

THE UNIVERSITY OF BIRMINGHAM  
**CODE OF PRACTICE ON CORPORATE GOVERNANCE  
AND RELATED PROCEDURAL MATTERS**

**2014/15**



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Contents

	Page
Introduction	5
Principles of Governance and Management	5
Powers and Membership of Council	6
Role of the Vice-Chancellor	8
Role of the Registrar and Secretary	8
Duties and Responsibilities of Members of Council	9
Conflicts of Interest for Members of Council	10
Register of Interests	11
Meetings of Council	11
Senate	12
Council Committees	12
Conduct of Members of Committees	13
Delegation of Powers of Council	14
Council's Relationship to Other Bodies	14
Use of the University Title	14
Reviews of Council's Effectiveness	15
Code of Practice on Public Interest Disclosure (including "Whistleblowing")	15
Procedures for Handling Complaints and Grievances	15
Identification, Reporting and Investigation of Suspected or Alleged Fraud and Financial Irregularities	17
Procedure for suspension of University legislation in the event of an emergency	17
Standing Orders	17
University Code of Ethics	17

## ***Appendices***

Appendix A List of Related Documentation and Further Reading	19
Appendix B Scheme of Delegated Powers of Council	20
Appendix C Policy and Procedure on Public Interest Disclosure and "Whistleblowing"	29
Appendix D Procedure for Consideration of Grievances submitted to the Council	35
Appendix E University Fraud Response Policy	43
Appendix F Council Standing Orders	47
Appendix G Procedure for Suspension or Removal of Council or Committee Membership	55
Appendix H University Code of Ethics	58

## **CODE OF PRACTICE ON CORPORATE GOVERNANCE AND RELATED PROCEDURAL MATTERS**

### **INTRODUCTION**

1. This Code of Practice (the 'Code') was originally produced to provide a *summary* of decisions taken by the University Council ('the Council') in relation to corporate governance and related procedural matters. It was first approved and adopted by Council in June 1998. The Code was re-approved and re-adopted in amended form by Council in December 2000 to take account of developments in the corporate governance of the University since June 1998. It was subsequently revised to reflect all amendments approved by Council following the Review of Council Effectiveness in June 2002 and again following the Review of Council Effectiveness in June 2005 and re-adopted in September 2005. It was further amended in 2009 to reflect changes to University Legislation that came into effect in January 2009.
2. Given that it offers a summary of governance-related matters, this Code should be read as appropriate in conjunction with the documents listed in Appendix A. In updating this Code, the Council has had regard for the guidance set out in the 'Governance Code of Practice and General Principles' and the 'Guide for Members of Governing Bodies of Universities and Colleges in England and Wales', published by the Committee of University Chairmen in association with the HEFCE in February 2009 (see Appendix A). The Council believes that its practices are fully consistent with the provisions of the CUC Governance Code of Practice.

### **PRINCIPLES OF GOVERNANCE AND MANAGEMENT**

3. The Council recognises that there are clear distinctions between governance and management. However, an overriding aim of both governance and management in the University of Birmingham is the preservation of academic freedom within the law, combined with academic responsibility.
4. A significant part of Council's role as the University's governing body is to define policies and set objectives; this includes the setting of objectives for the securing of resources, the appointment of senior staff sufficient to meet the objectives and the monitoring of progress towards those objectives. Within this context, Council members need to be satisfied that processes and procedures are in place which are sufficient, necessary and effective in running the business of the University. They do this by asking relevant, probing, searching questions and ensuring responses are sound, confident and consistent, rather than doing direct checking themselves. Neither the Chair of Council nor individual lay members should become involved in the day to day executive management of the University.
5. Management involves advising the governing body about policies and objectives, devising means of meeting the agreed objectives and being held accountable for implementing the policies of the governing body. Effective

management, and good governance, are underpinned by the following ten key principles:

- (a) the governing body is the ultimate decision-making body;
- (b) the governing body is accountable for the financial health of the institution;
- (c) roles and responsibilities of the governing body, committees and senior staff, should be defined, understood, accepted and regularly reviewed;
- (d) competencies of the governing body, committees and senior staff should be in line with needs and should be regularly reviewed;
- (e) the institution should have a strategic plan and an annual budget;
- (f) the strategic plan should be supported by a financial strategy;
- (g) risks should be recognised, assessed and managed;
- (h) management information should be relevant, reliable and timely;
- (i) communication should be effective throughout the institution;
- (j) systems should be in place which are robust and fit for purpose.

#### POWERS AND MEMBERSHIP OF COUNCIL

6. Article 7 of the University's Charter states:

“The supreme governing body of the University shall be the Council and, subject to this Charter, the Statutes of the University and the Law of the Realm, the Council shall have absolute power within the University and shall have the government and control of the finances of the University, and of the good order, practical affairs, business and work of the University.

Statutes of the University shall regulate the performance of the duties of the Council, the election and continuance in office of the members of the Council and delegation of the Council's powers and all other matters relative to the Council which it may be thought are proper to be so regulated.”

7. The Council's terms of reference and powers are summarised in Section 9 of the University's Statutes as follows:

- “1. The Council shall exercise all the powers and authority of the University except to the extent to which the exercise of the same may by the Charter, Statutes and Ordinances be otherwise provided for.
2. The Council shall, subject to the Charter, make Statutes either on its own initiative or on the proposal of the Senate. No Statute shall be made, amended or repealed until the Court and the Senate shall have had an opportunity of providing an opinion thereon.
3. All Statutes must be passed by an Ordinary Resolution of the Council. Special notice of the fact that Statutes will be considered and containing a short statement of the nature of the proposed Statutes must be given to members of Council.

4. In accordance with the powers of the University set out in the Charter and subject to the Statutes, the powers of the Council shall include:
- (a) To exercise all such powers as are conferred on the Council by the Charter and Statutes and to carry the University Legislation into effect.
  - (b) To make Ordinances and Regulations for any matters in respect of which Ordinances and Regulations are authorised to be made.
  - (c) To review and control or disallow any act of the Senate and to give directions to be obeyed by the Senate.
  - (d) To select a seal and arms for the University and have the sole custody and use of the seal.
  - (e) To prosecute, defend or compromise litigation on behalf of the University.
  - (f) To govern, manage and regulate the finances, accounts, investments, property, business and all affairs whatsoever of the University.
  - (g) To make contracts on behalf of the University.
  - (h) To enter into any financial instrument which is ancillary to the exercise of the Council's investment or borrowing powers.
  - (i) To appoint the Auditor.
  - (j) To determine the level of fees payable within the University and entitlement to benefits and facilities.
  - (k) To borrow or lend money on behalf of the University and for that purpose (if the Council think fit) to mortgage all or any part of the property of the University whether real or personal or give such other security, including by way of guarantee, whether upon such real or personal property or otherwise as the Council think fit.
  - (l) To sell, buy, exchange, lease or take leases of the University's real and leasehold estates.
  - (m) To provide the buildings, premises, furniture and apparatus and other means needed for carrying on the business of the University.
  - (n) To appoint from time to time persons to hold such other full-time or part time senior managerial, administrative or academic offices or appointments for such term, with such remuneration, upon such conditions as Council may think fit and to designate these offices or appointments with such names or titles as Council shall determine.
  - (o) To entertain, adjudicate upon and if thought fit redress the grievances of:
    - (i) Staff of the University who may for any reason feel aggrieved, except where a member of Staff has followed a procedure which culminates in a review by a committee of Council;
    - (ii) Registered Students who raise a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, concerns matters of University governance, and who have exhausted other internal dispute resolution procedures.
  - (p) To appoint advisory boards consisting either wholly or partly of members unconnected with the University, upon such terms and for such purposes as the Council may consider advisable.
  - (q) To make standing orders governing the procedure at meetings of the Council, including the power to add to, amend, alter or repeal any theretofore made.
  - (r) To make an agreement to enter in the formation of a company, or to take shares, or to appoint a member of staff to represent the University as a Director of a private company

The Council shall obey and carry out the Statutes.”

8. Both its members, and the University's executive officers, are agreed that Council should primarily operate in a role similar to that of 'trustee', and that the scope of its membership facilitates that role. The Council considers that its sub-committee structure provides a suitable basis for involving Council members in the more detailed consideration of strategic and operational matters.
9. The constitution of Council is prescribed fully in Section 8 of the University's Statutes. Council's total membership is 24, two-thirds of whom are 'lay' (i.e. a person who is neither a student nor a member of staff of the University and, where this has been the case, has ceased to be so for not less than 36 months). Class I of Council consists of the Vice-Chancellor and Principal, and the Provost and Vice-Principal. Class II consists of four Academic Staff Members elected by and from the Academic Staff Members of the Senate. Class III consists of the President and one other student officer of the Guild of the Students nominated by the Guild of Students in a manner that it determines, where normally either the President or the second officer is a postgraduate of the University. Finally, Class IV consists of sixteen lay members.
10. Section 8 of the Statutes additionally makes clear that continuous service on the Council beyond two terms of four years is not possible, and after this point members should normally retire to permit the Council to appoint new members. The Council has delegated to its Membership Committee responsibility for advising Council about Council membership rotation and succession planning.

#### ROLE OF THE VICE-CHANCELLOR

11. The Vice-Chancellor is, in effect, the chief executive of the University. The Vice-Chancellor has overall responsibility for the executive management of the institution and for its day-to-day direction, and is accountable to the Council for the exercise of these responsibilities. He/she is designated as the principal officer of the institution. As such, he/she is responsible for ensuring that the institution complies with the terms and conditions specified by the Higher Education Funding Council for England (HEFCE) for the use of HEFCE funds and may be called to give evidence before the Public Accounts Committee. The Vice-Chancellor also chairs the Senate.
12. The Vice-Chancellor is assisted by the Provost and Vice-Principal and by the Pro-Vice-Chancellors who are appointed for a fixed period of time, normally from among the professoriate, by the Council. Whilst they hold office, the Pro-Vice-Chancellors will normally continue to carry out some academic duties within their School or department.

#### ROLE OF THE REGISTRAR AND SECRETARY

13. The Registrar and Secretary has two roles:
  - a. that of Secretary to the Council and to all University bodies and committees.

- b. as an executive member of the University's senior management team.
14. The Registrar and Secretary is the most senior member of the University's administrative staff and is responsible for all Professional Services. Although the Registrar and Secretary has a managerial reporting line to the Vice-Chancellor as Chief Executive and Accounting Officer and is answerable to the Vice-Chancellor for his or her administrative and management responsibilities, it is clearly understood that the role of the Registrar and Secretary involves responsibilities to the Council itself as the governing body of the University and its chair. The Council will expect the Registrar and Secretary or, through him or her, his or her officers, to advise the Council on relevant issues arising in the use of public funds, accountability and legal matters, including exceptional cases where the propriety of the actions of any University officer may be in question.

#### DUTIES AND RESPONSIBILITIES OF MEMBERS OF COUNCIL

15. Council has approved the following statement of duties and responsibilities of members of the Council:

"The University was created by Royal Charter which provides that the Council shall be the University's supreme governing body.

The full details of the Council's powers and constitution are set out in the Charter and Statutes of the University. Council is the supreme governing body of the University. It is the employing body and is responsible for its overall organisational structure and for its finances, property, investments and business. The Senate is responsible to the Council for regulating and directing the academic work of the University in teaching and research, including the awarding of degrees.

The University is an educational charitable and chartered corporation, exempt under the terms of the Charities Act 2006 (now consolidated into the Charities Act 2011). Under the terms of the Act the Higher Education Council for England acts as the Principal Regulator. The members of the Council as individuals are the managing trustees of that charity, although they are not in strict legal sense trustees.

As managing trustees members of Council have a duty to ensure that the University restricts itself to whatever may be reasonably necessary to carry out its duties of teaching, examining and research. Members of Council as individuals are personally responsible for any breach of trust, which includes wilfully exceeding their powers or spending University funds on something outside the University's charitable objects. The Audit Committee of Council will, of course, act vigorously to ensure that the University's spending of funds will be in strict compliance with these charitable objects. It is perhaps worth noting that the University's objects are limited and do not include general benevolent purposes with a strong individual appeal (such as, for example, the relief of famine in Africa).

Members of Council as 'trustees' must at all times act in the best interests of the University and within the scope of their powers. Provided that they do so, as

individuals, members will be indemnified by the University against the results of their actions or decisions. Members of Council will not be held personally liable for debt in the unlikely event of the University's becoming financially insolvent.

A member of Council may be suspended or removed in accordance with the procedure set out at Appendix G. The member suspended or removed may be replaced with a person of the same Class or category of membership in line with the normal procedure for filling a vacancy in that Class or category.

This is a general note which you may find helpful but for more detailed information on any particular aspect of the work either of the Council or the University you should refer to the Registrar and Secretary of the University. One document which may be of particular interest to Council members is the 'Manual of Financial Rules' which can be sent to members of Council on request to the Registrar and Secretary, or can be accessed via the University website (see appendix A). Council members may also use the website to obtain information on administrative policies and procedures, or by contacting the Registrar and Secretary".

#### CONFLICTS OF INTEREST FOR MEMBERS OF COUNCIL

16. The Council has approved the following statements in respect of conflicts of interest for all members of the Council and for staff of the University:

"It is important that all members of the Council of the University take due cognisance of any conflict of interest position which might arise from their membership of the Council (or other University body) on the one hand and membership or connection with other bodies outside the University on the other. The following is a set of simple steps which members of Council and others referred to in the final paragraph are asked to follow.

The Registrar and Secretary will maintain, and make available for public inspection if necessary, a Register of Members' Interests in which any third party pecuniary or non-pecuniary interests may be registered if the member considers that a conflict of interest could arise, or be perceived to arise. Annually, the Registrar and Secretary will seek from all members of Council and the University's senior administrative officers, confirmation of their current interests. All members must respond, whether or not they have any interest to record.

If a member has any pecuniary or non-pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council or other University body at which the relevant matter is the subject of consideration, the member shall, at the meeting and as soon as practicable after its commencement, disclose the fact (notwithstanding any entry in the Register of Members' Interests). He or she should then judge whether it is appropriate to take part in the consideration or discussion of the matter or vote on any question with respect to it, and whether it is appropriate to leave the meeting during the consideration of the relevant matter.

Members of Council should also bear in mind the need for them to act with care in relation to hospitality or gifts which could be perceived as inducements by

persons or bodies seeking to supply goods or services to the University. Similarly, members should take care not to solicit or recommend any person for employment by the University or admission to it other than through the proper procedures, and should disclose if a candidate is related to them by family when providing testimonials of a candidate's ability, experience or character.

The above guidance applies equally to a committee, sub-committee, joint committee, board of trustees or board of directors belonging to the University or appointed in whole or part by it, and to the members of such bodies. Matters concerning conflicts of interest in relation to members of staff of the University generally are covered in the relevant terms and conditions of employment.”

## REGISTER OF INTERESTS

17. The Registrar and Secretary and the University shall annually invite all members of Council to declare their interests, any related party transactions and any suspected breaches of law and regulations or instances of fraud. The Registrar and Secretary shall keep the Register of Members' Interests and the other returns, which shall be available for inspection to any *bona fide* enquirer on demonstration of good cause at the discretion of the Chairman of Council and the Registrar and Secretary. In addition to members of Council, these declarations are also completed by members of Council committees, any board of trustees, or board of directors belonging to the University or appointed in whole or in part by it, Senior Officers and Heads of Schools.
18. It is open to any member of Council to nominate a class of interests or membership of organisations for inclusion in members' annual declarations of interests.
19. A member who has a pecuniary, family or other personal interest in any matter under discussion at any meeting of the Council or one of its committees at which he/she is present shall as soon as practicable disclose the fact of his/her interest to the meeting and shall withdraw from that part of the meeting. A member is not, however, considered to have a pecuniary or personal interest in matters under discussion merely because he/she is a member of staff or a student of the institution. Nor does the restriction on involvement in matters of direct personal or pecuniary interest prevent members of the Council from considering and voting on proposals to insure the Council against liabilities which it might incur.

## MEETINGS OF COUNCIL

20. Council meetings shall be quorate provided that the members present in Class IV (i.e. lay members) exceed in aggregate those present in Classes I, II and III (i.e. non-lay members). Motions shall be passed by simple majority voting except in the case of special resolutions recommending amendments to the Charter where, as required by Section 11 of the Statutes, the count of members shall be “not less than two-thirds of those present and voting”.
21. Other than the Registrar and Secretary and the Assistant Secretary, the only members of the University who should be regularly in attendance at meetings of

the Council are the Pro-Vice-Chancellors, the Director of Finance, the Director of Human Resources and the Heads of Colleges. On the invitation of the Pro-Chancellor and the advice of the Registrar and Secretary, other appropriate senior University administrative officers shall attend meetings of Council and/or of appropriate committees of the Council where the nature of the business, or particular items of business, require their professional or specialist advice.

22. The University of Birmingham has a commitment to the principles of openness and transparency. Access to information in the papers and minutes of meetings of Council is as described in the University's Publication Scheme (as required under the Freedom of Information Act 2000) which can be consulted on the University's website or obtained by written request to the University. Requests for any other information relating to the Council and its business which is not currently made available as described should be submitted in writing to the University's Information Compliance Manager, Legal Services. The University may refuse to supply certain information such as that provided in confidence, personal information, information that may harm the commercial interests of the University, or information falling within other exempt areas as defined in the Act.

## SENATE

23. Senate is chaired by the Vice-Chancellor and Principal and has 54 further members, including the Provost and Vice-Principal, Pro-Vice-Chancellors, Heads of Colleges, College and student representatives. The Charter of the University states that:

'There shall be a Senate of the University which shall subject to this Charter and in accordance with the Ordinances of the University be responsible to the Council for regulating and directing the academic work of the University in teaching, examining and research and for the award of all Degrees, Diplomas, Certificates and other academic distinctions of the University and for the discipline of the students of the University.'

Typical business for Senate includes:

- discussion of education policy matters (e.g. Curriculum Review, use of Grade Point Averages);
- oversight and maintenance of academic standards, including via the work of its sub-committees, particularly the Quality Assurance Committee;
- commenting on amendments to the University Statutes and Senate-related Ordinances;
- award of Honorary Degrees.

## COUNCIL COMMITTEES

24. The Committees of Council are:

- Strategy, Policy and Resources Committee;
- Audit Committee;
- Membership Committee;
- Remuneration Committee.

The terms of reference, constitution, membership, reporting relationship, secretaryship, and list of attendance of University officers at Council, Senate and other University committees are set out in the University's website.

25. The terms of reference of the Membership Committee are set out in Ordinance (Ordinance 2.16) as required by Section 8 of the Statutes and, with the exception of the Senate whose constitution and powers are set out in Sections 2.9 and 2.10 of the Ordinances, they include a duty to review annually on behalf of Council the establishment, terms of reference, constitution, composition and membership of Council's committees, and to make recommendations annually to Council for their continuation or amendment where applicable in consultation with the chairs of Council committees. The Council annually reviews the powers, duties and rules of procedure of the Membership Committee itself.
26. Written reports, with decisions or recommendations, will be made by these committees via the appropriate reporting relationships to Council. In a small number of cases these reports will only comprise an annual report.

#### CONDUCT OF MEMBERS OF COMMITTEES

27. Members of all University committees are expected to:
  - bring their knowledge and expertise to the committee;
  - see issues broadly - whilst members may be elected by a constituency, they are not mandated to act on its behalf but must act in the interests of the University;
  - read papers;
  - contribute constructively to discussion, avoiding rude or offensive behaviour;
  - keep in mind the University's overall interest;
  - take personal responsibility for papers and ensure that their confidentiality is maintained unless they are expressly stated to be for wider or public dissemination;
  - uphold the principle of collective responsibility whereby all decisions are taken by all the members acting collectively; decisions need not be unanimous (unless otherwise stipulated in University Legislation)- a majority decision is sufficient - but each member of the committee is equally responsible for the decisions taken and should fully support and abide by the committee's decisions,
28. Members of all University committees are expected to observe the seven principles of public life identified by the Committee on Standards in Public Life (the Nolan Committee): selflessness, integrity, objectivity, accountability, openness, honesty, leadership.
29. Members of Council have additional responsibilities as charitable trustees. More detailed guidance on Council members' role as a trustee can be found in the Charity Commission guidance called "The Essential Trustee: What you need to know" which can be accessed via the Charity Commission's website (<http://www.charitycommission.gov.uk/publications/cc3.aspx>) or from the Registrar and Secretary on request.

30. A member of any committee or any sub-committee of the University may be suspended or removed in accordance with the procedure set out at Appendix G. The member suspended or removed may be replaced with a person of the same Class or category of membership in line with the normal procedure for filling a vacancy in that Class or category.

#### DELEGATION OF POWERS OF COUNCIL

31. Subject to periodic reports to Council, the Council has delegated powers to certain of its major committees and officers of the University as follows. These are laid out in a Scheme of Delegation (originally approved by Council in July 2009) and are attached as Appendix B.
32. Whilst the presumption is that all matters that require Council's decision will be brought before Council within its annual cycle of its meetings, the Council is aware that the Summer Period of the University's Academic Year represents a long interval between the Council's annual cycle of meetings. The Council has therefore adopted a protocol for dealing with matters of urgency during such long periods between meetings of Council whereby any two members drawn from the following members of Council may be empowered to act on behalf of Council, subject to the Scheme of Delegation, and provided always that one of the two members is a lay member:
- The Pro-Chancellor  
The Deputy Pro-Chancellor  
The Treasurer  
The Vice-Chancellor and Principal  
The Provost and Vice-Principal
33. The Registrar and Secretary is responsible for operating this procedure and for submitting reports at the next available meeting of Council concerning action taken on its behalf via this procedure.

#### COUNCIL'S RELATIONSHIP TO OTHER BODIES

34. The Council's duties, responsibilities and powers in relation to University companies, Trustees of the University of Birmingham Pension and Assurance Scheme, the Guild of Students, and the Higher Education Funding Council for England (HEFCE) have each been defined and approved by Council in various Memoranda of Understanding (including the HEFCE Memorandum of Assurance and Accountability and the HEFCE Audit Code of Practice). Members of Council and members of the University may seek copies of these documents from the Registrar and Secretary.

#### USE OF THE UNIVERSITY TITLE

35. "The University of Birmingham" and "Birmingham University" are registered legal titles. Authority to use the titles rests solely with Council. The purpose of

registering the titles was, *inter alia*, to ensure that they could not be used for purposes which might bring the good name of the University into disrepute, or for the promotion of activities which were in conflict with the University's own objectives. Council has adopted a policy that the use of the "The University of Birmingham" or "Birmingham University" titles shall be restricted to organisations whose prime objectives are either:

- (i) the promotion and advancement of the University; or
- (ii) the provision of services or benefits to past or present members of the University.

36. In ensuring that the above conditions are met, Council expects organisations seeking to use the University titles to be prepared to make a copy of their constitutions available for its inspection. The Registrar and Secretary advises on use of the University title on behalf of Council.

#### REVIEWS OF THE COUNCIL'S EFFECTIVENESS

37. The Council will initiate a review of its own effectiveness once every five years, beginning with the first of such reviews in 2001/02 and subsequent reviews have taken place in 2004/05 and 2009/10. All such reviews are led by a Review Panel but are distinct from Council's responsibilities to review the University's effectiveness.

#### CODE OF PRACTICE ON PUBLIC INTEREST DISCLOSURE (INCLUDING "WHISTLEBLOWING")

38. The Council has adopted a Code of Practice, based on the advice on 'Whistleblowing' of the Committee of University Chairmen, set out at Appendix C.

#### PROCEDURES FOR HANDLING COMPLAINTS AND GRIEVANCES

39. Members of staff, by virtue of their contracts, and students and other members of the University, have a right, under the Charter and Statutes, to grieve to the Council. As noted in paragraph 7, Section 9.4(o) of the Statutes gives Council power:
- '(o) To entertain, adjudicate upon and if thought fit redress the grievances of:
    - (i) Staff of the University who may for any reason feel aggrieved, except where a member of Staff has followed a procedure which culminates in a review by a committee of Council;
    - (ii) Registered Students who raise a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, concerns matters of University governance, and who have exhausted other internal dispute resolution procedures.'

This power is subject to Section 14 of the Statutes which provides *inter alia* a formal grievance procedure for academic and related staff.

40. The procedures for handling grievances by members of staff in employment matters are therefore set out in the relevant contracts of employment, issued by authority of the Council.
41. The one exception to paragraph 40 relates to a Vice-Chancellor and Principal's contract of employment. This contains a protocol agreed by Council and the Vice-Chancellor and Principal on what should happen in the unlikely event of the latter raising a grievance against Council or any of its lay officers either jointly or severally which cannot be resolved informally. The protocol exists because of the Vice-Chancellor and Principal's role in administering the later, more formal, stages of the grievance procedure set out in Section 14 of the Statutes, and because Council would be the subject of the grievance and thus may not examine such a grievance. The protocol requires the Vice-Chancellor and Principal to refer the grievance to the Chancellor who will consider the matter in a committee with another lay member of Council not previously involved in the subject of the grievance and one professorial member of the Senate. The protocol commits both the Vice-Chancellor and Principal and the Council to accept the decision reached by the Chancellor's committee concerning the grievance.
42. As regards students and other members of the University, the procedures set out in the University's Complaints Procedure shall apply for all complaints except in the following cases where separate arrangements apply:
- Racial or Sexual Harassment
  - Appeals against academic assessment and progress decisions
  - Appeals against disciplinary or other penalties
  - Claims in respect of personal injury or damage to property
  - Complaints concerning the Guild of Students
  - Complaints concerning businesses operating on University premises, but not owned by the University
43. The procedure for considering grievances is set out in Ordinance 3.27, (Appendix D), the use of which may be permitted only after the various arrangements mentioned in paragraph 39 have been exhausted.

Council will only consider a grievance from a student concerning an issue or issues which, in the opinion of the Registrar and Secretary, raises matters of University governance, and where the student has exhausted other internal dispute resolution procedures. Opportunities exist for students to appeal under the aegis of Senate.

44. After all internal procedures have been exhausted, members of staff may have recourse to the Courts including the employment tribunal system in relation to employment issues, whilst student complaints and appeals may be referred to the Office of the Independent Adjudicator (except those relating to admissions or matters of academic judgement) and / or the Courts. The Visitor's jurisdiction is now limited to adjudicating on the interpretation and application of the institution's Charter, Statutes, Ordinances etc, provided the point at issue is neither a student complaint or an employment dispute. The Visitor is the Queen through the Lord President of the (Privy) Council.

## IDENTIFICATION, REPORTING AND INVESTIGATION OF SUSPECTED OR ALLEGED FRAUD AND FINANCIAL IRREGULARITIES

45. It is the duty of all members of staff to report any actual or suspected incidents of fraud or irregularity. The University has a Fraud Response Policy which defines responsibilities for action and reporting lines in the event of a suspected fraud or irregularity. The Policy is attached as Appendix E.

## PROCEDURE FOR SUSPENSION OF UNIVERSITY LEGISLATION IN THE EVENT OF AN EMERGENCY

46. The Council has adopted the following procedure for suspension of University legislation in the event of an emergency. An emergency is defined as: *'An unplanned disruption to normal University operations, teaching and research practices that requires special plans and procedures to be implemented to minimise disruption and help maintain service delivery'*.
47. If an emergency is declared by the Contingency Planning Action Group (CPAG) there may be a requirement to suspend some requirements enshrined in University legislation in order to respond appropriately to the crisis.
48. If such actions are required, the Registrar and Secretary (i.e. the Convenor of CPAG) will recommend to the Vice Chancellor (or in his absence the Vice-Principal), that agreement be sought from the Chair of the University Council (or in his absence the Deputy Pro-Chancellor) to suspend the appropriate University legislation.
49. If neither the Vice-Chancellor nor the Vice-Principal is available, the Registrar and Secretary will consult with any other member(s) of the University Executive as may be available but ultimately may seek agreement directly from the Chair of the University Council (or the Deputy Pro-Chancellor) to suspend the appropriate University legislation.

## STANDING ORDERS

50. The Council has adopted the Standing Orders attached at Appendix F, which also is taken to apply to all University Committees unless the Committee has its own separately approved Standing Orders.

## UNIVERSITY CODE OF ETHICS

51. The University is committed to the highest standards of ethical conduct in all of its activities and has long and well established approaches to ethical review, particularly in matters such as research.

A University Code of Ethics has been approved by the University Council to set out the framework and guiding principles for ethical review for staff, students

and members of University committees. It encompasses the four key policy areas of teaching, research and knowledge transfer, fundraising, gifts and finance (investments and procurement). These are core areas of University business and also the most likely areas where ethical issues arise.

The Code is attached at Appendix H and outlines the approach for each of these areas and gives links to more detailed information, including: related policies, procedures, guidance documents, and point of contact for initial enquiries.

If you have any further queries regarding ethical policy in each of the four areas, please contact the senior officer responsible:

Teaching: Professor Jeff Bale, Pro-Vice-Chancellor (Education)

Research and Knowledge Transfer: Professor Malcolm Press, Pro-Vice-Chancellor (Research and Knowledge Transfer)

Fundraising: Nick Blinco, Director of Development, Alumni and Business Engagement

Gifts and Finance (Investments and Procurement): Gill Ball, Director of Finance

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### List of Related Documentation and Further Reading

In the following list, readers may prefer to browse the suggested web links rather than seek a copy from the Registrar and Secretary which is the alternative means for obtaining a copy of the listed documents:

Committee of University Chairmen Guide for Members of Governing Bodies

[http://www.hefce.ac.uk/pubs/hefce/2009/09\\_14/](http://www.hefce.ac.uk/pubs/hefce/2009/09_14/)

Higher Education Funding Council for England Memorandum of Assurance and Accountability

[http://www.hefce.ac.uk/media/hefce/content/pubs/2014/201412/HEFCE2014\\_12.pdf](http://www.hefce.ac.uk/media/hefce/content/pubs/2014/201412/HEFCE2014_12.pdf)

University Legislation (Charter, Statutes, Ordinances, Regulations, and Codes of Practice)

<http://www.birmingham.ac.uk/university/governance/Legislation/index.aspx>

University Students Complaints Procedure

<https://intranet.birmingham.ac.uk/as/registry/policy/complaint-appeal/index.aspx>

University Manual of Financial Rules

<https://intranet.birmingham.ac.uk/finance/manual/index.aspx>

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The index to the University website can be used to find further information on a wide range of matters, including Schools and administrative structures, policies and procedures.



## Scheme of Delegated Powers of Council

1. General Principles
- 1.1 Under the University's legislation, the Council is the University's supreme governing body, responsible for setting the strategic direction and policies governing all aspects of the University's activity. It is responsible for the University's strategic planning, organisational structure, finances, investments and businesses, estates, infrastructure and property, and for the employment of staff.
- 1.2 The purpose of this document is to set out a Scheme of Delegation of Council's powers to its committees or to senior staff or Lay Officers.
- 1.3 Sections 9.4 and 10 of the Statutes list respectively the powers of the Council and those which it may not delegate. These Statutes are set out in the Appendix. Section 10 of the Statutes enables the Council to delegate other powers.
- 1.4 Where a power or function is delegated the relevant committee or officer exercising that power must at all times act in accordance with the University's legislation, its policies and procedures, and within budgetary and legal constraints.
- 1.5 The delegation of power(s) to an individual does not obviate the need for consultation with other colleagues as appropriate.
- 1.6 A Committee Chair shall have the power, following consultation with the Registrar and Secretary or his/her nominee as secretary to that Committee, to deal with any matter of urgency that may arise between normally scheduled meetings, where it is deemed that delay would seriously impede the business of the University. This may include consulting with members by correspondence, or calling a special meeting of the committee, or by taking Chair's action.  
  
Any such actions shall be reported to the next meeting of the Committee in question.
- 1.7 Council retains ultimate responsibility for powers that it has delegated – it receives reports on actions on key powers exercised on its behalf under delegated authority and may at any time ask for additional reports.
- 1.8 Many of the powers specified in this Scheme of Delegation have been delegated for some time under the University's Ordinances or Financial Rules and Procedures. In this respect the Scheme codifies existing practice. For completeness, this Scheme should be read in conjunction with the University Legislation which outlines the details of a number of delegated powers, the University Manual of Financial Rules, the Terms of Reference of the Committees of Council and Terms and Conditions of Employment.

- 1.9 This Scheme is not intended as an exhaustive list of every last aspect of Council's powers, but it aims to address the salient powers.

## 2. Delegated Powers

Set out below are the Council powers delegated to senior staff, Lay Officers or Committees, listed under the four principal areas of responsibility of the Council (Organisational Strategy and Governance, Finances, Estates and Infrastructure, Human Resources) in the Statutes.

	<b><i>Power</i></b>	<b><i>Delegated to</i></b>
<b>1.</b>	<b>Organisational Strategy and Governance</b>	
1.1	Regulation and direction of the academic work of the University including the conduct, discipline and progress of students	Senate
1.2	Amendments to Academic and Student-related Regulations (Sections 5-8 of University Regulations)	Senate
1.3	Franchising of programmes / collaborative arrangements	Scrutiny – Learning and Teaching Committee Signatory – Vice-Principal
1.4	Revocation of (and restoring to) Degrees	Senate
1.5	Maintenance and promotion of the standards, efficiency and good order of Colleges	Heads of College (subject to the powers of the Senate and Council in the University's Legislation)
1.6	Review and approval of academic plans and strategies, and setting and monitoring of achievements	UEB (subject to the powers of the Senate and Council in the University's Legislation)
1.7	Strategic Alliances (except where major resource implications or legal vehicles which require Council's approval are involved)	UEB
1.8	Approval of University Scholarship and Bursary Schemes	UEB
1.9	Hearing of Student Grievances (raising issues of governance)	Grievance Panel *

1.10	Establishment, restructuring or dissolution of Principal Academic Units within Colleges	UEB (subject to the powers of the Council in the University's Legislation)
1.11	Establishment of University Research Institutes	UEB
1.12	<p>Monitoring compliance across University with national legislation as it affects University activities:</p> <ul style="list-style-type: none"> <li>(i) Employment matters</li> <li>(ii) Environment, Health &amp; Safety</li> <li>(iii) Data Protection / Freedom of Information</li> <li>(iv) Equality Act 2010 (so far as not delegated to others)</li> <li>(v) Child Protection</li> <li>(vi) Equality Act 2010 (matters of physical access)</li> <li>(vii) Compliance of buildings with statutory regulations</li> <li>(viii) Public Contracts regulations</li> <li>(ix) Human Tissue Act</li> <li>(x) Animals Scientific Procedures Act 1986</li> <li>(xi) Compliance with Charity Commission guidance on research by HEIs</li> </ul>	<p>UEB has a general responsibility for compliance with legislation. Delegation for specific legislation is to the following:</p> <ul style="list-style-type: none"> <li>(i) Director of Human Resources</li> <li>(ii) Vice-Chancellor</li> <li>(iii) Director of Legal Services</li> <li>(iv) Director of Legal Services</li> <li>(v) Director of Legal Services</li> <li>(vi) Director of Estates (Director of HAS for HAS-funded properties)</li> <li>(vii) Director of Estates (Director of HAS for HAS-funded properties)</li> <li>(viii) Director of Finance (or nominee)</li> <li>(ix) Registrar and Secretary</li> <li>(x) Registrar and Secretary</li> <li>(xi) Pro-Vice-Chancellor (Research &amp; Knowledge Transfer)</li> </ul>
1.13	Compliance with HEFCE Memorandum of Assurance and Accountability	Vice-Chancellor
1.14	Approval of Internal Audit Report	Audit Committee
1.15	Approval of Annual Report on Value for Money	Audit Committee
1.16	Approval of scope and achievement of internal and external audit	Audit Committee
1.17	Ensuring effective internal control systems and appropriate risk assessment	Audit Committee
1.18	Ensuring efficient and effective operation of University and that value for money is achieved	UEB

1.19	Review of implications of University risk register, identifying actions to mitigate threats and exploit opportunities	UEB
1.20	Reporting on the University KPIs	UEB
1.21	Prosecution of litigation up to £250k of legal costs	Registrar and Secretary
1.22	Custody and use of the seal	Custody – Registrar and Secretary Use – under signature of Member of Council and Registrar and Secretary (or nominee)
<b>2.</b>	<b>Finances</b>	
2.1	Approval of Financial Regulations	Audit Committee
2.2	Monitoring of University financial plans	SPRC
2.3	Ensuring that satisfactory financial systems are in place	Director of Finance
2.4	Investment Policies and Decisions	Investment Sub-Committee
2.5	Preparation of University Accounts	Director of Finance
2.6	Preparation of capital and revenue budgets and financial plans	Director of Finance
2.7	Liaison with University Bankers	Director of Finance
2.8	Writing off debts <ul style="list-style-type: none"> <li>• Less than £10,000</li> <li>• More than £10,000</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• Director of Finance</li> <li>• Treasurer</li> </ul>
2.9	Approval of loans <ul style="list-style-type: none"> <li>• Less than £2.5m</li> <li>• £2.5m - £5m</li> </ul>	<ul style="list-style-type: none"> <li>• UEB</li> <li>• SPRC</li> </ul>
2.10	Financial approval of undertaking of research or provision of other goods and services in return for payment	Director of Finance (or nominee)
2.11	Financial management of Colleges / Corporate Services within approve budgets	Heads of College / Registrar and Secretary

2.12	Authorisation to exploit and manage patents and Intellectual Property rights	Registrar and Secretary (or nominee) – on advice of Alta Innovations Ltd.
2.13	Authorisation for the University to create a company (including the purchase of a shelf company) and to enter into agreement to form a new spinout or joint venture in which the University <i>takes a shareholding</i> –  Investment of <ul style="list-style-type: none"> <li>• Less than £2.5m</li> <li>• £2.5 - £5m</li> <li>• [Over £5m</li> </ul>	<ul style="list-style-type: none"> <li>• UEB on recommendation of Board of Alta Innovations Ltd and, where appropriate, the Head of College.</li> <li>• SPRC on recommendation of UEB and, where appropriate, the Head of College.</li> <li>• Council on advice of SPRC]</li> </ul>
2.14	Authorisation for the University to create a company ( <i>other than a company limited by shares</i> ) (including the purchase of a shelf company) and to enter into an agreement for the formation of such a company [e.g. company limited by guarantee]	UEB
2.15	Authorisation for the University to enter into a joint venture for the creation of a legal entity (other than a company) within the UK	UEB
2.16	Authorisation for the University to enter into a joint venture for the creation of a legal entity (other than a company) outside the UK  Investment of: <ul style="list-style-type: none"> <li>• Less than £2.5m</li> <li>• £2.5 - £5m</li> <li>• [Over £5m</li> </ul>	<ul style="list-style-type: none"> <li>• UEB</li> <li>• SPRC</li> <li>• Council on advice of SPRC]</li> </ul>
2.17	Authorisation of Licenses	Registrar and Secretary (or nominee) on advice from Alta Innovations Ltd.
2.18	Determination of student fee levels	SPRC

2.19	Exchange or sale of shares in a company (including a shelf company), spinout or joint venture of the University <ul style="list-style-type: none"> <li>• Less than £2.5m</li> <li>• £2.5m - £5m</li> <li>• Over £5m</li> </ul>	<ul style="list-style-type: none"> <li>• UEB on the recommendation of the Board of Alta Innovations, and where appropriate, the Head of College</li> <li>• SPRC on the recommendation of UEB, and where appropriate, the Head of College</li> <li>• Council on the recommendation of SPRC</li> </ul>
<b>3.</b>	<b>Estates and Infrastructure</b>	
3.1	Approval of capital projects <ul style="list-style-type: none"> <li>• Less than £2.5m</li> <li>• £2.5m - £5m</li> </ul>	<ul style="list-style-type: none"> <li>• UEB</li> <li>• SPRC</li> </ul>
3.2	Approval of tenders received within these ranges	Pro-Vice-Chancellor (Estates & Infrastructure)
3.3	Selling, buying, exchange of real property	Acquisitions and Disposals Group (subject to Council endorsement)
3.4	Creation of Leaseholds of less than 7 years	Director of Estates, in consultation with Pro-Vice-Chancellor (Estates & Infrastructure)
3.5	Recurrent Estates expenditure within approved budgets	Director of Estates (or nominee)
3.6	Routine refurbishment of buildings	Director of Estates
3.7	Approval of building contracts	Director of Estates (or nominee)
3.8	Allocation of University space	Pro-Vice-Chancellor (Estates & Infrastructure) in consultation with Director of Estates
<b>4.</b>	<b>Human Resources</b>	
4.1	Approval of conditions of employment	SPRC
4.2	Management of approved conditions of employment	Director of HR in consultation with the Vice-Principal

4.3	Appointment of staff: <ul style="list-style-type: none"> <li>• Professorial Staff</li> <li>• Other Staff</li> </ul>	<ul style="list-style-type: none"> <li>• Electoral Board (letter of appointment signed by Vice-Chancellor, or nominee)</li> <li>• Appointment Panel (letter of appointment signed by Director of Human Resources or nominee)</li> </ul>
4.4	Promotions to Chairs, Honorary Chairs, Readerships, Senior Lectureships	Promotions and Titles Committee
4.5	Remuneration of professorial and Grade 10 staff	Remuneration Committee
4.6	Remuneration of staff at Grade 9 and below	Head of College / Registrar and Secretary (or nominee) (contractual confirmation signed by Director of Human Resources or nominee)
4.7	Academic Staff <ul style="list-style-type: none"> <li>• Grievances</li> <li>• Grievance Appeals</li> <li>• Disciplinary Matters</li> <li>• Disciplinary Appeals</li> <li>• Redundancies</li> <li>• Redundancy Appeals</li> </ul>	<ul style="list-style-type: none"> <li>• Grievance Panel *</li> <li>• Grievance Appeal Panel *</li> <li>• Disciplinary Panel * (recommendations to be approved by Vice-Chancellor or Vice-Principal)</li> <li>• Disciplinary Appeal Panel *</li> <li>• Redundancy Panel *</li> <li>• Redundancy Appeal Panel *</li> </ul>
4.8	Administrative and Other Related Staff <ul style="list-style-type: none"> <li>• Grievances</li> <li>• Grievance Appeals</li> <li>• Disciplinary Matters</li> <li>• Disciplinary Appeals</li> <li>• Redundancies</li> <li>• Redundancy Appeals</li> </ul>	<ul style="list-style-type: none"> <li>• Grievance Panel *</li> <li>• Grievance Appeal Panel *</li> <li>• Enquiry Committee * (recommendations to be approved by Vice-Chancellor or nominee)</li> <li>• Disciplinary Appeal Panel *</li> <li>• Head of College / Budget Centre</li> <li>• Nominee of the Director of Human Relations</li> </ul>
4.9	Support Staff <ul style="list-style-type: none"> <li>• Grievances</li> <li>• Grievance Appeals</li> <li>• Disciplinary Matters</li> <li>• Disciplinary Appeals</li> <li>• Redundancies</li> </ul>	<ul style="list-style-type: none"> <li>• Head of College / Budget Centre (or nominee)</li> <li>• Vice-Principal (or nominee)</li> <li>• Head of College / Budget Centre (or nominee)</li> <li>• Vice-Principal (or nominee)</li> <li>• Head of College / Budget Centre (or nominee)</li> </ul>

	• Redundancy Appeals	• Vice-Principal (or nominee)
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*Delegations listed in 4.7 – 4.9 are as set out in University Legislation and Conditions of Service.*

*\* Membership of the Panels in 1.9 and 4.6 - 4.7 is approved by the Pro-Chancellor.*

A. The Powers of Council

Section 9.4 of the Statutes lists the following powers of Council:

“In accordance with the powers of the University set out in the Charter and subject to the Statutes, the powers of the Council shall include:

- (a) To exercise all such powers as are conferred on the Council by the Charter and Statutes and to carry the University Legislation into effect.
- (b) To make Ordinances and Regulations for any matters in respect of which Ordinances and Regulations are authorised to be made.
- (c) To review and control or disallow any act of the Senate and to give directions to be obeyed by the Senate.
- (d) To select a seal and arms for the University and have the sole custody and use of the seal.
- (e) To prosecute, defend or compromise litigation on behalf of the University.
- (f) To govern, manage and regulate the finances, accounts, investments, property, business and all affairs whatsoever of the University.
- (g) To make contracts on behalf of the University.
- (h) To enter into any financial instrument which is ancillary to the exercise of the Council’s investment or borrowing powers.
- (i) To appoint the Auditor.
- (j) To determine the level of fees payable within the University and entitlement to benefits and facilities.
- (k) To borrow or lend money on behalf of the University and for that purpose (if the Council think fit) to mortgage all or any part of the property of the University whether real or personal or give such other security, including by way of guarantee, whether upon such real or personal property or otherwise as the Council think fit.
- (l) To sell, buy, exchange, lease or take leases of the University’s real and leasehold estates.
- (m) To provide the buildings, premises, furniture and apparatus and other means needed for carrying on the business of the University.
- (n) To appoint from time to time persons to hold such other full-time or part-time senior managerial, administrative or academic offices or appointments for such term, with such remuneration, upon such conditions as Council may think fit and to designate these offices or appointments with such names or titles as Council shall determine.
- (o) To entertain, adjudicate upon and if thought fit redress the grievances of:
  - (i) Staff of the University who may for any reason feel aggrieved, except where a member of Staff has followed a procedure which culminates in a review by a committee of Council;
  - (ii) Registered Students who raise a grievance concerning an issue or issues which, in the opinion of the Registrar and Secretary, concerns matters of University governance, and who have exhausted other internal dispute resolution procedures.
- (p) To appoint advisory boards consisting either wholly or partly of members unconnected with the University, upon such terms and for such purposes as the Council may consider advisable.

- (q) To make standing orders governing the procedure at meetings of the Council, including the power to add to, amend, alter or repeal any theretofore made.
- (r) To make an agreement to enter in the formation of a company, or to take shares, or to appoint a member of staff to represent the University as a Director of a private company.

The Council shall obey and carry out the Statutes.”

**B. Powers that may not be delegated by Council**

Section 10 of the Statutes specifies the powers which the Council may not delegate as well as those to whom it may delegate powers:

“The following powers are reserved to Council and may not be delegated:

**Organisational strategy and governance**

- (a) To approve or amend the University’s mission and strategy and supporting strategic plans
- (b) To approve or amend the overall constitutional, organizational and management structures of the University, including:
  - (i) amendments to the Charter and Statutes (subject to the authority of the Privy Council) and amendments to Ordinances
  - (ii) decisions to cease all or any material part of the University’s activities.
- (c) To approve and monitor sound systems of internal control and risk management, following recommendations from the audit committee
- (d) To use and keep custody of the University’s common seal, subject to a report to Council whenever the seal and arms of the University are used
- (e) To make changes to the composition of the Council (subject to Privy Council approval), appointments to the Council, including election of Lay Officers, and composition and membership of Council committees, following recommendations from the membership committee of the Council
- (f) To prosecute, defend or settle litigation above a value in excess of an amount specified in a scheme of delegation of Council’s powers

**Finances**

- (g) To adopt the University’s annual accounts
- (h) To approve the annual budget
- (i) To borrow money on behalf of the University
- (j) To appoint or remove the University’s external Auditors and internal Auditor, following recommendations from the audit committee
- (k) To approve major changes to the rules of any University pension scheme, or changes of employer-nominated Trustees or the fund management arrangements (when subject to Council approval)

### **Estates and infrastructure**

- (l) To sell, buy, exchange freehold land or create, assign, take or surrender long leasehold interests (exceeding 15 years) in land
- (m) To mortgage any part of the property of the University

### **Human resources**

- (n) To appoint and dismiss the Vice-Chancellor and Principal and to approve the Vice-Chancellor and Principal's terms and conditions of appointment
- (o) To approve, after receiving recommendations from the remuneration committee, a remuneration policy for the Vice-Chancellor and Principal and other staff whose remuneration has to be reported in the University's annual accounts

With the exception of the reserved powers set out [...] above, the Council may delegate its powers under the Charter, Statutes, Ordinances and Regulations to:

- (a) an appropriately qualified member of the Council; or
- (b) an appropriately qualified committee consisting of persons appointed by the Council, or to the Senate, or a joint committee consisting of persons appointed by the Council and the Senate; or
- (c) an appropriately qualified member of the Staff."



## Policy and Procedure on Public Interest Disclosure and “Whistleblowing”

### 1. Introduction

The University of Birmingham has a duty to conduct its affairs in a responsible and transparent way and to take account of the requirements of its funding bodies for the proper use of public funds and of the standards required in public life. In addition the University is committed to the principles of academic freedom embodied in its Charter, Statutes, Ordinances and Regulations, and enshrined in the Education Reform Act 1988.

The Public Interest Disclosure Act (1998) which came into effect on 2 July 1999 protects workers against detriment or dismissal for raising concerns about certain matters of public interest<sup>1</sup> and encourages the resolution of problems within the workplace.

The policy is designed to allow **staff, students and all members of University bodies** (e.g. University Committees) to raise, at high level, concerns or information which they believe in good faith provides evidence of malpractice or impropriety. Individuals discovering apparent evidence of malpractice, impropriety or wrongdoing within the University should feel able to disclose the information appropriately **without fear of reprisal**. This Policy and Procedure sets out how such disclosures should be made, and how cases will be handled by the University.

**A person making a disclosure in good faith, without malice, and in accordance with this Policy will not be penalised for doing so.**

This Policy is intended to be used to raise matters of general concern in the public interest. It is hoped that staff and students feel able to raise the majority of their concerns with their line manager (staff) or tutor / supervisor / Head of School (students). Students may also seek advice about any potential disclosure from Academic Services or through the Guild of Students. A number of policies and procedures are already available to staff and students, through which individuals may raise and resolve many issues of concern. A list of relevant Procedures is attached.

### 2 External Disclosures

To avoid possible prejudice to any internal investigation process, a disclosure should not normally be made to external bodies before it is raised through the internal mechanisms set out in this Policy. However, under the Act, in limited circumstances,<sup>2</sup> an individual making a disclosure to an external body relating to one of the matters covered by the Public Interest Disclosure Act 1998, may be protected from detriment or dismissal.

### 3. Purpose of Policy

The purpose of this policy is:

- To enable individuals to raise concerns within the institution without fear of reprisals / victimisation.
- To provide a process for concerns to be raised, investigated and where appropriate acted upon.
- To give a clear message that allegations of malpractice / impropriety are taken seriously.
- To act as a deterrent to potential perpetrators of misconduct.
- To strengthen the confidence of all interested parties (funding bodies, students, members of staff, etc.) that the University maintains the highest standards of conduct.

#### 4. **Matters Covered**

This policy is designed to be used to raise serious concerns which are in the public interest. Examples of serious misconduct, impropriety or malpractice which may prompt such a disclosure are those which tend to show one or more of the following matters is either happening now, took place in the past, or is likely to happen in the future:

- A criminal offence;
- The breach of a legal obligation;
- A miscarriage of justice;
- A danger to the health or safety of any individual;
- Damage to the environment;
- Financial or non-financial maladministration, malpractice or fraud;
- The exercise of academic freedom<sup>3</sup> being obstructed or frustrated;
- Serious failure to comply with the Charter, Statutes, Ordinances or Regulations of the University;
- Evidence of academic or professional malpractice;
- Failure of (an) individual(s) to disclose a serious conflict of interest;
- Deliberate covering up or suppression of information relating to any of the above matters.

The procedure is **not** designed to be used:

- to reconsider any matters already addressed under other internal procedures, for example complaints or disciplinary or grievance procedures;
- by individuals to challenge decisions properly taken by the University.

#### 5. **Confidentiality**

All disclosures under this Policy will be treated in a confidential and sensitive manner. If required, the identity of the person raising the matter will be kept confidential for as long as possible provided that this is compatible with an effective investigation. The investigation process may however at some stage have to reveal the source of the information and the individual making the disclosure may need to make a statement as part of the evidence required.

## 6. Anonymous Disclosures

Individuals are encouraged to put their name to any disclosures they make since part of the purpose of this policy is to promote openness and discourage a fear of reprisals. Disclosures raised anonymously are far less capable of being addressed effectively but may be considered after taking into account the seriousness of the issue, the credibility of the disclosure, the likelihood of being able to investigate the matter and confirm the allegation from alternative sources, and fairness to any individual mentioned in the disclosure.

Any individual wishing to make an disclosure orally or to give further details as the matter is investigated may be accompanied by a member of the University (as defined in University legislation, see footnotes).

## 7. Procedure for Making a Disclosure

Any relevant disclosure should initially be made to the person designated by the University to receive such disclosures. The "designated person" is the Registrar and Secretary. If a disclosure involves or implicates the Registrar and Secretary), then it should be made to the Vice-Chancellor and / or the Pro-Chancellor (who Chairs the University Council), as appropriate.

The designated person to whom the disclosure has been made will consider the matters disclosed and, if there is a *prima facie* case that there are grounds for proceeding further, will:

- decide whether an investigation should be conducted;
- determine what form the investigation should take;
- appoint a relevant person to carry out the investigation.

The relevant person selected will observe the rules of procedural fairness and natural justice, namely that they should have no personal interest in the outcome of the case and that there should be no real likelihood of bias.

If the designated person decides that there **are not** grounds for proceeding further, the person making the disclosure will be informed.

As the person conducting the investigation must not be the person who would ultimately take the decisions based on outcomes, the designated person to whom the disclosure has been made will not personally conduct the investigation and will remain separate from it.

Disclosures relating to financial matters will normally be investigated as set out in the University's Fraud Response Policy.

When the matter has been investigated the person to whom the disclosure was made will decide whether the matter should be taken further and if so how it should be handled. This may include the initiation of formal procedures within the University or reference to an outside agency. In any event the outcome will be reported, as appropriate, to the Vice-Chancellor, the Pro-Chancellor and to the Audit Committee.

Reporting on the findings of any investigation will depend on the nature of the disclosure as it is not appropriate to be prescriptive as to the correct level of reporting in every case.

This Policy does not remove the right of individuals to invoke the relevant statutory procedures.

#### **8. Individuals Named in a Disclosure**

When an allegation is made against a "named individual", s/he will be informed of the allegation and supporting evidence. The point at which this occurs will depend on the specific nature of the case. S/he will be given an opportunity to respond either in writing or orally and, if interviewed about the matter, will be given an opportunity to be accompanied by a member of the University (see footnotes).

#### **9. Unfounded Disclosures**

A disclosure made in good faith which is not confirmed by subsequent investigation will not lead to any action against the person making the disclosure. Individuals making disclosures which are found by subsequent investigation to be malicious and/or vexatious may be subject to disciplinary or other appropriate action.

#### **10. Victimisation**

Victimisation of a member of the University who has made a disclosure under this Policy may provide grounds for grievance, disciplinary or other appropriate action.

#### **11. Timescales**

Investigations will be conducted as speedily as possible having regard to the nature and complexity of the disclosure.

#### **12. Feedback through the Process**

The person making the disclosure will be kept informed as to the handling of the matter and of decisions taken throughout the process.

#### **13. Records**

All concerns raised and action taken in response to disclosures will be recorded and reports on all disclosures and investigations will be retained by the "designated person" for 5 years.

#### **14. Independent Review**

Further guidance from Universities UK is awaited before an Independent Review process can be determined. Until that guidance is received, the subject of a disclosure who believes there are grounds for appeal or for submitting a grievance concerning the procedure adopted in the investigation or in the

outcome of a disclosure may have recourse to the University's existing procedures<sup>4</sup>.

## 15. Review of Policy

The implementation of this Policy will be subject to regular review.

### Footnotes

It should be noted that the Act refers throughout to "workers". For the purpose of the University's Policy, this should be taken to include all members of the University (as defined in University Section 6 of the Statutes) and members of University Committees, whether or not they are members of staff or students of the University.

1. The disclosures which qualify for protection are disclosures of information which the worker reasonably believes tend to show one or more of the matters listed in paragraph (4) of this policy is either happening now, took place in the past, or is likely to happen in the future.

In making the disclosure the worker must have reasonable belief that the information disclosed tends to show one or more of the offences or breaches listed above ('a relevant failure'). The belief need not be correct - it might be discovered subsequently that the worker was in fact wrong - but the worker must show that it was a reasonable belief in the circumstances at the time of disclosure.

2. Workers who are concerned about wrongdoing or failures can make disclosures to a person or body which has been prescribed by the Secretary of State for the purpose of receiving disclosures about the matters concerned. If the worker makes a qualifying disclosure to such persons, it will be a protected disclosure provided the worker:
  - makes the disclosure in *good faith*;
  - reasonably believes that the information, and any allegation it contains, are *substantially true*; and
  - reasonably believes that the matter falls within the description of *matters for which the person or body has been prescribed* (for example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority, or environmental dangers can be notified to the Environment Agency).

The list of prescribed persons, the description of the matters for which they are prescribed and contact details are shown in the Department of Trade and Industry's Guide to the Public Interest Disclosure Act 1998 PL502 (Rev1), viewable at <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page16186.html>

3. Academic freedom is defined in Statute 14 as "the freedom within the law to question and test received wisdom, and to put forward new ideas, including controversial or unpopular opinions, without placing themselves in jeopardy of losing their job or privileges."
4. The Grievance Procedure for Academic Staff is described in Section 3.27 of the University Ordinances. Students should make representations in the first instance through the Student Complaints Procedure. All members of the University may submit a Grievance to University Council, although this should only be pursued when the matter has not been resolved at a lower level.

## Attachment to Appendix C: Related Procedures and Documents

University Guidelines and Codes of Practice relevant to Disclosure include the following (this list is indicative and is not exclusive of other University legislation or codes of practice):

1. The procedure for reporting financial irregularities, within the Code of Practice on Corporate Governance and Related Procedural Matters  
<http://www.birmingham.ac.uk/council/powers.aspx>
2. The Complaints Procedure for Students  
<https://intranet.birmingham.ac.uk/as/registry/policy/complaint-appeal/index.aspx>
3. The University's Harassment and Bullying Policy  
<https://intranet.birmingham.ac.uk/as/studentservices/conduct/harassment/index.aspx>
4. University Regulation on Student Conduct, Regulation 8, available within the University Legislation at  
<http://www.birmingham.ac.uk/Documents/university/legal/regulations-part8.pdf>
5. Procedure for Consideration of Grievances Submitted to Council, Ordinance 3.27  
<http://www.birmingham.ac.uk/university/governance/Legislation/index.aspx>
6. Guidelines for Students on Plagiarism  
<https://intranet.birmingham.ac.uk/as/studentservices/conduct/plagiarism/guidance-students.aspx>
7. Procedures for those who are registered as students of the University may also be covered within the relevant Academic Code of Practice  
<http://www.as.bham.ac.uk/legislation/codesofpractice.shtml>
8. Primary Appeals Procedure for Students  
[http://www.as.bham.ac.uk/legislation/docs/COP\\_Primary\\_Appeals\\_Procedures.pdf](http://www.as.bham.ac.uk/legislation/docs/COP_Primary_Appeals_Procedures.pdf)
9. Senate Review Procedure for Students  
[http://www.as.bham.ac.uk/legislation/docs/COP\\_Senate\\_Review.pdf](http://www.as.bham.ac.uk/legislation/docs/COP_Senate_Review.pdf)
10. Conditions of Use of Computing and Network Facilities  
<http://www.it.bham.ac.uk/policy/documents/UoBGeneralCondofUseofComputing.pdf>

**Ordinance 3.27 - Procedure for Consideration of Grievances  
Submitted to Council**

**3.27 Grievances**

The Grievance Procedure for members of Academic Staff referred to in Statute 14 shall be as follows:

Part I - Application and Scope

- 3.27.1 This Ordinance applies to grievances by members of Staff as defined by Statute 14, Clause 2(1) with the exception of the Vice Chancellor. Where a member of Staff who has raised a grievance leaves the University's employment before the grievance is resolved, with the agreement of the member of Staff, the grievance may either be concluded under this Ordinance or be transferred to the relevant statutory procedure at the point in this Ordinance which has been reached by the date the member of Staff's employment in the University ceases, so that the statutory procedure need not start afresh and cover ground which has already been covered under this Ordinance. Where a former member of Staff raises a grievance after having left the University's employment, provided such grievance is brought to the University's attention normally within three months of the date on which the contract of employment came to an end, the grievance will be handled under any relevant statutory procedure.
- 3.27.2 As set out in Statute 14, Clause 20(2), this Ordinance applies to grievances by members of Staff concerning their appointment or employment in relation to matters affecting themselves as individuals or their personal dealings or relationships with other Staff of the University, other than:
- 3.27.2 (a) those for which provision is made elsewhere in Statute 14 or in respect of the outcome of any matter dealt with under Statute 14 (and accordingly, for example, this procedure is not to be used to challenge the outcome or handling of any disciplinary issue dealt with under Statute 14, Part III); and
- 3.27.2 (b) where the Council, with the agreement of the recognised trade union, has prescribed other procedures to deal with specific types of grievances which are no less favourable to the member of Staff than this Grievance Procedure.
- 3.27.3 Where a grievance is raised by a member of Staff under this Ordinance and another proceeding under Statute 14 is pending concerning the member of Staff raising the grievance, regardless of which of the two was first raised, the Director (or a Deputy or Assistant Director) of Human Resources will discuss with the member of Staff (or the member of Staff's representative) with a view to reaching agreement on whether the two proceedings can proceed concurrently or in the alternative which of the two shall be processed first. In the event that it is not possible to reach agreement, the matter will be drawn to the attention of the appropriate Pro

Vice-Chancellor who, after consulting with the Director (or Deputy or Assistant Director) of Human Resources, will decide how to proceed in the circumstances.

- 3.27.4 In the event that the person hearing a grievance believes that the substance of the grievance may constitute a disciplinary complaint against another member of Staff, s/he shall consult with the Director of Human Resources (or a nominee with a personnel qualification or an experienced personnel practitioner) to determine whether and, if so, how a disciplinary allegation should be proceeded with. In the event that a disciplinary allegation arises out of a grievance and is handled under the provisions of Statute 14 section 10, the process of the grievance shall be suspended until the action under Statute 14 section 10 is complete, when the member of Staff raising the grievance in the first place shall decide whether or not to pursue the grievance any further.

#### Part II - General Principles

- 3.27.5 This Ordinance shall be applied and construed in every case to give effect to the guiding principles set out in Statute 14, Clause 1(1).
- 3.27.6 Any hearing or appeal convened under this Ordinance shall be held in private and the normal rules of evidence in a court of law need not apply.
- 3.27.7 At any hearing convened under this Ordinance to discuss the substance of his/her grievance, the member of Staff will have the rights to be present and to be represented at the hearing by a member of Staff or trade union representative of his/her choice and may be accompanied by a friend who shall be a member of Staff and who shall take no part in the proceedings.
- 3.27.7 (a) If the member of Staff or his or her representative is not available at the time proposed, the hearing shall be postponed to another reasonable time at which both are available being normally not later than 14 calendar days after the date first proposed for the hearing.
- 3.27.7 (b) The representative attending the hearing with the member of Staff may speak on the member of Staff's behalf, but may not, except with the permission of the person responsible at the time for seeking to resolve the grievance, or the Chair of the Grievance Panel, answer questions (relating to the issues in dispute) on the member of Staff's behalf.
- 3.27.7 (c) If the member of Staff fails to attend the hearing without a valid reason, or is prevented from attending for such a long period of time that the delay involved would be unreasonable in all the circumstances, the person responsible at the time for seeking to resolve the grievance, or the Chair of the Grievance Panel, shall consider the circumstances preventing the member of Staff attending and shall consult the Director (or a Deputy or Assistant Director) of Human Resources before deciding whether to proceed with or continue the hearing, in the absence of the member of Staff, or whether to postpone it. If the member of Staff is not present at the hearing, he or she shall have the right to be represented at the

hearing.

### Part III

#### Stage 1

3.27.8 A grievance should in the first instance, as far as is reasonably practicable, be raised within the Principal Academic Unit for informal resolution. The grievance may be raised with a senior member of Staff of the Principal Academic Unit, including the Head of Principal Academic Unit. If the member of Staff bringing the grievance feels it would not be appropriate to raise the grievance within the Principal Academic Unit, s/he may raise it for informal resolution with another Head of Principal Academic Unit within the relevant College, who may inquire as to the reasons why the member of Staff feels it is not appropriate to raise the grievance within the Principal Academic Unit. The process may include communicating with any person(s) against whom the grievance lies. If the grievance cannot be resolved in this way, then the procedure in paragraph 9 below should be followed.

#### Stage 2

3.27.9 Where a member of Staff has been unable to raise or to resolve his/her grievance under paragraph 8 above, he or she should put the grievance in writing (in sufficient detail to enable the scope of the grievance to be understood) to the Director of Human Resources who, after consultation with the member of Staff bringing the grievance, shall refer it to a Head of College (or nominee) or a Pro Vice-Chancellor or a Deputy Pro-Vice-Chancellor (the "Appropriate Person") for resolution. The Appropriate Person shall acknowledge receipt of the written grievance, normally within seven calendar days, and shall arrange to meet with the member of Staff (normally within 28 calendar days) to acquaint him/herself with the subject matter of the grievance, seek any clarification which may be required and to determine how to proceed, which may include:

- 3.27.9 (a) disposing of the grievance as frivolous, vexatious or invalid;
- 3.27.9 (b) conducting an investigation (which may include communicating or meeting with any person against whom the grievance lies and any others concerned);
- 3.27.9 (c) seeking to resolve the grievance to the satisfaction of the member of Staff, which may include:
  - (i) with their consent, holding a meeting between the parties to the grievance;
  - (ii) recommending the parties to the grievance engage in a formal mediation process;
  - (iii) seeking, suggesting and/or facilitating physical and/or organisational changes

3.27.9 (d) referring the grievance for consideration by the Vice-Chancellor under clause 3.27.10 below;

3.27.9 (e) any other action which may be appropriate in the circumstances.

At any meeting under this paragraph, any member of Staff shall have the right to be accompanied by a member of Staff or a trade union representative of his/her choice. The Appropriate Person shall ensure that the member of Staff and any person against whom the grievance lies are kept informed of progress with any investigation and in writing of its outcome.

### Stage 3

3.27.10 If the Appropriate Person determines under paragraph 9 above that the grievance be referred for the consideration of the Vice-Chancellor, s/he shall draw the grievance to the attention of the Vice-Chancellor setting out:

3.27.10 (a) details of the grievance; and

3.27.10 (b) details of the steps which have been taken under Stage 2 in relation to the grievance so far, enclosing copies of all relevant correspondence.

If the member of Staff remains dissatisfied following attempts to resolve the grievance under Stage 2 above, s/he may apply to the Vice-Chancellor in writing for redress. In doing so, s/he shall provide the information set out in sub-paragraphs i) – ii) above and setting out the reasons why s/he is dissatisfied with the outcome of Stage 2 to the Vice-Chancellor.

3.27.11 The Vice-Chancellor (or his/her nominee) shall be entitled to:

3.27.11 (a) dismiss the grievance summarily or take no action upon it if he or she considers that the grievance is frivolous, vexatious or invalid; or

3.27.11 (b) in accordance with clauses 3.27.3 and/or 3.27.4 above, delay consideration of the grievance pending the outcome of any other procedures in the University relevant to the subject matter of the grievance; or

3.27.11 (c) seek to resolve the grievance informally; or

3.27.11 (d) decide to refer the grievance to a Panel and request the Pro Chancellor to appoint a Panel in accordance with paragraph 13 below, and notify the member of Staff accordingly.

3.27.12 If the Vice-Chancellor (or his or her nominee) is minded to take action under sub-clauses 3.27.11 (a) – (c) above, s/he shall take this step only after:

3.27.12 (a) writing to the member of Staff to indicate that, on review of the papers, he or she considers it may be appropriate to exercise his/her

powers under this paragraph;

- 3.27.12 (b) inviting the member of Staff to a meeting to make representations, at which meeting the member of Staff may be accompanied by a member of Staff or a trade union representative of his/her choice;
  - 3.27.12 (c) considering any representations made by the member of Staff at that meeting; and
  - 3.27.12 (d) informing the member of Staff how he or she intends to proceed under clause 3.27.11 above.
- 3.27.13 If the Vice-Chancellor (or his or her nominee) decides to proceed under sub-clause 3.27.11 (d) above, the Grievance Panel ("the Panel"), shall be convened by the Pro Chancellor on a case by case basis and in accordance with the following rules:
- 3.27.13 (a) each Panel shall consist of three persons (subject to sub-clause 3.27.13 (d) below);
  - 3.27.13 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different Principal Academic Unit (or equivalent) from the person raising the grievance) drawn from a list agreed from time to time by the Senate of the University;
  - 3.27.13 (c) no Panel member shall have had any previous direct or active involvement with the member of Staff's grievance, or any conflict of interest in the matter;
  - 3.27.13 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel and where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and
  - 3.27.13 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.
- 3.27.14 The Pro Chancellor shall determine who shall chair the Panel.
- 3.27.15 The parties to the grievance shall be the member of Staff raising the grievance and either, as appropriate, the University, represented by an employee or officer of the University (a 'University Representative') appointed by the Registrar and Secretary (or nominee) and/or any other person against whom the grievance lies (referred to below as 'the parties').
- 3.27.16 The Registrar and Secretary (or nominee) shall write to the parties at least 14 calendar days in advance of the Panel hearing:
- 3.27.16 (a) naming the members of the Panel (including the adviser appointed

under sub-clause 3.27.13 (e) above;

- 3.27.16 (b) naming the University Representative appointed under clause 3.27.15 above
- 3.27.16 (c) inviting them to a hearing ("the Hearing"); and
- 3.27.16 (d) informing the parties that they have the right to be represented or assisted in accordance with clause 3.27.7 above.
- 3.27.17 Subject to clause 3.27.16 above, it shall be for the Panel at its discretion to determine, in consultation with the adviser appointed under clause 3.27.13 (e) above, the procedure to be followed in preparation for and at the Hearing, which may include without limitation:
  - 3.27.17 (a) determining which documents (if any) should be provided;
  - 3.27.17 (b) determining the extent to which witnesses may be called; and
  - 3.27.17 (c) deciding whether it would be appropriate to adjourn or postpone the Hearing.

The member of Staff shall have the right to see, question and challenge at the Hearing any witnesses and any new evidence which may be produced. The Hearing will be held in private and the rules of evidence or procedure applicable in a court of law need not apply.

- 3.27.18 The member of Staff shall indicate to the Panel whether or not s/he wishes to attend the Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Hearing and/or any reconvened Hearing after an adjournment.
- 3.27.19 As soon as is reasonably practicable after the Hearing the Panel will make its decision (which may be by majority if necessary). The Panel shall decide whether the grievance is or is not well founded and any steps that should be taken as a result, including steps to resolve the grievance to the satisfaction of the member of Staff raising the grievance and, where possible, to the satisfaction of all parties.
- 3.27.20 The Panel shall prepare and send to the parties a reasoned written decision (normally within 14 calendar days of making its decision). A report of the Panel's decision shall also be sent to Council. The names of the parties shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered. Each party shall be notified of his/her right to appeal against the decision taken under clause 3.27.19 above.

#### Stage 4

- 3.27.21 If the member of Staff and/or any member of Staff against whom the grievance lies wishes to appeal against the outcome, he or she should do so in writing to the Registrar and Secretary or some other appropriate person nominated by the Vice-Chancellor or his or her nominee (the

“Appointed Officer”) within 14 calendar days of receipt of the Panel's decision under clause 3.27.20 above. The member of Staff should set out the grounds of his/her appeal.

- 3.27.22 The appeal will be heard by a panel (the "Appeal Panel") constituted in accordance with Part IV of this Ordinance.
- 3.27.23 The Registrar and Secretary or Appointed Officer will write to the member of Staff at least 21 calendar days in advance of the Appeal Hearing:
  - 3.27.23 (a) naming the members of the Appeal Panel and the adviser appointed under clause 3.27.29(e);
  - 3.27.23 (b) inviting the parties (as defined in clause 3.27.15 above) to an appeal hearing (the "Appeal Hearing"); and
  - 3.27.23 (c) informing the parties of their right to be represented or assisted in accordance with clause 3.27.7 above.

The Registrar and Secretary or Appointed Officer will also inform the parties of the person who will be explaining to the Appeal Panel the reason(s) for the decision taken under clause 3.27.19 above. This person may be legally qualified.

- 3.27.24 Subject to clause 3.27.7 above, it shall be for the Appeal Panel in its discretion to determine, in consultation with the adviser appointed under sub-clause 3.27.29 (e), the procedure to be followed in preparation for and at the Appeal Hearing which may include without limitation:
  - 3.27.24 (a) a right to call for additional documents;
  - 3.27.24 (b) determining the extent to which witnesses may be called; and
  - 3.27.24 (c) deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.

The Appeal Hearing shall be held in private and the normal rules of evidence or procedure applicable in a court of law need not apply. The parties shall have the right to see, question and challenge at the Appeal Hearing any witnesses and any new evidence which may be produced. The parties will be informed before the Appeal Hearing of the procedure the Appeal Panel has decided to adopt as outlined above.

- 3.27.25 Each party shall indicate to the Appeal Panel whether or not s/he wishes to attend the Appeal Hearing in person. If s/he wishes to attend, s/he shall take all reasonable steps to attend the Appeal Hearing and/or any reconvened Appeal Hearing following any adjournment or postponement.
- 3.27.26 The Appeal Panel will make its decision and provide the parties with its reasoned decision in writing, normally not more than 14 calendar days after the conclusion of the Appeal Hearing.
- 3.27.27 The decision of the Appeal Panel shall be final.

3.27.28 A report of the Appeal Panel's decision will also be sent to the Council. The parties shall remain anonymous in any report to Council and in the minutes of meetings at which such reports are considered.

Part IV - Constitution of the Appeal Panel

3.27.29 Any Panel or Appeal Panel referred to in this Ordinance shall be appointed by the Pro Chancellor on a case-by-case basis in accordance with the following rules:

3.27.29 (a) subject to sub-clause 3.27.29 (d) below, each Panel shall consist of three persons;

3.27.29 (b) at least one member of the Panel but no more than two shall be a lay member of the Council or an Emeritus Professor and at least one shall be a member of Academic Staff (from a different Principal Academic Unit (or equivalent) from the member of Staff concerned) drawn from a list agreed from time to time by the Senate of the University;

3.27.29 (c) no Panel member shall have had any previous direct or active involvement in the process, or should have any conflict of interest in the matter. No person may sit on both the Panel and the Appeal Panel in a particular case;

3.27.29 (d) where the Panel is dealing with a member of Staff falling within Statute 14, Clause 19(1) then a representative of a National Health Service or other relevant body may be appointed to the Panel. Where this occurs the Panel may consist of more than three members, but shall not exceed five persons; and

3.27.29 (e) the Panel shall be advised by the Director of Human Resources or a nominee with a personnel qualification or an experienced personnel practitioner.

3.27.30 The Pro Chancellor shall determine who shall chair an Appeal Panel convened under this Ordinance.

## Fraud Response Policy

### Purpose

1. The purpose of this policy is to define responsibilities for action and reporting lines in the event of a suspected fraud or irregularity. The use of the policy should assist in enabling the institution to prevent further loss, establish and secure evidence necessary for any disciplinary and/or criminal action, undertake a systematic investigation process, recover losses where possible, and notify all relevant parties. The policy applies to the University and to all subsidiary and associated companies and to suspected frauds or irregularities undertaken by staff, students or third parties.

2. The Fraud Act 2006 creates a specific offence of fraud for the first time, defining it as a dishonest act, through false representation, failure to disclose information or abuse of position, with the intent of causing a gain for self, or loss to another. It shifts the emphasis to showing the intent of the perpetrator, from the previous legislative position of demonstrating the loss to the victim. Fraud can be perpetrated by persons outside as well as inside an organisation. The criminal act is the attempt to deceive and therefore attempted fraud is treated as seriously as accomplished fraud.

3. The University's Policy and Procedure on Public Interest Disclosure and "Whistle blowing" is available on the Council pages of the University website <http://www.birmingham.ac.uk/university/governance/council.aspx>. The policy is designed to allow staff, students and all members of University bodies (e.g. University Committees) to raise, at high level, concerns or information which they believe in good faith provides evidence of malpractice or impropriety. This Fraud Response Policy supplements the Whistleblowing Policy, and should be used where a member of the University has actual or strong suspicion of fraud or financial irregularity.

### Initiating Action

4. It is the duty of all members of staff to report any actual or suspected incidents of fraud or irregularity. These should be reported without delay to the Registrar and Secretary who will convene a meeting of the following Fraud Response Group to decide on the initial response:

- Registrar and Secretary (in the chair)
- Director of Finance (Deputy Chair)
- Director of Human Resources
- Head of Internal Audit
- Other senior staff as determined by the Registrar and Secretary (e.g. Director of Legal Services, Director of IT Services, Director of Academic Services, Director of Corporate Relations).

5. The Fraud Response Group will decide on the action to be taken. This will normally be an investigation led by the Head of Internal Audit; however the action will be contingent on the scale and circumstances of the suspected incident. The decision by the group to initiate a fraud investigation shall constitute authority to the Head of

Internal Audit to use time provided in the Internal Audit Plan for special investigations, or contingency time, or to switch internal audit resources from planned audits.

**6.** The Fraud Response Group will also consider whether any specialist resource such as staff from Finance, IT, Legal Services, HR, HAS, Academic Services or Estates are required to assist in the investigation, and will ensure that this resource is made available to the Head of Internal Audit. The Fraud Response Group will approve the appointment of external specialists to assist with, or undertake, the investigation if required.

**7.** Confidentiality will be maintained, however the Fraud Response Group will be responsible for ensuring that the Vice Chancellor and Chair of Audit Committee are kept informed of the progress of the investigation, and will consider the need for a wider communication to stakeholders.

### **Prevention of Further Loss**

**8.** Where an initial investigation provides reasonable grounds for suspecting a member or members of the University of fraud, the Fraud Response Group will decide how to prevent further loss after consultation with the police or the University's external solicitors, as necessary. This may require a lock-down of the relevant offices, and suspension, with pay, of suspect(s) who are members of staff. It may be necessary to plan the timing of suspension to prevent the suspect from destroying or removing evidence that may be needed to support disciplinary or criminal action. The act of suspension should be undertaken in accordance with HR procedures.

**9.** In these circumstances it may be appropriate for the suspect to be approached unannounced. They should be supervised at all times before leaving the University's premises. They should be allowed to collect personal property under supervision, but should not be able to remove any property belonging to the University. Any security passes, keys to premises, offices and furniture should be returned. At this point fraud has not been proven and the process should be undertaken with respect.

**10.** The Head of Security will advise on the best means of denying access to the University while the suspect remains suspended. Depending on the circumstances, consideration will be given to requesting that the Director of IT Services withdraw, without delay, access permissions to the University's computer systems.

**11.** The Head of Internal Audit will consider whether it is necessary to investigate systems or people other than those which gave rise to the initial suspicion, through which the suspect may have had opportunities to misappropriate the University's assets.

**12.** The Fraud Response Group will ensure that the University's insurers are notified as soon as possible of the fraud.

### **Establishing and Securing Evidence**

**13.** The University will usually follow disciplinary procedures against any staff or student member of the University who has been proved to have committed fraud. The University will also normally pursue the prosecution of any such individual, and the Fraud Response Group will be responsible for determining who should initiate contact

with the Police and when this contact should occur. Where the police are not notified of a suspected or actual fraud, the Audit Committee should be advised of the reason.

**14.** The Head of Internal Audit will:

- Maintain familiarity with the University's disciplinary procedures and regulations, to ensure that disciplinary evidence requirements will be met during any fraud investigation;
- Establish and maintain contact with the police if instructed to do so by the Fraud Response Group;
- Liaise with the police or legal advisors to ensure that all staff involved in a fraud investigation are familiar with and follow rules on the admissibility of documentary and other evidence in criminal and civil proceedings.

### **Recovery of Losses**

**15.** The Head of Internal Audit will ensure that in all fraud investigations the amount of any loss is quantified. Repayment of losses will normally be sought in cases where it is economical to do so.

**16.** Where the loss is substantial, the Director of Legal Services will be responsible for obtaining legal advice about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The University would normally expect to try to recover costs in addition to losses.

**17.** Any request for a reference for a member of staff or a student to whom a disciplinary penalty for fraud has been issued, or who has been prosecuted for fraud shall be referred to the Director of Human Resources or Director of Academic Services respectively, who will advise on any answer to a request for reference.

### **Reporting to University Council**

**18.** The Vice-Chancellor or their nominee shall report as soon as reasonably practicable any incident of actual or suspected fraud to the Chair of Council and the Chair of the Audit Committee if any of the following circumstances apply:

- The sum of money involved is, or potentially could be, in excess of £10,000.
- The particulars of the fraud are novel, unusual or complex.
- The fraud is part of a pattern of similar activities.
- There is likely to be public interest because of the nature of fraud or the individuals involved.

**19.** Significant departures from the approved Fraud Response Policy should be reported promptly to the Chair of Council and the Chair of the Audit Committee by the Registrar and Secretary

## **Notifying the HEFCE**

**20.** The circumstances in which the University must inform the HEFCE about actual or suspected frauds are detailed in the HEFCE Audit Code of Practice (Annex A to the HEFCE Memorandum of Assurance and Accountability). The Vice-Chancellor is responsible for informing the HEFCE of any such incidents.

## **Reporting**

**21.** The Head of Internal Audit or other nominated senior staff member shall provide the Fraud Response Group and the Vice-Chancellor with regular reports (which may be oral or in writing) on the progress of ongoing special investigations. Reports will usually include quantification of losses; progress with civil recovery action; progress with disciplinary action; progress with criminal action; progress with any insurance claims; estimates of resources required and timescales to conclude the investigation; actions taken to prevent and detect similar incidents. On completion of a special investigation, an oral or written report shall be submitted to the Vice-Chancellor and to Audit Committee by the Head of Internal Audit or other person nominated by the Fraud Response Group containing:

- A description of the incident, including the value of any loss, the people involved and the means of perpetrating the fraud.
- The measures taken to prevent a recurrence.
- The outcomes of actions taken.
- Any actions needed to strengthen future responses to fraud, with a follow-up report on whether the actions have been taken.

## COUNCIL STANDING ORDERS

*(Regulations made by the Council of the University of Birmingham pursuant to Section 9 of its Statutes, to regulate the conduct of Council business)*

### Meetings

- 1 Ordinary Meetings of the Council shall be held on such days and at such time and place as the Council may from time to time determine provided that at least three Ordinary Meetings shall be held each year.
- 2 A Special Meeting of the Council may be convened at any time at the request of the Pro-Chancellor, or the Vice-Chancellor, or by not less than one third of the remaining members requesting a Special Meeting in writing to the Registrar and Secretary.
- 3 Notice of each Ordinary Meeting of the Council accompanied by an agenda shall be circulated to each member by the Registrar and Secretary at least seven days before the date of the meeting. No business other than that arising out of matters referred to in such agenda shall be considered except with the consent of the Pro-Chancellor or, in his/her absence, the Chairperson of the meeting.
- 4 Members of the Council intending to bring forward any special business at an Ordinary Meeting shall give written notice of such business to the Registrar and Secretary at least fourteen days before the date of the meeting (this period of notice is to allow time for any supporting papers for the item to be compiled and circulated with the agenda). Special business of this kind will not be considered in the absence of the member giving written notice of the matter unless s/he has requested some other member to present it in his/her place and informed the Registrar and Secretary of such a request.
- 5 At least seven days' notice of a Special Meeting stating generally the nature of the business to be transacted shall be sent to each member of the Council and the meeting shall not be competent to transact any business other than that mentioned in the notice or directly arising therefrom.
- 6 The Chairperson shall have power to adjourn any meeting of the Council provided that no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting which was adjourned. No notice of any adjourned meeting shall be necessary unless it be adjourned for 14 days or more.
- 7 No communication shall be circulated from members of the University (individually or as group) to the Council, other than via the Registrar and Secretary, who shall consult in case of doubt with the Pro-Chancellor and / or Vice-Chancellor.

## **Chairperson**

- 8 The Pro-Chancellor shall Chair meetings of Council. In the absence of the Pro-Chancellor the Deputy Pro-Chancellor shall take the Chair. In the absence of both the Pro-Chancellor and Deputy Pro-Chancellor, the Vice-Chancellor shall take the Chair and in his/her absence also the meeting shall elect its own Chairperson.
- 9 The Pro-Chancellor or, in his/her absence, the Deputy Pro-Chancellor, shall have authority to act on behalf of the Council between meetings of the Council and shall report any such action to the next Ordinary Meeting of the Council.

## **Secretary**

- 10 The Registrar and Secretary shall be the Secretary of the Council. S/he, or a member of his/her staff to whom s/he has delegated the responsibility, shall have the duty of recording the proceedings of Council and of ensuring that its decisions and instructions are carried out.

## **Quorum and Voting**

- 11 Council meetings shall be quorate provided that the lay members present (Class IV) exceed in aggregate those present in Classes I, II and III (i.e. non-lay members).
- 12 Motions shall be passed by simple majority voting except in the case of special resolutions recommending amendments to the Charter where, as required by Section 11(2) of the Statutes, the count of members shall be "not less than two-thirds of those present and voting". Voting shall be by show of hands unless any member demand a division which shall be taken in such manner as the Chairperson shall direct.

## **Conduct of Business**

- 13 When the Pro-Chancellor deems it to be necessary, urgent business may be conducted between meetings by means of postal or email responses to a circulated item.

## **Executive Summaries**

- 14 All items presented to Council should be accompanied by an Executive Summary of a length not exceeding one side of A4 paper.

The Executive summary shall make clear:

- the parts of the paper which require discussion or where the views of Council are being sought;
- any recommendations for action or decision by the Council

## **Organisation of Items on the Agenda**

- 15 The agenda will normally be organised into four sections: preliminary items, strategic items requiring discussion and decision, substantive matters requiring Council's approval and matters for report or for information. Save when it is a question of factual accuracy, items in the section "for report or for information" on the agenda will be "noted", "received" or "approved" as appropriate without discussion. However, if a member of Council wishes to discuss an item in this section of the agenda, s/he shall notify the Registrar and Secretary, the notice to reach him / her a minimum of forty-eight hours before the meeting. If the request is not submitted by the deadline, the Pro-Chancellor shall notify Council of the request at the start of the meeting. The adoption of reports and recommendations of committees or of University officers and any consequent resolutions form substantive resolutions, which do not require seconding, and may or may not be discussed, as appropriate.
- 16 Items which refer to individual members of the University, or which are commercially sensitive will be included in the agenda, but marked "Confidential". The associated minute shall not be published or circulated, save to members of the Council and to such other members of the University as may be necessary on a "need to know" basis. Requests from others to be provided with the information contained in such minutes must be made in accordance with the Data Protection Act 1998, the Freedom of Information Act 2000, the Environmental Information Regulations 2004, or related legislation, and will be dealt with on a 'case-by-case' basis.
- 17 In discussing items, Council should avoid assuming responsibility which it has delegated to a sub-committee or individual.

## **Approval of Items**

- 18 The following may be moved without notice:
- (1) accuracy of the minutes
  - (2) the proposals listed in Standing Order 28 (1) (a) to (d)
  - (3) reference to a committee
  - (4) leave to withdraw or to amend a motion. If the motion has been formally seconded, the motion may only be withdrawn with the approval of the seconder. The withdrawal of the motion shall terminate discussion of it.
  - (5) change of precedence for an item of business specified in the agenda
  - (6) suspension of Standing Orders in accordance with the provisions of Standing Order 42

## **Motions and Amendments**

- 19 A motion or amendment shall not be discussed unless it has been proposed and seconded. A motion from the Chair does not require to be seconded. If

written notice has not been given before the meeting, the Chairperson may require the motion or amendment to be put in writing and handed to the Chairperson before it is further discussed or put to the meeting. A member when seconding a motion or amendment may, if s/he then declares an intention to do so, reserve a speech until later in the debate.

### **Addressing the meeting**

- 20 A member when speaking shall address the Chairperson. If two or more members speak simultaneously the Chairperson shall call on one to speak and the other or others shall then be silent. While a member is speaking the other members shall remain silent, unless raising a point of order.

### **Declaration or Conflict of Interest**

- 21 A member who has a direct or indirect interest in an item on the agenda shall declare that interest as soon as practicable after the commencement of the item, and must do so before addressing the meeting. He or she should then judge whether it is appropriate to take part in the consideration or discussion of the matter or to vote on any question with respect to it, and whether it is appropriate to leave the meeting during the consideration of the relevant matter.
- 22 Where a member declares an interest, but decides not to withdraw, or where an interest is not declared, notwithstanding it being entered in the Register of Members' Interests, the Pro-Chancellor may remind Council that the member has an interest and may, with the approval of Council, require the member concerned to withdraw until consideration of the matter has been completed. (see also Section 7 and 8 of the University's Code of Practice on Corporate Governance and Related Procedural Matters).

### **Amendments to motions**

- 23 An amendment shall be
- (a) to leave out words
  - or (b) to leave out words and insert or add other words
  - or (c) to insert or add words.

Such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.

### **Order in which amendments shall be made**

- 24 (1) One amendment only may be moved and discussed at a time and no further amendments shall be moved until the amendment under discussion has been dealt with.
- (2) If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendments may be moved.

### **Right of reply**

- 25 (1) The mover of a motion has a right of reply at the close of the debate on the motion, immediately before it is put to the vote. In his / her reply (s)he shall confine him/herself strictly to matters raised in the course of the debate.
- (2) If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment. The mover of the amendment shall have no right of reply to the debate on his / her amendment.

### **Points of order**

- 26 (1) A member may raise a point of order and shall be entitled to be heard forthwith.
- (2) A point of order shall relate only to an alleged breach of a Standing Order or statutory or common law provision and the member shall specify the Standing Order or statutory or common law provision and the way in which s/he considers it has been broken.
- (3) The ruling of the Chairperson on a point of order shall not be open to discussion.

### **Motions which may be moved during debate**

- 27 When a motion is under debate no other motion shall be moved except:
- (1) to amend the motion
  - (2) to postpone consideration of the motion
  - (3) that the subject of debate be referred back to the committee
  - (4) that the question be now put
  - (5) to proceed to the next business
  - (6) to adjourn the debate
  - (7) to adjourn the meeting
  - (8) to suspend Standing Orders under Standing Order 42

### **Closing motions**

- 28 (1) A member may move without comment at the conclusion of a speech by another member:
- (a) that the question be now put.  
If the motion is seconded the Chairperson shall immediately put to the vote the motion that the question be now put and then, if it is passed, give the mover of the original motion the right of reply under Standing Order 25 before putting the motion to the vote.
  - (b) that the Council proceed to the next business  
If the motion is seconded the Chairperson shall immediately put the motion to the vote.
  - (c) that the debate be now adjourned
  - (d) that the Council do now adjourn.

If the motion is seconded, the Chairperson shall immediately put the adjournment motion to the vote. The mover of the original motion has no right of reply on that occasion.

- (2) A second motion during discussion of the same item of business "that the Council proceed to the next business" or "that the Council do not adjourn" shall not be made within a period of one hour unless moved by the Chairperson.

#### **Rescinding of previous Council resolution**

- 29 (1) No motion to rescind any resolution passed in the Council within the preceding six months, and no motion or amendment to the same effect as one which has been negated within the preceding six months, shall be moved unless the notice thereof given in pursuance of Standing Order 4 bears the names of at least six members of the Council.
- (2) When any such motion has been disposed of by the Council, no member shall move a similar motion within a further period of six months.
- (3) This Order shall not apply to motions moved in or in respect of the report or recommendation of a committee.

#### **Committees**

- 30 The Council may appoint standing, substantive or advisory committees, boards and sub-committees for such purposes and with such powers as it thinks fit, may appoint to them persons who are not members of the Council and may make regulations for their proceedings. Subject thereto, each committee, board or sub-committee may regulate its own procedure and may deal with any matters delegated to it.
- 31 Subject to the proviso in Standing Order 26 (1) Council may suspend or dissolve any standing, substantive or advisory committee, board or sub-committee.
- 32 The Chairperson of each committee, board or sub-committee of the Council shall be appointed by the Council.
- 33 The Council may delegate authority to Standing Committees or Committees or Special Committees and shall specify the extent of the powers of each such Committee in terms of reference approved by Council for each of its Standing Committee or Committees or Special Committees. In addition to taking such action as may be authorised by its terms of reference, each Substantive Committee or Special Committee shall have authority in case of urgent need between meetings of the Council to take such action as it deems fit provided that the matter concerned falls within the general ambit of its responsibilities and provided also that each and every matter in which such action is taken is reported to the next following meeting of the Council.
- 34 The Pro-Chancellor and the Vice-Chancellor shall be ex officio members of all committees, boards and sub-committees of the Council excepting only the Audit Committee. (The Vice-Chancellor will withdraw from the Remuneration

Committee when his/her salary, terms and conditions (and where appropriate severance payment) are under consideration.)

- 35 The quorum for each committee, board or sub-committee of the Council shall be not less than one third of the total number of members, excluding the ex officio members as defined in Standing Order 34.
- 36 Each committee, board or sub-committee may at its discretion co-opt in any one academic year not more than two persons for periods not exceeding one academic year.
- 37 Between ordinary meetings of any committee or board the Chairperson of the committee or board shall have power to act on behalf of the committee or board on any matter requiring an immediate or early decision unless in the opinion of the Chairperson the nature of the business is such as to justify the summoning of a special meeting of the committee. Where the Chairperson of a committee or board is in doubt about the course of action s/he should take, and where it is for any reason impractical to call a special meeting of the committee, the Chairperson shall consult as many members of the committee as possible and the Vice-Chancellor (who in turn may wish to consult the Pro-Chancellor or Deputy Pro-Chancellor) before coming to any decision. Any decisions taken by the Chairperson under these delegated powers shall be reported to the next succeeding meeting of the Committee.

#### **Delegation of Powers**

- 38 Items of business specified for specific decision by Council in Statutes, Ordinances or Regulations may not be delegated and shall be subject to discussion and approval at the next available ordinary meeting.

Authority to approve items which will require expenditure of less than £2m (or of such a figure as Council shall determine) may be delegated.

#### **Appointment Committees**

- 39 The procedures for making senior appointments are specified in Ordinances. Save where indicated differently in the Ordinances or agreed by Council, appointments to Council and to its committees shall be made by the Council on a recommendation of the Council Membership Committee. Other appointments are made in accordance with custom and practice.
- 40 Except in special cases where Council makes prior alternative arrangements, each Appointment Committee is authorised to approve the making of a firm offer of appointment to a selected candidate.

#### **Use of the Common Seal of the University**

- 41 Any contract or other document required by law to be made under seal shall be validly executed if it is sealed with the Common Seal of the University and signed by the following persons in whose presence the Seal is affixed:
  - (1) a Member of the Council and
  - (2) the Registrar and Secretary (or nominated deputy)

### **Suspension of Standing Orders**

- 42 Standing Orders may be suspended by a resolution passed by a two-thirds majority of members present and voting.

### **Amendments to Standing Orders**

- 43 Any amendment necessary to the Standing Orders shall be presented to the first Ordinary Meeting of Council in each academic year.
- 44 These Standing Orders shall be presented to Council at its first Ordinary Meeting in each academic year for approval. The Membership and Powers and Duties of the Council shall also be circulated at that meeting. A copy shall be provided to each new member of Council as he or she takes up appointment.

## Procedure for Suspension or Removal of Council or Committee Membership

### 1. Scope

This procedure applies in respect of membership of Council, Senate and any University committee.

### 2. Grounds for Suspension or Removal of Committee Membership

A member of a committee may be suspended or removed on the grounds of conduct judged to be inappropriate or unacceptable on the part of the member, which by way of illustration only may include (but shall not be limited to) the following:

- (a) conduct (wherever occurring) resulting in the member accepting a formal police caution, community resolution order or other penalty imposed by the police as an alternative to prosecution, where that conduct is of a kind that is judged in all the circumstances to be relevant to the University;
- (b) conviction by any court of competent jurisdiction for a criminal offence, where that offence is judged in all the circumstances to be relevant to the business or reputation of the University;
- (c) investigation by the police in relation to a serious or significant offence;
- (d) investigation by the University, the Guild of Students or any other competent authority or regulatory body under any disciplinary, misconduct or similar procedure in relation to a serious or significant matter;
- (d) persistent failure or refusal to perform some or all of the duties or comply with some or all of the conditions and behaviours attaching to membership of the committee;
- (e) breach of any obligation or duty arising under any of the University's regulations or any other rules, regulations or codes binding on the member regarding financial matters, harassment, equal opportunities, public interest disclosure, health and safety, freedom of speech or data protection;
- (f) violent, indecent, disorderly, threatening, abusive, insulting or harassing behaviour or language (whether written, spoken or in any other form), deception or dishonesty;
- (g) failing to maintain the confidentiality of papers by divulging information or material received in confidence;

- (h) failure to disclose a conflict of interest which has a material impact on the conduct of University business.

The chair of the committee concerned should normally raise with the member the conduct giving rise to concern and consider whether other action might resolve the concern before the procedure for suspension or removal is instigated, unless the chair considers it inappropriate or impractical to do so in the circumstances of the case.

### **3. Procedure for suspension and removal**

- 3.1 A member of Council or of its sub-committees (SPRC, Audit Committee, Remuneration Committee, Membership Committee) may be removed by Council and replaced with a person of the same class or category of membership on the recommendation of the Membership Committee. The Pro-Chancellor (or his or her nominee) will bring the case to the Membership Committee, having consulted with the chair of the committee concerned.
- 3.2 In the case of Senate and its sub-committees, or other University committees, Council has delegated its power to suspend or remove a member of the committee to the Vice-Chancellor. The Vice-Chancellor will consult with the chair of the committee in question, except in the case of Senate when he/she will consult with the Pro-Chancellor. The Vice-Chancellor will report the use of this power to the next meeting of Council.
- 3.3 A member will normally be offered the opportunity to make written representations before a decision is reached to remove him or her from a committee.
- 3.4 The Registrar and Secretary (or his nominee) will notify the member of the decision (including reasons if the decision is suspension or removal, and the duration of any suspension) as soon as practicable; if notification is given orally, the Registrar and Secretary shall as soon as practicable confirm the decision in writing.
- 3.5 The Registrar and Secretary (or his nominee) will notify the chair of the relevant committee of the decision as soon as possible and the chair will inform the other members of the committee. The decision will be reported to the next meeting of Council and the relevant committee.

### **4. Effect of suspension or removal**

- 4.1 A person suspended from a committee shall not be entitled to receive agendas, minutes or other documentation or information relating to the business of the committee for the duration of the suspension. The member may be required to return by a specified date any or all documents, materials or other resources provided by the University for the purpose membership of the committee
- 4.2 A person removed from a committee shall not be entitled to receive agendas, minutes or other documentation or information relating to the business of the committee and may be required by the committee to return by a specified date

any documentation, information or other resources provided to him or her in relation to his or her membership of the committee and may be required to return by a specified date any or all documents, materials or other resources provided by the University for the purpose of or membership of the committee.

- 4.3 Suspension or removal of a member from a committee does not remove or affect in any way a member's responsibility to maintain the confidentiality of papers received as a member of a committee.
- 4.4 A person removed from Council or a committee may not be re-appointed or may not stand for re-election (as appropriate) to Council or the committee until at least 12 months have elapsed from the decision to remove.



## The University of Birmingham Code of Ethics

### Ethics at Birmingham

The University of Birmingham is committed to the highest standards of ethical conduct in all our activities. Each member of the University community — staff (including honorary, emeritus and visiting staff), students, members of Council and other University committees — has a responsibility to act ethically and in accordance with the Nolan Committee’s principles for public life: *Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership*.

The University has recognised and acted upon the importance of ethical values since our establishment in 1900. The values, which guide our approach to ethics, are embedded within the University’s Charter, Statutes, Ordinances, Regulations, Codes of Practice and Policies (“University Legislation”).

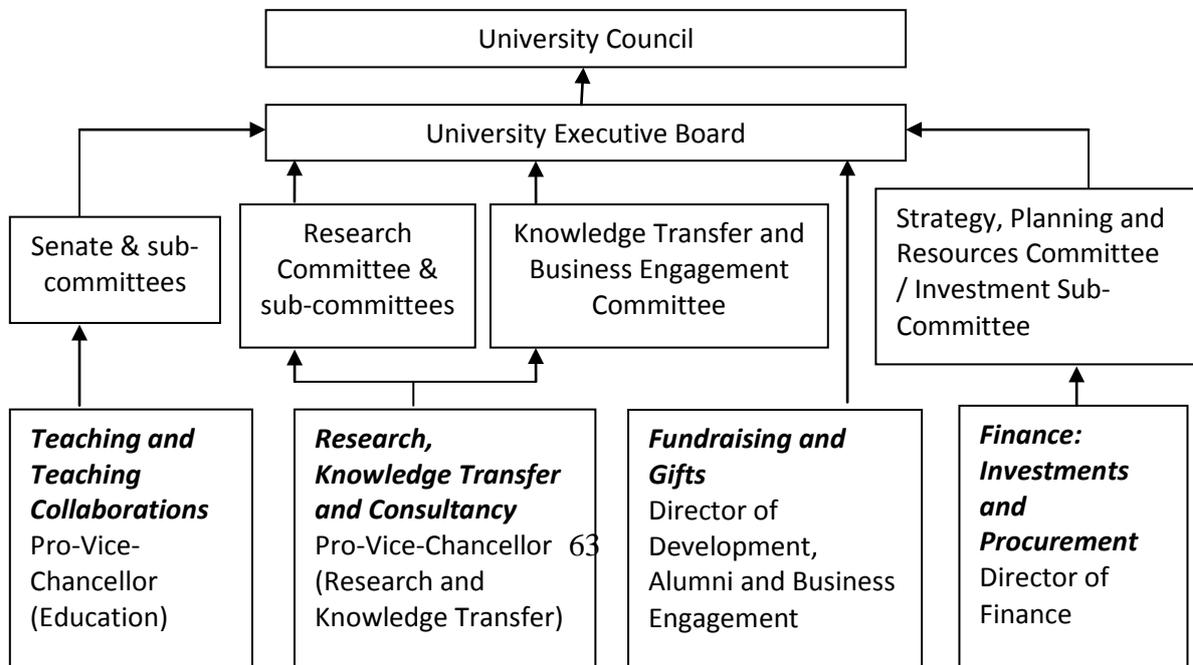
The University Legislation encompasses well-established ethical policies and procedures relating to our core activities of teaching, research, knowledge transfer, fundraising, investments and procurement. These are kept under regular review. In light of the Woolf Report regarding events at the London School of Economics, a review of our overall approach to ethics was undertaken. This review concluded that a Code of Ethics should be produced to draw together the University’s existing ethical policies in these core areas of activity in a single overarching document. This document is that Code.

### The Code of Ethics structure

This Code of Practice is designed to provide an accessible, overarching guide to ethical conduct which is grounded in four core activities: teaching, research and knowledge transfer, fundraising and gifts, and finance (investments and procurement). This Code outlines the approach for each of these areas and gives links to more detailed information, including: related policies, procedures, guidance documents, and point of contact for initial enquiries.

The University’s Executive Board (“UEB”) has an over-arching responsibility to Council to keep this Code under review. However, for each of the four areas, detailed ethical matters and processes, including the detailed consideration of ethical cases, rest with the University committees and sub-committees listed below:

Figure 1: Governance structure within this Code of Ethics



A member of the University's senior leadership is responsible for ethical issues in each of the four areas (as per Fig.1). Their responsibilities include:

- Management, implementation and communication of ethical policies and procedures;
- Ensuring due diligence is undertaken on ethical issues;
- Escalating ethical issues within the University through to the relevant committees (including UEB on particularly difficult issues);
- Ensuring appropriate training is undertaken on ethical issues; and
- Keeping the ethical policy and procedures in their area under review and bringing forward any changes for approval.

The University recognises that ethical queries can arise in a variety of circumstances. In most instances, ethical matters can be dealt with through one of the four areas. A contact is given later in the Code for each area, who can be approached for advice on how to deal with a particular issue.

It is the responsibility of all members of the University to act ethically. If in doubt about how to resolve an ethical dilemma, the following guidance for individuals on decision-making will help form the basis for good ethical behaviour.

Approved by Council  
26th June 2013

Revised by Council  
2nd July 2014

## The Code of Ethics in Practice

In addition to the processes outlined in this Code for ethical issues within the core activity areas, every member of the University is expected to act with integrity in their work. Good ethical conduct is not an isolated response to a specific problem but the process of making effective choices from day-to-day.

When dealing with a situation with ethical implications, you should consider the following questions and guidance:

*Are you confident that your decision is the correct action?*

- Could you happily justify your behaviour to your manager or a colleague or friend if asked?
- What would your actions look like if publicised in the media?
- What could go wrong as a result of your decision for you, your colleagues (staff and students), other stakeholders or the wider University?

Another perspective can often help to determine the way forward. So, if you are concerned, postpone any action until you have obtained further advice. Talk to your Line Manager and discuss the situation.

*Is it your decision to make?*

It is not feasible for an individual to be an expert in every single field of activity. Please check this Code of Ethics and the University's website to see if there is a specific policy or guidance that relates to your enquiry. It should not be assumed that there is no policy in place.

Where a policy does exist, please direct the enquiry to the appropriate contact specified in the policy document to take forward. If in doubt, please contact the University Officer highlighted in each core activity section in this Code as the first point of enquiry for ethical issues in that area.

*Handling complex ethical questions*

Individuals with complex ethical questions that cannot be addressed through the guidance and discussion with the relevant contacts should refer to their Line Manager or Supervisor in the first instance. If, due to the nature of the issue, it is still unclear what next steps should be taken then the Registrar's Office should be contacted to provide advice on the appropriate individuals to consult.

If having been through the processes and links to the relevant University documents in this Code, and consulted with the appropriate individuals, the ethical issue is not covered by the University's Legislation, policies or procedures then the [Code of Practice on Public Interest Disclosure and Whistleblowing](#) is available.

This University Code of Ethics will be available: on the University's website, to all new employees as part of the induction process, to all students and third parties upon request.



## **1 Teaching and Teaching Collaborations**

The University Senate has a general responsibility to the University Council for regulating teaching, including examining and the award of University qualifications. In practice, detailed ethical aspects of teaching are delegated to other University committees, notably Senate sub-committees, such as the Collaborative Provision Committee. The senior member of University staff responsible for ethical matters in teaching and teaching collaborations is the Pro-Vice-Chancellor (Education).

### **1.1 Promoting equality**

Birmingham is committed to an inclusive learning environment that enables students to reach their full potential, in accordance with the University's Legislation and its [Equality Scheme 2011-2015](#). This accords with the duties under the Equality Act 2010 to treat students, staff and visitors to the University with dignity and respect, not to unlawfully discriminate as set out in the Equality Act, and to promote good campus relations and equal opportunities.

### **1.2 Fair admissions**

Birmingham was England's first civic university where students were accepted on academic merit regardless of religion, race, gender or background. This is enshrined in the University Charter. The Senate has overall responsibility for ensuring fair access to the University and ethical issues relating to admissions are resolved through the [Code of Practice on the Admission of Students](#), which includes a review process.

### **1.3 Academic quality and progression**

The University is committed to excellent scholarship on the basis of academic integrity, honesty and respect for the intellectual activity of others. Our education is supported by the work of the Quality Assurance Committee and the Programme Approval Committee, which report to Senate. The ethical aspects of programmes are considered as part of the Programme approval process.

Students' academic progression is based on academic achievement. Student scholastic work is expected to demonstrate a level of independent thought and the provision of clear referencing to all sources consulted. The University reserves the right to use all legitimate means at its disposal to detect plagiarism wherever it arises and to take the appropriate action in response to the identification of any misconduct (please refer to the [Code of Practice on Plagiarism](#) for full details of this process). Guidance, in respect to plagiarism and other forms of academic misconduct, is available through Schools and the [Academic Services website](#).

### **1.4 Student feedback and representation**

The University's system for student representation and feedback encourage students to become responsible partners in their education, providing them with opportunities for active involvement in, and ownership of, their learning. Elected Student Representatives from all subject areas, undergraduate and postgraduate, are given responsibility for reporting on student issues within their subject to University staff and to the Guild of Students. This allows ethical concerns regarding the subject or method of teaching to be raised at an early stage and at the appropriate level. The respective responsibilities and expectations are clarified in the [Student Charter](#).

### 1.5 Teaching collaboration

The Collaborative Provision Committee carefully scrutinises and, where appropriate, approves academic collaborations with other universities and organisations which support the University's strategic aims and bring benefits to those involved, and are not discriminatory. Due diligence is explicitly carried out with regard to collaboration provision arrangements in order to ensure they are equivalent in quality and standards (student experience as well as academic content) to comparable awards delivered solely by the University, and are compatible with any Quality Assurance Agency (QAA) or other relevant benchmark standards. Ethical issues involving teaching collaborations are considered as part of this process.

For more details on Teaching and Teaching Collaboration, please see

- [Academic Services Codes of Practice, Policies and Guidance](#)
- [Code of Practice on Admission of Students](#)
- [Equality Scheme 2011-2015.](#)
- [Code of Practice on Plagiarism](#)
- [Code of Practice for Research](#)
- [Code of Practice on Freedom of Speech on Campus](#)
- [Data Protection Policy](#)
- [General Conditions of Use of Computing and Network Facilities](#)
- [Student Charter](#)
- [Policy on Collaborative Provision](#)
- [Fairness and Diversity Policy](#)
- [Safeguarding Children and Young People Policy](#)
- [Anti-Bribery and Corruption Policy](#)
- [Information Security Policy](#)

Please contact the [Director of the Registry](#) if there are any questions that cannot be addressed through the policies above.

## **2 Research, Knowledge Transfer (KT) and Consultancy**

The University Research Committee maintains oversight of ethical issues in research, primarily through the Research Governance and Ethics Group (RGEG). In turn, RGEG coordinates and receives reports from specialist subject Ethical Review Committees, BERSC (which covers animal research), the Clinical Trials Oversight Committee, and the Human Tissue Act Coordination Group: bodies which undertaken detailed consideration of ethical cases relating to aspects of research.

‘Knowledge Transfer’ occurs in many forms throughout the University and University ethical matters in this field are overseen by the Knowledge Transfer and Business Engagement (KT&BE) Committee. Ethical activities relating to development and commercialisation of intellectual property, personal academic consultancy and spin out companies are channelled through the University’s wholly owned subsidiary company, Alta Innovations Limited. Alta Innovations Limited’s ethical policies and processes are aligned to the University’s Legislation.

The senior member of University staff responsible for ethical matters in research, KT and consultancy is the Pro-Vice-Chancellor (Research and Knowledge Transfer), who chairs the Research Committee, Knowledge Transfer and Business Engagement Committee, and also attends the Alta Innovations Board.

### **2.1 Academic freedom**

Academic Freedom is an important consideration in ethical matters relating to research. The institutional commitment to academic freedom is enshrined in the University legislation: *“To ensure that members of 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 job or privileges.”*

### **2.2 Original, significant and rigorous research**

The conduct of research is covered by the University’s [Code of Practice for Research](#). Staff must be honest, accountable and lawful in respect of their own research as well as that of their students and others working with them on research. Responsible ethical conduct is expected in all aspects of research including applying for funding, experimental design, generating and analysing data, using equipment and facilities, publishing results, and acknowledging the direct and indirect contribution of colleagues, collaborators and others.

All research is required to undergo the appropriate research ethics review process. For staff and postgraduate students, this process is managed by the relevant specialist subject Ethical Review committees reporting into RGEG. This approach promotes best research practice, takes account of subject-specific issues, and secures the interests and welfare of research participants, researchers and other stakeholders.

Where research falls within specific regulatory and legislative frameworks (e.g. the Department of Health Research Governance Framework, the Human Tissue Act 2004, the Medicines for Human Use (Clinical Trials) Regulations 2005, or the Animals (Scientific Procedures) Act 1986), staff and students are required to comply with the relevant regulatory requirements and the University’s specific ethical processes managed by specialist committees which report into RGEG. Staff and students affected by these requirements should contact the [Research Governance and Ethics Team](#) for support in the first instance.

### 2.3 Legal and financial protection

Staff must ensure that all externally funded research and KT activities are administered through the correct University channels, and locally based College Research Support Offices are positioned to guide and support academic colleagues through these procedures. This critical step ensures that all externally funded activity is safely established with the relevant legal and financial protection for all parties.

The central Research Support Group (including Contracts, Research Finance, and Research Governance and Ethics teams) is responsible for approving all financial and contractual agreements relating to University research and knowledge transfer activities as appropriate. Alta Innovations Ltd supports personal consultancy, IP licensing and spin out activities.

### 2.4 Personal consultancy and outside activities

Academic staff wishing to engage in outside activities (e.g. personal consultancy) must first obtain authority to do so from their Head of School and provide such information as required to enable a decision on this matter to be made. The details of this process are set out in the University's [Outside Activities Policy](#).

Individuals are expected to consider their integrity and accountability as an employee of the institution before submitting requests to undertake private work. Particular note will be taken of the University's [Protocols on Conflicts of Interest](#).

### 2.5 Business Engagement

The Pro-Vice-Chancellor (Research and KT) is the senior member of staff responsible for ethical review of Business Engagement, Prior to signing a contract for a partnership with business, a due diligence process is conducted by Development, Alumni and Business Engagement (DABE) using ethical review criteria. There is an escalation process via the Pro-Vice-Chancellor (Research and KT) and very difficult ethical cases shall be escalated to Council via the University Executive Board. Following ethical approval, external funding from business must have an approved funders' code allocated prior to signing of any contract. The University has already carried out due diligence on a significant number of companies. However, it may be necessary for due diligence to be undertaken where this has not already been put in place for a particular business.'

For more information relating to Research and Knowledge Transfer, please see the following related documents:

- [Code of Practice for Research](#)
- [Outside Activities Policy](#)
- [Research Ethics Review process](#)
- [Research Ethics Resources](#)
- [Use of Animals in Research Policy](#)
- [Use of University Assets for Non-Charitable Purposes](#)
- [Alta Innovations Ethical Review Process & Guidelines](#)
- [Data Protection Policy](#)
- [Environment Policy](#)
- [Information Security Policy](#)
- [General Conditions of Use of Computing and Network Facilities](#)
- [Code of Practice for Staff on Plagiarism](#)
- [Safeguarding Children and Young People Policy](#)
- [Protocols on Conflicts of Interest](#)
- [Code of Practice on Freedom of Speech on Campus](#)
- [Standard Operating Procedure for Clinical Trial Management](#)

Please contact the [Research Governance and Ethics Manager](#) if there are any questions that cannot be addressed through the policies above.

### 3 Fundraising and Gifts

The University Executive Board (UEB) has oversight of fundraising and gifts and very difficult ethical cases in this area can be escalated to Council. The senior member of University staff responsible for ethical matters in fundraising and gifts is the Director of Development, Alumni and Business Engagement.

#### 3.1 All gifts to the University of Birmingham should be directed and processed by the Development, Alumni and Business Engagement team

All potential donors and donations — regardless of the potential gift amount — should be discussed with the Director of Development, Alumni and Business Engagement or their nominee at the earliest possible stage and before any donation is accepted.

Due diligence will be undertaken in respect of all single gifts greater than £99,999 and/or where the total value of donations amounts to more than £500,000. Potential reputational risks that result from negative public perception will be considered.

#### 3.2 All donations will be used to support the educational mission of the University

The University of Birmingham is an ‘exempt’ educational charity (essentially this means exempt from registration with the Charity Commission), whose principal charity regulator is the Higher Education Funding Council for England (HEFCE). The University is required to comply with general charitable law, and to act within its objects for the advancement of education (which includes matters such as research, knowledge advancement and dissemination, and scholarships).

#### 3.3 Transparent and responsible fundraising

The [Donor Charter & Ethical Guidelines for Fundraising](#) are publically available on the University website. This policy ensures that all gifts are in accordance with the University’s mission and standards.

Every effort will be made to respond to donor’s requests in terms of the mode, frequency and availability of information from the University. Any donor records maintained by the University are kept confidential to the greatest extent possible. Donors have the right to see their own donor record, and to challenge its accuracy. The University will not sell either its donor or alumni lists.

#### 3.4 Management of the gift

Donors accept that the management, and governance of programme and/or activities funded through philanthropy, rests solely with the University.

For more details on Fundraising and Gifts, please see the following related documents:

- [Donor Charter & Ethical Guidelines for Fundraising](#)
- [Key Charitable Information on the University of Birmingham](#)
- [Register of Gifts and Hospitality](#)
- [Protocols on Conflicts of Interest](#)
- [Anti-Bribery and Corruption Policy](#)
- [Use of University Assets for Non-Charitable Purposes](#)
- [Data Protection Policy](#)
- [Information Security Policy](#)

Please contact the [Development, Alumni and Business Engagement team’s Head of Data and Business Intelligence](#) if there are any questions that cannot be addressed through the policies above.



#### **4 Finance: Investments and Procurement**

General oversight of ethical issues in University finance is the responsibility of the Strategy, Planning and Resources Committee of Council. It is supported by an Investment Sub-Committee, which is responsible for detailed matters of investment and considers the ethical implications of such choices. The senior member of University staff responsible for ethical issues in finance is the Director of Finance.

The University of Birmingham uses our funds in alignment with our charitable status and ethical principles.

##### **4.1 Honest and transparent business operations**

It is University policy that all staff, students and agents working on behalf of the University conduct business without the use of corrupt practices or acts of bribery to obtain an unfair advantage.

All staff, members of Council and University committees are required to recognise and declare activities or circumstances that might give rise to conflicts of interest or the perception of conflicts as it first arises (these declarations are retained on the University's Register of Interests), and to ensure that such conflicts are seen to be properly managed. Discussions should be held with the individual's Line Manager or Supervisor where questions exist.

It is an offence under the Bribery Act 2010 for members of staff, student or University committees to accept, offer or give corruptly any gift or consideration (including hospitality) as an inducement or reward. Giving or receiving gifts, entertainment or hospitality in matters connected with University business is acceptable provided they fall within reasonable bounds of value and occurrence and are registered in accordance with the [Gifts and Hospitality Policy](#). All members of the University community must risk assess the vulnerability of their activities to accusations of bribery and corruption, particularly overseas activities, on a continuous basis. Concerns should be raised in accordance with the University's [Anti-Bribery and Corruption Policy](#).

##### **4.2 Socially Responsible Investment.**

The University's Investment Sub-Committee reviews the institutional financial investment policy and underlying strategy on an annual basis and takes ethical considerations into account in making investment decisions.

As an educational charity, the University must be mindful of securing the effective use of its funds to ensure its financial sustainability. The University's investment policy excludes direct investment by/in the tobacco industry.

##### **4.3 Procurement**

Expenditure of University funds must be administered with the highest levels of probity and transparency with all parties responsible for securing the best value for money in purchases. To our best endeavours, the University ensures that our chosen suppliers also abide by standards of ethical conduct that satisfy our requirements and are in line with our [Sustainable Procurement Policy](#).

The Procurement Office undertakes due diligence, which includes consideration of reputational and ethical considerations as part of the contracting process, raising issues with the Director of Finance as necessary.

For more details on Finance: Investments and Procurement, please see the following related documents:

- [Manual of Financial Rules](#)
- [Sustainable Procurement Policy](#)
- [Code of Practice on Corporate Governance](#)
- [Anti-Bribery and Corruption Policy](#)
- [Gifts and Hospitality Policy, including the Register of Gifts](#)
- [Guidance on use of University assets for non-charitable purposes](#)
- [Alta Innovations due diligence on investors/associates processes](#)

Please contact the [Deputy Director of Finance \(Accounting Division\)](#) if there are any questions that cannot be addressed through the policies above.