

## **IMPERIAL COLLEGE LONDON**

### **ORDINANCE D11**

#### **THE DISMISSAL OF MEMBERS OF STAFF BY REASON OF REDUNDANCY**

This Ordinance is made pursuant to Part II of the Appendix to the College's Statutes

#### **APPLICATION**

1. The power to dismiss and the procedures set out in this Ordinance in accordance with Part II of the Appendix to the Statutes (herein after "the Appendix") shall apply to all staff to whom the Appendix applies, provided that in its application to those staff defined in sub-sections (3) to (6) of section 204 of the Education Reform Act 1988 (staff appointed prior to, and not promoted after, 20 November 1987), the power to dismiss shall be subject to such limitations (if any) on the power to dismiss for redundancy as applied to the member of staff concerned prior to the introduction of the Appendix made by the University Commissioners in the exercise of their powers under Sections 203 and 204 of the Education Reform Act 1988.
2. This Ordinance shall not apply to the non-renewal of a fixed term contract (within the meaning of Section 235 of the Employment Rights Act 1996), which shall be dealt with under Ordinance D13. This Ordinance would be used in appropriate circumstances for the ending of a fixed term contract early.
3. Where specifically indicated, this Ordinance shall be read in conjunction with the College's Change Management Policy and Procedure as amended from time to time.

#### **PRELIMINARY STAGE – CONSULTATION**

4. Where any Faculty or Department of the College is considering organisational change which may impact on staff, a consultation paper setting out the proposals should be prepared. Details of the information which should normally be included in the paper are set out in the Imperial College Change Management Policy and Procedure as amended from time to time.
5. There should be appropriate consultation at the earliest opportunity and with a view to reaching agreement with the staff concerned and to the extent required by Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, with appropriate representatives in relation to the consultation paper. Where there is no requirement for collective consultation and an affected 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 member of staff's involvement in proceedings under this Ordinance.
6. Each member of staff and/ or trade union being consulted will be provided with a copy of the consultation paper and full documentation. (This will usually include any arrangements for avoiding redundancies referred to in the College's standard Change Management Policy and

Procedure.) Any member of staff affected by the proposals who is absent from work (for example, due to maternity, sickness or other leave) will be contacted and made aware that consultation is to commence or underway and sent a copy of the consultation paper to their home address in order that they can participate in the consultation process.

7. Following any collective consultation meetings (where applicable), members of staff will be offered the opportunity of individual consultation meetings with the Faculty/ Departmental representative and/or the Human Resources representative. Staff can be accompanied at these individual consultation meetings by a trade union representative (where they are a member of that trade union), another member of staff or, at the Director of Human Resources' discretion, a friend or relative who is not a legal representative.

8. Where appropriate representatives are being consulted at the preliminary stage, they will be offered the opportunity to attend consultation meetings with the Faculty Departmental representative and/ or the Human Resources representative.

9. As part of the consultation process, comments on the consultation paper and any alternative proposals will be sought from the appropriate representatives and individual members of staff. The Faculty or Department will provide information that is necessary so that members of staff and the appropriate representatives can make an informed contribution to the consultation process. The consultation will be carried out with a view to reaching agreement on avoiding or minimising compulsory redundancies, and/or mitigating the consequences of the dismissals. Only at the end of the consultation process and the preliminary stage will any formal recommendation be made as to how to proceed.

10. Before or during the consultation period, the Council should be provided with a copy of the consultation paper, details of the area affected and the reasons for the proposed reduction in academic staff. Following review of the consultation paper the Council may:

a. Defer its decision and review the position again following the completion of the consultation process, at which stage the Council may require a report on the preliminary consultation with staff and/or appropriate representatives and any comments received from them. The Council may then authorise the Provost or his or her nominee to implement the selection process and subsequent proposed redundancies if the Provost or his or her nominee considers this appropriate following the comments and counter proposals gathered during the consultation period;

or

b. Authorise the Provost or other person authorised by the Provost to implement the selection process and subsequent proposed redundancies if the Provost or his or her nominee considers this appropriate following the comments and counter-proposals already gathered during the consultation period up to that point.

**DECISION TO PROCEED**

11. At the end of the consultation period, the Head of Faculty or Department or other relevant person will review the comments and counter-proposals and, if required under Paragraph 10.a. above, will provide the Council with a report on the preliminary consultation with staff and/or appropriate representatives and any comments (including alternative proposals) received from them.

12. If it is still anticipated that redundancies cannot be avoided, and the Council has given the necessary authorisation, the Director of Human Resources or his or her nominee should initiate formal redundancy procedures. Wherever possible, applications for voluntary redundancies will be considered.

13. All staff at risk of redundancy and their appropriate representatives should be notified of any decision to proceed with the formal redundancy procedure and offered the opportunity to have an initial individual consultation meeting.

14. Where a member of staff is at risk of redundancy, he or she will receive details of the change procedure and the timescale over which it will be implemented. This will normally include:

a. The selection criteria to be used to select members of staff for redundancy (where any post to be made redundant is not unique) and/or the selection arrangements where members of staff are to be considered for new posts in the reorganised Faculty or Department. Members of staff can make formal representation on the selection criteria;

b. Any arrangements for seeking suitable alternative or alternative employment for those subsequently selected for redundancy. Where a member of staff is provisionally selected for redundancy, the College will consider all redeployment opportunities and, wherever possible, offer alternative positions within the College;

c. Arrangements for a further consultation meeting with individual members of staff or appropriate representatives to discuss the selection criteria to be employed;

d. An invitation to take either voluntary severance or early retirement and the relevant timescale for applications, if applicable;

e. Any arrangements for avoiding redundancies referred to in the College's standard Change Management Policy and Procedure; and

f. Assistance to be given to staff at risk of redundancy, including advice on how to cope with redundancy, career counselling, advice on how to apply for jobs, interview skills and, if selected as redundant, reasonable time off to seek other employment or undertake training/retraining.

**NOTICE OF REDUNDANCY**

15. If redeployment or retraining is not an option and all suggested alternatives to avoid redundancy are unsuccessful, the Head of Faculty or Department (or a senior manager as his or her nominee) will invite the member of staff in writing to attend an employment review meeting. In inviting the member of staff to the meeting, he or she will be informed why their employment is at risk and why they have been provisionally selected for redundancy. The purpose of the meeting is to give the member of staff a further opportunity to put forward their views on the provisional selection for redundancy, including the way in which the selection criteria (if applicable) has been applied to them. At this meeting the member of staff can be accompanied by a colleague or (where they are a member of that trade union) a trade union representative, or, at the Director of Human Resources' discretion, a friend or relative who is not a qualified legal adviser. A member of the Human Resources Division will be present to facilitate the discussion if required.

16. After this meeting and normally within ten working days, the Head of Faculty, Division or Department (or their appointed nominee) will, acting on the authority of the Provost, write to the member of staff and confirm whether or not his or her employment is to terminate by reason of redundancy. If the decision has been taken to terminate the member of staff's employment, the member of staff will be given any contractual notice of redundancy and confirmation of the leaving date and will be informed of the redundancy payment (at a minimum the payment required by law) to be made. The member of staff will also be given the right of appeal against the decision to terminate his or her employment. The arrangements for an appeal hearing are in accordance with those prescribed in Paragraphs 19-22 of this Ordinance.

17. Where a decision is taken to dismiss staff, a report will be submitted to the Council confirming this. Redundancy dismissals will also be reported annually with a breakdown consisting of the number of staff dismissed broken down by age, disability, gender, and race and, other relevant information as determined appropriate for equality monitoring purposes and statutory requirements.

18. As set out in Paragraph 14 above, assistance will be offered to staff declared redundant. Such assistance may include career counselling as well as reasonable time off to enable the person to seek other employment or to undertake training/retraining. Staff will remain on the redeployment register until the end of their employment.

**RIGHT OF APPEAL**

19. The grounds for appeals must be lodged within ten working days of the receipt of the formal notice of redundancy issued to the individual member of staff. Appeals will be based only against the selection of an individual for redundancy, rather than against the actual decision to restructure. Appeals against dismissal will be heard by a panel constituted in accordance with Paragraphs 24 to 27 of Ordinance D7 outlined below:

a. **Selection of those Individuals and Panels Conducting Hearings.** The Director of Human Resources or his or her nominee will be responsible for ensuring that an appropriate individual or panel is chosen to conduct any Appeal.

(1) Appeals against dismissal shall consist of a panel of three persons, none of whom shall previously have had any involvement with 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. 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.

(2) Panels may be enlarged by one additional person to allow representation by any relevant body (for example, the National Health Service in the case of clinical staff) where the allegation under consideration relates to their performance and it is sensible to hear any allegations and the response to those allegations concurrently. The method for nominating such persons shall be in accordance with procedures laid down by the relevant body or agreed by the Human Resources Director or his or her nominee. Such provision is not intended to provide for a concurrent decision on the matter by the relevant body.

20. The terms of reference for the appeal panel will be as follows:

- a. To review whether the selection for redundancy was adequately reviewed and substantiated; and
- b. To review whether the College's procedures were correctly and fairly implemented.

21. The appeal will be conducted in accordance with the rules for hearings set out in Ordinance in Paragraphs 31 - 34 of Ordinance D7 outlined 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 by request of 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. 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 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;
- (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 and to be examined on it;
- (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.

22. If the decision of the appeal panel is to uphold the decision to dismiss the employee, the Director of Human Resources or his or her nominee will report this decision to the Chairman of the Council as soon as is reasonably practicable and the Chairman of Council will notify the Council that this has occurred.

### **GENERAL**

23. Notes will be taken of any formal meeting under this Ordinance. Notes usually will be taken by a member of HR. A copy of the notes will be sent to the member of staff as soon as

practicable after the meeting. If the member of staff does not agree with the contents of the notes of the meeting, they should make handwritten amendments (and initial each amendment). A copy of the amended notes should be attached to the original typed version and will be added to the hearing papers. If the individual makes substantive changes to the notes, the changes should be discussed with the individual and consideration should be given as to whether the changes should be referred to in any documents referencing the notes.

Approved by the Council 23 March 2007

Effective from 8 July 2007

Revisions approved by the Council: 7 February 2014

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