

IMPERIAL COLLEGE LONDON

ORDINANCE D7

**GENERAL PROVISIONS FOR ACADEMIC STAFF: DISMISSAL, DISCIPLINE, GRIEVANCE
PROCEDURES AND RELATED MATTERS**

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

ACADEMIC FREEDOM

2. The Appendix provides at Part 1, Clause 2 (1)(a) the guiding principles in the consideration of academic freedom. Subject always to those guiding principles and also to the remaining provisions of this Ordinance, the College will ensure that any proceedings under this Ordinance will be appropriately prioritised and conducted as expeditiously as possible with regard to all relevant circumstances. The College will, as appropriate, review the length of time taken to conduct proceedings under this Ordinance.

3. Where in any proceedings made under Parts II (Redundancy), III (Discipline), IV (Incapacity on Health Grounds), V (Other Dismissals), VI (Grievances) or VII (Capability) of the Appendix, a member of staff invokes the Sub-clause under Part 1, Clause 2 (1)(a) of the Appendix which deals with academic freedom, that claim shall be considered by the person or panel dealing with the matter before proceeding further.

4. Any issue as to the meaning of "academic freedom" shall be determined by reference to Sections VI and VII of the Recommendation concerning the status of Higher Education Teaching Personnel adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997 (attached as [Annex A](#) to this Ordinance), as amended from time to time.

5. The person or panel dealing with the matter under this Ordinance shall arrange such investigations as are necessary to determine the member of staff's claim under Part 1, Clause 2(1)(a) of the Appendix. The member of staff will then be invited to a hearing with the person or panel dealing with the matter and will be offered the right to be accompanied at that meeting by another member of staff or (where they are a member of that trade union) a trade union representative.

6. In the event that following the meeting the member of staff's claim is rejected, the person or panel dealing with the matter shall so inform the member of staff in writing, explaining the reason(s) for the decision and providing a summary of any investigations undertaken in reaching the decision. The member of staff shall be informed that the proceedings that were interrupted while the claim was being considered will now be resumed.

7. The member of staff will have the right of appeal against the decision on academic freedom. The appeal will be considered by the person or panel dealing with any appeal on the substantive matter. Where the Ordinance has one person hearing the appeal but there is also an issue of academic freedom under consideration, then the person hearing the appeal will be assisted by two senior members of academic staff, neither of whom shall previously have had any involvement with the case.

8. In the event that the member of staff's claim is upheld and it is found that action has been taken against the member of staff because of an issue of academic freedom, the person or panel dealing with the matter shall cancel that action and it will be treated as invalid and all record of the action shall be removed from the member of staff's personal file.

9. If the decision made under Paragraph 8 above occurs at the appeal stage under the relevant part of the Appendix after the relevant proceedings have been resumed, the person or Chair of the panel that took the original action will be notified of the appeal panel's decision and the fact that the original action has been cancelled by the appeal panel. It may also be appropriate to notify the Council.

THE TIMING OF RAISING ISSUES

10. Complaints or matters which are raised with a view to them being subject to the appropriate College policy or procedure should normally be raised within three months of the person becoming aware of the issue (for instance, a line manager in the case of capability or disciplinary concerns, or a member of staff in the case of a grievance regarding their treatment by others).

INVESTIGATIONS

11. In all proceedings constituted under Paragraphs 25-26 below and where otherwise provided for under the Ordinances or any other appropriate procedure, where formal action is being considered the College's policy is that the relevant facts and any evidence will be gathered in order that an informed discussion and decision can take place before any formal action is commenced. The investigator chosen should be independent of any previous involvement in the events being investigated and the people concerned and will, wherever possible, be more senior than the relevant member of staff's line manager. The role of the investigator will be to establish the relevant facts (by means including, but not limited to, examining relevant documentation and interviewing relevant witnesses) and, on the basis of those facts, making recommendations about whether there is a case for the relevant individual to answer; although in some circumstances, the investigator will be appointed with a wider remit. In some circumstances (for example, where the employee has already left the College's employment), an investigation may not be possible (although, for the avoidance of doubt, such circumstances will arise in exceptional cases only). The Director of Human Resources or his or her nominee will provide case specific guidance and assist during an investigation.

RIGHT TO BE REPRESENTED

12. In all hearings constituted under Paragraphs 25-29 below and where otherwise provided for under the Ordinances or any other appropriate procedure, the member of staff may be represented by a colleague or (where they are a member of that trade union) a trade union representative. The Chair, at his or her complete discretion, may allow the member of staff to be accompanied by a relative or friend who is not a legal representative. Where the 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 formal proceedings under any relevant Ordinance.

13. The representative may address the hearing and may confer with the member of staff during the hearing, but is not permitted to answer questions on the member of staff's behalf.

14. If the representative is not available to attend at the time proposed for the hearing in question, then the member of staff may propose an alternative time for the hearing to take place. The proposed alternative time must be reasonable and should usually be within five working days of the initial date of the hearing.

15. A work colleague chosen to accompany a member of staff to a hearing will be permitted to take reasonable paid time off during working hours to attend that hearing.

16. Members of staff who have been accused of harassment, bullying or victimisation will be provided with the name of an HR representative not involved in the case for procedural guidance.

ATTENDANCE

17. Parties to any hearing have the right to appear personally and must take all reasonable steps to attend.

ASSISTANCE FOR PERSONS WITH DISABILITIES

18. If the member of staff has any disability which may require particular facilities at any meeting or hearing under these procedures, the member of staff should contact the HR representative to request those facilities as far as possible in advance of the meeting or hearing.

19. Where it is known that a member of staff has a disability in advance of any meeting or hearing, the HR representative should establish whether any particular facilities or adjustments are required.

20. Where a member of staff is being represented by either a work colleague or a trade union representative, the member of staff should, in advance of any meeting, establish if the

representative has a disability which may require particular facilities or adjustments and communicate this to the HR representative supporting the panel.

SUPPORT TO PERSONS OR PANELS

21. The Chair or panel conducting a hearing under the Appendix may be supported by a member of HR for administrative or other support. Such a person will not have supported one of the parties at a previous hearing related to the same case. This person will not be a member of the panel.

SUSPENSION

22. A decision to suspend an academic member of staff from work should only be taken after careful consideration and where it is necessary to protect individuals, to avoid interference with the investigation, or to protect College property. Reasons that may lead to that decision being taken include risks to others, damage to College equipment, etc. This is not an exhaustive list. Consideration will also be given to the well-being of the member of staff, and the impact on his or her work and of those researchers and students supported by the academic. Partial suspension will also be considered and implemented where appropriate. If suspended from work under Ordinances or any other appropriate procedure made under Part III or Part V of the Appendix:

- a. The member of staff will be invited to a meeting to discuss matters including (but not limited to) the reason(s) for suspension, any restrictions on workplace attendance, contact with students, colleagues (including witnesses) and funding bodies. A colleague or union representative can be present at the meeting if desired;
- b. In addition, the member of staff should be provided with information about who to contact if necessary whilst on suspension and arrangements for providing access to evidence necessary to respond to any allegations or processes. Staff should also be informed of the need to be contactable during normal working hours and to make themselves available to attend meetings as necessary.
- c. If it is not possible to meet the member of staff in advance of suspension, written notification will be sent to the member of staff and a meeting date will be set up to discuss the reasons for the suspension and arrangements during the period of suspension. At the meeting he or she may have a colleague or union representative present if desired. The arrangements will be confirmed in writing.
- d. Suspension is not a formal sanction and is to be considered a neutral act to facilitate investigation. Regular contact should be maintained with the member of staff to advise them of the progress of the investigation. Unless otherwise provided in the terms of the suspension, the College will continue to pay the member of staff his or her normal salary and he/she will receive his or her normal benefits.

e. 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 be reviewed at three weekly intervals throughout.

NOTICE PERIODS

23. At any time during a period of notice of termination, the College shall be under no obligation to assign any duties to the member of staff and shall be entitled to reduce their duties or exclude him or her from its premises, but this does not affect his or her entitlement to receive his or her normal basic salary and other contractual benefits. The decision to do so would not be taken lightly and may be for reasons such as to minimise disruption within his or her area of work, etc. During any notice period, the member of staff agrees that he/she is not permitted to work for any institution, person, firm, company or on his or her own behalf or have contact with students or colleagues without the College's prior written permission, which will not be unreasonably withheld.

DEFINITION OF "WORKING DAYS"

24. A "working day" is any day, Monday to Friday, on which the College is formally open. Public Holidays and other days such as at Christmas and Easter when the College is formally closed are excluded.

HEARINGS UNDER THE APPENDIX

SELECTION OF THOSE INDIVIDUALS AND PANELS CONDUCTING HEARINGS

25. Separate Ordinances determine who should conduct hearings which are not covered by this Ordinance. 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. 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.

26. Where a hearing is convened under Part II, Part III, Part IV or Part V, and dismissal is a potential outcome, the hearing shall be conducted by two academic staff, one of whom may be a College Consul, and in any case who shall normally be of equivalent seniority with no previous substantive involvement in the case.

27. Appeals against warnings will be heard by one person, with the exception of issues concerning academic freedom in accordance with Paragraph 7 above.

28. Appeals against dismissal shall be heard by a panel of three persons, none of whom shall previously have had any substantive involvement with the case. 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.

29. 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.

ACTION PRIOR TO HEARING, GRIEVANCE AND APPEAL PANELS

30. The Director of Human Resources or his or her nominee shall be responsible for the conduct of hearings under the Appendix as required and for taking charge of the proceedings. To include:

- a. Arranging and notifying the parties of a date for the hearing, which shall be as soon as is reasonably practicable;
- b. Notifying or reminding the member of staff of his or her right to be accompanied by another member of staff or (where they are a member of that trade union) a trade union representative;
- c. Giving the member of staff no less than ten working days' notice to provide their written response to the allegations and availability to attend a formal hearing. Giving both parties, where possible, not less than five full working days' notice (running from the deadline for the member of staff to provide their written response to the allegations and availability) of the date for the planned hearing;
- d. Any necessary administrative and accommodation arrangements to enable the hearing to take place;
- e. Any necessary administrative and accommodation arrangements for the attendance of witnesses or persons entitled to make oral representations to the panel;
- f. Upon receipt of relevant documentation, the production and distribution of documents in a timely manner (where possible, by no later than five working days before the hearing) and in accordance with the relevant Ordinance or appropriate

procedure to allow for the proper presentation and consideration of the matters before the person or panel conducting the hearing. These documents may include:

- (1) Any statement of complaint, grievance or appeal;
- (2) The responses thereto;
- (3) Any witness statements relied upon by either party; and/or
- (4) Any other relevant documents.

g. Once documentation has been circulated in accordance with paragraph 30(f) above, no new documents will be accepted from the member of staff or the management side, save for where the documents are demonstrably relevant or constitute new material relevant to the case and subject always to the discretion of the Chair which shall not be unreasonably withheld.

CONDUCT OF HEARINGS

31. The Chair (of the panel or the individual 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, should be confined to the matter which is the subject of the hearing.

32. 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.

33. The procedure for a hearing shall generally include the following steps:

- a. The Chair shall facilitate any introductions as are necessary and refer to any matters appropriate to the conduct of the hearing;
- b. The Chair may make provision for witnesses in appropriate cases (for instance, when sexual harassment is alleged) to give evidence in a way which reduces the witness's distress or discomfort;
- c. The party bringing the case before the person or 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;

- d. The respondent or his or her representative may question the party bringing the case and their witnesses;
 - e. The person or panel conducting the hearing may question the party bringing the case and their witnesses;
 - f. The respondent or his or her 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. Exceptionally, if there is no alternative, the witness may also be a party to the proceedings;
 - g. The party bringing the case or their representative may question the respondent and his or her witnesses;
 - h. The person or panel conducting the hearing may ask questions of the respondent and his or her witnesses;
 - i. The party bringing the case or their representative shall make any final representations they wish;
 - j. The respondent or his or her representative shall make any final representations they wish;
 - k. The person or panel conducting the hearing shall consider its decision in private. The person providing support to the person or panel conducting the hearing shall be able to support the person or panel when making its decision but shall not participate in the decision itself.
34. The Chair may, at his or her 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.

APPEALS

35. In all cases of formal action, the member of staff has the right of appeal against the decision to issue a formal written warning or to dismiss or against any other sanction. The member of staff must submit grounds for appeal within ten working days of receipt of the written notification of the sanction.
36. Appeal hearings will generally be conducted in accordance with the following terms of reference, or as prescribed in the individual Ordinance:
- a. To review whether the matter under consideration was adequately investigated 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 of the hearing.

37. 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 Chair, in order that he or she may review the disciplinary sanction. The appeal hearing may be reconvened in the event that the member of staff does not accept the subsequent decision of the Chair.

38. The panel or person hearing the appeal may be assisted by a member of staff from the Human Resources Division, who will not have had previous substantive involvement in the case. The member of staff has a 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 appeal hearing. All appeal hearings will be convened as soon as practicable

39. In the event that an appeal panel decides to reinstate a member of staff who has been dismissed, this will be done in a manner which maintains continuous service and without loss of pay or any 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.

40. The College regards the appeal decision as final.

ACTION FOLLOWING A HEARING

41. The Chair shall write to the parties notifying them of the decision, normally within ten working days of the final day of the hearing. If there is to be a delay in notifying the decision, the Chair shall contact the parties to explain the reason for the delay and inform the parties of the date when notification will be made.

42. Notification of the decision will be given in writing and will include:

a. The decision;

b. The reason(s) for the decision;

c. Where a decision adversely affects a member of staff, notification of the member of staff's right of appeal and the procedure and timetable for submitting an appeal;

OR

d. In the case of decisions on appeal, confirmation that the decision is final.

43. Upon receipt of the decision, the Director of Human Resources or his or her nominee shall take such steps as are required under the relevant Ordinance or member of staff's contract of employment.

44. Where required by Ordinance, the decision should be reported to the Council.

45. Notes will be taken of any formal meeting under Ordinances, D8, D9, D11, D12, D13, D15 and D19. 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

Revisions approved by the Council: 15 May 2015

ANNEX

Sections VI and VII of the Recommendation Concerning the Status of Higher Education Teaching Personnel Adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997