1. Introduction

1.1 The purpose of this code is to set out clear and fair procedures to be followed in cases where action may be taken under paragraph 13 or 14 of Statute XXIV ("the Statute").

1.2 These rules are supplementary and subservient to the Statute and its related Ordinances and in the case of conflict, the Statute and/or Ordinance will prevail.

1.3 A minor deviation from the procedures set out in this code shall not invalidate any decision or disciplinary action taken provided such deviation does not cause unfairness to the member of staff.

1.4 Nothing in this code prevents or is designed to discourage informal contact or discussions between any of the parties and the member of staff either before or after disciplinary proceedings. The fact of or content of any discussions will not be used as evidence in any subsequent proceedings. This code does not however require such informal discussions to take place.

1.5 These procedures shall be applied by the Conducting Officer without undue delay or undue haste so as to avoid the unfairness to the Member of Staff which could result in either case.

2. General Provisions

2.1 No steps will be taken under paragraphs 13 or 14 of the Statute without there first being an investigation by the person conducting the disciplinary process under the Statute (the “Conducting Officer”).

2.2 The investigation shall consist of the Conducting Officer receiving information regarding the complaint(s) against the Member of Staff. It will be a matter for the Conducting Officer to decide the extent of the investigation but s/he must be satisfied that there is both substance to the complaint and the proceeding with a disciplinary interview with the Member of Staff is warranted.

2.3 In this code “the Conducting Officer” means a person who may be or is conducting disciplinary proceedings under the Statute on behalf of the University such person being the Dean, Secretary & Registrar, Librarian or other senior member of staff designated for the purpose by the Vice-Chancellor; “the Member of Staff” means any member of staff to whom disciplinary proceedings may be or are being applied under the Statute; and “the complaint” means any matters coming to the attention of the Conducting Officer which might justify the application of disciplinary proceedings under the Statute.

2.4 In the event that the Secretary & Registrar shall be the Conducting Officer under Paragraph 13(2), Stage 2 of the Statute s/he shall not act under Stage 3 or
Paragraphs 14 and 15 of the Statute, and another member of staff shall be designated by the Vice-Chancellor to act.

3. Disciplinary Proceedings

3.1 If having completed the investigation the Conducting Officer is satisfied that there is substance to the complaint and that it is appropriate to do so the Conducting Officer shall institute disciplinary proceedings by notifying the Member of Staff in writing:

a) of the nature of the complaint, including reasonable details of the complaint and of the results of the investigation, and of the specific express or implied contractual requirements which the Member of Staff is alleged to have breached,

b) that a disciplinary hearing is to be held to determine whether the Member of Staff should be subject to any of the disciplinary measures set out in Paragraph 13 of the Statute,

c) of the date and time of the proposed disciplinary hearing, which shall be reasonable to the Member of Staff in all the circumstances,

d) of the right of the Member of Staff to have a representative (being another member of staff or trade union representative) present at the hearing.

3.2 In cases where the complaint is supported by documents such as written statements, minutes, records, correspondence, internal memoranda, medical reports, etc copies of such documents shall be supplied to the Member of Staff reasonably in advance of the disciplinary hearing.

3.3 The following procedures shall apply to the disciplinary hearing:

a) At the disciplinary hearing the Member of Staff may be assisted by a representative, being another member of staff and/or trade union representative.

b) The Conducting Officer shall ensure that notes are taken during the hearing and minutes based on those notes shall be provided to the Member of Staff after the hearing.

c) The Conducting Officer shall put the complaint and all allegation(s), and facts surrounding the allegations, to the Member of Staff. The Conducting Officer may produce documents, signed statements or witnesses in support of the complaint, but in any event shall inform the Member of Staff of all information, facts and allegations, whether produced at the hearing or not, upon which the Conducting Officer intends to form an opinion as to whether the complaint is to be upheld.

d) The Member of Staff and/or his representative will have the opportunity to question any witnesses and to put forward written statements and other evidence and/or witnesses and to answer the complaint(s).
e) The Conducting Officer may at any time adjourn the hearing to another time and/or date/s providing that such adjournment is not unfair to the Member of Staff, and shall not unreasonably refuse any application for an adjournment made by the Member of Staff.

3.4 At the conclusion of the disciplinary hearing (or adjourned disciplinary hearing(s)) the Conducting Officer may orally inform the Member of Staff of the decision. As soon as practicable thereafter, the Conducting Officer shall, in writing:

a) notify the Member of staff of the decision as to whether the complaint has been upheld and, if so, whether the complaint as upheld is:

i) a minor fault to be dealt with informally
ii) a more serious matter to be dealt with by oral warning
iii) a serious offence to be dealt with by written warning;

b) explain to the Member of Staff the reasons for reaching that decision, and in so doing the Conducting Officer need not rehearse the facts, evidence or submissions on behalf of either the University or the Member of Staff but will give sufficient details so as to enable the Member of Staff to know the basis upon which the decision was made.

4. Disciplinary Appeals – Paragraph 13(2), Stage 3

4.1 Notification of the wish to appeal shall be made in writing.

4.2 The procedures set out in Paragraphs 3.2-3.4 above shall apply to the appeal process.

Note
Retyped without amendment 10/1/2008 except the addition of a footer description and page numbering.
Original date not readily to hand but KRG confirms that this remains current.
Updated 04/10/2010 to refer to new Statute numbering.
The following points should be kept in mind when conducting internal disciplinary procedures:

1. The Conducting Officer must be satisfied that there is sufficient substance to the complaint to justify formal disciplinary proceedings. Sometimes, the Conducting Officer will not be able to form a final view on the substance of a complaint without giving the Member of Staff an opportunity to respond. In those circumstances the Member of Staff should be informed that although a complaint has been raised and may lead to disciplinary proceedings, the Conducting Officer has not yet decided whether disciplinary proceedings are justified.

The Conducting Officer will have to rely on the comments and documentation of others but these should be examined critically and if there are ways of checking or verifying statements or allegations, these should be considered.

As well as being satisfied as to the substance of the complaint the Conducting Officer should also consider whether disciplinary action is appropriate. The Conducting Officer may for example conclude that although having substance the complaint would only be upheld as a minor fault, and that it might be appropriate to apply an informal warning rather than instituting disciplinary proceedings which appear likely to lead to the same outcome being applied.

2. The burden of proof is not that of a criminal court. The employer must simply act reasonably and fairly in forming a view (after the member of staff has had an opportunity to put their case) which must be based upon reasonable grounds.

3. If there is a complaint about conduct or performance, it is important to first identify the contractual requirements of the post which the member of staff has failed to achieve or follow. This will help to focus upon the substance behind the complaint(s).

4. Whilst the investigation and determination of the complaint should be thorough and fair, the member of staff has the right to have the complaint determined without undue delay. Care should therefore be taken to avoid the process becoming lengthy and protracted.

5. The results of the Conducting Officer’s investigation must be put to the member of staff concerned. The member of staff should be called to the disciplinary meeting with reasonable notice and s/he should be aware of the nature of the meeting and the nature of the allegation in reasonable detail. The notice of the meeting should be given in writing.

6. All facts which might influence the eventual outcome of the disciplinary process should be put to the employee. This obligation commonly raises difficult considerations in terms of achieving fairness but avoiding an overly legalistic hearing, which is inappropriate in a workplace environment.
7. Every case will differ but the evidence required in most cases will be one or more of the following:

(a) Written statements from witnesses, preferably signed by them.
(b) Meetings with witnesses conducted by the investigating officer and a record of that meeting kept in writing.
(c) Correspondence and internal memoranda.
(d) Medical Reports (if appropriate).
(e) Live witnesses called at the disciplinary interview with the member of staff concerned present.

8. As a general rule, it is not necessary for witnesses to be made available for cross-examination by the member of staff concerned or his/her representative but if live witnesses are not called, their evidence should be explained in detail to the member of staff concerned so the member of staff can answer the allegations. Thus, if a witness’ evidence is in writing, the written statement should normally be made available to the member of staff concerned prior to the disciplinary meeting or, as a minimum, summarised to the member of staff in a sufficiently detailed and accurate manner that enables the member of staff properly to deal with the allegation.

9. It is good practice to keep a reasonably detailed note of the meeting. These notes would be discoverable in any proceedings so it is preferable to have the notes typed up as minutes and approved by those present at the meeting as soon as possible afterwards.

10. In notifying the member of staff of the decision, it is fair and reasonable to give a brief explanation of why the decision has been reached so that the employee knows the basis of the decision. The explanation need not be a detailed rehearsal of evidence and argument.

Note
Retyped without amendment 10/1/2008 except the addition of a footer description and page numbering.
Original date not readily to hand but KRG confirms that this remains current.
Updated 04/10/2010 to refer to new Statute numbering.