

BY-LAW TO STATUTE XVI

PART I

Construction, Application and Interpretation

1. For the purpose of Stat. XVI 3. (1) (a) a designated office is one which requires the holder to teach four hours a week or more either on a permanent contract or for a period of five years or more. The Statute shall also apply to any other person employed permanently or for a period of five year or more by the College to teach four hours a week or more, or to carry out research full time. Other academic employees all shall be deemed to be excluded under Statute XVI 3(1)(b). For the avoidance of doubt, all casual and non-stipendiary lecturers and Kurti and Golding Research Fellows are not included within the provision of Statute XVI.

PART II

Redundancy

Stage 1 - Governing Body Meeting

- 1.1 In the event that a reduction in academic staff or activity is contemplated for any reason whatsoever, the Principal shall call a special meeting of the Governing Body in full term to consider and determine upon the matters set out in Clause 10(2) of the Statute.
- 1.2 If any member is unavoidably unable to attend and reasonably considers that he or she may be personally affected by a decision under Clause 10(2), for example because the Governing Body may be considering deleting a subject altogether, that member shall be entitled to seek a postponement of the meeting by written notice to the Principal to be delivered at least **two** days prior to the date set for the meeting.
- 1.3 Prior to the special meeting, the Principal shall cause a detailed memorandum of information to be prepared for the Governing Body. The memorandum shall contain all relevant available information including financial and academic matters, setting out in detail the position of the College and the matters to be considered both in favour of and against making any reductions in general terms

and in so far as possible without reference at this stage to the position of any individual members of academic staff who may be affected.

- 1.4 The memorandum shall put all considerations forward fairly and in an even-handed manner and shall not make recommendations for any specific course of action. The memorandum shall evaluate as far as possible the impact of any reduction on the principles established by Clause 1 of the Statute.
- 1.5 To provide members with an opportunity to consider, and respond to, the memorandum of information, it shall be circulated at least seven days before the relevant meeting of the Governing Body and representations shall be invited. Any representations which are received by the Principal by 12 midnight on the second day, not being a Saturday or a Sunday, before the day of the meeting shall be circulated to all members of the Governing Body.
- 1.6 Prior to making any decision under Clause 10(2) the Governing Body shall consider the impact of such a decision on relevant Faculty and subject boards and shall consult with the relevant University bodies.

Stage 2 - Redundancy Procedure – Initial Stage

- 2.1 Once a decision has been reached in principle under Clause 10(2) of the Statute, the Governing Body shall appoint a Redundancy Committee (“the Committee”) unless it determines that it will carry out the task of handling any redundancies itself.
- 2.2 Members of the Committee shall be selected in accordance with the provisions of Clause 11 of the Statute. However no members who appear to be personally affected or likely to be so affected shall be chosen. No-one to whom the Statute applies shall be eligible for selection unless he or she has been employed by the College for at least two years. The Chairman of the Committee shall be expressly so appointed by the Governing Body.
- 2.3 In the case of potential collective redundancies the Governing Body shall, and in all other cases may, consider and establish appropriate procedures for consultation with representatives of the members of staff potentially affected. Such consultation shall generally be carried out by the Redundancy Committee or, if none is appointed, the Governing Body itself. Such consultation shall be either with a recognised trade union or with specially elected "workplace" representatives as defined by any relevant legislation currently in force, and shall commence in good time with a view to reaching agreement in relation to the matters set out in any legislation in force for the time being.
- 2.4 The Redundancy Committee (or if none is appointed, the Governing Body) shall meet as soon as is reasonably practicable to establish a time-table for consideration of the issues. The Committee shall consider the identification of those who are

potentially at risk of redundancy and shall seek to identify any alternatives to redundancy to avoid redundancy and/or to mitigate the effects. It shall also consider, where applicable, selection criteria for the determination of who is to be chosen from among those who are potentially redundant.

- 2.5 No decision shall be taken upon any of the relevant matters without the Committee's ensuring that there has been full and proper consultation with the affected persons and their representatives. For this purpose, and prior to any decision being made, the Committee shall ensure that each person is afforded an opportunity to meet with members of the Committee (accompanied by a representative if he or she wishes), to be provided with relevant information and to make representations on any aspect of the case.
- 2.6 After having considered all relevant matters the Redundancy Committee shall meet to formulate its recommendations together with the reasons for them. A written report of the recommendations and reasons for them shall be provided to the Governing Body and to the affected person or persons as well as their representative(s).

Stage 3 - Decision to Dismiss

- 3.1 Upon receipt of the report and recommendations of the Redundancy Committee a special meeting of the Governing Body shall be convened to consider the matter further.
- 3.2 Any member whose dismissal on grounds of redundancy is recommended by the Redundancy Committee, shall be permitted at least two weeks between the date of the Committee's report and the special meeting of the Governing Body to prepare and submit any representations he or she considers appropriate to the Governing Body. Any representations which are received by the Principal by 12 midnight on the second day, not being a Saturday or a Sunday, before the day of the meeting shall be circulated to all members of the Governing Body.
- 3.3 In addition to submission of written representations, the person concerned shall have the opportunity to make oral representations to the Governing Body at the special meeting prior to any decision being made and shall be entitled to be accompanied and/or represented by a person (who may be a professional and/or trade union representative) of his or her choice.
- 3.4 The Governing Body may request a member of the Redundancy Committee (where appointed), being the Chairman or the Chairman's delegate, to attend the Governing Body formally in that capacity to present the Committee's recommendations and to answer questions from the Governing Body and/or the person or persons concerned. If the Governing Body so determines, the Redundancy Committee may be asked to carry out further consultation with affected members or any other appropriate person.

- 3.5 No meeting of the Governing Body at which a decision to dismiss under Part II is taken shall be quorate unless at least 50 % of those members of the College entitled to attend and vote are present and no vote shall be effective unless at least 50% of those attending vote in favour. Members of the Governing Body who are affected by the Redundancy Committee's decision or who are members of the Committee shall be entitled to vote.
- 3.6 Prior to making any decision to dismiss in accordance with recommendations of the Redundancy Committee, the Governing Body shall specifically canvass any alternative employment opportunities or any other means of avoiding a dismissal for redundancy. In addition the Governing Body shall ensure that it has been fully apprised of any University Superannuation Scheme options which the person affected may be able to exercise in the event of redundancy.
- 3.7 In the event that the Governing Body accepts the recommendations of the Redundancy Committee and votes to dismiss any member on grounds of redundancy, a written note of the decision of the Governing Body together with a copy of the procedures establishing a right of appeal shall be provided to the person affected and his or her representative. No decision shall be implemented until after any appeal has been determined under Part V.
- 3.8 If the Governing Body decides upon the dismissal of any member on grounds of redundancy, it shall ensure that provision is made to assist the person concerned with financial and career planning, with reasonable expenses to be met by the College.

PART III

Discipline, Dismissal and Removal from a Designated Office

1. Informal Stage

- 1.1 Where it appears to the Principal that the conduct or performance of a member of academic staff is falling below an acceptable standard, the Principal may arrange to meet with that person on an informal basis to explore the situation and to consider what action can be taken to improve his conduct or performance. The Principal may appoint a colleague (being a Fellow or Emeritus or Honorary Fellow of the College) to conduct the informal discussions with the person concerned either with the Principal or alone. The informal discussion shall not be viewed as a disciplinary act but as an opportunity to explore together any problems that appear to have arisen and consider solutions that may be available. A record of this initial meeting may be kept, provided the member of staff agrees and a copy of any note is made available to him or her.

2. Disciplinary Warnings

- 2.1 In any case where it appears to the Principal that the performance and/or conduct of a member of academic staff does not meet acceptable standards but where the circumstances do not appear to raise *prima facie* grounds for dismissal (for example, after investigation of a complaint submitted to the Principal under Clause 14(1) which is not to be referred to an Academic Disciplinary Committee), the Principal may convene a meeting with the individual for the purpose of considering the matter and any appropriate sanction. No disciplinary sanction shall be imposed unless the person concerned has had reasonable notification of the allegations made against him or her and an opportunity to respond and until the matter has been properly investigated by or at the behest of the Principal.
- 2.2 Prior to the disciplinary meeting, the person concerned shall be provided with written notification of the date and nature of the meeting and the matters to be considered, together with copies of any relevant statements. The person concerned shall have the opportunity to be accompanied or represented by a colleague or representative from any professional body or trade union of which he or she is a member such as the Association of University Teachers. The individual shall not normally be permitted legal representation at this stage.
- 2.3 In the event that it appears to the Principal that the individual's conduct and/or performance has fallen below acceptable standards, and depending on the gravity of the situation and all the circumstances of the case, the Principal may issue an oral or written warning.

2.3(a) *Oral Warning*

The oral warning shall state clearly that it comprises the first stage of the disciplinary process. The reasons for the warning shall be specified, together with any agreed plan of action for improvement, where applicable. The oral warning shall be recorded in a dated written note, a copy of which shall be provided to the individual. The note shall be kept in the individual's file and shall be destroyed after one year.

2.3(b) *Written Warning*

In the event that the person's conduct and/or performance does not improve, or gives further cause for concern whether of a similar nature or not, within the twelve month period during which the oral warning remains live, and in any case where the seriousness of the matter so merits, the disciplinary action which the Principal may take short of dismissal is a written warning. The written warning shall specify the reason and set out the improvement required and the time for achieving it. It shall be dated and a copy shall be provided to the individual as well as being kept in the individual's file. A written warning remains "live" for a period of two years after which it shall be regarded and marked as spent.

- 2.4 In the event that either an oral or a written warning is issued, the person concerned shall be notified of the right of appeal under Clause 13(3) of the Statute.

3. **Dismissal**

In any case before the Principal, whether on a complaint under Clause 14(1) or otherwise, the Principal shall consider all the circumstances of the case including the outcome of any enquiries instituted under Clause 14(2) and any comments from the person concerned invited under Clause 14(3). If, after such consideration, it appears to the Principal that there are *prima facie* grounds for dismissal for good cause as defined in Clause 5 of the Statute, the Principal may call on the Governing Body to appoint an Academic Disciplinary Committee to consider and report on the case in accordance with Clauses 16-19 of the Statute. The Principal may suspend the person concerned at this stage in accordance with Clause 14(3).

- 3.1 Upon receipt of a request under Clause 15 of the Statute from the Principal, the Governing Body shall appoint the Academic Disciplinary Committee (the "Committee") as soon as is reasonably practicable and shall inform the person to be charged by written notice that the Committee has been appointed to consider any charge or charges to be brought. The written notice shall include the names of the three members of the Committee and shall enclose a copy of this By-law. At the same time the Governing Body shall appoint a solicitor or other suitable person to formulate charge(s) and to conduct or arrange for the conduct of the hearing. The Governing Body shall appoint one of the three members to act as Chairman.
- 3.2 Subject to the provisions of the Statute and any provision to the contrary in this By-law, the Committee shall have power to regulate its own proceedings. In the event that any member of the Committee is unable to attend for any period of time, the Committee shall be discharged and a new Committee shall be appointed in accordance with the provisions of the Statute. The Committee shall be entitled to appoint a secretary to support it in discharging its function at any time and to take notes of evidence at any hearing.

- 3.3 The person appointed to formulate the charge or charges (“the prosecutor” - which expression may include a firm of solicitors or any person instructed to act on that person’s behalf) shall notify the person charged of the date and time set for the hearing of the charge or charges.
- 3.4 The person charged shall notify the prosecutor of any representative he/she has appointed to act for him/her and any further communications shall be addressed to the person charged and to any representative appointed by him/her. Any fees or expenses payable to the representative (other than reasonable travel costs and out of pocket disbursements) shall be at the charge of the person accused.
- 3.5 The Committee Chairman may make any interlocutory directions he/she considers necessary for the fair conduct of the hearing, including but not limited to any directions as to the hearing date(s), whether at the request of either party or otherwise of his/her own motion. The Chairman may also remit any matters to the Principal for further consideration and has power to join further parties to the case if he/she considers it appropriate to do so upon notice to the parties of such joinder. The Chairman of the Committee shall set the date, time and place for the hearing and may also set appropriate time limits for each stage (including the hearing), to the intent that any matters be heard and determined expeditiously. If the Chairman considers it appropriate in all the circumstances of the case he/she may request the Principal to consider the suspension of the person charged under Clause 14(3).
- 3.6 At least 21 days before the date set for the hearing, the prosecutor shall forward the following to the Committee and person charged and any other parties to the hearing:
 - (a) the charge or charges;
 - (b) copies of any documents specified or referred to in the charge or charges;
 - (c) a list of witnesses to be called by the prosecutor;
 - (d) copies of statements containing the witnesses’ evidence.
- 3.7 At least seven days before the date set for the hearing, the person charged shall forward to the prosecutor copies of any documents on which he/she wishes to rely, a list of his/her witnesses and copies of their statements of evidence. The prosecutor shall ensure that copies of all these are prepared and forwarded to the Committee as soon as practicable.
- 3.8 The jurisdiction and power of the Committee shall not be restricted by the fact that the person charged has been, or is liable to be, prosecuted in a court of law in respect of any act or conduct which is the subject of proceedings before the Committee. The Committee may postpone or adjourn a hearing, if it considers it appropriate, to enable a prosecution to be undertaken.

- 3.9 Subject to the consent of the Committee, both the prosecutor and the person charged may introduce new evidence at the hearing save that in the case of the prosecutor such new evidence shall not be admitted except for good reason. In the event that new evidence is admitted, the other party shall have the right to an adjournment to allow time to consider the evidence and its effect on the case and may then submit further evidence in response, provided that the Committee consents, such consent not to be unreasonably withheld.
- 3.10 The Committee may proceed with the hearing in the absence of any party but shall not do so in the absence of the person charged unless it is satisfied that it is reasonable to do so in all the circumstances of the case or unless the person charged agrees or so requests.
- 3.11 Subject to the right of the person charged, his/her representative and the prosecutor to be present throughout the hearing, the Committee may decide whether to admit any persons to, or exclude them from, the hearing or any part of it.
- 3.12 Each party to the proceedings shall be entitled to give evidence at the hearing, to make an opening statement, to call witnesses, and to question any witness. Closing statements may be made by the prosecutor first and then any other parties, with the person accused being given the opportunity to speak last.
- 3.13 Without prejudice to the Committee's general power to regulate its own conduct, it shall specifically have the power to set time and other limits on the evidence to be called for each side consistent with providing a fair opportunity for each party to present its relevant evidence whilst ensuring that the charge is heard and determined as expeditiously as is reasonably practicable. The Committee shall have power to adjourn the proceedings from time to time as it sees fit.
- 3.14 The Committee shall ensure that its secretary or some other appropriate person is present throughout the hearing so that a full and accurate record of the evidence may be taken.
- 3.15 It is for the prosecutor to prove the charge or charges. In determining whether the charges or any of them are proved the Committee shall consider the evidence and decide whether on balance it considers that good cause for dismissal within the meaning of Clause 5 of the Statute has been proved in respect of each charge before it.
- 3.16 If the Committee decides that a charge has been proved, it shall give each party an opportunity either orally or in writing at the option of the Committee to address it on the question of penalty and/or mitigation prior to determining any recommendations that it may make to the Principal.
- 3.17 The decision of the Committee shall be recorded in a document in which the Committee's findings of fact, its reasons for the decision and any recommendations as to penalty are contained. The document shall be signed by

the Chairman of the Committee and at least one other member. The document shall be sent directly by the secretary of the Committee to the person charged and to his/her representative in addition to the other parties specified in Clause 19 of the Statute. The person charged shall be notified of the right of appeal against the decision or against any recommendation of the Committee as to penalty.

- 3.18 Where any charge has been upheld and the Committee has recommended dismissal, the Principal or his/her delegate shall inform and consult the Governing Body prior to making any decision as to penalty. He/she shall arrange for a special meeting of the Governing Body for this purpose and shall keep the person charged informed as to the process. The person charged shall have the right to make further representations to the Principal before the meeting of the Governing Body.
- 3.19 If the Principal decides to dismiss the person charged he/she may do so forthwith or upon such terms as he considers fit. If the Principal decides not to dismiss, the actions he/she may take are as set out in Clause 20(2) of the Statute. Any warning given under Clause 20(2)(c) shall be recorded in writing and shall remain live for two years. In all cases the Principal's decision shall be communicated to the person charged in writing as well as to the Governing Body.
- 3.20 No decision as to dismissal or otherwise implementing recommendations of the Committee shall be implemented until after any appeal has been determined under Part V.

PART VI

Removal for Incapacity on Medical Grounds

1. Preliminary Stage

- 1.1 Where from the conduct or performance of a member of academic staff it appears to the Principal that there may be cause for concern about that person on medical grounds, the Principal shall meet with the individual concerned and consider the circumstances of the case. The consultation shall be on a confidential basis if the member of staff so wishes, but the Principal may appoint an informal panel of two or three individuals, including one who is medically qualified, to advise and assist him/her.
- 1.2 At this stage the purpose of the meeting and any subsequent investigations is to elucidate the nature of the problem and to consider ways of assisting the member of staff to resume his full contractual duties. If the Principal considers it advisable, he/she shall seek the member of staff's consent to disclosure of the latter's medical record in accordance with the Access to Medical Reports Act 1988. The Principal

may also, with the consent of the member of staff, arrange for him/her to be examined by an occupational health physician or other medical practitioner to assess *inter alia* the prognosis for a return to work and any available treatment. Any fees payable in relation to such examination shall be borne by the College.

- 1.3 The Principal shall consider with the member of staff, and other concerned people as required, ways of ensuring that students and others for whom the individual has contractual responsibilities have their teaching, pastoral and other needs, as may be, met by a rearrangement of resources or other arrangements. In all cases, and especially where third parties are consulted, the Principal shall do all that is reasonably practicable to preserve confidentiality for the member of staff if he/she so wishes. The Principal shall also consider whether counselling or other assistance shall be offered to the member of staff at the expense of the College.

2. Medical Incapacity

- 2.1 If it appears to the Principal that the situation is unlikely substantially to improve within a reasonable period of time, or in any case where the condition of the member of staff or any mental or physical quality affecting the member of staff is such as substantially to interfere with the performance of his/her duties, the Principal shall consider the removal of the member of staff in accordance with the provisions of Clauses 23 and 24 of the Statute. Prior to taking any action under this section, the Principal shall consult with the individual and/or any representative(s) nominated by him/her as to the steps to be taken and their likely outcome. The consultation shall specifically include consideration of the person's condition and likely future state of mental or physical capacity, and whether the person wishes to seek early retirement or a reduction of duties and hours (with a commensurate reduction in stipend). The wishes and needs of the person concerned shall be balanced against the tutorial or other relevant requirements of the College.
- 2.2 The consultation process shall also include consideration of any adjustments which could reasonably be made to the duties of the employment and/or the physical features of the premises and/or any arrangements made by or on behalf of the College so as to facilitate the continued employment of the person concerned. The Principal shall not consider the removal of the person concerned from his office or employment without first availing himself of advice and assistance as to any facilities that may be available to assist the person. In general the Principal shall have regard to the provisions of the Disability Discrimination Act 1995 and associated Codes of Practice, as appropriate.
- 2.3 The Principal shall seek to obtain a medical report concerning the member of staff from the medical practitioner who has had clinical care of him and shall notify the person concerned to that effect in writing, seeking the member's consent in writing in accordance with the provisions of the Access to Medical Reports Act 1988.

- 2.4 At all stages the person concerned shall be able to nominate a friend, professional colleague or other representative to assist and advise him/her. Provided that clear notification is given to the Principal, such a representative may be given authority to act instead of the person concerned if the latter so wishes and may give such consents, agreements etc as the person concerned would be able to give. Such authority shall include, but not be limited to, a power of attorney, including an enduring power which has been duly registered with the Court of Protection.
- 2.5 In the event that the member of staff does not apply for medical retirement, or does and is rejected, the Principal shall consider all the circumstances of the case, including any available medical information, and shall determine in particular whether the case should be forwarded to a Medical Board or an Academic Disciplinary Committee.
- 2.6 Any powers of the Principal may be exercised instead by a duly appointed alternate or other appropriate officer and references to the Principal shall, throughout this By-law be construed as including references to the alternate.

3. Medical Board

- 3.1 If after considering all the circumstances of the case the Principal concludes that the removal on medical grounds of the member of staff (hereafter the person concerned) should be considered, he/she shall so inform the person concerned. The notification shall be provided in writing and shall be presumed to have reached the person concerned two days after being sent. The Principal shall notify the person concerned that a Medical Board (the Board) is to be appointed to consider whether the person concerned should be removed from office on medical grounds, and shall request the person concerned to nominate someone to sit on the Board. If, within a reasonable period of time, the person concerned fails to nominate a person who is willing and able to sit on the Board reasonably expeditiously, the Principal shall presume a default and shall nominate someone.
- 3.2 At the same time as notifying the individual, the Principal shall also convene a special meeting of the Governing Body to consider the matter confidentially and shall request the Governing Body to nominate a member to sit on the Board. If possible the member nominated by the Governing Body shall have some experience of the mental or physical incapacity apparently affecting the person concerned. The Governing Body shall canvass and propose the names of two medically qualified people to the person concerned to act as Chairman of the Board. For this purpose the Governing Body may seek the advice of the College doctor or any other suitable person on a confidential basis. In the event that agreement cannot be reached between the Governing Body and the person concerned as to the appropriate person to chair the Board, the Governing Body shall request the Principal for the time being of the Royal College of Physicians to nominate a Chairman. The Governing Body shall nominate an appropriate person who is unconnected with the case to act as secretary to the Board.

4. Procedures for a Medical Board Hearing

- 4.1 Where a Medical Board has been appointed to determine a case referred to it under Clause 23(3) of the Statute, the Chairman shall appoint the time, date and place for the hearing and the secretary shall notify all parties in writing. The Board shall have power to adjourn the hearing from time to time as it sees fit.
- 4.2 At least 21 days before the hearing, the Principal shall refer whatever relevant evidence he/she has in confidence to the Board and shall make the evidence available to the person concerned and/or any representative he/she has nominated to act for him/her, except for information for which a medical practitioner has claimed exemption from disclosure under the provisions of section 7 of the Access to Medical Reports Act 1988.
- 4.3 The Principal shall consider the case and, if he/she thinks it necessary, may appoint someone to present the case for removal as well as the relevant oral and documentary evidence to the Board. Witnesses may be called by the person presenting the case, in which case copies of their statements shall be made available to the Board and the person concerned at least 14 days prior to the date set for hearing.
- 4.4 The person concerned shall be entitled to an oral hearing before the matter is determined by the Board. The parties to the hearing shall be the person concerned (including any person appointed to act for or instead of him/her), any one appointed to present the case for removal and any other party which the Board may join at its own discretion. The secretary to the Board, the person concerned and/or his/her representative and the person presenting the case shall be entitled to remain throughout the hearing; otherwise it shall be for the Board to determine who may be present at any time.
- 4.5 The person concerned shall be entitled to present whatever evidence he/she considers relevant, subject to the overall right of the Board to regulate its own conduct of the hearing. At least 10 days before the hearing, the person concerned shall provide the secretary to the Board with copies of any evidence, including medical evidence, on which he/she wishes to rely. The secretary to the Board shall be responsible for ensuring that copies are made available to Board members and other parties as soon as possible. The person concerned and the person presenting the case for removal may each call **one** expert witness(es) whose statement(s) shall first be presented in writing to the other parties.
- 4.6 Any party may produce additional evidence during the hearing subject to the Board's consent and subject to any adjournment that may be required to give the parties time to consider and respond.
- 4.7 Each party to a hearing shall be entitled to give evidence at the hearing, to make opening and closing statements (either personally or through a representative) and to call witnesses and to question any witness concerning any relevant evidence.

Subject to the provisions of this By-law and of the Statute, the Board may regulate its own procedure and shall ensure that the case is heard and determined as expeditiously as is reasonably practicable.

- 4.8 The Board may proceed with the hearing in the absence of any party but shall not do so in the case of the person concerned and/or his representative unless it is satisfied that it is reasonable to do so in all the circumstances of the case or the person concerned agrees or so requests. If at any time a member of the Board is unable to continue, the Board shall be discharged and a new one appointed in accordance with the procedure set out under Clause 3 above. Members of the old Board shall not be disqualified from membership of the new Board.
- 4.9 The person presenting the case for removal shall specifically draw the attention of the Board to the provisions of the Disability Discrimination Act 1995 and provide the Board with information as to what adjustments have been considered to avoid the removal of the person concerned from his employment, together with information as to cost and effectiveness of the adjustment(s).
- 4.10 At any stage before making its decision the Board may call for additional information including requiring the person concerned to undergo medical examination by a medical practitioner chosen or agreed by the Board, at the College's expense. In the event that the person concerned fails to undergo any medical examination required by the Board, or if the medical evidence is inconclusive, the Board shall exercise its judgement on the basis of the evidence available to it.
- 4.11 The Board's decision shall be recorded in writing and shall contain its findings on the main facts and on the medical evidence available to it, as well as its conclusion as to whether the person concerned should be required to resign on medical grounds. The Board shall specifically record the matters it has taken into consideration in determining whether any reasonable adjustments can be made to enable the person concerned to remain in employment. If the Board concludes that the person concerned should be required to retire on medical grounds it shall clearly so state and, in the case where the person concerned is a member of the University Superannuation Scheme, confirm that in its opinion he/she is suffering from permanent ill-health or infirmity.
- 4.12 It is the responsibility of the Board secretary to ensure that the Principal and all the parties to the hearing receive a copy of the decision. The decision document, which shall be signed by the Board, shall be sent to the person concerned as well as his/her representative, except in the case where it is clear that the representative has authority to act in place of the person concerned, or in any other case with the consent of the person concerned.
- 4.13 If the Board recommends removal, the Principal shall consult the Governing Body before making any decision to terminate the employment of the person concerned, but in so doing shall, in so far as possible, respect medical confidentiality. He

shall arrange for a special meeting of the Governing Body for this purpose and shall keep the person concerned and/or his representative informed as to the process. Provided he/she acts within 14 days of receiving the decision document, the person concerned shall have the right to make further representations to the Principal at this stage. Prior to making any decision to terminate the employment of the person concerned on medical grounds, and depending on the circumstances of the case, including the length of time taken, the Principal may afford him/her an opportunity to retire on such grounds in accordance with the rules of the University Superannuation Scheme where applicable.

- 4.14 In the event that the Board does not determine that the person concerned should be required to retire on medical grounds, for example because it is not satisfied that he/she is incapacitated on medical grounds, the Principal shall consider the position and, if he/she so determines, may invoke the Disciplinary Procedure at any stage including requesting the Governing Body to appoint an Academic Disciplinary Committee.
- 4.15 In the event that such a Committee is appointed, it shall proceed in accordance with the procedures established under Part III save that any findings of fact made by the Board shall be binding on the Committee.
- 4.16 No decision as to termination or otherwise implementing the conclusion of the Board shall be implemented until after any appeal has been determined under Part V.

PART V

Appeals Procedure

1. A Notice of Appeal against any decision under Parts II, III or IV of the Statute must be served on the Principal within 28 days of the decision. The Principal shall bring the fact that an appeal has been made to the attention of the Governing Body and inform the appellant that he/she has done so. If in all the circumstances of the case the Principal in his/her discretion considers it appropriate, he/she shall call a special meeting of the Governing Body for the purpose of bringing the appeal to the attention of the Governing Body and in any event will ensure that the appeal is brought to the attention of the Governing Body within 28 days. The Principal shall consider any appropriate action, including suspension, that may be required in relation to the appellant and/or his/her position in the College pending the outcome of the appeal.
2. The Governing Body shall appoint a person to hear the appeal in accordance with Clause 29 of the Statute who shall be called the Chairman, and the two further persons in accordance with Clause 29(3) and (4) of the Statute who shall sit with the Chairman if the Chairman so decides under Clause 4 of this By-law.

3. In the event that the notice of appeal is not served in time in accordance with Clause 28 of the Statute, the Chairman shall consider the circumstances of the case including the length and the reason for the delay and the grounds of appeal and shall determine whether justice and fairness require that the appeal shall be permitted to proceed.
4. The Chairman shall consider whether to sit alone or with two other persons. In the event that the Chairman decides to sit with two other persons, they shall be the persons appointed by the Governing Body in accordance with Clause 2 above and the body so constituted shall be referred to as the Appeal Body, which term shall also refer to the Chairman in the event that the Chairman sits alone.
5. The Chairman shall appoint a date, time and place for the hearing and shall make such other directions for the disposal of the case as appear to him appropriate including the joinder of other parties, and any directions that may be required to clarify the grounds of appeal. The Appeal Body shall have power to adjourn the hearing from time to time as it sees fit.
6. Notice of the date, time and place and any directions made by the Chairman shall be served on all parties to the appeal at least 14 days before the date appointed and the appellant shall be notified of his/her right at his/her own expense to be represented by another person who may, but need not, be legally qualified. The appellant and any other party shall also be notified of their right to call witnesses with the consent of the Appeal Body.
7. Any committee, board or other body shall, if joined as a party to the appeal by the Chairman, appoint one or more persons either from among their number or otherwise, who may, but need not, be legally qualified, to prepare and present the response to the appeal, such response to be served on the Appeal Body, the appellant and any other parties at least seven days before the day appointed for the hearing of the appeal.
8. Any hearing of the appeal may be adjourned or postponed at the discretion of the Chairman. The Appeal Body may dismiss the appeal for want of prosecution. However no decision to dismiss in such circumstances shall be made without first having provided the appellant with an opportunity to make representations whether orally or in writing.
9. Except as provided in Clause 8 of this By-law no appeal may be determined without an oral hearing, due notice of which has been served on the appellant and any persons appointed by him/her to represent him/her.
10. Each party to the hearing shall be entitled to make a statement and to address the Appeal Body. Witnesses may be called with the consent of the Appeal Body. Leave to adduce fresh evidence and/or the calling of witnesses examined at first

instance shall only be given if the Appeal Body is satisfied that it is necessary or expedient in the interests of justice.

11. Subject to the provisions of the Statute and of this By-law, the Appeal Body shall determine its own procedure. The Chairman may at his/her discretion set time limits at each stage of the proceedings to the intent that any appeal shall be heard and determined as expeditiously as is reasonably practicable having regard to the principles of justice and equity.
12. In accordance with the provisions of Clause 30(3) of the Statute the Appeal Body may allow or dismiss an appeal in whole or in part or remit the appeal in such manner and for such purpose as it sees fit within the provisions of Clause 30(c) of the Statute. In the event that the Appeal Body remits the appeal in accordance with Clause 30(3)(a)–(d) the Chairman may set such time limits for further consideration as he considers appropriate.
13. The reasoned decision of the Appeal Body, including any decision under Clause 30(3)(a)-(d), shall be recorded in writing and shall be sent to the Principal and to the parties to the appeal.
14. The Chairman may, by an appropriate certificate in writing, correct any accidental errors and/or any omissions in documents recording the decisions of the Appeal Body.

PART VI

Grievance Procedures

1. Bringing a Complaint

- 1.1 A member of academic staff to whom this Statute applies may bring a complaint under Clause 34(1) of the Statute about the matters specified in Clause 33 provided that he/she has exhausted any other relevant avenues of complaint.
- 1.2 Any complaint should be addressed in the first instance to the Principal and should be made in writing. (Any complaints against disciplinary warnings under Clause 13 should be in writing and should specify with sufficient detail the grounds of complaint and any supporting information.) The complainant should specify whether he/she wishes any aspect of the matter to be kept confidential at this stage.

2. Investigating a Complaint

- 2.1 The Principal (which expression includes anyone appointed to act instead of him/her) shall consider any complaint made to him/her as quickly as he/she reasonably can and shall take steps to investigate the matter. At this stage the Principal may appoint one or more people to investigate the issues on his/her behalf but shall whenever possible meet with the complainant for the purpose of considering the complaint generally and agreeing or establishing the further steps which may be taken. In any case where the complaint relates directly to the conduct of the Principal, the complaint shall be investigated by the Visitor.
- 2.2 The Principal shall consider in the first instance whether other remedies available to the complainant have been exhausted and may, if in all the circumstances of the case it seems right, refer the complainant to the appropriate channels for resolution of the complaint prior to taking any further action.
- 2.3 If in any other case, other than an appeal against a disciplinary warning, the Principal forms the *prima facie* view that the complaint should be dismissed or that no further action should be taken for the reasons set out in Clause 34(2) of the Statute, he/she shall so inform the complainant and invite his/her views before taking further action. Upon receipt of the complainant's response, or in the event that no response is received within 21 days, the Principal shall consider the matter further and shall take such action as seems to him/her right including dismissing the complaint. The Principal shall notify the complainant of his/her decision at the earliest opportunity.
- 2.4 Provided that he/she acts within 7 days of receiving the decision of the Principal under clause 2.3 above, the complainant may refer the matter to the Governing Body. If a majority of the Governing Body so determines, it may appoint a Grievance Committee to hear the complaint notwithstanding it has been dismissed by the Principal.
- 2.5 In any case where, upon due consideration, the Principal is satisfied that the subject matter of the complaint may properly be considered with, or forms part of, a complaint under Part III, or a determination under Part IV or an appeal under Part V of the Statute, he/she shall so inform the complainant and defer any further action on it until such time as the complaint, determination or appeal has been heard or the time for instituting has passed.
- 2.6 In any case where upon investigation the Principal is satisfied that the complaint concerns an act or omission which may amount to a criminal offence, he/she shall so notify the complainant and, subject to any representations the complainant may make, shall consider whether, and if so what, further action may be taken in relation to the complaint within the College's grievance procedure.

3. Informal Resolution

- 3.1 In any case where the Principal does not dispose of the appeal or defer it under Clause 34(3) of the Statute or under the provisions of this procedure, he/she shall consider whether it may be capable of informal resolution. The Principal shall take into consideration the nature and ambit of the complaint and the wishes of the complainant and have particular regard to the interests of justice and fairness. Before attempting informal resolution the Principal shall consider whether the complainant or any other person may benefit from the assistance of a third party in connection with the complaint.
- 3.2 If the complainant objects to informal resolution, the Principal shall consider whether to refer the matter to a Grievance Committee or take any other action as he/she sees fit.
- 3.3 In any attempt at informal resolution the Principal shall have regard to confidentiality as far as possible and shall ensure that the interests of the parties to the matter are considered at all stages.

4. Grievance Committee

- 4.1 In any case where the complaint has not been disposed of by the Principal, or where an appeal is made under Clause 13(3) of the Statute, the Principal shall refer the matter to a Grievance Committee (“the Committee”) established in accordance with the provisions of Clause 36 of the Statute. The Governing Body shall appoint one of its members to act as Chairman. The Principal shall notify the Committee of the nature of the complaint or appeal and shall provide the Committee with copies of any statements or other relevant documents which he/she considers will assist in the fair disposal of the matter. Any appeal under Clause 13(3) of the Statute shall be in writing and shall specify with sufficient detail the grounds of appeal and any supporting information.
- 4.2 The Principal shall notify the individual concerned that the matter has been referred to the Committee and shall provide the individual concerned with copies of the documents which he/she has provided to the Committee.
- 4.3 The Committee shall meet as soon as is reasonably practical to consider the matter on a preliminary basis. At this stage, the Committee may appoint someone to act as secretary or clerk to assist in all aspects of the grievance hearing or appeal and the preparatory steps. The Committee may call for written statements from the individual concerned or any other person and may cause such investigations to be conducted as appear appropriate, if necessary by an independent person specifically appointed for the purpose. The Committee shall appoint a time for the matter to be heard and may make such arrangements as it considers fit for the fair

and just hearing of the matter. The Committee may appoint its Chairman to act in its stead in all preliminary matters. The Committee shall have power to adjourn the proceedings from time to time as it sees fit.

- 4.4 The matter shall not be disposed of without an oral hearing at which the individual concerned, and any person against whom the grievance or appeal lies, shall be entitled to be heard and to be accompanied by a friend or representative. Save that the hearing may proceed in the absence of the individual concerned or any other party who fails to attend without reasonable cause.
- 4.5 Provided that due regard is had to the interests of justice and fairness, the conduct of the hearing and any associated matters may be determined by the Committee. In particular, the Committee may determine whether and to what extent oral examination of witnesses shall be permitted, whether any evidence may be taken in the absence of the individual concerned (or the person against whom any complaint is made) and whether and what time limits shall be set for the proceedings.
- 4.6 The reasoned decision of the Committee as to whether the complaint or appeal is well-founded shall be notified in writing to the individual concerned and any person against whom any complaint is made, as well as to the Governing Body. In the event that any part of the grievance or appeal is upheld, the Committee shall also notify the Governing Body of its recommendations as to the proper redress for the individual concerned and any other recommendations as it sees fit.
- 4.7 No appeal lies from the decision and/or recommendations of the Committee.