Managing Structural Change
MANAGING STRUCTURAL CHANGE

Aim

The University of Essex recognizes the value of a stable and experienced work force for achieving our mission to contribute to society through excellence in education and excellence in research. By careful forward planning we aim to ensure that as far as possible, in meeting our institutional needs we also provide security of employment for employees. The University and the recognized trade unions agree that maintaining and enhancing efficiency and best practice is an important means to safeguard current and future employment of staff and it is recognized that changes in organisational requirements and technological developments may affect staffing needs.

Summary

We value our staff and recognize the institutional benefits that result from seeking to ensure continued employment within the organisation. We will make every effort to redeploy staff to suitable alternative jobs rather than resorting to compulsory redundancies. If redeployment fails to secure a post at the same level for a member of staff, then we will seek other ways to continue employment. The Human Resources (HR) Section will continue to look for opportunities for members of staff affected and, to enable this, the Registrar and Secretary and the three Executive Deans may arrange for staff to be attached temporarily to another department/section in the expectation that a suitable vacancy may arise. As a last resort, a suitable vacancy may be at a lower salary and grade than that at which the post-holder is presently employed. In this case staff will retain their existing pay on a mark time basis for a year. Where alternative employment has been accepted, a minimum trial period of 60 working days will normally apply. Such staff will remain eligible to apply and be considered for any future vacancies which arises at their former salary and grade.

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MANAGING STRUCTURAL CHANGE, EMPLOYMENT PROTECTION AND REDUNDANCY

This policy has contractual effect.

1. Statement of Intent

This policy applies to all employed staff affected by structural change in the workplace including staff on fixed term contracts which have not expired in the normal course of events1. It does not apply to staff whose performance is being managed under either the capability or disciplinary procedures (including those that form part of Ordinance 41).

This agreement sets out the principles and procedures which will be followed in the event of the need to reduce staff numbers or of organisational change which affects staff employed by the University. These arrangements do not signal any change to the policy of using best endeavours to avoid the need for redundancy. This policy is to deal with, inter alia, any need to reduce the number of employees by means other than redundancy, wherever possible. Where redundancies are unavoidable, the University will continue to make every reasonable effort (in consultation with the recognized trade unions (TUs) and individuals affected) to minimize the number of employees made redundant. The University recognizes that early consultation with the recognized trade unions is an important part of the process to avoid compulsory redundancies. The University also recognizes that any such consultation must be meaningful and take place before any final decisions are made with adequate time for the trade unions to consult with their members.

2. Definition of redundancy & legal requirements

Under the Employment Rights Act 1996, redundancy arises when employees are dismissed in the following circumstances:

- where the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- where the requirements of the business for employees to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish; or
- where the requirements of the business for employees to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or are expected to cease or diminish

The University must notify the Department for Business, Innovation & Skills if it is proposed to make 20 or more workers redundant over a period of 90 days or less.

As required by the legislation the University will actively engage with the TUs with a view to reaching agreement about ways of:

- avoiding the dismissals
- reducing the number of employees to be dismissed
- mitigating the consequences of the dismissals

3. Consultation

3.1 To this end, the University will make use of its regular scheduled formal meetings with the recognized TUs

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1 The University will however consult individuals and their trade unions when fixed-term contracts are due to expire, with a view to avoiding dismissal. Suitable alternative employment will be offered where this exists. Fixed-term contract staff may be entitled to redundancy pay if they have the necessary qualifying service.
(the JNC) to identify any potential future problems regarding funding and organisational issues affecting the University, where it relates to avoiding redundancies. The University agrees to full disclosure of the necessary information to enable an informed dialogue prior to the date upon which the proposed changes will take place.

3.2 From the point at which the University Steering Group (USG) identifies the risk of redundancy, the University will consult with the TUs. The consultation will cover ways of avoiding redundancies which do not compromise the University’s day-to-day business and long-term capacity to achieve its goals. These may include measures such as freezing suitable vacancies in the relevant area, suspending overtime working and re-training and redeploying the affected staff.

4. **Voluntary redundancy**

If it has not been possible to avoid making redundancies and Council decides reduced staffing levels are still necessary, we will consult with the TUs regarding the possible use of a voluntary redundancy/early retirement scheme. When such a scheme is used, wherever possible it will be offered as widely as possible to allow for opportunities of ‘bumping’\(^2\). However, the University reserves the right to refuse volunteers who have skills, abilities, experience or training which is essential for its continuing operation.

5. **Information to be supplied to the trade unions**

The TUs (and other interested parties where a post is jointly funded) will be informed in writing of:

- the reasons for the proposals
- the number and types of posts affected by a proposed reduction in staffing levels or substantially changed duties
- the total number of staff affected
- the proposed method of selecting employees for redundancy
- how the redundancies are to be carried out, taking account of any agreed procedure, including the period over which the redundancies are to take effect
- the calculation of the redundancy payments or equivalent
- details of staff turnover and current vacancies
- details of the University’s current financial situation and the financial impact of any proposed redundancies
- details of agreed appeals procedure
- information about any redeployment opportunities

6. **Individual consultation**

In addition to consultation with the recognized TUs, the University will engage in individual consultation with those staff affected. Staff will have the right to be accompanied by a trade union representative or a workplace colleague in any such individual consultation meeting.

7. **Redeployment**

7.1 As part of the University’s duty to seek to avoid redundancies the Registrar & Secretary and Executive Deans (following advice from Heads of Section/Heads of Department and HR) will consider whether approved vacant posts within their area (including those posts established by USG further to Ordinance 35) might constitute suitable alternative employment for staff at risk of redundancy.

7.2 Where such suitable alternative work is available the employee will be given sufficient details to enable them to decide whether to declare an interest in particular posts. Alternative work may include duties of a

\(^2\) ‘Bumping’ occurs where an employee whose job is redundant ‘bumps’ another employee out of their job so that the employee who was ‘bumped’ is the one who is actually made redundant. This tends to happen when a more senior employee is prepared to take a more junior job to avoid redundancy.
temporary nature commensurate with the level of duties and responsibilities of the substantive post. Any person redeployed (including into temporary posts) within the University will be provided with reasonable training and support required to perform the new job satisfactorily. Details of the proposed post will be made in writing and include a job description. Any offer will be made before employment under the previous contract ends. Employees who unreasonably refuse an offer of suitable alternative employment will lose any entitlement to redundancy pay.

7.3 During the period leading to the date of workforce reductions, job vacancies in the University will be filled only after first considering whether staff whose posts are to be made redundant are suitable for them, through a matching or a selection process (paragraphs 12.3.1 – 12.3.4). Where necessary, any such selection process shall comply with the requirements of Ordinances 36, 37, or 38 for relevant categories of staff. The University may also approach other universities or local businesses to see if they can offer employment to these staff and will give sympathetic consideration to individual circumstances and preferences. Transfers that are arranged should continue the terms of the previous contract, i.e. permanent to permanent, even where a transfer is into a fixed term post. This means that a member of staff on a permanent contract who takes up a fixed term role as a suitable alternative to their substantive, redundant post, will retain the employment rights associated with the substantive post (although will still be displaced at the end of the fixed-term i.e. have no substantive post), specifically those in relation to continuity of service and future redundancy rights.

8. **Trial period**

Any employee who is under notice of redundancy and for whom suitable alternative employment has been agreed, will have the right to a minimum trial period of 60 working days in the suitable alternative job where the provisions of the new contract differ from the original contract due to the change in job description (the period to begin when the new contract commences). The trial period may be extended for retraining purposes by written agreement. If the employee works beyond the end of the minimum trial period or the jointly agreed extended period, any redundancy entitlement will be lost because the employee will be deemed to have accepted the new employment. The trial period will allow us to assess the employee’s suitability for the new post and the employee to consider whether the post is within their capability. Should the employer wish to end the new contract within the 60 working days for a reason connected with the new job, the employee will preserve the right to a redundancy payment under the old contract. Should the employee wish to end the new contract within the 60 working days and this is deemed to amount to a refusal of suitable alternative employment, the employee may lose any entitlement to redundancy pay (see paragraph 5).

9. **Assessing the impact on equality**

The University will monitor, by protected characteristic, staff subject to this policy in order to identify any negative impact on a particular group of staff. We will seek to take action to address any identified negative impact. Equality monitoring of this policy will be shared with the recognized trade unions.

10. **Compulsory redundancies**

If, following the procedures set out above, the University’s Council still believes that compulsory redundancies may be necessary we will follow the procedure set out under Selection for Redundancy and Ordinance 41 where this applies. This part of the policy is not agreed with the recognized trade unions which have a policy of opposition to compulsory redundancies.

11. **Structural change – a definition**

11.1 This policy provides protection for staff by providing an agreed procedure when structural change occurs.

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3 Suitable alternative employment will be determined by reference to the job content, terms, required skills, pay, status, hours and location of the current and new posts and where possible, will be agreed. Where no agreement is reached, the relevant Executive Dean/Registrar & Secretary will have the authority to determine the issue.
Structural change is the description given to any reorganisation of work that substantially affects individual posts. These changes, which would be defined by USG after consultation with the TU’s, would be considered to constitute structural change if they involve any of the following characteristics:

(a) major changes in the number of posts within the organisation  
(b) substantially different spread of duties and responsibilities between posts and departments  
(c) a substantial change to the type of duties required within particular posts  
(d) a change to the accountability of posts which significantly affects the reporting lines of the post-holder  
(e) an increase or decrease in the level of responsibilities within posts including those which may have implications for their grading or salary  
(f) the introduction of radical new working practices which directly affect the demands on posts

11.2 Structural change does not occur:

(a) with routine or incremental changes to, and advances in, working practices  
(b) when staff move into posts different from the one into which they were appointed in order to gain experience, achieve promotion, enhance competence or support the day to day running of the University  
(c) when staff take on new roles which can reasonably be regarded as falling within the scope of their existing post, including the acceptance and cessation of time-limited roles of responsibility alongside the responsibilities of their existing post.

12. Structural change

12.1 Proposals for structural change may follow a review of a particular Faculty, School, other academic department or service area (including any such reviews undertaken under the terms of Ordinance 14, paragraph 27). The University will:

- inform the trade unions through the structured formal consultation meetings (JNC), or electronically where time is critical, where such reviews are being undertaken  
- inform staff in the affected area

12.2 Developing proposals

Draft proposals will be shared with the recognized trade unions through consultation meetings (JNC and/or meetings with individual unions where appropriate) and affected staff for comment. (see also paragraph 3.2). In all cases, such proposals will explicitly indicate the implications of any proposed structural change for staff in the department. Significant restructuring proposals e.g. reviews of academic strategy or financial sustainability across a broad area, will require Council approval where staff subject to Ordinance 41 are potentially affected.

12.3 Implementation

From the point at which the need for structural change is confirmed by either Council or USG and the form that such change will take (including any decisions to establish posts on the academic staff of the University pursuant to Ordinance 35), HR staff (following advice from Heads of Section/Heads of Department) will identify the post-holders of those posts that will be substantially changed or disappear as a result of restructuring. A number of outcomes may follow. These will depend on the extent to which the post-holder’s current duties are to be continued after restructuring.

Successor rights

12.3.1 Where a post in the new structure identifiably includes a majority of each of the essential elements of the duties of a post identified as affected by structural change (including, in relation to posts within the academic staff, the necessary subject expertise required of the post-holder) the current post-holder will have successor rights to the new post. Restructuring may mean that there is more than one person with successor rights. When current post-holders are identified as affected by the change, HR staff will hold informal discussions with them to gather information to determine those rights. Staff will be entitled to be
accompanied by a trade union representative or workplace colleague. The purpose of the discussions will be to identify and assess the post-holder’s skills and qualities in line with criteria outlined in the standard job description. This will provide objective evidence from which to compare the post-holder’s skills with a majority of each of the essential requirements of a post that will exist after restructuring and to identify where successor rights lie. Appendix 1 will be completed by staff at risk to aid this process. HR staff will make recommendations in individual cases to the relevant Executive Dean/Registrar & Secretary who shall be responsible for determining that successor rights apply.

12.3.2 If there is only one successor to a new post, s/he will be asked to attend a “slotting in” interview with the appropriate manager. This interview will be for the sole purpose of discussing the changes in the job and what that may mean in terms of new expectations of the post-holder. It will also allow the staff member to ask questions about the new post and to agree any new objectives and development needs. Following this interview the post-holder will be appointed designate - the appointment will take effect from the date the restructuring comes into effect.

12.3.3 When there is more than one successor to one or more posts the first option will be for appointments to be agreed between the appropriate manager(s), affected staff and HR on the basis of the informal discussions described in paragraph 12.3.1 above. If it is not possible to agree postings in this way, staff with relevant successor rights will be interviewed formally for the post(s) by the appropriate line manager, the Executive Dean/Registrar & Secretary and a member of the HR staff. The interviews will take the form of formal selection interviews. Until the suitability of those with successor rights has been determined following the interview process, the post(s) will not be advertised and competition will be restricted to those with agreed successor rights.

12.3.4 However successor rights are determined (whether through matching duties or through competition – restricted or open), the final decision regarding appointment will be made by the Executive Dean/Registrar & Secretary. It will reflect the paramount importance of the individual fulfilling the duties described in the job description and the attributes in the person specification, thereby supporting the University’s business need.

13. Jobs without successor rights/special cases

Some jobs are likely to be completely new and will hold no resemblance to any post within the old structure so that no member of staff can claim successor rights. Similarly, whilst some posts may have some similarity to “old” posts, the similarity will not be sufficient to allow slotting in (see paragraph 12.3) to occur. These posts will be filled following advertisement in accordance with the University’s Recruitment Procedure. Staff whose posts are directly affected by structural change will be given priority consideration for these posts (see paragraph 14 below).

14. Displaced staff

However undesirable, it is possible that some staff may be displaced by restructuring. This might be because they have no successor rights to new posts or because they were unsuccessful in a competitive selection interview for a post to which they had such rights. Should this situation arise, staff concerned shall be considered to be at risk of redundancy. As a consequence, the redeployment arrangements outlined in paragraph 7 above shall apply.

15. Appeals

Staff who feel that they have been treated unfairly under any provisions of this policy will be entitled to invoke the relevant University's Appeals Procedure (including, where appropriate, the arrangements outlined in Ordinance 41 Part II). Similarly, any employee whose employment is to be terminated because of redundancy will be informed in writing of their right to appeal to a University appeal panel if they consider that they have been unfairly selected. Such appeals should be made in writing to the HR
Director, indicating the basis for appeal, within 15 working days of receipt of the dismissal letter. Appeals will be heard by the HR Director and two senior members of staff (DVC, PVCs or Executive Deans or Registrar & Secretary) who have not been involved in the original decision making. The University will endeavor, where feasible, to hear appeals within one calendar month of requests being lodged, and the employee and a work colleague or trade union representative will be entitled to attend. There will be no further right of appeal.

16. **Counselling**

The University will deal with any potential redundancies and structural change in the fairest, most consistent and sympathetic manner possible and minimize as far as is reasonably possible any hardship that may be suffered by the employees concerned, and their families. We will ensure that suitable guidance is available in the following areas:

- financial advice on the individual’s compensation or severance terms (in relation to pension (when appropriate) or redundancy pay)
- guidance on how to find another job
- advice on completion of application forms
- guidance on interview techniques

Counseling will also be available to staff whose employment will continue and who request it.

17. **Selection for redundancy – Not agreed with the trade unions**

1. **Selection criteria**

17.1 When, following the procedures set out above, it becomes apparent that compulsory redundancies will be necessary, the University will need to decide, following consultation with the TUs, on the criteria to be used in selecting staff and the pool for redundancy. The criteria to be used in determining the pool for redundancy will accord with the terms of the Employment Acts and may include definition by:

- grade or level of work
- specialism/discipline
- functional area of work
- any other objective and measurable factor

17.2 Discussions about the specific selection criteria to be applied to the pool for redundancy should be held with the TUs. The criteria for selecting staff based on objective evidence may, among other things, include:

- *skills or qualifications*: in order to ensure the retention of a workforce with the balance of skills appropriate to future needs, selection will be on an objective basis
- *individual ability*: ability or specialist knowledge acquired as a result of special training or an individual’s contribution to meeting the objectives of the University
- *standard of work performance*: selection will be based on objective evidence
- *disciplinary records*: disciplinary records will be checked and reasons investigated.

17.3 The University will apply the chosen criteria objectively and consistently and will not base them solely on the views of one person or in a discriminatory manner. The process will be conducted transparently but with due confidentiality to those affected.

17.4 For staff defined (under the terms of Ordinance 41, Part I, Section 3) as Academic Staff, Ordinance 41 Part II enables the University’s Council, as the appropriate body, to dismiss any member of the academic staff by reason of redundancy. A Redundancy Committee, constituted in accordance with Ordinance 41, Part II Section 11, will oversee the application of this policy and procedure in relation to these staff. Academic staff who feel that they have been unfairly selected for redundancy may choose to appeal in line with Part V of Ordinance 41. All other staff may appeal within 15 days of receipt of the dismissal letter.
and should address their appeal, in writing, with reasons, to the Director of HR.

18. **Time off to look for work**

Any member of staff selected for redundancy will be provided with reasonable paid time off to look for alternative work and for any training necessary to assist in securing alternative employment.
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<td>(Include teaching and research duties, postgraduate supervision, curriculum development, staff management/supervision, financial/budgetary control, professional and technical responsibilities, committee work, quality and standards management, involvement in policy production and/or implementation, planning responsibilities, provision of advice etc.). Indicate average percentage of time spent on each during week.</td>
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Policy Information

Policy Creator: Human Resources
Collectively agreed with the University's recognized trade unions, forming part of employees' terms and conditions of service
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