

QUEENS' COLLEGE CAMBRIDGE

Academic Staff Orders – May 2018

These Orders contain procedures to be followed in respect of disciplinary, grievance and other matters relating to members of the Academic Staff as required by Statute 37 of the 2017 Statutes of the College. They are based on the Model Academic Staff Ordinances produced for the Cambridge Colleges by Dr George Reid in 2015.

Order 1 The Academic Staff Orders

(a) This Order and the following Orders shall be known as “the Academic Staff Orders”:

Order 2	Committees constituted under the Academic Staff Statute (Statute 37)
Order 3	Redundancy procedure
Order 4	Disciplinary procedure
Order 5	Procedure for assessing incapacity on health grounds
Order 6	Procedure for the renewal of fixed-term appointments
Order 7	Procedure for the confirmation of appointments at the end of an initial probationary period
Order 8	Procedure for dismissal on other grounds
Order 9	Procedure for removal from a secondary office or employment
Order 10	Grievance procedure
Order 11	Procedure for the removal of the President from office
Order 12	Retirement Policy for College Officers

(b) The Academic Staff Orders are made for the implementation of the Academic Staff Statute (Statute 37) and shall be construed in accordance with it. They apply to members of the academic staff as defined below.

(c) The following terms are defined as follows:

- i. “Member Concerned” means the member of the academic staff under consideration by a Committee under these Orders;
- ii. “Member of the academic staff” means:
 - any person in one or more of the following categories: Official Fellow, Professorial Fellow, Research Fellow, College Lecturer, a Statutory Officer who is a College employee, the Director of Development;
 - the President, to the extent and in the manner set out in Order 11.
- iii. “Presenting Officer” refers to a suitable person, who may be a Fellow or other suitable person (including a solicitor), appointed by the President, or the Vice-President in the President’s absence, to formulate a charge or charges and to present, or arrange for the presentation of such charges, before a Committee;
- iv. “position in the College”, in relation to a member of the academic staff, refers to the President or a Fellowship or any College office held by that member, and also to any contract of employment between that member and the College;
- v. a “primary position”, in relation to a member of the academic staff other than the President, refers to any College office or employment held by that member on which the tenure of the Fellowship of the member depends; or which is specified by the Governing Body as a primary position in relation to the member; or (if there would otherwise be no primary position in relation to the member) to the member’s Fellowship; and

- vi. a “secondary position”, in relation to a member of the academic staff other than the President, refers to the any position that is neither a primary position in relation to the member nor the member’s Fellowship.

- (d) The application of the Academic Staff Orders in relation to a position held by a member of the academic staff shall conform to the terms and conditions applying to that position, as determined by or under the Statutes of the College as amended from time to time, by contract, or in any other way.

- (e) In any case where an Officer of the College or any person is designated to perform any duties or exercise any powers under the Academic Staff Orders, and that Officer or person is himself or herself involved in the matter in question or is otherwise unable to act, the Governing Body may appoint an alternate to act in his or her place. When it is the President who is unable to act for any reason, the Vice-President will act in his or her place unless the Vice-President is also unable to act, in which case the Governing Body may appoint an alternate to act in place of the President and the Vice-President.

Order 2 Committees constituted under the Academic Staff Statute

Constitution of Committees

- a) Committees shall be constituted in accordance with the provisions of the relevant Academic Staff Order and, in respect of members who are fellows of the College, shall be selected by the President, or the Vice-President in the President's absence, from a standing Committee of not less than seven Fellows appointed annually by the Governing Body. The President, or the Vice-President in the President's absence, shall also select a Chair of the Committee. In selecting members of the Committee, the President, or the Vice-President in the President's absence, shall exclude the person charged and any person who has had any involvement with the matter that would make his or her participation as a member of the Committee unfair. In the event that additional members are required, the President, or the Vice-President in the President's absence, may appoint further members from the wider Fellowship.
- b) Committees constituted under the Academic Staff Orders shall be constituted according to the following rules:
 - i. no member of a Committee shall also be a member of an Appeal Committee in the same matter;
 - ii. a Committee or Appeal Committee to consider the removal of a President shall be constituted in accordance with Order 11 (Procedure for the removal of the President from office);
 - iii. an Incapacity Committee and an Incapacity Appeal Committee shall include a medically qualified person appointed by the President, or by the Vice-President in the President's absence;
 - iv. at least one member of a Committee shall be a man and at least one member shall be a woman.
- c) A meeting of a Committee, whether for a hearing or for any other purpose, shall be valid and effective provided that the Committee Chair is present.

Disqualification of Committee members

- d) A person who believes that he or she has an involvement with the matter before a Committee that would make his or her participation as a member of the Committee unfair shall for that reason decline to accept appointment as a member of the Committee, or, if already appointed, shall disqualify him or herself from the Committee.
- e) A member of a Committee who fails to attend the whole of any hearing (save for absences which, in the opinion of the Chair, are immaterial) shall be disqualified from the Committee.
- f) If the Member Concerned believes that a member of the Committee has an involvement with the matter before the Committee that would make his or her participation as a member of the Committee unfair, then the Member Concerned shall

object on that ground to the Committee Chair without delay, and in any event not later than the start of the first hearing of the matter by the Committee. The Committee Chair shall rule on any such objection (including such an objection relating to him or herself). If the objection is upheld the member of the Committee concerned shall be disqualified from acting further. A ruling dismissing the objection shall be open to appeal to the President, or to the Vice-President in the President's absence, whose decision shall be final.

- g) No objection of the sort referred to in paragraph (f) above shall be entertained after the start of the first hearing of the matter by the Committee, unless the Committee Chair (or the Chair of the appeal Committee if the objection is taken at the appeal stage) is satisfied that it was not reasonably practicable for the member concerned to have raised the matter earlier. A ruling declining to entertain a late objection shall be open to the President, or to the Vice-President in the President's absence, whose decision in the matter shall be final.
- h) Where a member of a Committee (not being the Committee Chair) is disqualified from acting, the Committee may, with the consent of the Member Concerned, continue to act, notwithstanding such reduction in membership. Alternatively the Committee Chair may request the President, or the Vice-President in the President's absence, to select a replacement member in accordance with the rules for selection, and may adjourn proceedings pending that appointment. Where the Chair of a Committee is disqualified, a new Chair shall be selected by the President, or the Vice-President in the President's absence, in accordance with the rules for selection.
- i) Where a person is added to the membership of a Committee, then any hearing that has already taken place in whole or in part shall be disregarded and shall be held afresh.
- j) The President, or the Vice-President in the President's absence, shall appoint a suitable person to act as Secretary to Committees. In appointing a Secretary, the President, or the Vice-President in the President's absence, shall exclude any person who has had any involvement in the matter that would make his or her appointment as Secretary unfair.
- k) The College shall meet all proper costs of members of any Committee, its secretary and legal adviser if any.

Role and powers of the Committee Chair

- l) The Committee Chair shall determine all procedural and interlocutory matters on behalf of the Committee after such consultation (if any) with members of the Committee as the Chair shall see fit.
- m) A Committee shall make its decisions unanimously, or if unanimity is not possible, by a majority vote of those members present and voting. In the event of a tie, the Chair shall have an additional vote.

- n) In order to ensure that a fair and proper process is followed, the Committee Chair may vary time limits; may allow the amendment of charges or of grounds of appeal; may permit any departure from the rules or procedure set out in this Order; and may in exceptional circumstances exclude any person, including the Member Concerned, from any hearing of the Committee if, in the opinion of the Committee Chair, such step is necessary in the interests of good order.
- o) In exercising any discretion the Committee Chair shall seek to give effect to the guiding principles set out in the Academic Staff Statute. Any exercise of discretion by the Committee Chair may be made subject to such conditions as he or she shall see fit.
- p) The Committee Chair may postpone, adjourn and reconvene any hearing or other meeting of a Committee. The Committee Chair may discharge the Committee and order a rehearing of the matter before a fresh Committee, but shall only do so where he or she is of the view that that step is necessary in order to ensure a just and fair process.
- q) Where it appears to the Committee Chair, whether on receipt of an application made by the Member Concerned or the Presenting Officer (if one has been appointed) or otherwise, that a material aspect of the matter before the Committee is or is likely to be the subject of criminal or civil proceedings in a court of law or the subject of disciplinary proceedings in the University, the Committee Chair may direct such stay in the process of the Committee as he or she may consider desirable. Subject to any such stay the Committee Chair shall seek to ensure that the case before the Committee is heard and determined as expeditiously as is reasonably practicable.
- r) The Committee Chair shall arrange for a record of the proceedings of the Committee to be made.
- s) The Committee Chair shall send a document recording the Committee's decision (together with their findings of fact (if any) and the reasons for their decision) to the President, the Member Concerned, the Presenting Officer (if one has been appointed) and any person who shall have been added as a party to the proceedings. Where a right of appeal exists, the Chair shall draw the attention of the Member Concerned to that fact and to the procedure, including any time limit, for appeal.
- t) The Committee Chair shall have power, after consultation with the other members of the Committee, by certificate under his or her hand, to correct in the record of proceedings kept under paragraph (r) above or in the document recording the decision of the Committee any clerical mistakes or errors arising from any accidental slip or omission.

Conduct of hearings

- u) The overriding objective of the rules of procedure is to enable Committees to deal with cases justly. That will include, so far as practicable,
 - i. ensuring that the parties are on an equal footing;

- ii. saving expense;
 - iii. dealing with the case in ways which are proportionate to the complexity of the issues; and
 - iv. ensuring an expeditious and fair process.
- v) Any party to a hearing by a Committee shall be entitled to be accompanied or represented by a person of his or her choice who may be a trade union representative, whether such person is legally qualified or not, in connection with, or at, any hearing by a Committee. The party wishing to be accompanied or represented shall inform the Chair and the other parties in writing of the appointment or dismissal of any such representative.
- w) With the consent of the President, or the Vice-President in the President's absence, the Chair may appoint a legal adviser to assist a Committee in such manner as the Committee may decide, provided that the Committee shall alone make any findings, decisions and recommendations.
- x) Any hearing shall take place in private unless the Committee, after considering the views of the Member Concerned, direct otherwise.
- y) Committees shall, so far as appears to them to be practicable, seek to avoid formality in their proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before courts of law. They shall make such inquiries of persons and witnesses appearing before them as they consider appropriate and shall otherwise conduct their hearing in such manner as they consider most appropriate for the clarification of the issues before them and generally for the just handling of the proceedings.

Order 3 Redundancy procedure

Resolution to effect a reduction in the academic staff by way of redundancy

- a) This procedure shall apply where the Governing Body have decided that it may be appropriate to effect a reduction in the academic staff of the College as a whole, or of any area of academic work within the College, by way of redundancy. It shall not apply to any redundancy on the expiry of a fixed term contract.
- b) Where the Governing Body have so decided, they shall consult such members of the academic staff and such other persons holding office in, or employed by, the College as they consider likely to be affected by a reduction of the sort contemplated. They shall also conduct such further process of consultation as may be required by law or as they may consider appropriate. The Governing Body may specify time limits for response to any consultation that they conduct. After considering the responses received to the consultation, the Governing Body shall either resolve to take no further action; or shall resolve to continue, extend or vary the process of consultation, with such modification (if any) of the terms of consultation as they shall see fit; or shall resolve to effect a reduction in the academic staff by way of redundancy and decide what direction (if any) to give in relation to the extent of the reduction.

Selection for redundancy

- c) Where the Governing Body have resolved to effect a reduction in the academic staff by reason of redundancy, the President, or the Vice-President in the President's absence, shall appoint a Redundancy Committee to be constituted in accordance with sub-paragraph (i) of this paragraph to give effect to the decision of the Governing Body by such date as they may specify and for that purpose
 - i. a Redundancy Committee appointed by the Governing Body shall comprise –
 - (a) a Chair being a member of the Governing Body; and
 - (b) two Fellows of the College whose academic work is not in an area in which a reduction in the academic staff is proposed.
- d) The Redundancy Committee shall act in accordance with any direction of the Governing Body under paragraph (b) above and shall carry out such consultation as is required.
- e) The Redundancy Committee shall formulate the selection criteria which they propose to employ, and shall notify each member of the academic staff considered for selection of those selection criteria. They shall afford each member of the academic staff considered for selection the opportunity to make such written or oral representations on his or her own behalf as he or she shall see fit. If, following the receipt of such representations, any change is made to the selection criteria, then any member of the academic staff who might be materially affected by such change shall be afforded a new opportunity to make such representations.

- f) The Redundancy Committee shall give notice of dismissal to each member of the academic staff who is selected for dismissal, and shall also inform him or her of the selection criteria finally adopted, of the reasons for his or her dismissal, and of his or her right of appeal under this Order.
- g) The procedure to be adopted by a Redundancy Committee shall be determined by the Committee themselves as they shall see fit, subject to the adoption of a just and fair process which complies with the rules in paragraphs (c), (d) and (e) above.

Appeal

- h) A member of the academic staff who is given notice of dismissal by reason of redundancy may, within fourteen days from the date of that notice, give to the President notice of appeal to a Redundancy Appeal Committee. The notice of appeal shall state the grounds of appeal. There is no right of appeal in respect of a resolution by the Governing Body to effect a reduction in the academic staff by reason of redundancy.
- i) A Redundancy Appeal Committee shall consist of a person appointed by the President, or the Vice-President in the President's absence, who holds or has held judicial office or a barrister or a solicitor of at least ten years' standing. The person appointed shall sit with two other persons appointed by the President, or the Vice-President in the President's absence, being two Fellows of the College appointed in accordance with Order 2 whose academic work is not in an academic area affected by the decision to reduce the number of the academic staff.
- j) The lodging of an appeal shall not affect the operation of the notice of dismissal, but the Chair of the Redundancy Appeal Committee may extend the period of notice if he or she considers it just and fair in all the circumstances that an extension should be granted.
- k) Where the Redundancy Appeal Committee decide to remit the matter back for further consideration, then
 - i. they may direct that that further consideration should be given by the same Redundancy Committee, or direct that a differently constituted Redundancy Committee be selected for that purpose;
 - ii. they may give such other directions as they shall see fit, including directions affecting other members of the academic staff, provided that they may confirm, suspend, extend or cancel any notice of dismissal given to such other members, but shall not give notice of dismissal to any member of the academic staff not already under such notice; and
 - iii. a fresh right of appeal to the Redundancy Appeal Committee shall accrue to any member of staff from notice of dismissal given or confirmed as a result of that further consideration.
- l) Where the Redundancy Appeal Committee reach a final decision on any appeal, no further right of appeal under College procedures lies against that decision.

Order 4 Disciplinary procedure

Disciplinary action may be taken under this Order where it is related to the conduct or capability or qualifications of a member of the academic staff.

The following list provides examples of conduct which may lead to disciplinary action under this Order. This is not an exhaustive list.

- any act of gross misconduct affecting the business or activities of the College;
- abusive behaviour (including violent or offensive language);
- physical, verbal or psychological bullying of any type;
- harassment;
- discrimination;
- misuse of e-mail or of the internet (including downloading or transmission of material which is defamatory, offensive or obscene, malicious, sexist or racist or protected copyright material);
- any serious or repeated breach or non-observance of any of the terms of appointment (or the College's Statutes) or refusal or neglect to comply with any reasonable and lawful directions of the College;
- conviction of any criminal offence, or any fraud or dishonesty or behaviour, which, in the reasonable opinion of the College, brings or is likely to bring a member of the academic staff or the College into disrepute, prejudice the College's interests or seriously impair the member's ability to perform their duties;
- serious or repeated breach of the College's policies or procedures;
- negligence and/or incompetence.

Any investigations to be undertaken by the President under this Order may be undertaken by the President alone or with the assistance of such other person as the President considers appropriate.

Less serious matters: Warnings

- a) If it appears to the President, after receiving a complaint or otherwise, that there are grounds for believing that the conduct or performance of a member of the academic staff ("the Member Concerned") is or has been unsatisfactory, the President shall inquire into the matter. If the President concludes after investigation (including a meeting with the Member Concerned) that the Member Concerned is or has been at fault, the President may issue an oral warning. The President shall specify the reason for the warning, shall indicate that it constitutes the first stage of the College's disciplinary procedure, and shall advise the person concerned that he or she may appeal against the warning under paragraph (d) below.
- b) If the President concludes after investigation (including a meeting with the Member Concerned) that the fault is sufficiently serious to justify it, or if a further offence occurs after an oral warning, the President may issue a written warning. Such a warning shall specify the reason for the warning, the improvements required in the conduct or performance of the Member Concerned, and the period of time within which such

improvements are to be made. The President shall advise the Member Concerned that he or she may appeal against the warning under paragraph (d) below, and shall indicate that, if no satisfactory improvement takes place within the stated time, charges may be instituted before a disciplinary Committee.

- c) The President shall keep a written record of any oral or written warning issued. Each warning shall specify a period from the date of issue after which, in the absence of further disciplinary matters arising, it will be disregarded for all purposes. The period of a warning shall not usually exceed one year.
- d) The Member Concerned may appeal in writing to the President against a disciplinary warning within fourteen days of the date of the warning, stating the grounds of appeal. An Appeals Committee appointed by the President or, the Vice-President in the President's absence, and comprised of three Fellows of the College shall hear the appeal and the Committee's decision shall be final. If the appeal is allowed, the warning shall be disregarded.

More serious matters: The institution of charges before a Disciplinary Committee

- e) If the President receives a complaint against a member of the academic staff ("the Member Concerned") seeking the institution of a charge or charges ("a Charge") before a Disciplinary Committee, then the President shall investigate the matter as he or she shall see fit. If, whether as the result of the investigation of a complaint or otherwise, the President considers that there are grounds for believing that a Charge should be instituted before a Disciplinary Committee, then the President shall write to the Member Concerned inviting his or her comment in writing by a specified date. If the President considers that the College might otherwise suffer significant harm, the President may suspend the Member Concerned from the performance of his or her duties without loss of emolument pending receipt of comments from the Member Concerned and the determination of whether the matter should be placed before a Disciplinary Committee. As soon as practicable following receipt of the comments (if any) of the Member Concerned, the President shall consider the matter in the light of all the available evidence and may dismiss the matter summarily, or issue an oral or written warning (after meeting with the Member Concerned), or determine that a Charge should be instituted before a Disciplinary Committee.
- f) Where the President has determined that a Charge should be instituted before a Disciplinary Committee, then
 - i. the President shall appoint the Presenting Officer to formulate the Charge and to present it, or arrange for its presentation, before a Disciplinary Committee; and
 - ii. a Disciplinary Committee shall be selected by the President, or the Vice-President in the President's absence, to hear and determine the matter.
- g) A Disciplinary Committee shall consist of three persons (being Fellows of the College or other persons being members of the Regent House of the University) selected by the President, or by the Vice-President in the President's absence, from a panel of persons appointed annually in accordance with Order 2.

- h) When a Charge has been instituted before a Disciplinary Committee, the President, or the Vice-President in the President's absence, shall consider whether to suspend the Member Concerned from the performance of his or her duties without loss of emolument. Any such suspension shall be reviewed by the President, or the Vice-President in the President's absence, at regular intervals, each review taking place within two months of the time of the last decision to suspend. The President, or the Vice-President in the President's absence, shall not impose or continue a suspension unless they consider that the College might otherwise suffer significant harm.
- i) The Presenting Officer shall seek to ensure that the case is heard and determined as expeditiously as is reasonably practicable.
- j) As soon as reasonably practicable after the date of his or her appointment, the Presenting Officer shall send to the Member Concerned and to the Committee Chair notice of the Charge together with a copy of the Academic Staff Statute and of the Academic Staff Orders.
- k) The Committee Chair, after consultation with the Member Concerned and with the Presenting Officer, shall determine the date and time of a meeting of the Disciplinary Committee for the purpose of hearing the case, and shall send notice of the date, time and place of the meeting to the Member Concerned, to the Presenting Officer and to the members of the Disciplinary Committee.
- l) Not later than seven days before the date set for the hearing, the Presenting Officer shall send to the Member Concerned and to the members of the Disciplinary Committee a copy of the Charge, together with any documents specified therein; a list of all witnesses that the Presenting Officer proposes to call, with statements containing the evidence they are expected to give; and a copy of any other documents that the Presenting Officer proposes to put in evidence.

Evidence

- m) Evidence that a person has been convicted of a criminal offence by or before any court of law, or that any court of law has found proved an offence with which he or she was charged, shall, for the purpose of establishing that that person committed the offence or was guilty of any act or conduct in respect of which he or she was so charged or convicted, be admissible in any proceedings before a Disciplinary Committee.

The decision of the Disciplinary Committee

- n) Where, after a hearing, the Disciplinary Committee find the Charge or any part thereof to be without substance, then they shall dismiss the Charge or that part thereof.
- o) Where, after a hearing, the Disciplinary Committee find the Charge or any part thereof to be established, then before deciding what penalty (if any) to impose, they shall give the Member Concerned and the Presenting Officer the opportunity to put forward any matters bearing on the penalty to be imposed unless they are of the view that a sufficient opportunity has already been given in the course of the hearing.

- p) The Disciplinary Committee may decide to impose no penalty, or may impose a penalty comprising one or more of the following:
- i. an oral or written warning;
 - ii. suspension without pay for up to three months;
 - iii. dismissal or removal from employment or office (including Fellowship) with or without notice;
 - iv. take such further or other action under the contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case;
 - v. the award of compensation to any person in respect of any loss caused or damage done; and
 - vi. combine any of the courses of action specified above.

If the Disciplinary Committee are of the view that the conduct of the Member Concerned constitutes gross misconduct such as to justify dismissal without notice, they shall so state. If the penalty of dismissal without notice is imposed in the absence of such a statement (or, in the event of an appeal, such a statement by the Disciplinary Appeal Committee), then the College shall pay compensation to the Member Concerned in respect of pay in lieu of any notice period.

- q) Where, after a hearing, the Disciplinary Committee are of the view that the Member Concerned should be dismissed, it shall so state, specifying the reason, in its findings and shall dismiss the Member Concerned.

Appeal

- r) The Member Concerned may, within fourteen days from the decision of the Disciplinary Committee, give to the President, or to the Vice-President in the President's absence, notice of appeal to the Disciplinary Appeal Committee. The notice of appeal shall state the grounds of appeal and whether it is an appeal against the findings of the Disciplinary Committee, or the penalty imposed, or both.
- s) A Disciplinary Appeal Committee shall consist of a person appointed by the President, or by the Vice-President in the absence of the President, who holds or has held judicial office or a barrister or a solicitor of at least ten years' standing. The person appointed shall sit with two Fellows of the College appointed in accordance with Order 2.
- t) The appeal shall then be heard and determined as expeditiously as is reasonably practicable by the Disciplinary Appeal Committee, who may substitute for the decision of the Disciplinary Committee any decision that that Committee might have made. The decision of the Disciplinary Appeal Committee in the matter shall be final.

The addition of parties and the consolidation of matters

- u) The Committee Chair may agree to the addition of any other person as party to a case before a Disciplinary Committee; provided that the Committee Chair shall not so act unless he or she is of the view that that step is desirable in order to ensure a just and fair process. Such other person shall receive from the Presenting Officer the papers specified in paragraph (l) above, and shall have the right to a fair process before the Committee.
- v) The President, or the Vice-President in the President's absence, may determine that charges against more than one member of the academic staff may be heard concurrently by the same Disciplinary Committee. They may further determine that charges against one or more members of the academic staff shall be heard concurrently with charges against one or more members of the College *in statu pupillari*.

Relationship with removal on health grounds

- w) If at any stage the Committee Chair forms the view that the conduct or capability of the Member Concerned may be attributable, wholly or in part, to a medical condition, then he or she shall
 - i. if he or she is of the view that such action is necessary to ensure a just and fair process, stay the proceedings of the Disciplinary Committee and direct the selection of an Incapacity Committee for proceedings to continue under Order 5 below; or otherwise
 - ii. if he or she is of the view that the Disciplinary Committee might be assisted by the appointment of a medically qualified person as Medical Consultant, to ask the Governing Body to make such an appointment; or otherwise
 - iii. take no action.

A Medical Consultant appointed under (ii) above shall not be a member of the Disciplinary Committee but shall offer advice and guidance to the Committee on medical matters.

- x) Where proceedings are transferred to an Incapacity Committee under paragraph (w) above, then, if at any stage the Committee Chair forms the view that it would be consistent with a just and fair process to transfer the proceedings to a Disciplinary Committee, he or she may stay the proceedings of the Incapacity Committee and either
 - i. transfer the proceedings back to the initial Disciplinary Committee; or
 - ii. direct the discharge of the initial Disciplinary Committee and constitute the Incapacity Committee a Disciplinary Committee for all further proceedings; or
 - iii. direct the discharge the initial Disciplinary Committee and the selection of a fresh Disciplinary Committee, and transfer the proceedings to them.

In the event of a transfer of proceedings, the Chair of the Committee to whom the proceedings are transferred shall have authority to rule as relevant and admissible any part of the proceedings that took place before the transfer, provided that he or she is of the view that that course would help to ensure an efficient, just and fair process.

- y) Where a new Committee is selected under paragraph (w) or (x) above, then the Chair of the old Committee may continue to act as Chair of the new Committee notwithstanding the provisions of Order 2 above.

Order 5 Procedure for assessing incapacity on health grounds

The institution of a case before an Incapacity Committee

- a) Where the President, or the Vice-President in the absence of the President, decides that an Incapacity Committee should be appointed for the consideration of a case of a member of the academic staff ("the Member Concerned") under the Academic Staff Statute, they shall at the same time appoint a suitable person ("the Presenting Officer") to present the case to the Committee.
- b) An Incapacity Committee shall be comprised of two Fellows of the College and a medically qualified Chair appointed by the President, or by the Vice-President in the President's absence, in accordance with Order 2.
- c) Any person having authority in law to act on behalf of the Member Concerned shall have power so to act in respect of all proceedings before an Incapacity Committee or an Incapacity Appeal Committee. Any requirement in relation to the Member Concerned shall be satisfied if it is satisfied in relation to a person having authority to act on behalf of the Member Concerned or a representative appointed by the Member Concerned, whether or not it is also fulfilled in relation to the Member Concerned him or herself.
- d) As soon as reasonably practicable after appointment, the Presenting Officer shall send to the Member Concerned and to the Committee Chair notice of the reason why it is thought that the removal of the Person Referred by reason of incapacity on health grounds should be considered together with a copy of the Academic Staff Statute and of the Academic Staff Orders.
- e) The Presenting Officer shall seek to ensure that the case is heard and determined as expeditiously as is reasonably practicable.
- f) The Committee Chair, after consultation with the Member Concerned and with the Presenting Officer, shall determine the date and time of a meeting of the Incapacity Committee for the purpose of a hearing of the case, and shall send notice of the date, time and place of the meeting to the Member Concerned, to the Presenting Officer and to the members of the Incapacity Committee.
- g) Not later than fourteen days before the date set for the hearing, the Presenting Officer or the Secretary shall send to the Member Concerned and to the members of the Incapacity Committee a copy of the communication referred to in paragraph (d) above, together with any documents therein specified; a list of all witnesses the Presenting Officer proposes to call, with statements containing the evidence they are expected to give; and a copy of any other documents which the Presenting Officer proposes to put in evidence.
- h) Not later than seven days before the hearing date, the Member Concerned, or his or her representative, shall send to the Secretary and to the Presenting Officer a copy of any documents he or she wishes to present and a list of all witnesses he or she proposes to call, with statements of the evidence they are expected to give.

- i) No new witness or documentary evidence may be introduced by either party without the consent of the Committee.

Medical evidence

- j) The Presenting Officer may seek from the Member Concerned such medical evidence as he or she considers necessary for the purpose of the presentation of the matter to the Incapacity Committee. Such evidence may include the opinion of a medically qualified person appointed by the College, at College expense, to advise on the health of the Member Concerned. In the event of the Member Concerned declining to provide any or all of the evidence requested, the Presenting Officer may apply to the Chair of the Incapacity Committee for a direction for the production of medical evidence. The Committee Chair will then hear and determine the matter, and may direct the production of such medical evidence (whether or not sought by the Presenting Officer) as the Committee Chair shall specify. The Member Concerned may appeal against such a direction to an Incapacity Appeal Committee.
- k) If, after a direction to produce medical evidence, the Member Concerned declines to provide any or all of the evidence directed, the Incapacity Committee and an Incapacity Appeal Committee may draw such inferences as to the health of the Member Concerned as they shall see fit from all the circumstances of the case.

The decision of the Incapacity Committee

- l) Where, after a hearing, the Incapacity Committee find that the Member Concerned is incapable of performing satisfactorily the duties of his or her employment or office or position, they may take action which may be any of the following:
 - i. suspension on grounds of ill health pending receipt of evidence to the satisfaction of the medically qualified member or members of the Committee of fitness to resume work;
 - ii. suspension on grounds of ill health pending further review by the Incapacity Committee at a specified date; or
 - iii. dismissal or removal from office or position with or without notice on grounds of ill health.

During any period of suspension on grounds of ill health the Member Concerned shall be paid in accordance with the terms of his or her office or employment or position. If the Committee decide to dismiss without notice on grounds of ill health, the College shall pay to the Member Concerned pay in respect of any period of notice.

Appeal

- m) The Member Concerned may, within fourteen days from the decision of the Incapacity Committee, give to the President notice of appeal to the Incapacity Appeal Committee. The notice of appeal shall state the grounds of appeal and whether it is an appeal

against the findings of the Incapacity Committee (stating which findings are appealed against), or the action taken by them, or both.

- n) An Incapacity Appeal Committee shall consist of a person appointed by the President, or by the Vice-President in the President's absence, who holds or has held judicial office or a barrister or a solicitor of at least ten years' standing. The person appointed shall sit with a medically qualified person appointed by the President, or by the Vice-President in the President's absence, and two Fellows of the College appointed in accordance with Order 2.
- o) The appeal shall be heard and determined as expeditiously as is reasonably practicable by an Incapacity Appeal Committee, who may substitute for the decision of the Incapacity Committee any decision that that Committee might have made. The decision of the Incapacity Appeal Committee in the matter shall be final.

Order 6 Procedure for the renewal of fixed-term appointments

- a) Any appointment of a member of the academic staff (“the Member Concerned”) to an office, employment or position in the College (“the Position”) that is for a fixed-term shall be made according to a Code of Practice that defines the matters to be considered in relation to the expiry or potential renewal or extension of the fixed term appointment.
- b) Any Code of Practice shall
 - i. require the nature and character of the Position to be sufficiently defined to inform the Member Concerned of his or her expectations in relation to renewal;
 - ii. define the time at which a review shall take place in order for the Fellowships Committee to make recommendations to the Governing Body on whether the office or employment should be allowed to terminate without renewal, or should be renewed for a further fixed-term, or should be extended to an appointment of indefinite duration;
 - iii. provide for discussion with the Member Concerned in the course of the review;
 - iv. provide for the communication of the outcome of the review, with the reasons for its recommendation, to the Member Concerned before a final decision by the Governing Body in relation to renewal;
 - v. provide for further review at the request of the Member Concerned and for time limits in relation to that further review process.
- c) A decision of the Governing Body whether the Position should be allowed to terminate without renewal, or should be renewed for a further fixed-term, or should be extended to an appointment of indefinite duration, shall be taken in accordance with the Code of Practice.

Order 7 Procedure for confirmation of appointment at the end of an initial probationary period

- a) The following procedure shall be followed in relation to any appointment of a member of the academic staff (“the Member Concerned”) to a position in the College (“the Position”) that is subject to confirmation at the end of an initial probationary period.
- b) The Governing Body shall designate, in the case of each such appointment, a Fellow for the purpose of this Order (“the “Reviewing Officer”). The Reviewing Officer will usually be the Senior Tutor.
- c) During the initial probationary period, the Reviewing Officer shall conduct such inquiries (which shall include discussion with the Member Concerned) as he or she may consider appropriate to assess the performance in the Position of the Member Concerned and shall keep a note of the outcome of those inquiries. The Reviewing Officer shall, during that period, give such help, guidance and warnings as he or she may consider appropriate to assist the Member Concerned to succeed in the Position.
- d) Areas to be assessed include:
 - (a) completion of all teaching and supervision responsibilities, including reports, within the timescales stipulated by the College;
 - (b) performance of any other academic and administrative duties and responsibilities as prescribed by the College;
 - (c) attendance at Governing Body meetings;
 - (d) attendance at other College Committees (if relevant);
 - (e) compliance with the College’s policies and procedures.
- e) Not later than two months before the end of the initial probationary period, the Reviewing Officer shall meet the Member Concerned for discussion to enable the Reviewing Officer to report to the Fellowships Committee. The report of the Reviewing Officer shall be communicated to the Member Concerned for comment by a specified date, and shall be communicated, with the comments of the Member Concerned (if any) to the Fellowships Committee who will consider the report and make a recommendation to the Governing Body. The Governing Body will decide whether:
 - i. to confirm the appointment of the Member Concerned at the end of the initial probationary period; or
 - ii. to extend the initial probationary period; or
 - iii. to give the Member Concerned notice of dismissal from the end of the initial probationary period;

and shall instruct [the Reviewing Officer] to write to the Member Concerned stating the decision and the reasons for it.

- f) Not later than fourteen days from the date of any letter from [the Reviewing Officer] extending the initial probationary period or giving notice of dismissal, the Member Concerned may apply in writing to the President for a further review. On such application, the Reviewing Officer shall send to the President the report submitted to the Governing Body and the Member's comments (if any), all notes kept during the course of the initial probationary period and all correspondence with the Member Concerned.
- g) The President, after such consultation (if any) with the Governing Body as he or she shall see fit and after discussion with the Member Concerned, shall before the end of the probationary period decide whether or not to confirm or vary the decision of the Reviewing Officer. The President's decision in the matter shall be final.
- h) An initial probationary period shall not be extended more than once, and shall not be extended so that the whole period amounts to one year or more, without the consent of the Governing Body.

Order 8 Procedure for dismissal on other grounds

- a) If it appears to the President, after receiving a complaint or otherwise, that there are grounds for believing that a member of the academic staff ("the Member Concerned") should be dismissed for some substantial reason other than a reason in respect of which provision is made elsewhere in these Orders, then the President may determine that the matter should be considered by a Special Dismissals Committee.
- b) Where the President has so determined, then
 - i. the President, or the Vice-President in the President's absence, shall appoint and instruct a suitable person ("the Presenting Officer") to formulate the matter and to present it, or arrange for its presentation, before a Special Dismissals Committee; and
 - ii. a Special Dismissals Committee shall be selected to hear and determine the matter.

A Special Dismissals Committee shall consist of three persons (being Fellows of the College or other persons being members of the Regent House of the University) selected by the President, or by the Vice-President in the President's absence, from a panel of persons appointed annually in accordance with Order 2.

- c) The procedure to be followed in relation to a matter before a Special Dismissals Committee (including the procedure for appeal) shall be the same as that in relation to a matter before a Disciplinary Committee, save that, in substitution for paragraph (p) of that procedure, the conclusion of a Special Dismissals Committee shall be one of the following:
 - i. to take no action; or
 - ii. to dismiss with or without notice.

If the Committee decide to dismiss without notice, the College shall pay to the Member Concerned pay in respect of any notice period.

- d) After hearing the views of the Member Concerned and the Presenting Officer, a Special Dismissals Committee may resolve to constitute themselves as a Disciplinary Committee, provided that they are satisfied that that course is consistent with a just and fair process, and in particular that the Charge for the disciplinary procedure is clearly specified and is fairly related to the matter before the Special Dismissals Committee.

Order 9 Procedure for removal from a secondary position [or where the duties are of a limited nature]

- a) This Order applies where the President is of the opinion that a member of the academic staff (“the Member Concerned”) should be removed from a secondary position before its prescribed or normal termination date, but is not aware of any grounds that would justify proceedings for dismissal from a primary position held by the Member Concerned.
- b) The President shall discuss the reasons for that opinion with the Member Concerned. If, after that discussion, the President remains of the same opinion, then the President, or the Vice-President in the President’s absence, shall refer the matter to the Fellowships Committee (from which the President shall absent himself or herself if otherwise a member) to consider the matter and to report to the Governing Body. Before reporting, the Fellowships Committee shall give the Member Concerned a fair opportunity to show why he or she should not be removed from the secondary position before its prescribed or normal termination date.
- c) The report of the Fellowships Committee shall be communicated to the Member Concerned for comment by a specified date, and shall then be communicated, with the comments (if any) of the Member Concerned, to the Governing Body, whose decision in the matter shall be final.

Order 10 Grievances

- a) If a member of the academic staff (“the Member Concerned”) has a grievance then he or she should seek to resolve it informally through discussion with the appropriate College officer or other authority in the College. If such action does not suffice to resolve the grievance, or if, in the circumstances of the case, it is not reasonable to expect another course to be followed first, the Member Concerned may refer the grievance to the President or to the Vice-President in the absence of the President.
- b) When a grievance has been so referred, the President, or the Vice-President in the absence of the President, shall seek to resolve the matter promptly and fairly after discussion with the Member Concerned.
- c) The President, or the Vice-President in the absence of the President, shall rule inadmissible any complaint judged
 - i. not to be one concerning a position in the College held by the Member Concerned; or
 - ii. not to be one relating to matters affecting the Member Concerned as an individual or his or her personal dealings or relationships with other staff of the College; or
 - iii. to be one for which express provision is made elsewhere in the Statutes.

In particular if the President, or the Vice-President in the absence of the President, is of the view that the complaint should be dealt with in accordance with the disciplinary procedures of the College, of whatever sort and whether or not those procedures should be invoked in relation to the complainant or any other person, they shall rule the grievance inadmissible.

- d) The President, or the Vice-President in the absence of the President, may defer the consideration of a grievance pending the completion of other proceedings under the Statutes, including disciplinary proceedings of whatever sort, relevant to the grievance which are pending or in progress.
- e) If the President, or the Vice-President in the absence of the President, is of the view that a complaint is trivial or vexatious they shall declare it to be so and dismiss it summarily or take no action upon it.
- f) If the Member Concerned remains dissatisfied after consideration of the grievance under paragraph (b) above, he or she may ask that it be referred to a Grievance Committee. A Grievance Committee comprising three Fellows of the College shall thereupon be appointed by the President, or the Vice-President in the absence of the President, who shall seek to resolve the matter. A grievance that has been referred to a Grievance Committee shall not be disposed of without an oral hearing at which the aggrieved person and any person against whom the grievance lies shall have the right to be heard and to be accompanied by a friend or representative to give evidence, call witnesses, question any witnesses and to address the Grievance Committee.

- g) The Grievance Committee shall make a decision on the grievance. The Committee's decision shall be final and notified to the Member Concerned. There shall be no further right of appeal.

Order 11 Procedure for the removal of the President from office

- a) This Order shall apply in place of Orders 3 to 9 in the case of the President.
- b) On receipt of a complaint signed by any three Fellows seeking the removal of the President from office for good cause (such complaint stating the reasons for such removal), the Vice-President shall write to the President notifying him or her of the complaint and inviting comment in writing. The Vice-President shall also without delay summon a meeting of the Governing Body, exclusive of the President and of the complainant Fellows.
- c) After considering the complaint and the comments (if any) of the President, the Governing Body shall dismiss the complaint if they are of the view that it is not supported by sufficient evidence of good cause for removal from office. Otherwise they shall without delay appoint a Committee of three persons who are not Fellows and are not employed by the College, one of whom holds, or has held, judicial office, or is a barrister or solicitor of at least ten years' standing, that person to be Chair of the Committee.
- d) The procedure to be followed in relation to a matter before a Committee to consider the removal of a President (including the procedure for appeal) shall be the same as that in relation to a matter before a Disciplinary Committee, save that, in substitution for paragraph (p) of that procedure, the conclusion of a Committee to consider the removal of a President shall be one of the following:
 - i. to take no action; or
 - ii. to remove the President from office.
- e) The President may, within fourteen days from a decision of the Committee to remove him or her from office, give to the Vice-President notice of appeal to an Appeal Committee. The notice of appeal shall state the grounds of appeal. The Vice-President shall then without delay summon a meeting of the Governing Body, exclusive of the President, who shall without delay appoint an Appeal Committee of three persons who are not Fellows and are not employed by the College, one of whom holds, or has held, judicial office, or is a barrister or solicitor of at least ten years' standing, that person to be Chair of the Committee.
- f) In the event of an appeal, the President shall be suspended from office and from the emoluments thereof pending the decision of the Appeal Committee. If the Appeal Committee reverse the decision of the Committee to consider the removal of a President, then the suspension shall forthwith be lifted and the President shall be reinstated into the emoluments of his or her office, including any stipend that he or she would have received but for the suspension under this Order.

Order 12 Retirement Policy for College Officers

Introduction

- a) This College Order sets out the retirement age and retirement policy for College Officers as defined in Statute 17 (as amended from time to time).
- b) Not all College Officers are employees of the College but, for ease, the word “employment” is sometimes used in this Order to refer to their relationship with the College. This must not be taken to imply an employment relationship in every case.
- c) For the avoidance of doubt, this Order does not relate to the election of Life Fellows and Emeritus Fellows.
- d) The operation of this policy, and the maintenance of the retirement age for College Officers, will be reviewed by the Bursarial Committee every three years.

Retirement age of College Officers

- e) The retirement age for College Officers is at the end of the academic year in which the College Officer reaches the age of 67 (which is the retirement age of Officers of the University of Cambridge).
- f) The retirement age has been set in accordance with Statute 18 which requires the Governing Body to determine by College Order the retirement of College Officers to coincide with the retirement of Officers in the University. University Officers are defined in the University’s Statute C and the retirement age of University officers is set out in the University’s Special Ordinance C (ii) 12.

Aims of the retirement age for College Officers

- g) The retirement age and the associated procedures set out in this Order are considered to provide a proportionate means of:
 - vii. ensuring inter-generational fairness and career progression;
 - viii. enabling effective succession planning;
 - ix. promoting equality and diversity;
 - x. minimising the impact on morale by using a predictable retirement date to manage the need to make efficiencies by retiring College Officers at the retirement age;
 - xi. ensuring the equal treatment of academic and professional College Officers.
- h) In respect of academic College Officers, the retirement age and associated procedures set out in this Order are considered to provide a proportionate means of achieving the following aims in addition to the aims set out at (g)(i) – (v) above

- xii. avoiding invidious performance management and redundancy procedures (which are particularly problematic in the distinctive College context) at the end of a long career where the performance of the individual and / or the academic needs of the College have changed;
- xiii. linking the tenure of College Offices with the tenure of qualifying offices in the University.

Procedure when a College Officer is approaching the retirement age

- i) The President will meet with a College Officer in advance of his or her retirement date. This will usually be between six and 12 months beforehand. The purpose of the meeting is to discuss any relevant issues such as whether a handover period is necessary. The College Officer may also wish to discuss whether he or she would like to work beyond their retirement date or in a different capacity.
- j) College Officers should feel free to initiate a discussion with the President about his or her future plans with regard to retirement. A College Officer might, for instance, want to retire earlier than the retirement age or work flexibly or in an alternative role in the period leading up to retirement. If so, it would be helpful for the College to know what the College Officer's plans are so that they can be discussed.

Requests to work beyond the retirement age

- k) In exceptional circumstances, it may be possible for a College Officer to delay their retirement for a limited period of time.
- l) A College Officer who wishes to continue their employment beyond the retirement age should discuss their intentions with the President at the earliest opportunity.
- m) If the College Officer wishes to proceed with their request, they should set out their request, and the rationale for it, in writing. The request will then be considered by a Retirements Committee which shall be comprised of three Fellows of the College. The members of the Committee shall be appointed by the President, or the Vice-President in the President's absence, from a panel of six Fellows appointed by the President at the start of each academic year, one of whom shall be designated as Chair by the President, or the Vice-President in the absence of the President.
- n) The Retirements Committee shall, when considering the College Officer's request, consider the matters set out in sub-paragraphs (i) – (ix) below. The relevance of each matter listed below will depend on the circumstances in each case. Applications will only be approved where any detriment to the aims of the retirement age is offset by the advantages to the College arising from the continuation of the employment of the College Officer.
 - i. Is the individual, if extended in employment, expected to make a significant contribution to the College, for example through distinguished scholarship, and would the loss of this contribution be unacceptable to the College?

- ii. Would the employee's contribution be very difficult to replace given his or her particular skills set and / or the employment market? For example, does the College need, for a defined period, to retain expertise in order to complete a specific project, or to retain skills that are currently in short supply or to fulfil particular teaching requirements?
 - iii. How would continued employment, compared with the opportunity arising from a vacancy, fit with the future academic needs of the College over the proposed period (for example, where there is a desire to develop a new field of research or a new course)?
 - iv. What is the likely impact of continued employment compared with the opportunity arising from a vacancy on the quality of work of the College, for example on its ability to respond to student needs or to meet research aims?
 - v. How would any financial commitments or benefits which would accrue from a continued employment over the period proposed compare with those which might accrue from the opportunity arising from a vacancy?
 - vi. What is the likely impact of continued employment compared with the opportunity arising from a vacancy on opportunities for career development and succession planning, bearing in mind recent and expected turnover?
 - vii. What is the likely impact on the promotion of equality and diversity?
 - viii. Is the duration of the proposed extension of employment appropriate in terms of the benefits expected to the College?
 - ix. Does the College Officer hold a University Office or employment? What is the duration of such University Office or employment? Is the University Office or employment relevant to the College Officer's position in the College e.g. is it a qualifying Office as defined in Statute 11(2)(b) (Class A Official Fellowship) or 11(3) (Class B Professorial Fellowship)?
 - x. Are there relevant circumstances that would properly justify exceptional treatment?
- o) The College Officer should be given the opportunity to make oral representations to the Retirements Committee and shall be entitled to be accompanied by a person of his or her choice.
 - p) If the Retirements Committee considers that a College Officer should be permitted to continue in the College's employment, the Committee shall also consider whether he or she should be put forward for election to a Fellowship and in which Class. In most cases, a College Officer will be elected to a Fellowship in Class C (Bye-Fellowship) particularly when the continuation of the College Officer's employment is intended to meet a teaching need.
 - q) The College Officer will be advised of the outcome of his or her request in writing which will include the reasons for the Committee's decision.
 - r) Where the employment of a College Officer is extended beyond the retirement age, it will be on a fixed-term basis and a new letter of appointment or contract of

employment (as appropriate in each case) will be issued reflecting the terms applying during the fixed-term.

- s) The College may invite a College Officer to continue for a fixed-term beyond the retirement age if the continuation is justified taking account of one or more of the considerations set out in (n)(i) - (ix) above, subject to confirmation by a Retirements Committee.
- t) A decision to allow a College Officer to continue beyond retirement age does not mean that other College Officers will necessarily be permitted to do the same. However, the College aims to treat College Officers consistently where possible, subject to the needs of the College.

Appeal procedure

- u) Where a College Officer is dissatisfied with the outcome of a request to continue their employment beyond the retirement age, they may submit an appeal in writing to the President within 14 days of the outcome of the request being communicated to them and should set out the grounds of appeal.
- v) Appeals will be heard by a Retirements Appeal Committee consisting of three Fellows of the College appointed by the President, or the Vice-President in the President's absence, one of whom shall be designated as Chair by the President, or Vice-President in the President's absence, and who were not involved in the consideration of the appellant's request under paragraphs (m) – (p) above. The Retirements Appeal Committee will endeavour to meet within 28 days of its establishment to hear the appeal or as soon as is reasonably practicable. The appeal will be determined following an oral hearing attended by the appellant who shall be entitled to be accompanied by a person of his or her choice.
- w) Following the hearing of the appeal, the Retirements Appeal Committee will consider the facts of the case and may allow or dismiss an appeal in whole or in part. The decision of the Appeal Committee will be notified to the appellant in writing usually within seven days of the appeal hearing.
- x) The Retirements Appeal Committee may decide to vary the above procedure as it deems fit. The decision of the Committee will be final.