

UNIVERSITY COMMISSIONERS

CAMBRIDGE COLLEGES

MODEL STATUTE

ACADEMIC STAFF

PART I CONSTRUCTION APPLICATION AND INTERPRETATION

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

- (a) to ensure that members of the academic staff of the College have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;
- (b) to enable the College to provide education, to promote learning, and to engage in research efficiently and economically; and
- (c) to apply the principles of justice and fairness.

2. No provision in Part II or Part III of this Statute shall empower the body or person whose duty it is to reach a decision to dismiss a member of the academic staff unless the reason for the dismissal may in the circumstances (including the size and administrative resources of the College) reasonably be treated as a sufficient reason for dismissal.

Application

3. - (1) This Statute shall apply

- (a) to any person who holds a Fellowship or any office other than the [Headship] established under the Statutes of the College; or
- (b) to any person employed in any other teaching or research post which has been approved by the [GB/CC] for the purposes of this Statute; or
- (c) to the [Head of House] to the extent and in the manner set out in the Annex to this Statute.

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

Interpretation

4. For the purposes of this Statute the following terms have the meanings specified:

"dismiss" and "dismissal" mean dismissal of a member of the academic staff and

- (i) include remove or, as the case may be, removal from office; and
- (ii) in relation to employment under a contract, shall be construed in accordance with section 55 of the Employment Protection (Consolidation) Act 1978

"good cause" in relation to the dismissal or removal from office of a member of the academic staff of the College, being in any case a reason which is related to conduct or capability or qualifications for performing work of the kind which the member was appointed or employed to do, means:

- (i) conviction for an offence which may be deemed by a Disciplinary Committee appointed under Part III to be such as to render the person convicted unfit for the execution of the duties of his office or for employment as a member of the academic staff of the College; or
- (ii) conduct of an immoral, scandalous, or disgraceful nature incompatible with the duties of the office or employment; or
- (iii) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of the office or employment; or
- (iv) physical or mental incapacity established under Part IV.

In this paragraph -

- (a) "capability" means capability assessed by reference to skill, aptitude, health, or any other physical or mental quality; and
- (b) "qualifications" means any degree, diploma, or other academic, technical, or professional qualification relevant to an office or position held.

5. For the purposes of this Statute dismissal shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to:

- (a) the fact that the College has ceased, or intends to cease, to carry on the activity for the purposes of which the person concerned was [elected or] appointed or employed or has ceased, or intends to

cease, to carry on that activity in the place in which the member concerned worked; or

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

Transitional, incidental and supplementary provision

6. (1) In any case of conflict, the provisions of this Statute shall prevail over those of any other Statute and over those of any Ordinance, and the provisions of any Ordinance made under this Statute shall prevail over those of any other Ordinance:

Provided that Part III of and the Annex to this Statute shall not apply in relation to anything done or omitted to be done before the date on which the instrument making these modifications was approved under subsection (9) of section 204 of the Education Reform Act 1988.

(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 of the College by reason of redundancy or for good cause:

Provided that this shall not invalidate any waiver made under section 142 of the Employment Protection (Consolidation) Act 1978.

7. No one shall sit as a member of any of the bodies established under this Statute, and no one shall be present at a meeting of such a body when the body is considering its decision or discussing a point of procedure, except as provided by this Statute or by Ordinances made under this Statute.

PART II REDUNDANCY

Purpose of Part II

8. This Part of this Statute enables the [GB/CC], as the appropriate body, to dismiss any member of the academic staff by reason of redundancy.

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

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

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

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

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

The Appropriate body

10. - (1) The [GB/CC] shall be the appropriate body for the purposes of this Part.

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

- (a) of the College as a whole; or
- (b) of any area of academic work within the College

by way of redundancy.

11. - (1) Where the appropriate body has reached a decision under paragraph 10(2) -

- (a) it may itself decide to select the requisite members of the academic staff for dismissal by reason of redundancy if such a course satisfies the guiding principles set out in paragraph 1; or
- (b) it shall appoint a Redundancy Committee to be constituted in accordance with sub-paragraph (3) of this paragraph to give effect to its decision by such date as it may specify and for that purpose
 - (i) to select and recommend the requisite members of the academic staff for dismissal by reason of redundancy; and
 - (ii) to report their recommendations to the appropriate body.

(2) The appropriate body shall either approve any selection recommendation made under sub-paragraph (1)(b)(i), or shall remit it to the Redundancy Committee for further consideration in accordance with its further directions.

(3) A Redundancy Committee appointed by the appropriate body shall comprise -

- (a) a Chairman; and
- (b) two members being Honorary Fellows of the College; and
- (c) two members of the academic staff.

Notices of intended dismissal

12. - (1) Where the appropriate body has either itself made a selection or has approved a selection recommendation made by the Redundancy Committee under paragraph 11(1) it may authorise an officer of the College 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 appropriate body.

(3) Each separate notice shall sufficiently identify the circumstances which have satisfied the appropriate body that the intended dismissal is reasonable and in particular shall include -

- (a) a summary of the action taken by the appropriate body under this Part;
- (b) an account of the selection processes it has itself used or which have been used by the Redundancy Committee;
- (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 V (Appeals); and
- (d) a statement as to when the intended dismissal is to take effect.

PART III DISCIPLINE, DISMISSAL AND REMOVAL FROM OFFICE

Disciplinary Procedures

13. (1) Minor faults shall be dealt with informally.

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

Stage 1 - Oral Warning

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

Stage 2 - Written Warning

If the offence is a serious one, or if a further offence occurs, a WRITTEN WARNING will be given to the member of the academic staff by the [Head of Department]. This will give details of the complaint, the improvement required and the timescale. It will warn that a complaint may be made to the

[Head of House] seeking the institution of charges to be heard by a Disciplinary Committee appointed under paragraph 16 if there is no satisfactory improvement and will advise of the right of appeal under this paragraph. A copy of this written warning will be kept by the [Head of Department] but it will be disregarded for disciplinary purposes after 2 years subject to satisfactory conduct and performance.

Stage 3 - Appeals

A member of the academic staff who wishes to appeal against a disciplinary warning shall inform the senior member of the [GB/CC] within two weeks. The [Vice-Principal] shall hear all such appeals and his decision shall be final.

Preliminary examination of serious disciplinary matters

14.--(1) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in paragraph 13, or in any case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges under paragraph 16 may be made to the [Vice-Principal].

(2) To enable the [Vice-Principal] to deal fairly with any complaint brought to his attention under sub-paragraph (1) he shall institute such enquiries (if any) as appear to him to be necessary.

(3) If it appears to the [Vice-Principal] or to the senior member of the [GB/CC] (whether on receipt of a complaint or otherwise) that there are grounds for believing that the conduct or performance of a member of the academic staff of the College could constitute good cause for dismissal, he shall write to the person concerned inviting comment in writing.

(4) As soon as may be following the comments (if any) the [Vice-Principal] shall consider the matter in the light of all the available material and may dismiss the matter summarily, or issue a formal warning to the person concerned, or direct that the matter be considered by a Disciplinary Committee appointed under paragraph 15.

15. If the [Vice-Principal] has directed that the matter is to be considered by a Disciplinary Committee, he shall request the [GB/CC] to appoint such a committee to hear the charge or charges and to determine whether the conduct or performance of the person concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to his appointment or employment.

16. A Disciplinary Committee shall consist of three persons selected by the [GB/CC] from a panel of seven persons appointed annually by the [GB/CC]. The members of the panel shall be Fellows of the College or other persons, being members of the Regent House. In selecting members of the panel for appointment as members of a Disciplinary Committee, the [GB/CC] shall exclude the person charged, any person

responsible for originating the charge (whether by making a complaint to the [GB/CC] or otherwise), and any person who has been involved at an earlier stage in considering the charge or charges.

17. When a Disciplinary Committee has been appointed, the [GB/CC] shall instruct a solicitor or other suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Committee.

18. The procedure to be followed in respect of the preparation, hearing, and determination of charges by a Disciplinary Committee shall be prescribed by Ordinances made under this statute. Such Ordinances shall ensure:

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

(b) that a charge shall not be determined without an oral hearing at which the person charged and any person appointed to represent him are entitled to be present;

(c) that witnesses may be called, both on behalf of the person charged and by the person presenting the charge, and may be questioned concerning the evidence on which the charge is based;

(d) that any charge is heard and determined as expeditiously as is reasonably practicable.

Notification of Tribunal decisions

19. - (1) The Disciplinary Committee shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the [Head of House] and to each party to the proceedings.

(2) The Disciplinary Committee shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this paragraph.

Powers of the appropriate officer where charges are upheld by the Disciplinary Committee

20. - (1) Where the charge or charges are upheld and the Disciplinary Committee finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the member of the academic staff concerned.

(2) In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-paragraph (1) to dismiss the member of the academic staff

concerned, the action available to the appropriate officer (not comprising a greater penalty than that recommended by the Disciplinary Committee) may be -

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

Appropriate Officers

21. - (1) The [Head of House] shall be the appropriate officer to exercise the powers conferred by paragraph 20 and any reference to the appropriate officer includes a reference to a delegate of that officer.

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

PART IV REMOVAL FOR INCAPACITY ON MEDICAL GROUNDS

22. - (1) This Part makes separate provision for the assessment of incapacity on medical grounds as a good cause for dismissal or removal from office.

(2) In this Part references to medical grounds are references to capability assessed by reference to health or any other physical or mental quality.

(3) In this Part references to the appropriate officer are references to the [Head of House] or an officer acting as his delegate to perform the relevant act.

(4) References to the member of the academic staff include, in cases where the nature of the alleged disability so requires, a responsible relative or friend in addition to (or instead of) that member.

23. - (1) Where it appears that the removal of a member of the academic staff on medical grounds would be justified, the appropriate officer -

- (a) shall inform the member accordingly; and
- (b) shall notify the member in writing that it is proposed to make an application to the member's

doctor for a medical report and shall seek the member's consent in writing in accordance with the requirements of the Access to Medical Reports Act 1988.

(2) If the member shares that view the College shall meet the reasonable costs of any medical opinion required.

(3) If the member does not share that view the appropriate officer shall refer the case in confidence, with any supporting medical and other evidence (including any medical evidence submitted by the member), to a Board comprising one person nominated by the [GB/CC]; one person nominated by the member concerned or, in default of the latter nomination, by the Senate; and a medically qualified chairman jointly agreed by the [GB/CC] and the member or, in default of agreement, to be nominated by the President of the Royal College of Physicians.

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

Termination of Employment

24. If the Board determines that the member shall be required to retire on medical grounds, the appropriate officer shall terminate the employment of the member concerned on those medical grounds.

PART V APPEALS

Purpose of Part V

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

Application and interpretation of Part V

26. - (1) This Part of this Statute applies -

- (a) to appeals against the decisions of the [GB/CC] as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II;
- (b) to appeals arising in any proceedings, or out of any decision reached, under Part III other than appeals under paragraph 13 (Appeals against disciplinary warnings);
- (c) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
- (d) to appeals against discipline otherwise than in pursuance of Part III; and
- (e) to appeals against decisions reached under Part IV

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

- (2) No appeal shall however lie against -
- (a) a decision of the appropriate body under paragraph 10(2);
 - (b) the findings of fact of a Disciplinary Committee under paragraph 19(1) save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;
 - (c) any finding by a Board set up under paragraph 23(3).

(3) In this Part references to "the person appointed" are references to the person appointed by the [GB/CC] under paragraph 29 to hear and determine the relevant appeal.

(4) The parties to an appeal shall be the appellant and the Senior member of the [GB/CC] and any other person added as a party at the direction of the person appointed.

Institution of Appeals

27. A member of the academic staff shall institute an appeal by serving on the Senior member of the [GB/CC], within the time allowed under paragraph 28, notice in writing setting out the grounds of the appeal.

Time for appealing and notices of appeal

28. - (1) A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under sub-paragraph (3).

(2) The Senior member of the [GB/CC] shall bring any notice of appeal received (and the date when it was served) to the attention of the [GB/CC] and shall inform the appellant that he has done so.

(3) Where the notice of appeal was served on the Senior member of the [GB/CC] outside the 28 day period the person appointed under paragraph 28 shall not permit the appeal to proceed unless he considers that justice and fairness so require in the circumstances of the case.

Persons appointed to hear and determine appeals

29. - (1) Where an appeal is instituted under this Part the [GB/CC] shall appoint a person described in sub-paragraph (2) to hear and determine that appeal.

- (2) The persons described in this sub-paragraph are -
- (a) the person who is the Visitor; or

(b) persons not employed by the College holding, or having held, judicial office or being barristers or solicitors of at least ten years' standing.

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

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

(a) one member of the Regent House not being a person employed by the College; and

(b) one other member.

Provisions concerning appeal procedures and powers

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

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

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

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

(c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and

(d) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.

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

(a) remit an appeal from a decision under Part II to the [GB/CC] as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or

(b) remit an appeal arising under Part III for re-

hearing by a differently constituted Disciplinary Committee to be appointed under that Part; or

- (c) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or persons hearing the appeal may direct; or
- (d) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Disciplinary Committee which heard and pronounced upon the original charge or charges.

Notification of decisions

31. The person appointed shall send the reasoned decision, including any decision reached in exercise of his powers under paragraph 30(3)(a), (b) or (c), on any appeal together with any findings of fact different from those come to by the [GB/CC] as the appropriate body under Part II or by the Disciplinary Committee under Part III, as the case may be, to the [Head of House] and to the parties to the appeal.

PART VI GRIEVANCE PROCEDURES

Purpose of Part VI

32. The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, within the relevant area by methods acceptable to all parties.

Application

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

- (a) to matters affecting themselves as individuals; or
- (b) to matters affecting their personal dealings or relationships with other staff of the College,

not being matters for which express provision is made elsewhere in this Statute.

Exclusions and Informal Procedures

34. - (1) If other remedies within the relevant area have been exhausted the member of the academic staff may raise the matter with the [Head of House].

(2) If it appears to the [Head of House] that the matter has been finally determined under Part III, IV or V or that the grievance is trivial or invalid, he may dismiss it summarily, or take no action upon it. If it so appears to the [Head of House] he shall inform the member and the Grievance Committee accordingly.

(3) If the [Head of House] 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 III;
- (b) a determination under Part IV; or
- (c) an appeal under Part V

he 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 shall notify the member and the Grievance Committee accordingly.

(4) If the [Head of House] does not reject the complaint under sub-paragraph (2) or if he does not defer action upon it under sub-paragraph (3) he shall decide whether it would be appropriate, having regard to the interests of justice and fairness, for him to seek to dispose of it informally. If he so decides he shall notify the member and proceed accordingly.

Grievance Committee Procedure

35. If the grievance has not been disposed of informally under paragraph 34(4), the [Head of House] shall refer the matter to the Grievance Committee for consideration.

36. The Grievance Committee to be appointed by the [GB/CC] shall comprise three Fellows of the College appointed annually by the [GB/CC].

Procedure in connection with determinations and right to representation

37. The procedure in connection with the consideration and determination of grievances shall be determined in Ordinances 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 friend or representative.

Notification of decisions

38. The Committee shall inform the [GB/CC] whether the grievance is or is not well-founded and if it is well-founded the Committee shall make such proposals for the redress of the grievance as it sees fit.

ANNEX

REMOVAL OF THE [HEAD OF HOUSE] FROM OFFICE

1. Any three members of the [GB/CC] may make a complaint to the [Vice-Principal] seeking the removal of the [Head of House] from office for good cause.

2. The [Vice-Principal] shall refer such a complaint to the [GB/CC], exclusive of the [Head of House] and the members making the complaint. If it appears to the [GB/CC] that the complaint does not raise a prima facie case, or that it is trivial or invalid or unjustified, they may determine that no further action shall be taken upon it.

3. If it appears to the [GB/CC], on material presented, that the complaint raises a prima facie case which, could, if proved, constitute good cause, for dismissal or removal of the [Head of House] from office, they shall request the Vice-Chancellor of the University to appoint a Tribunal to hear and determine the matter. A Tribunal appointed by the Vice-Chancellor shall consist of three persons who are not Fellows of the College and are not employed by the College, as follows:

(a) one person who holds, or has held, judicial office, or who is a barrister or solicitor of at least ten years' standing, who shall be Chairman;

(b) two other persons.

4. A charge referred to the Tribunal shall be dealt with in accordance with the procedure prescribed in paragraphs 14 to 19 of this Statute, provided that the [Vice-Principal] shall perform any duty and exercise any power there assigned to the [Head of House].

5. The [Head of House] may institute an appeal against the findings of a Tribunal by sending to the [Vice-Principal] a notice in writing setting out the grounds of the appeal. A notice of appeal shall be served within twenty-eight days of the date on which the document recording the decision appealed from was sent to the [Head of House], provided that the person appointed to hear an appeal shall have power to hear an appeal submitted after that date if he considers that justice and fairness so require in the circumstances of the case.

6. Persons appointed by the [Vice-Principal] to hear such an appeal shall be -

(a) the person who is the Visitor; or

(b) a person nominated by the Vice-Chancellor who is independent of the College and who holds, or has held, judicial office or who is a barrister or solicitor of at least ten years' standing

and the person so appointed shall, subject to the principles of justice and fairness, determine the procedure to be adopted in hearing the appeal.

7. A person appointed shall send the reasoned decision on the appeal, together with any findings of fact different from those come to by the Tribunal and his recommendations, if any, as to the appropriate penalty, to the Vice-Chancellor, to the [Head of House] and to the [Vice-Principal].

8.- (1) For the purpose of the removal of the [Head of House] for incapacity on medical grounds, the provisions of Part IV shall have effect, provided that the [Vice-Principal] shall perform any duty or exercise any power there assigned to the [Head of House].

(2) "Good cause" in this Annex has the same meaning as in paragraph 4 of this Statute.