

IMPERIAL COLLEGE LONDON

ORDINANCE D10

REMOVAL FROM NON-SUBSTANTIVE POSTS

This Ordinance is made pursuant to Part I, Clause 3 of the Appendix to the College's Statutes

1. This Ordinance must be read in conjunction with the Appendix to the College's Statutes (hereinafter the "Appendix") and with Ordinance D7 and the other Ordinances dealing with staff matters. In the event of conflict the Appendix shall have precedence.

APPLICATION

2. The provisions of this Ordinance shall apply to the removal of a member of staff from an appointment as College Consul, Head of Department, or such other posts as have been designated by the Council, to which he or she has been elected or appointed **which is distinct from that individual's substantive post** and where dismissal from the substantive post is not being contemplated. Where the appointment is the substantive post or where dismissal from the substantive post is also contemplated, the provisions of Part II, Part III, Part IV or Part V of the Appendix shall apply as relevant to the circumstances.

3. Staff will normally be notified of the contents of this Ordinance when the formal offer of a non-substantive post is made. Non-substantive posts will be offered for a fixed, time limited period.

ACTION RELATING TO THE WITHDRAWAL OF A NON-SUBSTANTIVE POST

4. Non-substantive posts will automatically terminate on the expiry date unless specifically renewed. The post-holder shall have no expectation that the post will be renewed.

5. A member of staff may resign from a non-substantive position before the expiry date by giving not less than three months' written notice.

6. A non-substantive post may be withdrawn by the College with immediate effect at any time prior to the normal expiry date, providing that the member of staff holding the position is given the opportunity of a meeting with the person proposing to withdraw the position and is provided with a right of appeal against that decision in accordance with Paragraphs 14-18 of this Ordinance.

7. In exceptional circumstances, the member of staff holding the non-substantive post may be suspended from his or her duties arising from the non-substantive post pending any meeting to be held in accordance with Paragraph 6 above. Such suspension must have the authorisation of the President or Provost and shall be without loss of pay or honorarium attached to the non-substantive post.

INFORMAL ACTION

8. Any performance, conduct or other issues arising in relation to the member of staff's appointment to a non-substantive post shall normally, except in cases of serious poor performance or conduct, be raised informally with the member of staff. The concerns should be made clear and an action plan determined for remedying the deficiencies.

9. Where the member of staff is an official of a trade union, the relevant full-time regional officer of that trade union should be informed of the commencement of formal proceedings under this Ordinance.

MEETING TO CONSIDER THE WITHDRAWAL OF A NON-SUBSTANTIVE POST BEFORE THE EXPIRY DATE

10. If the desired improvement is not evident or the issue is so serious that it warrants immediate formal action, a member of staff will be given, where possible, not less than five working days' notice in writing of the date planned for the meeting to review the withdrawal of a non-substantive post before the expiry date. The member of staff will have the right to be accompanied by another member of staff or (where they are a member of that trade union) a trade union representative at the meeting. The letter inviting the member of staff to the meeting will set out the basis for contemplating the withdrawal of the non-substantive post.

11. Where a member of staff is unable to attend the meeting, it will be rearranged for a mutually suitable time, normally within five working days of the original date.

12. The purpose of the meeting will be for the member of staff to have the opportunity to make representations on the reason(s) for the possible withdrawal of the post. No decision on withdrawal of the position will be made until this meeting has been concluded, although the meeting may proceed in the member of staff's absence if he or she fails to attend without good reason.

13. In the event that a decision is taken to withdraw the non-substantive post, the member of staff will be advised of the reason for this in writing and the date the withdrawal will take effect, and will be given the opportunity of appeal against this decision under Paragraphs 14-18 below.

APPEALS

14. A member of staff who has their non-substantive post withdrawn before the expiry of the fixed term may appeal against that decision. In the written notification of the withdrawal of the non-substantive post, the member of staff will be informed of the name of the person to whom an appeal should be addressed and the time scale for doing so. If the member of staff wishes to appeal he or she must set out the grounds of his or her appeal in writing.

15. The appeal will be heard by a Panel comprising three senior members of the College, who have not had previous substantive involvement in the case and who, wherever possible, shall be more senior than the person(s) who reached the decision being appealed. The three

person panel shall include one lay member of the Council, one College Consul and one person drawn from a list agreed from time to time by the Council. If no College Consul is eligible, or if the panel is an appeal panel considering the position of a College Consul, two persons will be drawn from the list agreed by the Council. . A member of the Human Resources Division, not previously substantively involved in the case, will also be present and the member of staff may be accompanied by a trades' union representative or another member of staff. The Director of Human Resources or his or her nominee will determine in his or her discretion a member of the panel to act as Chair.

16. Appeals against the early withdrawal of the non-substantive post will be conducted broadly in accordance with the procedure set out at Paragraphs 31-34 of Ordinance D7, as set out in amended form below:

- a. The Chair of the panel shall set the procedure to be followed as appropriate for the proper consideration of the matter, to include provision for adjournments during the hearing (if necessary) on request by either party (e.g. to allow for the finalisation of actions or proceedings by another body). The Chair shall be guided by the requirement that the evidence, written and oral, must be confined to the matter of the hearing. An appeal hearing will not usually be a rehearing of the evidence presented at the original hearing. The Chair shall have complete discretion as to the admissibility of evidence.
- b. The procedure for a hearing shall generally include the following steps:
 - (1) The Chair shall facilitate any introductions as are necessary and refer to any matters appropriate to the conduct of the hearing;
 - (2) The Chair may make provision for witnesses in appropriate cases to give evidence in a way which reduces the witness's distress or discomfort;
 - (3) The party bringing the case before the panel conducting the hearing, or his or her representative, shall present his or her case and call his or her witnesses if appropriate. Each witness shall be present only to give evidence, to be examined on it and then leave. Exceptionally, if there is no alternative, the witness may also be a party to proceedings;
 - (4) The respondent or their representative may question the party bringing the case and their witnesses;
 - (5) The panel conducting the hearing may question the party bringing the case and their witnesses;
 - (6) The respondent or their representative shall present their case and call their witnesses if appropriate. Each witness shall be present only to give evidence, to be examined on it and exceptionally, if there is no alternative, the witness may also be a party to proceedings;
 - (7) The party bringing the case or their representative may question the respondent and their witnesses;

(8) The panel conducting the hearing may ask questions of the respondent and their witnesses;

(9) The party bringing the case or their representative shall make any final representations they wish;

(10) The respondent or their representative shall make any final representations they wish;

(11) The panel conducting the hearing shall consider its decision in private; and;

(12) The Chair may, at their discretion, adjourn or postpone the hearing in order that further evidence may be produced by either party, or pending the outcome of proceedings or action by another body or employer, or to obtain advice.

17. Appeal hearings will be conducted in accordance with the following terms and reference:

a. To review whether the basis for the early withdrawal was adequately substantiated; and

b. To review whether the College's procedures were correctly and fairly implemented.

18. The decision of the appeal hearing will be issued in writing within ten working days.

Approved by the Council 23 March 2007

Effective from 8 July 2007

Revisions approved by the Council: 7 Feb 2014

Revisions approved by the Council: 15 May 2015