

Flysheet – Motion to vote against the constitution of a Redundancy Panel where a University staff member’s work is not ceasing but is simply being reorganised. If passed, the resolution¹ would set a precedent undermining Statute XII’s strong protections against dismissal for all staff at grade 6 and above. This would remove a key safeguard of academic freedom, justice and fairness, and the promotion of equality and diversity, as set out in Statute XII (1).

Overview

Congregation is urged to vote against approving the constitution of a Redundancy Panel for a permanent staff member at academic grade 36S AP of the Academic Salary Scale whose contractual terms of employment are subject to the University’s statutes. The resolution is based on a redundancy proposal where the postholder’s work is neither ceasing nor diminishing, stated in Statute XII (7) as the relevant ground for redundancy. Those restrictions are ignored in this case with confirmation that the postholder’s work will be reallocated to existing and newly created junior roles (appointed following a redundancy) with colleagues employed on a lower salary band. This facilitates the downgrading of terms and conditions of employment by transferring the same work to other colleagues on inferior pay and conditions (known as the practice of ‘fire and hire’). The case marks the first time Congregation has been asked to authorise a redundancy procedure for a University staff member since academic tenure ended and dismissal by redundancy was introduced in universities under the Education Reform Act 1988. The postholder is employed by St Cross College, a ‘department’ of the University and not an autonomous college. The resolution is therefore a test case. If passed, a precedent would be set whereby the University could:

- Disregard the strong dismissal protections afforded to academic, professional and administrative staff under Statute XII, protections justified by the special imperative of protecting academic freedom. Statute XII restricts permissible dismissals to situations of ‘redundancy’ or ‘good cause’ and excludes reorganisation dismissals.
- This erosion of dismissal protection poses a wider threat to academic freedom by undermining Statute XII.
- It subverts the strict definition of redundancy in Statute XII by permitting the University to designate the reorganisation of work as a redundancy, in circumstances where that is not a permitted reason for dismissal.
- It facilitates the downgrading of employment terms and conditions through ‘fire and rehire’, ‘fire and hire’, and other pay reducing strategies, and has implications for the University’s duties under the Equality Act 2010.

Motion to oppose

Members of Congregation are asked to oppose the resolution on two counts:

1. **There are no grounds for a redundancy in this case under Statute XII** – University staff members can be made redundant **only** if their work or its requirements are ceasing or diminishing. Since the work performed is neither ceasing nor diminishing in this case, but is simply being reorganised and reallocated, the resolution before Congregation is to authorise a Redundancy Panel where there is no redundancy as defined by Statute XII. Congregation is placed in the invidious position of facilitating an abuse of the University’s own statutes.
2. **The basis given for dismissal sets a wider precedent** – In framing a rationale for a redundancy unsupported by Statute XII, the College/University seeks to unshackle itself from the requirements of its own statutes. In attempting to circumvent Statute XII, it has cited immaterial bases to justify a dismissal, including:
 - 2.1. General employment law under the Employment Rights Act 1996 (ERA). This ignores the fact that **additional procedural rights** are provided to University staff falling under Statute XII in the interests of academic freedom. Even then, what is being proposed here would be a ‘reorganisation’ dismissal rather than a redundancy under the ERA framework. While these may be permissible under ERA, reorganisation dismissals are **not** authorised under Statute XII.
 - 2.2. Unilateral flexibility to simply call a dismissal a redundancy rather than a ‘restructuring’ if it wishes, when Statute XII does not allow reorganisation dismissals. It only permits ‘good cause’ (conduct or capability) or redundancy dismissals. This unilateral flexibility would also allow the University to bypass established procedures, for example by unilaterally designating a ‘conduct’ dismissal as a redundancy. This cannot be right.

Implications

A vote for the resolution would transform the contract between the University and its permanent staff, whereby the University’s commitment to employment security until retiring age would be threatened, instead enabling the University freely to restructure where all postholders could be replaced by management fiat, for instance by cheaper junior postholders or new hires, and put academic freedom at risk by making it easier to dismiss postholders who

1 [University of Oxford Gazette No 5422, 23 May 2024](#), p 479.

express unpopular views and ideas under the pretext of a 'business reorganisation', undermining the stringent protections in Statute XII.

Rights under Statute XII

Statute XII provides only limited grounds for dismissal by redundancy, specifically in cases as set out below where:

- (1) *the fact that the University has ceased, or intends to cease, to carry on the activity for the purposes of which the person concerned was appointed or employed by the University, or has ceased, or intends to cease, to carry on that activity in the place in which the person concerned worked; or (2) the fact that the requirements of that activity for members of the academic staff to carry out work of a particular kind, or to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.*²

This limited scope for redundancy is reinforced by the University's Redundancy Procedure: "A department may only put staff at risk of redundancy where they have established a clear rational [sic] for doing so, and is ceasing or intending to cease, the activity or project for which the employee was employed in the place where that employee was employed."³ The University of Oxford is also committed to the policy that compulsory redundancies must "prove to be unavoidable",⁴ so that redundancy is a genuine last resort. The Education Reform Act 1988 resulted in government-mandated 'Model Statutes' that were incorporated into the existing statutes of all universities in England and Wales in which 'redundancy' was defined "**...in a manner reflecting the precise provisions of the Education Reform Act.**"⁵ The statute developed for the University of Oxford under the 1988 Act "**...has been re-enacted within Statute XII...It cannot be altered without the consent of the Privy Council under the terms of the 1988 Act**",⁶ as a King-in-Council statute.

Evidence in this case of the work or 'activity' neither ceasing nor diminishing

In communications from the College/University it is confirmed that the postholder's activity is continuing. All significant elements of the role would be undertaken by other (including more junior) colleagues. Only a few activities were identified as ceasing, each of which is either negligible to the core activity of the role or stated elsewhere by the College as being continuing activity. On the College's own case, therefore this is a restructuring without redundancy, which does not meet the requirements of Statute XII.

Accordingly, Congregation is urged to oppose undermining Statute XII, and to vote against the constitution of a Redundancy Panel in this case.

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2 Statute XII Part A, 7.

3 'Stage 1a: Rationale for ceasing an area of academic, professional or support staff activity', *University of Oxford Redundancy Procedure*, p. 3 [<https://hr.admin.ox.ac.uk/sitefiles/pdf1-redundancy-procedure-updated-aug-23.pdf>].

4 University HR Support, Redundancy procedure: Guidance on the University's procedures for dismissal on grounds of redundancy, stage 1b: Identify the potential redundancy pool.

5 'The 'Academic Tenure' Provisions of the Education Reform Act 1988', No. 4188, Vol. 121, *University of Oxford Gazette*, Thursday 20 September 1990, pp. 8 & 9.

6 Statutes of the University of Oxford, 2017-18, p. viii. [https://www.ox.ac.uk/sites/files/oxford/field/field_document/University%20Statutes%20%20August%202017%20to%20July%202018.pdf]