

Responses to questions posed on 19th March 2021

Q1: In the outcome letter you make quite some effort to re-define 'primarily' as a non-quantitative assessment. Your new definition refers to 'primarily' as a descriptor to 'determine the more significant or principal focus of research activity in an individual's overall research profile'. We asked you at the second collective consultation meeting to give a definition of 'more significant' and 'principal focus' in non-quantitative terms and you said you would get back to us on this in writing.

In the change proposals for ULSB, the assessment of whether an individual is conducting research "primarily" in CMS/PE has always included a non-quantitative approach. The outcome letter does not therefore "re-define" the term "primarily" as a non-quantitative assessment.

The Terms of Reference document that guided the work of the review group defined 'primarily' as follows:

In this context '**primarily**' is not used as a quantifiable measure based on a specific proportion of outputs and/or grants but as a descriptor to determine the more significant or principal focus of research activity in an individual's overall research profile. Each individual's research profile will be assessed according to the basket of indicators in making this assessment. Assessments will be made on the basis of whether or not a reasonable person would consider the person to be conducting research **primarily** in CMS/PE (as defined) and/or other areas of research that are not aligned with the proposed future strategic direction of the School rather than in an area that is aligned with the proposed future strategic direction of the School.

One scenario which would be very likely to lead to an assessment that an individual is conducting research "primarily" in CMS/PE would be where the majority of their outputs and/or grants in the relevant period were assessed as being in CMS/PE.

An example of a scenario in which an individual could be assessed as conducting research "primarily" in CMS/PE" in non-quantitative terms would be where their research outputs fell into several distinct areas but the research in CMS/PE was the largest single coherent body of research. This might be the assessment reached for example where there are 8 research outputs in the relevant period, 4 of which are in CMS/PE and the other 4 research outputs are in subject areas A, B, C and D, with one output in each area. In that example, the more significant and principal focus of the individual's research could be assessed as being in CMS/PE. The assessment would be made by considering the full basket of indicators as set out above.

Q1a: Since the exercise is about '[determining] the more significant or principal focus of research activity in an individual's overall research profile', if an individual quantifiably has more outputs from the basket of indicators in a different research activity, does this mean that they are now outside the scope? And if not, why not?

The assessment of the individual's "more significant or principal focus of research activity" was made by considering the full basket of indicators in each case. For each individual,

account was taken of factors such as career stage and mitigation (e.g. TU facilitation time, part time working etc). In addition it is important to note that neither quality nor quantity (performance) were used as indicators by the review group.

In respect of those who remain at risk following the Review exercise, the Review Group does not consider that any individual quantifiably had more outputs from the basket of indicators in a distinct area of research activity other than CMS/PE. The question raised is therefore hypothetical.

On that hypothetical basis, if an individual quantifiably has more research outputs from the basket of indicators in a different research activity to CMS/PE, that may lead to an assessment that CMS/PE is not the “more significant or principal focus” of the individual’s research activity. That statement assumes that the non-CMS/PE outputs are within a particular and distinct area of research activity rather than spread across multiple different areas of research activity (see the answer to Question 1). However, each assessment would be made against the full basket of indicators, which includes factors other than research outputs.

In line with the case for change, individuals would be removed from the at risk group if they were assessed as having the more significant or principal focus of their research activity in an area which is a) not CMS/PE and b) which is aligned to the proposed future research direction of the School. This was the assessment made by the Review Group in the case of the 3 individuals who were removed from the at risk group following the Review.

For clarity, in each case where the individual remains in the at risk group, the Review Panel’s assessment was that the “more significant or principal focus” of the individual’s research activity was in CMS/PE (as opposed to any other area, whether aligned to the proposed future research direction of the School or otherwise).

Q2: We asked about the list of new priority areas for future school research and its role in the screening. Initially there seemed to be two categories used to establish whether someone was at risk of redundancy or not: if you categorized their work as ‘primarily’ CMS and/or PE (as defined by yourselves) then they were at risk of redundancy. You now seem to have created a third category with the list of new priority areas: work that is not CMS/PE but also not aligned with the ‘future strategy of the School’ is also being flagged as problematic. This has manifested itself in various ways. Most worrying publications highlighted in individual consultations as *unproblematic* have suddenly become so following the Review Panel’s meetings. Was this third category used in the initial screening?

The assessments made in the initial screening and in the Review exercise involved identifying the area of activity in which an individual primarily conducts research, and whether or not this is an area which is aligned to the School’s future strategic direction.

The Case for Change stated in paragraph 3.2 that “The proposal in the School of Business is to retain only those T&R staff whose research focus fits with the future research needs of the School.” This remains the case. The Case for Change set out the priority areas for the School in terms of future strategic direction.

The Case for Change also stated: “It is proposed that the School will no longer support research in critical management and political economy as these areas are not aligned with the School’s future direction. An initial screening exercise has been conducted to identify staff who *prima facie* conduct research primarily in those areas not aligned with the School’s future direction.”

The Case for Change specifically identified CMS and PE as areas of research activity which were not aligned with the School’s future strategic direction. It was not considered that there were any other distinct and identifiable areas of research activity within the School (in the sense of staff primarily researching in those areas) which were not aligned with the School’s future strategic direction.

The initial screening exercise was “conducted to identify staff who *prima facie* conduct research primarily in those areas not aligned with the School’s future direction.” For this exercise, “those areas not aligned with the School’s future direction” were CMS and PE. However, had an individual been assessed in this exercise as conducting research primarily in an area other than CMS/PE but which was also not aligned with the School’s future direction, they would also have been placed at risk of redundancy and the Case for Change would have proposed to disinvest from that area as well. No such other areas were identified in the initial screening exercise – all of those who were not placed at risk were considered to be primarily conducting research in areas which are aligned with the School’s future strategic direction.

The initial screening exercise did identify research publications which were not in CMS/PE (as defined) but which were not in areas aligned to the School’s future strategic direction. However, in no case did the initial screening exercise conclude that these other areas were the areas of activity in which the individual primarily conducted their research.

During the initial consultation, those at risk were given information of the outcome of the initial screening exercise which explained the outputs which were considered to *prima facie* indicate that the individual was conducting research primarily in CMS/PE. As the focus was on why individuals were assessed as researching primarily in CMS/PE, this information did not specifically highlight other research outputs in other areas not aligned with the School’s future strategic direction.

Sixteen individuals already identified as in scope were considered at the review group. The review group had the following information available:

1. Case for change and Points of Clarification document
2. Individual outcome of the *prima facie* screening exercise undertaken to inform the case for change
3. Representations put forward as part of the individual and collective consultation process Additional material supplied by individuals to determine whether it should be included in the basket of indicators e.g. additional publications not taken into account in the original screening
4. IRIS report for the individual

The purpose of the review group was to establish whether each individual should remain in scope on the basis of the information available both before and after the first individual consultation meetings. Through this process three individuals were removed from the pool. Thirteen individuals remained in scope, and therefore “at risk” of redundancy, after consideration by the review panel on the basis of whether or not a reasonable person would consider the person to be conducting research **primarily** in CMS/PE (as defined) and/or other areas of research that are not aligned with the proposed future strategic direction of the School rather than in an area that is aligned with the proposed future strategic direction of the School.

The Terms of Reference for the Review Panel did not introduce a third category of research activity. There have always been two categories – activity that is aligned to the future strategic direction of the School and activity which is not. CMS/PE are examples of the latter. The Terms of Reference for the Review contained a consolidated list of areas of activity that are aligned with the School’s future direction, in order that these were explicitly identified for the purposes of the review.

The Terms of Reference asked the Review Group to “consider each individual case to assess whether the person is conducting research primarily in the areas of Critical Management Studies and/or Political Economy (as defined) **and/or other areas of research that are not aligned with future strategic direction**” (emphasis added) to accurately reflect the proposal in the Case for Change “to retain only those T&R staff whose research focus fits with the future research needs of the School.” This was done in the interests of consistency with the proposal in the Case for Change. Following initial feedback on the Case for Change which indicated dispute about the definition of CMS and PE, it was considered that the Terms of Reference for the Review should reflect the fact that ultimately the question for the Review Panel was whether the individual was conducting research primarily in an area of activity aligned to the School’s future direction.

In the event, the Review Panel concluded, in the case of all of those who remain at risk, that they conducted research primarily in the areas of CMS/PE as defined. For those who were removed from the at risk group through the review, the assessment was that they conducted research primarily in an area of activity aligned to the School’s future direction.

Q2a If this third category *was* used in the initial screening, why were colleagues not given the chance to discuss publications that were highlighted as unproblematic when in fact they are problematic?

As explained in the answer to question 2, the initial consultation involved explaining to at risk colleagues why they had been assessed in the initial screening exercise as conducting research primarily in CMS/PE, and the outputs which were considered to fall within those areas were highlighted to them. However, it is not the case that at risk colleagues have not had the opportunity to discuss other publications or to question their at risk status by reference to all elements in the basket of indicators for their research profile. Colleagues will also have the opportunity to discuss such matters further at the second individual consultation meeting.

Q2b If this third category was *not* used in the initial screening, then please explain why you have changed the criteria for redundancy between the first and the second screening. Please also explain why you believe such a change in redundancy criteria is lawful in terms of employment law and redundancy procedures? Caroline Johnson promised to establish for us in writing whether such a change of criteria is lawful.

As explained in the answer to Q2, there has been no change in the criteria for redundancy between the initial screening and the panel review.

In addition:

- those originally placed at risk were assessed in the initial screening exercise as conducting research primarily in CMS/PE rather than in an area aligned to the future strategic direction of the School
- this screening exercise was repeated following feedback from the initial consultations, to ensure that no individual who potentially met the criteria (see points of clarification document) had been omitted from the original screening. Those at risk remained those assessed as conducting research primarily in CMS/PE rather than in an area aligned to the future strategic direction of the School
- those who remain at risk were assessed in the Review exercise as conducting research primarily in CMS/PE rather than in an area aligned to the future strategic direction of the School.

Therefore, the request for an explanation of “why you believe such a change in redundancy criteria is lawful in terms of employment law and redundancy procedures” is not relevant.

The law on unfair dismissal does not, in any event, prevent an employer from changing or adapting the redundancy pool or its redundancy selection criteria during the course of consultation. Examples would include scenarios where consultation indicates that a redundancy pool should be widened to take account of employees with inter-changeable skills; where redundancy selection criteria are considered, following feedback in consultation, to be potentially ambiguous or imprecise and are therefore clarified; or where selection criteria proposed are later considered to be potentially discriminatory.

Q3: We asked whether you could have used the term ‘some work in CMS/PE’ instead of ‘primarily work in CMS/PE’ as a criterion for being at risk of redundancy, to which you, Professor O’Connor, replied ‘yes’.

If the initial screening exercise was done to identify colleagues who do ‘some work’ in CMS/PE, then why did you make the effort to list works that you deem unproblematic?

If Professor O’Connor answered the question referred to in that way then she either misunderstood the question or mis-spoke. The term ‘some work’ is not a term that has been used in any of the assessment nor the benchmark used in those assessments.

Those placed at risk have been assessed as conducting research primarily in CMS/PE, not just having done some work in that area.

The basket of indicators for each individual included **all work** that met the criteria for inclusion as set out in the terms of reference document and each case was considered as a whole.

Q4: How did you fairly and objectively distinguish between colleagues in and outside of the redundancy pool, when the criteria is that ‘some work’ is in CMS/PE: several colleagues outside the pool do ‘some work’ in CMS/PE, for example papers in the mentioned journals, reference to research interests in CMS/PE or direct reference to these terms in the keywords and titles of their publications and grants?

We did not use the criteria of “some work” in CMS/PE. The screening exercise considered the full basket of indicators.

Those at risk were assessed as conducting research **primarily** in the areas of CMS/PE.

Those who were not placed at risk were assessed as conducting research primarily in areas aligned to the School’s future direction. Even if their basket of indicators did include “some work” in CMS/PE, the overall assessment was that this was not the area in which they were primarily conducting their research.

Q5: You told us that the review group *reviewed* the selection of 16 members of staff out of the School? But the review panel did not in fact look at the all 66 staff in scope, i.e. it did not revisit the initial screening exercise. Can you explain in writing how the Review Panel ensured the initial screening exercise was a fair and objective, i.e. that the work of colleagues at risk of redundancy is sufficiently different from those not at risk to justify the fair and objective separation of the two?

All 66 members of staff were included in the initial screening exercise. As part of the consultation process, we were asked why other individuals had not been included in the pool (see Addendum document). All staff were then screened again to check that the initial pool was correct and this was reported back to the review group. We are confident in the approach taken and in the decisions made not to include staff in the at risk group during the initial screening exercise and when that exercise was repeated.

The purpose of the review group was to establish whether each individual at risk following the screening exercises should remain in scope. This was considered on the basis of the information available both before and after the first individual consultation meetings and on the basis of an assessment by the Review Panel as to whether or not a reasonable person would consider the person to be conducting research **primarily** in CMS/PE (as defined) and/or other areas of research that are not aligned with the proposed future strategic direction of the School, rather than in an area that is aligned with the proposed future strategic direction of the School.

If colleagues at risk of redundancy consider that their work is similar to the work of others who are not at risk, they can raise this at individual consultation meetings.

Q6: At the outset of the process, we were not told there would be a Review Panel. Was the use of this panel decided in the middle of the process and why? We have concerns about

confidentiality as findings of the initial screening exercise were forwarded without our knowledge to the review panel. Do you plan to share our files more widely?

The Review Group was established in response to feedback from the consultations and as a means of further checking the basis on which colleagues in ULSB had been placed at risk. As outlined in an email sent on 2nd March 2021, the Review Group was responsible for considering, reviewing and recommending outcomes for further consultation in the individual cases for all staff at risk of redundancy in the case for change in ULSB.

The terms of reference outline the material that was reviewed by the group. The review group was a confidential meeting and minutes from that meeting will be treated as private and confidential. Redacted summary minutes of the review panel's discussion will be provided to the individual concerned if requested. There are no plans to share material more widely than for the purpose of individual consultation.

8th April 2021