

# **Reform of the Academic Annex The School's Approach**

For the meeting 18th September 2012

## **1.0 Background**

The purpose of this paper is to provide UCU with further written information in line with the request it made at the meeting held with management representatives of the School on 4<sup>th</sup> September 2012.

For some time the School have been conscious that the Academic Annex, which contains the formal HR procedures applicable to staff in academic and research posts at LSE, is out-of-date.

In their current form some of the procedures in the Annex not only contravene best practice, but also employment law. Consequently, the Annex disadvantages both individual members of staff and the equitable and effective management of the School.

The School briefed UCU of its intention to reform the Academic Annex at the meetings of the JNICC in March and June 2012. Representatives from HR also held an informal meeting with UCU in the summer term.

Following the establishment of a steering group a proposed new academic annex and associated procedures have been drafted. These have been developed with input from not only the steering group but also the Schools external employment law advisers. These draft documents were issued to UCU in August for comment.

## **2.0 The Current Academic Annex**

The procedures covered in the Annex relate to grievances, discipline, ill health termination and redundancy at LSE. These stem from the Education Reform Act in the late 1980s, and are similar to those which have applied in many other chartered institutions in the sector.

The Academic Annex was adopted to implement the Education Reform Act, almost 25 years ago, when academic tenure was abolished, requiring a new procedural framework for the dismissal of academic staff. These "Model Statute" provisions reflected views at the time on the form and content of the relevant procedures, as well as the employment law framework which then existed.

By 2003, it was recognised that this framework was outdated and would benefit from reform. A Revised Model Statute was developed. The Privy Council also indicated its willingness to approve amendments to "Model Statute" procedures, including alternatives to the Revised Model Statute approach.

## **3.0 Summary Case for Change**

A number of institutions (such as King's College London, Imperial and other Russell Group institutions) have already updated the HR procedures contained in their statutes and ordinances (which is their equivalent of the School's Academic Annex). Others are currently working on similar projects.

At LSE, our concern is that the procedures are cumbersome, un-helpful in resolving employment issues in a reasonable timescale and not in line with current employment law.

Parts of the Annex refer to employment legislation that was repealed many years ago – a clear sign that the Annex needs to be brought up to date.

The current procedures under the Annex involve overly formal hearings, which are often adversarial in nature. This approach is often unsatisfactory and overly-confrontational for all involved, particularly in relation to grievance hearings. It does not promote the effective resolution of employment disputes and often simply serves to make resolution more difficult by entrenching positions. This is far from satisfactory.

If a grievance concerns a head of department, the matter goes straight to the Grievance Committee for consideration and there is no right of appeal against this committee's decision. This is incompatible with the ACAS Code of Practice which requires an appeal stage.

Under the Annex any performance issues are dealt with under the same procedure as misconduct or disciplinary offences. This is not a modern approach and reform of the Annex will allow the adoption of a specific and more appropriate procedure for dealing with performance concerns, with a focus on supporting improvements in performance.

While the ACAS Codes of Practice stress that issues should be dealt with without unreasonable delay, the procedures in the Annex make this very difficult to achieve. As well as being out of step with good practice and modern employment law requirements, this creates significant anxiety and stress for those involved in the procedures.

There is a clear conflict between processes set out in Part II of the Annex governing redundancy and with the requirements of unfair dismissal legislation. Indeed, if the processes in the Annex were followed to the letter, the School would not be legally compliant and dismissals would be unfair

The procedures set out for disciplinary action in Part III of the Annex fall well short of best practice, and indeed the relevant ACAS Code of Practice, in not enabling cases to be dealt with promptly and by requiring the Director to take decisions about dismissal without actually being involved in hearing the evidence in any disciplinary case

Part IV of the current Annex outlines the procedure to be followed by the School when contemplating the removal of an academic member of staff due to incapacity on medical grounds. The current procedure says little about what should happen before termination is contemplated. Furthermore, this procedure does not differentiate between recurrent short term sickness absence and long term sickness absence. This needs to be brought in line with good employment practice.

#### **4.0 *Proposed New Academic Annex and Procedures***

In developing the draft new Annex and the associated procedures the School has attempted to follow a number of key requirements. These are listed below;

- No change in the wording or status of the guiding principle of academic freedom
- Ensure single document containing key principles (i.e. new academic annex) with a set of new HR procedures that cover the key issues in detail that are fit for purpose now and for the foreseeable future
- Easy for academic colleagues (including those who may use the procedures) to follow and understand
- Follow good people management practice and ACAS guidelines
- Compliant with current employment law
- Allow matters to be dealt with in a timely and appropriate manner
- Allow for changes to be made to the actual wording of the procedures after consultation with the relevant trade union and agreement at Council.

So far the School has drafted the following proposed new procedures for staff in academic and research posts at the LSE; appeals, disciplinary, grievance, medical incapacity procedure, performance improvement, dismissal on grounds not covered by another specific policy,

redundancy and suspension. The key steps the School will follow are set out in the previously circulated timetable.

With the reform of the Academic Annex a full set of HR procedures would be adopted under the new Academic Annex, bringing all dismissal and grievance procedures under the scope of the Annex and oversight by Council.

There is no change to the status or wording of the guiding principle of academic freedom, which will apply to all of the proposed HR procedures adopted under the new Academic Annex.

The new procedures aim to allow disputes to be dealt with appropriately within the law but to remove elements which lead to protracted processes which have negative impacts for all involved.

A grievance procedure which does not involve adversarial hearings and so will help to avoid entrenching disputes between colleagues. The procedure allows an appeal stage in all cases and makes express reference to mediation.

A redundancy procedure which covers all academic staff, whether on indefinite or fixed term contracts and which retains the role of Council in determining whether redundancies linked to organisational change proposals should proceed. Unlike the current Academic Annex, the procedure also expressly covers collective consultation with the trade unions and ensures that individuals are consulted before decisions about redundancy dismissals are taken.

Performance cases will not be dealt with in the same way as disciplinary issues. This will create a framework which is focused on early identification of difficulties and interventions which are focused on securing performance improvements, with appropriate managerial support and reviews, rather than the current procedure under the Academic Annex which is focused on applying disciplinary sanctions and dismissal.

Clearer and more comprehensive procedures for managing issues relating to ill-health and medical incapacity at all stages. The Academic Annex provisions are only focused on the issue of dismissal, rather than constructive engagement on steps that can promote better attendance/returns to work and reasonable adjustments for disability.

A specific procedure governing suspension, and which allows for appeals against suspension.

## **5.0 Consultation with UCU and Next Steps**

The terms and conditions booklet states that the standard terms and conditions of employment relating to academic staff can be amended after consultation with the local UCU. A review of these conditions may be initiated either by the School or by UCU.

Consultation involves taking account of as well as listening to the views of staff and their trade union representatives prior to decisions being made. The School is committed to meaningful consultation with UCU regarding the reform of the Academic Annex and has established a body to undertake this function. The School will of course keep the JNICC separately updated on progress.

Having commenced formal consultation with UCU the School would like to receive comments on the wording contained in the proposed new Academic Annex and also the new procedures. Of course the School understands that UCU may wish to obtain external legal advice and asks that this be expedited.

The School requests that UCU consider the draft procedures previously circulated and provide the School with appropriate feedback for it to consider.