

# Re-employment of Redundant Staff Policy

## Section 1 - Background and Purpose

(1) This Policy sets out the University's position on the re-employment of redundant/retrenched staff members.

## Section 2 - Scope

(2) This Policy applies to all staff members who are/may be reemployed as staff members, contractors, consultants or principals of companies engaged in contracting to the University.

(3) This Policy does not apply to casual staff members or to staff members whose employment is terminated at the end of a fixed period or retention period and who do not receive any redundancy payment on termination.

(4) Hiring managers are expected to comply with this Policy, any other University policies and legislation including anti-discrimination laws.

### Terms Explained

(5) The following terms used within this Policy are described below and are intended to support and comply with the [La Trobe University Collective Agreement 2018](#), approved by the Fair Work commission ('the Collective Agreement'). Should the terms described in this policy not support or comply with the [Collective Agreement](#), the Collective Agreement will prevail.

(6) Redundancy: When the position held by a staff member is no longer required to be performed by the University for reasons of an economic, technological, structural or similar nature as detailed in the Collective Agreement.

(7) Redeployment: The provision of assistance to review options of relocating a redundant staff member to another position in the University, in accordance with the [Collective Agreement](#).

(8) Retrenchment: The staff member is not redeployed to an alternative position, in accordance with the [Collective Agreement](#), so leaves the employment of the University (termination of employment).

## Section 3 - Policy Statement

(9) The University is committed to job security and enhancing our commitment to operating sustainably and ethically.

(10) The University will ensure that decisions it makes during an organisational change process are sound and that redeployment opportunities are explored prior to the termination of a staff member's employment by redundancy.

(11) Re-employment of a retrenched staff member may alter the status of a 'bona-fide' redundancy and therefore have a potential adverse financial impact on the University and on the staff member.

(12) The University aims to promote proper decision making with respect to implementing redundancies,

redeployments and retrenchments and to minimise the bona fides of the redundancy from being called into question.

(13) In all cases, the normal selection processes, including employment/reference checks must be followed.

### **Effects of Re-employment**

(14) Re-employment of a retrenched staff member can:

- a. alter the bona fide nature of the redundancy
- b. alter the favourable tax treatment of the redundancy payout
- c. impose additional tax liability on both the University and on the redundant staff member

(15) In particular, re-employment of a staff member into a position with the same or similar duties and functions of their redundant position, on a continuing casual or fixed term basis, increases the risk of the effects outlines above.

### **Re-employment Exclusion Period**

(16) Retrenched staff members who received a redundancy payment upon the termination of their employment:

- a. shall not be re-employed into any of the 'Modes of Employment' as detailed in the [Collective Agreement](#);
- b. shall not be re-engaged as a consultant, contractor, employee or principal of a company/business within one year from the date of termination other than within the provisions of 'exceptional circumstances' as detailed below.

### **Exceptional Circumstances**

(17) A retrenched staff member who received a redundancy payment within the preceding year may be re-employed at the University in exceptional circumstances only.

(18) Such exceptional circumstances include but are not limited to:

- a. employment of a former Academic staff member on an ad hoc or casual basis to continue supervision of higher degree research students;
- b. employment of a former Academic staff member on an ad hoc or casual basis to conduct sessional teaching, where their expertise or experience is so specialised as to be required for a particular course or subject;
- c. employment of a former Professional staff member on an ad hoc, casual or short-term basis to provide specialised advice or expertise.

(19) If an exceptional circumstance prevails, a Provost in consultation with the Executive Director, Human Resources may grant an exemption from the restriction on re-employment following redundancy.

(20) An exemption will only be granted where the nature of the proposed re-employment is such that the previous decision making with respect to implementing the redundancy/retrenchment and the bona fides of the redundancy/retrenchment are not compromised.

(21) Where an exceptional circumstance applies, the staff member's employment will be in accordance with the relevant provisions of the Collective Agreement, including those relating to leave accrual and recognition of prior service.

# Section 4 - Procedures

## Preamble

(22) This procedure sets out the process for the application to reemploy redundant staff members under exceptional circumstances.

## General

(23) Re-employment of a retrenched staff member may alter the status of a 'bona-fide' redundancy and therefore have a potential financial impact on the University and a staff member.

(24) The University aims to promote proper decision making with respect to implementing redundancies, redeployments and retrenchments and to minimise the bona fides of the redundancy from being called into question.

## Exclusion Period

(25) Retrenched staff members who received a redundancy payment upon the termination of their employment:

- a. shall not be re-employed into any of the 'Modes of Employment' as detailed in the [Collective Agreement](#)
- b. shall not be re-engaged as a consultant, contractor, employee or principal of a company/business within one year from the date of termination other than within the provisions of 'exceptional circumstances' as detailed below.

(26) For exceptional circumstances, refer to the Policy.

## Application

(27) Application under exceptional circumstances to re-engage a former staff member previously made redundant must be submitted in writing to the Provost and the Executive Director, Human Resources via email. The written request must include the following information:

- a. details of the former staff member and their redundancy/retrenchment
- b. timeline of events from termination date to proposed employment date
- c. the business case for supporting the re-employment of a former staff member
- d. nature and details of the position to be filled

(28) Approval from both the Provost and the Executive Director, Human Resources, in writing, via email is required prior to proceeding to re-employment.

# Section 5 - Definitions

(29) For the purpose of this Policy and Procedure:

- a. Former staff: member means a person previously employed as a permanent staff member or a fixed term staff member who qualifies for a redundancy under the 'Fixed-Term Employment' clause of the [Collective Agreement](#).
- b. Re-employment: means the hiring of a former staff member which includes the former staff member's business, partnership, company or other controlled entity as a consultant, contractor, employee or principal of a company/business.

- c. Redundancy: When the position held by a staff member is no longer required to be performed by the University for reasons of an economic, technological, structural or similar nature as detailed in the Collective Agreement.
- d. Redeployment: The provision of assistance to review options of relocating a redundant staff member to another position in the University, in accordance with the Collective Agreement.
- e. Retrenchment: The staff member is not redeployed to an alternative position, in accordance with the Collective Agreement, so leaves the employment of the University (termination of employment).

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	9th November 2016
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