

Gazette Supplement



Voting on a Legislative Proposal

Congregation

3 May 2pm

¶ Members of Congregation are reminded that any two members may, not later than noon on 25 April, give notice in writing to the Registrar that they intend to oppose or amend the legislative proposal below (see the note on the conduct of business in Congregation on page 411 of this week's *Gazette*). If no such notice has been given, and unless Council has declared otherwise or the meeting has been adjourned, the legislative proposal shall be carried, and the meeting may be cancelled.

Voting on Legislative Proposal: Statute XII (Academic Staff and the Visitation Board), Statute XI (University Discipline), Statute XIV (Employment of Academic and Support Staff by the University) and associated regulations

Explanatory Note

Statute XII governs major aspects of the employment of academic and academic-related staff in the University, ie all academic, research, administrative and professional staff of grade 6 and over. It provides for dismissal on the grounds of redundancy, for 'good cause', and on medical grounds, for disciplinary action short of dismissal, for appeals and for grievances. The Statute has three guiding principles: (i) to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges; (ii) to enable the University to provide education, promote learning, and engage in research efficiently and economically; and (iii) to apply the principles of justice and fairness.

In February 2014 the Personnel Committee launched the first of three rounds of consultation on possible changes to Statute XII. The Statute had not been reviewed for over 20 years. Between the second

and third consultations, a Discussion was held in Congregation. Throughout these consultations, the Personnel Committee has been mindful of the sensitivity attaching to Statute XII, and has sought only to identify ways to improve the Statute's fitness for purpose while respecting all three of its guiding principles. In particular, it has taken note of the strength of feeling across the University related to academic freedom and has sought to ensure that all of its proposals accord this principle the highest degree of protection.

The legislative proposal now laid before Congregation closely follows the drafts provided in the third consultation: seven substantive changes have been incorporated specifically to address responses to the consultation, and these are summarised for ease of reference as bullet-points at the end of this Explanatory Note. A number of consequential amendments to related legislation are also included as part of the legislative proposal.

The three consultation documents, the responses from members of the University, and the transcript of the Discussion can all be read at: www.ox.ac.uk/staff/consultations/statute-xii.

In the first consultation, the Personnel Committee sought views on:

- a. whether, given the focus of the Statute on academic freedom, the range of staff covered by the Statute should be reduced;
- b. the desirability of simplifying procedures under the Statute;
- c. the desirability of revising the Statute to improve the clarity of its provisions; and
- d. the desirability of revising the procedures under Statute XII for addressing grievances.

Views on changing the coverage of Statute XII were mixed, and this possibility has not been pursued. There was broad support for simplifying the Statute's procedures, improving the clarity of its provisions, and revising the grievance procedures to encourage resolution at a local level. Possible approaches to achieving these aims were worked up as a set of outline proposals for the second consultation and for a subsequent Discussion in Congregation. The views expressed, and further discussions with representatives of the UCU and with individual respondents in the consultations, were taken into account to develop the full draft revised Statute and Regulations that were put forward in the third consultation.

The main features of the draft legislation in third consultation have been retained in the present legislative proposal, as follows.

a. A Statement of Freedoms was introduced into Part A to specify the freedoms that all staff enjoy and the freedoms relating specifically to teaching and research that are particular to staff who are required to engage in academic teaching and/or research either by their written contracts of employment or by established and agreed practice.

b. For clarity, reference was introduced to the established procedures that apply:

- i. to the end of fixed-term contracts at their anticipated end-date; and
- ii. to the termination of a member of staff's employment during or at the end of their probationary period or, in the case of academic staff, at the end of their Initial Period of Office by reason of capability.

c. Provision was introduced for a Redundancy Panel to which redundancy proposals relating to administrative and professional staff can be directly referred (see Part B of the revised Statute and

the new Council Regulations for the Redundancy Panel). The Regulations require the Panel to publish a suitably anonymised notice of the proposed redundancies in the *Gazette* in advance of meeting and then subsequently to publish the outcome. In addition, the Personnel Committee is required to publish an account of the Panel's activities annually. In the case of staff required to engage in academic teaching and/or research, the requirement has been retained that Congregation be asked for its approval before any potential redundancies are referred to the Redundancy Panel.

d. In cases of potential dismissal, a new approach was introduced (see Part D) in which the Visitorial Board (VB) hears disciplinary complaints or applications relating to physical or mental incapacity whenever it is considered that an issue of academic freedom may be involved; but, otherwise, cases not relating to academic freedom are heard by a new body, the Staff Employment Review Panel (SERP). A process was specified to determine in any given case whether academic freedom is at issue; and membership of the VB was redefined (see Part C) so as to comprise staff required to engage in academic teaching and/or research (in alignment with the Board's role in hearing cases relating to academic freedom).

e. Part E relating to 'Removal for Incapacity on Medical Grounds' by the Medical Board was removed. The existence of the Medical Board alongside the VB is problematic because of the lack of clarity about which route should be

used for some cases. Given that the VB has always been able to address medical issues, the Medical Board has not been used for many years. It is proposed that the VB and the SERP should be provided with access to expert advice relating to mitigation and to medical incapacity.

f. The grievance procedures in Part F were redrafted to encourage first the pursuance of informal means of resolution, failing which to offer formal resolution at a local level, with the right to take a grievance to the Vice-Chancellor identified as the right of appeal required under employment law.

g. A new University Appeal Panel (UAP) was introduced to hear all dismissal appeals except those from the VB, which will continue to be heard by the Appeal Court under Part H.

h. 'Future-proofing' was achieved in the referencing of legislation by ensuring the inclusion of subsequent re-enactments, and a general revision of the language of the Statute was undertaken to remove emotive terms such as 'charges'.

i. New regulations were devised for the procedures of the SERP and the UAP; and new regulations were drafted to govern the election of members of Congregation to a pool of 18 people from which the SERP, the UAP and the Redundancy Panel for each case are selected by lot.

The third round of consultation on possible changes to Statute XII closed on 2 February. The responses were few in number but they made several useful points, and the following refinements have been made in producing the final legislative proposal:

- the reference to the rights to express opinions about the University and to freedom from institutional censorship has been moved from section 4 of the draft to section 1 of the proposed new Statute XII, in order to clarify that all staff have these rights;
- an addition has been made to the reference to the freedom to undertake research (section 4 (2) (i)), in order that it might more closely resemble the UNESCO definition;
- section 4 (3) on the exercise of academic freedom has been reworded for clarity;
- section 5 of Part A, which serves to exclude cases of alleged constructive dismissal from the coverage of the Statute, has been reworded for clarity;
- the role of the Head of Department in commenting on whether academic freedom is considered to have any relevance to a dismissal case has been deleted (this was Part D, section 23 (b) in the draft);
- the Visitorial Board is now specified in section 16 of Part C as a chair and four members, that is, the proposal to reduce the size of the Visitorial Board has been withdrawn; and,
- in the Regulations for the Redundancy Panel, the length of time between the publication of a proposal to consider redundancies among administrative and/or professional staff and the meeting of the Panel has been extended from 14 to 28 days.

The main differences between the provisions of the present Statute and the final legislative proposal are summarised in the following table.

Key issue	Current Statute	Proposed revision
Dismissal	Every case is heard by a Visitation Board (VB) of 4 elected members of Congregation, chaired by a senior external lawyer. The process is elaborate and legal representation is typically used by both parties. Cases related to medical competence may be heard either by the VB or the Medical Board.	The extra protection of the VB is reserved unchanged for cases involving academic freedom. Other proposed dismissals are referred to a Staff Employment Review Panel (SERP) of three members of Congregation chosen by lot from a pool elected by Congregation. If there is dispute as to whether a case involves academic freedom, two elected members of Council consider which route should be used (the default being via the VB if either member considers that academic freedom may be at issue). The Medical Board will be abolished; the VB or SERP can hear medical evidence as necessary.
Defining Academic Freedom	Undefined.	A new definition, which has been refined over the last year, broadly follows the UNESCO definition and specifically refers to the freedom to research, conduct teaching and engage in public discourse.
Redundancy	Congregation must approve the establishment of a Redundancy Panel to consider any post deemed to be at risk of redundancy. Were the provisions of the current Statute to be used, it would likely take more than one year to complete the process.	As a safeguard for academic freedom, the requirement to get approval from Congregation to set up a redundancy panel is retained where the potential redundancies affect staff required to engage in academic teaching and/or research. For staff in other roles, a Redundancy Panel (constituted as for a SERP) will be set up to consider the matter and to take decisions on any redundancies. 28 days before such a Panel convenes, the redundancy proposal will be published in the <i>Gazette</i> for transparency and to allow Congregation to object if it so wishes. The Redundancy Panel is explicitly required to ensure that all appropriate options (including redeployment and voluntary redundancy) have been pursued to avoid compulsory redundancy.
Appeals	The Appeal Court, a high court judge (or equivalent) sitting alone, hears any appeal against dismissal.	Appeals against dismissal by the VB or against the dismissal of a Vice-Chancellor remain with the Appeal Court. All other dismissal decisions are heard by the new University Appeal Panel (constituted as for a SERP).
Exclusions	Unclear what categories of case are excluded from the coverage of the Statute	Explicit reference is made to exclude from the Statute dismissals for which there are established special procedures, namely: dismissal at the end of fixed-term contracts, dismissal of non-academic staff in or at the end of probation, and dismissal of academic post-holders for reason of capability at the end of their probation.

The intention of this legislative proposal is to provide for a more proportionate and efficient means of managing employment of staff within the University, which will cause less stress for all those involved, and yet provide for fair and robust decision-making with all due protection for academic freedom. The Personnel Committee and Council commend these proposals to Congregation. If accepted, they will be formally reviewed by the Personnel Committee after they have been in effect for five years or sooner as may be deemed necessary.

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

to the approval of Her Majesty in Council) AS FOLLOWS.

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

'Statute XII

Part A: Construction, Application, and Interpretation

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

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

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

(3) to apply the principles of justice and fairness.

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

3. (1) This statute shall apply:

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

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

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

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

4. Statement of Freedoms

(1) All members of the academic staff shall have all the freedoms of expression set out in section 1 (1) and in addition shall be free to participate in professional bodies or representative bodies of their choosing in accordance with the law and the University’s recognition agreements with trade unions in force from time to time.

(2) In this statute, “academic freedom” means the particular freedoms pertaining to research and teaching in the University and to which Parts C and D accord protection through the Visitation Board, namely that all employees of the University who are required to engage in academic teaching and/or research either by their written contracts of employment or by established and agreed practice shall, in accordance with the UNESCO 1997 Recommendation concerning academic freedom have the particular freedoms, without fear of any professional or personal reprisal or disadvantage, to:

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

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

(iii) engage in public discourse according to standards of professionalism reasonably expected of the holder of an academic post in the University.

(3) The University requires that, in all circumstances, members of staff will exercise their right to academic freedom only within the law and without prejudice to the fulfilment of their contractual duties and any applicable agreements with research funding bodies.

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

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

6. (1) For the purposes of this statute “good cause” in relation to the dismissal of a member of the academic staff under Part D, being in any case a reason which is related to conduct or to capability or qualifications for performing work of the kind which the member of the academic staff concerned was appointed or employed to do, means:

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

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

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

(d) physical or mental incapacity.

(2) In this section:

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

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

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

(1) the fact that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the person concerned was appointed or employed by the University, or has ceased, or intends to cease, to carry on

that activity in the place in which the person concerned worked; or

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

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

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

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

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

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

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

(2) Nothing in any appointment made, or contract entered into, shall be construed as overriding or excluding any provision made by this statute concerning the dismissal of a member of the academic staff by reason of redundancy or for good cause.

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

(4) Nothing in any other of the statutes or in any regulation made under them shall authorise or require any officer of the University to sit as a member of any committee, tribunal, or body appointed under this statute or to be present when any such committee, tribunal, or body

is meeting to arrive at its decision or for the purpose of discussing any point of procedure.

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

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

Part B: Redundancy

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

11. (1) Nothing in this Part shall prejudice, alter, or affect any rights, powers, or duties of the University or apply in relation to a person unless:

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

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

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

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

(a) of the University as a whole; or

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

(2) As a safeguard of academic freedom, where the proposed redundancies involve employees of the University who are required to engage in academic teaching and/or research either by their written contracts of employment or by

established and agreed practice, but except in those instances involving employees on open-ended contracts where the need for redundancy arises through the withdrawal of external funding, the appointment of a Redundancy Panel under section 13 shall require a prior decision of Congregation.

13. A decision under section 12 shall be referred to a Redundancy Panel selected by lot by the Registrar in accordance with regulations as set out in section 10, to consider proposals for such reductions as may be referred to it from time to time.

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

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

(3) The Director of Human Resources shall refer a proposal under section 14 (2) to the Registrar who, having sought and obtained the agreement of Congregation where that is required under section 12 (2), shall appoint a Redundancy Panel according to the provisions of section 10 to consider such proposal in accordance with regulations for the procedure to be followed by a Redundancy Panel.

(4) In cases where a prior decision of Congregation under section 12 (2) is not required, if a Redundancy Panel appointed to consider a particular redundancy proposal forms a majority view that for any reason it would be inappropriate to proceed without the approval of Congregation, the Panel should advise Council to that effect and await such approval before proceeding further.

(5) A Redundancy Panel appointed under section 14 (3) or (4) shall:

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

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

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

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

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

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

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

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

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

(c) a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part H; and

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

Part C: Visitation Board

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

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

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

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

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

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

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

19. The board shall consider:

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

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

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

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

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

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

Part D: Discipline and Dismissal

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

(1) Minor faults shall be dealt with informally.

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

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

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

Stage 1 - Oral Warning

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

Stage 2 - Written Warning

(c) If the misconduct or unsatisfactory performance is serious, or if further misconduct occurs or unsatisfactory performance continues, a written warning will be given to the member of the academic staff by the head of department. This will give details of the complaint, the improvement required, and the time scale. It will warn that a complaint may be made

to the Registrar alleging good cause for dismissal if there is no satisfactory improvement and will advise of the right of appeal under this section. A copy of this written warning will be kept by the head of department, but it will be disregarded for disciplinary purposes after two years subject to satisfactory conduct and performance.

Stage 3 - Appeals

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

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

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

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

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

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

(2) If it appears to the Vice-Chancellor that a complaint referred to him or her under this Part relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under section 21 or which relates to a particular alleged infringement of statutes or regulations for which a standard penalty is normally imposed in the University

or within the division, faculty, school, department, or other relevant area, or is trivial or invalid, he or she may dismiss it summarily, or decide not to proceed further under this Part.

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

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

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

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

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

(a) matters raised in the complaint; and

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

28. (1) The Vice-Chancellor shall refer any appeal by a member of the academic staff against a proposal that a complaint

be determined by the Staff Employment Review Panel to the Registrar who shall select by lot a Review Panel for that purpose.

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

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

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

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

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

(a) dismiss the complaint; or

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

(c) deal with it informally, if it appears to the Vice-Chancellor appropriate to do so and if the member of the academic staff agrees in writing that the matter should be dealt with by the Vice-Chancellor in that way; or

(d) refer the complaint for determination by the Visitation Board or a Staff Employment Review Panel in accordance with sections 26–28, to determine in each case whether the conduct, capability or performance of the member of the academic staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the member's appointment or employment.

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

Visitation Board

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

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

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

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

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

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

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

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

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

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

- (a) that the member of the academic staff concerned is entitled to be represented by another person, whether such person is legally qualified or not, in connection with and at any hearing by the board;
 - (b) that a case for dismissal shall not be determined without an oral hearing at which the member of the academic staff concerned and any person appointed to represent that person are entitled to be present;
 - (c) that witnesses may be called, both on behalf of the member of the academic staff concerned and by the person presenting the case for dismissal, and may be questioned concerning any relevant evidence;
 - (d) where the case for dismissal relies on physical or mental incapacity or lack of capability assessed by reference to health or any other physical or mental quality, or in any other case deemed appropriate by the board, that the board may be provided with expert medical advice and that the member concerned may be required to undergo medical examination at the University's expense; and
 - (e) that full and sufficient provision is made:
 - (i) for postponements, adjournments, dismissal of the case if it is not pursued, and remission of the case for dismissal to the Vice-Chancellor for further consideration and for the correction of accidental errors; and
 - (ii) for the case for dismissal to be heard and determined by the board as soon as is reasonably practicable.
34. (1) The Visitatorial Board shall send its decision on any case for dismissal referred to it (together with a statement of its findings of fact and the reasons for its decision, and its recommendations, if any, as to the appropriate sanction) to the Vice-Chancellor, the member of the academic staff concerned, and the person presenting the case for dismissal.
- (2) When sending its decision in accordance with sub-section (1), the Board shall provide written notification to the member of staff concerned of the applicable time limit for an appeal and of the right to appeal:

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

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

Staff Employment Review Panel

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

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

(a) that the member of the academic staff concerned is entitled to be accompanied or represented by a colleague in the University or trade union representative;

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

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

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

(e) that full and sufficient provision is made:

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

(ii) for the case for dismissal and an appeal to be heard and determined by a panel as soon as is reasonably practicable.

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

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

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

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

Actions following hearings

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

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

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

(a) to discuss the issues raised with the person concerned; or

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

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

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

Part E:

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

Part F: Grievance Procedures

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

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

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

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

with the head of department (as defined in section 21 (3)) for informal resolution.

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

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

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

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

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

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

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

(7) The head of department or division shall send his or her decision on whether the grievance is or is not well-found, and if it is well-found any proposals for the redress of the grievance, to the aggrieved person, and notify him or her of the right to appeal the decision under section 44.

44. (1) If the member of the academic staff is dissatisfied with the decision in respect of the grievance, he or she may apply in writing to the Vice-Chancellor for an appeal.

(2) An appeal under sub-section (1) shall be sent within fourteen days of the date on which the decision under section 43 (7) was sent to the member of the academic staff.

(a) If it appears to the Vice-Chancellor that the matter has been finally

determined under Part D or H, or that the grievance is trivial or invalid, he or she may dismiss it summarily or take no action upon it.

(b) If it so appears to the Vice-Chancellor, he or she shall inform the member accordingly.

(3) If the Vice-Chancellor is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of):

(a) a complaint under Part D,

or

(b) an appeal under Part H,

he or she shall defer action upon it under this Part until the relevant complaint, determination, or appeal has been heard or the time for instituting it has passed, and he or she shall notify the member accordingly.

(4) If the Vice-Chancellor does not reject the grievance appeal under sub-section (2), and if he or she does not defer action upon it under sub-section (3), the Vice-Chancellor shall consider the possibility of resolving the grievance appeal informally and shall make such arrangements as he or she considers appropriate for that purpose.

45. If the grievance has not been disposed of informally under section 44 (4), the Vice-Chancellor shall refer the matter to the Grievance Committee for consideration.

46. There shall be a Grievance Committee appointed by Council, which shall comprise:

(1) a chair; and

(2) two members of Congregation, at least one of whom shall be a member of staff who is required to engage in academic teaching and/or research either by his or her written contract of employment or by established and agreed practice.

47. The procedure in connection with the consideration and determination of grievances shall be determined in regulations in such a way as to ensure that the aggrieved person, and any person against whom the grievance lies, shall have the right to be heard at a hearing and to be accompanied by a colleague in the University or a trade union representative.

48. The committee shall inform Council whether the grievance is or is not well-found, and if it is well-found the committee shall make such proposals to Council for the redress of the grievance as it sees fit, and Council shall take such action as it deems fit.

Part G: Removal of the Vice-Chancellor from Office

49. The Chancellor may be requested to remove the Vice-Chancellor from office for good cause in accordance with the procedure described in this Part:

(1) A complaint seeking the removal from office of the Vice-Chancellor for good cause may be made by not less than eight members of Council to the Chancellor.

(2) If it appears to the Chancellor, on the available material, that the complaint raises a prima facie case and that this could, if proved, constitute good cause for removal from office, he or she shall require Council to appoint a tribunal to hear and determine the matter.

(3) If it appears to the Chancellor that a complaint made under sub-section (1) does not raise a prima facie case or is trivial or invalid, he or she may recommend to Council that no further action be taken upon it.

(4) When Council has appointed a tribunal under sub-section (2), the Chancellor shall instruct the Registrar to appoint a solicitor or other suitable person to formulate a case for dismissal and to present, or arrange for the presentation of, that case before the tribunal; and it shall be the duty of the person formulating the case for dismissal:

(a) to forward the case for dismissal to the tribunal and to the Vice-Chancellor, together with the other documents specified in that case; and

(b) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents, and generally for the proper presentation before the tribunal of the case against the Vice-Chancellor.

(5) A tribunal appointed by Council shall comprise:

(a) a person not employed by the University holding, or having held, judicial office or being a barrister or solicitor of at least ten years' standing, who shall act as chair; and

(b) two members of Congregation who shall be selected by Council, and at least one of whom shall be a member of the academic staff.

(6) The tribunal shall have access to legal advice as required.

(7) Where the good cause for dismissal referred to in this section is physical or mental incapacity, this Part shall be read as if the word "complaint" were replaced with the word "application". In such a case, the tribunal may be provided with expert medical advice and the Vice-Chancellor may be required to undergo medical examination at the University's expense.

(8) A case for dismissal referred to the tribunal shall be dealt with in accordance with the procedure prescribed in section 33, provided:

(a) that the Chancellor shall perform any duty, and exercise any power, there assigned to the Vice-Chancellor; and

(b) that the only recommendation that the tribunal may make is whether or not the Vice-Chancellor should be removed from office.

(9) The tribunal shall send its reasoned decision on any case for dismissal referred to it, together with a statement of its findings of fact regarding that case and its recommendation on the question of removal from office, to the Chancellor and to the Vice-Chancellor, drawing attention to the period of time within which any appeal under Part H should be made.

(10) (a) Where a case for dismissal has been upheld by the tribunal and not dismissed on appeal, the Chancellor shall decide whether or not to remove the Vice-Chancellor from office.

(b) If the Chancellor decides to accept the recommendation for removal, he or she may remove the Vice-Chancellor from office forthwith.

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

Part H: Appeals

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

52. (1) This Part applies:

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

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

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

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

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

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

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

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

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

(3) No appeal shall lie against any finding of fact of the Visitation Board under section 34 (1) or of the Staff Employment Review Panel under section 37 save where, with the consent of the person or persons hearing the appeal, new evidence is called on behalf of the appellant at that hearing.

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

The Appeal Court

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

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

54. (1) A notice of appeal to the Appeal Court under this Part shall be served within twenty-eight days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the Appeal Court may determine under subsection (3).

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

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

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

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

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

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

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

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

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

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

(a) remit an appeal arising under Part D for rehearing or reconsideration

by the Visitation Board as the Appeal Court may direct; or

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

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

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

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

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

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

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

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

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

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

'Every employee of the University within section 3 (1) (a) or (b) of Statute XII ~~who is subject to the jurisdiction of the Visitation Board under the provisions of Statute XII,~~

other than the holder of a professorship to which a canonry is annexed who is exempt from membership of the appropriate pension scheme referred to in section 12 of this statute, shall retire not later than the date applicable to that employee as laid down by Council by regulation.'

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

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

Changes in Regulations to be made by Council if the Statutes are approved

1 Insert new Council Regulations as follows:

'Regulations for the Staff Employment Review Panel and University Appeal Panel

Staff Employment Review Panel

1. In these regulations, references to sections are to sections of Statute XII unless otherwise indicated.

2. (1) Where the Vice-Chancellor refers a complaint under section 29 (1) (d), the Registrar shall select by lot three members of Congregation to a Staff Employment Review Panel ("the panel") constituted in accordance with regulations governing the membership of panels convened under Parts B, D and H of Statute XII.

(2) The panel shall be provided with advice and assistance, including legal and/or medical advice as required, by Personnel Services and appropriate records of its decision-making shall be kept.

(3) Personnel Services shall designate a secretary to coordinate all arrangements necessary for the hearing.

3. The Registrar shall appoint a suitable person to present the case for dismissal before the panel ("the presenter").

4. No case for dismissal shall be determined without an oral hearing at which the

member of academic staff who is the subject of the case for dismissal (“the member of staff”) is entitled to be present, and to be accompanied and represented by a colleague employed by the University or trade union representative.

5. In good time to allow the member of staff to produce his or her case in response in advance of the hearing, the designated secretary shall send the member of staff the written case for dismissal, which shall include:

- (a) details of the allegation(s) or circumstance(s) relied upon in relation to the conduct, capability or performance of the member of staff concerned;
- (b) an explanation of the basis on which these are said to constitute good cause for dismissal;
- (c) any documents or other evidence, including witness statements, relied upon in support of the case for dismissal; and
- (d) confirmation that the Vice-Chancellor or a Review Panel has determined that there is no reasonable prospect that the case for dismissal will or may involve an issue of academic freedom as defined in section 4 (2).

6. In good time to allow for consideration by the panel and the presenter before the hearing, the member of staff shall send to the secretary his or her written response which shall contain an explanation of his or her response to the case for dismissal, copies of any documents on which he or she wishes to rely, a list of his or her witnesses, and copies of their statements of evidence.

7. (1) Where the case for dismissal, or the member of staff’s case in response, involves any issue of physical or mental incapacity or capability, Personnel Services may arrange for the panel to be provided with access to expert medical advice in relation to such incapacity or capability or to any steps which may be taken in mitigation of the same.

(2) Where Personnel Services have arranged for the panel to be provided with access to expert medical advice, the member of staff may be required to make himself or herself available for examination by such medical expert as may be appointed for this purpose and at the University’s expense.

8. Subject to the provisions of Statute XII and these regulations, the panel shall have general power to manage its own proceedings, including to:

- (a) postpone or adjourn a hearing, if it considers that there are reasonable grounds to do so;
- (b) set time limits on the evidence given or representations made, consistent with providing a fair opportunity for each party to present its case at the hearing;
- (c) determine the order of proceedings at the hearing, consistent with each party being given a fair opportunity to give evidence, call witnesses, question any person who gives evidence and make representations;
- (d) permit the introduction of new evidence at the hearing, where there is good reason to do so, and, if so, to adjourn the hearing if the panel considers this is necessary to enable the other party to consider the proposed evidence or further evidence in response; and
- (e) ensure that each step in the proceedings is taken as promptly as is reasonably practicable.

9. The member of staff and the presenter shall have the right to call witnesses and to ask questions of any witnesses called in support of the case for dismissal or the case in response respectively.

10. The panel may dismiss a case for undue delay.

11. The panel may remit any case to the Vice-Chancellor for further consideration, in particular, if an issue arises in the course of proceedings which in the panel’s view requires the consideration of academic freedom.

12. The chair may, by an appropriate certificate in writing, correct any accidental errors in documents recording the decisions of the panel.

13. The panel shall hear representations on the appropriate sanction, if any, and any evidence or representations in mitigation, before deciding whether the complaint should be upheld and, if so, what sanction, if any, should be imposed.

14. The panel shall produce its decision in writing, together with a statement of its findings of fact, the reasons for its decision and its recommendations, if any, as to the appropriate sanction, as soon as is reasonably practicable after the hearing and send it to the Vice-Chancellor, the member of staff, the presenter, and Personnel Services. The panel shall try to come to a unanimous decision. However, a decision can be reached by a majority.

15. (1) Where any case for dismissal has been upheld and the panel has recommended dismissal, the Vice-Chancellor may dismiss forthwith or upon such terms as he or she considers fit.

(2) If the Vice-Chancellor decides not to dismiss, the actions he or she may take are as set out in section 39 (2).

(3) Any warning given under section 39 (2) (c) shall be recorded in writing and shall remain live for two years.

16. (1) By its decision under regulation 14 above, the panel shall notify the member of staff of his or her right of appeal under section 38 and shall enclose a copy of these regulations with its decision.

(2) If a member of staff wishes to appeal a panel’s decision under section 38, he or she shall send written grounds of appeal to the Registrar within 14 days of receipt of the panel’s decision.

(3) The Registrar shall refer any appeal under section 38 (b) to a Pro-Vice-Chancellor.

(4) The Registrar shall bring any appeal under section 38 (a) to the attention of the Vice-Chancellor who shall refer the appeal for determination to a University Appeal Panel constituted and acting in accordance with regulations 17–26 below.

University Appeal Panel

17. (1) A University Appeal Panel (the “appeal panel”) shall be comprised of three members of Congregation selected by lot by the Registrar in accordance with regulations governing the membership of panels convened under Parts B, D and H of Statute XII.

(2) The appeal panel shall be provided with advice and assistance, including legal and/or medical advice as required, by Personnel Services and appropriate records of its decision-making shall be kept.

(3) Personnel Services shall designate a secretary to coordinate all arrangements necessary for the determination of the appeal.

18. (1) The appeal panel shall hear and determine an appeal from any decision as provided for by section 52.

(2) There shall be no right of appeal from a finding of fact made by a Staff Employment Review Panel or by a Redundancy Panel under Part B of Statute XII except that, where the appeal panel is satisfied that it is necessary in the interests of fairness, the appeal panel

may consider new evidence from the member of staff which was not before the original panel and/or may conduct such further inquiries or investigations as it considers necessary.

(3) Subject to regulation 18 (2) above, the appeal panel shall consider the grounds of appeal raised by the member of staff and conduct an appeal by way of review rather than re-hearing.

19. No appeal shall be determined without an oral hearing at which the member of staff is entitled to be present, and to be accompanied and represented by a colleague employed by the University or trade union representative.

20. Subject to the provisions of Statute XII and these regulations, the appeal panel shall have general power to manage its own proceedings, including to:

(a) postpone or adjourn an appeal hearing, if it considers that there are reasonable grounds to do so;

(b) set time limits on the evidence given (if any) or representations made, consistent with providing a fair opportunity for each party to present its case at the appeal hearing;

(c) where the appeal panel is satisfied that it is necessary to do so, obtain expert medical evidence, or further or up-to-date expert medical evidence, in the circumstances set out in regulation 7 (1) above and where the member of staff has attended for medical examination as set out in regulation 7 (2) above.

(d) determine the order of proceedings at the appeal hearing, consistent with each party being given a fair opportunity to state their case on the appeal; and

(e) ensure that each step in the proceedings is taken as promptly as is reasonably practicable.

21. The appeal panel may remit any case to the Vice-Chancellor for further consideration, in particular, if an issue arises in the course of proceedings which in the panel's view requires the consideration of academic freedom.

22. The appeal panel may, by an appropriate certificate in writing, correct any accidental errors in documents recording its decisions.

23. Where the appeal concerns a decision to dismiss without notice, the member of staff shall be suspended without pay pending determination of the appeal.

24. (1) The appeal panel shall decide whether to confirm or revoke the decision of the

original panel, or to impose a different sanction. The appeal panel shall try to come to a unanimous decision. However, a decision can be reached by a majority.

(2) If the appeal panel on an appeal from a decision of a Staff Employment Review Panel decides to revoke the decision to dismiss and impose a different sanction, it may recommend one of the steps set out in section 39 (2).

(3) Any warning given under section 39 (2) (c) shall be recorded in writing and shall remain live for two years.

25. The appeal panel shall produce its decision in writing as soon as is reasonably practicable after the appeal hearing and send it to the Vice-Chancellor, the member of staff, the presenter, and Personnel Services.

26. The appeal panel's decision shall be final.

2 Insert new Council Regulations as follows:

Regulations for the Redundancy Panel

1. The Redundancy Panel ("the Panel") shall consider cases referred to it according to Statute XII sections 12 and 13 only after the University's personnel procedures applicable to potential redundancies in academic and academic-related staff on permanent, self-financing and open-ended contracts, and to early termination of academic and academic-related fixed-term contracts, have been followed up to and including full consideration of alternatives to compulsory redundancy.

2. The Panel shall be comprised of three members drawn from a pool elected from and by Congregation in accordance with regulations governing the membership of panels convened under Parts B, D and H of Statute XII.

3. If a majority of the Panel considers that a particular redundancy proposal raises issues that should first be considered by Congregation, then the Panel may refuse to consider the case until such time as Congregation has given approval to proceed. This will apply particularly but not exclusively in cases where academic freedom may be at issue. The Panel should then refer the matter to Council which must seek approval from Congregation if it wishes to pursue the redundancy proposals.

4. The University and College Union (UCU) will be invited to provide a representative to attend the Panel meeting as an observer for the purpose of reporting to the joint consultative committee only, and on the basis that proceedings before the Panel shall remain confidential until notification

of the decision reached by the Panel is communicated to the affected member or members of staff.

5. The Panel shall meet as and when required.

6. The Panel can only consider cases that meet the following definition of redundancy based on the Employment Rights Act 1996, section 139, as amended or re-enacted from time to time.

7. A dismissal is by reason of redundancy if the dismissal is attributable wholly or mainly to:

(1) the fact that his employer has ceased, or intends to cease,

(a) to carry on the activity for the purposes of which the employee was employed by it, or

(b) to carry on that activity in the place where the employee was so employed, or

(2) the fact that the requirements of the University

(a) for employees to carry out work of a particular kind, or

(b) for employees to carry out work of a particular kind in the place where the employee was employed by the employer,

have ceased or diminished or are expected to cease or diminish.

8. A notice shall be placed in the *Gazette* setting out the nature of the proposed redundancies not less than 28 days before the Panel is convened to consider a redundancy case. This notice is to be drafted, following consultation with the affected member or members of staff, so as to be informative whilst protecting the identities of those who may be involved.

9. The procedure to be adopted by the Panel will be as follows.

(1) The Panel will consider only formal proposals for redundancy forwarded by Divisional Boards or other appropriate authorities.

(2) The formal proposals should be submitted in the first instance to the Director of Human Resources, who will forward a copy to the UCU joint secretary.

(3) The Panel will be convened and supported by Personnel Services.

(4) All proposals submitted to the Panel must contain the following information:

(a) an explanation of why redundancy is proposed; this may, for example, include evidence showing that the source of funding for a particular activity is due to diminish or cease and that there is no alternative source of funding to support the continuation of that activity;

(b) details of the areas of activity affected and the numbers and descriptions of posts in those areas ("the redundancy pool"), including job title, grade, hours of work, job description, reporting structure, departmental organisational chart; also current source of funding and a copy of any relevant research contract(s);

(c) details of the selection criteria used and selection activities undertaken where it is not proposed that all the staff in the redundancy pool are to be made redundant, including CV and scoring against selection criteria;

(d) information on measures taken to try to avoid compulsory redundancy (eg efforts to seek redeployment and/or to achieve the necessary reductions in staffing through voluntary redundancy), including copies of correspondence, notes of meetings, etc;

(e) an equality impact assessment reporting whether staff groups who share a protected characteristic within the meaning of the Equality Act 2010 will be adversely affected and details of any actions that were taken or considered to mitigate these effects;

(f) information on consultation with affected individual(s) and employee representatives, including copies of correspondence, notes of meetings, etc.

(5) Where the proposal is to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the Panel will invite the appropriate representatives to participate in consultation about the proposed compulsory redundancies, including consultation about ways of avoiding compulsory redundancies, reducing the numbers of compulsory redundancies, and mitigating the consequences of compulsory redundancies. Such consultation shall be undertaken with a view to reaching agreement with the appropriate representatives. In this regulation

"establishment" and "appropriate representatives" shall be construed in accordance with sections 188 and 188A of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended or re-enacted from time to time.

(6) The Panel will consider any written or oral representations from individual(s) directly affected by the proposals. Individuals potentially affected under the redundancy proposals shall be informed of the date of the Panel meeting at least two weeks before the Panel meet. They will be invited to submit any representations that they may wish to make to the Panel to a named person, which must be received one week in advance of the Panel meeting. They will also be invited to meet with the Panel, if they wish to do so, and may be accompanied by a colleague or a trade union representative.

(7) The Head of Department or his or her delegated nominee will provide information to the Panel and will attend the panel meeting to answer any questions in respect of the redundancy proposals.

(8) The Panel will carefully scrutinise each case referred to it and will consider whether:

(a) the proposal is based on objectively verifiable grounds which are covered by the University's definition of redundancy;

(b) the redundancy pool has been appropriately defined;

(c) the selection criteria and selection activities were objectively justifiable and appropriate to the circumstances;

(d) all appropriate options have been pursued to avoid compulsory redundancy, in particular efforts to seek redeployment where this is desired by the affected individual(s), and/or to achieve the necessary reductions in staffing through voluntary redundancy;

(e) there has been appropriate consultation at departmental and/or divisional level with the affected individual(s) and with their representatives, with a view to avoiding compulsory redundancy, reducing the number of compulsory redundancies, and mitigating the consequences of compulsory redundancies;

(f) all relevant requirements under current employment legislation, including the obligation to avoid unlawful discrimination and to inform and consult appropriate representatives where required, have been met.

If, in the opinion of the majority of the Panel, one or more of these conditions are not satisfied, the Panel will return the proposal to the originating division or appropriate authority for further consideration.

(9) Appropriate records of the Panel meeting will be kept.

(10) The Panel will provide a brief report of its considerations and recommendations to the relevant Head of Department and Head of Division. The Panel may authorise the relevant Head of Department to issue a notice of redundancy, which will include a brief summary of the Panel's considerations in relation to the affected post-holder, their notice period, details of redundancy payments and their opportunity to appeal.

10. After all notices of redundancy have been issued to individuals, and the deadline for any appeals has passed, a notice of the decision reached by the Redundancy Panel shall be placed in the *Gazette*.

11. Appeals against redundancy dismissal will be heard by the University's Appeal Panel for academic and academic-related staff.

12. An anonymised summary of the activity of Redundancy Panels shall be provided annually by the Director of HR to the Personnel Committee, and the Committee will publish that report to Congregation.'

3 Insert new Council Regulations as follows:

'Regulations for Constituting Panels convened under Statute XII Parts B, D and H

Election of members to the pool from which Panels are to be drawn

1. These procedures do not apply to a Review Panel constituted under section 28 of Statute XII.

2. Elections for membership of the pool from which members are drawn for Panels convened under Parts B, D and H of Statute XII ("the Pool") shall be conducted amongst members of Congregation as provided for by Statute IV and regulations made thereunder. There will be eighteen persons in the elected pool, with three panel members

representing each of the four academic divisions, the Academic Services and University Collections, and the University Administration and Services.

3. Members of the pool shall:

- (1) be elected from members of Congregation to whom Statute XII applies by members of Congregation under the provisions of regulations for elections made under Statute IV;
- (2) hold office for four years;
- (3) be capable of re-election once.

4. Those who fill a casual vacancy in the Pool and hold office for less than four years shall subsequently be eligible to complete two full terms of office.

5. Each member of the pool will be required to attend appropriate training before serving on a Panel.

Formation of a Panel

6. Members are appointed to serve on Panels on a case-by-case basis.

7. When a case is referred to a Panel, the Registrar (or a person appointed by the Registrar to act on his or her behalf) shall select by lot three members to serve on the Panel from amongst all such members of the Pool who are eligible to serve. Circumstances that would render a person ineligible to serve would include those where the person had a prior involvement in the case or a conflict of interest. If any person so selected considers they should have been considered ineligible, they should declare it at the earliest opportunity and step down. An alternate may be selected by lot and appointed to act in his or her place.

8. The first person selected by lot shall serve as chair of the Panel.

9. Should the selection by lot of the three members of a Panel result in all three of those members being persons of the same sex, then, where the eligible members of the remaining pool include a person or persons of the other sex, a further selection (by lot, if applicable) shall be made from amongst those persons and the person so chosen shall replace the third selected member of the Panel.

10. If any of the three members of the Panel so selected for the consideration of a case is unable to serve, a further person shall be selected by the same procedure to replace the member who is unable to serve.

11. The selected Panel members shall serve on the Panel for the duration of its consideration of that case whether or not

their period of office as a member of the Pool has expired in the interim.

12. No person who has served on a Panel previously constituted to consider a case shall be eligible to serve on any further Panel constituted to consider that case.'

4 In Council Regulations 5 of 2006, concerning Appeals to the Appeal Court, in Part 2 (Parties to Appeals and Representation) amend regulation 2.1 as follows (deleted text struck through):

'2.1. The parties to an ~~appeal against a decision of the Visitation Board or any other appeal~~ under Part H of Statute XII or against a decision of the Vice-Chancellor under section 5 of Statute XVII shall be:

- (1) the appellant; and
- (2) the University acting through the Registrar or a solicitor or another suitable person appointed by the Vice-Chancellor.'

5 Ibid, in Part 3 (Powers of the Court) amend regulation 3.1 as follows (new text underlined, deleted text struck through):

- '3.1. (1) The powers of the Court in respect of ~~appeals made against decisions of the Visitation Board and other appeals arising~~ under Part H of Statute XII are specified in section ~~40~~ 52 of that statute.
- (2) In these appeals the Court may make any of the orders mentioned in section ~~44~~ (3) 56 (2) of that statute.'

6 Ibid, in Part 7 (Decision) amend regulation 7.2 as follows (new text underlined, deleted text struck through):

'7.2. Decisions on ~~appeals against decisions of the Visitation Board and other appeals arising~~ under Part H of Statute XII shall be stated and communicated in accordance with the provisions of section ~~45~~ 57 of that statute.'

7 In Council Regulations 36 of 2002, concerning the Visitation Board, amend the title of the regulation as follows (new text underlined, deleted text struck through):

'Regulations for the Visitation Board made under Section ~~22~~ 33 of Statute XII'

8 Ibid, delete in all instances 'Chairman' and substitute 'chair'.

9 Ibid, delete in all instances 'charge' and substitute 'complaint'.

10 Ibid, delete in all instances 'charges' and substitute 'complaints'.

11 Ibid, delete in all instances 'charged' and substitute 'who is the subject of the complaint'.

12 Ibid, in regulation 3, delete reference to 'section 16' and substitute 'section 19'.

13 Ibid, in regulation 4, delete reference to 'section 7 (3)' and substitute 'section 9 (3)'.

14 Ibid, in regulation 10, delete reference to 'section 25' and substitute 'section 40'.

15 Ibid, in regulation 11, delete reference to 'section 19 (6) (d)' and substitute 'section 29 (1) (d)', and delete reference to 'section 20 (2)' and substitute 'section 31'.

16 Ibid, in regulation 20, delete reference to 'section 19 (4)' and substitute 'section 29 (1) (d)'.

17 Ibid, in regulation 34 (2), delete reference to 'section 5' and substitute 'section 6'.

18 Ibid, in regulation 41 (2), delete reference to 'section 24' and substitute 'section 39 (2)'.

19 Ibid, in regulation 41 (3), delete reference to 'section 24' and substitute 'section 39 (2) (c)'.

20 Ibid, insert new regulation 23 as follows and renumber existing regulations 23–42 accordingly:

'23. (1) Where the case for dismissal, or the member of staff's case in response, involves any issue of physical or mental incapacity or capability, the secretary may arrange for the board to be provided with access to expert medical advice in relation to such incapacity or capability or to any steps which may be taken in mitigation of the same.

(2) Where the secretary has arranged for the board to be provided with access to expert medical advice, the member of staff may be required to make himself or herself available for examination by such medical expert as may be appointed for this purpose and at the University's expense.'

21 In Council Regulations 40 of 2002, concerning Regulations for the Grievance Committee, amend the title of the regulation as follows (new text underlined, deleted text struck through):

'Regulations for the Grievance Committee made under Section ~~34~~ 47 of Statute XII'

22 Ibid, amend regulation 1 as follows (new text underlined, deleted text struck through):

'1. When reference has been made to the Grievance Committee under section ~~32~~ 45 of Statute XII the ~~chairman~~ of the committee

shall invite the aggrieved person, and any person against whom the grievance lies, to submit a written statement to the committee.'

23 Ibid, amend regulation 3 as follows (new text underlined, deleted text struck through):

'3. After due consideration, the Grievance Committee shall inform Council of its decision under the provisions of section ~~35~~48 of Statute XII.'

24 Repeal Council Regulations 38 of 2002 concerning the Medical Board made under Section 27(5) of Statute XII.

25 Amend the title of Council Regulations 41 of 2002, concerning the Appointment of Alternates made under Section 7(3) of Statute XII, as follows (new text underlined, deleted text struck through):

'Regulations for the Appointment of Alternates made under Section ~~9~~7(3) of Statute XII'

26 These changes in regulations shall take effect on the date that the Statutes are approved.