

## STANDING ORDER 2: Appointment, suspension and dismissal of colleagues<sup>1</sup>

### 1. INTRODUCTION

- 1.1. The Court of Governors ('the Court') is responsible for "*the appointment, assignment, grading, suspension, dismissal and determination of the pay and conditions of service of the 'holders of senior posts'*"<sup>2</sup>.
- 1.2. The Vice-Chancellor and President ('the Vice-Chancellor') is responsible for "*the appointment, assignment, grading, suspension, dismissal and determination of pay and conditions of service of all staff other than the holders of senior posts within the framework established by the Court of Governors*"<sup>3</sup>.
- 1.3. The Court has the power to delegate certain of its powers; the Court shall not delegate "*the appointment of the Vice-Chancellor and President*"<sup>4</sup>.
- 1.4. It is a duty of the Court to make standing orders relating to the conduct of staff; procedures for affording to members of staff the opportunity to seek redress of any grievance relating to their employment; suspension or dismissal of members of staff and appeal against such suspension or dismissal<sup>5</sup>.
- 1.5. This standing order was formally approved by resolution of members on 22 November 2017 and is amended by agreement of the Court thereafter.

### 2. PURPOSE AND SCOPE

- 2.1 The purpose of the standing order is to:
  - (i) identify the policies and procedures that form the rules made by the Court in relation to appointment, grievance and discipline for colleagues other than the 'holders of senior posts';
  - (ii) determine any 'holders of senior posts' additional to those listed in the Articles;
  - (iii) confirm the process for the appointment of 'holders of senior posts';
  - (iv) explain how the Court and, where relevant, the University will deal with situations where the conduct or behaviour of 'holders of senior posts' falls below the required standards;
  - (v) confirm the process for the appointment of the Clerk to the Court ('the Clerk') and the Company Secretary;

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<sup>1</sup> Throughout the document 'colleagues' and/or 'staff' refer to all employees of the University of Westminster

<sup>2</sup> Paragraph 15.1.7, Articles of Association (May 2021)

<sup>3</sup> Paragraph 27.1.4, Articles of Association (May 2021)

<sup>4</sup> Paragraph 17.2.4, Articles of Association (May 2021)

<sup>5</sup> Paragraph 17.1.5, Articles of Association (May 2021)

- (vi) explain how the Court and, where relevant, the University will deal with situations where the conduct or behaviour of the Clerk or the Company Secretary falls below the required standards; and
- (vii) designate certain post-holders to whom the Vice-Chancellor, with the prior approval of the Court, may delegate the power to suspend or dismiss any colleague other than the 'holder of a senior post', the Clerk and the Company Secretary.

- 2.2 Unless specifically provided otherwise, where more than one post-holder is listed each post-holder may act individually.
- 2.3 Grading and the determination of the pay and conditions of service are outside the scope of this standing order. For information on these responsibilities please refer to Standing Order 4: Committee structure, terms of reference and protocols.

### **3. POLICIES AND PROCEDURES FOR THE APPOINTMENT OF COLLEAGUES**

- 3.1. Full guidance on the process for recruitment and selection of colleagues and links to the relevant important policies are available on the intranet.

### **4. GRIEVANCE AND DISCIPLINARY POLICIES AND PROCEDURES (GENERAL)**

- 4.1 The Court will make rules, to be outlined in the Grievance policy and procedure, to establish a fair and transparent process for all colleagues to obtain timely resolution to concerns or problems relating to their employment.
- 4.2 The Court will make rules, to be outlined in the Disciplinary policy and procedure, to deal with situations where the conduct or behaviour of colleagues other than 'holders of senior posts' falls below the required standards. The Disciplinary policy and procedure provides rules in respect of suspension and dismissal of colleagues. In specific circumstances, this is supplemented by other policies such as the Redundancy policy and the Capability policy.
- 4.3 'Holders of senior posts' are excluded from the University's Disciplinary policy and procedures. Except for the specific provisions stated in this standing order, the disciplinary policy and procedures for 'holders of senior posts' will equate to the Disciplinary policy and procedure for other colleagues.

### **5. DEFINITION AND DETERMINATION OF HOLDERS OF SENIOR POSTS**

- 5.1 Holders of senior posts are defined in Paragraph 1.1 of the Articles as the Vice-Chancellor and President, the Deputy Vice Chancellor/s, University Secretary and Chief Operating Officer and the holders of such other senior posts as the Court of Governors may from time to time determine.
- 5.2 The Court of Governors may resolve to change the title of any post-holder detailed in the Articles and if such resolution is passed the relevant provisions of the Articles shall be deemed to apply to the renamed post holder, unless the Court of Governors resolves otherwise<sup>6</sup>.
- 5.3 The Court determines that, in relation to the Articles, and in addition to those defined in Paragraph 1.1 of the Articles, Deputy Vice-Chancellors are 'holders of senior posts':
- 5.4 Where a role determined as the 'holder of a senior post' is appointed on a temporary basis, the interim post-holder is not a 'holder of a senior post' under the Articles<sup>7</sup>.

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<sup>6</sup> Paragraph 1.4, Articles of Association (May 2021)

<sup>7</sup> Paragraph 1.1, Articles of Association (May 2021)

## **6. APPOINTMENT OF HOLDERS OF SENIOR POSTS**

- 6.1 The Governance and Nominations Committee is responsible for plans for succession and appointment of the 'holders of senior posts'.<sup>8</sup> Colleagues in Human Resources ('HR') will advise the Committee; advice may, inter alia, include the timing and scope of the search, equality and diversity in the search and interview process, the format of the interview, and membership of the appointment panel.
- 6.2 The process to recruit the 'holder of a senior post' will usually include a search and interview undertaken by a panel assisted by colleagues in HR; the Governance and Nominations Committee will agree membership of the panel.
- 6.2.1 As a minimum, the Chair of the Court ('the Chair') (or their nominee) will usually represent the Court on the panel.
  - 6.2.2 The Vice-Chancellor or a Deputy Vice-Chancellor will usually be a member of the panel.
  - 6.2.3 For the avoidance of doubt, the panel shall not consist of all members of the Court or just members of the Court and may include persons who are neither a member of the Court nor a colleague at the University.
  - 6.2.4 The panel will propose a preferred candidate to the Governance and Nominations Committee who will make a recommendation to the Court for approval.
- 6.3 Where HR consider that an alternative process is appropriate they will make a recommendation to the Governance and Nominations Committee for approval. Where a role determined as the 'holder of a senior post' is to be appointed on an acting or interim basis, it is expected that a proportionate process will be used.

## **7. ASSIGNMENT OF RESPONSIBILITIES FOR 'HOLDERS OF SENIOR POSTS'**

- 7.1 The assignment of responsibilities is defined with a job description.
- 7.2 The Court is responsible for the assignment of responsibilities for the Vice-Chancellor. The Court will be assisted by colleagues in HR in the production and evaluation of the job description.
- 7.3 The Court delegates to the Vice-Chancellor assignment of responsibilities for 'holders of senior posts' other than the Vice-Chancellor. The Vice-Chancellor will be assisted by colleagues in HR in the production and evaluation of job descriptions.

## **8. SUSPENSION OF 'HOLDERS OF SENIOR POSTS'**

- 8.1 The Chair, or in the absence of the Chair a Deputy Chair to the Court ('a Deputy Chair')<sup>9</sup>, may suspend a Vice-Chancellor from duty, with pay, for misconduct or other good and urgent cause. The Chair shall report such suspension in writing to the Court within two working days or as soon thereafter as is practicable.
- 8.2 On suspension of a Vice-Chancellor a Deputy Vice-Chancellor nominated by the Chair to the Court will usually assume the role of Interim Vice-Chancellor.

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<sup>8</sup> Governance and Nominations Committee Terms of Reference

<sup>9</sup> For the remainder of this document references to the Chair include a Deputy Chair that has acted in the absence of a Chair. If a Deputy Chair acts through delegated authority of the Chair in any procedure, they will undertake the responsibilities of the Chair throughout and must not undertake any responsibilities of a Deputy Chair within the procedure

- 8.3 The Vice-Chancellor or the Chair may suspend 'holders of senior posts' from duty, with pay, for misconduct or other good and urgent cause. The Vice-Chancellor or Chair shall report such suspension in writing to the Court within two working days or as soon thereafter as practicable.
- 8.4 The post-holder shall be entitled to receive from the Vice-Chancellor or Chair written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.
- 8.5 Suspension on full-pay is not considered a disciplinary sanction and does not imply that the outcome of the investigation or hearing has been pre-determined. Suspensions will be kept under review and every effort will be made to ensure that the suspension is not unnecessarily protracted.

## **9. DISMISSAL OF 'HOLDERS OF SENIOR POSTS'**

### **Dismissal of 'holders of senior posts' other than a Vice-Chancellor**

- 9.1 The Court delegates dismissal of 'holders of senior posts', except for a Vice-Chancellor, to a Special Committee of the Court ('the Special Committee').
- 9.2 If the Vice-Chancellor or the Chair consider that it may be appropriate for the Court to dismiss a 'holder of a senior post' other than a Vice-Chancellor, the Vice-Chancellor or Chair shall refer the matter to the Special Committee, which shall be convened as soon as practicable to examine the facts and otherwise investigate the grounds for potential dismissal.
- 9.3 The Special Committee shall consist of three independent members of the Court. The allocation of members to the Special Committee shall be agreed by the Court<sup>10</sup> and shall not include the individual that made the referral.
- 9.4 The Chair of the Special Committee may prepare an investigation report. The Chair of the Special Committee may consider it necessary to appoint an Investigation Officer to carry out an investigation prior to the hearing.
- 9.5 The post-holder shall have the right to make representations to the Special Committee, including oral representations for which they may be accompanied and represented by a friend or an accredited trade union official. Legal representation is not permitted at any meeting of the Special Committee.
- 9.6 The post-holder will receive in writing prior to the hearing the following information:
- The date, time and location of the hearing
  - The nature of the allegation(s)
  - The name of the governor chairing the hearing
  - Confirmation of the right to be accompanied at the hearing
  - Confirmation that an HR representative will attend the hearing
  - The investigation report (in complex cases)
  - Any other supporting documents or information, as decided by the Chair of the Special Committee
- 9.7 The Special Committee shall take such action as it considers appropriate, which may include the dismissal of the post holder.
- 9.8 The Court shall make rules for the conduct of the Special Committee and for the procedures to be followed.
- 9.9 Subject to the terms of this standing order, the Chair of the Special Committee has full discretion to give or make any directions, arrangements or decisions as they deem necessary for the prompt dealing with the disciplinary issue.

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<sup>10</sup> The membership of any Special Committee referred to in this standing order may be agreed by email for expediency

- 9.10 The post-holder has a right of appeal to the independent members of the Court, with the exclusion of those on the Special Committee. Ordinarily, the independent members shall restrict themselves to a review as to whether the decision to dismiss was reasonable, as opposed to a reconsideration of the decision itself. The independent members have the right to uphold or overturn the dismissal, and to apply lesser or greater sanctions if deemed appropriate. The decision of the independent members shall be final.
- 9.11 Where a role appointed on an acting or interim basis has been determined as the 'holder of a senior post', and HR consider that an alternative process is appropriate, they will make a recommendation to the Governance and Nominations Committee for approval.

#### **Dismissal of a Vice-Chancellor**

- 9.12 The Court delegates dismissal of a Vice-Chancellor to the Chair of the Court.
- 9.13 If the Chair considers it may be appropriate to dismiss a Vice-Chancellor, the Chair shall refer the matter to a Special Committee of the Court ('the Special Committee'), which shall be convened as soon as practicable to examine the facts and otherwise investigate the grounds for dismissal.
- 9.14 The Special Committee shall consist of three independent members of the Court, one of whom shall, where possible, be a Deputy Chair. The allocation of members to the Special Committee shall be agreed in advance by the Court and shall not include the Chair.
- 9.15 The Special Committee shall recommend to the Chair such action as it considers appropriate, which may include dismissal. The Chair shall consider the recommendation of the Special Committee and shall take such action as they consider appropriate, which may include dismissal.
- 9.16 The Court shall make rules for the conduct of the Special Committee and for the procedures to be followed. Generally, the Special Committee will follow the University's normal rules for disciplinary panels.
- 9.17 Subject to the terms of this standing order, the Chair of the Special Committee has full discretion to give or make any directions, arrangements or decisions as they deem necessary for the prompt dealing with the disciplinary.
- 9.18 The Chair shall inform the Court of the instruction for a Special Committee to be convened; the recommendations of the Special Committee; and, within two working days of receipt of the recommendations, the decision taken regarding dismissal.
- 9.19 A Vice-Chancellor has a right of appeal to a committee of the Court convened for the purpose ('the Appeal Committee'). The Appeal Committee shall consist of three independent members of the Court, one of whom shall, where possible, be a Deputy Chair. The allocation of members to the Appeal Committee shall be agreed in advance by the Court and shall not include the Chair or any members of the Special Committee. Ordinarily, the Appeal Committee shall restrict itself to a review as to whether the decision to dismiss was reasonable, as opposed to a reconsideration of the decision itself. The Appeal Committee has the right to uphold or overturn the dismissal, and to apply lesser or greater sanctions if deemed appropriate. The decision of the Appeal Committee shall be final.
- 9.20 Colleagues in HR and the University's lawyers will provide support during the process to the Chair, members of a Special Committee, members of an Appeal Committee and independent members of the Court.

## **10. APPOINTMENT OF THE CLERK AND THE COMPANY SECRETARY**

### **Appointment of the Clerk**

- 10.1 The Court has responsibility for the appointment of a Clerk<sup>11</sup>.
- 10.2 The process to recruit the Clerk will usually include an interview undertaken by a panel with membership agreed by the Court. The Chair of the Court (or their nominee) will usually represent the Court on the panel. The University Secretary and Chief Operating Officer (USCOO) will usually be a member of the panel. The panel will be assisted by colleagues in HR.
- 10.3 The panel will propose a preferred candidate to the Governance and Nominations Committee who will make a recommendation to the Court for approval.
- 10.4 The Clerk shall have a dual reporting line – operational line management will be undertaken by the USCOO (or nominee) with a separate and direct reporting line to the Chair of the Court. The USCOO has leadership responsibility for the University's governance and regulatory frameworks, and as such has executive oversight of the work of the Clerk. In the event of a governance breakdown, the USCOO will undertake independent and direct communication at senior levels with the Office for Students.

### **Appointment of the Company Secretary**

- 10.5 Subject to the provisions of the Companies Act 2006, the Court may or may not appoint a Company Secretary<sup>12</sup>.
- 10.6 The Court determines that the Company Secretary shall normally be appointed for an indefinite period that will end when the individual resigns or retires or is suspended or dismissed from their substantive role.
- 10.7 The Company Secretary shall have a dual reporting line – operational line management will be undertaken by the Vice-Chancellor (or nominee) with a separate and direct reporting line to the Chair of the Court.
- 10.8 The Court agreed on 6 June 2018 to appoint the USCOO to the role of Company Secretary.

## **11. DISCIPLINARY POLICY AND PROCEDURES FOR THE CLERK AND COMPANY SECRETARY**

- 11.1 With the exception of the specific provisions for dismissal specified in paragraphs 11.2 to 11.12 below the Clerk and Company Secretary are subject to the University's Disciplinary policy and procedures.
- 11.2 The Court delegates dismissal of the Clerk and the Company Secretary to a Special Committee of the Court ('the Special Committee').
- 11.3 If the USCOO (or the line manager nominated under paragraph 10.4) or the Chair of the Court considers that it may be appropriate for the Court to dismiss the Clerk, the USCOO (or the nominated line manager) or the Chair shall refer the matter to the Special Committee, which shall be convened as soon as practicable to examine the facts and otherwise investigate the grounds for potential dismissal.
- 11.4 If the Vice-Chancellor (or the line manager nominated under paragraph 10.7) or the Chair consider that it may be appropriate for the Court to dismiss the Company Secretary, the Vice-Chancellor (or the nominated line manager) or the Chair shall refer the matter to the Special Committee, which shall be convened as soon as practicable to examine the facts and otherwise investigate the grounds for potential dismissal.

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<sup>11</sup> Paragraph 28, Articles of Association (May 2021)

<sup>12</sup> Paragraph 29, Articles of Association (May 2021)

- 11.5 The Special Committee shall consist of three independent members of the Court. The allocation of members to the Special Committee shall be agreed by the Court and shall not include the individual that made the referral.
- 11.6 The Chair of the Special Committee may prepare an investigation report. The Chair of the Special Committee may consider it necessary to appoint an Investigation Officer to carry out an investigation prior to the hearing.
- 11.7 The post-holder shall have the right to make representations to the Special Committee, including oral representations for which they may be accompanied and represented by a University colleague or an accredited trade union official.
- 11.8 The post-holder shall receive in writing prior to the hearing the following information:
- The date, time and location of the hearing
  - The nature of the allegation(s)
  - The name of the governor chairing the hearing
  - Confirmation of the right to be accompanied at the hearing
  - Confirmation that an HR representative will attend the hearing
  - The investigation report (in complex cases)
  - Any other supporting documents or information, as decided by the chair of the Special Committee
- 11.9 The Special Committee shall take such action as it considers appropriate, which may include the dismissal of the post-holder. Dismissal of the post-holder in relation to the role of Company Secretary does not constitute dismissal from the post-holder's substantive role. The University may or may not undertake the usual disciplinary procedure in respect of the substantive role.
- 11.10 The Court shall make rules for the conduct of the Special Committee and for the procedures to be followed. Generally, the Special Committee will follow the University's normal rules for disciplinary panels.
- 11.11 Subject to the terms of this standing order, the Chair of the Special Committee has full discretion to give or make any directions, arrangements or decisions as they deem necessary for the prompt dealing with the disciplinary issue.
- 11.12 The post-holder has a right of appeal to the independent members of the Court, with the exclusion of those on the Special Committee. Ordinarily, the independent members shall restrict themselves to a review as to whether the decision to dismiss was reasonable, as opposed to a reconsideration of the decision itself. The independent members have the right to uphold or overturn the dismissal, and to apply lesser or greater sanctions if deemed appropriate. The decision of the independent members shall be final.
- 11.13 Where the role of Clerk or Company Secretary has been appointed on an acting or interim basis, and HR consider that an alternative process is appropriate, they will make a recommendation to the Governance and Nominations Committee for approval.

## **12. SUSPENSION AND DISMISSAL OF OTHER COLLEAGUES**

- 12.1 The Vice-Chancellor, or a colleague to whom with the prior approval of the Court they have delegated this power, may, with the exception of any specific provisions outlined in this standing order, suspend or dismiss any colleague and, if the Vice-Chancellor (or colleague with delegated authority) decides that the circumstances are such that they are entitled so to dismiss by virtue of the conduct of that colleague, that dismissal may take immediate effect without any need for prior notice.

- 12.2 Procedures for the suspension and dismissal of colleagues, and for the consideration of appeals against such dismissals, shall be specified in the policies and procedures<sup>13</sup> made from time to time by the Court after consultation with colleagues. The rules for dismissal should include rights of representation and the right to appeal.
- 12.3 The Court determines that the following post-holders have delegated authority from the Vice-Chancellor to suspend and dismiss colleagues; this excludes suspension and dismissal of 'holders of senior posts' who can only be suspended and dismissed according to the provisions in this standing order.
- 12.3.1 'Holders of senior posts' as designated in paragraph 5 above
  - 12.3.2 Heads of College
  - 12.3.3 Heads of School
  - 12.3.4 College and Research Institute Directors
  - 12.3.5 Associate Heads of College
  - 12.3.6 Colleagues within Professional Services at grade level two and above except for the Director of HR and Safety, Health and Wellbeing and the two Deputy HR Directors.<sup>14</sup>
- 12.4 If any of the posts to which the Vice-Chancellor has delegated the power to suspend or dismiss (including any 'holder of a senior post') is occupied by an agency worker or a consultant, the individual is not empowered to suspend or dismiss colleagues.

### **13. MONITORING AND REVIEW**

- 13.1 The Court will monitor this standing order and review its effectiveness annually. The standing order may be amended by the Court from time to time.

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<sup>13</sup> <https://universityofwestminster.sharepoint.com/:u:/r/sites/00274/SitePages/Policies-and-strategies.aspx?csf=1&web=1&e=ojjyWu>

<sup>14</sup> Court of Governors 28 November 2018, Minute 234.16.2