

UNIVERSITY OF WARWICK

Motion: Senate Sub-Group revisions to Statute 24

For the meeting of the University Assembly to be held on Friday 29th June 2018.

This Assembly notes:

1. The Senate Sub-Group's final report in (Appendix 1 (S.54/17-18)) which sets out the principles for the revision of Statute 24, the formation of an Academic Freedom Review Committee (AFRC) as a sub-committee of the Senate and its proposed role in disciplinary and redundancy processes.

This Assembly believes:

1. That the Senate Sub-Group's final report in (Appendix 1 (S.54/17-18)) will ensure the fundamental principle of academic freedom – namely “questioning and testing received wisdom and putting forward new ideas – which may be controversial or unpopular” and that academic freedom will be enshrined in the University's Statute and Ordinances.

This Assembly resolves:

1. That the Senate Sub-Group's final report in (Appendix 1 (S.54/17-18)) and its proposals are recommended to the University Senate and Council for approval.
2. That Statutes, Ordinances and Policies be drafted in line with the recommendations set out in that report, and that meaningful consultation be held with the Trades Unions on revised Statute, Ordinances and Policies.

Proposed by: Professor Dan Branch
Seconded by: Senate Sub-Group on Statute 24
(Membership: Professor Aileen Clarke, Professor Maureen Freely,
Professor Saul Jacka, and Dr Thijs van Rens)¹

¹ Membership included Mrs Philippa Glover who has since left the University.

UNIVERSITY OF WARWICK

For the meeting of the Senate to be held on 13 June 2018

Subject: Final Report from the Senate Sub-Group on Statute 24 (S.54/17-18 {Restricted}, attached)

Prepared by: Professor Dan Branch, Chair of the Senate Sub-Group on Statute 24

Presenter: Professor Dan Branch, Chair of the Senate Sub-Group on Statute 24

Key Points:

The Senate is invited to consider the report of the Sub-Group on Statute 24. Approval of revisions to Statute 24, related Ordinance and all-staff policies reflecting the recommendations made here will be sought separately by the University. In particular, the Sub-Group invites comment on:

1. The formation of an Academic Freedom Review Committee (AFRC) as a permanent sub-committee of Senate;
2. The proposed role of AFRC in disciplinary and redundancy processes as set out in this paper;
3. The further recommendations detailed in the paper under the following headings:
 - Outcomes of the sub-group discussion and consultation
 - Principles
 - Academic Freedom Review Committee (AFRC)
 - Role of AFRC in Disciplinary Cases
 - Role of AFRC in Redundancy Cases
 - Areas for further work

Recommendations:

The Senate is invited to:

1. Approve the formation of the Academic Freedom Review Committee (AFRC) as a standing sub-group of Senate;
2. Recommend to the Council that the processes for disciplinary and redundancy cases set out above be written into revised Ordinance;
3. Consider, as soon as practicable, a revised Statute 24, Ordinance and all-staff policies that reflect the contents of this paper;
4. Note that these revised documents be subject to formal consultation with relevant Trades Unions and the Assembly, prior to approval by the Senate.

Route Map for this Report			
Committee	Date	Reference	Action Requested / Taken
Senate	13 June 2018	S.54/17-18	To <u>consider</u> and <u>approve</u> .

UNIVERSITY OF WARWICK

For the meeting of the Senate to be held on 13 June 2018

Final Report from the Senate Sub-Group on Statute 24

Summary

The Senate is invited to consider the report of the Sub-Group on Statute 24. Approval of revisions to Statute 24, related Ordinance and all-staff policies reflecting the recommendations made here will be sought separately by the University. In particular, the Sub-Group invites comment on:

- The formation of an Academic Freedom Review Committee (AFRC) as a permanent sub-committee of Senate;
- The proposed role of AFRC in disciplinary and redundancy processes as set out below;
- The further recommendations detailed below.

1. Introduction and context

At its meeting of 14 June 2017, the Senate resolved to establish a sub-group to address the concerns raised by the Assembly about proposed reforms to statute 24. At the same meeting, Senate agreed the membership of the sub-group. At its meeting of 5 July 2017, the Senate approved the terms of reference of the sub-group, and noted the principles emerging from the work that the sub-group had undertaken to date (paper S.87/16-17 refers). The terms of reference and membership of the sub-group are appended to this paper for reference (appendix A).

The sub-group undertook to:

- Seek to address the concerns raised by the Assembly and the wider Academy on the proposed reforms;
- Take the opportunity to consider how process can be improved to ensure that outcomes are robust and timely;
- Develop proposals that reflect the aim of achieving a consistent policy framework for all staff, but with the inclusion of detailed process in Ordinance to provide appropriate consideration of cases where academic freedom may be at issue, as well as clear definitions of misconduct that are not within the scope of academic freedom policies, and hence to which all staff policy and procedure applies.

Interim reports were provided to Senate at meetings in October 2017, January 2018 and March 2018 indicating progress to date, emerging key principles informing the sub-group's work and indications of likely recommendations.

Following detailed discussions within the sub-group and between it and the Vice Chancellor, Provost, members of Council and other members of the university community, the sub-group is now in a position to make a final report to Senate. The sub-group wishes to thank all involved in these discussions for their time and input and put on record our particular gratitude to the assistance of Pippa Glover before her departure from the University.

The sub-group is, however, solely responsible for this paper. In particular, we wish to emphasize that the formation of the sub-group has not supplanted the need for further consultation with the Assembly and Trade Unions once revised statute, Ordinance and policies have been drafted.

2. Outcomes of the sub-group discussion and consultation

The sub-group has considered and consulted on the University's proposals in relation to the reforms of Statute 24 and related Ordinances, focussing particularly on the impact of these reforms on the principle of academic freedom. The group has considered examples of case studies relevant to academic freedom.

In so doing the sub-group have considered the nature and complexity of the interplay of academic freedom within the proposals for academic redundancy, disciplinary and grievance processes.

In light of these considerations, the sub-group has formulated a set of principles to inform revision of Statute 24 and related Ordinance and policies and set out

3. Principles

The sub-group unanimously agreed the following principles, which we recommend be used as the basis for further revision of Statute 24:

- The need for a specific article in revised statute to protect academic freedom;
- Reference in the revised statute to Ordinance in which the detail will be set out of the mechanism by which academic freedom will be protected by a Senate level review, to be known as the Academic Freedom Review Committee (AFRC);
- That the relevant Ordinance detailing the work of AFRC will set out its position within disciplinary and redundancy procedures in detail;
- That it should be the responsibility of AFRC, in its first annual report to Senate, to formulate explicit principles and definitions of misconduct and gross misconduct and which recognise the responsibilities of academics to third-parties as well as their employer (see Appendix B for suggested drafts of principles and definitions);
- The power of AFRC to decide that disciplinary or redundancy processes should cease in the event of it deciding that the academic freedom of an individual appears to be in question;
- That there should be no double jeopardy in a disciplinary or redundancy case. If AFRC decides the process should halt due to concerns about academic freedom, the case or parts thereof identified by AFRC as potentially contravening academic freedom cannot be rewritten and resubmitted;
- That the role of the Head of Department in redundancy and disciplinary processes be subject to scrutiny and oversight;
- That Senate approval be sought for our report, including these principles and the detail of the processes which follows below;

- That the proposed text for Statute 24 and related Ordinances be the subject of consultation between the University, Assembly and appropriate Trades Unions, and that Senate approval be sought for these texts;
- That any revised Statute 24 cover all members of the University covered by the current Statute. We are aware of the issues relating to fixed-term and indefinite contracts subject to funding, but feel that these are matters deserving of specific attention and are not within the terms of reference of the sub-group;
- That Senate approval be required for any future significant changes to the University's policies and procedures governing its employees, whether described in statute, Ordinance or policy, and that this requirement be formalized in statute.

4. Academic Freedom Review Committee (AFRC)

The establishment of the AFRC is a key recommendation of the sub-group. We recommend that AFRC be a standing sub-group of Senate and comprise all elected academic members of Senate, with a Chair elected on an annual basis by its members.

An AFRC panel will be convened as and when redundancy and disciplinary cases arise. When convened, the Chair of AFRC will chose 3 members according to a strict rotation schedule, initially drawn up alphabetically, to adjudicate the case. Members that are in the same department as the individual or individuals subject to disciplinary or redundancy procedures will be excused. Should all 3 members selected to adjudicate a case be drawn from the same faculty, the third member will be excused. Members that have served and newly elected members of Senate will be added to the bottom of the rotation list. Members that were excused under the circumstances set out above will remain at their original position on the list. In addition to the voting membership, AFRC will include a non-voting secretary appointed by the Registrar. AFRC will be able to call for independent external advice from other members or the University or beyond.

In addition to its casework, a full meeting of all AFRC members will be convened on an annual basis to discuss and approve an annual report to Senate, and elect a new Chair or re-elect the incumbent Chair for the following academic year. The annual report will offer oversight of the operation of procedures relating to academic freedom, and provide guidance on working definitions of the principles of academic freedom arising from specific cases (while respecting the privacy of all concerned).

AFRC needs to be properly supported and trained in order to fulfil our intention that it becomes the impartial guardian of academic freedom in relation to staffing matters. The Registrar's office should provide such support, including a non-voting member of AFRC to act as secretary when cases are being adjudicated.

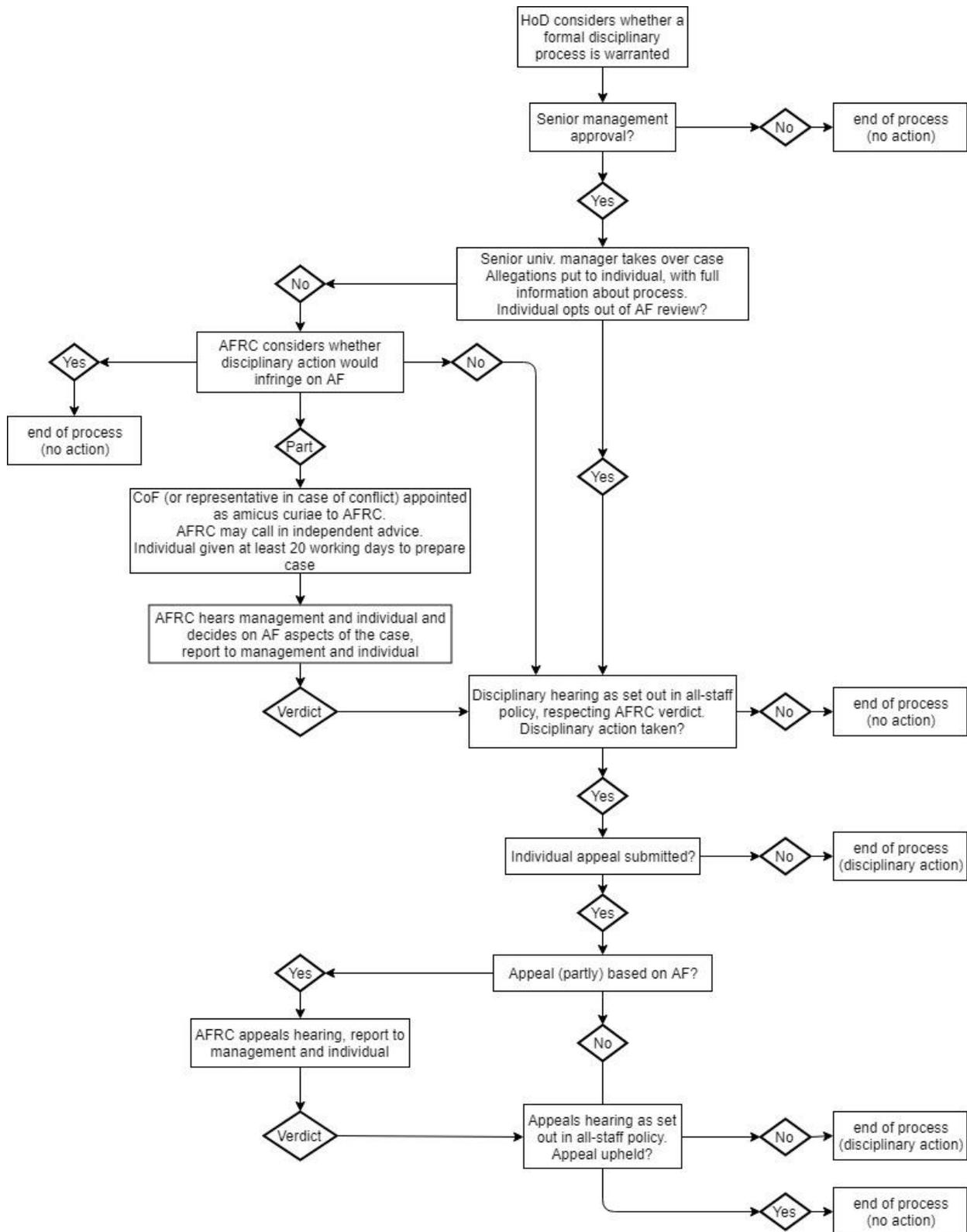
Due to the differing nature of disciplinary and redundancy cases, AFRC's role in each will be somewhat different. Detail of this follows in the next section.

We expect the workload of AFRC to reduce significantly over time as working definitions and precedents are established.

5. Role of AFRC in Disciplinary Cases

The flow chart below sets out the sub-group’s recommendation for the place of AFRC within disciplinary cases.

Figure 1. AFRC’s recommended role in disciplinary cases



We recommend that the process set out above be prescribed in Ordinance.

We further recommend that disciplinary cases only proceed to a formal stage with the approval of a member of senior management, which in this instance we expect to normally be the Provost but could instead be a Pro-Vice Chancellor or other senior professor in the University appointed to act in this capacity by the Vice Chancellor. The same individual will then take responsibility for taking the case forwards, a role that in our discussions we have likened to that of a prosecutor (in the same analogy, AFRC plays the role of a jury).

AFRC will operate on an opt-out basis at its first stage; an individual subject to disciplinary proceedings who does not wish AFRC to consider their case will notify AFRC in writing of their decision to opt-out. AFRC will otherwise be convened in accordance with the process set out above.

If AFRC is convened, the stipulated role of the Chair of Faculty as amicus curiae is intended to provide oversight of the process. The stipulated timings are intended to strike a balance between allowing individuals to properly prepare for meetings and for timeliness in the overall process. Where recourse to all-staff policy is noted, this policy is subject to Senate approval and should include:

- The right of individuals to bring individual support to any stage of the formal disciplinary process including AFRC (e.g. work colleague, union representation, or academic expert);
- The right of individuals to comparable legal representation if the University opts to retain legal representation;
- The right of appeal.

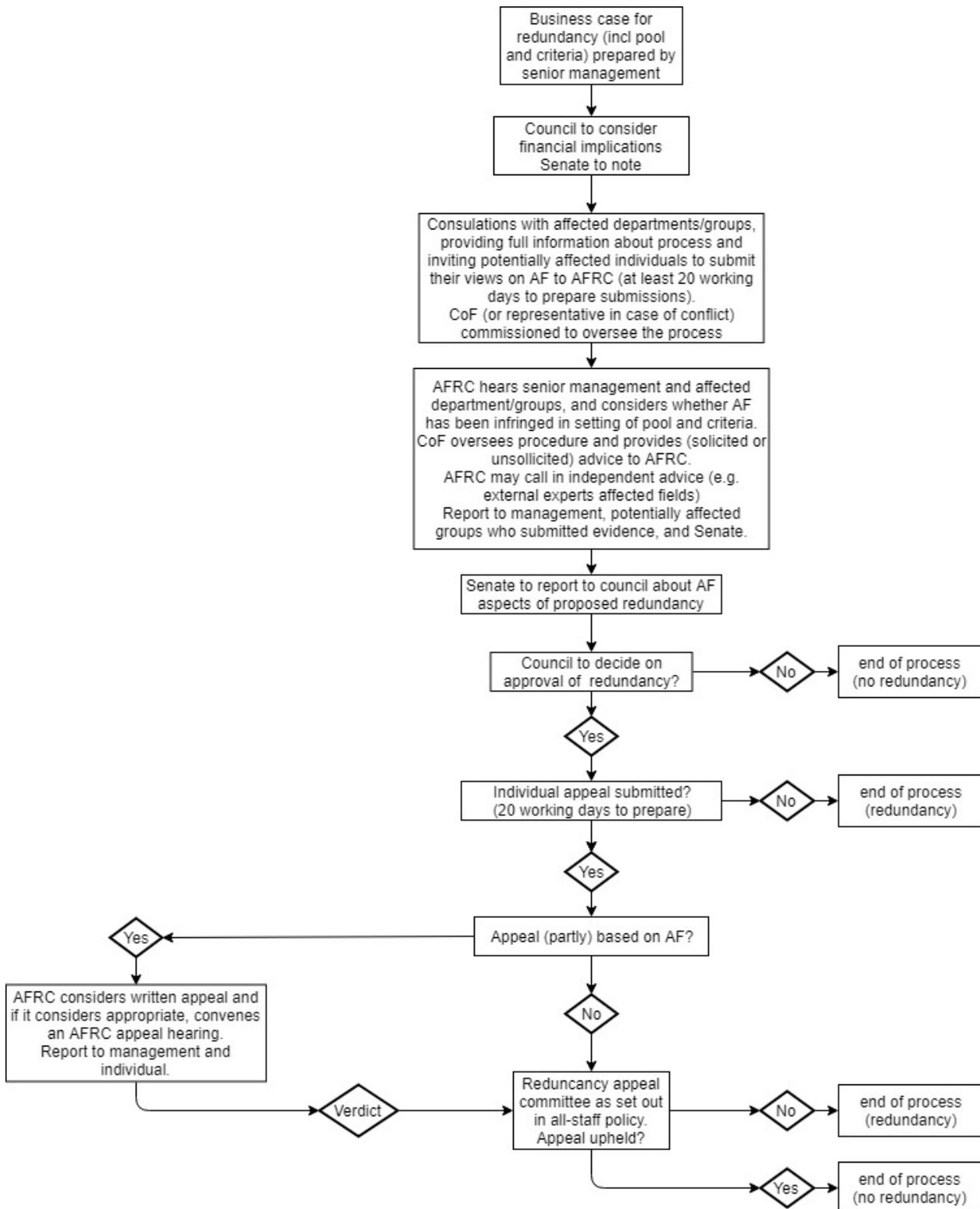
As further information regarding the reasons for the disciplinary case being brought could emerge as the process continues, an individual can opt for an appeal against disciplinary action on the grounds of academic freedom regardless of their earlier decision to opt-in or –out of the AFRC process at the initial stage. Should an appeal on the grounds of academic freedom be made, AFRC will be convened with new members from the rota, but these new members may ask for a briefing from those members that heard the case in the initial stage.

6. Role of AFRC in Redundancy Cases

We again recommend that the process set out in the flow chart below be prescribed in Ordinance. Under the redundancy process, AFRC has three roles. As well as considering the arguments of potentially affected individuals at an initial stage and the appeal stage in line with that stipulated for disciplinary cases, AFRC will also consider whether academic freedom has been contravened in the setting of the criteria used to determine whether or not redundancy is necessary and the establishment of a pool of posts at risk of redundancy as a result. Senate will provide a report to Council based on the findings of AFRC prior to Council taking a decision to proceed to redundancy.

As with the disciplinary procedure, the all-staff policy on redundancy is subject to Senate approval and to include the same allowances for individual support, legal representation and right of appeal as set out for the disciplinary cases above.

Figure 2. AFRC's recommended role in redundancy cases



7. Areas for further work

In addition to the provision of revised, statute and Ordinances in line with the processes set out above, we note that the following work needs to be tackled and that all are beyond the purview of our sub-group:

- Consideration of the terms of employment and statutory protection for academic colleagues on fixed-term contracts and permanent contracts linked to funding;
- Training for AFRC members, including its non-academic secretaries;
- Training for HoDs and senior managers to be involved in disciplinary and redundancy cases;
- Wording of definitions of misconduct and gross misconduct. Appendix B provides suggested drafts, but this is a task for AFRC in its first annual report.
- Wording of revised statute and Ordinance to reflect the recommendations made in this report.

8. Recommendations

We recommend that the Senate:

- Approve the formation of the Academic Freedom Review Committee (AFRC) as a standing sub-group of Senate;
- Recommend to the Council that the processes for disciplinary and redundancy cases set out above be written into revised Ordinance;
- Consider, as soon as practicable, a revised Statute 24, Ordinance and all-staff policies that reflect the contents of this paper;
- Note that these revised documents be subject to formal consultation with relevant Trades Unions and the Assembly, prior to approval by the Senate.

Professor Dan Branch
Chair, on behalf of the Senate Sub-group on Statute 24

5 June 2018

Appendix A: Membership and Terms of Reference of the Senate Sub-Group on Statute 24

Membership

Professor Dan Branch
Professor Aileen Clarke
Professor Maureen Freely
Philippa Glover
Professor Saul Jacka
Dr Thijs van Rens

Terms of Reference

- 1) To consult with and inform Council about academic freedom and its applicability;
- 2) To make recommendations to Senate for revisions to Statute 24 and associated Ordinances and Council-approved procedures (Disciplinary, Grievance and Redundancy procedures);
- 3) To recommend those matters relating to the potential dismissal of an academic member of staff that will be defined as not being at risk of potential conflict with academic freedom;
- 4) To review and make recommendations on proposed disciplinary and redundancy procedures in the light of the above.

Appendix B: Suggested Definitions of Principles and Definitions of Academic Freedom, Misconduct and Gross Misconduct.

As noted above, in the course of the Statute 24 working group's deliberations it became clear that clarification of certain principles and definitions will be necessary for AFRC to operate. The working group agreed that providing such definitions was outside its scope and that it was for AFRC to provide working definitions of these terms and establish precedents for use in specific cases. These principles and definitions are offered to provide a foundation from which AFRC can work.

Draft Principles for Academic Freedom

1. The university must provide rigorous and powerful protection from any effort to interfere with academic freedom, within or outside the university. This includes:
 - (a) The protection of the right of academics to exercise their academic judgment and to pursue, possibly unsuccessfully, novel or difficult lines of inquiry.
 - (b) The protection of the right of academics to challenge perceived wisdom.
 - (c) The protection and defence of the highest standards of academic freedom when conducting academic activities outside the university, including those in other institutions and jurisdictions.
 - (d) Reference to standards of academic freedom upheld by professional accrediting bodies.

2. Academics are expected to uphold the seven principles of public life
 - Selflessness;
 - Integrity;
 - Objectivity;
 - Accountability;
 - Openness;
 - Honesty;
 - Leadership;

These principles apply to an individual's conduct in their post as an academic. Assessment as to whether they are satisfied in an individual case is a matter of judgement, rather than merely the application of a rule.

3. Academic judgment involves responsibilities to respect and implement traditions of evidence and argument. This will be reflected in what is protected under academic freedom.
 - (a) Academic freedom protections will apply to scholarship, including creative work that is part of research or teaching, the search for and accumulation of evidence, and to evidence-based arguments.

- (b) Asserting the principle of academic freedom is not about protecting misconduct: it should give protection to investigation, thoughts, opinions, argument and their expression but not, in general, to other actions.
- (c) Not everything an academic says is said in an academic capacity: consequently, protection for academic freedom is not the same as protecting free speech, although the two principles are often intertwined.

A draft definition of Academic Freedom

Academic Freedom is the freedom of academics, while maintaining a strict regard for the truth,

- to pursue knowledge via scholarship and research without fear or favour, including the freedom to subject both the work of others and public beliefs to scrutiny;
- to question authority;
- to question and test received wisdom;
- to put forward new, controversial or unpopular ideas and opinions;
- to pursue difficult or risky lines of investigation;

and

- to invent or innovate in ways that may not necessarily be successful; without placing themselves in jeopardy of losing their jobs and privileges.

There is a widespread expectation that academics will discharge their duties to their subject, to fellow academics, to their employer and to the wider public while strictly upholding the seven principles of public life.

Draft definitions and principles related to the disciplinary code

Misconduct

Misconduct shall mean actions which constitute wilful or negligent non-performance of duties. This includes: failure to follow reasonable instructions; consistent tardiness or non-attendance at relevant activities; and persistent failure to follow *well-documented* University procedures.

Gross Misconduct

For academic staff, gross misconduct shall mean actions which substantially and egregiously breach one or more of the seven principles of public life.

This includes: serious criminal conduct; abuse of power (whether that power is informal or is derived from authority, position or membership); failure to treat other members of the University community fairly and with dignity and respect; the prevention of the legitimate expression of views by members of the University or others.

Principles

These should have respect for the principles of equity, representation, consistency and auditability. So

- there should be established rules of procedure;
- a suitably anonymised annual report should be made to Senate;
- legal representation should be permitted and other support, including union representation, should be permitted and facilitated;
- there is a right to appeal any decision negatively affecting a member of staff;
- an accurate record of proceedings and their constituent investigations should be kept;
- staff should be excluded from campus in only the most extreme circumstances and not just because someone else deems their presence “unacceptable”.

UNIVERSITY OF WARWICK

For the meeting of the Senate to be held on 13 June 2018

Subject: Statutory reform update

Prepared by: Professor Christine Ennew, Provost

Presenter: Professor Christine Ennew, Provost

Purpose of the paper: To provide an update to the Senate on the reform of Statute 24 and related Ordinances.

Key Points:

The following key points should be noted:

1. Revisions to the draft Statute and Ordinance have been made after discussion with the Senate sub-group established to review the Statute 24 proposals and specifically the operation of the proposed Academic Freedom Review Committee.
2. It is proposed that a meeting is held with Trade Unions regarding the revised draft Statute and Ordinance. Following the Trade Union meeting, it is proposed that an Assembly will be convened, prior to the revised draft Statute and Ordinance being presented to the Council at its July meeting for approval to commence the Privy Council consultation process.
3. The Privy Council consultation could potentially be completed over the summer period and thereafter, the draft Statute and Ordinance will be reconsidered by Senate and Council. The most likely timing for this final approval stage is October 2018.

Recommendations:

The Senate is invited to:

1. Consider the revised draft Statute and Ordinance;
2. Recommend to the Council that the revised draft Statute and Ordinance be submitted to the Privy Council for informal review.
3. Note that following feedback from the Privy Council, the draft Statute and Ordinance will be reconsidered by Senate and Council, with October of this year as the most likely timing.

Route Map for this Report			
Committee	Date	Reference	Action Requested / Taken
Senate	13 June 2018	S.55/17-18	To <u>consider</u> and <u>recommend</u> to the Council.

Statute 11[‡]

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

[‡] 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 X[§]) 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 X[§].

[§] 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 X[§]**Preamble**

In recognition of the fact that there may be concerns about Academic Freedom in relation to Statute 11[‡], 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.

[§] New Ordinance number to be confirmed.

[‡] Proposed new Statute number to replace Statute 24 pending Privy Council approval.

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.