WITHOUT PREJUDICE – THIS CLAUSE IS NOT FINAL & MAY BE SUBJECT TO CHANGE

PLEASE NOTE: THIS CLAUSE OR SUBCLAUSE SHOULD NOT BE READ IN ISOLATION, & MUST BE READ IN CONJUNCTION WITH THE ENTIRE CLAUSE AND/OR AGREEMENT

Change Management, Redeployment and Redundancy, and Review of Redundancy varied clauses (Tabled 3/7/2012)

63 Change Management and Consultation

63.1 This Clause 63 will apply in conjunction with Schedule 7(2) Transitional Arrangements.

63.2 Definitions

For the purposes of this Clause 63 the following definition(s) will apply:

**Significant effect** means where a workplace change may lead to any of the following:

a) redundancy;
b) transfer or job exchange;
c) loss of, or increase in, appointment or job security opportunities, including changes in the ratio of ongoing staff to fixed-term and/or casual staff;
d) job restructuring;
e) retraining;
f) creating or eliminating a position;
g) changed work practices, including changes in the actual work performed by staff;
h) changed hours of operation;
i) technological or structural change
j) transfer of staff to other work locations;
k) occupational health and safety implications;
l) changes in the composition, operation or size of the workforce;

**Workplace change** means any change that impacts on the organisation, function, operations, staffing arrangements, or work performed by staff in any part of the University.

63.3 Principles

63.3.1 No workplace change decision will be implemented without consultation with staff members in accordance with this Clause 63.

63.3.2 Consultation with affected staff members will occur in a timely manner.

63.3.3 A staff member or group of staff members is entitled to be represented by their Union or other nominated representative throughout the Consultation and Change Management Process.

63.3.4 The University encourages the use of consultation practices which are collaborative and participative and which provide staff members meaningful opportunities to gain understanding of, comment on, and enquire about:

a) issues which may result in workplace change; and
b) any rationale for workplace change; and
c) workplace change proposals developed by the University; and
d) decisions made by the University to implement workplace change.

63.3.5 Such practices will include, but are not limited to, facilitated meeting(s) with staff members and their Union or other nominated representative.

63.3.6 In the first instance, a reduction in staff numbers will be managed through a call for voluntary redundancies amongst staff in the positions affected. The University will only resort to other means of reducing staff numbers where an insufficient number of staff take up voluntary redundancies. Where possible, staff member reductions will also be managed through natural attrition, voluntary separations, pre-retirement contracts, leave without pay, voluntary conversion to part-time employment, long service leave, secondment, internal transfer or placement.

63.3.7 The University will use involuntary redundancy in accordance with Clause 64, Redeployment and Redundancy only as a last resort after the options of subclause 63.3.6 have been adequately addressed.

Consultation and Change Management Process

63.4 Step 1 – Initial Consultation on Workplace Change

63.4.1 Where issues arise which may result in workplace change, the University will first determine on a preliminary basis whether there is a need for workplace change.

63.4.2 If the University determines on a preliminary basis that there is a need for workplace change, relevant line manager(s) will as soon as practicable thereafter, consult with staff members who may be affected by that workplace change, and the Union(s). Where staff members nominate another representative, the University will also consult with this representative. This initial consultation will address the issues which have arisen, the need for workplace change, and any approaches preferred by the University to address these issues.

63.4.3 The line manager(s) will give genuine consideration to matters raised by, or on behalf of, the affected staff member(s) before deciding whether or not to proceed any further with the Consultation and Change Management Process. Affected staff and the Union(s) will be given a minimum of 20 working days to raise any matters before line manager(s) make any decision on whether or not to proceed with the Consultation and Change Management Process.
63.4.4 Where staff members affected by the change or the Union(s) do raise matters regarding the preliminary need for workplace change, the University will address in writing to staff and the Union(s) all matters raised before deciding whether or not to proceed any further with the Consultation and Change Management Process.

63.5 Step 2 - Consultation on Preliminary Workplace Change Proposal

63.5.1 Where the University decides to proceed further with the Consultation and Change Management Process, a Workplace Change Committee will be formed. The Workplace Change Committee will consist of:

(a) An equal number of University and representatives nominated by affected staff; and
(b) No less than 4 total Workplace Change Committee members.

63.5.2 The Workplace Change Committee will:

a) develop a preliminary workplace change proposal(s), which will include the following, in writing:
   i) the nature of the workplace change;
   ii) the rationale for workplace change;
   iii) any significant effect the workplace change is likely to have on the staff member(s);
   iv) measures the University is taking to avert or mitigate the adverse effect of the proposed workplace change on the staff member; and
   v) any other relevant information about the workplace change other than information which is subject to legal privilege or is commercial-in confidence;

and

b) Provide, in writing, a consultative framework indicating reasonable timeframes for consultation, decision making and any proposed implementation.

63.5.3 In developing the preliminary workplace change proposal(s), the Workplace Change Committee will undertake the following:

a) consult the Director, Human Resources or nominee and provide him or her with a copy of the preliminary workplace change proposal(s);

b) provide staff member(s) who are likely to experience significant effect by the workplace change with a copy of the preliminary workplace change proposal(s);

c) facilitate meeting(s) with staff member(s) who are likely to experience significant effect by the workplace change, and their Union or other nominated representative, to discuss the preliminary workplace change proposal(s);

d) amend the preliminary workplace change proposal(s), as necessary, as a result of the consultation process in Clause 63.5.
63.5.4 Upon receipt of any preliminary workplace change proposal(s) at subclause 63.5.2(a), the Director, Human Resources or nominee will provide a copy of such proposal(s) to the MSCC and the Union(s), who may consider and make submissions on the preliminary workplace change proposal(s) to the Workplace Change Committee.

63.5.5 Staff member(s) who are likely to experience significant effect, the Union(s) and the MSCC will be given a minimum of 30 working days to respond to the preliminary workplace change proposal(s) before the Workplace Change Committee will commence making any decision to implement workplace change.

63.5.6 Any amended preliminary workplace change proposal(s) will incorporate a summary of the matters raised by staff member(s), any submission by the Union(s) and the MSCC and how these matters have been considered and addressed.

63.5.7 A copy of the final amended preliminary workplace change proposal will be provided:

   a) by the Workplace Change Committee to staff member(s) who are likely to experience significant effect by the workplace change; and
   b) by the Director, Human Resources or nominee, to the MSCC and the Union(s).

63.6 Step 3 – Decision on Workplace Change

63.6.1 Prior to making a decision as to whether or not to implement workplace change the Workplace Change Committee will give genuine consideration to matters raised by:

   a) staff member(s) who are likely to experience significant effect of the workplace change, their Union or other nominated representative; and
   b) the Union(s); and
   c) the MSCC.

63.6.2 Having consulted with affected staff member(s) in accordance with the provisions of subclause 63.6.1, the Workplace Change Committee will decide whether or not the workplace change will be implemented. The workplace change will only be implemented where the majority of the Workplace Change Committee decides in favour of it.

63.6.3 The University will notify the affected staff members, the MSCC and the Unions of its decision as to whether or not the workplace change will be implemented.

63.6.4 If the University decides to implement workplace change, it will provide the affected staff member(s), the MSCC and the Union(s) with a copy of the final workplace change proposal and implementation timeframe.

63.6.5 The final workplace change proposal will incorporate all the matters raised by staff member(s), the Union(s) and the MSCC and how all these matters have been considered and addressed.

63.7 Step 4 – Consultation During Implementation of Workplace Change
The University will continue to consult with and support staff member(s) who are affected during the implementation of workplace change.

63.8 Step 5 - Review of Implementation of Workplace Change

63.8.1 After implementing any workplace change, the University will undertake a review within 6 to 12 months.

63.8.2 All staff members within the changed Faculty, School or Area, and their Union or other nominated representative will be provided with the opportunity to participate in, and make submissions, during the review.

64. Redeployment and Redundancy

64.1. This Clause 64 will apply in conjunction with Schedule 7 (2) Transitional Arrangements.

64.2. For the purposes of this Clause 42, the following definition(s) will apply:

10-Week Initial Job Search Period means the 10-week period commencing immediately the date that a staff member’s position is to be made redundant as declared within the notification provided in accordance with Clause 64.5.1, and during which the University is pursuing the staff member’s redeployment.

in the event that the staff member initiates and progresses a review in accordance with Clause 65, Review of Redundancy Decision, the 10 week Initial Job Search Period defined in Clause 64, Redeployment and Redundancy will not commence until Clause 65 has been finalised.

2-Week Decision Making Period means the 2-week period commencing immediately following the 10-Week Initial Job Search Period where the staff member decides whether to accept redundancy or continue as a redeployee by the conclusion of the 2 weeks.

40-Week Job Search Period means the 40-week period of redeployment commencing immediately following the 2-Week Decision Making Period where the staff member elects to continue as a redeployee.

Suitable alternative employment means employment in a position with the University or an organisation associated with the University that:

a) has continuing status; and
b) has a salary not less than that of the staff member’s redundant position, or for which salary maintenance is provided, and
c) has normal hours of work not less than those worked by the redeployee in the redundant position, unless agreed to by the redeployee; and
d) is commensurate with the redeployee’s skills, competencies and career aspirations; and
e) is within reasonable distance from the redeployee’s existing work location.
64.3. Application

64.3.1. The provisions of this Clause 64 will apply where the University decides to make a position or positions redundant and a continuing staff member holds any such position.

64.3.2. The provisions of this Clause 64 do not apply to fixed term staff members, including those staff members on pre-retirement contracts, or casual staff members.

64.4. Obligations

64.4.1. The University will ensure that the decisions and processes prescribed in this Clause 64 are managed in accordance with Curtin’s Values, are based on the principles of natural justice and are properly documented and capable of review. A copy of Curtin’s Values will be available to staff members on the University’s website.

64.4.2. Staff members and line managers who are affected by the provisions of this Clause 64 will engage in any redeployment process constructively and cooperatively.

64.5. Notification of Redundancy

64.5.1. The determination and notification of redundant positions will occur following completion of Clause 63.6, Decision on Workplace Change.

64.5.2. Subject to subclause 64.5.1, the University will inform, in writing, a staff member whose position is to be made redundant, the date the position will be made redundant and the reasons why the position is redundant.

64.5.3. Where a continuing staff member has been advised in writing by the University, in accordance with Clause 64.5, that their position is to be declared surplus to requirements, the staff member may apply in writing to the Vice-Chancellor within 10 working days of receipt of such advice for a review of that decision.

64.5.4. No position will be made redundant unless and until:

a) the procedures and provisions prescribed in Clause 63, Change Management and Consultation, other than any review in accordance with subclause 63.8, have been complied with and finalised.

b) where a staff member has sought a review of any redundancy decision, the provisions of Clause 65, Review of Redundancy Decision, of this Agreement have been complied with and finalised.

64.5.5. From the date declared within the notification of the position being redundant, the staff member will have redeployee status and, subject to subclauses 64.6 Immediate Redundancy and 64.12 Involuntary Redundancy, will remain a continuing staff member.
64.6. Immediate Redundancy

The redeployee may elect, in writing, to immediately cease employment with the University and receive a redundancy payment in accordance with Clause 64.13, Redundancy Payment, and payment for the 10-Week Initial Job Search Period.

64.7. 10-Week Initial Job Search Period

64.7.1. The 10-Week Initial Job Search Period commences effective of the date as notified in accordance with Clause 64.5, Notification of Redundancy.

64.7.2. Where the redeployee does not elect for immediate redundancy in accordance with Clause 64.6, Immediate Redundancy, as soon as practicable thereafter and in consultation with the redeployee and their Union or other nominated representative, the University will take steps to facilitate redeployment to suitable alternative employment.

64.7.3. The University will generally seek to maximise redeployment opportunities for redeployees through assistance with training, career counselling, job search and other relevant support, including engagement of relevant external organisations.

64.7.4 An appropriately qualified and experienced "Redeployment Supervisor" will be appointed to assist the redeployee in obtaining suitable alternative employment and monitor the redeployee’s progress during the 10-Week Initial Job Search Period. The Reployment Supervisor will have face to face contact with the redeployee on a weekly basis, except where the redeployee requests in writing that this not occur, to assist the redeployee and to monitor the redeployee's progress in obtaining suitable alternative employment.

64.7.5 The University will not refuse to provide a redeployee with any training or study that will enable the redeployee to be redeployed into suitable alternative employment.

64.7.6. A redeployee’s substantive salary, including all scheduled salary increases under this Agreement, will be maintained for the period of the redeployment.

64.7.7. The University will consider all vacant, continuing positions as suitable alternative employment for redeployees before the positions are advertised.

64.7.8 The final decision on whether a redeployee will be redeployed into suitable alternative employment will be the redeployee’s alone, and a redeployee that refuses to accept suitable alternative employment will still be entitled to redundancy.

64.7.9. If, at the end of the 10-Week Initial Job Search Period, the redeployee has not accepted suitable alternative employment, or there is no likelihood of such employment being available, the redeployee will be offered the choice between:
64.8. 2-Week Decision Making Period

64.8.1. The redeployee is entitled to a 2-Week Decision Making Period, commencing the next working day following the end of the 10-Week Initial Job Search Period.

64.8.2. During the 2-Week Decision Making Period the redeployee will decide to accept one or other of the options prescribed in subclause 64.7.8.

64.8.3. Where a redeployee accepts an offer of redundancy during or at the conclusion of the 2-Week Decision Making Period they will be entitled to:

a) a redundancy payment in accordance with Clause 64.13; and
b) payment in lieu of the balance of any unused portion of the 2-Week Decision Making Period.

64.8.4. A redundancy offer must be accepted in writing by the redeployee.

64.9. 40-Week Job Search Period

64.9.1. Where a redeployee elects in writing for further redeployment, the University will continue to seek suitable alternative employment for the redeployee and provide support during the 40-Week Job Search Period in accordance with this Clause 64.9.

64.9.2. Where a redeployee elects for further redeployment under Clause 64.9.1, they will continue to have access to the suitably qualified and experienced "Redeployment Supervisor" to assist them in obtaining suitable alternative employment and to monitor their progress during the 40-Week Job Search Period. The Redeployment Supervisor will have face to face contact with the redeployee on a weekly basis, except where the redeployee requests in writing that this not occur, to assist the redeployee and to monitor the redeployee’s progress in obtaining suitable alternative employment.

64.9.3. The University will not refuse to provide a redeployee with any training or study that will enable the redeployee to be redeployed into suitable alternative employment.

64.9.4. Where a redeployee during the 40-Week Job Search Period is offered and accepts, in writing, redeployment into suitable alternative employment then the redeployee’s transfer to the position on a continuing status will be confirmed in writing. Where a redeployee has been offered in writing, and accepts in writing, transfer to a continuing position they will be ineligible for an offer of redundancy.

64.9.5. Where a redeployee accepts redeployment into a position classified lower that their redundant position they will have the salary from the redundant position maintained.
64.9.6. Where a redeployee is temporarily placed in a non-continuing position during the redeployment, the time spent in this position will not be considered part of the initial 10-Week Initial Job Search Period nor the 40 Week Job Search Period.

64.9.7 The final decision on whether a redeployee will be redeployed into suitable alternative employment will be the redeployee’s alone, and a redeployee that refuses to accept suitable alternative employment will still be entitled to redundancy.

64.10. Trial Placement

64.10.1. Where a redeployee is offered and accepts placement in suitable alternative employment, a trial period of 8 weeks may apply at the request of the redeployee or the line manager, during which the redeployee’s suitability for the position will be assessed by the University and the redeployee.

64.10.2. If during, or by the conclusion of the trial period, and the provision of appropriate training and support, the University and the redeployee agree that the position is suitable, the redeployee’s transfer to the position on a continuing status will be confirmed in writing. Otherwise, the trial will conclude and the search for suitable alternative employment will continue for the remainder of the job search period.

64.10.3. A trial period(s) can occur at any time during the 10-Week Initial Job Search Period, the 2-Week Decision Making Period or the 40-Week Job Search Period, or both.

64.11. Ceasing Employment During 40-Week Job Search Period

Where a redeployee elects, in writing, to cease employment with the University at any time during the 40-Week Job Search Period prescribed in Clause 64.9, they will be entitled to a redundancy payment in accordance with Clause 64.13, less the amount equivalent to 80% of the salary received during the 40-Week Job Search Period.

64.12. Involuntary Redundancy

64.12.1. Where after the 40-Week Job Search Period a redeployee has not been placed in a suitable alternative position the redeployee’s employment will be terminated by the University.

64.12.2. A redeployee whose employment is terminated in accordance with subclause 64.12.1 is entitled to a redundancy payment in accordance with Clause 64.13, less the amount equivalent to 80% of the salary received during the 40-Week Job Search Period.

64.13. Redundancy Payment

64.13.1. A redundancy payment will comprise (A) + (B) + (C) + (D) + (E) as prescribed in Table 1 of this subclause 64.13, provided that (A) + (B) + (C) will not exceed 82 weeks in total.
64.13.2. The redundancy payment will be calculated based on the redeployee’s salary rate at the date of cessation of employment and any variation(s) in service fraction over the total period of employment.

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64.14. Reemployment with the University

Where a staff member has received a redundancy payment in accordance with subclause 64.13 they will be ineligible for appointment to any position at the University for a period at least equal to the number of weeks pay received in accordance with Table 1 of this subclause 64.13 (A), (B) and (C).

New clause for General staff, varied clause for Academic staff

65 Review of Redundancy Decisions

65.1 A staff member(s) and the University are entitled to be represented respectively by their Union or other nominated representative, or a representative of an employer body (but not if such a person is a currently practising solicitor or barrister) throughout the review process of this Clause 65.

65.2 Where a continuing staff member or group of continuing staff members have been advised in writing by the University, in accordance with Clause 64.5, Notification of Redundancy, that their position is to be declared surplus to requirements, the staff member(s) may apply in writing to the Vice- Chancellor within 10 working days of receipt of such advice for a review of that decision.

65.3 The staff member(s) should indicate in the application the basis upon which a review is sought.
Within 5 working days of receipt of the written application, the Vice-Chancellor will refer the application to a Redundancy Review Committee established in accordance with subclause 65.5.

The Redundancy Review Committee will be established as and when required and will comprise:

- a management representative nominated by the Vice-Chancellor; and
- a union representative nominated by the Union; and
- an independent Chairperson, external to the University, as agreed between the University and the Union.

The independent Chairperson in conjunction with the University will endeavour to convene the Committee within 7 working days of the matter being referred by the Vice-Chancellor.

The Redundancy Review Committee will act in accordance with principles of natural justice and procedural fairness, including the following:

- allowing the staff member(s) and the University the opportunity to establish their case through a written or verbal submission, or both;
- allowing the staff member(s) and the University to be represented throughout the review in accordance with subclause 65.1;
- allowing the staff member(s) and their Union or other nominated representative and the University the opportunity to see all documentation and hear all verbal submissions provided to the Committee, and have the opportunity to respond to such documents and submissions.

provided that the Review Committee may place reasonable limits on the opportunity to make and respond to submissions to ensure that the duration of the proceedings is not unduly prolonged.

The Redundancy Review Committee may seek further material and documentation or interview other persons it considers appropriate, provided that the Committee is not entitled to access information which is legally privileged or commercial-in-confidence.

The Redundancy Review Committee will determine whether the University, in deciding to declare a staff member(s)’s position redundant:

- complied with the provisions of Clause 63, Change Management and Consultation, and Clause 64, Redeployment and Redundancy; and
- otherwise acted fairly, properly, without discrimination and in accordance with principles of natural justice and procedural fairness; and
- used fair and objective criteria to determine which positions should be declared redundant.

The Redundancy Review Committee will endeavour to report its findings and recommendations to the Vice-Chancellor within 15 working days of its determination. The findings of the Redundancy Review Committee must include their reasons for their findings and recommendations and deal with any matters raised by the staff member(s).

The Chair of the Redundancy Review Committee will provide a copy of the report to the University, the staff member and their Union or other nominated representative as soon as it is available.
65.12 Where the Redundancy Review Committee makes a recommendation to not confirm the decision to make the position redundant, the Vice Chancellor must follow this recommendation, except where he or she has reasonable grounds for believing the recommendations to be incorrect or inappropriate.

65.13 The Vice-Chancellor will advise the staff member(s) of his or her decision within 10 days of receiving a recommendation or report. Where the Vice-Chancellor does not follow the recommendations of the Redundancy Review Committee under subclause 65.12, the Vice-Chancellor will outline in writing what he or she believes are the reasonable grounds for believing the Redundancy Review Committee’s recommendations to be incorrect or inappropriate when notifying the staff member(s) and the line manager of his or her decision.

65.14 If the Vice-Chancellor confirms the decision to make the position redundant, the University will continue with Clause 64, Redeployment and Redundancy.

65.15 In the event that the staff member(s) initiates and progresses a review in accordance with this Clause 65, the 10-week Initial Job Search Period defined in Clause 64, Redeployment and Redundancy will not commence until Clause 65 has been finalised.

61.17. Nothing in this Clause 65 prevents the utilisation of Clause 62, Dispute Resolution Procedure.