

Clause 8.3 – Review of Decisions

- 8.3.1 Under this Agreement a staff member has a right to request a review by an Internal Reviewer of a decision:
- (a) to declare a position redundant;
 - (b) to recommend termination of employment during academic probation;
 - (c) to recommend termination of employment for unsatisfactory performance;
 - (d) to recommend termination of employment for serious misconduct or research misconduct;
 - (e) by Human Resources to decline an application for reclassification of a professional position;
 - (f) under the Staff Complaint Resolution Procedure to resolve a complaint about academic workload allocation (see clauses 5.4.6.2 and 8.4).
- 8.3.2 A staff member may be assisted by a representative as defined by this Agreement.
- 8.3.3 Where a decision affecting a staff member is eligible for review, the review will be conducted by an individual Internal Reviewer.
- 8.3.4 The Internal Reviewer will be a staff member holding a position of Level D or above or a professional staff member holding a position of HEO9 or above.

8.3.5 Selection of reviewer

- 8.3.5.1 A pool of reviewers will be established by agreement between the University and the NTEU. Once initially established, the University and the NTEU may add additional reviewers to the pool by agreement.
- 8.3.5.2 The University will nominate a reviewer from the pool for consideration by the NTEU. The NTEU may also nominate a reviewer for consideration by the University.
- 8.3.5.3 The Internal Reviewer will:
- (a) not have a personal or professional interest in the outcome of the review;
 - (b) not have been involved in any way in the process;
 - (c) not hold a position in the same Faculty or Area as the staff member applying for the review.

8.3.6 Review process

- 8.3.6.1 The Internal Reviewer will:
- (a) make a recommendation based only on written submissions. The material that the internal reviewer will base their recommendation upon will be limited to the staff member's application and supporting documentation and any written response to the review application by the University;
 - (b) only consider the application in light of this clause and any relevant terms of reference in clause 8.3.9;
 - (c) act quickly, fairly, impartially and confidentially;
 - (d) apply the principles of natural justice and procedural fairness;
 - (e) provide the staff member with a copy of any response to their application by the University;

(f) give the staff member the opportunity to reply to the University's response by providing a written response within two (2) working days;

(g) provide a written report of their finding(s) to the Vice-Chancellor and President.

8.3.7 The Internal Reviewer may seek additional information or material from the staff member or the University as they think fit.

8.3.8 The Internal Reviewer does not have any decision-making authority.

8.3.9 Terms of Reference

Clause	Decision Under Review	Terms of Reference
8.3.9.1	A decision to: a) declare a position redundant; or b) recommend termination of employment during academic probation	i. Demonstrable error(s) in process which would have materially affected the outcome of the process; and/or ii. New, relevant and compelling evidence which would have materially affected the outcome of the process.
8.3.9.2	A decision to recommend termination of employment for unsatisfactory performance, serious misconduct or research misconduct	i. Demonstrable error(s) in process which would have materially affected the outcome of the process; and/or ii. New, relevant and compelling evidence which would have materially affected the outcome of the process; and/or iii. Whether the recommendation to terminate employment is reasonable given the level of unsatisfactory performance; serious misconduct; and/or research misconduct.
8.3.9.3	Human Resources' decision to decline an application for reclassification of a professional position	i. Demonstrable error(s) in the assessment of the position, which would have materially affected the outcome of the application; ii. New, relevant and compelling evidence which would have materially affected the outcome of the application.
8.3.9.4	Resolution of a staff complaint related to academic workload allocation (see clauses 5.4.6.2 and 8.4)	Demonstrable error(s) in process under the Staff Complaint Resolution Procedure which would have materially affected the outcome of the process.

8.3.10 The grounds of review do not include a re-assessment or re-hearing of the merits of the matter.

8.3.11 A staff member who applies for a review under this clause must submit a written application to the Deputy Vice Chancellor/Vice President that meets the requirements set out in clause 8.3.12.

8.3.12 Requirements for the application for review:

Clause	Decision Under Review	Terms of Reference
8.3.12.1	To review a decision to: a) declare a position redundant; or b) recommend termination of employment during academic probation	a) Clearly state the relevant term(s) of reference for the review; b) Identify one or more demonstrable error in the process under review and/or new, relevant and compelling evidence; and c) Provide sufficient detail to identify how the demonstrable error or new evidence materially affected the outcome of the process.

Clause	Decision Under Review	Terms of Reference
8.3.12.2	To review a decision to recommend termination of employment for unsatisfactory performance, serious misconduct or research misconduct	a) Clearly state the relevant term(s) of reference for the review; b) Identify one or more demonstrable error in the process under review and/or new, relevant and compelling evidence; c) Provide sufficient detail to identify how the demonstrable error or new evidence materially affected the outcome of the process; and d) Provide sufficient information to demonstrate that the recommendation for termination is not reasonable given the nature of the unsatisfactory performance; serious misconduct; and/or research misconduct.
8.3.12.3	To review a Human Resources decision to decline an application for reclassification of a professional position	a) Identify one or more demonstrable error in how the position was assessed against the Classification Standards (Professional Staff); and b) Provide sufficient detail to identify how the demonstrable error materially affected the outcome of the application.
8.3.12.4	To review the proposed resolution of a staff complaint related to academic workload allocation (see clauses 5.4.6.2 and 8.4)	a) Identify one or more demonstrable error in the process under the Staff Complaint Resolution Procedure; and b) Provide sufficient detail to identify how the demonstrable error materially affected the outcome of the application.

8.3.13 Reviewer's report

The Internal Reviewer will provide a written report to the Vice-Chancellor and President with their findings as soon as practicable after receiving all relevant documents under this clause, 8.3.

8.3.14 Actions by the Vice-Chancellor and President

8.3.14.1 Upon receiving the Internal Reviewer's Report, the Vice-Chancellor and President will:

- (a) uphold or dismiss the findings; and/or
- (b) take any appropriate disciplinary action under this Agreement; and/or
- (c) if appropriate, determine a process to reconsider the matter under review.

8.3.14.2 In taking action under clause 8.3.14.1 the Vice-Chancellor and President will:

- (a) have due regard to the Internal Reviewer's findings;
- (b) advise the staff member and any other relevant persons of their decision; and
- (c) provide the staff member with a copy of the Internal Reviewer's Report.

8.3.14.3 All actions of the Vice-Chancellor and President are final, except that nothing in this clause will be construed as excluding the jurisdiction of any external court or tribunal.