

# Managing Organisational Restructures Procedure

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## Principles

- We value diversity and equality highly and have designed this procedure to be fair and inclusive. In putting this procedure into practice, we expect all members of the University community to abide by the spirit and detail of the Equality Act 2010 and our policy and strategy for equality, diversity, and inclusion.
- This procedure has been developed in consultation with the recognised trade unions in accordance with the Education Reform Act 1988 (as amended) and the Articles of Government as agreed by the Board of Governors (the 'Articles').
- The University is committed to providing guidance, relevant training, and support to staff throughout the changes.
- This procedure should be read in conjunction with the [Fixed Term Contract Procedure](#) as staff on fixed-term contracts must be considered in any re-organisation process.
- Dismissals for reasons of redundancy involving 'Senior Post Holders' will be managed in accordance with the Articles of Government.
- Dismissals for reason of redundancy involving staff other than holders of senior posts will be managed as delegated by the Vice-Chancellor, in accordance with the Articles of Government.
- HR will provide support when implementing change. The level of support provided will be agreed between the Faculty/ Department and HR at the start of the process.
- Any organisational change and associated HR processes will support the achievement of the University's objectives and not compromise its ability to conduct current and future operations. The University will manage any restructure process transparently and with clear timescales and ensure that procedures are consistent with the requirements of employment law.
- The University will consult with the recognised trade unions in good time about any restructuring or where a reduction in staffing levels is proposed in accordance with its collective consultation obligations, under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA), section s.188 (as amended). The University will also consult with Staff.
- The University is committed to maintaining security of employment as far as reasonably possible, including redeployment and the minimising of redundancies wherever possible.
- The University will endeavour to handle all aspects of organisational change, including redundancy, in an equitable and non-discriminatory manner.
- As agreed by the Equality Committee, the University will collect equality data at the start and end of any restructure to monitor the process for fairness.
- The University will monitor all re-organisations including the consultation process and discuss this with the recognised trade unions.
- A staff member has the right to appeal against the decision to dismiss for reason of redundancy.

## Appendix A - Glossary of terms

### 1. Slotting:

In the first instance and where appropriate, posts will be filled by 'slotting in' to avoid unnecessary competition. Slotting in will apply where:

- The new role is at least 70% the same in terms of duties and the staff member meets the essential criteria for the role, and
- It is at the same grade, and
- There are at least the same number of posts in the new structure as affected Staff
- Slotting decisions are made in the interests of minimising the impact on others.
- Where a staff member's substantive role is matched to more than one post, the 'slotting' decision will be taken in the interests of maximising opportunities for placing other Staff and avoiding redundancies.

### 2. At risk

At risk is defined as an individual whose job may be at risk of redundancy. Staff will not be placed at risk until the close of the consultation period.

### 3. Limited competition

Where the principles of slotting apply, but there are more Staff than available posts within a defined functional area, or section. It will be necessary to conduct a competitive selection process from this pool to appoint Staff to the new posts.

In such situations Staff will be invited to apply for the posts within their defined functional area/section that best represents the duties of their substantive role, are at their current grade/level and where they meet the essential criteria.

### 4. Limited open competition

Limited open competition will apply if there are vacancies within the proposed structure that are only available for at risk Staff from the affected restructured area / redundancy pool to apply for in the first instance. This would occur if the new posts do not meet the principles of slotting as outlined in 1 above.

### 5. Open competition

If there are vacant posts at the end of this process, these will be made available for open competition, but only if there are no Staff in the redeployment pool from across the University who meet the essential criteria for the role and are eligible to apply. In such situations, these Staff would be invited to apply first.

### 6. Selection process with regard to applying for posts

Subject to consultation, Staff will be requested to submit a CV and supporting statement to demonstrate how they meet the essential criteria for posts that they are eligible to apply for.

Selection panels will be formed appropriate to the grade and level for the posts to be filled in accordance with the Recruitment and Selection Guidance. In the majority of cases, selection panels will all have a panel member external to the Faculty/Department. For senior staff selection panels, the external panel member will be from outside Kingston University. Support will be made available to assist all Staff throughout the process.

### 7. Salary protection

Salary protection will be provided where a staff member's new role is one grade lower than their original role (see the University's Salary Protection Procedure).

### 8. Staff temporarily absent from the University

There may be a number of Staff who are temporarily absent from the University for a variety of reasons. Every reasonable effort will be made to include these Staff in the consultation process. This includes Staff

currently on sabbatical leave, unpaid leave or secondment, maternity leave/paternity/adoption, and long-term sick leave.

### **9. Fixed-term contracts**

A staff member who is employed on a fixed-term contract will not be given priority for roles in the new structure where the fixed term contract:

- Ends at its expected expiry date, which is prior to the effective date of the restructure
- Is specifically to provide cover for an absent staff member (e.g., during maternity leave)
- Is to complete a particular project.

### **10. Review process during consultation period**

If a staff member wishes to raise a query regarding their current job description; their eligibility for slotting or considers they should be eligible to form part of a pool under limited competition, they can submit a request to have their position reviewed during the consultation period. Such requests must be made in writing and the staff member will be provided with a written response accordingly. The decision of the relevant senior manager, or Dean designate is final and there is no right of appeal.

### **11. At risk meeting**

At the meeting the line manager and HR representative will explain/outline the following (where appropriate):

- The new structure
- Why the staff member's job is at risk
- Roles in the new structure the staff member is eligible to apply for as part of the limited competition process
- Timetable for next steps
- The chosen selection criteria
- Other options as appropriate e.g., the availability of other suitable alternative roles within the University, Voluntary Severance / Voluntary Early Pension (VS/VEP) scheme, redeployment
- The opportunity for the staff member to ask questions and discuss any development that they need to support the process such as interview skills.

### **12. Garden leave**

This refers to situations where a staff member is instructed to stay away from work during the notice period, while still remaining on the payroll. Garden leave may be granted by the HR Director in exceptional circumstances and is entirely discretionary.

### **13. Definition of redundancy**

The legal definition of redundancy for the purposes of an entitlement to a redundancy payment comes from Section 139 of the Employment Rights Act 1996. The Act provides that there is a redundancy where a dismissal is wholly, or mainly attributable to:

The fact that the employer has ceased or intends to cease:

- a) To carry on the business for the purposes of which the staff member was employed by the employer; or
- b) To carry on that business in the place where the staff member was so employed

The fact that the requirements of that business have changed:

- a) For Staff to carry out work of a particular kind
- b) For Staff to carry out work of a particular kind in the place where the staff member was employed by the employer have ceased or diminished

- c) Or are expected to cease or diminish.

Accordingly, a redundancy will arise in a variety of situations including:

- a) Where work of a particular kind has ceased or diminished, so that there is a need for fewer Staff.
- b) Where work has not diminished, but fewer Staff are needed to do it, for example either because a) the Staff have been replaced by, for example technology, or
- c) because of a re-organisation which results in a more efficient use of labour.

#### **14. Redundancy payment calculation**

Staff with 2 or more years' qualifying service would be eligible to receive a payment if they were to leave the University by reason of redundancy.

Redundancy payments will be based on the statutory minimum redundancy payments calculation. However, for the purposes of calculating an individual's entitlement, "a week's pay" will be based on the individual's actual earnings as opposed to the statutory maximum which is calculated as follows:

$$\frac{(\text{Basic annual salary} + \text{London Weighting}) \times 7}{365}$$

The statutory calculation for redundancy payments is currently:

- a) ½ weeks actual pay for each complete year of service after reaching age 41
- a) 1 week's actual pay for each complete year of service between ages of 22 and 40 inclusive, and
- b) ½ weeks actual pay for each complete years' service where Staff are aged 21 and under.

To a total of 20 years' service, i.e., a maximum of 30 weeks' pay.

In addition to the above, redundant Staff are entitled to receive their contractual notice depending on their years of continuous service. This notice may be served in time, or their salary may be paid in lieu of notice.

N.B if a staff member is serving their notice period and leaves prior to the end date, they will be paid their redundancy entitlement, but will forfeit the remaining notice period.

Garden leave may be granted by the HR Director in exceptional circumstances and is entirely discretionary.

Some contracts of employment may vary, please check your contract, or ask the HR department if in doubt.

## Appendix B - Collective consultation

1. The University has a requirement to advise the Department for Business, Energy, & Industrial Strategy (BEIS) if 20 or more Staff across the entire University may be made redundant within a 90-day period. A copy of the information provided to BEIS will be given to the trade unions.
2. The statutory legal minimum consultation periods are:
  - 1 At least 30 days before the first dismissal takes effect if it is proposed that between 20 and 99 Staff are to be made redundant at one establishment in a period of 90 days or less
  - 2 At least a minimum of 45 days before the first dismissal takes effect if it is proposed that 100 or more Staff are to be made redundant at one establishment in a period of 90 days or less.
3. The Dean/Director, with the support of HR will consult in all potential cases of redundancy with the relevant recognised trade unions in good time, normally not less than 30 days before the first proposed termination date.
4. In any restructuring, or reduction in numbers of Staff, the potential number, and grade/levels of roles in the affected Faculty and/or department will be identified as early as possible.
5. In the case of collective consultation, HR in conjunction with the Dean/Director, will in accordance with s.188 of TULRA disclose, in writing to the trade unions:
  - The reasons for the proposed redundancies (usually part of the proposal and rationale for change)
  - The numbers and descriptions of Staff whom it is proposed to dismiss as redundant, or who are at risk of redundancy
  - The total number of Staff of any such description employed by the University
  - The proposed method of selecting the Staff who may be dismissed
  - The proposed method of carrying out the dismissals including the period over which the dismissals are to take effect
  - Numbers of agency or temporary workers being dismissed as required by the Agency Workers Regulations (AWR)
  - The proposed method of calculating the amount of any redundancy payment.
6. In the event of a potential redundancy the above information will be sent in writing to the trade unions in good time and, wherever possible, before any notification to Staff. Such information must be kept confidential to the regional and branch trade union officials prior to any meeting between management and the Staff concerned.
7. The University, in consulting with the trade unions, will seek to reach agreement. The consultation with the trade unions will include discussing:
  - I. Ways to avoid or reduce the number of dismissals
  - II. The pool for redundancy which will be determined by management in consultation with the trade unions. It may be the case that the proposed pool will change in size and/or composition following the consultation process, subject to the needs of the University.
  - III. Ways to mitigate the consequences of any dismissals.

## Appendix C - Redundancy notice period

In cases of redundancy, notice periods issued by the University will be as follows:

### Redundancy notice periods for General & Professional staff

#### Grade 1 – 7:

Staff with up to four years' continuous service will receive a notice period of one calendar month. In addition, Staff with more than 4 years' service will receive one week's notice for each year of continuous service up to a maximum of 12 weeks.

**Grade 8 - 10** 3 months' notice

### Redeployment period

A 3-month redeployment period will be provided irrespective of length of service and will be issued as follows:

**Grades 1 - 7:** The redeployment period and notice will run simultaneously for a period of 3 months.

**Grades 8 – 10:** Staff will be issued with notice after the 3-month redeployment period.

### Redundancy notice periods for academic staff

- For academic Staff in post before 1 May 2006, 12 months' redundancy notice
- For academic Staff in post from 1 May 2006, 6 months' redundancy notice including the 3 months' redeployment period.

In exceptional circumstances, holders of a post specific in nature (usually academic), where redeployment opportunities are limited, due to particular knowledge base, will qualify, through agreement with the trade unions, for an extended redeployment period of up to an additional 6 months, during which time suitable vacancies, training and development opportunities will be made available to post holders affected.

## Appendix D - Avoiding/minimising compulsory redundancies

1. The University is committed to exploring measures at a University-wide and local level which help to avoid compulsory redundancies wherever possible. Depending on the circumstances the following may be considered but they may not all be appropriate in all cases:
  - Termination of the employment of relevant contract, temporary and agency Staff
  - Non-renewal of fixed-term contracts where no employment rights have accrued and provided the rights of fixed-term Staff are observed
  - Development as an alternative to redundancy – where it is evident that a future vacancy is likely to exist and within a short period n      Restricting recruitment of certain posts
  - Reviewing the use of external contractors
  - Reduction of overtime
  - Any other suggestions.

Not all of these measures will be reasonable or appropriate in every case, so they will be considered on a case-by-case basis.

2. In some circumstances there may be options for Voluntary Early Pension (VEP) or Voluntary Severance (VS), but these will depend on all the relevant factors including the costs involved.
3. Staff at risk of redundancy may be invited to volunteer for redundancy, and in such situations can express an interest at their one-to-one consultation. Indicating an interest in volunteering for redundancy does not commit the staff member or the University. The University will however endeavour to meet a staff member's wishes, having taken current and future operational needs and costs into account.
4. Where more Staff than required wish to pursue voluntary options, the University will decide which applications to grant.
5. Opportunities for development, training, and secondment if appropriate will also be reasonably considered by the University in an attempt to minimise compulsory redundancies. This will apply where it is evident that a future vacancy is likely to exist and within a short period.
6. HR will ensure that Staff at risk of redundancy have access to any vacancies available throughout the process.



## Appendix E - Appealing against the decision to dismiss

- 1 A staff member has the right to appeal against the decision to dismiss for reasons of redundancy.
- 2 Appeals against dismissal must be made in writing and submitted to the HR Director within 10 clear working days of receipt of the letter informing the staff member of the dismissal from the University by reason of redundancy. HR will be responsible for referring the matter to the University Secretariat Department, who will make the arrangements for the appeal hearing.
- 3 The Appeal will be heard in accordance with the Articles of Government.
- 4 Dismissal will not take effect until the outcome of the appeal has been determined.
- 5 The staff member must clearly outline the reasons for their appeal and provide all necessary paperwork on which the appeal is based.
- 6 The University Secretariat Department must notify the staff member in writing that an appeal hearing is being convened.
- 7 The staff member has the right to be accompanied at the appeal hearing by a trade union representative or workplace colleague. The University Secretariat Department will liaise with the staff member and their representative in order to establish dates they are available within a 28-day period.
- 8 The notification letter will confirm the following:
  - Date of hearing (giving the staff member at least 10 clear working days' notice)
  - Time and Venue
  - The names of those on the hearing panel, and who is designated as the Chair
  - The right to be accompanied by trade union representative, or workplace colleague
  - an HR representative will be in attendance
  - All relevant documentation to be used at the hearing, copies of which will be provided
  - Advise the staff member to inform the Chair of Hearing Panel whether any reasonable adjustments are required in accordance with the Equality Act 2010.
- 9 If the staff member, or the representative fails to attend through unforeseen circumstances, the University Secretariat Department will check the availability of all parties and arrange one further date, as soon as possible thereafter.
- 10 If the staff member, or their representative fails to attend the rearranged hearing without good reason, a decision may be taken in the staff member's absence.
- 11 The HR Director will nominate an HR representative to attend the appeal hearing in a professional advisory capacity.
- 12 Before reaching a decision, the panel may need to undertake further enquiries. Any further evidence, or information must be shared with the staff member, and in some cases, it may be appropriate for the hearing to be adjourned and reconvened at a later date.
- 13 The appeal panel has the authority to:
  - Uphold the decision to dismiss for reasons of redundancy
  - Reverse the decision to dismiss for reasons of redundancy
- 14 The outcome will be confirmed in writing to the staff member within 10 clear working days of the hearing.
- 15 The decision of the appeal panel is final and there is no further right of appeal.

## Appendix F - Redeployment

- If staff have been issued with notice of redundancy the redeployment process will form part of the notice period in respect grades 1-7 and be in addition to the notice period in respect of grade 8 and above
- The staff member will be provided with a nominated representative from the HR Department, who will maintain contact and provide support during the redeployment period
- It is the responsibility of both the University and the staff member to search for suitable alternative roles. All staff should maintain an up-to-date CV during this stage
- All vacancies will be made available to 'at risk' Staff for them to apply in the first instance, prior to these vacancies becoming widely available. There may be exceptions for specialist vacancies.
- Where an application is submitted in such circumstances, a meeting will normally be arranged with the recruiting manager to discuss their application. This meeting should take place as soon as possible. If there are multiple applications, there will be a selection process to determine the best candidate for the job
- The job will not be advertised further whilst 'at risk' Staff are under consideration and the interview process is on-going
- An 'at risk' staff member who successfully obtains a suitable alternative role within the University is entitled to be offered the role on a trial period of 4 weeks, as part of the staff member's statutory rights. A staff member's terms and conditions, including their salary, will remain the same during the trial period and the cost will be borne by their existing Faculty / Department
- Towards the end of the trial period HR will contact the staff member and the manager (separately) to ascertain whether the trial period has been successful. Under certain circumstances a trial period can be extended for an additional 4 weeks, by mutual agreement
- If the trial period proves successful, the staff member will be issued with a formal offer of employment in the new role. Staff who are offered and accept a role at a higher grade, will have their salary increase backdated to the start of the trial period. Staff who are offered and accept a role one grade lower, will have their salary protected in line with the University's Protection of Salary procedure. Salary protection will be deemed to have commenced at the start of the trial period
- Staff who are offered and accept a role two or more grades lower will not be eligible for salary protection and will have their salary reduced to the top of the grade applicable to the role. In this situation their salary will be reduced from the end of the trial period
- A staff member, who refuses the offer of trial period if applicable or a suitable alternative role on the same, or comparable terms as previously applied, may lose the right to any redundancy payment. Each case will be considered on its own merits
- If the trial period does not prove successful, the staff member can pursue further alternative roles within the University during the remainder of the redeployment period
- If there is no successful redeployment at the end of the redeployment and notice period, the staff member will be dismissed by reason of redundancy.

## Appendix G - Staff member support

All of the items below will be considered as part of providing support throughout a change process. These will be considered by the relevant Faculty/ department and outlined in the Business Case.

- Support on writing/ updating CV
- Guidance and support on interview skills
- Support to identify potential redeployment opportunities
- Development and training will be considered as an alternative to redundancy where this is reasonable, and it is evident that a future vacancy is likely to exist within a short period of time
- Reasonable time off to look for alternative employment
- On-going support
- Free 24 hour – Employee Assistance Programme