

# UNIVERSITY OF LEICESTER ORDINANCE

## REDUNDANCY (Ordinance Policy)

For use in:	All Divisions/Schools/Departments/Colleges of the University
For use by:	All University employees
Owner	Staffing Policy Committee
Dates of Trade Union Consultation and Negotiation	Start: 8 January 2010 End: 2 March 2011
Date of Approval by Strategy, Policy and Resources Committee	15 November 2010
Date of Approval by Senate	30 March 2011
Date of Approval by Council	4 April 2011
Dates of Trade Union Ballots	13 June to 6 July 2011
Launch Date	12 September 2011
Contact - Comments	Alun Reynolds – Geraldine McAughtry

## **REDUNDANCY ORDINANCE: POLICY**

### **1. Introduction**

- 1.1. The University of Leicester recognises that security of employment is of major importance to all members of staff. Every effort will be made to avoid termination of employment due to redundancy and to provide continuity of employment, wherever possible.
- 1.2. The Redundancy Ordinance (Policy and Procedure) provides a framework to dismiss a member of staff by reason of redundancy.
- 1.3. Staff will be consulted on changes via the established channels for consultation and negotiation with the recognised Trade Unions, where the University wishes to amend the Redundancy Ordinance.

### **2. Aims**

The aims of the Ordinance are:

- 2.1. To encourage full engagement of the trade unions in the planning and implementation of organisational change.
- 2.2. To ensure that redundancies are minimised or avoided, where possible.
- 2.3. To provide a fair and objective framework for carrying out redundancies.

### **3. Scope**

- 3.1. The Redundancy Ordinance (Policy and Procedure) applies to all employees meeting statutory requirements, except tenured staff i.e. academic staff employed prior to 19 November 1987 who have not been promoted on or after that date.
- 3.2. The Redundancy Ordinance excludes staff on a fixed term contract of 3 months or less from redundancy consultation, in line with Part IV of TULRCA 1992.
- 3.3. Redundancy consultation for staff on a fixed term contract with continuous service of between 3 and 9 months will be determined on a case-by-case basis, outwith the Redundancy Ordinance, to ensure that staff are treated appropriately whilst also ensuring the effective and efficient management of short-term work and contracts.

### **4. Principles**

- 4.1. The University will plan ahead and be sensitive to pressures which may lead to workforce change in the future by carefully managing resource plans to ensure that the future needs of the University are met.
- 4.2. The University will always attempt to avoid compulsory redundancies.

- 4.3. Where it becomes necessary to reduce staff numbers, whether for economic or other reasons, it is the University's policy to try to minimise the effect on those concerned. In addition, clear explanations will be given to staff of any changes and full consultation will take place with all relevant parties.
- 4.4. Redeployment, re-training or early retirement will be considered, in the first instance, to assist with a change in staffing requirements.
- 4.5. The University is committed to ensuring that redundancy proposals are subject to an equality impact assessment.
- 4.6. The timescales set out in the Redundancy Ordinance (Procedure) are for guidance purposes, only. The University may use its discretion to depart from the timescales, where appropriate and agreed with the relevant parties.
- 4.7. Where required, Senate may be consulted as part of a restructuring planning process in relation to proposals which would affect the University's curriculum offering or academic omission.
- 4.8. The role of HR is to ensure that formal proceedings comply with employment law and the University's policies and procedures. Members of HR are expected to advocate on the part of the institution by acting as an independent, advisory guardian and regulator of the process.
- 4.9. In cases where a member of staff has an inter-dependent contract of employment with the NHS and the University, representatives from the NHS may be included in formal proceedings.
- 4.10. The Redundancy Ordinance will be operated in accordance with the principle of Natural justice. Natural justice includes the notion of procedural fairness, which includes the following:
  - A right to advance warning - a person should be given adequate notice about the proceedings and access to relevant documentation in a timely manner;
  - Proceedings should be conducted so they are fair to all the parties;
  - Each party to a proceeding is entitled to ask questions and challenge the view/ proposal of the other party;
  - A person who makes a decision should be unbiased and act in good faith;
  - A person (or panel) making a decision should declare any personal interest they may have in the proceedings;
  - Justice should be seen to be done.

## **5. Role of HR**

- 5.1. The role of HR is to ensure that formal proceedings comply with employment law and the University's policies and procedures. The primary role of HR is to advocate on the part of the institution, not for a manager or a member staff.
- 5.2. During formal proceedings, members of HR will act as independent, advisory guardians and regulators of the process. Members of HR will point out any issues in respect of employment law or the University's policies and procedures during formal meetings.

- 5.3. Members of HR are not permitted to undertake the role of decision maker on individual cases. Questions from members of HR must be asked through the chair of a formal meeting.
- 5.4. Once informed of a formal case, HR will issue the Redundancy Ordinance (Policy and Procedure) to all parties involved.

## **6. Meaning of Redundancy**

- 6.1. Under the Employment Rights Act 1996, redundancy arises when employees are dismissed because:
  - the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed;
  - the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed;
  - the requirements of the business for employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish;
  - the requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

## **7. Right to be accompanied**

- 7.1. A member of staff has the right to be accompanied to formal meetings. The chosen companion may be a trade union representative, an official employed by a trade union or a fellow worker.
- 7.2. The normal expectation is that a member of staff will be accompanied by a local Trade Union representative at formal meetings and, where required, by an official employed by the Trade Union at appeal.
- 7.3. Where the Redundancy Ordinance (policy and procedure) refers to a “Trade Union representative”, this includes an official employed by the Trade Union.
- 7.4. A member of staff who has an inter-dependent contract of employment with the NHS and the University may be accompanied to formal meetings by a representative of a medical defence union.
- 7.5. In cases where the outcome is likely to end, prematurely, the staff member’s professional career, the Registrar or a Pro-Vice-Chancellor (with advice from the University’s Legal Adviser) may permit the member of staff to have legal representation at the individual’s own cost.

## **8. Measures to Avoid or Minimise Redundancy**

- 8.1. The University will work with representatives of its recognised Trade Unions to actively avoid the need to make redundancies, wherever possible, and to avoid or minimise redundancies, where there is a need to make redundancies.

8.2. Measures the University may consider include:

- a reorganisation of staff duties/activities;
- a reduction in non-staffing costs;
- implementing other methods of increasing income to the college, department, section or cost centre affected;
- reduction and/or termination of the use of external staffing resources e.g. agency staff, contractors etc;
- non-replacement of staff following normal staff turnover;
- restrictions on external recruitment in the staff categories affected or in areas to which staff may be redeployed;
- where relevant, reducing or eliminating non-contractual paid overtime;
- inviting applications for alternative working arrangements e.g. part-time working, reduced hours or job-sharing;
- seeking volunteers for early retirement or voluntary redundancy;
- considering the use of “bumping”;
- suspension of the annual review/merit awards;
- identifying possible opportunities for redeployment within the University;
- retraining members of staff to, and for, alternative types of work within the University, where practicable.

## 9. Redundancy Pool

- 9.1. A redundancy pool is a group of posts under potential threat of redundancy. These are the posts that will then be subject to a selection process for redundancy.
- 9.2. A pool for redundancy will depend on the area(s) of activity in which the University's requirements for members of staff to carry out work of a particular kind have ceased or diminished (or will cease or diminish).
- 9.3. The pool will vary from situation to situation depending on the extent to which there are other staff/roles undertaking the same or similar work and the extent to which these roles can be deemed interchangeable.
- 9.4. Hours worked, job titles and the department worked in are not, of themselves, reasons for including or excluding members of staff from the pool. Those on long-term sick or maternity leave who are employed in the affected area should also be included in the pool.

## 10. Consultation and Communication

- 10.1. The University will consult with its recognised Trade Unions and affected staff at the earliest opportunity. The University will seek a fair and equitable means of achieving necessary changes, with a view to reaching agreement with its recognised Trade Unions, where possible.
- 10.2. The purpose of consultation is to provide the opportunity to discuss ways of:
- Avoiding the dismissals;
  - Reducing the numbers of dismissals; and
  - Mitigating the effects of any dismissals.

10.3. There are statutory requirements for collective consultation with Trade Unions Representatives and individual consultation with members of staff.

## 11. Collective Consultation

11.1. Collective consultation with Trade Union representatives is required when the proposed number of redundancies *across the University* is equal to or more than 20 in any 90 day period.

11.2. The size/complexity of a single redundancy exercise may not in itself determine the level of consultation required as this is determined at an organisational level. Therefore, HR must be informed of any plans to conduct a redundancy exercise.

11.3. Where collective consultation is required, it must be completed **before** notice of dismissal is given to the affected staff. The law requires meaningful consultation. This means that alternative proposals or suggestions from staff (or their representatives) are considered carefully and taken into account, where possible.

11.4. The University is legally required to disclose the following information during collective consultation with trade unions or elected representatives:

- the reason for the proposed redundancies (for example the expiry of fixed term contracts or closure of a department);
- the numbers and descriptions of members of staff whom it is proposed to dismiss as redundant;
- the total number of members of staff of any such description employed by the University and the distribution of such staff within the University;
- the proposed selection and assessment criteria (where possible) and details of when assessments will take place;
- the proposed method for implementing the dismissals, including relevant timescales (where possible).
- the method of calculating severances and redundancy payments.

11.5. The key piece of legislation governing collective consultation is the Trade Union and Labour Relations (Consolidation) Act 1992. It applies in three main ways:

- Meaningful consultation must take place with affected staff;
- There are specific timescales for redundancy consultation;
- Consultation must end before staff are issued with notice of termination.

11.6. In terms of consultation timescales, there are statutory requirements for staff and Trade Unions/Representative Bodies within an “establishment” as follows:

<b>Number of employees to be made redundant within a 90 day period</b>	<b>Consultation with Trade Unions, Representative Bodies and staff to be a <i>minimum</i> of:</b>
19 or less	30 days (Good practice)
20 to 99	30 days (Statutory requirement)
100 or more	90 days (Statutory requirement)

- 11.7. The University is deemed to be one establishment for the purpose of calculating the number of redundancy dismissals. A College or a Division is not considered as an establishment, as it is only part of the University.
- 11.8. Given that the number of University staff at risk of redundancy fluctuates and can be 100 or more on any given day within a 90 day period, consultation will normally be a *minimum* of 90 days for all redundancies. Further advice on this can be sought from HR.
- 11.9. An example of how the legislation applies to University staff in a redundancy situation is below:

<b>Grades 1-5</b>	=	90 days' consultation 1 month's notice period	=	<b>4 month process</b> <i>(minimum)</i>
<b>Grades 6 (and above)</b>	=	90 days' consultation 3 months' notice period	=	<b>6 month process</b> <i>(minimum)</i>

- 11.10. The University will work with staff and Trade Union representatives during the consultation period to eradicate or reduce the numbers of redundancies, where possible.
- 11.11. Consultation will precede any public announcement of redundancies, wherever possible.
- 11.12. HR will notify the Department for Business, Innovation and Skills (DBIS) of the proposed number of redundancies.
- 11.13. Staff will not be given notice of dismissal until DBIS has been notified and the appropriate collective consultation period is complete.

## 12. Individual Consultation

- 12.1. The University will consult, as soon as reasonably practicable, with **all** individual members of staff whose posts are at risk of being made redundant, in line with the Redundancy Ordinance (Procedure).

## 13. Selection Method

- 13.1. The selection method used to identify members of staff at risk of redundancy will be fair, objective, consistent and transparent.
- 13.2. Selection method will take into account the number of redundancies necessary.
- 13.3. Selection method used may focus on:
- skills and experience relevant to the University's current and future requirements; and
  - qualifications relevant to the University's current and future requirements.

13.4. Objective records may be used as part of the selection method, where appropriate.

13.5. A member of staff will not be selected for redundancy on the following grounds:

- participation in trade union activities;
- carrying out duties as an employee representative or candidate for election for purposes of consultation on redundancies;
- taking part in an election for an employee representative for collective redundancy purposes;
- taking action on health and safety grounds;
- asserting a statutory employment right;
- maternity related grounds;
- a reason related to the Part Time Workers Regulations;
- a reason related to the Fixed Term Employees Regulations.

#### **14. Bumping (or transferred redundancy)**

14.1. Bumping is where a member of staff whose job is not redundant is dismissed to make way for another member of staff whose role has become redundant.

14.2. Bumping may be an option when the University is considering a pool of staff at risk of redundancy, particularly where the staff have generic skills/roles across the institution.

14.3. Where bumping takes place, there will be clear and well documented reasons for taking this course of action, such as the identification of key skills or expertise across a wider staff group.

#### **15. Redeployment**

15.1. The University is committed to retaining excellent, dedicated staff, wherever possible and values their experience, skills and knowledge.

15.2. Members of staff at risk of redundancy will be pro-actively supported by the University to find suitable alternative work, as described in the University's Redeployment Policy & Procedure.

#### **16. Redundancy/Alternative Employment and Maternity Leave**

16.1. The University will not select a member of staff for redundancy on the grounds that she is pregnant or on maternity leave.

16.2. A member of staff on maternity leave has the right to be offered (and not have to apply for) suitable alternative employment, should it be available before the end of her employment under her existing contract, *before* other potentially redundant members of staff who are not on maternity leave.



16.3. The new contract of employment must be such that:

- The work is of a kind which is both suitable in relation to the member of staff and appropriate for her to do in the circumstances; and
- the capacity and place in which she is to be employed, and the other terms and conditions of employment are not substantially less favourable to her than if she had continued to be employed under the previous contract.

16.4. For further details, please refer to the University's Maternity policy and procedure.

## **17. Time off during Notice Periods**

17.1. A member of staff under notice of dismissal on the grounds of redundancy has the right to request reasonable time off with pay during working hours, either to look for work or to make arrangements for training for future employment.

17.2. In considering requests, the University will consider:

- Length of the notice period;
- Difficulties in the employment market;
- The effect of absence on other staff or the business.

## **18. Redundancy Payments**

18.1. For a member of staff to be eligible for redundancy payments they must satisfy the following criteria:

- He/she was an employee as defined in the Employment Rights Act (casual workers, agency workers, contractors and the self employed do not qualify);
- He/she was continuously employed for two or more years;
- He/she was dismissed i.e. it was not a resignation or mutual agreement to terminate the contract;
- That the dismissal was by reason of redundancy.

18.2. Redundancy payments will be calculated in accordance with statutory redundancy pay.

18.3. Members of staff will be provided with details, in writing, of any redundancy pay to which they are statutorily entitled.

## **19. Early Termination Dates**

19.1. Where a member of staff has secured alternative employment outside the University and requests an early termination date i.e. before the proposed redundancy date, their request will be carefully considered to balance their personal circumstances with operational requirements.

19.2. Where a member of staff is eligible for redundancy pay, an earlier termination date would not normally affect the staff member's statutory entitlement. Redundancy pay will be calculated on the basis of the earlier termination date.

## **20. Reporting**

- 20.1. In line with legislation, the HR Operations Manager will notify the Department for Business, Innovation and Skills (DBIS) where a collective redundancy situation occurs i.e. redundancies are equal to or more than 20 employees in a 90 day period.

## **21. Documentation**

- 21.1. All formal documentation relating to this Ordinance will be written sensitively by line managers, treated as confidential and forwarded to HR for filing on the staff member's personnel file.