

**UNIVERSITIES ACT, 1997**

**UNIVERSITY OF LIMERICK**

**STATUTE NO. 4**

**Approved by Governing Authority  
9 August 2019**

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 University.

*Given* under the Common Seal of the University this 9<sup>th</sup> day of August 2019

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

(Signed)

**Chancellor**

(Signed)

**President**

(Signed)

**Deputy President, Chief  
Operating Officer & Registrar**

## **STATUTE NO. 4**

### **STATUTE ON DISCIPLINARY MATTERS, SUSPENSION, TERMINATION AND CAPACITY**

#### **Section I**

##### **Introduction**

The procedures set out in this Statute apply to all employees of the University including officers of the University and govern all disciplinary issues relating to such employees, up to and including their dismissal. This Statute will not be used to effect changes in terms and conditions of employment.

The University in performing its functions shall have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.

In accordance with section 14 of the Universities Act 1997 (as amended), a member of the academic staff of the University shall have the freedom, within the law, and with due regard to the Universities policies, in their teaching, research and related activities either in or outside the University, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favorable treatment by the University, for the exercise of that freedom.

Where issues arise in relation to performance, the University will, where appropriate and practicable, address such issues, in the first instance, via regular performance management processes before invoking this Statute.

The emphasis in operating the disciplinary process in Section II of this Statute is, in the first instance, to assist an employee in improving their performance and/or conduct. As such, the process prescribed in Section II is aimed at inducing improvements in performance/conduct, rather than disciplinary action, where practicable and appropriate.

##### **General**

#### **1. Tenure of officers**

Subject to the satisfactory completion of any probationary period provided for in an officer's contract of employment, an officer will have tenure and this Statute will be construed accordingly. Officers of the University will not be deemed to have acquired tenure prior to successful completion of their probationary period.

#### **2. Termination of employment, other than in respect of disciplinary matters/capacity**

Other than in circumstances warranting dismissal with or without notice, the employment of an employee of the University will terminate in accordance with the terms of their contract of employment (including fixed-term and specified purpose contracts), whether expressed or implied.

Whereas the University recognises the principle that redundancy should be avoided, it nevertheless acknowledges that redundancies (as defined by legislation) may be necessary for whatever reason. In redundancy situations the University will consult with the recognised trade union in respect of its members and will endeavour, in so far as is reasonably practicable, to utilise redeployment as an alternative to redundancy.

### **3. 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 the event that the University is considering terminating an employee's employment during or at the conclusion of the probationary period provided for in their contract, the following process will apply:

- a. the employee will be notified in writing that the University is considering terminating their employment and of the reason(s) why such termination is under consideration;
- b. the employee will be invited to attend a meeting with their line manager. The employee will have the right to be accompanied by a representative of their choice at this meeting. The employee will notify the University in writing of the identity of their chosen representative in advance of the meeting. The University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting;
- c. at the meeting, the employee will be afforded a reasonable opportunity to advance any information which they consider relevant to the University's decision regarding their continued employment;
- d. the employee will be notified in writing of the outcome of the meeting as soon as reasonably practicable and this decision will be final.

### **4. Termination for non-possession of qualifications**

Employees may be dismissed at any time, with or without notice, if it is determined that they do not possess qualifications which they claimed to possess prior to their appointment or at any time during their employment.

### **5. Capacity**

The procedures which will apply in cases of repeated absence due to sickness/injury and/or suspected incapacity are set out in Section VI.

## Section II

### Disciplinary Procedures

#### 1. Introduction

##### a. Purpose

The purpose of these procedures is to set out the arrangements for dealing with disciplinary matters at the University and to ensure that all University employees are aware that if there is a failure to adhere to the required standards of performance (which term includes absence, attendance and time keeping) and/or conduct, the disciplinary procedures set out in this Statute will apply. These procedures will be initiated where a concern arises about the conduct or performance of an employee. These procedures will provide a fair and efficient process for dealing with any such concern.

##### b. Grounds for discipline

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 in the circumstances. Matters of misconduct which may result in disciplinary proceedings being taken by the University against an employee include, but are not limited to, those examples as set out in Section II.4.

Without prejudice to Section II 1. g below, disciplinary sanctions provided for in this Statute may be imposed by employees or officers of the University; normally by the employee's line manager and by a member of the University's Human Resources Division.

In respect of dismissal for disciplinary reasons, an employee may be dismissed by the University where there are substantial grounds justifying the dismissal.

##### c. Suspension

In certain cases the University may have to consider placing an employee off-duty i.e. suspending them with pay pending the conclusion of an investigation and/or a disciplinary process.

Suspension will only occur after full consideration of the necessity for suspension pending a full investigation of the issues and/or any consequential disciplinary process. Documented evidence of decisions taken to suspend an employee will be maintained on file by the University. Depending on the circumstances, suspension may be justified:

1. to prevent repetition of the conduct complained of;
2. to prevent interference with evidence;
3. to protect individuals at risk from the conduct complained of;
4. to protect the University's business and reputation; and/or
5. to facilitate the proper conduct of an investigation and/or any disciplinary process.

This list is illustrative only and cases will be assessed on their own merits. Prior to suspending any employee, the employee will be notified of the reasons for the proposed suspension, and, where practicable and appropriate, will be given an opportunity to make representations in respect of the proposed suspension.

During any period of suspension, an employee will not be permitted to attend at the University's premises, have access to the University's systems/data, act/purport to act on behalf of the University and/or make contact with staff or students of the University regarding University business without prior written consent being provided by or on behalf of the employee/officer who decided to suspend the employee.

**d. Investigation/discipline of employees who are members of the Governing Authority**

Before any investigation or disciplinary process is initiated against an employee who is a Governor, the Chief Officer will inform the Chancellor of the University of the proposed investigation/disciplinary process. The Chancellor must be satisfied, by considering relevant documents or such other matters as are determined by the Chancellor to be appropriate, before the investigation/disciplinary process can proceed, that it has not been occasioned by the legitimate activity of the employee in their capacity as a member of the Governing Authority.

**e. Gender balance**

Where an investigation, disciplinary meeting or appeal hearing is being conducted by a panel or committee comprising more than one person, the University will ensure, in so far as is reasonably practicable, gender representation of no less than 30%.

**f. Payment in lieu of notice/garden leave**

The University reserves the right to pay employees their basic salary in lieu of notice and/or to require employees to go on paid leave (garden leave) during any period of notice of termination of employment.

**g. Delegation of certain disciplinary functions**

The Governing Authority hereby delegates authority to the Chief Officer to suspend or dismiss employees of the University, save (i) in respect of the functions of the Governing Authority in relation to the Appeals Procedure provided for in this Statute; and (ii) where the Chief Officer is the subject of disciplinary proceedings or may, in respect of the matter concerned, have a conflict of interest for whatever reason. In cases referred to at (ii) above, the Chancellor may appoint another person or persons from within or outside the University to carry out some or all of the functions provided for in this Statute.

Where the Chief Officer sub-delegates authority to other employees and officers, the Chief Officer must do so in writing stating (i) the reason(s) for doing so and (ii) the name(s) of the employee(s) and/or officers to whom the Chief Officer sub-delegates the authority. The Chief Officer and officers may from time to time further sub-delegate this authority in the same manner to other employees of the University.

#### **h. Non-participation in a disciplinary process**

All employees are obliged to participate in every part of a disciplinary process when requested by the University to do so. Where an employee fails or refuses (without reasonable cause) to do so, the disciplinary panel may make a decision without the employee's full participation. In such circumstances, the disciplinary panel may proceed with that stage of the process and in such case it will (i) notify the employee accordingly; (ii) notify the employee of the consequences of failing to participate in the disciplinary process without reasonable cause; and (iii) notify the employee of any decision reached in the employee's absence.

The disciplinary panel may draw an adverse inference from any non-participation without reasonable cause of an employee in any part of the disciplinary process.

#### **i. General**

University disciplinary procedures as set out in this Statute will be followed unless and to the extent which the University considers it necessary to depart from them. In the event that the University considers it necessary to depart from the procedures set out in this Statute, the employee's right to fair procedures will be respected. The reason(s) for the departure will be notified in writing to the employee. Where the Statute provides for a particular person or division to perform a role, another person or persons may be assigned by the Chancellor or the President to perform that role.

There is a right of appeal against all forms of disciplinary action. The Governing Authority is the final appellate body in respect of dismissals under this Statute. The person(s) nominated to hear an appeal against other forms of disciplinary action is the final party to whom an appeal can be made in respect of such disciplinary action.

Disciplinary action will usually be applied progressively. However, the University reserves the right to take action at any stage of the disciplinary procedure depending on the seriousness of the matter. Furthermore, the University reserves the right to decide that a verbal warning, first written warning or final written warning will remain active for periods longer than the periods specified under Section II(2)(b) below where the University deems it necessary for specific reasons.

The University will determine all matters relating to the process to be followed in relation to any investigation and disciplinary proceedings conducted under this Statute. The Human Resources Division will (as deemed appropriate by the University) (i) advise on the procedures to be followed and/or (ii) participate in any investigation and disciplinary meetings.

Decisions of the University/written notifications under this Statute will be communicated to an employee by any of, registered mail, courier, hand delivery or email.

Section and paragraph headings are for convenience only and will not affect the interpretation of this Statute.

## **2. Stages of the Disciplinary Process**

### **a. Counselling prior to the instigation of formal disciplinary procedures**

The emphasis in operating the disciplinary process in this Section II of the Statute is, in the first instance, to assist an employee in improving their performance and/or conduct. In the event of an employee's performance and/or conduct falling below acceptable levels, the employee will usually 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. Where considered appropriate by the University, it will seek to resolve the issue at this stage and should additional training or other management action be considered necessary by the University, these will be addressed by the University.

### **b. Formal disciplinary procedures**

Where, in the opinion of the University, an employee's performance or conduct warrants disciplinary action, the procedures contained in this Section II will apply. In respect of serious misconduct, or in respect of issues which, in the opinion of the University, would, if substantiated, constitute serious misconduct, the procedures contained in Section III will apply.

#### **(i) Verbal warning**

Should a matter arise which, in the opinion of the University, warrants disciplinary action, the employee will be given a verbal warning by the University and the warning will be recorded in the employee's personnel file. The employee will be notified in writing (i) that this is a first warning and constitutes the first stage of the formal disciplinary process; (ii) of any areas of their performance and/or conduct which require improvement; and (iii) that their failure to improve such performance and/or conduct or a further matter in respect of performance or conduct may give rise to further disciplinary action. A verbal warning will remain active for a period of 6 months.

#### **(ii) 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 written warning by the University and a copy will be placed on the employee's personnel file. The employee will be notified in writing (i) that this is a written warning and constitutes the second stage of the formal disciplinary process; (ii) of any areas of their performance and/or conduct which require improvement; and (iii) that their failure to improve such performance and/or conduct or a further matter in respect of performance or conduct may give rise to further disciplinary action. A first written warning will remain active for a period of 12 months.

#### **(iii) 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 written warning by the University. A copy of this warning will be placed on the employee's personnel file and the employee will be notified in writing (i) that this is a final written warning; (ii) of any areas of their performance and/or conduct which require improvement; and (iii) that their failure to improve such performance and/or conduct or a further matter in respect of performance or conduct may give

rise to further disciplinary action including dismissal of the employee. A final written warning will remain active for a period of 18 months.

**(iv) Dismissal or action short of 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 disciplinary action is appropriate, sanctions may include, but will not be limited to, one or more of the following:

- dismissal;
- suspension without pay;
- demotion; and/or
- transfer to other duties.

**3. Standards applicable to procedures under Section II – performance**

The University will adhere to the following arrangements before deciding whether or not to take formal disciplinary action:

- a. In respect of any alleged underperformance which may warrant formal disciplinary action under this Statute, the University will convene a disciplinary meeting. Disciplinary meetings will be convened as promptly as reasonably practicable and will be conducted in accordance with the principles of natural and constitutional justice.
- b. The disciplinary meeting will be conducted by a person or persons nominated by the Director of Human Resources as follows:
  - i. the employee's line manager and another employee of the University; and
  - ii. a member of the Human Resources Division.
- c. The employee will be notified in writing of the performance issues and will be given an opportunity to state their case at the disciplinary meeting before any decision is made.
- d. The employee will have the right to be accompanied by a representative of their choice at any disciplinary meeting. The employee will notify the University in writing of the identity of their chosen representative in advance of any disciplinary meeting. The University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
- e. Upon the conclusion of the disciplinary process, a decision will be notified to the employee as well as any right of appeal.

#### **4. Standards applicable to procedures under Section II – conduct**

Misconduct is conduct that is considered to be unacceptable or inappropriate in the workplace. It is behaviour that falls below acceptable standards, but which is not considered to be serious misconduct. Misconduct can be a single act, or a series of acts. What constitutes misconduct may vary depending on the particular circumstances of the Faculty/Division/Department and the work that the employee is carrying out.

The following examples of behaviour, which are non-exhaustive, may lead to disciplinary action and, if repeated, may progress through the stages of the disciplinary procedure and lead to dismissal. More serious instances of the following types of misconduct may amount to serious misconduct (as defined in Section III.1).

- Behaviour which could bring the University into disrepute, subject to the provisions of the Protected Disclosures Act 2014;
- Breach of a workplace policy or procedure;
- Research misconduct and/or other unacceptable practices as such terms are defined, from time to time, in the University's Procedure for Managing Misconduct in Research, Research Integrity Policy or other relevant University policy which is issued;
- A refusal to carry out a reasonable request;
- Breaches of health and safety regulations;
- Being under the influence of an intoxicant at work;
- Misuse of University property;
- Misconduct can include inappropriate behaviour outside the workplace which has a negative impact or could reasonably be likely to have a negative impact within the workplace or to bring the University into disrepute.

The University will adhere to the following arrangements before deciding whether to take any formal disciplinary action:

**a. Investigation:**

- i.** In respect of any alleged misconduct which may warrant formal disciplinary action under this Statute, the University will investigate any matter which, in the opinion of the University, requires investigation and employees will, if requested by the University, cooperate fully with any such investigation, which will be conducted as promptly as reasonably practicable and in accordance with the principles of natural and constitutional justice. The University may decide, at its sole discretion, whether or not it will conduct an investigation in circumstances where an employee admits any misconduct.
- ii.** The investigation will be conducted by a person or persons appointed by the Director of Human Resources and such person(s) will be an employee of the University and/or an external person. Where considered necessary and/or appropriate, an external person may be engaged to provide assistance with an investigation.
- iii.** The employee will be informed in writing of the issues under investigation and will be given an opportunity to state their case.

- iv. The employee will have the right to be accompanied to any investigation meetings by a representative of their choice. The employee will notify the University in writing of any such representation in advance of any investigation meeting. The University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
- v. The employee has the right to question any person(s) making allegations against them, unless the investigator decides that it is inappropriate to permit this. In such eventuality, the employee will be entitled to challenge the allegations by another means considered appropriate by the investigator.
- vi. The employee has the right to request the investigator to interview any person whom the employee believes has relevant information in respect of the matter(s) under investigation. The investigator will determine whether or not to interview any such person.
- vii. The investigator will make findings on the balance of probabilities.
- viii. Depending on the investigation findings, the University may decide to convene a disciplinary meeting under this Section II or Section III as appropriate, and depending on the circumstances, the University reserves the right not to apply the stages of the disciplinary process progressively.
- ix. An investigation carried out under another University policy or procedure (e.g. the University's Policy and Procedures for Workplace Dignity and Respect or the University's Procedure for Managing Misconduct in Research) may constitute an investigation for the purposes of this part 4 of Section II i.e. the University will be entitled to proceed directly to a disciplinary meeting in reliance on the findings of any investigation carried out under that other policy or procedure.

**b. Disciplinary meeting:**

- i. Any disciplinary meeting will be conducted by a person or persons nominated by the Director, Human Resources as follows:
    - 1. the employee's line manager and one other employee of the University; and
    - 2. a member of the Human Resources Division.
  - ii. The employee will have the right to be accompanied by a representative of their choice at the disciplinary meeting. The employee will inform the University of the identity of their chosen representative in advance of any disciplinary meeting. The University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
- c.** At any stage of the process under this part 4 of Section II, the employee and the University will both have the right to invite a person or persons with relevant knowledge of the matter that is the subject of the investigation or disciplinary hearing to speak at any investigation meeting or disciplinary hearing. If either the employee or the University decides to do so, the other party will have the right to question any such person(s), save where the University considers that this would be inappropriate. In such eventuality, the employee will be entitled to question the person or persons with relevant knowledge by another means considered appropriate by the University.

## **5. Decision**

- a. Following the process outlined above, the persons appointed to conduct the disciplinary meeting will decide to what extent, if any, action should be taken. In reaching a decision in relation to this matter, the persons will also take account of any other matters which they consider relevant. These matters will include:
  - i. any mitigating circumstances; and
  - ii. the employee's employment record.
- b. Where it is decided that disciplinary action is appropriate, sanctions may include, but will not be limited to, one or more of the following:
  - i. verbal warning, first written warning, final written warning or dismissal;
  - ii. suspension without pay;
  - iii. demotion; and/or
  - iv. transfer to other duties.

## **6. Notification of Outcome**

The University will notify the employee in writing of the outcome of every stage of the procedure outlined above. Where a decision has been reached to take disciplinary action, the University will take such action and notify the employee in writing. The University will defer the implementation of the proposed disciplinary action, 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 any appeal, the University may initiate or continue a suspension.

If there is no appeal pending against a decision to take a disciplinary action, then in accordance with the time limit laid down in Section IV, on the expiration of the relevant time limit for appeal, the disciplinary action will take effect. 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 with immediate effect.

## Section III – Serious Misconduct

### 1. Serious Misconduct

Serious misconduct is misconduct which is sufficiently serious to warrant dismissal or other serious sanction. It is a serious breach of the University's rules and procedures or of recognised and accepted standards and behaviour which results in a breakdown of the relationship of trust and confidence between the University and the employee.

A non-exhaustive list of examples of serious misconduct is set out below:

- Theft, fraud, irregularity, embezzlement, misappropriation of funds, bribery or corruption;
- Assault, violent or threatening behaviour;
- Refusal to comply with a reasonable instruction;
- Falsification of records, violation or misuse of confidential information or University property, material or equipment (including the University's computer systems);
- Unauthorised entry/access to computer and/or other records/files, using the University's computers/networks to access pornography or any other materials considered inappropriate by the University;
- Serious breaches of health and safety rules, assault on another person in the course of employment;
- Reporting to or attending at work while being under the influence of alcohol, illegal drugs, or legal medication which have been used otherwise than further to a prescription; possession and/or sale or use of illegal drugs;
- Discrimination, bullying, harassment and/or sexual harassment;
- Disrespect for the law, e.g. illegal activity /criminal conviction that has implications for the employee's employment whether it relates to an alleged wrong inside or outside the employment;
- Research misconduct and/or other unacceptable practices as such terms are defined, from time to time, in the University's Procedure for Managing Misconduct in Research, Research Integrity Policy or other relevant University policy which is issued;
- Bringing the University into disrepute, subject to the provisions of the Protected Disclosures Act 2014.

## **2. Standards applicable to procedures under Section III**

The University will adhere to the following arrangements before deciding whether to take any formal disciplinary action:

### **a. Investigation:**

- i.** In respect of any alleged serious misconduct, which may warrant formal disciplinary action under this Statute, the University will investigate any matter which, in the opinion of the University, requires investigation and employees will, if requested by the University, cooperate fully with any such investigation, which will be carried out as promptly as reasonably practicable and in accordance with the principles of natural and constitutional justice. The University may decide, at its sole discretion, whether or not it will conduct an investigation where an employee admits any serious misconduct.
- ii.** The investigation will be conducted by a person or persons appointed by the Director, Human Resources (save where paragraph 1 g (ii) of Section II of this Statute applies, in which case the person or persons will be appointed by the Chancellor) and such person(s) will be an employee of the University or an external person. Where considered necessary and/or appropriate, an external person may be engaged to provide assistance with an investigation.
- iii.** The employee will be informed in writing of the issues under investigation and will be given an opportunity of stating their case. The employee will have the right to be accompanied to any investigation meetings by a representative of their choice. The employee will notify the University in writing of the identity of their chosen representative in advance of any investigation meeting. The University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
- iv.** The employee has the right to question any person(s) making allegations against them, unless the investigator decides that it is inappropriate to permit this. In such eventuality, the employee will be entitled to challenge the allegations by another means.
- v.** The employee has the right to request the investigation to interview any person whom the employee believes has relevant information in respect of the matter(s) under investigation. The investigator will determine whether or not to interview any such person.
- vi.** The investigator will make findings on the balance of probabilities. Depending on the findings, a disciplinary meeting may be convened under Section II or this Section III as appropriate and, depending on the circumstances, the University reserves the right not to apply the stages of the disciplinary process progressively.
- vii.** An investigation carried out under another University policy or procedure (e.g. the University's Policy and Procedures for Workplace Dignity and Respect or the University's Procedure for Managing Misconduct in Research) may constitute an investigation for the purposes of this Section III i.e. the University will be entitled to proceed directly to a disciplinary meeting in reliance on the findings of the investigation carried out under that policy or procedure.

**b. Disciplinary meeting:**

- i. Any disciplinary meeting will be conducted by a person or persons nominated by the Director, Human Resources (save where paragraph 1 g (ii) of Section II of this Statute applies, in which case the person or persons will be appointed by the Chancellor) as follows:

    1. at least two senior employees or officers of the University;
    2. such other persons as may be appointed for that purpose in cases where paragraph 1 g (ii) of Section II of this Statute applies.
    3. a member of the Human Resources Division.
  - ii. The employee will have the right to be accompanied by a representative of their choice at the disciplinary meeting. The employee will inform the University of the identity of their chosen representative in advance of any disciplinary meeting and the University reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
  - iii. The employee has the right to question any person(s) making allegations against them, unless the University decides that it is inappropriate to permit this. In such eventuality, the employee will be entitled to challenge the allegations by another means considered appropriate by the investigator.
- c.** At any stage of the process under Section III, the employee and the University will both have the right to invite a person or persons with relevant knowledge of the matter that is the subject of the investigation or disciplinary hearing to speak at any investigation meeting or disciplinary hearing. If either party decides to do so, the other party will have the right to question any such person(s), unless the University decides that it is inappropriate to permit this. In such eventuality, the employee will be entitled to question the person or persons with relevant knowledge by another means considered appropriate by the University.

**3. Decision**

- a.** Following the process outlined above, the persons appointed to conduct the disciplinary meeting will decide to what extent, if any, action should be taken. In reaching a decision in relation to this matter, the persons will also take account of any other matters considered relevant. These matters will include:

  - i. any mitigating circumstances; and
  - ii. the employee's employment record.
- b.** Where it is decided that disciplinary action is appropriate, sanctions may include, but will not be limited to, one or more of the following:

  - i. dismissal;
  - ii. suspension without pay;
  - iii. demotion; and/or
  - iv. transfer to other duties.

#### **4. Notification of Outcome**

The University will notify the employee in writing of the outcome of the process outlined above. Where a decision has been reached to take disciplinary action, the University will take such action and notify the employee in writing. The University will defer implementation of the proposed disciplinary action, 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 any appeal, the University may initiate or continue a suspension.

If there is no appeal pending against a decision to take disciplinary action, then in accordance with the time limit laid down in Section IV, on the expiration of the time limit for appeal, the disciplinary action will take effect. Where the employee withdraws an appeal or is, in the opinion of the University, responsible for the discontinuance of the appeal process, the University will implement the disciplinary action with immediate effect.

## **Section IV Appeal Procedure**

### **1. Notification of Appeal**

An employee may appeal against any decision to take formal disciplinary action (other than dismissal) to the person nominated to hear any such appeal in the decision letter provided that such appeal is submitted in writing specifying the grounds of appeal within ten (10) working days from the date of notification to the employee of the decision to take disciplinary action.

An employee may appeal to the Governing Authority against a decision taken by the University to dismiss them provided that such appeal is submitted in writing, specifying the grounds of appeal, to the Secretary to the Governing Authority within four (4) weeks from the date of notification to the employee decision to dismiss them.

### **2. Appointment of Appeals Committee**

Appeals to the Governing Authority will be heard by a committee of between three and five members of the Governing Authority appointed by the Governing Authority called the Appeals Committee. Such Committee will not include staff or students of the University who are members of the Governing Authority.

### **3. Access by Appeals Committee**

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

### **4. Standards Applicable to Procedures under Section IV**

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

- a. The employee will be entitled to attend at any appeal hearing and will be informed of their right to representation by a representative of their choice at such hearing. The employee will notify the Appeals Committee in writing of the identity of their chosen representative in advance of any meeting between the Appeals Committee and the employee. The Appeals Committee reserves the right to require the employee to select an alternative representative where it considers, on reasonable grounds, that the employee's chosen representative would imperil the conduct of the meeting.
- b. The University will have the right to invite a person or persons with relevant knowledge of the matter that is under appeal 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), unless the University decides that it is inappropriate to permit this. In such eventuality, the employee will be entitled to question the person or persons with relevant knowledge by another means considered appropriate by the University.
- c. The Employee will have the right to invite a person or persons with relevant knowledge of the matter that is under appeal to speak at any appeal hearing in connection with their grounds of appeal. If the Employee decides to invite such persons, the University will have the right to question any such person(s).
- d. The Appeals Committee will conduct the appeal impartially and the employee will be afforded the opportunity of having their grounds of appeal heard fully and given due consideration.

## **5. Recommendation of Appeals Committee**

Having heard the appeal, the Chairperson of the Appeals Committee will convey in a written report the recommendation of the Appeals Committee for consideration by the Governing Authority stating either that:

- (a) The appeal should be upheld; or
- (b) The appeal should not be upheld,

and if the appeal should be upheld, whether any disciplinary action should be taken in substitution for the sanction which is the subject of the appeal. The report will state the reasons for the recommendation. Such recommendation will be subject to paragraph 6 below.

## **6. Appeals Committee Recommendation to the Governing Authority**

The Governing Authority will consider the recommendation set out in the report of the Appeals Committee and decide whether or not to accept the recommendation. The University will not take action based on the recommendation of the Appeals Committee unless and until the Governing Authority accepts the recommendation. The decision of the Governing Authority will be notified to the employee in writing.

The decision of the Governing Authority on this matter is final, save that the employee may avail of any industrial relations or legal remedy available to them.

## **Section V**

### **1. Chief Officer subject to Disciplinary Proceedings**

Where the Chief Officer is 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**

### **Capacity Procedures**

Where an employee is absent repeatedly due to illness or injury or where an employee may potentially be incapable of performing their duties, the procedure set out in this Section VI will apply.

The University may require the employee to undergo a medical examination and/or medical tests by a medical practitioner of the University's choosing. In the event that the University notifies an employee that they are required to undergo such medical examination and/or tests, the employee shall be obliged to co-operate. In the event that an employee fails or refuses to co-operate with this requirement, such failure or refusal may be treated as a conduct issue under Section II or Section III of this Statute. The employee will further consent to such medical practitioner discussing with the University the results of such examinations and tests, insofar as may be relevant to the employee's fitness to carry out their role or to a consideration of potential reasonable accommodation.

An employee who displays a pattern of frequent intermittent absence or whose capacity to perform their role is at issue may be required to attend a meeting with their line manager and a member of the Human Resources Division to discuss their absence and/or capacity to perform their role. An employee will not be required to discuss the nature of their illness. The employee will be furnished with any relevant medical evidence in advance of such meeting so that they have a reasonable opportunity to consider and comment on it. If an employee's dismissal by reason of incapacity is being considered, the employee will be given fair notice that dismissal on such grounds is under consideration.

Following such meeting, the University will consider any representations made by the employee, all relevant medical evidence and any medical evidence submitted by the employee prior to making any decision with regard to what action, if any, to take. The University may decide to impose one of the sanctions outlined in Section II.2.b. Where a warning is issued to the employee, it will specify that the employee's attendance will be monitored during the period of the warning and the level of improvement expected of the employee during such period; this warning will state that failure to show the necessary and a sustained improvement within the specified period will result in further disciplinary action.

The University may dismiss an employee on notice in accordance with the employee's notice entitlement where, following the employee's medical examination, it is clear that the employee is unlikely to be fit to return to work in the foreseeable future and/or that, in all the circumstances, the University's needs render it impracticable to await the employee's return to work.

Where an employee, whose absence or capability is being addressed under this procedure, discloses a disability, within the meaning of employment equality legislation, the University will consider whether any measures of reasonable accommodation, which do not impose a disproportionate burden on the University, may be taken in the circumstances.

An employee may appeal any decision taken by the University under this Section in accordance with Section IV.

## Section VII

### Interpretations and Definitions

#### 1. “The University”

The use of the term University will be taken to mean the Governing Authority, which delegates responsibility for suspension and dismissal, within the procedures, to the Chief Officer, who may, in turn, delegate responsibility to officers/employees as provided for in this Statute.

#### 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.

#### 3. “an officer” will have the meaning given to that term in the Universities Act 1997.

#### 4. “representative” means an existing employee of the University or a registered trade union representative.

## Section VIII

1. This Statute may be cited as Statute No.4 of the University of Limerick or Statute No.4 of UL.
2. This Statute will come into operation on the 9<sup>th</sup> day of August 2019.

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

(Signed)

**Chancellor**

(Signed)

**President**

(Signed)

**Deputy President, Chief  
Operating Officer & Registrar**