1.0 POLICY STATEMENT

Birkbeck values its members of staff and is committed to the provision of job security and continuity of employment. This stance is central to an environment that encourages research, teaching and professional, administrative and technical support that is so vital to our work. However, as a result of changes in external funding, technological development, changes in organisational requirements, reduced student demand, or other reasons, it is recognised that a redundancy situation may arise as staffing requirements change. When such situations arise, the College will endeavour to manage these challenges fairly, equitably and in the best interests of the College in the effective operation of its services.

The College will seek to avoid compulsory redundancy and take steps to mitigate the impact of redundancy where practicable through the fair and consistent application of this policy in conjunction with the Redeployment policy.

1.1 Scope

The policy for redundancy applies to all staff whose employment is to be terminated prematurely by reason of redundancy. For academic staff the relevant aspects of Statute 28 will over-ride this policy where they are more favourable. This policy will not normally apply to the ending, non-renewal or non-extension of fixed term contracts unless the reason for this falls outside the remit of the Fixed Term Contracts policy.

2.0 PROCEDURE

2.1 Measures to Avoid or Minimise Redundancy

Where redundancies are proposed, consideration first will be given to some or all of the following approaches at the relevant time, as appropriate to the situation:

- Natural wastage i.e. non replacement of leavers;
- Restrictions on recruitment, for example suspending recruitment where there are similar roles within other Schools or Departments;
- Reduction or elimination of overtime;
- Consideration of flexible working arrangements and career breaks/leave of absence;
- Reduced usage of sub contracted labour, agency workers and temporary employees (unless they are necessary prior to a closure situation or for special projects where specific skills or continuity are required);
- Provision of reasonable training or re-training of staff members for redeployment (see Redeployment policy);
- Inviting applications for early retirement or voluntary severance/redundancy (the College reserves the right to refuse such applications);
- A reduction in contractual working time either on a permanent basis or on a temporary basis through, for example, the Variation in Hours policy for Teaching and Scholarship staff;
- A temporary cessation of work for an agreed period, for example, where a course is deferred for a term.
2.2 The Redundancy Process

The redundancy process consists of:

- the development of a business case outlining the rationale for the proposed staff redundancies, including the selection process;
- notification by HR to the Governors and the relevant union, where appropriate, prior to notifying all staff affected;
- consultation with staff individually and where appropriate, collectively with unions;
- consideration of 'bumping' (see Section 3.4 Bumping) in accordance with statutory requirements;
- implementation of the proposals if agreed and redeployment of staff where practicable;
- providing the opportunity for staff to appeal on their selection for redundancy and on the fairness of the procedure.

2.3 The Business Case

The business case sets out:

- the reason for the requirement for a reduction in employee numbers;
- what impact this reduction will have on the working procedures of other employees;
- the number of employees of any such description employed at the location or within the management area concerned;
- the number of staff affected, the job titles and grades of employees whose positions may no longer be required;
- the proposed method of selection;
- the time-scale over which the reduction in employee numbers will take place;
- options and alternative employment opportunities available to avoid compulsory redundancies.

The business case is developed by the relevant School/Department manager and forwarded to HR. The case is forwarded to the Executive Dean/Director and Chair of HRSPC (Human Resources Strategy and Policy Committee) (or nominee) for approval in principle prior to the start of a consultation.

2.4 Consultation

When a redundancy situation arises, the College will consult normally for a period of at least 30 days with all employees affected. In a collective redundancy situation, i.e. where it is proposed to make 20 or more employees redundant over a 90 day period, the College will consult with the relevant trade unions within the required period; in accordance with employment legislation (see Section 2.8.2 Procedure for Collective Redundancies).

The main purpose of the consultations are to explain the rationale for the proposals, discuss any selection criteria and the method of application to be used; consider other options including
redeployment and retraining for another suitable role; listen to the concerns of staff and their representatives; and consider suggestions for avoiding and mitigating the need for compulsory redundancies. The College will seek to consult on proposed redundancies at an early opportunity to allow for the consideration of other options that may help avoid or mitigate redundancies.

2.5 Redundancy Selection Pools
The College recognises that in certain circumstances such as in restructures or downsizing of teams or departments, it may be necessary for a redundancy selection pool to be identified and selection criteria to be applied to determine which staff member(s) should be selected for redundancy.

In these circumstances, the selection criteria will be established by the relevant line manager in liaison with HR. The criteria will normally be included within the business case and form part of the consultation process. The selection process will seek to use objective criteria that will be consistently applied and will not be based solely on the opinion of an individual line manager. Managers are responsible for ensuring that data used in the selection criteria is robust and where appropriate allows for comparable analysis over a period of time.

The criteria will consist of a range of factors which may include:

- skills and qualifications;
- specialist knowledge;
- work performance including effective administration;
- aptitude for the work;
- student feedback for student facing roles;
- attendance; and
- disciplinary record.

The selection criteria will be applied to all the employees concerned in the pool including anyone absent/on leave from work. Other forms of selection may include competitive interviewing, testing or other forms of assessment. A record will be kept of the selection process and outcomes.

2.6 Appeals
Any staff member with over 2 years' continuous service (1 year, if employed before 6th April 2012) who has received confirmation that they are to be made redundant has a right to appeal the decision to terminate their employment under this policy.

Staff eligible to appeal may do so either because they feel that they have been unfairly selected for redundancy; or because they feel that there has been a procedural failing. Any appeal should be made in writing, clearly setting out the grounds for the appeal, to the Head of HR Services normally within 10 working days of receiving written confirmation of notice of the redundancy. The staff member has the right to be accompanied at this meeting by a trade union representative or a Birkbeck work colleague.

Appeals will be heard without unreasonable delay, normally within 10 days of receipt of the appeal. This timescale may be extended depending upon the availability of those involved.

The appeal will be heard by a panel chaired by a senior manager, a panel member from a different department who has not previously been involved directly in the case, together with a HR
representative. The Panel will re-examine the evidence provided and inform the employee in writing of their decision, normally, within 10 working days of the appeal meeting. The Chair will make the final decision if a consensus cannot be reached.

2.7 Support for Employees
Line managers and HR have joint responsibility to provide support to staff through a potential redundancy situation.

Companions at Meetings: Employees have a right to be accompanied at meetings by a Birkbeck trade union representative or a Birkbeck work colleague. Companions may assist staff in stating their case but may not answer instead of the employee. The right to a companion does not extend to job interviews held as part of the redundancy and redeployment process.

Time Off: Staff under notice will have the right to a reasonable amount of time off to seek other work, attend interviews or undertake training.

Counselling: It is acknowledged that redundancy can be a difficult and stressful situation for staff and the College provides additional support for staff through the University of Westminster’s ‘Only Connect’ counselling service.

Redundancy Payments: HR will provide details to staff at risk of redundancy of their potential redundancy benefits/severance payment upon request.

Employees who are made redundant and who have at least 2, or more years’ continuous service are entitled to statutory redundancy payments (SRPs).

Members of staff with 2 or more years’ continuous service will be entitled to an additional two weeks of contractual redundancy payment. Service is based on the number of years of completed continuous service x 2 weeks’ pay (weekly pay is capped at x4 the statutory weekly maximum, currently £450 (February 2013)). This cap will increase according to the increases in the national statutory redundancy pay weekly cap. Basic weekly pay covers the gross amount prior to any application of Salary Sacrifice.

Please note that enhanced payments will include relevant entitlements to statutory redundancy payments. The College reserves the right to vary or withdraw these entitlements from time to time, subject to consultation.

All redundancy payments are made within the parameters of Revenue and Customs (HMRC) guidelines. Statutory redundancy pay calculations are based on average earnings of the 12 week period leading up to redundancy in accordance with the statutory cap. Currently, the first £30k of any payment, excluding payment in lieu of notice, is tax free.

Members of staff on fixed term contracts of 2, or more years’ continuous service may also be entitled to a redundancy payment, for example, where the contract is not renewed due to loss of further funding, or due to the completion of a project. Reference should be made to the Fixed Term Contract policy.

All other normal contractual payments that are taxable will be included in the final pay. Staff will normally be expected to use any outstanding accrued annual leave prior to the end of their employment. In exceptional circumstances, payments may be authorised for untaken accrued annual leave at date of leaving in accordance with the Annual Leave policy.
Redundant employees who leave before their termination date will not receive any redundancy or severance payments unless authorised by the Director of Human Resources.

2.8 Redundancy Procedure

2.8.1 Procedure for Individual Redundancies

Where it is proposed that redundancies of between 1 and 19 staff are required, the College will consult with individuals affected for a period of 30 days and the following procedure will apply:

**Step 1**: The designated manager develops a business case outlining the rationale and timescales for the proposed redundancies and forwards this to the School/Department and the Human Resource Manager (HRM).

**Step 2**: The case is forwarded by the HRM to the Executive Dean/Director Professional Services and the Chair of HRSPC for approval in principle.

**Step 3**: Staff will be given the business case and notified that they are at risk of redundancy. Staff will be invited to an individual consultation meeting with the manager during the consultation period. Staff will be given the opportunity to discuss the impact of the proposed redundancy on their personal situation; voice their concerns, put forward ideas or suggestions of how the effects of redundancy may be mitigated and to discuss and consider redeployment options. Staff will normally be invited to express their interest in voluntary redundancy or retirement, if appropriate, and asked whether they wish to opt out of the redundancy consultation process. If interested, staff will need to confirm this to HR in writing. A copy of the business case will be sent to the trade unions.

**Step 4**: Suitable alternative employment options will be reviewed and discussed with the employee, including any training or development that may be appropriate. If there is a new job that is the same or closely matches the employee’s current job, the employee will be assimilated into the post where practicable.

**Step 5**: Where selection criteria are used, employees will be offered a meeting by HR to discuss their concerns, if selected for compulsory redundancy (see Section 3.3 Selection).

**Step 6**: Staff will be given notice, if selected for compulsory redundancy, and notified of their right of appeal.

**Step 7**: Redeployment opportunities will be considered until the last day of employment.

2.8.2 Procedure for Collective Redundancies

Where it is proposed to make 20 or more staff redundant in one establishment in a 90 day period, the College will consult with the relevant trade unions and staff at the same time. The following collective consultative procedure will apply:

**Step 1**: The designated manager develops a business case outlining the reasons and timescales for the proposed redundancies and forwards this to the School/Department and HR.

**Step 2**: The case is forwarded by the HRM for approval in principle by the Executive Dean/Director Professional Services and the Chair of HRSPC.
Step 3: Trade unions and staff will normally be consulted for a period of at least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant at one establishment within a 90 day period; or at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at one establishment within a 90 day period. The 30 and 45 day periods referred to reflect current legal requirements.

Step 4: An open meeting will be held for staff affected and union representatives to attend. Consultation will take place with employees who are potentially affected, if appropriate and not just those who are at direct risk of redundancy.

Step 5: Staff will be invited to individual meetings during the consultation period to discuss the impact of the proposed redundancy on their personal situation; to listen to their concerns, ideas or suggestions of how the effects of redundancy may be mitigated and to discuss and consider redeployment options.

Step 6: Staff who are provisionally selected for compulsory redundancy will be invited to attend a meeting to discuss their selection. A summary of the outcome of the selection process will be provided to the Chair of HRSPC and an anonymised copy to the recognised trade union. Staff who are redeployed will be notified that they are no longer at risk of redundancy.

Step 7: Staff selected for compulsory redundancy will be given notice of redundancy and notified of their right to appeal. The Executive Dean/Director or nominee in consultation with HR and a representative line manager will confirm the final compulsory redundancies.

Step 8: Redeployment opportunities will be considered until the last day of employment.

2.9 Redundancy Procedure for Withdrawal of a Module at Short-notice
Where a potential redundancy situation arises affecting Teaching and Scholarship staff through the withdrawal of a module or programme of study as a result of low student enrolments; it is unlikely that it will be possible to follow the normal redundancy process and decisions may need to be taken at short notice.

Step 1: Where the manager has concerns about the level of enrolments, they will notify HR and set out the case in relation to enrolment, viability and the potential impact and options available such as:

- a reduction of teaching hours in accordance with the Variation in Hours policy for individuals affected.
- other options as appropriate – for example, the temporary cessation of work, deferral of the module to another term within the year or the identification of suitable alternative work for Teaching and Scholarship staff.

Step 2: Teaching and Scholarship staff will be warned about low recruitment numbers and the potential impact as soon as practicable. They will be notified that their hours may need to be reduced in accordance with the Variation in Hours policy if the College decides to withdraw the programme/module or reduce the number of occurrences of the module.

Step 3: If it is possible to manage the reduction in student enrolment by reducing hours within the Variation of Hours Policy, Teaching and Scholarship staff will be given due notice of this.
NB. If it is not possible to manage the reduction through the Variation in Hours policy, or where it is envisaged that the downturn will continue in the longer term, the Assistant School Manager and Assistant Dean will submit a business case for approval by the School Manager and Executive Dean and copied to HR.

Depending upon the number of staff affected within the College, the individual or collective redundancy procedure will then apply from **Step 3 of the Individual or Collective Redundancy Procedure.**

### 3.0 GUIDANCE

#### 3.1 Definition of Redundancy

This policy is to be used for redundancy situations, defined in s. 139 (i) of the Employment Rights Act 1996 as a dismissal attributable wholly or mainly to:

- The fact that the College has ceased, or intends to cease, to carry on the business for the purposes of which the individual was employed by the College, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or
- The fact that the requirements of that business for employees 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.
- The College may also choose to use this policy or part of it for other situations, such as restructures, that may fall outside the statutory definition of redundancy.

If the proposed possible redundancies are likely to be strategic or large scale, then the case will be considered by Governors in the first instance. For example, where the scale and scope of the proposed redundancies involves the closure of a whole School or Department, rather than specific posts within it.

#### 3.2 Notice of Redundancy

The College will attempt to give staff as much notice as is reasonably practicable, but the minimum periods of notice will be as per the individual’s contract of employment, and subject to statutory consultation requirements. The College may ask the employee to work their notice period, remain away from the workplace or may exercise its right to make a payment in lieu of notice for all or part of the notice period.

#### 3.3 Selection

In any redundancy situation, it is important to consider who should be placed at risk of redundancy and included in the redundancy pool. A redundancy pool may consist of one person. This will be the case where the type of work that a specific member of staff undertakes reduces and the type of work undertaken is different to others. Where it is needed to reduce the number of staff doing the same or similar work, a redundancy pool will be assembled and managers will develop relevant selection criteria.

#### 3.4 Bumping

When determining whether selection pools are required, or the scope of any selection pool, the College is required to consider whether the redundancy should involve bumping. Bumping occurs when an employee, whose own job is not at risk of redundancy, is dismissed and their job is filled
by an employee whose role is at risk of redundancy. The reason for dismissal will still constitute a redundancy. Managers should seek advice from HR on this issue.

3.5 Re-employment

In general, former members of staff would not normally be expected to be re-employed in the short to medium term (usually within 2 terms). However, changes may occur that are unforeseen, for example, in the case of the acquisition of a new grant or funding stream. Prior to any discussions or offers to former members of staff, HR must be consulted for advice about potential re-employment. Where there is a risk to the College or abuse of this policy and procedure, the College will investigate and take appropriate action. A potential outcome may be that this becomes a disciplinary matter for existing staff and the College may decide to recoup a proportion of the non-statutory enhanced redundancy payment.

4.0 RESPONSIBILITIES

All those persons referred to within the scope of this policy are required to adhere to its terms and conditions. Individual managers are responsible for ensuring that this policy is applied within their own area.

Any queries on the application or interpretation of this policy must be discussed with the HR team prior to any action being taken.

The Director of Human Resources has responsibility for ensuring the maintenance, regular review and updating of this policy.

Birkbeck reserves the right to review, revise, amend or replace the content of this policy and / or introduce new policies from time to time, subject to good practice principles of consultation where applicable, with staff, representative trade unions and appropriate Committees to reflect the changing needs of the College and to take account of changes in legislation.

The following have direct responsibilities under this policy:

- **Line Managers**
  - Submit business case for restructure/downsizing to senior manager and HR.
  - Seek volunteers for redundancy or retirement.
  - Liaise with HR and Executive Dean/Assistant Dean or Lead Academic/Director to identify suitable alternative employment opportunities for staff at-risk of redundancy.
  - Consider whether bumped redundancies may be appropriate in liaison with HR.
  - Identify the most appropriate form of redundancy notification and support affected staff through the process in conjunction with HR.
  - Attend and/or lead consultation meetings where required.
  - Confirm compulsory redundancies.
  - Discuss suitable redeployment opportunities with at-risk staff.

- **Human Resources**
  - Liaise with Director of HR and the Chair of HRSPC to review the business case for restructuring/downsizing.
  - Provide notification of potential redundancies at an early stage to recognised trade unions, where practicable, and forward the business case prior to the collective consultation period.
- Retain record of selection criteria used to identify staff at-risk of redundancy.
- Attend consultation meetings with at-risk members of staff, if required.
- Liaise with appropriate line manager and Executive Dean/Assistant Dean or Lead Academic/Director to identify suitable alternative employment opportunities for at-risk staff.
- Provide advice to managers on ‘bumped’ redundancies.
- Consider requests for voluntary redundancy and notify staff of the outcome.
- In liaison with line manager, support affected staff through the redundancy process.

- **Head of HR Services**
  - Consider appeal requests.

- **Employees**
  - Attend consultation and other meetings as required.
  - If lodging an appeal against redundancy, submit request in writing to Head of HR Services.
  - Notify HR if applying for vacant posts within the College.
  - Provide written documents to assist in redeployment process, if applicable.
  - Submit requests for voluntary redundancy or retirement in writing.

- **Director of HR**
  - Liaise with HR Manager and Chair of HRSPC to consider business case for restructure/proposed redundancies, where appropriate.
  - Notify Governors of redundancies where appropriate.
  - Confirm voluntary severance options that may be made available.

- **Assistant Dean or Lead Academic/Executive Dean/Director**
  - Liaise with appropriate line manager and HR Manager to identify suitable alternative employment opportunities for at-risk staff.
  - Establish selection criteria for redundancy pool where required.
  - Assistant Dean/Director – chair consultation meetings as required and attend as appropriate.
  - Confirm compulsory redundancies.

- **Chair of HR Strategy and Policy Committee/Nominee**
  - Review and if appropriate approve business case for redundancy.
  - Approve implementation of selection process.

- **Chair of Appeal Panel**
  - Review appeal requests.
  - Seek to reach consensus but take responsibility for final decisions where appropriate.

**Related Documents**
- Fixed Term Contract Policy
- Birkbeck College Charter Statutes
- Variation in Hours Policy
- Redeployment Policy
- Flexible Working Policy
- Career Breaks
- Leave of Absence Procedure for Academic Staff