

ORDINANCE XIV

DISCIPLINARY PROCEDURES: REMOVAL OF OFFICERS AND MEMBERS

WHEREAS by University Statute 13 (28) the Council of the University is empowered to make Ordinances in the exercise of the powers expressly set out in Statute 13 and of all other powers vested in the Council

AND WHEREAS University Statute 20 prescribes the manner and method of removal from office of officers and members and provides, *inter alia*, that before any removal from office the Council shall consider the report of a Disciplinary Committee which shall have been appointed and shall have examined the case in accordance with procedures prescribed by Ordinance

THEREFORE the Council of the University hereby ordain as follows:

Institution of Procedures

1. A Disciplinary Committee established in accordance with University Statute 20 (2) may only be convened to consider a case brought on the grounds of "good cause" as specified in University Statute 20 (3). No case shall be referred to a Disciplinary committee unless the Council has resolved by a simple majority of those members present and voting that it is satisfied:
 - (i) that all appropriate and available grievance and disputes procedures have been followed, including initial oral and written warnings of the relevant breaches of recognised standards of performance or behaviour and the remedial action expected and a final written warning that disciplinary action would be taken,
 - (ii) that a *prima facie* case exists sufficient to justify invoking the procedures under University Statute 20.

A decision of the Council to refer a case to a Disciplinary Committee shall be conveyed in writing to the individual concerned, within one week of such decision. At the same time he/she shall be advised of the procedure to be followed.

Appointing Committee

2. The Council shall establish standing committee to appoint a Disciplinary Committee to examine each *prima facie* case under paragraph 1 (ii) above. The Appointing Committee shall be composed of the Chairman of the Staff Committee (chairman *ex officio*), the Pro-Vice-Chancellor (Staff) *ex officio*, the President of the OUAUT *ex officio*, and one of the members of the Council appointed by Senate, appointed by the Council for two years following consultation with the Senate. The Council shall appoint an alternate for each of the members of the Appointing Committee to act if the principal nominee is unavailable or unable to act *ab initio* in any particular case, except that an alternate for the President of the OUAUT shall be appointed by the Committee of the OUAUT. The University Secretary shall appoint a secretary to the Appointing Committee.

Procedures for the Appointing Committee

3. The Secretary of the Appointing Committee shall give notice in writing of the membership of the Disciplinary Committee to the individual concerned, who shall have the right to object to the appointment of any members. The Appointing Committee shall have regard to all objections raised by the individual concerned and in determining the membership of the

Disciplinary Committee shall satisfy itself that no proposed appointment would be such as to prejudice a fair hearing.

4. The Chairman of the Appointing Committee shall on all occasions seek to ensure that unanimous decisions are reached. No resolution shall be carried if more than one member votes against.
5. Unless by agreement with the individual concerned, the above stage of the procedure shall be completed within four weeks of the notification to the individual of the Council's decision to refer the matter to a Disciplinary Committee.

Disciplinary Committee

6. It shall be the responsibility of the Appointing Committee to establish for each case arising under University Statute 20 a Disciplinary Committee appropriate to the circumstances of the case, following such consultation as the Appointing Committee shall deem necessary. The members of a Disciplinary Committee shall therefore be appointed in accordance with the following categories:
 - (i) a Chairman appointed by and from the Appointing Committee, who shall not have voting rights,
 - (ii) two members of the Council, not being members of the Senate,
 - (iii) (a) three members of the Council in a case concerning one of the University officers designated in paragraph 2 of Statute 20,
or
(b) three members of the academic staff, to include at least one person in the same grade as the individual concerned, in a case concerning a member of the academic staff,
or
(c) three members of the non-academic staff in whose terms and conditions of service the terms of University Statute 20 are incorporated, to include at least one person in the same grade and category of staff as the individual concerned, in a case concerning a member of the non-academic staff,
 - (iv) one person to be nominated in each of the categories (ii) and (iii) above to be appointed to the Disciplinary Committee to act if the principal nominee is unavailable to act ab initio.
7. Unless otherwise agreed with the individual concerned, the meeting of the Disciplinary Committee shall be held not less than four and not more than eight weeks after the individual concerned has received final notification of the membership of the Disciplinary Committee. An account of the case to be considered by the Disciplinary Committee together with all the material documents shall be sent to the individual concerned not less than four weeks before the date of the meeting. In consultation with the Chairman of the Disciplinary Committee, the Secretary shall also on request provide such information and guidance as may be considered reasonable.

8. A Disciplinary Committee shall determine the procedure to be followed in each case provided that the following rules are observed:
- (i) No meeting shall be held unless all the members of the Disciplinary Committee are present,
 - (ii) If for any reason a member of the Disciplinary Committee becomes unable to act after that Committee has commenced the consideration of the case, the matter shall be referred to the Appointing Committee which shall establish a new Committee to consider the case afresh,
 - (iii) The individual concerned shall have the right to appear in person before the Disciplinary Committee in order to present and hear presented any oral or written evidence and to be represented, or accompanied by a friend, of his or her own choosing,
 - (iv) The individual concerned shall have the right to call and to question witnesses,
 - (v) The Chairman of the Disciplinary Committee shall on all occasions seek to ensure that unanimous decisions are reached. No recommendation that the Council consider removal from office shall be made if more than one member of the Committee votes against such a recommendation,
9. A Disciplinary Committee shall present to the Council a report on a case considered by them and this report shall be made available to the individual concerned before the appropriate Council meeting. The report shall include a clear recommendation on whether or not there is good and sufficient cause for the Council to consider removal from office.

Provisions

10. Any proposal for amendment to this Ordinance shall be referred to the Negotiating Committee for negotiation with the Open University Association of University Teachers before being considered by the Council.
11. This Ordinance shall come into operation on the date on which it is approved by the Council of the University, namely the 24th day of January 1978.

Approved by the Council on 24th January 1978
