senate continuing in office for the following year, and therefore the number of seats that are required to be filled on Senate by election.
- 7.4 The Directorate of Governance and Assurance shall be responsible for the conduct of the elections. The Directorate of Governance and Assurance shall invite nominations, each to be supported by the signatures of not less than six electors and the election shall be conducted by ballot of those entitled to vote in accordance with 7.1.above.
- 7.5 The results of the election shall be notified to the Director of Governance and Assurance as soon as conveniently possible after holding the election.

8 THE ELECTION OF STUDENTS TO THE SENATE

- 8.1 The elected student members of the Senate referred to in Ordinance 6.1.9.3 shall be elected from and by the students of the University.
- 8.2 Kent Union shall be responsible for the conduct of the election.
- 8.3 The elected student positions to be included on the membership of the Senate shall be determined by Kent Union. All students may nominate themselves for positions for which they are eligible. The election shall take place in the form of a secret ballot in which all eligible students are entitled to vote.

9 THE COURT

- 9.1 The Chancellor shall preside over meetings of the Court.
- 9.2 The Court shall consist of the following persons:
- 9.2.1 The Chancellor
 - 9.2.2 Members of the Council;
 - 9.2.3 Members of the Senate;
 - 9.2.4 The Professors and Emeritus Professors;
 - 9.2.5 Up to 6 heads of professional services as determined by the Vice-Chancellor;
 - 9.2.6 Her Majesty's Lieutenant of and in The County of Kent;
 - 9.2.7 Members of the Commons House of Parliament who have any part of their constituency in the County of Kent or Medway Unitary Authority;
 - 9.2.8 The High Sheriff of The County of Kent;
 - 9.2.9 The Lord Mayor of The City of Canterbury;
 - 9.2.10 The Mayor of Medway;
 - 9.2.11 The Chief Executive, the Leader and the Chair of Kent County Council;
 - 9.2.12 The Chief Executive, the Leader and the Chair of Medway Council;
 - 9.2.13 The Chief Executive, the Leader and the Chair of Canterbury City Council;
 - 9.2.14 The Sabbatical Officers of the Students' Union;
 - 9.2.15 The Presidents of the Student Committees of the Colleges of the University;
 - 9.2.16 The Dean of Canterbury;
 - 9.2.17 The Dean of Rochester;
 - 9.2.18 One representative of each of such learned or professional societies or bodies as the Court on the recommendation of the Chancellor may from time-to-time determine, but so that the total of such representatives shall not exceed six;
 - 9.2.19 Such other persons, not exceeding six in all, as may be co-opted by the Court to represent business, the arts, healthcare and sports;
 - 9.2.20 Such other persons, not exceeding twelve in all, six of which may be appointed by the Council and six may be appointed by the Senate;
 - 9.2.21 Up to six alumni of the University as determined by the Vice-Chancellor;
 - 9.2.22 Members of the Court as at 1 August 2009 until the end of their prescribed appointment.
- 9.3 Members of the Court shall continue as members as long as they occupy the positions in respect of which they became members.
- 9.4 An Annual General Meeting of the Court shall be held once in every academic year within fifteen months of the preceding meeting and at such yearly meeting an annual review of the University and the Annual Accounts shall be presented.

- 9.5 The Council may designate a Lay Member to, in the absence of the Chancellor and the Chair of Council, preside over meetings of Court.
- 9.6 The Chancellor and members of the Court may resign by writing addressed to the Secretary of the Court.

10 THE REMOVAL OF OFFICERS AND MEMBERS OF COUNCIL AND COURT

10.1 The Chair of the Council, the Chancellor and any other member of the Council or of the Court may be removed from their position on Council or Court for good cause by the Council. No person shall be removed by the Council unless s/he shall have been given a reasonable opportunity to have been heard by the Council.

10.2 "Good cause" means:

10.2.1 conviction for an offence which may be deemed by the Council to be such as to render the person convicted unfit for the execution of the duties of the office; or

10.2.2 conduct which is, in the opinion of the Council, incompatible with the duties of the office; or

10.2.3 conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office.

11 COMMITTEES

- 11.1 The Council, the Senate and the committees of the Divisions may each appoint such and so many standing and special Committees as may seem to them fit. The powers of these Committees shall be such as the bodies appointing them from time to time direct, and may be revoked, altered or enlarged as to the appointing bodies shall seem meet. Every Committee shall report to the body appointing it, but, to the extent to which that body from time to time directs, the proceedings and acts of Committees shall not require the approval of the appointing body.
- 11.2 The Council, the Senate and the committees of the Divisions may respectively make standing orders for the proceedings of their Committees, but, subject thereto, every Committee may determine its own procedure.
- 11.3 The Chair of Council and the Vice-Chancellor shall be ex officio members of every Committee of Council except the Audit Committee.
- 11.4 The Vice-Chancellor shall be ex officio a member of every Committee, Board or sub-committee of the Senate and of the Divisions.

12 THE REGULATION OF STUDENT MEMBERSHIP OF COMMITTEES

- 12.1 In any case where the student is a member of or is admitted to any meeting of the Council, the Senate, the Division Committees or any committees of these bodies, the student shall withdraw from the meeting when it is declared by the Chair of the meeting that the meeting is about to discuss a reserved area of business and shall not return to the meeting until the discussion on the reserved area of business is concluded.
- 12.2 Papers for consideration at any such meeting and minutes and other records any of which relate to reserved areas of business shall not at any time be made available to a student except with the permission of the Chair or the Director of Governance and Assurance.
- 12.3 Reserved areas of business include matters affecting the appointment, promotion and personal affairs of members of the staff of the University and matters affecting the admission and academic assessment of individual students. Subject to the above, the Chair of the meeting, having first heard representations from those present at the meeting, may decide in any case of doubt whether a matter is a reserved area of business or not and the Chair's decision shall be final.

13 ACTS DURING VACANCIES

- 13.1 No act or resolution of the Council, the Senate or the Court shall be invalid by reason only of any vacancy in the body doing or passing it, or by reason of any want of qualification by or invalidity in the election or appointment of any member of the body whether present or absent.

14 THE DIVISIONS

14.1 The Divisions of the University shall be:

- 14.1.1 Division of Arts and Humanities
- 14.1.2 Division of Natural Sciences;
- 14.1.3 Division of Computing, Engineering and Mathematical Sciences;
- 14.1.4 Kent Business School
- 14.1.5 Division of Human and Social Sciences;
- 14.1.6 Division for the Study of Law, Society, and Social Justice

14.2 The constitution of the Divisions shall respectively include the following academic schools/units:

14.2.1 Division of Arts and Humanities

- Centre for Music and Audio Technology
- Centre for Medieval and Early Modern Studies
- Department of Classical & Archaeological Studies
- Department of Comparative Literature
- Department of English Language and Linguistics
- Department of Modern Languages
- Department of Philosophy
- Department of Religious Studies
- Kent School of Architecture and Planning
- School of Arts
- School of English
- School of History

14.2.2 Division of Natural Sciences:

- School of Biosciences
- School of Chemistry and Forensic Sciences
- School of Physics and Astronomy
- School of Sport and Exercise Sciences
- Medway School of Pharmacy (affiliated)
- Kent and Medway Medical School (affiliated)

14.2.3 Division of Computing, Engineering and Mathematical Sciences

- School of Computing
- School of Engineering
- School of Mathematics, Statistics and Actuarial Science

14.2.4 Kent Business School

14.2.5 Division of Human and Social Sciences

- School of Anthropology and Conservation
- School of Economics
- School of Politics and International Relations
- School of Psychology

14.2.6 Division for the Study of Law, Society, and Social Justice

- Centre for Journalism
- Kent Law School
- School of Social Policy, Sociology and Social Research

14.3 The governing instruments of each Division shall be the Committees of the Division, of which the Director of Division, or nominee, shall be chair ex officio.

14.4 Subject to the Charter and the Statutes, the committees of each Division shall have the following powers as relevant:

14.4.1 To direct, subject to the control of the Senate or the Boards of Senate, the teaching and learning of the subjects assigned to the Division;

14.4.2 To exercise effective oversight of research within the Division and the research culture of the Division;

14.4.3 To exercise effective oversight of the supervision of research students in the Division;

14.4.4 Quality assurance, ensure the quality of teaching and maintain the reputation of the Division;

14.4.5 To recommend to the Senate persons for appointment as examiners in the Division;

14.4.6 To report to the Senate and its Boards on any matter relating to the work of the Division;

14.4.7 To make recommendations to the Senate for the award of Degrees, other than Honorary Degrees, and for the award of Diplomas, Certificates, Fellowships, Studentships, Scholarships and Prizes within the Division;

14.4.8 To generate discussion and debate about the life of the Division and any University matters pertaining to the Division;

14.4.9 To discuss the strategic direction of the Division and to report via the Academic Strategy, Planning and Performance Board to Senate thereon; and

14.4.10 To consider any matters relating to the Division referred to it by the Senate, or the Boards of Senate, and to report thereon to the Senate and to deal with any matters delegated to it by the Senate.

14.5 The members of each Division shall be the Professors in the Division, the Readers, the Senior Lecturers, the Lecturers, Teacher Practitioners and Research Fellows in the Division, together with all other teachers in the Division whether full-time or part-time who have been accorded Titles in accordance with Ordinance 31.

15 THE DIRECTOR OF DIVISION

- 15.1 A Director of Division shall be appointed in each Division of the University.
- 15.2 The term of office of the Director of Division shall be up to five years and shall expire on the thirty-first day of July in the appropriate year. The Director of Division shall be eligible for reappointment for up to a further five years.
- 15.3 Each Division may appoint one or more Deputy Director of Division(s) from among the members of the Board, who shall hold office for a period not exceeding three years and shall be eligible for re-appointment. The Director of Division will assign appropriate duties to the Deputy Director of Division(s).
- 15.4 The Director of Division of each Division shall be ex officio a member of every Committee of that Division and shall present candidates for Degrees (except Honorary Degrees) in the subjects of that Division.
- 15.5 In the event of a vacancy in the Office of a Director of Division procedures for a new appointment shall be made immediately. Pending the appointment of a new Director of Division, the duties of the office shall be performed by the Deputy-Director of Division.

16 THE COMMITTEES OF THE DIVISIONS

- 16.1 The Divisions will establish committees of the Division that will cover the areas of Education, the Student Experience, Graduate Studies, Research and Innovation, Research Ethics and Governance, and Engagement and Civic Mission, amongst others.
- 16.2 These Divisional committees will report to the respective Board of Senate.

17 THE COLLEGES

- 17.1 The Colleges of the University shall be the communities of the Student and Staff members of the University.
- 17.2 Student members of each College shall be those undergraduate, graduate, diploma, certificate or occasional students allocated to membership of that College according to procedures to be determined from time-to-time by the Senate.
- 17.3 Staff members of each College shall be those members of the staff of the University who have accepted an invitation to membership given by the Master of that College.
- 17.4 The Master of each College shall be appointed in accordance with the procedures for the appointment of staff.
- 17.5 The Master shall have disciplinary authority as set out in the Regulations on Student Discipline in relation to non-academic matters.
- 17.6 Student members of the College shall organise their own corporate life in terms of a Student Committee constitution and regulations which shall come into effect only on the prior written approval of the Master.

18 THE ORGANISATION OF STUDENTS IN THE UNIVERSITY

- 18.1 The Organisation of the Students of the University prescribed by paragraph 17 of the Charter shall be called "Kent Union".
- 18.2 The objects of the Union shall be:
- 18.2.1 To represent the Students of the University;
 - 18.2.2 To maintain and promote their co-operation with the other Colleges and Universities, the local community and with the Seniority of the University; and
 - 18.2.3 To promote the social and general interests of the students of the University.
- 18.3 Membership of the Union
- 18.3.1 All registered students of the University shall be members of the Union except that each such student shall have the right on registration annually to opt out of membership. The Council shall ensure so far as reasonably possible that a student exercising a right to opt out of membership is not unfairly disadvantaged with regard to the provision of services or otherwise by reason of having done so.
 - 18.3.2 Other persons may be admitted to Associate Membership on such terms and conditions as may be prescribed in the Constitution of the Students' Union.
 - 18.3.3 Any student given permission to intermit a period in a course of full-time study in the University solely for the purpose of holding Union office shall, while such office is held, be a full member of the Union.
 - 18.3.4 Any other student given permission to intermit a period in a course of fulltime study in the University may, upon payment of the full Union fee, become a full member of the Union and enjoy such rights and privileges as full membership conveys save that no Union office may be held during such period.
- 18.4 Constitution of the Union
- 18.4.1 The Union shall be governed by a Constitution.
 - 18.4.2 The Constitution of the Union shall be subject to review by the Council of the University at least every five years. Amendments to the Constitution as a result of such a review shall be made through the procedure set out in Ordinance 18.4.3.
 - 18.4.3 Before such Constitution and any subsequent amendments thereto enter into force:
 - 18.4.3.1 there shall first be consultation regarding any proposed amendment between the Officers of the Students' Union and the Vice-Chancellor;
 - 18.4.3.2 the proposals shall be passed by a two-thirds majority of those voting, at a quorate general meeting of the Union, the quorum for such meeting being 4% of full members of the Union. The decision shall have effect 10 days later unless a referendum is meanwhile requisitioned by 12% of full members, in which case the decision shall only have effect if confirmed by the referendum. If the proposals are passed at an inquorate meeting the decision shall not have effect unless confirmed by a referendum requisitioned in the same way; and
 - 18.4.3.3 the proposals shall not have effect unless approved in writing by the Senate and the Council of the University.

18.5 Officers of the Union

18.5.1 The Constitution of the Students' Union shall provide for such offices and committees as may be deemed necessary, provided only that:

18.5.1.1 Only full members of the Students' Union are eligible for election as officers and to membership of committees of the Union.

18.5.1.2 Any full member elected as one of the five full-time Sabbatical Officers of the Union as provided for in the Union Constitution or as President of the Sports Federation who takes up office in the session following graduation shall be deemed to be a full-time student during the sabbatical period of office.

18.6 Rights of Members of the Union

18.6.1 Full members of the Union have the right:

18.6.1.1 To propose a candidate for any Union office, to stand as a candidate for any Union office, except for the post of Women's Officer which is open only to female members, to vote in any Union election or referendum, to attend, vote at and, subject to the Constitution, to speak at any General Meeting of the Union.

18.6.1.2 The Constitution may provide that holders of certain offices may not vote in any election or referendum, or stand for any Union office or propose a candidate for any Union office.

18.6.1.3 Subject to such notice as may be prescribed in the Constitution, to inspect the Union's accounts and the agenda and minutes of any Union Committee or General Meeting and, subject to the Constitution, to place items on the agenda of any General Meeting of the Union.

18.6.1.4 To requisition a General Meeting of the Union, such requisition to become effective only when signed by the number of full members specified in the Constitution. Such number shall not exceed five per cent of the number of full members of the Students' Union.

18.6.2 Associate members of the Union have the right to speak (subject to the Constitution) at any General Meeting of the Union but may not vote in any Union election or referendum. They may have other rights and privileges as are laid down in the Constitution.

18.7 Finance

18.7.1 The Council of the University shall transfer to the Students' Union in each academic year such sum as it may from time- to-time determine.

18.7.2 The monies provided by the Council must be used to promote the objects of the Students' Union as laid down in this Ordinance and for no other purpose.

18.7.3 The accounts of the Students' Union, properly audited, shall be communicated annually to the Council of the University.

18.8 Status of the Students' Union

18.8.1 The Council of the University is not responsible financially or in any other way for any act or contract engaged in by the Students' Union of the University.

18.8.2 A note to this effect shall appear in all contracts, undertakings or legal agreements entered into by the Students' Union.

19 CONGREGATIONS

- 19.1 For the purpose of conferring Degrees of the University there shall be a meeting of the whole University which shall be called a Congregation.
- 19.2 The procedure for summoning a Congregation, for the presentation of graduands and for the conferring of Degrees in absentia, and all other matters relating to Congregations, shall be determined by the Senate.

20 THE UNIVERSITY YEAR, TERMS AND VACATIONS

- 20.1 The Academic Year comprises the Terms and Vacations described in Ordinances 20.2 and 20.3 below.
- 20.2 There shall be three University Terms in each Academic Year. The first term in each Academic Year shall be called the Autumn Term, the second term shall be called the Spring Term and the third term shall be called the Summer Term.
- 20.3 There shall be three University Vacations in the Academic Year. The University Vacation between the end of the Autumn Term and the beginning of the Spring Term shall be called the Winter Vacation, the University Vacation between the end of the Spring Term and the beginning of the Summer Term shall be called the Spring Vacation and the University Vacation following the end of the Summer Term shall be called the Summer Vacation.

21 THE SERVICE OF NOTICES AND DOCUMENTS

21.1 Any notice or document required by or for the purposes of the Charter, the Statutes or the Ordinances to be given or sent to a person may be given or sent:

21.1.1 personally; or

21.1.2 by sending it by post to him or her to his or her last address; or

21.1.3 by email or by means of a website in a method which has been agreed with that person.

22 THE TITLES OF DEGREES

22.1 First degrees shall be designated as follows:

Bachelor of Arts (B.A.), Bachelor of Fine Arts (B.F.A.), Bachelor of Music (B.Mus), Bachelor of Engineering (B.Eng), Bachelor of Science (B.Sc), Bachelor of Laws (LL.B), Bachelor of Business Administration (B.B.A.), Foundation Degree in the Arts (FdA.), Foundation Degree in Engineering (FdEng.), Foundation Degree in the Sciences (FdSc.), Master of Drama (M.Drama), Master of Architecture (M.Arch.), Master of Arts (M.Art), Master of Computer Science (M.Comp), Master of Engineering (M.Eng), Master of Mathematics (M.Math), Master of Mathematics and Statistics (M.Math.Stat), Master of Pharmacy (M.Pharm), Master of Physics (M.Phys), Master of Chemistry (M.Chem), Master of Science (M.Sci), Master of Sport (M.Sport) and Master of Management Science (M.Man.Sci.)

22.2 Higher degrees shall be designated as follows:

Master of Arts (M.A.), Master of Fine Art (M.F.A.), Master of Letters (M.Litt.), Master of Philosophy (M.Phil.), Master of Biotechnology (M.Biotech), Master of Clinical Science (M.Clin.Sci), Master of Research (M.Res), Master of Science (M.Sc), Master of Surgery (M.Surg), Master of Business Administration (M.B.A.), Master of European Business Administration (M.E.B.A.), Master of Business Studies (M.B.S.), Master of European Business Studies (M.E.B.A.), Master of Laws (LL.M.), Master of Laws (M.Law), Doctor of Philosophy (Ph.D.), Doctor of Divinity (D.D.) and Doctor of Letters (D.Litt.), Doctor of Clinical Science (D.Clin.Sci), Doctor of Medicine (M.D.), Doctor of Science (D.Sc), Doctor of Sport (SportD), Doctor of Engineering (Eng.D) and Doctor of Laws (LL.D)

22.3 The degrees of Doctor of Arts (D.Arts), Doctor of Civil Law (D.C.L.), Doctor of Music (D.Mus.) and Doctor of the University (D.Univ.) shall be conferred as Honorary Degrees only.

23 MATRICULATION

- 23.1 Matriculation constitutes formal admission to a course of study in the University.
- 23.2 Matriculation confers the privileges of membership of the University and carries with it the obligation of conforming to the discipline of the University and to the Regulations made for this purpose from time to time by the Senate.

24 THE PERIOD OF STUDY BEFORE GRADUATION

- 24.1 The period of study necessary to qualify any undergraduate of the University for admission to the final examination leading to the Degree of Bachelor shall not, except as provided in Ordinance 24.2, be less than nine terms, all of which shall be subsequent to the date on which the undergraduate matriculates in the University, provided that the Senate may in special circumstances grant a remission of not more than one term.
- 24.2 The Senate may, under conditions prescribed by Ordinance, accept attendance at courses of study in other Universities, University Colleges or other institutions as exempting an undergraduate from part of the attendance at courses of study in the University necessary to qualify the student for admission to the Degree of Bachelor. This may be subject to such conditions as to the passing of examinations and as to the minimum periods of full-time and part-time study in the University as shall be prescribed in the Regulations for the Degree concerned.

25 THE AWARD OF DEGREES, DIPLOMAS AND OTHER DISTINCTIONS

- 25.1 Degrees in course, diplomas, certificates, testamurs, fellowships, scholarships, exhibitions and prizes shall be awarded by authority of the Senate on such conditions, being not in conflict with the Charter, Statutes or Ordinances, as may be prescribed by the Regulations.
- 25.2 Proposals for the conferment of honorary degrees shall be considered by a Joint Committee of the Council and the Senate. The members of this Committee shall be the Chancellor; the Chair of the Council; the Vice-Chancellor; one Deputy Vice-Chancellor; one of the Public Orators; three members of the Council, not also members of the Senate, elected by the Council from among its members; three members appointed by the Senate from among its members or those eligible to be members of the Senate; and the President of the Students' Union. The Chair of the Committee shall be the Vice-Chancellor. Elected members of the Joint Committee shall be appointed for periods not exceeding four years and shall not be eligible for re-appointment until after the expiry of one year from the end of a previous term of service. The election of a member of the Committee to fill a casual vacancy among the elected members shall be made for the remainder of the period for which the original election was made.
- 25.3 Proposals made by the Joint Committee shall be considered by both the Council and the Senate, and an honorary degree shall not be conferred unless the proposal shall have been approved by a two-thirds majority of the members of each body present and voting.
- 25.4 Candidates for the degrees in course shall be presented by the Director of the Division concerned or, in his/her absence, by some member of the Division appointed as his/her deputy. Honorary graduands shall be presented by the Public Orator appointed by the Senate for this purpose.
- 25.5 In special cases the Senate may at its discretion allow degrees other than honorary degrees, to be conferred in absentia.
- 25.6 No person shall be eligible for admission to a degree of the University unless s/he shall have paid the appropriate fees and charges prescribed by the Regulations.

26 DISPENSATION FROM REGULATIONS

- 26.1 If the Senate forms the opinion that the procedures for examinations and granting of degrees, diplomas and certificates currently in force cannot be followed for reasons beyond its control, the Senate may set alternative conditions or prescribe such alternative examinations or tests or grant such dispensations from Regulations as may be reasonable in the special circumstances to enable it to determine to whom and how degrees, diplomas and certificates are to be awarded.

27 THE CONDUCT OF EXAMINATIONS

- 27.1 Every examination for a degree, diploma, certificate or testamur of the University shall be conducted by Boards of Examiners as may be prescribed by Regulation. Each Board of Examiners shall appoint a chair. The members of the Board shall be jointly responsible for setting and marking of papers in the examination or examinations, which are the responsibility of the Board.
- 27.2 Every Board of Examiners shall consist of at least two members. Every Board of Examiners for any higher degree, and for the final examination for any first degree, diploma or testamur of the University shall include at least one member, specially appointed as an external examiner, who shall not be a member of the staff of the University. Every Board of Examiners for the final examination for a certificate shall also include one member, specially appointed as an external examiner, who shall not be a member of the staff of the University except where the programme of study leading to the award of the certificate is an integral part of a programme leading to the award of a degree or diploma.
- 27.3 External examiners shall be appointed by the Senate following consultation with the appropriate Committees of the Divisions.
- 27.4 Internal examiners shall be appointed by the Senate following consultation with the appropriate Committees of the Divisions from among the Professors, Readers, Lecturers and other teachers of the University.
- 27.5 No candidate shall be admitted to a University examination unless the candidate has complied with the conditions laid down in the Ordinances and Regulations and paid all appropriate fees and charges.
- 27.6 The manner of conducting University examinations shall be prescribed by Regulations, and failure to comply with the Regulations shall be regarded as a breach of the discipline of the University.
- 27.7 Each Division Education and Student Experience Committee shall, after considering reports of the Boards of Examiners, submit to the Senate its recommendations for the award of degrees, diplomas, certificates or testamurs.
- 27.8 The form in which results of University examinations are to be published shall be prescribed in Regulations.

28 THE REQUIREMENTS FOR ADMISSION TO HIGHER DEGREES

- 28.1 Graduates of the University may be admitted to the degree of Master in an appropriate Division or to the degree of Doctor of Philosophy subject to the Regulations governing admission, the period and nature of required study and the mode of examination.
- 28.2 Graduates of approved universities and holders of other approved qualifications may be admitted to the degree of Master in any Division or to the degree of Doctor of Philosophy of this University subject to the Regulations governing the period and nature of required study and the mode of examination and provided always that before such persons are admitted to the course leading to the degree of Master or to the degree of Doctor of Philosophy they shall have satisfied the Senate, in such manner as the Senate may determine, of their fitness for admission.
- 28.3 The degrees of Doctor of Divinity, Doctor of Laws, Doctor of Letters and Doctor of Science may be conferred on graduates of the University, or members of the University who are also members of the teaching or research staff of the University provided:
- 28.3.1 that not less than seven years shall have elapsed since every such person shall have been admitted to the degree of Bachelor and provided further that any member of the University who is a member of the teaching or research staff of the University, but is not a graduate of this University, shall also have been a member of the University in this capacity for a continuous period of not less than three years.
- 28.3.2 that every such person shall have submitted his or her published contributions to the advancement of learning in his or her subject and that these contributions shall have been judged in the manner prescribed by the Regulations to be of sufficient importance and worth to merit the award of the degree.

29 VALIDATION

- 29.1 For the purposes of this Ordinance a validated course shall be a course of study provided by another Institution to the students of that institution which leads to the award of a qualification of the University.
- 29.2 Where appropriate Senate may appoint External Assessors to provide advice to Divisions on a validated course.
- 29.3 The titles of degrees, diplomas and certificates to be awarded to students taking validated courses shall be:
- 29.3.1 Doctor of Philosophy (Ph.D.)
 - 29.3.2 Doctor of Education (Ed.D.)
 - 29.3.3 Master of Philosophy (M.Phil.)
 - 29.3.4 Master of Arts (M.A.)
 - 29.3.5 Postgraduate Diploma (PGDip)
 - 29.3.6 Postgraduate Certificate (PGCert)
 - 29.3.7 Master of Architecture (M.Arch.)
 - 29.3.8 Master of Biotechnology (M.Biotech.)
 - 29.3.9 Master of Fine Art (M.F.A.)
 - 29.3.10 Master of Science (M.Sc.)
 - 29.3.11 Bachelor of Architecture (B.Arch.)
 - 29.3.12 Bachelor of Arts (B.A.)
 - 29.3.13 Graduate Certificate (GradCert)
 - 29.3.14 Diploma of Higher Education (DipHE)
 - 29.3.15 Certificate of Higher Education (CertHE)
 - 29.3.16 Master of Education (M.Ed.)
 - 29.3.17 Bachelor of Education (B.Ed.)
 - 29.3.18 Bachelor of Laws (LL.B.)
 - 29.3.19 Bachelor of Music (B.Mus.)
 - 29.3.20 Bachelor of Performing Arts (B.P.A.)
 - 29.3.21 Bachelor of Science (B.Sc.)
 - 29.3.22 Foundation Degree in Sciences (FdSc.)
 - 29.3.23 Foundation Degree in Arts (FdA.)
 - 29.3.24 Foundation Degree in Engineering (FdEng.)
 - 29.3.25 Master of Art (M.Art)
 - 29.3.26 Master of Science (M.Sci)
 - 29.3.27 Master of Law (M.Law)

- 29.4 The titles of diplomas and certificates to be awarded to students taking validated courses shall be those approved by the Senate.
- 29.5 Degree, diploma and certificate titles awarded to students taking validated degrees shall carry the rubric "University of Kent under the regulations prescribed for [the name of the Institution to be inserted here]".
- 29.6 Members of staff of Institutions offering validated courses shall be eligible for appointment as members of Boards of Examiners and shall be deemed to be internal examiners.
- 29.7 The provisions of Ordinances 25 and 28 shall not apply in the case of validated courses or to members of Institutions offering such courses.

30 MEMBERSHIP OF THE UNIVERSITY

- 30.1 Members of staff and Graduates and Students of the University shall be members of the University.
- 30.2 Membership of the University shall continue as long as one at least of the qualifications above enumerated shall continue to be possessed by the individual member.
- 30.3 The Council or the Vice-Chancellor acting on its behalf may grant the privilege of Membership of the University to other persons deemed appropriate.

31 TITLES

- 31.1 The Title of Professor, Reader, Lecturer or other such title may be conferred upon persons, whether members of the full-time academic staff of the University or not, provided that teaching given by them, or research supervised by them, is recognised by the Senate as qualifying students of the University for admission to University examinations for degrees, diplomas, certificates or testamurs of the University. Persons on whom such Titles are conferred shall be selected on grounds of scholarship or special ability, and shall be appointed on appropriate terms of tenure and status.

32 THE DEPUTY VICE-CHANCELLOR(S) AND THE PRO-VICE-CHANCELLOR(S)

- 32.1 The Deputy Vice-Chancellor(s) and the Pro-Vice-Chancellor(s) shall be responsible to the Vice-Chancellor who will assign appropriate duties to them.
- 32.2 A Deputy Vice-Chancellor or a Pro-Vice-Chancellor, as determined by the Vice-Chancellor, shall act for the Vice-Chancellor in the absence of the Vice-Chancellor or as directed by the Council during a vacancy in the office of the Vice-Chancellor.

33 EMERITUS PROFESSORS AND READERS AND FELLOWS

- 33.1 The Senate may confer the title of Emeritus Professor on any Professor of the University at or after the end of the Professor's active professional duty and substantive role in recognition of distinguished service to the University.
- 33.2 The Senate may confer the title of Emeritus Reader on any Reader of the University at or after the end of the Reader's active professional duty and substantive role in recognition of distinguished service to the University.
- 33.3 The Senate may confer the title of Emeritus Fellow on senior members of the University, who are neither a Professor or reader, at or after the end of their active professional duty and substantive role, in recognition of their sustained, distinguished and dedicated service to the University in a leadership position.

34 THE TENURE AND DUTIES OF PROFESSORS, READERS AND OTHER TEACHING, ADMINISTRATIVE AND MANAGERIAL STAFF

- 34.1 Subject to the provisions of the Charter, Statutes and Ordinances, the tenure of all Professors, Readers, and other Teaching Officers appointed to permanent posts in the University shall extend to retirement unless a period of probationary service was imposed when any such appointment was made, or unless the holder of any such appointment shall have given notice to resign that appointment in writing as is prescribed below.
- 34.2 Any person appointed to the staff of the University may be appointed subject to a period of probation not exceeding a full-time equivalent period of three years and normally not less than one year. Probationary appointments shall be made permanent when Council and Senate or a sub-committee nominated by Council and Senate for these purposes is satisfied that the probationary period has been satisfactorily completed. In any case in which probation is found not to be satisfactorily completed, the condition of the appointment will be deemed unfulfilled and service will automatically cease at the end of the probationary period or a further period or periods of probation may be imposed.
- 34.3 When any person is appointed to any post in the University temporarily or for a limited time, the period for which the appointment is made shall be precisely stated in the recommendation made to the Council proposing such an appointment.
- 34.4 It shall be the duty of every Professor, Reader and other Teaching Officer to devote themselves to the advancement of knowledge in their subject, and to give instruction therein within the University. They shall also do all in their power to promote the objects of the University as defined in the Charter.
- 34.5 A Professor, Reader or other Teaching Officer holding a full-time post in the University shall not undertake any regular or substantial paid work outside the University without the consent of the Council. The Council shall delegate such powers of consent as it may think fit to the Vice-Chancellor, provided always that no Professor, Reader or other Teaching Officer shall at any time undertake work outside the University to such an extent that it interferes with the satisfactory performance of the staff member's duties in the University.
- 34.6 Professors may resign their appointments in the University by giving six months' notice of such intention in writing addressed to the Director of Human Resources & Organisational Development.
- 34.7 All other Teaching Officers of the University may resign their appointments in the University by giving such period of notice of their intention so to do in writing addressed to the Director of Human Resources & Organisational Development as was prescribed by the Council in their individual terms of appointment.
- 34.8 All administrative Officers may resign by giving such period of notice in writing addressed to the Director of Human Resources & Organisational Development as was prescribed by the Council in their individual terms of appointment.
- 34.9 The Deputy and Pro-Vice-Chancellors may resign by giving such period of notice in writing addressed to the Vice-Chancellor as was prescribed in their individual terms of appointment.

- 34.10 The Vice-Chancellor may resign by giving such period of notice in writing to the Director of Governance and Assurance (Secretary to Council) as was prescribed in the Vice-Chancellor's terms of appointment.
- 34.11 The Council shall have power to accept shorter periods of notice terminating appointments in the University than those prescribed above.

35 ACADEMIC FREEDOM

- 35.1 Academic freedom is the commitment to free and open inquiry without fear of reprisal for staff of the University who engage in teaching and/or research and research students (in this Ordinance described as “academic members”). As such, academic freedom is a foundational right and value of higher education, as set out by Paragraph 19 of the University’s Charter.
- 35.2 The University greatly respects human dignity and human rights, and all members of our community share the responsibility for maintaining an environment of mutual respect and civility. Nevertheless, it is not the proper role of the University to attempt to shield individuals from, or to restrict the lawful discussion of, ideas and opinions no matter how unwelcome, distasteful, or offensive those ideas and opinions may seem.
- 35.3 In accordance with relevant international standards, including the *European Convention on Human Rights* (as interpreted by relevant jurisprudence), academic members shall have the rights and responsibilities listed below, which comprise “academic freedom” for the purposes of the Charter, Statutes, Ordinances and governing documents of the University of Kent.
- 35.3.1 Without fear of censorship, disciplinary action, loss of privileges, the reduced likelihood of securing promotion or redeployment, dismissal, or any other professional or personal reprisal or disadvantage by the University, all academic members shall have the right, without unlawful interference, to:
- 35.3.1.1 question and test received wisdom and put forward new ideas and controversial or unpopular opinions;
- 35.3.1.2 determine and pursue the subjects, methods, purposes, and partners of their research, scholarship, and creative expression as they wish, and publish and disseminate that work in the form they deem appropriate, recognising national and international professional principles of intellectual rigour, scientific inquiry, and research ethics;
- 35.3.1.3 conduct teaching (including determining module content, teaching methods, and assessment patterns) in keeping with their own best knowledge and conscience, and collectively determine curricula, and marking and admissions criteria, according to professional principles, including professional responsibility and intellectual rigour regarding standards and methods of teaching;
- 35.3.1.4 speak or write internally or externally on matters of public concern and academic interest, professional duties, or the functioning of the University, of higher education, or of any other third party, whether in the UK or abroad, which in their reasonable judgement arise in connection with their professional competence or expertise;
- 35.3.1.5 participate in professional or representative bodies of their choosing, including trades unions; and
- 35.3.1.6 participate in the University’s governing bodies as set out in the Charter, Statutes and Ordinances.

- 35.3.2 In exercising the rights above, all academic members shall have the responsibility to:
- 35.3.2.1 acknowledge the rights of others to academic freedom and freedom of expression;
 - 35.3.2.2 acknowledge the University's contractual commitments to students and teach within the means provided by the institution and the state;
 - 35.3.2.3 comply with any applicable requirements of research funding and regulatory bodies, and requirements which flow from the statutory powers of government;
 - 35.3.2.4 when speaking on matters of public interest, speak in their professional individual capacity unless they specify otherwise, and understand that the public may judge their profession and institution by their utterances;
 - 35.3.2.5 perform their professional duties and responsibilities in accordance with the University's policies concerning professional behaviour and conduct of duties, professional principles and with due regard for the law, including expectations of fairness, equality, and tolerance of differing opinions, to the extent that such policies do not conflict with their academic freedom and/or free expression;
- 35.3.3 Breach of the responsibilities set out at 35.3.2 above may lead to disciplinary proceedings, but in all such cases, the University will have particular regard to the importance of academic freedom, acknowledging that the right of an individual to academic freedom ordinarily prevails above the rights and interests of the University.

35.4 The University of Kent commits to:

- 35.4.1 take reasonably practicable steps to support academic members in their pursuit of research, teaching, and defence of their right to academic freedom within the law, regardless of their focus;
- 35.4.2 ensure that its policies and procedures are compatible with relevant national and international standards including the *European Convention on Human Rights* (as interpreted by relevant jurisprudence);
- 35.4.3 support academic members if they are faced with any form of abuse arising out of or in connection with their lawful exercise of the right to academic freedom;
- 35.4.4 ensure that agreements with national or international partners of any kind respect the commitments to academic freedom set out in this Ordinance from the outset, especially with respect to curricula, assessment, research, or employment decisions, and report on such agreements in an open and transparent manner annually to the Senate;
- 35.4.6 protect academic freedom at all stages of national and transnational collaborations of any kind by undertaking appropriate due diligence and risk assessment, putting in place and adapting, as necessary, measures commensurate to any identified risks, and reporting on such collaborations in an open and transparent manner annually to the Senate;

- 35.4.7 establish the Standing Committee on Academic Freedom and Freedom of Expression (SCAFFE) and through this Committee publish and keep up-to-date a Code of Practice on Academic Freedom and Freedom of Expression, setting out how the rights and responsibilities in this Ordinance, and freedom of expression more widely, are to be exercised.

36 PERFORMANCE IMPROVEMENT

36.1 Introduction

- 36.1.1 The University is committed to developing and maintaining a working environment which is conducive to staff effectively undertaking their roles. The University is also committed to ensuring that staff have and/or acquire the appropriate competencies, skills, knowledge and experience, as appropriate, to be able to effectively undertake their day-to-day activities.
- 36.1.2 The University will provide assistance to members of staff if their work performance is of an unsatisfactory level, and will seek to agree ways of achieving and sustaining a satisfactory level of performance through appropriate support, training and target setting.
- 36.1.3 Definition:
 - 36.1.3.1 Performance relates to individual members of staff, and their ability and competence to carry out the duties of their role in an effective manner.
 - 36.1.3.2 Performance focuses on an individual member of staff's skills, aptitudes and attitudes and the way these are deployed in the execution of the duties of their role.
 - 36.1.3.3 Performance can be considered unsatisfactory where some or all of the duties and responsibilities required of the role are not being carried out to the standards required.
 - 36.1.3.4 Unsatisfactory performance also includes absence due to sickness where there is no underlying medical condition.

36.2 Aims and objectives

- 36.2.1 The general aim of this Ordinance is to ensure all staff are given the appropriate support and development opportunities to be able to undertake their role effectively.
- 36.2.2 If, after a period of support, there are still performance issues, this Ordinance details the procedure to manage such situations.

36.3 Scope

- 36.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment.
- 36.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.

- 36.3.3 This Ordinance does not apply to professional, managerial, support and research staff on Probation (please refer to the Probation Scheme).
- 36.3.4 This procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procedure as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to provisions of 35.3.2 of that Ordinance).
- 36.3.5 The University will ensure that members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Expression (SCAFFE).
- 36.3.6 This Ordinance does not cover unsatisfactory performance due to the following:
- 36.3.6.1 Poor performance that is related to a disability (which is considered by the University's Occupational Health team as having an impact upon the member of staff's ability to undertake their role), where reasonable adjustments have not yet been considered and/or made. Please refer to the University's Disability in Employment policy and procedure for further information.
- 36.3.6.2 Lack of skills, aptitude and/or knowledge which has been brought about by restructuring, promotion or new technology, for example, before appropriate support and/or training has been given.
- 36.3.6.3 Excessive workloads. Where this is established as the basis for unsatisfactory performance, responsibility passes to the University to alleviate any such situations.
- 36.3.6.4 Where under performance can be reasonably attributed to temporary personal problems. In these cases the University will endeavour to provide necessary support, via Occupational Health or the Counselling Service, for example.

36.4 Responsibilities

- 36.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
- 36.4.1.1 ensuring there is an effective performance improvement process in place to enable staff to achieve their potential within their role;
- 36.4.1.2 supporting managers and staff when performance issues arise and ensuring that such issues are dealt with consistently across the University and in line with the University expectations on work performance.
- 36.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
- 36.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
- 36.4.2.2 engaging the necessary staff and trade union representative bodies as and when any such review is undertaken;

- 36.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;
- 36.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;
- 36.4.2.5 providing additional supporting documentation and training, to help support the principles of performance improvement.
- 36.4.3 Managers are responsible for:
 - 36.4.3.1 ensuring staff have a current and accurate job description before initiating any action under this Ordinance;
 - 36.4.3.2 ensuring all staff are aware of the performance standards expected of them, before initiating any action under this Ordinance;
 - 36.4.3.3 ensuring an effective Induction and Probation period has been undertaken (where appropriate);
 - 36.4.3.4 briefing staff regularly as appropriate, and ensuring they understand fully what is required of them in their role;
 - 36.4.3.5 ensuring staff receive development and support to help them to achieve the appropriate level of performance;
 - 36.4.3.6 ensuring staff are appraised on a regular basis using the University's Reflect; Plan; Develop (RPD) appraisal scheme;
 - 36.4.3.7 ensuring any concerns about performance are brought to the individual member of staff's attention and dealt with informally initially (providing staff the opportunity to respond and improve), and then if necessary, formally.
- 36.4.4 Staff are responsible for:
 - 36.4.4.1 participating fully in any Induction and Probation period;
 - 36.4.4.2 seeking clarification on any aspect of their role of which they are unsure; this will ensure they have an understanding of the expected standard of work required;
 - 36.4.4.3 fully committing to any development, training and support they receive to ensure an appropriate and sustained level of performance;
 - 36.4.4.4 preparing for their RPD discussion, raising concerns if appropriate;
 - 36.4.4.5 addressing any performance concerns brought to their attention.

36.5 Procedure

- 36.5.1 Recognising unsatisfactory performance
 - 36.5.1.1 It is important that a manager addresses any performance issues as soon as they become apparent. Indicators of unsatisfactory performance include:
 - repeated failure to meet realistic deadlines and/or achievable targets despite support and guidance;
 - lack of skills and knowledge, despite appropriate support and/or training being provided;

- significant or frequent mistakes despite feedback and support; substantiated complaints by other members of staff and/or the wider University community relating to a member of staff's areas of responsibility.

36.5.2 Addressing unsatisfactory performance – informal action

- 36.5.2.1 In most cases informal action is an effective method of resolving unsatisfactory performance and should be taken before formal action is pursued. Managers and staff should speak to their designated Human Resources (HR) representative for advice if unsure how to proceed.
- 36.5.2.2 Managers should give consideration to any health or personal issues that may be impacting on the performance. In which case, it may be more appropriate to contact their designated HR representative or Occupational Health.
- 36.5.2.3 An informal meeting should be arranged so that feedback can be given to a member of staff on their performance. The member of staff should be made fully aware of the fact that their current level of performance is falling/has fallen below an acceptable level.
- 36.5.2.4 The line manager should agree with the member of staff the improvements required and the reasonable timescale involved. Any training that may be required should be identified. The member of staff should be advised that if a satisfactory level of performance is not achieved and sustained, then the matter is likely to be addressed formally. A follow up date should be set for the line manager and member of staff to meet and review the level of success against these requirements.
- 36.5.2.5 A period of review should be agreed at the meeting, and should be sufficient to allow for the required improvements to be made and for any training to take effect, therefore its length will depend upon the duties and the nature of the role.
- 36.5.2.6 Following this initial meeting, the manager should provide a written copy of the agreed actions to the member of staff, together with a short summary of any support that has already been provided (for example, training or additional supervision).
- 36.5.2.7 During the review period, and as early as possible, the manager should ensure that any identified training and support is provided. This will help the member of staff improve and sustain a satisfactory level of performance.
- 36.5.2.8 At the review meeting, if the required improvements have been made by the member of staff, their efforts should be recognised, they should be told the process is complete (subject to the improvements being sustained) and, following the meeting, a letter should be sent to the member of staff to confirm this.
- 36.5.2.9 If the required improvements have not been made, or only partially made, then the member of staff should be informed that the process will become a formal matter. After the meeting, a letter will be sent to the member of staff to confirm this and the designated HR representative should be advised.

- 36.5.2.10 Where a member of staff has met the required standards, but then fails to sustain those standards, the manager will meet with the staff member again and decide if the matter should be dealt with as a formal matter.
- 36.5.3 Addressing unsatisfactory performance – formal action
- 36.5.3.1 Where informal action has not generated sufficient improvement, and a performance issue remains, formal action should be initiated.
- 36.5.3.2 The member of staff should be notified in writing that they are required to attend a performance improvement hearing. This notification will contain sufficient information about the matter and its possible consequences, to enable the member of staff to prepare to answer the case at the hearing. The notification letter will also provide details of the hearing date, venue and panel composition, as well as the right to be accompanied.
- 36.5.3.3 For any hearing where the potential sanction will not be dismissal (such as first and final warnings), the panel will comprise two appropriately senior¹ members of staff, at least one of whom will be independent².
- 36.5.3.4 For any hearing where the outcome may be dismissal, the panel will comprise three appropriately senior¹ and independent² members of staff. The Chair of the panel will be a Head of School/Department³.
- 36.5.3.5 Where the panel is considering the potential dismissal of an academic member of staff, the Vice-Chancellor⁴ will approve the panel composition.
- 36.5.3.6 In all instances the panel will be determined and appropriately supported by Human Resources, with a designated representative of HR present at the hearing to provide HR advice.
- 36.5.3.7 The panel will be convened as soon as is practicable and without unreasonable delay, whilst allowing all parties reasonable time to prepare their case. Details of the hearing date and panel composition will be confirmed in writing to the member of staff.
- 36.5.3.8 At the hearing the line manager will present the case – which will be based on the information gathered and objectives set during the informal stage.
- 36.5.3.9 The member of staff will have the opportunity at the hearing to present their case and respond to any points made.
- 36.5.3.10 Staff have the right to be accompanied by a trade union representative or work colleague.
- 36.5.3.11 If the member of staff is unable to fully participate in the process without additional support (for example to assist with a medical condition), the University will seek to provide such support wherever it is reasonable and practicable to do so.
- 36.5.3.12 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process where it is reasonable and practicable to do so.
- 36.5.3.13 It is the responsibility of the member of staff to request such support from a member of the Human Resources (HR) department or their line manager.

- 36.5.3.14 Notes of the hearing will be taken. The member of staff will be provided with a copy of these notes and the opportunity to comment on them. Audio or video recording of the hearing will not be allowed unless requested in advance in writing to the chair (who will consider the reason for the request and if this may amount to a reasonable adjustment).
- 36.5.3.15 Prior to making a decision as to whether any formal action is required the Chair of the panel should call an adjournment. The purpose of such adjournment is to allow the panel to consider all the evidence that has been presented and discuss the facts in the absence of the member of staff concerned. The panel will consider if formal action is justified.
- 36.5.3.16 Following a performance improvement hearing, any formal warnings issued as a result will be, where appropriate, fully supported by relevant development opportunities for the member of staff. In line with the informal stage, during the review period (and as early as possible), the line manager should ensure that the identified training and support is provided.
- 36.5.3.17 Generally, any formal warning issued will be disregarded in further proceedings after a specified period of maintaining the required standards:
- A written warning will normally be disregarded after six months.
 - A final written warning will normally be disregarded after twelve months.
- 36.5.3.18 In the event that the panel deem the performance satisfactory for the role, then no further formal action will be taken.
- 36.5.3.19 Following a performance improvement hearing where a formal warning has been issued, a Performance Improvement Plan (PIP) should be created/updated (as appropriate) and a new date set for the next review. The review period will be set based upon the requirements of the role, and the need to effectively evaluate the improvements in performance.
- 36.5.3.20 At the end of review period specified in the PIP the line manager will determine if the required improvements have been made.
- 36.5.3.21 The line manager can then decide that:
- The required standards have been met, and that no further action will need to be taken, subject to the sustained achievement of the standards required.
 - The required standards have not been met, and that a further performance improvement hearing needs to be convened. If this is the case, then this procedure repeats again from 5.3.1.

¹ Senior to the member of staff required to attend the performance improvement hearing

² Independent from both the School/Department from which the member of staff comes, as well as from the case

³ Or more senior, i.e. the overriding principle shall be that the Chair must be more senior than the individual before the panel

⁴ Or his/her nominee

- 36.5.3.22 In the event that a PIP has been successfully met following the issuing of a formal warning, but that after a period of time the standards of performance drop below the requirements stipulated in the PIP, the line manager will meet with the staff member to determine the appropriate course of action, which could include a further performance improvement hearing.
- 36.5.3.23 No formal action that may result in dismissal will be taken against a trade union branch officer or recognised representative until the circumstances of the case have been discussed with a senior trade union officer or the full-time official of the trade union.
- 36.5.3.24 In certain circumstances, alternative employment within the University may be considered as an alternative to dismissal. This will be considered on a case-by-case basis.
- 36.5.3.25 Staff have the right to appeal against any formal decision under this Ordinance. Please see Ordinance 44: Appeals for further information.

36.6 Review

- 36.6.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

36.7 Associated practices

- 36.7.1 This Ordinance complies with relevant UK employment legislation.
- 36.7.2 In addition, other relevant University of Kent People Practices include:
- Performance Improvement: Managers Guide
 - Performance Improvement: Staff Guide
 - Chairs Guide
 - PIP Template
 - Ordinance 44 Appeals
 - Managing Sickness Absence
 - Disability in Employment
 - EDI policies, including Dignity at Work
 - Reflect; Plan; Develop (RPD) appraisal scheme
 - Induction
 - Probation
 - Learning & Development policies and provision
 - Code of Practice on Academic freedom and Freedom of Speech

37 ILL HEALTH

37.1 Introduction

- 37.1.1 This Ordinance outlines the University's approach to handling employment issues arising from serious, long term ill health, disability and/or incapacity, in a supportive and legally compliant way.
- 37.1.2 The University believes that it is important to offer support to staff who have to cope with a serious medical condition and will make reasonable adjustments in the workplace or consider redeployment opportunities before instigating this procedure. The procedure under this Ordinance, therefore, should only be initiated once all other avenues for support have been explored.

37.2 Aims and objectives

- 37.2.1 The aims of this Ordinance are to:
 - 37.2.1.1 ensure that all staff who are experiencing long term illness and disabilities are treated sympathetically and sensitively and in line with legislative requirements and having a regard to best practice;
 - 37.2.1.2 ensure that appropriate support and guidance is provided to staff, and their line managers, in relation to serious issues of long term ill health, disability and/or incapacity;
 - 37.2.1.3 ensure that, in so far as is possible, ill health capability issues are handled in a supportive, fair, equitable, transparent and timely manner;
 - 37.2.1.4 balance the needs and interests of the individual, and the operational needs of the University.

37.3 Scope

- 37.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment where the member of staff has:
 - 37.3.1.1 a certified, long term medical condition, disability or illness, or:
 - 37.3.1.2 an injury that has the potential to be long term from the outset⁵, and:
 - 37.3.1.3 their condition is (or will) impact on their attendance and/or performance at work.
- 37.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 37.3.3 This Ordinance does not apply where a member of staff's attendance or performance is affected by prolonged or repetitive absences from work and there is no underlying medical condition. In these instances please refer to the Managing Sickness Absence policy and procedure and Ordinance 36: Performance Improvement for further information.

37.4 Responsibilities

- 37.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
 - 37.4.1.1 ensuring there is an effective process in place for managing ill health;

- 37.4.1.2 supporting managers and staff when instances of serious ill health, disability or incapacity arise and ensuring that such issues are dealt with sensitively and consistently across the University, and in line with the principles detailed within this Ordinance.
- 37.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
 - 37.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
 - 37.4.2.2 engaging the necessary staff and trades union representative bodies as and when any such review is undertaken;
 - 37.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;
 - 37.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;
 - 37.4.2.5 providing additional supporting documentation and training, as required, to help support the principles detailed within this Ordinance.
- 37.4.3 Managers are responsible for:
 - 37.4.3.1 putting in place reasonable measures to support staff members who may be experiencing a period of ill health or incapacity;
 - 37.4.3.2 contacting their designated Human Resources (HR) representative and Occupational Health (as appropriate), for advice and guidance about whether a member of staff may be protected by relevant employment legislation, any ill health issue, and/or regarding the management of a member of staff with a disability;
 - 37.4.3.3 ensuring that, in consultation with HR, Occupational Health and other relevant parties, staff who are experiencing serious ill health, disability or incapacity issues are treated sensitively and appropriately and in line with the principles detailed within this Ordinance.
- 37.4.4 Staff are responsible for:
 - 37.4.4.1 complying with any reasonable requests for access to medical information, attendance at medical examinations or Occupational Health appointments, as needed, to assist in the understanding of the medical position;
 - 37.4.4.2 asking questions of their line manager, or designated HR representative, as appropriate, if they are unsure about any aspect of this Ordinance.
- 37.4.5 It is the responsibility of all involved in the process to treat all information associated with this Ordinance, confidentially.

⁵ For example, a serious or life-changing injury resulting from a car crash

37.5 General principles

- 37.5.1 The University, in consultation with the member of staff, will take all reasonable steps to consider a range of options including (for example) reasonable adjustments, redeployment and ill health retirement, before an ill health dismissal is considered.
- 37.5.2 The University has a separate Managing Sickness Absence policy and procedure, which will be used to guide any necessary actions prior to any action being considered under this Ordinance.
- 37.5.3 In some cases ill health may be connected with a disability or disabilities. In cases where it is necessary to consider action under this Ordinance, particular consideration will be given as to whether there are reasonable adjustments which could be made to the requirements of the role (or other aspects of the work arrangements, as appropriate) that would provide support at work and/or assist in a return to work. In deciding what is 'reasonable' in the circumstances the University will have regard to any guidance published by the Equality and Human Rights Commission.
- 37.5.4 The University will request up to date, relevant medical evidence where dismissal for ill health capability may be a possibility.
- 37.5.5 The University expects the member of staff to attend any Occupational Health appointments, provide access to relevant medical information and undergo a medical examination, where appropriate, to assist in the process of understanding the medical position.
- 37.5.6 The University will meet the reasonable costs of any medical opinion required for the purposes of this Ordinance. Where medical information or examination is refused, the University may make a decision based upon the evidence available.
- 37.5.7 Where requested, a member of staff may be accompanied by a responsible friend or relative in addition to a Trade Union (TU) representative or work colleague. The responsible friend or relative may also appear instead of the member of staff, where this is deemed appropriate and provided it is approved by the Director of Human Resources & Organisational Development⁶, prior to any meeting/hearing.
- 37.5.8 Additional Support
- 37.5.8.1 If the member of staff is unable to fully participate in the process without additional support (for example a medical condition), the University will seek to provide such support wherever it is reasonable and practicable to do so.
- 37.5.8.2 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process, where it is reasonable and practicable to do so.
- 37.5.8.3 It is the responsibility of the member of staff to request such support from a member of the HR department or their line manager.
- 37.5.9 A member of staff will not be dismissed where there is evidence to suggest that a full recovery is likely to be made within a reasonable timeframe. Timeframes will be determined on a case by case basis and will take into account the medical evidence available, and the operational requirements of the University.

- 37.5.10 No formal action that may result in dismissal will be taken against a trade union branch officer or recognised representative until the circumstances of the case have been discussed with a senior trade union officer or the full-time official of the trade union.
- 37.5.11 During every stage of this process care must be taken to protect the confidentiality of the member of staff in question. All documentation (informal and formal) will be written sensitively by line managers and treated as confidential, with copies sent to the HR department for the purpose of retaining a complete history of a member of staff on their personal file and will only be held as long as is relevant/necessary, in line with applicable legislation.

37.6 Procedure

37.6.1 Step 1: Medical advice

- 37.6.1.1 In all cases, where it is necessary to consider action under this Ordinance the University will seek appropriate up to date medical advice in relation to the member of staff's medical condition.
- 37.6.1.2 Such advice may be sought from the University's Occupational Health service, the staff member's GP or specialist consultant, or from a medical practitioner or consultant appointed by the University.
- 37.6.1.3 Where access to medical information is required, a request for permission to access medical records will be made to the member of staff in accordance with applicable legislation.
- 37.6.1.4 The member of staff is expected to attend medical appointments as requested by the University but is also able to provide additional medical information produced by a recognised medical expert, as he/she feels is relevant.
- 37.6.1.5 Where medical evidence has already been obtained in the course of any other University process or procedure (for example, through the management of long term absence via the Managing Sickness Absence policy and procedure), and it is up to date, then the existing documentation may satisfy the requirement of this Ordinance to establish evidence of ill health.

37.6.2 Step 2: Arrange the hearing

- 37.6.2.1 Following any steps that have been taken under the Managing Sickness Absence policy and procedure in relation to considering if a return to work (or full duties) is possible or any alternative options⁷ that may be considered appropriate, if issues of incapacity appear unlikely to be resolved and there are relevant grounds provided by the medical advice, then the member of staff should be invited to attend an ill health hearing. The ill health hearing, will consider potential termination of employment.

⁶ Or his/her nominee. In instances where the member of staff in question is a member of Human Resources, approval shall instead be sought from the Vice-Chancellor or his/her nominee.

⁷ For example, redeployment, reduction in hours or reasonable adjustments to the role or other aspects of the work arrangements

- 37.6.2.2 The line manager, in conjunction with their designated HR representative and Occupational Health where appropriate, will produce an Ill Health Report. The report should include the impact of the absence on the effective and efficient functioning of the school/department (please see Ill Health: Managers Guide for further information).
- 37.6.2.3 The member of staff should be notified of the hearing, in advance, in writing. A copy of the Ill Health Report should be provided with the notification letter. This notification will contain sufficient information about the matter, and its possible outcomes, to enable him/her to prepare their response for an ill health hearing. Further guidance is also available in Ill Health: Staff Guide.
- 37.6.2.4 The notification will also give details of the time and venue for the ill health hearing and advise the member of staff of their right to be accompanied by a TU representative or work colleague at the hearing. It will also confirm they may also be accompanied, or represented, by a responsible friend or relative in addition to a TU representative or work colleague (subject to prior approval).
- 37.6.2.5 The member of staff should provide copies of any written evidence (for example any other medical evidence) and details of any witnesses to be called, in advance of the hearing.
- 37.6.2.6 The meeting should be held without unreasonable delay whilst allowing all parties reasonable time to prepare their case.
- 37.6.3 Step 3: Hold the hearing
- 37.6.3.1 The hearing panel will comprise three appropriately senior⁸ and independent⁹ members of staff. The Chair of the panel will be a Head of School/Department¹⁰.
- 37.6.3.2 Where the panel is considering the potential dismissal of an academic member of staff, the Vice-Chancellor¹¹ will approve the panel composition.
- 37.6.3.3 In all instances the panel will be determined and appropriately supported by Human Resources, with a representative of HR present at the hearing to provide HR advice.
- 37.6.3.4 The member of staff (and their companion) should make every effort to attend the hearing. If they cannot attend, for good reason, the Chair of the panel should be notified by the member of staff in advance of the hearing, and as soon as possible. If the member of staff does not attend the hearing without good reason, the hearing may be conducted in his/her absence and a decision taken on the evidence available.

⁸ Senior to the member of staff required to attend the hearing

⁹ Independent from both the School/Department from which the member of staff comes, as well as from the case

¹⁰ Or more senior, i.e. the overriding principle shall be that the Chair must be more senior than the individual before the panel

¹¹ Or his/her nominee

- 37.6.3.5 At the hearing the line manager will present the case, which will be based on the information provided in the Ill Health Report.
- 37.6.3.6 The member of staff (or their representative, where this has been agreed in advance) will have the opportunity at the hearing to present his/her case and raise any factors he/she wishes to have considered, including medical evidence provided by the member of staff's own medical practitioner(s).
- 37.6.3.7 Both the member of staff and the Chair of the panel may request an adjournment during the hearing.
- 37.6.3.8 Notes of the hearing will be taken. The member of staff will be provided with a copy of these notes and the opportunity to comment on them. Audio or video recording of the hearing will not be allowed unless requested in advance in writing to the Chair (who will consider the reason for the request and if this may amount to a reasonable adjustment).
- 37.6.3.9 Prior to making a decision as to whether termination is appropriate the Chair of the panel should call an adjournment. The purpose of such adjournment is to allow the panel to consider all the evidence that has been presented and discuss the facts in the absence of the member of staff concerned. The panel will consider whether termination is justified.
- 37.6.3.10 The University reserves the right to dismiss a member of staff on the grounds of ill health where:
- a return to work date cannot be established from the medical evidence, and/or;
 - the health of the member of staff prevents a sustained return to work in a reasonable timeframe, and/or;
 - no suitable alternative work can be found, and/or;
 - reasonable adjustments and/or redeployment are inappropriate or unsuccessful, and/or;
- 37.6.3.11 ill health or partial retirement options are not appropriate. In certain circumstances it may be appropriate for the panel, as an alternative to dismissal, to give additional time for further medical reports/information, where they are anticipated within a reasonable timeframe and where there are grounds to believe they may contain new information in relation to the decision being made.
- 37.6.3.12 Wherever possible the member of staff should be verbally informed of the outcome at the end of the hearing (and subsequently informed in writing). In complex cases this may not be possible and the member of staff will need to be informed of the outcome in writing at a later date.
- 37.6.4 Step 4: After the hearing
- 37.6.4.1 The panel will decide whether or not termination of employment or any other action is justified, if the decision was not taken at the end of the hearing.
- 37.6.4.2 The Chair of the panel will notify the member of staff of the outcome in writing, normally within five working days.

37.6.4.3 Where a decision is made by the panel to terminate the staff member's employment, the notification letter will include:

- the reason for the dismissal;
- the date on which the staff member's employment will end, and;
- confirmation of his/her right to appeal against the decision, the timescale and how to do so.

37.6.4.4 Staff have the right to appeal against any formal decision under this Ordinance. Please see Ordinance 44: Appeals for further information.

37.7 Review

37.7.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

37.8 Associated practices

37.8.1 This Ordinance complies with relevant UK employment legislation.

37.8.2 In addition, other relevant University of Kent People Practices include:

- Ill Health: Managers Guide
- Ill Health: Staff Guide
- Chairs Guide
- Ordinance 36: Performance Improvement
- Ordinance 44: Appeals
- Disability in Employment
- Managing Sickness Absence
- Equality, Diversity and Inclusivity policies
- Critical Illness policy

38 CONDUCT

38.1 Introduction

- 38.1.1 Good conduct is essential for the efficient and effective operation of the University's activities and to ensure the safety and wellbeing of members of staff, students and visitors to the University.
- 38.1.2 A clear, open and honest dialogue between staff and their managers is key to ensuring expectations in relation to conduct and behaviour at work are mutually understood.
- 38.1.3 However, occasionally expectations are not met. These should normally be resolved informally through appropriate conversations and in most instances this will be sufficient to avoid the need for formal procedures. Sometimes though this is not possible or effective and in these instances formal action needs to be instigated.
- 38.1.4 Matters which may be viewed as amounting to possible disciplinary offences include, but are not limited to:
- Persistent bad timekeeping
 - Unauthorised absence
 - Failure to observe University of Kent Statutes, Ordinances, policies and procedures
 - Abusive behaviour
 - Theft

38.2 Misuse of University property Aims and objectives

- 38.2.1 The aims of this Ordinance are:
- 38.2.1.1 to ensure that instances of misconduct are addressed fairly, consistently, appropriately and in a timely manner;
- 38.2.1.2 to provide staff with the opportunity to correct or improve unacceptable behaviour or conduct, within a set timeframe, except in cases where an act of gross misconduct justifies dismissal;
- 38.2.1.3 to ensure that when disciplinary action needs to be taken, it is applied consistently and fairly in every case, in line with the disciplinary procedure detailed below.

38.3 Scope

- 38.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment, including those on Academic Probation.
- 38.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 38.3.3 This Ordinance does not apply to professional, managerial, research and support staff on probation (please refer to the Probation Scheme), or in instances which involve capability rather than conduct (please refer to Ordinance 36: Performance Improvement), or instances which involve ill health (please refer to Ordinance 37: Ill Health).

38.4 Responsibilities

- 38.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
 - 38.4.1.1 ensuring there is an effective process in place to deal with conduct and disciplinary matters;
 - 38.4.1.2 supporting managers and staff when conduct issues arise and ensuring that such issues are dealt with consistently across the University and in line with University expectations on conduct and behaviour.
- 38.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
 - 38.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
 - 38.4.2.2 engaging the necessary staff and trades union representative bodies as and when any such review is undertaken;
 - 38.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;
 - 38.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;
 - 38.4.2.5 providing additional supporting documentation and training, as required, to help support the principles detailed within this Ordinance.
- 38.4.3 Managers are responsible for:
 - 38.4.3.1 ensuring staff know the standards of behaviour and conduct expected of them, and raising any issues with a member of staff regarding his/her behaviour or conduct as soon as it arises, dealing with it informally initially (where appropriate) and then, if necessary, formally;
- 38.4.4 Staff are responsible for:
 - 38.4.4.1 ensuring they seek clarification on any aspect of their role which they are unsure of; this will help to ensure they have an understanding of the expected conduct and behaviour required;
 - 38.4.4.2 ensuring they address any conduct concerns brought to their attention.

38.5 General principles

- 38.5.1 This procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procedure as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to the provisions of 35.3.2 of that Ordinance) or their lawful right to freedom of speech.
- 38.5.2 The University will ensure that members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Speech (SCAFFE).

- 38.5.3 The disciplinary procedure has three formal stages: a written warning, a final written warning and dismissal, including an appeal at each stage. Sanctions given will not necessarily be cumulative and, depending on the severity of the case, a panel may give a final written warning or dismiss a member of staff, without a previous warning being given.
- 38.5.4 At each formal stage in the procedure the member of staff will be advised of the nature of the complaint against him/her and will be given the opportunity to state his/her case before any decision is made.
- 38.5.5 At each stage of the procedure the member of staff will be advised of his/her right to be accompanied by a trade union (TU) representative or work colleague.
- 38.5.6 At each stage of the procedure the member of staff will be advised of his/her right to appeal against the decision made (For further information please refer to Ordinance 44: Appeals).
- 38.5.7 The procedure may be entered into at any stage if the alleged failure to achieve required standards is of such a serious nature that it warrants such action.
- 38.5.8 No member of staff will be dismissed for a first breach of discipline except in the case of gross misconduct (see section 6), when the consequence may be dismissal without notice or payment in lieu of notice.
- 38.5.9 In cases of alleged gross or serious misconduct the member of staff may be suspended (with pay) from duties whilst an investigation is conducted. For further information please refer to Ordinance 43: Suspension.
- 38.5.10 No formal disciplinary action will be taken against a trade union branch officer or recognised representative until the circumstances of the case have been discussed with a senior trade union officer or the full-time official of the trade union. A trade union officer may be suspended in accordance with Ordinance 43.
- 38.5.11 Where a member of staff is persistently unable or unwilling to attend a disciplinary meeting without good cause the University will make a decision on the evidence available.
- 38.5.12 Additional Support
- 38.5.12.1 If the member of staff is unable to fully participate in the process without additional support (for example to assist with a medical condition), the University will seek to provide such support wherever it is reasonable and practicable to do so.
- 38.5.12.2 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process where it is reasonable and practicable to do so.
- 38.5.12.3 It is the responsibility of the member of staff to request such support from a member of the Human Resources (HR) department or their line manager.

38.5.13 Duration of warnings

38.5.13.1 Generally, disciplinary action taken will be disregarded in further disciplinary proceedings after a specified period of maintaining the required standards:

- A written warning will normally be disregarded after six months.
- A final written warning will normally be disregarded after twelve months.

38.5.13.2 There may be occasions where a member of staff's conduct is satisfactory throughout the period the warning is in force (a "live warning"), only to lapse very soon thereafter. In this instance the member of staff's disciplinary record will be taken into account in deciding how long any further warning should last.

38.5.13.3 A decision to dismiss will not be based on an expired warning (a "spent" warning).

38.5.14 Confidentiality and paperwork

38.5.14.1 During every stage of this process care must be taken to protect the confidentiality of the member of staff in question and, where applicable, any other staff involved in the proceedings.

38.5.14.2 Whilst a warning is considered "live", copies of the warning and associated paperwork will be held by the manager of the member of staff and the HR department in the relevant HR file.

38.5.14.3 Once the warning has become "spent" all those who hold a copy of the warning and any associated documents are responsible for destroying all such paperwork. The exception will be in HR where, for the purpose of retaining a complete history of a member of staff, a record will be retained.

38.5.15 Witnesses

38.5.15.1 The member of staff, investigating officer and disciplinary panel can call upon witnesses to provide written and/or verbal evidence.

38.5.16 Mediation

38.5.16.1 The University of Kent recognises that encouraging positive working relationships has a positive impact on staff wellbeing.

38.5.16.2 Where appropriate, mediation may provide an objective and impartial framework for resolving conflict between staff members, on a voluntary basis and within a mutually agreed timeframe.

38.5.16.3 The University of Kent Mediation Service can be engaged to help to resolve workplace conflicts, where this is deemed an appropriate option.

38.5.16.4 In certain circumstances a panel may issue a disciplinary warning as well as recommending mediation.

38.5.17 Variation

38.5.17.1 The parties involved may, by agreement, depart from the precise requirements of the procedure (see section 7) where it is expedient to do so and where the resulting treatment of the member of staff is no less fair and the principles of natural justice still apply.

38.6 Gross misconduct

38.6.1 A member of staff's employment may be terminated summarily, without notice or payment in lieu of notice, at any time on the grounds of gross misconduct. Generally this includes any misconduct or breach of duty which brings the University into disrepute or action that constitutes a breach of mutual trust and confidence. In particular, this includes:

- Theft or unauthorised possession. Of any property belonging to the University or to members of the University and to visitors to the University; misuse of University services;
- Vandalism. Wilful damage to any property within the campuses of the University, irrespective of ownership;
- Physical/verbal abuse. Of fellow staff, students or visitors, including assault, threats and/or threatening behaviour;
- Discrimination or harassment/bullying;
- Incapacity due to consumption of alcohol or prescribed/non-prescribed drugs. Please refer to the University's Alcohol and Substance Misuse policy and procedure for further information;
- Record keeping offences. Any matter concerning the abuse of clock cards or time sheets, knowingly making false entries in University records or other official documents;
- Forgery and/or misrepresentation. For example, of references or qualifications;
- Unauthorised entry. Into an area of the University which is prohibited;
- Breach of Health and Safety, Immigration or other relevant regulations. Failure to adhere to legal and/or University requirements;
- Breach of computer and IT regulations. Please refer to the University's regulations for the use of IT facilities for further information;

38.6.1.1 Personal and/or confidential matters. Interference with personal and/or confidential matters related to the University, another member of staff, student or visitor, including disclosure of confidential/personal information in any unauthorised circumstances or to unauthorised persons;

38.6.1.2 Failure to obey reasonable management instructions. Insubordination and/or refusal without reasonable cause, to carry out a legitimate instruction given by an authorised member of staff, which may result in causing significant reputational or physical damage to the University, another member of staff, visitor or student, or inability to deliver services or goods as expected;

38.6.1.3 Breach of the Bribery Act and/or acting in contravention of the University's Anti-Bribery regulations. For example, no member of staff may accept any inducement (bribe) from a supplier or potential supplier or their agents.

- 38.6.2 This list is not exhaustive, and the appropriate penalty will be considered and applied as falling within a 'range of reasonable responses', according to the circumstances of the case.

38.7 Procedure

38.7.1 Informal stage

- 38.7.1.1 The day to day management of staff is part of the management function and is outside the scope of more formal processes for dealing with potential breaches of conduct.

- 38.7.1.2 In most cases, if issues of concern are brought to the member of staff's attention at the earliest possible opportunity by their line manager, informal action can be an effective method of resolving conduct issues. If appropriate informal action should be taken before formal action is pursued. Managers and staff should speak to their designated HR representative for advice if they are unsure as to how to proceed.

- 38.7.1.3 The line manager should, in an informal one-to-one discussion with the member of staff, explain the basis of his/her concerns, provide any evidence that has come to light and give the member of staff an opportunity to respond, listening carefully to what the member of staff has to say.

- 38.7.1.4 During the course of the meeting it may become apparent that there is no evidence of misconduct or there has been a misinterpretation of events. In this instance the line manager will confirm the matter is closed. No record of the meeting will be retained.

- 38.7.1.5 If there is evidence of minor misconduct, the line manager should agree with the member of staff the change in behaviour or improvements required (with timescales where appropriate). The member of staff should be advised that if there is further misconduct, then the matter is likely to be addressed formally.

- 38.7.1.6 Following this initial meeting, the manager should provide a written copy of the agreed actions to the member of staff.

- 38.7.1.7 Where informal action has not generated sufficient improvement within an appropriate timescale, it becomes clear the matter is potentially more serious, or the allegation/s is/are in relation to serious or gross misconduct, it may be appropriate to deal with the situation as a formal matter.

38.7.2 Formal Stage - Step 1: Establish the facts

- 38.7.2.1 Prior to any formal disciplinary action being taken a full and thorough investigation will be carried out. In most cases this will be undertaken by the line manager or, where this is not feasible (or appropriate, given the nature of the allegations), an independent person. In complex cases, or cases of potential serious or gross misconduct, the investigating officer will be independent¹² and appropriately determined by the Director of Human Resources & Organisational Development or his/her nominee¹³.

- 38.7.2.2 In some cases an investigatory meeting with the member of staff will be required before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the line manager for use at any disciplinary hearing.

- 38.7.2.3 The investigatory meeting should not by itself result in any disciplinary action. The purpose of the meeting is to gather the facts and understand the circumstances. The investigating officer/line manager should compile an Investigation Report and conclude by deciding whether there is a case to answer. This decision will be based on the balance of probabilities.
- 38.7.2.4 Staff may be accompanied by a trade union (TU) representative or work colleague at a formal investigatory meeting.
- 38.7.2.5 There may be circumstances where there are no grounds for proceeding; the decision may be whether to;
- drop the matter as it is deemed insubstantial and a hearing would be a disproportionate response, or there is no case to answer;
 - take informal action - this is an attempt to correct a situation and prevent it from getting worse without using the disciplinary procedure;
 - consider mediation (where appropriate for the case in question). A mediator can help both parties reach their own agreement. The mediator will help the parties reach a way forward if both parties want this.
- 38.7.2.6 In certain circumstances a period of suspension may be considered whilst the matter is being dealt with. Please refer to Ordinance 43: Suspension for further information.
- 38.7.3 Step 2: Arrange the hearing
- 38.7.3.1 If it is decided that there is a disciplinary case to answer, the member of staff will be notified of this in writing, in advance. This notification will contain sufficient information about the matter and its possible consequences, to enable him/her to prepare to answer the case at a disciplinary hearing. Further guidance is also available in Conduct: Staff Guide.
- 38.7.3.2 The hearing should be held without unreasonable delay whilst allowing all parties reasonable time to prepare their case, and normally within 20 working days.
- 38.7.3.3 Copies of any written evidence, which may include any witness statements and details of any witnesses to be called, will be included with the notification.
- 38.7.3.4 The notification letter will also provide details of the hearing date, venue and panel, as well as the right to be accompanied.
- 38.7.3.5 The member of staff should provide copies of any written evidence and details of any witnesses to be called, in advance of the hearing.

¹² From the Division/Department(s) involved

¹³ In instances where the member of staff in question is a member of Human Resources, the investigating officer shall instead be determined by the Vice-Chancellor or his/her nominee.

38.7.4 Step 3: Hold the hearing

- 38.7.4.1 For any hearing where the potential sanction will not be dismissal (such as first and final warnings), the panel will comprise two appropriately senior¹⁴ members of staff, at least one of whom will be independent¹⁵.
- 38.7.4.2 For any hearing where the outcome may be dismissal, the panel will comprise three appropriately senior² and independent³ members of staff. The Chair of the panel will be a Head of School/Department¹⁶.
- 38.7.4.3 Where the panel is considering the potential dismissal of an academic member of staff, the Vice-Chancellor¹⁷ will approve the panel composition.
- 38.7.4.4 In all instances the panel will be determined and appropriately supported by Human Resources, with a designated representative of HR present at the hearing to provide HR advice.
- 38.7.4.5 The member of staff (and their companion) should make every effort to attend the hearing. If they cannot attend, for good reason, the Chair of the panel should be notified by the member of staff in advance of the hearing, and as soon as possible. If the member of staff does not attend the hearing without good reason, the hearing may be conducted in his/her absence and a decision taken on the evidence available.
- 38.7.4.6 At the hearing the Chair of the panel will explain the complaint against the member of staff and either go through the evidence that has been gathered, including calling witnesses, or request that the investigating officer does so.
- 38.7.4.7 The member of staff will then be allowed to set out their case and answer any allegations that have been made and raise any points of mitigation. The member of staff will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.
- 38.7.4.8 Both the member of staff and the Chair of the panel may request an adjournment during the hearing.
- 38.7.4.9 Notes of the hearing will be taken. The member of staff will be provided with a copy of the notes and the opportunity to comment on them. Audio or video recording of the hearing will not be allowed unless requested in advance in writing to the Chair (who will consider the reason for the request and if this may amount to a reasonable adjustment).
- 38.7.4.10 Prior to making a decision as to whether disciplinary action is required the Chair of the panel should call an adjournment. The purpose of such adjournment is to allow the panel to consider all the evidence that has been presented and discuss the facts in the absence of the member of staff concerned. The panel will consider whether disciplinary action is justified.

¹⁴ Senior to the member of staff required to attend the hearing

¹⁵ Independent from both the School/Department from which the member of staff comes, as well as from the case

¹⁶ Or more senior, i.e. the overriding principle shall be that the Chair must be more senior than the individual before the panel

¹⁷ Or his/her nominee

38.7.4.11 Wherever possible the member of staff should be verbally informed of the outcome at the end of the hearing (and subsequently informed in writing). In complex cases this may not be possible and the member of staff will need to be informed of the outcome in writing at a later date.

38.7.5 Step 4: After the hearing

38.7.5.1 The panel will decide whether or not disciplinary or any other action is justified, if the decision was not taken at the end of the hearing.

38.7.5.2 The Chair of the panel will notify the member of staff of the outcome in writing, normally within five working days.

38.7.5.3 Any written warning will set out the nature of the failure to meet required standards and the change in behaviour or improvement required (with timescales where appropriate).

38.7.5.4 The member of staff will be told how long the warning will remain current, the consequences of further failure to meet required standards, and details of their right to appeal, the timescale, and how to do so.

38.7.5.5 In instances of dismissal the member of staff should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice (unless summary dismissal) and details of their right to appeal, the timescale, and how to do so.

38.7.5.6 Staff have the right to appeal against any formal decision under this Ordinance. Please see Ordinance 44: Appeals for further information.

38.8 Review

38.8.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

38.9 Associated practices

38.9.1 This Ordinance complies with relevant UK employment legislation.

38.9.2 In addition, other relevant University of Kent People Practices include:

- Conduct: Staff Guide
- Conduct: Managers Guide
- Investigating Officer Guide
- Chairs Guide
- Ordinance 36: Performance Improvement
- Ordinance 37: Ill Health
- Ordinance 43: Suspension
- Ordinance 44: Appeals
- Disability in Employment
- Reflect; Plan; Develop (RPD) appraisal scheme
- Induction
- Probation
- Code of Practice on Academic Freedom and Freedom of Speech

39 ILLEGALITY & SOSR

39.1 Introduction

- 39.1.1 Occasionally the University will need to end the employment relationship with staff and the reason for ending that employment does not fall easily into the usual procedures for dismissal. They are termed as dismissals for 'some other substantial reason' (SOSR). This is defined as a reason of a kind so as to justify dismissal which is not related to any of the other potentially fair reasons for dismissal¹⁸.
- 39.1.2 There may also be situations where continuing to employ a member of staff would be a breach of a legal provision. These are termed as dismissals for 'illegality' and this reason constitutes one of the five fair reasons for dismissal.
- 39.1.3 In both instances the University has a duty to apply its associated processes fairly and consistently. Whether a case will be considered under illegality or some other substantial reason will depend upon the circumstances of the particular case.
- 39.1.4 Nothing in this Ordinance shall prevent the University from considering alternatives to potential dismissal, prior to commencement of the procedure under this Ordinance.
- 39.1.5 The University will operate this Ordinance according to prevailing legal precedent and legislative requirements.

39.2 Aims and objectives

- 39.2.1 The aim of this Ordinance is to ensure, where there may be circumstances under which a member of staff may be dismissed for a reason not connected to redundancy, ill health, conduct, performance or the non-renewal of a fixed term contract (but does fall under a fair reason for dismissal), any such decisions are taken consistently and fairly, taking into account relevant employment legislation and having regard to best practice.
- 39.2.2 Such fair reasons for dismissal will be either illegality or some other substantial reason (SOSR).

39.3 Scope

- 39.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment, where:
- 39.3.1.1 the member of staff cannot continue to fulfil the job requirements for the position which he/she holds without contravention (either on his/her part or on the part of the employer) of a duty or restriction imposed by, or under, an enactment ("illegality"), or;
- 39.3.1.2 some other substantial reason¹⁹ of a kind such as to justify the dismissal of a member of staff.
- 39.3.2 In respect of any proposal to dismiss on the grounds of some other substantial reason, this procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procedure as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to the provisions of 35.3.2 of that Ordinance).

- 39.3.3 The University will ensure their members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Speech (SCAFFE).
- 39.3.4 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 39.3.5 If, after commencing the procedure under this Ordinance, the University considers that another Ordinance is more appropriate to deal with the case, the University may transfer the case to the appropriate stage of the relevant process and this Ordinance shall no longer apply.
- 39.3.6 In any case, it shall be for the University to determine the appropriate Ordinance to be used, and its decision shall be final.

39.4 Responsibilities

- 39.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
 - 39.4.1.1 ensuring there is an effective process in place for dealing with illegality/SOSR matters;
 - 39.4.1.2 supporting managers and staff when potential issues arise and ensuring that they are dealt with consistently and sensitively across the University and in line with the principles detailed in this Ordinance.
- 39.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
 - 39.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
 - 39.4.2.2 engaging the necessary staff and trade union representative bodies as and when any review of this Ordinance is undertaken;
 - 39.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;
 - 39.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;
 - 39.4.2.5 providing additional supporting documentation and training, as required, to help support the principles of this Ordinance.
- 39.4.3 Managers are responsible for:
 - 39.4.3.1 understanding and adhering to the University's Illegality/SOSR Ordinance;
 - 39.4.3.2 ensuring they seek guidance immediately from their designated Human Resources (HR) representative, on contemplation of taking any action under this Ordinance;

39.4.4 Staff are responsible for:

39.4.4.1 ensuring they raise with their line manager any issues that might adversely affect their conduct or ability to perform the duties of their role, to allow action to be taken to avoid this happening;

39.4.4.2 asking questions of their line manager or HR if they are unsure about any aspect of this Ordinance;

39.4.4.3 responding positively to informal attempts to resolve issues by their line manager;

39.4.4.4 fully committing to any development, training and support they may be offered under this Ordinance.

39.5 General principles

39.5.1 The process detailed under this specific Ordinance will, where possible, closely resemble the process adopted within other Ordinances (for example, Conduct), and will always consist of:

- a thorough investigation into the circumstances (please refer to section 6.1 for further information);
- the convening of an independent panel to consider any potential dismissals that are based upon illegality or SOSR (please refer to section 6.3 for further information).

39.5.2 The University, in consultation with the member of staff, will take reasonable steps to consider a range of options including (for example) redeployment, amendment to duties and unpaid leave, before an illegality/SOSR dismissal is considered, where appropriate.

39.5.3 At each formal stage in the procedure the member of staff will be advised of the nature of the circumstances or complaint against him/her and will be given the opportunity to state his/her case before any decision is made.

39.5.4 At each stage of the procedure the member of staff will be advised of his/her right to be accompanied by a trade union representative (TU rep) or work colleague.

39.5.5 The member of staff will be advised of his/her right to appeal against the decision made (for further information please refer to Ordinance 44: Appeals).

39.5.6 Where requested, a member of staff may be represented by a responsible friend or relative in addition to a trade union representative (TU rep) or work colleague. The responsible friend or relative may appear instead of the member of staff where this is deemed appropriate, and provided it is approved by the Director of Human Resources & Organisational Development²⁰ prior to any meeting/hearing.

39.5.7 In some instances it may be appropriate for the member of staff to be suspended (with pay) from duties whilst an investigation is conducted. For further information please refer to Ordinance 43: Suspension.

²⁰ Or his/her nominee. In instances where the member of staff in question is a member of Human Resources, approval shall instead be sought from the Vice-Chancellor or his/her nominee.

- 39.5.8 No formal action will be taken against a trade union branch officer or recognised representative until the circumstances of the case have been discussed with a senior trade union officer or the full-time official of the trade union. A trade union officer may be suspended in accordance with Ordinance 43.
- 39.5.9 Where a member of staff is persistently unable or unwilling to attend a meeting without good cause the panel will make a decision on the evidence available.
- 39.5.10 In specific circumstances, where the member of staff is absent from their employment, the member of staff will not be dismissed where there is evidence to suggest that a full return to their role is likely to be made within a reasonable timeframe and where the nature of the complaint does not seriously damage the future reputation of the University. Timeframes will be determined on a case by case basis and will take into account the evidence available and the operational requirements of the University.
- 39.5.11 During every stage of this process care must be taken to protect the confidentiality of the member of staff in question, noting that the University cannot control the publication of details where the information is already in the public domain through an alternative route. All documentation (informal and formal) will be written sensitively by line managers, treated as confidential and copies sent to the HR department, for the purpose of retaining a complete history of a member of staff on their personal file.
- 39.5.12 Additional Support
- 39.5.12.1 If the member of staff is unable to fully participate in the process without additional support (for example to assist with a medical condition), the University will seek to provide such support wherever it is reasonable and practicable to do so.
- 39.5.12.2 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process, where it is reasonable and practicable to do so.
- 39.5.12.3 It is the responsibility of the member of staff to request such support from a member of the HR department or their line manager.
- 39.5.13 The member of staff, investigating officer and hearing panel can call upon witnesses to provide written and/or verbal evidence.
- 39.5.14 Although not exhaustive, below is a list of examples where potential dismissal for illegality/SOSR may be appropriate:
- Where the continued employment of a member of staff in their post would constitute a statutory impediment²¹ or represents a serious risk to the welfare of another member of staff or student(s);
 - Where the member of staff has a sentence of imprisonment imposed upon them and the matter does not fall within any other University Ordinance;
 - Where the member of staff has had their right to work revoked by the Home Office;

²¹ For example, where working with children or vulnerable adults is an essential part of the post and the member of staff is disqualified from working with children/vulnerable adults in a regulated position as set out in the Criminal Justice and Court Services Act 2000. For further information please also refer to the relevant Safeguarding policies and procedures

- Where there is a fundamental break down in trust and confidence between the University and the member of staff;
- Where there may be a significant risk of serious damage to the University's reputation or ability to recruit staff or students by continuing to employ a member of staff.

39.6 Procedure

39.6.1 Step 1: Establish the facts

39.6.1.1 Prior to any formal action being taken a full and thorough investigation will be carried out. In most cases this will be undertaken by the line manager or, where this is not feasible (or appropriate, given the nature of the allegations), an independent person (an 'investigating officer'). In these instances the investigating officer will be independent and appropriately determined by the Director of Human Resources & Organisational Development or his/her nominee²².

39.6.1.2 In some cases an investigatory meeting with the member of staff will be required before proceeding to any hearing. In others, the investigatory stage will be the collation of evidence by the line manager/investigating officer for use at any hearing.

39.6.1.3 The investigatory meeting should not by itself result in any action. The purpose of the meeting is to gather the facts and understand the circumstances. The investigating officer/line manager should compile an Investigation Report and conclude by deciding whether there is a case to answer. This decision will be based on the balance of probabilities.

39.6.1.4 Staff may be accompanied by a trade union (TU) representative or work colleague at a formal investigatory meeting.

39.6.1.5 In certain circumstances a period of suspension may be considered. Please refer to Ordinance 43: Suspension for further information.

39.6.2 Step 2: Arrange the hearing

39.6.2.1 If it is decided that there is a case to answer, the member of staff will be notified of this in writing, in advance. This notification will contain sufficient information about the matter and its possible consequences, to enable him/her to prepare to answer the case at a hearing. Further guidance is also available in Illegality & SOSR: Staff Guide.

39.6.2.2 Copies of any written evidence, which may include any witness statements and details of any witnesses to be called, will be included with the notification.

²² In instances where the member of staff in question is a member of Human Resources, the investigating officer shall instead be determined by the Vice-Chancellor or his/her nominee.

- 39.6.2.3 The notification will also give details of the time and venue for the hearing and advise the member of staff of their right to be accompanied at the hearing. It will also confirm their right to request to be represented by a responsible friend or relative in instances where it is not possible for the member of staff to attend.
- 39.6.2.4 The member of staff should provide copies of any written evidence and details of any witnesses to be called, in advance of the hearing.
- 39.6.2.5 The meeting should be held without unreasonable delay whilst allowing all parties reasonable time to prepare their case (normally within 20 working days).
- 39.6.3 Step 3: Hold the hearing
- 39.6.3.1 The hearing panel will comprise three appropriately senior²³ and independent²⁴ members of staff. The Chair of the panel will be a Head of School/Department²⁵.
- 39.6.3.2 Where the panel is considering the potential dismissal of an academic member of staff, the Vice-Chancellor²⁶ will approve the panel composition.
- 39.6.3.3 In all instances the panel will be determined and appropriately supported by Human Resources, with a designated representative of HR present at the hearing to provide HR advice.
- 39.6.3.4 The member of staff (and their companion) should make every effort to attend the hearing. If they cannot attend, for good reason, the Chair of the panel should be notified by the member of staff in advance of the hearing, and as soon as possible. If the member of staff does not attend the hearing without good reason, the hearing may be conducted in his/her absence and a decision taken on the evidence available.
- 39.6.3.5 At the hearing the Chair of the panel will explain the complaint against the member of staff and either go through the evidence that has been gathered, including calling witnesses, or request that the investigating officer/line manager does so.
- 39.6.3.6 The member of staff will then be allowed to set out their case and answer any allegations that have been made. The member of staff will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.
- 39.6.3.7 Both the member of staff and the Chair of the panel may request an adjournment during the hearing.

²³ Senior to the member of staff required to attend the hearing

²⁴ Independent from both the School/Department from which the member of staff comes, as well as from the case

²⁵ Or more senior, i.e. the overriding principle shall be that the Chair must be more senior than the individual before the panel

²⁶ Or his/her nominee

- 39.6.3.8 Notes of the hearing will be taken. The member of staff will be provided with a copy of the notes and the opportunity to comment on them. Audio or video recording of the hearing will not be allowed unless requested in advance in writing to the Chair (who will consider the reason for the request and if this may amount to a reasonable adjustment).
- 39.6.3.9 Prior to making a decision as to whether termination of employment is required the Chair of the panel should call an adjournment. The purpose of such adjournment is to allow the panel to consider all the evidence that has been presented and discuss the facts in the absence of the member of staff concerned. The panel will consider whether termination is justified.
- 39.6.3.10 Wherever possible the member of staff should be verbally informed of the outcome at the end of the hearing (and subsequently informed in writing). In complex cases this may not be possible and the member of staff will need to be informed of the outcome in writing at a later date.
- 39.6.4 Step 4: After the hearing
- 39.6.4.1 The panel will decide whether or not termination of employment or any other action is justified, if the decision was not taken at the end of the hearing.
- 39.6.4.2 The Chair of the panel will notify the member of staff of the outcome in writing.
- 39.6.4.3 Where a decision is made by the panel to terminate the staff member's employment he/she should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice (unless summary dismissal) and details of their right to appeal, the timescale, and how to do so.
- 39.6.4.4 Staff have the right to appeal against any formal decision under this Ordinance. Please see Ordinance 44: Appeals for further information.
- 39.7 Review
- 39.7.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.
- 39.8 Associated Practices
- 39.8.1 This Ordinance complies with relevant UK employment legislation.
- 39.8.2 In addition, other relevant University of Kent People Practices include:
- Illegality & SOSR: Staff Guide
 - Chairs Guide
 - Ordinance 44: Appeals
 - Immigration Guidance
 - Equality Diversity & Inclusivity practices
 - Safeguarding
 - Code of Practice on Academic Freedom and Freedom of Speech

40 REDUNDANCY

40.1 Introduction

- 40.1.1 The University shall ensure security and continuity of employment for as many of its staff as is reasonably practicable. Every reasonable effort will be made to avoid compulsory redundancy situations arising and to avoid making individual members of staff redundant.
- 40.1.2 However, it does recognise that the strategic requirements or financial situation of the organisation may necessitate changes involving redundancy from time to time. In the event of having to make staff redundant, the University will act in accordance with all relevant legislation and the University's policies, Statutes and Ordinances.
- 40.1.3 The definition of a dismissal by reason of redundancy is when the dismissal is wholly or mainly attributable to the fact that:
- 40.1.3.1 the employer has ceased, or intends to cease:
- to carry on the business for the purposes of which the member of staff was so employed;
 - to carry on that business in the place where the member of staff was employed, or:
- 40.1.3.2 the fact that the requirements of that business for staff to carry out work of a particular kind - or to carry out work of a particular kind at the place where the member of staff was so employed - have ceased or diminished, or are expected to cease or diminish.

40.2 Aims and objectives

- 40.2.1 The aims of this Ordinance are to ensure:
- 40.2.1.1 that redundancies are minimised, or avoided, wherever possible;
- 40.2.1.2 trade union partners are fully engaged in the planning and implementation of organisational change;
- 40.2.1.3 affected staff and relevant representatives (where applicable) are appropriately consulted in redundancy situations;
- 40.2.1.4 there is a fair and objective framework for carrying out redundancies.

40.3 Scope

- 40.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment, except those staff defined in subsections (3) to (6) of section 204 of the Education Reform Act.
- 40.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 40.3.3 This Ordinance does not apply to the ending of fixed term contracts on their expiry dates. Please refer to the Fixed Term Contracts Ordinance for further information.

40.3.4 This procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procedure as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to the provisions of 35.3.2 of that Ordinance).

40.3.5 The University will ensure that members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Speech (SCAFFE).

40.4 Responsibilities

40.4.1 The Vice-Chancellor, or his/her nominee is responsible for:

40.4.1.1 ensuring there is an effective process in place to manage potential redundancy situations sensitively and fairly;

40.4.1.2 ensuring this Ordinance is followed and applied consistently across the University of Kent, acting on advice from Human Resources;

40.4.1.3 considering business cases for potential redundancy situations carefully and in the best interests of the performance and sustainability of the University;

40.4.1.4 agreeing the arrangements in instances where a voluntary redundancy scheme is to be offered.

40.4.2 The Director of Human Resources & Organisational Development is responsible for:

40.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;

40.4.2.2 engaging the necessary staff and trade union representative bodies as and when any such review is undertaken;

40.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;

40.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;

40.4.2.5 providing additional supporting documentation and training, as required, to help support the principles detailed within this Ordinance;

40.4.2.6 notifying the Department for Business, Innovation & Skills (BIS), or any other relevant body, of proposed redundancies where required, in line with relevant legislation.

40.4.3 Managers are responsible for:

40.4.3.1 ensuring that they understand this Ordinance and use it appropriately when considering change management or other situations that may result in potential redundancy situations;

- 40.4.3.2 seeking advice from Human Resources (HR) when considering potential redundancy situations and throughout the planning and consultation process;
- 40.4.3.3 ensuring that genuine and meaningful consultation with staff and their representatives happens in line with relevant legislation and this Ordinance. This includes considering staff/trade union suggestions and, where appropriate, making amendments to change management proposals, where possible, to mitigate or avoid the risk of redundancies;
- 40.4.3.4 ensuring affected staff are kept informed of all developments and updates, both face to face and in writing as appropriate, throughout the change management process;
- 40.4.3.5 supporting staff during potential redundancy situations, including accommodating reasonable requests for time off for job interviews and training opportunities.
- 40.4.4 Staff are responsible for:
- 40.4.4.1 asking questions of their line manager or HR if they are unsure about any aspect of this Ordinance;
- 40.4.4.2 providing reasonable suggestions and alternative options during the consultation process, to help mitigate the potential risks of redundancy.

40.5 Principles

- 40.5.1 Wherever possible the University will endeavour to avoid a redundancy situation through appropriate planning, forecasting and management of resource requirements. Consideration will be given towards mitigation of the need for possible redundancies, such as reducing other costs or expenditure and the possible introduction of a recruitment freeze, as alternatives to redundancy.
- 40.5.2 Where a redundancy situation cannot be avoided, the University may seek to achieve the necessary reductions in staff numbers (or corresponding cost savings) through means other than compulsory redundancy, such as:
- elimination of paid overtime
 - voluntary redundancy²⁷
 - early retirement
 - job sharing
 - reduced hours
 - sabbaticals
- 40.5.3 If changes are envisaged that involve a reduced requirement for members of staff to perform work of a particular kind, or involve a cessation of that work, the University will declare a 'potential redundancy situation' and staff 'at risk' will be identified.

²⁷ In instances where a voluntary redundancy scheme is to be offered, this will be agreed in advance by Executive Group (EG)

- 40.5.4 The University will try to keep the number of staff identified as 'at risk' to a minimum. The number will generally be all those staff currently undertaking the work that is proposed to cease or diminish as a result of any envisaged changes.
- 40.5.5 Whilst there are legal obligations placed on the University with regards to meaningful consultation with staff whose roles are deemed to be 'at risk' of redundancy, the University recognises that it is important to ensure that staff fully understand their situation and are involved in and contribute to the consultation process. The University will, wherever practicable, consult for longer than the statutory minimum periods for collective redundancies.
- 40.5.6 The University recognises that redundancy situations can create additional pressures for staff. In these circumstances staff will be alerted to the appropriate University support mechanisms.
- 40.5.7 All staff formally identified as being 'at risk' of redundancy will be given redeployment status. Please refer to University's Redeployment policy and procedure for further details.
- 40.5.8 In cases where more than 20 staff are identified as being 'at risk' of redundancy within any 90 day period, the University has a duty to inform the Department of Business, Innovation & Skills (BIS), or any other relevant body. In these instances, a copy of the notification will also be sent to the appropriate trade union(s).

40.6 Procedure

40.6.1 Proposal for redundancies

- 40.6.1.1 Before any action is taken under this procedure, the Head of School/Department (or other appropriate senior person) will write, as part of the overall organisational change proposal, a business case²⁸ outlining the:
- reasons for the proposed redundancies and, where appropriate, restructuring rationale;
 - numbers and roles of staff that may be affected;
 - areas where affected staff are based;
 - time period over which the redundancies may be carried out;
 - costs involved.
- 40.6.1.2 Wherever possible and appropriate²⁹, staff in the affected school/department should be involved in identifying the need for, and nature of, the proposed organisational change to which the business case relates.

²⁸ See Organisational Change policy for the other elements to be included in a business case

²⁹ It is recognised that this may not always be appropriate for example, when scenario planning

- 40.6.1.3 The proposal will be sent to Human Resources (via the designated Human Resources Business Partner) for further consideration and so the staff 'at risk' can be identified. As set out in the University's Organisational Change policy, the designated Human Resources (HR) Business Partner will then forward the business case for approval by the Executive Group (EG). Please refer to the University's Organisational Change policy and procedure for further details and relevant templates.
- 40.6.1.4 In instances where a business case identifies the potential to place 20 or more staff in the redundancy selection pool and/or it is proposed to make 20 or more staff redundant (and the case has been considered by EG), the Vice-Chancellor & President (VC&P) will forward the business case to the Chair of Council³⁰. The Chair will then convene a meeting of three lay officers of Council (the Review Committee).
- 40.6.1.5 The Review Committee will consider the proposals and will confirm to the VC&P whether they consider that the case for organisational change has been made and that redundancies of the scale noted are appropriate to effect such a change.
- 40.6.1.6 Membership of the Review Committee will be made up of members of University Council; members will be appointed on an annual basis, and ad hoc meetings will be called when a business case triggers such a requirement.
- 40.6.1.7 When a role in a school/department is identified within a business case as potentially redundant, every person in the school/department carrying out the same role (where relevant) will be at risk of redundancy and placed in a selection pool for consideration for the reduced number of roles.
- 40.6.2 Collective Consultation Process (where applicable)
- 40.6.2.1 Once the proposal has been approved by EG, consultation with trade union and staff representatives will begin, in line with the statutory minimum periods for collective consultation, as a minimum.
- 40.6.2.2 Wherever practicable, consultation plans and necessary paperwork will be drawn up and sent confidentially to the relevant trade union(s)/staff representatives prior to the start of the formal consultation process.³¹ Please refer to University's Organisational Change policy for further information on the consultation process and relevant templates.
- 40.6.2.3 During initial consultation with the group of staff identified as being 'at risk of redundancy', the University will provide information about the proposed redundancies to staff, their representatives and recognised trade unions and will allow adequate time to respond to the information being provided. This will include:
- the reasons for the proposed redundancies;
 - the numbers and areas from which staff may be made redundant;
 - the proposed method (for example, the selection criteria) for carrying out any redundancy dismissals;
 - the time period over which the redundancies may be carried out;

³⁰ Or, in their absence, the Chair of either the Finance or Audit Committees

³¹ where it has not been possible to send these in advance of the meeting, they will be sent with a cover note confirming why that was the case

- the proposed method of calculating redundancy payments.

40.6.3 Individual Consultation Process

40.6.3.1 In some situations the University will invite applications for voluntary redundancies. Full details will be forwarded to affected members of staff in such cases. The University reserves the right not to accept voluntary redundancy applications in all cases.

40.6.3.2 Staff who are 'at risk of redundancy' will be given the opportunity to attend a consultation meeting. Reasonable notice of this meeting will be given wherever practicable. Details of the consultation meeting date, venue and attendees, as well as the right to be accompanied will also be provided.

40.6.3.3 Members of staff have a right to be accompanied at any such meeting, by either a trade union (TU)/staff representative or work colleague.

40.6.3.4 The consultation meeting will consist of a discussion of the reasons for the proposed changes and potential redundancies. Possible ways of reducing (mitigating) the number of redundancies will also be discussed, with the member(s) of staff being encouraged to put forward their ideas, which the University will consider and respond to.

40.6.3.5 Dependent upon the issues raised during the consultations, more than one meeting may be necessary. Notes of the meeting(s) will be taken.

40.6.3.6 If staff suggestions made within the consultation period are adopted which affect the proposal, the proposal may need to be revised and resubmitted for approval to relevant parties (as detailed in the Organisational Change policy).

40.6.4 Selecting for redundancy

40.6.4.1 The pool for redundancy will contain every member of staff identified as being at risk of redundancy.

40.6.4.2 In cases where the selection pool contains only one person, or where every person in the pool is to be made redundant, selection criteria will not be necessary.

40.6.4.3 In cases where there are more staff in the selection pool than there are available roles, it will be necessary to use selection criteria to determine which of the staff are to be selected for redundancy.

40.6.4.4 The selection criteria will be devised by the department, in consultation with the designated HR representative. The criteria, together with the composition of the Selection Panel (see 41.6.4.6) will then be communicated to the staff 'at risk', their representatives and recognised trade unions, and comments will be invited.

40.6.4.5 Criteria used will be appropriate to the change being undertaken. The following list, although not exhaustive, provides examples of the types of criteria that could be used:

- range and level of skills;
- disciplinary record;
- qualifications (in relation to the criteria for the role);
- job performance/quality of work;
- appraisal data (where undertaken regularly);

- time-keeping/absence record (except where absence is linked to pregnancy or disability).
- 40.6.4.6 Wherever possible, objective selection criteria will be used. Where more subjective criteria are used (for example the assessment of professional or academic performance) a selection panel will review the evidence in order to ensure that decisions are as objectively based as possible. All selection criteria will be applied by a selection panel, which shall normally consist of (and as a minimum) the Head of School/Department, a member of HR and a TU/staff representative. Where necessary, and to ensure that decisions are as objectively based as possible, further assessment processes (e.g. interview and/or work sample) may be used.
- 40.6.4.7 Where staff are going through a selection process (for example, an interview) for alternative employment via the redeployment process, this is detailed in the Redeployment policy and procedure.
- 40.6.5 Notification
- 40.6.5.1 Staff who are to be dismissed by reason of redundancy will normally be given written notice according to their terms and conditions of employment, or statutory notice (whichever is longer). Notice in excess of 24 hours' will be given wherever practicable. The notice letter will include:
- a description of the selection process used;
 - details of their employment rights and their right to appeal, the timescale and how to do so;
 - details of when the dismissal will take place;
 - details of any redundancy payments that will be made to them.
- 40.6.5.2 Where it is not possible, for operational reasons, to give full working notice in line with an individual's contractual or statutory rights, pay in lieu of notice will be made.
- 40.6.5.3 Staff who are to be dismissed by reason of redundancy will also be given the opportunity to attend an individual meeting to discuss the content of the notice of redundancy letter. Reasonable notice of the meeting will be given wherever practicable. Details of the meeting date, venue and attendees, as well as the right to be accompanied, will also be provided.
- 40.6.5.4 The member of staff has a right to be accompanied at any such meeting, by either a TU, staff representative or work colleague.
- 40.6.5.5 Staff have the right of appeal against confirmation of a redundancy decision. Please refer to Ordinance 44: Appeals for further details. Where a member of staff opts to have a meeting to discuss their notice letter, the timeframe for submitting an appeal will start from the date of the meeting.
- 40.6.6 Redundancy pay
- 40.6.6.1 Staff who have at least two years' continuous service are eligible for a redundancy payment, if selected for compulsory redundancy.

40.6.6.2 During the consultation process, the University will provide details of how compulsory redundancy payments will be calculated.

40.6.6.3 Voluntary Redundancy Payments are as determined from time to time by the Executive Group.

40.6.7 Support during potential redundancy situations

40.6.7.1 The University will provide support to staff notified of redundancy. This will include:

- allowing paid time off work to attend interviews or other selection processes, subject to business needs; this will be provided to all 'at risk' staff/roles as soon as they are identified; once redundancy selections have been made, paid time off will be limited to staff selected for redundancy;
- where appropriate, liaison with the local Jobcentre Plus to ensure that they know of the skills and abilities of University staff who are likely to be seeking work;
- practical help to staff selected for redundancy, namely advice on the preparation of CVs, completing job applications and interview skills and, where appropriate, the consideration of outplacement support.

40.6.8 Following redundancies, staff remaining in the school/department/areas affected may need additional support and skills training. A member of HR will discuss these needs with the affected staff and their line managers.

40.7 Review

40.7.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

40.8 Associated practices

40.8.1 This Ordinance complies with relevant UK employment legislation.

40.8.2 In addition, other relevant University of Kent People Practices include:

- Organisational Change & Redundancy: Managers Guide
- Organisational Change & Redundancy: Staff Guide
- Ordinance 44: Appeals
- Organisational Change
- Redeployment
- Code of Practice on Academic Freedom and Freedom of Speech

41 GRIEVANCE RESOLUTION

41.1 Introduction

- 41.1.1 In any organisation members of staff will, from time to time, have concerns regarding their work, working relationships or the work environment. Often these concerns can be resolved quickly and informally through conversations with line managers.
- 41.1.2 It is recognised that some concerns cannot be dealt with informally. This Ordinance provides the mechanisms through which staff are able to raise any such concerns.

41.2 Aims and objectives

- 41.2.1 The aims of this Ordinance are to ensure:
- 41.2.1.1 that individual complaints are settled or redressed promptly and fairly;
- 41.2.1.2 that, where possible, grievances are resolved informally and as close to the source of the grievance as practical;
- 41.2.1.3 that staff have access to a fair, sensitive, timely and consistent method of raising concerns, problems or grievances with their employer.

41.3 Scope

- 41.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment.
- 41.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and staff who are employed on a non-UK Contract of Employment.
- 41.3.3 This Ordinance does not apply to complaints, grievances or appeals where other procedures are already in place. Complaints against the following should not be raised under this Ordinance:
- actions or decisions taken under the Performance Improvement, Ill Health, Conduct, Redundancy or Illegality & SOSR Ordinances. Complaints about these matters should be dealt with under Ordinance 44: Appeals;
 - actions or decisions relating to the ending of a fixed term contract in accordance with Ordinance 42: Fixed Term Contracts. Complaints about these matters should be dealt with under Ordinance 44;
 - grading or promotions decisions, which will be managed through the appropriate grading or promotion appeal procedure;
 - complaints raised by former staff;
 - issues pertaining to the alleged infringement of academic freedom, for which the Code of Practice on Academic Freedom and Freedom of Speech sets out the process to be followed;
 - collective disputes, which will be managed through the collective disputes procedure.

41.4 Responsibilities

- 41.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
 - 41.4.1.1 ensuring there is an effective process in place to resolve grievances;
 - 41.4.1.2 supporting managers and staff when complaints/issues arise and ensuring that such issues are dealt with consistently across the University and in line with University expectations on grievance resolution.
- 41.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
 - 41.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
 - 41.4.2.2 engaging the necessary staff representative bodies as and when any such review is undertaken;
 - 41.4.2.3 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;
 - 41.4.2.4 ensuring this Ordinance is followed and applied consistently across the University of Kent;
 - 41.4.2.5 providing additional supporting documentation and training, as required, to help support the principles detailed within this Ordinance.
- 41.4.3 Managers are responsible for:
 - 41.4.3.1 ensuring any concerns raised by their staff are taken seriously and attempting informal resolution of grievances, where appropriate;
 - 41.4.3.2 seeking guidance from Human Resource (HR) immediately upon receipt of a formal grievance;
 - 41.4.3.3 applying this Ordinance in a fair and consistent manner when working with staff to resolve grievances.
- 41.4.4 Staff are responsible for:
 - 41.4.4.1 asking questions of their line manager or HR if they are unsure about any aspect of this Ordinance;
 - 41.4.4.2 ensuring that, where possible, they seek to resolve grievances informally in the first instance, with their line manager or the individual in question, without the need to invoke formal processes;
 - 41.4.4.3 responding positively to informal attempts to resolve a grievance by their line manager.

41.5 General principles

- 41.5.1 A grievance can generally be described as “concerns, problems or complaints that staff raise with their managers”³².
- 41.5.2 Grievance resolution has two distinct stages that should be followed. These are:
- Informal resolution. Most grievances can be resolved quickly and informally through discussions between the member of staff and his/her line manager or the relevant person.
 - Formal resolution. If the informal resolution proves to be unsuccessful, or if it is not deemed appropriate, then the formal procedure should be followed.
- 41.5.3 Most grievances should be raised by the member of staff with his/her line manager in the first instance, unless it is felt that it is not appropriate to do so (for example when the grievance is against the member of staff’s line manager). Most grievances can be resolved quickly and informally through discussion.
- 41.5.4 Examples of when this Ordinance may apply are:
- Terms and Conditions of employment;
 - health and safety;
 - a complaint that has arisen under the Dignity at Work policy which could potentially include complaints relating to bullying, harassment or victimisation;
 - work relations;
 - working practices, policies and/or procedures;
 - working environment;
 - organisational change;
 - discrimination.
- 41.5.5 It is important to note that managers should take all complaints seriously, even if not in writing. However, all formal grievances should be submitted in writing.
- 41.5.6 Timescales
- 41.5.6.1 It is in everyone’s interest that grievances, whether informal or formal, are dealt with as soon as possible. It is good practice for all parties involved to be kept fully informed of timescales.
- 41.5.6.2 If a member of staff wants to raise or report an incident/grievance, informally or formally, that it is done so as soon as possible after it has happened, because memories of an incident may fade.
- 41.5.6.3 Only in exceptional circumstances therefore, will a formal grievance be considered more than three months after the most recent incident.
- 41.5.7 Evidence
- 41.5.7.1 It is important for staff to keep records of conversations and documentation (for example, email correspondence) that they may wish to refer to at a later stage.

³² ACAS (2014); Discipline and Grievances at work: the ACAS guide

41.5.8 Counter grievance

41.5.8.1 If a grievance is raised in response to another grievance (a counter grievance) or in response to action being taken under any other Ordinance or process, the Director of Human Resources & Organisational Development³³ shall decide the order in which matters are dealt with, and any such decision may include determination that two processes should run or be investigated concurrently, or be combined.

41.5.9 Group grievance

41.5.9.1 Sometimes several staff may choose to raise a group grievance about the same issue which they feel affects them all. In these instances it may be appropriate for the group to elect a spokesperson on their behalf and agree a joint statement, rather than collecting individual statements from all involved.

41.5.10 Additional Support

41.5.10.1 If the member of staff is unable to fully participate in the process without additional support (for example to assist with a medical condition), the University will see to provide such support wherever it is reasonable and practicable to do so.

41.5.10.2 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process, where it is reasonable and practicable to do so.

41.5.10.3 It is the responsibility of the member of staff to request such support from a member of the HR department or their line manager.

41.5.11 Confidentiality and paperwork

41.5.11.1 During every stage of this process care must be taken to protect the confidentiality of the member of staff in question and, where applicable, any other staff involved in the proceedings.

41.5.11.2 Paperwork relating to the grievance will be kept on the member of staff's personal file in line with relevant legislation.

41.5.12 Mediation

41.5.12.1 The University of Kent recognises that encouraging positive working relationships has a positive impact on staff wellbeing.

41.5.12.2 Where appropriate, mediation may provide an objective and impartial framework for resolving conflict between staff members, on a voluntary basis and within a mutually agreed timeframe.

³³ Or his/her nominee. In instances where the counter grievance is raised by a member of Human Resources, the Vice-Chancellor or his/her nominee shall determine the order.

41.5.12.3 The University of Kent Mediation Service can be engaged to help to resolve workplace conflicts, where this is deemed an appropriate option by all parties.

41.5.13 It is recognised, especially when grievances are in relation to other individuals, that resolving a grievance can sometimes be a stressful process for all involved. Appropriate support will be given to all parties involved where this is required. Please refer to Grievance Resolution: Staff Guide for further information.

41.5.14 Staff also have the opportunity to speak confidentially to a University harassment contact, should they wish to do so.

41.6 Procedure

41.6.1 Informal stage

41.6.1.1 Most grievances should be raised with the member of staff's line manager in the first instance.

41.6.1.2 When the grievance is about another individual, staff should attempt to raise their concerns with the individual in question as soon as possible after the incident has occurred. Sometimes, the individual may be unaware that their behaviour has been inappropriate and/or caused distress; bringing it to their attention may be enough to bring the matter to a close and for the behaviour to change/stop.

41.6.1.3 Where a grievance is regarding a member of staff's line manager and they do not feel able to raise the issues with their manager directly (as above), then the member of staff should discuss the situation informally with the next level of management.

41.6.2 Formal stage - Step 1: Raise the grievance formally

41.6.2.1 Where informal resolution has not resolved the situation, or is not appropriate, staff should raise a formal grievance.

41.6.2.2 Staff should submit their grievance in writing to their line manager³⁴. The grievance letter should outline the problem and should also indicate the possible outcome that is hoped for/anticipated. It may be necessary to include supporting documentation (such as emails or a detailed statement) if relevant to the complaint being raised. Please refer to Grievance Resolution: Staff Guide for further information.

41.6.2.3 When a grievance letter is received, the line manager should contact their designated HR representative to discuss the situation. In most instances it will be appropriate for the line manager to investigate; where this is not suitable, an independent investigating officer will be appropriately determined by the Director of Human Resources & Organisational Development or his/her nominee³⁵.

41.6.3 Step 2: Establish the facts

41.6.3.1 Within ten working days of receiving the grievance, the line manager/investigating officer should invite the member of staff to attend a formal meeting to discuss the grievance in more detail and ascertain the facts. The meeting should be held as soon as is practicable and without unreasonable delay.

- 41.6.3.2 Staff have the right to be accompanied at such a meeting by a trade union (TU) representative or work colleague and the member of staff shall be notified of this in the invitation letter.
- 41.6.3.3 The necessary length and detail of an investigation will depend upon the circumstances of the grievance. The initial meeting will help to determine the size of the investigation, any witnesses that may need to be interviewed as part of the process and an anticipated timeline for investigation, which shall not be unreasonably prolonged. The line manager/investigation officer should keep the member of staff who raised the grievance (as well as any other relevant parties involved) aware of the progress of the investigation and anticipated timeframes. Please refer to the Investigating Officer Guide for further information.
- 41.6.3.4 Once all necessary investigations have been undertaken the line manager/investigating officer should compile an Investigation Report. This should detail:
- the nature of the grievance;
 - the findings of the investigation;
 - the decision as to whether the grievance is upheld in full, upheld in part or not upheld, and;
 - recommendations as to how to resolve the situation if required.
- 41.6.4 Step 3: Communicate the outcome
- 41.6.4.1 A copy of the Investigation Report (as well as any associated documentation) should go to all parties involved (including a copy to the line manager if an independent investigating officer was appointed).
- 41.6.4.2 The line manager/investigating officer should arrange to formally meet with the member of staff who raised the grievance to discuss the report and findings in more detail.
- 41.6.4.3 Staff have the right to be accompanied at such a meeting by a TU representative or work colleague and the member of staff shall be notified of this in the invitation letter.
- 41.6.4.4 The line manager/investigating officer will also liaise with their designated HR representative to take forward any recommendations made within the report.
- 41.6.4.5 If the grievance is upheld either in full or part, and depending on its severity, a number of outcomes are possible, including (but not limited to):
- commitment from the person whom the grievance was against that the behaviour will stop, or that an action will not be repeated;
 - misunderstandings clarified or resolved;
 - resolution through, for example, mediation;
 - assessment as to whether any disciplinary action is warranted³⁶;
 - training needs identified;
 - staff development;

³⁴ Or, where the grievance is regarding their line manager, to the next level of management

³⁵ In instances where the member of staff in question is a member of Human Resources, the investigating officer shall instead be determined by the Vice-Chancellor or his/her nominee.

³⁶ In this instance the Investigation Report will form the basis of the disciplinary investigation; please refer to Ordinance 38: Conduct, for further information

- monitoring for a period of time;
- identification of institutional or departmental issues raised during an investigation, for which a separate report may be made to the Director of Human Resources & Organisational Development and/or a Director of Division, who will decide upon the appropriate action.

41.6.4.6 Following the grievance resolution meeting, the outcome will be confirmed in writing to the member of staff (including details of their right to appeal, the timescale and how to do so), normally within five working days.

41.6.4.7 Staff have the right to appeal against any formal decision under this Ordinance. Please see Ordinance 44: Appeals for further information.

41.7 Review

41.7.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

41.8 Associated practices

41.8.1 This Ordinance complies with relevant UK employment legislation.

41.8.2 In addition, other relevant University of Kent People Practices include:

- Grievance Resolution: Staff Guide
- Investigating Officer Guide
- Ordinance 44: Appeals
- Dignity at Work
- Mediation Service

42 FIXED TERM CONTRACTS

42.1 Introduction

- 42.1.1 The University is committed to developing and maintaining an employment framework that delivers its research, teaching and professional aspirations in an environment that fosters excellence. In support of this, the University values the contribution made by all staff and is committed to equal treatment.
- 42.1.2 It is therefore accepted that fixed term contracts may be used only where there is an objective and justifiable reason to do so.
- 42.1.3 In this Ordinance a fixed term contract is defined as a contract of employment which:
- has a definite start and end date, or
 - terminates automatically when a particular task is completed, or
 - terminates after the occurrence or non-occurrence of a specific event (other than retirement or summary dismissal)
- 42.1.4 In comparison, an open ended contract is a contract of employment that is not for a fixed term. Such contracts are sometimes referred to as permanent contracts and will not have an end date; instead they may be terminated by either party giving the appropriate notice specified in the contract or under the provisions of Statute 7 and its related Ordinances. For the purposes of this Ordinance and related documentation these types of contracts will be referred to as open ended.

42.2 Aims and objectives

- 42.2.1 The aims of this Ordinance are to:
- 42.2.1.1 provide guidance about the appropriate use of fixed term contracts at the University;
- 42.2.1.2 ensure that fixed term contracts are used only when appropriate objective justification exists;
- 42.2.1.3 ensure staff employed on a fixed term contract are treated fairly and equitably in the management of their employment status;
- 42.2.1.4 provide appropriate mechanisms for the transfer of staff from fixed term to open ended contracts, where appropriate to do so;
- 42.2.1.5 ensure that any decisions made on the expiry of fixed term contracts are taken consistently and fairly, taking account of relevant employment legislation and best practice.

42.3 Scope

- 42.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment and who are employed on a fixed term basis.
- 42.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and staff who are employed on a non-UK Contract of Employment.

- 42.3.3 This Ordinance does not apply to staff defined in 3.1 where the grounds for the proposed dismissal are not related to the non-renewal of the fixed term contract on its expiry³⁷. In these instances the relevant Ordinance or policy and procedure under which the termination may occur, shall apply.
- 42.3.4 This Ordinance does not apply to the removal from any posts that the member of staff has been elected or appointed to that are distinct from the member of staff's substantive post, where dismissal from the substantive post is not being considered.³⁸
- 42.3.5 This procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procures as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to the provisions of 35.3.2 of that Ordinance).
- 42.3.6 The University will ensure that members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Speech (SCAFFE).

42.4 Responsibilities

- 42.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
- 42.4.1.1 ensuring there is an effective process in place to manage the use of fixed term contracts;
- 42.4.1.2 ensuring this Ordinance is followed and applied consistently across the University of Kent, acting on advice from Human Resources (HR).
- 42.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:
- 42.4.2.1 ensuring this Ordinance reflects UK employment legislation, has regard to best practice, and initiating a review of it as and when appropriate;
- 42.4.2.2 providing advice and guidance to managers, staff and the Vice-Chancellor, Deputy Vice-Chancellors and Pro Vice-Chancellors on the appropriate use of fixed term contracts;
- 42.4.2.3 providing necessary management information to schools and departments so that they can effectively manage their fixed term contracts.
- 42.4.3 Managers are responsible for:
- 42.4.3.1 ensuring that they understand this Ordinance and use fixed term contracts appropriately to meet their resourcing requirements;

³⁷ Such examples may include in a potential redundancy situation due to a change management process, or due to discipline, performance management or ill health reasons

³⁸ Such examples may include Director of Education and Deputy Director of Division

- 42.4.3.2 seeking advice from HR when looking to recruit, extend, or terminate fixed term contracts;
- 42.4.3.3 ensuring staff on fixed term contracts have equal access to services and facilities and career development opportunities;
- 42.4.3.4 meeting with staff who are coming to the end of their fixed term contract to advise them if there may be an extension to the contract or if it is likely the contract will end on the agreed date;
- 42.4.3.5 undertaking reviews of fixed term contracts (in liaison with HR) for those staff who have accrued four or more years' service on successive contracts with the University and, unless inappropriate to do so, transferring them onto open ended contracts;
- 42.4.3.6 providing support for the performance management and appropriate career development of fixed term members of staff.
- 42.4.4 Staff are responsible for:
 - 42.4.4.1 asking questions of their line manager or HR if they are unsure about any aspect of this Ordinance;
 - 42.4.4.2 identifying any learning and development requirements with their line manager and through the University appraisal process 'Reflect; Plan; Develop' (RPD).

42.5 Use of fixed term contracts

- 42.5.1 Where it is deemed appropriate and necessary to employ staff on fixed term contracts, they will be engaged on terms and conditions of employment and have access to services on terms that are no less favourable to those enjoyed by comparable open ended staff, unless any difference in treatment can be objectively justified.
- 42.5.2 Examples of necessary and objective reasons or circumstances for the use of fixed term contracts could include, but is not limited to:
 - 42.5.2.1 Where the appointment is made to cover the activities of another member of staff (for example to cover sickness absence, maternity, paternity, secondment, study, or other types of leave);
 - 42.5.2.2 Where there is no reasonably foreseeable prospect of short-term funding being renewed or other external or internal funding being available, or becoming available;
 - 42.5.2.3 Where short term teaching or research is required from a specialist practitioner(s);
 - 42.5.2.4 Where the post has been created to satisfy a short term need (for example seasonal work such as grounds maintenance or vacation hosts during the summer period or the implementation of a specific time limited project);

- 42.5.2.5 Where a longer term but temporary requirement is identified to deliver a specific task or set of tasks to achieve a specific outcome (for example projects and project teams);
- 42.5.2.6 Where student or other business demand can be demonstrated as particularly uncertain;
- 42.5.2.7 Where the individual is re-engaged following severance or retirement to complete agreed activities or transfer knowledge;
- 42.5.2.8 Where the contract is for training or career development (for example clinical staff undertaking professional training, traineeships or apprenticeships).
- 42.5.3 In all cases, where a request is made to advertise a fixed term post or to issue a fixed term contract, the underlying reason must be objective and justifiable and it must be included in the request to recruit. Approval of the post will include approval for the reason for it being fixed term.
- 42.5.4 HR will advise managers on the appropriate use of fixed term contracts, in accordance with employment legislation and having regard to best practice; in certain instances this may also involve liaison with the appropriate trade union.
- 42.5.5 The reason for an appointment being made on a fixed term basis will be provided to applicants, upon request.
- 42.5.6 Successive contracts
- 42.5.6.1 The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (the Regulations) are designed to prevent any abuse of the use of successive fixed term contracts. The Regulations lay down a statutory limit of four years on the use of successive fixed term contracts, unless the use of further fixed term contracts can be objectively justified. Where it is not possible to provide an objective justification the contract should be converted to open ended.
- 42.5.6.2 Requests to extend or renew a fixed term contract for a member of staff with less than four years' continuous service will be initially considered against the criteria set out in 5.2. It is, however, recognised that during employment the circumstances which made the use of a fixed term contract appropriate, may change. Therefore, the criteria used to justify a renewal or extension may be different from that used at the initial appointment. Similarly, the circumstances may change so that the continued use of a fixed term contract becomes inappropriate, or it becomes possible to make the post open ended and a department may request at any time that an open ended contract be issued instead³⁹.

³⁹ In these instances other processes may be instigated, such as recruitment or redeployment, where appropriate

- 42.5.6.3 All staff with four or more years' continuous service on successive fixed term contracts must be considered for transfer onto an open ended contract at the point of the next renewal of, or extension to, their existing contract. It may still be possible for a fixed term contract to be extended or renewed beyond four years, but the criteria against which such requests are judged are more tightly defined.
- 42.5.6.4 Requests to extend or renew a fixed term contract where the member of staff has four or more years continuous service will only be approved where one or more of the following criteria are met:
- The post is externally funded with significant certainty that the funds will cease in the foreseeable future, and no other appropriate funds are available;
 - There is significant certainty that the work being undertaken will cease in the foreseeable future, and no alternative similar work is likely to be available;
 - A permanent member of staff will be returning to the post at a date in the foreseeable future.
- 42.5.7 A member of staff on a fixed term contract may request a written statement under the Regulations, confirming either, that their contract is regarded as open ended, or giving reasons to justify the continuation of their employment on a fixed term basis.
- 42.5.8 Requests under the Regulations should be made in writing, dated, and sent to the Head of School/Department and copied to HR.
- 42.5.9 The Head of School/Department shall be responsible for the written statement and should consult immediately with HR for assistance in preparing this response. The University will respond within 21 days.
- 42.6 Procedure for the non-renewal of fixed term contracts
- 42.6.1 The non-renewal of a fixed term contract is a dismissal in law and is therefore covered by current employment legislation relating to unfair dismissal. The non-renewal of a fixed term contract on its expiry falls within one of the fair reasons for terminating an individual's employment.
- 42.6.2 HR will send a reminder to the appropriate school/departmental contact (or other nominated person) of fixed term contracts that are due to cease, approximately four months prior to their end date. There may be circumstances where this is not possible (for example if the fixed term contract is for a relatively short period of time); in these instances HR will ensure the school/department is aware of their obligations under this process and that the contract expiry is handled appropriately.
- 42.6.3 The school/department should, as soon as possible, confirm either that the contract is to end, or indicate if an extension is required. If an extension is required the process in relation to the use of successive contracts (see section 5), will be followed.

- 42.6.4 The line manager should meet with the member of staff to confirm that the fixed term contract is reaching its end date and discuss the possible options. These include:
- renewal of the fixed term contract in line with the objective reasons (as detailed in sections 3 or 5);
 - the offer of an open ended contract, subject to any other processes as may be needed (see section 5.6.2);
 - the expiry of the fixed term contract and no renewal.
- 42.6.5 The member of staff has a right to be accompanied at any such meeting, by either a trade union (TU) representative or work colleague.
- 42.6.6 Where it is unlikely the contract will be extended or made open ended, one month prior to the end of the contract, HR will write to the staff member and confirm their contract is due to end on the date specified in their offer letter.
- 42.6.7 The fixed term contract period will be inclusive of any relevant notice and the line manager will confirm with the member of staff, prior to the end of the fixed term contract that the contract will indeed end. Staff engaged on fixed term contracts are encouraged to apply for other vacancies within the University and should visit the Job Opportunities page of the HR website for current vacancies.
- 42.6.8 In all cases, where a fixed term contract that was for more than two years in duration is not renewed, the employing department will be required to identify any potential suitable alternative employment opportunities that could be offered to the member of staff, before termination is considered. The member of staff will also have the option of being placed on the Redeployment Register. Please refer to University's Redeployment policy and procedure for further details.
- 42.6.9 Where the reason for termination is redundancy, any termination payments, including any statutory redundancy payment (where applicable) will be paid for those staff who have the requisite period of qualifying service on termination.
- 42.6.10 When a member of staff holding a fixed term contract is on maternity or long term sick leave this process must still be followed. In these circumstances the school/department should contact HR in advance of the contract end date for guidance.
- 42.6.11 Where a fixed term contract needs to be brought to an end before the agreed end date (for example due to organisational change), affected staff will be entitled to relevant consultation as appropriate. Please refer to the relevant Ordinance or policy and procedure for further details.
- 42.6.12 Non-renewal of fixed-term contracts must not be used as a substitute for good performance management and effective probationary procedures.
- 42.6.13 Staff have the right to appeal against the ending of a fixed term contract. Staff wishing to appeal against such a decision should put their case in writing to their Head of School/Department⁴⁰, who will then consider their case. The decision of the Head of School/Department shall be final.

⁴⁰ Or the next level of management if the Director of Division/Department is their line manager

42.7 Review

42.7.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

42.8 Associated practices

42.8.1 This Ordinance complies with relevant UK employment legislation.

42.8.2 In addition, other relevant University of Kent People Practices include:

- Fixed Term Contracts: Managers Guide
- Redeployment
- Organisational Change

43 SUSPENSION

43.1 Introduction

- 43.1.1 The University is committed to providing a safe environment for both its staff and students. There may therefore be occasions where it is necessary to suspend a member of staff pending an investigation into their conduct.
- 43.1.2 This Ordinance identifies the circumstances in which suspension should be considered and outlines the procedure to follow.
- 43.1.3 It is important to note that suspension does not constitute any form of disciplinary action and does not in itself imply any presumption of guilt on the part of the member of staff.

43.2 Aims and objectives

43.2.1 The aims of this Ordinance are to:

- 43.2.1.1 ensure lawful, non-discriminatory and effective arrangements exist for suspending staff in cases of alleged gross misconduct or other serious situations, where the ongoing presence of the member of staff may hamper a full and fair investigation or may result in other members of staff or students continuing to suffer the alleged actions, or may create a serious loss of confidence in the management of the University and be damaging to its reputation;
- 43.2.1.2 ensure that suspensions are implemented in a fair and consistent manner;
- 43.2.1.3 allow for consideration of the wider implications of suspending a member of staff;
- 43.2.1.4 ensure that, when suspension is required, wider communications are managed appropriately;
- 43.2.1.5 ensure staff are appropriately supported whilst they are on suspension.

43.3 Scope

- 43.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment.
- 43.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 43.3.3 This procedure is underpinned by the principles laid out in Ordinance 35 Academic Freedom. No member of academic staff will be subject to action under this procedure as a consequence of legitimately exercising his/her/their right to academic freedom as defined within section 35.3.1 of Ordinance 35 (subject to the provisions of 35.3.2 of that ordinance).
- 43.3.4 The University will ensure that members of academic staff have an opportunity to request a review of whether academic freedom has been infringed in accordance with the provisions of the Code of Practice on Academic Freedom and Freedom of Speech published by the Standing Committee on Academic Freedom and Freedom of Speech (SCAFFE).

43.3.5 Any suspension enacted under this Ordinance will be on full pay⁴¹.

43.4 Responsibilities

43.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:

43.4.1.1 ensuring this Suspension Ordinance is followed and applied consistently across the University of Kent.

43.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:

43.4.2.1 providing advice, guidance and support to both staff and managers in the use and application of this Ordinance;

43.4.2.2 providing additional supporting documentation and training, as required, in relation to suspension;

43.4.2.3 supporting staff whilst suspended and appointing a liaison within Human Resources (HR) to act as a key point of contact;

43.4.2.4 liaising with the member of staff's trade union representative, where applicable.

43.4.3 Managers are responsible for:

43.4.3.1 ensuring they are aware of the University of Kent's policies, procedures and practices;

43.4.3.2 applying this Ordinance in a fair and consistent manner, when acting in the capacity of suspending officer.

43.5 Procedure

43.5.1 Grounds for suspension

43.5.1.1 The act of suspension should not be taken lightly. A member of staff is only suspended where there are allegations of serious or gross misconduct and/or other good urgent cause, and/or where there is a serious risk to the University's property, reputation, operations, staff or its students (including the serious risk that a full and fair investigation into the alleged misconduct may not be possible whilst the member of staff is working).

43.5.2 Alternatives to suspension

43.5.2.1 In some cases it may be appropriate to mitigate potential risks by taking steps other than suspension to allow for an effective investigation into the allegations to occur.

43.5.2.2 Alternative options to suspension may include:

- Temporary redeployment. This may be for the duration of the investigation, or as needed. The alternative role may not be at the same grade or level of responsibility as the member of staff's current role, but enables the member of staff to remain in the workplace whilst the investigation is carried out. In this instance the member of staff will continue to be paid their substantive salary (including an average

⁴¹ Please refer to 'pay, sick pay and holiday' for further information

payment for any allowances) and adequate supervision and support must be in place during this period of redeployment.

- Restricted duties. In some circumstances it may be possible for a member of staff to continue in their current role, but on restricted or amended duties.
- Temporary relocation. Consideration should be given to whether it is possible for a member of staff to continue in their role but from another location, either on the same campus, at another campus, or from home, where this is practicable.

43.5.3 Decision to suspend

43.5.3.1 The decision to suspend should only be made as a last resort and alternative options must be considered in a timely manner, relevant to the circumstances and in consultation with HR, before any decision is taken to suspend a member of staff.

43.5.3.2 Possible grounds for suspension may include (this list is not exhaustive):

- Where redeployment or restricted duties are not a practicable option;
- Where there is no other practical way of removing or sufficiently reducing any identified risk;
- Where the continued presence of the member of staff would constitute a risk to the health and safety of others or a risk to University property;
- Where an investigation is required for an alleged criminal offence or other serious incident and the presence of the member of staff may inhibit this;
- Where there is a potential risk to the University's reputation;
- To enable a fair investigation to be undertaken, free from interference.

43.5.3.3 Where a request to suspend is made (by the line manager and after consultation with their designated HR representative), an assessment of risk must be made to support that request.

43.5.3.4 The assessment will then be considered by the suspending officer and the Director of Human Resources & Organisational Development⁴², who will make the decision as to whether or not suspension is appropriate given the circumstances.

43.5.3.5 The suspending officer must be a Head of School/Department⁴³. This will normally be the Head of School/Department for which the member of staff works, however where this is not possible (or they are the line manager in question) another Head of School/Department will make the decision on their behalf.

⁴² Or his/her nominee. In instances where the member of staff in question is a member of Human Resources, the decision shall instead be made by the Vice-Chancellor or his/her nominee.

⁴³ Where the decision is in relation to the possible suspension of a Head of School/Department, the Suspending Officer will be from the next level of management.

- 43.5.3.6 Where a request to suspend is made (by the line manager and after consultation with their designated HR representative), an assessment of risk must be made to support that request.
- 43.5.3.7 The assessment will then be considered by the suspending officer and the Director of Human Resources & Organisational Development⁴⁴, who will make the decision as to whether or not suspension is appropriate given the circumstances.
- 43.5.3.8 The suspending officer must be a Head of School/Department⁴⁵. This will normally be the Head of School/Department for which the member of staff works, however where this is not possible (or they are the line manager in question) another Head of School/Department will make the decision on their behalf.
- 43.5.4 Practical arrangements
- 43.5.4.1 Where circumstances permit, a trade union (TU) representative from the relevant trade union will be contacted by HR, prior to carrying out any suspension meeting, to advise them of the suspension and allow them to be present at the meeting, where practicable. However, if a TU representative is not available in a reasonable timeframe, then this will not significantly delay the suspension of the member of staff and the University reserves the right to proceed with the suspension meeting in the absence of a TU representative. In this event the relevant TU representative will be informed as soon as practicable after the meeting.
- 43.5.4.2 As part of the risk assessment, consideration will be given by the suspending officer as to the implications of maintaining a member of staff's access to their normal place of work, IT systems and networks, and work colleagues. In many situations it may be reasonable for staff to continue to have access to these.
- 43.5.4.3 There may, however, be instances where it is advisable to restrict or remove access during the period of suspension. Such examples may include:
- Staff who have full administration rights to certain IT systems;
 - Where the allegations relate to the misuse of IT systems;
 - Where there may be significant evidence stored on the member of staff's computer or network area;
 - Where there are allegations of harassment/bullying that may include potential cyber bullying;
 - Where there are concerns around possible witness intimidation or potential risks to their health and safety;
 - An allegation of fraud.

⁴⁴ Or his/her nominee. In instances where the member of staff in question is a member of Human Resources, the decision shall instead be made by the Vice-Chancellor or his/her nominee.

⁴⁵ Where the decision is in relation to the possible suspension of a Head of School/Department, the Suspending Officer will be from the next level of management.

- 43.5.4.4 Where it is determined such restrictions are appropriate, the designated HR representative will contact any relevant departments (such as Information Services, Payroll or Estates) to action this.
- 43.5.4.5 Prior to implementing any suspension, consideration should also be given to how the member of staff's absence from work will be managed; in relation to both outstanding work and communicating the absence to other members of their team/department and key stakeholders, whilst ensuring confidentiality is maintained.
- 43.5.4.6 If possible, the suspension letter should be drawn up prior to the meeting, so that it can be handed to the member of staff at the meeting, and should confirm the details of the suspension. If this is not practicable the letter should be drawn up as soon as possible (and ideally within 48 hours) after the meeting and sent to the member of staff's home address. This will also be copied by email to the staff member and their TU representative, where appropriate/possible.
- 43.5.5 The suspension meeting
- 43.5.5.1 If the decision is taken to suspend, the suspending officer (or if this is not practicable, the line manager) should meet with the member of staff as soon as possible to inform him/her of their decision.
- 43.5.5.2 The suspension meeting should take place in private with steps taken to avoid interruptions. The designated HR representative should be present at the meeting, along with a TU representative, where possible.
- 43.5.5.3 The suspending officer should inform the member of staff of the allegation and their decision to suspend whilst the allegation is being investigated. As much information as possible regarding the allegation should be disclosed at this stage so that the member of staff understands the reasons for suspension. The member of staff should be informed if the allegation is potentially considered gross misconduct and details of the likely length of suspension should be provided.
- 43.5.5.4 A copy of the suspension checklist should be signed by the suspending officer and the member of staff, and a copy given to the member of staff for their records. The suspension letter, detailing the arrangements of suspension, should also be given to the member of staff at this stage if this is possible. The member of staff should also be given (either at the meeting or sent with the notification of suspension letter) a copy of 'Suspension: Staff Guide'.
- 43.5.5.5 A contact name of a member of staff within HR, who will act as a liaison, will also be provided to the member of staff; they will support the member of staff through the process during suspension and keep them updated as to the situation. The contact details will also be provided in writing in the suspension letter and the designated HR liaison contact will endeavour to contact the member of staff as soon as practicable after the suspension meeting.

- 43.5.5.6 The Suspending Officers Guide provides full guidance on what should be covered at a suspension meeting, including any template letters and checklists, where appropriate.
- 43.5.6 Support during suspension
- 43.5.6.1 The University recognises that suspension is likely to be a difficult time for staff and that whilst suspended a member of staff may experience stress or anxiety and can often feel isolated.
- 43.5.6.2 The designated liaison contact from HR will endeavour to ensure as much information as possible is given to the member of staff throughout the suspension period so they are kept informed of progress, subject only to protecting the interests of any other party. This will include confirming staff have the right to raise a grievance against a decision taken to suspend.
- 43.5.6.3 The designated liaison contact from HR will act as a point of contact and will keep the member of staff informed at all stages, including communicating any extensions to suspension, answering any queries the member of staff may have about the suspension process and confirming what other support mechanisms may be available to them (for example Occupational Health, University Counselling Service).
- 43.5.6.4 Staff on suspension will be informed of their right to have a TU representative or work colleague support them through this process and can request that any copies of letters and notices are sent to that representative. Contact details of the relevant trade union will be provided in the suspension letter.
- 43.5.6.5 It is important to maintain confidentiality during any investigation. In some circumstances it may be appropriate for the member of staff to be informed of individuals who they may not contact whilst on suspension (for example potential witnesses to the allegations). They will be reminded of the requirement to not discuss the case with other colleagues, other than those identified in 5.6.3 and 5.6.4, or whom the member of staff may wish to approach in relation to being a witness.
- 43.5.7 Pay, sick pay and holiday
- 43.5.7.1 Where a member of staff is suspended, this will be on contractual pay. Additional allowances are not pay for the purposes of the employment contract; however the University reaffirms that suspension is not a disciplinary action and therefore wishes that staff do not suffer any detrimental financial impact as a result of the decision to suspend.
- 43.5.7.2 Where a member of staff who is suspended is in receipt of any additional allowances (such as shift or on-call allowances), he/she will continue to receive these at the average level paid during the 12 weeks preceding the suspension.
- 43.5.7.3 Similarly, where staff are paid on an hourly basis and it is not known what hours they may have been working had they not been suspended, pay will be calculated on average level paid during the 12 weeks preceding the suspension.
- 43.5.7.4 A member of staff's pension entitlement will not be affected by suspension, but will be based on the payments made under paragraphs 5.7.1 to 5.7.3 above.

- 43.5.7.5 If a member of staff becomes ill during the suspension period the normal contractual sick pay entitlements will come into force, however the rules of the suspension remain unchanged.
- 43.5.7.6 Holiday entitlements will continue to be accrued throughout the suspension period and staff may request annual leave in the normal way.
- 43.5.8 Reviewing suspension
- 43.5.8.1 Staff should be suspended for the shortest possible period and the suspension should be reviewed every 14 days, or more often as appropriate (for example if relevant new evidence is provided from the member of staff and/or their TU representative).
- 43.5.8.2 Suspension reviews should be undertaken by the suspending officer to review the continued appropriateness of the suspension, in conjunction with the Director of Human Resources & Organisational Development.
- 43.5.8.3 The review should consider the original reason for suspension, and whether or not that risk still exists. For example, if the decision to suspend was taken as it was felt there may be a risk an investigation could be impeded or potential witnesses intimidated, once witness statements have been gathered and evidence collected, it may be possible to lift the suspension prior to the conclusion of the rest of the investigation or any hearing having been arranged.
- 43.5.8.4 In some instances it is recognised that it may not be possible to lift a suspension until a full investigation has been carried out and a hearing arranged. It is therefore important that the member of staff on suspension is communicated with regularly to inform them of the progress of the investigation, anticipated dates of the removal of suspension or, if the suspension must continue for a further period of time (and if so, for how long).
- 43.5.8.5 Ideally this communication will be verbal, either via the manager who suspended initially, or if more appropriate, via their designated HR liaison. In all instances this should be followed up in writing. Members of staff who are suspended should provide appropriate contact details so that this is possible
- 43.5.9 Returning to work following suspension
- 43.5.9.1 It is recognised that staff may feel anxious about returning to work after a period of suspension, particularly if he/she has been absent for some time.
- 43.5.9.2 The designated HR representative will work with the member of staff's line manager to ensure this process is managed effectively. Time should be made to meet with the member of staff and inform them of any updates to work or practices in their absence, agreeing on any communications to colleagues and how any questions about their absence may be handled, as well as supporting them during the return period. This may also be assisted by liaising with the member of staff's TU representative and Occupational Health, where appropriate.
- 43.5.9.3 The member of staff will receive a letter confirming the end of their suspension period and return to work and the designated HR representative will ensure any relevant departments (such as Information Services, Payroll or Estates) are informed where required.

43.6 Review

43.6.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

43.7 Associated practices

43.7.1 This Ordinance complies with relevant UK employment legislation.

43.7.2 In addition, other relevant University of Kent People Practices include:

- Suspending Officer Guide
- Suspension: Staff Guide
- Ordinance 38: Conduct
- Ordinance 39: Illegality & SOSR
- Dignity at Work
- Code of Practice on Academic Freedom and Freedom of Speech

44 APPEALS

44.1 Introduction

- 44.1.1 The process documented in this Ordinance is the means by which the University, acting as a reasonable employer, provides staff a consistent forum where they can appeal against a decision made in accordance with relevant Ordinances under Statute 7.

44.2 Aims and objectives

- 44.2.1 The aim of this Ordinance is to provide all staff with an appeals process that is consistent with the principles of natural justice.
- 44.2.2 This Ordinance aims to allow staff to question the fairness, transparency and consistency of any formal action taken under relevant Ordinances related to Statute 7.
- 44.2.3 The purpose of the appeal hearing will normally be to review the original decision; it is not a re-hearing of the original case. Following the hearing the University may uphold the original decision, revoke the original decision or replace it with a lower level penalty.

44.3 Scope

- 44.3.1 This Ordinance applies to all members of staff holding a UK Contract of Employment in respect of their rights of appeal against any formal action under the following Ordinances:
- Performance Improvement
 - Ill Health
 - Conduct
 - Illegality & SOSR
 - Redundancy
 - Grievance Resolution
- 44.3.2 This Ordinance does not apply to honorary positions, visitors, emeritus professors, casual workers and any staff who are employed on a non-UK Contract of Employment.
- 44.3.3 This Ordinance does not apply where staff have raised concerns regarding the infringement of academic freedom. In such circumstances, the separate process as set out under the Code of Practice on Academic Freedom and Freedom of Speech will apply.
- 44.3.4 Additionally, this Ordinance does not apply where staff are dissatisfied about a manager's decision or actions in any other circumstances; in these instances staff should refer to Ordinance 41: Grievance Resolution.

44.4 Responsibilities

- 44.4.1 The Vice-Chancellor, or his/her nominee, is responsible for:
- 44.4.1.1 ensuring there is a consistent forum in which staff have the opportunity to present a case arguing that any formal action taken against them has been unfair;

44.4.1.2 ensuring that this Appeals Ordinance is followed and applied consistently across the University of Kent.

44.4.2 The Director of Human Resources & Organisational Development, or his/her nominee, is responsible for:

44.4.2.1 providing advice to staff who are considering appealing against a sanction/formal outcome given, including their right to representation;

44.4.2.2 determining the appropriate panel to hear an appeal;

44.4.2.3 providing support to the appeals panel as required;

44.4.2.4 having a presence at all appeals hearings to provide HR advice;

44.4.2.5 ensuring the procedure detailed in this Ordinance is followed;

44.4.2.6 ensuring the Human Resources (HR) representative advising the appeals panel shall not have previously been involved in the case.

44.4.3 Managers are responsible for:

44.4.3.1 ensuring they are aware of the University of Kent's policies, procedures and practices;

44.4.3.2 setting out the reasons behind any decision made, when acting as chair of an appeals panel;

44.4.3.3 applying this Ordinance in a fair and consistent manner when sitting on an appeal panel;

44.4.3.4 providing any relevant documentation and details in relation to an appeal from a member of staff.

44.4.4 Staff are responsible for:

44.4.4.1 submitting an appeal in accordance with the procedure set out in section 5;

44.4.4.2 clearly stating the basis of their appeal, in relation to one (or more) of the reasons for appeal;

44.4.4.3 providing or requesting any relevant documentation and details in relation to their appeal;

44.4.4.4 attending any meetings as required under this process.

44.5 Procedure

44.5.1 A member of staff wishing to appeal against a decision made against them in the relevant Ordinances must submit their appeal in writing to the Director of Human Resources & Organisational Development, or his/her nominee⁴⁶ (as detailed in the decision notification letter).

⁴⁶ In instances where the member of staff wishing to appeal is a member of Human Resources, the appeal should be submitted to the Vice-Chancellor, or his/her nominee.

- 44.5.2 Appeals should be submitted in writing, within 10 working days from receipt of the decision notification letter.
- 44.5.3 The appeal letter should indicate the specific grounds for appeal, which may be based on:
- a material procedural irregularity;
 - new material facts coming to light that were not known at the hearing;
 - perceived bias in the procedure;
 - the penalty being disproportionate for the case in question.
- 44.5.4 All appeals will be heard by three appropriately senior⁴⁷ and independent⁴⁸ members of staff who have agreed to be part of the panel.
- 44.5.5 The Chair of the panel will be at least as senior as the Chair of the previous level.
- 44.5.6 In the case of an appeal against a dismissal the following additional process will be instigated:
- 44.5.6.1 The designated HR representative will discuss with the trade union (TU) representative (where relevant) possible panel composition and will then email the Chair of Council with their recommendations, within 5 working days of receipt of the appeal letter.
- 44.5.6.2 The TU representative (where relevant) will also have the opportunity to put forward a written case (via email) to the Chair of Council, should he/she disagree with the recommended panel composition, stating their reasons why they request a different panel. This should be submitted within 5 working days.
- 44.5.6.3 The Chair of Council will approve the recommendations, or provide an alternative panel, as appropriate. Where this involves a member of Council they will confirm which member of Council will sit on the appeal panel and whether or not they will Chair the appeal panel.
- 44.5.6.4 Where an appeal is against dismissal of an academic member of staff, one member of the panel shall also be an academic.
- 44.5.6.5 Where an appeal is against an ill health dismissal, both parties have the opportunity to provide further medical support – either by calling as a witness or providing medical reports – at the appeal hearing.
- 44.5.7 In all instances the panel will be determined and appropriately supported by Human Resources, with a member of HR present at the hearing to provide HR advice. The designated HR representative will not have been involved with the previous case.

⁴⁷ No less senior than the panel members of the previous case.

⁴⁸ Independent from both the school/department from which the member of staff comes, as well as from the original case.

44.5.8 The panel will be convened as soon as is practicable and without unreasonable delay (normally within 20 working days), whilst allowing all parties reasonable time to prepare their case. The member of staff will be notified of the hearing in writing. The notification letter will provide details of the hearing date, venue and panel, as well as their right to be accompanied.

44.5.9 Staff have the right to be accompanied at any appeal hearing by a TU representative or work colleague.

44.5.10 Additional support

44.5.10.1 If the member of staff is unable to fully participate in the process without additional support (for example to assist with a medical condition), the University will seek to provide such support wherever it is reasonable and practicable to do so.

44.5.10.2 If the member of staff's command of the English language is considered insufficient to allow them to fully participate in the process, the University will work with the individual to obtain a translator to support him/her during the process where it is reasonable and practicable to do so.

44.5.10.3 It is the responsibility of the member of staff to request such support from a member of the Human Resources (HR) department or their line manager.

44.5.10.4 Depending on the grounds for appeal, the panel may need to meet with additional witnesses, who may include panel members from the original case, or adjourn the hearing whilst they carry out further investigation.

44.5.10.5 Notes of the hearing will be taken. The member of staff will be provided with a copy of the notes and the opportunity to comment on them. Audio or video recording of the hearing will not be allowed unless requested in advance in writing to the Chair (who will consider the reason for the request and if this may amount to a reasonable adjustment).

44.5.10.6 Once all the relevant facts have been considered and the panel have come to a decision, the Chair of the panel will inform the member of staff of the panel's final decision and its reasons. Where possible this will be verbally at the end of the appeal hearing, and will then normally be followed up in writing within five working days.

44.5.10.7 The decision of the appeal panel will be final.

44.6 Review

44.6.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

44.7 Associated practices

44.7.1 This Ordinance complies with relevant UK employment legislation.

44.7.2 In addition, other relevant University of Kent People Practices include:

- Appeals: Staff Guide
- Chairs Guide
- Ordinance 36: Performance Improvement
- Ordinance 37: Ill Health
- Ordinance 38: Conduct
- Ordinance 39: Illegality & SOSR

- Ordinance 40: Redundancy
- Ordinance 41: Grievance Resolution
- Code of Practice on Academic Freedom and Freedom of Speech

45 PROVISIONS FOR THE VICE-CHANCELLOR AND DIRECTOR OF GOVERNANCE AND ASSURANCE
(SECRETARY TO COUNCIL)

45.1 Introduction

45.1.1 This Ordinance set out applicable procedure for the Council determining that the Vice-Chancellor or Director of Governance and Assurance (Secretary to Council) shall be dismissed and removed from office, for any reason.

45.1.2 For the avoidance of doubt, the Vice-Chancellor shall be a member of academic staff for the purposes of section 19 of the University Charter (academic freedom of expression).

45.2 Scope

45.2.1 This Ordinance applies to the Vice-Chancellor and Director of Governance and Assurance (Secretary to Council) only.

45.3 Procedure

45.3.1 The Chair of the Council shall consider a complaint seeking the removal of the Vice-Chancellor/ Director of Governance and Assurance (Secretary to Council) from office for good cause, where:

45.3.1.1 a complaint seeking the removal from office for good cause is made by not less than three members of Council to the Chair of Council, and;

45.3.1.2 it appears to the Chair of Council, on the material before him/her, that the complaint raises a prima facie case and this could, if proved, constitute good cause for dismissal or removal from office, he/she shall request the Council to appoint a panel to hear and determine the matter.

45.3.2 If it appears to the Chair of Council that a complaint made to him/her under 3.1.1 does not raise a prima facie case or is trivial or invalid, he/she may recommend to the Council that no further action be taken in relation to it. Where the Council, by a majority vote, does not support the Chair's recommendation, a panel shall be convened in accordance with 3.1.2.

45.3.3 When the Council has appointed a panel under 3.1.2, it shall instruct a solicitor, or other suitable person, to formulate an allegation or allegations and to present, or arrange for the presentation of, the allegations before the panel.

45.3.4 The Chair of Council shall also determine the appropriate advice and support required and the person or persons who shall provide that support.

45.3.5 A panel appointed by the Chair of Council shall comprise:

- an independent Chair, and;
- one member of Council, not being a person employed by the University, and;
- one member of the academic staff.

45.3.6 Subject to the principles of justice and fairness and the principles set out in the ACAS Code of Practice on Disciplinary and Grievances, the panel may determine its own procedure.

- 45.3.7 The panel shall send its decision, with its reasons, on any allegations referred to it - together with its findings of fact regarding the allegations - and its recommendations, if any, as to the appropriate penalty, to the Chair of Council and to the Vice-Chancellor/ Director of Governance and Assurance (Secretary to Council) (as appropriate); drawing attention to the period of time within which any appeal should be made.
- 45.3.8 The Council shall appoint a person not employed by the University and who holds, or has held, judicial office or been a barrister or solicitor of at least ten years' standing for the purposes of determining any appeal against the decision of the panel in 3.6 ("the Appeal Chair").
- 45.3.9 The Appeal Chair shall, subject to the principles of natural justice and fairness, and taking into consideration the principles set out in the ACAS Code of Practice on Disciplinary and Grievances, determine the procedure to be adopted in hearing any appeal.
- 45.3.10 The Appeal Chair shall send his/her fully reasoned written decision on the appeal, together with any findings of fact (where different from those of the panel), and his/her recommendations, if any, as to the appropriate penalty, to the Chair of Council and to the Vice-Chancellor/ Director of Governance and Assurance (Secretary to Council) (as appropriate) for consideration.
- 45.3.11 Where an allegation or allegations have been upheld by the panel, or where the allegations are upheld on appeal by the Appeal Chair, the Chair of Council shall determine the appropriate penalty, up to and including dismissal of the Vice-Chancellor/Director of Governance and Assurance.
- 45.3.12 Where a complaint is to be referred to a panel under this Ordinance, or is subject to any appeal following a decision of the panel under this Ordinance, the Chair of Council reserves the right (in appropriate circumstances) to suspend the Vice-Chancellor/ Director of Governance and Assurance (Secretary to Council) from his/her duties, and may exclude the Vice-Chancellor/ Director of Governance and Assurance (Secretary to Council) from the precincts of the University, or any part thereof, without loss of salary pending the outcome of the process under this Ordinance. Any decision to suspend by the Chair of Council shall not be deemed to be a disciplinary sanction, shall be imposed for as short a period as is appropriate, and shall be kept under review during the course of the process under this Ordinance.
- 45.3.13 "Good Cause" in this Ordinance includes instances of gross misconduct, illegality/SOSR, ill health and/or poor performance. Regard may be had to Ordinance 36: Performance Improvement, Ordinance 37: Ill Health, Ordinance 38: Conduct and Ordinance 39: Illegality & SOSR, when interpreting the meanings of "gross misconduct", "illegality/SOSR", "ill health" and "poor performance", for the purposes of this Ordinance.
- 45.3.14 For the purposes of the removal of the Vice-Chancellor/Director of Governance and Assurance (Secretary to Council) for incapacity on medical grounds (Good Cause on grounds of ill health), Ordinance 37: Ill Health shall have effect, subject to the following modifications:
- 45.3.14.1 for references to a member of staff there shall be substituted references to the Vice-Chancellor/Director of Governance and Assurance (Secretary to Council) (as appropriate);

- 45.3.14.2 any reference to medical advice can include the University Occupational Health team and/or external advice;
- 45.3.14.3 for references to the responsible manager/line manager there shall be substituted reference to the office of Chair of Council;
- 45.3.14.4 for any references to the office of the Vice-Chancellor there shall be substituted a reference to the office of Chair of Council, and;
- 45.3.14.5 any appeal shall be determined in accordance with the provisions set out in this Ordinance and no regard shall be had to Ordinance 44: Appeals.

45.4 Review

- 45.4.1 As and when required, this Ordinance will be reviewed in accordance with the principles set out in Statute 7.

45.5 Associated practices

- 45.5.1 This Ordinance complies with relevant UK employment legislation. In addition, other relevant University of Kent People Practices include:

- Ordinance 36: Performance Improvement
- Ordinance 37: Ill Health
- Ordinance 38: Conduct
- Ordinance 39: Illegality and SOSR
- Ordinance 40: Redundancy
- Ordinance 41: Grievance Resolution
- Ordinance 42: Fixed Term Contracts

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