



Redundancy, Restructuring Policy

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1. Policy Statement

The Board of Trustees (Trustees) are responsible for determining the size and most effective deployment of the staffing complement within the Trust/schools. Inevitably, the needs of the Trust change over time and the Trustees have a responsibility for periodically reviewing and, where necessary, undertaking changes to the staffing body in response to such factors as financial constraint, school reorganisation, demographic change or developments in policy, curriculum or technology.

In such circumstances, the Trustees may need to consider such options as:

- Reducing the overall size of the school/s workforce;
- Making adjustments to working hours or contracted hours;
- Making adjustments to staffing levels and/or roles and responsibilities in particular areas.

Legislation and good practice require that the Trustees seek to avoid, wherever possible, the compulsory redundancy of any member of staff and to support the wellbeing of employees through difficult periods of change.

The Trustees in conjunction with the CEO aim to identify future staffing needs at an early stage through careful monitoring and planning in order to manage changes to the workforce through the use of natural measures where possible. Where action is required in the short term in response to more immediate circumstances, the Trustees aim is to make use of measures at its disposal to maintain employment stability, most particularly through the redeployment of affected individuals into suitable roles within the Trust.

The Trustees recognise that communicating early warning of potential redundancies to affected staff and union representatives, where there is still an opportunity to influence the emerging proposal and consider alternatives, can be an effective way of mitigating the impact and ensuring members of staff have a fair opportunity to consider all possible options available to them.

The Trustees/CEO will follow this procedure where a potential redundancy situation has arisen. It will also have regard to the principles of consultation outlined in this procedure in circumstances where the Trustees are considering a change to terms and conditions of employment which will not result in redundancy.

This procedure will be applied fairly and consistently to all employees regardless of gender, gender reassignment, race, colour, marital or civil partnership status, national or ethnic origin, nationality, disability, sexual orientation, age, religion, trade union membership/non membership or number of hours worked. Employees with a disability may request reasonable adjustments at any stage of the process.

2. Scope

This procedure applies to all employees engaged directly by Trust. It therefore does not apply to agency staff, including supply teachers, casual employees where there is no mutuality of obligation, contractors or their staff, or workers who are engaged on a self-employed basis.

This policy is non contractual and does not form part of any employee's terms and conditions.

3. Planning to Avoid Redundancies

Trustees will undertake annual reviews of staffing requirements, usually during the autumn term and at any other time when it is deemed necessary to do so. Where such reviews indicate that changes to the staffing complement will be required in the longer term, Trustees will adopt relevant strategies aimed at achieving such changes in the desired timeframe whilst minimising the impact on staff. Strategies which might be considered include:

- Not replacing (or only partially replacing) posts following natural wastage;
- Restricting the recruitment of new permanent staff;
- Using fixed-term or temporary staff to address short-term staffing needs;
- Reduction or variation in hours on a temporary or permanent basis;
- Voluntary redeployment of staff into vacancies within the Trust;
- Early release of staff working contractual notice, by mutual agreement;
- Training or retraining of existing staff;
- Reducing reliance on overtime;
- Any other voluntary means by mutual agreement.

Where the timescale to achieve change is, or has become, sufficiently pressing that redundancies are being contemplated, the following process will be followed.

4. Identifying a Redundancy Situation

A redundancy is defined under the Employment Rights Act 1996 section 139 as a dismissal which is wholly or mainly attributable to:

- The fact that the employer has ceased or intends to cease:
 - to carry on that business for the purposes for which the employee was employed, or
 - to carry on that business in the place where the employee was so employed, or
- The fact that the requirements of the business:
 - for employees to carry out work of a particular kind, or
 - for employees to carry out work of a particular kind in the place where the employee was employed by the employer,

have ceased or diminished or are expected to cease or diminish.

When it becomes apparent following an initial staffing review that a potential redundancy situation has arisen, the Trustees and/or CEO will seek detailed HR advice on next steps.

The Trustees/CEO will obtain the DfE's prior approval for the non-contractual/non-statutory element of a staff severance payment of £50,000 or more (gross, before destruction).

5. Commencing Consultation

5.1 Formulating a Proposal

In order to afford the appropriate rights to employees and secure a fair procedure, Trustees will delegate certain powers to a panel of Trustees who will work with the CEO in their executive role.

This panel of Trustees, with the CEO will be responsible for:

- formulating the proposed means of achieving staffing reductions;
- handling the consultation process;
- applying the chosen selection methods; and
- writing to those staff who have been selected for redundancy.

Trustees will also establish a second panel of Trustees to hear any subsequent appeals against redundancy selection decisions. The members of this second panel must not have contributed in any way to the actions or decisions of the first panel. Reference to the role of the Trustees hereafter incorporates reference to these Trustee panels.

5.2 Initial Notification to Staff and Representatives

The Trustees/CEO will provide staff and the recognised trade unions, if applicable, with background information about the staffing review, and the reasons for undertaking it, at the earliest reasonable opportunity. At the same time, or as soon as possible thereafter, Trustees/CEO will provide to all parties the following information in writing:

- The reasons for the proposal;
- The numbers and descriptions of employees who are potentially affected;
- The total number of employees of any such description employed at the school/s affected, or in the case of the Trust's Central team, the number of employees within that team;
- The proposed method of selecting the employees who are at risk of redundancy;
- The proposed method of carrying out any resulting dismissals, including the period over which the dismissals are to take effect;
- The proposed method of calculating the amount of any redundancy payments to be made;
- The number of agency workers working temporarily at the school/team affected, the areas in which they are working and the type of work they are undertaking.

Trustees/CEO will also provide information about the proposed timetable for consultation and any measures it is considering to mitigate the effects of the proposal and to preserve continuity of employment.

Such measures might include:

- Natural wastage (if this is a reasonable prospect in the timescale proposed);
- Mutually agreed variations to contracts of employment on a temporary or permanent basis;
- Redeployment, within the Trust;
- Any other voluntary means by mutual agreement, including consideration of voluntary redundancy if appropriate.

Trustees recognise that affected staff may require additional support during this period of uncertainty and will give due consideration to sources of support to which employees may be referred, such as an Employee Assistance Programme where this is available to staff. Trustees will also encourage affected employees to contact their trade union for help and advice.

5.3 Formulating a Timetable for Consultation

Trustees will adhere to the statutory minimum consultation periods which are in force where 20 or more members of staff are at risk of redundancy. Where less than 20 members of staff are at risk, Trustees recognise that there is no set minimum period of consultation, but will provide what is reasonable, taking into account the particular circumstances, including (but not limited to) consideration of the number of staff affected and the deadline for achieving the reduction or workforce reorganisation. The Trustees consider it good practice to allow a minimum of two weeks for formal consultation with staff and trade unions.

5.4 Selection Pools and Criteria

Trustees/CEO will determine the proposed selection pool and method of selection and where relevant, the selection criteria to be used in the event of a compulsory staffing reduction. These will form part of the consultation exercise. Trustees acknowledge that there is no set criteria which can be universally applied in such situations but will apply the general principle of seeking to achieve a balance between the needs of the school and the requirement to act fairly and consistently when dealing with staff. Careful consideration will be given to the 'pool' of staff from which those to be made redundant will be selected.

In all cases, trustees/CEO will be mindful of the requirement not to select staff in a way which might discriminate, directly or indirectly, against individuals on one or more unlawful grounds. In devising selection criteria and establishing selection pools, Trustees/CEO will seek HR advice to reduce the risk of any possible discriminatory impact.

5.5 Consulting with Staff and Representatives

In undertaking meaningful consultation with staff and appropriate trade union representatives, Trustees/CEO will:

- Provide adequate information for the purpose;
- Consult with all those who are affected by the proposal, even where employment security is not directly at risk;
- Provide opportunities, both in writing and face-to-face, for members of staff and representatives to express their views on the proposal, to understand the impact on individuals, and to make suggestions and contributions which may mitigate the impact of any proposed redundancies;
- Give open-minded and conscientious consideration to the views expressed during the consultation period and, where appropriate, to respond directly to these;
- Ensure that absent employees (for example, those on maternity/adoption leave, long term sickness absence or sabbatical) receive the same information as other staff and have the opportunity to engage with the formal consultation period through methods adapted as appropriate to the circumstances.

5.6 Voluntary Redundancy

Trustees may be willing to consider requests from members of staff for voluntary redundancy. Trustees reserve the right, however, at their absolute discretion to decline such requests, for example for financial reasons or in the interest of retaining skills. An application for voluntary redundancy will not preclude an employee from applying to be considered for suitable alternative posts, where these exist.

5.7 Redundancy & Right of Appeal

Applying selection criteria

At the end of the consultation period, should the application or consideration of other measures not have eliminated the need for compulsory redundancy; Trustees, through the panel of Trustees established for the purpose together with the CEO, will apply the finalised selection criteria to the established 'pool' of staff deemed to be at risk. In the event that the 'pool' consists of only one person this selection process will not be required.

Notification of selection for redundancy

Those employees selected by this means will be notified of their selection. Should an individual disagree with their individual assessment or feel that selection criteria have been unfairly applied in their case, they should put this in writing to Trustees and any individual concerns in the decisions made will be reviewed. An opportunity to put these concerns forward verbally can be requested as a reasonable adjustment to accommodate a disability or where an employee has difficulties with written expression.

Giving notice

Trustees/CEO will be responsible for ensuring that notice of termination of employment is given in accordance with the contract of employment, or the statutory rights of the employee concerned, whichever is longer.

Right of appeal

Any such employee under notice of dismissal will have the opportunity to appeal against the decision to the Trustees' appeals panel in writing within 5 working days of receiving the written notice of redundancy. Where possible the appeal will be heard within 5 working days of receipt of the appeal. A written response, confirming the decision at the appeal hearing will be sent to the employee within 5 working days of the appeal hearing.

The member of staff concerned has the right to be accompanied at appeal hearings by a trade union representative or workplace colleague.

6. Redeployment Principles

6.1 Supporting Employees

Redeployment opportunities will be sought:

- a) prior to the issuing of notice of dismissal where an individual has expressed an interest in securing an alternative post and this would assist with achieving the required staffing changes; or
- b) where an individual is vulnerable to redundancy, at any point in the consultation process where the individual wishes to be considered for redeployment, and in any event no later than the start of the individual's notice period.

Redeployment options could mean seeking another post within the Trust. The Trust will ensure individuals will also be given reasonable paid time off work to seek employment or to arrange training.

6.2 Trial Periods

Employees offered redeployment opportunities where the terms and conditions of the new job differ from the old position are entitled to a statutory four-week trial period for the Trust/school and the employee to assess suitability for the role. In some circumstances it may be appropriate to extend a trial period to allow for relevant training; typically this might be for a further four weeks. Both the Trust/school and the employee will have the right to terminate the trial period during and at the end of four weeks. Any decision to do so will need to be based on reasonable grounds and both parties will need to substantiate their decision.

7. Efficiency

In exceptional circumstances decisions can be made relating to whether an employee would be able to leave on the grounds of efficiency. This would include situations where:

- The employee's role has changed sufficiently that they are no longer able to adjust and perform in the role they perform and/or;
- Where the job requires new skills or competencies that the employee does not have and where retraining, investment in future development would not be appropriate; and/or
- Where performance management procedures would not be appropriate.

When considering cases under this category, each case will be dealt with individually on its own merits and various factors will be taken into account including, but not limited to:

- Overall cost to the organisation
- Any demonstrable benefit to the Trust
- Where suitable alternative role is considered not appropriate
- Where the employee's role has changed sufficiently that they could not be reasonably expected to adjust and perform in the role they are in
- Consideration of succession planning and/or structural changes which could lead to savings through appointing a replacement at a lower level or whether it avoids a redundancy situation.

The essence of the efficiency arrangements is to seek to reach agreement with the employee for the mutual termination of the contract of employment.

8. Protection of Earnings

8.1 Teaching Staff

The Trust has regard to the pay safeguarding provisions in the School Teachers' Pay and Conditions Document, although Trustees retain ultimate discretion over what provision to apply. Affected teachers will therefore be provided with detailed information regarding these where applicable.

8.2 Support Staff

Pay protection may apply in some circumstances where redeployment is an alternative to redundancy and the salary of the new position is lower. The Trust will apply pay protection (otherwise known as safeguarding) for a period of up to one year. The amount of protection is based on the difference in the pay grade between the old and new roles.

A temporary relocation grant may also be payable where there is a significant change of workplace that requires you to relocate to be nearer to your place of work.

9. Redundancy Payments

9.1 General Provisions

To qualify for a redundancy payment, employees must have at least two years' continuous service (refer to the individual employees contract of employment which specifies the dates of recognised continuous service).

Where an employee has two separate jobs, each with a separate contract of employment, and is made redundant from one of these posts, the employee would be eligible for a redundancy payment for that specific role where eligible. For the purposes of clarity, the redundancy payment in this scenario would be based only on the period of service in the role which is redundant.

9.2 Exclusions from Redundancy Payments

Employees will not be entitled to a redundancy payment if they:

- Accept an offer of employment within the Trust or an associated employer* **and** commence what may be considered as continuous employment within four weeks of leaving the redundant post. For the sake of clarity, an offer of employment made **after** the date of termination will not affect entitlement to redundancy pay regardless of when the new employment starts.
- Unreasonably refuse suitable alternative employment offered by the Trust or an associated employer*, prior to their last day of service or following completion of a trial period.
- Unreasonably refuse to complete a trial period or resign during a trial period for reasons unconnected with the suitability of the new role.

*‘Associated employer’ for these purposes includes a Modification Order Body (contained within the Redundancy Payments (Modification) Order 1999 (as amended))

10. Entitlement

10.1 The following grid is taken from <https://www.gov.uk/calculate-your-redundancy-pay> and may be subject to change as the Trust follows statutory entitlement in respect of Age Groupings and related pay.

Age Groupings	Weeks redundancy pay per complete year of service
Service accrued up to and including age 21	0.5
Service accrued between age 22 and 40	1.0
Service accrued from age 41 and above	1.5
Maximum number of weeks of compulsory redundancy/efficiency pay	20

In addition to the above, where it is agreed that notice is not required to be worked, the Trust will provide Pay In Lieu of Notice (PILON) capped at a maximum of 12 week’s pay subject to continuation of service parameters. (Refer to individual employee’s contract of employment for terms).

10.2 Employees must have a minimum of 2 years of continuous service to qualify.

10.3 Each completed year of continuous service up to a maximum of 20 years’ service will count towards the calculation

10.4 Under the statutory redundancy pay scheme, a week’s pay is capped <https://www.gov.uk/calculate-Your-redundancy-pay>. For term time workers we use the contractual week’s worked/paid as part of the calculation. (e.g 39). For employees whose salary varies from week to week, pay is averaged over a period of 12 weeks before the calculation date. Overtime payments are not included in the calculation unless the employer is contractually bound to pay overtime and the employee is contractually bound to work it.

10.5 For Support staff belonging to the Local Government Pension Scheme (LGPS).

Support staff aged 55 or over on the date their employment ends must be given access to their pension benefits which will not be reduced due to early payment, if they are dismissed on the grounds of redundancy. Where access is given before normal retirement age, this will incur a cost to the Trust.

10.6 For teaching staff belonging to the Teachers' Pension Scheme (TPS)

Teaching staff aged over 55 the granting of access before 'normal pension age' is at the discretion of the Trust and is not an automatic right, this will incur a cost to the Trust.

- 10.7** A minimum of 2 years scheme membership is required. In the LGPS separate employments are treated independently. If a LGPS member has multiple employments is made redundant or retires from one post, then the LGPS benefits related to that post are payable immediately. In the TPS all teaching employment must cease in order for the member to qualify for the immediate payment of their TPS benefits.

11. Re-engagement of redundant employees

Normally the Trust will not re-employ or re-engage employees who have been made redundant with an enhanced severance payment, for a period of 12 months following their leaving date. However, where re-employment is in the best interest of the Trust the CEO can make a business case to the Board of Trustees.

12. Fixed Term Contracts

Employees with two years or more service will be entitled to the same severance payment whether they are on a fixed term or permanent contract. The same entitlement will apply when employment is terminated at the end of a fixed-term contract if redundancy is the reason for termination.

It is important to note that the end of a fixed term contract for a reason other than redundancy, would not attract a redundancy payment.

13. Data Protection

During any redundancy or restructuring exercise the Trust /School will be processing the personal data of employees in order to meet its consultation obligations, undertake selection activities, work with employees as part of redeployment efforts and otherwise meet the requirements of this procedure. Such personal data will be held securely and only shared with those involved in undertaking, supporting or advising on these activities, or as otherwise provided for by law. Where personal data is disclosed to trade union representatives as part of the consultation process they are also obliged to handle such data in accordance with relevant data protection laws.

14. Review

This policy will be reviewed every 3 years or when there are changes to legislation.