



MINUTES OF THE PROCEEDINGS  
of the fourth ordinary meeting of  
the  
**Trustee Board**  
of the  
Imperial College Union  
in the 2010-2011 Session

The meeting of the Trustee Board was held in meeting rooms 4&5 in the  
Union Building on Tuesday 12<sup>th</sup> June 2011 at 6.00pm

**Present:**

Lay Trustee - Chair	Julia Higgins (JH)
President	Alex Kendall (AK)
Council Chair	Jennifer Wilson (JW)
Court Chair	Hamish Common (HC)
Student Trustee	Jamie Henry (JLH)
Lay Trustee	Simon Maddison (SM)
Lay Trustee	Janet Rogan (JR)

**Permanent Observers**

Deputy President (Clubs & Societies)	Heather Jones (HJ)
Deputy President (Education)	Alex Dahinten (AD)
Deputy President (Finance & Services) & Student Trustee elect	Ravi Pall (DPFS)
Deputy President (Welfare)	Charlotte Ivison (CI)
ICU Honorary Senior Treasurer	Simon Archer (SA)
Governance and Administration Coordinator – Clerk	Rebecca Coxhead (RC)

**Apologies:** Student Trustee Melissa Lever (ML), Student Trustee Hoi Yeung (HY), Lay Trustee George Palvos (GP), Student Trustee Salman Waqar (SW), Operations Manager Robin Pitt (RP)

**Observers:** Finance Manager Mayuri Patel, ICSMSU President David Smith, Nathaniel Bottrell Student Trustee elect, Abdul Patel Trustee Board Student Trustee elect, Eugene Change Student Trustee elect, Scott Heath President elect, Monya Zard Deputy President (Clubs & Societies) elect, Jason Parmar, Deputy President (Education) elect, Nic Massie Deputy President (Welfare) elect

**1. CHAIRS BUSINESS**

NOTED:

- a) The Chair reported that she took Chairs Actions to not consider the appeal to Court which was requested.
  - i. After careful consideration of the report and evidence presented, the Chair detected nothing in them that warranted an appeal.

**2. MINUTES FROM LAST MEETING**

RECEIVED: Minutes from 17<sup>th</sup> May 2011

**RESOLVED:**

- 1) To accept the minutes as a true record of the last meeting.

### 3. MATTERS ARISING – none

*The agenda was rearranged to consider the agenda item 13 as the first items of business*

### 13. ICU AUDIT COMMITTEE

RECEIVED: The paper was presented by the Court Chair

NOTED:

- a) The committee should be non executive and undertake oversight and advisory functions.
- b) The Honorary Senior Treasurer should Chair the committee.
- c) The Finance Manager and Deputy President (Finance & Services) should report in to the committee.
- d) The logistics of meeting times and format will need to be decided upon.
- e) It was pointed that the Lay Trustees hold the expertise and experience to be able to analyse and comment on the information.
- f) The Board were in agreement that the Audit Committee should be set up as a subcommittee of the Trustee Board.
- g) The DPFS expressed his interest in sitting on the committee once it is created.

RESOLVED:

- 1) **To create the Audit committee as a subcommittee of the Imperial College Union Trustee Board. (see appendix i)**

### 4. CONSOLIDATED MANAGEMENT ACCOUNTS (April-June)

RECEIVED: The accounts were presented by the Finance Manager (MP)

NOTED:

- a) Overall the Union is £87k down for the year.
- b) The surplus reserves have been eroded away mostly due to the funding of the building redevelopment.
- c) Against budget, performance is dramatically down.
- d) Commercial Services are £10k down for the quarter.
  - i. The area has been without a Commercial Services Manager during this period which has had a knock on effect.
  - ii. A Commercial Services Manager has now been recruited.
  - iii. The budget was not reforecast after the late opening of Metric.
- e) Next year the budget will be reforecast at the 6 month mark.
- f) Staff payouts have been accounted for in Beit Office.
- g) The Strategic Review is an unbudgeted expense.
- h) Careers Fair did not bring in as much income this year as was planned for.
- i) The Chair questioned if it was prudent to be budgeting for contingency.
- j) MP stated that there are changes in Ents budgeting that will mitigate loss.
- k) JR stated that once the review of the Summer Ball comes to Trustee Board, then the board can see how they can help when things are 'going off keel'.
  - i. No risk assessment was produced for the ball
- l) The DPFS stated that currently the Finance team is working on month end and after that, they can assist with providing the figures for debrief for the Summer Ball.
  - i. An 'all student survey' is currently open at the moment to gauge feedback on the Summer Ball.
  - ii. The expectation for attendance was a lot higher than what actually eventuated.
  - iii. A Summer Ball debrief report will be reported to the next meeting of the Trustee Board which will be produced by the Deputy President (Finance & Services) and Deputy President (Finance & Services) elect.

**ACTION:**

1. **The Deputy President (Finance & Services) to assist in the preparation of a Summer Ball debrief report and the Deputy President (Finance & Services) to present this to the next meeting of the Trustee Board**

**5. PRESIDENTS REPORT**

RECEIVED: The report was presented by AK

**NOTED:**

- a) So far the strategic review has highlighted some very interesting points.
- b) Imperial College Union is different to other Universities in regards to the relationship with College.
- c) Short listing for the General Manager vacancy is currently taking place.
- d) The Union have received a flat subvention which essentially is a cut; taking in to account inflation.
- e) The 11/12 budget has been passed by Executive Committee.
  - i. The budget should be looked at by the Audit Sub Committee.
  - ii. The budget has been passed by the Executive Committee.
- f) In regards to Charity Registration, Jon Hancock has stated that College Solicitors will assist the Union in helping register.
  - i. The 11/12 End of Year accounts will be required to be presented in line with SORP reporting.
  - ii. It may be that a separate company will have to be set up for the commercial division of the Union.
  - iii. Although the Union will be a separate legal entity, it will still be a responsibility of College.
  - iv. It was requested that the Trustees need a better explanation of what they are being asked to sign.
  - v. It was suggested that a meeting with the College Solicitors could be set up to explain what are the exact roles and responsibilities of trustees and what the implications are once registered.
  - vi. The Finance Manager stated that she will arrange a meeting with the Solicitors.

**ACTION:**

1. **The Finance Manager to arrange for the solicitors to meet with the Trustee Board to discuss the implications of Charity Registration on them.**

- vii. The Court Chair stated that he is happy to help in this process even after he has stepped down as Court Chair.
- g) The Board moved to a vote and the report was passed unanimously.

**RESOLVED:**

- 1) **To pass the presented report.**

**6. OPERATION MANAGERS REPORT – NOT PRESENTED**

**7. COUNCIL CHAIR REPORT**

RECEIVED: The report was presented by the Council Chair

**NOTED:**

- a) The Board moved to a vote and the report was passed unanimously.

**RESOLVED:**

- 1) To pass the presented report.

## 8. COURT CHAIR REPORT

RECEIVED: The report was presented by the Court Chair

NOTED:

- a) The paper raises the issue of the process if recommendations are being followed up.

***At this point the Board considered 'any other business'***

## 9. ICU COURT ORDERS AND RECOMMENDATIONS NECESSITATING FOLLOW-UP

RECEIVED: The paper was presented by the Court Chair

NOTED:

- a) Currently there is no system for following up Court recommendations after a case has been considered and ruled upon.
- b) The proposal is to guarantee continuity of information and to ensure that Trustee Board 'checks up' that recommendations have.
- c) The President's report or a separate paper could be the conduit to the reporting.
- d) It was suggested that the recommendations could be kept as an issues log and this should be a living document.
- e) Court can impose a date on the issues resolution.
- f) Trustee Board moved to a vote on accepting the paper and they were passed unanimously.

**RESOLVED:**

- 1) **Any Union Court order or recommendation which requires or suggests a change of rules, management systems or procedures which goes beyond the individual case should be notified to the Trustee Board.**
- 2) **A notified decision shall be the subject of a report by the President at the subsequent meeting of the Trustee Board. In the case of an order the President shall report on progress with implementation, and in the case of a recommendation the President shall report on whether the recommendation was accepted and why.**
- 3) **A decision to quash a Union Policy or part thereof, or interpretation of the same, shall be endorsed upon the copy of the policy which the President maintains under section 19.5 of the constitution, including the version on the Union's list of policies website page.**
- 4) **This procedure is separate from the Union Court's own compliance powers.**

## 10. TRAINING OF TRUSTEES

RECEIVED: The paper was presented by the Council Chair

NOTED:

- a) It was clarified that there has been training for Student Trustees to read management accounts.
- b) Lay Trustee and Student Trustees have different training needs and as such should be considered separately.
  - i. An assessment of training needs should be undertaken.
- c) Potentially Farrer and Co could tailor a training package for trustees.
  - i. There are cost implications in using external consultants.
  - ii. It was suggested that internally a training package could be put together.
- d) It was pointed that this may be difficult to move this forward due to the absence of a General Manager.
  - i. It was suggested that the President elect investigates this matter in the interim.
- e) The Board moved to a vote and the paper was passed unanimously.

**RESOLVED:**

1. To set up a working party regarding the training of the members of the Trustee Board.
  - a. The purpose of the working party would be to:
    - i. Review and define the training needs of the Trustee Board, particularly in relation to membership status.
    - ii. For it to collate, or nominate a suitable individual/organisation to collate content for the training.
    - iii. Arrange for the delivery of the training to members of the Trustee Board before the next meeting of the Trustee Board.
    - iv. Report to the next meeting of the Trustee Board, on the process and outcome as well as identify recommendations for the future.

**11. STAFF APPRAISAL SYSTEM**

RECEIVED: The paper was presented by the President

NOTED:

- a) This is a matter arising from a closed session item at the last meeting.
  - i. AK, SM and JR have worked together to draft this document.
- b) In regards to 'Target Setting', it was agreed to remove 'Deputy Presidents' from point 3.a.

**RESOLVED:**

- 1) To remove 'Deputy Presidents' from point 3.a. in 'Target Setting'.
- c) It was pointed that the last sentence in point 3.e should be removed as there is no appendix 2 available.

**RESOLVED:**

- 2) To remove 'This system is detailed in appendix 2' from point 3.e
- d) It was suggested that quarterly appraisals could be too time consuming.
  - i. Meeting frequently will help develop a culture of using the appraisals as a performance management tool and to enable conversations about how staff is functioning.
- e) It was agreed that the periods should tie in with the publication of the quarterly management accounts.
- f) The Board moved to a vote on accepting the paper and it was passed unanimously.

**RESOLVED:**

- 3) To pass the Staff Appraisal Paper with amendments (see appendix ii)

**12. SABBATICAL PAYMENT**

RECEIVED: The paper was presented by the Deputy President (Finance & Services)

NOTED:

- a) The purpose of the paper is to have the disparity of accommodation costs in halls and living out allowance removed.
- b) The Sabbaticals for the 11/12 term will have any accommodation costs honoured.
  - i. It was stated that principle is that Sabbaticals should be living in halls and any change to the principle should be discussed at Council before the Trustee Board can make a decision.
- c) There are tax implications in regards to payment for halls being a benefit in kind.
  - i. The tax implications should be clarified from someone with speciality in this area.
- d) It was decided that the Board cannot make a decision on the principle of Sabbaticals living on halls of residence and the paper should be referred to Union Council.

**RESOLVED:**

- 1) To refer the decision of the principle of Sabbaticals living in halls to Union Council.**

**13. ICU TRUSTEE BOARD APPEALS AND DISCIPLINE PROCEDURE**

RECEIVED: The paper was presented by the Court Chair

NOTED:

- a) The procedure gives power to the Trustee Board Chair to sort issues out quickly.
- b) This will be a reserved power of the Trustee Board.
- c) The Board moved to a vote on the paper and it was passed unanimously.

**RESOLVED:**

- 1) To accept the Appeals and Discipline Procedure. (see appendix iii)**

The meeting closed at 7.20pm

Approved as a correct record at a meeting  
of the Trustee Board on

\_\_\_\_\_ 2010/11

\_\_\_\_\_ Chair of the Meeting

Background

Financial supervision is one of the major roles of the Trustee Board and comprise several of its responsibilities in the Trustee Board Regulation. However the Board would be significantly assisted by an Audit Committee, as indeed is recommended for any but the smallest of charitable organisations. The recent requirements for charity registration and the personal responsibility to which Trustees are soon going to have to sign up to only emphasises this necessity.

It is essential that in undertaking this task responsibly the Trustee Board can have the benefit of more careful consideration of the Union's accounts and other relevant information than is possible at meetings of the whole Trustee Board.

It is also important to emphasise that this is a Trustee Board sub-committee (formally known as a 'Trustees Committee') and reports directly to the Trustee Board. The relevant senior Union Officers and staff would be required to report to it and attend meetings when necessary.

The terms of reference have been modelled partly upon the Charity Commission's and Institute of Chartered Secretaries and Administrators' draft terms of reference for similar committees.

It is thus resolved:

1. The ICU Audit Committee is established as a Trustees Committee.
2. The Audit Committee shall undertake the following duties:
  - i. To monitor the integrity of the financial statements of the Union, including its Annual and other reports, interim management accounts, review significant financial reporting issues and judgments which they contain.
  - ii. To investigate any financial, administrative or personnel (whether paid staff or elected officers) matter which may put the Union at risk.
  - iii. To consider the appropriateness of executive action following internal audit reviews and to advise senior management and officers on any additional or alternative steps to be taken.
  - iv. To review and challenge where necessary:
    - a. All material information presented with the financial statements.
    - b. Clarity of disclosure in financial reports of any kind.
    - c. The consistency of and changes in any accounting policy.
    - d. Whether appropriate accounting standards, estimates and judgments have been made.
    - e. The methods used to account for significant or unusual transactions where different approaches are possible.
  - v. To provide minutes of all audit committee meetings for review at meetings of the Trustee Board.
3. The Trustee Board authorises the Audit Committee to seek any information it requires from any staff member or officer in the Union in order to perform its duties and to call any staff member or officer in the Union to be questioned at a meeting of the committee as and when required.
4. The Audit Committee may adopt closed session meetings if it sees fit.
5. The Audit Committee shall be appointed by the Trustee Board Chair with the following provisos:
  - i. It shall contain 3 or 5 members, including one Lay Trustee and one Student Trustee.
  - ii. No Union Officer shall be a member.
  - iii. No member of the Union staff shall be a member (though this is prohibited in any event under section 5.2 of the constitution and regulation 1.43.2).
  - iv. The Trustee Board Chair shall appoint its chair and will decide whether it has 3 or 5 members.
  - v. The Secretary to the Trustee Board shall be the Secretary to the Audit Committee.
  - vi. The Union Honorary Senior Treasurer, if not a member, shall be a permanent observer.
6. The Deputy President (Finance and Services) and Finance Manager are ordinarily expected to attend and report to meetings of the Audit Committee unless its resolves to the contrary either in respect of the whole meeting or specific agenda items.

**Staff Performance Appraisal System**

The system of appraising staff at Imperial College Union is designed to praise in a timely fashion, raise concerns as well as to monitor and support individuals against targets set and budgets allocated. We believe that as an organisation we work more effectively and efficiently and with a clearer unity of purpose if all staff get the opportunity to be appraised, and that ultimately this should be a mechanism to develop a better working environment for all employees of the Union. We should strive to develop a system that gets the best out of everyone, through recognition of achievements, addressing shortcomings and incorporates feedback from the line manager, all other members of staff and a self-assessment.

**Target setting**

1. Yearly targets should be set for all staff at the beginning of the College financial year (August)
2. Targets should be developed using the Union's Strategic Plan as a guide, as well as the manifesto points and ideas of the new Sabbatical Officers; each target should be questioned as to where it fits into the Strategic Plan.
3. Each staff member should have their targets agreed with their line manager
  - a. The Operations Manager and Deputy Presidents shall have their targets agreed with the President
4. Targets can be qualitative and/or quantitative and may include personal as well as professional development
5. Where necessary, the staff training budget for each area can be earmarked for specific training to help meet targets

**Appraisal**

1. Appraisals for all staff will happen three times each year (November, April and July). The July appraisal shall be the formal appraisal to cover the whole year's performance[, and on which any performance-related salary adjustment shall be based].
2. The aim of each appraisal is to review the targets set and overall performance and to modify the targets according to results. Methods of action are outlined below for exceeding or failing to meet targets.
3. The timeline and method for an appraisal shall be:
  - a. Each staff member shall submit a self-assessment on what they've achieved against their targets to their line manager two weeks before the date of the appraisal using Form 1
  - b. All staff members are invited to give evidence-based feedback about each other's performance to the line manager of the member of staff concerned. This should also be submitted to the line manager one week before the appraisal date. These comments will remain anonymous.
  - c. During the appraisal meeting, the line manager will appraise the staff member using personal knowledge, feedback from other staff and the self-assessment and check performance against that year's established targets.
  - d. In cases where targets have not been met the line manager should take action as appropriate to make allowances for unknowns but also to use the warning system detailed in Appendix 1. In the event of persistent failure to meet targets this may lead to disciplinary action (as detailed in the College disciplinary policy which can be found at <http://www3.imperial.ac.uk/hr/procedures/a-z/disciplinary>).
  - e. In cases where targets have been met and/or exceeded the line manager may consider referring the member of staff to receive an increase in salary (performance related pay). This system is detailed in Appendix 2.
  - f. Targets may be reconfigured at each appraisal stage.



- g. Should the staff member require it, the appraisal system should identify if further training is needed and, if so, finances for this should be sought from the training budget.
  - h. After the interview, notes should be written up and logged as a record of comments and reconfigured targets for the next appraisal. These shall remain confidential to the staff member and their line manager though individual projects and targets should be discussed with colleagues.
  - i. There should be a sign off officer for each appraisal who shall be a member of staff at the same level as the line manager of the member of staff being appraised. They should check that the notes and actions reflect a realistic view of performance. Issues regarding the fairness of the appraisal should be brought to the line manager of the staff member giving the appraisal.
4. The Deputy Presidents and President review their targets and projects weekly. They are required to submit a report to each monthly Council where they are questioned on this report.

## Appendix iii

### ICU Trustee Board Appeals and Discipline Procedure

#### Introduction

The Trustee Board has various specific appellate and disciplinary powers set out in the Union's Constitution and Regulations, in addition to its role as the sovereign body of the Union. Many of these powers involve matters which are sensitive, upon which the Union owes a duty of natural justice to individuals and which may involve dismissal of employee sabbatical officers; they may also require a swifter response than the Trustee Board would normally provide given its relatively infrequent meetings.

#### A. Purpose and jurisdiction

1. This Procedure establishes the system by which the Trustee Board exercises its jurisdiction in respect of:

##### **Part C – Suspension**

- i. suspension of any staff member or office-holder in the Union<sup>1</sup>,

##### **Part D – Disciplinary Tribunals**

- ii. disciplinary tribunals of the Trustee Board itself<sup>2</sup>,
- iii. appeals from the Union Court acting as a disciplinary tribunal<sup>3</sup>,
- iv. appeals from Trustee Board disciplinary tribunals<sup>4</sup>,

##### **Part E – Dismissal references**

- v. references to the Trustee Board by the Council or other body entitled to pass a motion of no confidence against a holder of sabbatical or paid elected office<sup>5</sup>,
- vi. references to the Trustee Board by the Union Court for dismissal of a Union officer or representative,

##### **Part F – Union Court appeals**

- vii. appeals from Union Court determinations<sup>6</sup>,
- viii. appeals from the Union Court acting to censure or dismiss its own members<sup>7</sup>,
- ix. requests to the Trustee Board to reduce or rescind a penal order imposed by the Union Court<sup>8</sup>.

2. **Part B** deals with interpretation and particular terms and **Part G** deals with acceptance of any reference under this Procedure.

3. This Procedure does not deal with:

- i. appeals to the Trustee Board in any other capacity<sup>9</sup>,
- ii. a decision by the Trustee Board to remove a Trustee as Trustee<sup>10</sup>, or

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<sup>1</sup> Regulation 7.33

<sup>2</sup> Regulation 7 Part H (7.62 – 7.66)

<sup>3</sup> Regulation 7.64

<sup>4</sup> Regulation 7.64

<sup>5</sup> Regulations 7.53 – 7.55

<sup>6</sup> Regulations 2.7

<sup>7</sup> Regulation 2.21.4 & 7.47.4

<sup>8</sup> Regulation 7.43

<sup>9</sup> For example, a proposal to the Trustee Board which would effectively reverse the decision of the Council or Executive Committee is not classed as an “appeal” for the purposes of this Procedure

- iii. other resolutions of the Council, General Meeting or Court in relation to Trustees.

## **B. Interpretation**

1. In this Procedure, terms used have the following definitions:
  - i. "Appeal Tribunal" – appellate body from a Disciplinary Tribunal
  - ii. "Appellant" – person appealing against a decision taken in respect of him or her
  - iii. "Defendant" / "defendant officer" – person/officer subject to disciplinary proceedings
  - iv. "Non delegable matter" – defined under regulation 1.33 as matters which can only be decided by the whole Trustee Board, including: appointment of the Chair and Secretary, the approval of the Union's accounts, a capital project or contract valued in excess of one million pounds, the removal of a Trustee, dismissal of the President or any other matter decided as non delegable by the Trustee Board.
  - v. "Preliminary recommendation" – an optional initial recommendation on the reference by a Trustee or committee, following possible enquiries.
  - vi. "Reference" – any appeal, reference or request made to the Trustee Board under this Procedure.
  - vii. "Resolution" – the final decision in any appeal, reference or request made.
  - viii. "Trustee Board as a whole" – the Trustee Board in a full and quorate meeting.
2. The Trustee Board Chair and the Court Chair may delegate any part of their powers and duties under this Procedure to another person, though not to a member of the Union's permanent staff except the Secretary to the Trustee Board.
3. No other authority under this Procedure may be further delegated.

## **C. Suspension by the Trustee Board**

1. These suspension provisions apply to any office-holder or staff member in the Union without exception. They do not extend to the suspension of any person's status as Trustee, which may only be imposed by the Trustee Board as a whole.
2. A person holding sabbatical or paid elected office is automatically suspended if a motion of no confidence is passed at the Council or other body entitled to pass it<sup>11</sup>.
3. The President has separate suspension authority for many office-holders<sup>12</sup> as supervised by the Union Court. Other suspension provisions may apply in relation to office-holders or staff. Such suspension authority is independent and not governed by this Procedure.

### **Grounds for suspension**

4. A suspension may be imposed under the authority of the Trustee Board in the following circumstances<sup>13</sup>:

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<sup>10</sup> Regulation 1.44.3 entitles the Trustee Board to remove, by two-thirds majority a Trustee; under regulation 1.47, the removal of an *ex-officio* Trustee as a Trustee does not remove them from their original post. There is also no appeal provided for from this type of decision

<sup>11</sup> Regulation 7.53 and 54

<sup>12</sup> See for example regulation 7.34

<sup>13</sup> Regulation 7.33

- i. gross or serious misconduct is alleged,
  - ii. there may be risks to third parties or Union or College property,
  - iii. where the working relationship between the person and others may be impaired, or
  - iv. to assist, if necessary, an investigation.
5. Suspension is not in itself a disciplinary sanction<sup>14</sup>.

#### **Time limits for suspension**

6. The Trustee Board Chair may suspend a person for up to fourteen days, or twenty-eight days if any part of the first fourteen days falls outside the academic terms of Imperial College.
7. After the initial term of fourteen or twenty-eight days has expired the suspension may continue for a further twenty-eight days with the concurrence of at least two of the *ex officio* Trustees (the President, Council Chair and Court Chair).
8. After the initial term (and its extension if approved) has expired the suspension may only continue with the approval of the Trustee Board as a whole, unless the suspended person consents to further suspension.

#### **Effect of suspension**

9. The extent of a suspension shall be decided by the Trustee Board Chair, though this may be modified by the Trustee Board.
10. A suspended person may be prohibited from attending any part of the Union's premises or areas managed by the Union. A person may also be prohibited from having contact with staff or officers.
11. The reasons for a suspension and any requirements of it should be discussed at a meeting with the suspended person, who may have a friend or representative present. Regular contact should be provided with the suspended person to advise them of the progress of any disciplinary investigation or hearing.
12. If the person is paid by the Union, they are expected, even if excluded from Union premises, to be available during working hours to attend any interview or meeting where required.
13. If the person is paid by the Union, the suspension will be on full pay (and accommodation if applicable), unless the person does not have a legal or statutory right to work.

#### **Hearing**

14. A hearing should be heard as soon as is reasonably practicable to resolve the matters which led to the suspension.<sup>15</sup>

### **D. Disciplinary Tribunals**

#### **Scope of part**

1. Disciplinary Tribunals are established in order to consider allegations of misconduct against any person holding elected or unpaid appointed office<sup>16</sup>. Authority to convene Disciplinary Tribunals is provided under the Discipline and Complaints Regulation 7 Part H.

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<sup>14</sup> Regulation 7.35

<sup>15</sup> That hearing may be a no confidence motion, Disciplinary Tribunal, staff disciplinary hearing or dismissal reference hearing.

<sup>16</sup> Regulations 7.62 and 7.5

2. This Part deals with Disciplinary Tribunals of the Trustee Board itself<sup>17</sup>, Disciplinary Tribunals of the Union Court (acting under powers delegated by this Procedure) and appeals from Disciplinary Tribunals (rule A1(ii), (iii) and (iv)).
3. This Part does not govern motions of censure and motions of no confidence at the Council or other body entitled to pass them, nor does it cover dismissal references (covered in Part E).

#### **Authority to request Disciplinary Tribunal**

4. A disciplinary tribunal may only be requested by the President, Council Chair, Trustee Board Chair, Faculty Union President, Constituent or Campus Union President or Clubs and Societies Committee Chair<sup>18</sup>.

#### **Grounds for convening a Disciplinary Tribunal**

5. A Disciplinary Tribunal is convened if there are reasonable grounds to suspect that a defendant is guilty of misconduct. Such misconduct shall not merely constitute (though it may include)<sup>19</sup>:
  - i. a failure to maintain the confidence of the Council or other policy-making body,
  - ii. a failure to adhere to any manifesto commitment, or
  - iii. inadequate representation on behalf of the student body.
6. Typical grounds for Disciplinary Tribunals may include (but are not limited to): incapability to perform office, dishonesty, gross discourtesy, any criminal offence (whether or not prosecuted for it), drug or alcohol abuse, a holder of sabbatical or part-time paid office breaching his or her contract or showing poor attendance during contracted hours.

#### **Powers of disciplinary tribunal**

7. A disciplinary tribunal has the following general powers in relation to any defendant officer:
  - i. a warning,
  - ii. a censure (unless the defendant officer has already been censured), or
  - iii. dismissal from office.
8. The following restrictions apply to the power to dismiss from office<sup>20</sup>:
  - i. A Disciplinary Tribunal of the Union Court may not dismiss a person holding sabbatical office or otherwise deriving employment from office, or the Council Chair, and
  - ii. A Trustees' Committee may not dismiss the President, Council Chair or Court Chair.
9. If the request for a disciplinary tribunal is made by a Faculty Union President, Constituent or Campus Union President or Clubs and Societies Committee Chair, then the defendant officer must hold office within the constituent part of the Union of which the requestor is President or Chair.
10. If the President has decided to take action under the Student Disciplinary Policy, the Imperial College Council has authorised Disciplinary Tribunals<sup>21</sup> to impose further

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<sup>17</sup> Regulation 7 Part H (7.62 – 7.67)

<sup>18</sup> Regulation 7.63

<sup>19</sup> Regulation 7.62

<sup>20</sup> Regulation 1.33.4 – the President, Council Chair and Court Chair can only be dismissed by the Trustee Board as a whole; the restrictions on the Union Court apply to those employed as a consequence of office (nearly always the sabbaticals)

<sup>21</sup> Student Disciplinary Policy paragraph 23

penalties (set out in paragraph 37 of that Policy) and include as defendants registered students of the College who do not hold office in the Union, if their conduct is connected with someone who does. In such cases the Disciplinary Tribunal must be convened in respect of at least one defendant who holds elected or unpaid appointed office. Clubs and Societies (as corporate bodies separate from their members) may also be defendants but the penalties of censure and dismissal do not apply to them.

### Composition

11. A Disciplinary Tribunal may be formed of the Trustee Board as a whole, a Trustees' Committee or the Union Court.
12. The Disciplinary Tribunal shall by default be constituted from the Union Court (with a panel appointed under its own standing orders and following its own rules subject to this Procedure) with the following provisions:
  - i. If a defendant officer holds sabbatical office or otherwise derives employment from office, or is the Council Chair, dismissal is not contemplated as a penalty.
  - ii. No defendant officer is a member of the Union Court.
13. The Court Chair upon receipt of a request for a hearing shall provide the details of the request to the Trustee Board Chair and Secretary of the Trustee Board.
14. Notwithstanding the above provisions, a disciplinary charge shall instead be heard before the Trustee Board as a whole or a Trustees' Committee in the following circumstances:<sup>22</sup>
  - i. The Trustee Board Chair directs,
  - ii. The Court Chair directs, or
  - iii. The Union Court sitting as a Disciplinary Tribunal refers it.
15. If the Union Court is not to hear the proceedings, the Trustee Board Chair shall determine whether a hearing is before the Trustee Board as a whole or a Trustees' Committee, though the Disciplinary Tribunal must comprise the Trustee Board as a whole if the defendant officer is the President, Council Chair or Court Chair and dismissal is contemplated as a possible outcome.
16. If the Disciplinary Tribunal is constituted as a Trustees' Committee it shall:
  - i. be appointed by the Trustee Board Chair,
  - ii. consist of three or five people,
  - iii. consist of a majority of Trustees<sup>23</sup>, at least one of whom shall be a Lay Trustee<sup>Error! Bookmark not defined.</sup>, and
  - iv. exclude any person disqualified from being a Trustee<sup>24</sup>, and
  - v. exclude any person against whom misconduct is alleged, or who has a social connection with such a person.
17. The Trustee Board Chair at his or her discretion may choose to appoint the Trustees' Committee by lot, in so far as it complies with the above provisions.

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<sup>22</sup> The default for cases is the Union Court except where dismissal is contemplated for sabbaticals (or Union Court members themselves face proceedings). Nevertheless there may be reasons to refer it to the Trustee Board; one particular reason may be that charges against a sabbatical defendant which were thought not to be serious have since been shown to be and dismissal may be contemplated.

<sup>23</sup> Regulation 1.36

<sup>24</sup> Regulation 1.43 and constitution 9.7 - any Union Officer, the Felix Editor, member of Council, Executive Committee, Court (except the Court Chair), Clubs and Societies Board, Representation and Welfare Board, Union staff (whether permanent, part time or casual), or College staff (except casual)

18. Where the Disciplinary Tribunal is the Trustee Board as a whole and any Trustee is also a defendant officer or has a social connection with a defendant officer, that Trustee may not vote or be counted in the quorum.
19. The Trustee Board Chair will determine whether or not any person has a social connection with a defendant officer, and Trustees are expected to disclose any connection which may give the appearance of disqualifying them from sitting upon a Disciplinary Tribunal.

### **Procedure**

20. The following procedure shall be used for a Disciplinary Tribunal hearing:

#### **Notice and defendant**

- i. The defendant officer shall have reasonable notice of the hearing and be informed of the charges against them in writing.
- ii. The defendant officer may bring witnesses and a representative, giving notice if so doing.
- iii. The hearing shall not be invalidated by the absence of the defendant officer provided reasonable notice has been given of it.

#### **Evidence**

- iv. Any evidence may be heard which is relevant and fair. Arrangements may be authorised by the Disciplinary Tribunal for witnesses to give evidence in a way which reduces their stress or discomfort.
- v. Evidence brought in support of any charge shall be heard first, and the defendant officer may ask questions of the witness if brought.
- vi. The Disciplinary Tribunal, if evidence of the charges taken at its highest could not either prove them or demonstrate misconduct, shall dismiss the case without hearing from the defence;<sup>25</sup>
- vii. The defendant officer may give evidence, and if so may be questioned about it. Witnesses may also be called for the defence, and may be further questioned by the party bringing the case and the committee.
- viii. If the defendant does not give evidence at the hearing (and is competent to do so), or failed to mention when asked in any prior investigation something he or she later relied upon in the hearing, the Disciplinary Tribunal may draw such inferences as appear proper in relation to the facts or finding of misconduct;<sup>26</sup> and
- ix. The Disciplinary Tribunal may amend a charge if it does not cause injustice to the defendant to do so;
- x. Earlier misconduct shall not be presented or taken into account until a finding of misconduct has been made.
- xi. The defendant officer is permitted to make any final representations upon the charges.

#### **Three step process for determination of charge**

- xii. First, the Disciplinary Tribunal shall consider firstly in the absence of the defendant officer and any witnesses whether each of the charges is true.

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<sup>25</sup> Commonly known as the *Galbraith* test in criminal law, this means that if the evidence is particularly weak the allegation should be stopped as it is not the purpose of disciplinary proceedings to force a person to incriminate himself or herself in the absence of proper evidence

<sup>26</sup> Failure to comment or give evidence can be held against a defendant officer – this is of particular relevance given disciplinary tribunals are held in relation to office-holders in the Union

- xiii. Secondly, the Disciplinary Tribunal shall next consider whether the charges proven amount to misconduct, and shall provide the defendant officer with an opportunity to address them separately upon this issue, unless the defendant officer has already accepted misconduct.
  - xiv. Thirdly, the Disciplinary Tribunal will lastly consider, if a finding of misconduct has been made, what penalty to impose.
  - xv. The defendant officer shall be informed of the decision, its supporting reasons, and any rights of appeal.
21. If the Disciplinary Tribunal is also sitting as a Disciplinary Committee under section 23 of the Student Disciplinary Policy, then the procedural requirements of Part C of that Policy shall apply and prevail over the above provisions in case of conflict.

### **Appeals procedure**

22. A defendant officer in respect of whom a finding of misconduct has been made by a Disciplinary Tribunal of the Court or Trustee Board is entitled to an appeal to an Appeal Tribunal.
23. The appeal must be entered within a period designated by the original Disciplinary Tribunal, for which the default and minimum period is seven days.
24. Any appeal outside the time limit may only be made with the approval of the Trustee Board Chair.
25. The appeal shall confine itself to the following matters:
- i. To review whether the matter under consideration was adequately investigated and substantiated;
  - ii. To review whether the procedures were correctly and fairly implemented; and
  - iii. To consider whether the penalty was reasonable in the circumstances known at the time of the disciplinary hearing.
26. If new evidence is submitted during the appeal hearing, the Appeal Tribunal has the discretion to remit the matter back to the Disciplinary Tribunal and invite them to reconsider their decision upon the charges, finding of misconduct or penalties.
27. The Appeal Tribunal may modify any part of the decision of the Disciplinary Tribunal, or remit it back for reconsideration with their comments.
28. The chair of the Appeal Tribunal has the discretion whether to permit a further appeal from a Disciplinary Tribunal which has re-formed following a matter being remitted back to it by the Appeal Tribunal.
29. The decision of the Appeal Tribunal is final.

### **Composition of Appeals Tribunal**

30. The Appeals Tribunal shall comprise:
- i. In appeals from the Union Court acting as the Disciplinary Tribunal, a single Trustee, a Trustees' Committee or the Trustee Board as a whole;
  - ii. In appeals from a Trustees' Committee acting as the Disciplinary Tribunal, either another Trustees' Committee appointed in the same manner or the Trustee Board as a whole;
  - iii. In appeals from the Trustee Board as a whole, where the penalty does not involve dismissal, to a single person appointed by Imperial College's Director of Human Resources;



- iv. In appeals from the Trustee Board as a whole, where the penalty includes dismissal, to a panel of not fewer than three people appointed by the College's Director of Human Resources.
31. The Trustee Board Chair may direct that an Appeals Tribunal be comprised of a body named lower down the in the list above<sup>27</sup>.
  32. Any nominee of the College's Director of Human Resources must be of rank of Senior Lecturer or above, or its administrative equivalent.
  33. No person may sit on an appeal from a decision in which they were involved. If the Appeal Tribunal is the Trustee Board as a whole, Trustees involved in the original Disciplinary Tribunal may not be present, vote or be counted in the quorum.
  34. If the Trustee Board Chair sat upon a Disciplinary Tribunal, he or she should appoint an independent person to exercise the Trustee Board Chair's duties in relation to any Appeal Tribunal.

## **E. Dismissal references for those holding sabbatical office**

### **Scope of part**

1. A dismissal reference is a reference by an authorised body to the Trustee Board inviting them to consider dismissing a person holding sabbatical office or otherwise derives employment from office.
2. A dismissal reference is not a request for a Disciplinary Tribunal. A dismissal reference follows from either a no confidence motion or Union Court compliance ruling where the initial disciplinary hearing has already been concluded.
3. A reference by the Court acting as a Disciplinary Tribunal to the Trustee Board under section D14.iii is not covered by this part as that invokes another Disciplinary Tribunal under Part D.
4. The Council, or other committee with the authority to do so, in passing a motion of no confidence against a Sabbatical Officer or holder of paid elected office automatically suspends the defendant sabbatical pending resolution by the Trustee Board<sup>28</sup> under this Procedure.
5. The Court may make a dismissal reference in respect of a Sabbatical Officer or holder of paid elected office where it has found that person to be in breach of an order or direction, following a hearing to consider the same.
6. No other person or body may make a dismissal reference. The appropriate action is to present a motion of no confidence or request a Disciplinary Tribunal.

### **Outstanding appeals**

7. If a dismissal reference is made in a case which is subject to appeal, then the question of dismissal shall not be determined until the appeal has been disposed of.

### **Composition**

8. A dismissal reference shall be heard by the following bodies:
  - i. Where referred by the Council following a motion of no confidence in the President<sup>29</sup>, or referred by the Court in respect of the President, the Trustee Board as a whole;
  - ii. Where the Trustee Board Chair or Trustee Board directs, the Trustee Board as a whole;

<sup>27</sup> That is to say the list in order: single Trustee or independent person, Trustees' Committee, Trustee Board as a whole, nominee of the College DHR, committee nominated by the College DHR

<sup>28</sup> Regulation 7.53

<sup>29</sup> Regulation 1.33.4

iii. In all other circumstances, a Trustees' Committee.

### **Procedure**

9. The Trustee Board (or delegated body) shall satisfy itself, in cases where the person enjoys employment rights under Employment Rights Act 2002 or other legislation, that those rights have been complied with.
10. The Trustee Board (or delegated body) may authorise such investigations and hearings (including any Disciplinary, Appeal Tribunal, or other hearing having the necessary characteristics thereof) necessary to remedy any deficiency in the prior process, or to obtain further information.
11. The Trustee Board (or delegated body) shall invite any written representations from any person subject to a dismissal reference, and may choose to hear from any such person or other person.

### **Decision**

12. The Trustee Board (or delegated body) shall choose either to dismiss the person from office or not. Reasons must be provided for any decision<sup>30</sup>.
13. If a person referred following a motion of no confidence is not dismissed, the person shall be automatically censured<sup>31</sup>, unless already previously censured.
14. The decision in a dismissal reference is final.<sup>32</sup>

## **F. Union Court appeals**

### **Scope and applicable rules**

1. A determination<sup>33</sup> of the Union Court may be appealed to the Trustee Board in specific circumstances.
2. Any direction, specified compulsory direction or other matter relating to an ongoing hearing shall not be appealed. An interim order or determination may be the subject of appeal.<sup>34</sup>
3. A request may also be made to the Trustee Board to stop a Union Court inquiry<sup>35</sup>, to reduce or rescind a penal order imposed by the Union Court<sup>36</sup>, or a decision by the Union Court to censure or dismiss one of its own members<sup>37</sup>.
4. Any one of the above matters decided by the Union Court shall be known for the purposes of this Part as a "decision".
5. Appeals from the Union Court acting as a Disciplinary Tribunal are dealt with under Disciplinary Tribunal appeals and not this Part.

### **Notification of intention to appeal**

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<sup>30</sup> Regulation 7.55 though this provision requires reasons in all cases, not just those required under the regulation

<sup>31</sup> Regulation 7.55

<sup>32</sup> Any appeal should have been conducted at the original disciplinary stage.

<sup>33</sup> Regulation 2 Part F; "determinations" are the term used to describe the opinion and orders made by a panel of Union Court members hearing a case

<sup>34</sup> The Trustee Board will not hear appeals relating to internal matters during a hearing, but only the final decision; however an "interim order" or "interim determination" is a direction which applies to the Union generally rather than internally within the Union Court, so these can be appealed: though they risk being rescinded by the Union Court itself later when publishing the final determination.

<sup>35</sup> Regulation 7.38

<sup>36</sup> Regulation 7.53

<sup>37</sup> Regulation 21.4

6. Notification of intention to appeal must be provided to the Secretary of the Trustee Board within 7 days by the person making the appeal (“the appellant”).
7. The appellant must provide to the Secretary within 7 days of notification:
  - i. The decision subject to appeal,
  - ii. A written statement stating which part of the decision is wrong and why, and
  - iii. Any evidence or copies of rules relevant to the disposal of the appeal.
8. The Trustee Board Chair may dismiss the appeal without a hearing if it appears unmeritorious, or the above provisions have not been satisfactorily complied with.

#### **Procedure for appeals from decisions**

9. The appeal shall be heard by the Trustee Board as a whole, though none of the *ex officio* Trustees shall vote or be counted in the quorum<sup>38</sup>.
10. Members of the Union Court panel whose determination is under appeal shall not attend the appeal.
11. After the hearing the Trustee Board may approve the wording of the decision and reasons by electronic mail communication.
12. A decision having the effect of changing the determination must be reasoned and the reasons published.
13. The decision of the Trustee Board is final.

#### **G. Preliminaries – acceptance of reference, enquiries and recommendations**

##### **Scope of part**

1. This part deals with all references or requests to the Trustee Board under this Procedure.
2. This part sets out how the reference or request is accepted and how any enquiries or recommendations are undertaken.

##### **Notice and preliminary assessment of reference**

3. The person making the reference shall give notice through the Trustee Board Secretary to the Trustee Board Chair.
4. The Trustee Board Chair may make such enquiries as appears necessary or expedient.
5. The Trustee Board Chair shall determine whether the reference is one of those types listed in rule A1 above.
6. The Trustee Board Chair’s assessment at this stage is directed at whether the reference falls within the jurisdiction of this Procedure, not the merits of the reference. However, a reference which appears to the Trustee Board Chair to be illogical, vexatious, frivolous or anonymous may be rejected.
7. A decision of the Trustee Board Chair to accept or not accept a reference on the jurisdictional grounds above is final.

##### **Allocation of a reference for preliminary recommendation**

8. The Trustee Board Chair may choose (or not) to allocate a reference for a preliminary recommendation as to the most suitable disposal on behalf of the Trustee Board or upon some other related matter. This may involve such enquiries as are deemed necessary or expedient.

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<sup>38</sup> Regulation 1.42

9. The Trustee Board Chair shall refer a preliminary recommendation to a Trustees' Committee or single Trustee, who shall prepare the recommendation by such time as the Trustee Board Chair may direct.
10. If the recommendation is that the reference is sufficiently unmeritorious to be dismissed without further resolution, then the Trustee Board Chair is entitled to (though need not) dismiss the reference without further action.

#### **Appointment of those dealing with preliminary recommendation**

11. A single Trustee or Trustees' Committee appointed to make any enquiry or recommendation shall be appointed by the Trustee Board Chair.
12. No *ex officio* Trustee<sup>39</sup> may make any recommendation upon any Union Court appeal<sup>40</sup>.

A person involved in making a recommendation or enquiry may, but need not, sit on any panel dealing with the final resolution of the matter.

**Introduction**

The Trustee Board has various specific appellate and disciplinary powers set out in the Union's Constitution and Regulations, in addition to its role as the sovereign body of the Union. Many of these powers involve matters which are sensitive, upon which the Union owes a duty of natural justice to individuals and which may involve dismissal of employee sabbatical officers; they may also require a swifter response than the Trustee Board would normally provide given its relatively infrequent meetings.

#### **H. Purpose and jurisdiction**

1. This Procedure establishes the system by which the Trustee Board exercises its jurisdiction in respect of:

##### **Part C – Suspension**

- i. suspension of any staff member or office-holder in the Union<sup>41</sup>,

##### **Part D – Disciplinary Tribunals**

- ii. disciplinary tribunals of the Trustee Board itself<sup>42</sup>,
- iii. appeals from the Union Court acting as a disciplinary tribunal<sup>43</sup>,
- iv. appeals from Trustee Board disciplinary tribunals<sup>44</sup>,

##### **Part E – Dismissal references**

- v. references to the Trustee Board by the Council or other body entitled to pass a motion of no confidence against a holder of sabbatical or paid elected office<sup>45</sup>,
- vi. references to the Trustee Board by the Union Court for dismissal of a Union officer or representative,

##### **Part F – Union Court appeals**

- vii. appeals from Union Court determinations<sup>46</sup>,

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<sup>39</sup> The President, Council Chair and Court Chair

<sup>40</sup> Regulation 1.42

<sup>41</sup> Regulation 7.33

<sup>42</sup> Regulation 7 Part H (7.62 – 7.66)

<sup>43</sup> Regulation 7.64

<sup>44</sup> Regulation 7.64

<sup>45</sup> Regulations 7.53 – 7.55

<sup>46</sup> Regulations 2.7

- viii. appeals from the Union Court acting to censure or dismiss its own members<sup>47</sup>,
  - ix. requests to the Trustee Board to reduce or rescind a penal order imposed by the Union Court<sup>48</sup>.
2. **Part B** deals with interpretation and particular terms and **Part G** deals with acceptance of any reference under this Procedure.
  3. This Procedure does not deal with:
    - i. appeals to the Trustee Board in any other capacity<sup>49</sup>,
    - ii. a decision by the Trustee Board to remove a Trustee as Trustee<sup>50</sup>, or
    - iii. other resolutions of the Council, General Meeting or Court in relation to Trustees.

## I. Interpretation

1. In this Procedure, terms used have the following definitions:
  - i. “Appeal Tribunal” – appellate body from a Disciplinary Tribunal
  - ii. “Appellant” – person appealing against a decision taken in respect of him or her
  - iii. “Defendant” / “defendant officer” – person/officer subject to disciplinary proceedings
  - iv. “Non delegable matter” – defined under regulation 1.33 as matters which can only be decided by the whole Trustee Board, including: appointment of the Chair and Secretary, the approval of the Union’s accounts, a capital project or contract valued in excess of one million pounds, the removal of a Trustee, dismissal of the President or any other matter decided as non delegable by the Trustee Board.
  - v. “Preliminary recommendation” – an optional initial recommendation on the reference by a Trustee or committee, following possible enquiries.
  - vi. “Reference” – any appeal, reference or request made to the Trustee Board under this Procedure.
  - vii. “Resolution” – the final decision in any appeal, reference or request made.
  - viii. “Trustee Board as a whole” – the Trustee Board in a full and quorate meeting.
2. The Trustee Board Chair and the Court Chair may delegate any part of their powers and duties under this Procedure to another person, though not to a member of the Union’s permanent staff except the Secretary to the Trustee Board.
3. No other authority under this Procedure may be further delegated.

## J. Suspension by the Trustee Board

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<sup>47</sup> Regulation 2.21.4 & 7.47.4

<sup>48</sup> Regulation 7.43

<sup>49</sup> For example, a proposal to the Trustee Board which would effectively reverse the decision of the Council or Executive Committee is not classed as an “appeal” for the purposes of this Procedure

<sup>50</sup> Regulation 1.44.3 entitles the Trustee Board to remove, by two-thirds majority a Trustee; under regulation 1.47, the removal of an *ex-officio* Trustee as a Trustee does not remove them from their original post. There is also no appeal provided for from this type of decision

1. These suspension provisions apply to any office-holder or staff member in the Union without exception. They do not extend to the suspension of any person's status as Trustee, which may only be imposed by the Trustee Board as a whole.
2. A person holding sabbatical or paid elected office is automatically suspended if a motion of no confidence is passed at the Council or other body entitled to pass it<sup>51</sup>.
3. The President has separate suspension authority for many office-holders<sup>52</sup> as supervised by the Union Court. Other suspension provisions may apply in relation to office-holders or staff. Such suspension authority is independent and not governed by this Procedure.

#### **Grounds for suspension**

4. A suspension may be imposed under the authority of the Trustee Board in the following circumstances<sup>53</sup>:
  - i. gross or serious misconduct is alleged,
  - ii. there may be risks to third parties or Union or College property,
  - iii. where the working relationship between the person and others may be impaired, or
  - iv. to assist, if necessary, an investigation.
5. Suspension is not in itself a disciplinary sanction<sup>54</sup>.

#### **Time limits for suspension**

6. The Trustee Board Chair may suspend a person for up to fourteen days, or twenty-eight days if any part of the first fourteen days falls outside the academic terms of Imperial College.
7. After the initial term of fourteen or twenty-eight days has expired the suspension may continue for a further twenty-eight days with the concurrence of at least two of the *ex officio* Trustees (the President, Council Chair and Court Chair).
8. After the initial term (and its extension if approved) has expired the suspension may only continue with the approval of the Trustee Board as a whole, unless the suspended person consents to further suspension.

#### **Effect of suspension**

9. The extent of a suspension shall be decided by the Trustee Board Chair, though this may be modified by the Trustee Board.
10. A suspended person may be prohibited from attending any part of the Union's premises or areas managed by the Union. A person may also be prohibited from having contact with staff or officers.
11. The reasons for a suspension and any requirements of it should be discussed at a meeting with the suspended person, who may have a friend or representative present. Regular contact should be provided with the suspended person to advise them of the progress of any disciplinary investigation or hearing.
12. If the person is paid by the Union, they are expected, even if excluded from Union premises, to be available during working hours to attend any interview or meeting where required.

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<sup>51</sup> Regulation 7.53 and 54

<sup>52</sup> See for example regulation 7.34

<sup>53</sup> Regulation 7.33

<sup>54</sup> Regulation 7.35

13. If the person is paid by the Union, the suspension will be on full pay (and accommodation if applicable), unless the person does not have a legal or statutory right to work.

### **Hearing**

14. A hearing should be heard as soon as is reasonably practicable to resolve the matters which led to the suspension.<sup>55</sup>

## **K. Disciplinary Tribunals**

### **Scope of part**

1. Disciplinary Tribunals are established in order to consider allegations of misconduct against any person holding elected or unpaid appointed office<sup>56</sup>. Authority to convene Disciplinary Tribunals is provided under the Discipline and Complaints Regulation 7 Part H.
2. This Part deals with Disciplinary Tribunals of the Trustee Board itself<sup>57</sup>, Disciplinary Tribunals of the Union Court (acting under powers delegated by this Procedure) and appeals from Disciplinary Tribunals (rule A1(ii), (iii) and (iv)).
3. This Part does not govern motions of censure and motions of no confidence at the Council or other body entitled to pass them, nor does it cover dismissal references (covered in Part E).

### **Authority to request Disciplinary Tribunal**

4. A disciplinary tribunal may only be requested by the President, Council Chair, Trustee Board Chair, Faculty Union President, Constituent or Campus Union President or Clubs and Societies Committee Chair<sup>58</sup>.

### **Grounds for convening a Disciplinary Tribunal**

5. A Disciplinary Tribunal is convened if there are reasonable grounds to suspect that a defendant is guilty of misconduct. Such misconduct shall not merely constitute (though it may include)<sup>59</sup>:
  - i. a failure to maintain the confidence of the Council or other policy-making body,
  - ii. a failure to adhere to any manifesto commitment, or
  - iii. inadequate representation on behalf of the student body.
6. Typical grounds for Disciplinary Tribunals may include (but are not limited to): incapability to perform office, dishonesty, gross discourtesy, any criminal offence (whether or not prosecuted for it), drug or alcohol abuse, a holder of sabbatical or part-time paid office breaching his or her contract or showing poor attendance during contracted hours.

### **Powers of disciplinary tribunal**

7. A disciplinary tribunal has the following general powers in relation to any defendant officer:
  - i. a warning,
  - ii. a censure (unless the defendant officer has already been censured), or

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<sup>55</sup> That hearing may be a no confidence motion, Disciplinary Tribunal, staff disciplinary hearing or dismissal reference hearing.

<sup>56</sup> Regulations 7.62 and 7.5

<sup>57</sup> Regulation 7 Part H (7.62 – 7.67)

<sup>58</sup> Regulation 7.63

<sup>59</sup> Regulation 7.62

- iii. dismissal from office.
8. The following restrictions apply to the power to dismiss from office<sup>60</sup>:
    - i. A Disciplinary Tribunal of the Union Court may not dismiss a person holding sabbatical office or otherwise deriving employment from office, or the Council Chair, and
    - ii. A Trustees' Committee may not dismiss the President, Council Chair or Court Chair.
  9. If the request for a disciplinary tribunal is made by a Faculty Union President, Constituent or Campus Union President or Clubs and Societies Committee Chair, then the defendant officer must hold office within the constituent part of the Union of which the requestor is President or Chair.
  10. If the President has decided to take action under the Student Disciplinary Policy, the Imperial College Council has authorised Disciplinary Tribunals<sup>61</sup> to impose further penalties (set out in paragraph 37 of that Policy) and include as defendants registered students of the College who do not hold office in the Union, if their conduct is connected with someone who does. In such cases the Disciplinary Tribunal must be convened in respect of at least one defendant who holds elected or unpaid appointed office. Clubs and Societies (as corporate bodies separate from their members) may also be defendants but the penalties of censure and dismissal do not apply to them.

### **Composition**

11. A Disciplinary Tribunal may be formed of the Trustee Board as a whole, a Trustees' Committee or the Union Court.
12. The Disciplinary Tribunal shall by default be constituted from the Union Court (with a panel appointed under its own standing orders and following its own rules subject to this Procedure) with the following provisions:
  - i. If a defendant officer holds sabbatical office or otherwise derives employment from office, or is the Council Chair, dismissal is not contemplated as a penalty.
  - ii. No defendant officer is a member of the Union Court.
13. The Court Chair upon receipt of a request for a hearing shall provide the details of the request to the Trustee Board Chair and Secretary of the Trustee Board.
14. Notwithstanding the above provisions, a disciplinary charge shall instead be heard before the Trustee Board as a whole or a Trustees' Committee in the following circumstances:<sup>62</sup>
  - i. The Trustee Board Chair directs,
  - ii. The Court Chair directs, or
  - iii. The Union Court sitting as a Disciplinary Tribunal refers it.
15. If the Union Court is not to hear the proceedings, the Trustee Board Chair shall determine whether a hearing is before the Trustee Board as a whole or a Trustees' Committee, though the Disciplinary Tribunal must comprise the Trustee Board as a whole if the defendant officer is the President, Council Chair or Court Chair and dismissal is contemplated as a possible outcome.

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<sup>60</sup> Regulation 1.33.4 – the President, Council Chair and Court Chair can only be dismissed by the Trustee Board as a whole; the restrictions on the Union Court apply to those employed as a consequence of office (nearly always the sabbaticals)

<sup>61</sup> Student Disciplinary Policy paragraph 23

<sup>62</sup> The default for cases is the Union Court except where dismissal is contemplated for sabbaticals (or Union Court members themselves face proceedings). Nevertheless there may be reasons to refer it to the Trustee Board; one particular reason may be that charges against a sabbatical defendant which were thought not to be serious have since been shown to be and dismissal may be contemplated.



16. If the Disciplinary Tribunal is constituted as a Trustees' Committee it shall:
- i. be appointed by the Trustee Board Chair,
  - ii. consist of three or five people,
  - iii. consist of a majority of Trustees<sup>63</sup>, at least one of whom shall be a Lay Trustee<sup>Error! Bookmark not defined.</sup>, and
  - iv. exclude any person disqualified from being a Trustee<sup>64</sup>, and
  - v. exclude any person against whom misconduct is alleged, or who has a social connection with such a person.
17. The Trustee Board Chair at his or her discretion may choose to appoint the Trustees' Committee by lot, in so far as it complies with the above provisions.
18. Where the Disciplinary Tribunal is the Trustee Board as a whole and any Trustee is also a defendant officer or has a social connection with a defendant officer, that Trustee may not vote or be counted in the quorum.
19. The Trustee Board Chair will determine whether or not any person has a social connection with a defendant officer, and Trustees are expected to disclose any connection which may give the appearance of disqualifying them from sitting upon a Disciplinary Tribunal.

### **Procedure**

20. The following procedure shall be used for a Disciplinary Tribunal hearing:

#### **Notice and defendant**

- i. The defendant officer shall have reasonable notice of the hearing and be informed of the charges against them in writing.
- ii. The defendant officer may bring witnesses and a representative, giving notice if so doing.
- iii. The hearing shall not be invalidated by the absence of the defendant officer provided reasonable notice has been given of it.

#### **Evidence**

- iv. Any evidence may be heard which is relevant and fair. Arrangements may be authorised by the Disciplinary Tribunal for witnesses to give evidence in a way which reduces their stress or discomfort.
- v. Evidence brought in support of any charge shall be heard first, and the defendant officer may ask questions of the witness if brought.
- vi. The Disciplinary Tribunal, if evidence of the charges taken at its highest could not either prove them or demonstrate misconduct, shall dismiss the case without hearing from the defence;<sup>65</sup>
- vii. The defendant officer may give evidence, and if so may be questioned about it. Witnesses may also be called for the defence, and may be further questioned by the party bringing the case and the committee.
- viii. If the defendant does not give evidence at the hearing (and is competent to do so), or failed to mention when asked in any prior investigation

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<sup>63</sup> Regulation 1.36

<sup>64</sup> Regulation 1.43 and constitution 9.7 - any Union Officer, the Felix Editor, member of Council, Executive Committee, Court (except the Court Chair), Clubs and Societies Board, Representation and Welfare Board, Union staff (whether permanent, part time or casual), or College staff (except casual)

<sup>65</sup> Commonly known as the *Galbraith* test in criminal law, this means that if the evidence is particularly weak the allegation should be stopped as it is not the purpose of disciplinary proceedings to force a person to incriminate himself or herself in the absence of proper evidence

something he or she later relied upon in the hearing, the Disciplinary Tribunal may draw such inferences as appear proper in relation to the facts or finding of misconduct;<sup>66</sup> and

- ix. The Disciplinary Tribunal may amend a charge if it does not cause injustice to the defendant to do so;
- x. Earlier misconduct shall not be presented or taken into account until a finding of misconduct has been made.
- xi. The defendant officer is permitted to make any final representations upon the charges.

#### **Three step process for determination of charge**

- xii. First, the Disciplinary Tribunal shall consider firstly in the absence of the defendant officer and any witnesses whether each of the charges is true.
  - xiii. Secondly, the Disciplinary Tribunal shall next consider whether the charges proven amount to misconduct, and shall provide the defendant officer with an opportunity to address them separately upon this issue, unless the defendant officer has already accepted misconduct.
  - xiv. Thirdly, the Disciplinary Tribunal will lastly consider, if a finding of misconduct has been made, what penalty to impose.
  - xv. The defendant officer shall be informed of the decision, its supporting reasons, and any rights of appeal.
21. If the Disciplinary Tribunal is also sitting as a Disciplinary Committee under section 23 of the Student Disciplinary Policy, then the procedural requirements of Part C of that Policy shall apply and prevail over the above provisions in case of conflict.

#### **Appeals procedure**

22. A defendant officer in respect of whom a finding of misconduct has been made by a Disciplinary Tribunal of the Court or Trustee Board is entitled to an appeal to an Appeal Tribunal.
23. The appeal must be entered within a period designated by the original Disciplinary Tribunal, for which the default and minimum period is seven days.
24. Any appeal outside the time limit may only be made with the approval of the Trustee Board Chair.
25. The appeal shall confine itself to the following matters:
- i. To review whether the matter under consideration was adequately investigated and substantiated;
  - ii. To review whether the procedures were correctly and fairly implemented; and
  - iii. To consider whether the penalty was reasonable in the circumstances known at the time of the disciplinary hearing.
26. If new evidence is submitted during the appeal hearing, the Appeal Tribunal has the discretion to remit the matter back to the Disciplinary Tribunal and invite them to reconsider their decision upon the charges, finding of misconduct or penalties.
27. The Appeal Tribunal may modify any part of the decision of the Disciplinary Tribunal, or remit it back for reconsideration with their comments.

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<sup>66</sup> Failure to comment or give evidence can be held against a defendant officer – this is of particular relevance given disciplinary tribunals are held in relation to office-holders in the Union

28. The chair of the Appeal Tribunal has the discretion whether to permit a further appeal from a Disciplinary Tribunal which has re-formed following a matter being remitted back to it by the Appeal Tribunal.
29. The decision of the Appeal Tribunal is final.

### **Composition of Appeals Tribunal**

30. The Appeals Tribunal shall comprise:
  - i. In appeals from the Union Court acting as the Disciplinary Tribunal, a single Trustee, a Trustees' Committee or the Trustee Board as a whole;
  - ii. In appeals from a Trustees' Committee acting as the Disciplinary Tribunal, either another Trustees' Committee appointed in the same manner or the Trustee Board as a whole;
  - iii. In appeals from the Trustee Board as a whole, where the penalty does not involve dismissal, to a single person appointed by Imperial College's Director of Human Resources;
  - iv. In appeals from the Trustee Board as a whole, where the penalty includes dismissal, to a panel of not fewer than three people appointed by the College's Director of Human Resources.
31. The Trustee Board Chair may direct that an Appeals Tribunal be comprised of a body named lower down the in the list above<sup>67</sup>.
32. Any nominee of the College's Director of Human Resources must be of rank of Senior Lecturer or above, or its administrative equivalent.
33. No person may sit on an appeal from a decision in which they were involved. If the Appeal Tribunal is the Trustee Board as a whole, Trustees involved in the original Disciplinary Tribunal may not be present, vote or be counted in the quorum.
34. If the Trustee Board Chair sat upon a Disciplinary Tribunal, he or she should appoint an independent person to exercise the Trustee Board Chair's duties in relation to any Appeal Tribunal.

## **L. Dismissal references for those holding sabbatical office**

### **Scope of part**

1. A dismissal reference is a reference by an authorised body to the Trustee Board inviting them to consider dismissing a person holding sabbatical office or otherwise derives employment from office.
2. A dismissal reference is not a request for a Disciplinary Tribunal. A dismissal reference follows from either a no confidence motion or Union Court compliance ruling where the initial disciplinary hearing has already been concluded.
3. A reference by the Court acting as a Disciplinary Tribunal to the Trustee Board under section D14.iii is not covered by this part as that invokes another Disciplinary Tribunal under Part D.
4. The Council, or other committee with the authority to do so, in passing a motion of no confidence against a Sabbatical Officer or holder of paid elected office automatically suspends the defendant sabbatical pending resolution by the Trustee Board<sup>68</sup> under this Procedure.

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<sup>67</sup> That is to say the list in order: single Trustee or independent person, Trustees' Committee, Trustee Board as a whole, nominee of the College DHR, committee nominated by the College DHR

<sup>68</sup> Regulation 7.53

5. The Court may make a dismissal reference in respect of a Sabbatical Officer or holder of paid elected office where it has found that person to be in breach of an order or direction, following a hearing to consider the same.
6. No other person or body may make a dismissal reference. The appropriate action is to present a motion of no confidence or request a Disciplinary Tribunal.

### **Outstanding appeals**

7. If a dismissal reference is made in a case which is subject to appeal, then the question of dismissal shall not be determined until the appeal has been disposed of.

### **Composition**

8. A dismissal reference shall be heard by the following bodies:
  - i. Where referred by the Council following a motion of no confidence in the President<sup>69</sup>, or referred by the Court in respect of the President, the Trustee Board as a whole;
  - ii. Where the Trustee Board Chair or Trustee Board directs, the Trustee Board as a whole;
  - iii. In all other circumstances, a Trustees' Committee.

### **Procedure**

9. The Trustee Board (or delegated body) shall satisfy itself, in cases where the person enjoys employment rights under Employment Rights Act 2002 or other legislation, that those rights have been complied with.
10. The Trustee Board (or delegated body) may authorise such investigations and hearings (including any Disciplinary, Appeal Tribunal, or other hearing having the necessary characteristics thereof) necessary to remedy any deficiency in the prior process, or to obtain further information.
11. The Trustee Board (or delegated body) shall invite any written representations from any person subject to a dismissal reference, and may choose to hear from any such person or other person.

### **Decision**

12. The Trustee Board (or delegated body) shall choose either to dismiss the person from office or not. Reasons must be provided for any decision<sup>70</sup>.
13. If a person referred following a motion of no confidence is not dismissed, the person shall be automatically censured<sup>71</sup>, unless already previously censured.
14. The decision in a dismissal reference is final.<sup>72</sup>

## **M. Union Court appeals**

### **Scope and applicable rules**

1. A determination<sup>73</sup> of the Union Court may be appealed to the Trustee Board in specific circumstances.

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<sup>69</sup> Regulation 1.33.4

<sup>70</sup> Regulation 7.55 though this provision requires reasons in all cases, not just those required under the regulation

<sup>71</sup> Regulation 7.55

<sup>72</sup> Any appeal should have been conducted at the original disciplinary stage.

2. Any direction, specified compulsory direction or other matter relating to an ongoing hearing shall not be appealed. An interim order or determination may be the subject of appeal.<sup>74</sup>
3. A request may also be made to the Trustee Board to stop a Union Court inquiry<sup>75</sup>, to reduce or rescind a penal order imposed by the Union Court<sup>76</sup>, or a decision by the Union Court to censure or dismiss one of its own members<sup>77</sup>.
4. Any one of the above matters decided by the Union Court shall be known for the purposes of this Part as a “decision”.
5. Appeals from the Union Court acting as a Disciplinary Tribunal are dealt with under Disciplinary Tribunal appeals and not this Part.

#### **Notification of intention to appeal**

6. Notification of intention to appeal must be provided to the Secretary of the Trustee Board within 7 days by the person making the appeal (“the appellant”).
7. The appellant must provide to the Secretary within 7 days of notification:
  - i. The decision subject to appeal,
  - ii. A written statement stating which part of the decision is wrong and why, and
  - iii. Any evidence or copies of rules relevant to the disposal of the appeal.
8. The Trustee Board Chair may dismiss the appeal without a hearing if it appears unmeritorious, or the above provisions have not been satisfactorily complied with.

#### **Procedure for appeals from decisions**

9. The appeal shall be heard by the Trustee Board as a whole, though none of the *ex officio* Trustees shall vote or be counted in the quorum<sup>78</sup>.
10. Members of the Union Court panel whose determination is under appeal shall not attend the appeal.
11. After the hearing the Trustee Board may approve the wording of the decision and reasons by electronic mail communication.
12. A decision having the effect of changing the determination must be reasoned and the reasons published.
13. The decision of the Trustee Board is final.

### **N. Preliminaries – acceptance of reference, enquiries and recommendations**

#### **Scope of part**

1. This part deals with all references or requests to the Trustee Board under this Procedure.
2. This part sets out how the reference or request is accepted and how any enquiries or recommendations are undertaken.

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<sup>73</sup> Regulation 2 Part F; “determinations” are the term used to describe the opinion and orders made by a panel of Union Court members hearing a case

<sup>74</sup> The Trustee Board will not hear appeals relating to internal matters during a hearing, but only the final decision; however an “interim order” or “interim determination” is a direction which applies to the Union generally rather than internally within the Union Court, so these can be appealed: though they risk being rescinded by the Union Court itself later when publishing the final determination.

<sup>75</sup> Regulation 7.38

<sup>76</sup> Regulation 7.53

<sup>77</sup> Regulation 21.4

<sup>78</sup> Regulation 1.42

### **Notice and preliminary assessment of reference**

3. The person making the reference shall give notice through the Trustee Board Secretary to the Trustee Board Chair.
4. The Trustee Board Chair may make such enquiries as appears necessary or expedient.
5. The Trustee Board Chair shall determine whether the reference is one of those types listed in rule A1 above.
6. The Trustee Board Chair's assessment at this stage is directed at whether the reference falls within the jurisdiction of this Procedure, not the merits of the reference. However, a reference which appears to the Trustee Board Chair to be illogical, vexatious, frivolous or anonymous may be rejected.
7. A decision of the Trustee Board Chair to accept or not accept a reference on the jurisdictional grounds above is final.

### **Allocation of a reference for preliminary recommendation**

8. The Trustee Board Chair may choose (or not) to allocate a reference for a preliminary recommendation as to the most suitable disposal on behalf of the Trustee Board or upon some other related matter. This may involve such enquiries as are deemed necessary or expedient.
9. The Trustee Board Chair shall refer a preliminary recommendation to a Trustees' Committee or single Trustee, who shall prepare the recommendation by such time as the Trustee Board Chair may direct.
10. If the recommendation is that the reference is sufficiently unmeritorious to be dismissed without further resolution, then the Trustee Board Chair is entitled to (though need not) dismiss the reference without further action.

### **Appointment of those dealing with preliminary recommendation**

11. A single Trustee or Trustees' Committee appointed to make any enquiry or recommendation shall be appointed by the Trustee Board Chair.
12. No *ex officio* Trustee<sup>79</sup> may make any recommendation upon any Union Court appeal<sup>80</sup>.

A person involved in making a recommendation or enquiry may, but need not, sit on any panel dealing with the final resolution of the matter

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<sup>79</sup> The President, Council Chair and Court Chair

<sup>80</sup> Regulation 1.42