

Gazette Supplement



Topic for Discussion: possible changes to Statute XII

The following is the text of the Discussion in Congregation at 2pm on 18 November on the topic of possible changes to Statute XII.

THE VICE-CHANCELLOR: The business before Congregation is the presentation of a Topic for Discussion.

Would you please be seated. The topic for today's Discussion is possible changes to Statute XII. In Hilary term 2014 members of Congregation and all University staff were invited to respond to a consultation about possible changes to Statute XII, the statute that governs matters such as discipline, dismissal and grievance procedures for all University staff of grade 6 and above. The consultation document identified a number of shortcomings of the present statute and sought views on various amendments that could be made to the statute in order to address them. In light of the responses received, Personnel Committee has identified a number of possible changes for discussion, and these were set out in the supplement published with the *Gazette* on 23 October. Today's Discussion in Congregation will provide an opportunity for views to be expressed before detailed proposals are developed for a second round of consultation.

Following this Discussion, and the publication of the proceedings in the *Gazette*, there will be an opportunity for University staff to send in by email further comment. In accordance with the regulation covering topics for discussion, no vote will be taken at this meeting, but Council will be required to give consideration to the remarks made and will do so at Council's meeting on 1 December. A transcript of this meeting will appear as a *Gazette* supplement as soon as is possible; the intention is to publish in the *Gazette* of 27 November. It will also appear on the University website.

The procedure for today's discussion will be as follows. I shall ask Dr Goss, Pro-Vice-Chancellor for Personnel and Equality, to introduce the discussion and give an overview of the matters for consideration. The topic will then be open

to the House. At the end of the discussion, I shall ask Dr Goss to make any final points. Today's meeting will end no later than 4.30pm. Please could speakers come forward and speak into the microphone, first giving their name and college or department. Speakers are asked to follow the usual convention of not speaking for more than five minutes. Positioned to the side of the lectern is the anti-loquitor device, which has green, amber and red lights to help speakers with the timing of their speeches. The lights will change from green to amber once four minutes have elapsed, at which point speakers are asked to begin to wind up their remarks. The amber light will remain on for a further minute, after which it will be replaced by the red light at which point speakers should conclude their remarks. I shall have to ask speakers to bring their remarks to an end if they extend beyond five minutes.

A number of those attending have expressed a wish to speak and I will call upon them all. I will then call on any others who wish to speak. Additional speakers should rise from their seats to indicate their wish to speak and I would ask that they speak only if they have new points to add which have not already been raised by other speakers. Speakers are also asked to confine their remarks to the themes relevant to the 'Topic of Discussion'. In accordance with health and safety guidelines, the stenographer who is helping us to transcribe today's proceedings is entitled to a break during the meeting. Therefore, if the meeting is still in progress at approximately 3.30pm, I shall call for a five-minute break.

Speakers have previously been asked to email copies of the text of their speeches to the Congregation email address. If any speaker has not already done that, I would be grateful if you could provide a copy of your text to

¹Under regulation 1.14 of Congregation Regulations 2 of 2002, if the Chairman considers that a speaker's remarks are irrelevant to the question concerned, the Chairman may direct the speaker to confine his or her remarks to that question, and the speaker shall comply with the Chairman's direction.

Mrs Burchett, the officer who is collecting such speeches, as this will be of assistance in preparing the published record of the discussion in the *Gazette*. I now ask Dr Stephen Goss to introduce the discussion.

Dr Stephen Goss, Pro-Vice-Chancellor (Personnel and Equality), Sir William Dunn School of Pathology, Fellow of Wadham

Stephen Goss. I am speaking as Chair of the Personnel Committee. Mr Vice-Chancellor, Proctors, members of Congregation, and wider members of University staff: we have come together this afternoon to discuss the possible revision of Statute XII, a statute which applies to the 9,000 academics, researchers, administrators and professional staff whose roles are those that relate most specifically and directly to the purpose of the University.

It is an unpalatable topic for discussion: we are looking at how to address difficult employment issues.

We are all human; we have to accept that some staff might behave in ways that upset other staff or students, some might not accept their proper share of the workload, and some might not be able, for a variety of reasons, to fulfill their duties. In such instances, we need to provide for an outcome that is fair and timely for all involved: fair not only to the individual whose behaviour is in question, but fair also to those colleagues who may be affected by that behaviour. These colleagues deserve to be properly supported and protected, both to ensure equity and to foster harmonious and collaborative working.

The statute sets out its own guiding principles which we can agree are noble and to which we should adhere: the protection of academic freedom, justice and fairness, and the efficient and economic furtherance of education, teaching and research.

In February this year, Personnel Committee launched a consultation on approaches to improving the statute. We found significant

agreement for making the statute clearer, simpler, less intimidating; for aligning it with current employment law; and for improving the grievance procedures. However, there was very clear concern for the continued protection of academic freedom, and we need to consider this further before any start can be made on trying to redraft the statute.

The sole procedure in the statute for dealing with serious disciplinary issues is the Visitation Board. In aiming to give special protection for academic freedom, this procedure is complex, resource intensive and typically slow and stressful for all involved - characteristics which work against the seeking of a just resolution. So, a case might not be followed through to the level which it arguably deserves, or an employee might be encouraged to leave with a negotiated settlement without the case ever having been properly tested.

We ought to aim for a higher standard of justice.

Personnel Committee initially argued that there are classes of staff for whom academic freedom could not be an issue and suggested that these staff should be removed from the statute and dealt with under some alternative, simpler procedure. Responses in the consultation raised doubts: could we justify dividing staff in this way; and, if so, where should the dividing line fall?

The committee is interested in your views on an alternative approach: namely that the staff groups covered by the statute should remain entirely unchanged and that a new procedure should be provided as an alternative to the Visitation Board. The new procedure would be used whenever a case was serious but did not involve academic freedom. This approach was suggested by the nature of the cases prepared in recent years for the Visitation Board: invariably, academic freedom has not been relevant. Suppose, for instance, that the matter concerns alleged sexual harassment. There is no reason to provide a special level of protection just because an individual is a relatively senior University employee. The new procedure must be rigorous, but it should nevertheless normally be possible to avoid the complexities of the Visitation Board. The board would still be used when there was reason to believe that the case might relate to underlying issues of academic freedom: that decision could ultimately rest, for instance, with a small, independent group elected by Congregation.

On a second point, Personnel Committee has raised an issue connected with redundancy. Under the statute, it is Congregation alone that decides when redundancy can be used to reduce the size of some part of the University. This principle is not at issue. A difficulty does, however, arise when the number of staff under consideration is small. Then meaningful consultation with Congregation is not possible without the risk of identifying individuals. In one set

of circumstances, relating to open-ended contracts, Congregation has given standing permission for a Redundancy Committee to act - for example, if external grant funding for a project is lost. The Redundancy Committee, working in confidence, sees that those at risk are fairly identified, that alternatives to redundancy have been pursued, and then, only if it is unavoidable, the committee makes recommendations for redundancy to Council. Council, with its elected members, takes the final decision when it is satisfied that due and careful process has been followed. This offers very substantial protection to the individuals involved.

Personnel Committee is now suggesting that Congregation might consider giving a similar standing permission to deal with small-scale redundancies that are needed from time to time to reshape the administrative and professional services, though not where roles focused on teaching or research are involved. The Redundancy Committee would work to guarantee the protections I have just outlined. Only if the affected staff could not be redeployed or retrained would redundancies become essential for the efficient running of the University. Personnel Committee sees this approach as consistent with the three guiding principles of the statute.

At this stage, Personnel Committee wishes to hear your views on these various proposals - and, of course, any other comments you may wish to make. Next comes the detailed work, and we are looking for guidance now so that we can move in a direction for which there is a degree of consensus. There will be further consultation with Congregation as the detail is worked out. Thank you.

THE VICE-CHANCELLOR: Thank you. The discussion is now open to the house and I ask Mr Bamforth to speak first.

Nicholas Bamforth, Faculty of Law, Fellow of Queen's

Nicholas Bamforth, Queen's College and Faculty of Law. Vice-Chancellor, Proctors and Assessor, members of Congregation, I would like to make two interconnected points. One arises from my academic discipline, Law, and the other is based on past experience as a Proctor. Each point is underpinned by my absolute commitment to a foundational principle within Oxford and other universities properly so called: namely, academic freedom.

Starting with legal drafting, it is never wise to treat any text, including that of Statute XII, as something to be viewed as sacred and automatically deserving preservation in its current state. Instead, the much more important factor is the *principle* upon which a text is based and to which it aims to give effect. The key question for Congregation is whether any proposed revisions to this text - Statute XII - serve to give the same (or, preferably, better) protection to the underpinning *principle*: in this case, academic freedom.

Debate about the statute should not immediately be reduced to absolute support for or opposition to the current text, equated in turn either with the defence of academics' freedom or support for an overly managerial style of higher education. In reality, Statute XII appears to generate drafting problems which need to be sorted out whatever one's personal perspective concerning the general position of UK universities. My suggestion, wearing a legal hat, is that if Congregation is concerned to defend academic freedom then we should work from the assumption that the text of Statute XII cannot be viewed as unchangeable. Instead, the broader principle of academic freedom must be our guiding light. The key issue then is whether any possible change to the statute offends against this core underpinning principle, perhaps coupled with other values such as fairness.

Now, statutory terms must be properly defined if they are to serve an useful purpose. Statute XII, as currently drafted, offers little help when it comes to delimiting those who fall within its protections, either generally or in relation to specific acts. On a common sense level, we assume that academic freedom applies only to academics and/or academic activities. However, due to attrition at a practical level, Statute XII has come - in practice - to include people and/or activities which do not obviously fall within the ambit of academic freedom, understood as I have just defined it, given that they are not concerned with work which can sensibly be viewed as academic.

Some mechanism is therefore needed to better define Statute XII's boundaries. One option might be to devise a new statutory definition of those who fall within (and, by implication, outside) its protection. However, even if it was possible to produce a definition to Congregation's satisfaction, I doubt whether - given the huge variety of academic and academic-related contracts and gradings which now exist - this could be done in a way which did not require frequent interpretation by the Vice-Chancellor (on advice from the Proctors) on a case-by-case basis.

Logically, the only real alternatives are either to leave things as they stand or to create a closely tailored reference process to distinguish between cases which would go to the Visitation Board - namely those which involve the principle of academic freedom or have it at their heart - and those which should not.

It is worth noting that in just about every top-level appellate court in the world there is a mechanism - usually some sort of reference committee - for distinguishing between matters which merit being referred to that court for consideration and those which don't. Simply as an empirical proposition, it seems hard to argue that Oxford should not consider the creation of such a reference mechanism to weed out 'non-academic matters' by

contrast with academic matters which deserve consideration from the Visitorial Board. The real issue is whether any such mechanism can sufficiently respect academic freedom. Speaking at this point from past experience as a Proctor, I think that a possible panel could be created based on the successful model of the Student Disciplinary Panel, which includes a chair with a professional legal qualification from within the University and other suitable people elected by Congregation. It is plainly inappropriate for the Vice-Chancellor to determine whether or not a case should be referred to the Visitorial Board, but the composition of the Student Disciplinary Panel might offer a model by reference to which a future Statute XII could be constructed with full regard for academic freedom.

THE VICE-CHANCELLOR: Thank you. I now call Ms Watson.

Margaret Watson, Bodleian Libraries, President of Oxford UCU

Margaret Watson, Bodleian Libraries and President of Oxford UCU. In 2001, when I was working across the road in what is now the Weston Library, I was offered the post I now hold at Law. And, when I collected my new contract, it included a rather puzzling reference to a statute. Now I never sign anything, even from the University, without checking it out, and so I looked it up. And I discovered the statute that underpins our University democracy, that guarantees our intellectual independence and that safeguards our professional and moral integrity.

And that integrity is vital because the University does not consist of its real estate, its financial instruments or even its magnificent collections. It is not the Sheldonian Theatre, the Magna Carta and the Alfred Jewel that make us a university. What makes us a university is the engagement in research, and the consequent teaching and learning, in which we all play a direct or indirect part.

Research is by its very nature subversive, and it can send any one of us unexpectedly into controversial areas. Human rights, medical ethics, religion, equality: all come up as part of the day's work in the Law Library. And during my career I have dealt with subjects ranging from military exports and dual-use goods to mad cow disease. And the subject matter that I have encountered in Oxford is often surprisingly close to that which I came across when I worked in the City of London. What is different here is that we always follow the argument wherever it leads, and I am never asked to tell a lie or to conceal a fact - and both those things used to happen to me when I worked in corporate finance.

Now, my work happens to take me quite close to the coalface, but I know that I could not do what I do without the infrastructure of educational services that lies behind me, and UNESCO is clear that 'higher education

teaching personnel' means all those who are engaged to teach, research or to provide educational services. And the Education Reform Act 1988 is also clear that references to 'academic staff' include academic-related staff by virtue of the similarity of our terms of appointment or contracts.

This is why Statute XII, following the words of the Act, ensures that we all, from grade 6 up, 'have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions'. I do not see how it is possible to draw a line between those of us that need this protection and those who might not. I am appalled that the University is even contemplating a standing Redundancy Committee for administrative staff - and I hesitate to use these words because I am acutely aware of their resonance before this body and in this building - but I do believe that this may challenge the University's governance procedures. At the very least, it is a move to remove the protection of Statute XII from some staff by the back door.

At a time when the University is committed to competing in a global market, how can we compete even nationally if we are to offer the lowest standard of job security of any of the Russell Group universities? And how can we, as promised in the Strategic Plan, foster a culture of innovation, be open to new ideas and act as a global hub for intellectual engagement if our staff is segmented into those that may speak their minds and those that may not? I firmly believe that we are a great University and that we have the capacity to lead the world academically. Of course we should operate efficiently. I know there isn't a stream of gold running through the finance offices in Hythe Bridge Street. But no amount of economic efficiency can replace academic honesty and the search for truth.

Finally, I think we should ask ourselves: would we be able to hold this Discussion without the protection of Statute XII? How many of the speakers today would be willing to put their case without it? It is the statute that has enabled even those who claim to be willing to forgo its protection to respond to the consultation freely and frankly, and, without its protection, I might not be standing here and defending it today.

THE VICE-CHANCELLOR: Thank you. Professor Halliday.

Professor Alex Halliday, Head of the Mathematical, Physical and Life Sciences Division, Department of Earth Sciences, Fellow of Wadham

I am Alex Halliday, I am the Head of the MPLS Division, I'm at Wadham and I am in Earth Sciences as well. Vice-Chancellor, Proctors and Assessor, members of Congregation, I am talking as someone who has been at Oxford for a decade and someone who has been a head of division for the last seven years. I have worked

in the United States and Switzerland and I am very much involved in international research. One of the things that attracted me to Oxford, and later to the Head of MPLS position, was the quality of the academics here at Oxford. I fully believe that we have to be firm about academic excellence. That excellence comes from the outstanding individuals combined with the freedom to pursue our own ideas and challenge accepted thinking. Using measures like Statute XII to protect academic freedom is immensely important. However, using it for a broader spectrum of issues *undermines* our attempts to build academic excellence for the following reasons.

Oxford has been hugely successful at raising grant income over the past decade and with successive annual growth is now 30% bigger than any other UK university in these terms. However, despite all of this success with grants, the cost of running Oxford is so high that we *barely* manage to put aside the absolute minimum that HEFCE expects year on year. We are barely sustainable as an academic institution. As a result, Oxford is actually weak compared with many other institutions in our ability to reorganise to address new challenges; we don't have the resources for funding new initiatives and we cannot keep up with repairs and replacements of buildings and facilities, nor offer decent start-up packages to incoming faculty. The net result of this is that Oxford, if it is to stay strong, has to be able to use its resources in a different way, more wisely and more flexibly, to provide support when it is needed and where it is needed. We need to adapt, as required, our academic and support structures, so that our research and teaching can be the very best; but we also need, as I say, to protect the academic freedom that is the foundation upon which our academics and our researchers can think freely and creatively.

As Head of Division I have participated in the discussions at Personnel Committee and Council on the possible changes to Statute XII. These discussions have sought to address both of these issues. The loudest piece of feedback from the consultation process we are going through has been the importance of academic freedom, and for all of us, as individuals, this must be our first concern. But, also as individuals, we have all benefited from - and hopefully our successors will also benefit from - being part of one of the most respected universities in the world. And to maintain this position the University does need to adapt and develop. So the two main elements of the ideas proposed in the *Gazette* supplement do seem to me to be a reasonable way through this challenge.

Statute XII was designed over 20 years ago to protect those working in the University from unfair dismissal following the 1988 Education Reform Act which removed tenure for academics. However, a generation ago nobody really envisaged that the statute would end up having application in such a wide range of

circumstances, the main focus of which was to protect academic freedom. If we can continue to provide academic freedom with a cast-iron guarantee of protection from Statute XII, and deal with other disciplinary and grievance issues which have no connection with academic freedom via an alternative route, but which still treats individuals fairly, then this seems to be well worth pursuing. If we can also enable Congregation to oversee small-scale changes and restructuring via some sort of committee, rather than requiring that every redundancy proposal be considered by the full Congregation, then this also seems to be well worth pursuing. There will obviously need to be more work done on the detail of both these ideas, but I do think we should progress with this work. Thank you.

THE VICE-CHANCELLOR: Thank you. Dr Ramirez.

Dr Rafael Ramirez, Saïd Business School, Fellow of Green Templeton

Rafael Ramirez from Green Templeton College and the Saïd Business School. Mr Vice-Chancellor, Proctors, Assessor, colleagues and Congregation, I co-authored a submission to the Personnel Committee consultation on Statute XII with Roger Undy which appeared in the *Oxford Magazine*. We treated the proposed changes as if we were reviewing a submission to a peer-reviewed journal. I will not repeat here what we said in the *Oxford Magazine* – but I do want to point out that neither we nor the *Oxford Magazine* received any counter-argument that the academic assessment we made of what has been proposed was in any way wrong.

I will take this opportunity instead to highlight the implications of ignoring what students of employee relations, organisational change, university governance and business strategy have to say as regards the effects of universities managing their senior staff in the manner indicated by the changes in the Statute XII proposed by the Personnel Committee.

As the Pro-Vice-Chancellor of Personnel is a medic, I have adopted a medical metaphor in making my criticisms of the Personnel Committee's proposed adjustments of Statute XII.

- If one takes the proposed changes to Statute XII as medical treatment, and the University as a patient, there is no evidence that the patient needs the medical treatment.
- The nature of the patient appears to have been misdiagnosed. This is not an organisation, it is a pluralistic setting or a meta-organisation that deserves another way of managing.
- The proposed medical treatment's efficacy is not supported by research.

- Alternative treatments that have been found by recent research to improve patient health have been ignored.
- Finally, in the future, the demand for more interdisciplinary work appears set to grow, resulting in an increase in the demand for more academic-related staff capable of assisting the academics with related interdisciplinary research. So a question arises as to whether the present proposed changes and treatment are meant to cure yesterday's alleged symptoms, or to act as preventative healthcare for tomorrow's requirements.

As to items 9 to 12 in the consultation, may I suggest that the language that the committee chose is unduly biased and unfairly represents the advantages of the proposed changes while avoiding the advantages offered by the current system.

- In number 9, we are told that the situation is 'overly complex' with a suggestion to simplify. Nobody wants complexity for complexity's sake, but complexity does have its uses: it induces preventative management that makes entering the complex process unnecessary.
- 'Unclear' in number 10 suggests more clarity. Nobody wants to obfuscate things unnecessarily. As above, a streamlined process would invite ANY bad managerial decision – and management that does not foresee and act in a precautionary manner – to flourish. A complex process acts as a dissuasion and incites managerial care to be exercised early and in time to prevent a situation from deteriorating. Many of the things that we have been told need to be cleared with management are in fact police matters that can be referred to the authorities.
- In number 11, we are told that there is a risk of 'escalation to higher levels' and subsidiarity is invited, but subsidiarity already exists in this University.
- Finally, in number 12, we are told that the statute does not reflect the law. In my opinion this is a red herring. Statute XII is better than the law and we should have better protection than the law.

The proposed changes would appear to support a philosophy of management that would enable bad and late management, rather than induce more caring, earlier and preventative management, and therefore the Statute XII proposals that are being put forward should be rejected. Thank you.

THE VICE-CHANCELLOR: Thank you. Dr Thompson.

Dr Marc Thompson, Saïd Business School, Fellow of Green Templeton

Hello, Marc Thompson at Saïd Business School and Green Templeton College. Dear Vice-Chancellor, Proctors, Assessors, members of Congregation and other members of the University, the administration of the University has commenced a review of Statute XII which was agreed by Congregation, as we have heard, over 20 years ago. From time to time it is surely appropriate to review statutes and ensure that they are aligned with the values and purpose of the institution, and not generating unintended consequences which might undermine these goals. This is the work of good governance and is to be commended. However, we, Congregation, as the governing body of the institution, need to be convinced that such reforms of and in themselves are (a) maintaining the values and purpose of the University, and (b) are soundly based. And I want to go on to develop these points; I will take each in turn.

So are the reforms maintaining the values and purpose of the University? I retrieved the latest strategic plan of the University which situates the plan within the context of a well-articulated set of 'mission, values and objectives'. On reading this document, great emphasis is placed on maintaining the excellence of the University and the importance of the academic community, and I stress the word 'community', broadly defined in contributing to this goal. And I quote from this document: 'The University places a high value on collegiality... Throughout the collegiate University staff in all categories approach their work as members of a community. There is shared responsibility, which is made manifest through formal structures and discharged through a sense of mutual obligation.' In fact, as our prime minister would have us believe when talking about austerity, we are all in this together.

Applying this notion to the collective endeavour of the production of academic excellence (be it teaching or research) I fail to see how the proposals to reform Statute XII sit comfortably with these espoused values. As we know, academic knowledge production is increasingly a team game, particularly in the sciences and increasingly in the social sciences, and draws on diverse categories of staff. Many of these are on grades that the Personnel Committee proposes to remove from the protection of Statute XII and one could argue, given the current mode of knowledge production in the University, should we be increasing the coverage of the statute and not minimising it?

So how can the work of the University, recognised as highly dependent on mutual obligation between staff in all categories, be sustained when the committee is seeking to label some groups 'insiders' and other groups 'outsiders'? This is regressive and potentially a pernicious move and could have long-term

negative effects on the express purpose of the University to achieve academic excellence through shared responsibility and mutual obligation. It also begins the dangerous game of defining who has academic freedom and who has not. It is clear from the data presented by the UCU, for example, that many colleagues in the grades that the committee proposes to exclude from the coverage of the statute are engaged in academic work and therefore require academic freedom. In summary, I feel these proposed reforms ride roughshod over the mission, values and objectives of the University and should be rejected.

Now to my second point. Are these reforms soundly based? I have already alluded to the mode of knowledge production and the diverse range of staff which makes it so difficult to draw meaningful boundaries. It is also clear that the staff in these grades' work varies over time. So are we to be in a situation where we potentially include some staff at one point of time and then exclude them at another point of time as the nature of the work changes? I don't think this an operable solution and will greatly add to the costs of the institution.

The other important point here is whether the reform of the statute is needed to address the problems identified by the administration. Many of these, as the review of the statute in the *Gazette* outlines, are not to do with academic freedom at all but are matters of gross misconduct or illegal behaviour: clearly disciplinary matters. These matters should be dealt with at departmental or college level and it begs the question about the capability to manage these matters at the requisite level. Again, the University's governance and values stress the importance of subsidiarity; changing the statute will not redress the inadequacies of performance management at departmental level. These are management capability issues. The risk is that we expect the reform of A, ie the statute, to produce behaviour B, which is a decline in cases going to the Visitation Board, and there is no evidence that one is related to the other. The statute is not at fault here; it is a robust governance framework. What may be at fault and requires further exploration is the ability to manage disciplinary issues at a lower level. And I note that there are significant proposals to address this area, which is welcome, but this does not require redrawing the coverage of Statute XII.

The risk here is that managerialism will override the mission, values and objectives of the University, and I don't think this is in our or the wider society's interests.

THE VICE-CHANCELLOR: Thank you.
Professor Cooper.

Professor Susan Cooper, Department of Physics, Fellow of St Catherine's

Susan Cooper, Department of Physics and St Catherine's College. I think Statute XII should cover all of our staff, independent of grade,

although the protection and procedures could be different for different types of staff.

Currently for grades 1-5 we rely on UK law and on guidelines that someone posts on the web and can change. The details needn't all be in the statute, but should at least be in official regulations so that when modification is proposed a notice has to be put into the *Gazette* and members of Congregation could require a debate and vote if they thought it necessary.

Thinking in the abstract about what protection is appropriate is dangerous. 'Academic freedom' is not sufficiently well defined. Considering examples is better. I will give some, but more are needed.

Do academics have the freedom to choose their research topics and how they pursue them during their working time? Most of us probably think so, but I don't know if it is true in all of our departments. That freedom is not given unambiguously by Statute XII, where it might only apply to what we do in our 'spare time'. It might come from employment contracts, but we don't know what new contracts will say. If we do agree on that freedom, to whom should it apply? It can't be that a post-doc funded on grant X has the freedom to spend his working time on Y instead.

In Oxford we have lost a clear definition of 'academic' post and seem to have given up on recreating it. I think it is needed, and suggest it be applied to statutory professors, those who are on what used to be UL or CUF posts and are now associate professor, and others who have been awarded the title of professor. These are all subject to a higher level of initial selection or a higher level of review requiring exceptional performance and research either after a five-year probationary period or upon application for the title. It is then reasonable to grant those people freedom to choose their research.

Another protection is needed for members of Congregation to be able to exercise their role as the sovereign body of this University: not just to vote, but to speak out as in a meeting like this and sometimes externally. Those of you who were around in 2006 for the governance debates know that sometimes members of the administration make their views known in the national press. In such a situation, members of Congregation with other views need to be able to defend them. Is that right protected by Statute XII? You may think so, but the same definition of academic freedom is used in other UK universities where criticising the University externally is grounds for dismissal.

Also, academic freedom can be interpreted to apply only to an individual's particular area of expertise and few of us are professors of academic governance. We shouldn't rest easy just because we weathered one storm, when the climate of academia in the UK is becoming increasingly managerial. A right of appeal to the Vice-Chancellor on the basis of academic freedom might one day seem very hollow.

Actually, I don't think freedom of expression, including nationally, should be restricted to members of Congregation, nor to certain areas. I have no certified expertise in pensions, but maybe it is that which helps me to 'think out of the box' and make new proposals. I could write to *The Times Higher Education* last week without needing to hide behind the increasingly prevalent 'name provided' on their letters page. Will that be the case 20 years from now? Thank you.

THE VICE-CHANCELLOR: Thank you. Ms Bird.

Ruth Bird, Bodleian Libraries

Ruth Bird, Bodleian Libraries, Bodleian Law Library. Mr Vice-Chancellor, Proctors, Assessor and members of Congregation. Education is a collaborative activity. Academics do not work in isolation. This may once have been the case, but the 20th century put paid to that as bureaucracy, legislation, litigation and accountability expanded into all spheres of life.

The area of the Statute XII discussion that I wish to address is the role that the academic-related librarians play in facilitating and enriching the work of our academic colleagues. Our professional approach to our role has seen us evolve from the scholar librarian of the past, whose main interests were the production of bibliographies, catalogues of collections and well-ordered book-stacks, to multifaceted partners in the educational endeavour.

I refer especially to the teaching role of librarians. There has been no imperative on librarians to take up the responsibility of library inductions for thousands of new students admitted to Oxford every year. It was our initiative, because we understood that learning a subject is difficult enough without having to self-navigate the minefield of multiple resources available in these days of electronic as well as hard-copy resources. Once, it was adequate to know about the structure of catalogue cards in drawers and indexes in books. It is no longer so simple. The explosion of accessible resources in the past 20 years has added layers of complexity to information navigation. There is no longer a single, linear path to 'the correct answer'.

We are subject specialists, providing services to students, researchers and academics alike, from selection of books and e-resources to the creation of online guides which enable students to research and learn at the moment of need. We offer skills workshops in information discovery and scholarly communications. We offer lectures and tutorials; for example, in Law we take a compulsory first-year legal research course. In addition, some of us publish in peer-reviewed journals and present papers at conferences. Our expertise is not only where to locate information, resources or citations, but to know and understand specialisms. Our abilities complement the research and teaching activities of our academic colleagues.

I would like to quote from a note that I received just last Saturday from Lady Hazel Fox, [CMG,] QC, eminent barrister and honorary fellow of Somerville College: 'The gist of all this is to stress how relevant and more important than ever before is the personnel and knowledge of the trained librarian staff in the education of lawyers. Now that nearly all published material in the last 3–5 years is available on the web, its retrieval, relevance and continued availability poses many issues. Precise words are vital to lawyers, tittle tattle distracting.'

Librarians also have a valuable role in defending the freedom of scholars and readers to undertake research without fear of investigation, their privacy respected. In protecting the rights of readers, we must also be free to speak without fear and to enjoy the same academic freedoms as our colleagues.

A strong university needs dedicated and loyal staff in all areas, who are trusted by their academic colleagues and who are respected for the special expertise they bring to the overall goals of the University: to nurture the best minds in a learning environment. The revisions proposed to Statute XII threaten to alienate an important segment of these dedicated staff, and to create a division between the academics and the librarians that could result in staff losing their sense of commitment to the University.

THE VICE-CHANCELLOR: Thank you.
Professor Morgan.

Professor Teresa Morgan, Faculty of Classics, Fellow of Oriel

Mr Vice-Chancellor, Proctors and Assessor, members of Congregation and colleagues, I would like to start by noting how much agreement this consultation about revising Statute XII has already achieved. This has been a very constructive process so far, I think, which has found colleagues largely like-minded about change.

And, like most of the people who have replied to the consultations so far, I think it makes sense to revise the statute to reflect current employment law, to simplify some of its most complex procedures, to improve the clarity of some of its provisions, and to emend its process for addressing grievances, especially by making it easier to settle grievances at a local level. But, like many people, I have been very concerned about whom the statute should cover because one can imagine, easily, situations in which research assistants, laboratory technicians, librarians and others might need to invoke academic freedom, and in which that invocation ought to be taken seriously and tested. And a world-leading university, in what likes to think of itself as the free world, must do everything possible to protect the academic freedom of everyone involved in research and teaching in any way. It goes to the heart of what we believe the University is about.

And I was not convinced that identifying coverage by grade of post could possibly be a refined-enough tool to cover everyone who might need to be covered. On the other hand, identifying separately every type of post that might need to be covered would obviously be impractical: too laborious, too contestable, needing constant updating. So I think that the proposal which is before Congregation now is an effective and actually a very elegant solution to the question of coverage. It defends the academic freedom of all staff – subject to our being able to define it to our common satisfaction, and I think if other organisations have been able to do that, we ought to be able to do it too. In the process it retains parity between staff, which, to many of us, is a precious principle.

It also allows for the creation of simpler procedures for dismissal or disciplinary action on grounds other than academic freedom, and applies those too equally to all staff. And I have to say that I find the idea that it is harder to dismiss a member of academic staff, or a member of staff above a certain grade, than one below that grade, for reasons which are nothing to do with academic freedom, highly unpalatable, and I am very pleased to see that inequity abolished in the proposed revision.

And I also support the creation of a standing committee to handle redundancies among administrative and professional staff in conjunction with the offer of redeployment. And I have been very struck in the many conversations I've had over the last few months with colleagues in my college, faculty and division that I have yet to meet an administrative colleague who thought that that would put them at risk. But it is a risk, and I think an unnecessary risk, to the University's activities not to be able to configure our administrative and professional support in the way that best serves our academic and – more broadly – our charitable aims.

THE VICE-CHANCELLOR: Thank you. Dr Galligan.

Dr Francesca Galligan, Bodleian Libraries

Francesca Galligan, Bodleian Libraries. I want to speak in favour of the current coverage of Statute XII against any proposal to withdraw protection from certain grades of academic-related staff.

Responding in the *Gazette* on 22 October to comments on the initial consultation, our administration, while suggesting possibilities other than a reduction in staff covered by the statute, nevertheless states: 'It may yet be that a limited reduction in coverage, such as the removal from the statute of around 2,000 administrators in grades 6 and 7 who have neither teaching nor research responsibilities, will be deemed the best way forward.' The issue of which staff are to be covered by the statute seems thus very much still alive.

Section 8 of the changes to the statute that were initially proposed states: 'It is arguable that the other staff currently covered by the Statute, those whose role is to provide specialist support such as administrative staff, librarians, computing staff and other professional and technical specialists, should be treated on a par with all other non-academic staff. For these staff, there is no special need relating to academic freedom.'

As demonstrated by the responses to the initial proposal, this statement shows little understanding of the range of tasks undertaken by many academic-related staff across the University. For many of us, including those of us on grades 6 and 7, academic engagement is central to our work, and its importance is clearly stated in our strategic plans.

Take, for example, the Bodleian Libraries' Implementation Plan for 2013–16, published on our website. Section 18.2 of this plan states: 'Increase the number of staff submitting papers to journals and conferences, writing books and book chapters and other forms of professional engagement.'

So not only are many staff in institutions including the Bodleian Libraries regularly teaching, researching and publishing, but we are also being encouraged – by our management – to increase these activities and to involve more colleagues in them. Any proposal to take away the protection the statute offers from staff who engage in a scholarly community through their teaching, research and publications but who are not, to use the language of the consultation, 'traditional academics' seems highly regrettable.

I believe that much of the vitality of Oxford as a place of learning comes from the contribution of the academic community conceived of in the widest sense. Academic freedom is the lifeblood of a university. To reduce the scope of the statute would be to misunderstand and misrepresent the contribution that very many purportedly 'non-academic' staff make to the intellectual life of our community.

THE VICE-CHANCELLOR: Thank you. Ms Jackson.

Katharine Jackson, Bodleian Libraries

Katharine Jackson, Bodleian Libraries, Bodleian Law Library. Mr Vice-Chancellor, Proctors, Assessor and members of the Congregation, I would like to talk from a library perspective on changes that would allow for easier restructuring. These are the changes in Part B in relation to asking Congregation to give standing permission for a Redundancy Committee.

I have had experience of restructuring in the commercial environment and knowledge of restructuring in the academic environment. Restructuring always seems like a sound practice, especially when we are talking about

streamlining. Indeed, it is imperative that support services should always take notice of changing needs and practices; we are here to give the best support we can to academics, students and researchers.

However, in my experience, restructuring is not often used in this way. It is often used as a cost-saving exercise. Roles are rewritten and people interviewed by those not familiar with the aim of a whole department, let alone the finer details (I, as a librarian, have been asked, 'What exactly is cataloguing?' by someone who was actually going to be evaluating what grade I was on, what I was going to be paid). I have heard from fellow librarians, in an institution that had four restructures in ten years, about having to go up against three other colleagues for one job. People having to apply for their own post minus one or two responsibilities, therefore being put on a lower grade, lower money.

Was this to streamline the service or fall in line with changing needs? No, the services that were expected to be provided were the same but with a smaller workforce and, perhaps just as importantly, with people less experienced doing those roles. The effects of restructuring were quite clear:

- extremely low staff morale, even after the restructuring, as remaining staff looked over their shoulder;
- experienced staff taking early retirement or looking elsewhere, meaning that a wealth of knowledge was lost - some of these were subject specialists with over 20 years of experience; and
- staff buckling under pressure, under the strain, as they tried to provide the same level of service but with a heavier workload.

This in turn obviously led to a substantial drop in quality of service provided. I have also seen restructuring fail where eight months down the line or a year down the line recruitment was necessary to bridge the gap in service created by this so-called streamlining.

Processes that support the academic work of the University do change, but in the case of libraries, certainly in my experience, these rarely happen overnight that actually require a restructuring. Restructuring can have serious consequences and should be done for the right reasons. Making it easier and not having it scrutinised by Congregation opens the door for it to be used for the wrong reasons. Thank you.

THE VICE-CHANCELLOR: Thank you. Professor Tracey.

Professor Irene Tracey, Director of the Oxford Centre for Functional Magnetic Resonance Imaging of the Brain, Head of the Nuffield Division of Anaesthetics, Associate Head of the Medical Sciences Division, Fellow of Pembroke

Irene Tracey, Nuffield Department of Clinical Neurosciences and Pembroke College. Mr Vice-Chancellor, Proctors, Assessor, members of Congregation and colleagues, I speak to you today as Director of the Oxford Centre for Functional Magnetic Resonance Imaging of the Brain, Head of the Nuffield Division of Anaesthetics and Associate Head of the Medical Sciences Division. I am speaking as someone who has committed the vast majority of my career to this University.

Given that my role involves running a large department, heading a multidisciplinary research centre, conducting my own research and being part of the Medical Sciences Division team, I have a very good understanding of the complexity of this university and the needs of many different types of people working within it, and particularly Medical Sciences.

I am passionately committed to supporting those that work for me and with me and for enabling everyone to develop their careers in a way that maximises their potential.

As part of my commitment to help people make the best possible contribution to their academic work, I have always wanted to ensure that, if there are issues within a team that need resolving, I take responsibility for doing this. Sometimes these issues arise because of unreasonable demands or expectations or behaviour of one or two individuals.

Resolving these issues sometimes requires honest and open conversations to happen quickly and informally. The existence of Statute XII with its highly legalistic approach can prevent these issues being resolved quickly, for two reasons.

Firstly, individuals know that they are provided with such a high degree of protection and any formal process to address their behaviour would move incredibly slowly. Secondly, the statute tends to prevent a resolution because people are more focused on the process of the statute rather than getting a solution that works for everyone, including themselves.

The Statute XII process moves people into an adversarial position very quickly, because of its legalistic approach. What we need is more collaboration and communication, not conflict. We need a more flexible approach that facilitates resolution of issues first and foremost so that all can move on, rather than, as at present, expending precious time and energy trying to adapt to a highly defined process.

Obviously we need this while also protecting the academic freedom of all our staff members to pursue the right lines of academia and research – this is the key to ensuring that we continue to push the boundaries of science and the humanities and provide breakthroughs that will contribute to the health and wealth of the generations to come.

In reality, we must also remember that none of us have the privilege of absolute academic freedom – there are many restrictions within academia that limit this already – for example, access and availability of complex or expensive equipment alongside failure to secure highly competitive research funding constrain us and our academic freedom to pursue goals. That being said, of course if an individual as currently covered (ie maintaining the current staff coverage) believes they are being disadvantaged by their academic freedom being constrained – due to conditions that we control internally, rather than those external events that we cannot control as given by my examples – there must be a robust and exhaustive process to provide protection as given in Statute XII. We should therefore, in these instances, use Statute XII, albeit an amended version.

So what I am seeking for this great university as it adapts to the 21st century is to first and foremost protect academic freedom, while also on a pragmatic level allow all people who need to work together to use a more flexible approach for resolving these issues to the benefit of all.

I firmly believe that such an approach would better balance the needs and rights of all colleagues to work in a really collegiate and supportive environment. Thank you.

THE VICE-CHANCELLOR: Thank you. That brings us to the end of the declared speakers. Are there any others who wish to speak? Please come forward and state your name and college or department.

Professor Denis Galligan, Faculty of Law, Fellow of Wolfson

Denis Galligan, Wolfson College and the Faculty of Law. Mr Vice-Chancellor, Proctors, Assessor, ladies and gentlemen of Congregation. On page 80 of the discussion paper is the title *Coverage of the Statute*. Don't be misled by that title; this is not about the range of staff covered by Statute XII; it is about, and I quote, 'an entirely different approach' to the procedures for dismissal for all categories of staff presently covered by the statute. A more appropriate title would be *Driving a Coach and Horses Through Procedures for Dismissal Without Anybody Noticing*. That is the true aim.

What is that 'entirely different approach'? The paper says the 'central issue' is about how to deal with *serious* disciplinary allegations while safeguarding academic freedom. The solution proposed is to have a two-track system: one for disciplinary matters involving academic

freedom, another for disciplinary matters that do not. Those involving academic freedom – a tiny, almost non-existent, number – will continue to have the protection of the current procedures. The other 99% of dismissal cases will have a much-reduced procedural protection. This applies to all academic, academic-related and administrative professional staff now covered by Statute XII. That is what the main proposed reform is about.

Now, notice the logic: since there are good reasons for not distinguishing between categories of staff, let us weaken the procedural protections against dismissal for **all** staff. That 99% of cases would now be ‘considered in some other fair and robust but simpler way’. Note those words: ‘fair, robust and simple’. Who could object to procedures that are ‘fair, robust and simple’?

Curiously the same word ‘robust’ was used to describe the justification for the compulsory retirement scheme, the EJRA. But when subjected to the scrutiny of the appeal court, the justification turned out to be anything but robust; it simply fell apart. The administration has not yet been quite robust enough to bring that judicial ruling to the attention of Congregation, but that will happen in the fullness of time.

Well, what are these ‘fair, robust and simple procedures’? The great majority of dismissal cases will not be heard under this new arrangement by the Visitation Board with appeal to the court of appeal, the University’s Appeal Court. Rather, they’ll be heard instead by a ‘suitably independent panel’. Well, this is vague and meaningless. But the point is plain: it means much-reduced procedural protection in cases of dismissal.

This approach of the administration is based on a false premise, a fundamental misunderstanding of Statute XII – and I have chosen my words carefully. The premise is that Statute XII is essentially about protecting academic freedom. It is not.

The purpose of the statute is to provide a fair and effective procedure for dealing with the dismissal of staff. Dismissal, of course, is a grave matter. The right to remain in employment is a fundamental right. It may be justifiably removed only for good cause. To determine good cause requires exacting procedures. The purpose of procedures is to make sure that the grounds for dismissal are properly established according to the evidence. To dismiss without proper scrutiny is a grave injustice. The test for whether procedures are justifiable is whether they are likely to ensure that decisions of dismissal are accurate and fair. That is the overriding purpose of Statute XII.

The procedures of the statute are a reasonable attempt, based on long experience, to serve that purpose. The administration has no evidence that that purpose is not being served. No case is made for weakening

those procedures beyond administrative convenience. Nothing more.

The ‘guiding principles’, of which much has been made, including academic freedom, are just that: they are guiding principles. In applying the statute, they do not express the purpose of the statute. The procedures directed at fair and accurate decision-making in dismissal cases are made more exacting. That is the point: academic freedom makes those procedures more exacting than when they are not in play. So to confuse guiding principles with the underlying purpose of the procedures is a trap for the unwary and a fundamental error. The Personnel Committee has fallen into the trap and made that fundamental error.

The proposed changes should be rejected. They are not what they seem. They are an attempt to achieve one aim under cover of another. The administration offers no justification for that other true aim. Thank you.

THE VICE-CHANCELLOR: Are there any others who wish to speak? Please come forward and state your name and college and department.

Dr Katherine Morris, Faculty of Philosophy, Fellow of Mansfield

Katherine Morris, Mansfield College, Faculty of Philosophy. I want to begin by saying that I am a traditional academic. I have taught Philosophy for about 30 years in this university. I give lectures, I do research, my research contributes to my faculty, I teach graduate students – you know, all these kinds of things. I am also a member of the Visitation Board. I am now in my second of a two-year term of being a member of the Visitation Board, but I am in the slightly peculiar situation that, as a member of the Visitation Board, if I were to be subject to disciplinary procedures, I could not take my case to the Visitation Board because I am one of these people who is not covered by Statute XII. Why? Because I am at grade 5². It seems to me that a number of people have made the point that the terms ‘academic’ and ‘academic-related’ are far too difficult to separate and that that is one of the difficulties with the current proposals. What I am adding at the moment is that the term ‘academic’ is defined so narrowly as to exclude many academics like myself who are not up to grade 6.

It seems to me, therefore, that there are two very, very difficult definitional issues that we are faced with here. One is to whom Statute XII applies, and the other is what on earth an issue to do with academic freedom is. These are separable issues. We could simply get rid of the first very thorny issue by deciding that the Statute XII applies to the whole University community: all academics, even those who aren’t at grade 6, as well as academic-related – just get rid of that problem and only have the

²Employees of the University at academic grade 5 (known as grade 5a) are covered by Statute XII. Dr Morris is not covered by Statute XII because she is a college employee, not an employee of the University.

one really thorny problem of deciding what academic freedom is and which issues involve that. So that is what I would like to suggest. Thank you.

THE VICE-CHANCELLOR: Thank you. Are there any others who wish to speak? If not, then I will ask Dr Goss to make any final points and conclude the discussion.

Dr Stephen Goss

I want first to thank you all for making the time to come along and to take part this afternoon. I hope that, in the remainder of this term, we shall receive further comment following this meeting from those who were unable to be present. As the Vice-Chancellor has announced, the speeches we have heard will be published so that they reach a wider audience.

As we plan the next steps, the Personnel Committee will look with care at the points that have been made this afternoon. In particular, we have heard much about the nature of academic freedom and the importance of free debate in the University; we have heard about the importance of maintaining professional integrity; and we have heard a great deal about the importance of maintaining a community of staff that can work effectively together. And that involves, of course, maintaining full respect between those staff. I am sure that all these issues are very much to the fore in the minds of the Personnel Committee, and they will all be given very, very careful attention in the coming weeks and months.

We have heard some particularly eloquent pleas for not doing what Personnel Committee originally proposed we might do: namely splitting of the group currently within the statute, creating a division within the group, for instance academic/academic-related staff, or however you might draw it. Although you will have seen in the supplement in which we have framed this discussion a suggestion that there might be a group that could be withdrawn, what we wanted to do most especially was to provoke the kind of discussion we’ve heard this afternoon so that we could find out how people felt about that option and the other option which has been discussed, which is to look at how cases are handled, rather than to look at how people are handled, and we wanted to bring that discussion into the open, and I think this discussion this afternoon has been extremely useful in doing that.

There is clearly a good deal of work left to be done in the future if we are going to light on a new version of Statute XII which we can agree on and which will be an improvement on the existing one. I am going to look forward to that continuing debate; there is fortunately no need to rush to any conclusion. We can aim to take this matter steadily ahead with careful consideration and with the consultation – the wide consultation – that it merits. Thank you.

THE VICE-CHANCELLOR: That concludes this afternoon’s discussion.