

# LONDON SCHOOL OF HYGIENE AND TROPICAL MEDICINE

## POLICY AND PROCEDURES ON DISCIPLINE AND PERFORMANCE

### INTRODUCTION

#### Scope

1. This policy is passed by the School's Board of Management ("the Board") as a bye-law in accordance with Article 9 of the School's Charter of Incorporation ("the Charter") and the University Commissioners (Statute Modifications) (London School of Hygiene and Tropical Medicine) Order 1993 (Statutory Instrument 1993/1008) ("the Order"). This policy may be amended from time to time by the Board, provided that no such amendments shall be inconsistent with the provisions of the Charter or the Order.

2. The School's policy on discipline and performance and the procedures set out below apply to Academic Staff and not to other employees. For these purposes Academic Staff shall include:

- Professors, Readers Senior Lecturers and Lecturers
- Research fellows, research assistants and other staff holding academic related posts, being posts recognised by the School's Board of Management "the Board" for the purposes of this policy.
- Secretary & Registrar
- the Director, to the extent and in the manner set out in the Annex to the Statute in force as a result of the University commissioners (Statute Modifications) (London School of Hygiene and Tropical Medicine) Order 1993 (Statutory Instrument 1993/1008 ("the Statute").

3. This policy shall not apply to the termination of the contracts of employment of Academic Staff by notice, or otherwise, during their probation period or upon the expiry of the probation period.

#### Policy principles

- 4.
- The School's aim is to encourage high standards of individual conduct, attendance and job performance. The same procedure will be followed for disciplinary matters and poor performance although the timescale and outcome may be different.
  - The main objective of instigating the procedure of poor performance is corrective rather than punitive, with the aim of assisting the employee to achieve and maintain the required standards of performance.
  - No disciplinary action will be taken until the matter has been fully investigated.
  - At every stage employees will have an opportunity to hear the case against

them, state their case and (with the exception of Stage 1) be accompanied by a fellow employee (who may also be a trade union or employee representative).

- Employees have the right to appeal against dismissal or other formal disciplinary action in the manner provided below.
- The procedure may be implemented at any stage if the employee's conduct or performance warrants it.

5. This policy is intended:

- to ensure that Academic Staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;
- to enable the School to provide education, promote learning and engage in research efficiently and economically;
- to apply the principles of justice and fairness.

## **THE PROCEDURE**

### **Stage 1 - oral warning**

6. If conduct or performance does not meet acceptable standards the employee will be interviewed as soon as possible by their immediate manager. The employee will be told why the interview is necessary and will be entitled to state their case. If appropriate, the employee will be given a formal oral warning that continued or repeated misconduct or poor performance may result in further disciplinary action, including, in extreme cases, dismissal. A note of the warning will be placed on the employee's personal file but will be disregarded for disciplinary purposes after twelve months subject to satisfactory conduct and performance. The manager will inform the employee of the right to appeal.

### **Stage 2 - written warning**

7. If the offence is a serious one or if misconduct or poor performance continues or is repeated or there is a further offence of a different nature, the employee will be interviewed by the Head of the Faculty or by another manager authorised by the Head of Faculty. The nature of the School's complaint against him/her will be explained in full. The employee will be entitled to state their case. If the manager believes it to be justified the employee will be given a written warning that if their performance or conduct does not improve during the period specified in the warning they may be dismissed. A copy of this warning will be placed on the employee's personal file but will be disregarded for disciplinary purposes after two years subject to satisfactory conduct and performance. The manager will inform the employee of the right to appeal.

## **Appeals**

8. If an employee who has received a warning under Stage 1 or Stage 2 feels that he/she has been unjustly disciplined they may appeal to the Secretary & Registrar within two

weeks of the warning, giving the grounds for the appeal. The Director, or where the Director is also the Head of Faculty, the Chair of the Board, will hear all appeals and his/her decision will be final. The appeal will involve a review of the relevant documentation including the employee's grounds for appeal and the employee will be given an opportunity to be heard in person on those grounds. At the appeal any disciplinary penalty imposed will be reviewed but it cannot be increased. Otherwise, the form of proceedings at the appeal will be at the discretion of the person hearing the appeal.

9. The outcome of the appeal will be relayed in writing as soon as practicable after the appeal has been held.

### **Preliminary examination of serious disciplinary matters**

10. If:

10.1 there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure; or

10.2 it is alleged that conduct or performance may constitute Gross Misconduct

a complaint may be made to the Secretary & Registrar who shall bring it to the attention of the Director.

11. To enable the Director to deal fairly with any complaint brought to his or her attention under paragraph 10 he or she shall institute such investigations or enquiries (if any) as appear to him or her to be necessary.

12. If it appears to the Director that a complaint brought to his or her attention under paragraph 10:

12.1 relates to conduct or performance which does not meet acceptable standards but for which no written warning has previously been given; or

12.2 relates to conduct or performance which relates to a particular alleged infringement of rules, regulations or bye-laws for which a standard penalty is normally imposed; or

12.3 is trivial or invalid

he or she may dismiss it summarily, or refer it for consideration under 1 or 2.

13. If the Director does not dispose of a complaint under paragraph 12 he or she shall treat the complaint as disclosing a sufficient reason for proceeding further and, if he or she sees fit, may suspend the employee on full pay pending a final decision.

14. Where the Director proceeds further he or she shall write to the employee inviting comment in writing.

15. Following receipt of the comments of the employee (if any) the Director shall consider the matter in the light of all the material then available and may:-

15.1 dismiss it himself or herself; or

15.2 refer it for consideration under Stages 1 and 2;

15.3 deal with it informally if it appears to the Director appropriate to do so and if the employee agrees in writing that the matter should be dealt with in that way; or

15.4 direct the Secretary & Registrar to refer the allegation to a Tribunal to be appointed under paragraph 19.

16. If no comment is received within 28 days the Director may proceed as if the employee had denied the allegation in its entirety.

### **Institution of a Tribunal hearing**

17. In any case where the Director has directed the allegation shall be referred to a Tribunal, he or she shall request the Board to appoint a Tribunal under paragraph 19 to conduct a hearing and determine whether the conduct or performance of the employee constitutes Gross Misconduct or otherwise constitutes a serious complaint relating to the employee's appointment or employment.

18. Where the Board has been requested to appoint a Tribunal under paragraph 19 the Secretary & Registrar or, if he or she is unable to act, another officer appointed by the Director shall;

18.1 formulate, or arrange for the formulation of, the allegation and shall present, or arrange for the presentation of, the allegation before the Tribunal.

18.2 forward the allegation to the tribunal and to the employee together with any relevant documents; and

18.3 make any necessary administrative arrangements for the calling of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.

### **The Tribunal**

19. A Tribunal appointed by the Board shall comprise;

19.1 a Chair;

19.2 a member of the Board, not being a person employed by the School; and

19.3 one member of the academic staff nominated by the School Council;

provided that in any case where the employee is an Appointed Teacher of the University, the Tribunal shall include, in addition to the members referred to under sub-paragraphs 19.2 and 19.3, two members nominated by the University, not being persons employed by the School.

### **Provisions concerning Tribunal procedure**

20. The employee is entitled to be represented by another person whether such person be legally qualified or not, in connection with and at any hearing of allegations by a Tribunal.

21. An allegation shall not be determined without an oral hearing at which the employee and any person appointed by him or her to represent him or her are entitled to be present.

22. The employee and any person representing him or her may call witnesses and may question witnesses upon the evidence on which the case against him or her is based.
23. Full and sufficient provision shall be made for postponements, adjournments, dismissal of the allegations, remission of the allegation to the Director for further consideration and for the correction of accidental errors.
24. Full and sufficient provision shall be made for appropriate time limits for each stage (including the hearing) to the intent that any allegation shall be heard and determined by a Tribunal as soon as reasonably practicable.
25. The Chair of the Tribunal shall ensure that the requirements of paragraphs 20 to 24 have been followed, and will make any further requirements he/she decides are appropriate, provided such requirements are consistent with paragraphs 20 to 24 and the Order.

### **Notification of Tribunal decisions**

26. A Tribunal shall send its decision on any allegation referred to it (together with its findings of fact and the reasons for its decision regarding that allegation and its recommendations, if any, as to the appropriate disciplinary action) to the Director and to each party to the proceedings. A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of the Appeals procedure set out below accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

### **Appropriate Officer**

27. The Appropriate Officer for the purpose of paragraphs 28 to 30 shall be the Director or any person acting on his or her behalf. Any action taken by the Appropriate Officer shall be confirmed in writing.

### **Powers of the Appropriate Officer**

28. Where the allegation is upheld and the Tribunal recommends dismissal or removal from office, but in no other case, the Appropriate Officer shall decide whether or not to dismiss the employee.
29. In any case where the allegation is upheld, and the Appropriate Officer has decided not to dismiss the employee, the Appropriate Officer may take the following action, provided the action taken does not amount to greater disciplinary action than that recommended by the Tribunal:
- 29.1 to discuss the issues raised with the employee; or
  - 29.2 to advise the employee about his or her future conduct; or
  - 29.3 to warn the employee; or
  - 29.4 to suspend the employee for such period as the Appropriate Officer shall think fair and reasonable, not to exceed three months after the Tribunal's decision; or
  - 29.5 any combination of any of the above or such further or other action under the

employee's contract or terms of appointment as appears fair and reasonable in all the circumstances of the case.

30. Where the Appropriate Officer has decided to dismiss an employee who is an Appointed Teacher of the University, the Appropriate Officer shall inform the Vice-Chancellor of the university so that, subject to the outcome of any appeal made by the member of the academic staff under the procedure below, the University may withdraw from the Teacher the status or title of Professor or Reader of the University.

## **Gross Misconduct**

31. For the purposes of this Policy, Gross Misconduct is related to conduct or to capability or qualifications for performing work of the kind which the employee was appointed or employed to do, and means:

31.1 conviction for an offence which may be deemed by a Tribunal appointed under paragraph 19 to be such as to render the person convicted unfit for the execution of the duties of the office or employment as a member of the academic staff; or

31.2 conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment, including (but not limited to):

- theft, fraud or deliberate falsification of records
- fighting or assault on another person
- deliberate damage to the School's property
- serious incapability through alcohol or being under the influence of illegal drugs or other proscribed substances
- sexual, racial or disability discrimination (including harassment or bullying) of another employee, officer, student of the School, or any other third party to whom the School may owe a duty to prevent such discrimination;
- conduct bringing, or likely to bring, the School into disrepute.

31.3 conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office, including (but not limited to):-

- breach of confidentiality
- serious negligence which causes unacceptable loss, damage or injury.
- serious act of insubordination.

32. In paragraph 31:

32.1 "capability", in relation to an employee, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and

32.2 "qualifications", in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by that employee.

## **Appeals against decisions of the Appropriate Officer**

33. This Appeal procedure applies to appeals arising in any proceedings, or out of any decision reached by the Appropriate Officer under paragraph 29.

34. No appeal shall however lie against the findings of fact of a Tribunal under paragraph 26 save when, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing.

35. An employee who is the subject of a decision made by the Appropriate Officer under paragraph 29 shall institute an appeal by serving on the Secretary & Registrar, within 28 days of the decision being sent to him or her, notice in writing setting out the grounds of appeal.

36. The Secretary & Registrar shall bring any notice of appeal received (and the date when it was served) to the attention of the Board and shall inform the appellant that he or she has done so.

37. Where an appeal is instituted the Board shall appoint a person not employed by the School holding, or having held, judicial office or being a barrister or a solicitor of at least ten years' standing ("the Appeal Chair"). The Appeal Chair shall sit alone unless:

37.1 he or she considers that justice and fairness will best be served by sitting with two other persons; or

37.2 the appeal is against a decision taken under paragraph 24 to dismiss an employee who is an Appointed Teacher of the University.

38. If the Appeal Chair will not be sitting alone he or she shall sit with a member of the Board not being a person employed by the School and a member of the academic staff nominated by the School Council. If sub-paragraph 37.2 applies, the Appeal Chair shall also sit with two persons nominated by the University not being persons employed by the School.

39. Where notice was served by the employee outside the 28 day period required, the Appeal Chair will only allow the appeal to proceed if he or she considers that justice and fairness so require the appeal to be heard.

## **Appeal Procedure**

40. An appellant is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of his or her appeal.

41. An appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by him or her to represent him or her are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses.

42. Full and sufficient provision is made for postponements, adjournments, dismissal of the appeal and for the correction of accidental errors.

43. The Appeal Chair may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as soon as reasonably practicable.

44. The Appeal Chair shall ensure that the requirements of paragraphs 40 to 43 are

followed and shall make any further requirements he/she decides are appropriate, provided such requirements are consistent with paragraphs 40 to 43 above and the Order.

45. The person or persons hearing the appeal may allow or dismiss an appeal in whole or in part or remit an appeal for re-hearing by a differently constituted Tribunal.

#### **Redundancy and/or Incapability**

46. This policy does not restrict the powers of the School to dismiss members of the academic staff on the grounds of redundancy and/or incapability in accordance with the provisions of the Statute.

47. This procedure may be varied from time to time by the Board of Management.