

Where denoted, questions highlighted in yellow indicate new or amended questions from the previous FAQs published on the Statute 24 webpage on 28 March 2017

Statute 24 reform FAQs

Please contact emprelations@warwick.ac.uk if you have any questions that are not answered below.

Reason for the review

1. What is the reason for the review?

The University Council commissioned the University to undertake a comprehensive review of all statutory instruments, including Statute 24 and its related Ordinances (specifically Ordinance 19, 20, 21 and 22) as they relate to the University's procedures for Disciplinary, Grievance, Redundancy and Removal for Incapacity on Medical Grounds for Academic Staff.

The University Council observed through their involvement in current statutory processes that Statute 24 and related Ordinances are unduly complicated and unnecessarily adversarial.

The University shares the University Council's view. Further, the University recognises that some of the provisions are not compliant with current employment law and ACAS guidelines, for example, there is no right of appeal against a grievance decision. The procedures laid down in Statute 24 and the related Ordinances are unnecessarily drawn out and unclear and therefore can lead to uncertainty and anxiety for many academic colleagues.

The University wants to ensure through this review that there are a set of policies and procedures that apply to all staff groups, ensuring fairness and equity across the staff community.

2. Who commissioned the review and reform of Statute 24 and its related Ordinances?

The University Council commissioned the review and reform of Statute 24 and its related Ordinances following observation and involvement in statutory processes that they deem unduly complicated and adversarial.

3. Why can't Statute 24 and the related Ordinances just apply to all staff?

Provisions within Statute cannot be easily changed and therefore can become quickly out of date with contemporary employment law.

The University believes that moving the provisions from Statute 24 and related Ordinance into policies and procedures will make the University more agile and responsive to any employment legislation changes.

Given that a significant number of employees are on non-academic contracts, the University also believes the legalistic, intimidating and expensive nature of the current statutory procedures would be detrimental to many staff.

4. Have any other universities done this?

Yes, the University is undertaking a similar exercise to that at many other universities. There have been a variety of different approaches adopted, however, Warwick is certainly not proposing anything revolutionary in the sector.

5. Why is the University committed to the principle of equity and for the same policy framework to apply to all staff?

The University wants to ensure that, wherever possible, there is a common set of policies and procedures that apply to all staff groups, thereby ensuring fairness and equity across the staff community.

We do not believe that it is necessary for different staff groups to be subject to different policies and procedures, with the sole exception of issues specifically related to academic freedom. Many of the existing University policies and procedures apply to all staff for example; Dignity at Warwick, Sickness Management policies.

6. If the University wants all staff groups to have the same policies and procedures, why are there separate terms and conditions of employment?

The University recognises that there are differences between staff groups, for example in terms of notice period, probationary period, hours of work, pension eligibility etc. that are best reflected in different terms and conditions of employment.

The University does not believe that there should be differences in policies or procedures which can fairly and reasonably be applied to all employees, for example, in how a grievance should be considered, or disciplinary action taken.

Timeline

7. What is the timescale for the review?

Following feedback from Senate and the Trade Unions, the Council sub-group charged with overseeing the reform of Statute 24 and related Ordinances has agreed an extension to the timescale for the review.

The final draft proposals will now be considered by the University Council at its meeting in July 2017, rather than May 2017. There will also be further opportunity for Senate to consider the proposals in the normal course of business prior to the July meeting.

Following this (and subject to satisfactory completion of the necessary governance processes), it is anticipated that the proposed changes would come into effect from January 2018.

Academic freedom

8. What is academic freedom?

Academic freedom is a statement enshrined in the University's Statute which ensures that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas or controversial or unpopular opinion, without placing themselves in jeopardy of losing their jobs and privileges.

9. Will academic freedom be removed from Statute through this review?

No, the University remains absolutely committed to the principle of academic freedom. The table below has been produced to outline the minimal differences between the current wording of Statute regarding academic freedom and the proposed draft Statute:

| Statute 24 (current) | Proposed Statute 24 (draft) (Wording in italics reflects minor additions to proposed wording) |
|---|--|
| <p>This Statute and any Ordinance or Regulation made under this Statute shall be construed in every case to give effect to the following guiding principles, that is to say:</p> <ul style="list-style-type: none"> a) To ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges; b) To enable the University to provide education, promote learning and engage research efficiently and effectively; c) To apply the principles of justice and fairness | <p>The University's policies and procedures shall be construed in every case to give effect to the following guiding principles, that is to say:</p> <ul style="list-style-type: none"> a) To ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges; b) To enable the University to provide education, promote learning and engage research efficiently and effectively; c) To apply the principles of justice and fairness <i>in line with relevant legislation, regulation and good employment practices; and</i> d) <i>To avoid unlawful discrimination and promote equality of opportunity, dignity at work and good relations with the University.</i> |

10. How will the University ensure that academic freedom is preserved?

The University will enshrine the following statement in Statute to ensure that academic freedom is preserved. Furthermore, the University has made provision within the revised Statute for the hearing and determining of appeals by members of the Academic Staff in specific circumstances and where they invoke the academic freedom statement enshrined in Statute. In addition the policy documents will include explicit reference to academic freedom at all relevant points.

Academic freedom statement

“The University's policies and procedures shall be construed in every case to give effect to the following guiding principles, that is to say:

- (a) to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs and privileges;
- (b) to enable the University to provide education, promote learning and engage research efficiently and effectively; and
- (c) to apply the principles of justice and fairness in line with relevant legislation, regulation and good employment practices; and
- (d) to avoid unlawful discrimination and promote equality of opportunity, dignity at work and good relations with the University.”

Consultation

11. How can staff feed into the proposals?

The University is consulting with Trade Unions as the representative bodies for the staff community and there have been a number of formal and informal meetings since the consultation process started in December. The University encourages all employees who are members of a Trade Union to feedback their views on the proposals via these bodies.

For employees who are not members of a Trade Union, the University welcomes your feedback on the proposals via emprelations@warwick.ac.uk.

In addition there has been a discussion at HoDs forum as well as a discussion at Senate.

You are also able to raise any queries via emprelations@warwick.ac.uk so that we can ensure that your question is answered and added to the FAQ page.

12. Are the Trade Unions involved in the consultation?

Yes, consultation with the Trade Unions commenced on 6 December 2016 and meetings have been on an ongoing basis since that date.

There have been a number of consultation meetings, both singly with individual trade unions and collectively on a formal and informal basis over 11 meetings to date. Further consultation meetings are being planned.

13. What has been Trade Union feedback to the proposals?

The University has received positive feedback for the proposed changes from most of the Trade Unions, although UCU, speaking on behalf of its academic members has raised concerns. Where negative feedback has been received, the University has encouraged the Trade Unions to clearly articulate their specific concerns and proposals so that the University can respond accordingly. The latest draft of the policy documents and the latest proposed revisions to Statute reflect feedback that has been provided by the Trades Unions as well as by other staff.

14. Have any of the Trade Unions provided positive feedback?

Yes. The local Unite, UCATT and Unison Trade Union representatives have confirmed that they are content with the proposed policies with Unite, UCATT and Unison commenting on positive additions having been made to the policies.

15. Why is the Students' Union being consulted about matters which affect staff?

The review of the governing instruments is broader than Statute 24 and related Ordinances, however, those are primarily the ones that affect staff.

Due to the broader review, the University will consult with the Students' Union where appropriate on non-staff related matters.

16. How have Heads of Department been consulted regarding the proposals?

The proposals have been shared with Heads of Department through the Heads of Department forum. Heads of Department have fed back either their comments or that of their Department to the Employee Relations email account, the Provost, or other senior members of the University. Such feedback has been incorporated with the overall comments received and the proposals reviewed in line with these.

Terms and conditions

17. Will there be any changes to my terms and conditions of employment?

The University proposes minimal changes to terms and conditions of employment - for example, the University will update nomenclature where necessary.

As part of this review, the University is also proposing a more fundamental change to those working on term-time only and designated weeks of the year contracts – see question 23 below.

Legal obligations

18. Will the University be legally obliged to follow the new policies?

The University is obliged to abide by employment legislation irrespective of whether the employment provisions are referenced in Statute or a policy or procedure.

Therefore, the University will still be bound by employment law under the new proposed arrangements, and the new policies will respect this. It is also important to note that many aspects of the proposed policies exceed the required legal minimum.

19. Will legal protection for individuals be removed with the abolition of Statute 24 and related Ordinances?

No. Please see answer above – as an employer, the University is bound by employment legislation which provides a framework of protection to all employees.

20. Why do the draft policies contain no right to legal representation?

The use of legal representation in any internal proceedings creates an overly adversarial environment, not least for the individual member of staff involved. Often the use of legal representatives results in an overly legalistic approach to the issues to be determined and

this does not necessarily assist any party, nor is it in line with general good employment practice or the ACAS Code of Practice.

21. Why do the draft policies remove the requirement from Statute for an appeal to be heard by a barrister/solicitor?

In respect of appeals being heard by persons not employed by the University holding, or having held, judicial office or being barristers or solicitors of at least 10 years' standing, there are two main reasons for the proposed removal of this requirement. Firstly, it is again considered (as mentioned in the response to question 20) that it creates an overly adversarial and quasi-judicial environment. This is neither necessary nor desirable in internal proceedings. Good employment practice, including the ACAS Code, does not require such an individual to consider internal appeals. Secondly, the proposed constitution of an appeal panel under the revised statute is more than capable of determining internal appeals without the need for a barrister or similar individual to be involved. The members of the proposed panel are by their nature often more familiar with the internal workings of the University, which cannot always be said with an external legal expert.

Non-academic staff

22. Will staff on non-academic terms and conditions be affected by the proposed changes?

There are minimal changes proposed to the current policies for non-academic staff, with the exception of sick pay for those on term time only and designated weeks of the year contracts, see question 23.

Please liaise with your Trade Union regarding the proposed changes and send any specific queries to: emprelations@warwick.ac.uk.

Redundancy policy

23. Will the proposed changes to Statute 24 and related Ordinances affect job security?

No, the proposed changes to Statute 24 and related Ordinances will not affect job security.

24. Will the proposals mean an end to Enhanced Voluntary Leavers Scheme (EVLS) payments?

The proposals will not mean an end to Enhanced Voluntary Leavers Scheme (EVLS) payments.

The University will continue to consider mitigating compulsory redundancies through the availability of a voluntary redundancy scheme such as EVLS where it is possible to do so. This would apply regardless of whether staff are academics or not. The offering of an EVLS is unrelated to Statute 24 and related Ordinances and has in the past been offered to all staff groups, i.e. academic and non-academic staff and in situations where no academic staff have been affected.

25. Is EVLS paid to avoid the redundancy process outlined in Statute?

No there is no link between EVLS and Statute. EVLS has been provided in the past by the University in order to mitigate against the impact of unexpected compulsory redundancies and has been an option for academic and non-academic employees.

It should be noted, as defined in the title of the scheme that application to the scheme is done on an entirely voluntary basis.

26. Will redundancy legislation still apply?

As an employer, the University will continue to be bound by all employment legislation including that pertaining to redundancy.

27. Is the purpose of the review so that the University can make redundancies easier?

No. The purpose of the review is to ensure that the employment provisions governing staff are fair and equitable across all staff groups and in line with contemporary employment law.

Moving employment provisions for academic staff out of Statute 24 and related Ordinances will not make redundancies easier in any way. The University only resorts to making redundancies where all other options have been exhausted.

In the event of having to make redundancies, the University will still be required to meet its obligations under employment law. As such, the University will still be required to have a justifiable rationale for all redundancies, in line with employment law provision. The University will continue to be legally required to consult with the individuals affected and to consult with Trade Unions as required under current employment legislation.

28. What are the differences between collective and individual consultation?

According to employment legislation, where there are any proposals to make redundant 20 or more employees in the same establishment within 90 days, the University will be obliged to collectively consult with the relevant recognised trade union(s). There is no obligation for an employer to collectively consult with trade unions where it is envisaged that 19 or fewer employees may be made redundant.

However, where there are any proposals to make 19 or fewer employees redundant, the University routinely notifies trade unions, even though there is no legal obligation to do so. The University does this in order to ensure transparency and also to foster good industrial relations.

Disciplinary policy

29. Do the changes make it easier for the University to invoke the disciplinary policy?

No. The University will still be required to meet its obligations under employment law and, therefore, Human Resources will continue to work closely with Schools and Departments to ensure the application of our disciplinary policy is fair and legally compliant.

30. What are the differences between a Head of Department's role under current Statute and the proposed disciplinary policy?

The table below outlines the differences between a Head of Department's role under the current Statute and the proposed disciplinary policy and procedure:

| Element of procedure | Statute 24 (current) | Disciplinary Policy (proposed) |
|-----------------------------------|---|--|
| Informal procedure | <p>Minor faults dealt with informally.</p> <p>Statute is silent on who in practice, would deal with minor faults, however, in practice, most minor faults are dealt with by the Head of Department.</p> | Head of Department or nominated representative to deal with matters raised informally |
| Formal procedure – Stage 1 | <p>Stage 1 Oral warning –Head of Department will chair the hearing/issue the warning.</p> <p>Where the Head of Department is involved in a personal capacity their role will be taken by a Pro Vice Chancellor or some other senior Professor nominated by the Vice Chancellor.</p> | <p>First written warning - Head of Department or nominated representative will chair the hearing/issue the warning.</p> <p>Where the Head of Department is involved in a personal capacity their role will be taken by a senior Professor nominated by the Provost or Vice Chancellor.</p> |
| Formal procedure – Stage 2 | <p>Stage 2 Written warning - Head of Department will chair a hearing/issue the warning.</p> <p>Where the Head of Department is involved in a personal capacity their role will be taken by a Pro Vice Chancellor or some other senior Professor nominated by the Vice Chancellor.</p> | <p>Final written warning – Head of Department will chair the hearing/issue the warning.</p> <p>Where the Head of Department is involved in a personal capacity their role will be taken by a senior Professor nominated by the Provost or Vice Chancellor.</p> |
| Dismissal decision | Vice Chancellor may request Council to appoint a tribunal to hear charges. Tribunal will be made up of a Chair, one member of Council and one member of academic staff nominated by Senate. | Chair of Faculty or Pro Vice Chancellor in consultation with the Provost, and the disciplinary panel which will include a minimum of one other appropriate manager and an HR representative. |
| Appeal against dismissal | Chair will not be a University employee and will have held judicial office or be a barrister/solicitor of ten years' standing. They may sit alone or | Where possible, the appeal will be heard by an individual more senior than the person who determined the original disciplinary sanction. The individual hearing the appeal will be |

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| | may serve with two others who will be a member of Council not employed by the University and a member of academic staff nominated by Senate. | accompanied by a minimum of one other senior member of staff independent of the allegation. A member of HR will be present and will advise on procedure. |
| Appeal against dismissal if related to academic freedom | Statute does not make specific, separate provision for an appeal against dismissal if related to academic freedom | Revision to the policy for an appeal against dismissal if related to academic freedom is proposed. Such an appeal will be heard by: a panel of three with one member of Council not employed by the University; a senior member of academic staff; and a designated representative of the Registrar. |

Grievance policy

31. Will the proposals give an opportunity for an appeal against a grievance decision?

Yes. Non-academic employees already have this right under the non-academic grievance policy. The University is proposing that all employees should have the same right to appeal against a grievance decision. The proposals represent a significant improvement to the current provision for academic staff because Statute 24 does not give academics the opportunity to appeal against a grievance decision. This is against the ACAS code of practice.

Sickness absence policy

32. What is the impact of the review on the sickness absence policy?

The sickness absence policy already applies to all staff, with the exception of one element – the provision relating to ‘removal for incapacity on medical grounds’ which is currently detailed separately for academic staff in Statute 24.

The revised policy incorporates provision for dismissal on the grounds of lack of capability to include academic staff, when it becomes clear that the employee is no longer fit to carry out their role. This option would only be taken as a last resort and after full consultation with the employee.

33. Will term-time only staff have to accept new contracts?

There is an anomaly in the University’s term-time only contracts, including those working on designated weeks of the year contracts. This is because, currently, pro rata, an employee on a contract of this kind, receives more sick pay than an employee working throughout the whole year, whether on a full or part-time basis.

The University is therefore proposing that the sick pay entitlement for this group of staff is brought in line with full and part-time staff who work the full year. This is again to ensure fair and equitable treatment across all staff groups.

As this is a potential amendment to current terms and conditions of employment, the University will negotiate this change with the Trade Unions.

34. Will the proposed changes to the sickness policy result in a detriment to those employed on term time only (or designated weeks of the year) contracts?

The current provisions of the sickness policy are erroneously not pro-rated for those on term time only (or designated weeks of the year) contracts. The University is seeking to rectify this to ensure that pro rata, those on term time only (or designated weeks of the year) contracts' entitlement to sick pay is brought into line with all other employees.

The Trade Unions have confirmed their understanding of the rationale for this change.

Other

35. What is the University Council's role in this process?

In order for any proposed policies to be implemented at the University, they must be approved by the University Council and the Privy Council.

The University is proposing that any future changes to the disciplinary, grievance, sickness absence or redundancy policies are subject to the oversight of the University Council.

36. What is the Privy Council?

The Privy Council is the part of Her Majesty's Government which advises on the exercise of powers and certain functions assigned to The Queen and the Council by Act of Parliament.

Much of the day-to-day work of the Privy Council Office is concerned with the affairs of Chartered Bodies, of which the University is one.

A chartered body may not change its statutes without the approval of the Privy Council.

37. Will the provisions in respect of the role of the Vice-Chancellor be removed from Statute?

No, the University will retain the provisions in respect of the Vice-Chancellor in Statute, which will be subject to the authority of the University Council.

38. Why, as a non-academic member of staff can I not attend the Assembly arranged for 12 May 2017?

UCU have called the Assembly and requested that attendance is restricted to those on Academic terms and conditions of employment only.

39. Does the review impact upon academic probation and/or promotion?

No, there is no impact on academic probation and/or promotion as a result of the review.

The review relates to the following policies:

- Disciplinary policy and procedure
- Grievance policy and procedure
- Redundancy policy and procedure
- Sickness absence policy and procedure