

# Gazette Supplement



## Voting on legislative proposal: further proceedings at second meeting

### Statute XII (Academic Staff and the Visitation Board), Statute XI (University Discipline), Statute XIV (Employment of Academic and Support Staff by the University)

A legislative proposal and explanatory note on changes to Statute XII, Statute XI, Statute XIV (together with associated regulations) were published as Supplement (2) to *Gazette* No 5127, issued with the *Gazette* of 24 March 2016. The legislative proposal was moved and seconded at the first meeting on 3 May.

Amendments to the legislative proposal were published as Supplement (1) to *Gazette* No 5130 of 28 April 2016 and were considered on 3 May. A transcript of the 3 May meeting was published as Supplement (1) to *Gazette* No 5131, issued with the *Gazette* of 12 May 2016.

The legislative proposal as amended will be considered at the meeting on 31 May. For ease of reference, this supplement incorporates each of the six amendments to the legislative proposal.

#### Results

At the Congregation meeting on 3 May amendments one (equality and diversity), two (academic freedom), three (confidentiality) and four (representation) were approved without a division. Amendments five (size of panels) and six (redundancy) were both approved on a division.

A postal vote was called on amendments five and six, and the results are as follows:

#### *Amendment five (Size of Panels and the Pool)*

836 votes in favour; 337 votes against.

The amendment is accordingly accepted. The result confirms the outcome of the vote at the Congregation meeting on 3 May.

#### *Amendment six (Part B: Redundancy)*

827 votes in favour; 367 votes against.

The amendment is accordingly accepted. The result confirms the outcome of the vote at the Congregation meeting on 3 May.

The legislative proposal is republished in this supplement so as to show the amendments made to Statute XII (deleted text struck through, new text underlined). No amendments have been made to Statute XI or Statute XIV as a result of the meeting of Congregation on 3 May and accordingly

they are reproduced as they appeared in the *Gazette* of 24 March 2016.

If the amended legislative proposal is approved, it will be necessary to make consequential changes to regulations which will be republished in due course.

#### **Arrangements for the meeting on 31 May**

The arrangements for the meeting, which will take place at 2pm on 31 May, are set out in the *Gazette* of 26 May. The amended legislative proposal is the first item on the agenda.

The Congregation website is at: [www.admin.ox.ac.uk/councilsec/governance/congregation](http://www.admin.ox.ac.uk/councilsec/governance/congregation)

#### **Further information on Statute XII**

The Statute XII consultation website is at: [www.ox.ac.uk/staff/consultations/statute-xii](http://www.ox.ac.uk/staff/consultations/statute-xii).

#### **Inconsistent provisions within the amended legislative proposal**

In accordance with regulation 2.15 of Congregation Regulations 2 of 2002, Council may submit to Congregation the choice between inconsistent provisions which may have been introduced into the legislative proposal. Given that both amendments five and six have been accepted, two sets of inconsistent provisions are being submitted. These are as follows:

1. Part of amendment two (academic freedom) sought to amend subsection 12(2); however, amendment six (redundancy) sought to delete this subsection in its entirety.

As both amendments two and six have been approved, Council recommends to Congregation that subsection 12(2) be deleted in accordance with amendment six.

2. Part of amendment five (panel size) sought to amend subsection 14(6), which is within Part B; however, amendment six (redundancy) states that a redundancy panel shall consist of three members.

As both amendments five and six have been approved, Council recommends to Congregation that the amendment to subsection 14(6) be included in accordance with amendment five.

The amendment to subsection 14(6) is as follows (deleted text struck through, new text underlined):

'A Redundancy Panel shall comprise ~~three~~five members of Congregation elected and selected under regulations governing membership of panels convened under Parts B, D and H of this statute.'

The amendments to the legislative proposal published in this supplement adopt the recommendations set out above.

At the beginning of the meeting, the Vice-Chancellor will submit these recommendations to Congregation for approval.

*WHEREAS it is expedient to repeal and replace Statute XII concerning Academic Staff and the Visitorial Board and amend Statute XI concerning University Discipline and Statute XIV concerning the employment of academic and support staff by the University, NOW THE UNIVERSITY OF OXFORD, in exercise of the powers in that behalf conferred upon it by the Universities of Oxford and Cambridge Act, 1923, and of all other powers enabling it, ENACTS (Statute XII being subject to the approval of Her Majesty in Council) AS FOLLOWS.*

**1** Repeal existing Statute XII concerning Academic Staff and the Visitorial Board and substitute with new Statute XII as follows:

#### **'Statute XII**

##### **Part A: Construction, Application, and Interpretation**

1. This statute and any regulation made under this statute shall be construed in every case to give effect to the following guiding principles, that is to say:

(1) to ensure that members of the academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, including their opinions about the University, without institutional censorship and without placing themselves in jeopardy of losing their jobs or privileges, and as further provided for in section 4 below;

(2) to enable the University to provide education, promote learning, and engage in research efficiently and economically; **and**

(3) to apply the principles of justice and fairness; **and**

(4) to promote equality and diversity among all the University's staff.

2. No provision in this statute shall enable any member of the academic staff to be dismissed unless the reason for the dismissal may in the circumstances (including the size and administrative resources of the University) reasonably be treated as a sufficient reason for dismissal.

3. (1) This statute shall apply:

(a) to professors, readers, and associate professors or lecturers;

(b) to any employee of the University who is a member of the Universities Superannuation Scheme or who would be a member if he or she had not been exempted under the provisions of Statute XIV; and

(c) to the Vice-Chancellor to the extent and in the manner set out in Part G.

(2) In this statute any reference to "a member of the academic staff" is a reference to a person to whom this statute applies.

#### 4. Statement of Freedoms

(1) All members of the academic staff, in accordance with the UNESCO 1997 Recommendation concerning academic freedom, shall have all the freedoms listed below which comprise "academic freedom" for the purposes of this statute and are accorded protection in Parts C and D through the Visitorial Board:

(a) all the freedoms of expression set out in section 1 (1) regardless of whether those freedoms are exercised within or outside the context of University employment;

(b) the freedom to participate in professional bodies or representative bodies of their choice in accordance with the law and the University's recognition agreements with trade unions in force from time to time; and

(c) all employees of the University who are required to engage in academic teaching or research either by their written contracts or by established and agreed practice, shall have particular freedoms pertaining to academic teaching and research in the context of their University employment, namely that, provided that they fulfil their contractual duties and honour any applicable agreements with research funding bodies, they shall be free without fear of any professional or personal reprisal or disadvantage, to:

(i) carry out research on subjects of their choosing, and publish and disseminate the results of that research as they wish and in whatever form they wish without any interference or any suppression;

(ii) conduct teaching in a manner that they consider appropriate according to the standards and norms of the relevant department or faculty.

(2) The University requires that, in all circumstances, members of staff will exercise their right to academic freedom only within the law.

(3) All members of the University must observe University policy concerning behaviour at work and the conduct of their duties.

5. In this statute "dismiss" and "dismissal" mean dismissal of a member of the academic staff from their employment under a contract with the University and shall be construed in accordance with Part X of the Employment Rights Act 1996 as amended or re-enacted from time to time, save that this statute shall not apply to the termination of a contract of employment by the resignation of a member of the academic staff in circumstances in which he or she claims to be entitled to terminate the contract without giving notice by reason of the University's conduct.

6. (1) For the purposes of this statute "good cause" in relation to the dismissal of a member of the academic staff under Part D, 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:

(a) conviction for an offence which is such as to render the person convicted unfit for the performance of the duties of the employment as a member of the academic staff; or

(b) conduct of an immoral, scandalous, or disgraceful nature incompatible with the duties of the employment; or

(c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of employment; or

(d) physical or mental incapacity.

(2) In this section:

(a) "capability", in relation to such a member, means capability assessed by reference to skill, aptitude, health, or any other physical or mental quality; and

(b) "qualifications", in relation to such a member, means any degree, diploma or other academic, technical, or professional qualification relevant to the position held by that member.

7. For the purposes of this statute dismissal shall be taken to be a dismissal by reason of redundancy under Part B if it is attributable wholly or mainly to:

(1) the fact that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the person 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 person concerned worked; or

(2) the fact that the requirements of that activity for members of the academic staff to carry out work of a particular kind, or to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.

8. (1) Parts B and D shall not apply to a dismissal by reason of the termination of:

(a) a fixed-term contract of employment upon and by reason of the expiry of such term on its agreed date of expiry;

(b) a contract of employment during or at the end of a probationary period or, in the case of academic staff, at the end of an Initial Period of Office by reason of capability; and

(c) an office except where that office represents the sole contract of substantive employment with the University.

(2) The procedure for considering and deciding upon dismissal in the circumstances described in sub-section (1) shall be as provided for by the University's personnel procedures as published from time to time.

9. (1) In any case of conflict, the provisions of this statute shall prevail over those of any other of the statutes and over those of the regulations, and the provisions of any regulation made under this statute shall prevail over those of any other regulation.

(2) Nothing in any appointment made, or contract entered into, shall be construed as overriding 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.

(3) In any case where an officer of the University or any other person is designated to perform any duties or exercise any powers under this statute, and that officer or other person is involved in the matter in question, an alternate may be appointed to act in his or her place under procedures prescribed by regulations made under this statute.

(4) Nothing in any other of the statutes or in any regulation made under them 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.

(5) This statute shall be without prejudice to any power given by the statutes of any college to the governing body of that college to deprive a member of the academic staff who is a fellow of the college of his or her fellowship or of any part of the emoluments which he or she is entitled to receive as fellow for any cause (including redundancy) for which any other fellow of the college would be liable to be so deprived.

(6) In this statute references to lettered Parts and to numbered sections and sub-sections are references to Parts, sections, and sub-sections so lettered or numbered in this statute.

### **Part B: Redundancy**

10. This Part enables a Redundancy Panel, to be constituted in accordance with regulations governing the membership of panels convened under Parts B, D and H of this Statute, to dismiss any member of the academic staff by reason of redundancy.

11. (1) 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:

(a) his or her appointment is made, or his or her contract of employment is entered into, on or after 20 November 1987; or

(b) he or she is promoted on or after that date.

(2) For the purposes of this section in relation to a person, a reference to an appointment made or a contract entered into on or after 20 November 1987 or to promotion on or after that date shall be construed in accordance with sub-

sections (3) to (6) of section 204 of the Education Reform Act 1988.

12. This Part applies only where a decision has been taken that it is desirable that there should be a reduction in the members of the academic staff

(a) of the University as a whole; or

(b) of any division, faculty, school, department, or other similar area of the University by way of redundancy.

13. A decision under section 12 shall be referred to a Redundancy Panel selected by lot by the Registrar in accordance with regulations as set out in section 10, to consider proposals for such reductions as may be referred to it from time to time. The appointment of a Redundancy Panel shall require a prior decision of Congregation except in those instances involving employees on open-ended contracts where the need for redundancy arises through the withdrawal of external funding.

14. (1) Where a Divisional Board or equivalent University authority for a department, institution, or body proposes a reduction in the academic staff in a department, institution, or body, the proposal shall first be dealt with under the University's personnel procedures as published from time to time, up to and including consideration of alternatives to compulsory redundancy.

(2) Where following consideration under section 14 (1), it is not considered possible to achieve the proposed reduction in the members of the academic staff without dismissal(s) of such staff, the Divisional Board, or equivalent University authority shall refer a formal proposal for dismissal of members of the academic staff to the Director of Human Resources, in accordance with regulations for the procedure to be followed by a Redundancy Panel.

(3) The Director of Human Resources shall refer a proposal under section 14 (2) to the Registrar who, having sought and obtained the agreement of Congregation as required under section 13, shall appoint a Redundancy Panel according to the provisions of section 10 to consider such proposal in accordance with regulations for the procedure to be followed by a Redundancy Panel.

(4) In cases where a prior decision of Congregation under section 13 is not required, if a Redundancy Panel appointed to consider a particular redundancy proposal forms a majority

view that for any reason it would be inappropriate to proceed without the approval of Congregation, the Panel should advise Council to that effect and await such approval before proceeding further.

(5) A Redundancy Panel appointed under section 14 (3) shall:

(a) scrutinise the proposals in accordance with regulations for the procedure to be followed by a Redundancy Panel;

(b) select and recommend the requisite members of the academic staff (if any) for dismissal by reason of redundancy; and

(c) report its recommendations to the relevant Divisional Board or equivalent University authority.

(6) A Redundancy Panel shall comprise three five members of Congregation elected and selected under regulations governing membership of panels convened under Parts B, D and H of this statute.

15. (1) Where the Redundancy Panel has selected and recommended the dismissal of a member of the academic staff under section 14 (5) (b), it may authorise an officer of the University as its delegate to dismiss any member of the academic staff so selected.

(2) Each member of the academic staff selected shall be given separate notice of the selection approved by the Redundancy Panel.

(3) Each separate notice shall sufficiently identify the circumstances which have satisfied the Redundancy Panel that the intended dismissal is reasonable and in particular shall include:

(a) a summary of the action taken by the Redundancy Panel and Congregation, under this Part;

(b) an account of the selection processes used by the Redundancy Panel;

(c) 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 H; and

(d) a statement as to when the intended dismissal is to take effect.

#### **Part C: Visitation Board**

16. The Visitation Board shall consist of a chair and four members.

17. (1) The High Steward shall appoint the chair who shall serve for two years and may be reappointed.

(2) The chair shall be a person who is not a member of Congregation and is a barrister or solicitor of at least five years' standing or a person who has judicial experience.

(3) If the chair is for any reason unable to act on any occasion the High Steward or (in his or her absence) the Vice-Chancellor shall appoint a deputy chair to act in the place of the chair for that occasion.

(4) Any deputy chair must possess the same qualifications as those set out in sub-section (2) above.

(5) If a vacancy arises through the chair dying or resigning or becoming a member of Congregation before the completion of his or her period of office the person next appointed shall hold office for the remainder of the period of office of the person replaced.

18. The four other members of the board shall be selected from a panel of twelve persons who shall be members of Congregation required to engage in academic teaching and/or research either by their written contracts of employment or by established and agreed practice and who shall be elected by Congregation under arrangements which shall be prescribed from time to time by Council by regulation.

19. The board shall consider:

(1) any reference made by the Vice-Chancellor:

(a) under Part D concerning any person specified in section 3 (1)(a) or 3 (1)(b); and

(b) where the Vice-Chancellor or a Review Panel has decided that there is a reasonable prospect that determination of the reference will or may involve an issue of academic freedom as provided for under Part D; and

(2) any other matter which falls within its jurisdiction as prescribed by statute or regulation from time to time.

20. (1) Sections 31-34 of Part D shall apply to the procedure of the board following a reference made by the Vice-Chancellor under that Part.

(2) The procedure in respect of other matters shall be as prescribed in the relevant statute or regulation.

#### **Part D: Discipline and Dismissal**

21. For members of the academic staff to whom this Part applies:

(1) Minor faults shall be dealt with informally.

(2) Capability or performance issues shall be dealt with in the first instance in accordance with the University's personnel procedures as published from time to time.

(3) Where the matter is more serious but falls short of constituting possible good cause for dismissal, the following procedure shall be used:

(a) A member of the academic staff shall be entitled to be accompanied by a colleague in the University or a trade union representative at any meeting that could result in a formal warning being given or confirmed (including on appeal), or some other disciplinary action being taken, when the member has made a reasonable request to be accompanied at such a meeting.

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

(b) If conduct or performance does not meet acceptable standards the member of the academic staff will normally be given a formal oral warning by the head of department (which for the purposes of this statute means the head of the relevant department or other institution of the University or, in the absence of such an entity, the chair of the relevant divisional board or similar University body). 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 section. A brief note of the oral warning will be kept but it will be spent after twelve months, subject to satisfactory conduct and performance.

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

(c) If the misconduct or unsatisfactory performance is serious, or if further misconduct occurs or unsatisfactory performance continues, a written warning will be given to the member of the academic staff by the head of department. This will give details of the complaint, the improvement required, and the time scale. It will warn that a complaint may be made to the Registrar alleging good cause for dismissal if there is no satisfactory improvement and will advise of the

right of appeal under this section. A copy of this written warning will be kept by the head of department, but it will be disregarded for disciplinary purposes after two years subject to satisfactory conduct and performance.

### Stage 3 – Appeals

(d) A member of the academic staff who wishes to appeal against a disciplinary warning shall inform the Registrar within two weeks. A Pro-Vice-Chancellor shall hear all such appeals and his or her decision shall be final.

22. (1) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in section 21, or in any case where it is alleged that the conduct, capability, or performance of a member of the academic staff may constitute good cause for dismissal, the head of department or other appropriate person may refer a complaint to the Registrar.

(2) Where the good cause for dismissal referred to in sub-section (1) is physical or mental incapacity, this section and the subsequent sections of this Part, and any regulations made under it, shall be read as if the word “complaint” were replaced with the word “application”.

23. Any complaint which is referred to the Registrar under section 22 shall include a description of the conduct, capability, or performance which is relied upon and an explanation of why it is alleged to constitute good cause for dismissal.

24. The Registrar shall refer any complaint made under section 22 and in accordance with section 23 to the Vice-Chancellor.

25. (1) To enable the Vice-Chancellor to deal fairly with any complaint referred to him or her under this Part, such investigations or inquiries (if any) shall be instituted as appear to the Vice-Chancellor to be necessary.

(2) If it appears to the Vice-Chancellor that a complaint referred to him or her under this Part relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under section 21 or which relates to a particular alleged infringement of statutes or regulations for which a standard penalty is normally imposed in the University or within the division, faculty, school, department, or other relevant area, or is trivial or invalid, he or she may dismiss

it summarily, or decide not to proceed further under this Part.

(3) If the Vice-Chancellor does not dispose of a complaint under sub-section (2), he or she shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if he or she sees fit, the Vice-Chancellor may suspend the member on full pay pending a final decision, such power of suspension being exercisable either at this stage or at any time prior to the final decision.

26. Where the Vice-Chancellor proceeds further under this Part:

(1) If it appears to the Vice-Chancellor that there is a reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom, he or she shall write to the member of the academic staff proposing that the complaint be determined by the Visitation Board, unless the member of the academic staff concerned decides to have the complaint determined by a Staff Employment Review Panel (to be constituted in accordance with section 35).

(2) If it appears to the Vice-Chancellor that there is no reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom, he or she shall write to the member of the academic staff proposing that the complaint be determined by a Staff Employment Review Panel, and notifying the member of the right to appeal such a proposal to a Review Panel (to be constituted in accordance with section 28).

27. When the Vice-Chancellor sends a written proposal under section 26 he or she shall also send a copy of the complaint, and invite the member of the academic staff concerned to comment in writing within fourteen days on the:

(a) matters raised in the complaint; and

(b) proposal for determination of the complaint, including whether or not the member considers there to be a reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom.

28. (1) The Vice-Chancellor shall refer any appeal by a member of the academic staff against a proposal that a complaint be determined by the Staff Employment Review Panel to the Registrar who shall

select by lot a Review Panel for that purpose.

(2) A Review Panel shall be comprised of two elected members of Council who are required to engage in academic teaching and/or research either by their written contracts of employment or by established and agreed practice, and who are selected by lot.

(3) The procedure to be followed by the Review Panel shall be as described in regulations made under this section and shall provide that the member of academic staff shall have the right to make representations at an oral hearing and to be accompanied by a colleague in the University or trade union representative.

(4) As soon as reasonably practicable after the oral hearing, the Review Panel shall decide whether or not there is a reasonable prospect that the determination of the complaint will or may involve an issue of academic freedom and shall send its decision in writing to the Vice-Chancellor and to the member of the academic staff concerned. In the event that the Review Panel cannot reach a unanimous decision, it shall uphold the appeal.

(5) The decision of the Review Panel shall be final.

29. (1) Following receipt of the member's comments (if any) under section 27 and any decision of the Review Panel under section 28, the Vice-Chancellor shall consider the matter in the light of all the material then available and may:

(a) dismiss the complaint; or

(b) refer it for consideration under section 21; or

(c) deal with it informally, 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 by the Vice-Chancellor in that way; or

(d) refer the complaint for determination by the Visitation Board or a Staff Employment Review Panel in accordance with sections 26–28, to determine in each case whether the conduct, capability 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.

(2) If no comment is received within twenty-eight days, the Vice-Chancellor may proceed under sub-section (1) as if the member concerned had denied the substance and validity of the complaint in its entirety.

#### *Visitatorial Board*

30. The Visitatorial Board shall determine any complaint referred to it by the Vice-Chancellor under section 29 (1) (d) where:

(a) the Vice-Chancellor had proposed under section 26 (1) that the Visitatorial Board should hear the complaint, and the member of the academic staff concerned did not decide that the complaint be determined by a Staff Employment Review Panel; or

(b) a Review Panel acting under section 28 (4) has upheld an appeal against referral to a Staff Employment Review Panel.

31. Where a complaint has been referred to the Visitatorial Board for determination, under this Part, the Registrar or other suitable person appointed by the Vice-Chancellor shall:

(a) set out in writing the case for dismissal which shall: (i) specify any allegation(s) or circumstance(s) relied upon in relation to the conduct, capability, or performance of the member of the academic staff concerned; (ii) explain the basis on which they are said to constitute good cause for dismissal or otherwise constitutes a serious complaint relating to the member's appointment or employment; and (iii) include any documents relied on in support of the case for dismissal;

(b) send a copy of the case for dismissal to the board and to the member of the academic staff concerned; and

(c) make any necessary administrative arrangements for the attendance of witnesses, the production of documents, and generally for the proper presentation before the board of the case for dismissal.

32. The Visitatorial Board shall be constituted in accordance with Part C of this statute; provided that no member of the board who has been involved in or associated with the making of the complaint or any part of it, or who has been involved in any preliminary hearing or investigation, shall take part in the hearing of the complaint.

33. The procedure to be followed in respect of the preparation, hearing, and determination of a case for dismissal by the

Visitatorial Board under this Part shall be as described in regulations made under this section in such a way as to ensure:

(a) that the member of the academic staff concerned is entitled to be represented by another person, whether such person is legally qualified or not, in connection with and at any hearing by the board;

(b) that a case for dismissal shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed to represent that person are entitled to be present;

(c) that witnesses may be called, both on behalf of the member of the academic staff concerned and by the person presenting the case for dismissal, and may be questioned concerning any relevant evidence;

(d) that during preparation for the hearing and the hearing itself, the member of the academic staff has the right in strict confidence to discuss the situation with and obtain advice and moral support from colleagues in the University and outside it, personal friends and family;

(de) where the case for dismissal relies on physical or mental incapacity or lack of capability assessed by reference to health or any other physical or mental quality, or in any other case deemed appropriate by the board, that the board may be provided with expert medical advice and that the member concerned may be required to undergo medical examination at the University's expense; and

(ef) that full and sufficient provision is made:

(i) for postponements, adjournments, dismissal of the case if it is not pursued, and remission of the case for dismissal to the Vice-Chancellor for further consideration and for the correction of accidental errors; and

(ii) for the case for dismissal to be heard and determined by the board as soon as is reasonably practicable.

34. (1) The Visitatorial Board shall send its decision on any case for dismissal referred to it (together with a statement of its findings of fact and the reasons for its decision, and its recommendations, if any, as to the appropriate sanction) to the Vice-Chancellor, the member of the academic staff concerned, and the person presenting the case for dismissal.

(2) When sending its decision in accordance with sub-section (1), the Board shall provide written notification to the member of staff concerned of the applicable time limit for an appeal and of the right to appeal:

(a) where the Board recommends dismissal, to the Appeal Court under Part H; or

(b) where the Board recommends a lesser sanction than dismissal, to a Pro-Vice-Chancellor.

#### *Staff Employment Review Panel*

35. Where a complaint is referred to a Staff Employment Review Panel by the Vice-Chancellor under section 29 (1) (d), the Registrar shall select by lot ~~three~~ five members of Congregation in accordance with regulations governing the membership of panels convened under Parts B, D and H of this statute, to comprise a Staff Employment Review Panel for that purpose under a procedure to be described in regulations made under this section.

36. The preparation, hearing, and determination of a case for dismissal by a Staff Employment Review Panel and an appeal to a University Appeal Panel against a decision of a Staff Employment Review Panel shall be described in regulations made under this section in such a way as to ensure:

(a) that the member of the academic staff concerned is entitled to be accompanied or represented by a colleague in the University or trade union representative or by a legally qualified person provided that, given the nature of the case, the Registrar so agrees;

(b) that a case for dismissal and an appeal shall not be determined without an oral hearing at which the member of the academic staff concerned and ~~any person~~ whom the member reasonably requests the person appointed under section 36 (a) to accompany or represent him or her are entitled to be present;

(c) that at a hearing before the Staff Employment Review Panel witnesses may be called, both on behalf of the member of the academic staff concerned and by the person presenting the case for dismissal, and may be questioned concerning any relevant evidence;

(d) that during preparation for the hearing and the hearing itself, the member of the academic staff has the right in strict confidence to discuss the situation with and obtain advice and moral support from colleagues in

the University and outside it, personal friends and family:

(*de*) where the case for dismissal relies on physical or mental incapacity or lack of capability assessed by reference to health or any other physical or mental quality, or in any other case deemed appropriate by a Staff Employment Review Panel or University Appeal Panel, that the panel may be provided with expert medical advice and that the member concerned may be required to undergo medical examination at the University's expense; and

(*ef*) that full and sufficient provision is made:

- (i) for postponements, adjournments, dismissal of the case if it is not pursued, and remission of the case for dismissal from a Staff Employment Review Panel to the Vice-Chancellor for further consideration and for the correction of accidental errors; and
- (ii) for the case for dismissal and an appeal to be heard and determined by a panel as soon as is reasonably practicable.

37. A Staff Employment Review Panel shall send its decision on any case for dismissal referred to it (together with a statement of its findings of fact and the reasons for its decision, and its recommendations, if any, as to the appropriate sanction) to the Vice-Chancellor, the member of the academic staff concerned, and the person presenting the case for dismissal.

38. The Staff Employment Review Panel shall provide written notification to the member of staff concerned of the applicable time limit for an appeal and of the right to appeal:

(*a*) where the Staff Employment Review Panel recommends dismissal, to a University Appeal Panel under Part H; and

(*b*) where the Staff Employment Review Panel recommends a lesser sanction than dismissal, to a Pro-Vice-Chancellor.

#### *Actions following hearings*

39. (1) (*a*) Where any case for dismissal is upheld and the Visitation Board or Staff Employment Review Panel finds good cause and recommends dismissal, but in no other case, the appropriate officer shall decide whether or not to dismiss the person concerned.

(*b*) If the appropriate officer decides to accept the recommendation, he or she may dismiss that person forthwith or with such notice as may be provided for under the contract of employment.

(2) In any case where a complaint referred under section 29 (1) (*d*) is upheld, other than a case where the appropriate officer has decided under sub-section (1) to dismiss the person concerned, the action available to the appropriate officer (not comprising a greater sanction than that recommended by the Board or Panel) may be:

- (*a*) to discuss the issues raised with the person concerned; or
- (*b*) to advise the person concerned about his or her future conduct; or
- (*c*) to warn the person concerned; or
- (*d*) to suspend the person concerned with or without pay for such period as the appropriate officer shall think fair and reasonable but not exceeding three months after the Board's or Panel's decision; or
- (*e*) to take such further or other action under the contract of employment or terms of appointment of the person concerned as appears fair and reasonable in all the circumstances of the case; or
- (*f*) any combination of any of the above.

40. (1) The Vice-Chancellor shall be the appropriate officer to exercise the powers conferred by section 39, but he or she may appoint a delegate to exercise those powers, and any reference to the appropriate officer includes a reference to any such delegate.

(2) Any action taken by the appropriate officer shall be confirmed in writing.

#### **Part E:**

This Part previously contained provisions for the consideration of applications concerning medical incapacity, which are now subsumed into Part D (sections 22 (2), 33 (*d*), and 36 (*d*) refer).

#### **Part F: Grievance Procedures**

41. The aim of this Part is to settle or redress individual grievances promptly, fairly, and so far as possible, informally and within the division, faculty, school, department, or other relevant area by methods acceptable to all parties.

42. The grievances to which this Part applies are ones by members of the academic staff concerning their appointments or employment where those grievances relate:

(1) to matters affecting themselves as individuals; or

(2) to matters affecting their personal dealings or relationships with other staff of the University, not being matters for which express provision is made elsewhere in this statute.

43. (1) A member of the academic staff should raise any concerns relating to the matters described in section 42 with his or her manager for informal resolution in the first instance. If the member's concern involves his or her manager directly, he or she may raise the matter with the head of department (as defined in section 21 (3)) for informal resolution.

(2) If other remedies within the division, faculty, school, department, or other relevant area have been exhausted, the member of the academic staff may raise the matter with the head of department.

(3) If the member of the academic staff is dissatisfied with the result of an approach under sub-section (1) or if the grievance directly concerns the head of department, the member may raise the matter with the head of the division.

(4) Where a grievance has been raised with a head of department or division under sub-section (3), he or she shall consider the possibility of resolving the grievance informally and make such arrangements as he or she considers appropriate for that purpose.

(5) Where a grievance has not been resolved under sub-section (4), the head of department or division shall consider the grievance and decide whether it is well-found.

(6) The procedure for the consideration and determination of a grievance under sub-section (5) shall be as described in regulations made under this section in such a way as to ensure:

(*a*) that the grievance shall not be determined without a meeting which the aggrieved person shall be entitled to attend and to be accompanied by a colleague in the University or a trade union representative; and

(*b*) that the grievance shall be determined as soon as is reasonably practicable.

- (7) The head of department or division shall send his or her decision on whether the grievance is or is not well-found, and if it is well-found any proposals for the redress of the grievance, to the aggrieved person, and notify him or her of the right to appeal the decision under section 44.
44. (1) If the member of the academic staff is dissatisfied with the decision in respect of the grievance, he or she may apply in writing to the Vice-Chancellor for an appeal.
- (2) An appeal under sub-section (1) shall be sent within fourteen days of the date on which the decision under section 43 (7) was sent to the member of the academic staff.
- (a) If it appears to the Vice-Chancellor that the matter has been finally determined under Part D or H, or that the grievance is trivial or invalid, he or she may dismiss it summarily or take no action upon it.
- (b) If it so appears to the Vice-Chancellor, he or she shall inform the member accordingly.
- (3) If the Vice-Chancellor is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of):
- (a) a complaint under Part D,  
or  
(b) an appeal under Part H,
- he or she shall defer action upon it under this Part until the relevant complaint, determination, or appeal has been heard or the time for instituting it has passed, and he or she shall notify the member accordingly.
- (4) If the Vice-Chancellor does not reject the grievance appeal under sub-section (2), and if he or she does not defer action upon it under sub-section (3), the Vice-Chancellor shall consider the possibility of resolving the grievance appeal informally and shall make such arrangements as he or she considers appropriate for that purpose.
45. If the grievance has not been disposed of informally under section 44 (4), the Vice-Chancellor shall refer the matter to the Grievance Committee for consideration.
46. There shall be a Grievance Committee appointed by Council, which shall comprise:
- (1) a chair; and
- (2) two members of Congregation, at least one of whom shall be a member of staff who is required to engage in academic teaching and/or research either by his or her written contract of employment or by established and agreed practice.
47. The procedure in connection with the consideration and determination of grievances shall be determined in regulations in such a way as to ensure that the aggrieved person, and any person against whom the grievance lies, shall have the right to be heard at a hearing and to be accompanied by a colleague in the University or a trade union representative.
48. The committee shall inform Council whether the grievance is or is not well-found, and if it is well-found the committee shall make such proposals to Council for the redress of the grievance as it sees fit, and Council shall take such action as it deems fit.
- Part G: Removal of the Vice-Chancellor from Office**
49. The Chancellor may be requested to remove the Vice-Chancellor from office for good cause in accordance with the procedure described in this Part:
- (1) A complaint seeking the removal from office of the Vice-Chancellor for good cause may be made by not less than eight members of Council to the Chancellor.
- (2) If it appears to the Chancellor, on the available material, that the complaint raises a prima facie case and that this could, if proved, constitute good cause for removal from office, he or she shall require Council to appoint a tribunal to hear and determine the matter.
- (3) If it appears to the Chancellor that a complaint made under sub-section (1) does not raise a prima facie case or is trivial or invalid, he or she may recommend to Council that no further action be taken upon it.
- (4) When Council has appointed a tribunal under sub-section (2), the Chancellor shall instruct the Registrar to appoint a solicitor or other suitable person to formulate a case for dismissal and to present, or arrange for the presentation of, that case before the tribunal; and it shall be the duty of the person formulating the case for dismissal:
- (a) to forward the case for dismissal to the tribunal and to the Vice-Chancellor, together with the other documents specified in that case; and
- (b) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents, and generally for the proper presentation before the tribunal of the case against the Vice-Chancellor.
- (5) A tribunal appointed by Council shall comprise:
- (a) a person not employed by the University holding, or having held, judicial office or being a barrister or solicitor of at least ten years' standing, who shall act as chair; and
- (b) two members of Congregation who shall be selected by Council, and at least one of whom shall be a member of the academic staff.
- (6) The tribunal shall have access to legal advice as required.
- (7) Where the good cause for dismissal referred to in this section is physical or mental incapacity, this Part shall be read as if the word "complaint" were replaced with the word "application". In such a case, the tribunal may be provided with expert medical advice and the Vice-Chancellor may be required to undergo medical examination at the University's expense.
- (8) A case for dismissal referred to the tribunal shall be dealt with in accordance with the procedure prescribed in section 33, provided:
- (a) that the Chancellor shall perform any duty, and exercise any power, there assigned to the Vice-Chancellor; and
- (b) that the only recommendation that the tribunal may make is whether or not the Vice-Chancellor should be removed from office.
- (9) The tribunal shall send its reasoned decision on any case for dismissal referred to it, together with a statement of its findings of fact regarding that case and its recommendation on the question of removal from office, to the Chancellor and to the Vice-Chancellor, drawing attention to the period of time within which any appeal under Part H should be made.
- (10) (a) Where a case for dismissal has been upheld by the tribunal and not dismissed on appeal, the Chancellor shall decide whether or not to remove the Vice-Chancellor from office.
- (b) If the Chancellor decides to accept the recommendation for removal, he or she may remove the Vice-Chancellor from office forthwith.

50. Where a complaint is to be referred to a tribunal under section 49, the Chancellor may suspend the Vice-Chancellor from his or her duties and may exclude the Vice-Chancellor from the precincts of the University or any part of those precincts without loss of salary.

#### Part H: Appeals

51. 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.

52. (1) This Part applies:

(a) to any appeal against a decision of a Redundancy Panel (or of a delegate of that body) to dismiss in the exercise of its powers under Part B;

(b) to any appeal arising in any proceedings, or out of any decision reached, under Part D other than appeals against disciplinary warnings under section 21 or section 38 (b);

(c) to any appeal against dismissal otherwise than in pursuance of Part B, D or G;

(d) to any appeal against a disciplinary decision otherwise than in pursuance of Part D; and

(e) to any appeal against a decision reached by a tribunal under Part G;

and “appeal” and “appellant” shall be construed accordingly.

(2) An appeal against any decision to which this Part applies shall be heard by a University Appeal Panel, constituted in accordance with regulations governing the membership of panels convened under Parts B, D and H of this statute, and conducted in accordance with procedures contained in regulations for the Staff Employment Review Panel and University Appeal Panel, save that:

(a) any appeal against a decision of the Visitatorial Board under section 34 to recommend dismissal shall be heard by the Appeal Court; and

(b) any appeal against a decision reached by a tribunal under Part G shall be heard by the Appeal Court.

(3) No appeal shall lie against any finding of fact of the Visitatorial Board under section 34 (1) or of the Staff Employment Review Panel under section 37 save where, with the consent of the person or persons hearing the appeal, new

evidence is called on behalf of the appellant at that hearing.

(4) No appeal shall lie against a decision of Congregation under section 12 (2) or 14 (4).

#### The Appeal Court

53. (1) The parties to an appeal to the Appeal Court under this Part shall be the appellant, the Registrar, or a solicitor or other suitable person appointed by the Vice-Chancellor, and any other person added as a party at the direction of the Appeal Court.

(2) A member of the academic staff shall institute an appeal to the Appeal Court under this Part by serving on the Registrar, within the time allowed under section 54, notice in writing setting out the grounds of the appeal.

54. (1) A notice of appeal to the Appeal Court under this Part shall be served within twenty-eight 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 Appeal Court may determine under subsection (3).

(2) The Registrar shall bring any notice of appeal received under section 54 (1) (and the date when it was served) to the attention of Council and shall inform the appellant that he or she has done so.

(3) Where the notice of appeal was served on the Registrar outside the twenty-eight-day period the Appeal Court shall not permit the appeal to proceed unless it considers that justice and fairness so require in the circumstances of the case.

55. (1) Where an appeal to the Appeal Court is instituted under this Part, it shall be heard and determined by the Appeal Court constituted under Statute XI.

(2) The provisions of section 19 of Statute XI (appointment and functions of assessors) shall apply to appeals made to the Appeal Court under this Part.

56. (1) The procedure to be followed in respect of the preparation, consolidation, hearing, and determination of appeals to the Appeal Court under this Part shall be that set out in regulations made under this section and shall ensure:

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

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

(c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal if it is not pursued, and the correction of accidental errors; and

(d) that any appeal shall be heard and determined as soon as is reasonably practicable.

(2) The Appeal Court may allow or dismiss an appeal in whole or in part and, in particular, may:

(a) remit an appeal arising under Part D for rehearing or reconsideration by the Visitatorial Board as the Appeal Court may direct; or

(b) remit an appeal by the Vice-Chancellor arising under Part G for rehearing or reconsideration by the same or by a differently constituted tribunal to be appointed under that Part; or

(c) substitute any lesser alternative sanction that would under Part D have been open to the appropriate officer following a finding by the Visitatorial Board on the original case for dismissal.

57. The Appeal Court shall send a reasoned decision, including any decision reached in exercise of its powers under section 56 (2) (a), (b), or (c), on any appeal together with a statement of any findings of fact different from those of the Visitatorial Board under Part D, or of the tribunal appointed under Part G, as the case may be, to the Vice-Chancellor (or, where the Vice-Chancellor is a party to the appeal, to the Chancellor) and to the parties to the appeal.

**2** In Statute XI, concerning University Discipline, delete existing section 18 (1) and substitute as follows (new text underlined, deleted text struck through):

‘18. (1) The function of the Appeal Court shall be to hear and determine, in accordance with procedure set out in regulations made under section 20 of this statute:

(a) appeals ~~from against~~ a decision of the Visitatorial Board under section 34 of Statute XII to recommend dismissal;

~~(b) all other appeals made under Part H of Statute X~~  
Hany appeal against a decision reached by a tribunal under Part G;

(c) appeals from the Vice-Chancellor against a decision on a dispute over the interpretation or application of a statute or regulation made under section 5 of Statute XVII;

(d) other appeals which are designated to be made to the Appeal Court in regulations made by Council.'

**3** In Statute XIV, concerning the employment of academic and support staff by the University, delete existing section 15 and substitute as follows (new text underlined, deleted text struck through):

'Every employee of the University within section 3 (1) (a) or (b) of Statute XII~~who is subject to the jurisdiction of the Visitation Board under the provisions of Statute XII,~~ other than the holder of a professorship to which a canonry is annexed who is exempt from membership of the appropriate pension scheme referred to in section 12 of this statute, shall retire not later than the date applicable to that employee as laid down by Council by regulation.'

**4** *Ibid*, delete existing section 16 (1) and substitute as follows (new text underlined, deleted text struck through):

'16. (1) Any employee of the University who is not within section 3 (1) (a) or (b) of Statute XII~~subject to the jurisdiction of the Visitation Board under the provisions of Statute XII~~ shall, in the event of dismissal in a case in which the dismissal arises from disciplinary action, have a right of appeal to a panel consisting of two members of the Personnel Committee of Council appointed by the chairman of that committee (or his or her deputy) and one member of Council, not being a member of the Personnel Committee, appointed by the Vice-Chancellor.'



