



DARWIN COLLEGE, CAMBRIDGE

Academic Staff Code (October 2023)

This is the Academic Staff Code ('the Code') made under Statute XXVII and agreed by the Governing Body. It applies to those persons and to the extent set out in Ordinance XXVII.

Explanatory note:

Under Ordinance XXVII the Code as at the date of its adoption applies only to the following:

<i>Under Statute XVI 2(a)</i>	<i>No persons to whom the Statute applies</i>
<i>Under Statute XVI 2(b)</i>	<i>The Dean and Bursar</i>
<i>Under Statute XVI 2(c)</i>	<i>The Master</i>

It may also apply to any Fellow or College Officer in connection with dismissal under Statute II.A.8 or III.4 for the purpose of determining good cause or incapacity or to afford the rights of appeal set out in this Code.

1. Interpretation and definitions

(h) The following terms are defined below:

(i) "position in the College", in relation to a member of the academic staff, refers to the Mastership or a Fellowship or any College office held by that member, and also to any contract of employment between that member and the College;

(ii) a "primary position", in relation to a member of the academic staff other than the Master, refers to any College office or employment held by that member on which the tenure of the Fellowship of the member depends; or which is specified by the Council as a primary position in relation to the member; or (if there would otherwise be no primary position in relation to the member) to the member's Fellowship; and

(iii) a "secondary position", in relation to a member of the academic staff other than the Master, refers to any position that is neither a primary position in relation to the member nor the member's Fellowship.

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

2. Panels constituted under the Academic Staff Statute

Constitution of panels

(a) The Council shall appoint annually two Lists (List A and List B). List A shall consist of not less than three persons, who shall have legal qualifications and at least one of whom shall not be a member of the College. List B shall consist of not less than twelve Fellows. The initial members of each List shall be placed in such order as the Council may determine. Persons appointed as new members shall be added at the end of the List in such order as the Council may determine. Members of either List, on appointment to a panel, shall go to the end of that List retaining their order as against one another.

The Council shall appoint a substitute for a member of either List who is on leave of absence for the period of that leave, unless the Council are of the view that the period is sufficiently short not to prevent the member from serving on a panel if called upon to do so without causing delay to proceedings.

(b) Panels constituted under the Academic Staff Code shall be constituted according to the following rules:

- (i) no member of a panel shall also be a member of an appeal panel in the same matter;
- (ii) a panel or appeal panel to consider the removal of a Master shall be constituted in accordance with Section 11 (Procedure for the removal of the Master from office);
- (iii) a medical panel and a medical appeal panel shall include a medically qualified person appointed by the Council;
- (iv) a panel shall comprise three persons, who shall not all be of the same gender;
- (v) the panel chair shall be a member of List A and, in the case of an appeal panel, shall not be a member of the College; and, subject to the preceding rules,
- (vi) the other panel members shall be members of List B.

(c) Members shall be selected from List A and List B for the constitution of a panel in compliance with the above rules and otherwise in strict order from the top of the List, but disregarding any member of the List who is disqualified from acting in accordance with the provisions of this Code.

(d) Where it is not possible to select a panel in conformity with the above rules because there are insufficient persons remaining on either List after the exclusion of those persons who are disqualified from acting in accordance with the provisions of this Code, then to that extent selections may be made by the Council (or by the Master acting on their behalf), after considering the views of the member of the academic staff under consideration by the panel (“the Member Concerned”), of other persons.

(e) A meeting of a panel, whether for a hearing or for any other purpose, shall be valid and effective provided that the panel chair is present.

Disqualification of panel members

(f) A person who has an involvement or a belief of involvement with the matter before a panel that would make the person’s participation as a member of the panel unfair shall for that reason decline to accept appointment as a member of the panel, or, if already appointed, shall be disqualified from the panel.

(g) A member of a panel who fails to attend the whole of any hearing (save for absences which, in the opinion of the chair, are immaterial) shall be disqualified from the panel.

(h) If the Member Concerned believes that a member of the panel has an involvement with the matter before the panel that would make the Member Concerned’s participation as a member of the panel unfair, then the Member Concerned shall object on that ground to the panel chair without delay, and in any event not later than the start of the first hearing of the matter by the panel. The panel chair shall rule on any such objection (including such an objection relating to the Member Concerned). If the objection is upheld the member of the panel concerned shall be disqualified from acting further. A ruling dismissing the objection shall be open to appeal to the person at the top of List A, whose decision shall be final.

(i) No objection of the sort referred to in paragraph (h) above shall be entertained after the start of the first hearing of the matter by the panel, unless the panel chair (or the chair of the appeal panel

if the objection is taken at the appeal stage) is satisfied that it was not reasonably practicable for the member concerned to have raised the matter earlier. A ruling declining to entertain a late objection shall be open to appeal to the person at the top of List A, whose decision in the matter shall be final.

(j) Where a member of a panel (not being the panel chair) is disqualified from acting, the panel may, with the consent of the Member Concerned, continue to act, notwithstanding such reduction in membership. Alternatively the panel chair may select a replacement member in accordance with the rules for selection, and may adjourn proceedings pending that appointment. Where the chair of a panel is disqualified, a new chair shall be selected in accordance with the rules for selection.

(k) Where a person is added to the membership of a panel, then any hearing that has already taken place in whole or in part shall be disregarded and shall be held afresh.

Role and powers of the panel chair

(l) The panel chair shall determine all procedural and interlocutory matters on behalf of the panel after such consultation (if any) with members of the panel as the chair shall see fit.

(m) The panel chair may vary time limits; may allow the amendment of charges or of grounds of appeal; may permit any departure from the rules or procedure set out in this Code; and may exclude any person, including the Member Concerned, from any hearing of the panel if, in the opinion of the panel chair, such step is necessary in the interests of good order.

(n) In exercising any discretion the panel chair shall seek to give effect to the guiding principles set out in the Academic Staff Statute. Any exercise of discretion by the panel chair may be made subject to such conditions as the chair shall see fit.

(o) The panel chair may postpone, adjourn and reconvene any hearing or other meeting of a panel. The panel chair may discharge the panel and order a rehearing of the matter before a fresh panel, but shall only do so where the Chair is of the view that that step is necessary in order to ensure a just and fair process.

(p) Where it appears to the panel chair, whether on receipt of an application made by the Member Concerned or the Presenting Officer (if one has been appointed) or otherwise, that a material aspect of the matter before the panel is or is likely to be the subject of criminal or civil proceedings in a court of law or the subject of disciplinary proceedings in the University, the panel chair may direct such stay in the process of the panel as the chair may consider desirable. Subject to any such stay the panel chair shall seek to ensure that the case before the panel is heard and determined as expeditiously as is reasonably practicable.

(q) The panel chair shall keep a record of the proceedings of the panel.

(r) The panel chair shall send a document recording the panel's decision (together with their findings of fact (if any) and the reasons for their decision) to the Master, the Member Concerned, the Presenting Officer (if one has been appointed) and any person who shall have been added as a party to the proceedings. Where a right of appeal exists, the chair shall draw the attention of the Member Concerned to that fact and to the procedure, including any time limit, for appeal.

(s) The panel chair shall have power, by certificate under the Chair's hand, to correct in the record of proceedings kept under paragraph (q) above or in the document recording the decision of the panel any clerical mistakes or errors arising from any accidental slip or omission.

Conduct of hearings

- (t) The overriding objective of the rules of procedure is to enable panels to deal with cases justly. That will include, so far as practicable,
- (i) ensuring that the parties are on an equal footing;
 - (ii) saving expense;
 - (iii) dealing with the case in ways that are proportionate to the complexity of the issues; and
 - (iv) ensuring an expeditious and fair process.
- (u) Any hearing shall take place in private unless the panel, after considering the views of the Member Concerned, direct otherwise.
- (v) Panels shall, so far as appears to them to be practicable, seek to avoid formality in their proceedings and shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before courts of law. They shall make such inquiries of persons and witnesses appearing before them as they consider appropriate and shall otherwise conduct their hearing in such manner as they consider most appropriate for the clarification of the issues before them and generally for the just handling of the proceedings.

The Visitor

- (w) The jurisdiction of the Visitor in relation to any staff dispute is abolished by section 46 of the Higher Education Act 2004, but the person who is the Visitor is not prevented from hearing or determining appeals or from hearing and redressing grievances in relation to any member of the academic staff.
- (x) In constituting an appeal panel or a grievance panel, the rules above shall be modified so that, unless the Visitor declines to act in the matter, the Visitor shall be chair and the person from List A who would otherwise have been selected as chair shall sit as a member of the panel in place of a member from List B. The Visitor may delegate, subject to such limitations as the Visitor may see fit, any matters in relation to the business of the panel to that person from List A.

3. Redundancy procedure

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

- (a) This procedure shall apply where the Council has decided that it may be appropriate to effect a reduction in the academic staff of the College as a whole, or of any area of academic work within the College, by way of redundancy.
- (b) Where the Council has so decided, it shall consult such members of the academic staff and such other persons holding office in, or employed by, the College as are considered likely to be affected by a reduction of the sort contemplated. The Council shall also conduct such further process of consultation as may be required by law or as it may consider appropriate. The Council may specify time limits for responses to any consultation that it conducts. After considering these responses, the Council shall either resolve to take no further action; or shall resolve to continue, extend or vary the process of consultation, with such modification (if any) of the terms of consultation as it shall see fit; or shall resolve to effect a reduction in the academic staff by way of redundancy and decide what direction (if any) to give in relation to the extent of the reduction.

Selection for redundancy

(c) Where the Council has resolved to effect a reduction in the academic staff by way of redundancy, it shall appoint a redundancy committee of one or more persons to select the members of the academic staff for dismissal by reason of redundancy and to give notice of dismissal to those members of the academic staff so selected. The redundancy committee shall act in accordance with any direction of the Council under paragraph (b) above.

(d) The redundancy committee shall formulate the selection criteria that it proposes to employ, and shall notify each member of the academic staff considered for selection of those criteria. Each member of the academic staff considered for selection shall be afforded the opportunity to make such written or oral representations on such member's own behalf as the member shall see fit. If, following the receipt of such representations, any change is made to the selection criteria, then any member of the academic staff who might be materially affected by such change shall be afforded a new opportunity to make such representations.

(e) The redundancy committee shall give notice of dismissal to each member of the academic staff who is selected for dismissal, and shall also inform the staff member of the selection criteria finally adopted, of the reasons for the staff member's dismissal, and of the staff member's right of appeal under this Code.

(f) The procedure to be adopted by a redundancy committee shall be determined by the committee themselves as they shall see fit, subject to the adoption of a just and fair process which complies with the rules in paragraphs (c), (d) and (e) above.

Appeal

(g) A member of the academic staff who is given notice of dismissal by reason of redundancy may, within fourteen days from the date of that notice, give to the Master notice of appeal to a redundancy appeal panel. The notice of appeal shall state the grounds of appeal.

(h) The lodging of an appeal shall not affect the operation of the notice of dismissal, but the chair of the redundancy appeal panel may extend the period of notice if the chair considers it just and fair in all the circumstances that an extension should be granted.

(i) Where the redundancy appeal panel decide to remit the matter back for further consideration, then

(i) it may direct that that further consideration should be given by the same redundancy committee, or direct that a differently constituted redundancy committee be selected for that purpose;

(ii) it may give such other directions as it shall see fit, including directions affecting other members of the academic staff, provided that it may confirm, suspend, extend or cancel any notice of dismissal given to such other members, but shall not give notice of dismissal to any member of the academic staff not already under such notice; and

(iii) a fresh right of appeal to the redundancy appeal panel shall accrue to any member of staff from notice of dismissal given or confirmed as a result of that further consideration.

(j) Where the redundancy appeal panel reaches a final decision on any appeal, no further right of appeal under College procedures lies against that decision.

4. Disciplinary procedure

Less serious matters: Warnings

(a) If it appears to the Master, after receiving a complaint or otherwise, that there are grounds for believing that the conduct or performance of a member of the academic staff ("the Member Concerned") is or has been unsatisfactory, the Master shall inquire into the matter. If the Master concludes after investigation that the Member Concerned is or has been at fault, the Master may issue an oral warning. The Master shall specify the reason for the warning, shall indicate that it constitutes the first stage of the College's disciplinary procedure, and shall advise the person concerned that such person may appeal against the warning under paragraph (d) below.

(b) If the Master concludes after investigation that the fault is sufficiently serious to justify it, or if a further offence occurs after an oral warning, the Master may issue a written warning. Such a warning shall specify the reason for the warning, the improvements required in the conduct or performance of the Member Concerned, and the period within which such improvements are to be made. The Master shall advise the Member Concerned that the Member may appeal against the warning under paragraph (d) below, and shall indicate that, if no satisfactory improvement takes place within the stated time, charges may be instituted before a disciplinary panel.

(c) The Master shall keep a written record of any oral or written warning issued. Each warning shall specify a period from the date of issue after which, in the absence of further disciplinary matters arising, it will be disregarded for all purposes. The period shall not exceed one year in the case of an oral warning and shall not exceed two years in the case of a written warning.

(d) The Member Concerned may appeal in writing to the Master against a disciplinary warning within fourteen days of the date of the warning, stating the grounds of appeal. The appeal shall be communicated to the Council, who shall determine it as it shall see fit. If the appeal is allowed, the warning shall be disregarded.

More serious matters: The institution of charges before a disciplinary panel

(e) If the Master receives a complaint against a member of the academic staff ("the Member Concerned") seeking the institution of a charge or charges ("a Charge") before a disciplinary panel, then the Master shall investigate the matter as the Master shall see fit. If, whether as the result of the investigation of a complaint or otherwise, the Master considers that there are grounds for believing that a Charge should be instituted before a disciplinary panel, then the Master shall write to the Member Concerned inviting the Member Concerned's comment in writing by a specified date. If the Master considers that the College might otherwise suffer significant harm, the Master may suspend the Member Concerned from the performance of the Member Concerned's duties until the next following meeting of the Council without loss of emolument. As soon as practicable following receipt of the comments (if any) of the Member Concerned, the Master shall consider the matter in the light of all the available evidence and may dismiss the matter summarily, or issue an oral or written warning, or determine that a Charge should be instituted before a disciplinary panel.

(f) Where the Master has determined that a Charge should be instituted before a disciplinary panel, then

(i) the Master shall report that fact to the next following meeting of the Council, who shall appoint and instruct a suitable person ("the Presenting Officer") to formulate the Charge and to present it, or arrange for its presentation, before a disciplinary panel; and

(ii) a disciplinary panel shall be selected to hear and determine the matter.

(g) On receiving the report of the Master, the Council shall consider whether to suspend the Member Concerned from the performance of the Member Concerned's duties without loss of emolument. Any such suspension shall be reviewed by the Council at regular intervals, each review taking place within two months of the time of the last decision to suspend or at the next following meeting of the Council after that decision, if later. The Council shall not impose or continue a suspension unless it considers that the College might otherwise suffer significant harm.

(h) The Presenting Officer shall seek to ensure that the case is heard and determined as expeditiously as is reasonably practicable.

(i) As soon as reasonably practicable after the date of the Presenting Officer's appointment, the Presenting Officer shall send to the Member Concerned and to the panel chair notice of the Charge together with a copy of the Academic Staff Statute, Academic Staff Ordinance and of the Academic Staff Code.

(j) The panel chair, after consultation with the Member Concerned and with the Presenting Officer, shall determine the date and time of a meeting of the disciplinary panel for the purpose of hearing the case, and shall send notice of the date, time and place of the meeting to the Member Concerned, to the Presenting Officer and to the members of the disciplinary panel.

(k) Not later than seven days before the date set for the hearing, the Presenting Officer shall send to the Member Concerned and to the members of the disciplinary panel a copy of the Charge, together with any documents specified therein; a list of all witnesses that the Presenting Officer proposes to call, with statements containing the evidence they are expected to give; and a copy of any other documents that the Presenting Officer proposes to put in evidence.

Evidence

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

The decision of the disciplinary panel

(m) Where, after a hearing, the disciplinary panel find the Charge or any part thereof to be without substance, then they shall dismiss the Charge or that part thereof.

(n) Where, after a hearing, the disciplinary panel find the Charge or any part thereof to be established, then before deciding what penalty (if any) to impose, they shall give the Member Concerned and the Presenting Officer the opportunity to put forward any matters bearing on the penalty to be imposed unless they are of the view that a sufficient opportunity has already been given in the course of the hearing.

(o) The disciplinary panel may decide to impose no penalty, or may impose a penalty comprising one or more of the following:

- (i) an oral or written warning;
- (ii) suspension without pay for up to three months;
- (iii) the withholding of future increments in stipend;

- (iv) reduction in grade in any primary position;
- (v) removal from any secondary position;
- (vi) the substitution of a lesser position for any primary position;
- (vii) deprivation of Fellowship;
- (viii) dismissal with or without notice;
- (ix) the award of compensation to any person in respect of any loss caused or damage done; and
- (x) any penalty considered by the disciplinary panel to be lighter than some penalty comprising one or more of the above.

If the disciplinary panel is of the view that the conduct of the Member Concerned constitutes gross misconduct such as to justify dismissal without notice, it shall so state. If the penalty of dismissal without notice is imposed in the absence of such a statement (or, in the event of an appeal, such a statement by the disciplinary appeal panel), then the College shall pay compensation to the Member Concerned in respect of the absence of proper notice. The disciplinary panel shall not impose the penalty of the substitution of a lesser office or employment for any primary office or employment unless it is of the view that the conduct of the Member Concerned is such as to justify dismissal.

(p) Where, after a hearing, the disciplinary panel is of the view that the Member Concerned should be dismissed, but that the dismissal is for some other substantial reason than good cause, it shall so state, specifying the reason, in their findings and shall dismiss the Member Concerned accordingly.

Appeal

(q) The Member Concerned may, within fourteen days from the decision of the disciplinary panel, give to the Master notice of appeal to the disciplinary appeal panel. The notice of appeal shall state the grounds of appeal and whether it is an appeal against the findings of the disciplinary panel, or the penalty imposed, or both.

(r) The appeal shall then be heard and determined as expeditiously as is reasonably practicable by the disciplinary appeal panel, who may substitute for the decision of the disciplinary panel any decision that that panel might have made. The decision of the disciplinary appeal committee in the matter shall be final.

The addition of parties and the consolidation of matters

(s) The panel chair may agree to the addition of any other person as party to a case before a disciplinary panel; provided that the panel chair shall not so act unless the chair is of the view that that step is desirable in order to ensure a just and fair process. Such other person shall receive from the Presenting Officer the papers specified in paragraph (k) above, and shall have the right to a fair process before the panel.

(t) The Council may determine that charges against more than one member of the academic staff may be heard concurrently by the same disciplinary panel. They may further determine that charges against one or more members of the academic staff shall be heard concurrently with charges against one or more student members of the College. In such a case the disciplinary panel shall be deemed, in relation to any student member of the College, to be constituted concurrently as a Disciplinary Committee under Statute XVIII and shall proceed, so far as is consistent with the rules under the Academic Staff Statute, having regard to the rules of Statute XVIII, of Ordinance XVIII and of the Code of Discipline made under that statute.

Relationship with removal on health grounds

(u) If at any stage the panel chair forms the view that the conduct or capability of the Member Concerned may be attributable, wholly or in part, to a medical condition, then:

(i) if the Chair is of the view that such action is necessary to ensure a just and fair process, stay the proceedings of the disciplinary panel and direct the selection of an incapacity panel for proceedings to continue under Section 5 below; or otherwise

(ii) if the Chair is of the view that the disciplinary panel might be assisted by the appointment of a medically qualified person as Medical Consultant, to ask the Council to make such an appointment; or otherwise

(iii) the Chair may take no action.

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

(v) Where proceedings are transferred to an incapacity panel under paragraph (u) above, then, if at any stage the panel chair forms the view that it would be consistent with a just and fair process to transfer the proceedings to a disciplinary panel, the Chair may stay the proceedings of the incapacity panel and either:

(i) transfer the proceedings back to the initial disciplinary panel; or

(ii) direct the discharge of the initial disciplinary panel and constitute the incapacity panel a disciplinary panel for all further proceedings; or

(iii) direct the discharge of the initial disciplinary panel and the selection of a fresh disciplinary panel, and transfer the proceedings to them.

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

(w) Where a new panel is selected under paragraph (u) or (v) above, then the chair of the old panel may continue to act as chair of the new panel notwithstanding the provisions of Section 2 above.

5. Procedure for assessing incapacity on health grounds

The institution of a case before an incapacity panel

(a) Where the Council decide that an incapacity panel should be appointed for the consideration of a case of a member of the academic staff ("the Member Concerned") under the Academic Staff Statute, they shall at the same time appoint a suitable person ("the Presenting Officer") to present the case to the panel.

(b) Any person having authority in law to act on behalf of the Member Concerned shall have power so to act in respect of all proceedings before an incapacity panel or an incapacity appeal panel. Any requirement in relation to the Member Concerned shall be satisfied if it is satisfied in relation to a person having authority to act on behalf of the Member Concerned or a representative appointed by the Member Concerned, whether or not it is also fulfilled in relation to the Member Concerned.

(c) As soon as reasonably practicable after appointment, the Presenting Officer shall send to the Member Concerned and to the panel chair notice of the reason why it is thought that the removal of the Person Referred by reason of incapacity on health grounds should be considered together with a copy of the Academic Staff Statute and of the Academic Staff Code.

(d) The Presenting Officer shall seek to ensure that the case is heard and determined as expeditiously as is reasonably practicable.

(e) The panel chair, after consultation with the Member Concerned and with the Presenting Officer, shall determine the date and time of a meeting of the incapacity panel for the purpose of a hearing of the case, and shall send notice of the date, time and place of the meeting to the Member Concerned, to the Presenting Officer and to the members of the incapacity panel.

(f) Not later than seven days before the date set for the hearing, the Presenting Officer shall send to the Member Concerned and to the members of the incapacity panel a copy of the communication referred to in paragraph (c) above, together with any documents therein specified; a list of all witnesses the Presenting Officer proposes to call, with statements containing the evidence they are expected to give; and a copy of any other documents that the Presenting Officer proposes to put in evidence.

Medical evidence

(g) The Presenting Officer may seek from the Member Concerned such medical evidence as the Presenting Officer considers necessary for the purpose of the presentation of the matter to the incapacity panel. Such evidence may include the opinion of a medically qualified person appointed by the College, at College expense, to advise on the health of the Member Concerned. In the event of the Member Concerned declining to provide any or all of the evidence requested, the Presenting Officer may apply to the chair of the incapacity panel for a direction for the production of medical evidence. The panel chair will then hear and determine the matter, and may direct the production of such medical evidence (whether or not sought by the Presenting Officer) as the panel chair shall specify. The Member Concerned may appeal against such a direction to the person at the top of List A, whose decision shall be final.

(h) If, after a direction to produce medical evidence, the Member Concerned declines to provide any or all of the evidence directed, the incapacity panel and an incapacity appeal panel may draw such inferences as to the health of the Member Concerned as they shall see fit from all the circumstances of the case. In addition, the panel chair may refer the matter to the Council for the institution of proceedings before a disciplinary panel, but the Council shall only institute such proceedings if it is of the view that the Member Concerned was under an obligation to provide the evidence directed by reason of the terms of the Member Concerned's appointment or by reason of the Statutes and Ordinances.

The decision of the incapacity panel

(i) Where, after a hearing, the incapacity panel find that the Member Concerned is incapable of performing satisfactorily the duties of the Member Concerned's position, they may take action by one of the following:

(i) suspension on grounds of ill health pending receipt of evidence to the satisfaction of the medically qualified member or members of the panel of fitness to resume work;

(ii) suspension on grounds of ill health pending further review by the incapacity panel at a specified date; or

(iii) dismissal with or without notice on grounds of ill health.

During any period of suspension on grounds of ill health the Member Concerned shall be paid in accordance with the terms of the Member Concerned's office or employment. If the panel decide to dismiss without notice on grounds of ill health, the College shall pay compensation to the Member Concerned in respect of the absence of proper notice.

Appeal

(j) The Member Concerned may, within fourteen days from the decision of the incapacity panel, give to the Master notice of appeal to the incapacity appeal panel. The notice of appeal shall state the grounds of appeal and whether it is an appeal against the findings of the disciplinary panel (stating which findings are appealed against), or the action taken by them, or both.

(k) The appeal shall be heard and determined as expeditiously as is reasonably practicable by an incapacity appeal panel, which may substitute for the decision of the incapacity panel any decision that that panel might have made. The decision of the incapacity appeal committee in the matter shall be final.

6. Procedure for the renewal of fixed-term appointments

(a) Any appointment of a member of the academic staff ("the Member Concerned") to a position in the College ("the Position") that is for a fixed term shall be made on terms that incorporate the matters to be considered in relation to renewal at the end of the fixed term, or the appointee shall be told at the time of appointment that no provision exists for renewal at the end of the fixed term.

(b) Such terms to be incorporated shall

(i) sufficiently define the nature and character of the Position to inform the Member Concerned of the Member Concerned's expectations in relation to renewal;

(ii) define the time at which a review shall take place in order for the Council to decide whether the office or employment should be allowed to terminate without renewal, or should be renewed for a further fixed-term, or should be extended to an appointment of indefinite duration;

(iii) provide for discussion with the Member Concerned in the course of the review;

(iv) provide for the collation of feedback concerning the Member concerned' performance from relevant individuals

(v) provide for the communication of the outcome of the review, with the reasons for its recommendation, to the Member Concerned before a final decision by the Council in relation to renewal;

(vi) provide for further review at the request of the Member Concerned and for time limits in relation to that further review process.

(c) A decision of the Council as to whether the Position should be allowed to terminate without renewal, or should be renewed for a further fixed-term, or should be extended to an appointment of indefinite duration, shall be taken in accordance with any code of practice relating to it.

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

(a) The following procedure shall be followed in relation to any appointment of a member of the academic staff ("the Member Concerned") to a position in the College ("the Position") that is subject to confirmation at the end of an initial probationary period.

(b) The Council shall designate, in the case of each such appointment, a Fellow for the purpose of this Code ("the "Reviewing Officer").

(c) During the initial probationary period, the Reviewing Officer shall conduct such inquiries (which shall include discussion with the Member Concerned) as the Reviewing Officer may consider appropriate to assess the performance in the Position of the Member Concerned and shall keep a note

of the outcome of those inquiries. The Reviewing Officer shall, during that period, give such help, guidance and warnings as the Reviewing Officer may consider appropriate to assist the Member Concerned to succeed in the Position.

(d) Not later than two months before the end of the initial probationary period, the Reviewing Officer shall meet the Member Concerned for discussion to enable the Reviewing Officer to decide whether

(i) to confirm the appointment of the Member Concerned at the end of the initial probationary period; or

(ii) to extend the initial probationary period; or

(iii) to give the Member Concerned notice of dismissal from the end of the initial probationary period;

and shall write to the Member Concerned stating the decision and the reasons for it

(e) Not later than fourteen days from the date of any letter from the Reviewing Officer extending the initial probationary period or giving notice of dismissal, the Member Concerned may apply in writing to the Master for a further review. On such application, the reviewing officer shall send to the Master the notes kept during the course of the initial probationary period and all correspondence with the Member Concerned.

(f) The Master, after such consultation (if any) with the Council as the Master shall see fit and after discussion with the Member Concerned, shall before the end of the probationary period decide whether or not to confirm or vary the decision of the Reviewing Officer. The Master's decision in the matter shall be final.

(g) An initial probationary period shall not be extended more than once, and shall not be extended so that the whole period amounts to one year or more, without the consent of the Council.

8. Procedure for dismissal on other grounds

(a) If it appears to the Master, after receiving a complaint or otherwise, that there are grounds for believing that a member of the academic staff ("the Member Concerned") should be dismissed for some substantial reason other than redundancy or good cause, then the Master may determine that the matter should be considered by a special dismissals panel.

(b) Where the Master has so determined, then

(i) the Master shall report that fact to the next following meeting of the Council, who shall appoint and instruct a suitable person ("the Presenting Officer") to formulate the matter and to present it, or arrange for its presentation, before a special dismissals panel; and

(ii) a special dismissals panel shall be selected to hear and determine the matter.

(c) The procedure to be followed in relation to a matter before a special dismissals panel (including the procedure for appeal) shall be the same as that in relation to a matter before a disciplinary panel, save that, in substitution for paragraph (o) of that procedure, the conclusion of a special dismissals panel shall be one of the following:

(i) to take no action; or

(ii) to dismiss with or without notice.

If the panel decide to dismiss without notice, the College shall pay compensation to the Member Concerned in respect of the absence of proper notice.

(d) After hearing the views of the Member Concerned and the Presenting Officer, a special dismissals panel may resolve to constitute itself as a disciplinary panel, provided that it is satisfied that that course is consistent with a just and fair process, and in particular that the Charge for the disciplinary procedure is clearly specified and is fairly related to the matter before the special dismissals panel.

9. Procedure for removal from a secondary position

(a) This Section applies where the Master is of the opinion that a member of the academic staff ("the Member Concerned") should be removed from a secondary position before its prescribed or normal termination date, but is not aware of any grounds that would justify proceedings for dismissal from a primary position held by the Member Concerned.

(b) The Master shall discuss the reasons for that opinion with the Member Concerned. If, after that discussion, the Master remains of the same opinion, then the Master shall ask the Council to constitute a committee (of which the Master shall not be a member) to consider the matter and to report. Before reporting, the committee shall give the Member Concerned a fair opportunity to show why the Member should not be removed from the secondary position before its prescribed or normal termination date.

(c) The report of the committee shall be communicated to the Member Concerned for comment by a specified date, and shall then be communicated, with the comments (if any) of the Member Concerned, to the Council, whose decision in the matter shall be final.

10. Grievances

(a) If a member of the academic staff ("the Member Concerned") has a grievance then the Member Concerned should initially seek to resolve it informally through discussion with the appropriate College officer or other authority in the College. If such action does not suffice to resolve the grievance, or if, in the circumstances of the case, it is not reasonable to expect another course to be followed first, the Member Concerned may refer the grievance to the Master.

(b) When a grievance has been so referred, the Master shall seek to resolve the matter promptly and fairly after discussion with the Member Concerned. The Master may seek the advice of the Council regarding the grievance, and shall do so at the request of the Member Concerned.

(c) The Master or the Council, as the case may be, shall rule inadmissible any complaint judged

- (i) not to be one concerning a position in the College held by the Member Concerned; or
- (ii) not to be one relating to matters affecting the Member Concerned as an individual or the Member Concerned's personal dealings or relationships with other staff of the College; or
- (iii) to be one for which express provision is made elsewhere in the Statutes.

In particular if the Master or the Council, as the case may be, are of the view that the complaint should be dealt with in accordance with the disciplinary procedures of the College, of whatever sort and whether or not those procedures should be invoked in relation to the complainant or any other person, they shall rule the grievance inadmissible.

(d) The Master or the Council, as the case may be, may defer the consideration of a grievance pending the completion of other proceedings under the Statutes, including disciplinary proceedings of whatever sort, relevant to the grievance which are pending or in progress.

(e) If the Master or the Council, as the case may be, are of the view that a complaint is trivial or vexatious they shall declare it to be so.

(f) If the Member Concerned remains dissatisfied after consideration of the grievance by the Council under paragraph (b) above, the Member Concerned may ask that it be referred to a grievance panel. A grievance panel shall thereupon be appointed, which shall seek to resolve the matter.

(g) The report of the grievance panel shall be considered by the Council, who shall make a reasoned response to the panel on the recommendations of the report. The panel may, at its discretion, make a further report to the Council recommending the reconsideration by the Council of any matter. The Council's decision on any such further report shall be final. Any reports or response made under this paragraph shall be copied to the Member Concerned.

11. Procedure for the removal of the Master from office

(a) This Section shall apply in place of Sections 3 to 9 in the case of the Master.

(b) On receipt of a complaint signed by any three Fellows seeking the removal of the Master from office for good cause (such complaint stating the reasons for such removal), the Vice-Master shall write to the Master notifying the Master of the complaint and inviting comment in writing. The Vice-Master shall also without delay summon a meeting of the Council, exclusive of the Master and of the complainant Fellows.

(c) After considering the complaint and the comments (if any) of the Master, the Council shall dismiss the complaint if it is of the view that the complaint is not supported by sufficient evidence of good cause for removal from office. Otherwise they shall without delay appoint a panel of three persons who are not Fellows and are not employed by the College, one of whom holds, or has held, judicial office, or is a barrister or solicitor of at least ten years' standing, that person to be chair of the panel.

(d) The procedure to be followed in relation to a matter before a panel to consider the removal of a Master (including the procedure for appeal) shall be the same as that in relation to a matter before a disciplinary panel, save that, in substitution for paragraph (o) of that procedure, the conclusion of a panel to consider the removal of a Master shall be one of the following:

- (i) to take no action; or
- (ii) to remove the Master from office.

(e) The Master may, within fourteen days from a decision of the panel to remove the Master from office, give to the Vice-Master notice of appeal to an appeal panel. The notice of appeal shall state the grounds of appeal. The Vice-Master shall then without delay summon a meeting of the Council, exclusive of the Master, which shall without delay appoint an appeal panel of three persons who are not Fellows and are not employed by the College, one of whom holds, or has held, judicial office, or is a barrister or solicitor of at least ten years' standing, that person to be chair of the panel.

(f) In the event of an appeal, the Master shall be suspended from office and from the emoluments thereof pending the decision of the appeal panel. If the appeal panel reverse the decision of the panel to consider the removal of a Master, then the suspension shall forthwith be lifted and the Master shall be reinstated into the emoluments of the Master's office, including any stipend that the Master would have received but for the suspension under this paragraph.