

Fraud and corruption response plan

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Fraud and Corruption Policy and Response Plan

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Contents

1	Introduction.....	3
2	Public Service Values.....	3
3	The College's policy.....	3
4	What is fraud?	4
5	What is corruption?	4
6	Computer misuse.....	5
7	Confidentiality	5
8	Responsibilities	5
9	The Fraud Response Plan	6
10	Appendix A – Procedure for reporting possible fraud or malpractice	11
11	Appendix B: Seven Principles identified by the Committee on Standards in Public Life (formerly known as the Nolan Committee)	11
12	Appendix C – Ordinance B – Staff of the College	12

1 Introduction

- 1.1 This document details the College's policy and response towards detected or suspected acts of fraud or corruption whether relating to employees, council members, contractors or external bodies. The College has Financial Regulations and Financial Procedures, available on the QMUL intranet, which are designed to reduce the possibility of illegal acts occurring.
- 1.2 In addition to the Financial Regulations and the Fraud and Corruption Policy and Response Plan, the following policies are available on the QMUL intranet:
 - Scheme of Delegation of Financial Authority
 - Anti Bribery and Corruption
 - Anti Money Laundering
 - Standards of Business Conduct
 - Public Interest Disclosure (Whistle-blowing)
- 1.3 The College is a public sector organisation and one of the basic principles governing its actions is the proper use of public and donated monies.

2 Public Service Values

- 2.1 It is a long established principle that public sector bodies, which include the College, must be impartial and honest in the conduct of their business, and that employees should remain beyond suspicion. The Seven Principles identified by the Committee on Standards in Public Life are included under Appendix B.
- 2.2 There are three fundamental public services values underpinning the work of the College namely:
 - **Accountability:** Everything done by those who work in the organisation must be able to withstand public and parliamentary scrutiny.
 - **Probity:** Absolute honesty and integrity should be applied in dealing with students, patients, assets, staff, suppliers and customers.
 - **Openness:** The College's activities should be sufficiently public and transparent to promote confidence between the College and its students, staff and the public.

3 The College's policy

- 3.1 In accordance with the public service values the College is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within its working environment. It is therefore committed to the elimination of wrong doing within its sphere of operation and to the rigorous investigation and taking any action required in such cases.
- 3.2 The College considers that this policy covers all persons involved with or working at the College in whatever way. whether a full time or part time member of staff, a person with an honorary appointment, an undergraduate or postgraduate student or somebody visiting the College for whatever reason.
- 3.3 The College wishes to encourage anyone having reasonable suspicions of suspected or actual fraud or malpractice to report them to their Line Manager or the Director of Finance.

- 3.4 It is the College's policy that no employee should suffer as a result of reporting reasonably held suspicions. For the purposes of this policy "reasonably held suspicions" shall mean any suspicion other than those, which are groundless and raised maliciously.

4 What is fraud?

- 4.1 Fraud is a type of theft. To commit fraud is to deprive by deceit. The two essential elements of fraud are:
- a. deception or concealment
 - b. deprivation or loss to the victim
- 4.2 Deception or concealment may be achieved in many ways, the most common of which are:
- a. unauthorised input, alteration, destruction, suppression or misappropriation of data or other records;
 - b. inappropriate transactions with suppliers (e.g. resulting from undisclosed favours received/expected);
 - c. deliberate misrepresentation of facts or manipulation of management information or company records including personal expenses.
- 4.3 Deprivation or loss may arise indirectly from the deception as well as directly, and occurs:
- a. if the person deceived is deprived of funds or assets; or
 - b. if the person deceived fails to receive funds or assets which would, but for the fraud, have been received.
- 4.4 This policy covers all fraud committed by members of the College in their capacity as members, and in particular:
- a. fraud against the College; and
 - b. fraud against third parties in their dealings with the College
- 4.5 This policy also covers all fraud committed against the College by persons other than members of the College.
- 4.6 Fraud is distinct from accidental error or negligence. Fraud may involve one or several people, from either within or outside of an organisation, in collusion with each other. Fraud may also include elements of corruption.

5 What is corruption?

- 5.1 The dishonest offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.
- 5.2 Corruption involves two or more people.
- 5.3 The College Anti Bribery and Corruption Policy is available on the QMUL intranet.

6 Computer misuse

- 6.1 Fraud or corruption can be, and increasingly is being, carried out using computers. Deception by altering computer records or creating false records is just as much fraud as the falsification of paper documents and signatures.
- 6.2 Misuse of computers and their programs, whether fraudulent or not, is specifically covered by the Computer Misuse Act 1990. A person is guilty of an offence if they access a computer, program or data which they are not authorised to access and/or they cause unauthorised modification to the contents of the computer such that the operation or access to the computer program is hindered. Unauthorised access with intent to commit a serious criminal offence, including fraud, is also an offence under the Act and carries a greater penalty. An offence is only committed if the person has intent and knowledge at the time of the act.
- 6.3 In many cases, falsification of computer records will be both fraud and computer misuse.

7 Confidentiality

- 7.1 Employees must not disclose any information about any suspected fraud or malpractice to anyone except their Line Manager, the Director of Finance and any other person nominated by the Director of Finance.
- 7.2 Employees must not make available any documentation concerning the case under review to anybody not falling within paragraph 7.1. If information must be released the express permission of the President and Principal or the Director of Finance is required.
- 7.3 If the matter has been referred to the Police, documents must only be released to the Police via the Director of Finance.
- 7.4 Under no circumstances should an employee communicate with the press, radio or to another third party about a suspected act of fraud or corruption or [a similar] irregularity.
- 7.5 The College has a policy on Whistleblowing, which offers guidance to College staff on the handling of allegations made by staff members relating to the running of the College or the activities of colleagues within the institution (referred to as 'whistleblowing'). The policy is based on the Public Interest Disclosure Act 1998, which sets out in detail when 'disclosures' by staff are protected by the Act. A copy of the Public Disclosure (Whistle-blowing) Policy is available on the QMUL intranet.

8 Responsibilities

- 8.1 The College is responsible for:
 - developing and maintaining effective, visible controls to prevent fraud e.g. separation of duties, proper authorisation of expenditure
 - producing a clearly defined and publicised Fraud & Corruption Policy & Response Plan, which applies to everybody in the College and encourages open reporting of concerns
 - taking appropriate legal and or disciplinary action against perpetrators of fraud and taking disciplinary action against supervisors where supervisory failures have contributed to the commission of fraud.

8.2 College Managers are responsible for:

- identifying the risks to which systems and procedures are exposed
- developing and maintaining effective controls to prevent and detect fraud
- ensuring that controls are reviewed, updated and complied with.

8.3 College staff are responsible for:

- acting with propriety in all College activities. This includes the handling and use of any funds associated with the College, dealing with Contractors or Suppliers or any other aspect of College business.
- ensuring that they do not receive gifts, hospitality or benefits of any kind from a third party, which might be seen to compromise their decision making or integrity or the integrity of the College. The College Standards of Business Conduct are available on the QMUL intranet – refer to Appendix D – Gifts and Hospitality Policy.
- communicating their concerns to their Line Manager or the Director of Finance.
- ensuring confidentiality about the matter under review.

8.4 The Director of Finance is responsible for directing and controlling fraud investigations. He/she may delegate this to Internal Audit, External Audit or some other suitable person.

9 The Fraud Response Plan

9.1 Initial discussions

9.1.1 An employee should discuss his/her suspicions as soon as possible with their Line Manager and the Director of Finance in the first instance.

9.1.2 This assumes that the Line Manager/Director of Finance is not the subject of any allegations. He/she must inform the Director of Finance of any information or documentary evidence they hold supporting their suspicions as soon as possible. If the Line Manager is the subject of any allegations then the employee should go directly to the Director of Finance.

9.1.3 If the suspicion involves another Director, a Head of Department/School/Institute or a member of the President and Principal's Steering Group then the employee must contact the Director of Finance. If the allegation involves the Director of Finance, then the President and Principal should be informed. A flowchart is included as Appendix A to illustrate the reporting process. In the absence of the Director of Finance, arrangements for another member of staff to act as a deputy will be made.

9.2 Log of incidents

9.2.1 The Director of Finance will keep a log of all reported suspicions including those dismissed as groundless. It will contain details of actions taken and conclusions reached. Details of all entries in the log will be forwarded to the President and Principal at least quarterly. The Audit and Risk Committee will review the log at least annually.

9.2.2 Significant matters will be discussed by the Audit and Risk Committee who will report such information as is necessary to retain Confidentiality to Council.

9.3 Immediate action

9.3.1 Where it would not prejudice any subsequent investigation, whether internal or external, the Director of Finance must take immediate action to end any losses and remedy any control weaknesses.

9.3.2 This might involve:

- the suspension of the employee(s) at the start of the investigation;
- securing the employee(s) desk contents and office, preferably with the employee present. They may wish to be represented by a Line Manager or Union Official;
- recovering the employee(s) office and desk keys;
- ensuring that the employee(s), if suspended, leaves the premises immediately and does not have the opportunity to remove/destroy any potential evidence;
- securing accounting, policy and other records including computer files and back up relevant computer data;
- cancelling the employee(s) network and other systems access rights;
- checking all current and future payments to the employee(s) during the course of the review;
- advising work colleagues of the suspension of the individual(s) and that no contact should be made with him/her/them until further notice. All contact should be through the Director of Finance.

9.3.3 Any College assets in the possession of the employee(s) should be retrieved as soon as possible.

9.3.4 If it is suspected that a computer has been used or tampered with, then instructions must be given to preserve the computer and its data.

9.4 Control improvement

9.4.1 In committing fraud against the College it is likely that existing weaknesses in existing controls will have been exploited. In order to prevent recurrence, it is essential that these weaknesses are fully understood by the College and addressed. The following actions must be taken by the Director of Finance:

- isolate the underlying control weaknesses. Each weakness should be quantified in terms of its contribution to the fraud and the risk of recurrence if not addressed;
- agree effective solutions with the appropriate manager; and
- document the above in a report and action plan.

9.5 Informing HEFCE, Audit and the Police

9.5.1 The Director of Finance will consider the need to inform HEFCE, Internal and External Audit, Police and other bodies.

- 9.5.2 The HEFCE Audit Code of Practice (HEFCE 98/28 paragraphs 14-15) require HEIs to notify the HEFCE Chief Executive of any attempted, suspected or actual irregularity where:
- the sums involved are, or potentially are, in excess of £10,000;
 - the particulars of the fraud are novel, unusual or complex; and
 - there is likely to be public interest because of the nature of the fraud or the people concerned.
- 9.5.3 HEFCE's Audit Service will not investigate a fraud or irregularity in an individual HEI, but they can be consulted for advice and will in the case of novel, unusual or complex frauds seek to ensure that similar instances do not happen in other HEIs.
- 9.5.4 The Director of Finance may inform Internal and External Audit of any suspected fraud or irregularity and the actions taken to investigate the matter and to remedy any control weaknesses.

The Director of Finance may instigate an internal investigation of the matter or refer the matter directly to the Police. Properly organised investigations conducted by members of staff or auditors with a working knowledge of the College's processes, would be of great assistance to any subsequent police enquiry. Liaison with the Police may begin as soon as the issues involved are identified. The Director of Finance will ensure that lines of communication are established with the Police.

- 9.5.5 It should be noted that the Police's priorities and decision to take up a case differ from that of the College, with obtaining sufficient reliable evidence to obtain a criminal prosecution being their main objective rather than recovery of any losses to the College.
- 9.5.6 The decision to involve the Police will include the following considerations:
- prosecution of the perpetrator(s) through criminal action. A successful prosecution can often assist recoveries via the civil court;
 - potential seriousness of the malpractice involved;
 - whether the malpractice is fraudulent;
 - amount of available reliable evidence;
 - involvement of organisations outside of the College
 - the need to take deterrent action; and
 - adverse publicity.

9.6 Involvement of a member of College Staff

- 9.6.1 When the suspected fraud or irregularity involves an employee or employees, then the Director of Human Resources must be involved by the Director of Finance at the earliest opportunity. Consideration should be given to suspension of the employee(s), with pay, at the start of the investigation. This is for the protection of the employee(s) as much as to ensure objectivity during the course of any subsequent investigation.

9.7 Disciplinary action

- 9.7.1 The Director of Human Resources must be involved with any case involving a member of staff. The College's Personnel Policies must be followed during the course of any disciplinary actions. Disciplinary action may be undertaken by the College whether or not any prosecution has or is due to take place.
- 9.7.2 A copy of the relevant College Ordinance is attached as Appendix C, which is also available on the QMUL intranet.

9.8 Internal investigations

- 9.8.1 Any internal investigation should be carried out with great care and with due consideration of the possibility of future criminal proceedings. An internal investigation may be carried out by College Staff, Internal Audit or consultants with relevant experience. Advice may be obtained from HEFCE, External and Internal Audit as to the selection of an appropriate person or organisation to undertake an internal investigation.
- 9.8.2 In order to maximise the effectiveness of fraud investigations, it is crucial that clear objectives are set at the earliest opportunity. Whilst these are driven to an extent by the Fraud and Corruption Policy and Response Plan, each fraud will require a unique response. At the highest level the objectives will be one, or any combination, of the following:
- a. to establish the facts;
 - b. to prevent repetition and deter others; and
 - c. the recovery of funds.

9.9 External bodies

- 9.9.1 If the suspected fraud or malpractice concerns an external body such as a supplier, partner organisation or funding body then the procedures outlined above should be followed excluding the steps of informing the Director of Human Resources.
- 9.9.2 In the case of contractors, the College may have a clause in the agreement between the College and the Contractor allowing for the examination of records supporting payments claimed on behalf of the contractor, for example - time records, expense records and so on. The Director of Finance may decide whether the College should ask under the terms of any agreement to inspect these records.
- 9.9.3 Following the investigation, the Director of Finance will determine whether or not he/she wishes to continue trading or otherwise with the external body concerned.

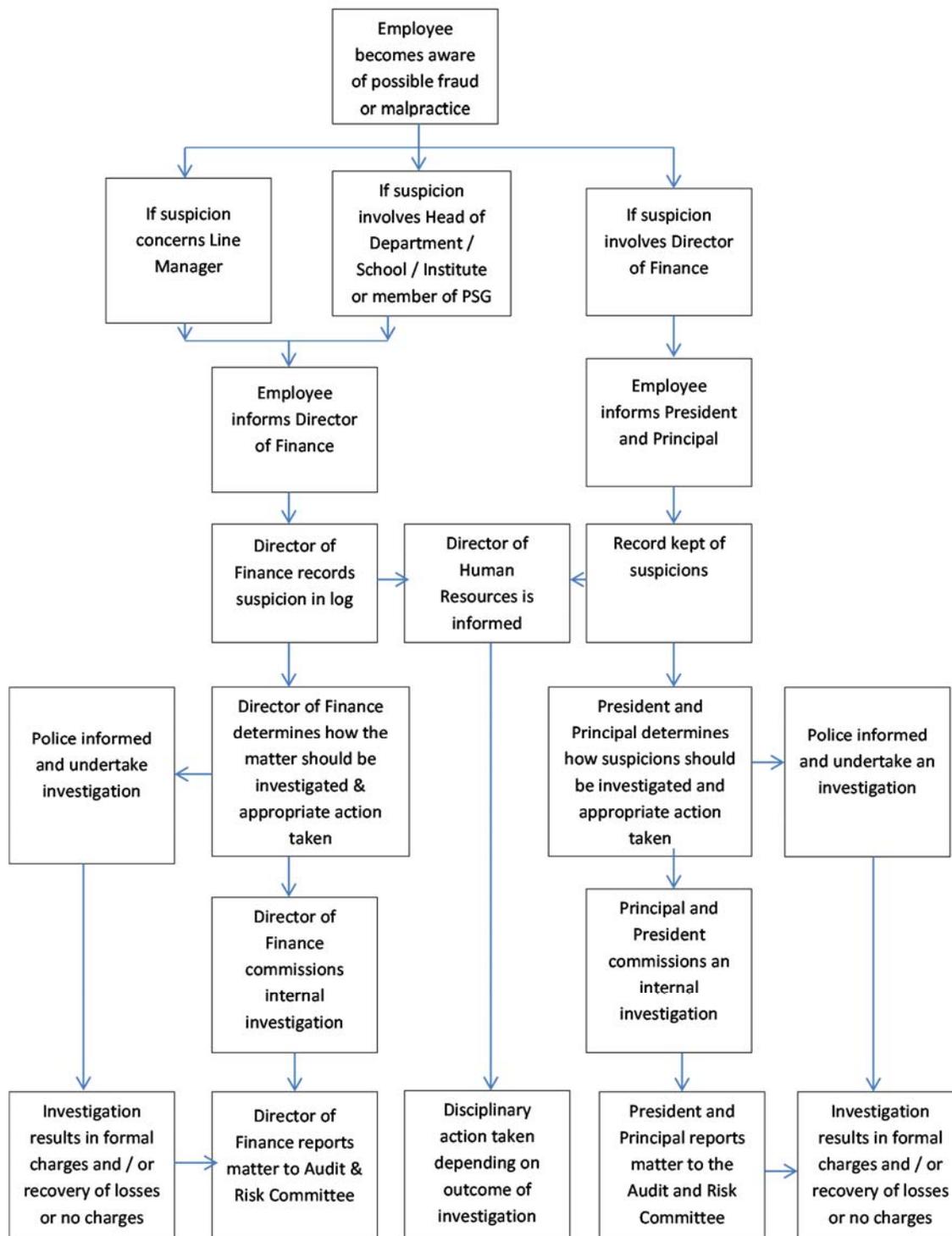
9.10 Recovery of loss

- 9.10.1 The possibility of recovering a loss must be considered as part of any investigation, including taking civil action where appropriate. Where recovering a loss is likely to require a civil action, it will be necessary to seek legal advice. College procedures for taking legal advice should be followed.

9.11 Review events with Police

9.11.1 If the case has been handed to the Police, then the Director of Finance will maintain close liaison with the police to monitor the progress of the case, to keep the College apprised of any issues arising and ensure that any necessary support required is available.

10 Appendix A – Procedure for reporting possible fraud or malpractice



11 Appendix B: Seven Principles identified by the Committee on Standards in Public Life (formerly known as the Nolan Committee)

1. Selflessness

Holders of public office should act solely in terms of the public interest.

They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take.

They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.

12 Appendix C – Ordinance B – Staff of the College

Contents

- A General Principles
- B Definitions

- C Construction and Application
- D Dismissal; and the Constitution of Hearing, Appeal and Grievance Panels
- E Dismissal by reason of redundancy
- F Disciplinary procedures for members of staff
- G Removal for incapacity on health grounds
- H Fixed term contracts
- I Probationary appointments
- J Dismissal for other substantial reason
- K Dismissal from non-substantive offices
- L Clinical Staff
- M Appointed Teachers of the University of London
- N Grievance procedure
- S Schedule 1

Section A: General Principles

- A1 This Ordinance establishes the framework of procedures relating to dismissal, discipline and grievance procedures, and related matters. Detailed procedures are laid down in associated Codes of Practice or Policies, the approval of which shall be the responsibility of Council, following negotiations with the recognised trade unions.
- A2 The Council has resolved that, as far as possible, all members of staff of the College should enjoy equal terms and conditions of service that should reflect best practice in employment law.
- A3 The Council has therefore passed this Ordinance to apply to all staff that have a contract of employment with the College.

Section B – Definitions

- B1 For the purpose of ensuring Academic Freedom “Academic members of staff” shall include all staff whose contract of employment requires them to be personally responsible for the intellectual content of elements of teaching and/or research at the College.
- B2 For all other employment purposes, Academic Staff shall include members of staff whose contract of employment shows that they are employed on “Academic” or “Research and Analogous” terms and conditions.
- B3 “Academic-related members of staff” shall include all staff whose contract of employment shows that they are employed on “Professional” terms and conditions. [For the avoidance of doubt, staff employed in Professional Grades 1 to 4 on Support Staff terms and conditions are not counted as academic-related staff; but staff employed at Professional Grade 4 on academic-related terms and conditions before 1st January 2008 will be employed on “Professional” terms and conditions and will be counted as academic-related staff.]
- B4 “Support staff” shall include all staff whose contract of employment shows that they are employed on “Support Staff”, “Nursery Staff” or “Security Staff” terms and conditions. [For the avoidance of doubt, Technical Staff on Technical Grade 5 and above are counted as Support Staff and not as academic-related staff.]
- B5 “Heads of School, Institute, and Department” shall include the heads of those organisational units specified in the Ordinances Part A and those Officers as shall be determined from time to time by the Principal.

- B6 "Member(s) of staff" shall include those staff referred to in A2 and A3 of the General Principles.
- B7 "The Principal" refers to the Principal or any officer of the College delegated by him to undertake any or all of the Principal's functions as specified in this Ordinance or its related Codes of Practice.
- B8 For the purpose of these Ordinances, "dismissal" shall have the same meaning as in section 95 of the Employment Rights Act 1996.
- B9 Dismissal by reason of redundancy for the purpose of Section E and H of these Ordinances has the same meaning as in section 139 of the Employment Rights Act 1996.

Section C – Construction and Application

- C1 These Ordinances will override any provision in any contract, term or condition of employment which is inconsistent with them, whether dated before or after the commencement of these Ordinances, but –
 - [1] these Ordinances shall not affect the validity of any compromise agreement under section 203 of the Employment Rights Act 1996, or any similar waiver or agreement permitted by law; and
 - [2] these Ordinances shall not preclude any member of staff deciding or agreeing to terminate employment with the College, whether by voluntary severance, early retirement or otherwise, on whatever terms have been agreed.
- C2 None of the Ordinances on Dismissal in sections E to J shall apply to removal from an appointment as Vice-Principal, Dean or Head of School or Institute, or such other posts as have been designated by the Council, to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated. Removal from such an appointment will be handled under Section K.
- C3 These Ordinances shall not apply to the Principal.
- C4 Where, in any proceedings under these Ordinances, a member of the Academic or the Academic-related Staff claims that action has been taken against them because that member of staff questioned or tested received wisdom or put forward new ideas or controversial opinions, that claim shall be considered by a panel constituted as prescribed in Paragraph 3 of Schedule 1 to these Ordinances, and, if the claim is upheld, the panel dealing with the matter shall cancel that action and it shall be treated as invalid.
- C5 Where there is any issue as to the meaning of "academic freedom" in any proceedings under these Ordinances, regard shall be had to Sections VI and VII of the Recommendation concerning the Status of Higher-Education Teaching Personnel adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997.
- C6 Any reference in these Ordinances to a provision in an Act of Parliament shall be taken to be a reference to that provision as it may have been amended or superseded from time to time.

Section D – Dismissal; and the Constitution of Hearing, Appeal and Grievance Panels

D1 A member of staff may be dismissed if that dismissal is for a reason set out in section 98 of the Employment Rights Act 1996.

For Members of the Academic and Academic-related Staff

D2 Any panel established pursuant to the procedures in these Ordinances shall be constituted in accordance with Schedule S of these Ordinances.

D3 At any panel established pursuant to clause E6; F5[c] and F19; G6 and G7; J4 and J5; and N5 of this Ordinance, the member of staff shall be entitled to be represented or assisted by any person.

D4 Any panel established pursuant to clause E6; F5[c] and F19; G6 and G7; J4 and J5; and N5 of this Ordinance shall give a reasoned decision in writing which shall be provided to the member of staff and reported to the Council.

For Members of the Support Staff

D5 For staff other than those designated as Academic or Academic-related Staff, any panel established pursuant to the procedures in these Ordinances shall be constituted in accordance with Schedule 1 to these Ordinances.

Section E - Dismissal by Reason of Redundancy

Application

E1 This section shall apply to all members of staff other than:

[a] staff affected by the non-renewal of a fixed-term contract, who are covered by Section H.

E2 This section shall apply only to redundancies proposed to take effect before the end date specified in a member of staff's contract of employment.

Procedure for dismissal by reason of redundancy

E3 Proposals that may result in dismissals by reason of redundancy will be dealt with in accordance with Queen Mary's Policy on Managing Change and Conserving Employment.

Section F: Disciplinary Procedures for Members of Staff

Grounds for disciplinary action

F1 Disciplinary action may be taken, and where found to be appropriate a penalty imposed, in respect of the following:

[a] conduct amounting to a criminal offence, whether or not there has been a prosecution and conviction, of a kind that is judged in all the circumstances to be relevant to the member of staff's employment by the College. 'Relevant' means that the alleged offence either

[1] took place whilst the employee was engaged on College business, or

[2] was of a nature such as to bring the College into disrepute, or to render the employee unsuitable for his/her current employment.

[b] failure, refusal, neglect or inability to perform some or all of the duties or to comply with some or all of the conditions attaching to the post, or performing those duties or complying with those conditions in an unsatisfactory or inadequate manner;

[c] conduct of a kind judged to be inappropriate or unacceptable on the part of the holder of the post held by the member of staff, such as (but not confined to) the following:

[1] breach of any obligation or duty arising under any of the College's regulations regarding financial matters, harassment, equal opportunities, public interest disclosure, health and safety, or data protection or any other rules, regulations or codes binding on the member of staff;

[2] wilful or reckless damage to, or improper use of College facilities, premises, property or equipment;

[3] disruption of, or improper interference with, the activities of the College or of any employee, student, Council member or visitor (other than any lawful industrial action);

[4] violent, indecent, disorderly, threatening abusive, insulting or harassing behaviour or language (whether written, spoken or in any other form);

[5] fraud, deceit, deception or dishonesty in relation to the College or any related activity, including research and examining;

[6] action likely to cause injury or impair safety;

[7] divulging information or material received in confidence (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the College's Public Interest Disclosure Procedure).

Disciplinary Procedures

F2 The Principal shall be responsible for discipline generally within the College. Heads of School, Institute or Departments shall have delegated authority from the Principal to deal with less serious matters.

ACAS Code of Practice

F3 In drawing up the procedures, and in any regulations made or action taken thereunder, regard shall be had to the relevant paragraphs of the statutory Code of Practice on Discipline and Grievance issued by the Advisory Conciliation and Arbitration Service (ACAS) and brought into effect under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 by order of the Secretary of State on 6 April 2009.

Procedure for considering less serious matters

F4 The procedure shall provide for allegations of less serious matters (for example, unsatisfactory timekeeping) to be dealt with by the Head of School, Institute or Department in accordance with the relevant Code of Practice. After examination of all relevant facts, the Head of School, Institute or Department may either dismiss the allegations (in which case the matter shall be regarded as closed) or, if the allegations are substantiated, give the member of staff a warning. The Code of Practice shall specify the procedures to be followed in each case, and the period after which a warning will be regarded as spent. A member of staff may appeal against a warning in writing in accordance with the relevant Code of Practice.

Procedure for considering serious or repeated disciplinary offences

- F5 Complaints of serious disciplinary offences shall be reported in writing to the Director of Human Resources. The Director of Human Resources shall arrange for the complaint to be investigated, normally within ten working days. As a result of the investigation, the Director of Human Resources shall recommend one of the following courses of action to the Principal
- [a] the complaint should be dismissed, in which case the matter shall be regarded as closed;
 - [b] the complaint should be referred to the appropriate Head of School, Institute or Department to be considered under the Code of Practice for less serious matters;
 - [c] the complaint should be referred for a hearing by a Disciplinary Panel.
- F6 Where the alleged offence is the subject of an investigation by the police, an NHS Trust or another employer, the Principal may suspend further disciplinary hearing pending the outcome of the other investigation(s) and any subsequent action by the agencies concerned.
- F7 The Principal shall have authority to suspend a member of staff on full pay pending a disciplinary hearing. Suspension should only be used where the allegations, if proven, would be likely to lead to dismissal, or where the nature of the alleged disciplinary offence is such as to make it impracticable for the member of staff to perform his/her duties. A decision to suspend shall be subject to review where it has continued for four weeks in accordance with the Code of Practice.
- F8 The fact that a member of staff against whom disciplinary action is brought may be suffering from a medical condition shall not of itself preclude the College proceeding with a hearing under this section of the Ordinance.

Hearing before the Disciplinary Panel

- F9 The Panel shall be constituted in accordance with Schedule 1
- F10 The proceedings of the Panel shall follow the relevant Code of Practice. The member of staff against whom the complaint has been made shall have been informed of the complaint, may be accompanied by another person; shall be entitled to be present, to hear the evidence, to call relevant witnesses, and to examine and cross-examine witnesses (but provision may be made for witnesses in appropriate cases to give their evidence behind a screen or from another room or place and for questions to be asked only by a representative).
- F11 At the end of the hearing, the Panel may dismiss the allegations, in which case the matter shall be closed. If the Panel finds the allegations to be substantiated, it shall impose an appropriate penalty on the member of staff which may be one or more of the following penalties:
- [a] oral warning
 - [b] written warning
 - [c] final warning
 - [d] payment of compensation not exceeding two months of the member of staff's

salary

[e] transfer to another job

[f] dismissal with notice

[g] dismissal without notice

[h] designating a member of staff's conduct as constituting "gross misconduct" such as to merit summary dismissal without notice.

F12 For staff appointed or promoted after September 2005, the panel may also consider imposing one or more of the following penalties:

[a] withholding any forthcoming increment in salary,

[b] suspension of the employee without pay (for up to three months),

[c] reduction in grade and/or loss of title.

F13 When imposing any financial penalty, the Panel shall have regard to the member of staff's personal circumstances.

F14 The Panel's decision shall be notified in writing to the member of staff within five working days of the hearing.

Decisions to Dismiss

F15 The Director of Human Resources or other designated officer shall give effect to a decision of a panel that a member of staff should be dismissed:

[a] where the panel has designated the conduct as "gross misconduct" such as to merit summary dismissal, the Director of Human Resources shall forthwith dismiss the member of staff;

[b] in all other cases, the Director of Human Resources shall issue the notice of dismissal or dismiss together with payment in lieu of notice.

F16 Any dismissal or notice of dismissal shall be cancelled, withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed or should only be dismissed with notice.

Disciplinary Appeal

F17 A member of staff may appeal in writing to an Appeal Panel within ten working days of the receipt of the decision on one or more of the following grounds

[a] that the procedure was applied incorrectly;

[b] that the findings of the Panel were unfair;

[c] that the penalty was too severe in relation to the offence;

F18 The member of staff may offer new evidence which has come to light in support of any of the grounds of appeal.

F19 The Appeal Panel shall be constituted in accordance with Schedule 1 of this Ordinance.

- F20 The Appeal Panel shall be concerned solely with the grounds on which the appeal is made, and shall follow the relevant Code of Practice. An appeal shall not take the form of a re-hearing of the evidence and witnesses may be called only with the panel's permission.
- F21 Following the hearing, the Panel may:
- [a] reject the appeal, in which case the original decision shall stand;
 - [b] uphold the appeal and/or reduce the level of any penalty.

Relationship with Section G

- F22 Where it emerges that the member of staff's conduct or performance may have been wholly or partly attributable to a medical condition, any proceedings under this section shall be valid even if they could have been brought under Section G, and a member of staff may, subject to the Equality Act 2010, be subject to penalty, including dismissal, under this Section notwithstanding the fact that his or her conduct may have been wholly or partly attributable to a medical condition.

Section G: Removal for Incapacity on Health Grounds

- G1 The procedure for dealing with staff, including dismissal, because of incapacity on health grounds, whether physical or mental shall provide for a hearing by a panel, with a right of appeal to another panel, and both panels shall contain an appropriately medically qualified person.
- G2 No member of staff may be dismissed whether under Sections F and G of this Ordinance where that dismissal would contravene the Equality Act 2010.
- G3 Concern about a member of staff's ability to perform his/her duties to an appropriate standard on health grounds shall initially be addressed by the Head of School, Institute or Department, informally and then formally, according to the relevant Code of Practice.
- G4 Where the procedures referred to in paragraph G3 have failed to address the problem, the Head of School, Institute or Department shall make a confidential report to the Principal requesting that a Panel be established to determine whether there is a case for removal for incapacity on health grounds.
- G5 The Principal may also initiate action under this section of the Ordinance without the recommendation of a Head of School, Institute or Department.
- G6 The Panel shall be constituted in accordance with Schedule 1 of this Ordinance, except that at least one member shall be appropriately medically qualified as recommended by the Occupational Health Service. The Panel shall conduct the hearing in accordance with the relevant Code of Practice, which shall provide for the member of staff to make a submission both orally and in writing, and to appear before the Panel, accompanied by another person. The Panel shall give its decision in writing within five working days of the hearing.
- G7 If the Panel supports the recommendation for dismissal, the member of staff may appeal within ten working days of the receipt of the decision of the Panel, to an Appeal Panel constituted in accordance with Schedule 1 of this Ordinance. The Principal may extend this time limit in reasonable circumstances. The Appeal Panel shall conduct the hearing in accordance with the relevant Code of Practice. The decision of the Appeal Panel shall be final.

- G8 The fact that a Panel has not supported the removal of a member of staff on health grounds shall not prevent the College initiating subsequent disciplinary action in relation to incidents that have formed part of the enquiry under this section of the Ordinance.

Section H: Fixed-term Contracts

- H1 The policy of Queen Mary is to appoint staff on appropriate contracts. This will be a “permanent” contract unless a limited-term contract can be justified for one of the reasons set out below. Fixed-term contracts of any duration, including those of under a year, are appropriate only if:

[a] there is no reasonable prospect of funding being renewed or becoming available.

Where funding has already been renewed, continuing use of the fixed-term contract would need to be justified by objective reasons.

[b] the post requires input from specialist practitioners whose expertise or experience is not part of the core competencies required within the College, School, Institute or Department. The expression “core competencies” refers to the attributes, skills, experience or capacity of the employee rather than core subject areas.

[c] the post is appropriate to cover staff absence as appropriate (e.g. parental and adoptive leave, long-term sickness, sabbatical leave or secondment).

[d] the post is to provide interim cover while arrangements are being made to appoint on a permanent basis (e.g. the effect of an unexpected resignation; a skills shortage or a delay in making a permanent appointment can be worked around by making an interim appointment to provide short-term cover)

[e] the contract includes a specific and finite training, developmental or educational component, such as secondment, career development opportunity, studentship, or apprenticeship, etc.

[f] the student or other business demand can be clearly demonstrated as particularly uncertain.

[g] the post is to cover a peak in demand due, for example, to seasonal fluctuations or the requirements of a particular stage in a project.

[h] the post is one in which the College offers work to a succession of its current students on the grounds that this will offer valuable work experience; or support the student during their studies; or is convenient for the College.

- H2 Where a fixed-term contract is due to terminate and the employee’s period of continuous employment is greater than one year, the relevant Head of School, Institute or Department shall consider whether the contract should be renewed or extended, or a contract for an indefinite period offered. This consideration shall include consultation with the appropriate representatives, in accordance with the relevant Code of Practice.

- H3 Any decision not to renew or extend or offer a contract of indefinite duration must be justified in respect of one or more of the following considerations:

[a] the availability of funding for the post (eg, the termination of the funding for a project), or the financial situation;

[b] the individual’s performance, following appropriate warnings and counselling (as

defined in the relevant Code of Practice);

[c] the need for the post or the duties attaching to the post (e.g., the project for which the post was created has been completed);

[d] the nature and character of the post (e.g. the post was providing cover for a member of staff on maternity leave who has now returned);

[e] the desirability of making the post permanent and appointing to it after open competition (e.g. to meet equal opportunities requirements).

- H4 Any member of staff whose fixed term contract is not renewed or extended on termination, or who is not offered a contract of indefinite duration, shall be entitled to be provided with full reasons for the decision in writing. The member may ask for the decision to be reviewed by a Panel constituted in accordance with Schedule 1 of this Ordinance.

Section I: Probationary Appointments

- I1 This section shall also apply to members of staff who have been appointed subject to review after a period of probationary service.
- I2 The procedure shall provide that staff on probation shall be reviewed and shall include provision for non-confirmation in post at the end of the probationary period if their performance is found to be deficient or for any other substantial reason or reasons they are judged unsuitable to be confirmed in post.
- I3 The review referred to in paragraph I2 may encompass matters which, in other circumstances, would fall to be dealt with under other sections E, F or G of this Ordinance.
- I4 A member of staff who has not been confirmed in post under this Section shall be given full reasons for the decision and shall be entitled to have the decision reviewed by a panel.
- I5 The panel, whose decision shall be final, shall consider whether the reasons advanced in support of the decision are reasonable and supportable.
- I6 A member of staff whose appointment at the College is subject to probation shall be notified:
- [a] in the letter of appointment, the period of probation and the name of a probationary adviser;
- [b] within one month of taking up appointment, the arrangements for probation, including the intervals at which interim assessments will be conducted.
- I7 Probationary arrangements shall follow the relevant Code of Practice, which shall include procedures for advising a probationer on his/her performance, and providing guidance and instruction in the event that the performance is unsatisfactory.
- I8 At or before the end of the probationary period, the appointment of the member of staff shall be confirmed unless his/her performance has been judged to be unsatisfactory by two senior members of the School, Institute or Department (normally the probation adviser and the Head of School, Institute or Department).
- I9 If the member of staff's performance is judged not to be satisfactory, the period of

probation may be extended or the appointment terminated. The member of staff shall be given the reason in writing at least one month before the end of the period of probation. The member of staff may appeal in accordance with the relevant Code of Practice which, in the case of academic staff, shall involve a hearing before a Panel constituted in accordance with Schedule 1 of this Ordinance.

Section J: Dismissal on other substantial reason

- J1 This section covers dismissals on any ground falling within section 98 of the Employment Rights Act 1996 other than those covered by Sections E, F, G, H and I of this Ordinance (i.e. "some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held" (Employment Rights Act 1996, s. 98(1)(b)); "the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment" (s. 98 (2)(d)).
- J2 Where a Head of School, Institute or Department, after appropriate investigation, considers that the removal of a member of staff would be justified on grounds not covered by the provisions of sections E-I of this Ordinance, s/he shall make a confidential report to the Principal to this effect. If the Principal concurs, s/he shall inform the member of staff accordingly in writing, giving details of the reason for the proposed dismissal.
- J3 The Principal may also initiate action under this section of the Ordinance without the recommendation of a Head of School, Institute or Department.
- J4 The proposal for dismissal, together with supporting evidence, shall be submitted to a Panel constituted in accordance with Schedule 1 of this Ordinance. The Panel shall conduct the hearing in accordance with the relevant Code of Practice, which shall provide for the member of staff to make a submission both orally and in writing, and to appear before the Panel, accompanied by another person. The Panel shall give its decision in writing within five working days of the hearing.
- J5 If the Panel supports the recommendation for dismissal, the member of staff may appeal within ten working days of the receipt of the decision of the Panel, to an Appeal Panel constituted in accordance with Schedule 1 of this Ordinance. The Appeal Panel shall conduct the hearing in accordance with the relevant Code of Practice. The decision of the Appeal Panel shall be final.
- J6 Where a member of clinical staff who holds an honorary appointment at the College loses his/her substantive appointment with an NHS Trust as a result of disciplinary action, the honorary appointment shall also be terminated.

Section K: Dismissal from non-substantive offices

- K1 This section refers to members of staff who hold an office in the College in addition to their substantive post – for example, Vice-Principals, Heads of School and Institute, Deans, whether appointed by the Principal or by Council.
- K2 Where the Principal considers that the removal of a member of staff from a nonsubstantive office would be justified due to that member of staff's unwillingness or inability to perform the duties of the office to an appropriate standard, s/he shall inform the member of staff accordingly in writing, giving details of the reason for the proposed removal.
- K3 The proposal for removal from office, together with any supporting evidence, shall be submitted to a Panel constituted in accordance with Schedule 1 of this Ordinance. The

Panel shall conduct the hearing in accordance with the relevant Code of Practice, which shall provide for the member of staff to make a submission both orally and in writing, and to appear before the Panel, accompanied by another person. The Panel shall give its decision in writing within one week of the hearing.

- K4 If the Panel supports the recommendation for dismissal, the member of staff may appeal within two weeks of the hearing to an Appeal Panel constituted in accordance with Schedule 1 of this Ordinance. The Appeal Panel shall conduct the hearing in accordance with the relevant Code of Practice. The decision of the Appeal Panel shall be final.

Section L: Clinical Staff

- L1 This section applies to a member of the clinical academic staff who is required to engage in clinical work or activities and for that purpose to be registered with the General Medical or Dental Council or similar body and/or to have an honorary or substantive contract or status with a National Health Service trust or similar body, and may by Ordinance be extended to other groups of staff in a similar situation.
- L2 Action under Section F or G of these Ordinances may be taken against a member of staff falling within paragraph M1 above in respect of conduct or incapacity arising in connection with that member of staff's clinical work or activities as if the work or the activities were performed in and for the College.
- L3 Where the registration, contract or status referred to in sub-clause (1) above is terminated, withdrawn or revoked, the Principal may, having first afforded an opportunity to the member of staff concerned to make representations, dismiss the member of staff concerned; and where the registration, contract or status is suspended, the Principal may suspend the member of staff from employment for so long as the registration, contract or status is suspended, that suspension from employment to be without pay where the registration, contract or status has been suspended as a substantive disciplinary measure.

Section M: Appointed Teachers of the University

- M1 Where the member of staff who is dismissed in accordance with Section F or J of these Ordinances is also an appointed teacher of the University of London, the Director of Human Resources shall notify the Vice-Chancellor of the University accordingly so that the University may withdraw from the member of staff the title of Professor or Teacher of the University.

Section N: Grievance procedures

- N1 The Grievance Procedure for members of staff shall have regard to the relevant paragraphs the ACAS Code of Practice (as may be amended or replaced from time to time) referred to in paragraph F3 above.
- N2 The Procedure shall apply to grievances by members of staff concerning their appointments or employment in relation to matters affecting themselves as individuals or their personal dealings or relationships with other staff of the College, other than those for which provision is made elsewhere in this Ordinance or where the Council has prescribed other procedures, provided those other procedures are no less favourable to the individual than under the Grievance Procedure.
- N3 The Procedure shall provide that consideration of a complaint under the Procedure may be deferred if other proceedings under this Ordinance concerning the individual and

relevant to the application are pending or in progress.

- N4 The Procedure shall provide for the fair and speedy resolution of complaints, informally wherever possible, and for the complainant to be entitled to be assisted by any other member of staff or by a trade union representative at any hearings prior to that under N5 below.
- N5 The Procedure shall make provision for a member of staff who is dissatisfied with the outcome of a complaint to be able to have the complaint heard by a Grievance Panel.
- N6 A member of staff may bring a grievance to the attention of his/her line manager. If the grievance concerns the line manager, it should be brought to the attention of that person's line manager.
- N7 The line manager shall investigate the grievance in accordance with the relevant Code of Practice with the object of achieving rapid resolution of the problem in an informal way.
- N8 If the member of staff is not satisfied with the outcome of the informal process, s/he shall submit his/her grievance in writing to the Head of School, Institute or Department. The Head of School, Institute or Department shall seek to resolve the grievance in accordance with the relevant Code of Practice.
- N9 If the Head of School, Institute or Department is unable to resolve the grievance, s/he shall inform the Director of Human Resources who shall refer it to a Grievance Panel constituted in accordance with Schedule 1 of this Ordinance. The Panel shall conduct its hearing in accordance with the relevant Code of Practice. The decision of the Panel shall be final.
- N10 The Principal shall have the authority to defer consideration of the grievance on the grounds that other proceedings under this Ordinance concerning the member of staff, and relevant to the grievance, are pending or in progress.

Schedule 1: Constitution of Panels

The Academic and Professional Staff

- S1 The Panel constituted to hear a case or an appeal involving a member of the academic and professional staff under §§F(5)[c], F19, G6, G7, J4, J5, K3, K4 and N9 shall consist of three persons, one of whom shall be an external member of Council appointed by the Chairman of Council, and the remainder selected by the Principal from a list of academic staff approved by the Senate for this purpose. None of the members of the Appeal Panel shall have any prior involvement with the case.
- S2 A panel constituted to hear a claim by a member of the academic and professional staff, that action taken against them results from their exercise of academic freedom, shall consist of three persons, one of whom shall be an external member of Council appointed by the Chairman of Council, and the remainder selected by the Principal from a list of academic staff approved by the Senate for this purpose.
- S3 The Appeal Panel to hear an appeal by a member of staff in the Academic Career Progress Scheme against the termination of a probationary appointment under §I9 shall consist of three persons, constituted in accordance with the procedures of the Academic Staff Review Group. The Appeal Panel to hear an appeal by a member of the academic and professional staff, other than a member of staff in the Academic Career Progress Scheme, against the termination of a probationary appointment under §I9 shall consist of three persons, constituted in accordance with the relevant Code of

Practice.

- S4 The Panel constituted to review a decision not to renew a fixed-term contract shall consist of an external member of Council appointed by the Chairman of Council, a Head of Department who has had no previous involvement in the case and a person drawn from a list of academic staff approved by the Senate for this purpose, the two latter to be selected by the Principal.

Approved by Council 22 January 2013