## Note from Stephen J. Cowley

These *Questions and Answers* were circulated to members of Council and the General Board, with the covering statement:

> *The working party has produced a Q&A (attached) that summarises the most frequently asked questions about the proposals. It is hoped that members will find this useful if they are asked questions on the Report by members of the Regent House prior to the Discussion on 24 November.*

While I am making them available to the Regent House, I wish to make clear that I do not accept a number (possibly even many) of the answers. At some point I hope to write, preferably in conjunction with others, a rebuttal.

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## Statute U: Questions and Answers

**Q1:** Does the rewrite of the Statute have to be so complicated? Could not the Working Party come up with something simpler?

The proposed new Statute D, IA itself is appreciably shorter than Statute U, but must be read together with the proposed regulations for removal from office, discipline and grievances. Taken together they represent a simplification of the corresponding provisions of Statutes B, VI and U. What adds to the length of the legislative proposals is the fact that codes of practice are introduced which will require the approval of the Regent House by Grace.

**Q2:** Surely this is levelling down, when we should be levelling up?

What the Joint Report seeks to achieve are less cumbersome procedures that accord with modern practice. Currently those procedures dealing with assistant staff are better in that regard; there has been no levelling down in relation to the fairness of procedures, or, with the exception of the change of the redundancy process for officers not in Schedule J, in the substantive protection for University officers.

**Q3:** The Chairman of the Board of Scrutiny has said that these proposals will undermine academic freedom.

That is not correct. There has been no change whatsoever in the requirement that the University's procedures must be construed to ensure that ALL University officers have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.

**Q4:** The Joint Report facilitates the dismissal and removal of University officers.

The substance of the University's power to dismiss for reasons other than redundancy is not altered by the proposed changes, and it remains more tightly circumscribed than general employment law requires. The changes proposed to disciplinary procedures are intended to provide a fair, proportionate and timely process, with an appeal mechanism, and are not intended to facilitate dismissal or removal from office. As far as redundancy is concerned, for officers in Schedule J (for all practical purposes the Professor, Readers,

Senior Lecturers and Lecturers of the University), the current requirement that the University must determine by Grace that a redundancy situation exists is NOT changed in these proposals. What is changed is the removal of this requirement for officers outside Schedule J. That is because it is considered that special protection should be restricted to those with the primary function of teaching and research. Those whose work, although valuable, is not of that nature, will still enjoy the protection of general employment law. In addition, a Grace will no longer be required to endorse the selection of particular individuals for redundancy. The current position is that, following a decision of the University that a redundancy situation exists, the Regent House as a whole would have to decide which individual employees within a given department (for example) should be made redundant. Were this to happen the result could well be both impractical and unfair. The law requires that redundancy selection be based on a range of factors in such a way as to strike a balance between the personal circumstances of the employees concerned (including seniority) and the needs of the organisation, and that there should be consultation with the employees concerned and with their representatives. It is not easy to see how these processes could be conducted fairly or efficiently if decisions arrived at after the appropriate consultation were to be reviewed by the Regent House.

**Q5:** Are these changes legally necessary?

Some change is desirable to comply with ACAS guidelines. However the principal reason for change is that the University's current procedures no longer represent best practice.

**Q6:** It would be better for the new proposals to await the new Vice-Chancellor's arrival.

A change of Vice-Chancellor should not be seen as affecting the continuity of University business. The legislative process has been a careful and thorough one. An initial consultative green paper was published by the Council in January 2008 seeking policy guidance from the University. A consultative white paper followed in December 2008 setting out detailed proposals for consultation. The proposals were explained to the University in a series of roadshows. The Joint Report now responds to all of the points raised in that process, sets out legislation framed in amended form to meet the concerns expressed, and brings the matter to the final stage of consultation in Discussion. It will be followed by a Notice in response and by the submission of a Grace for the approval of the Regent House.

**Q7:** Do the proposals represent a change that unlawfully alters the terms and conditions of employment of University officers?

The contracts of employment of University officers provide that their appointment is subject to the Statutes and Ordinances of the University as may be modified from time to time. The proposed changes, which do not reduce the rights of employees under the general law of employment, are within the scope of that provision.

**Q8:** Is it right for the University to restrict mediators to persons selected by the Registrary from an approved panel appointed by the Council?

Someone has to propose names and it is normally the relevant secretariat who offers the aggrieved parties a choice from a list of pre-approved and qualified or trained people. ACAS Guidance suggests setting up an in-house mediation scheme as one of a number of ways in which employers can comply with good practice on this. Mediation is entirely voluntary and if an employee can withdraw from mediation at any time. Thus if an employee was unhappy with the choice of mediator, the University would not be in a position to impose its choice.