

**APPENDICES TO THE BY-LAWS AND REGULATIONS
OF CHRIST CHURCH OXFORD
WITH EFFECT FROM 16 MARCH 2011**

Incorporating amendments to 21 August 2021

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APPENDIX I

Code of Practice: Management of Conflicts of Interest

Duty to declare

(a) Any member of the Governing Body or other person attending a meeting of the Governing Body who has a material interest in any matter of business before the Governing Body shall declare the interest at the beginning of each meeting at which that business is under consideration (or before the discussion of that business).

Meaning of material interest

(b) A material interest is any matter which may influence the judgment of the person possessing it, or may reasonably appear to be capable of influencing that person's judgment, so that the judgment may not be exercised wholly and exclusively in the interests of the House. A member of the Governing Body whose partner or close family members may benefit from any matter of business has a material interest.

Withdrawal from meeting

(c) If the material interest in question is a pecuniary interest, then the person declaring it shall withdraw from any meeting at which the business is under consideration, and shall not speak on the matter, unless the Governing Body shall have resolved to the contrary, but in no case shall the member vote on the matter.

(d) If the material interest is not a pecuniary interest, then the person declaring it shall withdraw from any meeting at which the business is under consideration, and shall not speak or vote on the matter, unless the Governing Body shall have resolved to the contrary.

Recording in the minutes

(e) Where a member of the Governing Body declares an interest, that fact shall be recorded in the minutes of the meeting. Any resolution of the Governing Body under paragraph (c) or (d) above allowing a person not to withdraw or to vote shall be recorded in the minutes of the meeting.

Excluded interests

(f) Paragraphs (a) to (e) do not apply to excluded interests. An interest is excluded if:

(i) it is an interest which arises from the holding of an office or position in the House, where other persons holding such an office or position in the House have a similar interest; or

(ii) it is an interest arising from membership of a Faculty or Department in the University, or the holding of an office or position in the University, where the other members of the Faculty or Department or the other persons holding such an office or position in the University, as the case may be, have a similar interest.

(g) In particular, an interest which arises from a general review of stipends or benefits is excluded.

(h) A person's interest in election or re-election to a Studentship or appointment or reappointment to any paid office or position in the House is not excluded, but matters concerning appointment or re-appointment to any unpaid position in the House are excluded.

Register of interests

(i) Members of the Governing Body shall register their material interests with the Treasurer, who shall record that information in a register kept for the purpose. Members of the Governing Body shall notify the Treasurer of any new material interest occurring whenever such new material interest occurs. The register shall include a statement of membership of any Faculty or Department in the University, and the holding of any office or position in the University. The register of interests shall be available for inspection in the Treasury.

(j) Any position as a shareholder, company director or charity trustee shall not constitute a material interest for the purposes of paragraph (i) unless there is a reasonable possibility that the company or charity may be engaged in any business, appeal, or transaction involving the House.

Doubts as to meaning of material interest

(k) If the Dean considers that any member or members of the Governing Body may have an interest which should be treated as a material interest for the purposes of paragraphs (a) to (e) above, then the Dean may ask the Governing Body to determine the matter, in the absence of the person or persons concerned, after hearing their views. The Governing Body's decision shall be binding on the person or persons concerned.

Committees

(l) The code shall apply with necessary modifications to committees, sub-committees, working parties and other bodies constituted by the Governing Body.

APPENDIX II¹

Code of Practice: Retirement

*Adopted by the Governing Body on 23 May 2012, amended on 17 June 2020,
and given effect by By-law 46A*

Part One - Background, rationale and scope of the Employer Justified Retirement Age (EJRA)

a. Christ Church has agreed to maintain a retirement age for academic staff, primarily to support its mission to sustain excellence in teaching and research and to maintain and develop its position as part of a world-class university. It has also agreed to maintain a retirement age for the Head of House, to secure robust leadership for the dual foundation.

The college's EJRA procedures aim to provide a fair and inclusive process through which the college is able to manage the future of academic posts and the key position of Dean. The procedures seek to balance the wishes of the individual with the needs of the college by

(i) facilitating the timely discussion of options with a view to identifying possible future arrangements which are acceptable to all parties and

(ii) providing a clear decision-making and appeal process which allows account to be taken of all relevant considerations.

b. The EJRA will operate for an initial period of 10 years from 1 October 2011. The application and outcomes of these arrangements will be reported annually to the governing body and will be subject to an interim review after five years. These reviews will take into account all relevant considerations, including the continued relevance of the aims set out above to academic staff of Christ Church and to the Dean, the application of the EJRA and the procedure for exceptional limited continuation, as well as relevant external developments in relation, for example, to pensions and longevity.

¹ Throughout this Appendix, 'employee' includes 'office-holder', 'worker', 'statutory professor', 'Canon', and all holders of appointments to any office which may not be employment within the meaning of the Employment Rights Act 1996; 'employment' includes 'tenure of office' and 'service as a statutory professor and/or as Canon'. This By-law does not therefore confer employment status where any individual office-holder, worker, statutory professor or Canon is not otherwise an employee.

2. Aims of the EJRA

a. The EJRA and its associated procedures are considered to provide a proportionate means of:

- safeguarding Christ Church's high standards in teaching and research;
- promoting inter-generational fairness and maintaining opportunities for career progression for those at particular stages of a career, given the importance of having available opportunities for progression across the generations, in order, in particular, to refresh the academic workforce within Christ Church and to enable them to maintain the collegiate university's position on the international stage;
- facilitating succession planning by maintaining predictable retirement dates, especially in relation to the collegiate University's joint appointment system, given the long lead times for making academic appointments, particularly in a university of Oxford's international standing;
- promoting equality and diversity, noting that recent recruits are more diverse than the composition of the existing workforce, especially amongst the older age groups of the existing workforce and those who have recently retired;
- avoiding the danger of negative effects on staff morale and dignity in the workplace by using a predictable retirement date to manage the need to make efficiencies by retiring staff at the EJRA; and
- in the context of the distinctive collegial processes through which the college is governed, avoiding invidious performance management and redundancy procedures to consider the termination of employment at the end of a long career.
- securing strong and active leadership as Head of House from those who have already distinguished themselves in their careers

3. Scope

a. The EJRA applies to all academic staff employed by Christ Church including (in relation to their college appointments) the holders of joint academic appointments with Oxford University. By 'academic staff' is meant all Official Students and other holders of joint academic appointments, Ordinary Students with Professorial appointments, Canon Professors and all college lecturers. A separate EJRA applies to the Head of House.

b. Christ Church has established an EJRA of the 30th September preceding the 69th birthday for all academic staff as defined in 3 a.

The Dean of Christ Church will be deemed, from 1 October 2011, to have a retirement date of 30 September preceding his or her 71st birthday, which shall be the EJRA for the Head of House.

c. Oxford University currently expects to review its EJRA in 2021. Christ Church will review its EJRA at the same time.

- d. Unless the terms of any prior agreement to work beyond the EJRA preclude any further extension of employment, a member of staff whose retirement has been set later than the EJRA may apply for a further extension under the procedures set out below.
- e. No provision associated with the EJRA shall affect the right of any employee of the college to retire at a date earlier than that specified under the EJRA, or the benefits to which they are entitled under the relevant pension scheme.
- f. The procedure set out in part two is intended for the consideration of all requests to continue working beyond the EJRA, including those that entail a modification of duties or working pattern after that date.

4. Consideration of requests to work beyond the EJRA

a. All requests to continue working beyond the EJRA will be considered in the context of the aims of Christ Church in maintaining the EJRA as set out in section 2 above. Applications will be approved only where, having taken account of the considerations set out below, the Governing Body, having received advice from a panel, is convinced that any detriment to the furtherance of the aims of the EJRA is offset by a balance of advantage arising from an extension of employment. The relevance of each consideration will depend on the post in question. The panel and subsequently the Governing Body as decision-maker will weigh the advantages of continued employment against the opportunities arising from creating a vacancy or part-vacancy, including the possibility of recruiting someone else, using the vacancy for a different purpose, or leaving the post vacant for a period (whichever may apply).

Relevant considerations might include the following:

- Should employment be extended, would the individual be expected to make a significant contribution to the college, for example through distinguished scholarship, teaching or administration, and would the loss of this contribution be unacceptable to the college?
- Would the employee's contribution be hard to replace given his or her particular skills set and/or the employment market? For example, does the college need, for a defined period, to retain expertise in order to complete a specific project, or to retain skills that are currently in short supply?
- How would continued employment, compared with the opportunity arising from a vacancy, fit with the future needs of the college over the proposed period (for example, where there is a desire to develop a new field of research or a new course)?
- What is the likely impact of continued employment compared with the opportunity arising from a vacancy on the quality of work of the college, for example on its ability to respond to student needs or to meet research aims?

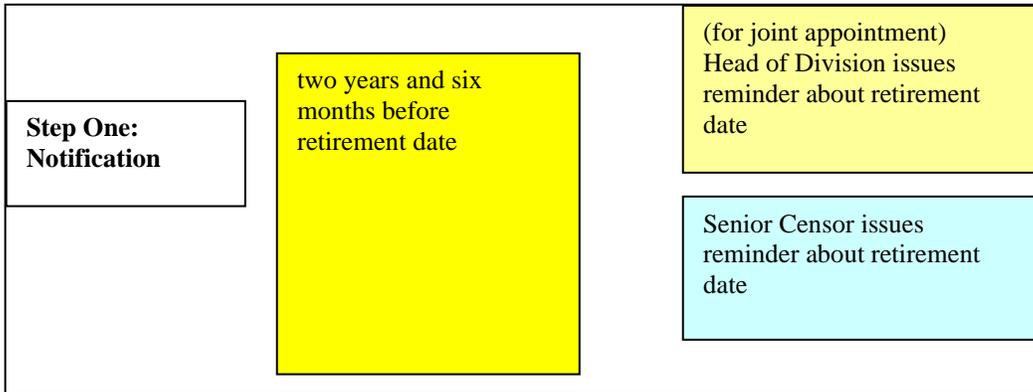
- How would any financial consequences which would accrue from a continued employment over the period proposed compare with those which might accrue from the opportunity arising from a vacancy?
- What is the likely impact of continued employment compared with the opportunity arising from a vacancy on opportunities for career development and succession planning, bearing in mind recent and expected turnover?
- What is the likely impact on the promotion of diversity?
- Is the duration of the proposed extension of employment appropriate in terms of the benefits expected to the college?
- In the case of a joint appointment, what are the implications of the wishes of the individual for the joint nature of the post: for example, where the request involves only one part of a joint appointment, has some suitable means been found of managing the future of the joint appointment so as to protect the shared educational interests of the University and colleges?
- Are there relevant personal circumstances that would properly justify exceptional treatment?

Part Two - The Process

(a) Notification and Discussions

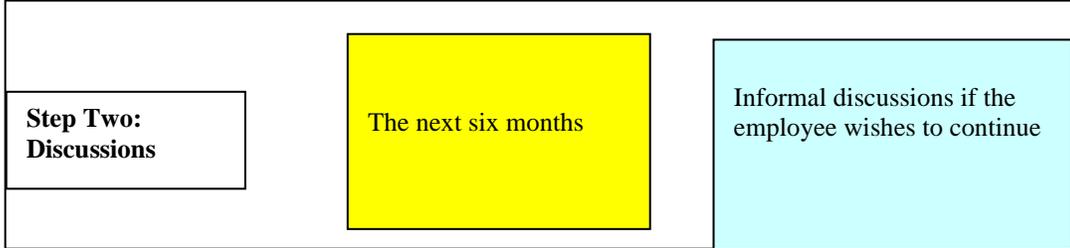
Christ Church has adopted the following procedure for considering requests from academic staff who are due to retire on or after reaching the EJRA but who wish to extend their employment and are not precluded from so doing under the terms of any individual agreement. The procedure for considering a similar request from the Dean varies only in certain details, which are made clear in the relevant sections below. The procedure for considering requests from academic staff who do not hold joint appointments varies only in that no reference will be made to the Division or Faculty.

Step One – Notification



The Senior Censor will remind academic staff and the Dean in writing of their normal retirement date and of the process for requesting continuation in employment beyond that date no later than two years and six months before their retirement date under the EJRA. In the case of joint appointments, this notification will be copied to the relevant head of division and the head of division will also send a letter to the member of staff with reference to their university employment. Where it judges it necessary, the college may decide to give earlier notification.

Step Two – Discussions



Any staff member who wishes to continue in employment beyond the EJRA should first discuss his or her situation informally and in good time with the Senior Censor. If the staff member concerned holds the post of Senior Censor, or there is another reason for the Senior Censor not to be involved in this process, the Senior Ex-Censor should act as alternate for the Senior Censor both at this and subsequent stages in the process. The Senior Censor (or alternate) may consult Tutors and/or Lecturers, if any, in the same subject area as the staff member.

Holders of joint appointments should also consult their head of department and/or division. Similarly, where a contract of any type is held with another body, such as an NHS trust, or another college, that other body should also be consulted.

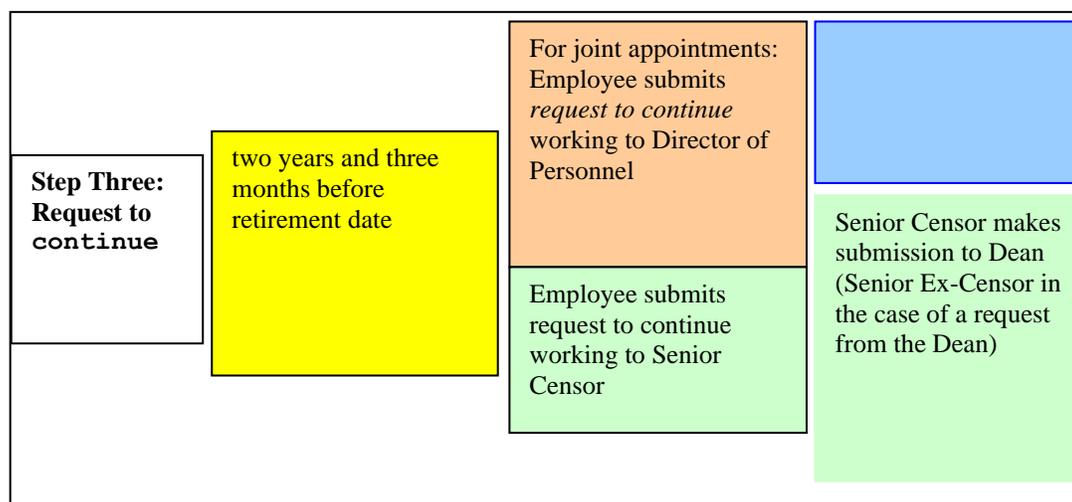
Early exploration of all options is encouraged. In the case of joint appointments, it is possible that the staff member may wish to continue working in only one part of the joint appointment, or one employer might wish to agree continued employment while the other does not.

In all cases, the substantive appointment will be released, and if it is agreed that the member of staff will continue in employment after the EJRA, he or she will be offered one or more new fixed term contracts, though with continuity of service. In this context, a staff member holding a joint appointment and wishing to continue to work might wish to consider a new contract issued by one employer that would be compatible with retirement from the other part(s) of the joint employment. Flexibility should be encouraged, subject to the aims of the EJRA.

These informal discussions, which may take place at any time, will not result in a definitive decision by the college but may help inform any formal request which might subsequently be made by the individual. Such discussions are intended to provide opportunity for the formulation of a request with which all parties will be content.

(b) Submission and consideration of the request to continue

Step Three – Request to Continue



If the staff member wishes to continue in employment beyond the EJRA, he or she should submit his or her case in writing to the Senior Censor two years and three months before the EJRA setting out the proposed working arrangements and the length of extension requested.

The request to continue working, whether in a college appointment, or in the college part of a joint university and college appointment, beyond the EJRA should be submitted formally in writing, by the Senior Censor to the Dean (or, where appropriate, the Senior Ex-Censor), as part of an agreed submission. Any request relating to the university part of a joint appointment should be made to the Director of Personnel and Related Services, in accordance with the university's procedures. The submission should consist of, and set out clearly:

- a) the request made by the member of staff, including the proposed working arrangements and the length of extension requested;
- b) an account, agreed where possible, of how the request relates to the considerations for extensions set out in the college's policy;
- c) the view of the Senior Censor setting out relevant academic or other college circumstances and background and making clear whether he or she supports the request;
- d) in the case of joint appointments, the views of the Division and any other associated employers (e.g. the NHS or another college. If, in the case of a joint appointment, a decision has already been made with regard to the university or other employment, the outcome of this should be included.

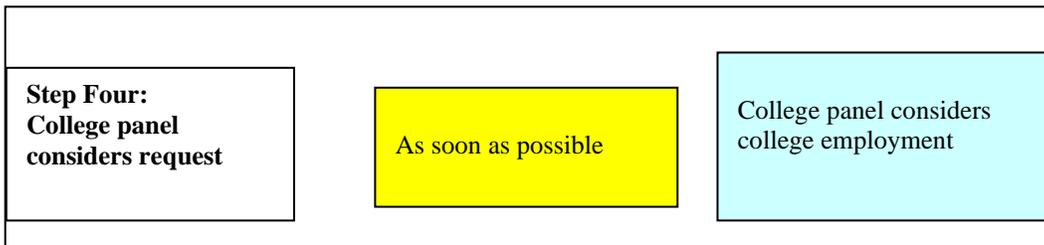
The member of staff should be invited to append to the submission any supporting material he or she may consider appropriate.

The normal deadline for such requests to reach the Dean (or, where appropriate, the Senior Ex-Censor) is two years before the retirement date under the EJRA. Later requests

may be considered in exceptional circumstances, but only with the agreement of Christ Church and any relevant employers external to Christ Church (e.g. Division, department, NHS Trust). A delayed deadline will be given in cases where, within the first two years after the introduction of these procedures, it is not possible to give a full two and half years' notification of retirement.

Step Four – Consideration of request

The college will aim to complete the following steps as soon as possible, with the aim of ensuring that a final decision is made by the end of Trinity Term, a full year before the EJRA retirement date.



All requests to continue in employment by the college beyond the EJRA other than a request by the Dean will be considered by a panel appointed by the Governing Body on the advice of the Dean and Censors. The panel shall consist of the Dean, and four other members of the Governing Body; where possible, one of the latter shall be in the same broad subject area as the individual staff member in question.

In the case of a request from the Dean to continue in employment by the college beyond the EJRA, a panel shall be appointed by the Governing Body on the advice of the Censors, the Senior Ex-Censor and the Sub-Dean. The panel shall consist of an independent Chair nominated by the Sub-Dean and the Senior Ex-Censor, two Canons of the Cathedral who are also members of the Governing Body and two other members of the Governing Body who are not Canons.

As the Senior Censor is responsible for presenting the case for extension to the Head of House or Senior Ex-Censor as appropriate, he or she will not be involved in the panel in either case.

The panel will assess each request on its own merits against the considerations/ criteria and in the context of the aims of the EJRA, as set out above, and in the light of any exceptional personal circumstances.

In the case of joint appointments, the chair of the panel will liaise with the chair of the equivalent university panel over matters of process, including the relative timings of the work of the two panels and the communication between the panels of their decisions, as may best suit the individual case and allow for issues relating to the joint nature of the post to be addressed.

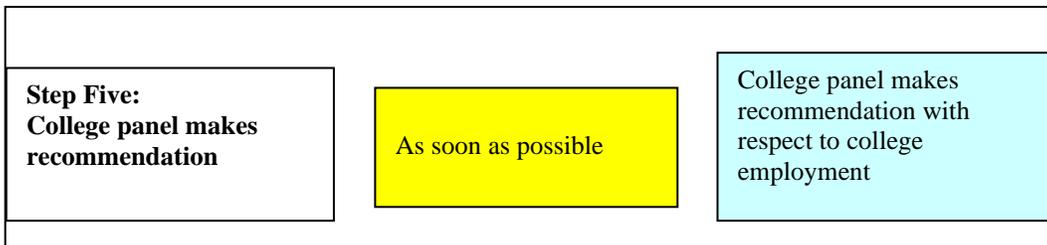
The panel shall consider the request in the light of the considerations set out in section 4

of the policy above, taking due account of the needs of Christ Church and the views of the individual staff member, and of any others with an interest, which may include the division, department, another college or an NHS Trust, as appropriate. The panel shall seek any clarification it deems necessary. It shall invite the staff member to a meeting to make his or her request for an extension in person, if he or she so chooses, and may also call upon the Senior Censor (or his or her representative), representatives of the division, the department and any other parties as appropriate. Relevant documentation shall be provided to all the parties in advance of the date of any meeting of the panel arranged to address the request. The staff member shall have the right to be accompanied by a trade union representative or a colleague.

Where the panel and the parties representing the employers external to Christ Church support the request to continue beyond the EJRA, the expectation is that the panel will recommend approval of that request to the Governing Body after having satisfied itself that the aims of the EJRA have been sufficiently addressed.

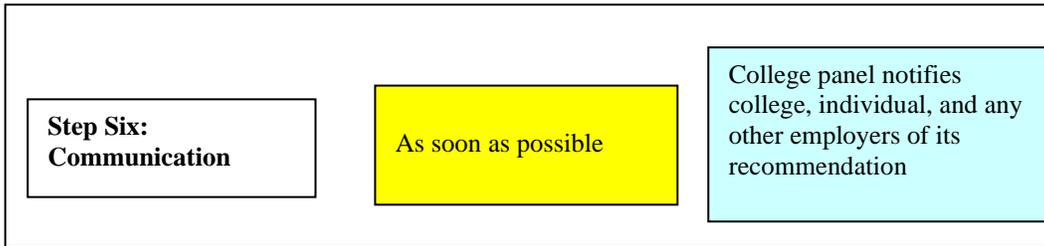
Where the college does not support the request for an extension, or, in the case of a joint appointment, where there is a difference of views between the employers, further submissions may be made to the panel in writing. It should however be recognised that each part of the joint appointment is a separate contract, and any extension granted would be to a separate fixed-term contract.

Step Five: The panel makes a recommendation



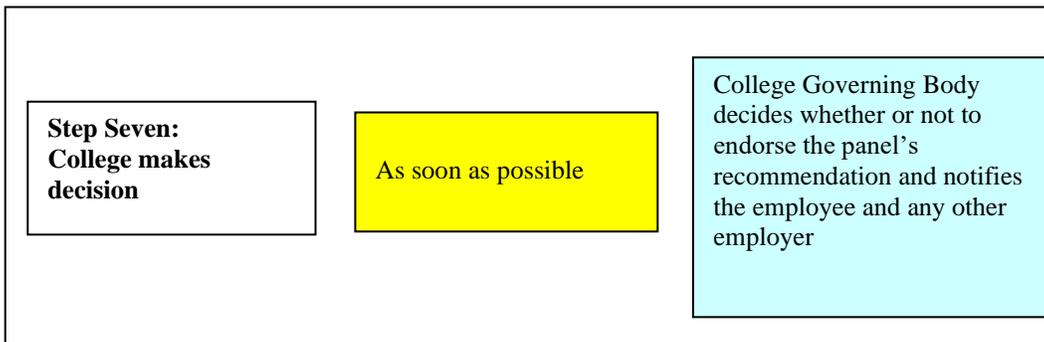
The panel will make a recommendation to the Governing Body on the request for extension of employment (in the form of a new fixed-term contract with continuity of service) including the length of time of any such extension.

Step Six: Communication



The panel will inform the individual of its recommendation in writing. The letter will give reasons for the recommendation and the length of any extension proposed.

Step Seven: College makes decision



The Governing Body will then decide whether to accept the panel's recommendation and will notify the individual, division and department, as relevant, of its decision.

Where the request to continue working beyond the EJRA is rejected, the individual will be notified in writing of the right of appeal.

Where a decision is taken to extend employment under these procedures beyond the EJRA, the employee will be issued with a fixed-term contract, to terminate at the date set by the Governing Body in agreeing to the extension, but with continuity of employment. This contract will state the details of the specific hours, duties, salary and other terms and conditions for the extension. On any occasion when the Governing Body shall agree an extension to the period of employment in accordance with this procedure, it shall decide whether to permit any further application to be made under this procedure. If so, it shall decide whether any further notification is necessary equivalent to that set out in step 1 above and set an appropriate time limit in place of that set out in step 3 above by which any application shall be made for a further extension.

Step Eight: Appeal

Where an appeal is instituted against the rejection of a request to continue working beyond the EJRA, the Governing Body shall appoint a panel to hear and determine that appeal. The committee shall consist of five persons. It shall be chaired by one person not employed by Christ Church holding, or having held, judicial office or being a barrister or solicitor of at least ten years standing. Two other persons serving on the committee shall be chosen by Governing Body from the external members of the Salaries Board or the Finance Committee, and two shall be Senior Tutors of other Oxford Colleges, chosen by the Governing Body.

The panel shall hear and determine the appeal as expeditiously as is reasonably practicable. It shall hold an oral hearing to which the appellant shall be invited, along with any person appointed by him or her to represent him or her. It shall call the Senior Censor (or other representative of Christ Church) to explain the decision of the Governing Body, and seek any clarification it deems necessary, by calling other witnesses if appropriate. Relevant documentation will be provided to all the parties in advance of the date of any meeting of the panel. The staff member will have the right to be accompanied by a trade union representative or a colleague.

The panel may either dismiss the appeal against the decision of the Governing Body, or direct that the person making the appeal be allowed to be offered one or more new fixed term contracts, though with continuity of service for the period requested or for such lesser period as the panel shall determine or on otherwise different terms.

APPENDIX III

By-laws relating to Statute XXXIX. - Redundancy, Discipline and Incapacity of Academic Staff; Grievance Procedures

PART I INTRODUCTION

- I.1 In this Appendix, “the Statute” means Statute XXXIX (Redundancy, Discipline and Incapacity of Academic Staff; Grievance Procedures) and references to numbered Parts and Clauses are references to Parts and Clauses so numbered in the Statute.
- I.2 For the purposes of this By-law, any powers of the Dean may be exercised instead by a duly appointed alternate or by a deputy with due authority; references to the Dean shall throughout this By-law be construed as including references to the alternate or deputy.

PART II REDUNDANCY

II.1 Governing Body Meeting (Clause 10(b))

- II.1.1 If a reduction in academic staff or activity is contemplated for any reason, the Dean shall call a special meeting of the Governing Body to consider and determine upon the matters set out in Clause 10(b) of the Statute.
- II.1.2 If any member is unavoidably unable to attend the special meeting, and reasonably considers that he may be personally affected by a decision under Clause 10(b), for example because the Governing Body may be considering deleting a subject altogether, he shall be entitled to seek a postponement of the meeting by written notice delivered to the Dean at least three days before the date set for the meeting.
- II.1.3 Before the special meeting, the Dean shall cause to be prepared for the Governing Body a detailed confidential memorandum containing all relevant available information including financial and academic matters and setting out in detail the arguments for and against making any reductions and as far as possible without reference at this stage to the position of any individual members of academic staff who may be affected.
- II.1.4 The memorandum shall put all considerations forward fairly and in an even-handed manner and shall not recommend any specific course of action. The memorandum shall evaluate as far as possible the impact of any reduction on the principles established by Clause 1 of the Statute.

II.1.5 The memorandum shall be circulated at least seven days before the meeting of the Governing Body, representations shall be invited and any which are received by the Secretary to the Governing Body by noon on the third day before the day of the meeting shall be circulated to all members of the Governing Body.

II.1.6 Before making any decision under Clause 10(b) the Governing Body shall consider the impact of such a decision on the Board or Boards of any relevant Faculty or Faculties or Board of Studies and shall consult the relevant University bodies.

II.2 Redundancy Procedure – Initial Stage

II.2.1 Once a decision has been reached in principle under Clause 10(b) of the Statute, the Governing Body shall appoint a Redundancy Committee (“the Committee”) unless it determines that it will carry out the task of handling any redundancies itself.

II.2.2 Members of the Committee shall be selected in accordance with the provisions of Clause 11 of the Statute. No members who appear to be or are likely to be personally affected shall be chosen. No one to whom the Statute applies shall be eligible for selection unless he has been employed by the College for at least two years. Notwithstanding By-law 31(1), the Chairman of the Committee shall be expressly so appointed by the Governing Body.

II.2.3 In the case of potential collective redundancies the Governing Body shall, and in all other cases may, establish appropriate procedures for consultation with representatives of the members of staff potentially affected. Such consultation shall generally be carried out by the Redundancy Committee, or, if none is appointed, by the Governing Body itself. Such consultation shall be either with a recognised trade union or with specially elected “workplace” representatives as defined by any relevant legislation currently in force, and shall commence in good time with a view to reaching agreement in relation to the matters set out in any legislation in force for the time being.

II.2.4 The Redundancy Committee (or, if none is appointed, the Governing Body) shall meet as soon as is reasonably practicable to establish a time-table for consideration of the issues. The Committee shall identify those who are potentially at risk of redundancy and try to think of any way of avoiding redundancy and/or mitigating its effects. It shall also consider, where applicable, the criteria for deciding who should be chosen from among those who are potentially redundant.

II.2.5 No decision shall be taken upon any of the relevant matters without the Committee’s ensuring that there has been full and proper consultation with the affected individuals and their representatives. Before any decision is made, the Committee shall ensure that each individual is provided with all relevant information and given an opportunity to meet members of the

Committee (accompanied by a representative if they wish) and to make representations on any aspect of the case.

- II.2.6 Having considered all relevant matters the Redundancy Committee shall meet to formulate and prepare a written report of its recommendations and the reasons for them, and this shall be provided to the Governing Body and to the affected individual(s) and their representative(s).

II.3 Decision to Dismiss

- II.3.1 Upon receipt by the Secretary to the Governing Body of the report and recommendations of the Redundancy Committee a special meeting of the Governing Body shall be convened to consider the matter further.

- II.3.2 Any individual whose dismissal on grounds of redundancy is recommended by the Redundancy Committee shall be permitted at least two weeks between the date of the Committee's report and the special meeting of the Governing Body to prepare and submit any representations to the Governing Body. Any representations which are received by the Secretary to the Governing Body by noon on the third day before the day of the meeting shall be circulated to all members of the Governing Body.

- II.3.3 In addition to submission of written representations, the individual concerned shall have the opportunity to make oral representations to the Governing Body at the special meeting before any decision is made and shall be entitled to be accompanied and/or represented by a person of his choice.

- II.3.4 If a Redundancy Committee has been appointed, the Governing Body may request the Chairman of the Committee or his delegate to attend the Governing Body meeting to present the Committee's recommendations and to answer questions from the Governing Body and/or the individual(s) concerned. The Governing Body may ask the Redundancy Committee to carry out further consultation with affected individuals or any other appropriate person.

- II.3.5 No meeting of the Governing Body at which a decision to dismiss under Part II is taken shall be quorate unless at least 50% of those entitled to attend are present and no vote shall be effective unless at least 50% of those attending vote in favour. Members of the Governing Body who are affected by the Redundancy Committee's decision or who are members of the Committee shall be entitled to vote.

- II.3.6 Before making any decision to dismiss, the Governing Body shall specifically consider whether the dismissal can in any way, including alternative employment, be avoided. The Governing Body shall also ensure that it is fully aware of any USS or other pension scheme options which the individual affected may be able to exercise in the event of redundancy.

- II.3.7 If the Governing Body votes to dismiss any member on grounds of redundancy, a written note of this decision and a copy of the procedures for

an appeal shall be provided to the individual affected and his representative. No decision shall be implemented until after any appeal has been determined under Part V.

- II.3.8 If the Governing Body decides upon the dismissal of any individual on grounds of redundancy, it shall ensure that provision is made to assist that individual with financial and career planning, with reasonable expenses to be met by the College.

PART III DISCIPLINE, DISMISSAL AND REMOVAL FROM OFFICE

Pre-dismissal procedure

III.1 Informal Stage

- III.1.1 Where it appears to the Dean that the conduct or performance of a member of academic staff is falling below an acceptable standard, the Dean may arrange to meet that individual informally to explore the situation and to consider what action can be taken to improve his conduct or performance. The Dean may appoint a Student or Canon or Emeritus Student or Honorary Student to conduct the informal discussions with the individual concerned either with the Dean or alone. This informal discussion shall not be viewed as disciplinary action. A record of this initial meeting may be kept, provided that a copy of any such record is made available to the individual concerned. If the individual prefers, the discussion may be kept confidential at this stage.

III.2 Disciplinary Warnings

- III.2.1 In any case where it seems to the Dean that the performance and/or conduct of a member of academic staff appears not to meet acceptable standards but where the circumstances do not appear to raise prima facie grounds for dismissal (for example, after investigation of a complaint submitted to the Dean under Clause 14(a) which is not to be referred to an Academic Disciplinary Committee), the Dean may convene a meeting with the individual to consider the matter and any appropriate sanction. No disciplinary sanction shall be imposed unless the individual has had reasonable notification of the allegations made against him and an opportunity to respond and until the matter has been properly investigated by or at the behest of the Dean.
- III.2.2 Before the disciplinary meeting, the individual concerned shall be provided with written notification of the date and nature of the meeting, the matters to be considered and copies of any relevant statements. He shall be permitted to be accompanied or represented by a colleague or representative from any professional body or trade union of which he is a member, but shall not normally be permitted legal representation at this stage.

III.2.3 If it appears to the Dean that the individual's conduct and/or performance has fallen below acceptable standards, and depending on the gravity of the situation and all the circumstances of the case, the Dean may issue an oral or written warning.

III.2.3(a) **Oral Warning**

The oral warning is the first stage of the disciplinary procedure. It shall normally be issued in the presence of a witness and shall state clearly that it is the first stage of the disciplinary process. The reasons for the warning shall be specified, together with any agreed plan of action for improvement, where applicable. The oral warning shall be recorded in a dated written note, a copy of which shall be provided to the individual. The note shall be kept by the Dean and shall be destroyed after one year.

III.2.3(b) **Written Warning**

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

III.2.4 If either an oral or a written warning is issued, the individual concerned shall be notified of his right of appeal under Clause 13(*a*) of the Statute.

Dismissal Procedure

III.3 Dismissal

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

III.3.1 Upon receipt of a request under Clause 15 of the Statute from the Dean, the Governing Body shall appoint the Academic Disciplinary Committee (the "Committee") as soon as reasonably practicable and shall inform the

individual to be charged by written notice that the Committee has been appointed to consider any charge or charges to be brought. The written notice shall include the names of the three members of the Committee and shall enclose a copy of this By-law. At the same time the Governing Body shall appoint a solicitor or other suitable person to formulate charge(s) and to conduct or arrange for the conduct of the hearing. Notwithstanding By-Law 31(i), the Governing Body shall appoint one of the three members to act as Chairman. If the Committee finds itself for good reason unable to act, the Governing Body shall have the power to discharge it and appoint a fresh Academic Disciplinary Committee.

- III.3.2 Subject to the provisions of the Statute and any provision to the contrary in this By-law, the Committee shall have power to regulate its own proceedings. The Committee shall be quorate at any time provided at least two members including the Chairman are present, and in the event of any vote of the Committee which is tied, the Chairman shall have a casting vote. The Committee shall be entitled to appoint a secretary to support it in discharging its function and to take notes of evidence at any hearing.
- III.3.3 The person appointed to formulate the charge or charges ("the prosecutor" - which expression may include a firm of solicitors or any person instructed to act on that person's behalf) shall notify the individual charged of the date and time set for the hearing of the charge or charges.
- III.3.4 The individual charged shall notify the prosecutor of any representative he has appointed to act for him and any further communications shall be addressed to the individual charged and to any representative appointed by him. Any fees or expenses payable to the representative (other than reasonable travel costs and out of pocket disbursements) shall be at the charge of the individual accused.
- III.3.5 The Committee Chairman may make any interlocutory directions he considers necessary for the fair conduct of the hearing, including but not limited to any directions as to the hearing date(s), whether at the request of either party or otherwise of his own motion. The Chairman may also remit any matters to the Dean for further consideration and has power to join further parties to the case if he considers it appropriate to do so upon notice to the parties of such joinder. The Chairman of the Committee shall set the date, time and place for the hearing and may also set appropriate time limits for each stage (including the hearing), to the intent that any matters be heard and determined expeditiously. If the Chairman considers it appropriate in all the circumstances of the case he may request the Dean to consider the suspension of the individual charged under Clause 14(c).
- III.3.6 At least 21 days before the date set for the hearing, the prosecutor shall forward the following to the Committee and individual charged and any other parties to the hearing:
- (a) the charge or charges;

- (b) copies of any documents specified or referred to in the charge or charges;
 - (c) a list of witnesses to be called by the prosecutor;
 - (d) copies of statements containing the witnesses' evidence.
- III.3.7 At least seven days before the date set for the hearing, the individual charged shall forward to the prosecutor copies of any documents on which he wishes to rely, a list of his witnesses and copies of their statements of evidence. The prosecutor shall ensure that copies of all these are prepared and forwarded to the Committee as soon as practicable.
- III.3.8 The jurisdiction and power of the Committee shall not be restricted by the fact that the individual charged has been, or is liable to be, prosecuted in a court of law in respect of any act or conduct which is the subject of proceedings before the Committee. The Committee may postpone or adjourn a hearing, if it considers it appropriate, to enable a prosecution to be undertaken.
- III.3.9 Subject to the consent of the Committee, both the prosecutor and the individual charged may introduce new evidence at the hearing save that in the case of the prosecutor such new evidence shall not be admitted except for good reason. In the event that new evidence is admitted on behalf of one party, the other party shall have the right to an adjournment to allow him time to consider the evidence and its effect on the case and may then submit further evidence in response, provided that the Committee consents, such consent not to be unreasonably withheld.
- III.3.10 The Committee may proceed with the hearing in the absence of any party but shall not do so in the absence of the individual charged or his representative unless it is satisfied that it is reasonable to do so in all the circumstances of the case or unless the individual charged agrees or so requests.
- III.3.11 Subject to the right of the individual charged, his representative and the prosecutor to be present throughout the hearing, the Committee may decide whether to admit any persons to, or exclude them from, the hearing or any part of it.
- III.3.12 Each party to the proceedings shall be entitled to give evidence at the hearing, to make an opening statement, to call witnesses, and to question any witness. Closing statements may be made by the prosecutor first and then any other parties, with the individual accused being given the opportunity to speak last.
- III.3.13 Without prejudice to the Committee's general power to regulate its own conduct, it shall specifically have the power to set time and other limits on the evidence to be called for each side consistent with providing a fair opportunity for each party to present its relevant evidence whilst ensuring that the charge is heard and determined as expeditiously as is reasonably practicable. The Committee shall have power to adjourn the proceedings from time to time as it sees fit.

- III.3.14 The Committee shall ensure that its secretary or some other appropriate person is present throughout the hearing so that a full and accurate record of the evidence may be taken.
- III.3.15 It is for the prosecutor to prove the charge or charges. In determining whether the charges or any of them are proved the Committee shall consider the evidence and decide whether on balance it considers that good cause for dismissal within the meaning of Clause 5 of the Statute has been proved in respect of the charges before it.
- III.3.16 If the Committee decides that one or more charges have been proved, it shall give each party an opportunity either orally or in writing at the option of the Committee to address it on the question of penalty and/or mitigation before determining any recommendations that it may make to the Dean.
- III.3.17 The decision of the Committee shall be recorded in a document in which the Committee's findings of fact, its reasons for the decision and any recommendations as to penalty are contained. The document shall be signed by the Chairman of the Committee and at least one other member. The document shall be sent directly by the secretary of the Committee to the individual charged and to his representative in addition to the other parties specified in Clause 19 of the Statute. The individual charged shall be notified of his right of appeal against the decision or against any recommendation of the Committee as to penalty.
- III.3.18 Where any charge has been upheld and the Committee has recommended dismissal, the Dean or his delegate shall inform and consult the Governing Body before making any decision as to penalty. He shall arrange for a special meeting of the Governing Body for this purpose and shall keep the individual charged informed as to the process. The individual charged shall not have the right to make further representations to the Dean at this stage.
- III.3.19 If the Dean decides to dismiss the individual charged he may do so forthwith or upon such terms as he considers fit. The Dean may dismiss the individual summarily in cases of gross misconduct, or with notice (or pay in lieu of notice) in all other cases. If the Dean decides not to dismiss, the actions he may take are as set out in Clause 20(b) of the Statute. Any warning given under Clause 20(b)(iii) shall be recorded in writing and shall be destroyed after two years. In all cases the Dean's decision shall be communicated in writing to the individual charged and to the Governing Body.
- III.3.20 No decision with regard to dismissal or to other recommendations of the Committee shall be implemented until after any appeal has been determined under Part V.

PART IV REMOVAL FOR INCAPACITY ON MEDICAL GROUNDS

Preliminary Procedure

IV.1 Preliminary Stage

IV.1.1 Where from the conduct or performance of a member of academic staff it appears to the Dean that there may be cause for concern about that individual on medical grounds, and in any case where the individual has been absent on medical grounds for an aggregate period of six months in any twelve month period, the Dean shall meet him and consider the circumstances of the case. The consultation shall be confidential if the individual so wishes, but the Dean may appoint an informal panel of two or three persons to advise and assist him.

IV.1.2 At this stage the purpose of the meeting and any subsequent investigations is to elucidate the nature of the problem and to consider ways of assisting the individual to resume his full contractual duties. If the Dean considers it advisable, he shall seek the individual's consent to disclosure of the latter's medical record in accordance with the Access to Medical Reports Act 1988. The Dean may also, with the consent of the individual, arrange for him to be examined by an occupational health physician or other medical practitioner to assess inter alia the prognosis for a return to work and any available treatment. Any fees payable in relation to such examination shall be borne by the College.

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

IV.2 Medical Incapacity

IV.2.1 If it appears to the Dean that the situation is unlikely substantially to improve within a reasonable period of time, or in any case where the condition of the individual or any mental or physical quality affecting the individual is such as substantially to interfere with the performance of his duties, the Dean shall consider the removal of the individual in accordance with the provisions of Clauses 23 and 24 of the Statute. Before taking any action under this section, the Dean shall consult the individual and/or any representative nominated by him about the steps to be taken and their likely outcome. The consultation shall specifically include consideration of the individual's condition and likely future state of mental or physical capacity, and whether he wishes to seek early retirement or a reduction of duties and hours (with a commensurate reduction in emoluments). The wishes and needs of the

individual concerned shall be balanced against the tutorial or other relevant requirements of the College. If the Dean suspends the individual under the provisions of Clause 23(a)(ii) he shall ensure that the individual has adequate access to materials and/or colleagues to enable him to participate effectively in the consultation.

- IV.2.2 The consultation shall also include consideration of any adjustments which could reasonably be made to the duties of the employment and/or the physical features of the premises and/or any arrangements made by or on behalf of the College so as to facilitate the continued employment of the individual concerned. The Dean shall not consider the removal of the individual from his office or employment without first taking advice about any facilities that may be available to assist the individual. In general the Dean shall have regard to the Equality Act 2010.
- IV.2.3 The Dean shall seek to obtain a medical report concerning the individual from the medical practitioner who has had clinical care of him and shall notify the individual concerned to that effect in writing, seeking his consent in writing in accordance with the provisions of the Access to Medical Reports Act 1988.
- IV.2.4 At all stages the individual concerned shall be permitted to nominate a friend, professional colleague or other representative to assist and advise him. Provided that clear notification is given to the Dean, such a representative may be given authority to act instead of the individual concerned if the latter so wishes and may give such consents, agreements etc as the individual would be able to give. Such authority shall include, but not be limited to, a power of attorney, including an enduring power which has been duly registered with the Court of Protection.
- IV.2.5 In the event that the individual does not apply for medical retirement, or does and is rejected, the Dean shall consider all the circumstances of the case, including any available medical information, and shall determine in particular whether the case should be forwarded to a Medical Board or an Academic Disciplinary Committee.
- IV.2.6 Any powers of the Dean may be exercised instead by a duly appointed alternate or other appropriate officer and references to the Dean shall, throughout this By-law IV be construed as including references to the alternate.

Procedure for a Medical Board

IV.3 Medical Board

- IV.3.1 If after considering all the circumstances of the case the Dean concludes that the removal on medical grounds of the individual concerned should be considered, he shall so inform him. The notification shall be provided in writing and shall be presumed to have reached the individual concerned two

days after being sent. The Dean shall notify the individual that a Medical Board (the Board) is to be appointed to consider whether he shall be removed from office on medical grounds, and shall request him to nominate someone to sit on the Board. If, within a reasonable period of time, the individual concerned fails to nominate a person who is willing and able to sit on the Board reasonably expeditiously, the Dean shall presume a default and shall himself nominate someone.

- IV.3.2 At the same time as notifying the individual, the Dean shall also convene a special meeting of the Governing Body to consider the matter confidentially and shall request the Governing Body to nominate a person to sit on the Board. If possible the member so nominated shall have some experience of the mental or physical incapacity apparently affecting the individual concerned. The Governing Body shall canvass and propose the names of two medically qualified people to the individual to act as Chairman of the Board. For this purpose the Governing Body may seek the confidential advice of the College doctor or any other suitable person. If agreement cannot be reached between the Governing Body and the individual concerned as to the appropriate person to chair the Board, the Governing Body shall request the President for the time being of the Royal College of Physicians to nominate a Chairman. The Governing Body shall nominate an appropriate person who is unconnected with the case to act as secretary to the Board.

IV.4 Procedures for a Medical Board Hearing

- IV.4.1 Where a Medical Board has been appointed to determine a case referred to it under Clause 23(c) of the Statute, the Chairman shall appoint the time, date and place for the hearing and the secretary shall notify all parties in writing. The Board shall have power to adjourn the hearing from time to time as it sees fit.
- IV.4.2 At least 21 days before the hearing, the Dean shall refer whatever relevant evidence he has in confidence to the Board and shall make the evidence available to the individual concerned and/or any representative he has nominated to act for him, except for information for which a medical practitioner has claimed exemption from disclosure under the provisions of section 7 of the Access to Medical Reports Act 1988.
- IV.4.3 If he thinks it appropriate, the Dean may appoint someone to present the case for removal and also the relevant oral and documentary evidence to the Board. Witnesses may be called by the person presenting the case, in which case copies of their statements shall be made available to the Board and the individual concerned at least 21 days before the date set for hearing.
- IV.4.4 The individual concerned shall be entitled to an oral hearing before the matter is determined by the Board. The parties to the hearing shall be the individual (including any person appointed to act for or instead of him), any one appointed to present the case for removal and any other party which the Board may join at its own discretion. The secretary to the Board, the

individual concerned and/or his representative and the person presenting the case shall be entitled to remain throughout the hearing; otherwise it shall be for the Board to determine who may be present at any time.

- IV.4.5 The individual concerned shall be entitled to present whatever evidence he considers relevant, subject to the overall right of the Board to regulate its own conduct of the hearing. At least 10 days before the hearing, the individual shall provide the secretary to the Board with copies of any evidence, including medical evidence, on which he wishes to rely. The secretary to the Board shall be responsible for ensuring that copies are made available to Board members and other parties as soon as possible. The individual concerned and the person presenting the case for removal may each call one expert witness whose statements shall first be presented in writing to the other parties.
- IV.4.6 Any party may produce additional evidence during the hearing subject to the Board's consent and subject to any adjournment that may be required to give the parties time to consider and respond.
- IV.4.7 Each party to a hearing shall be entitled to give evidence at the hearing, to make opening and closing statements (either personally or through a representative) and to call witnesses and to question any witness concerning any relevant evidence. Subject to the provisions of this By-law and of the Statute, the Board may regulate its own procedure and shall ensure that the case is heard and determined as expeditiously as is reasonably practicable.
- IV.4.8 The Board may proceed with the hearing in the absence of any party but shall not do so in the case of the individual concerned and/or his representative unless it is satisfied that it is reasonable to do so in all the circumstances of the case or the individual concerned agrees or so requests. Provided that the Chairman remains on the Board throughout, no proceedings of the Board shall be invalid because a member has been unable to continue. If, however, the Board finds itself for good reason unable to act, the Dean shall have the power to discharge it and to have a fresh Medical Board appointed in accordance with the procedure set out under Clause IV.3 above.
- IV.4.9 The person presenting the case for removal shall specifically draw the attention of the Board to the provisions of the Equality Act 2010 and provide the Board with information as to what adjustments have been considered to avoid the removal of the individual concerned from his employment, together with information as to cost and effectiveness of the adjustment(s).
- IV.4.10 At any stage before making its decision the Board may call for additional information including requiring the individual concerned to undergo medical examination by a medical practitioner chosen or agreed by the Board, at the College's expense. In the event that the individual fails to undergo any medical examination required by the Board, or if the medical evidence is inconclusive, the Board shall exercise its judgement on the basis of the evidence available to it.

- IV.4.11 The Board's decision shall be recorded in writing and shall contain its findings on the main facts and on the medical evidence available to it, as well as its conclusion as to whether the individual concerned should be required to resign on medical grounds. The Board shall specifically record the matters it has taken into consideration in determining whether any reasonable adjustments can be made to enable the individual concerned to remain in employment. If the Board concludes that the individual concerned should be required to retire on medical grounds it shall clearly so state and, in the case where he is a member of the USS, confirm that in its opinion he is suffering from permanent ill-health or infirmity.
- IV.4.12 It is the responsibility of the Board secretary to ensure that the Dean and all the parties to the hearing receive a copy of the decision. The decision document which shall be signed by the Chairman shall be sent to the individual concerned as well as his representative, except in the case where it is clear that the representative has authority to act in place of the individual, or in any other case with the consent of the individual.
- IV.4.13 Upon receipt of the Board's decision, the Dean shall consult the Governing Body before making any decision to terminate the employment of the individual concerned but in so doing shall, in so far as possible, respect medical confidentiality. He shall arrange for a special meeting of the Governing Body for this purpose and shall keep the individual and/or his representative informed as to the process. Provided he acts within 14 days of receiving the decision document, the individual concerned shall have the right to make further representations to the Dean at this stage. Before making any decision to terminate the employment of the individual on medical grounds, and depending on the circumstances of the case, including the length of time taken, the Dean shall afford him an opportunity to retire on such grounds in accordance with the rules of the USS where applicable.
- IV.4.14 If the Board does not determine that the individual concerned should be required to retire on medical grounds, for example because it is not satisfied that he is incapacitated on medical grounds, the Dean shall consider the position and, if he so determines, may invoke the Disciplinary Procedure at any stage including requesting the Governing Body to appoint an Academic Disciplinary Committee.
- IV.4.15 If such a Committee is appointed, it shall proceed in accordance with the procedures established under Part III save that any findings of fact made by the Board shall be binding on the Committee.
- IV.4.16 No decision on termination or any other action recommended by the Board shall be implemented until after any appeal has been determined under Part V.

PART V APPEALS

- V.1 A Notice of Appeal against any decision under Parts II, III or IV of the Statute must be served on the Dean within 28 days of the decision. The Dean shall bring the fact that an appeal has been made to the attention of the Governing Body and inform the appellant that he has done so. If in all the circumstances of the case the Dean in his discretion considers it appropriate he shall call a special meeting of the Governing Body for the purpose of bringing the appeal to the attention of the Governing Body and in any event will ensure that the appeal is brought to the attention of the Governing Body within 28 days of the receipt by him of the Notice of Appeal. The Dean shall consider any appropriate action, including suspension, that may be required in relation to the appellant and/or his position in the College pending the outcome of the appeal.
- V.2 The Governing Body shall appoint a person to hear the appeal in accordance with Clause 29 of the Statute who shall be called the Chairman, and the two further persons in accordance with Clause 29(d) of the Statute who shall sit with the Chairman if the Chairman so decides under Clause V.4 of this By-law.
- V.3 If the notice of appeal is not served in time in accordance with Clause 28 of the Statute, the Chairman shall consider the circumstances of the case including the length and the reason for the delay and the grounds of appeal and shall determine whether justice and fairness require that the appeal shall be permitted to proceed.
- V.4 The Chairman shall consider whether to sit alone or with two other persons. If he decides to sit with two other persons, they shall be the persons appointed by the Governing Body in accordance with Clause V.2 above and the body so constituted shall be referred to as the Appeal Body, which term shall also refer to the Chairman if the Chairman sits alone.
- V.5 The Chairman shall appoint a date, time and place for the hearing and shall make such other directions for the disposal of the case as appear to him appropriate including the joinder of other parties, and any directions that may be required to clarify the grounds of appeal. The Appeal Body shall have power to adjourn the hearing from time to time as it sees fit.
- V.6 Notice of the date, time and place and any directions made by the Chairman shall be served on all parties to the appeal at least 14 days before the date appointed and the appellant shall be notified of his right at his own expense to be represented by another person who may, but need not, be legally qualified. The appellant and any other party shall also be notified of their right to call witnesses with the consent of the Appeal Body.
- V.7 Any committee, board or other body shall, if joined as a party to the appeal by the Chairman, appoint one or more persons either from among their

number or otherwise, who may, but need not, be legally qualified, to prepare and present the response to the appeal, such response to be served on the Appeal Body, the appellant and any other parties at least seven days before the day appointed for the hearing of the appeal.

- V.8 Any hearing of the appeal may be adjourned or postponed at the discretion of the Chairman. The Appeal Body may dismiss the appeal for want of prosecution. However no decision to dismiss in such circumstances shall be made without first having provided the appellant with an opportunity to make representations whether orally or in writing.
- V.9 Except as provided in Clause 8 of this By-law no appeal may be determined without an oral hearing, due notice of which has been served on the appellant and any persons appointed by him to represent him.
- V.10 Each party to the hearing shall be entitled to make a statement and to address the Appeal Body. Witnesses may be called with the consent of the Appeal Body. Leave to adduce fresh evidence and/or the calling of witnesses examined at first instance shall only be given if the Appeal Body is satisfied that it is necessary or expedient in the interests of justice.
- V.11 Subject to the provisions of the Statute and of this By-law, the Appeal Body shall determine its own procedure. The Chairman may at his discretion set time limits at each stage of the proceedings to the intent that any appeal shall be heard and determined as expeditiously as is reasonably practicable having regard to the principles of justice and equity.
- V.12 In accordance with the provisions of Clause 30(c) of the Statute the Appeal Body may allow or dismiss an appeal in whole or in part or remit the appeal in such manner and for such purpose as it sees fit within the provisions of Clause 30(c) of the Statute. If the Appeal Body remits the appeal in accordance with Clause 30(c)(i)–(iv) the Chairman may set such time limits for further consideration as he considers appropriate.
- V.13 The reasoned decision of the Appeal Body, including any decision under Clause 30(c)(i)-(iv), shall be recorded in writing and shall be sent to the Dean and to the parties to the appeal.
- V.14 The Chairman may, by an appropriate certificate in writing, correct any accidental errors and/or any omissions in documents recording the decisions of the Appeal Body.

PART VI GRIEVANCE PROCEDURES

Preliminary Stages

VI.1 Bringing a Complaint

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

VI.2 Investigating a Complaint

- VI.2.1 The Dean shall consider and investigate any complaint made to him as quickly as he reasonably can. He may appoint one or more people to investigate the issues on his behalf but shall whenever possible meet the complainant to consider the complaint and to agree or to establish the further steps which may be taken. In any case where the complaint relates directly to the conduct of the Dean, the latter shall appoint one or more alternates to act in his stead, such alternate(s) to be the Censor Theologiae and/or an Emeritus Student.
- VI.2.2 The Dean shall consider in the first instance whether other remedies available to the complainant have been exhausted and may, if in all the circumstances of the case it seems right, refer the complainant to the appropriate channels for resolution of his complaint before taking any further action.
- VI.2.3 If in any case other than an appeal against a disciplinary warning the Dean forms the prima facie view that the complaint should be dismissed or that no further action should be taken for the reasons set out in Clause 34(b) of the Statute, he shall so inform the complainant and invite his views before taking further action. Upon receipt of the complainant's response, or if no response is received within 21 days, the Dean shall consider the matter further and shall take such action as seems to him right including dismissing the complaint.

The Dean shall notify the complainant of his decision at the earliest opportunity.

VI.2.4 Within 10 days of receiving the decision of the Dean under clause 2.3 above, the complainant may refer the matter to the Governing Body. If a majority of the Governing Body so determines, it may appoint a Grievance Committee to hear the complaint notwithstanding that it has been dismissed by the Dean.

VI.2.5 In any case where, upon due consideration, the Dean is satisfied that the subject matter of the complaint may properly be considered with, or forms part of, a complaint under Part III, or a determination under Part IV or an appeal under Part V of the Statute, he shall so inform the complainant and defer any further action on it until such time as the complaint, determination or appeal has been heard or the time for instituting has passed.

VI.2.6 In any case where upon investigation the Dean is satisfied that the complaint concerns an act or omission which may amount to a criminal offence, he shall so notify the complainant and, subject to any representations the complainant may make, shall consider whether, and if so what, further action may be taken in relation to the complaint within the College's grievance procedure.

VI.3 Informal Resolution

VI.3.1 In any case where the Dean does not dispose of the appeal or defer it under Clause 34(c) of the Statute or under the provisions of this procedure, he shall consider whether it may be capable of informal resolution. The Dean shall take into consideration the nature and ambit of the complaint and the wishes of the complainant and have particular regard to the interests of justice and fairness. Before attempting informal resolution the Dean shall consider whether the complainant or any other person may benefit from the assistance of a third party in connection with the complaint and shall consider whether professional advice should be sought.

VI.3.2 If the complainant objects to informal resolution the Dean shall consider whether to refer the matter to a Grievance Committee or take any other action.

VI.3.3 In any attempt at informal resolution the Dean shall have regard to confidentiality as far as possible and shall ensure that the interests of the parties to the matter are considered at all stages.

Grievance Committee Procedure

VI.4 Grievance Committee

VI.4.1 In any case where the complaint has not been disposed of by the Dean, or where an appeal is made under Clause 13(d) of the Statute, the Dean shall refer the matter to a Grievance Committee ("the Committee") established in

accordance with the provisions of Clause 36 of the Statute. Notwithstanding By-Law 31(1), the Governing Body shall appoint one of its members to act as Chairman. The Dean shall notify the Committee of the nature of the complaint or appeal and shall provide the Committee with copies of any statements or other relevant documents which he considers will assist in the fair disposal of the matter. Any appeal under Clause 13(d) of the Statute shall be in writing and shall specify with sufficient detail the grounds of appeal and any supporting information.

- VI.4.2 The Dean shall notify the complainant that the matter has been referred to the Committee and shall provide him with copies of the documents which he has provided to the Committee.
- VI.4.3 The Committee shall meet as soon as is reasonably practical for preliminary consideration of the matter. The Committee may appoint a secretary or clerk to assist in all aspects of the grievance hearing or appeal. The Committee may call for written statements from the complainant or any other person and may cause such investigations to be conducted as appear appropriate, if necessary by an independent person appointed for the purpose. The Committee shall appoint a time for the matter to be heard and may make such arrangements as it considers fit for the fair and just hearing of the matter. The Committee may appoint its Chairman to act in its stead in all preliminary matters. The Committee shall have power to adjourn the proceedings from time to time.
- VI.4.4 The matter shall not be disposed of without an oral hearing at which the complainant, and any person against whom the grievance or appeal lies, shall be entitled to be heard and to be accompanied by a friend or representative, save that the hearing may proceed in the absence of the complainant or any other party who fails to attend without reasonable cause.
- VI.4.5 Provided that due regard is had to the interests of justice and fairness, the conduct of the hearing and any associated matters may be determined by the Committee. In particular, the Committee may determine whether and to what extent oral examination of witnesses shall be permitted, whether any evidence may be taken in the absence of the complainant (or the individual against whom any complaint is made) and whether and what time limits shall be set for the proceedings.
- VI.4.6 The reasoned decision of the Committee as to whether the complaint or appeal is well-founded shall be notified in writing to the complainant and any person against whom any complaint is made, as well as to the Governing Body. If any part of the grievance or appeal is upheld, the Committee shall also notify the Governing Body of its recommendations as to the proper redress for the complainant and any other recommendations as it sees fit.
- VI.4.7 No appeal lies from the decision and/or recommendations of the Committee.

APPENDIX IV

By-laws relating to the Redundancy, Discipline and Incapacity of certain College Officers; Grievance Procedures

PART I INTRODUCTION

- I.1 These provisions apply to the Treasurer, the Steward, the Librarian, the Curator of Pictures, the College Chaplain and the Development Director. In this By-law any reference to 'an Officer' is a reference to a person to whom this By-law applies, except that in clause II.3.7 the phrase 'an officer of the House' refers to the holder of any College Office.
- I.2.1 For the purposes of this By-law "good cause" in relation to the dismissal or removal from office or place of an Officer, being in any case a reason which is related to conduct or to capability or qualifications for performing work of the kind which the Officer concerned was appointed or employed to do, means -
- (a) conviction for an offence which may be deemed by an Employment Board appointed under Part IIIB to be such as to render the person convicted unfit for the performance of the duties of the office or employment; or
 - (b) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or
 - (c) conduct constituting serious failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office or employment; or
 - (d) physical or mental incapacity established under Part IV.
 - (e) in relation to College Officers who are also members of the Academic Staff, termination of tenure or employment under Statute XXXIX and By-law 113.
- I.2.2 In this clause -

- (a) “capability”, in relation to an Officer, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and
 - (b) “qualifications”, in relation to an Officer, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by that Officer.
- I.2.3 For the purposes of this By-law dismissal shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to:
- (a) the fact that the House has ceased, or intends to cease, to carry on the principal activities for the purposes of which the person concerned was appointed or employed or has ceased, or intends to cease, to carry on those activities in the place in which the person concerned worked; or
 - (b) the fact that the requirements of those activities for an Officer to carry out work of a particular kind in that place have ceased or diminished or are expected to cease or diminish.
- I.2.4 For the purposes of this By-law, any powers of the Dean may be exercised instead by a duly appointed alternate or by a deputy with due authority; references to the Dean shall throughout this By-law be construed as including references to the alternate or deputy.

PART II REDUNDANCY

II.1 Governing Body Meeting

- II.1.1 If the redundancy of the Office held by any Officer(s) is contemplated for any reason, the Dean shall call a special meeting of the Governing Body to consider the matter.
- II.1.2 If any member is unavoidably unable to attend the special meeting, and reasonably considers that he may be personally affected by the redundancy under consideration, he shall be entitled to seek a postponement of the meeting by written notice delivered to the Dean at least three days before the date set for the meeting.
- II.1.3 Before the special meeting, the Dean shall cause to be prepared for the Governing Body a detailed confidential memorandum containing all relevant available information including financial matters and setting out in detail the arguments for and against making the redundancy or redundancies.
- II.1.4 The memorandum shall put all considerations forward fairly and in an even-handed manner and shall not recommend any specific course of action.

II.1.5 The memorandum shall be circulated at least seven days before the meeting of the Governing Body, representations shall be invited and any which are received by the Secretary to the Governing Body by noon on the third day before the day of the meeting shall be circulated to all members of the Governing Body.

II.1.6 At this meeting the Governing Body shall decide in relation to each of the redundancies being considered either (a) not to proceed with it, or (b) to consider the matter further.

II.2 Redundancy Procedure – Initial Stage

II.2.1 If the Governing Body decides to consider the matter further, it shall at the same meeting -

- (a) defer further consideration to a subsequent meeting (in which case all such subsequent meetings shall be held in accordance with the provisions of Clauses II.1 and II.2.1); or
- (b) appoint a Redundancy Committee (“the Committee”); or
- (c) determine that it will carry out the task of handling any redundancies itself.

II.2.2 A Redundancy Committee appointed by the Governing Body shall comprise -

- (a) a Chairman; and
- (b) four Official Students; and
- (c) two members of the Governing Body who are not Official Students.

No members who appear to be or are likely to be personally affected shall be chosen. No one shall be eligible for membership of the Committee unless he has been employed by the College for at least two years. Notwithstanding By-law 31(1), the Chairman of the Committee shall be expressly so appointed by the Governing Body.

II.2.3 In the case of potential collective redundancies the Governing Body shall, and in all other cases may, establish appropriate procedures for consultation with representatives of the members of staff potentially affected. Such consultation shall generally be carried out by the Redundancy Committee, or, if none is appointed, by the Governing Body itself. Such consultation shall be either with a recognised trade union or with specially elected “workplace” representatives as defined by any relevant legislation currently in force, and shall commence in good time with a view to reaching

agreement in relation to the matters set out in any legislation in force for the time being.

- II.2.4 The Redundancy Committee (or, if none is appointed, the Governing Body) shall meet as soon as is reasonably practicable to establish a time-table for consideration of the issues. The Committee shall try to think of any way of avoiding redundancy and/or mitigating its effects. It shall also consider, where applicable, the criteria for deciding who should be chosen from among those who are potentially redundant.
- II.2.5 No decision shall be taken upon any of the relevant matters without the Committee's ensuring that there has been full and proper consultation with the affected individuals and their representatives. Before any decision is made, the Committee shall ensure that each individual is provided with all relevant information and given an opportunity to meet members of the Committee (accompanied by a representative if they wish) and to make representations on any aspect of the case.
- II.2.6 Having considered all relevant matters the Redundancy Committee shall meet to formulate and prepare a written report of its recommendations and the reasons for them, and this shall be provided to the Governing Body and to the affected individual(s) and their representative(s).

II.3 Decision to Dismiss

- II.3.1 Upon receipt by the Secretary to the Governing Body of the report and recommendations of the Redundancy Committee a special meeting of the Governing Body shall be convened to consider the matter further.
- II.3.2 Any individual whose dismissal on grounds of redundancy is recommended by the Redundancy Committee shall be permitted at least two weeks between the date of the Committee's report and the special meeting of the Governing Body to prepare and submit any representations to the Governing Body. Any representations which are received by the Secretary to the Governing Body by noon on the third day before the day of the meeting shall be circulated to all members of the Governing Body.
- II.3.3 In addition to submission of written representations, the individual concerned shall have the opportunity to make oral representations to the Governing Body at the special meeting before any decision is made and shall be entitled to be accompanied and/or represented by a person of his choice.
- II.3.4 If a Redundancy Committee has been appointed, the Governing Body may request the Chairman of the Committee or his delegate to attend the Governing Body meeting to present the Committee's recommendations and to answer questions from the Governing Body and/or the individual(s) concerned. The Governing Body may ask the Redundancy Committee to carry out further consultation with affected individuals or any other appropriate person.

II.3.5 No meeting of the Governing Body at which a decision to dismiss under Part II is taken shall be quorate unless at least 50% of those entitled to attend are present and no vote shall be effective unless at least 50% of those attending vote in favour. Members of the Governing Body who are affected by the Redundancy Committee's decision or who are members of the Committee shall be entitled to vote.

II.3.6 Before making any decision to dismiss, the Governing Body shall specifically consider whether the dismissal can in any way, including alternative employment, be avoided. The Governing Body shall also ensure that it is fully aware of any USS or other pension scheme options which the individual(s) affected may be able to exercise in the event of redundancy.

II.3.7 If the Governing Body votes to dismiss any Officer on grounds of redundancy, it may authorise an officer of the House as its delegate to dismiss the Officer(s). A written notice of the Governing Body's decision shall be provided to the individual concerned and his representative. The notice shall sufficiently identify the circumstances which have satisfied the Governing Body that the intended dismissal is reasonable and in particular shall include

(a) a summary of the action taken by the Governing Body under this Part;

(b) an account of the selection processes it has itself used or which have been used by the Redundancy Committee;

(c) a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part V (Appeals); and

(d) a statement as to when the intended dismissal is to take effect.

No decision shall be implemented until after any appeal has been determined under Part V.

II.3.8 If the Governing Body decides upon the dismissal of any individual on grounds of redundancy, it shall ensure that provision is made to assist that individual with financial and career planning, with reasonable expenses to be met by the College.

PART III DISCIPLINE, DISMISSAL AND REMOVAL FROM OFFICE

Section A: Dismissal during the Officer's probationary period

III.A.1 This Section applies when the Officer is within his probationary period and his continuous employment with the College is of less than one year's duration.

III.A.1.2 In this Section "the appropriate Group" refers -

- (a) in the case of action concerning the Treasurer to the Governing Body members of the Finance Committee except for the Treasurer;
- (b) in the case of action concerning the Steward to the Governing Body members of the House Committee except for the Steward;
- (c) in the case of action concerning the Librarian to the Governing Body members of the Library Committee except for the Librarian;
- (d) in the case of action concerning the Curator of Pictures to the Governing Body members of the Pictures Committee except for the Curator of Pictures;
- (e) in the case of action concerning the College Chaplain to the Dean, the Sub-Dean, the Censor Theologiae, the Senior Censor and the Junior Censor;
- (f) in the case of action concerning the Development Director to the Governing Body members of the Development Committee except for the Development Director.

III.A.2 The Dean or any other member of the appropriate Group may convene that Group to consider the possible dismissal or removal from office of an Officer during the Officer's probationary period. The Group shall consider the situation, and decide how to proceed. It may decide -

- (a) that no action is required;
- (b) that the Officer concerned ("the Officer") should be apprised of the concerns raised and that an appropriate plan for improvements be agreed upon and its implementation monitored;

- (c) that the Dean should appoint an Employment Board (“the Board”) in accordance with By-law 115(2) and recommend to that Board further investigation of the matter and/or dismissal or removal from office.

- IIIA.3 If the Board is appointed, it shall proceed as it deems reasonable and fair. If the Board decides that the Officer should be dismissed or removed from office, it shall recommend to the Dean that he dismiss the Officer or remove him from office. The Dean may not dismiss an Officer or remove him from office without such a recommendation from the appropriate Group.
- IIIA.4 If the Dean dismisses an Officer or removes him from office, he shall inform the Governing Body as soon as is practicable.

Section B: Discipline, dismissal and removal from office when the provisions of Section IIIA do not apply

Pre-dismissal procedure

IIIB.1 Informal Stage

- IIIB.1.1 Where (if the provisions of Section IIIA do not apply) it appears to the Dean that the conduct or performance of an Officer is falling below an acceptable standard, the Dean may arrange to meet that individual informally to explore the situation and to consider what action can be taken to improve his conduct or performance. The Dean may appoint a Student or Canon or Emeritus Student or Honorary Student to conduct the informal discussions with the individual concerned either with the Dean or alone. This informal discussion shall not be viewed as disciplinary action. A record of this initial meeting may be kept, and a copy of any such record should be made available to the Officer. If the individual concerned prefers, the discussion may be kept confidential at this stage.

IIIB.2 Disciplinary Warnings

- IIIB.2.1 In any case where it seems to the Dean that the performance and/or conduct of an Officer appears not to meet acceptable standards but where the circumstances do not appear to raise prima facie grounds for dismissal (for example, after investigation of a complaint submitted to the Dean which is not to be referred to an Employment Board), the Dean may convene a meeting with the individual to consider the matter and any appropriate sanction. No disciplinary sanction shall be imposed unless the individual has had reasonable notification of the allegations made against him and an opportunity to respond and until the matter has been properly investigated by or at the behest of the Dean.

- IIIB.2.2 Before the disciplinary meeting, the individual concerned shall be provided with written notification of the date and nature of the meeting, the matters to be considered and copies of any relevant statements. He shall be permitted to be accompanied or represented by a colleague or representative from any professional body or trade union of which he is a member, but shall not normally be permitted legal representation at this stage.
- IIIB.2.3 If it appears to the Dean that the individual's conduct and/or performance has fallen below acceptable standards, and depending on the gravity of the situation and all the circumstances of the case, the Dean may issue an oral or written warning.

IIIB.2.3(a) Oral Warning

The oral warning is the first stage of the disciplinary procedure. It shall normally be issued in the presence of a witness and shall state clearly that it is the first stage of the disciplinary process. The reasons for the warning shall be specified, together with any agreed plan of action for improvement, where applicable. The oral warning shall be recorded in a dated written note, a copy of which shall be provided to the individual. The note shall be kept by the Dean and shall be destroyed after one year.

IIIB.2.3(b) Written Warning

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

- IIIB.2.4 If either an oral or a written warning is issued, the individual concerned shall be notified of his right of appeal under Part V.
- IIIB.2.5 An Officer who wishes to appeal against a disciplinary warning shall inform the Dean within two weeks. A Grievance Committee appointed under Part VI shall hear the appeal and the Committee's decision shall be final. If the appeal is allowed, the warning shall be disregarded.

Dismissal Procedure

IIIB.3 Dismissal

In any case before the Dean, whether on a complaint or otherwise, he shall consider all the circumstances of the case including the outcome of any enquiries instituted and any comments invited from the individual concerned. If, after such consideration, it appears to the Dean that there are prima facie grounds for dismissal for good cause as defined in Clause IIIB.15 of this By-law, he may call on the Governing Body to appoint an Employment Board to consider and report on the case in accordance with the provisions of this By-law. The Dean may if there is good reason for so doing suspend the individual concerned at this stage.

- IIIB.3.1 Upon receipt of a request under the preceding paragraph from the Dean, the Governing Body shall appoint the Employment Board (the "Board") in accordance with By-law 115(2) as soon as reasonably practicable and shall inform the individual to be charged by written notice that the Board has been appointed to consider any charge or charges to be brought. The written notice shall include the names of the three members of the Board and shall enclose a copy of this By-law. At the same time the Governing Body shall appoint a solicitor or other suitable person to formulate charge(s) and to present, or arrange for the presentation of, the charge(s) before the Board. Notwithstanding By-law 31(1), the Governing Body shall appoint one of the three members to act as Chairman. If the Board finds itself for good reason unable to act, the Governing Body shall have the power to discharge it and appoint a fresh Employment Board.
- IIIB.3.2 Subject to any provision to the contrary in this By-law, the Board shall have power to regulate its own proceedings. The Board shall be quorate at any time provided at least two members including the Chairman are present, and in the event of any vote of the Board which is tied, the Chairman shall have a casting vote. The Board shall be entitled to appoint a secretary to support it in discharging its function and to take notes of evidence at any hearing.
- IIIB.3.3 The person appointed to formulate the charge or charges ("the prosecutor" - which expression may include a firm of solicitors or any person instructed to act on that person's behalf) shall notify the individual charged of the date and time set for the hearing of the charge or charges.
- IIIB.3.4 The individual charged shall notify the prosecutor of any representative he has appointed to act for him and any further communications shall be addressed to the individual charged and to any representative appointed by him. Any fees or expenses payable to the representative (other than reasonable travel costs and out of pocket disbursements) shall be at the charge of the individual accused.
- IIIB.3.5 The Chairman of the Board may make any interlocutory directions he considers necessary for the fair conduct of the hearing, including but not

limited to any directions as to the hearing date(s), whether at the request of either party or otherwise of his own motion. The Chairman may also remit any matters to the Dean for further consideration and has power to join further parties to the case if he considers it appropriate to do so upon notice to the parties of such joinder. The Chairman of the Board shall set the date, time and place for the hearing and may also set appropriate time limits for each stage (including the hearing), to the intent that any matters be heard and determined expeditiously. If the Chairman considers it appropriate in all the circumstances of the case he may request the Dean to consider the suspension of the individual charged.

- IIIB.3.6 At least 21 days before the date set for the hearing, the prosecutor shall forward the following to the Board, the individual charged and any other parties to the hearing:
- (a) the charge or charges;
 - (b) copies of any documents specified or referred to in the charge or charges;
 - (c) a list of witnesses to be called by the prosecutor;
 - (d) copies of statements containing the witnesses' evidence.
- IIIB.3.7 At least seven days before the date set for the hearing, the individual charged shall forward to the prosecutor copies of any documents on which he wishes to rely, a list of his witnesses and copies of their statements of evidence. The prosecutor shall ensure that copies of all these are prepared and forwarded to the Board as soon as practicable.
- IIIB.3.8 The jurisdiction and power of the Board shall not be restricted by the fact that the individual charged has been, or is liable to be, prosecuted in a court of law in respect of any act or conduct which is the subject of proceedings before the Board. The Board may postpone or adjourn a hearing, if it considers it appropriate, to enable a prosecution to be undertaken.
- IIIB.3.9 Subject to the consent of the Board, both the prosecutor and the individual charged may introduce new evidence at the hearing save that in the case of the prosecutor such new evidence shall not be admitted except for good reason. In the event that new evidence is admitted on behalf of one party, the other party shall have the right to an adjournment to allow him time to consider the evidence and its effect on the case and may then submit further evidence in response, provided that the Board consents, such consent not to be unreasonably withheld.
- IIIB.3.10 The Board may proceed with the hearing in the absence of any party but shall not do so in the absence of the individual charged or his representative unless it is satisfied that it is reasonable to do so in all the circumstances of the case or unless the individual charged agrees or so requests.

- IIIB.3.11 Subject to the right of the individual charged, his representative and the prosecutor to be present throughout the hearing, the Board may decide whether to admit any persons to, or exclude them from, the hearing or any part of it.
- IIIB.3.12 Each party to the proceedings shall be entitled to give evidence at the hearing, to make an opening statement, to call witnesses, and to question any witness. Closing statements may be made by the prosecutor first and then any other parties, with the individual accused being given the opportunity to speak last.
- IIIB.3.13 Without prejudice to the Board's general power to regulate its own conduct, it shall specifically have the power to set time and other limits on the evidence to be called for each side consistent with providing a fair opportunity for each party to present its relevant evidence whilst ensuring that the charge is heard and determined as expeditiously as is reasonably practicable. The Board shall have power to adjourn the proceedings from time to time as it sees fit.
- IIIB.3.14 The Board shall ensure that its secretary or some other appropriate person is present throughout the hearing so that a full and accurate record of the evidence may be taken.
- IIIB.3.15 It is for the prosecutor to prove the charge or charges. In determining whether the charges or any of them are proved the Board shall consider the evidence and decide whether on balance it considers that good cause for dismissal within the meaning of Clauses I.2.1 and I.2.2 of this By-law has been proved in respect of the charges before it.
- IIIB.3.16 If the Board decides that one or more charges have been proved and that there is good cause for dismissal, it shall give each party an opportunity either orally or in writing at the option of the Board to address it on the question of penalty and/or mitigation before determining any recommendations that it may make to the Dean.
- IIIB.3.17 The decision of the Board shall be recorded in a document in which the Board's findings of fact, its reasons for the decision and any recommendations as to penalty are contained. The document shall be signed by the Chairman of the Board and at least one other member. The document shall be sent directly by the secretary of the Board to the Dean, the prosecutor, the individual charged and to his representative in addition to any other person who shall have been added as a party by the Employment Board. The individual charged shall be notified of his right of appeal against the decision or against any recommendation of the Board as to penalty, and shall be sent a copy of Part V of this By-law.
- IIIB.3.18 Where any charge has been upheld and the Board has recommended dismissal, the Dean shall inform and consult the Governing Body before making any decision as to penalty. He shall arrange for a special meeting of the Governing Body for this purpose and shall keep the individual charged

informed as to the process. The individual charged shall not have the right to make further representations to the Dean at this stage.

IIIB.3.19 If the Dean decides to dismiss the individual charged he may do so forthwith or upon such terms as he considers fit. The Dean may dismiss the individual summarily in cases of gross misconduct, or with notice (or pay in lieu of notice) in all other cases). If the Dean decides not to dismiss, the action available to the Dean, after consulting the Governing Body (not comprising a greater penalty than that recommended by the Employment Board) shall be -

- (a) to discuss the issues raised with the person concerned; or
- (b) to advise the person concerned about his future conduct; or
- (c) to warn the person concerned; or
- (d) to suspend the person concerned for such period as the Dean shall think fair and reasonable, provided that the suspension shall not extend beyond three months after the date on which the Governing Body considered the Employment Board's decision, or if the person concerned has been suspended pending the hearing, after the Employment Board's decision, provided that no suspension without pay may be ordered unless the relevant contract confers such a power; or
- (e) such further or other action under the person's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case; or
- (f) any combination of any of the above.

Any warning given under IIIB.3.19(c) shall be recorded in writing and shall be destroyed after two years. In all cases the Dean's decision shall be communicated in writing to the individual charged and to the Governing Body.

IIIB.3.20 No decision with regard to dismissal or to other recommendations of the Board shall be implemented until after any appeal has been determined under Part V.

PART IV REMOVAL FOR INCAPACITY ON MEDICAL GROUNDS

Preliminary Procedure

IV.1 Preliminary Stage

IV.1.1 Where from the conduct or performance of an Officer it appears to the Dean that there may be cause for concern about that individual on medical grounds, and in any case where the individual has been absent on medical grounds for an aggregate period of six months in any twelve month period, the Dean shall meet him and consider the circumstances of the case. The consultation shall be confidential if the individual so wishes, but the Dean may appoint an informal panel of two or three persons to advise and assist him.

IV.1.2 At this stage the purpose of the meeting and any subsequent investigations is to elucidate the nature of the problem and to consider ways of assisting the individual to resume his full contractual duties. If the Dean considers it advisable, he shall seek the individual's consent to disclosure of the latter's medical record in accordance with the Access to Medical Reports Act 1988. The Dean may also, with the consent of the individual, arrange for him to be examined by an occupational health physician or other medical practitioner to assess inter alia the prognosis for a return to work and any available treatment. Any fees payable in relation to such examination shall be borne by the College.

IV.1.3 The Dean shall consider with the individual and with other people concerned as required, ways of ensuring that anyone for whom the individual has contractual responsibilities have their teaching, pastoral and other needs met by other arrangements. In all cases, and especially where third parties are consulted, the Dean shall do all that is reasonably practicable to respect the confidentiality of the individual if he so wishes. The Dean shall also consider whether counselling or other assistance shall be offered to the individual at the expense of the College.

IV.2 Medical Incapacity

IV.2.1 If it appears to the Dean that the situation is unlikely substantially to improve within a reasonable period of time, or in any case where the condition of the individual or any mental or physical quality affecting the individual is such as substantially to interfere with the performance of his duties, the Dean shall consider the removal of the individual in accordance with the provisions of this By-law. Before taking any action under this section, the Dean shall consult the individual and/or any representative nominated by him about the steps to be taken and their likely outcome. The consultation shall specifically include consideration of the individual's condition and likely future state of mental or physical capacity, and whether he wishes to seek early retirement or a reduction of duties and hours (with a commensurate reduction in emoluments). The wishes and needs of the individual concerned

shall be balanced against the relevant requirements of the College. The Dean may, if the individual agrees or if the Dean considers that the House might otherwise suffer significant harm, suspend the individual from duty without loss of pay. If the Dean does suspend the individual he shall ensure that the individual has adequate access to materials and/or colleagues to enable him to participate effectively in the consultation.

- IV.2.2 The consultation shall also include consideration of any adjustments which could reasonably be made to the duties of the employment and/or the physical features of the premises and/or any arrangements made by or on behalf of the College so as to facilitate the continued employment of the individual concerned. The Dean shall not consider the removal of the individual from his office or employment without first taking advice about any facilities that may be available to assist the individual. In general the Dean shall have regard to the provisions of the Equality Act 2010.
- IV.2.3 The Dean shall seek to obtain a medical report concerning the individual from the medical practitioner who has had clinical care of him and shall notify the individual concerned to that effect in writing, seeking his consent in writing in accordance with the provisions of the Access to Medical Reports Act 1988.
- IV.2.4 At all stages the individual concerned shall be permitted to nominate a friend, professional colleague or other representative to assist and advise him. Provided that clear notification is given to the Dean, such a representative may be given authority to act instead of the individual concerned if the latter so wishes and may give such consents, agreements, etc., as the individual would be able to give. Such authority shall include, but not be limited to, a power of attorney, including an enduring power which has been duly registered with the Court of Protection.
- IV.2.5 In the event that the individual does not apply for medical retirement, or does and is rejected, the Dean shall consider all the circumstances of the case, including any available medical information, and shall determine in particular whether the case should be forwarded to a Medical Board or an Academic Disciplinary Board.

Procedure for a Medical Board

IV.3 Medical Board

- IV.3.1 If after considering all the circumstances of the case the Dean concludes that the removal on medical grounds of the individual concerned should be considered, he shall so inform him. The notification shall be provided in writing and shall be presumed to have reached the individual concerned two days after being sent. The Dean shall notify the individual that a Medical Board (the Board) is to be appointed to consider whether he shall be removed from office on medical grounds, and shall request him to nominate someone to sit on the Board. If, within a reasonable period of time, the individual

concerned fails to nominate a person who is willing and able to sit on the Board reasonably expeditiously, the Dean shall presume a default and shall himself nominate someone.

- IV.3.2 At the same time as notifying the individual, the Dean shall also convene a special meeting of the Governing Body to consider the matter confidentially and shall request the Governing Body to nominate a person to sit on the Board. If possible the person so nominated shall have some experience of the mental or physical incapacity apparently affecting the individual concerned. The Governing Body shall canvass and propose the names of two medically qualified people to the individual to act as Chairman of the Board. For this purpose the Governing Body may seek the confidential advice of the College doctor or any other suitable person. If agreement cannot be reached between the Governing Body and the individual concerned as to the appropriate person to chair the Board, the Governing Body shall request the President for the time being of the Royal College of Physicians to nominate a Chairman. The Governing Body shall nominate an appropriate person who is unconnected with the case to act as secretary to the Board.

IV.4 Procedures for a Medical Board Hearing

- IV.4.1 Where a Medical Board has been appointed to determine a case referred to it under Clause IV.3.2, the Chairman shall appoint the time, date and place for the hearing and the secretary shall notify all parties in writing. The Board shall have power to adjourn the hearing from time to time as it sees fit.
- IV.4.2 At least 21 days before the hearing, the Dean shall refer whatever relevant evidence he has in confidence to the Board and shall make the evidence available to the individual concerned and/or any representative he has nominated to act for him, except for information for which a medical practitioner has claimed exemption from disclosure under the provisions of section 7 of the Access to Medical Reports Act 1988.
- IV.4.3 If he thinks it appropriate, the Dean may appoint someone to present the case for removal and also the relevant oral and documentary evidence to the Board. Witnesses may be called by the person presenting the case, in which case copies of their statements shall be made available to the Board and the individual concerned at least 21 days before the date set for hearing.
- IV.4.4 The individual concerned shall be entitled to an oral hearing before the matter is determined by the Board. The parties to the hearing shall be the individual (including any person appointed to act for or instead of him), anyone appointed to present the case for removal and any other party which the Board may join at its own discretion. The secretary to the Board, the individual concerned and/or his representative and the person presenting the case shall be entitled to remain throughout the hearing; otherwise it shall be for the Board to determine who may be present at any time.

- IV.4.5 The individual concerned shall be entitled to present whatever evidence he considers relevant, subject to the overall right of the Board to regulate its own conduct of the hearing. At least 10 days before the hearing, the individual shall provide the secretary to the Board with copies of any evidence, including medical evidence, on which he wishes to rely. The secretary to the Board shall be responsible for ensuring that copies are made available to Board members and other parties as soon as possible. The individual concerned and the person presenting the case for removal may each call one expert witness whose statements shall first be presented in writing to the other parties.
- IV.4.6 Any party may produce additional evidence during the hearing subject to the Board's consent and subject to any adjournment that may be required to give the parties time to consider and respond.
- IV.4.7 Each party to a hearing shall be entitled to give evidence at the hearing, to make opening and closing statements (either personally or through a representative) and to call witnesses and to question any witness concerning any relevant evidence. Subject to the provisions of this By-law, the Board may regulate its own procedure and shall ensure that the case is heard and determined as expeditiously as is reasonably practicable.
- IV.4.8 The Board may proceed with the hearing in the absence of any party but shall not do so in the case of the individual concerned and/or his representative unless it is satisfied that it is reasonable to do so in all the circumstances of the case or the individual concerned agrees or so requests. Provided that the Chairman remains on the Board throughout, no proceedings of the Board shall be invalid because a member has been unable to continue. If, however, the Board finds itself for good reason unable to act, the Dean shall have the power to discharge it and to have a fresh Medical Board appointed in accordance with the procedure set out under Clause IV.3 above.
- IV.4.9 The person presenting the case for removal shall specifically draw the attention of the Board to the provisions of the Equality Act 2010 and provide the Board with information as to what adjustments have been considered to avoid the removal of the individual concerned from his employment, together with information as to cost and effectiveness of the adjustment(s).
- IV.4.10 At any stage before making its decision the Board may call for additional information including requiring the individual concerned to undergo medical examination by a medical practitioner chosen or agreed by the Board, at the College's expense. In the event that the individual fails to undergo any medical examination required by the Board, or if the medical evidence is inconclusive, the Board shall exercise its judgement on the basis of the evidence available to it.
- IV.4.II The Board's decision shall be recorded in writing and shall contain its findings on the main facts and on the medical evidence available to it, as well

as its conclusion as to whether the individual concerned should be required to resign on medical grounds. The Board shall specifically record the matters it has taken into consideration in determining whether any reasonable adjustments can be made to enable the individual concerned to remain in employment. If the Board concludes that the individual concerned should be required to retire on medical grounds it shall clearly so state and, in the case where he is a member of the USS, confirm that in its opinion he is suffering from permanent ill-health or infirmity.

- IV.4.12 It is the responsibility of the Board secretary to ensure that the Dean and all the parties to the hearing receive a copy of the decision. The decision document which shall be signed by the Chairman shall be sent to the individual concerned as well as his representative, except in the case where it is clear that the representative has authority to act in place of the individual, or in any other case with the consent of the individual.
- IV.4.13 Upon receipt of the Board's decision, the Dean shall consult the Governing Body before making any decision to terminate the employment of the individual concerned but in so doing shall, in so far as possible, respect medical confidentiality. He shall arrange for a special meeting of the Governing Body for this purpose and shall keep the individual and/or his representative informed as to the process. Provided he acts within 14 days of receiving the decision document, the individual concerned shall have the right to make further representations to the Dean at this stage. Before making any decision to terminate the employment of the individual on medical grounds, and depending on the circumstances of the case, including the length of time taken, the Dean shall afford him an opportunity to retire on such grounds in accordance with the rules of the USS where applicable.
- IV.4.14 If the Board does not determine that the individual concerned should be required to retire on medical grounds, for example because it is not satisfied that he is incapacitated on medical grounds, the Dean shall consider the position and, if he so determines, may invoke the Disciplinary Procedure at any stage including requesting the Governing Body to appoint an Employment Board.
- IV.4.15 If such a Board is appointed, it shall proceed in accordance with the procedures established under Part IIIB save that any findings of fact made by the Medical Board shall be binding on the Employment Board.
- IV.4.16 No decision on termination or any other action recommended by the Medical Board shall be implemented until after any appeal has been determined under Part V.

PART V APPEALS

- V.1 This Part establishes procedures for hearing and determining appeals by persons to whom this By-law applies who are dismissed or under notice of dismissal or who are otherwise disciplined.
- V.2.1 This Part applies -
- (a) to appeals against any decision of the Governing Body to dismiss in the exercise of its powers under Part II;
 - (b) to appeals arising in any proceedings, or out of any decision reached, under Part IIIB other than appeals against disciplinary warnings under Clause IIIB.2;
 - (c) to appeals against any dismissal otherwise than in pursuance of Part II, Part IIIA, Part IIIB, Part IV or Part VII;
 - (d) to appeals against any disciplinary decision otherwise than in pursuance of Part IIIB; and
 - (e) to appeals against any decision reached under Part IV
- and “appeal” and “appellant” shall be construed accordingly.
- V.2.2 No appeal shall however lie against -
- (a) any finding of fact of an Employment Board under Part IIIB save on legal grounds or save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;
 - (b) any medical finding by a Board set up under Clause IV.3 above save on legal grounds or save where, with the consent of the person or persons appointed, fresh evidence is called on behalf of the appellant at that hearing.
- V.3 The parties to an appeal shall be the appellant and the Dean.
- V.4 A person to whom this By-law applies shall institute an appeal by serving on the Dean, within the time allowed under Clause V.5, notice in writing setting out the grounds of the appeal.
- V.5 A Notice of Appeal against any decision under Parts II, IIIB or IV of this By-Law must be served on the Dean within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed to hear the appeal may determine under Clause V.7 below. The Dean shall bring the fact that an appeal has been made to the attention of the Governing Body and inform

the appellant that he has done so. If in all the circumstances of the case the Dean in his discretion considers it appropriate he shall call a special meeting of the Governing Body for the purpose of bringing the appeal to the attention of the Governing Body and in any event will ensure that the appeal is brought to the attention of the Governing Body within 28 days of the receipt by him of the Notice of Appeal. The Dean shall consider any appropriate action, including suspension, that may be required in relation to the appellant and/or his position in the College pending the outcome of the appeal.

- V.6 The Governing Body shall appoint a person (“the Chairman”) to hear and determine the appeal. This person must be someone not employed by the House, holding, or having held, judicial office or being a barrister or solicitor of at least ten years' standing. The Chairman shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons. The other persons who may sit with the Chairman shall be appointed by the Governing Body and shall be -
- (a) one Official Student; and
 - (b) one member of the Governing Body who is not an Official Student.
- V.7 If the notice of appeal is not served in time in accordance with Clause V.5, the Chairman shall consider the circumstances of the case including the length and the reason for the delay and the grounds of appeal and shall determine whether justice and fairness require that the appeal shall be permitted to proceed.
- V.8 The Chairman shall consider whether to sit alone or with two other persons. If he decides to sit with two other persons, they shall be the persons appointed by the Governing Body in accordance with Clause V.6 above and the body so constituted shall be referred to as the Appeal Body, which term shall also refer to the Chairman if the Chairman sits alone.
- V.9 The Chairman shall appoint a date, time and place for the hearing and shall make such other directions for the disposal of the case as appear to him appropriate including the joinder of other parties, and any directions that may be required to clarify the grounds of appeal. The Appeal Body shall have power to adjourn the hearing from time to time as it sees fit.
- V.10 Notice of the date, time and place and any directions made by the Chairman shall be served on all parties to the appeal at least 14 days before the date appointed and the appellant shall be notified of his right at his own expense to be represented by another person who may, but need not, be legally qualified. The appellant and any other party shall also be notified of their right to call witnesses with the consent of the Appeal Body.
- V.11 Any committee, board or other body shall, if joined as a party to the appeal by the Chairman, appoint one or more persons either from among their

number or otherwise, who may, but need not, be legally qualified, to prepare and present the response to the appeal, such response to be served on the Appeal Body, the appellant and any other parties at least seven days before the day appointed for the hearing of the appeal.

- V.12 Any hearing of the appeal may be adjourned or postponed at the discretion of the Chairman. The Appeal Body may dismiss the appeal for want of prosecution. However no decision to dismiss in such circumstances shall be made without first having provided the appellant with an opportunity to make representations whether orally or in writing.
- V.13 Except as provided in Clause V.12 of this By-law no appeal may be determined without an oral hearing, due notice of which has been served on the appellant and any persons appointed by him to represent him.
- V.14 Each party to the hearing shall be entitled to make a statement and to address the Appeal Body. Witnesses may be called with the consent of the Appeal Body. Leave to adduce fresh evidence and/or the calling of witnesses examined at first instance shall only be given if the Appeal Body is satisfied that it is necessary or expedient in the interests of justice.
- V.15 Subject to the provisions of this By-law, the Appeal Body shall determine its own procedure. The Chairman may at his discretion set time limits at each stage of the proceedings to the intent that any appeal shall be heard and determined as expeditiously as is reasonably practicable having regard to the principles of justice and equity.
- V.16 The Appeal Body may allow or dismiss an appeal in whole or in part and, without prejudice to the foregoing, may -
- (a) remit an appeal from a decision under Part II to the Governing Body as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or
 - (b) remit an appeal arising under Part III for re-hearing by a differently constituted Employment Board to be appointed under that Part; or
 - (c) remit an appeal from a decision under Part IV for further consideration as the person or persons hearing the appeal may direct; or
 - (d) substitute any lesser alternative penalty that would have been open to the Dean following the finding by the Employment Board which heard and pronounced upon the original charge or charges.

If the Appeal Body remits the appeal in accordance with this clause, the Chairman may set such time limits for further consideration as he considers appropriate.

- V.17 The reasoned decision of the Appeal Body shall be recorded in writing and shall be sent to the Dean and to the parties to the appeal.
- V.18 The Chairman may, by an appropriate certificate in writing, correct any accidental errors and/or any omissions in documents recording the decisions of the Appeal Body.

PART VI GRIEVANCE PROCEDURES

Preliminary Stages

VI.1 Bringing a Complaint

VI.1.1 Persons to whom this By-law applies may bring a complaint under this Part about a grievance concerning their appointments or employment where those grievances relate -

- (a) to matters affecting themselves as individuals; or
- (b) to matters affecting their personal dealings or relationships with other staff of the House,

not being matters for which express provision is made elsewhere in the Statutes or By-laws, provided that he has exhausted any other relevant avenues of complaint.

VI.1.2 Any complaint made under Clause VI.1.1 should be addressed in the first instance to the Dean and should be made in writing. (Any complaints against disciplinary warnings issued under Part IIIB should be in writing and should specify with sufficient detail the grounds of complaint and any supporting information.) The complainant should specify whether he wishes any aspect of the matter to be kept confidential at this stage.

VI.2 Investigating a Complaint

VI.2.1 The Dean shall consider and investigate any complaint made to him as quickly as he reasonably can. He may appoint one or more people to investigate the issues on his behalf but shall whenever possible meet the complainant to consider the complaint and to agree or to establish the further steps which may be taken. In any case where the complaint relates directly to the conduct of the Dean, the latter shall appoint one or more alternates to act in his stead, such alternate(s) to be the Censor Theologiae and/or an Emeritus Student.

VI.2.2 The Dean shall consider in the first instance whether other remedies available to the complainant have been exhausted and may, if in all the circumstances

of the case it seems right, refer the complainant to the appropriate channels for resolution of his complaint before taking any further action.

VI.2.3 If in any case other than an appeal against a disciplinary warning the Dean forms the prima facie view that the complaint should be dismissed or that no further action should be taken because it appears to him that the matter has been finally determined under Part IIIB, IV or V or that the grievance is trivial or invalid, he shall so inform the complainant and invite his views before taking further action. Upon receipt of the complainant's response, or if no response is received within 21 days, the Dean shall consider the matter further and shall take such action as seems to him right including dismissing the complaint. The Dean shall notify the complainant of his decision at the earliest opportunity.

VI.2.4 Within 10 days of receiving the decision of the Dean under Clause VI.2.3 above, the complainant may refer the matter to the Governing Body. If a majority of the Governing Body so determines, it may appoint a Grievance Committee to hear the complaint notwithstanding that it has been dismissed by the Dean.

VI.2.5 In any case where, upon due consideration, the Dean is satisfied that the subject matter of the complaint may properly be considered with, or forms part of, a complaint under Part IIIB, or a determination under Part IV or an appeal under Part V of this By-law, he shall so inform the complainant and defer any further action on it until such time as the complaint, determination or appeal has been heard or the time for instituting has passed.

VI.2.6 In any case where upon investigation the Dean is satisfied that the complaint concerns an act or omission which may amount to a criminal offence, he shall so notify the complainant and, subject to any representations the complainant may make, shall consider whether, and if so what, further action may be taken in relation to the complaint within the College's grievance procedure.

VI.3 Informal Resolution

VI.3.1 In any case where the Dean does not dispose of the appeal or defer it under Clause VI.2.5 above, he shall consider whether it may be capable of informal resolution. The Dean shall take into consideration the nature and ambit of the complaint and the wishes of the complainant and have particular regard to the interests of justice and fairness. Before attempting informal resolution the Dean shall consider whether the complainant or any other person may benefit from the assistance of a third party in connection with the complaint and shall consider whether professional advice should be sought.

VI.3.2 If the complainant objects to informal resolution the Dean shall consider whether to refer the matter to a Grievance Committee or take any other action.

- VI.3.3 In any attempt at informal resolution the Dean shall have regard to confidentiality as far as possible and shall ensure that the interests of the parties to the matter are considered at all stages.

Grievance Committee Procedure

VI.4 Grievance Committee

- VI.4.1 In any case where the complaint has not been disposed of by the Dean, or where an appeal is made under Clause IIIB.2.5 of this By-law, the Dean shall refer the matter to a Grievance Committee (“the Committee”) established in accordance with the provisions of Clause VI.4.3. Notwithstanding By-Law 31(i), the Governing Body shall appoint one of its members to act as Chairman. The Dean shall notify the Committee of the nature of the complaint or appeal and shall provide the Committee with copies of any statements or other relevant documents which he considers will assist in the fair disposal of the matter. Any appeal under Clause IIIB.2.5 of this By-law shall be in writing and shall specify with sufficient detail the grounds of appeal and any supporting information.
- VI.4.2 The Dean shall notify the complainant that the matter has been referred to the Committee and shall provide him with copies of the documents which he has provided to the Committee.
- VI.4.3 A Grievance Committee shall consist of three persons selected by the Governing Body from the Employment Panel. In selecting members of the panel for appointment as members of a Grievance Committee, the Governing Body shall exclude the person charged, and any person who has been involved in or associated with the making of the complaint or any part of it, or who has been involved in any preliminary hearing or investigation, and shall then choose the three members of the Board from among the other members of the Panel by lot. If the exclusions specified in this clause leave fewer than three members of the Panel, the total shall be brought up to three by the addition of the required number of Official Students who have not been involved in any preliminary hearing or investigation and who are not on leave, chosen in order of seniority.
- VI.4.4 The Committee shall meet as soon as is reasonably practical for preliminary consideration of the matter. The Committee may appoint a secretary or clerk to assist in all aspects of the grievance hearing or appeal. The Committee may call for written statements from the complainant or any other person and may cause such investigations to be conducted as appear appropriate, if necessary by an independent person appointed for the purpose. The Committee shall appoint a time for the matter to be heard and may make such arrangements as it considers fit for the fair and just hearing of the matter. The Committee may appoint its Chairman to act in its stead in all preliminary matters. The Committee shall have power to adjourn the proceedings from time to time.

- VI.4.5 The matter shall not be disposed of without an oral hearing at which the complainant, and any person against whom the grievance or appeal lies, shall be entitled to be heard and to be accompanied by a friend or representative, save that the hearing may proceed in the absence of the complainant or any other party who fails to attend without reasonable cause.
- VI.4.6 Provided that due regard is had to the interests of justice and fairness, the conduct of the hearing and any associated matters may be determined by the Committee. In particular, the Committee may determine whether and to what extent oral examination of witnesses shall be permitted, whether any evidence may be taken in the absence of the complainant (or the individual against whom any complaint is made) and whether and what time limits shall be set for the proceedings.
- VI.4.7 The reasoned decision of the Committee as to whether the complaint or appeal is well-founded shall be notified in writing to the complainant and any person against whom any complaint is made, as well as to the Governing Body. If any part of the grievance or appeal is upheld, the Committee shall also notify the Governing Body of its recommendations as to the proper redress for the complainant and any other recommendations as it sees fit.
- VI.4.8 No appeal lies from the decision and/or recommendations of the Committee.