

**IMPERIAL COLLEGE LONDON**

**ORDINANCE D16**

**CLINICAL STAFF –  
TERMINATION, WITHDRAWAL, REVOCATION OR SUSPENSION OF REGISTRATION, CONTRACT  
OR STATUS**

This Ordinance is made pursuant to Part V, Clause 19 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 a conflict the Appendix shall take precedence.

**ACTION UNDER THIS ORDINANCE**

2. In taking any action under this Ordinance, regard shall be had to the relevant Employment Legislation and/ or Code of Practice in force at the time. Where the relevant member of staff is an officer of a trade union, the relevant full-time regional officer of that trade union should be informed at the commencement of any formal proceedings under this Ordinance.

3. This Ordinance only applies where a member of the clinical academic staff is required to engage in clinical work or activities and for that purpose is required to be registered with the General Medical Council or Dental Council or similar body (or to have an honorary or substantive contract or status with a National Health Service trust), and has that registration, contract or status terminated, withdrawn, revoked or suspended.

4. If the College wishes to take action against a member of the clinical academic staff for any reason other than under Paragraph 3 above, that action 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.
- c. Part III: Disciplinary Procedures.
- d. Part IV: Incapacity on Health Grounds.
- e. Part V: clause 16: Fixed Term Employment.
- f. Part V: Clause 17: Probationary Appointments.
- g. Part V: Clause 18: Dismissal on Other Grounds.
- h. Part VII: Capability

**SUSPENSION**

5. Upon receiving notification from the relevant body that a member of staff's registration, contract or status has been suspended, the Provost or his or her nominee may write to the member of staff to notify him or her that a decision has been taken to suspend him or her from carrying out his or her duties for the College. Partial suspension will also be considered and implemented where appropriate. The notification will include:

- a. The reason for the suspension, which shall be because he or she is unable to perform the duties of the post in the absence of the registration, contract or status;
- b. The date when the suspension will take effect and, if possible, the anticipated duration;
- c. Whether or not pay is to continue during the period of suspension.

6. If the period of suspension is to be unpaid, the Director of Human Resources or his or her nominee will comply with the requirements of the relevant Employment Legislation and/ or Code of Practice in force at the time before writing to the member of staff to notify him or her that a decision has been taken to suspend him or her. In these circumstances, the member of staff will be offered a right of appeal against the decision to suspend.

7. On a case by case basis, consideration may be given to either allowing the member of staff to undertake his or her non-clinical duties (if not related to research) or redeploying the member of staff to a non-clinical post as an alternative to suspension.

8. During any period of suspension, the provisions of Paragraph 21 of Ordinance D7 will apply. The member of staff may be required not to attend the College's premises or have contact with students, colleagues or funding bodies without the prior written permission of the Provost or authorised delegate. The period of suspension should normally be as short a period as possible i.e. usually three weeks. Suspension for a period longer than this must be approved by the Director of Human Resources or his or her nominee and will, wherever possible, be reviewed at three weekly intervals throughout.

**DISMISSAL****CONVENING FORMAL DISMISSAL OR APPEAL HEARING**

9. If, as a result of receiving notification from the relevant body that a member of staff's registration, contract or status has been terminated, withdrawn or revoked, and the Provost or his or her nominee is contemplating dismissing the member of staff, he or she will write to the member of staff to inform him or her:

- a. That dismissal from his or her College post is being contemplated because he or she will not be able to perform the duties of the post in the absence of the registration, contract or status;
- b. Whether the dismissal being contemplated is likely to be with or without notice;
- c. That representations may be made in advance of any decision to dismiss being taken, to include whether dismissal should be with or without notice; and
- d. The arrangements for submitting representations and an invitation to a meeting to discuss the matter.

10. The member of staff may make representations in writing to the Provost or his or her nominee within ten working days of receipt of the notification that dismissal is being contemplated. The Provost or his or her nominee, along with a member of Human Resources, shall then meet the member of staff, who will have a further opportunity at that meeting to make oral representations in relation to the proposals to terminate his or her employment. The member of staff shall have the right to be accompanied at the meeting by another member of staff or (where they are a member of that trade union) a trade union representative.

11. Consideration may be given to redeploying the member of staff to a non-clinical post as an alternative to dismissal.

12. The member of staff will be given not less than ten working days' notice of the meeting. If the member of staff is unable to arrange to be accompanied on the date proposed or fails to attend the meeting for reasons outside his or her control, the meeting will be rearranged to a mutually suitable time, normally within five working days of the original date.

13. In the event that a member of staff repeatedly refuses to attend a formal hearing or cannot attend a rearranged hearing, then he or she may be given the opportunity to respond to the allegation(s) in writing. If a member of staff does not attend a rearranged hearing or does not submit a response to the allegation(s) in writing within the provided time scale, the Chair of the hearing may make a decision on appropriate dismissal action in the member of staff's absence. This decision will be made without the benefit of the member of staff's oral or written statement if he or she has not attended or provided written documentation. The member of staff will be notified in advance that this is a consequence if he or she is unable or unwilling to participate in the process.

14. Normally within ten working days of the meeting, the Provost or his or her nominee shall write to the member of staff notifying him or her of the decision. Where there is a delay in notifying the decision, the Provost or his or her nominee shall contact the member of staff to explain the reason for the delay and give a date when the decision will be notified. If the decision is taken to dismiss the member of staff with or without notice or to redeploy him or her, the Provost or his or her nominee will inform the member of staff that he or she has a right to appeal against the decision, and will confirm the arrangements for submitting an appeal.

**APPEAL AGAINST DISMISSAL OR REDEPLOYMENT**

15. A member of staff who has been dismissed or redeployed in accordance with the provisions of this Ordinance may appeal against the decision to dismiss or redeploy. The appeal should be submitted in writing, setting out the grounds for appeal at the same time, within ten working days of receipt of the notification of dismissal or redeployment.

16. 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 hearing under the Appendix. In either case, the individual(s) shall not have had substantive involvement in the case previously, and will (wherever possible) be more senior than the member of staff's line manager. Throughout the Ordinances concerning staff, where only one individual rather than a panel is to conduct the hearing he or she is referred to as the Chair.

17. Appeals against redeployment will be heard by one person

18. 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.

19. 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 Director of Human Resources or his or her nominee. Such provision is not intended to provide for a concurrent decision on the matter by the relevant body.

20. In advance of the hearing, the member of staff should advise the Chair of the name of the person (if any) who will be accompanying them. Exceptionally the Trade Union may request that two representatives (either regional or local) are present at a formal hearing. The Chair of the hearing will consider this request based on the complexity of the case and, if agreement is given, will specify that one representative will take the main role of spokesperson and the other representative will provide a supporting role assisting the main representative with paperwork and background information. The member of staff's representative may not answer questions on behalf of the member of staff, but he or she can address the hearing to present the member of staff's case, question witnesses, respond to views expressed and sum up the case. The member of staff may confer with the person accompanying them during the hearing.

21. If a member of staff is unable to arrange to be accompanied on the date proposed or fails to attend the meeting for reasons outside of their control, the formal hearing will be rearranged for a mutually suitable time, normally within five working days of the original date or as soon as reasonably possible thereafter.

22. In the event that a member of staff repeatedly refuses to attend an appeal hearing or cannot attend a rearranged hearing, then he or she may be given the opportunity to make their submissions in writing. If a member of staff does not attend a rearranged hearing or does not make submissions in writing within the provided time scale, the Chair of the hearing may make a decision on appropriate dismissal action in the member of staff's absence. This decision will be made without the benefit of the member of staff's oral or written statement if he or she has not attended or provided written documentation. The member of staff will be notified in advance that this is a consequence if he or she is unable or unwilling to participate in the process. The member of staff shall have the right to be accompanied to the appeal meeting by a trade union representative (where they are a member of that trade union) or another member of staff.

23. Within ten working days following any appeal meeting or receipt of all the representations, the person or persons conducting the appeal meeting shall write to the member of staff and notify him or her of the decision and give the reason(s) for it. If there is to be a delay in notifying the decision, the person conducting the appeal meeting shall contact the member of staff and explain the reason for the delay and give a date when the decision will be notified. The appeal panel may uphold the member of staff's appeal, in which case it will inform the Director of Human Resources or his or her nominee, who will ensure that the member of staff's continuous employment is maintained and there is no loss of pay or other benefits. The College reserves the right, in appropriate cases, to conduct and factor into its decision regarding such payments to a member of staff an assessment of any income received by the member of staff while not in College employment.

24. The decision at appeal shall be final.

### **GENERAL**

25. Where it is known that the member of staff is an official of the trade union, the member of the Human Resources Division providing support to the Chair will bring a copy of the request to attend the formal hearing to the attention of the relevant full-time regional officer.

Approved by the Council 23 March 2007

Effective from 8 July 2007

Revisions approved by the Council: 7 February 2014

Revisions approved by the Council: 15 May 2015