

Ordinance 11.12 General Provisions Applicable to all Ordinances Under Statute 6

Part I – Application and Scope

1. The application and scope of the *Ordinances*¹ that follow derives from Statute 6, and should give effect to, and be consistent with, the guiding principles set out in Clause 2 of that Statute. Nothing in these Ordinances, however, shall preclude the University, where in its absolute discretion it considers it appropriate to do so, from seeking to resolve matters by informal means, or by other processes, rather than through use of these Ordinances.

Part II - General Provisions

2. At all stages of proceedings initiated under these Ordinances, the People Services Director or an appropriate member of the People Services staff should be consulted by the appropriate officer/head of the relevant organisational unit. He or she may attend any meeting or hearing.
3. Save as provided otherwise, members of staff who are the subject of a formal meeting or appeal hearing under the ordinances that follow have the right to be accompanied at such meeting or hearing by a certified trade union representative or work colleague reasonably chosen by the member of staff. There is no right to legal representation, except in specific exceptional cases (and only at the dismissal stage of proceedings) namely where:

¹ (1) Redundancy;

- (2) Non-renewal of fixed term contracts and redundancy by way of termination of specific fixed term funding streams;
- (3) Conduct and other substantial reasons for dismissal;
- (4) Capability and performance;
- (5) Incapacity on health grounds;
- (6) Termination of probationary appointments;
- (7) Termination on grounds of illegality;
- (8) Termination of non-substantive positions;
- (9) Staff grievances;
- (10) Appeals.

- i) it is a reasonable adjustment under the Equality Act 2010,
- ii) professional registration might be at risk (for example in the case of medicine or nursing),
- iii) when the employee is facing a simultaneous criminal charge.

This does not affect the right of an employee to be represented by a trades union or workplace representative if that representative is legally qualified.

The member of staff's chosen companion can act as a witness, take a note of the proceedings, address the meeting/hearing and confer with the member of staff but may not answer questions on his/her behalf. It is recognised however, that if a companion is attending under clause 3 (i) above there may be a requirement for them to speak on behalf of the employee, if this is a requirement then it should be raised with the relevant People Services representative. It is the member of staff's responsibility to ensure that his or her chosen companion is willing to act and is available to attend the meeting. If the member of staff's chosen companion is unavailable on the proposed date of the meeting/appeal hearing, the meeting/appeal hearing may be postponed by up to five working days at the member of staff's request and subject to the member of staff proposing an alternative time and date within five working days of the original date or otherwise by mutual agreement.

- 4. All stages of proceedings initiated under these ordinances, all notices and/or all meetings and/or steps should be held, given and/or taken (as appropriate) as soon as possible normally within 25 working days depending on the particular circumstances unless otherwise stated in individual Ordinances or varied by mutual agreement.

“Without prejudice and subject to contract” discussions.

- 6. Section 111A of the Employment Rights Act 1996 allows for “without prejudice and subject to contract” discussions to take place in order to negotiate Settlement Agreements between the University and the employee as a way to avoid lengthy formal processes.
- 7. Such discussions and subsequent agreements can be used to bring an employment relationship to an end in a mutually agreed way, in situations where the University and the employee feel that their employment relationship is no longer working and a ‘clean break’ is the best way forward. Such discussions can also be used to reach an agreed and final conclusion to a workplace dispute or issue which does not result in an end to the employment relationship but a mutually agreed position between the parties.
- 8. In such circumstances and where such discussions are in the interests of the University, the Chief Operating Officer is accountable to the Chair of Council for the conduct of all

such "without prejudice and subject to contract" discussions, and any subsequent settlement agreements reached.

Part III - Definitions

9. "Academic Staff", as set out in Clause 3(iii) of the Statute are defined as those members of staff on Grades 7 to 11 of Swansea University's Staff Grading Scheme.

Part IV – Changes

10. No proposal for a change to any Ordinance under statute 6 or to statute 6 shall be put to Council without a prior meaningful consultation with relevant representatives of the trades unions. Should Council approve any proposed change to an Ordinance, then such change shall not be implemented for a period 28 days from the date of the meeting of Council.