



## Redundancy Guidance – Schools

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**This is not intended to be an exhaustive document and the guidance should be read in conjunction with the Schools' Redundancy Policy.**

### 1. Introduction

This document aims to provide guidance on how to apply the Redundancy Policy. The School will aim to fully consult with employees and recognised trade union



representatives at the earliest opportunity. The School also recognises that there is a duty to seek to find suitable alternative employment for any employees that are at risk of their employment being terminated due to redundancy.

There may be a need identified for a reorganisation i.e. changes in circumstances, organisational requirements and technological developments, which may affect staffing needs. Managers should consult Human Resources (HR) and the Local Authority (LA) at the earliest opportunity in order to discuss the implications of the proposed change so that any impact can be fully considered and to agree an appropriate level of HR support.

It is expected that all employees and managers will fully participate in applying the policy to ensure that employees are given the best opportunity to be successfully redeployed. Also a fundamental aim of the policy is that all redundancies will take place in a fair and transparent manner.

Redundancy will not be utilised as an alternative to the proper management of performance issues. Where there is concern over an employee's performance the capability/competency procedures should be used. Similarly, performance management will not be utilised to avoid the cost of what would otherwise be a redundancy situation.

## **2. Scope**

The Policy applies to all employees in schools within Community and Voluntary Controlled schools where the Local Authority (LA) is the employer. This includes Headteachers, Deputy Headteachers and Assistant Headteachers, Teachers and Support Staff. This includes those on permanent, temporary or fixed term contracts although please note that redundancy rights may differ depending on whether an employee is permanent, and the length of their service. Please contact HR for further advice.

This policy is commended to all other schools in the borough and should be adopted by Governors accordingly.

## **3. Definitions**

These are set out in the Policy but please note the following:



Designated Manager/Panel –the panel should normally consist of 3 Governors. Where there are not enough Governors available at the meeting this could, by agreement on both sides, be delegated to 2 Governors, however advice should be sought from the Director of Children Services on how to proceed. No employee of the school can be eligible to be a member of the panel.

Appeals Panel - Where there are not enough Governors the appeal may be heard by 2 Governors but there should be no fewer than the number that made the initial decision.

#### **4. Roles & Responsibilities**

This has been covered in the Policy.

#### **5. Principles**

This has been covered in the Policy.

#### **6. Legal Framework**

##### **6.1 Redeployment**

Redeployment support for individual employees should start as soon as reasonably practicable after they have been identified as at risk of their employment being terminated due to redundancy.

Redeployment will normally be to alternative employment commensurate with the employee's experience, skills and abilities and, where practicable and appropriate, at a status and level of remuneration comparable with the former position.

Reasonable training in order to undertake the role, mentoring or other support (such as opportunities to work shadow) will be provided where this will assist in successful redeployment to another role.

##### Offer of suitable alternative work

Wherever possible suitable alternative work will be sought and if a suitable alternative is identified the employee should be given sufficient details to enable them to decide whether or not to accept. When considering whether alternative work is suitable the following factors would normally be considered such as pay, duties, status, location, working environment or hours of work.



In the event that a member of staff receives an offer of employment from another employer covered by the Redundancy Payments (Local Government) (Modification Order) before their contract ends with the School and they take this offer up within 4 weeks of their effective date of redundancy then redundancy pay will not apply. In the event that the redundancy payment had already been made, the employee would be required to repay.

### Trial periods

All employees who are offered an alternative suitable position and served notice of redundancy have a statutory right to a four week trial period in an alternative post (unless the role is very similar to their substantive role). The trial period has two purposes. One is to provide the employee with an opportunity to decide whether the new job is suitable without necessarily losing their right to a redundancy payment and the second is to provide the employer with the opportunity to assess the employee's suitability for the role. This four week trial period can be extended where retraining is required but this should be confirmed in writing, clearly outlining the date on which the trial period will end.

Trial periods may be extended beyond four weeks, by agreement, for the purposes of retraining or where holidays have coincided. The extended trial period must be set out in writing before the start of the new contract, specifying the date on which the period of retraining will end and the terms and conditions that will apply at the end of the retraining period. Retraining during the trial period may take the form of "on-the-job" or formal "off the job training" or a combination of the two dependent on the circumstances of the case. The period should also be a reasonable duration to allow for satisfactory standards and performance in the new role.

Regular progress meetings will be held throughout the trial period and the employee will be given reasonable assistance, if necessary to reach the required standard of performance.

Where the relevant manager considers suitability has been demonstrated during the trial period, the position will be offered in writing on the terms and conditions applicable to the post.

Where the relevant manager considers that the employee has not demonstrated suitability in the post during the trial period, the employee will return to their original post, unless the date on which redundancy would have otherwise occurred has been passed, in which case the employee's employment will be terminated.



## **Salary Protection Arrangements**

These are set out in full in the Redundancy Policy Appendix 1.

## **6.2 Redundancy Pay**

Redundancy payments are based on an employee's age and length of service as per the matrix shown in Appendix E. All employees who are eligible to receive redundancy payments will be given a written notification of the way in which their redundancy payment has been calculated.

In order to qualify for redundancy, employees must work up to the date on which the notice of redundancy expires. Employees wishing to leave before that notice expires may only do so with the School's prior agreement. The School's consent will not be unreasonably withheld but will take into consideration the timescales involved along with the potential for suitable alternative employment becoming available.

An employee is not eligible for a redundancy payment if before the end of their current employment they accept an offer of employment with an employer listed within the Redundancy Payments (Local Government) Modification order where this new employment is due to start within 4 weeks of their effective date of redundancy. In these circumstances the employee's service will be treated as continuous.

## **7. Notification to the LA**

In Schools where the Local Authority (LA) is the employer, the Headteacher and/or Governing Body must consult with the LA (Director of Children's Services) and their HR Provider for advice at the earliest opportunity, and prior to any hearing being arranged in cases which may potentially result in the dismissal of an employee. Schools should also consult with the LA when considering a settlement agreement.

All community, voluntary controlled, community special and maintained nursery schools should note the following:

- that when arranging a hearing or appeal hearing to consider dismissal they should notify the LA, the LA may then make the decision that a LA representative will be on the panel;
- in cases where the LA is not on the panel, the school should inform the LA of their decision before communicating this to the employee;
- the panel has a duty to consider the views of the LA and document these and any reasons why they are not taking account of their views.



## **8. Formal procedure**

### **8.1 Initial Notification and Wider Communication**

Consideration needs to be given to communication about organisational changes with those not directly affected by the change but who need to be aware. This may range from others in the immediate team to the whole department to all School employees and may also include people outside the School, for example parents or service users.

### **8.2 Employer Consultation**

The overriding objective of consultation by the School will be to consider ways of avoiding redundancies, reducing them to a minimum and/or mitigating the consequences of the dismissals.

For further details regarding duty to consult, formal notification to the Secretary of State and recognised trade union consultation please refer to the Redundancy Policy.

### **8.3 Collective and Individual Consultation**

Any employee(s) who may be affected more severely by the proposals than others, for example their post is to be deleted, should be advised individually before any collective meeting. Collective meetings may take place with the employees as appropriate and individual consultation meetings will be offered to each employee affected, including anyone that may be absent from work e.g. those on maternity or sick leave. Employees will also be advised that they may be accompanied at meetings by a recognised trade union representative or a work colleague. In most instances it would be appropriate to communicate these changes by individual letters to all employees.

Employees will be informed at the consultation meeting of how they are likely to be affected by the proposed changes. This will include informing those employees who are at risk of redundancy, discussing the reasons for their selection and also discussing options that may be available to them.

Following this individual consultation meeting, the employee will receive a letter outlining the discussions of the meeting, and where appropriate, confirming the employee at risk of redundancy. In some circumstances it may be necessary to hold more than one individual consultation meeting, however, this will be dependent on the individual circumstances.



All employees should be made aware that the consultations are on the basis of proposed changes and that final decisions will not be made until after the consultation exercise has been completed.

## 8.4 Consultation Outcomes

### 8.4.1 Identifying employees 'at risk' of redundancy

There are a number of factors that must be taken into account when considering how to identify a pool of employees to be placed 'at risk' of redundancy. The size of the selection pool should be kept as large as possible in line with employment contracts. Managers **must** seek HR advice and guidance when determining what criteria are applicable.

### 8.4.2 Alternatives to Compulsory Redundancy

Set out below are all the measures that may be considered in a potential redundancy situation. Whether a particular measure is relevant will depend on the nature of each situation and subject to the School's operational and financial considerations.

#### Non-filling/Deletion of Vacant Posts

Where this is proposed, consideration should be given to the impact on remaining employees and consultation should take place accordingly.

#### Termination of Casual/Temporary Contracts

Where appointments have been made on a casual or temporary basis i.e. with less than 2 years' continuous service in anticipation of organisational change consideration should be given to terminating those contracts if doing so would avoid or minimise any redundancies of permanent employees. The manager should consult with HR and the recognised Trade Unions where this is the case.

#### Termination or Reduction of Overtime

Where contractual overtime is in place, or voluntary overtime is worked regularly, consideration should be given to ceasing or reducing this if appropriate. However, as such changes could amount to a variation of the employment contract, you must consult HR if you are considering such a course of action.

#### Alternative working arrangements such as reduced hours and/or job share

Alternative working arrangements may be appropriate where a potential redundancy situation could be resolved by a number of employees, such as a voluntary reduction



in hours or people voluntarily agreeing to share all the duties and responsibilities of one full-time post rather than one or more employees becoming redundant.

#### Voluntary Redundancy

In some circumstances, in order to avoid compulsory redundancies, the School will first seek voluntary redundancies from the 'at risk' employees directly affected by the proposed redundancies.

Such requests will be considered through an application process. However, the School retains the right to refuse such applications either on financial grounds and/or in order to retain required skills and experience.

Where employees volunteer who are not 'at risk' of redundancy themselves, but a suitable potentially redundant/'at risk' employee could fill their position through redeployment, then such an application will be considered by management. However, such applications will only be considered after all applications from those staff directly affected have been considered.

Where the number of volunteers exceeds requirements then the decision on which applications to accept will be made based on the requirement to retain the required skills within the department and cost of Voluntary Redundancy including pension. Voluntary Redundancy will also only be considered where there is a clear organisational need and redeployment options have been considered and exhausted.

#### Early and Flexible Retirement

Subject to the rules of the relevant pension scheme, it may be possible to consider applications for early retirement and/or flexible retirement.

#### Transferred Redundancy

Transferred redundancy can operate in order to help protect the jobs of employees who would otherwise be made compulsorily redundant. This is done by identifying posts in other schools where employees have volunteered for redundancy on the basis that the school will consider replacing the volunteer by appointing an employee from among those facing compulsory redundancy. This is only in cases where an applicant is deemed suitable by the receiving school.

#### Re-structures – Ring-fencing/Slotting In

Ring-fence recruitment is the process of appointing to one or more specified posts from within a group of employees who fall within a 'ring-fence'. The ring-fence will include those employees who are vulnerable to redundancy in a particular





reorganisation if their existing posts are deleted. No recruitment from outside the ring-fence will take place until the ring-fence recruitment process has been completed.

Managers must give careful consideration before either 'slotting' existing employees into vacant posts within the new structure or ring-fencing vacant posts to a certain group of employees so as not to place other employees at an unfair disadvantage.

Where a change to a post is minor and the current post holder is already carrying out the majority of the new post within their old job, then it may be deemed reasonable to slot this employee into the new post.

Any ring-fencing or slotting in arrangements should be fully discussed with recognised trade unions and individuals as part of the consultation process.

Ring-fencing will be carried out as agreed during the consultation process. This will normally proceed as follows;

- Where there is only one applicant for a post, the manager will conduct an informal interview to ascertain that the applicant meets the person specification criteria, or could do within a reasonable timescale given appropriate induction support. Notes of the meeting should be kept.
- Where there are two or more applicants for a post, the manager will carry out a more formal selection process which will include competitive interviews and may include selection tests.
- The manager will take account of the results of the interview and tests together with the skills and experience of the applicants, and any relevant qualifications, in determining who should be appointed to the post.

## **8.5 Selection process and criteria**

If all other options to avoid compulsory redundancies have been considered, but do not achieve the required outcome, then the selection process must be carried out to identify employees for compulsory redundancy. The overall selection process (selection and verification) will be carried out by two managers.

The criteria should be clear, objective, precisely defined and capable of objective substantiation. Please refer to the Redundancy Policy and Appendix B for the



selection criteria that may be used as a basis for consultation with the recognised trade unions.

Selection for redundancy will be based on evidence and data from records held as well as any other information volunteered by the employee on a skills and experience summary sheet (completed in consultation with HR support if necessary). The information gathered will be used to assess a score for the individual against each selection criteria. Individuals will have the opportunity to verify any information extracted from their own personal records which is to be used in selecting employees for redundancy.

A written record will be kept of the assessment for each individual employee and the reasons for the decisions. The manager will use the assessment to select those employees who will be retained and those who will be redundant. Where possible, the details will be anonymised to ensure objective selection.

Individual employees will be given feedback by the relevant manager on the redundancy selection assessment as soon as possible after completing the exercise. Employees will receive factual details of their own results but not the factual results of other employees.

In a restructuring situation redundancy selection is likely to take place through the process of ring-fencing new posts. (See section 8.4.4 of the policy and Section 8.4.2 of this guidance). Selection for redundancy will not be necessary if specific posts are to be deleted e.g. where all posts in a particular team are to be deleted.

#### Verification

Following the selection process, the School will designate a second manager to undertake verifying the procedures followed, with the support of the HR Provider.

That role will be to verify the assessment paperwork, to ensure correct interpretation of the matrix and to ensure consistency of treatment across any given unit of selection, excluding any opportunity for bias.

If it is discovered that there is a fundamental flaw in the way the assessment has been carried out by the designated people, the whole unit will be re-assessed. An example would be where managers have incorrectly interpreted the matrix.



## 8.6 Employee Notification of Selection Outcome

The manager will consider any comments from the employee and document these.

## 8.7 Formal issue of Notice Entitlement

The notice entitlement (which is confirmed at this stage) is detailed in Section 6.6 of the policy document.

## 8.8 Appeals

Rights to appeal against dismissal are detailed in the policy document.

## 9. Additional Considerations

### 9.1 Employees on Maternity/Adoption/Parental Leave

Please seek further HR Advice if any employees affected by redundancy are due to go on or are already on Maternity/Adoption/Parental Leave.

If a post is to be made redundant while the postholder is on maternity, paternity or adoption leave, care should be taken to ensure that the employee is not unfairly treated or disadvantaged and advice should be sought from Human Resources.

Further guidance should be sought from your HR Provider and can be found on the ACAS website:

<http://www.acas.org.uk/media/pdf/r/f/Managing-redundancy-for-pregnant-employees-or-those-on-maternity-leave-accessible-version.pdf>

## 10. Support for Staff on Notice of Redundancy

Employees who have been issued with notice of redundancy will be given reasonable amount of paid time off to look for new employment or to arrange training for future employment. Requests for time off should be made by the employee to their line manager.

Although the School will do what is reasonably possible to assist the employee to secure alternative work, there is also a responsibility which falls on the employee to seek out opportunities. The School expects all its employees at risk of redundancy to co-operate fully in its efforts to minimise the effects of the redundancy.



## 11. Record Keeping and Confidentiality

It is essential that confidentiality is maintained regarding any information relating to an employee. Only parties directly involved should have access to relevant information other than where such information is requested by law. Any failure to maintain confidentiality by an employee of the school will also be dealt with under the Disciplinary Policy.

The General Data Protection Regulation (GDPR) provides all employees with rights over how the organisation holds and uses personal data. Please refer to the School's Privacy Notice and Data Retention information for further information.

## 12. Further Advice

Headteachers should contact the HR provider for advice regarding the application of this policy and guidance. If schools require specific guidance or the LA's view on any aspect of the policy and guidance they may contact the LA who will be happy to provide advice.

## 13. Document Control

<b>Date Agreed</b>	12/12/2018
<b>Date of Next Review</b>	December 2021
<b>Review Period</b>	Every 3 Years (Unless there is a change to the organisation or statutory legislation, whichever is sooner)