

UNIVERSITIES ACT, 1997

UNIVERSITY OF LIMERICK

STATUTE NO. 4

**Approved by Governing Authority
26 November 2002**

UNIVERSITIES ACT, 1997

UNIVERSITY OF LIMERICK

We, the governing authority of the University of Limerick ("the University") by virtue of the powers in that behalf conferred on us by the above Act, do by this present instrument under the seal of the University make the Statute contained in the Schedule hereof for the general government of the said University.

Given under the Common Seal of the University this day of 2002

Present when the Common Seal of the University was affixed hereto:

(Signed)

Chancellor

(Signed)

President

(Signed)

**Vice President, Administration
& Secretary**

SCHEDULE

STATUTE NO. 4

STATUTE ON EMPLOYEE DISCIPLINARY MATTERS AND TERMINATION OF EMPLOYMENT

Section I

1. Introduction

The disciplinary procedures set out in this Statute apply to all employees of the University of Limerick and govern all disciplinary issues relating to such employees. This Statute shall not be used to effect changes in terms and conditions of employment.

2. Tenure of Officers

Subject to the satisfactory completion of any probationary period provided for in an officer's contract of employment, an officer shall have tenure and these statutes shall be construed accordingly. Relevant employees of the University shall not be deemed to have acquired tenure prior to successful completion of their probationary period.

Officers may be dismissed if it is proved that they do not possess qualifications which they claimed to possess prior to appointment.

3. Non-Disciplinary Terminations

Other than in circumstances warranting dismissal with or without notice, the employment of an employee of the University shall terminate in accordance with the terms of his or her contract of employment, whether expressed or implied.

4. Termination during or at conclusion of Probationary Period

An employee's employment may be terminated by the University at any time during or at the conclusion of any probationary period provided for in the employee's contract of employment in accordance with law.

5. Grounds for Discipline, Suspension or Dismissal

Employees may be disciplined by a warning or warnings, by suspension without pay, by dismissal or by any other form of sanction considered appropriate by the University. Examples of matters which may result in disciplinary proceedings being taken by the University against an employee include, but are not limited to:

- (i) Incompetence or unsatisfactory work performance;
- (ii) Gross or persistent misconduct;
- (iii) Poor attendance record.

In respect of dismissal for disciplinary reasons, and subject to 4 above, an employee may be dismissed from his/her post in the University where there are substantial grounds justifying the dismissal.

6. Discipline of Employees who are Members of Governing Authority

Before any disciplinary investigation is initiated against a person who is a Governor, the Chief Officer shall advise the Chancellor of the University of the proposed investigation. The Chancellor shall be satisfied, before the investigation can proceed, that it has not been occasioned by the legitimate activity of the employee in his or her capacity as a member of the Governing Authority. University disciplinary procedures as set out in this Statute must be strictly followed. The Governing Authority is the final appellate body in such matters.

7. Delegation of Disciplinary Functions to the Chief Officer

The Governing Authority shall devolve responsibility for all functions under this Statute to the Chief Officer and the Chief Officer may delegate authority to other employees of the University as appropriate, save in respect of the functions of the Governing Authority in relation to the Appeals Procedure as set down in this Statute and where the Chief Officer is the subject of disciplinary proceedings.

Section II

Disciplinary Process

1. **Counselling Prior to the Instigation of Disciplinary Procedures**

The emphasis in operating the disciplinary procedures in this Section of the Statute is, in the first instance, to assist an employee in improving his or her performance or conduct. In the event of an employee's performance or conduct falling below acceptable levels, the employee will be counselled on the issue and any views the employee may have will be taken into account prior to the initiation of any formal disciplinary action. Every effort will be made to resolve the issue at this stage and should additional training or other management action be necessary, these will be addressed by the University.

2. **Disciplinary Procedures**

Where, in the opinion of the University, an employee's performance or conduct warrants disciplinary action, the procedures contained in this Section will apply, except in respect of gross misconduct, or in respect of allegations which, in the opinion of the University, would, if substantiated, constitute gross misconduct. In such circumstances the procedure contained in Section III will apply.

Stage 1 - First Formal Verbal Warning

Should a matter arise which, in the opinion of the University, warrants disciplinary action, the employee will be given a first verbal warning by the University and the warning will be recorded in the employee's personnel record. The employee shall be advised in writing that this is a first verbal warning and constitutes the first stage of the Disciplinary Procedures as set out in the Statute. The employee will be advised in writing by the University of any areas of his or her performance or conduct which require improvement, and that failure to improve such performance or conduct may give rise to further disciplinary action

Stage 2 – Second Formal Verbal Warning

Should a further matter arise which, in the opinion of the University, warrants disciplinary action, the employee will be given a second verbal warning by the University and the warning will be recorded in the employee's personnel record. The employee shall be advised in writing that this is a second verbal warning and constitutes the second stage of the Disciplinary Procedures as set out in the Statute. The employee will be advised in writing by the University of any areas of his or her performance or conduct which require improvement, and that failure to improve such performance or conduct may give rise to further disciplinary action

Stage 3 – First Written Warning

Should a further matter arise which, in the opinion of the University, warrants disciplinary action, the employee will be issued with a formal written warning by the University and a copy shall be placed on the employee's personnel record. The employee shall be advised in writing that this is a first written warning and constitutes the third stage of the Disciplinary Procedures as set out in the Statute. The employee will be advised in writing by the University of any areas of his or her performance or conduct which require improvement, and that failure to improve such performance or conduct may give rise to further disciplinary action

Stage 4 – Final Written Warning

Should a further matter arise which, in the opinion of the University, warrants disciplinary action, the employee will be given a final formal written warning by the University. A copy of this warning will be placed on the employee's personnel record and the employee shall be advised in writing that this is a final written warning and constitutes the fourth stage of the Disciplinary Procedures as set out in the Statute. The employee will be advised in writing by the University of any areas of his or her performance or conduct which require improvement, and that failure to improve such performance or conduct may give rise to further disciplinary action.

The employee will also be advised that this is a final written warning and that should a further matter arise which, in the opinion of the University, warrants disciplinary action the employee may be dismissed by the University from his or her post in the University.

Stage 5: Suspension, Transfer, Demotion, Dismissal

If, following a final written warning, a further matter arises which, in the opinion of the University, warrants disciplinary action, the University will decide on the appropriate action in the circumstances. In reaching a decision in relation to this matter, the University will also take account of any other matters which it considers relevant. These matters will include:

- (a) any mitigating circumstances; and
- (b) the employee's employment record.

Where it is decided that a penalty is appropriate, such penalty may include, but will not be limited to, one or more of the following sanctions:

- dismissal
- suspension without pay
- demotion
- transfer to other duties.

Notification of disciplinary action to the employee shall be made in accordance with Section III (6) of this Statute. Where the decision has been taken to dismiss the employee the University may make a payment in lieu of notice to the employee

3. Disciplinary Procedures: General Provisions

1. Any warning or suspension recorded, or copy warning placed on an employee's personnel record (all or any of which are hereafter referred to as a "disciplinary record") will have effect for a period of 12 months immediately following the date of the warning or, as the case may be, of the cessation of the suspension and shall, save as hereafter set out, be deemed to be spent at the expiration of the said period of 12 months. Such disciplinary record will be removed from an employee's personnel record after a three year period except:

- (i) in circumstances where the matter giving rise to the establishment of the disciplinary record, warrants, in the view of the University, that the disciplinary record should not be disregarded for future disciplinary purposes; in such case the disciplinary record will state that such record will not be disregarded for such purposes and the employee will be advised accordingly, or
- (ii) in circumstances where three or more disciplinary records have been recorded or placed on the employee's personnel record, whether or not under the foregoing provisions such records would otherwise have been considered to be spent or removed from the employee's personnel record, and a further matter arises which, in the opinion of the University, warrants disciplinary action, such further matter may, if the University considers it appropriate, be dealt with as though any or all of the earlier disciplinary record was not spent. The employee will be advised accordingly.

Subject as aforesaid, where a disciplinary record is deemed to be spent, without the relevant employee being the subject of further disciplinary proceedings before the date the record is spent, and thereafter a further matter arises which, in the opinion of the University, warrants disciplinary action, such further matter will be dealt with as though any relevant warning had not been issued or any relevant suspension had not been made.

2. Disciplinary action will be applied progressively. However there may be occasions when a form of misconduct, in the opinion of the University, is sufficiently serious to warrant the process to be invoked up to the final written warning.

4. Standards Applicable to Procedures under Section II

In connection with the procedures at 2 and 3 above:

- (a) In respect of any allegation against an employee of performance or conduct which warrants disciplinary action under this Statute, the University will, except in circumstances where the employee admits the performance or conduct in question, carry out an investigation into the matter which, in the opinion of the University, requires investigation and the employee will, if requested by the University, cooperate fully with any such investigation. Any such investigation by the University will be carried out promptly after receipt of the allegation of misconduct and in accordance with the principles of natural and constitutional justice.
- (b) The employee will be informed in writing of all allegations made against him or her and will be given an opportunity of stating his or her case before a decision is made; and
- (c) The employee will have the right to be accompanied by up to two representatives of his or her choice at any meeting between the University and the employee. The employee shall advise the University of any such representation in advance of any meeting between the University and the employee.
- (d) Human Resources will advise on the Disciplinary Process and will participate in disciplinary meetings as required.

Section III

Gross Misconduct

1. Summary Suspension

Where, in the opinion of the University, an employee's conduct may constitute gross misconduct, the employee may be summarily suspended with pay by the University from his or her post in the University to facilitate an investigation into the alleged misconduct.

2. Examples of Gross Misconduct include, inter alia:

- Assault
- Theft
- Wilful damage to the University property

3. Investigation of Gross Misconduct

In respect of any allegation of gross misconduct against an employee, the University will, except in circumstances where the employee admits such gross misconduct, carry out an investigation into any matter which, in the opinion of the University, requires investigation promptly after receipt of the said allegation. The employee against whom an allegation is made may be suspended with pay by the University on such terms as the University considers appropriate, and for such period as appears to the University to be reasonable in the circumstances. The employee will, if requested by the University, cooperate fully with any investigation.

4. Standards Applicable to Procedures under Section III

The University will determine all matters relating to the procedure to be adopted in the course of the investigation. However, as part of that procedure, the University will adhere to the following arrangements:

- (a) Investigations by the University will be carried out promptly after receipt of an allegation of gross misconduct and in accordance with the principles of natural and constitutional justice.
- (b) The employee will, at an early stage, be informed in writing of an allegation of gross misconduct made against him/her.
- (c) The employee will be entitled to attend the hearing considering the alleged gross misconduct and will be advised of his/her right to representation by up to two representatives of his or her choice at any such hearing. The employee shall advise the University of any such representation in advance of any meeting between the University and the employee.

- (d) The employee will have the right to invite a person or persons who have relevant knowledge of the matter under investigation to speak at the hearing. If the employee decides to do so, the University will have the right to question any such person(s). The employee has the right to question the person(s) making the allegation against him or her.
- (e) The University will impartially hear the employee's response to the allegation and the employee will be afforded the opportunity of having his or her case fully heard and given due consideration.

5. Decision

Following the procedure outlined above, the University will decide to what extent, if any, it should take action appropriate in the circumstances. In reaching a decision in relation to this matter, the University will also take account of any other matters which it considers relevant. These matters will include:

- (a) any mitigating circumstances; and
- (b) the employee's employment record.

Where it is decided that a penalty is appropriate, such penalty may include, but will not be limited to, one or more of the following sanctions:

- dismissal
- suspension without pay
- demotion
- transfer to other duties.

6. Notification

The University will advise the employee in writing of the outcome of the procedure outlined above including any decision to impose a penalty. Where a decision has been reached to impose a penalty, the University will impose such penalty and notify the employee by letter addressed to the employee. Where the penalty is dismissal of the employee, the University shall notify the employee of such decision by registered mail. The University will defer implementation of the decision to dismiss, in order to allow the employee an opportunity to appeal the decision in accordance with the procedure outlined in Section IV of this Statute. Pending the Appeal the University may initiate or continue a suspension.

If there is no appeal pending against the decision to impose the penalty imposed by the University, then in accordance with the time limit laid down in Section IV, on the expiration of four weeks after the notification of the penalty, the penalty imposed will be deemed applicable. Where the employee withdraws the Appeal or is, in the opinion of the University, responsible for the discontinuance of the appeal process, the University will implement the disciplinary action.

Section IV

Appeal Procedure

1. Notification of Appeal

An employee may appeal against any disciplinary action to impose a Verbal or Written Warning up to and including a Final Written Warning to the next level of management provided that such appeal is submitted within ten (10) working days from the date of the disciplinary action being taken.

An employee may appeal to the Governing Authority against a decision to impose a penalty pursuant to the provisions contained in Sections II (Stage 5) and III (5). In order for an appeal to be heard, written notification of the employee's appeal, specifying the grounds of appeal, must be received by the Secretary to the Governing Authority not later than four weeks from the date of receipt by the employee of the notification of the penalty to be imposed.

2. Appointment of Appeals Committee

Appeals to the Governing Authority will be heard by a five person sub-committee of members of the Governing Authority appointed by the Governing Authority called the Appeals Committee. Such Committee shall not comprise staff or students of the University who are members of the Governing Authority. However, employees who are members of the Governing Authority and other employees will have the right to make any representations to the Committee they see fit.

3. Access by Appeals Committee

In conducting the appeal, the Appeals Committee will have access to all relevant material relating to the investigation.

4. Standards Applicable to Procedures under Section IV

The Appeals Committee will determine all matters relating to the procedure to be adopted in the course of the appeal. However, as part of that procedure, the Appeals Committee will adhere to the following arrangements:

- (a) The employee will be entitled to attend at any appeal hearing and will be advised of his/her right to representation by up to two representatives of his or her choice at such hearing. The employee shall advise the Appeals Committee of any such representation in advance of any meeting between the Appeals Committee and the employee.
- (b) The employee will have the right to invite a person or persons with relevant knowledge of the matter under investigation to speak at any appeal hearing. If the employee decides to do so, the University will have the right to question any such person(s).

- (c) The University will have the right to invite a person or persons with relevant knowledge of the matter under investigation to speak at any appeal hearing in connection with the employee's grounds of appeal. If the University decides to invite such persons, the employee will have the right to question any such person(s).
- (d) The Appeals Committee will impartially conduct the appeal within guidelines and processes set down by the Appeals Committee, and the employee will be afforded the opportunity of having his or her grounds of appeal fully heard and given due consideration.

5. Recommendation of Appeals Committee

Having heard the appeal, the Appeals Committee will decide, and will advise the Chief Officer by means of a reasoned report, whether:

- (a) The appeal has been upheld; or
- (b) The appeal has been rejected

and if the appeal has been upheld what penalty, if any, should be imposed in substitution for the penalty imposed by the University.

6. Appeals Committee Recommendation to Governing Authority

The Chairperson of the Appeals Committee will convey in a reasoned report the decision of the Appeals Committee, either endorsing or varying or rejecting the decision of the University, for consideration by Governing Authority. The University shall not take action based on the recommendation of the Appeals Committee until such time as the Governing Authority adopts the said recommendation. Where the appeal has been upheld and the Appeals Committee has notified the Chief Officer, in accordance with sub-section 5 above, that a penalty should be imposed in substitution for the penalty imposed by the University, the University will impose such penalty on the employee by letter addressed to the employee. Where the appeal has been rejected the University will notify the employee of such decision by registered mail and will implement the original penalty imposed by the University. The decision of the Governing Authority on this matter will be final, save that the employee may avail of any industrial relations or legal remedy available to him or her._

Section V

1. Chief Officer subject to Disciplinary Proceedings

Where the Chief Officer is himself or herself the subject of disciplinary proceedings, the University, through the Governing Authority, will retain its power of suspension and dismissal, in accordance with procedures determined by the Governing Authority.

Section VI

Interpretations and Definitions

1. **“The University”**

The use of the term University shall be taken to mean the Governing Authority, which devolves responsibility for discipline and dismissal, within the procedures, to the Chief Officer.

2. **A “Further Matter”**

A reference to “a further matter” which may arise will be interpreted to include, without limitation, a continuation, or recurrence, of any misconduct and/or issue relating to performance which warrants disciplinary action, and in respect of which a warning or warnings has to have already been given.

Section VII

1. This Statute may be cited as Statute No.4 of the University of Limerick or Statute No.4 of UL.
2. This Statute shall come into operation on the day of 2002

Present when the Common Seal of the University was affixed hereto:

(Signed)

Chancellor

(Signed)

President

(Signed)

**Vice President, Administration
& Secretary**