



Policy and Guidelines for Dealing with Organisational Change (Leading to the possibility of posts being made redundant)

2018-21

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Policy owner: Director of Human Resources

This Policy was reviewed extensively involving UCU and Unison representatives during 2014-17: the Policy remains appropriate for the 2018-21 period.

Amendments to the 2014-17 version: Changes to Officer titles ChET (Chief Executive's Team) to VCG (Vice-Chancellor's Group)

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This policy applies to all employees of the University of Chichester, in all staff categories (except those covered by the provisions of the University's Statutes). The document has three sections:

Section one: Introduction, principles and objectives

Section two: Measures to avoid and mitigate redundancy

Section three: Information on Redundancy and Appeals

Three Appendices provide further guidance:

Appendix one: Questions and Answers

Appendix two: Flowchart

Appendix three: Template for completing Proposal for Change documents ('PCD')

Section One: Introduction, principles and objectives

1.1 Introduction

The University of Chichester (hereafter referred to as 'the University') recognises that change is an integral part of organisational life and is committed to managing change effectively, in an open and transparent manner. It is the aim of the University to ensure, as far as possible, security of employment and the avoidance of redundancies through careful operational and strategic planning.

The need for change can be driven by various external and internal factors such as government legislation, public policy, financial matters, technological change, organisational requirements, or changes in student numbers. Where change raises the possibility of posts being made redundant, this policy and associated guidelines will be followed.

In applying this policy, the University will consult with staff and the recognised Trade Unions on any staffing measures which might need to be taken and will utilise fair and equitable ways of achieving the necessary changes.

1.2 The principles and objectives of this policy are:

- a) That employee interests shall be considered positively as an integral part of the process of managing organisational change, and specifically any change that raises the possibility of dismissals by reason of redundancy.
- b) To protect as far as is reasonably possible the employment of staff.
- c) That, when organisational change is proposed that raises the possibility of dismissal(s) by reason of redundancy, managers will consult with staff and recognised trade unions and provide such information as is necessary for constructive dialogue to take place.
- d) That, when organisational change is proposed that raises the possibility of dismissal(s) by reason of redundancy, consultation will be undertaken in good faith. No decisions will be made to implement the changes before consultation has been completed.
- e) To ensure that, where the redundancy of a post cannot be avoided, suitable alternative employment opportunities within the University are offered to the affected post holder(s) if at all possible.
- f) To ensure that where some but not all of the work ceases to be required (i.e. part of the post is redundant but the University intends to retain the remaining workload as a fractional post), every reasonable effort will be made to offer suitable alternative work within the University to replace the redundant work and so maintain the employee's employment and avoid any reduction in the employee's working hours. The employee has the right to refuse an offer of

alternative employment that is not suitable and in this circumstance to be dismissed by reason of redundancy.

- g) To ensure that the organisational change process and associated consultation is undertaken as thoroughly and as quickly as possible.
- h) To minimise any risk of misunderstanding throughout any organisational change process wherein there is a possibility of dismissal(s) by reason of redundancy.
- i) That the management of any and all proposals for organisational change be overseen by a Sub-group of JCG (The University's Joint Consultative Group) specially convened for the purpose: the JCG Sub-Group on Organisational Change.
- j) Matters of employee performance, capability or discipline are not covered by this policy. Issues of this nature are covered by other University procedures.
- k) That the University will not discriminate directly or indirectly on grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age. Part-time employees and those working under fixed-term contracts will not be treated differently to permanent, full-time employees.

1.3 Communication and consultation with staff

- a) Difficulties can sometimes be encountered in terms of the timing of communications with staff and unions. As a general rule, efforts will be made to consult unions and staff as near together as reasonably possible. It is acknowledged that the management negotiating team and the trade unions will need to discuss the most appropriate approach depending on the nature of the proposals for organisational change and considering the need for sensitivity and, in some cases, confidentiality.
- b) The first formal meeting in the organisational change process is usually between the manager responsible for the proposed change(s) and the staff who will be directly affected by the proposed change(s). The purpose of the first meeting will be to provide information and will usually not involve union or workplace representatives or Human Resources colleagues. However, it will be made clear at the first meeting that at all subsequent meetings staff have the right to be accompanied by a union representative and that they are entitled to the support of an HR Officer. The meeting should be followed by a letter summarising the discussion, enclosing a copy of the Proposal for Change Document (PCD) and a copy of the Organisational Change Policy (this document).
- c) After the first meeting, and at any subsequent meetings with managers dealing with organisational change, employees have the right to be accompanied by their trade union representative or a work colleague and/or a member of Human Resources. Managers will ensure that employees are made aware of these rights throughout the process, including at the initial meeting where they are made aware that they are at risk of dismissal by reason of redundancy.
- d) Both management and union(s) will observe proper discretion in their handling of sensitive and confidential information.
- e) At any stage of the organisational change process, employees affected by organisational change may choose to have a confidential 'without prejudice' discussion with the Director of Human Resources or a Human Resources Manager about their current circumstances and/or how this might affect their personal plans.
- f) The University is committed to implementing change within a reasonable timeframe to minimise uncertainty while ensuring sufficient time for meaningful and comprehensive consultation.

Affected staff and their representatives will be given the opportunity to comment on the proposed changes and have such comment considered.

- g) The University will make every effort to treat people considerately and ensure that employees affected are initially provided with information on organisational change(s) in a face-to-face situation.
- h) It is accepted that change is necessary, and desirable to improve the efficiency of the University's operations, and that it is important that staff understand the full reasons for such change.
- i) The University undertakes to consult with employees, including employees currently away from the workplace e.g. on maternity/paternity leave or sickness absence, and the relevant Trade Unions about proposed organisational changes as early as practicable and will keep the relevant employees and Trade Unions informed of developments as they arise throughout the consultation period.

1.4 Roles and Responsibilities

1.4.1 The role of Managers in Organisational Change

The manager(s) responsible for the organisational change(s) will ensure that the changes are carried out with full regard to this Policy. Training on managing organisational change is available in the University's Staff Development Programme and managers will be supported to attend the training. The Human Resources Department will also be able to provide further advice.

1.4.2 The role of the Joint Consultative Group (JCG) in Organisational Change

Whenever proposals for change are put forward that raise the possibility of post(s) being made redundant, the JCG will be convened to commence the formal consultation process. The Vice-Chancellor will appoint a JCG Sub-Group on Organisational Change that will be chaired by a member of the Vice-Chancellor's Group and will include union representatives and members of the Vice-Chancellor's Group as agreed by the JCG. The Director of Human Resources will attend the JCG Sub-Group to advise on process and to note any agreed actions arising out of the JCG Sub-Group meetings.

The JCG Sub-Group will receive the proposal(s) for change to ensure that good practice is adopted when organisational changes are being proposed, and to ensure that employee interests shall be considered positively. The JCG Sub-Group will receive and review:

- a) The proposal for change document(s);
- b) A timetable for the proposed changes which will outline key meetings and milestones and will detail the timeframe for consultation;
- c) A list of the posts affected by the proposed changes;
- d) Any written submissions by affected staff;
- e) Any other relevant documentation that relates to the proposal for change, for example financial information such as a budget summary;
- f) Details of the voluntary redundancy and/or voluntary severance scheme (if this is applicable).

The JCG Sub-Group has the discretion to invite the manager(s) proposing the organisational change(s) to attend any of the JCG Sub-Group's meetings to outline the context and reasons for the proposed changes. The JCG Sub-Group will meet on a regular basis throughout the organisational change process and will note any agreed actions arising out of the meetings. An appropriate timeframe to deal with the proposed organisational change and the consultation process will be agreed by the JCG Sub-Group.

1.4.3 The role of the Trade Unions' in Organisational Change

The University values the contribution that unions play in supporting staff through organisational changes. When considering organisational changes that could lead to redundancies, the University will consult and enter into discussion with representatives of the recognised Trade Unions (Unison

and UCU) at the earliest possible opportunity. The consultations will agree timescales to allow union representatives time to consider proposals, seek views and make any representations.

Trade union representatives have the right to accompany employees to meetings and provide other support as appropriate, and to be members of the JCG Sub-Group described at 1.4.2 above.

1.4.4 The role of the Human Resources Department in Organisational Change

The Human Resources Department has a role in providing advice on the organisational change procedures and in facilitating discussions throughout the change process. An HR Officer will provide dedicated support on a one-to-one basis as needed to staff affected by the proposed changes. The Human Resources team will support individuals in relation to seeking redeployment opportunities and applying for vacancies, retraining and skills development.

1.4.5 The role of the Finance and Planning Departments

Managers completing proposal for change documents should refer to Finance in relation to the provision of accurate and correct budgetary information. The Management Accountant(s) will work with Heads of Department and/or managers in relation to the provision of financial information, resource allocation and forecasts. The Planning Department will support the provision of information on student number projections where relevant.

1.5. Process for dealing with Proposals for Change

When organisational change is proposed that raises the possibility of posts being made redundant, managers must produce a Proposal for Change Document (PCD) which will outline the business case for the proposed changes, together with a communications and consultation plan. The Vice-Chancellor's Group will receive the PCD to review the proposal for change and consider whether there is a prima facie case for it to progress through the organisational change process.

The PCD should be subject to an equality impact assessment which should be completed before it is shared to ensure that the proposals do not discriminate against someone on grounds of gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability, age or contractual status.

Managers will consult with an open mind and welcome any and all suggestions that enhance or improve their proposals, suggest alternative courses of action, or that provide information which demonstrates that the proposals will not reap the benefits intended. Managers are advised to consult with their managerial colleagues to ensure that the document they produce is in keeping with the guidelines outlined in this policy and that it is clear and well prepared. This will be the initial responsibility of the relevant manager who will need to take the steps outlined in 1.5.1. Managers responsible for the change proposals will ensure that they are clear and well prepared.

Senior Managers are responsible for ensuring that the PCD complies with the guidelines set out below. A template for completing proposals for change is attached as Appendix 3.

1.5.1 The steps taken by managers are:

- a) Produce a Proposal for Change document (PCD) keeping relevant senior managers and Human Resources informed throughout. A copy of the completed document will be presented to the JCG and the JCG Sub-Group on Organisational Change. The manager(s) proposing the change may be invited to a JCG Sub-Group meeting to provide further information.
- b) The Proposal for Change document (PCD) should include the following:
 - A clear and detailed statement of the proposed organisational change(s) showing
 - (i) The reasoning that lies behind the proposal;
 - (ii) The context for the change;
 - (iii) The historical processes and consultations that occurred leading up to the need for change;
 - (iv) The desired benefits which will be achieved by means of the change; and
 - (v) The options, if any, that have been considered and rejected.

- c) The proposed method of implementing the changes and the numbers and description of affected posts (rather than identifying individual employees) and the reasons that they will be affected.
- d) The effects of the proposed changes to job content(s), working arrangements, staffing structures, any alterations to roles as a result of the changes, and any other relevant information that will help staff affected by organisational change(s) to consider their options. Where there is an appointment and selection process as part of the change, include details.
- e) Any proposed training or re-skilling for staff if that is deemed necessary to facilitate the change(s).
- f) The proposed method of selection of posts for redundancy where a pool of employees doing similar work is at risk of dismissal by reason of redundancy but some posts will remain after the proposed change.
- g) Where the proposed organisational change affects a member of teaching staff the proposal should indicate clearly how any remaining teaching affected by the change is to be staffed to maintain the quality of the student experience.
- h) Discuss and consult on the PCD with all the staff likely to be affected by the changes, i.e. all staff either working in the jobs which will cease to exist or reduce in number as part of the proposed organisational change(s), or affected by the change services or support provided to them. Adequate time for proper discussion and consultation must be allowed and the timescale for this will be approved by the JCG Sub-Group for Organisational Change, having regard to the circumstances and the statutory requirements. The Human Resources department and the JCG Sub-Group must be kept informed of the progress of these discussions and consultations.
- i) At the end of the consultation period the manager concerned, in conjunction with other senior managers (for example, Directors and Heads of Department, members of the Vice-Chancellor's Group), will consider all representations.
- j) Revise the PCD in light of these discussions and consultations and provide a revised copy of the PCD to all employees affected (including those that have not commented), relevant senior managers, the Human Resources Department and the JCG Sub-Group on Organisational Change within 10 working days of receipt (unless another timeframe is agreed by the JCG Sub-Group on Organisational Change). A response to all comments received from affected staff and recognised Trade Unions should be appended to the revised PCD. In the event that no revisions are made to the PCD then the manager must produce a written response to all comments received from affected staff and Trade Unions explaining why these comments have not required revisions to the PCD, again within 10 working days of receipt (unless another timeframe is agreed by the JCG Sub-Group on Organisational Change).
- k) Implement the change(s), in close consultation with all those affected and the Human Resources Department, keeping the JCG Sub-Group on Organisational Change informed throughout. Managers will effect change as efficiently as possible to reduce staff uncertainty and damage to staff morale.

2. Section Two: Measures to minimise or avoid compulsory redundancy

Where the organisational change involves a reduction in posts, the University will, where possible, seek to avoid or minimise redundancy by

- a) Not replacing staff who resign or retire (i.e. natural turnover).
- b) Curtailing the use of temporary and agency staff wherever possible.
- c) Reviewing staffing arrangements, e.g. flexible working arrangements, full to part-time working and/or reductions in working hours/compressed working hours.

- d) Reviewing external revenue generation.
- e) Reviewing the use of external contractors.
- f) By seeking opportunities for redeployment for employees from the areas faced with the need for a reduction in employees.
- g) Asking for volunteers
- h) Retraining and redeployment to other parts of the University

The management negotiating team and the recognised trade unions will consult on the appropriate measures to be implemented for each particular situation.

Where staff are identified as 'at risk' of redundancy by the PCD, staff will be invited to a meeting with

- a) Their Head of Department/Manager (unless also at risk, in which case another manager will hold the meeting);
- b) Staff may be accompanied by their trade union representative or a work colleague and a Human Resources Officer.

The purpose of the meeting is to assist the member of staff in identifying areas of possible retraining, staff development or redeployment. Affected staff and the recognised trade unions will be invited to identify other possible areas for redeployment. The meeting will provide an opportunity for the employee to discuss the possibility of suitable alternative work and to discuss any factors which may contribute to the consultation process.

Managers will identify suitable areas for redeployment wherever they arise. Staff and their representative will be invited to identify other possible areas for redeployment.

Employees will be given adequate time to consider and respond to any proposals and no definite decisions will be made unless all parties agree a suitable way forward.

2.1 Voluntary severance

Voluntary severance, in the context of this Policy, is where the redundancy scheme is entirely voluntary. It is based on an individual being willing to volunteer to leave the University on severance terms when they are offered by the University and are compatible with the business requirements of the University at the time of a scheme operating. The University may implement a voluntary severance scheme if the business case for voluntary severance contributes to the strategic aims of the University. The payments for a voluntary severance scheme will be determined by the business case at the time of the required employee reduction.

2.2 Voluntary redundancy

Where redundancies are unavoidable the University shall, in the first instance, endeavour to avoid compulsory redundancy by offering an enhanced statutory redundancy option and, depending upon the circumstances, by seeking volunteers. As approved by the Governors' Strategy and Resources Committee, a voluntary redundancy scheme may be declared by the Vice-Chancellor.

The Scheme may be open (a) only to staff in declared 'at risk' areas and/or (b) to all staff, depending on the circumstances which pertain at the time.

Voluntary redundancy is not an employee right and management reserves the right to refuse any application in the following circumstances:

- (a) Where an employee would have to be replaced and where no substantive saving can be made by releasing the employee, in which case the post cannot be declared redundant;
- (b) Where the department concerned cannot operate successfully without the employee's specific skills and expertise;
- (c) Where the redundancy of the employee concerned would not serve the long-term interests of the University i.e. the person's specific skills and expertise are required in the long-term.

The arrangements for voluntary redundancy payments will be published to relevant staff at the time, with clear examples of how to calculate voluntary redundancy pay.

Applications for voluntary redundancy and/or voluntary severance where agreed should be submitted to the Director of Human Resources under confidential cover. There will be a specific close date, published at the commencement of the scheme, beyond which no new applications will be considered.

Any employee taking voluntary redundancy will be required to sign a Settlement Agreement (see below), under which the employee contracts out of their statutory employment rights, including pursuing a case at an employment tribunal. The Agreement requires an employee to seek independent legal advice from a relevant independent advisor about the effect of the Agreement and his/her rights before an employment tribunal. The legal advice will be paid for by the University up to an agreed maximum amount as detailed in the Settlement Agreement. Under voluntary redundancy, the employee does not have a right of appeal against their dismissal using the Appeals procedure.

2.3 Settlement Agreements

Under a settlement agreement (formerly known as a 'compromise agreement') an employee will normally receive their contractual benefits under their contract of employment including payment in full of the employee's notice period and any accrued but unpaid salary and holiday pay. An agreed reference may also be provided. The first £30,000 of a settlement sum is currently not subject to tax, (providing it is compensating the employee for the termination of their contract of employment). An employee whose post is 'at risk' of redundancy may choose to pursue a settlement agreement at any stage of the organisational change process. The Director of Human Resources and/or the Human Resources Manager will be able to provide further advice in relation to agreeing and signing a settlement agreement.

2.4 Voluntary Early Retirement/premature retirements

Any employee considering early retirement should seek independent professional financial advice on the consequences for their future pensions.

The two pension schemes: the Teachers' Pensions Scheme (TPS) and the Local Government Pension Scheme (LGPS) differ. Information should be obtained from the TPS website or the LGPS website, or by contacting the pension provider directly. The Human Resources Department and the Finance Department cannot give an individual specific voluntary early retirement or pensions related advice, but they may be able to seek further advice on the employee's behalf by contacting the pension schemes to request retirement calculations from the TPS or the LGPS.

3. Section Three: Information on Redundancy and Appeals

3.1 What is redundancy?

A redundancy does not necessarily have to arise from the need to make financial savings, but may arise from other reasons such as changed priorities, new technology or processes that could drive the need to restructure e.g. where departments are merged or there is a reallocation of duties, which may lead to potential redundancies. However, any redundancy must be shown to be of financial benefit to the University.

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; or
- the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or
- 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; or
- 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.

For a redundancy to be genuine, the work must cease. New staff may still be recruited, but not to undertake the work the redundant employee was doing. It is the post that is redundant and not the employee.

3.2 Collective Redundancy requirements

If an employer is proposing to make redundant 20 or more employees at one establishment within a 90 day period, legal requirements regarding collective consultation apply (see 3.3). The law defines this collective redundancy situation as “dismissal for a reason not related to the individual concerned or for a number of reasons all of which are not so related” (i.e. not about performance or conduct).

The law statesⁱ that the employer must notify the Secretary of State for Business, Innovation and Skills at least 30 or 45 days in advance of the first dismissal taking effect, depending on the number of proposed redundancies. Employers must notify the Secretary of State using an ‘Advance Notification of Redundancies’ form (known as ‘HR1’) which is obtained from the Insolvency Service at www.insolvency.gov.uk. A copy of this HR1 notification is given to the representatives of the employees being consulted (i.e. Unison and UCU) normally through the Joint Consultative Group.

The Redundancy Payments Service, acting on behalf of the Secretary of State for Business, Innovation and Skills, collects the information and distributes it to the appropriate Government Departments and Agencies who offer job brokering services and/or training services. The University operates from two sites (Bognor Regis Campus and Bishop Otter Campus), and each one is treated separately for notification and consultation purposes.

When counting the number of redundancies proposed, the employer must include any fixed-term contracts if the employer a) proposes to terminate the contract early, and b) proposes to do so on the ground of redundancy.

Employers are under no specific legal obligation to notify the Department for Business, Innovation and Skills in cases falling below the twenty redundancies threshold.

3.3 Collective consultation requirements

The University recognises that it is good practice to consult employee representatives and affected employees at the earliest reasonable opportunity. The University, through managers, and supported by the Human Resources Department, shall undertake meaningful consultation with staff and the recognised union representatives, with a view to reaching agreement on all matters covered by relevant legislation.

The minimum legal collective redundancy consultation periods are:

Numbers of potential redundancies over a period of 90 days or less	Minimum notification period
Less than 20	As much notice as possible (28 days if possible)
20-99	At least 30 days
100	At least 45 days

The consultation period shall be at least 90 days in cases where the potential redundancies exceed 99 within a 90 day period (i.e. twice the legal minimum).

The University and employee representatives will adopt a collaborative rather than an adversarial approach to consultation and will openly share information. The length and extent of the consultation process that the University will agree will vary depending on the particular circumstances and as such no single procedure will effectively cover all redundancy situations.

Where it is not possible to avoid redundancy the requirements of legislation shall be met and a reasonable period of time shall be allowed for meaningful consultation to take place with staff and union representatives.

The following information will for the purposes of consultation be disclosed in writing to the recognised trade union representatives so that they can play a constructive part in the consultation process. In particular, for the purpose of consultation, the University will advise the Trade Unions (through the JCG), of:

- The reason(s) for the proposals. A copy of the PCD will be provided.
- The numbers and descriptions of employees it is proposed to dismiss as redundant.
- The total number of employees of any such description employed at the University.
- The way in which employees will be selected for redundancy.
- How the dismissals are to be carried out, including the period over which the dismissals are to take effect.
- The method of calculating the amount of redundancy payments (over and above statutory requirements) to be made to those who are dismissed.
- Agency workers (if applicable): the number of agency workers, where they are working and the type of work they are doing.

3.4 When does dismissal take effect?

Redundancy notices must not be issued until collective and individual consultation has been completed. The date the dismissals take effect must also take into account individual notice periods; the date on which a dismissal ‘takes effect’ is the date on which the notice expires, not the date on which it is given. However, employment can be terminated before the end of a notice period where an employee has agreed to take a payment in lieu of notice. Employees affected by redundancy will receive the redundancy notice in writing.

3.5 Statutory Redundancy payments

A statutory redundancy payment is due only if the employee has had least two years’ continuous service. There are certain groups of employees (e.g. apprentices who are not employees at the end of their training) who do not qualify for a redundancy payment. For each complete year of service up to a maximum of 20, employees are entitled to:

Age	Service length	Number of weeks’ pay
Under 22	Each full year of service	Half a weeks’ pay
22-40	Each full year of service	1 week’s pay
41 and over	Each full year of service	1.5 weeks’ pay

A week’s pay is that which the employee is entitled to under his or her terms of the contract at the ‘calculation date’. The ‘calculation date’ is the date on which the University gives the employee the notice to which she or he is entitled. If the pay varies (e.g. due to irregular working hours), the amount of the week’s pay is averaged over the 12 weeks prior to the ‘calculation date’.

The maximum amount of weekly pay used for the calculation of the statutory redundancy payment is usually revised by the Government annually (£508 from 1 April 2018). The amount of statutory redundancy pay will be confirmed at the time of confirming redundancies.

Redundancy pay, (including severance pay) under £30,000 is currently not taxable, but the University may set it against tax as a business expense.

An employee is not entitled to redundancy pay if the University offers to keep the employee on and offers the employee suitable alternative work which the employee refuses without good reason.

3.6 Voluntary Redundancy payments

A voluntary redundancy payment is an enhanced statutory payment calculated on actual weekly earnings, and will apply the statutory pay calculator in 3.5. Reckonable service is limited to the last 20 years before redundancy.

Governors will offer the most favourable compensation to members of staff made redundant that the financial situation pertaining at the time allows. They must, however, act within the law and observe any constraints imposed by the funding bodies. Moreover, they cannot place the future of the University at risk by committing it to financial undertakings that might not be easily serviced when resources are under strain.

On behalf of the Governors and the Vice-Chancellor's Group, the management negotiating team will negotiate with the recognised trade unions, via the JCG Sub-Group, a severance pay agreement that will specify the financial compensation to be offered to members of staff who volunteer for or who are declared redundant. There is no guarantee that redundancy payments will be made over and above statutory entitlement. Where payments are made over and above the statutory requirements (for the avoidance of doubt any such payment will include the statutory redundancy payment) this is no guarantee that any future redundancy payments will be on the same or similar basis.

No negotiations will be entered into with any individual employee concerning any form of individual arrangement for severance pay.

Detailed calculations will be agreed by the Vice-Chancellor's Group and will be provided by the Finance Department to employees who are dismissed, including information on what constitutes reckonable service.

3.7 Compulsory redundancy and selection criteria

The University may become aware of the possibility of significant financial difficulties, changing demands for a particular kind of work, or other circumstances which could affect the ability to maintain current employee levels. It should be recognised that unforeseen events may occur, such as sudden changes in external funding. In some cases, therefore, it may be necessary to consider the use of compulsory redundancy (non-compulsory redundancy is where an employee takes voluntary redundancy).

Where compulsory redundancy is required, the JCG Sub-Group will meet and agree how selection for redundancy will be undertaken, including the selection criteria to be applied, in line with legal requirements. Formal performance issues arising out of grievance, disciplinary or capability do not feature within the list of criteria; they will be dealt with via the appropriate procedures. The criteria will be considered in order to ensure that, at the conclusion of the selection process, the University has a workforce that is able to meet its future needs. The selection criteria will be applied to all staff 'at risk' who will be provisionally selected for redundancy.

The selection criteria will have due regard to the principles of fairness, equity, objectivity and consistency and may take into account such factors as:

- a) Contribution (including specialist knowledge)
- b) Relevant experience and responsibility
- c) Level of appropriate skills/qualifications

Under the selection criteria, the University reserves the right to retain employees on the grounds of specialist knowledge, training and qualifications or to preserve organisational balance.

3.8 Redeployment and trial periods

Redeployment, if possible and where appropriate, will be utilised to avoid/minimise redundancy. Suitable opportunities will be 'ring-fenced' in order that they may be offered to those individuals whose skills and experience are compatible with the person specification and job requirements of the vacant post and who otherwise would be made redundant. Redeployment into a post will be subject to the agreement of both the member of staff concerned and the relevant Director/Head of Department.

Managers will identify suitable areas for redeployment wherever they arise, including known or potential vacancies. In the event that the organisational change(s) involve the redundancy of one or more posts and/or the creation of new posts, staff occupying the redundant posts will be considered

for redeployment into the newly created posts depending on skills and experience and whether the necessary skills could be obtained quickly enough through appropriate training.

Where more than one 'redeployee' expresses an interest in any particular vacant post then it may be necessary to hold a selection process. In such circumstances the University's normal recruitment and selection processes will usually apply albeit the trawl will be restricted to the identified employees as a first step. The interview panel will consider the 'at risk' staff carefully, including assessing whether they can fulfil the requirements of the post(s) after a reasonable period of on-the-job training/staff development. Should any of the affected staff fulfil the requirements of the post(s), they will be offered the post and they will no longer be 'at risk'.

If the post(s) cannot be filled from among members of staff at risk of redundancy, and the Vice-Chancellor's Group considers recruitment desirable to maintain the viability of the University, the post(s) will be advertised internally and externally following the University's recruitment and selection processes.

Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay. Unreasonable refusal may arise where the difference between the new and old jobs is negligible.

3.9 Trial periods

An employee who is under notice of redundancy and is redeployed to a suitable alternative post has a statutory right to a trial period of four weeks (which may be extended by agreement to twelve weeks where training is involved) in the alternative job. This allows the employee time to assess its suitability. Equally, the University will use the trial period to assess an individual's suitability for the post.

The trial period begins when the previous contract has ended and ends four weeks (or twelve weeks if extended where training is involved) after the date on which the employee starts work under the new contract. During the trial period, the individual will not lose their right to a redundancy payment if he/she and/or the manager of the area concerned decides that the job is not suitable. The employee will be entitled to a redundancy payment on the same basis as that which was operable when the employee accepted the post, unless the University can show that the alternative employment offered was suitable and the employee unreasonably refused to continue with it. If the employee works beyond the end of the trial period any redundancy entitlement will be lost because the employee will be deemed to have accepted the new employment (unless agreed otherwise).

3.10 Employee support

Every reasonable effort will be made to support those staff whose posts have been declared redundant. Employees are, understandably, often angry and shocked about what is happening to them and it is recognised that this situation may cause a high degree of distress and/or stress to the individual(s) concerned. The Vice-Chancellor's Group will agree employee support facilities where possible at no cost to the employee.

During an employee's notice period employees will retain their access to appropriate office services (e.g. telephone, photocopiers, computers and email/internet facilities), unless the University has agreed a period when the individual is paid but is not in attendance, or considers that allowing staff to retain access to facilities may constitute a security risk.

3.11 Time off to seek alternative employment and/or attend interviews

Employees who are under notice of redundancy and have been continuously employed for at least two years qualify for a statutory entitlement to a reasonable amount of time off to look for another job or to arrange training. Any member of staff under notice of dismissal who is actively seeking employment opportunities outside of the University will be given reasonable time off with pay to attend interviews and/or training. The line manager of the department will be responsible for facilitating this as far as possible and any time off should be agreed in advance with the manager where reasonably practicable to ensure that there is cover in place.

Jobcentre Plus has a 'Rapid Response Service' which helps individuals to move quickly into alternative employment without the need to claim welfare benefits. They can also help employees write CVs and find jobs. Further information is available at www.gov.uk/staff-redundant/overview.

3.12 Appeals Procedure

An employee has the right to appeal against the decision to terminate their employment on grounds of redundancy (this right is not available to an employee who takes voluntary redundancy and signs a Settlement Agreement). Where an employee wishes to appeal on other grounds earlier in the proceedings, for example the selection criteria to be applied, generally such matters should be addressed and considered as part of the consultation process. However, if the employee is not happy with the responses provided as part of consultation, then their appeal will be acknowledged and the employee will be informed that their appeal will be dealt with at the end of the process under this appeals procedure.

- a) An employee wishing to appeal should submit a written appeal statement to the University Secretary within 10 working days of receiving the written confirmation of redundancy. The appeal statement should set out the basis for the appeal including what part of the redundancy process the employee is appealing against.
- b) The University will acknowledge receipt of the appeal within five working days of the appeal being lodged as long as it is reasonably practicable to do so. The appeal will be copied to the Director of Human Resources who will work with a Human Resources Manager to compile relevant organisational change documentation relating to the redundancy (copies will be forwarded by the University Secretary to the appeals panel).
- c) The University Secretary will arrange a suitable appeal hearing date (usually within 20 working days of the date of receipt of the employee's written appeal statement wherever possible). The employee will be kept informed of the reasons for any delay (e.g. availability of employee and trade union representative or appropriate panel members, taking into account booked annual leave commitments and bank holidays).
- d) If the employee and/or their trade union representative or work colleague are unable to attend the scheduled date, then they may propose a new date. This should be within five working days of the original date. Only under exceptional circumstances will an applicant be permitted more than one postponement. If the employee does not attend on the new date, the appeal panel may proceed in the employee's absence.
- e) The employee has the right to be accompanied to the appeal hearing. The employee will be responsible for liaising with their trade union representative or work colleague in relation to the appeal hearing date and arrangements. The employee will be responsible for preparing any documentation that they wish to be considered by the appeal panel and this should be forwarded to the Director of Human Resources at least five days before the appeal hearing. The documentation will be copied to members of the appeal panel.

3.12.1 Appeal Hearing

- a) The appeal panel will normally consist of three people – one Non-Executive member of the Board of Governors (who will chair the Panel), and two senior managers (from the Vice-Chancellor's Group or the Senior Management Team). Every effort will be made to avoid using a panel member who has previously been involved in the organisational change process. In exceptional circumstances, it may be necessary to seek external representation in order to meet the appeal panel criteria.
- b) The Director of Human Resources or a Human Resources Manager will attend the hearing to take notes and to advise on process. A copy of the notes will be made available to the hearing panel and the employee.
- c) The employee or representative may request adjournments at any time throughout the hearing. These requests will not be unreasonably refused.

d) The order of the hearing will normally be as follows:

The Chair will outline the format of the appeal hearing and will introduce the panel members and Human Resources representative.

The Chair will ask the employee to put forward their case. The employee's trade union representative or work colleague may address the panel to put the employee's case.

Panel members have the opportunity to ask questions of the employee. The employee and/or their representative have the opportunity to ask the panel questions. The trade union representative or work colleague cannot answer questions on behalf of the employee.

The panel may need to adjourn to consider its decision and to investigate any matters raised, for example to ask questions of the employee's line manager or a senior manager who was involved in the decision to make the post holder redundant. The panel will seek to reach its decision by consensus and majority decision. In reaching its decision the panel will take into consideration the contents of the appeal hearing and any relevant documents including documents from the redundancy procedure and any documents produced by the employee. The Chair will summarise the contents of the appeal hearing.

The Chair will provide the employee with written confirmation of the decision and the reasons behind it within five working days of hearing the appeal where reasonably practicable. The outcome of the decision will be one of the following:

- To uphold the original decision to terminate employment by reason of redundancy; or
- To find in favour of the employee's appeal in whole or in part and to outline recommendations and provisos in relation to the original decision.

The Panel's decision is final and there is no further right to appeal.

Appendix 1: Questions and Answers

What is consultation?

For the purposes of organisational change, consultation allows relevant information to be shared with employees and union representatives to maintain open dialogue about the proposed changes. Consultation will always commence as soon as possible after a proposal has been clearly defined. However, the period between opening consultation with employees and trade unions and giving notice would normally not be less than 45 days. Individual consultation is necessary for all potential redundancies.

Effective consultation will allow people time to think and digest the information they have been given, which may require managers to be available for further discussions. Staff also need the opportunity to provide their comments and have them listened to and considered.

What can I expect in terms of communications?

Regular and effective dialogue is encouraged between managers and staff affected by the proposed changes. Unless there is an exceptional reason why the information cannot be delivered in a face to face meeting, managers will deliver information on proposed changes to staff personally, rather than through written communication in the first instance, particularly where the information may be interpreted in different ways. While some information can be conveyed via email or letter, a personal interface is encouraged to enable discussion on important issues. Face to face communications can be followed up in writing as a letter or email.

All staff affected by the change(s) should have a similar understanding of what is planned and the actions taken should match the message being disseminated. Managers will plan what it is that needs to be communicated and provide a clear outline of the proposed changes. For significant organisational changes i.e. involving teams of staff and/or large numbers of individuals, managers will consider various ways of enhancing communications, e.g. setting up regular communications via email and/or a dedicated website to provide updates on change progress and redeployment opportunities.

Staff affected by the organisational changes will remain open to meeting and consulting with managers proposing changes and will provide effective feedback in line with consultation timeframes. Staff are encouraged to seek clarification of any points they are unsure of.

Who can accompany me when I attend meetings relating to the organisational change process?

After the initial meeting between the employee and the manager proposing the change, staff can be accompanied at any meetings dealing with the organisational change process by a union representative, a workplace colleague, or a member of Human Resources. Staff can also attend meetings unaccompanied if that is appropriate for them.

What does 'at risk' mean and why are employees put 'at risk'?

An employee is put 'at risk' if, following a determination that redundancies may need to be made, they are in a pool of staff whose post could be made redundant. Employees who are under notice of dismissal have an entitlement to reasonable time off to look for another job, attend interviews or training.

My role is indicated as being 'at risk' in the proposal for change document. What can I do?

The Policy provides an opportunity for employees affected by the PCD to provide their input into the proposals during the consultation period. Staff are encouraged to provide their feedback during meetings with managers proposing the change and they will also have an opportunity to respond to the PCD in writing. Responses might include suggestions that enhance or improve proposals for change, demonstrate alternative courses of action, or explore alternatives to redundancy. Counterproposals should be based on robust and clear evidence which demonstrate that the proposals will not reap the benefits intended. The manager will provide a response to all comments received from affected staff in writing (including staff who have not submitted a response).

What are the timescales for each stage of the organisational change procedure? There are no prescribed timescales as these will depend on the scale of the proposal(s), the availability of decision makers, the committee schedule and the numbers of staff affected. The JCG Sub-Group will agree an appropriate timescale to deal with the proposals for change. All reasonable efforts will be made to keep staff informed of the timescales throughout the organisational change process.

The consultation period seems long and I want to make a decision on my options now – what steps can I take to find out my options?

It is important that the University comply with its legal obligations and its obligations under this policy and therefore it may take some time for a final decision to be reached. However, the Director of Human Resources or the Human Resources Managers will be able to advise on the options available. Depending on the nature of the change and the timeframe involved, options may include seeking opportunities for redeployment, a change in working arrangements, voluntary redundancy and/or retirement.

Can I take an electronic recording of any meetings that are connected to the organisational change process?

No, neither the manager nor an employee can insist on making an electronic recording of any meeting/interview.

What does ‘without prejudice’ mean?

A ‘without prejudice’ discussion or communication is used when there is a genuine attempt to resolve issues/concerns confidentially. It indicates that a particular conversation or letter cannot be tendered as evidence in court. You must keep your without prejudice negotiations or discussions private or you may lose your right to confidentiality.

How should consultation take place with employees on long-term sickness absence or those absent from the University for other reasons?

Staff who are not present on campus at the time of the proposal for change should be invited to consultation meetings in the same way as other affected staff. If they are unable to attend these meetings then it may be appropriate to offer a meeting at their home. If this is not appropriate, then they should be kept informed by other means, such as letter or email.

I am concerned that the proposals for change will affect us next

When organisational changes are proposed that will affect posts, i.e. through administrative changes or changes to technology, it is understandable that people may worry that their role will be affected in the future. Managers raising PCD’s will be clear about what is expected and when and which posts are affected. Staff are encouraged to discuss any concerns with their managers in the first instance.

Can an employee who is pregnant or on maternity leave be placed in the pool for selection for redundancy in the same way as other employees?

The basic position is that a pregnant employee or one on maternity leave can initially be treated the same as other employees. However, if employees on maternity leave are selected for redundancy, special provisions concerning offering alternative employment may apply to protect them.

If I am redeployed into another post, will I retain my salary?

Where possible, staff will be offered posts by way of redeployment which are at an equivalent grade to that currently held. There is no guarantee that the individual’s current salary will remain although in some cases it may be ‘ring-fenced’ for a maximum period of two years.

Can an employee who is to be made redundant be paid in lieu of notice or placed on garden leave?

Most University contracts contain a provision for payment in lieu of notice, but once the redundancy process has been completed and the employee has been given notice of dismissal, then the employee can be asked to work the notice period, be offered a payment in lieu of the notice period, or be placed on ‘garden leave’. Garden leave (i.e. remaining at home on full pay) is considered if this is in the best interests of both the University and the employee.

Can I tender my resignation during a period of organisational change?

Should an employee decide to resign from their post during a period of organisational change, the normal contractual requirements/notice period applies.

Can I opt to take voluntary redundancy if I am at risk?

Employees who are 'at risk' can request voluntary redundancy at any stage of the organisational change process. Requests to take voluntary redundancy should be directed to the Director of Human Resources in the first instance. The decision to accept a voluntary redundancy request will be made by the Vice-Chancellor's Group.

When can I access my LGPS pension if I'm made redundant?

Members of the LGPS are advised to review the LGPS website and/or contact the LGPS for further information. The Payroll and Benefits Officers will be able to clarify and seek further information from the LGPS if required.

Can I access my TPS (Teachers' Pension Scheme) if I am made redundant?

Members of the TPS are advised to review the TPS website and/or contact the TPS for further information. The Payroll and Benefits Officers will be able to clarify and seek further information from the TPS if required.

Appendix 2: Flowchart

1. When organisational change is proposed that raises the possibility of posts being made redundant, the manager(s) responsible for the organisational change(s) will produce a Proposal for Change Document (PCD). The PCD will include financial and other relevant information. Managers will liaise with Finance, Planning and Human Resources colleagues to ensure that they include relevant and up-to-date information in the PCD (1.5.1, pages 5 – 6).



2. A copy of the PCD is given to the Vice-Chancellor's Group (VCG) who will review the initial content and make a decision as to whether there is a prima facie case for the proposal for change to progress. If VCG decides to proceed then a copy of the PCD is given to the Joint Consultative Group (JCG), the JCG Sub-Group, Human Resources and the employees affected by the PCD (1.5.1, pages 5 – 6).



3. The manager will arrange a face to face meeting with the employee(s) affected by the PCD and will provide them with a copy of the policy for dealing with organisational change, the PCD and accompanying information. After this initial meeting, staff are entitled to be accompanied by a trade union representative, a workplace colleague or a member of Human Resources at any further meetings dealing with the organisational change process. (1.5.1, pages 5 – 6).



4. The JCG will meet and agree a JCG Sub-Group on Organisational Change. The JCG Sub-Group will be chaired by a member of the VCG and will include UCU and Unison representatives and another senior manager/member of the VCG. The Director of Human Resources will also attend meetings and will note agreed actions for circulation to the JCG Sub-Group. The chair of the JCG Sub-Group may invite relevant managers to provide further information. The JCG Sub-Group will discuss and agree an appropriate timeframe to deal with the proposed organisational changes, taking into account consultation requirements and key meeting/committee meeting dates (1.4.2, page 4).



5. The manager will arrange further meetings as necessary and appropriate with the employee(s) affected by the proposed changes and will confirm consultation timeframes and the process for dealing with the changes. It is expected that managers will, after the initial meeting with staff, hold at least two meetings with staff affected by the proposed change(s) to ensure that there is an opportunity for staff to ask questions and/or raise any concerns. Staff can be accompanied to meetings. (1.5.1, pages 5 – 6).



6. Staff will be given an opportunity to comment on the PCD and to submit feedback to the manager in writing (known as a 'counter proposal'). Managers will fully consider any counter proposals received. A minimum of two meetings should be available to staff and unions to discuss counter proposals if they so wish. A reasonable timeframe will be agreed to allow for effective feedback (usually within ten days, unless another timescale is agreed by the JCG Sub-Group on Organisational Change). (1.5.1, pages 5 – 6).



7. The manager will revise the PCD as appropriate in light of consultation and discussion, providing a copy to the staff affected, the JCG Sub-Group on Organisational Change and the Human Resources department. The manager will provide feedback within a reasonable timeframe (usually within ten working days, unless another timescale is agreed by the JCG Sub-Group on Organisational Change). A response to all comments received from affected staff and the recognised trade unions should be appended to the revised PCD. Feedback should also be provided to affected staff who did not submit a counter proposal. Where the manager does not revise the PCD, feedback should contain reasons as to why the PCD remains the same.



8. Where the proposal for change goes ahead, the manager will implement the change, in consultation with those affected, keeping the JCG Sub-Group on Organisational Change informed throughout. The manager will meet with the affected staff to confirm the selection criteria for redundancy, the possibility of suitable redeployment opportunities, and to listen to any comments that the employee wishes to make (Section 2, pages 6-7).



9. Employees will be consulted further on any opportunities for redeployment into alternative roles and on any other means proposed to avoid redundancy. An employee who accepts the offer of alternative employment will be entitled to a trial period of four weeks in the role (Page 12).



10. Where no suitable alternative employment has been identified within an agreed timeframe and there are no means to avoid dismissal by reason of compulsory redundancy, employees will be given details of severance pay, outstanding annual leave entitlement, contractual notice period and the appeals process. Where it is agreed that an employee does not need to remain in post, the employee will be given pay in lieu of notice in addition to the severance payment. The manager will ensure that the changes are implemented within agreed timeframes, ensuring that they keep remaining staff informed throughout (3.4 – 3.5, page10).

Appendix Three Proposal for Change (PCD)

This template has been provided to support managers proposing organisational change(s) to provide as much relevant information as possible. When supplying data (e.g. budgets/financial data, student numbers), verify where the data has been sourced and supply the date. Please expand as required.

A copy of the Proposal for Change ('PCD') will be presented to the employees affected by the change(s), the Vice-Chancellor's Group, Human Resources and the Joint Consultative Group/Joint Consultative Group Sub-Group on Organisational Change. Managers should ensure that the PCD provides information against all of the following headings:

1. Provide a clear and detailed statement of the proposed organisational change(s) showing:
 - The reasoning that lies behind the proposal
 - The context for the change
 - The historical processes and consultations that occurred leading up to the need for change
 - The desired benefits which will be achieved by means of the change
 - The options, if any, that have been considered and rejected

2. Indicate the financial benefit to the University of the proposed organisational change(s). Include detailed financial and resource allocation information (attach budgetary information as required).

3. If there are internal and/or external influences that are impacting the necessity for change, indicate what the internal/external influences are.

4. Indicate clearly the proposed method of implementing the change(s) and the number(s) and description of affected posts and the reasons that they will be affected.

5. Explain the effects of the requirements on staff i.e. proposed changes to job content, working arrangements, staffing structures and any alterations to roles as a result of the changes.

6. Where it is proposed that there is an appointment and selection process as part of the change(s), include details and attach job profiles to the PCD.

7. Where it is proposed that staff could be re-deployed to another role/department in the University, indicate which role/department.

8. Indicate whether any proposed training and/or re-skilling for staff is required to facilitate the change(s), and if so, how this will be facilitated.

9. Indicate the proposed method of selection of individual employees for redundancy and whether some posts will remain after the proposed change.

10. Provide a clear time line for implementing the change(s), taking into account consultation periods and statutory requirements.

11. Where the proposed change(s) affect a member of teaching staff, indicate how any remaining teaching is to be staffed to maintain the quality of the student experience i.e. where this teaching will be delivered through a fixed-term or fractional contract rather than an hourly paid contract.