

The Ordinances Part 3: Dismissal, Discipline, Grievance Procedures and related matters pursuant to Statute 7

3.4 Redundancy Procedure

Part I : Introduction and Definitions

1. This Ordinance is promulgated in accordance with the provisions of Part II Clause 7 of Statute 7 and sets out procedures for dismissing members of staff on the grounds of redundancy and for handling appeals against such dismissals.
2. In this Ordinance:-
 - i. a member of staff shall be deemed to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to -
 - (a) the fact that the University has ceased or intends to cease -
 - (i) to carry on the business for the purposes of which the member of staff was employed by the University, or
 - (ii) to carry on that business in the place where the member of staff was so employed, or
 - (b) the fact that the requirements of that business -
 - (i) for members of staff to carry out work of a particular kind, or
 - (ii) for members of staff to carry out work of a particular kind in the place where the member of staff was employed by the University,have ceased or diminished or are expected to cease or diminish.
3. In this Ordinance, unless the context indicates otherwise:-
 - i. The Statute' shall mean Statute 7;
 - ii. 'member of staff' shall mean any member of staff as defined by Clause 1(1) of The Statute;
 - iii. in relation to any decision or action that the University is required to make or to perform under this Ordinance, 'the University' shall mean: any member of staff who usually makes such decisions or performs such actions on behalf of the University, or who in the normal course of events may reasonably be expected to do so;
 - iv. a reference to 'clinical staff' shall be taken to mean a reference to any member of staff defined in Clause 20(1) of The Statute;
 - v. references to Deans shall be construed so as to include references to Heads of Professional Services or other equivalent units (and vice versa), and where there is no Dean, Head of Professional Service or equivalent unit, the President and Vice-Chancellor or his or her nominated representative may appoint a member of staff from such Faculty, Professional Service or equivalent unit to undertake the duties required of a Dean or Head of Professional Service by this Ordinance;
 - vi. references to University postholders (including those referred to in sub-paragraph (v) above) shall be construed to refer either to the postholder or to an appropriate member of staff nominated by the postholder to act with full authority on the postholder's behalf;

- vii. where a post is held jointly by two or more postholders, a reference to the postholder shall be construed as a reference to any or all postholders holding that post, and any action authorised or required under this Ordinance may be taken by any such postholder.

Part II : Application and Scope

4. This Ordinance applies to members of staff as defined by Clause 1(1) of The Statute with the exception of the President and Vice-Chancellor, namely:-
 - i. members of the academic staff,
 - ii. members of staff with a grade of Level 4 or above in the University's grading structure, or an equivalent grade,with the exception of those staff excluded from the scope of Part II of The Statute by Clause 5(1) thereof.
5. This Ordinance shall not apply to:-
 - i. the proposed dismissal of a member of staff where that dismissal would arise from the expiry without renewal of a fixed-term contract;
 - ii. removal from appointment as Pro Vice-Chancellor, Dean, Associate Dean or such other posts as have been designated by the Council, to which a member of staff has been elected or appointed and which is distinct from that individual's substantive post, where dismissal from the substantive post is not contemplated; and
 - iii. the proposed non-confirmation in post of a member of staff during or at the end of a period of probationary service.
6. The procedure set out in this Ordinance acknowledges that the proposed dismissal of a member of staff by reason of redundancy:-
 - i. may or may not be required to be the subject of prior consultation with appropriate representatives under Section 188 Trade Union and Labour Relations (Consolidation) Act 1992 ('TULRCA'); and
 - ii. may or may not be required to be implemented by the application of selection criteria to affected members of staff of a certain description or category and/or within a specific Faculty, Professional Service or other appropriate unit.
7. Nothing in this Ordinance shall preclude:-
 - i. the University from seeking volunteers for redundancy or exploring opportunities for early retirement;
 - ii. any member of staff from agreeing to voluntary severance;at any time before or after a determination by the Council under Stage 2 of this Ordinance.

Part III : General Principles

8. The University's policy is to provide, as far as possible, security of employment through careful strategic planning of its future staff requirements, including any reasonable consequential staff development needs. It is the aim of the University, agreed with its recognised Trade Unions, to prevent situations arising which threaten job security.
9. Every reasonable effort will be made to avoid redundancy situations arising and to avoid making individual members of staff compulsorily redundant. University management, in consultation with the University's recognised Trade Unions, will seek to minimise the effect of redundancies through the provision of support to assist in finding alternative employment for redundant staff.

Confidentiality

10. Throughout any proceedings under this Ordinance, the University shall seek to ensure that confidentiality is maintained. However, this shall not preclude the University from disclosing information where necessary for the discharge of duties or as required by law, nor shall this preclude the University, where appropriate, from disclosing information about any outcome under this Ordinance. There may be cases where it is appropriate to preserve confidentiality in relation to the identity of witnesses, where there is reasonably perceived to be a need to protect any member of staff from the risk of intimidation or retribution. Likewise, it may be necessary to adapt these procedures where it is considered undesirable for any one person to give evidence in the presence of another.

Right to be accompanied

11. At any hearing of a Panel or Appeal Panel convened under this Ordinance the member of staff may be represented or accompanied by a workplace colleague or trade union representative. If a member of clinical staff is called to a hearing under this Ordinance in relation to a proposal to terminate his or her employment and the hearing will involve consideration of issues related to the member of staff's clinical conduct or competence, the person conducting the hearing (or chair of the panel as appropriate) may permit the member of staff to be represented or accompanied by a member of his or her defence organisation. Such a representative may be legally qualified but he or she will not, however, be representing the member of clinical staff in any legal capacity.
12. If the member of staff's representative is not available at the time proposed for the hearing, the member of staff may request that the hearing be postponed to another reasonable time, being not later than five working days after the date first proposed for the hearing. A representative may attend the hearing with the member of staff and may speak on the member of staff's behalf but may not answer questions (relating to the issues in dispute) on the member of staff's behalf.

Part IV : Procedure

Stage 1 - The preliminary stage

Preliminary consultation

13. Prior to any request for the Council to make a determination in respect of the proposed dismissal of a member or members of staff by reason of redundancy under Stage 2 below, the proposed redundancy or redundancies shall be notified to the member(s) of staff at risk of dismissal, and there shall be consultation with appropriate trade union and/or other representatives of the member(s) of staff in respect of that proposal and they shall be given the opportunity within an identified period of time to make written representations. Such representations may include, without limitation, suggestions as to how the proposed redundancies could be avoided or their numbers reduced.
14. A proposal to dismiss a member or members of staff by reason of redundancy under Part II Clause 7 of The Statute shall be notified to the Council by the President and Vice-Chancellor or his or her nominated representative.

Notification to the Council

15. The notification to the Council may include the following information, as appropriate to the circumstances:-
- i. an identification and analysis of the alternatives to redundancy;
 - ii. the reasons for any discontinuation or reduction of activity;
 - iii. the total number of redundancies proposed and the timescale;
 - iv. an outline of the relationship with the strategic plan of the affected unit(s);

- v. an analysis of financial considerations;
 - vi. an analysis of the impact of the proposed redundancies on activities within the unit and in other units within the University including consideration of the impact on the workload of remaining staff;
 - vii. whether selection criteria will be applied in relation to some or all of the proposed redundancies;
 - viii. a report of consultations already undertaken with member(s) of staff at risk of dismissal and their representatives.
16. In addition, the notification shall confirm:-
- i. whether, given the number and proposed timescale for proposed redundancies (and taking account, as appropriate, of the proposed dismissal by redundancy of any other members of staff whether or not they come under the scope of The Statute), it is necessary to consult appropriate representatives of the affected members of staff under Section 188 TULRCA 1992 and, if so, the extent to which necessary consultations have been initiated or completed; and
 - ii. the extent to which discussions with the member(s) of staff at risk of redundancy have also been initiated or completed.

Stage 2 - Determination by the Council

17. The Council shall determine, in the light of the report received, whether the circumstances are such that the procedures in Stages 3 to 6 of this Part should be instituted to effect some or all of the proposed redundancies. As part of such determination, and before it reaches a final decision, the Council may seek such further information as it may require, including further consultation with appropriate representatives and/or discussion with the affected member(s) of staff.

Stage 3 - Consultation with Affected Staff

18. This Stage shall apply where the Council has determined under Stage 2 of this Part that Stages 3 to 6 of this Part shall be instituted in respect of any proposed redundancy or redundancies.
19. At any meeting under Stages 3 to 6 of this Part, the member of staff shall have the right to be represented or accompanied by a workplace colleague or trade union representative.
20. The affected staff shall each be notified in writing by the Director of Human Resources or his or her designated representative:-
- i. that the Council has determined that the procedures in Stages 3 to 6 of this Part shall be instituted;
 - ii. of the number of proposed redundancies to be effected as a result of that determination;
 - iii. of the Faculty, Professional Service or other unit and/or (as appropriate) the categories or descriptions of staff affected by that determination;
 - iv. that he or she is employed in a Faculty, Professional Service or other unit and/or (as appropriate) falls within a category or description of staff affected by that determination;
 - v. that accordingly he or she is potentially at risk of dismissal by reason of redundancy under this Part;
 - vi. that he or she will be consulted individually before any decision to dismiss him or her by reason of redundancy is taken and that he or she has the right to appeal such a decision.

Stage 4 - Selection for redundancy

(a) Procedure where selection criteria are to be applied

21. Where selection criteria are to be applied, a Redundancy Selection Panel shall be convened by the Director of Human Resources and shall consist of: a person drawn from a list approved by the Senate, a Dean or Head of Professional Service or his or her nominee (not from the affected Faculty or Professional Service), and a Vice-President or Pro Vice-Chancellor who shall act as Chair. The Redundancy Selection Panel may co-opt a member of the academic group or other relevant unit affected by the proposal, if appropriate. The Panel shall draw up selection criteria with advice from Human Resources and shall consult with the trade union and/or affected staff as appropriate with regard to the selection criteria to be applied.
22. Each member of staff in a pool of affected staff in respect of whom selection criteria are to be applied shall be notified in writing (either separately or in the written notification under paragraph 20 above) of:-
 - i. the relevant pool of affected staff;
 - ii. the total number of staff employed in that pool of affected staff;
 - iii. the total number of staff it is proposed to make redundant from that pool;
 - iv. the selection criteria to be used to determine which members of staff within the affected pool are to be dismissed by reason of redundancy;
 - v. the members of the Redundancy Selection Panel, who will carry out the assessment of affected staff against the selection criteria;
 - vi. when the assessment of affected staff against those criteria will take place;
 - vii. the proposed arrangements for consulting individual members of staff within the affected pool in respect of the application of the selection criteria to them.
23. The members of the Redundancy Selection Panel will carry out the assessment of affected staff against the selection criteria.
24. After all members of staff within the relevant pool of affected staff have been assessed against the selection criteria, those members of staff provisionally selected for redundancy will be notified of that fact in writing, and informed that as a result their employment may be terminated on grounds of redundancy. The members of staff shall be invited to a meeting in accordance with paragraph 26 and shall be provided in advance of that meeting with written details of their assessment against the selection criteria.
25. Those members of staff within the relevant pool of affected staff not provisionally selected for redundancy shall be advised in writing that, although not provisionally selected at this stage, that position could change as a result of meetings with or appeals by provisionally selected members of staff under this Part or under Part V, in which case they shall have the same rights to consultation and appeal as those provisionally selected under paragraph 24.
26. Each provisionally selected member of staff shall be invited to a meeting with a representative of Human Resources and the Dean or Head of Professional Service or his or her nominee. At the meeting the application of the selection criteria to that member of staff shall be explained and the member of staff shall have the opportunity to make oral or written representations in respect of that assessment. Where necessary, a further meeting or meetings may be arranged to discuss any such representations and respond to them. Such meeting(s) may, if appropriate, include a discussion of the alternatives to dismissal including opportunities for redeployment.
27. The member of staff shall be informed in writing of any changes to his or her assessment against the selection criteria made as a result of the representations referred to in the meeting(s) under paragraph 26 above.

(b) Procedure where selection criteria not required

28. Selection criteria are not required where a redundancy or redundancies are proposed in relation to: a unique post, all posts within a particular entity or group, or all posts of a particular description or category. In such cases, each member of staff shall be notified in writing (either separately or in the written notification under paragraph 20 above) of the reasons for his or her proposed dismissal and shall be invited to a meeting with the Dean or Head of Professional Service (or his or her nominee) at which the member of staff may make oral or written representations. Where necessary, a further meeting or meetings shall be arranged to discuss any such representations and respond to them. Such meeting(s) may, if appropriate, include a discussion of the alternatives to dismissal, including opportunities for redeployment.

Stage 5 - Redundancy Committee of the Council

29. In the case of proposed closure of a whole academic discipline or department, a Redundancy Committee of the Council ('Redundancy Committee') shall be convened by the President and Vice-Chancellor or his or her nominated representative.
30. The Redundancy Committee shall include at least one lay member of the Council and shall review any proposed dismissals on grounds of redundancy before any final decision to dismiss is taken. The Redundancy Committee may confirm the proposed decisions to dismiss or may remit the matter for further consideration as the Redundancy Committee shall specify.

Stage 6 - Confirmation of Decision

31. Following the meetings referred to in paragraphs 26 or 28 above and, in cases where paragraph 29 applies, following a review by the Redundancy Committee of the proposed decision to dismiss, the Director of Human Resources shall write to the member(s) of staff to notify them of the outcome of the meetings.
32. Where the outcome referred to in paragraph 31 above is that selection for redundancy of the member(s) of staff is confirmed, the Director of Human Resources shall inform the member(s) of staff that his or her employment is being terminated by reason of redundancy and give appropriate notice of such termination. The member(s) of staff will be informed of his or her right to appeal that dismissal under Part V below, and of any applicable time limits for the making of such an appeal.

Part V : Appeals

33. A member of staff (hereafter called the 'Appellant') who wishes to appeal the decision to dismiss should do so in writing to the Director of Human Resources within ten working days of the date of written notification of the decision. The Appellant should set out in full the grounds of his or her appeal, and if the Appellant is proposing to rely on new evidence, he or she should provide details and a copy of any relevant documentation.
34. The appeal will be heard by a panel (the 'Appeal Panel') convened by the President and Vice-Chancellor or his or her nominated representative on a case-by-case basis in accordance with the following rules:-
- i. subject to sub-paragraph (iv) below, each Appeal Panel shall consist of three persons;
 - ii. at least one member of the Appeal Panel shall be a lay member of the Council and one shall be a member drawn from a list agreed from time to time by the Senate. The third member may be another lay member of the Council or may be chosen from among the senior management of the University, such as a Vice-President, Pro Vice-Chancellor, Dean, Chief Operating Officer or Head of Professional Service who shall chair the Appeal Panel unless the Appeal Panel resolves otherwise;

- iii. no panel member shall have had any previous involvement in the member of staff's case save that the member of Council may have made a determination under paragraph 17 above;
 - iv. where the panel is dealing with a member of staff falling within Clause 20(1) of The Statute (which applies to certain members of the clinical staff) then a representative of a National Health Service or other relevant body may be appointed to the panel: where this occurs the panel may consist of more than three members, but shall not exceed five persons.
35. The Director of Human Resources or his or her nominee shall appoint a member of Human Resources to act as Secretary to the Appeal Panel.
36. An appeal under this Part shall not normally take the form of a re-hearing of the evidence and witnesses may be called only with the Appeal Panel's permission. However, if there is evidence that could not reasonably have been presented at the hearing, and/or if new evidence has emerged since the hearing, this may be presented at the appeal.
37. The Appeal Panel shall be entitled to review all aspects of the matter, other than the Council's determination under paragraph 17 above (that is, the decision that redundancy procedures should be instigated).
38. No later than ten working days before the Appeal Panel Hearing the Appellant shall be notified by the Secretary to the Appeal Panel of:-
 - i. the date, time and place of the Appeal Hearing;
 - ii. his or her right to be represented or accompanied at the Appeal Hearing in accordance with the provisions of paragraph 11 above; and
 - iii. as far as they are known at the time, the names of the persons to be present at the hearing including the members of the Appeal Panel, and the name of any person attending to present the reason for the decision to dismiss on behalf of the University.
39. The Appellant may be represented or accompanied at the Appeal Hearing in accordance with the provisions of paragraph 11 above.
40. At least three working days before the Appeal Hearing the name and the address of the Appellant's representative must be notified in writing to the Secretary to the Appeal Panel.
41. The Appellant shall take all reasonable steps to attend the Appeal Hearing and/or any adjournment or postponement of the Appeal Hearing. Where the Appellant indicates to the Appeal Panel that he or she does not wish to exercise his or her right to be heard or fails to attend or leaves the Appeal Hearing or any postponement or adjournment of the Appeal Hearing without good cause, the Appeal Panel shall be entitled to proceed in the Appellant's absence.
42. The procedure to be followed in preparation for and at the Appeal Hearing shall be at the discretion of the Appeal Panel, which may include without limitation:-
 - i. determining which documents (if any) shall be provided for the Appeal Panel's consideration and at what stage;
 - ii. determining the extent (if any) to which witnesses may be called and questioned; and
 - iii. deciding whether it would be appropriate to adjourn or postpone the Appeal Hearing.
43. The Appeal Panel shall notify the Appellant in writing of the reasons for its decision, normally within ten working days of the Appeal Hearing. A report of the decision will also be sent to the Council and to the Dean or Head of Professional Service. The Appeal Panel may:-
 - i. uphold the decision;

- ii. overturn the decision; or
 - iii. remit the matter for further consideration by the person or body whose decision is being appealed.
44. The decision of the Appeal Panel shall be final.
45. Any dismissal under this procedure shall remain in force pending the outcome of an appeal. If the decision to dismiss is overturned, continuity of employment shall be restored.