

STATUTES
MADE FOR
MERTON COLLEGE
OXFORD

**Approved by Her Majesty The Queen
in Council on the 15 July 2015**

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PREAMBLE

MERTON COLLEGE, otherwise called the House or College of Scholars of Merton, was founded in the year 1264 at Malden in Surrey by Walter de Merton, sometime Chancellor of England and at a later period Bishop of Rochester. The first body of the Founder's Statutes was given in 1264, the second in 1270, the third and last in 1274, in which year the House of the Scholars was transferred to Oxford.

The purpose of the foundation is declared in the following introduction to the Statutes of 1274:

'In nomine gloriosissime et indiuidue Trinitatis, Patris, et Filii, et Spiritus Sancti. Amen. Ego, Walterus de Merton, clericus, illustris domini Regis Anglie quondam Cancellarius, de summi rerum et bonorum opificis bonitate confisus, eiusdem gratie qui vota hominum pro sua voluntate ad bonum disponit et dirigit, fidenter innisus, animique reuolucione sepe sollicitus si quid sui nominis honori retribuam pro hiis que michi in hac vita habundanter retribuit, domum, quam scolarium de Merton intitulari seu nuncupari volui et mandaui, et quam in meo solo proprio, meis laboribus adquisito, videlicet, apud Maldon in comitatu Surriensi, ad perpetuam sustentacionem scolarium in scolis degencium, pro salute anime mee et animarum domini Henrici quondam regis Anglie, necnon et germani sui Ricardi Romanorum regis incliti, et antecessorum et heredum suorum, ac parentum et benefactorum meorum omnium, ad honorem et gloriam Altissimi, ante turbacionem in Anglia nuper subortam, fundauit et stabiliui, nunc, pace Anglie reformata ac pristina turbacione sedata, animi stabilitate perpetua approbo stabilio et confirmo, locumque sibi habitacionis et domum Oxonie, vbi vniversitas viget studencium, in meo territorio proprio, ecclesie Sancti Iohannis contermino, concedo et assigno. Quam siquidem domum scolarium de Merton nuncupari volo, atque in ea scolares perpetuo moraturos esse decerno. Cui siquidem domui, seu scolariibus in eadem, Altissimo concedente, imperpetuum moraturis, maneria mea de Maldon et de Farlegh cum suis pertinentiis, que pro ipsorum scolarium et ministrorum altaris, qui in ea residentes erunt, sustentacione perpetua, tempore dicte turbacionis contuli, etiam in presenti, pace regni reformata, concedo, ipsamque collacionem spontanea et libera voluntate approbo, ac deliberato iudicio ratifico et confirmo. Que etiam maneria dictis scolariibus, vna cum aliis per me sibi adquisitis et acquirendis, apud eosdem scolares et fratres perpetuo permanere decerno, sub forma et condicionibus infra scriptis, tam circa personas quam circa regulam eorundem, annuente Domino, futuris temporibus iugiter obseruandis.'

Warden Brodrick's translation reads as follows:

In the name of the most glorious and undivided Trinity, the Father, Son and Holy Ghost, Amen: I, Walter de Merton, clerk, and formerly Chancellor of the illustrious Lord the King of, England, trusting in the goodness of the Sovereign Creator of the world, and of its blessings, and confidently reposing on the grace of Him who at his pleasure orders and directs to good the wills of men, and after I had frequently and anxiously considered how I might make some return in honour of his name, for the abundance of his bounty towards me in this life, did formerly, and before the troubles which have of late arisen in England, found and establish a house which I willed and commanded to be named and entitled 'the House of the Scholars of Merton'. This House was founded on my own property, which I had acquired by my own exertions: it

was situated at Malden, in the county of Surrey, and was destined for the constant support of scholars residing in schools, in behalf of the salvation of my own soul, and of the souls of the Lord Henry, formerly King of England, that of his brother Richard, the renowned King of the Romans, and those of their predecessors and heirs, and of all my own parents and benefactors, to the honour and glory of the Most High. But now that peace is restored in England, and our old troubles are allayed, I approve with firm purpose of mind, establish, and confirm the former grant; and I limit, grant, and assign the local habitation and home of the school to be at Oxford, where there is a prosperous University of students, on my own proper freehold which abuts upon St. John's Church; and it is my will that it should be called the House of the Scholars of Merton, and I decree that it shall be the residence of the Scholars for ever. As I had, at the time of the aforesaid troubles, bestowed on the House or the Scholars who, with the blessing of the Most High, are to reside there for all future times, my manors of Malden and Farleigh, and their appurtenances, for the perpetual support of the Scholars and ministers of the altar, who are intended to be resident in the House, now that the peace of the realm has been again restored, I make the same grant, and approve, and deliberately ratify and confirm it, of my own free and spontaneous will. It is my further decree that the aforesaid manors shall remain for ever in the possession of the Scholars and brethren, and so of any other manors which I have acquired or may acquire for their use, under the forms and conditions set down below, and that, as well in respect to the persons as to the rules which are to bind them, and which must, God willing, be observed without intermission during all times to come.

Later in the Statutes of 1274, the Founder instructs the Warden and Fellows to administer the college with 'good faith and prudence' (cap. 23), with 'industry, integrity and diligence' (cap. 32) and 'with all skill and attention, as the nature of the case and the necessity or expediency of the time or place require' (cap. 26). He charges them to 'preserve the rights and liberties of the House, and to apply all diligence that the rule handed down to the Scholars may be by them fully observed for ever without fraud or evasion' (cap. 30); and that 'in all things, and above all things, they ever observe unity and mutual charity, peace, concord and love' (cap. 38).

1. THE COLLEGE

1.1 The College is a Body Corporate whose name is The Warden and Scholars of the House or College of Scholars of Merton in the University of Oxford.

1.2 The members of the College shall be:

- (a) The Warden;
- (b) The Fellows;
- (c) The Junior Members;
- (d) Such other persons as the College may at its discretion admit as members.

1.3 The objects of the College shall be, for the public benefit, to advance education, learning, research and religion through the provision of a college in Oxford or elsewhere.

1.4 These Statutes and any Bylaw made under these Statutes shall be construed in every case to give effect to the following guiding principles, that is to say:

- (a) to ensure that members of the College have academic freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges; and
- (b) to apply the principles of justice and fairness.

2. THE GOVERNING BODY

2.1 The governance of the College shall be vested in the Governing Body which shall have all the powers necessary for or conducive to the maintenance of the College as a place of education, learning, research and religion.

2.2 The Governing Body shall have the custody of the Seal and shall make Bylaws regulating its use.

2.3 The Governing Body shall comprise:

(a) The Warden;

(b) Fellows who qualify for membership of the Governing Body under Statute 4.2(a).

2.4 Meetings of the Governing Body shall be convened in accordance with the Bylaws. Meetings shall be held at least twice each year and shall be chaired by the Warden or Acting Warden, or by the Sub-Warden in the absence of the Warden or Acting Warden. If none of the Warden, Acting Warden or Sub-Warden is present, a Governing Body meeting shall be chaired by a member of the Governing Body elected for this purpose at the meeting.

2.5 Except as otherwise provided in these Statutes, or in the Bylaws, decisions taken at any meeting of Governing Body shall be made by a majority of those present and voting, except that if the votes are equal the chair of the meeting shall have an additional casting vote.

2.6 The Governing Body shall have the power at a meeting convened for that purpose alone to make and alter the Statutes of the College in accordance with the procedure laid down in the Universities of Oxford and Cambridge Act 1923.

2.7 The Governing Body shall have the power at a meeting to make, alter and revoke the Bylaws of the College relating to:

(a) The holding of Governing Body meetings and regulating proceedings at such meetings;

(b) The election of the Warden, Fellows and College Officers and proceedings at such elections;

(c) The residence, instruction and discipline of Junior Members;

(d) The terms and conditions for the employment of staff;

(e) The academic, financial, administrative and social affairs of the College;

(f) Such other matters as the Governing Body may think fit;

Provided always that such Bylaws and any regulations made under them are consistent with the Statutes of the College. Any proposed change to the Bylaws under this Statute shall be circulated to all members of the Governing Body not less than a week before the said meeting and agreed by a majority

of at least two-thirds of those members present and voting.

2.8 The Governing Body may delegate such of its powers and responsibilities as it may think fit to committees of the Governing Body on such terms and including such individuals who are not members of the Governing Body as it may from time to time determine.

2.9 All members of the Governing Body shall perform their duties as charity trustees gratuitously but may receive from the College:

(a) Proper and reasonable remuneration, including stipends and allowances, for the performance of their duties as employees of the College;

(b) Reimbursement for expenses incurred wholly, exclusively and necessarily in the performance of College duties or the furtherment of the College's objects;

(c) Payment for goods and services provided to the College otherwise than in the course of employment provided always that:

(i) The amount of such payment is determined in accordance with a written agreement between the College and the member concerned and is no greater than is reasonable in the circumstances;

(ii) Before entering into the agreement, the Governing Body is satisfied that it is in the best interests of the College for the goods or services to be supplied by the member concerned on the terms of that written agreement; and

(iii) The total number of members of the Governing Body in respect of whom such a written agreement is made constitute a minority of the Governing Body.

2.10 The Governing Body shall be responsible for the regulation and management of remuneration and other payments to its members and of potential conflicts of interest on the Governing Body and shall from time to time make Bylaws to set out the policy and procedures it shall follow in order to fulfil this responsibility.

3. THE WARDEN

3.1 The Warden shall be responsible to the Governing Body for providing academic and social leadership, representing the College and exercising general supervision over the affairs and management of the College in pursuit of the objects of the College.

3.2 The appointment of a Warden shall be on such terms and conditions with respect to remuneration, allowances and tenure as the Governing Body shall decide.

3.3 The Warden shall reside free of rent in the Warden's Lodgings for not less than six weeks in every academic term and for a total of not less than twenty eight weeks of each year unless dispensation has been granted in advance by the Governing Body.

3.4 The Governing Body shall have the power to appoint one of its members to be Acting Warden on such terms as are deemed to be appropriate when the office of Warden is vacant, or while the Warden has been granted leave of absence.

3.5 When the office of the Warden is vacant or is known to be due to fall vacant, such meetings of the Governing Body shall be convened as may be necessary for the purpose of electing a new warden to serve from a date to be determined.

3.6 The election of a Warden shall be supervised by the Sub-Warden unless the Sub-Warden is a candidate, in which case the election shall be supervised by a Fellow who shall be elected by the Governing Body from among their number but who shall not be a candidate.

3.7 The Warden shall be elected at a meeting convened for that purpose by a majority of the members of the Governing Body present and voting at the time of election, including any members of the Governing Body who are candidates for the office of Warden.

4. THE FELLOWS

4.1 Fellows shall be elected and re-elected at a meeting by a majority of at least two-thirds of the members of the Governing Body present and voting.

4.2 Fellowships may be of any of the following classes:

(a) Fellows who are members of the Governing Body:

(i) Official Fellows, who shall be elected amongst the Officers of the College;

(ii) Professorial Fellows, who shall be elected amongst those holding specified teaching, research or administrative posts within the University;

(iii) Research Fellows, who shall be persons who have been appointed to undertake research within the College or University;

(iv) Extraordinary Fellows, who shall be persons chosen to take a role in the governance of the College.

(b) Such other classes of Fellow who are not eligible for membership of the Governing Body as may be designated by the Governing Body in Bylaws from time to time and including Emeritus Fellows and Honorary Fellows.

4.3 Subject to Clause 4.8, the holder of any Tutorship in the College shall be entitled to be elected Official Fellow by virtue of that office.

4.4 Subject to Clause 4.8, the holder of any Professorship permanently attached to the College, or allocated to the College by the University, shall be entitled to be elected Professorial Fellow by virtue of that office, provided that the College shall be represented on the panels for the election of all such Professorships.

4.5 Official Fellows and Professorial Fellows shall be elected and may be re-elected for successive periods not exceeding seven years.

4.6 Research Fellows shall be elected for such fixed terms as may be designated in Bylaws made by the Governing Body and may not be re-elected.

4.7 Extraordinary Fellows, who shall not be more than three in number, shall be elected for such fixed terms as may be designated in Bylaws made by the Governing Body and may not be re-elected.

4.8 (a) A Fellowship shall be vacated on the holder of the Fellowship becoming Warden of the College.

(b) In the case of Fellows elected under 4.2(a), a Fellowship shall be vacated:

(i) On the holder of the Fellowship taking up a Headship or Fellowship carrying membership of the Governing Body in any other College within the University;

(ii) Save in the case of a Professor whose Chair is attached to the College under Statute 4.4, on the holder of the Fellowship accepting any paid office or engaging in any occupation which in the judgement of the Governing Body interferes with the discharge of duties as a Fellow to the College;

(iii) Where for any reason the holder of the Fellowship is disqualified or refuses to act as a Charity Trustee.

(c) Any Fellowship shall be vacated if the holder of the Fellowship ceases to hold the office or post to which the Fellowship relates.

(d) The Governing Body may determine that a Fellowship shall be vacated on the grounds of grave misconduct or serious breach of the Statutes or Bylaws of the College in force for the time being, and shall make Bylaws for the conduct of such proceedings which shall be in accordance with the principles of natural justice. This section does not apply to any member of the academic staff to whom Statute 9 applies.

4.9 The Governing Body may allocate moderate sums of money for the provision of a Common Table, whether in the Hall or in some public room of the College, of which the Warden and each of the Fellows shall be entitled to partake free of charge, and also, if the Governing Body so determine, any Officer of the College not being a Fellow, and any guest of the College.

5. THE COLLEGE OFFICERS

5.1 The Governing Body may appoint such College Officers as it may from time to time think fit and shall make alternative arrangements in cases of vacancy, absence or incapacity of College Officers.

5.2 The Officers of the College shall be:

- (a) The Sub-Warden, who shall act in the capacity of the Warden during the Warden's temporary absence or incapacity;
- (b) The Senior Tutor, who shall be responsible for the administration of academic matters in relation to Junior Members;
- (c) The Tutors and Lecturers;
- (d) The Chaplain or Chaplains;
- (e) The Librarian or Librarians;
- (f) The Bursar or Bursars, who shall be responsible for the administration of financial and domestic matters;
- (g) The Principal of the Postmasters, who shall be responsible for the discipline of Junior Members;
- (h) Any other Officer which the Governing Body may determine in the Bylaws.

5.3 (a) The Tutors and Lecturers and such other Officers of the College as may be determined in the Bylaws shall if they are Official Fellows reside within 25 miles of the College during the usual College terms unless the Governing Body has given permission to reside outside this limit.

(b) The Governing Body may require any Officer of the College to reside in the College free of charge or in accommodation provided by the College free of rent where in the opinion of the Governing Body it is expedient to do so.

(c) An Official Fellow who is a Tutor, Senior Tutor, Lecturer, Librarian, Chaplain or Bursar shall be entitled to live in the College free of charge in such rooms as may be assigned for the purpose and subject to such conditions as may be provided in the Bylaws. The Governing Body may assign residential accommodation in the College to other Fellows or Officers of the College as shall be provided in the Bylaws.

5.4 The terms and conditions of employment of the Officers of the College including stipends and allowances shall be determined, subject to these Statutes, in resolutions and Bylaws made by the Governing Body.

6. JUNIOR MEMBERS

6.1 The Junior Members of the College shall be persons who have been presented by the College for matriculation or who have migrated to the College and are engaged in an approved course of study within the University or who have been admitted to the College to pursue an approved course of study.

6.2 Junior Members of the College shall be required to conform to such Regulations as to fees, residence, instruction and discipline as the Governing Body shall from time to time determine.

6.3 The Governing Body may offer such scholarships and financial assistance to Junior Members and prospective Junior Members as it may think fit.

7. THE VISITOR

7.1 The Visitor of the College is the incumbent Archbishop of Canterbury.

7.2 Save in relation to matters set out in 7.3 below

(a) To ensure the observance and enforcement of the Statutes, the Visitor may, of his own accord or on request from the Warden or any member of the Governing Body, require a written answer of the Governing Body or of any member or members of the College to any enquiry and may visit the College for this purpose;

(b) The Visitor shall, at the request of the Warden or any six or more members of the Governing Body, determine the true construction of the Statutes or validate or confirm anything done which might be done under the Statutes.

7.3 The decision of the Visitor given under the Statutes shall be binding upon every person affected by the Statutes except that, in accordance with sections 20 and 46 of the Higher Education Act 2004 or any successive legislation, the Visitor shall not hear any appeal or determine:

(a) Any dispute relating to the members of the academic staff and matters within the jurisdiction of Statute 9;

(b) Any other dispute between a member of staff and the College in respect of which proceedings could be brought before any court or tribunal;

(c) Any dispute as to the application of the Statutes or Bylaws of the College in relation to a matter falling within paragraph (a) or (b);

(d) Any dispute relating to an application for admission to the College as a student; or

(e) Any dispute relating to any student complaint within the jurisdiction of the Office of the Independent Adjudicator for Higher Education.

7.4 (a) If at any time it appears to the Council of the University that any provision of these Statutes, or of any other Statutes of the College in force for the time being, respecting the accounts of the College, or the audit or publication thereof, or the exercise of the borrowing powers of the College, or any other provisions of such Statutes, by the non-observance of which any interest of the University is liable to be prejudicially affected, is not duly observed, the Council may submit a representation to the Visitor; and the Visitor shall, upon receiving such representation, inquire into the matter, and, after considering any representation made by the Governing Body, make such order therein as he shall deem just for enforcing the due observance of the said Statutes in the matter to which the representation shall relate.

(b) Before any representation is made under paragraph (a), the Vice-Chancellor shall communicate the matter of the proposed representation to the Warden for the information of the Governing Body, and when a representation is made shall forthwith send him a copy of it.

8. FINANCIAL POWERS AND RESPONSIBILITIES

8.1 The powers of the College stated in Clause 2.1 of Statute 2 include the powers:

- (a) To acquire and dispose of land and other property and to borrow and charge property of the College as security, including for the purposes of investment;
- (b) To invest any monies held for the general purposes of the College and also any moneys held on specific trusts, subject to any relevant provisions of these trusts, in or upon such securities, stocks, funds or other investments, including land, in any part of the world, and whether involving liability or not, as the Governing Body in its absolute discretion thinks fit, so that the Governing Body is empowered to invest and transpose the investments of such funds, including by the appointment of investment managers, as if it were the beneficial owner thereof;
- (c) To raise funds, but not by means of taxable trading.

8.2 Any investment made under the powers contained in Statute 8.1 shall stand either in the name of the College or in the name of a body corporate selected by the Governing Body as the nominee and trustee of the College for that purpose.

8.3 The Governing Body may delegate upon such terms and with such remuneration as it shall think fit to professional investment managers the exercise of the power of investment contained in Statute 8.1 provided always that:

- (a) They shall be persons who are entitled to carry on investment business under the provisions of the Financial Services and Markets Act 2000 or any successive legislation;
- (b) The Governing Body shall authorise them to exercise such delegated power as aforesaid only within written investment policy guidelines laid down from time to time by the Governing Body;
- (c) They shall be under a duty to report promptly to the College any exercise of the power delegated as aforesaid and to report on the performance of any investments managed by them at intervals of no more than three months;
- (d) The Governing Body shall at all times be free forthwith to review alter or determine such delegation and the terms thereof; and
- (e) The Governing Body shall review such delegation at intervals not exceeding twelve months but so that any failure by the Governing Body to undertake such review within the said period of twelve months shall not invalidate the delegation.

8.4 The Governing Body shall have the power to expend for any purpose within the provisions of the Statutes so much of the value of any fund as is prudent in all the circumstances having regard to the total return achieved and

reasonably to be expected in the long term, where 'total return' means return in terms of both income, whether received or accrued, and capital appreciation, whether realised or unrealised, always subject to any specific investment restrictions applicable to trust funds.

8.5 The Governing Body shall cause appropriate accounting records to be kept. The College accounts shall be audited once at least in every year and the Governing Body shall appoint for that purpose an Auditor or Auditors. The Auditor or Auditors shall report in writing to the Governing Body whether the accounts of the College are duly kept in conformity with the provisions of this Statute.

8.6 The Governing Body shall in every year cause to be prepared and delivered to the University such information relating to the accounts of the College as may be prescribed from time to time by any Statute or Regulation of the University in force for the time being.

8.7 The application of the revenues of the College under the provisions and to the purposes of these Statutes shall be subject to any Statute or Statutes made for the University under the powers of the Universities of Oxford and Cambridge Act 1877 and the Universities of Oxford and Cambridge Act 1923, for enabling or requiring the Colleges to make contributions out of their revenues to University purposes, and to the payment of the charges imposed thereby.

9. ACADEMIC STAFF

Part I Construction Application and Interpretation

9.1 No provision in Part II, Part III, Part IV or Part VII of this Statute shall enable any member of the academic staff to be dismissed unless the reason for the dismissal may in the circumstances (including the size and administrative resources of the College) reasonably be treated as a sufficient reason for dismissal.

Application

9.2 This Statute shall apply

(a) to any person holding a College Office designated by the Governing Body as one to which this Statute applies;

(b) to any person employed by the College to carry out teaching or research save for those holding appointments which have been excluded by the Governing Body from the scope of this Statute on the ground that the duties in that regard are only of a limited nature; and

(c) to the Warden, to the extent and in the manner set out in Part VII of this Statute.

9.3 In this Statute any reference to a "member of the academic staff" is a reference to a person to whom this Statute applies. Words in this Statute importing the masculine shall include the feminine.

Interpretation

Meaning of "dismissal"

9.4 In this Statute "dismiss" and "dismissal" mean dismissal of a member of the academic staff and

(a) include remove or, as the case may be, removal from office; and

(b) in relation to employment under a contract, shall be construed in accordance with section 95 of the Employment Rights Act 1996.

Meaning of "good cause"

9.5

(1) For the purposes of this Statute "good cause" in relation to the dismissal or removal from office or place of a member of the academic staff, being in any case a reason which is related to conduct or to capability or qualifications for performing work of the kind which the member of the academic staff concerned was appointed or employed to do, means -

(a) conviction for an offence which may be deemed by a Tribunal appointed under Part III to be such as to render the person convicted unfit for the execution of the duties of the office or employment as a member of the academic staff; or

- (b) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or
- (c) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office; or
- (d) wilful disruption of the activities of the College; or
- (e) wilful disobedience of any of the Statutes or Bylaws of the College in force for the time being; or
- (f) physical or mental incapacity established under Part IV.

(2) In this section

- (a) "capability", in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and
- (b) "qualification", in relation to such a member, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by that member.

Meaning of "redundancy"

9.6 For the purposes of this Statute dismissal shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to:

- (a) the fact that the College has ceased, or intends to cease, to carry on the activity for the purposes of which the person concerned was appointed or employed or has ceased, or intends to cease, to carry on that activity in the place in which the person concerned worked; or
- (b) the fact that the requirements of that activity for members of the academic staff of the College to carry out work of a particular kind in that place have ceased or diminished or are expected to cease or diminish.

Incidental, supplementary and transitional matters

9.7

(1) In any case of conflict, the provisions of this Statute shall prevail over those of any other Statute of the College in force on the date on which the instrument making these modifications was approved under subsection (9) of section 204 of the Education Reform Act 1988, and over those of any Bylaw, and the provisions of any Bylaw made under this Statute shall prevail over those of any Bylaw made under such other Statutes:

Provided that any power conferred or duty imposed by this Statute upon the Warden may be exercised or discharged by an Acting Warden appointed under section 3(j), 4(b), or 5(b) of Statute II.

Provided that Part III, Part IV and Part VII of this Statute shall not apply in

relation to anything done or omitted to be done before the date on which the instrument making these modifications was approved under subsection (9) of section 204 of the Education Reform Act 1988.

Provided also that disciplinary proceedings in relation to anything done or omitted to be done before that date may continue or be instituted after that date under the relevant College Statutes in force before that date.

(2) Nothing in any appointment made, or contract entered into, shall be construed as overriding or excluding any provision made by this Statute concerning the dismissal of a member of the academic staff of the College by reason of redundancy or for good cause:

Provided that this shall not invalidate any waiver made under section 203 of the Employment Rights Act 1996.

(3) For the avoidance of doubt it is hereby declared that nothing in Part III of this Statute shall be construed as affecting the Statutes and Bylaws of the College concerning re-election on the expiry of a fixed term of a Fellowship.

(4) In any case where an officer of the College or any person is designated to perform any duties or exercise any powers under this Statute, and that officer or person is himself involved in the matter in question, the Governing Body may appoint an alternate to act in his place under procedures prescribed by Bylaws made under this Statute.

(5) Nothing in any other Statute shall enable the Governing Body to delegate its power to reach a decision under section 10(2) of this Statute.

(6) No one shall sit as a member of any of the bodies established under this Statute, and no one shall be present at a meeting of such body when the body is considering its decision or discussing a point of procedure, except as provided by this Statute or by Bylaws made under this Statute.

(7) In this Statute references to numbered Parts, sections, and subsections are references to Parts, sections, and subsections so numbered in this Statute.

Part II Redundancy

Purpose of Part II

9.8 This Part enables the Governing Body, as the appropriate body, to dismiss any member of the academic staff by reason of redundancy.

Exclusion from Part II persons appointed or promoted before 20 November 1987

9.9

(1) Nothing in this Part shall prejudice, alter or affect any of rights, powers or duties of the College or apply in relation to a person unless

(a) his appointment is made, or his contract of employment is entered into, on or after 20th November 1987; or

(b) he is promoted on or after that date.

(2) For the purposes of this section in relation to a person, a reference to an appointment made or a contract entered into on or after 20th November 1987 or to promotion on or after that date shall be construed in accordance with subsections (3) to (6) of section 204 of the Education Reform Act 1988.

The Appropriate Body

9.10

(1) The Governing Body shall be the appropriate body for the purposes of this Part.

(2) This section applies where the Governing Body has decided that there should be a reduction in the academic staff

(a) of the College as a whole; or

(b) of any area of academic work within the College by way of redundancy.

9.11

(1) Where the Governing Body has reached a decision under section 10(2) of this Statute

(a) it may itself decide to select the requisite members of the academic staff for dismissal by reason of redundancy if such a course satisfies the guiding principles set out in section 1; or

(b) it shall appoint a Redundancy Committee to be constituted in accordance with subsection (3) of this section to give effect to its decision by such date as it may specify and for that purpose

(i) to select and recommend the requisite members of the academic staff for dismissal by reason of redundancy; and

(ii) to report their recommendations to the Governing Body.

(2) The Governing Body shall either approve any selection recommendation made under subsection (1)(b)(i), or shall remit it to the Redundancy Committee for further consideration in accordance with its further directions.

(3) A Redundancy Committee appointed by the Governing Body shall comprise

(a) a Chairman; and

(b) two Fellows, who are not members of the academic staff; and

(c) two Fellows who are members of the academic staff.

Notices of intended Dismissal

9.12

(1) Where the Governing Body has either itself made a selection or has approved a selection recommendation made by the Redundancy Committee under section 11 (1) it may authorise an officer of the College as its delegate to dismiss any member of the academic staff so selected.

(2) Each member of the academic staff selected shall be given separate notice of the selection approved by the Governing Body.

(3) Each separate notice shall sufficiently identify the circumstances which have satisfied the Governing Body that the intended dismissal is reasonable and in particular shall include –

(a) a summary of the action taken by the Governing Body under this Part;

(b) an account of the selection process used;

(c) a reference to the rights of the person notified to appeal against the notice and to the time within which any such appeal is to be lodged under Part V of this Statute; and

(d) a statement as to when the intended dismissal is to take effect.

Part III Discipline, Dismissal and Removal from Office

Disciplinary Procedures

9.13

(1) If the conduct or performance of a member of the academic staff does not meet acceptable standards, but does not constitute sufficient cause for dismissal, an oral warning may be given by the Warden who shall keep a note of the matter. The member of the academic staff concerned shall be informed of the reason for the warning; that it constitutes the first stage of the disciplinary procedure; and that a right of appeal exists under this section. An oral warning shall be disregarded for disciplinary purposes after 12 months.

(2) If the offence is a serious one, or if a further offence occurs, a written warning may be given by the Warden, who shall keep a copy of the warning. The member of the academic staff concerned shall be informed of the reason for the warning; the improvement required and the time within which that must be achieved; that charges may be instituted under section 14 of this Statute if there is no satisfactory improvement; and that a right of appeal exists under this section. A written warning shall be disregarded for disciplinary purposes after 2 years.

(3) A member of the academic staff who wishes to appeal against a disciplinary warning given under this section shall inform the Warden within two weeks. An Appeals Committee appointed by the Governing Body shall hear the appeal, and the Committee's decision shall be final.

Preliminary examination of serious disciplinary matters

9.14

(1) If there has been no satisfactory improvement following a written warning given under section 13, or in any case where it is alleged that conduct or performance may constitute good cause for dismissal or removal from office, a complaint seeking the institution of charges to be heard by a Tribunal appointed under section 15 may be made to the Warden.

(2) To enable the Warden to deal fairly with any complaint brought to his attention under subsection (1) he shall institute such enquiries (if any) as appear to him to be necessary.

(3) If it appears to the Warden (whether on receipt of a complaint or otherwise) that there are grounds for believing that the conduct or performance of a member of the academic staff of the College could constitute good cause for dismissal, he shall write to the person concerned inviting comment in writing and may, if he considers that the College might otherwise suffer significant harm, suspend the person concerned from the performance of his duties without loss of emoluments.

(4) As soon as may be following the comments (if any), or in any event not later than twenty-eight days after they were invited, the Warden shall consider the matter in the light of all the available material and may dismiss the matter summarily, or issue a formal warning to the person concerned, or determine that the matter be considered by a Tribunal appointed under section 15.

9.15 If the Warden has determined that the matter is to be considered by a Tribunal, he shall request the Governing Body to appoint such a Tribunal to hear the charge or charges and to determine whether the conduct or performance of the person concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to his appointment or employment, and to make recommendations concerning the action (if any) to be taken as a result of the Tribunal's findings. Pending the consideration of such recommendations, the Warden, after consulting the Governing Body, may suspend the person charged from the performance of his duties without loss of emoluments.

9.16

(1) A Tribunal appointed by the Governing Body shall comprise –

(a) A Chairman; and

(b) One Fellow who is not a member of the academic staff; and

(c) One Fellow who is a member of the academic staff.

(2) No person shall be appointed a member of such a Tribunal if he has been involved in or associated with the making of the complaint or any part of it, or has been involved in any preliminary hearing or investigations.

9.17

(1) When a Tribunal has been appointed, the Governing Body shall instruct a suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.

(2) It shall be the duty of the person formulating the charge or charges:

(a) to forward the charge or charges to the Tribunal and to the member of the academic staff concerned, together with the other documents therein specified and a list of all witnesses the College proposes to call, with statements containing the evidence they are expected to give; and

(b) to make any necessary administrative arrangements for the summoning of witnesses, the production of documents and generally for the proper presentation of the case before the Tribunal.

9.18 The procedure to be followed in the preparation, hearing, and determination of charges by a Tribunal shall be prescribed by Bylaws made under this Statute. Such Bylaws shall ensure:

(a) that the person charged is entitled to be represented by another person, whether legally qualified or not, in connection with and at any hearing by a Tribunal;

(b) that a charge shall not be determined without an oral hearing at which the person charged and any person appointed to represent him are entitled to be present;

(c) that witnesses may be called, both on behalf of the person charged and by the person presenting the charge, and may be questioned concerning any relevant evidence;

(d) that no new witness or documentary evidence may be introduced by the person presenting the charge without the Tribunal's consent, which shall not be given save for good reason, and that if late introduction is allowed, the member of the academic staff shall be allowed an adjournment sufficient to allow him to consider and respond to the new evidence; and

(e) that any charge is heard and determined as expeditiously as is reasonably practicable.

Notification of Tribunal decisions

9.19

(1) The Tribunal shall send its decision on any charge referred to it (together with its findings of fact and the reasons for its decision regarding that charge and its recommendations, if any, as to the appropriate penalty) to the Warden, the person charged, the person presenting the charge and any person who shall have been added as a party by the Tribunal.

(2) A Tribunal shall draw attention to the period of time within which any appeal should be made by ensuring that a copy of Part V of this Statute

accompanies each copy of its decision sent to a party to the proceedings under this section.

Powers of the appropriate officer where charges are upheld by the Tribunal

9.20

(1) Where the charge or charges are upheld and the Tribunal finds that there is good cause and recommends dismissal or removal from office, but in no other case, the Warden shall consult the Governing Body and shall decide whether to dismiss the person concerned. If the Warden decides to accept the Tribunal's recommendation the Warden may forthwith dismiss that person.

(2) Where any charge is upheld, the Warden does not decide to dismiss the person concerned under subsection (1) hereof, the action available to the Warden after consulting the Governing Body (not comprising a greater penalty than that recommended by the Tribunal) shall be –

- (a) to discuss the issues raised with the person concerned; or
- (b) to advise the person concerned about his future conduct; or
- (c) to warn the person concerned; or
- (d) to suspend the person concerned for such period as the appropriate officer shall think fair and reasonable, provided that the suspension shall not extend beyond 3 months after the date on which the Governing Body shall have considered the Tribunal's decision; or
- (e) to take such further or other action under the contract of employment of the person concerned or terms of appointment as appears fair and reasonable in all the circumstance of the case: or
- (f) any combination of any of the above.

Appropriate Officers

9.21

(1) The Warden shall be the appropriate officer to exercise the powers conferred by section 20 but he may appoint a delegate to exercise those powers.

(2) Any action taken by the Warden or the Warden's delegate shall be confirmed in writing and notified to the Governing Body.

Part IV Removal for incapacity on medical grounds

9.22

(1) This Part makes separate provision for the assessment of incapacity on medical grounds as a good cause for dismissal or removal from office.

(2) In this Part references to medical grounds are references to capability assessed by reference to physical or mental health.

(3) The Warden may appoint a delegate to exercise any powers conferred or to perform any duties imposed upon him under this Part.

(4) In this Part references to the member of the academic staff for the purposes of notification, giving consent, agreement, nomination or providing evidence include, where the nature of the alleged disability so require, a responsible relative or friend or other person with authority to act on behalf of that member in addition to (or instead of) that member.

9.23

(1) Where it appears to the Warden that the removal of a member of the academic staff on medical grounds should be considered, the Warden –

(a) shall inform the member accordingly; and

(b) may, if the member agrees or if the Warden considers that the College might otherwise suffer significant harm suspend the member from duty without loss of emoluments;

(c) and shall notify the member in writing that it is proposed to make an application to the member's doctor for a medical report and shall seek the member's consent in writing in accordance with the requirements of the Access to Medical Reports Act 1988.

(2) If the member elects to resign on medical grounds he shall be allowed to do so and the College shall meet the reasonable costs of any medical opinion required.

(3) If the member does not elect to resign on medical grounds the Warden shall refer the case in confidence, with any supporting medical and other evidence (including any such evidence submitted by the member), to a Medical Board comprising one person nominated by the Governing Body; one person nominated by the member concerned or, in default of the latter nomination, by the Warden; and a medically qualified chairman jointly agreed by the Governing Body and the member or, in default of agreement, to be nominated by the President of the Royal College of Physicians.

(4) The procedure to be followed in respect of the preparation, hearing, and determination of a case by a Medical Board under this part shall be prescribed by Bylaws made under this subsection. Such Bylaws shall ensure;

(a) that the member concerned is entitled to be represented by another person, whether such person is legally qualified or not, in connection with an at any hearing by the Board;

(b) that a case shall not be determined without an oral hearing at which the member concerned and any person appointed to represent him are entitled to be present;

(c) that witnesses may be called and may be questioned concerning any relevant evidence; and

(d) that the case is heard and determined as expeditiously as is reasonably practicable.

(5) The Board may require the member concerned to undergo medical examination at the College's expense.

9.24

(1) If the Board determines that the member shall be required to retire on medical grounds, the Warden shall consult the Governing Body, and may terminate the employment of the member concerned on those grounds.

(2) Any action taken by the Warden shall be confirmed in writing and notified to the Governing Body.

Part V Appeals

Purpose of Part V

9.25 This Part establishes procedures for hearing and determining appeals by members of the academic staff who are dismissed or under notice of dismissal or who are otherwise disciplined.

Application and interpretation of Part V

9.26

(1) This Part applies

(a) to appeals against the decisions of the Governing Body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II of this Statute;

(b) to appeals arising in any proceedings, or out of any decision reached, under Part III of this Statute other than appeals against disciplinary warnings under section 13;

(c) to appeals against dismissal otherwise than in pursuance of Part II, Part III, Part IV or Part VII of this Statute;

(d) to appeals against any disciplinary decision otherwise than in pursuance of Part III of this Statute;

(e) to appeals against any decision reached under Part IV of this Statute; and

(f) to appeals against any decision reached under Part VII of this Statute and "appeal" and "appellant" shall be construed accordingly.

(2) No appeal shall however lie against

(a) a decision of the Governing Body under section 10(2);

(b) the findings of fact of a Tribunal under Part III, or under Part VII of this Statute save on legal grounds or save where, with the consent of

the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing;

(c) any medical finding by a Board set up under section 23(3) save on legal grounds or save where, with the consent of the person or persons hearing the appeal, fresh evidence is called on behalf of the appellant at that hearing.

(3) In this Part references to “the person appointed” are references to the person appointed by the Governing Body under section 29 to hear and determine the relevant appeal.

(4) The parties to an appeal shall be the appellant and the Warden and any other person added as a party at the direction of the person appointed.

Institution of Appeals

9.27 A member of the academic staff shall institute an appeal by serving on the Warden, within the time allowed under section 28, notice in writing setting out the grounds of the appeal.

Time for appealing and notices of appeal

9.28

(1) A notice of appeal shall be served within 28 days of the date on which the document recording the decision appealed from was sent to the appellant or such longer period, if any, as the person appointed may determine under subsection (3).

(2) The Warden shall bring any notice of appeal received (and the date when it was served) to the attention of the Governing Body and shall inform the appellant that he has done so.

(3) Where the notice of appeal was served on the Warden outside the 28 day period the person appointed under section 29 shall not permit the appeal to proceed unless he considers that justice and fairness so require in the circumstances of the case.

Persons appointed to hear and determine appeals

9.29

(1) Where an appeal is instituted under this Part the Governing Body shall appoint a person described in subsection (2) to hear and determine that appeal subject to subsection (3).

(2) The persons described in this subsection are persons not employed by the College holding, or having held, judicial office or being a barrister or solicitor of at least ten years' standing.

(3) The person appointed shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons.

(4) The other persons who may sit with the person appointed, and who shall

be appointed by the Governing Body, shall be

(a) one member of the Governing Body to whom this Statute does not apply; and

(b) one member of the academic staff.

Provisions concerning appeal procedures and powers

9.30

(1) The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Bylaws made under this section.

(2) Without prejudice to the generality of the foregoing such Bylaws shall ensure

(a) that an appellant is entitled to be represented by another person, whether legally qualified or not, in connection with and at any hearing of his appeal;

(b) that an appeal shall not be determined without an oral hearing at which the appellant, and any person appointed by him to represent him are entitled to be present and, with the consent of the person or persons hearing the appeal, to call witnesses;

(c) that full and sufficient provision is made for postponements, adjournments, dismissal of the appeal for want of prosecution and for the correction of accidental errors; and

(d) that the person appointed may set appropriate time limits for each stage (including the hearing itself) to the intent that any appeal shall be heard and determined as expeditiously as reasonably practicable.

(3) the person or persons hearing the appeal may allow or dismiss an appeal in whole or in part and, without prejudice to the foregoing, may –

(a) remit an appeal from a decision under Part II of this Statute to the Governing Body as the appropriate body (or any issue arising in the course of such an appeal) for further consideration as the person or persons hearing the appeal may direct; or

(b) remit an appeal arising under Part III of this Statute for re-hearing by a differently constituted Tribunal to be appointed under that Part; or

(c) remit an appeal from a decision of the Warden under Part IV of this Statute for further consideration as the person or persons hearing the appeal may direct; or

(d) remit an appeal by the Warden arising under Part VII of this Statute for re-hearing or reconsideration by the same or by a differently constituted Tribunal to be appointed under that Part; or

(e) substitute any lesser alternative penalty that would have been open

to the Warden following the finding by the Tribunal which heard and determined the original charge or charges.

Notification of decisions

9.31 The person appointed shall send the reasoned decision upon any appeal, including any decision reached in exercise of his powers under section 30(3)(a), (b), (c) or (d), on any appeal and a statement of any findings of fact different from those of the Governing Body under Part II or by the Tribunal under Part III or of the Board under Part IV or of the Tribunal appointed under Part VII, as the case may be, to the Warden and to the parties to the appeal.

Part VI Grievance Procedures

Purpose of Part VI

9.32 The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, by methods acceptable to all parties.

Application

9.33 The grievances to which this Part applies are ones by members of the academic staff concerning their appointments or employment where those grievances relate –

- (a) to matters affecting themselves as individuals; or
- (b) to matters affecting their personal dealings or relationships with other staff of the College, not being matters for which express provision is made elsewhere in this Statute.

Exclusions and Informal Procedures

9.34

(1) If other remedies have been exhausted the member of the academic staff may raise the matter with the Warden.

(2) If it appears to the Warden that the matter has been finally determined under Part III, IV or V of this Statute or that the grievance is trivial or invalid, he may dismiss it summarily, or take no action upon it. If it so appears to the Warden he shall inform the member and may inform the Governing Body accordingly.

(3) If the Warden is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of) a complaint under Part III of this Statute;

- (a) a determination under Part IV of this Statute; or
- (b) an appeal under Part V of this Statute

he shall defer action upon it under this Part until the relevant complaint, determination or appeal has been heard or the time for instituting it has passed and he shall notify the member accordingly.

(4) If the Warden does not reject the complaint under subsection (2) or if he does not defer action upon it under subsection (3) he shall decide whether it would be appropriate, having regard to the interests of justice and fairness, for him to seek to dispose of it informally. If he so decides he shall notify the member and proceed accordingly.

Grievance Committee Procedure

9.35 If the grievance has not been disposed of informally under section 34(4), the Warden shall refer the matter to a Grievance Committee for consideration.

9.36 A Grievance Committee shall comprise three Fellows of the College appointed by the Governing Body.

Procedure in connection with determinations and right to representation

9.37 The procedure in connection with the consideration and determination of grievances shall be determined in Bylaws in such a way as to ensure that the aggrieved person and any person against whom the grievance lies shall have the right to be heard and to be accompanied at the hearing by a friend or representative.

Notification of decision

9.38 The Committee shall inform the Governing Body whether the grievance is or is not well-founded and if it is well-founded the Committee shall make such proposals for the redress of the grievance as it sees fit.

Part VII Removal of the Warden from Office

9.39 Any five members of the Governing Body may make complaint to the Sub-Warden seeking the removal of the Warden from office for good cause.

9.40 The Sub-Warden shall refer such a complaint to the Governing Body, exclusive of the Warden and the members making the complaint. If it appears to the Governing Body that the complaint is not supported by sufficient evidence of good cause for the removal of the Warden from office, it may determine that no further action shall be taken upon it.

9.41 If it appears to the Governing Body that the complaint is supported by sufficient evidence of good cause for the removal of the Warden from office, it shall appoint a Tribunal to hear and determine the matter.

9.42 The Tribunal appointed by the Governing Body shall comprise:

- (a) an independent Chairman; and
- (b) one Fellow who is not a member of the academic staff; and
- (c) one Official Fellow.

9.43 A charge referred to the Tribunal shall be dealt with in accordance with the procedure prescribed in sections 17 to 19 of this Statute, provided

(a) that the Sub-Warden shall perform any duty and exercise any power there assigned to the Warden; and

(b) that the only recommendation the Tribunal may make is that the Warden be removed, or be not removed from his office.

9.44 Where a charge or charges have been upheld and the Tribunal finds good cause and recommends dismissal, but in no other case, the Sub-Warden shall consult the Governing Body and may then dismiss the Warden.

9.45 Where a complaint is to be referred to a Tribunal under section 41, the Sub- Warden may, if he considers that the College might otherwise suffer significant harm, suspend the Warden from his duties in all matters relating to the government and discipline of the College without loss of emoluments.

9.46 For the purpose of the removal of the Warden from his office for incapacity on medical grounds, the provision of Part IV of this Statute shall have effect, provided that the Sub-Warden shall perform any duty or exercise any power there assigned to the Warden.

9.47 For the purpose of appeals by the Warden against removal from office, the provisions of Part V of this Statute shall have effect, provided that the Sub-Warden shall perform any duty or exercise any power there assigned to the Warden.