

Report on Staff Employment Review Panels (SERPs), University Appeal Panels (UAPs) and Redundancy Panels

Background

Since February 2017, where a Department considers that there is a good cause for dismissal of a member of staff to whom Statute XII applies, and the Vice-Chancellor or their delegate considers that the matter shall proceed further, and that there is no reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom, the case is referred to a SERP rather than the Visitatorial Board. The SERP comprises five members of the Pool, whose names are drawn by lot, the first drawn being Chair of the Panel. The Pool is elected by and from Congregation. The Panel conducts an oral hearing to decide whether the complaint should be upheld and, if so, what sanction, if any, should be imposed.

If the member of staff wishes to appeal against the referral to a SERP, on the grounds that there is a reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom, they may appeal to a Review Panel, comprised of two elected academic members of Council who are drawn by lot. Where either the Vice-Chancellor or the Review Panel decides that there is or may be an issue of academic freedom, the case is referred to a Visitatorial Board. The Visitatorial Board has not been convened since February 2017. Since 2017, there have been two appeals to a Review Panel against the referral to a SERP; neither was upheld.

The outcome of a SERP may be appealed to a UAP, which is constituted in the same way as a SERP. A UAP will also hear appeals against the decision of the EJRA Committee on the extension of retirement age, and against the ending of a fixed term contract.

Members of the Pool will also be drawn where Congregation approves a resolution¹ to establish a Redundancy Panel to consider whether compulsory redundancies should be recommended, where no alternative solution has been identified; no Redundancy Panels have been needed this year.

Cases referred

The table below shows the number of referrals to SERPs and UAPs in the academic year 2021-22.

	SERPs	Redundancy panel	UAP (EJRA decision)	UAP (end of Fixed Term Contract)	UAP (SERP recommendation to dismiss)	Total

¹ Congregation is not required to approve the referral to a Redundancy Panel in cases involving employees on open-ended contracts where the need for redundancy arises through the withdrawal of funding.

Commenced	1	0	0	1	0	2
Withdrawn	0	0	0	0	0	0
Ongoing	0	0	0	1	0	1
Upheld/partially upheld	1	0	1	0	0	2
Not upheld	0	0	0	0	0	0

The table below shows the number of referrals to SERPs and UAPs between 15 February 2017 and 30 September 2022.

	SERPs	Redundancy panel	UAP (EJRA decision)	UAP (end of Fixed Term Contract)	UAP (SERP recommendation to dismiss)	Total
Commenced	9	1	8	13	2	33
Withdrawn	4	0	1	4	0	9
Ongoing	0	0	0	1	0	1
Upheld/partially upheld	5*	0	2	0	1	8
Not upheld	0	1	5	8	1	15

*One of these cases resulted in dismissal; in the others warnings were imposed, in one case after the dismissal was overturned on appeal.

Since the Covid-19 pandemic began and throughout 2021-22, all hearings have taken place via Microsoft Teams, with panels having the option of hard copy papers in addition to electronic ones where possible. In common with other disciplinary and grievance hearings, it has been possible to run fair hearings at which all parties are able to contribute fully. It is expected that in future decisions on hearings will be taken on a case-by-case basis.

The Pool and Panels

Pool numbers and elections

The Pool from which Panels are drawn initially comprised 24 members of Congregation (four from each academic division, GLAM and UAS), but this was increased to 32 (i.e. with eight further members of Congregation, not representing any Division) in MT 2017 to increase the proportion of men and staff who conduct teaching and/or research. The current panel composition is set out below:

Role/gender	Women	Men	Vacancies
Teaching/research	4	7	
Not teaching/research	15	5	1
Total	19	12	1

When lots are drawn account is taken of the balance of gender and role (i.e. teaching and research or other), to ensure that the Panel is appropriately balanced; if a Panel does not include at least one of each sex and one of each role-type further lots are drawn until the criteria are satisfied.

During 2021-22 elections for 4 vacancies took place. There is currently one vacancy which is being advertised this term.

Panels and the time commitment for Panels

Panel members are drawn by lot from the Pool. Members' ability to serve can be affected by conflict of interest, illness, non-availability (including whether they are on sabbatical or engaged in a particularly busy period of work), and whether they have had the required training. Panel members serve for varying lengths of time (but a term is generally 4 years), and some take on a second term of service. The number of cases for which a Pool member has been drawn since 2017 therefore differs across the Pool, with a range from 0 to 9. As a rough average, a Pool member will be called just under once a year. Some cases will subsequently have been withdrawn.

Feedback from Pool members indicates that they find service on Panels interesting and rewarding, and that they consider that it is possible to fit the current level of demand into their normal workload. The HR Team continue to be conscious of the significant burden a complicated case can be for a Panel member (and particularly the Chair), in addition to their normal duties. The majority of cases can be heard within one working day, and many are heard in half a day. Panel members do need to read a bundle of papers, which can be large, in advance of the hearing, and work on an outcome letter following the hearing. In rare cases the Chair or another member of the Panel has been asked to give evidence in subsequent Employment Tribunal proceedings. The Chair may also need to consider pre-hearing matters

on behalf of the Panel, relating to requests for extensions of deadlines, adjournments or questions relating to evidence or witnesses.

The Panel is supported by the Secretary to the Panel and by an HR Adviser, who has not had any previous involvement in the case, and whose role is to advise the Panel. The Panel has access to legal advice if required. A set of template letters was developed during 2020-2021, including template outcome letters for different types of hearing, which has helped reduce the burden on Chairs.

Hearings

The aim of the Secretariat is to schedule hearings within 8-12 weeks of an appeal being submitted or a case being referred to a SERP, which takes account of the availability of all concerned and gives sufficient time for the member of staff and the Department to prepare written submissions (for which the time required may differ from case to case) and for the bundle to be prepared and read in advance of the hearing by all those attending.

In a significant number of cases it has not been possible to achieve this aim, due to delays caused by other University processes which the Chair has decided need to be completed first, legal arguments, adjournments for personal reasons, non-availability of the member of staff, or holiday periods. Of the 22 cases referred to a SERP, UAP or Redundancy Panel since the beginning of 2019, 8 have been withdrawn, and of the 14 which have proceeded to a hearing, 8 have been heard within 8-12 weeks. It has proved easier to schedule hearings within the 8-12 week target since hearings have been held online. In every case the Secretariat endeavours to schedule hearings as soon as reasonably practicable after the case is referred to a SERP or UAP, and these efforts will continue.

Training

All Pool members must have had training on the requirements of the SERP and UAP processes and on Equality and Diversity before they can serve. Legal Services and HR have run 15 training courses for Pool members on the processes, regulations and employment law context for the University's processes; on equality and diversity; or covering both these topics. Where possible previously trained members are invited to attend training courses to refresh their knowledge and understanding of the process. Courses are arranged for the Redundancy Panel when needed as Redundancy Panels occur only infrequently.

Regulations

A number of amendments were made to Regulations 1 and 3 of 2017 (Regulations for the SERP and UAP and Regulations for constituting Panels convened under Statute XII Parts B, D and H respectively) during 2019-20. There has been no need identified for further amendments since then.

Publication

During the Congregation debates about Statute XII in 2016-17, commitments were made to transparency. It is therefore proposed that this paper be published on the HR Support section of the University website, with a link to the paper published in the *Gazette*. This will enable members of Congregation, whose members are subject to Statute XII and elect the Pool, to read this update.

Public Sector Equality Duty

As a public body, the University has an active duty to consider the impact on equality in all decision making.

Equality impact

This paper provides a report on activity so far and does not seek any decisions; therefore, it has no impact on equality. Nevertheless, we are aware of the need to ensure that the operation of the Pool and the Panels are not such as to inadvertently introduce bias.

The number of individuals that have been subject to SERPs or who have raised appeals is too small to allow any analysis by equality characteristic.

We are aware of the potential for unconscious bias by Panels. In order to mitigate any potential adverse impacts on equality, all Panel members undergo diversity training, including unconscious bias training, and Panels have access to expert advice on equality and diversity where it is relevant.

The Pool is gender diverse, and the regulations require that additional lots are drawn where necessary to ensure Panels are gender diverse.

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