# UNIVERSITY OF BIRMINGHAM

# STATUTES

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# STATUTES OF THE UNIVERSITY OF BIRMINGHAM

**(Includes amendments approved by Council up to September 2007 and by the Privy Council December 2008)**

## SECTION 1
## DEFINITIONS

In the Charter and these Statutes:-

"Auditor" means Auditor or firm of Auditors of the University Accounts.

"Chancellor", "Pro-Chancellor", "Deputy Pro-Chancellor", “Treasurer”, "Vice-Chancellor and Principal", "Vice-Principal" and "Pro-Vice-Chancellor" mean respectively Chancellor, Pro-Chancellor, Deputy Pro-Chancellor, Treasurer, Vice-Chancellor and Principal, Vice-Principal and Pro-Vice-Chancellor of the University.

"Court" means the Court of the University.

"Council" means the Council of the University.

“Emeritus Professor” means a Professor of the University on whom the tile of Emeritus Professor has been conferred on or after his or her retirement.

"good cause", when used in reference to dismissal or removal from office, or membership of the University or membership of the Guild of Graduates and Alumni Association means:

(a) conviction for an offence which may be deemed by the Council to be such as to render the person convicted unfit for the execution of the duties of the office, employment or membership;
or
(b) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office, employment or membership;
or
(c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office whether such failure results from physical or mental incapacity or otherwise;
or
(d) disqualification from being a Trustee of a charity in accordance with Section 72 of the Charities Act 1993.

"Graduate" means a person upon whom a Degree, Diploma or Certificate of the University has been conferred.

“Guild of Students” means the students’ union of the University of Birmingham within the meaning of the Education Act 1994.

"Lay Member" means any person appointed or elected to a University committee or board who is neither a Registered Student nor a member of Staff of the University. Where a person was previously a Registered Student or member of Staff of the University, they must have ceased to be so for at least 36 months.

“Member of the University” means a member of the University as defined in the Statutes.

“Office” means a particular role or responsibility in or on behalf of the University specified as such in a letter of appointment and which, in the case of staff of the University, is normally in addition to their substantive post and “Officer” means the individual undertaking that role or responsibility.

"Ordinances" means Ordinances made pursuant to the Statutes.

“Ordinary Resolution” means a resolution passed at one meeting of the Council by a simple majority of those present and voting.

“Postgraduate Registered Student” means any person currently registered for the receipt of instruction on a postgraduate programme in the University.

“President of the Guild of Students” means the sabbatical officer duly elected as President of the Guild of Students.

“Principal academic unit” means one of the principal academic units within a College as defined in the Ordinances.

“Principal Regulator” means the Higher Education Funding Council for England or such other body or Minister of the Crown as is prescribed as principal regulator for the University by regulations made pursuant to the Charities Act 2006.

"Registered Student" means any person currently registered for the receipt of instruction in the University.

"Registrar and Secretary" means Registrar and Secretary of the University. Where references are made in Statutes, Ordinances and Regulations to “the Registrar and Secretary”, if there are two individuals fulfilling these roles, the Vice-Chancellor shall allocate the functions as s/he deems fit from time to time. The functions of the "Registrar and Secretary" may be carried out by a person to whom the Registrar and Secretary delegates them.

“School” means one of the principal academic units within a College.

"Senate" means the Senate of the University.

“Special Resolution” means a resolution of the Council passed and confirmed in accordance with the Statutes.

“Staff” means all persons having paid employment in the service of the University.

> “Academic Staff” means those employed on the University’s conditions of employment for Academic Teaching Staff, or Research and Analogous Staff, or Academic Information Services Staff.
>
> "Teaching Staff" means such of the Academic Staff who currently hold an appointment as Professor, Associate Professor, Reader, Senior Lecturer or

Lecturer in the University or such other appointment as the Council may from time to time determine by Ordinance.

“Research Staff" means such of the Academic Staff who currently hold an appointment governed by the Conditions of Employment for Research and Analogous Staff.

“Academic Information Services Staff" means such of the Academic Staff who currently hold an appointment governed by the Conditions of Employment for Academic Information Services Staff.

"Statutes" means the Statutes of the University.

"University" means the University of Birmingham.

“University Legislation” means the Charter, Statutes, Ordinances, Regulations and Codes of Practice of the University.

“University Session” means the period of learning, teaching and assessment specified by the Council and as defined in Regulations during three terms in each year to be called respectively the autumn, spring and summer terms, commencing with the autumn term.

**SECTION 2**
**INTERPRETATION**

These Statutes shall be interpreted in such a manner as not to conflict with the Charter.

Words defined in these Statutes shall have the same meaning in the Charter, the Ordinances and the Regulations unless the context indicates otherwise.

Words importing the singular shall include the plural and vice versa.

Words importing the masculine shall include the feminine and vice versa.

The Interpretation Act 1978 shall apply for the interpretation of University Legislation as it applies for the interpretation of an Act of Parliament.

The Charter, Statutes, Ordinances, Regulations and all Codes of Practice of the University shall apply to all members of the University, as defined in these Statutes.

**SECTION 3**
**THE CHANCELLOR**

1. The Chancellor shall be elected by the Council following consultation with the Court.
2. The Chancellor may be removed for good cause by the Council. The Council

shall offer the Chancellor an opportunity to make a written representation.
3. The Chancellor may resign by writing in a letter signed by him or her and addressed to the Council.

**SECTION 4**
**THE PRO-CHANCELLOR**

1. The person who shall chair the Council and who shall be ex-officio Pro-Chancellor shall be a Lay Member and shall be appointed by the Council following an election. The procedure for the election shall be set out in Ordinance.
2. The Pro-Chancellor shall be appointed for a first term of office of normally five years, or for such shorter period as the Council may determine. The Pro-Chancellor may be re-appointed for a second consecutive term of office for a period to be determined by the Council subject to the limitation that, except in exceptional circumstances, he or she shall serve no more than ten years as a member of the Council in any capacity.
3. The Pro-Chancellor may be removed for good cause by the Council. The Council shall offer the Pro-Chancellor an opportunity to make a written representation.
4. The Pro-Chancellor may resign by writing in a letter signed by him or her and addressed to the Council.

**SECTION 5**
**VICE-CHANCELLOR AND PRINCIPAL**

1. The Vice-Chancellor and Principal shall be appointed by the Council on the recommendation of a joint committee of the Council and the Senate consisting of three members of the Council and three members of the Senate with an additional member from among the Lay Members of the Council who shall chair the committee. This committee shall consult the Senate before making a recommendation to the Council.
2. Subject to Section 14 of the Statutes the Vice-Chancellor and Principal shall hold office for such period and under such terms and conditions as may be determined by the Council.
3. The Vice-Chancellor and Principal may resign by writing in a letter signed by him or her and addressed to the Pro-Chancellor.

The Vice-Chancellor and Principal shall chair the Senate ex officio.

**SECTION 6**
**MEMBERS OF THE UNIVERSITY**

1. The following persons shall be members of the University:-
    a. The members of the Court.
    b. The members of the Council

c. Full-time, part-time and honorary Staff.
d. Graduates including honorary graduates.
e. Registered Students
f. Such other persons as may be defined by Ordinance.

2. Membership of the University shall continue so long only as the qualifications above enumerated shall continue to be possessed by the individual member. Expiration of the term of office, removal from or resignation of office or employment, or withdrawal or resignation of the qualification (as the case may be), shall terminate the individual's membership of the University.
3. If any Graduate on grounds of conscience objects to being a member of the University, he or she may give to the Registrar and Secretary notice in writing to that effect (such notice to be supported by a statutory declaration by the Graduate setting out the grounds of conscience upon which he or she is acting) and the Graduate shall thereupon cease to be a member of the University but may hold and use any Degree, Diploma or Certificate granted to him or her as if he or she were a member of the University.

## SECTION 7
## ADVANCEMENT OF EDUCATION

The University shall act pursuant to the University's Charter and the Advancement of Education so far as and to the full extent which its resources from time to time permit provide for:-

**a.** Instruction in such branches of learning as the University may think fit;
**b.** The prosecution of original research;
**c.** The advancement, dissemination and application of knowledge in such manner as the University may determine so as to be for the public benefit;
**d.** The institution of fellowships, scholarships, studentships, exhibitions, bursaries, prizes and other such awards for the benefit of individuals and society at large.

## SECTION 8
## THE COUNCIL

1. The Council shall consist of the following persons namely:-

**Class I.** The Vice-Chancellor and Principal and the Vice-Principal who is appointed by the Council to act during the absence or inability of the Vice-Chancellor and Principal.

**Class II.** Four Academic Staff members elected by and from the Academic Staff members of the Senate.

**Class III.** The President of the Guild of Students and one other student officer of the Guild of Students to be nominated by the Guild of Students in such a manner as it may determine, where normally either the President or the second officer shall be or have been a Postgraduate Registered Student of the University.

**Class IV.** Other members who are not Staff or Registered Students of the University to be appointed or elected by the Council on the

recommendation of a membership committee of the Council as required by Section 8(8), and who shall number twice the total membership in Classes I, II and III as defined in this clause.

2. The term of office for ex officio members in Class I and Class III shall be continuous for such period as they hold the post or office designated.
3. The length of a term of office for members in Class II shall be four years. Members in Class II shall not normally serve more than two consecutive periods of office but in exceptional circumstances, may be appointed for one further term of office of up to four years. Members in Class II may complete their term of office notwithstanding that they may cease to be members of the Senate during such term, provided always that they remain members of the Academic Staff of the University.
4. The length of a term of office for members in Class IV shall be four years. Members in Class IV retiring by effluxion of time may be re-appointed. Members in Class IV shall not normally serve more than two consecutive periods of office but in exceptional circumstances may be appointed for one further term of office of up to four years.
5. Members (other than those who are members by virtue of office) may be removed for good cause by the Council.
6. The Council shall elect a Pro-Chancellor, a Deputy Pro-Chancellor and a Treasurer in accordance with Section 3 of these Statutes and Ordinances. The Pro-Chancellor shall be ex officio Chair of the Council. The Deputy Pro-Chancellor shall chair the Council and act as the Pro-Chancellor in the absence or inability of the Pro-Chancellor or a vacancy in that office.
7. Meetings of the Council shall be quorate provided that the members present in Class IV exceed in aggregate those present in Classes I, II and III, and at least one member in Class I is present, except in relation to matters in respect of which a conflict of interests prevents members in Class IV from voting with the result that a quorum cannot be formed.
8. There shall be a separate committee of the Council with responsibility for each of audit, remuneration and membership of the Council. The duties of the membership committee shall be defined in Ordinance.

**SECTION 9**
**POWERS OF THE COUNCIL**

1. The Council shall exercise all the powers and authority of the University except to the extent to which the exercise of the same may by the Charter, Statutes and Ordinances be otherwise provided for.
2. The Council shall, subject to the Charter, make Statutes either on its own initiative or on the proposal of the Senate. No Statute shall be made, amended or repealed until the Court and the Senate shall have had an opportunity of providing an opinion thereon.
3. All Statutes must be passed by an Ordinary Resolution of the Council. Special notice of the fact that Statutes will be considered and containing a short statement of the nature of the proposed Statutes must be given to members of Council.
4. In accordance with the powers of the University set out in the Charter and subject to the Statutes, the powers of the Council shall include:
   (a) To exercise all such powers as are conferred on the Council by the Charter and Statutes and to carry the University Legislation into effect.

(b) To make Ordinances and Regulations for any matters in respect of which Ordinances and Regulations are authorised to be made.
(c) To review and control or disallow any act of the Senate and to give directions to be obeyed by the Senate.
(d) To select a seal and arms for the University and have the sole custody and use of the seal.
(e) To prosecute, defend or compromise litigation on behalf of the University.
(f) To govern, manage and regulate the finances, accounts, investments, property, business and all affairs whatsoever of the University.
(g) To make contracts on behalf of the University.
(h) To enter into any financial instrument which is ancillary to the exercise of the Council's investment or borrowing powers.
(i) To appoint the Auditor.
(j) To determine the level of fees payable within the University and entitlement to benefits and facilities.
(k) To borrow or lend money on behalf of the University and for that purpose (if the Council think fit) to mortgage all or any part of the property of the University whether real or personal or give such other security, including by way of guarantee, whether upon such real or personal property or otherwise as the Council think fit.
(l) To sell, buy, exchange, lease or take leases of the University's real and leasehold estates.
(m) To provide the buildings, premises, furniture and apparatus and other means needed for carrying on the business of the University.
(n) To appoint from time to time persons to hold such other full-time or part-time senior managerial, administrative or academic offices or appointments for such term, with such remuneration, upon such conditions as Council may think fit and to designate these offices or appointments with such names or titles as Council shall determine.
(o) To entertain, adjudicate upon and if thought fit redress the grievances of:
(i) Staff of the University who may for any reason feel aggrieved, except where a member of Staff has followed a procedure which culminates in a review by a committee of Council;
(ii) Registered Students who raise a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, concerns matters of University governance, and who have exhausted other internal dispute resolution procedures.
(p) To appoint advisory boards consisting either wholly or partly of members unconnected with the University, upon such terms and for such purposes as the Council may consider advisable.
(q) To make standing orders governing the procedure at meetings of the Council, including the power to add to, amend, alter or repeal any theretofore made.

The Council shall obey and carry out the Statutes.

**SECTION 10**
**RESERVATIONS AND DELEGATION OF THE POWERS OF THE COUNCIL**

1. The following powers are reserved to Council and may not be delegated:

**Organisational strategy and governance**

(a) To approve or amend the University's mission and strategy and supporting strategic plans
(b) To approve or amend the overall constitutional, organizational and management structures of the University, including:
(i) amendments to the Charter and Statutes (subject to the authority of the Privy Council) and amendments to Ordinances
(ii) decisions to cease all or any material part of the University's activities.
(c) To make an agreement to enter in the formation of a company, or to take shares, or to appoint a member of staff to represent the University as a Director of a private company
(d) To approve and monitor sound systems of internal control and risk management, following recommendations from the audit committee
(e) To use and keep custody of the University's common seal, subject to a report to Council whenever the seal and arms of the University are used
(f) To make changes to the composition of the Council (subject to Privy Council approval), appointments to the Council, including election of Lay Officers, and composition and membership of Council committees, following recommendations from the membership committee of the Council
(g) To prosecute, defend or settle litigation above a value in excess of an amount specified in a scheme of delegation of Council's powers

**Finances**

(h) To adopt the University's annual accounts
(i) To approve the annual budget
(j) To borrow money on behalf of the University
(k) To appoint or remove the University's external Auditors and internal Auditor, following recommendations from the audit committee
(l) To approve major changes to the rules of any University pension scheme, or changes of employer-nominated Trustees or the fund management arrangements (when subject to Council approval)

**Estates and infrastructure**

(m) To sell, buy, exchange or create long leasehold interests in land
(n) To mortgage any part of the property of the University

**Human resources**

(o) To appoint and dismiss the Vice-Chancellor and Principal and to approve the Vice-Chancellor and Principal's terms and conditions of appointment
(p) To approve, after receiving recommendations from the remuneration committee, a remuneration policy for the Vice-Chancellor and Principal and other staff whose remuneration has to be reported in the University's annual accounts

2. With the exception of the reserved powers set out in clause 1 above, the Council may delegate its powers under the Charter, Statutes, Ordinances and Regulations to:
(a) an appropriately qualified member of the Council; or

(b) an appropriately qualified committee consisting of persons appointed by the Council, or to the Senate, or a joint committee consisting of persons appointed by the Council and the Senate; or
(c) an appropriately qualified member of the Staff.

3. The delegation of the Council's powers shall be set out in a scheme of delegation, approved by the Council, which shall include the terms of the delegation and details of authorisation of individuals to sign contracts on behalf of the University.

**Committees**

4. All the bodies mentioned in the Charter and these Statutes may respectively appoint and dissolve such standing, special, advisory and consultative committees, including joint committees, as may seem to them fit, and any such committees may include persons who are not members of the University, or of the body appointing the committee. The powers and duties of any committee shall be such as the body appointing it may from time to time direct and the appointing body may delegate to any such committee, or other body or a person, any powers or functions which it is itself competent to perform, save where the appointing body is under a duty by the provisions of the Charter and Statutes to perform a function. The appointing body shall direct to which committee or body the appointed committee or body shall report. Subject to the approval of the appointing body and for so long as that approval may continue, the said committee or other body may delegate all or any of the said powers to any other committees or bodies appointed by it or to an appropriately qualified member of the University's Staff.

5. The Pro-Chancellor and the Vice-Chancellor and Principal shall be ex-officio members of any committee of the Council (except the Audit Committee), any committee of the Court and any joint committee of those two bodies. The Vice-Chancellor and Principal shall be an ex-officio member of any committee of the Senate provided that the Vice-Chancellor and Principal shall not be a member of the joint committee set up to recommend the appointment of his or her successor.

6. The body appointing a committee may make rules of procedure for the committee, but subject thereto every committee may determine its own procedure, times and places of meeting.

**Advisory Boards**

7. The Council may from time to time appoint advisory boards consisting either wholly or partly of Lay Members upon such terms and for such purposes as the Council may consider advisable and may refer to them for advice and report any subject or matter which the Council considers fit. Any such advice and report shall be duly considered and weighed by any body in the University to which the Council directs such advice to be given or report to be made.

**Co-opted members**

8. With the exception of the Council and the Court, every board or committee duly appointed under the University Legislation shall have power to co-opt persons to be additional members of the board or committee; such members shall, unless it is otherwise specified in University Legislation, serve for a period to be specified at the time of co-option and shall have all the privileges and responsibilities of members of the board or committee except the right to vote.

## SECTION 11
## SPECIAL RESOLUTIONS OF THE COUNCIL

1. A Special Resolution of the Council is required for any alterations, deletions or additions to be made to the Charter.
2. A Special Resolution of the Council means a resolution passed at one meeting of the Council and confirmed at a subsequent meeting held not less than one calendar month nor more than three calendar months after the former provided the resolution is passed at each meeting by not less than two-thirds of those present and voting.
3. In between the first and second meeting of the Council, the Senate and the Court must be given the opportunity to comment on the proposed amendments and it shall be the duty of Council to consider the same.

## SECTION 12
## STATUTES, ORDINANCES AND REGULATIONS

1. An Ordinary Resolution of the Council is required for any alterations, deletions or additions to be made to the Statutes, Ordinances or Regulations other than those Regulations for directing the academic work of the University in teaching, examining and research, which the Senate has the power to make and amend.
2. In the case of amendments to the Statutes, the Senate and the Court must be given the opportunity to comment on the proposed amendments and it shall be the duty of the Council to consider the same before passing a resolution to amend the Statutes.
3. The Council shall make Ordinances with regard to such matters as are directed by the Charter and Statutes. Where such Ordinances affect the constitution, powers or responsibilities of the Senate, the Senate shall be consulted beforehand.
4. Ordinances shall, subject to the Charter and Statutes, deal with the following matters:-
   (a) The organisational and governance structures of the University
   (b) Senior offices and posts within the University
   (c) The appointment, duties, powers and continuance in office or employment of the holders of academic, administrative and other appointments in the University
   (d) The Degrees, Diplomas, Certificates and other academic distinctions which may be awarded by the University
   (e) Such other matters as may seem proper to be so governed.

**SECTION 13**
**AUDITOR**

1. The Council shall annually appoint an external Auditor. Every such Auditor shall be a member of a recognised supervisory body (as defined in Section 1217 of the Companies Act 2006 or any such statutory amendment or provision replacing the same) who is eligible for the appointment under the rules of that body. No person shall be appointed Auditor who is or any one of whose partners is a member of the Council of the University, or the holder of any appointment therein.
2. The Auditor shall hold office for three years and shall be eligible for re-appointment and shall receive such remuneration as may be determined by the Council.
3. The Auditor may be removed for good cause by the Council.
4. If the office of Auditor shall become vacant by their death or resignation or any other cause before the expiration of their period of office, the Council shall forthwith appoint an Auditor in their place for the remainder of such period.
5. The Auditor shall have a right of access at all reasonable times to the books, records, accounts and vouchers of the University, and shall be entitled to require from any Member of the University such information and explanations as may be necessary for the performance of their duties.
6. The Auditor shall make a report to the Council at least once in each year.
7. The Auditor may resign by writing in a signed letter addressed to the Council.

**SECTION 14**
**ACADEMIC STAFF**

***PART I: GENERAL***

**1. General principles of construction and application**

(1) This Section of the Statute and any Ordinances or Regulations made under it shall be construed in every case to give effect to the following guiding principles:

(i) to ensure that members of Academic Staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their job or privileges;

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

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

(2) Where there is any issue as to the meaning of academic freedom in this regard in any proceedings under Parts II, III, IV, V and VI of this Section of the Statute, regard shall be had to Sections VI and VII (and including paragraph 12 of Section IV) of the Recommendation concerning the Status of Higher-Education Teaching Personnel

adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997, details of which are set out in Ordinance.

(3) Any reference in this Section of the Statute to a provision in an Act of Parliament shall be taken to be a reference to that provision as it may have been amended or superseded from time to time.

**2. Application**

(1) This Section 14 applies to the following:

(i) The members of the Academic Staff as defined in Section 1 of these Statutes (save that Part II shall not apply to those Academic Staff excluded from that Part by clause 5(1) below);

(ii) such other members of Staff or categories of Staff of the University as determined by Ordinance by the Council;

and "member(s) of staff" in this Section means those members of the staff to whom this Section applies.

(2) This Section 14 will override any provision in any contract, term or condition of employment (whether that contract, term or condition pre-dates or post-dates the commencement of this Section) which is inconsistent with this Section, but

(i) it shall not affect the validity of any compromise agreement under section 203 of the Employment Rights Act 1996, or any similar agreement permitted by law; and

(ii) it shall not preclude any member of staff deciding or agreeing to terminate employment with the University, whether by voluntary severance, early retirement or otherwise, on whatever terms have been agreed; and

(iii) it shall not preclude any member of staff agreeing to vary or waive any provision of this Section or any Ordinance made under this Section, as appropriate in the circumstances of his or her individual case.

(3) Nothing in any other Section or in any Ordinance or Regulation made thereunder shall compel any member of staff of the University who objects on grounds of conscience to sit as a member of any Panel or body appointed under this Section or to be present when any such Panel or body is meeting to arrive at its decision or for the purpose of discussing any point of procedure.

(4) Parts II to V of this Section 14 shall not apply to removal from an office as Vice Principal, or Pro-Vice-Chancellor, or such other offices as have been designated by the Council as offices to which this sub-clause applies, to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated, but the

Council shall by Ordinance prescribe a procedure for handling such removals prior to the prescribed or normal termination date, which shall include the right to be heard by a panel and the right to appeal to a different panel.

(5) This Section 14 shall not apply to the Vice Chancellor, except for Parts III and IV, which shall, unless the Council, with the Vice Chancellor's concurrence, resolves otherwise apply to the Vice Chancellor in post at the time it comes into effect, with such modifications and adaptations as the Council, with the Vice-Chancellor's concurrence, shall prescribe but it shall not apply to any later Vice Chancellor, even if also the holder of an academic post.

(6) For the purposes of this Section 14, the University's reasonable decision as to which provision of this Section should be invoked to deal with any specific matter concerning a member of staff shall be final. No action or decision taken under this Section or any Ordinances made under this Section shall, for the purposes of this Section, be invalid on the grounds that the matter could have been dealt with under some other Section, Part, Clause or Ordinance than that in fact invoked.

**3. Dismissal**

(1) For the purpose of this Section 14 subject to Clause 3(3) "dismissal" shall have the same meaning as in section 95 (a) and (b) of the Employment Rights Act 1996, namely: -

(i) the termination by the University (whether with or without notice) of the contract under which the member of staff is employed; and

(ii) where the member of staff is employed under a fixed term contract, the termination of that contract, by virtue of the limiting event having occurred without being renewed under the same contract.

(2) For the purpose of this Section 14:-

(i) contract of employment is a "fixed term contract" if:-

(a) the employment under the contract is not intended to be permanent; and

(b) provision is accordingly made in the contract for it to terminate by virtue of a limiting event; and

(ii) a "limiting event" means:-

(a) in the case of a contract for fixed term, the expiry of the term; or

(b) in the case of a contract made in contemplation of the performance of the task, the performance of that task; or

(c) in the case of a contract which provides for its termination on the occurrence of an event or on the failure of an event to occur (other than the attainment by the member of staff of a contractual retiring age), the occurrence of the event or the failure of the event to occur.

(3) Where it is expected or proposed that a member of staff employed under a fixed term contract on the occurrence of a limiting event will be employed under a new contract (whether a fixed term contract or a contract of indefinite duration):-

(i) there shall be no dismissal or anticipated dismissal for the purposes of this Section 14 and accordingly Parts II to V of this Section shall not apply; and

(ii) the member of staff, if dissatisfied with any new contract offered to him or her, shall be entitled to raise that issue under Part VI.

(4) A change in duties of a post shall not be defined as a dismissal for the purposes of this Section 14 and in such a case Parts II to V of this Section shall not apply.

(5) The proposed dismissal of a member of staff in circumstances other than those covered by Clause 3(3) and 3(4) shall be handled as set out below: -

(i) a dismissal by reason of redundancy (other than the non-renewal of a fixed-term contract) shall be handled in accordance with Part II;

(ii) a dismissal for disciplinary reasons shall be handled in accordance with Part III;

(iii) a dismissal on health grounds shall be handled in accordance with Part IV; and

(iv) a dismissal on any other grounds, including the non-renewal of a fixed-term contract, shall be handled in accordance with Part V.

**4. Hearing, appeal and grievance Panels**

(1) The size of any Panel established pursuant to clauses 7(1), 8(1), 10(2)(v) and (vii), 15(2), 16(3), 18(2), 19(2) and 20(5) of this Section 14 shall be specified by Ordinance. At least one member of the Panel shall be a Lay Member of Council, or an Emeritus Professor, and at least one a member drawn from a list agreed from time to time by the

Senate. None of the Panel members shall previously have had any direct or active involvement in the case.

(2) Any Panel as referred to in clause 4(1) above may take legal or other professional advice to help it in its deliberations and may, at its sole discretion, ensure that the adviser(s) are in attendance for any hearing or deliberations regarding the hearing.

*(3)* Ordinances may provide for any relevant National Health Service or other relevant body to be represented on any Panel established under this Section 14 to deal with a member of staff falling within clause 19(1) below and for the panel to be enlarged by up to an additional two members, in these circumstances.

(4) At any Panel or hearing under this Section 14, the member of staff shall be entitled to be represented or assisted as set out in the relevant Ordinance.

(5) Any Panel within sub clause (1) above under this Section 14 shall give a reasoned decision in writing which shall be provided to the member of staff and reported to the Council.

***PART II: REDUNDANCY***

**5. Application**

(1) The power to dismiss, and the procedures prescribed, under this Part shall not apply to those staff defined in sub-sections (3) to (6) of section 204 of the Education Reform Act 1988 [staff appointed prior to, and not promoted after, 20 November 1987], who shall for this purpose continue to be subject to such powers, if any, as applied to them prior to the introduction of the statute made by the University Commissioners in the exercise of their powers under sections 203 and 204 of the Education Reform Act 1988.

(2) This Part shall not apply to the dismissal by reason of redundancy of a member of staff employed on a fixed term contract as a result of a limiting event.

**6. Definition of "redundancy"**

Subject to clause 5(2) above, dismissal by reason of redundancy for the purpose of this Part has the same meaning as in section 139 of the Employment Rights Act 1996.

**7. Procedure for dismissal by reason of redundancy**

(1) The Council shall by Ordinance prescribe the procedures for dismissing members of staff on the grounds of redundancy, which shall include the following principles:

(i) setting out the reasons for the possible redundancy;

(ii) informing the Senate as to the need to initiate the redundancy procedure;

(iii) consultation with appropriate representatives in accordance with and to the extent required by section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and discussion with the staff concerned, including taking into account of legal requirements in relation to redundancy;

(iv) to establish a Panel to decide whether selection needs to take place against criteria, to determine such criteria and to assess staff against these criteria;

(v) a procedure which is fair and which allows each staff member concerned, having been informed of any selection criteria to be employed, to make written and oral representation on his or her behalf to the Panel;

(vi) provision for informing any member of staff dismissed under this Part of the reasons for the dismissal and, where selection has taken place, why he or she or she was selected; and

(vii) authorising the Vice-Chancellor or other person to dismiss any member of staff who has been selected by the Panel for dismissal under this Part; and

(viii) requiring reports of dismissals to be submitted to the Council and to the Senate.

(2) The procedures following the start of consultation under clause 7(1)(iii) may be used at any particular time only after the Council has first determined that the circumstances are such that the procedures should be instituted. In circumstances to which s188 TULRCA 1992 applies, any failure of consultation with representatives to the extent required under TULRCA 1992 for reasons beyond the University's direct control shall not invalidate Council's determination that the procedures shall be instituted.

**8. Appeal against dismissal by reason of redundancy**

(1) The Ordinances shall include provision for an appeal to a Panel by a member of staff who has been given notice of dismissal under this Part.

(2) The Panel shall be entitled to review all aspects of the matter other than the Council's determination under clause 7(2) above.

(3) The Panel shall have the power to reach a final decision on the matter or to remit the matter for further consideration by the body whose decision is being appealed.

***PART III: DISCIPLINARY PROCEDURES***

**9. Grounds for disciplinary action**

Disciplinary action under this Part may be taken, and where found to be appropriate a penalty imposed, in respect of the following:

(1) conduct (wherever occurring) resulting in the member of staff accepting a formal police caution, even if the member of staff is not subsequently charged with or convicted of an offence, where that conduct is of a kind that is judged in all the circumstances to be relevant to the member of staff's employment by the University;

(2) conviction of a criminal offence by any court of competent jurisdiction, where that offence is judged in all the circumstances to be relevant to the member of staff's employment by the University;

(3) failure, refusal or neglect to perform some or all of the duties or to comply with some or all of the conditions attaching to the post, or performing those duties or complying with those conditions in an unsatisfactory or inadequate manner;

(4) conduct of a kind judged to be inappropriate or unacceptable on the part of a holder of the post held by the member of staff, such as (but not confined to) the following:

(i) breach of any obligation or duty arising under any of the University's regulations regarding financial matters, harassment, equal opportunities, public interest disclosure, health and safety, or data protection or any other rules, regulations or codes binding on the member of staff;

(ii) wilful damage to or improper use of facilities, premises, property or equipment including equipment owned by, leased or hired to the University or otherwise provided for the pursuance of University duties;

(iii) disruption of, or improper interference with, the activities of those engaged in the activities of the University or any person because of their real or perceived connection with the University (other than any lawful industrial action);

(iv) violent, indecent, disorderly, threatening, abusive, insulting or harassing behaviour or language (whether written, spoken or in any other form);

(v) fraud, deceit, deception or dishonesty in relation to the University or any related activity, including research and examining;

(vi) action likely to cause injury or impair safety;

(vii) divulging information or material received in confidence (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the University's Public Interest Disclosure Procedure or required by law).

(viii) failure to disclose a conflict of interest which has a material impact on the conduct of University business.

**10. Disciplinary procedures**

The Council shall by Ordinance promulgate disciplinary procedures for members of staff, which shall provide:

(1) for less serious matters to be dealt with by warnings following a fair and appropriate procedure and for a member of staff to be able to appeal against the imposition of a warning to a person designated by the Vice-Chancellor; and

(2) for dealing with more serious matters, which shall include provision for the following:

(i) fair and reasonable time limits for each stage;

(ii) investigating complaints and dismissing those found to be without substance;

(iii) suspension, on full pay, by the Vice-Chancellor pending an investigation or hearing or the resolution of a police investigation or a criminal prosecution where this is appropriate;

(iv) the resolution of disciplinary cases by the Vice-Chancellor on an informal basis with the agreement of the member of staff which may, for the avoidance of doubt, include the administration by the Vice-Chancellor of an oral or written warning;

(v) if the Vice-Chancellor so decides a hearing by a Panel, the constitution of which is defined in Ordinance, prior to which the member of staff against whom the complaint has been made shall have been informed of the complaint, and at which the member of staff shall be entitled to be present, to hear the evidence, to call relevant witnesses (if appropriate), and to examine and cross-examine witnesses if appropriate (but provision may be made for witnesses in appropriate cases to give their evidence behind a screen or from another room or place and for questions to be asked only by a representative);

(vi) appropriate penalties, which in addition to warnings and dismissal shall include withholding any forthcoming increment in salary, suspension without pay (for up to three months) and reduction in grade and/or loss of title;

(vii) designating a member of staff's conduct as constituting "gross misconduct" such as to merit summary dismissal without notice;

(viii) determining, in cases where the member of staff's conduct is found to merit dismissal but is not designated as "gross misconduct", whether the member of staff shall be dismissed with notice or payment in lieu of notice; and

(ix) a right of appeal against any finding or any penalty imposed, under this clause. An appeal shall not take the form of a re-hearing of the evidence or the calling of any or all of the witnesses, save at the absolute discretion of the Appeal Panel it is determined that this is necessary properly to dispose of the appeal.

(3) In drawing up the procedures, and in any Regulations made thereunder, regard shall be had to Section 1 of the Code of Practice on Disciplinary and Grievance Procedures (as may be amended or replaced from time to time) issued in September 2000 by the Advisory Conciliation and Arbitration Service (ACAS) and brought into effect by order of the Secretary of State under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992.

**11. Dismissal**

(1) The Registrar and Secretary or nominee shall give effect to a finding of a Panel that a member of staff should be dismissed:

(i) where the panel has designated the conduct as "gross misconduct" such as to merit summary dismissal pursuant to clause 10(ii)(g), the Registrar and Secretary shall forthwith dismiss the member of staff;

(ii) in all other cases, the Registrar and Secretary or nominee shall issue the notice of dismissal or dismiss together with payment in lieu of notice in accordance with the determination of the panel.

(2) Any dismissal or notice of dismissal shall be cancelled, withdrawn or modified if an appeal Panel decides that the member of staff should not have been or be dismissed or should only have been dismissed with notice or pay in lieu of notice.

**12. Relationship with Part IV**

The Ordinance under this Part III shall make provision for dealing with a case in progress under this Part where it emerges that the member of staff's conduct or performance may have been wholly or partly attributable to a medical condition in accordance with Clause 2(6).

**13. Clinical Staff**

Action under this Part or under Part IV may be taken against a member of staff falling within clause 19(1) below in respect of conduct or incapacity arising in connection with that member of staff's clinical work or activities as if the work or the activities were performed in and for the University.

***PART IV: INCAPACITY ON HEALTH GROUNDS***

**14.** Incapacity in this instance shall be defined as the inability to discharge the duties required of the post and under contract by reason of ill health or disability. By Ordinance, a procedure short of dismissal will be set out for dealing with staff who may be incapacitated by reason of ill health.

**15. Dismissal on health grounds**

(1) The Council shall by Ordinance prescribe a procedure for dealing with staff, including dismissal, because of incapacity on health grounds, whether physical or mental;

(2) The procedure shall include a hearing by a Panel, with a right of appeal to a different Panel, and both Panels shall contain an appropriately medically qualified person.

***PART V: OTHER DISMISSALS***

**16. Non-renewal of a fixed term contract**

(1) The Council shall by Ordinance promulgate a procedure whereby the Vice-Chancellor, or other persons designated by the Vice-Chancellor, shall in every case where a fixed term contract is due to terminate consider whether that contract should be renewed or extended or a contract of indefinite duration should be offered, having consulted the appropriate representatives in accordance with and to the extent required by section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and having given an opportunity to the member of staff to make representations.

(2) A decision not to renew, extend or offer a contract of indefinite duration under the preceding paragraph must be justified on the basis that, in respect of one or more of the following considerations, it is not expedient or desirable to renew or extend the contract or offer a contract of indefinite duration,

(i) the availability of funding for the post, or the financial situation;

(ii) the individual's performance (following appropriate warnings and counselling);

(iii) the need for the post or the duties attaching to the post;

(iv) the nature or character of the post;

(v) the desirability of making the post permanent and appointing to it after open competition.

(3) A member of staff whose fixed-term contract is not renewed or extended on termination and who is not offered a contract of indefinite duration shall be given full reasons for the decision and shall be entitled to appeal to a Panel in accordance with the procedure prescribed by Ordinance.

(4) The appeal Panel, whose decision shall be final, shall consider whether the reasons advanced in support of the decision are reasonable and supportable.

**17. Probationary appointments**

(1) This Part shall also apply to members of staff who have been appointed subject to review after a period of probationary service.

(2) The Council shall by Ordinance prescribe a procedure under which staff on probation shall be reviewed and shall include provision for actions including but not limited to non-confirmation in post at the end of the probationary period if their performance is found to be deficient or for any other substantial reason or reasons they are judged unsuitable to be confirmed in post and the right to appeal against the decision not to confirm a member of staff in post.

(3) The appeal referred to in sub-clause (2) may encompass matters which, in other circumstances, would be dealt with under Parts II, III or IV of this Section 14.

**18. Dismissal on other grounds**

(1) This clause covers dismissals on any ground falling within clause 3(5)(iv) other than those covered by Parts II, III and clauses 16 and 17 of Part V of this Section 14 (ie: "some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held" (Employment Rights Act 1996, s.98 (1)(b); " the employee could not continue to work in the position which he or she held without contravention (either on his or her part or on that of his or her employer) of a duty or restriction imposed by or under an enactment" (s.98 (2)(d)).

(2) Dismissals covered in sub-clause (1) above shall be handled in accordance with a procedure prescribed by Ordinance, which shall include the right to be heard by a Panel and the right to appeal to a different Panel.

(3) (i) This sub-clause covers dismissal of members of staff on grounds of reaching their contractual retirement age, or on expiry of any extension to contractual retirement age which may have been granted to an individual member of staff by the University.

(ii) Dismissals covered in sub-clause (i) above shall be handled in accordance with the University's planned retirement policy.

**19. Clinical staff**

(1) This clause applies to a member of the Academic Staff who is required to engage in clinical work or activities and for that purpose to be registered with the General Medical or Dental Council or similar body and/or to have an honorary or substantive contract or status with a National Health Service trust or similar body, and may by Ordinance be extended to other groups or staff in a similar situation.

(2) Where registration, contact or status referred to in sub-clause (1) above is terminated, withdrawn or revoked, the Council shall promulgate an Ordinance enabling the Vice-Chancellor, having first

afforded an opportunity to the member of staff concerned to make representations, to dismiss the member of staff concerned; and where the registration, contract or status is suspended, the Vice-Chancellor may suspend the member of staff from employment for so long as the registration, contract or status is suspended, that suspension from employment to be without pay, where the registration, contract or status has been suspended as a substantive disciplinary measure.

***PART VI: GRIEVANCE PROCEDURES***

**20. Grievance Procedure**

(1) The Council shall by Ordinance promulgate a Grievance Procedure for members of staff and in so doing shall have regard to Section 2 of the Code of Practice (as may be amended or replaced from time to time) referred to in clause 10(3) above.

(2) The Procedure shall apply to grievances by members of staff concerning their appointment or employment in relation to matters affecting themselves as individuals or their personal dealings or relationships with other staff of the University, other than

(i) those for which provision is made elsewhere in this Section 14 or in respect of the outcome of any matter dealt with under this Section or

(ii) where Council has prescribed other procedures, provided those procedures are no less favourable to the individual than under the Grievance Procedure.

(3) The Procedure shall provide that consideration of a complaint or grievance under the Procedure may be deferred if other proceedings under this Section concerning the individual and relevant to the application are pending or in progress.

(4) The Procedure shall provide for the fair and speedy resolution of complaints informally wherever possible, and for the complainant to be entitled to be assisted by any other member of staff or by a trade union representative.

(5) The Procedure shall make provision for a member of staff who is dissatisfied with the outcome of a complaint to be able to have the complaint heard by a Grievance Panel unless the complaint has been ruled frivolous, malicious, vexatious or invalid in accordance with the Procedure.

**SECTION 15**
**VALIDITY OF PROCEEDINGS**

1. No act or resolution of the Council, the Court, the Senate or any committee or body duly established under these Statutes shall be invalid by reason of:

(a) any vacancy in its membership; or

(b) any want of qualification by or invalidity in the election or appointment of any person acting as a member whether present or absent; or
(c) any accidental failure of the University to give to any person or of any person to receive notice of a meeting.