

# **TRADE UNION SIDE (NEW JNCHES) DRAFT 1.4**

## **REDUNDANCY AVOIDANCE AGREEMENT AND CODE OF PRACTICE**

### **1 Introduction**

- 1.1 This document provides a framework agreed between UCEA (acting on behalf of its member institutions) and recognised trade unions for the avoidance of compulsory redundancies. It is not intended to remove any current protections afforded to staff under their contracts of employment or under existing legislation. This procedure applies to all staff including those on fixed-term contracts and/or part-time contracts, open ended contracts, contract research staff and hourly paid lecturers. The framework and any agreements made under it will give due regard to the ACAS code of practice on redundancy handling.
- 1.2 It is the intention of this agreement to encourage full engagement of the trade unions in the planning and taking forward of organisational change. By implementing all the measures associated with this agreement, the employers recognise that compulsory redundancies are avoidable.

### **2 Avoiding Redundancies**

- 2.1 To this end, the institution will establish a Committee on Redundancy Avoidance, which will consist of management and union representatives in equal numbers. This Committee and its work will be fully funded by the institution, including the provision of additional union facility time.
- 2.2 Regular meetings of the Committee will be scheduled throughout the year to identify any potential future problems regarding funding and organisation issues affecting the institution, with the specific intent of avoiding redundancies (for example, those arising from a fall in student numbers). The institution agrees to full disclosure of the necessary information to enable an informed dialogue, including full disclosure of all necessary financial information.
- 2.3 The Committee will develop an agreed communication strategy which will ensure that trade union representatives remain accountable to their constituencies and that the employer can keep all staff apprised of developments. Meetings will be minuted and copies of the minutes made available

- 2.3 The Committee will also develop and oversee the arrangements for:
- a robust redeployment policy based on the model in Appendix 1,
  - 'talent pool' systems and processes for research staff [for an example, see Appendix 2] [NB. It is accepted that some of the terminology may need amendment]
  - careers advice
  - training in transferable skills, including the part funding of fees associated with further or higher education study
  - collaborative work with other institutions in the same geographical area to extend 'redeployment' opportunities
  - job fairs
  - CV completion
- 2.4 In potential redundancy situations, the institution recognises the benefit of early and meaningful consultation with unions.
- 2.5 The institution also recognises its additional statutory obligations in respect of consultation. Consultation will include consideration of the steps to avoid compulsory redundancy listed in 2.6 below and will be with a view to reaching an agreement. Early consultation regarding these steps will take place at the point where a potential redundancy situation is identified and prior to formal notification of a redundancy situation,. The institution agrees that, as a minimum, an additional 30 days will be added to any statutory minima.
- 2.6 The institution will give consideration to the appropriateness of the following measures on each occasion that a redundancy situation arises:
- trying to make savings in non staff budgets
  - reduction of staff levels by natural wastage
  - redeployment (including, where necessary, retraining) to other parts of the organisation
  - reduction or elimination of overtime working
  - freezing of external recruitment, unless otherwise agreed by the trade union representatives
  - ending the employment of external contractors, unless otherwise agreed by the trade union representatives
  - considering volunteers for part-time working
  - considering volunteers for job sharing
  - sabbaticals and secondments
  - seeking alternative funding, e.g. where funding for a particular project has expired

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- 2.7 If, having followed the measures outlined above, the institution still requires a reduction in staffing levels, volunteers will be sought for redundancy or early retirement including, where practicable, from areas of work where staff possess transferable experience and skills to enable possible redeployment.
- 2.8 The Institution will establish a budget which will be used to provide training for those persons who are at risk of redundancy (for example, those placed on the re-deployment register)

### **3 Formal Consultation Procedures**

3.1 In the unlikely event that the measures outlined in section 2 fail to remove the potential redundancy situation, for the purposes of consultation the institution will provide unions with the following information:

- reasons for the proposals
- number and description of employees whom it is proposed to dismiss as redundant
- total number of employees of that description employed at the institution
- proposed method of selecting the employees who may be dismissed
- proposed method of carrying out the dismissals with due regard to any agreed procedure, including the period over which the dismissals are to take effect
- proposed method of calculating the amount of any redundancy payments made to employees who may be dismissed
- statistics on staff turnover for the last three years
- list of vacancies on a weekly basis
- details of the institution's current financial position
- the financial impact of any proposed redundancies
- the impact on remaining posts of any job losses
- information about redeployment opportunities and details of failure to redeploy
- agreed details of the Appeals procedure

This list is not exhaustive.

3.2 The institution will actively engage with unions 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

This will include ring-fencing vacancies that represent suitable alternative employment or redeployment opportunities and the arrangements for voluntary redundancy or early severance, including the calculation of the terms.

In line with obligations to consult, reasonable time and opportunity will be given to the union representatives to consider the information provided, to seek clarification, or challenge assumptions and to put forward their own views or proposals. The institution will give these proper considerations and answer them in writing explaining any changes to the original proposals, the reasons for rejecting any alternative proposal and confirming the final proposals.

The institution must conduct equality impact assessments and will consult unions to ensure prior consideration on whether the proposals have a disproportionate effect on either gender, black and ethnic minority staff, disabled staff, and staff of different ages. These will be prepared with regard to the provisions of the Race Relations (Amendment) Act 2000, the Disability Equality Duty and the Gender Equality Duty.

- 3.3 In addition to the consultation with unions as the recognised trade union, the institution will engage in individual consultation with those staff affected. This will include discussion about how the institution can mitigate the potential redundancy by such means as transferable skills and redeployment options, including the potential for retraining. Staff will have the right to be accompanied by a trade union representative in all individual consultation meetings of this description.
- 3.4 The minimum period for consultation is prescribed by S188 of the 'Trade Unions and Labour Relations (Consolidation) Act 1992' but the employer will notify the unions at as early a time as possible to allow meaningful consultation on the avoidance of compulsory redundancies. Consultation must take place before any final decisions have been made for it to be meaningful.

#### **4 Statutes**

In considering the local application of this agreement, parties will pay regard to existing institutional statutes, where they exist.

#### **5 No detriment**

In considering the local application of this agreement, parties will maintain any existing beneficial local arrangements.

# **Model Redeployment Procedure**

The redeployment procedure is operated alongside the Institution's collective agreement on the use of fixed-term contracts and the Statutory Redundancy Procedures or agreed redundancy procedures, is not intended to replace those policies and does not affect the rights of an individual to appeal against any redundancy or dismissal proceedings.

## **1 Introduction**

- 1.0 The Institution is committed to protecting the security of employment for its staff as far as is possible. It is therefore essential that a clearly understood practical redeployment policy is in place which enables staff to be redeployed to suitable posts within the Institution.
- 1.1 The Institution undertakes to develop and implement a structured redeployment policy including a positive approach to retraining with individual training needs being assessed and active help and support provided.
- 1.2 There may be a number of situations where staff are seeking to be redeployed:
  - when the job they are currently doing is no longer required and there is no suitable alternative employment;
  - when part of the job is no longer required (i.e. 25% or more of the post);
  - when, due to medical reasons, they are unable to continue in their present post;
  - when one or a series of fixed-term contracts is coming to an end and there is no suitable alternative employment;
  - when another substantial reason puts their employment at risk.
- 1.3 All staff in the situations outlined at 1.2 above will have the opportunity to be entered onto the Institution's redeployment register with a view to finding an alternative post. However, the register is not for members of staff who do not fall into one of the situations outlined in 1.2 who are seeking a new job or change of career.
- 1.4 Where the need arises, the Institution will ensure that full consultation and communication will take place with staff both collectively and individually and with Trade unions at the earliest opportunity. Consultation with the individual would usually be at least four months before any change takes place and as soon as is possible for those staff who due to medical reasons are unable to continue in their present post.

- 1.5 The Institution recognises that redeployment constitutes a change to an individual's contractual terms of employment and therefore cannot be implemented without his or her consent.

## **2 Principles**

- 2.0 When dealing with an issue of redeployment the following principles should be followed:

- staff and their representatives have the right to be involved at the earliest opportunity in decisions which may affect them.
- staff have the right to have their wishes and preferences taken into consideration.
- insofar as is practicable staff will be encouraged and supported in undergoing any relevant retraining or reorientation, or in having other development needs met, with the aim of assisting them to remain employed at the Institution. Once staff are on the redeployment register they should be allowed reasonable paid time off for retraining from their existing post.
- staff will be offered counselling through the Institution's counselling service should they require it.
- where appropriate, career advice will be offered.

## **3 Definitions**

### 3.0 Redeployee

Member of staff on the redeployment register

### 3.1 Suitable Vacancies

Suitable vacancies are those where the skills and knowledge sought to fill the vacancy match the skills and knowledge of the redeployee with or without further training. In assessing whether or not a vacancy is suitable a number of factors will need to be taken into account including:

- nature of the job
- status of the job
- qualifications and skills needed and those of the redeployee
- hours
- location and accessibility
- personal circumstances
- career prospects of the redeployee
- interests of the redeployee
- aspirations of the redeployee

### 3.2 Prior consideration for a vacancy

Prior consideration for a vacancy means being considered prior to the post being advertised or alternatively prior to the normal selection process.

### 3.3 Redeployment Register

This is a register held by Personnel for staff that need to be redeployed. The eligibility criteria are shown in section 1.2.

### 3.4 Formal Restructuring

Formal restructuring is a restructuring exercise that is agreed in advance with Personnel and one where full consultation with the relevant trade unions takes place prior to and during the restructuring exercise.

## **4. General Approach**

4.1 The Redeployment Register will be coordinated by Personnel, who will be responsible for maintaining central records and the monitoring of who is on the register and their general progress. It will be funded centrally.

4.2 Once staff have been placed on the Redeployment Register the appropriate Personnel advisor will take responsibility for managing the process of redeployment for that individual.

4.3 Each staff member who is placed on the Redeployment Register will be interviewed by the appropriate Personnel advisor. The purpose of this interview is to establish a full skills profile of the individual, any training needs, and the categories and types of jobs that are likely to be suitable. A Skills Analysis Form should be completed in all circumstances and, if appropriate, a CV.

4.4 Personnel advisors will take a pro-active role in trying to secure alternative employment for staff on the Redeployment Register by:

- maintaining a website with details of current ring-fenced vacancies and job specifications
- regular liaison with the Recruitment Service, Heads of Departments and Personnel colleagues to try to determine any suitable vacancies
- advising the Head of Department of any applicants for vacant posts from the Redeployment Register
- maintaining regular contact with staff on the register and providing any necessary support and guidance
- holding a formal review meeting once per month, or more frequently if appropriate, to assess the current position

4.5 Staff placed on the Redeployment Register will be granted appropriate paid time off for the purpose of attending job interviews for internal appointments and with external employers.

## **5. The Filling of Posts**

5.1 Initially all relevant vacant posts will be ring-fenced for an agreed period.

5.2 Personnel will check whether there is a potential match on the Redeployment Register. This will involve continuous liaison with the Recruitment Service. If there is a potential match the Personnel advisor will inform the member of staff both verbally and in writing of the match and ask them to consider the post.

5.3 Individuals on the redeployment register can also access the list of ring-fenced vacancies through a secure webpage, or can request written details from personnel if they do not have regular access to the website.

5.4 A suitable match will usually be at the same grade and where appropriate shift patterns, with consideration given to personal circumstances, location etc., as the individual's most recent previous post.

5.5 Departments with vacant posts will give consideration to staff on the Redeployment Register BEFORE considering other applicants. Such prior consideration involves considering the member of staff against the Person Specification for the vacant post. In order for a match to be established the staff member must normally meet most (approx 75%) of the essential criteria for the post. Appropriate training can be given if required.

5.6 Once a match has been established then the individual(s) will be offered an interview prior to any other candidates (except for other redeployees).

5.7 If a person proves suitable at interview then they should be offered the post.

5.8 If the person is deemed unsuitable at interview the individual and Personnel Advisor should be informed, in writing, of the decision and the full reasons for the decision not to appoint. This will assist the individual and enable the Personnel Advisor in supporting the staff member in future applications.

5.9 The redeployee has the right to appeal against a decision not to appoint. The appeal process will be subject to agreement between the Institution and the recognised trade unions.

5.8 Departments undergoing restructuring are not expected to give prior consideration to staff on the Redeployment Register from other departments whilst their own restructuring is in process.

5.9 Individual employees will have the right to use the Grievance Procedure if they feel that redeployment procedures have not been followed correctly.

## **6. Training**

6.0 The Institution is committed to providing relevant training and to providing any appropriate upskilling. Any retraining will be funded by the Institution, including any necessary travel and accommodation costs.

## **7. Trial Periods**

7.0 Where possible and practicable, employees who are considering suitable vacancies will be given the opportunity to spend up to four weeks in that new job as a trial period prior to the interview. After four weeks there will be a full review and if the post is suitable the person will be offered an interview for the post prior to other candidates.

7.1 A trial period could also take place after the member of staff has had an interview for the post and there is a question from either side about the suitability of the post.

7.2 Initially the cost of the trial period will be met from central resources. If the trial period results in an appointment, the cost could be recovered from the departmental budget including research funding.

7.3 Existing departments will be release staff to enable them to undertake trial periods.

## **8 Protection Arrangements**

8.0 The Institution's policy on Protection of Pay and Conditions of Service will apply to staff in situations where the post to which a member of staff has been redeployed is at a lower grade than their current/most recent contracted one. Staff redeployed to a lower graded post will also have the opportunity to remain on the redeployment register to maximise their opportunity of securing alternative employment at an equivalent grade to their original post.

## **Model policy of proactive redeployment and career planning for research staff**

The avoidance of redundancy is the responsibility of the employing institution. This policy is in addition to the institution's general policy on redundancy and concerns itself with measures to minimise the risk of redundancy for research staff.

- Research groups with common research themes should form 'clusters' or networks around these themes. Research groups can fit into multiple overlapping themes. Clusters may be 'virtual' rather than co-located in the same department or faculty, but will organise regular seminars in work time to permit staff to share research results. The aim of research clusters is to
  - i) give opportunity for joint grant applications
  - ii) develop research programme themes, and
  - iii) manage multiple successful project bids, with staff, facilities and estate following the research.
- Particular attention should be directed towards individual lecturers expected to act as PIs for the first time, and integrating PIs who may not be part of a formal research group into research clusters.
- Individual research staff will be supported in elaborating and developing a 'research skills record' (RSR) alongside their academic CV. The RSR will summarise their current skills, specific project contribution and experience; identify research groups into which they could be transferred should the need arise; and identify continuous professional development needs. Research staff will be supported in meeting informally and participating in research seminars with staff in other research groups, whether part of a shared cluster or not. The RSR is additional to teaching experience and the development of skills outside of research activity as part of the Roberts Agenda. The RSR will be reviewed annually, either as part of a negotiated appraisal process, or in addition to it.
- In the absence of a named researcher, research staff will be budgeted in grant applications as high as possible, ideally on the top non-discretionary point of the relevant research grade (for post doctorate researchers this will be at least Grade Ac2), in order to facilitate redeployment.
- Successful project bids may be delayed in order to maximise continuity of employment of staff. The possibility of delay will be discussed within the research group and cluster(s) with the announcement of the successful bid.
- When staff are allocated to a project the following order of priority is likely to apply:
  - i) named research staff in the original grant proposal
  - ii) research staff in the same research group
  - iii) redeployees on any redeployment register
  - iv) research staff in the cluster, network or department

v) external applicants

- Human Resources will be responsible for ensuring that posts are not advertised externally until internal applicants have been considered and that processes of fair competition at each level of priority are maintained. Trial periods of four weeks (typically), with the right to withdraw on either side, can be included for stages (iii) and (iv) above.
- Consideration will be given to the flexible deployment and redeployment of research staff to avoid potential redundancies. This could involve moving staff to different projects (with their agreement), to create a vacancy in their original project which could be used for another researcher whose current project is coming to an end.
- The aim of this policy is to avoid redundancy of research and other research grant-funded staff, including administrative and technical staff. In the case of a shortfall of funding, a minimum period of *six months'* underwriting at a time will apply to all staff with over one year of service. During this period the staff member will be placed on the redeployment register in the institution and will have a prior claim to research posts as indicated above.
- Reporting mechanisms will be developed to ensure that any falls in funding in a particular area and, therefore, numbers of staff placed on the redeployment register will be reported to senior management and the trade unions in sufficient time to permit collective consultation to avoid the redundancy of staff.
- UCU/unions reserve the right of any of its members to challenge their redundancy and to object, through grievance, to any failure to follow this policy fairly.
- The implementation of this policy will be monitored jointly by [name of the institution] and the relevant trade unions, including for discrimination (whether direct or indirect) by race, disability, age, LGBT status, gender or religion or belief.

[Name of the institution] and the unions recognise that this policy represents a major change in the way that research staff are currently managed and deployed and recognise the positive impact that these changes represent for research staff and on the research being carried out.