

# Change Management, Restructuring & Redundancy Avoidance

## Policy and guidance

### Table of Contents

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CHANGE MANAGEMENT .....	2
Introduction .....	2
Scope .....	2
Procedural conventions: meetings .....	2
Facilitating ongoing change.....	2
REDUNDANCY POLICY .....	3
Meaning of redundancy .....	3
Collective consultation .....	4
Voluntary Redundancy.....	5
Compulsory Redundancy.....	6
Selection Criteria .....	6
Individual Consultation.....	7
Appeal.....	7
Right to be Accompanied.....	8
Suitable Alternative Employment .....	9
Time Off to Look for Employment .....	9
Other Forms of Support .....	9
Re-employment Following Redundancy.....	10

# **CHANGE MANAGEMENT**

## **Introduction**

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King's College London is a dynamic organisation and is therefore engaged in an ongoing, continuous process of innovation and improvement, which can result in organisational change. It is essential that the university manages that change in a fair, consistent and effective manner. From time to time, it will need to disestablish posts, and in so doing it will seek to avoid compulsory redundancies wherever possible as far as is consistent with operational effectiveness. Where it is necessary that such redundancies should occur, it will endeavour to handle them in a manner which is fair, consistent and empathetic, and which minimises any hardship to the individual(s) concerned.

Separate university policies relating to [Redeployment](#) and the operation of the university's [Severance Scheme](#) are available on the Human Resources website.

## **Scope**

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This policy and guidance applies to academic, and research, teaching-only and professional services staff potentially at risk of redundancy, other than when the potential redundancy is as a result of the end of a fixed-term contract, when the university's [Guidance on Managing Fixed-Term Contracts](#) applies.

In recognition that the university will need to adapt and change from time to time, King's College London reserves the right to move its employees to another Faculty, Department, Division, etc. as may be required. The nature of the work employees are required to undertake may also be varied by the university, following consultation with staff, but this will be appropriate to the grade/pay scale on which the member of staff is employed and in varying the nature of an employee's work, the university will take account of the member of staff's skills and experience. Such changes of circumstances are therefore out of the scope of this policy and guidance.

This policy and guidance does not have any contractual effect and the university reserves the right to amend this document as required from time to time.

## **Procedural Conventions: Meetings**

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Consultations and consultation meetings (both collective and individual), ring-fenced interviews, and any appeal panel considerations or appeal meetings will usually be held in person or by using the appropriate technology such as Microsoft Teams.

## **Facilitating Ongoing Change**

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As part of the university's ongoing management processes, such as Performance Development Reviews and other staff development activity, managers within King's may seek and be able to mutually agree operational changes

with the staff affected which may obviate the necessity for formal redundancy processes to be invoked, if roles will not be significantly changed.

It is an important role for leaders and managers in the university to look ahead with their staff and adapt posts, teams and services in the light of future changes so that they can best deliver the university's purpose, goals and objectives into the future. Managers should engage with affected staff in order to best facilitate change and ensure staff are supported through changes.

If any proposed business changes look likely to result in reduced staffing levels, or significant changes to duties or terms and conditions, advice should be sought from the local [HR Business Partner](#) and consultation with stakeholders, including recognised trades unions, take place.

In order to avoid compulsory redundancy alternative solutions may be taken, which may include:

- Natural wastage.
- Redeployment to other parts of the organisation.
- Restriction on recruitment where practicable.
- Ceasing the employment of agency/contract staff where this would liberate permanent employment.
- Reviewing the use of temporary staff.
- Ceasing or reducing overtime.
- Seeking appropriate volunteers for redundancy.
- Considering suggestions from trade unions/employees.

The university is committed to ensuring fair treatment in the selection for redundancy and where there is a restructuring, e.g. of roles within a team or area, the university may identify as 'at risk' all staff in the old posts and select which of these at-risk staff are slotted into the available new posts in the new structure by a process of ring-fenced competitive interviews or assessment against the person specification criteria of the new posts. Those staff who are unsuccessful from this ring-fenced process and who do not slot into the available new posts, will remain at risk of redundancy and will move onto the processes under the [Redeployment Policy](#).

At the commencement of any such exercise, consultation may take place about how new posts may be filled, for example, using ring-fencing, 'slotting-in', competition or other means.

## **REDUNDANCY POLICY**

### **Meaning of Redundancy**

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For the purposes of entitlement to redundancy payments under the Employment Rights Act 1996, redundancy arises when the dismissal of an employee is wholly or mainly because:

- a) the employer has ceased, or intends to cease, to carry on the business for the purposes of which the member of staff was so employed; or
- b) the employer has ceased, or intends to cease, to carry on the business in the place where the member of staff was so employed; or

- c) the requirements of the business for members of staff to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish; or
- d) the requirements of the business for the members of staff to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.

For the purposes of collective consultation, redundancy arises where the dismissal of an employee is for a reason not related to the individual concerned. Such reasons are referred to in this document as “collective redundancy reasons”.

It should be noted that the collective consultation requirements do not apply to the expiry of fixed-term contracts on the contractual expiry date.

The expiry and non-renewal of a fixed-term contract may, however, give rise to a right to a redundancy payment, where the reason for the non-renewal falls within the Employment Rights Act definition of redundancy referred to above.

Where the proposed non-renewal of a fixed-term contract is for some other reason, including (but not limited to) removal from a non-substantive post, failure to pass probation, discipline or incapacity, the matter will not be dealt with under these procedures but under the procedures of the university relevant to the reason for non-renewal.

## **Redundancy Protection**

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Additional redundancy protection is in place for pregnant employees, employees on Maternity or Adoption leave and for employees who have taken Shared Parental Leave for a period of 6 continuous weeks. This protection continues until 18 months after the date of birth, placement or for overseas adoptions, when the child arrived in the UK.

Whilst the additional protection applies, these employees must be offered suitable alternative employment, where it exists, in preference to other employees who have also been selected for redundancy.

## **Collective Consultation**

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In all formal plans that propose to dismiss staff for reasons of redundancy the university would expect there to be meaningful engagement with the relevant recognised trades unions.

Where it is proposed that 20 or more employees within a single establishment are to be dismissed for collective redundancy reasons within a 90-day period (excluding the expiry of fixed-term contracts), this is known as a collective redundancy situation. In a collective redundancy situation, the university will commence a process of consultation with relevant recognised trade unions. The consultation process will follow the appropriate legal obligations set out in the relevant statutory legislation and will include consideration of practical measures which might avoid or minimise the need for compulsory redundancies.

Where it is proposed that fewer than 20 employees within a single establishment are to be dismissed for a reason not related to the individuals concerned within a 90-day period, the university may also voluntarily seek to inform the recognised trade unions in relation to the potentially affected staff of the potential redundancies and the reasons for them.

In collective redundancy situations, information will be provided in good time to the trade unions or representatives recognised in relation to the potentially affected staff to allow sufficient time for consultation. Consultation should be entered into by all parties with a view to reaching agreement. The purposes of collective consultation include:

- a) Seeking to avoid or minimise any dismissals.
- b) Mitigating the consequences of any dismissals.
- c) Considering alternatives such as natural wastage, restricting recruitment and applications for early retirement where possible.
- d) Considering opportunities for redeployment for members of staff including offering re-training where possible.
- e) Considering any alternative proposals suggested by staff and recognised trade unions.

The university will disclose the following information to relevant recognised trade unions or representatives at the start of the period of collective consultation:

- a) Reasons for the proposed redundancies.
- b) The numbers and categories of employees involved.
- c) The numbers of employees employed by the university in each category at the establishment in question.
- d) The proposed method of selection for redundancy (including, where selection criteria are to be applied, the proposed selection criteria).
- e) The proposed method of calculating the amount of any redundancy payment other than the statutory redundancy payment.
- f) The number of agency workers working temporarily for and under the supervision of the university.
- g) The parts of the university in which those agency workers are working.
- h) The type of work those agency workers are carrying out.

Consultation can be concluded before the end of the legislative periods referred to above by mutual agreement between the university and the employee representatives concerned.

In collective redundancy situations, notices of termination of employment by reason of redundancy may not be issued in respect of those posts that remain subject to the collective consultation.

## **Voluntary Redundancy**

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The university may seek to achieve redundancies on a voluntary basis from any group at risk of redundancy prior to and during any collective consultation periods where this is possible within a prescribed timescale. Any decisions to seek redundancies on a voluntary basis and to accept or reject any requests for voluntary redundancy will be at the absolute discretion of the university.

Where there are more requests for voluntary redundancy than the numbers of volunteers required, selection criteria will be determined taking into account the best interests of the university.

Seeking volunteers may not be appropriate in all situations, for example, where a whole section is closing and all staff in that section are potentially affected.

There is no obligation to consider requests for voluntary redundancy from employees outside of the potentially affected group however the university may consider such requests at its discretion. This is typically where an affected member of staff at risk of redundancy has the skills to undertake a role carried out by another, who is not in the affected group but is willing to volunteer for redundancy. Management will consider various factors, including the need to retain the right mix of skills, knowledge and experience within the university when considering such requests.

Where voluntary redundancy is granted, payment will be in accordance with any relevant voluntary severance scheme operated by the university at the time. Any such payment will include (and will not be less than) statutory redundancy pay.

Where a payment is made under a voluntary severance scheme, the university may require the member of staff to enter into a Settlement Agreement.

## **Compulsory Redundancy**

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Where an employee is made compulsorily redundant, payment will be in accordance with any relevant compulsory redundancy scheme operated by the university at the time. Any such payment will include (and will not be less than) statutory redundancy pay.

## **Selection Criteria**

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In collective redundancy situations, any selection criteria proposed to select staff for redundancy will be subject to consultation with the relevant recognised trade unions.

Selection criteria may not always be appropriate, such as where it is proposed that a whole section should close or where the funding for a specific project is coming to an end, resulting in a redundancy situation for the specific member(s) of staff engaged on that project.

If selection criteria are to be applied, they will depend on the particular redundancy situation but may include the following:

- a) Relevance of discipline or specialism.
- b) Skills, qualifications, knowledge and experience.
- c) Contribution and performance in research (may include amount of research related income generated).
- d) Contribution and performance in teaching, innovation, administration, programme management or leadership.
- e) Capability, disciplinary and attendance record.

It is important to ensure that criteria used do not unlawfully discriminate against any individual or group, unless any indirectly discriminatory effect can be justified as a proportionate means of achieving a legitimate aim.

Additional criteria may need to be used where it is not possible to differentiate between staff following initial assessment.

## **Individual Consultation**

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Where collective consultation is taking place with relevant recognised trade unions, individual consultation may be conducted in parallel.

Whether or not collective consultation is taking place, individual members of staff identified as being potentially at risk of redundancy will be informed in good time to allow individual consultation to take place.

If selection criteria are being applied to a group of staff, potentially affected individual members of staff will be informed of the size and nature of the group and of the proposed selection criteria.

Any individual members of staff who are specifically identified as being at risk of redundancy will be given the opportunity to attend an individual consultation meeting. At the consultation meeting the member of staff will have the opportunity to discuss the issues relevant to the potential redundancy and to make representations, including in relation to:

- a) The application of any criteria used for identifying staff to be selected for redundancy.
- b) The process being followed, the timing of the potential redundancy and the amounts of any redundancy or other payments which may be applicable.
- c) Alternatives to redundancy to be considered, including any potential alternative employment.

Having considered any representations made by any relevant members of staff, the university will decide whether the employment of any members of staff should be terminated by reason of redundancy and, if so, which members of staff.

The university will give written notice to any relevant members of staff of any decision to terminate their employment by reason of redundancy. The notice will include the reason for termination and, where selection criteria have been applied, a summary of the results of the application of the criteria to the member of staff concerned, the member of staff's last working day and last paid day (if different).

The written notification will also state that the member of staff may appeal against the decision.

## **Appeal**

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A member of staff wishing to appeal against the decision to terminate their employment by reason of redundancy must do so within 10 working days of the notice of termination. The appeal must be sent in writing to the Director of Human Resources. Any appeal must identify the specific grounds on which the appeal is made (e.g. procedural irregularities). The grounds must not merely be to the effect that the member of staff disagrees with the decision

or that the decision is wrong. The grounds must set out the basis on which the member of staff contends that the decision was made unreasonably.

The appeal will be undertaken by a panel consisting of a manager more senior than (or at least at the same level as) the manager who made the decision and a member of the Human Resources Department. The panel may (but need not necessarily) choose to convene a meeting with the member of staff concerned for purposes of the appeal. Should such a meeting be convened, the member of staff has the right to be accompanied by a trade union representative or work colleague.

The panel will consider the grounds stated in the appeal and any relevant additional representations made by the employee. The panel may decide that the dismissal decision should be upheld or revoked or that it should be reconsidered in accordance with written guidance provided by the panel. A further right to appeal will apply to any dismissal decision made after such reconsideration.

This is the final stage in the procedure and the member of staff has no further right of appeal or consideration under any other university procedure or process.

## **Right to be Accompanied**

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At all formal individual consultation meetings and any appeal meeting held in accordance with this policy, a member of staff may be accompanied<sup>1</sup> by a trade union representative or work colleague.

It would not be considered reasonable to ask to be accompanied by a person who may have a conflict of interests or who is unlikely to be available to participate in a meeting within a reasonable time. Neither the university nor the member of staff will have the right to be accompanied or represented by a barrister or solicitor acting in a professional capacity at any stage of the redundancy procedures

The trade union representative or work colleague will be allowed to address the meeting in order to put the member of staff's case, sum up the member of staff's case, and respond on behalf of the member of staff to any view expressed at the meeting. The trade union representative or work colleague does not have a right to answer questions on the member of staff's behalf.

The member of staff should provide the name of any trade union representative or work colleague to the Human Resources Department no less than 3 working days in advance of the meeting. It is the member of staff's responsibility to notify their representative of the arrangements for the meeting, and to ensure that they have all of the relevant paperwork.

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<sup>1</sup> Where these meetings do not take place in person, 'accompanied' in this context means that the trade union representative or work colleague will be able to participate in the teleconference or videoconference. Where a meeting is considered entirely by way of written submission, the member of staff may send to the trade union representative or work colleague the meeting documentation and liaise with them accordingly prior to the meeting. The trade union representative or work colleague may make written submissions on the member of staff's case to the meeting.

If the trade union representative or work colleague cannot attend on the date proposed the member of staff may specify an alternative date and time for a meeting which will usually be within five working days of the original meeting.

The member of staff should make all reasonable efforts to attend any meeting to which they are invited under this procedure. In the event of failure to attend or make reasonable efforts to attend the alternative meeting dates arranged, the meeting may be held in their absence and the university may proceed with a decision under this procedure. Should a member of staff not be able to attend they may, should they wish, make a written submission for consideration by the university.

## **Suitable Alternative Employment**

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The university wherever possible will seek to redeploy staff selected for redundancy into positions considered to be suitable alternative employment. It is recommended that staff and managers read the [Redeployment Policy](#) for further information.

Each situation must be considered on a case by case basis taking into account the requirements of the position and individual skills.

Where a member of staff accepts suitable alternative employment, a trial period of 4 weeks<sup>2</sup> will apply. This is to enable the member of staff and the university to decide if the new position is suitable without losing the right to the entitlement to redundancy pay during this period. If the member of staff continues to work in the new job beyond the 4-week period, they are deemed to have accepted the new employment.

Members of staff need to be aware that should they unreasonably refuse an offer of suitable alternative employment they may lose their entitlement to redundancy/severance pay.

Where staff are ‘slotted-in’ to posts, they will be provided with appropriate training to support them in their new role.

## **Time Off to Look for Employment**

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A member of staff who has been given notice of dismissal due to redundancy is entitled to reasonable time off with pay to look for another job or make arrangements for future training or employment during their period of notice.

## **Other Forms of Support**

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Advice on any aspect of this policy and guidance can be obtained from the local [HR Business Partner](#)

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<sup>2</sup> A longer trial period may be applied, subject to agreement by both parties.

## **Development**

The university, at its discretion, may choose to offer additional forms of assistance to members of staff to be made redundant in the form of re-training assistance, outplacement services and other forms of career support.

Staff should make contact with their local [HR Business Partner](#) if they identify any training needs that the university may be able to address, such as help in compiling CVs or specific training needs relating to any potentially suitable redeployment opportunities. Additionally, staff may wish to visit the [Organisation Development webpages](#) for information about learning and development opportunities. Research staff may find it useful to review courses available via the [Centre for Research Staff Development website](#)

## **Employee Assistance Programme**

Further support is available from the Employee Assistance Programme (EAP). The EAP provides independent expert advice on both home and work concerns. Experts can provide practical information, fact sheets and packs, referrals to services in the local area and services such as short-term telephone counselling. This service is entirely independent from the university and is confidential. The EAP is paid for by the university and is free to university employees. For further information and contact details please see the relevant page of the [King's internal website](#)

## **Re-employment Following Redundancy**

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Staff who receive a redundancy payment will not normally be re-employed by the university unless a period of 12 months has elapsed after the last date of employment at King's College London, unless exceptionally agreed in writing by the Director of Human Resources or the Senior Vice President (Operations). Where staff subsequently apply for a vacancy at the university, their continuous service date with the university will restart as of the date of re-employment. It is not normally acceptable for staff to be re-engaged in a role similar to that which was redundant whether on a directly employed or consultancy basis.