

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKĀURAU ROHE**

[2026] NZERA 98  
3375843

BETWEEN                      JENNY HOOKER  
   Applicant  
  
AND                                VICE-CHANCELLOR  
   UNIVERSITY OF WAIKATO  
   Respondent

Member of Authority:        Helen van Druten  
  
Representatives:              Peter Cranney, counsel for the Applicant  
   David France, counsel for the Respondent  
  
Investigation Meeting:        2 December 2025 at Hamilton  
  
Submissions received:        16 December 2025 from the Applicant  
   23 December 2025 from the Respondent  
  
Determination:                23 February 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     On 5 May 2025, Jenny Hooker lodged an application with the Authority alleging that she was unjustifiably dismissed by the University of Waikato (the university) by way of redundancy. She seeks permanent reinstatement into a suitable position and considers that there were opportunities for redeployment that did not occur, despite the university's contractual obligations to do so.

[2]     The university denies these claims. It says the redundancy was genuine and the process was fair and reasonable. It denies that suitable redeployment opportunities were available and says that it explored other options with Ms Hooker as required under the terms of her employment agreement.

## **The Authority's investigation**

[3] For the Authority's investigation written witness statements were lodged from Ms Hooker (applicant), Shane Vulger (tertiary education union), Jude Macdonald (human resources business partner), Steven Donaldson (assistant director of collections discovery and access) and Michelle Blake (university librarian). All witnesses answered questions under oath or affirmation from me and the parties' representatives. The representatives also gave written closing submissions.

[4] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

## **The issues**

- [5] The issues requiring investigation and determination were:
- a. Whether Ms Hooker was unjustifiably dismissed from her employment by way of redundancy.
  - b. If the Respondent's actions were not justified (by dismissing Ms Hooker), what remedies should be awarded, considering:
    - i. Reinstatement;
    - ii. Lost wages (subject to evidence of reasonable endeavours to mitigate her loss); and
    - iii. Compensation under s123(1)(c)(i) of the Act.
  - c. If any remedies are awarded, should they be reduced (under s124 of the Act) for blameworthy conduct by Ms Hooker that contributed to the situation giving rise to her grievance?
  - d. Should either party contribute to the costs of representation of the other party?

## **Relevant law**

### *The test for justification*

[6] The test for justification at section 103A of the Act applies equally to any dismissal. That is, where there is a dismissal by way of redundancy the Authority must apply that same test for justification. The Authority must carefully assess the actions of the employer in the redundancy process and decide, on an objective basis, whether the

employer's actions were what a fair and reasonable employer could have done in all the circumstances.

[7] The Court of Appeal has observed that the focus of the inquiry as to whether an employer has met the test in s 103A of the Act is on substantial fairness. A key element of that inquiry in redundancy situations is whether the employer complied with its good faith obligations.<sup>1</sup> If an employer can show the redundancy was genuine and that notice and consultation requirements have been met, the s 103A test may well be satisfied.<sup>2</sup>

[8] Those obligations include the requirement to ensure that all relevant information about the restructure proposal is provided to the employee, to provide the employee a reasonable opportunity to respond to the proposal and to genuinely consider those responses before making any decisions.<sup>3</sup>

### **Relevant background information**

[9] Ms Hooker has worked all her career within a university library environment as a qualified and LIANZA registered librarian. She worked in the University of Waikato library for 32 years until her employment ended by way of redundancy on 5 July 2024.

[10] While at the university, Ms Hooker's role changed over time and when asked about this, Ms Hooker prided her ability to move with that change as the university's library staff numbers reduced and cataloguing and digitisation priorities changed. Her experience across multiple teams, in varying roles was not disputed. As Cataloguing Librarian, her role was to manage the metadata with a focus on specific collections. Over various restructures, the number of cataloguers reduced until only Ms Hooker remained as a cataloguer.

[11] The change process began on 30 January 2024. Ms Hooker was on leave at the time. As an affected employee, she was asked to attend an advance meeting (prior to the main announcement) with Ms Blake, Ms Macdonald and Mr Vulger where she was provided the detail of the proposal as it affected her position. The proposal was

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<sup>1</sup> *Popkin v Innovative Landscapes (2015) Ltd* [2019] NZERA 64 at [19]; [2020] NZEmpC 40. The Authority decision references *A Limited v H* [2016] NZCA 419 (CA) and *Stevens v Hapag-Lloyd (NZ) Ltd* [2015] NZEmpC 28 at [60].

<sup>2</sup> *Grace Team Accounting Ltd v Brake* [2014] NZCA 541, [2015] 2 NZLR 494.

<sup>3</sup> Employment Relations Act 2000, s 103A (3) and s 4(1A)(c).

presented later that day in a full library meeting on 1 February 2024 where the proposal was put to the library employees.

[12] On 1 February 2024, the university released a proposal for change document which proposed among other things the intention to reduce the team from three to two roles. Ms Blake presented the proposal to the wider employee group, including Ms Hooker. All affected employees were offered voluntary redundancy.

[13] That document proposed changes across five areas of the library organisation structure decreasing overall numbers by 5 FTE. Relevant to Ms Hooker, it was proposed that three positions (including her existing role) would be disestablished and replaced with two Mātangireia & Digital Services Librarian roles.

[14] Ms Hooker provided both written and verbal feedback on 22, 23 and 28 February 2024. Her feedback was detailed, considered and informed. By 6 March 2024, there were only two employees affected as others had taken voluntary redundancy or been accepted into other roles. Ms Hooker and Ms Pooley remained.

[15] On 7 March 2024 the university released its decision document. This was provided to Ms Hooker and she met with the same people in a second meeting to discuss the decision.

[16] On 13 March 2024, Ms Hooker applied for the (now renamed) Mātangireia Librarian role and was unsuccessful. She also applied for a number of general university roles in other departments and was also unsuccessful.

### **Key documents**

[17] At the time, Ms Hooker's employment was covered by the relevant Collective Agreement (CEA) for professional staff between the university and the TEU and PSA unions.

[18] The salient points of the CEA in relation to consultation read:

#### **H.4 Consultation and management of change**

H.4.2 ...The aim of the consultation is to assist the employer and employees and where appropriate authorised representatives to share their views on the current situation, the objects of proposed change, and options to be considered. The employer will give serious consideration to options for change provided by the employees or their authorised representatives before any decisions are made.

H.4.3 The employer is entitled to have a working plan already in mind at the commencement of consultation.

### **H.5 Redundancy**

H.5.1 Where a review or restructuring has the potential to affect the job security of an employee covered by this agreement, the employer will enter into a process of consultation... prior to any final decisions being made. The purpose of such consultation is to allow the parties sufficient opportunity to ensure all relevant information is being considered when the employer is making the final decision and to investigate options which would prevent any loss of employment...

[19] In relation to the consultation process, following the confirmation of the new structure, the relevant sections of the CEA included:

#### **H 5.5 Redeployment**

An employee may be redeployed to a similar position within the university provided the skills and abilities required are very nearly the same.

#### **H 5.6 Retraining**

Where a staff member available for redeployment is not immediately suitable for a particular vacant position and the skills gap can be bridged by a reasonable period of training, the university will arrange and resource the training within budgetary constraints.

### **The restructure process**

#### *Genuine business need*

[20] I am satisfied that the university had genuine business reasons for the decision to restructure. The proposal document was upfront about the reasons for change and Ms Hooker also accepted that the university had regularly gone through change processes over the years to meet funding requirements and changing student needs. The evidence provided by all three witnesses for the university was consistent that change was needed and the savings needed to primarily come from the staffing budget.

#### *Consultation*

[21] The process of consultation undertaken by the University had two distinct parts – the process of consultation on the restructuring proposal and the process of consultation following the restructure decision.

[22] The information provided to Ms Hooker about the proposed changes was comprehensive. The Library Change Proposal 2024 document given to Ms Hooker, and slides from the 1 February 2024 presentation provided both financial and strategic context, timeframes, proposed changes and a clear opportunity to provide feedback.

[23] Further to this, the university ensured that Ms Hooker knew about the meeting on 1 February 2024 and knew in advance what was to be presented. Albeit the meeting was brief, it ensured that Ms Hooker was not surprised at the later meeting.

[24] The proposal set out that eight positions would be disestablished, including Ms Hooker's position. Four roles would be created, including the two new Mātangireia Librarian positions.

[25] Consistent with the requirements of the Collective Agreement at H.4.4, Ms Hooker was provided more than the contractual 15 day minimum to provide her feedback and there was no suggestion by Ms Hooker that the timeframes at this stage were unreasonable or that she was not provided with the information required to make an informed response to the proposal.

[26] There was some suggestion by Mr Vulger that the outcome of the restructure was pre-determined. There was insufficient evidence to lead me to that conclusion. Ms Blake was upfront early on about moving the existing Digital Services Librarian, Ms Munro, into one of the two proposed (new) positions. Mr Donaldson said that the review of her current position against the proposed Mātangireia Librarian role had showed that approximately 70 per cent of the key tasks aligned and Ms Munro had most of the experience and person specifications required. The university considered that the new position was sufficiently similar to Ms Munro's existing role, that it was appropriate to carve out that new role for her if the proposal went ahead as proposed. Arguably it would have been misleading not to be upfront about that intent at the first meeting.

[27] The university met its good faith requirements to Ms Hooker in that initial consultation period including that it provided all relevant information, met individually in advance, was responsive, provided written copies of material and gave Ms Hooker a reasonable opportunity to comment on that information. Ms Hooker obviously gave considerable thought and effort to her feedback.

[28] Mr Donaldson in particular was responsive and communicative during the consultation process, meeting with Ms Hooker and hearing further feedback from her after the closing date on two occasions, then taking that back to Ms Blake.

[29] The decision on the new structure was made and confirmed on 7 March 2024. A number of changes were made following the feedback, including that Ms Pooley's role as Academic Engagement Librarian would be retained and moved into a different team. This left one Mātangireia Librarian role vacant.

### **Redeployment**

[30] Having established that the restructuring process was substantively and procedurally justified, I turn to the issue of redeployment.

#### *The selection process for the Mātangireia Librarian role*

[31] Mr Donaldson says that he was the primary author of the Mātangireia Librarian position description. The role description was written to recognise the digital future of library services. Following feedback, it was further refined with the help of his Kaitiaki Mātangireia and Poutaki Taonga colleagues.

[32] At the time, Mr Donaldson had developed a key tasks comparison of the Cataloguing Librarian role and the Mātangireia Librarian role for discussion with Ms Hooker. Ms Hooker says she was not given a copy of this document but those responsibilities and key tasks were discussed with Ms Hooker and Mr Vulger on 19 March 2024 and again with Ms Hooker and her support person on 20 March 2024.

[33] Ms Hooker says that she felt that Ms Blake had already decided that she was not suitable for the position". Other than a couple of minor bullet points, she could do all other tasks.

[34] By email six days prior to her interview for the Mātangireia Librarian role, Ms Hooker was provided with the interview topics based on the position description. Applicants were also provided in advance with a 'submission' task that required her to produce a one-page document in response to a specific fact situation.

[35] Once applications closed, the university formally interviewed applicants, including Ms Hooker, for the position with the key selection criteria for the new position, including technical skills and person specifications. These criteria were relevant to the role and as earlier discussed with Ms Hooker. Understandably, Ms Hooker disagrees with some of the assessments of her skills compared to the other candidates.

[36] There were five applicants interviewed for the position. The panel used a traffic light assessment system and assessed all candidates on both hard and soft skills, placing these in a table where all five candidates were assessed. Contrary to Ms Hooker's account, the assessment undertaken by the panel shows that qualifications (as required by the position) were considered and Ms Hooker had a number of red areas where the panel assessed significant concerns in that area.

[37] As one of the interview panel, Mr Donaldson said there were 16 responsibilities where Ms Hooker would have required full training and her submission task ranked fourth amongst those candidates. I tested the criteria in evidence and there was no indication that Ms Hooker was not genuinely and fairly considered for the new role. The panel commented in that tabled assessment that her metadata experience and fields are excellent, but that there was so much more to delivering a digital collection. They decided there was too much training required to redeploy Ms Hooker into that role.

[38] The interview panel consisted of three people. It included Mr Donaldson and Ms Hollie Tawhiao as Ms Hooker's team leader. Importantly, it did not include Ms Blake. At the meeting with Ms Hooker on 7 March 2024, Ms Blake had made some comments regarding "unteachable skills". While Ms Macdonald explained the context when questioned, the comments were unnecessary. I place less weight on those comments however as Ms Blake was not involved in the interview panel.

[39] Written feedback on her interview was provided by Mr Donaldson to Ms Hooker on 12 April 2024. As it transpired, another library employee, Ms Hawthorn, was appointed to the position.

[40] I accept that Ms Hooker fundamentally disagreed with the decision made by the university not to have a metadata specialist role or to appoint her into the new Mātangireia position. She felt well qualified and overlooked in favour of a less experienced candidate. Both Ms Blake and Mr Donaldson acknowledge the skills Ms Hooker had in that area, though both said that the library no longer requires a dedicated cataloguing role and those tasks were absorbed into other roles and are partly automated.

[41] Ms Hawthorn's appointment created another vacancy and that library service delivery coordinator role was advertised in May 2024. Ms Hooker was also invited to

apply and was considered for this role. A different interview panel was set up for those interviews. Ms Pooley was the successful candidate. Again, Mr Donaldson provided feedback to Ms Hooker following her unsuccessful application.

[42] It is not for the Authority to determine whether or not the university appointed the ‘right’ person for either role. I am required to determine whether the process that the university followed was a fair and reasonable one as required by s 103A of the Act and in line with the university’s duty of good faith. In the process of the application for the Mātangireia Librarian position in particular, I consider that the university followed a transparent, fair and reasonable process in its recruitment and selection for that position.

#### *Collective Agreement – Redeployment*

[43] Counsel for Ms Hooker, and Ms Hooker in her evidence, suggested that clause H.5.3 imposes a mandatory obligation on the employer “to consult and explore options with the employee”. He further suggests that similar principles are reflected in the decisions of *Haddad*, *Oceana Gold* and *Wang*.<sup>4</sup>

[44] The CEA clause does not provide an unequivocal right to redeployment and any retraining. It requires an obligation to explore options with the employee. Specifically, it requires that “it is mandatory that the university arrange and resource training within budgetary constraints where a staff member is not immediately suitable for a vacant position and the skills gap can be bridged by training<sup>5</sup>”.

[45] I agree with Mr Cranney that this clause is instructive; though it must be read in context with Clause H.5.5 “provided the skills and abilities required are very nearly the same”. Ms Macdonald did not consider that the obligation to retrain existed for other positions in the university where Ms Hooker would require considerable retraining. In those other roles, in Ms Macdonald’s opinion, the skills gap was not “very nearly the same”.

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<sup>4</sup> *Haddad v New Zealand Steel Ltd* [2021] NZERA 106, *Jinkinson v Oceana Gold* [2010] NZEmpC 102 and *Wang v Hamilton Multicultural Services Trust* [2010] ERNZ 468.

<sup>5</sup> Clauses H.5.5 and H.5.6 of the CEA.

*Obligation to avoid redundancy*

[46] As other alternatives to avoid redundancy, on 26 March 2024, Ms Hooker suggested other work alternatives such as web editing or research work. Mr Donaldson responded in an email expressing openness to this concept but noting that “there also remains the underlying issue of funding such work”.

[47] Mr Vulger also later contacted Ms Macdonald and advocated for redeployment options for Ms Hooker. Ms Macdonald’s response showed this was explored but funding was not available to sustain any employment.

[48] The remaining option was other roles outside the library department. Though it did not run smoothly, Ms Hooker was invited to apply for other roles within the university. She points out the obligations under the Collective Agreement to retain staff where it was possible to do so. Surprisingly, according to Ms Macdonald there were only around seven or eight vacant positions at the time.

[49] That process had hurdles both within and outside the university’s control and could have been managed more efficiently to prioritise Ms Hooker. However, having heard Ms Macdonald’s evidence on that process and the applications, I do not consider that the process deficiencies were, in themselves, sufficient to consider that effective and appropriate redeployment efforts did not occur.

[50] In *Wang v Hamilton Multicultural Service Trust*, the Employment Court held the employer’s actions were deficient in failing to offer Mr Wang a redeployment role when, given some training, he could have performed it:<sup>6</sup>

Where I consider the Trust has failed in its obligations under the redundancy process with Mr Wang relates to the issue of redeployment. The obligation was on the Trust to consider other alternatives to making Mr Wang redundant. In this case, surprisingly, both Ms Fraser and Ms de Lisle concede that Mr Wang was well able to perform the duties of the new position of finance manager and indeed encouraged him to apply for the position when it was advertised...he should have been offered the position by way of redeployment rather than having his previous position terminated and requiring him to apply for the new position when it was advertised.

[51] Again, I agree with Mr Cranney that the same obligation exists here. However, based on the information before the Authority, that looks to have occurred, though not

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<sup>6</sup> *Wang v Hamilton Multicultural Service Trust* [2010] NZEmpC 142 at [40].

with the outcome Ms Hooker wanted. Unlike Mr Wang, Ms Blake says that only twenty per cent of the Cataloguing Librarian responsibilities were retained in the Mātangireia Librarian role. “Steve had carried out a review of the two roles, and it was clear that Jenny would need significant training in nearly every aspect of the new role. We felt she underestimated the requirements of the role”.

[52] I am satisfied that the university investigated in good faith redeployment opportunities that would have prevented any loss of employment for Ms Hooker. The university was not required to create a position for Ms Hooker where one was not readily available.<sup>7</sup>

### **Summary**

[53] Both parties submitted considerable evidence, both in person and in writing to support their position. I have considerable empathy for Ms Hooker having her employment end in this way. It is not what she expected. Her commitment to the university for such a long period was evident, as was the impact of this employment outcome.

[54] I find that Ms Hooker’s termination of employment on the grounds of redundancy was the actions of a fair and reasonable employer and her claim for unjustified dismissal is unsuccessful. Her application for reinstatement is therefore declined and no remedies are awarded.

### **Costs**

[55] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[56] If the parties are unable to resolve costs, and an Authority determination on costs is needed, the university may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum, Ms Hooker will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

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<sup>7</sup> *Caddy v Vice-Chancellor, University of Auckland* [2021] NZEmpC 129 at [153].

[57] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.<sup>8</sup>

Helen van Druten  
Member of the Employment Relations Authority

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<sup>8</sup> For further information about the factors considered in assessing costs see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1).