

TERMINATION OF EMPLOYMENT ON GROUNDS OF ILLEGALITY

Part I – Application and scope

1. This ordinance is designed to be used where the University is obliged to terminate the employment of a member of staff on grounds of illegality. It prescribes the procedures to be followed:

where the member of staff cannot continue to work in the position which he or she holds without contravention (either on his or her part or on that of the University) of a duty or restriction imposed by or under an enactment (“illegality”) (referred to in this ordinance as "illegality")

2. Nothing in this ordinance however shall preclude the University where in its absolute discretion it considers it appropriate to do so from seeking to resolve issues by informal means or by other processes rather than through use of this procedure and ordinance.

Part II - The Procedure

3. Where there are concerns that the member of staff may not be entitled to be employed on grounds of illegality the Director of Human Resources will arrange for an appropriate person (the Investigating Officer) to carry out such investigation as he or she may consider appropriate. This will include meeting the member of staff concerned and may include taking expert legal advice in appropriate cases.
4. If after the matter has been fully investigated, the Investigating Officer considers that there are no grounds to terminate employment, he or she will refer the matter to the Director of Human Resources or such person delegated to act with his/her authority with his/her recommendation to this effect. The Director of Human Resources shall then notify the member of staff in writing accordingly.
5. If the Investigating Officer considers that there may be grounds to dismiss the member of staff for illegality he or she will refer the matter to the Director of Human Resources with his/her recommendation that the member of staff should be dismissed or that the illegality should be rectified (if possible) or that other measures should be taken (if appropriate) to avoid the dismissal. The Director of Human Resources shall write to the member of staff, advise him/her that there appear to be grounds to justify the termination of the member of staff's employment, setting out the reasons for this conclusion, and request a formal meeting with the member of staff. The member of staff may be provided with copies of any relevant evidence in advance of the formal meeting.

6. The report of the Investigating Officer shall be made available to the member of staff and, if requested to do so either by the Director of Human Resources or by the member of staff, the Investigating Officer shall attend the formal meeting to explain his findings and proposals and to answer any relevant questions. The member of staff will be given the opportunity to state his or her case and raise any factors which he/she wishes to have considered.
7. Subject to the above, the conduct of the formal meeting and any adjournments will be at the discretion of the Director of Human Resources.
8. The decision of the Director of Human Resources may include (but will not be limited to) the following:
 - (i) that the member of staff should be dismissed on grounds of illegality, either in accordance with the terms of employment or summarily, in which case the employment of the member of staff will be terminated accordingly;
 - (ii) that there should be no dismissal at that stage and that the University in conjunction with the member of staff should make such amendments to the member of staff's terms and conditions of employment and/or adjustments to his/her role as are appropriate;
 - (iii) that there should be no dismissal at that stage but that the member of staff should take immediate steps to resolve the potential illegality. In appropriate cases the University will provide reasonable assistance. The member of staff must keep the Director of Human Resources informed as agreed.
9. The Director of Human Resources will write to the member of staff informing him/her of his/her decision and the reasons for it and will notify the member of staff of the right of appeal under this ordinance.

Part III - Appeal

10. The member of staff will have the right to appeal against any decision to terminate his or her employment under this ordinance. The grounds of appeal must be in writing and must be sent to the Registrar's office. Appeals shall be lodged and conducted in accordance with the University's ordinance for appeals.

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