REORGANISATION CODE

DEFINITIONS

Employer:	the Executive Board
Administrator:	the dean of a faculty or the director of a service department. In the event of a reorganisation of the University of Twente at large, the Executive Board is regarded as the administrator.
Unit:	a faculty or service department. In the event of a reorganisation of the University of Twente at large, the UT is regarded as the unit.
OPUT:	the body in which employee organisations have a seat for the purpose of local consultation.
Local consultation:	the consultation between the Executive Board and the OPUT
University Council:	the central participation in decision-making organ of the UT.

REORGANISATION CODE

1. Introduction

The University of Twente is almost continuously faced with changes. These can be minor organisational adjustments, but also larger operations. To address the personnel consequences these involve, there is the Framework for Social Policy as laid down in the Collective Labour Agreement. This reorganisation code has been developed in order to ensure a smooth reorganisation process. Starting point in this is a careful and open approach to reorganisations.

The reorganisation code is a generic document. Therefore the code offers a solution for the great variety of issues that come up in an organisation. Starting point are the principles, definitions, responsibilities, competences and decision-making points.

Pursuant to the WHW, UR regulations and Collective Labour agreement, conditions may be set that reorganisations must meet. This will be worked out in the sections two and five up to and including seven. The responsibilities and competences of the various parties are explained in section three and four. Section eight is about communication. Section nine gives an overview of the minimum conditions that a reorganisation procedure must meet. In particular the decision-making points are explained.

2. Definition reorganisation

In clause 9.1 the current Collective Labour Agreement Dutch Universities defines the concept of reorganisation as follows:

Clause 9.1 Collective Labour Agreement:

A reorganisation at a university or part thereof is understood to mean a change in the organisation, as referred to in clause 25, first paragraph, sub a up to and including f, Works Councils Act, which refers to the university, or to a major part thereof, with direct, far-reaching consequences for employees as regards legal status.

Clause 25, first paragraph sub a up to and including f, Works Councils Act:

The works council allows the entrepreneur to issue an advice on each of the entrepreneur's proposals regarding:
a. a transfer of control of the company or a part thereof;
b. the incorporation or taking over or abandoning control of another company as well as entering into, effecting a major change to, or breaking off a permanent partnership with another company, including entering into, effecting a major change to, or breaking off a major participating interest on account of or on behalf of such company;
c. terminating the activities of the company or of a major part thereof;
d. a major reduction, extension or other change of the activities of the company;
e. a major change in the organisation of the company or the division of the competences within the company;
f. a change of the place where the company exercises its activities.

Clause 9.1 of the Collective Labour Agreement states that this involves reorganisations that have immediate and far-reaching consequences for employees. In clause 9.4 of the Collective Labour Agreement these immediate and far-reaching consequences are defined.

Clause 9.4 paragraph 2 Collective Labour Agreement:

Far-reaching consequences for employees as regards legal position are understood to mean among other things: dismissal, or the threat thereof, a major change in the job or a transfer to another part of the organisation.

The answer to the question whether a reorganisation as referred to in clause 9.1 is involved, takes place after the advice of the co-participation body has been received.

3. Position of the management

Starting point is that the administrator is responsible for the reorganisation within his unit. Based on this responsibility, the administrator is obliged to timely inform the Executive Board, the co-participation body and the staff on the intended reorganisation. The Executive Board informs the OPUT on the proposed reorganisation. If a reorganisation of the UT at large is involved, the roles of the administrator and the Executive Board coincide.

When a reorganisation concerns one unit only, two situations may be involved:

a. If the administrator – after seeking the advice of the co-participation body – establishes that a reorganisation is necessary, the administrator informs the Executive Board about the initiative. Once the Executive Board has given its approval concerning the initiative of a reorganisation, the preparations will start.

b. The Executive Board may take the initiative for a reorganisation within one unit. In that case the Executive Board will consult with the administrator. After the advice of the co-participation body the administrator will take the decision for a reorganisation and preparations for it will start.

If the reorganisation in question involves several units, three situations may be involved:

a. A number of administrators of units take the initiative for a reorganisation. After the administrators concerned have reached mutual consensus on the desirability of the reorganisation and after the advice of the co-participation bodies involved, the Executive Board is informed about the initiative. Once the Executive Board has given its approval for the reorganisation, the preparations will start.

b. The Executive Board takes the initiative for a reorganisation of several units. In that case the Executive Board starts consultations with the administrators involved. After the advice of the co-participation bodies involved, the administrators decide in favour of a reorganisation and preparations will start.

c. The Executive Board takes the initiative for a reorganisation of the UT at large, i.e. a reorganisation that surpasses the unit level. In that case the Executive Board is the administrator. After the advice of the university council the administrator will decide in favour of a reorganisation and preparations will start.

In deviation of the above where a reorganisation of several units is involved, agreements can be made on the co-participation procedure to follow. Co-participation procedures are understood to mean which organ may exert control, and when. The starting point here is that the level of formal co-participation is determined by the level of control. Therefore formal co-participation can only be exercised at one level.

4. Position of co-participation bodies and the OPUT

The co-participation bodies will be involved, as regards the decision-making, in the *organisational* part of the reorganisation process. For the service departments, this is the Service Council, and for the faculties, the Faculty Council. If the UT at large is involved the entire University Council is involved as co-participation body. Before the reorganisation process commences, the co-participation bodies give an advice on the question whether a reorganisation as referred to in clause 9.1 Collective Labour Agreement Dutch Universities is involved. Also discussed in this context is the approach of the preparations for the reorganisation, and any co-participation procedure to be followed. If after the advice of the co-participation body the administrator establishes that a reorganisation is involved, a reorganisation plan is developed on which the personnel section of the University Council, the personnel section of the Faculty Council or the Service Council is asked for advice. Before the execution of the plan, the personnel section of the co-participation body is to have given its approval to the reorganisation plan. The co-participation body is informed on the staffing plan.

As for the decision-making the OPUT will be involved in the *personnel* side of the reorganisation process. As employer the Executive Board is responsible for the consultation with the OPUT. On the basis of clause 9.2 Collective Labour Agreement the OPUT is informed of the intended reorganisation. Subsequently, in the local consultation, the way in which the far-reaching consequences as regards legal status of the employees involved, will be discussed at least once. In accordance with clause 9.4 Collective Labour Agreement it is discussed with the OPUT whether a social plan will be drawn up in addition to the Framework for Social Policy. The OPUT is informed about the staffing plan.

5. Announcing a proposed reorganisation

Clause 9.2 the Collective Labour Agreement Dutch Universities provides the following on the announcement of a reorganisation:

Clause 9.2 Collective Labour Agreement:

1. The employee organisations in the local consultation and the competent co-participation body are timely informed on a proposed reorganisation.
2. The proposal for a reorganisation comprises as much as possible information concerning the following subjects, but at any rate information on the subjects stated under a, b, f and g:
a. the cause for the reorganisation
b. the purpose of the reorganisation
c. the nature and extent of the reorganisation
d. the financial and/or formative preconditions
e. the starting points and preconditions concerning the consequences for the staff
f. the procedure to be followed in the preparations and execution of the reorganisation, including a global time planning
g. the expected general consequences regarding legal position.

6. Social plan

Clause 9.4 Collective Labour Agreement Dutch Universities provides the following on the social plan:

1. If far-reaching consequences for staff are involved as regards legal position, the Framework for Social Policy as included in section 2 of this chapter, will be applied and it is decided in consultation with the employee organisations within the Local Consultation whether in addition to this a Social Plan will be drawn up.
2. Far-reaching consequences for employees as regards legal position are understood to mean among other things dismissal (or threat of dismissal), a major change in the job or transfer to another part of the organisation.

After the proposal for reorganisation has been announced, it will be decided whether a social plan will be drawn up in addition to the Framework for Social Policy. This means that a social plan will only be drawn up if both parties (OPUT and Executive Board) believe that an addition to the Framework for Social Policy is necessary. Before the social plan is drawn up, it will be indicated what subjects will be included in the social plan.

A social plan is a scheme as referred to in annexe C under clause C.9 of the Collective Labour Agreement. The social plan requires consensus between the Executive Board and the OPUT.

7. Reorganisation Plan and Staffing Plan

Clause 9.5 Collective Labour Agreement Dutch Universities provide the following on the reorganisation plan and the staffing plan:
1. Following and with due observance of the proposal for reorganisation the employer draws up a reorganisation plan and a staffing plan.
2. The reorganisation plan describes in detail the intended change of the organisation. The reorganisation plan states at any rate:
a. the purpose and task of the new organisation unit and its constituent parts
b. the quantitative staffing
c. the qualitative staffing.
3. The staffing plan describes, on the basis of the reorganisation plan, the consequences for individual staff members as regards legal status. The plan states at any rate:
a. the employees whose organisational position changes, and how;
b. which employees are in danger of being dismissed;
c. for which employees the legal status will in any other way change directly and in a far-reaching way;
d. in what way and with due observance of the Framework for Social Policy, and if present the Social Plan, the expected consequences as regards legal position will be handled.
4. The staffing plan will be drawn up after or simultaneously with the reorganisation plan.

In addition to the conditions set by clause 9.5 paragraph 2 to the contents of a reorganisation plan, the reorganisation plan contains a description of the purpose and task of the current organisational unit and its constituent parts and an overview of the current quantitative and qualitative staffing.

Clause 9.6 Collective Labour Agreement Dutch Universities and clause 11, paragraph 3, under 2, and clause 25 of the University Council regulations provide for the adoption of the reorganisation plan:

Clause 9.6 Collective Labour Agreement:
The employer will only decide on the reorganisation plan after allowing the competent co-participation body to render an advice on the plan and after it has been informed on the employer's proposal whether or not to extend the Framework for Social Policy.

Prior to the execution of the reorganisation the personnel section of the co-participation body is to give its approval to the reorganisation plan. This approval is based on clause 11, paragraph 3, under 2, of the University Council regulations which provides that the University Council has the right to approve major organisational changes arising from new policy. The disputes committee co-participation universities has decided that reorganisations that surpass the unit level as a rule constitute a major change whereas reorganisations in general arise from policy changes. The approval of the faculty councils has been laid down in clause 23 of the University Council regulations. This clause is based on clause 9.50 of the WHW which has a similar phrasing for the advice and right to approve of service department councils in case of reorganisations.

Clause 11 paragraph 3 under 2 University Council regulations:

The following subjects will be presented to the University Council for approval:
Major organisational changes arising from a new policy.

Clause 25 University Council regulations, paragraph 1: the dean sees to it that the personnel section of the faculty council is timely given the opportunity to bring out its advice to the dean and consult on the proposed measures regarding:
a. (..)
d. the organisation and working method at the faculty
2. The provision in the first paragraph is at any rate understood to include the right to issue an advice regarding any reorganisation plans, in accordance with the reorganisation code.
5. The dean needs the prior approval of the personnel section for each measure he is entitled to take and about which the personnel section has issued an advice pursuant to the first paragraph.

Clause 9.7 of the Collective Labour Agreement Dutch Universities provides the following on the adoption of the staffing plan:

Clause 9.7 Collective Labour Agreement:
The employer will only decide on the staffing plan after each employee mentioned in the plan has been given the opportunity to express his or her response to the plan.

Clause 9.7 means that the staffing plan can be adopted once each employee mentioned has been able to give his or her response to any intention in writing to change his or her legal status as referred to in the staffing plan.

8. Communication

The administrator is responsible for the communication. This concerns communication with the staff, the co-participation bodies and the Executive Board. The Executive Board takes care of the information supply to the OPUT. The moments at which the co-participation bodies and the OPUT are to be informed are mentioned under point ten of the procedure overview. The staff must at any rate be informed about the initiative, the proposal, the drawing up of the reorganisation plan, the execution and the results of the reorganisation.

9. Procedure – an overview

9.1. Initiative for the reorganisation

In case of a change in the organisation the administrator will submit the question whether a reorganisation as referred to in clause 9.1 of the Collective Labour Agreement is involved, to the co-participation body for advice. If the change in the organisation can be considered as a reorganisation, this Code will be used. The initiative for a reorganisation is submitted to the Executive Board for approval, unless the Executive Board also has the role of administrator.

9.2 Proposal of the reorganisation

Subsequently the next steps are to be taken:

1. The OPUT and the competent co-participation body are timely informed of a proposed reorganisation.
2. The Local Consultation is given the opportunity to discuss the way in which the far-reaching consequences for the employees involved as regards legal status are handled, with the employer. It will be discussed in the local consultation whether a Social Plan is to be drawn up in addition to the Framework for Social Policy.

9.3 Drawing up the reorganisation plan

1. Following and with due observance of the proposal for reorganisation the administrator draws up a reorganisation plan and a staffing plan. The staffing plan is formulated after or simultaneously with the reorganisation plan.
2. The administrator submits the reorganisation plan to the co-participation body for advice.
3. The administrator submits the reorganisation plan, including the advice of the co-participation body, to the Executive Board for approval.
4. The administrator may adjust the reorganisation plan depending on the contents of the advice of the co-participation body and the approval of the Executive Board, and submit it to the co-participation body for approval. After the co-participation body has given its approval, the administrator adopts the reorganisation plan.

9.4 Staffing plan

The staffing plan comes about after or simultaneously with the reorganisation plan. Each employee mentioned in the staffing plan will be given the opportunity to express his or her response regarding the contents of the plan pertaining to himself or herself. This staffing plan is sent to the co-participation body and the local consultation for their information.

9.5 Discussion result reorganisation

Unless otherwise agreed, twelve months after the reorganisation plan has been adopted its results will be discussed with the Executive Board and the co-participation body. The details regarding the settlement of the personnel consequences of the reorganisation will at any rate be discussed. The OPUT will also be informed on the settlement of the consequences for staff.

10. Effective date

The reorganisation code became effective on 1 February 2002 and was lastly amended as per 1 September 2008.