

# **C H A R L E S   T H E   T H I R D**

**by the Grace of God of the United Kingdom of Great Britain and  
Northern Ireland and of Our Other Realms and Territories King, Head  
of the Commonwealth, Defender of the Faith:**

## **TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING!**

WHEREAS His Majesty King George the Fifth on the seventeenth day of March 1926 by Royal Charter constituted a body corporate and politic by the name of "Birkbeck College" with perpetual succession and with power to sue and be sued by that name and to use a Common Seal:

AND WHEREAS Her Majesty Queen Elizabeth the Second did, on 16 December 1994 grant a new Charter to so as to enable Birkbeck College to function more effectively in future:

AND WHEREAS a humble Petition has been presented to Us by the Governors of Birkbeck College praying that that it is desirable that it amend its constitutional provisions to reflect it gaining the status of a university, whilst remaining as a member of the University of London federation, by the grant of a further Supplemental Charter:

AND WHEREAS We have taken the said Petition into Our Royal Consideration and are minded to accede thereto:

NOW, THEREFORE, KNOW YE that We having taken the said Petition into Our Royal consideration have of Our especial grace, certain knowledge and mere motion willed and ordained and do by these Presents, for Us, Our Heirs and Successors, will and ordain as follows:

1. The provisions of the Charter granted 16 December 1994, as amended by Order in Council dated 10 October 2007, except insofar as it continues in force the incorporation of Birkbeck College and the conferring of perpetual succession and a common seal, shall be and are hereby revoked, but nothing in the revocation shall effect the legality or validity of any act deed or thing lawfully done under the provisions of that Charter.
2. In this Our Charter unless the context otherwise requires:
  - 2.1 "the Academic Board" shall mean the Academic Board of Birkbeck;
  - 2.2 "Academic Staff" shall mean persons holding appointments of Professor, Reader, Senior Lecturer or Lecturer at Birkbeck or appointed to any other post designated by the Governors as a post on the academic staff of Birkbeck;
  - 2.3 "the Clerk" shall mean the person for the time being holding the appointment of Secretary and Clerk to the Governors of Birkbeck;
  - 2.4 "Birkbeck" shall mean Birkbeck College, a university as incorporated by this Our Charter;
  - 2.5 "the Governors" shall mean the Governors of Birkbeck for the time being;

- 2.6 "Professors" shall mean those members of the Academic Staff who are Professors of the University of London or Birkbeck;
- 2.7 "Readers" shall mean those members of the Academic Staff who are Readers of the University of London or Birkbeck;
- 2.8 "the Staff" shall mean all persons holding contracts of employment with Birkbeck;
- 2.9 "Student" shall mean a person registered by Birkbeck as pursuing an approved course of study at Birkbeck;
- 2.10 "the Statutes" shall mean the Statutes of Birkbeck for the time being in force under or by virtue of this Our Charter;
- 2.11 "the Students' Union" shall mean the Students' Union of Birkbeck specified in this Our Charter.
- 3. Words importing the singular number only shall include the plural number or vice versa, words importing the masculine gender only shall include the feminine gender and words importing persons shall include corporations.
- 4. All those persons who are Governors, members of the Staff or Students of Birkbeck at the date of the grant of this Our Charter, or who shall hereafter, in accordance with the provisions hereof and those of the Statutes, become Governors, members of the Staff or Students of Birkbeck, are hereby constituted and forever henceforth shall be a body politic and corporate by the name of "Birkbeck College" with perpetual succession and a Common Seal and power to sue and be sued and to do all such other things as are ancillary to a body corporate.

## **Objects**

- 5. The objects of Birkbeck shall be to promote for the public benefit and to provide for persons who are engaged in earning their livelihood during the daytime and other persons, education, instruction and means for research and such facilities as may be deemed appropriate, in subjects determined by the Governors, advised by the Academic Board.

## **Powers**

- 6. Birkbeck, subject to this Our Charter and the Statutes, shall have power to do any lawful thing in furtherance of its objects and without prejudice to the generality of the foregoing shall have powers:
  - 6.1 to register and prepare students for degrees, diplomas, certificates and other distinctions of the University of London and Birkbeck;
  - 6.2 to award and confer degrees, diplomas and certificates and other distinctions of the University of London and of Birkbeck to persons who have pursued courses of study approved by Birkbeck and have passed the examinations or other tests prescribed by Birkbeck;
  - 6.3 to acquire, own, maintain, manage and dispose of real and other property;
  - 6.4 to solicit, receive and administer grants, subscriptions, donations, endowments, legacies, gifts and loans of any property whatsoever whether real or personal;
  - 6.5 to demand and receive fees, subscriptions and deposits.
  - 6.6 to act as trustees for and in relation to endowments, legacies and gifts;
  - 6.7 to invest any monies in the hands of Birkbeck and available for investment in accordance with the relevant law and the Statutes;
  - 6.8 to borrow and raise money and give security for loans in any manner;
  - 6.9 to give guarantees; and
  - 6.10 to enter into engagements and to accept obligations and liabilities in all respects without any restriction whatsoever and in the same manner as an individual may manage his or her own affairs.
- 7. We Our Heirs and Successors, acting through the Lord President of Our Privy Council, shall be the Visitor of Birkbeck or, on representation of the Council of Birkbeck, shall appoint by Order in Council a Visitor of Birkbeck for such period as We, Our Heirs and Successors shall see fit and his or her decision on matters within his or her jurisdiction shall be fin

8. There shall be a Governing Body of Birkbeck comprising Governors who subject to the provisions of this Our Charter and of the Statutes shall exercise all the powers of Birkbeck and shall have the management and control of Birkbeck and the administration of all the property and income thereof with power to delegate all or any of their powers as provided in the Statutes.
9. The composition of the Governing Body, the manner of appointment or election and period of office of the Governors and the manner of filling vacancies shall be as prescribed by or under the Statutes.
10. The Governors shall have the custody and sole use of the Common Seal of Birkbeck and arrangements for its safe-keeping and manner of authentication shall be as prescribed in Standing Orders.
11. There shall be a Vice-Chancellor, who shall be appointed by the Governors and who shall be the chief academic and administrative officer of Birkbeck.
12. There shall be a President of Birkbeck who shall be appointed by the Governors and whose role shall be ambassadorial, scholarly and ceremonial.
13. It shall be open to all persons both in the United Kingdom and elsewhere to become Students or members of the Staff without any distinction whatsoever. No religious test shall be imposed upon any of the Staff or Students nor shall any disability be imposed on the grounds of political belief, sex or race. The only qualification required of any of the Staff or Students shall be fitness to contribute to or pursue studies of or cognate to a University education.
14. The educational (facilities provided by Birkbeck shall be available at such times as the Governors may determine having especial regard to the convenience of persons who are engaged in earning their livelihood.
15. The income and property of Birkbeck shall be applied solely towards the promotion of the objects of Birkbeck set forth in this Charter and no portion thereof shall be paid or transferred directly or indirectly by way of dividend or bonus or otherwise by way of profit to the persons who are or have been Governors of Birkbeck or to any person claiming through any of them or to any other member of Birkbeck: provided always that:
  - 15.1 this Article shall not affect the rights of remuneration or to pensions or gratuities on retirement to which persons becoming Governors would otherwise be entitled:
  - 15.2 this Article shall not prevent the payment in good faith of remuneration or pensions or gratuities on retirement to any member of the Staff or other person not being a Governor in return for any services actually rendered to Birkbeck nor the payment to any Governor for occasional service.
16. There shall be a Birkbeck Academic Board whose members shall be as prescribed by or under the Standing Orders and (subject to the general superintendence and control of the Governors) it shall be the body responsible for the academic work of Birkbeck.
17. There shall be a Birkbeck Students' Union for the benefit of the Students of Birkbeck and in their interests as Students.
18. Subject to Articles 18 and 19 hereof the Governors may make Statutes for the promotion and fulfilment of the objects of Birkbeck and for its governance and management provided that no Statute affecting academic policy shall be made until the Academic Board has been consulted.
19. The Statutes set out in the Schedule to this Charter shall remain in effect until added to, amended or revoked as set out in Article 19 below: provided always that nothing in this Article shall affect the validity or legality of any act, deed or thing done under the Statutes of Birkbeck prior to such amendment or revocation.
20. The Governors shall have full power to add to, amend or revoke any of the provisions of this Our Charter and shall have full power (but subject always to the provisions of this Our Charter) to add to, amend or revoke any of the Statutes. The powers conferred by this Article shall be exercisable only by a Resolution passed at a meeting of not less than two thirds of the Governors, provided that the Resolution has been passed by a majority of not less than three-quarters of those present and voting at the meeting and provided further that not less than twenty-one clear days' notice in writing shall have been

given of the meeting setting out the Resolution or Resolutions to be proposed thereat.

Provided also that:

- 20.1 no addition to, amendment or revocation of, any Statute shall have any force or effect if it be repugnant to the provisions of this Our Charter or to the laws of the Realm; and
- 20.2 no addition to, amendment or revocation of, any provision of this Our Charter shall have effect until approved by Us, Our Heirs or Successors in Council whereupon it shall become effectual so that this Our Charter shall thenceforth continue and operate as though it had been originally granted and made accordingly and no addition to, amendment or revocation of, any of the Statutes shall have any force or effect until approved by the Lords of Our Privy Council of which approval a certificate under the hand of the Clerk of the said Council shall be conclusive evidence.

21. Lastly, We do by these Presents for Us and Our Heirs and Successors grant and declare that these Our Letters Patent shall be in all things valid and effective

in law according to the true intent and meaning thereof and shall be taken construed and adjudged in the most favourable and beneficial sense for the best advantage of Birkbeck as well in our Courts of Record as elsewhere by all Judges, Justices, Officers, Ministers and other subjects whatsoever of Us and Our Heirs and Successors, any non-recital or other omission defect or thing to the contrary notwithstanding.

IN WITNESS whereof We have caused these Our Letters to be made Patent.

WITNESS Ourselves at Westminster the

day of

in the

year of Our Reign.

**BY WARRANT UNDER THE KING'S SIGN MANUAL**



*At the Council Chamber, Whitehall*

THE 25th DAY OF MAY 2023

BY THE LORDS OF HIS MAJESTY'S MOST HONOURABLE  
PRIVY COUNCIL

WHEREAS the Council of Birkbeck College has duly made a Statute, revising the College Statutes, as set out in the Schedule to this Order:

AND WHEREAS the Statute has been submitted to the Lords of the Privy Council for approval:

NOW, THEREFORE, Their Lordships, having taken the Statute into consideration, are pleased to approve it.

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*SCHEDULE*

REVISED STATUTES OF BIRKBECK COLLEGE

**The Statutes**

**Interpretation**

- 1 These Statutes shall be read with the Charter of Birkbeck and words and expressions used in the Charter shall, if not inconsistent with the subject or context, bear the same meaning herein.
- 2 Unless the contrary appears from the context, words importing the singular number only shall include the plural number and vice versa, and words importing the masculine gender only shall include the feminine and vice versa.

**The Governors**

- 3 The Governors shall consist of the following persons:
  - 3.1 Two ex-officio Governors being the Vice-Chancellor and Deputy Vice-Chancellor of Birkbeck respectively ("Ex-Officio Governors");
  - 3.2 Seven College Governors who shall comprise the following:
    - 3.2.1 Two members of the Academic Board holding the appointment of

Professor or Reader ("Academic Board Governors");

3.2.2 Two members of the Academic Staff holding the appointment of Lecturer or Senior Lecturer ("Academic Staff Governors");

3.2.3 One member of staff from among the Professional and Support, Research, Technical and Teaching and Scholarship staff ("Staff Governor"); and

3.2.4 Two Students ("Student Governors").

3.3 Twelve independent Governors who shall comprise the following:

3.3.1 One Alumnus (who shall not be a member of Staff nor a Student); and

3.3.2 Eleven to be selected and who shall not be members of the Staff nor Students ("Independent Governors").

- 4 The rules of selection of each of the Governors listed in Statutes 3.2 and 3.3 shall be prescribed in Standing Orders.
- 5 Every Student Governor shall be appointed for a term of two years, or one year if he or she is in their final year of study. The other Governors shall be appointed for a term of three years, such term being reckoned from the dates of expiration of the terms of office of the respective predecessors and expiring as specified in Statute 7.
- 6 Governors (other than the Student Governors) may be reappointed for such further terms as may be prescribed by the Governors in Standing Orders.
- 7 Unless otherwise prescribed by the Charter or Statutes, the date of expiration of the term of office of the Student Governors shall be 31<sup>st</sup> July in the concluding year of the term for which they were appointed. The date of expiration of the term of office for other Governors shall be 30th September in the concluding year of the term for which they were appointed.
- 8 No Governor shall take or hold any interest in any property belonging to Birkbeck otherwise than as a trustee for the purposes thereof or be interested directly or indirectly in the supply of work or goods at the cost of Birkbeck.

### **Meetings of the Governors**

- 9 There shall be held in every year not less than three meetings of the Governors to be called Ordinary Meetings.
- 10 The quorum at meetings of the Governors shall be seven Governors of whom at least four shall be Independent Governors.
- 11 If within half an hour of the time appointed for the holding of the meeting a quorum is not present, the meeting shall stand adjourned to such other day, time and place as the Chair may determine. If at such an adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the Governors present shall form a quorum.

- 12 The procedures for the regulation of the meetings of Governors shall be prescribed in Standing Orders.
- 13 Subject to the conditions prescribed in Standing Orders, resolutions of the Governors approved in writing or by email shall be as valid as a resolution actually passed at a meeting of the Governors.

### **Powers of Governors**

- 14 The Governors shall conduct the general business of Birkbeck consistently with the provisions of the Charter and the Statutes, and shall supervise the expenditure of all moneys on account of the ordinary business of Birkbeck and shall have power to fix the fees or other charges payable by Students of Birkbeck and to appoint and admit Fellows and Honorary Life Members of Birkbeck and to do all such other things as are necessary for the transaction of the business of Birkbeck or the furtherance of its objects: provided that no final decision on an academic matter shall be taken by the Governors unless the Academic Board has had the opportunity of expressing an opinion upon it and the Governors have considered the Academic Board's opinion.
- 15 The Governors shall appoint both the Vice-Chancellor and the President of Birkbeck and shall be responsible for the employment of all staff of Birkbeck. Governors shall determine what other senior officers are needed for the proper and effective management of Birkbeck and shall define their roles and mechanisms of appointment in Standing Orders.

### **Delegation of Powers**

- 16 The Governors will determine which of their responsibilities are to be reserved for them and which may be delegated. Governors may delegate any of their functions, powers and duties to Committees appointed by them or to the officers of Birkbeck, the Academic Board or such other Committees or individuals as they may think fit and such Committees and individuals may further delegate unless the Governors have provided to the contrary: provided always that nothing in this Statute shall enable the Governors to delegate their power to reach a decision under paragraph 10(b) of Statute 27.
- 17 The Governors may also appoint either Special or Standing Committees consisting of such persons as they may think fit, whether Governors or not, for the purpose of considering and reporting on any subjects which may be referred to such Committees by the Governors.
- 18 Subject to the Statutes the Governors may from time to time make, alter and revoke Standing Orders for the order of the business and affairs of Birkbeck.

### **Academic Board**

- 19 There shall be a body known as the Academic Board. The Academic Board shall include members of the Academic Staff from different levels, and Students.
- 20 Procedures for determining the membership of and for the regulation of the Academic Board shall be prescribed in its Standing Orders.

## **Students' Union**

- 21 There shall be a Birkbeck Students' Union which shall conduct and manage its own affairs in accordance with a constitution approved by the Governors. The Students' Union constitution and its financial and other reporting requirements will be prescribed in Standing Orders.

## **Accounts and Audit**

- 22 True accounts shall be kept of the receipts and expenditure of Birkbeck.
- 23 There shall be an audit of the Accounts of Birkbeck made every year by one or more Auditors, being members of a body of accountants recognised by the Secretary of State under Chapter 2 of the Companies Act 2006, to be appointed by the Governors. The Auditors shall make a report to the Governors.
- 24 If more Auditors than one be appointed the continuing Auditor or Auditors shall have power to act notwithstanding any casual vacancy. The Auditors' report and audited accounts shall, in addition to being presented annually to the Governors, be furnished to such persons, corporations and bodies as the Governors shall from time to time determine.
- 25 No person shall be appointed or remain Auditor who is or any one of whose partners is a Governor or a member of the Staff.

## **Investments**

- 26 Monies in the hands of Birkbeck and available for investment may be invested by Birkbeck in accordance with financial regulations agreed by the Governors from time to time.

## **Statute 27**

### **Part I: Construction, application and interpretation**

#### **Construction**

1. This Statute and any Standing Orders made under this Statute shall be construed in every case to give effect to the following guiding principles, that is to say -
- (a) to ensure that Academic Staff have 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;
  - (b) to enable Birkbeck to provide education, promote learning and engage in research efficiently and economically; and
  - (c) to apply the principles of justice and fairness.



## **Reasonableness of decisions**

2. No provision in Part II or Part III of this Statute shall enable the body or person having the duty to reach a decision under the relevant Part to dismiss any member of the Academic Staff unless the reason for his dismissal may in the circumstances (including the size and administrative resources of Birkbeck) reasonably be treated as a sufficient reason for dismissing him.

## **Application**

3. (a) This Statute shall apply:
  - (i) to the members of the Academic Staff of Birkbeck;
  - (ii) to the Clerk and the Librarian; and
  - (iii) to the Vice-Chancellor to the extent and in the manner set out in the Annexure to this Statute.
- (b) In this Statute any other reference to “Academic Staff” is a reference to persons to whom this Statute applies.

## **Interpretation**

### Meaning of “dismissal”

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 55 of the Employment Protection (Consolidation) Act 1978.

### Meaning of “good cause”

5. (a) 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:
  - (i) 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
  - (ii) conduct of an immoral, scandalous or disgraceful nature incompatible with the duties of the office or employment; or
  - (iii) conduct constituting failure or persistent refusal or neglect or inability to perform the duties or comply with the conditions of office; or

- (iv) physical or mental incapacity established under Part IV.
- (b) In this paragraph:
  - (i) “capability”, in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and
  - (ii) “qualifications”, 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”

- 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 Birkbeck has ceased, or intends to cease, to carry on the activity for the purposes of which the member of the Academic Staff concerned was appointed or employed by Birkbeck, or has ceased, or intends to cease, to carry on that activity in the place in which the member concerned worked; or
  - (b) the fact that the requirements of that activity for members of the Academic Staff to carry out work of a particular kind, or for members of the Academic Staff 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**

- 7.
  - (a) In any case of conflict, the provisions of this Statute shall prevail over those of any other Statute and over those of the Standing Orders and the provisions of any Standing Order made under this Statute shall prevail over those of any other Standing Order: provided that Part III of and the Annexure to 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.
  - (b) 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 by reason of redundancy or for good cause: provided that nothing in this sub-paragraph shall prevent waivers made under section 142 of the Employment Protection (Consolidation) Act 1978 from having effect.
  - (c) Nothing in any other Statute or in any Standing Order made thereunder shall authorise or require any person to sit as a member of any Committee, Tribunal or body appointed under this Statute or to be present when any such Committee, Tribunal or body is meeting to arrive at its decision or for the purpose of discussing any point of procedure.
  - (d) Any reference in this Statute to the Vice-Chancellor of the University or to Appointed Teachers of the University is a reference to the Vice-Chancellor or

Appointed Teachers of the University of London as the case may be.

- (e) In this Statute references to numbered Parts, paragraphs and sub-paragraphs are references to Parts, paragraphs and sub-paragraphs so numbered in this Statute.

## **Part II: Redundancy**

### **Purpose of Part II**

- 8. This Part enables the Governors, as the appropriate body, to dismiss any member of the Academic Staff by reason of redundancy.

### **Exclusion from Part II of persons appointed or promoted before 20th November 1987**

- 9. (a) Nothing in this Part shall prejudice, alter or affect any rights powers or duties of Birkbeck or apply in relation to a person unless:
  - (i) his appointment is made, or his contract of employment is entered into, on or after 20th November 1987; or
  - (ii) he is promoted on or after that date.
- (b) For the purposes of this paragraph 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**

- 10. (a) The Governors shall be the appropriate body for the purposes of this Part.
- (b) This paragraph applies where the appropriate body has decided that it is desirable that there should be a reduction in the Academic Staff:
  - (i) of Birkbeck as a whole; or
  - (ii) of any department or other similar area of Birkbeck by way of redundancy.
- 11. (a) Where the appropriate body has reached a decision under paragraph 10(b) it shall appoint a Redundancy Committee to be constituted in accordance with sub- paragraph (c) of this paragraph 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 appropriate body.
- (b) The appropriate body shall either approve any selection recommendation made under sub-paragraph (a), or shall remit it to the Redundancy Committee

for further consideration in accordance with its further directions.

- (c) A Redundancy Committee appointed by the appropriate body shall comprise:
  - (i) a Chair; and
  - (ii) two members of the Governors, not being persons employed by Birkbeck; and
  - (iii) two members of the Academic Staff nominated by the Academic Board.

### **Notices of intended dismissal**

- 12. (a) Where the appropriate body has approved a selection recommendation made under paragraph 11(a) it may authorise an officer of Birkbeck as its delegate to dismiss any member of the Academic Staff so selected.
- (b) Each member of the Academic Staff selected shall be given separate notice of the selection approved by the appropriate body.
- (c) Each separate notice shall sufficiently identify the circumstances which have satisfied the appropriate body that the intended dismissal is reasonable and in particular shall include:
  - (i) a summary of the action taken by the appropriate body under this Part;
  - (ii) an account of the selection processes used by the Redundancy Committee;
  - (iii) 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 (Appeals); and
  - (iv) a statement as to when the intended dismissal is to take effect.

## **Part III: Discipline, Dismissal and Removal from Office**

### **Disciplinary Procedures**

- 13. (a) Minor faults shall be dealt with informally.
- (b) Where the matter is more serious but falls short of constituting possible good cause for dismissal the following procedure shall be used:

#### **Stage 1 - Oral Warning**

If conduct or performance does not meet acceptable standards the member of the Academic Staff will normally be given a formal Oral Warning. The member will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of the right of appeal under this paragraph. A brief note of the oral warning will be kept but it will be spent after 12 months,

subject to satisfactory conduct and performance.

#### Stage 2 - Written Warning

If the offence is a serious one, or if a further offence occurs, a Written Warning will be given to the member of the Academic Staff by the appropriate member of the Academic Staff to whom staff management responsibility has been delegated by the Vice-Chancellor. This will give details of the complaint, the improvement required and the timescale. It will warn that a complaint may be made to the Clerk seeking the institution of charges to be heard by a Tribunal appointed under paragraph 16 if there is no satisfactory improvement and will advise of the right of appeal under this paragraph. A copy of this written warning will be kept by the Clerk but it will be disregarded for disciplinary purposes after 2 years subject to satisfactory conduct and performance.

#### Stage 3 - Appeals

A member of the Academic Staff who wishes to appeal against a disciplinary warning shall inform the Clerk within two weeks. The Deputy Vice-Chancellor shall hear all such appeals and his decision shall be final.

#### **Preliminary examination of serious disciplinary matters**

14. (a) If there has been no satisfactory improvement following a written warning given under Stage 2 of the procedure in paragraph 13, or in any other 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 paragraph 16 may be made to the Clerk who shall bring it to the attention of the Vice-Chancellor.
- (b) To enable the Vice-Chancellor to deal fairly with any complaint brought to his attention under sub-paragraph (a) he shall institute such investigations or enquiries (if any) as appear to him to be necessary.
- (c) If it appears to the Vice-Chancellor that a complaint brought to his attention under sub-paragraph (a) relates to conduct or performance which does not meet acceptable standards but for which no written warning has been given under paragraph 13 or which relates to a particular alleged infringement of Standing Orders for which a standard penalty is normally imposed in Birkbeck or within the department or other relevant area, or is trivial or invalid he may dismiss it summarily, or decide not to proceed further under this Part.
- (d) If the Vice-Chancellor does not dispose of a complaint under sub- paragraph (c) he shall treat the complaint as disclosing a sufficient reason for proceeding further under this Part and, if he sees fit, he may suspend the member on full pay pending a final decision.
- (e) Where the Vice-Chancellor proceeds further under this Part he shall write to the member of the Academic Staff concerned inviting comment in writing.
- (f) As soon as may be following receipt of the comments (if any) the

Vice-Chancellor shall consider the matter in the light of all the material then available and may:

- (i) dismiss it himself; or
  - (ii) refer it for consideration under paragraph 13; or
  - (iii) deal with it informally himself if it appears to the Vice-Chancellor appropriate to do so and if the member of the Academic Staff agrees in writing that the matter should be dealt with in that way; or
  - (iv) direct the Clerk to prefer a charge or charges to be considered by a Tribunal to be appointed under paragraph 16.
- (g) If no comment is received within 28 days the Vice-Chancellor may proceed as aforesaid as if the member concerned had denied the substance and validity of the alleged case in its entirety.

### **Institution of Charges**

15. (a) In any case where the Vice-Chancellor has directed that a charge or charges be preferred under paragraph 14(f)(iv), he shall request the Governors to appoint a Tribunal under paragraph 16 to hear the charge or charges and to determine whether the conduct or performance of the member of the Academic Staff concerned constitutes good cause for dismissal or otherwise constitutes a serious complaint relating to the member's appointment or employment.
- (b) Where the Governors have been requested to appoint a Tribunal under paragraph 16 the Clerk or, if he is unable to act, another officer appointed by the Vice-Chancellor shall take charge of the proceedings.
- (c) The officer in charge of the proceedings shall formulate, or arrange for the formulation of, the charge or charges and shall present, or arrange the presentation of, the charge or charges before the Tribunal.
- (d) It shall be the duty of the officer in charge of the proceedings:
- (i) 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
  - (ii) 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.

### **The Tribunal**

16. A Tribunal appointed by the Governors shall comprise:

- (a) a Chair;
- (b) one of the Governors, not being a person employed by Birkbeck; and

- (c) one member of the Academic Staff nominated by the Academic Board:

provided that in any case where the member of the Academic Staff concerned is an Appointed Teacher of the University, the Tribunal shall include, in addition to the members referred to under sub-paragraphs (b) and (c), two members nominated by the University, not being persons employed by Birkbeck.

#### Provisions concerning tribunal procedure

17. (a) The procedure to be followed in respect of the preparation, hearing and determination of charges by a Tribunal shall be that set out in Standing Orders made under this paragraph.
- (b) Without prejudice to the generality of the foregoing such Standing Orders shall ensure:
- (i) that the member of the Academic Staff concerned is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of charges by a Tribunal;
  - (ii) that a charge shall not be determined without an oral hearing at which the member of the Academic Staff concerned and any person appointed by him to represent him are entitled to be present;
  - (iii) that the member of the Academic Staff and any person representing the member may call witnesses and may question witnesses upon the evidence on which the case against him is based; and
  - (iv) that full and sufficient provision is made for-
    - (1) postponements, adjournments, dismissal of the charge or charges for want of prosecution, remission of the charge or charges to the Vice-Chancellor for further consideration and for the correction of accidental errors; and
    - (2) for appropriate time limits for each stage (including the hearing) to the intent that any charge thereunder shall be heard and determined by a Tribunal as expeditiously as reasonably practicable.

#### Notification of tribunal decisions

18. (a) A 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 Vice-Chancellor and to each party to the proceedings.
- (b) 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 (Appeals) accompanies each copy of its decision sent to a party to the proceedings under this paragraph.



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

19. (a) Where the charge or charges are upheld and the Tribunal finds good cause and recommends dismissal or removal from office, but in no other case, the appropriate officer shall decide whether or not to dismiss the member of the Academic Staff concerned.
- (b) In any case where the charge or charges are upheld, other than where the appropriate officer has decided under sub-paragraph (a) to dismiss the member of the Academic Staff concerned, the action available to the appropriate officer (not comprising a greater penalty than that recommended by the Tribunal) may be:
- (i) to discuss the issues raised with the member concerned; or
  - (ii) to advise the member concerned about his future conduct; or
  - (iii) to warn the member concerned; or
  - (iv) to suspend the member concerned for such period as the appropriate officer shall think fair and reasonable, not to exceed 3 months after the Tribunal's decision; or
  - (v) any combination of any of the above or such further or other action under the member's contract of employment or terms of appointment as appears fair and reasonable in all the circumstances of the case.
- (c) Where the appropriate officer has decided under sub- paragraph (a) to dismiss a member of the Academic Staff who is an Appointed Teacher of the University, the officer shall inform the Vice-Chancellor of the University so that, subject to the outcome of any appeal made by the member of the Academic Staff under Part V, the University may withdraw from the member the status or title of Professor or Reader of the University.

### **Appropriate Officers**

20. (a) The Vice-Chancellor shall be the appropriate officer to exercise the powers conferred by paragraph 19 and any reference to the appropriate officer includes a reference to a delegate of that officer.
- (b) Any action taken by the appropriate officer shall be confirmed in writing.

### **Part IV: Removal for Incapacity on Medical Grounds**

21. (a) This Part makes separate provision for the assessment of incapacity on medical grounds as a good cause for dismissal or removal from office.
- (b) In this Part references to medical grounds are references to capability assessed by reference to health or any other physical or mental quality.
- (c) In this Part references to the appropriate officer are references to the Vice-Chancellor or an officer acting as his delegate to perform the relevant act.



- (d) References to the members of the Academic Staff include, in cases where the nature of the alleged disability so requires, a responsible relative or friend in addition to (or instead of) that member.
- 22.
  - (a) Where it appears that the removal of a member of the Academic Staff on medical grounds would be justified, the appropriate officer:
    - (i) shall inform the member accordingly; and
    - (ii) 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.
  - (b) If the member shares that view Birkbeck shall meet the reasonable costs of any medical opinion required.
  - (c) If the member does not share that view the appropriate officer shall refer the case in confidence, with any supporting medical and other evidence (including any medical evidence submitted by the member), to a Board comprising one person nominated by the Governors, one person nominated by the member concerned or, in default of the latter nomination, by the Academic Board; and a medically qualified chair jointly agreed by the Governors and the member or, in default of agreement, to be nominated by the President of the Royal College of Physicians.
  - (d) The Board may require the member concerned to undergo medical examination at Birkbeck's expense.

### **Termination of Employment**

- 23. If the Board determines that the member shall be required to retire on medical grounds, the appropriate officer shall direct the Clerk or his delegate to terminate the employment of the member concerned on those medical grounds.

### **Part V: Appeals**

#### **Purpose of Part V**

- 24. 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**

- 25.
  - (a) This Part applies:
    - (i) to appeals against the decisions of the Governors as the appropriate body (or of a delegate of that body) to dismiss in the exercise of its powers under Part II;

- (ii) to appeals arising in any proceedings, or out of any decision reached, under Part III other than appeals under paragraph 13 (Appeals against disciplinary warnings);
  - (iii) to appeals against dismissal otherwise than in pursuance of Part II or Part III;
  - (iv) to appeals against discipline otherwise than in pursuance of Part III; and
  - (v) to appeals against decisions reached under Part IV
- and “appeal” and “appellant” shall be construed accordingly.
- (b) No appeal shall however lie against:
    - (i) a decision of the appropriate body under paragraph 10(b);
    - (ii) the findings of fact of a Tribunal under paragraph 18(a) 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;
    - (iii) any finding by a Board set up under paragraph 22(c).
  - (c) In this Part references to “the person appointed” are references to the person appointed by the Governors under paragraph 28 to hear and determine the relevant appeal.
  - (d) The parties to an appeal shall be the appellant and the Clerk and any other person added as a party at the direction of the person appointed.

### **Institution of Appeals**

- 26. A member of the Academic Staff shall institute an appeal by serving on the Clerk within the time allowed under paragraph 27, notice in writing setting out the grounds of the appeal.

### **Time for appealing and notices of appeal**

- 27. (a) 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 sub-paragraph (c).
- (b) The Clerk shall bring any notice of appeal received (and the date when it was served) to the attention of the Governors and shall inform the appellant that he has done so.
- (c) Where the notice of appeal was served on the Clerk outside the 28 day period the person appointed under paragraph 28 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**

28. (a) Where an appeal is instituted under this Part the Governors shall appoint a person described in sub- paragraph (b) to hear and determine that appeal.
- (b) The persons described in this sub-paragraph are persons not employed by Birkbeck holding, or having held, judicial office or being barristers or solicitors of at least ten years' standing.
- (c) Subject to sub-paragraph (e) the person appointed shall sit alone unless he considers that justice and fairness will best be served by sitting with two other persons.
- (d) The other persons who may sit with the person appointed shall be:
- (i) one of the Governors not being a person employed by Birkbeck; and
  - (ii) one member of the Academic Staff nominated by the Academic Board.
- (e) In the case of an appeal against a decision taken under paragraph 19 to dismiss a member of the Academic Staff who is an Appointed Teacher of the University the person appointed shall sit with:
- (i) one of the Governors not being a person employed by Birkbeck;
  - (ii) a member of the Academic Staff nominated by the Academic Board; and
  - (ii) two persons nominated by the University not being persons employed by Birkbeck.

### **Provisions concerning appeal procedures and powers**

29. (a) The procedure to be followed in respect of the preparation, consolidation, hearing and determination of appeals shall be that set out in Standing Orders made under this paragraph.
- (b) Without prejudice to the generality of the foregoing such Standing Orders shall ensure:
- (i) that an appellant is entitled to be represented by another person, whether such person be legally qualified or not, in connection with and at any hearing of his appeal;
  - (ii) 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;
  - (iii) 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

- (iv) 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.
- (c) 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:
  - (i) remit an appeal from a decision under Part II to the Governors 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
  - (ii) remit an appeal arising under Part III for re- hearing by a differently constituted Tribunal to be appointed under that Part; or
  - (iii) remit an appeal from a decision of the appropriate officer under Part IV for further consideration as the person or persons hearing the appeal may direct; or
  - (iv) substitute any lesser alternative penalty that would have been open to the appropriate officer following the finding by the Tribunal which heard and pronounced upon the original charge or charges.

### **Notification of decisions**

30. The person appointed shall send the reasoned decision, including any decision reached in exercise of his powers under paragraph 29(c) (i), (ii) or (iii), on any appeal together with any findings of fact different from those come to by the Governors as the appropriate body under Part II or by the Tribunal under Part III, as the case may be, to the Vice-Chancellor, to the parties to the appeal and to the Vice-Chancellor of the University in the case of an appeal by a member of the Academic Staff who is an Appointed Teacher of the University.

## **Part VI: Grievance Procedures**

### **Purpose of Part VI**

31. The aim of this Part is to settle or redress individual grievances promptly, fairly and so far as may be, within the department or other relevant area by methods acceptable to all parties.

### **Application**

32. 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 Birkbeck not being matters for which express provision is made elsewhere in this Statute.

### **Exclusions and Informal Procedures**

33. (a) If other remedies within the department or other relevant area have been exhausted the member of the Academic Staff may raise the matter with the appropriate member of the Academic Staff to whom management responsibility has been delegated by the Vice-Chancellor.
- (b) If the member of the Academic Staff is dissatisfied with the result of an approach under sub-paragraph (a) or if the grievance directly concerns the appropriate member of the Academic Staff to whom management responsibility has been delegated by the Vice-Chancellor, the member may apply in writing to the Vice-Chancellor for redress of the grievance.
- (c) If it appears to the Vice-Chancellor that the matter has been finally determined under Part III, IV or V 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 Vice-Chancellor he shall inform the member and the Grievance Committee accordingly.
- (d) If the Vice-Chancellor is satisfied that the subject matter of the grievance could properly be considered with (or form the whole or any part of):
- (i) a complaint under Part III;
  - (ii) a determination under Part IV; or
  - (iii) an appeal under Part V
- 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 and the Grievance Committee accordingly.
- (e) If the Vice-Chancellor does not reject the complaint under sub- paragraph (c) or if he does not defer action upon it under sub-paragraph (d) 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**

34. If the grievance has not been disposed of informally under paragraph 33(e), the Vice-Chancellor shall refer the matter to the Grievance Committee for consideration.
35. The Grievance Committee to be appointed by the Governors shall comprise:
- (a) a Chair;
  - (b) one of the Governors not being a person employed by Birkbeck; and
  - (c) one member of the Academic Staff nominated by the Academic Board.

### **Procedure in connection with determinations; and right to representation**

36. The procedure in connection with the consideration and determination of grievances shall be determined in Standing Orders 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 at a hearing and to be accompanied by a friend or representative.

### **Notification of decisions**

37. The Committee shall inform the Governors whether the grievance is or is not well-found and if it is well-found the Committee shall make such proposals for the redress of the grievance as it sees fit.

### **Annexure**

#### **Provisions as to the Vice-Chancellor**

1. The Governors may request the Chair of Governors (in this Annexure called “the Chair”) to remove the Vice-Chancellor from office for good cause in accordance with the procedure described in this Annexure.
  - (a) A complaint seeking the removal from office of the Vice-Chancellor for good cause may be made by not less than three Governors to the Chair.
  - (b) If it appears to the Chair, on the material before him, that the complaint raises a prima facie case and that this could, if proved, constitute good cause for dismissal or removal from office he shall request the Governors to appoint a Tribunal to hear and determine the matter.
  - (c) If it appears to the Chair that a complaint made to him under sub-paragraph (a) does not raise a prima facie case or is trivial or invalid, he may recommend to the Governors that no further action be taken upon it.
  - (d) When the Governors have appointed a Tribunal under sub-paragraph (b) they shall instruct a solicitor or other suitable person to formulate a charge or charges and to present, or arrange for the presentation of, the charges before the Tribunal.
  - (e) A Tribunal appointed by the Governors shall comprise:
    - (i) an independent Chair;
    - (ii) one of the Governors not being a person employed by Birkbeck; and
    - (iii) one member of the Academic Staff.
  - (f) Subject to the principle of justice and fairness the Tribunal may determine its own procedure.
  - (g) The Tribunal shall send its reasoned decision on any charge referred to it together with its findings of fact regarding the charge and its recommendations, if any, as to the appropriate penalty to the Chair and to the

Vice-Chancellor drawing attention to the period of time within which any appeal should be made.

- (h) Persons appointed to hear such an appeal shall be persons independent of Birkbeck holding, or having held, judicial office or being barristers or solicitors of at least 10 years' standing and the person so appointed shall, subject to the principles of justice and fairness, determine the procedure to be adopted in hearing the appeal.
  - (i) A person appointed shall send the reasoned decision on the appeal, together with any findings of fact different from those come to by Tribunal and his recommendations, if any, as to the appropriate penalty, to the Vice-Chancellor and to the Chair.
  - (j) Where a charge or charges have been upheld by the Tribunal and not dismissed on appeal, the Chair shall decide whether or not to dismiss the Vice-Chancellor.
2. Where a complaint is to be referred to a Tribunal under this Statute, the Chair may suspend the Vice-Chancellor from his duties and may exclude the Vice-Chancellor from the precincts of Birkbeck or any part thereof without loss of salary.
3. "Good Cause" in this Annexure has the same meaning as in paragraph 5 of this Statute.
4. For the purpose of the removal of the Vice-Chancellor for incapacity on medical grounds, Part IV of this Statute shall have effect subject to the following modifications:
- (a) for references to a member of the Academic Staff there shall be substituted references to the Vice-Chancellor;
  - (b) for any reference to the office of Vice-Chancellor there shall be substituted a reference to the office of Chair;
  - (c) for paragraph 23 there shall be substituted:

"23. If the Board determines that the Vice-Chancellor should be required to retire on medical grounds, it shall ask the Chair as the appropriate officer, to decide whether or not to terminate the appointment of the Vice-Chancellor on those medical grounds."