

## 8. “Other” Potential Dismissals

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# HR Code of Practice

## “Other” Potential Dismissals

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### Aim of the Code of Practice

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**The aim is to:**

- 1 enable managers<sup>1</sup> to deal with matters which would justify the dismissal of an employee for any reason other than those for which the College has dedicated Codes of Practice<sup>2</sup>;
- 2 keep staff informed of the action they face if the matter is not resolved;
- 3 deal with such issues lawfully, fairly and using the principles of natural justice;
- 4 set out in practical terms, the processes required for the College to implement its Statutes and Ordinances covering “dismissals on other grounds”<sup>3</sup>.

### Key Points

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**Managers will:**

- 1 carry out a prompt, fair and reasonable investigation into any issue which, if not corrected, may result in dismissal;
- 2 consult the Director of HR and decide if:
  - formal action is needed;
  - the matter can be remedied without a dismissal;
  - it may be proportionate, lawful and reasonable to dismiss.

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1. *The meaning of the word “Manager” is discussed in the glossary in the Introduction, page 12.*
  2. *The College has specific Codes of Practice to deal with:*
    - *redundancy;*
    - *discipline;*
    - *poor performance;*
    - *sickness;*
    - *reviewing fixed-term contracts;*
    - *probation.*
  3. *Statute 21, paragraph 17 covers dismissal “on other grounds”. Ordinance C2 section G sets out the College’s arrangements for dealing with this matter. In any dispute about interpretation, the Statutes and Ordinances take priority over this Code of Practice.*

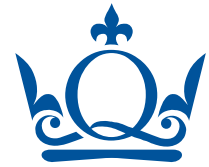
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### ***Managers will:***

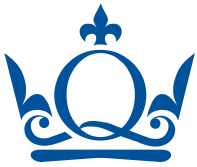
- 1 if the matter can be remedied, tell the employee in writing:
  - what must happen to set matters straight;
  - any deadlines or conditions that apply;
  - what will happen if these are not met;
  - if their job is at risk;
- 2 if the matter warrants dismissal, refer the matter to a panel for decision;
- 3 refer any appeal to a panel with authority to hear and decide the case;
- 4 at the earliest practical time, discuss with a senior or full-time official from the union any case in which they are contemplating dismissing a trade union representative.



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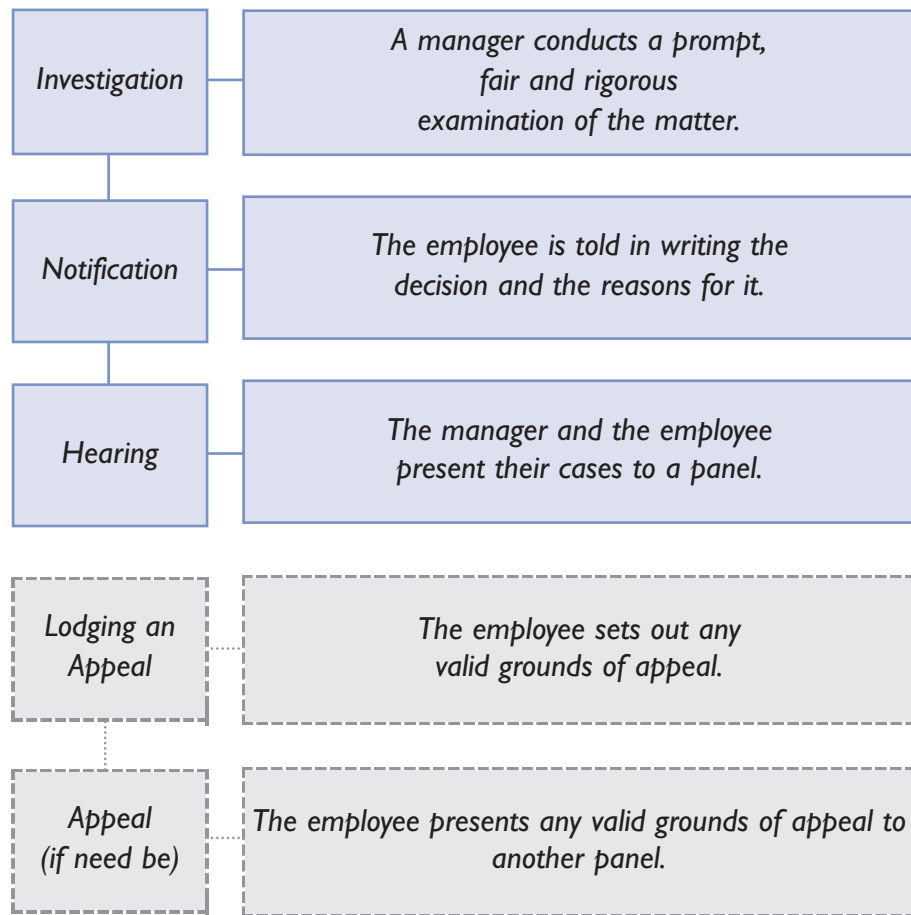
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### Outline of procedure

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This Code of Practice has three stages, followed by the right to lodge an appeal and have it heard. The stages are:



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### Timescales<sup>1</sup>



Investigation	Will begin with no unreasonable delay, and will normally be completed within 20 working days.
Notification of Formal Hearings	The employee is entitled to reasonable notice of the hearing, normally at least 5 working days. There should be no undue delay between the end of the investigation and the notification of the hearing.
Written decision with reasons	Within 5 working days of the completion of the hearing.
Lodging an appeal	Within 10 working days of the written outcome of the meeting.
Appeal Hearing	Without unreasonable delay, normally within 20 working days of the appeal being lodged.
Final decision with reasons	Within 5 working days of the written outcome of the meeting.

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1. If any of the above timescales cannot be met, the appropriate manager or the Secretary to the appeal panel will keep the employee informed of the:
- 1 timetable for dealing with the matter,
  - 2 the progress so far; and
  - 3 the reason for any delay.

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### Authority to make decisions

Line Manager	Carrying out investigations. In consultation with the Director of HR, initiating a formal hearing by a <b>panel</b> .
Principal (normally delegated to the Director of HR)	Initiating formal hearing by a <b>panel</b> .
Panel	Decisions to dismiss or other actions specified in the Code of Practice.
Appeal Panel	Determining appeals against dismissal or other actions imposed by a panel.

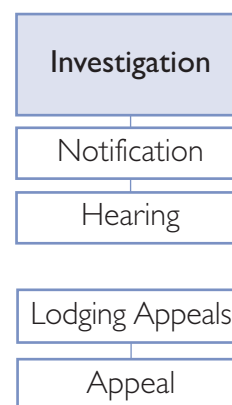
# HR Code of Practice

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### Investigation



<i>The manager investigating the matter will:</i>	<i>At the investigation stage, the employee ...</i>
<ol style="list-style-type: none"> <li>1 plan the investigation to ensure the matter is dealt with fairly and effectively;</li> <li>2 investigate issues to understand their causes and the effect they will have on the College and the employee’s work;</li> <li>3 if need be take competent legal and/or medical and/or technical advice;</li> <li>4 take notes of interviews, collect any evidence and keep it securely;</li> <li>5 take stock and decide if               <ul style="list-style-type: none"> <li>- there is a substantial reason which may warrant dismissal;</li> <li>- this might be avoided if certain conditions or deadlines were met;</li> </ul> </li> <li>6 take all reasonable steps to collaborate with staff in tackling or remedying any such issue;</li> <li>7 consult the Director of HR and decide the appropriate way to deal with the matter.</li> </ol>	<p>❖ <b>is entitled to:</b></p> <ol style="list-style-type: none"> <li>1 be told the purpose of any questioning, interviews, hearings or meetings;</li> <li>2 the opportunity to be accompanied (or represented in their absence) by another person;</li> <li>3 be given information about any situation or allegation which might lead to their dismissal;</li> <li>4 give an explanation and to put their side of the matter;</li> <li>5 where appropriate, an opportunity to remedy matters;</li> <li>6 be notified in writing of the outcome of the investigation.</li> </ol> <p>❖ <b>is responsible for:</b></p> <ol style="list-style-type: none"> <li>1 attending meetings and keeping the manager informed of relevant facts and issues.</li> </ol>



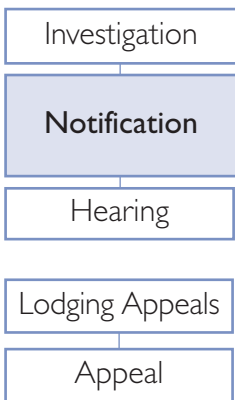


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### Notification



<i>The relevant person<sup>1</sup> will:</i>	<i>The employee:</i>
<ol style="list-style-type: none"> <li>1 notify the employee in writing of:               <ul style="list-style-type: none"> <li>- the date of the hearing;</li> <li>- the issues and allegations that will be considered;</li> <li>- who will hear the case and who will present it from the management side;</li> <li>- the key facts, the action that is proposed and the reason for it;</li> <li>- the evidence the manager is relying on;</li> <li>- any conditions or deadlines by which the employee might avoid dismissal;</li> <li>- the names of any witnesses the manager intends to call;</li> <li>- arrangements for exchanging documents, witness statements and any case statements;</li> <li>- if the employee's job is at risk and the reason why this is so;</li> <li>- their right to be represented;</li> </ul> </li> <li>2 give the employee a copy of the <i>employee's guide</i> to the relevant procedure.</li> </ol>	<ul style="list-style-type: none"> <li>❖ <b>is entitled to:</b> <ol style="list-style-type: none"> <li>1 reasonable written notice (normally at least 5 working days, but less by mutual agreement) of the date of the hearing;</li> <li>2 the opportunity to be represented by another person;</li> <li>3 postpone the meeting to another reasonable time within 5 working days of the original date - if their representative will not be available at the time proposed.</li> </ol> </li> <li>❖ <b>is responsible for:</b> <ol style="list-style-type: none"> <li>1 co-operating with the College in arranging and attending the hearing;</li> <li>2 arranging to be represented, if need be;</li> <li>3 submitting, at least 2 working days before the hearing, any reports, evidence, or other documents; and the names of witnesses relevant to their case;</li> <li>4 keeping the manager informed of any relevant facts and issues.</li> </ol> </li> </ul>

1. If dismissal is being considered, a panel is required. The Secretary to the panel will notify the employee of the arrangements for the hearing.

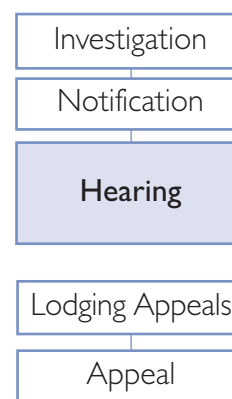
# HR Code of Practice

## “Other” Potential Dismissals

### Panel Hearing



<i>The panel hearing the case will:</i>	<i>The employee is entitled to:</i>
<ol style="list-style-type: none"> <li>1 conduct the meeting as a fact finding process ensuring good order and natural justice;</li> <li>2 decide any disputes about procedure;</li> <li>3 allow all the parties to:               <ul style="list-style-type: none"> <li>- put their side of the matter;</li> <li>- hear the case put by the other side;</li> <li>- ask questions, bring evidence and call witnesses;</li> </ul> </li> <li>4 consider and evaluate the evidence presented by the parties at the hearing;</li> <li>5 decide the facts of the case on the balance of probabilities;</li> <li>6 consider and decide what action is appropriate. This might include:               <ul style="list-style-type: none"> <li>- taking no action; or</li> <li>- issuing warnings, making conditions<sup>1</sup> or setting deadlines for the employee to comply with; or</li> <li>- reasonable adjustments to the work, workplace or working arrangements; or</li> <li>- dismissing the employee if this is fair, reasonable and proportionate;</li> </ul> </li> <li>7 notify the employee in writing, within 5 working days, of their decision and the reasons for it.</li> </ol>	<ol style="list-style-type: none"> <li>1 be notified of the hearing as set out on page 8:7;</li> <li>2 the opportunity to:               <ul style="list-style-type: none"> <li>- be represented by another person;</li> <li>- give any explanation and to put their side of the matter;</li> </ul> </li> <li>3 where appropriate, be told what they must do to avoid dismissal;</li> <li>4 a letter confirming the decision, the reason for the decision and any rights of appeal;</li> <li>5 lodge an appeal, within 10 working days, against dismissal or other management action;</li> <li>6 if dismissed, any notice period or pay in lieu of notice that they are entitled to.</li> </ol>



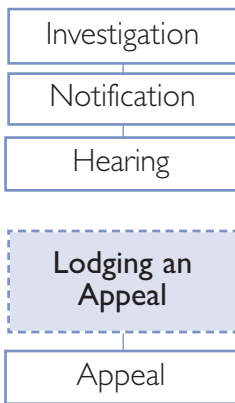
1. The panel has discretion to suspend the employee with or without pay until any condition is met. For clinical staff, see page 3 of the introduction.

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### Lodging an Appeal



<i>The employee:</i>	<i>The Director of HR will:</i>
<ul style="list-style-type: none"> <li>❖ <b>is entitled to:</b> <ol style="list-style-type: none"> <li>1 lodge an appeal against a decision to dismiss. For example, the employee may lodge an appeal on one or more of the following grounds<sup>1</sup>:               <ol style="list-style-type: none"> <li>1 the procedure was applied incorrectly;</li> <li>2 the findings at the first hearing were unfair;</li> <li>3 the action taken was too severe for the case;</li> </ol> </li> </ol> </li> <li>❖ <b>is responsible for:</b> <ol style="list-style-type: none"> <li>1 setting out the grounds of appeal in full and in writing;</li> <li>2 lodging the appeal with the Director of HR within 10 working days of the date they receive the written decision and the reasons for it.</li> </ol> </li> </ul>	<ol style="list-style-type: none"> <li>1 reject any appeal that is out of time;</li> <li>2 appoint an appropriate panel to hear the case within 20 working days;</li> <li>3 appoint an appropriate Secretary to the panel.</li> </ol>

1. The employee may support their grounds of appeal with any new evidence that comes to light after the original hearing.

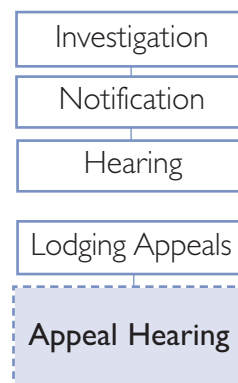
# HR Code of Practice

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### Appeal



<b>The panel hearing the appeal will:</b>	<b>The employee is entitled to:</b>
<ol style="list-style-type: none"> <li>1 conduct the meeting to establish the relevant facts, ensuring good order and natural justice;</li> <li>2 decide any disputes about procedure;</li> <li>3 allow all the parties to:               <ul style="list-style-type: none"> <li>- put their side of the matter;</li> <li>- hear the case put by the other side;</li> <li>- ask questions, bring evidence and call witnesses;</li> </ul> </li> <li>4 consider any valid<sup>1</sup> grounds of appeal;</li> <li>5 reject any ground of appeal that is not valid<sup>1</sup> and explain the reason for the rejection;</li> <li>6 consider changing the decision and if so explain the new position and any conditions that apply to it;</li> <li>7 confirm the appeal panel's decision and the reasons for it, in writing to the employee and the relevant managers<sup>2</sup>, within 5 working days.</li> </ol>	<ol style="list-style-type: none"> <li>1 reasonable written notice (normally at least 5 working days, but less by mutual agreement) of the date of the meeting;</li> <li>2 the opportunity to be represented by another person;</li> <li>3 postpone the meeting to another reasonable time within 5 working days of the original date - if their representative will not be available at the time proposed;</li> <li>4 put their side of the matter, ask questions and hear the manager's response;</li> <li>5 written notification of the decision and the reasons for it.</li> </ol>



1. Examples of valid grounds of appeal are set out on page 8.9.  
 2. For academic and academic-related staff, the secretary to the panel will also arrange for the appeal panel decision to be reported to Council.