MEMORANDUM

From Mrs G Ball
Acting Registrar and Secretary

Date 22 August 2008 Tel 43977

Email g.ball@bham.ac.uk

To University Executive Board
Senior Officers
Heads of Schools
College Directors of Education
College Heads of Quality Assurance and Enhancement
College Heads of Operations
Sabbatical Officers of the Guild of Students

cc

Changes to University Legislation from 1 August 2008

In July 2008, the University Council approved major revisions to all elements of the University's legislation (i.e. Charter, Statutes, Ordinances, Regulations and supplementary Codes of Practice). This memo is intended to provide a summary of:

- the background to the Legislation Review
- the key changes to legislation, in particular the Regulations and Codes of Practice governing academic and student-related matters
- when the various changes into force

Please note in particular that **the new Regulations apply to all new and all continuing students from the 2008/09 academic session**, superseding previous cohort-based Regulations.

Briefing sessions will be arranged in September and October 2008, outlining the changes to legislation, particularly in relation to the academic and student-related Regulations and Codes of Practice.

Contacts
The contact details of individuals who may be contacted with queries regarding different elements of the legislation are given at the end of this memo.

KEY POINTS

To notify of changes to University Ordinances, Regulations and Codes of Practice which came into force on 1 August 2008.

OF INTEREST TO:

All staff

DEADLINE:
N/A

KEY WORDS:

Legislation

Changes to University Legislation from 1 August 2008

Background

1. In July 2006, the Senate and Council approved the scope and aims of a 'Review of Legislation'. (see appendix 1). The Review was not implemented immediately during 2006/07, since the University re-organisation commenced in that year and the priority became the changes to the University Charter, Statutes and Ordinances which were necessary for implementation of the first phase of organizational change. This first set of changes to University legislation was approved by Council in July 2007 (paper CO.07.07.05, available on request).

2. During the academic session 2007/08, the full Review of Legislation was carried out. In summary, the process has involved a comprehensive review, re-organisation and re-drafting of all elements of the University legislation, particularly in order to:
   - take advantage of the governance de-regulation announced by the Privy Council in February 2006;
   - provide the University with greater flexibility in relation to its governance and 'future-proof' for future change; and
   - incorporate further changes required to put into effect the final phase of the University's programme of organisational change.

3. The most notable change to the legislation is that several provisions which are currently located in the Statutes will be transferred into the University Ordinances, which the Council has power to create, amend and dissolve relatively quickly and easily. For example, the composition and powers of the Senate and of the Court will be located within Ordinances. Similarly, the Ordinances will contain provisions concerning senior offices and positions, such as Pro-Vice-Chancellors and College Heads, with only the four most senior University roles (Chancellor, Pro-Chancellor, Vice-Chancellor and Vice-Principal) being retained in the Charter.

4. Further details on the legislation review can be found in papers presented to Council in April 2008 (C0.08.04.04) and July 2008 (CO.08.07.08) and to Senate in May 2008 (SEN.08.05.06), available on request.

5. The proposed changes to legislation have been considered by the Senate, the Court and the Council, during 2007/08, in accordance with the University's procedures for amendments to legislation.

Amendments to the Charter and Statutes

6. Amendments to the Charter and Statutes have to be approved by the Council, after consultation with the Senate and the Court, and then require Privy Council approval in order for them to become effective. Council approved substantial revisions to the Charter and Statutes for the second time in July 2008. These proposed revisions will be presented to the Privy Council in autumn 2008, in order to take effect from 1st January 2009.

Amendments to the Ordinances and Regulations

7. The revised Ordinances and Regulations came into effect on 1 August 2008, with the exception of a few sections of the Ordinances which will not come into effect

until 1 January 2009, when the new Statutes are introduced. In these cases the existing Statutes will take precedence during the period from 1 August to 31 December 2008.

This is clarified in more detail in appendix 2.

The Revised Model Statute and associated Ordinances

8. The set of revised Statutes which are intended to come into force on 1 January 2009 includes the 'Revised Model Statute' governing various matters related to the employment of academic staff (e.g. discipline, grievance and dismissal). In autumn 2005 there was a process of consultation with academic staff on the adoption of the Revised Model Statute (RMS). Consultation with the University and College Union (UCU) continued in the following years regarding the detailed drafting and principles within the RMS and associated Ordinances. Agreement was reached with UCU in July 2008, before a final version of the RMS and Ordinances was presented to the Council for approval. It will be presented to the Privy Council, together with other changes to the Statutes, for approval in autumn 2008, to take effect from 1 January 2009.

9. The existing Statute 24 concerning employment of academic staff, and associated Ordinances, will remain in force between until 31 December 2008. However, since the existing Statute and Ordinances include references to the Deans and those roles no longer exist from 1 August 2008, the Council has appointed Professor S Shute and Professor P Daniels to undertake those specific functions and responsibilities in relation to human resource matters governed by the existing Statute 24 and associated Ordinances during this transitional period to 31 December 2008.

Academic and student related Regulations

10. Sections 5-8 of the Regulations are the 'academic and student-related' sections of the Regulations, structured as follows:

    SECTION 5: ADMISSION AND REGISTRATION
    SECTION 6: PROGRAMMES OF STUDY
    SECTION 7: ASSESSMENT, PROGRESSION AND AWARD
    SECTION 8: STUDENT CONDUCT

11. These sections are derived solely from the 2007/08 academic and student-related legislation but there are some key changes to the way that the Regulations are presented and some major changes to provision of which staff and students should be aware.

Substantive Changes to Provision

12. In line with all other University Regulations, academic and student related Regulations are no longer non-cohort ba*sed.* They apply to all new and all continuing students from the 2008/09 academic session. ***The cohort University wide programme Regulations in use until 2007/08 should now be set aside and these new Regulations adopted, with effect from 1st August 2008.***

13. Section 8 comprises the Student Conduct Regulations which are derived from former Ordinances. The section has been substantively amended on the basis of

a new model adopted for student misconduct, as laid out in paper SEN.08.05.07. A new Code of Practice on Misconduct and Fitness to Practise Committees accompanies these regulations and sets out the operation of the new model in more detail.

14. A list of other substantive changes is available at Appendix 3.

Changes to Presentation

15. Sections 5-8 of the Regulations are structured sequentially on the basis of a student's academic career (i.e. Admission and Registration to Graduation) rather than, as previously, according to Undergraduate (UG), Postgraduate & Graduate Taught (PGT) and Postgraduate Research (PGR) matters. This has enabled rationalization but, where there is cause for provision to differ, specific UG, PGT, or PGR regulations are provided in each of the sections.

16. In line with aims agreed by Council, procedural clauses have been transferred to existing Codes of Practice or to new Codes of Practice. Where possible, regulatory clauses have been transferred from Codes of Practice to Regulations. Section 8 (Student Conduct) contains provision originally found in the Ordinances.

17. New clauses have been added to lend clarity, rather than to amend the substance of existing Regulations. For example, clauses have been added to direct readers to Codes of Practice, protocols and policies which are relevant to the topic and set out procedures to be followed in greater detail. A few obsolete clauses have been deleted in their entirety.

18. The Regulations are available at: http://www.as.bham.ac.uk/study/support/governance/regulations.shtml. They will be updated annually or republished on 1 August, together with clear records of any changes approved for each new academic session. An archive of previous years' legislation will also be maintained and will be accessible via the web. This may be of use for example in relation to student appeals or complaints.

Academic and student related Codes of Practice

19. Where appropriate, academic and student related Codes of Practice, Policies and Guidance have been updated to reflect new College roles and structures. They are available at http://www.as.bham.ac.uk/study/support/governance/cops.shtml and will be updated or republished annually on 1 August, together with clear records of any changes approved for each new academic session.

20. There has been substantive change made to some Codes of Practice and two new Codes of Practice have been introduced. These are detailed below.

Code of Practice on Misconduct and Fitness to Practise Committees

21. The proposed Code of Practice replaces 2007/08 Ordinances 5.4-5.7.

22. The major change to procedures is that discipline issues and academic misconduct issues are now combined so that they may be brought before one misconduct committee at College level. A University level Committee will hear appeals and review withdrawal decisions.

23. College misconduct committees will deal with serious misconduct issues across the University, replacing the 2007/08 proceedings (with the Pro-Vice-Chancellor (Academic Quality and Students) acting as adjudicator, discipline committees and investigating committees).

24. Less serious misconduct cases will be dealt with summarily by Student Conduct and Appeals (SCA) staff (as allowed by the existing Ordinances). This includes handling some of the lower level examination irregularities, which, at present, lie with the Pro-Vice-Chancellor (Academic Quality and Students).

Code of Practice on Senate Review

25. The Code of Practice on Senate Review replaces the current Code of Practice on Senate Appeals, which has been in operation since 1998.

26. Over the past two years, the Primary Appeal process has been revised quite significantly and now includes a *prima facie* stage. This has meant that the Code of Practice on Senate Appeals needed to be reviewed to ensure that the procedures dovetail with, and reflect, changes to the Primary Appeals process. Under the new Code of Practice, both the decisions of the *Prima Facie* panel and the Primary Appeals Committee are subject to review by a Senate Review Panel.

27. At present, students are only able to appeal on the grounds of procedural irregularity in the handling of their primary appeal. An additional right has been added so that students are able to raise issues that were not known to them at the time of the appeal (i.e. students may submit relevant new evidence). This change has been made following proposals to amend the Grievance to Council stage and will ensure that Senate Review is both robust and fair.

Code of Practice on Adjusted Regulations and Undergraduate Masters Degrees

28. Adjusted Regulations were approved by the Academic Policy and Regulations Committee (APRC) on 24 May 2007 in order to replace the Revised Transitional Arrangements. However, a number of issues were identified following the implementation of the Adjusted Regulations that necessitated some modification. A working group was convened to look at these issues and a new Code of Practice was developed to set out the procedures for applying Adjusted Regulations.

Code of Practice on the Conduct of Centrally Co-ordinated Formal Written Examinations

29. The revised Code of Practice on the Conduct of Centrally Co-ordinated Formal Written Examinations is based upon the current Code of Practice, along with the guidance document Extra Time in Examinations for Students with Dyslexia or Dyspraxia. A number of changes and additions have also been made to ensure the Code matches current best practice.

Code of Practice on the Teaching and Academic Support of Undergraduate Students by Postgraduate Teaching Assistants and Undergraduates

30. The Policy and Regulations governing the teaching of undergraduate students by undergraduate and/ or postgraduate students have not been revised for a

number of years. As part of the review of academic regulations, the regulations and policy were combined into a new Code of Practice. The Code sets out the learning, teaching and assessment activities that postgraduate or undergraduate students may be involved in, subject to suitable safeguards and quality assurance.

31. The Code reflects more accurately the current involvement of students in these activities and provides greater clarity where the existing provision was confusing.

32. The Code distinguishes between 'teaching', 'academic support', 'formative assessment' and 'summative assessment' as categories of activities that students may be involved in delivering. The Code permits postgraduate teaching assistants to be involved in all activities, subject to appropriate training, supervision or moderation, and subject to limits for stage 2 and stage 3 students. The Code also permits undergraduate students, exceptionally, to be involved in 'academic support' activities, again subject to appropriate training, supervision or moderation.

33. A 'Spec Check' will be conducted during autumn 2008 on the use of Postgraduate Teaching Assistants in Schools. If appropriate, further changes will be made to the Code in 2009/10.

Library Regulations

34. New Library Regulations have been approved by the Council, which replace and bring together previous guidance for users of the Library on issues such as access, expected behaviour and borrowing. These Regulations are currently a free-standing document, but during 2008/09 consideration will be given to incorporating these into the overall University Regulations, as a separate section.

Changes to other academic and student-related procedures

35. The Birmingham Integrated Quality Assurance & Enhancement System (BIQAES) and other related quality processes (programme approval, collaborative provision approval and review) are currently subject to revision, following approval of the transference of activities from the Deans to new College roles, and will be available following the meeting of the University Quality Assurance & Enhancement Committee in late September.

Contacts
Please contact those indicated for queries relating to:

The Charter, Statutes, Ordinances and Regulations sections 1-4 and 9 – Dr Stephen Gower (ext 48111; s.j.l.gower@bham.ac.uk) or Sarah Hordern (ext 46718; s.j.hordern@bham.ac.uk)

Regulations section 5-8 (academic and student-related Regulations) and Codes of Practice - Clare McCauley (ext 46715; c.l.mccauley@bham.ac.uk), Allan McKinley (ext 44311; a.s.mckinley.1@bham.ac.uk), Paul Fantom (ext 48471; p.a.fantom@bham.ac.uk)

The Revised Model Statute and associated Ordinances – Adrian Buckley (ext 43847, a.b.buckley@bham.ac.uk)

Library Regulations – Malcolm Kendall (ext 44749, M.Kendall@bham.ac.uk)

Appendix 1

Scope and aims of the Legislation Review, agreed by Council in July 2006:

(a) To simplify the constitutional framework in the light of the recent guidance from the Privy Council and on the basis of the following proposed definitions of the purpose of the various elements of University legislation:

Charter	Core tenets of governance: the establishment of the University, its legal status, its objects and powers, its governing body and key institutional officers.
Statutes	Delineate the legal framework. Prescribe the composition, business and powers of the Council and other provisions in connection with the governance of the University and the promotion of the objects of the Charter. Some Statutes might prescribe aspects which must be covered in more detail by Ordinance.
Ordinances	A further level of detail, in support of the Statutes.
Regulation	A principle or standard designed to control or govern conduct or provide direction at a more detailed level than Ordinances. May be: o Permissive (e.g. conferring rights) o Prohibitive (e.g. outlining responsibilities or delineating obligations) o Definitive (e.g. setting standards) Should not contain procedural information.

(b) To retain within the Charter and Statutes (and therefore under the control of the Privy Council) only the core principles of University governance which are likely to remain constant for some time.

(c) To draft legislation in a way that protects the core principles of governance but also provides the University with the flexibility to adapt swiftly to developments in the internal and external environment.

(d) To devolve responsibility and accountability to an appropriate level, consistent with the management of associated risks.

(e) To introduce delegation of authority to executive officers as well as to committees, thereby enabling swifter decision-making, whilst ensuring there are appropriate mechanisms to ensure accountability.

(f) To clarify the legislation and improve its accessibility through the use of modern, plain English and the removal of ambiguities, duplication and any unnecessary procedural detail.

In addition, Council also agreed that the Review should be guided by the adopted the 'Principles of Good Regulation' published by the Government's Better Regulation Task Force published in 1997, summarised as follows:

- Proportionality
- Accountability
- Consistency
- Transparency
- Targeting

Appendix 2

Implementation of the revised Ordinances

The revised Ordinances were approved by Council in July 2008 and will take effect from 1 August 2008, with some exceptions as outlined below. Sections which cannot take effect from 1 August 2008 are struck through and highlighted, with an explanation.

Part 1: DEFINITIONS AND INTERPRETATION

Part 2: ORGANISATION AND GOVERNANCE

2.1 The Colleges

2.2 Principal Academic Units within Colleges

2.3 University Research Institutes

2.4 The Guild of Students

2.5 The Guild of Graduates and Alumni Association

2.6. Affiliation and Collaboration

2.7 Contracts

2.8 Use of the University Seal

2.9 The Senate

2.10 Powers of the Senate

2.11 Staff Elections to the Senate

2.12 Student Nominations to the Senate

2.13 Co-option to Membership of the Senate

2.14 University Executive Board

2.15 College Boards

2.16 Membership Committee of Council

~~**2.17 The Court**~~

~~**2.18 Powers of the Court**~~

~~**2.19 Meetings of the Court**~~

The existing Statutes 10, 18 and 19 which concern the Court, its powers and its meetings, will still be in force until 1 January 2009 and must take precedence over these new Ordinances, which will come into effect on 1 January 2009.

Part 3: OFFICES AND EMPLOYMENT

3.1 The Chancellor

3.2 The Pro-Chancellor

3.3 The Deputy Pro-Chancellor

3.4 The Treasurer

Ordinances 3.2, 3.3 and 3.4 will come into force on 1 August 2008, notwithstanding slight differences with respect to the term of office of these roles, given provisions in the existing Statute 3 (concerning the Pro-Chancellor and Deputy Pro-Chancellor) and the existing Statute 5 (concerning the Treasurer), which remain in force until 1 January 2009. The Statutes will of necessity take precedence over the Ordinances.

3.5 The Vice-Principal or Vice-Principals

3.6 Pro-Vice-Chancellors

3.7 Deputy Pro-Vice-Chancellors

~~3.8 Registrar and Secretary~~

The existing Statute 8 will remain in force until 1 January 2009 and therefore it will take precedence over this new Ordinance.

3.9 Heads of Colleges

3.10 Heads of Principal Academic Units

3.11 Directors of Research and Knowledge Transfer within Colleges

3.12 Directors of Education within Colleges

3.13 Directors of University Research Institutes

3.14 The Public Orator(s)

3.15 Appointment of Professors

3.16 Title of Emeritus Professor

~~3.17 onwards: Ordinances associated with the Revised Model Statute~~

The existing Ordinances 3.9 – 3.13, which support the existing Statute 24 regarding employment of academic staff, will remain in force until 1 January 2009, when it is anticipated that the Revised Model Statute and associated Ordinances will come into force.

Part 4 DEGREES, DIPLOMAS AND CERTIFICATES

4.1 Degrees of the University

4.2 Diplomas and Certificates of the University

4.3 Assessment

4.4 Award of Substantive Degrees, Diplomas, Certificates, Scholarships, Prizes And Honours

4.5 Conferment of Honorary Degrees

4.6 Conferment of Degrees at Congregations

4.7 Degrees Conferred By Special Warrant or In Absentia

4.8 Revocation of Degrees, Diplomas, Certificates, Distinctions and Honours

Appendix 3

List of major changes to academic and student related regulations (sections 5-8)

Regulation (2007/08)	New Regulation	Change Made
5.9.4	n/a	Requirement for students under 18 to reside in certain accommodation deleted.
n/a	6.2.1 (e) & 6.2.2 (f)	Ensures onus for compliance with professional bodies time limits falls on students, not University.
n/a	6.3.1	Rules that all programmes of study subject to the internal quality assurance processes.
n/a	7.2.5 (f)	Ensures transparency in Boards of Examiners consideration of mitigations.
n/a	7.2.5 (i-j)	Establishes principal that marks should not be altered as result of mitigation, whilst records of each mitigation should be kept as a future model.
n/a	7.2.6 (c) (iii) and 7.2.6 (d) (iii)	Re-assessment is deemed not to incur a fee, whilst repeating a module is deemed to incur further tuition fees.
n/a	7.2.7 (a)	Establishes the process by which students at risk of failing professional requirements on fitness-to-practise courses shall be subject to fitness-to-practise legislation.
n/a	7.6.4 (d)	Establishes the period after which a candidate can re-apply for the Higher Doctorate.
n/a	8.2.1 (j)	Addition of academic cheating and plagiarism to the list of disciplinary offences of the University.
4.4.7 (1)	6.2.3 (a)	Course length of PhD with integrated study corrected to 4 years [automatic exception also granted where needed].
4.7.2 (3.ii)	7.2.3 (d) (iii)	The length of time that must pass in between the start of an examination and a student being allowed to leave the room is increased from 30 to 40 minutes.
4.2.13 (8)	7.2.6 (g)	Establishes students substituting a failed module with another module shall have no resit or repeat opportunity in this module.
4.4.6 (b)	5.1.2 (b) (ii)	Reduction of the amount of pre-awarded credits carried forward to a PGR programme from two thirds to one third.
5.11.8	5.3.1 (i)	Students in debt to the University no longer allowed to continue their studies until the debt is cleared.
n/a	5.2.1 (d)	Students not allowed to pursue more than one full-time course of study in higher education.
n/a	5.1.1 (k)	University reserves right to revoke registration of anyone who provided incorrect information in the registration process.
n/a	7.13	New emergency procedures on progression and award in case unforeseen emergencies.