

**Statute 11<sup>‡</sup>****PART I STATEMENT OF PRINCIPLE**

- (1) The University will have in place policies and procedures governing its employees. Such policies and procedures where appropriate will apply to all employees to ensure objectiveness, fairness and equity amongst all staff groups.
- (2) The University will ensure that where there is demonstrable need for procedural differences between staff groups, these are appropriately reflected in the policies and procedures.
- (3) Excepting where changes arise as a result of amendments to legislation or terminology, the policies governing disciplinary, grievance, redundancy and removal for incapacity on medical grounds will be:
  - a. subject to negotiation with Trade Unions with a view to reaching agreement
  - b. subject to final approval by Council after consultation with Senate

**PART II CONSTRUCTION AND APPLICATION****(1) Construction**

The University's policies and procedures will adhere to the following guiding principles:

- (a) to ensure that Academic Staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs and privileges;
- (b) to enable the University to provide education, promote learning and engage research efficiently and economically;
- (c) to apply the principles of justice and fairness as prescribed in relevant legislation, regulation and good employment practices; and
- (d) to avoid unlawful discrimination and promote equality of opportunity, dignity at work and good relations.

**(2) Interpretation**

This Statute will apply:

- (a) to Academic Staff, employed on Academic (including Clinical) terms of employment.
- (b) to the Vice-Chancellor to the extent and in the manner set out in the Annex to this Statute.

**PART III REDUNDANCY**

Council will be the Appropriate Body which decides whether a reduction in the Academic Staff (as defined in Statute Part II (2)(a)) is desirable in all or part of the University, where such a reduction would arise from restructures, reorganisations or closures. In such circumstances, Council will have oversight of any resulting dismissals by reason of

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<sup>‡</sup> Proposed new Statute number to replace Statute 24 pending Privy Council approval.

redundancy. Council does not require oversight of dismissals which arise under the contract of employment (e.g. the expiry of fixed term appointments or contracts of an indefinite nature linked to identified named funding sources).

In all other respects, the University's policies and procedures (and where applicable Ordinance 11<sup>§</sup>) will apply.

#### PART IV ACADEMIC FREEDOM REVIEW

The University will have in place a procedure for the review of whether Academic Freedom (as defined in Statute Part II (1)(a)) has been infringed in cases involving the potential dismissal of Academic Staff (as defined in Statute Part II (2)(a)) on grounds of gross misconduct or through the Redundancy policy and procedure.

The detailed procedure for the review of the potential infringement of Academic Freedom (as defined in Statute Part II (1)(a)) will be laid out in Ordinance 11<sup>§</sup>.

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<sup>§</sup> New Ordinance number to be confirmed.

## ANNEX

## PROVISIONS AS TO THE VICE-CHANCELLOR

- (1) The Council may request its Chair to remove the Vice-Chancellor from office on legitimate grounds in accordance with the procedure described in this Annex.
- (2) A complaint seeking the removal from office of the Vice-Chancellor on legitimate grounds must be made by at least three members of the Council to the Chair of the Council and/or from a resolution of Senate.
- (3) If it appears to the Chair of the Council, on the material before them, that the complaint, if proven, would constitute sufficient grounds for dismissal or removal from office they will request that the Council appoints a Tribunal to hear and determine the matter.
- (4) If it appears to the Chair of the Council that a complaint made to them under sub-paragraph (1) is trivial or invalid, they may recommend to the Council that no further action be taken.
- (5) When the Council has appointed a Tribunal under sub-paragraph (2) it will instruct a solicitor or other suitable person to formulate the charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.
- (6) A Tribunal appointed by the Council will comprise:
  - an independent Chair; and
  - one member of the Council, not being a person employed by the University; and
  - one member of the Academic Staff.
- (7) Subject to the principles of justice and fairness and good employment practice the Tribunal can determine its own procedure to hear and determine the matter.
- (8) The Tribunal will send its decision on any charge referred, together with its findings of fact and the appropriate penalty to the Chair of the Council and to the Vice-Chancellor, drawing attention to the period of time within which any appeal should be made.
- (9) Where a complaint is to be referred to a Tribunal under this Statute, the Chair of the Council may suspend the Vice-Chancellor from their duties and may exclude the Vice-Chancellor from the University or any part thereof without loss of salary.
- (10) Individuals appointed to hear such an appeal will be independent of the University and will comprise:
  - one person holding, or having held, judicial office or being a barrister or solicitor of at least ten years' standing; and
  - one person being a nationally renowned Senior Academic external to the University
- (11) The individuals appointed will, subject to the principles of justice and fairness and good employment practice, determine the procedure to be adopted in hearing the appeal.
- (12) The individuals appointed to hear an appeal will send their reasoned decision, together with any findings of fact different from those already determined by the Tribunal to the Vice-Chancellor and to the Chair of the Council.

**Ordinance 11<sup>§</sup>****Preamble**

In recognition of the fact that there may be concerns about Academic Freedom in relation to Statute 11<sup>‡</sup>, the academic community will formalise through its elected members of Senate its commitment to the safeguarding of Academic Freedom. This ordinance outlines the principles and procedures by which this body (the Academic Freedom Review Committee) will implement this responsibility, building on its work to review on an annual basis its processes and underlying principles, and if necessary to make recommendations regarding the Ordinance itself.

**Matters relating to Academic Freedom – Gross Misconduct and Redundancy**

- (1) The University will have policies and procedures governing its Academic Staff (as defined in Statute Part II (2)(a)). These policies and procedures will include but will not be limited to redundancy and disciplinary. The University will ensure that these policies and procedures apply the principles of justice and fairness as prescribed in relevant legislation, regulation and good employment practices.

(2) Academic Freedom Review

The University will have in place a procedure for the review of whether Academic Freedom (as defined in Statute Part II (1)(a)) has been infringed in cases involving the potential dismissal of Academic Staff (as defined in Statute Part II (2)(a)) on the grounds of gross misconduct or through the redundancy policy and procedure, as detailed in paragraph 3.

(3) Academic Freedom Review Committee (AFRC)

AFRC will be a standing committee of Senate. The Committee will comprise all elected academic members of Senate. The University will ensure that all AFRC members will be trained in the AFRC process and related principles. AFRC's members will elect their own chair who will also serve in one of Senate's positions on Council.

The Chair of AFRC will provide an anonymised report to Senate and Council at the conclusion of the academic year.

(4) AFRC panel

The university is obliged to ensure academic members of staff have an opportunity to request a review of whether Academic Freedom has been infringed in accordance with paragraphs x below in relation to matters of redundancy and gross misconduct. The member of academic staff should send this request to the Chair of Senate.

When such a request is made, an AFRC panel will be established to examine potential matters of infringement of Academic Freedom. The detailed procedure for the AFRC panel will be as follows.

The Chair of Senate will delegate the responsibility to establish an AFRC panel to the AFRC Chair.

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A Vice Chair may be appointed by the Chair of Senate on the advice of the Chair of AFRC where the Chair may have a conflict of interest, or where the Chair is unable to fulfill their obligations due to significant workload issues. The Vice Chair will have full delegated powers to operate an AFRC panel.

The remaining two members of the AFRC panel will normally be appointed by an alphabetic rotation of trained AFRIC members, subject to the need for balance, and ensuring there is no conflict of interest.

Each AFRC panel will be supported by a member of Professional Services, who will advise on procedure. The AFRC panel will benefit from administrative support, as determined by the Chair of Senate. The Chair of AFRC may also invite in appropriate expertise as required.

Each AFRC will be under a duty to consider matters fully but also in a timely manner; AFRC members will be expected to give priority to the work of the Committee and report their outcome as specified in Articles x and y below.

(5) The Role of AFRC in Disciplinary matters

The university is obliged to ensure academic members of staff have an opportunity to request a review of whether AF has been infringed in accordance with paragraphs x below.

Where senior management (defined as direct reports to the Vice Chancellor) considers that a gross misconduct hearing should be convened, the member of Academic Staff will receive written notification of this and the allegations against them which will be addressed at the hearing. The member of Academic Staff will be advised of their right to submit a case to the AFRC if they consider that there has been an infringement of their Academic Freedom, as defined under Statute (Part II (1)).

The Chair of Faculty, or if there is a conflict of interest, a senior academic, will be available to act as an Adviser to the AFRC.

An AFRC panel will be established to consider if there is prima facie case of an infringement of Academic Freedom. If there is, the panel may convene a meeting and consider evidence from the relevant senior manager as well as the individual, and others as appropriate, normally including the Head of Department, and possibly academic subject experts as appropriate.

AFRC will normally complete its work within 20 calendar days of the allegations being restated to the individual, although this may take longer in complex cases.

AFRC will produce a report of its findings, judging whether or not (aspects of) the case infringes upon academic freedom. If at any stage AFRC decides that there are relevant matters of Academic Freedom, they will report their findings to the Senate and Council.

If a gross misconduct hearing is required as set out in the all staff policy, the AFRC findings will be considered as part of that process.

In the event that the allegation of gross misconduct is founded and dismissal ensues, this will be reported to the Senate and Council.

A member of Academic Staff may appeal this decision. In the event that the appeal is wholly or in part based on either a breach of AFRC procedure or due to significant new evidence related to Academic Freedom, the appeal will be referred to AFRC before going to the appeals panel.

(6) The Role of AFRC in the Redundancy Procedure

A business case proposing the redundancy of members of Academic Staff (as defined in Statute – Part II (2)(a)) will be prepared by senior management and considered by the Council. If the business case is approved, senior management will develop the case for redundancy in terms of the proposed pool and criteria and will consult with relevant trade unions, as appropriate.

An AFRC panel will be established to consider whether Academic Freedom (as defined in Statute – Part II (1)) has been infringed in the setting of the proposed pool and criteria for redundancy and may call upon members of the University (for example senior management or academic subject experts) to provide additional information or clarification if required. AFRC will report their findings to the Senate and Council. Senate will report to the Council about the academic freedom aspects of the proposed redundancy.

If Senate reports that there is no infringement of Academic Freedom and this is accepted by the Council, providing that the University's legal obligations for consultation with relevant trade unions have been met, the redundancy consultation process with individuals will commence in accordance with the all staff Redundancy policy and procedure.

Throughout the redundancy consultation period, those in the pool will be informed that, if they are made redundant, they will have the right to appeal against their redundancy.

Where redundancies are confirmed, Senate and Council will be notified.

Individuals will have the right to appeal against their redundancy, normally within 20 calendar days of receipt of notification of redundancy.

In circumstances where a member of Academic Staff appeals against their redundancy on the basis that it infringes their Academic Freedom, then such matters would fall to AFRC to be considered as part of the appeal process.

AFRC will consider a written appeal and if it considers it appropriate, will convene an AFRC appeal panel. In such circumstances, the Chair of Faculty, or if there is a conflict of interest, a senior academic, will be available to act as an Adviser to the AFRC.

The AFRC panel will report to both management and the individual. The work of the AFRC panel must be completed as soon as possible and no later than 20 calendar days of receipt of appeal.

AFRC's report will also be considered by a Redundancy Appeal body as set out in the all staff policy. The decision of the Redundancy Appeal body will be reported to the Council.