

## **Statute 7     Academic Staff**

### **Part I - Construction, Application and Interpretation**

#### **Construction**

- (1) 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 -
  - (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 in research efficiently and economically; and
  - (C) To apply the principles of justice and fairness.

#### ***Reasonableness of decisions***

- (2) No provision in Part II or Part III shall enable the body or person having the duty to reach a decision under the relevant Part to dismiss any member of the academic staff unless the reason for his dismissal may in the circumstances (including the size and administrative resources of the University) reasonably be treated as a sufficient reason for dismissing him.

#### **Application**

- (3) (A) This Statute shall apply:
  - (i) To the members of the academic staff of the University;
  - (ii) To the Registrar and Secretary, the Librarian and to the staff of the University who are paid on academic related scales and who are declared by resolution of the Council to be Members of the University by virtue of the Council exercising its discretion in accordance with Clause 2 of the Charter; and
  - (iii) To the Vice-Chancellor to the extent and in the manner set out in the Annex to this Statute.
- (B) In this Statute any reference to "academic staff" is a reference to persons to whom this Statute applies.

#### **Interpretation**

##### ***Meaning of "dismissal"***

- (4) In this Statute "dismiss" and "dismissal" mean dismissal of a member of the academic staff and -
  - (A) include remove or, as the case may be, removal from office; and
  - (B) in relation to employment under a contract, shall be construed in accordance with the Employment Rights Act 1996 or successor legislation.

***Meaning of "good cause"***

- (5) (A) For the purposes of this Statute "good cause" in relation to the dismissal or removal from office or place of a member of the academic staff, being in any case a reason which is related to conduct or to capability or qualifications for performing work of the kind which the member of the academic staff concerned was appointed or employed to do, means:
- (i) Conviction for an offence which may be deemed by a Tribunal appointed under Part III to be such as to render the person convicted unfit for the execution of the duties of the office or employment as a member of the academic staff; or
  - (ii) Conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or
  - (iii) Conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office; or
  - (iv) Physical or mental incapacity established under Part IV.
- (B) In this paragraph:
- (i) "Capability", in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and
  - (ii) "Qualifications", in relation to such a member, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by that member.

***Meaning of "redundancy"***

- (6) For the purposes of this Statute dismissal shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to -
- (A) The fact that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the member of the academic staff concerned was appointed or employed by the University, or has ceased, or intends to cease, to carry on that activity in the place in which the member concerned worked; or
  - (B) The fact that the requirements of that activity for members of the academic staff to carry out work of a particular kind, or for members of the academic staff to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.

***Incidental, supplementary and transitional matters***

- (7) (A) In any case of conflict, the provisions of this Statute shall prevail over those of any other Statute and over those of the Ordinances and Regulations and the provisions of any Ordinance made under this Statute shall prevail over those of any other Ordinance:  
Provided that Part III of and the Annex to this Statute shall not apply in relation to anything done or omitted to be done before the date on which the instrument making these modifications was approved under subsection (9) of section 204 of the Education Reform Act 1988.
- (B) Nothing in any appointment made, or contract entered into, shall be construed as over-riding or excluding any provision made by this

Statute concerning the dismissal of a member of the academic staff by reason of redundancy or for good cause:

Provided that nothing in this sub-paragraph shall prevent waivers made under section 142 of the Employment Protection (Consolidation) Act 1978 from having effect.

(C) Nothing in any other Statute or in any Ordinance or Regulation made thereunder shall authorise or require any officer of the University to sit as a member of any Committee, Tribunal or body appointed under this Statute or to be present when any such Committee, Tribunal or body is meeting to arrive at its decision or for the purpose of discussing any point of procedure.

(D) In this Statute references to numbered Parts, paragraphs, and sub-paragraphs are references to Parts, paragraphs, and sub-paragraphs so numbered in this Statute.

## **Part II - Redundancy**

### ***Purpose of Part II***

(8) This Part enables the Council, as the appropriate body, to dismiss any member of the academic staff by reason of redundancy.

### ***Exclusion from Part II of persons appointed or promoted before 20th November 1987***

(9) (A) Nothing in this Part shall prejudice, alter or affect any rights, powers or duties of the University or apply in relation to a person unless -

- (i) his appointment is made, or his contract of employment is entered into, on or after 20th November 1987; or
- (ii) he is promoted on or after that date.

(B) For the purposes of this paragraph in relation to a person, a reference to an appointment made or a contract entered into on or after 20th November 1987 or to promotion on or after that date shall be construed in accordance with subsections (3) to (6) of section 204 of the Education Reform Act 1988.

### ***The Appropriate Body***

(10) (A) The Council shall be the appropriate body for the purposes of this Part.

(B) This paragraph applies where the appropriate body has decided that it is desirable that there should be a reduction in the academic staff -

- (i) of the University as a whole; or
- (ii) of any school, department or other similar area of the University;

by way of redundancy.

(11) (A) Where the appropriate body has reached a decision under paragraph (10)(B) it shall appoint a Redundancy Committee to be constituted in accordance with sub-paragraph (C) of this paragraph to give effect to its decision by such date as it may specify and for that purpose:

- (i) to select and recommend the requisite members of the academic staff for dismissal by reason of redundancy; and

- (ii) to report their recommendations to the appropriate body.
- (B) The appropriate body shall either approve any selection recommendation made under sub-paragraph (A), or shall remit it to the Redundancy Committee for further consideration in accordance with its further directions.
- (C) A Redundancy Committee appointed by the appropriate body shall comprise -
  - (i) a Chairman; and
  - (ii) two members of the Council, not being persons employed by the University; and
  - (iii) two members of the academic staff nominated by the Senate.

#### ***Notices of intended dismissal***

- (12) (A) Where the appropriate body has approved a selection recommendation made under paragraph (11) (A) it may authorise an officer of the University as its delegate to dismiss any member of the academic staff so selected.
- (B) Each member of the academic staff selected shall be given separate notice of the selection approved by the appropriate body.
- (C) Each separate notice shall sufficiently identify the circumstances which have satisfied the appropriate body that the intended dismissal is reasonable and in particular shall include:
  - (i) a summary of the action taken by the appropriate body under this Part;
  - (ii) an account of the selection processes used by the Redundancy Committee;
  - (iii) a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part V (Appeals); and
  - (iv) a statement as to when the intended dismissal is to take effect.

### **Part III - Discipline, Dismissal and Removal from Office**

#### ***Disciplinary Procedures***

- (13) (A) Minor faults shall be dealt with informally.
- (B) Where the matter is more serious but falls short of constituting possible good cause for dismissal the following procedure shall be used:

##### ***Stage 1 - Oral Warning***

If conduct or performance does not meet acceptable standards the member of the academic staff will normally be given a formal ORAL WARNING. The member will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of the right of appeal under this paragraph. A brief note of the oral warning will be kept but it will be spent after 12 months, subject to satisfactory conduct and performance.

##### ***Stage 2 - Written Warning***

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the member of the academic staff by the Head of School or other equivalent senior officer.

This will give details of the complaint, the improvement required and the timescale. It will warn that a complaint may be made to the Registrar and Secretary seeking the institution of charges to be heard by a Tribunal appointed under paragraph (16) if there is no satisfactory improvement and will advise of the right of appeal under this paragraph. A copy of this written warning will be kept by the Head of School or other equivalent senior officer but it will be disregarded for disciplinary purposes after 2 years subject to satisfactory conduct and performance.

#### *Stage 3 - Appeals*

A member of the academic staff who wishes to appeal against a disciplinary warning shall inform the Registrar and Secretary within two weeks. The appropriate Pro-Vice-Chancellor or other equivalent senior officer shall hear all such appeals and his decision shall be final.

#### ***Preliminary examination of serious disciplinary matters***

(14) (A) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in paragraph (13), or in any other case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges to be heard by a Tribunal appointed under paragraph (16) may be made to the Registrar and Secretary who shall bring it to the attention of the Vice-Chancellor.

(B) To enable the Vice-Chancellor to deal fairly with any complaint brought to his attention under sub-paragraph (A) he shall institute such investigations or enquiries (if any) as appear to him to be necessary.

(C) If it appears to the Vice-Chancellor that a complaint brought to his attention under sub-paragraph (A) relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under paragraph (13) or which relates to a particular alleged infringement of rules, regulations or byelaws for which a standard penalty is normally imposed in the University or within the school, department or other relevant area, or is trivial or invalid he may dismiss it summarily, or decide not to proceed further under this Part.

(D) If the Vice-Chancellor does not dispose of a complaint under sub-paragraph (C) he shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if he sees fit, he may suspend the member on full pay pending a final decision.

(E) Where the Vice-Chancellor proceeds further under this Part he shall write to the member of the academic staff concerned inviting comment in writing.

(F) As soon as may be following receipt of the comments (if any) the Vice-Chancellor shall consider the matter in the light of all the material then available and may -

- (i) dismiss it himself; or
  - (ii) refer it for consideration under paragraph (13); or
  - (iii) deal with it informally himself if it appears to the Vice-Chancellor appropriate to do so and if the member of the academic staff agrees in writing that the matter should be dealt with in that way; or
  - (iv) direct the Registrar and Secretary to prefer a charge or charges to be considered by a Tribunal to be appointed under paragraph (16).
- (G) If no comment is received within 28 days the Vice-Chancellor may proceed as aforesaid as if the member concerned had denied the substance and validity of the alleged case in its entirety.

### ***Institution of Charges***

- (15) (A) In any case where the Vice-Chancellor has directed that a charge or charges be preferred under paragraph (14)(F)(iv), he shall request the Council to appoint a Tribunal under paragraph (16) to hear the charge or charges and to determine whether the conduct or performance of the member of the academic staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the member's appointment or employment.
- (B) Where the Council has been requested to appoint a Tribunal under paragraph (16) the Registrar and Secretary or, if he is unable to act, another officer appointed by the Vice-Chancellor shall take charge of the proceedings.
- (C) The officer in charge of the proceedings shall formulate, or arrange for the formulation of, the charge or charges and shall present, or arrange for the presentation of, the charge or charges before the Tribunal.
- (D) It shall be the duty of the officer in charge of the proceedings:
- (i) to forward the charge or charges to the Tribunal and to the member of the academic staff concerned together with the other documents therein specified, and
  - (ii) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.

### ***The Tribunal***

- (16) A Tribunal appointed by the Council shall comprise:
- (i) a Chairman; and
  - (ii) one member of the Council, not being a person employed by the University; and
  - (iii) one member of the academic staff nominated by the Senate.

***Provisions concerning Tribunal procedure***

- (17) (A) The procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal shall be that set out in Ordinances made under this paragraph.
- (B) Without prejudice to the generality of the foregoing such Ordinances shall ensure:
- (i) that the member of the academic staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;
  - (ii) that a charge shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed by him to represent him are entitled to be present;
  - (iii) that the member of the academic staff and any person representing the staff member may call witnesses and may question witnesses upon the evidence on which the case against him is based; and
  - (iv) that full and sufficient provision is made -
    - (1) for postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Vice-Chancellor for further consideration and for the correction of accidental errors; and
    - (2) for appropriate time limits for each stage (including the hearing) to the intent that any charge thereunder shall be heard and determined by a Tribunal as expeditiously as reasonably practicable.

***Notification of Tribunal decisions***

- (18) (A) A Tribunal shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the Vice-Chancellor and to each party to the proceedings.
- (B) A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

***Powers of the appropriate officer where charges are upheld by Tribunal***

- (19) (A) Where the charge or charges are upheld and the Tribunal finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the member of the academic staff concerned.
- (B) In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-paragraph (A) to dismiss the member of the academic staff concerned, the action

available to the appropriate officer (not comprising a greater penalty than that recommended by the Tribunal) may be -

- (i) to discuss the issues raised with the member concerned; or
- (ii) to advise the member concerned about his future conduct; or
- (iii) to warn the member concerned; or
- (iv) to suspend the member concerned for such period as the appropriate officer shall think fair and reasonable, not to exceed 3 months after the Tribunal's decision; or
- (v) any combination of any of the above or such further or other action under the member's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case.

#### ***Appropriate Officers***

- (20) (A) The Vice-Chancellor shall be the appropriate officer to exercise the powers conferred by paragraph (19) and any reference to the appropriate officer includes a reference to a delegate of that officer.
- (B) Any action taken by the appropriate officer shall be confirmed in writing.

#### **Part IV - Removal for Incapacity on Medical Grounds**

- (21) (A) This Part makes separate provision for the assessment of incapacity on medical grounds as a good cause for dismissal or removal from office.
- (B) In this Part references to medical grounds are references to capability assessed by reference to health or any other physical or mental quality.
- (C) In this Part references to the appropriate officer are references to the Vice-Chancellor or an officer acting as his delegate to perform the relevant act.
- (D) References to the member of the academic staff include, in cases where the nature of the alleged disability so requires, a responsible relative or friend in addition to (or instead of) that member.
- (22) (A) Where it appears that the removal of a member of the academic staff on medical grounds would be justified, the appropriate officer -
  - (i) shall inform the member accordingly; and
  - (ii) shall notify the member in writing that it is proposed to make an application to the member's doctor for a medical report and shall seek the member's consent in writing in accordance with the requirements of the Access to Medical Reports Act 1988.
- (B) If the member shares that view the University shall meet the reasonable costs of any medical opinion required.
- (C) If the member does not share that view the appropriate officer shall refer the case in confidence, with any supporting medical and other evidence (including any medical evidence submitted by the member), to a Board comprising one person nominated by the



Council; one person nominated by the member concerned or, in default of the latter nomination, by the Senate; and a medically qualified chairman jointly agreed by the Council and the member or, in default of agreement, to be nominated by the President of the Royal College of Physicians.

(D) The Board may require the member concerned to undergo medical examination at the University's expense.

### ***Termination of Employment***

(23) If the Board determines that the member shall be required to retire on medical grounds, the appropriate officer shall direct the Registrar and Secretary or his delegate to terminate the employment of the member concerned on those medical grounds.

## **Part V – Appeals**

### ***Purpose of Part V***

(24) This Part establishes procedures for hearing and determining appeals by members of the academic staff who are dismissed or under notice of dismissal or who are otherwise disciplined.

### ***Application and interpretation of Part V***

(25) (A) This Part applies -

- (i) to appeals against the decisions of the Council as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II;
- (ii) to appeals arising in any proceedings, or out of any decision reached, under Part III other than appeals under paragraph (13) (Appeals against disciplinary warnings);
- (iii) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
- (iv) to appeals against discipline otherwise than in pursuance of Part III; and
- (v) to appeals against decisions reached under Part IV

and "appeal" and "appellant" shall be construed accordingly.

(B) No appeal shall however lie against -

- (i) a decision of the appropriate body under paragraph (10)(B);
- (ii) the findings of fact of a Tribunal under paragraph (18)(A) save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at the hearing;
- (iii) any finding by a Board set up under paragraph (22)(C).

(C) In this Part references to "the person appointed" are references to the person appointed by the Council under paragraph (28) to hear and determine the relevant appeal.

(D) The parties to an appeal shall be the appellant and the Registrar and Secretary and any other person added as a party at the direction of the person appointed.

### ***Institution of Appeals***

(26) A member of the academic staff shall institute an appeal by serving on the Registrar and Secretary, within the time allowed under paragraph (27), notice in writing setting out the grounds of the appeal.

### ***Time for appealing and notices of appeal***

(27) (A) A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under sub-paragraph (C).

(B) The Registrar and Secretary shall bring any notice of appeal received (and the date when it was served) to the attention of the Council and shall inform the appellant that he has done so.

(C) Where the notice of appeal was served on the Registrar and Secretary outside the 28 day period the person appointed under paragraph (28) shall not permit the appeal to proceed unless he considers that justice and fairness so require in the circumstances of the case.

### ***Persons appointed to hear and determine appeals***

(28) (A) Where an appeal is instituted under this Part the Council shall appoint a person described in sub-paragraph (B) to hear and determine that appeal.

(B) The persons described in this sub-paragraph are persons not employed by the University holding, or having held judicial office or being barristers or solicitors of at least ten years' standing.

(C) The person appointed shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons.

(D) the other persons who may sit with the person appointed shall be -

(i) one member of the Council not being a person employed by the University; and

(ii) one member of the academic staff nominated by the Senate.

### ***Provisions concerning appeal procedures and powers***

(29) (A) The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Ordinances made under this paragraph.

(B) Without prejudice to the generality of the foregoing such Ordinances shall ensure -

(i) that an appellant is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of his appeal;

(ii) that an appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by him to represent him are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses;

- (iii) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and
- (iv) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.

(C) The person or persons hearing the appeal may allow or dismiss an appeal in whole or in part and, without prejudice to the foregoing, may -

- (i) remit an appeal from a decision under Part II to the Council as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or
- (ii) remit an appeal arising under Part III for re-hearing by a differently constituted Tribunal to be appointed under that Part; or
- (iii) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or persons hearing the appeal may direct; or
- (iv) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Tribunal which heard and pronounced upon the original charge or charges.

***Notification of decisions***

(30) The person appointed shall send the reasoned decision, including any decision reached in exercise of his powers under paragraph (29)(C) (i), (ii) or (iii), on any appeal together with any findings of fact different from those come to by the Council as the appropriate body under Part II or by the Tribunal under Part III, as the case may be, to the Vice-Chancellor and to the parties to the appeal.