

IMPERIAL COLLEGE LONDON

ORDINANCE D13

FIXED TERM APPOINTMENTS

This Ordinance is made pursuant to Part V, Clause 16 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. In applying the provisions of this Ordinance, regard shall be had to the Fixed Term Regulations (Prevention of Less Favourable Treatment) Regulations 2002 ("the Fixed Term Regulations") and ACAS Code of Practice 2013.

3. The power to dismiss, and the procedures prescribed, in this Ordinance 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), and the power to dismiss on grounds of redundancy, shall be subject to such limitations (if any) as applied to the member of staff concerned prior to the introduction of the original Model Statute made by the University Commissioners in the exercise of their powers under Sections 203 and 204 of the Education Reform Act 1988 .

THE MANAGEMENT OF FIXED-TERM EMPLOYMENT

4. During the term of any fixed-term contract, members of staff employed on fixed-term contracts shall be subject to the provisions contained within the Appendix and the Ordinances or any other appropriate procedure made under:
 - a. Part I: Clause 1 (3) Removal from non-substantive post.
 - b. Part II: Redundancy (subject to Paragraph 8 below).
 - c. Part III: Disciplinary Procedures.
 - d. Part IV: Incapacity on Health Grounds.
 - e. Part V: Clause 17: Probationary Appointments.
 - f. Part V: Clause 18: Dismissal on Other Grounds.

- g. Part V: Clause 19: Clinical staff.
- h. Part VI: Grievance Procedures.
- i. Part VII: Capability Procedures.

ACTION PRIOR TO THE EXPIRY OF A FIXED-TERM CONTRACT

5. Before the expiry of the fixed-term contract (normally when the fixed-term contract has at least three months left to run), the Provost or his or her nominee shall consider whether a renewal or extension of the contract is to be offered or whether dismissal of the member of staff is to be contemplated on the expiry of the fixed term. The Provost may delegate this decision to the Head of Faculty or Department or any other relevant person where appropriate.

6. If a renewal or extension is to be offered, consideration shall be given to whether the contract of employment is to be for a further fixed term or of indefinite duration. Consideration shall be given to the ongoing requirements for work and the provisions relating to the expiry of fixed term contracts set out in the Fixed Term Regulations. In the event that the individual has been on fixed term contracts at the College for a continuous period of four years, the member of staff's contract shall become open ended under the Fixed Term Regulations subject to ongoing requirements for the work continuing for at least six months past the member of staff's four year anniversary.

7. If dismissal is contemplated upon the expiry of the fixed-term contract, the reason for contemplating dismissal shall be determined. Where the reason for dismissal is redundancy, i.e. it falls within the definition set out in Section 139 of the Employment Rights Act 1996, the procedure commencing at Paragraph 8 below shall be followed (subject to Paragraph 3 above). If dismissal is being contemplated for a reason other than redundancy, e.g. removal from a non-substantive post, a failure to pass probation, discipline, capability, incapacity on health grounds, the withdrawal of registration (for clinical staff), status or contract, or some other reason, the procedures of the relevant Ordinances or any other appropriate procedure listed in Paragraph 4 above shall be used.

PROCEDURE FOR DISMISSAL BY REASON OF REDUNDANCY ON THE EXPIRY OF A FIXED-TERM CONTRACT

8. As soon as reasonably practical, and ideally at least 30 days before the expiry of the fixed-term contract, there shall be consultation with the member of staff or, if and to the extent required by Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, with appropriate representatives following the procedure set out below:

- a. The department (together with Human Resources, where appropriate) will ensure that active efforts to identify and secure additional funding for the role are made throughout the duration of the consultation period. In this respect, the College recognises that attempting to obtain such funding is an ongoing process and the line

manager should keep the member of staff informed of any efforts being made throughout the period of their fixed term contract. The College will also give consideration to providing bridging funding in appropriate cases where alternative funding is identified, although it will be under no obligation to provide such bridging funding and shall be entitled to exercise its discretion in making a determination that is reasonable in the circumstances.

b. During the consultation period Human Resources will request clarification on whether the appointment should be changed to open ended, extended or (subject to the results of any attempts to identify/secure alternative funding – see below) end.

c. If the role is provisionally identified as due to end, Human Resources will write to the individual to commence the consultation period. During this period and up until the contract ends, redeployment opportunities will be reviewed in liaison with the relevant department and an offer of 'suitable alternative' and/or 'alternative' employment will be made wherever possible.

d. Where the consultation process has been exhausted, in the event that redeployment has not been possible or no future funding has been secured, and a decision has been made that the contract of employment will expire, Human Resources will write to the individual advising him or her of this. The individual will also be informed of their entitlement (if any) to redundancy pay.

9. Further details on the above mentioned process can be located in the '[Consultation Guidance for Managers staff on fixed term contracts or open ended contracts underpinned by external project/research funds](#)'.

10. There shall be no requirement to obtain authorisation from the Council to institute redundancy procedures under this Ordinance.

11. In addition to the information set out at paragraph 8 above, the member of staff will be informed of their right of appeal against the decision to terminate their employment. The arrangements for the appeal hearing are in accordance with those outlined below.

RIGHT OF APPEAL

12. The grounds for appeal must be lodged within ten working days of the receipt of the formal notice of redundancy issued to the individual member of staff under paragraph 8 above. Appeals against dismissal will be heard by a panel constituted in accordance with Paragraphs 25 to 29 of Ordinance D7 outlined below:

Selection of those Individuals and Panels Conducting Hearings

13. The Director of Human Resources or his or her nominee will be responsible for ensuring that an appropriate panel is chosen to conduct any Appeal.

- a. Appeals against dismissal shall consist of a panel of three persons, none of whom shall previously have had any substantive 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, at his or her discretion, a member of the panel to act as Chair.
 - b. 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 appropriate. 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.
14. 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;
 - b. To review whether the College's procedures were correctly and fairly implemented; and
 - c. To consider whether the action was reasonable in the circumstances known to management at the time.
15. If new evidence is introduced during an appeal hearing it may be referred by the person or panel hearing the appeal back to the original decision-maker, in order that he or she may review their earlier decision.
16. 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 conducting a hearing 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. An appeal hearing will not usually be a rehearing of the evidence presented at the original hearing.
 - 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 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;
- (3) The respondent or their representative may question the party bringing the case and their witnesses;
- (4) The panel conducting the hearing may question the party bringing the case and their witnesses;
- (5) 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;
- (6) The party bringing the case or their representative may question the respondent and their witnesses;
- (7) The panel conducting the hearing may ask questions of the respondent and their witnesses;
- (8) The party bringing the case or their representative shall make any final representations they wish;
- (9) The respondent or their representative shall make any final representations they wish;
- (10) 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; and
- (11) The panel conducting the hearing shall consider its decision in private.

17. If the decision of the appeal's 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

18. 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.

19. Where the relevant 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.

Approved by the Council 23 March 2007

Effective from 8 July 2007

Revisions approved by the Council: 9 July 2010

Revisions approved by the Council: 7 February 2014

Revisions approved by the Council: 15 May 2015