



## 1. Scope

This procedure applies to support staff and Teachers based in maintained Schools and Colleges.

Further information on the application of the policy is available in the supporting **Guidance for Schools and Colleges**.

## 2. Purpose

The purpose of the Organisational Change Policy is to set out the approach to managing organisational change within Schools and Colleges. The policy and procedure establishes a fair, transparent and effective process for dealing with such situations, ensuring compliance with statutory requirements.

### Legal Context

The School Staffing (England) Regulations 2009, require each school to establish dismissal procedures for all school employees and delegates to Head Teacher and Governing Bodies the power to decide all dismissal matters themselves.

The Equality Act 2010, brings together all previous equality legislation. The Act covers the same groups protected by previous equality legislation, but extends protection against discrimination (direct and indirect) to other groups not previously covered.

## 3. Principles

- The School's commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origin, sex, marital status, disability, age, sexual orientation, trade union membership or activity, political or religious belief and unrelated criminal convictions.
- Action will only be considered where there is a need for a reduction in the number of staff and/or a change in the staffing structure.
- The School is committed to full and meaningful consultation with employees and the Recognised Trade Unions regarding the proposals. The aim is to demonstrate a commitment to safeguarding the interest of employees. In line with this the overriding objective of consultation will be to consider ways of avoiding redundancies, reducing them to a minimum and/or mitigating the consequences of dismissals.
- Consultation will be undertaken with a view to reaching agreement and any representations or proposals made will be fully considered. The Trade Unions' opposition to compulsory redundancy is recognised and accepted. We will work with them to explore all reasonable alternatives before this happens.

- It is recognised and understood that organisational change may have a significant impact on employees and may involve periods of uncertainty. The School is committed to supporting employees through periods of change and to minimising any negative impact.
- The School will, where feasible, try to avoid redundancies through careful planning including vacancy control measures, natural wastage, redeployment (where applicable) and retraining where possible. The aim is to ensure that the valuable skills, experience and knowledge of our employees are retained wherever possible.

## 4. Avoiding or Minimizing Redundancies

The School is committed to minimising the number of compulsory redundancies and therefore the following measures/ alternatives should be fully explored and used when appropriate:

- Deletion of vacant posts
- Restriction or suspension of recruitment
- Cessation or reduction of overtime
- Cessation or reduction of casual contracts
- Voluntary reduction in hours
- Voluntary reduction in hours by a number of employees
- Voluntary redundancy

This list is not exhaustive and all measures should be considered.

## 5. Types of Change

### Minor

Examples include: change of job title, job profile, Department, Service, team or manager reporting line changes.

In order to adapt to differing requirements, it is likely that from time to time, the School will need to make periodic changes to roles, responsibilities and/or working practices.

Where changes are required, the reasons for these will be discussed with employees and they will be given the opportunity to state their views and suggest any alternative solutions. Affected employees will be given reasonable notice of the change and be supported, as far as practical, to adapt to the new way of working.

Head Teachers do not need to follow this procedure when carrying out minor changes.

Minor changes will be changes which form part of day to day management; they will not be changes which affect employee's terms and conditions. This will include minor changes to vacant posts.

Head Teachers are encouraged to seek advice from HR Services and alert staff and Trade Unions to the changes.

## Major

Examples include:

- reductions to teaching or support staff numbers/ hours,
- review of the school staffing structure
- major changes to working practices
- changes to contractual terms.

All of these changes represent a substantial change to an employee's terms and conditions and therefore there is a requirement to consult formally with employees.

If a major change is planned the following process should be followed as detailed in the following sections:

- **6.Engagement and Communication**
- **7.Governor's Decision to implement Restructuring/Redundancy**
- **8.Formal consultation**
- **9.Implementation**
- **10.Voluntary options**
- **11.Compulsory Redundancy process**
- **12.Implementing other outcomes**
- **13.Redundancy and Compensation**
- **14.Redeployment**

## 6. Engagement and Communication

It is recognised that open and effective communication and consultation is key to successful organisational change. Where possible, the Head Teacher/ Lead Person(s) should communicate with employees and Trade Unions at the earliest opportunity. This may take place prior to formal decisions being made regarding staffing restructurings/reductions.

## 7. Governor's Decision to implement Restructuring / Redundancy

The Governing Body meet to make the formal decision to restructure/reduce school staff and appoint Lead Person(s) to manage the process on behalf of Governors. Governors delegate responsibility to dismiss staff to Head teacher or a redundancy Panel of Governors. Governors will identify the "pool" of affected employee's and appoint governors to sit on redundancy and appeals panels.

## 8. Formal Consultation

### When?

The Lead Person(s) should communicate with employees and Trade Unions at the earliest opportunity.

Formal consultation must be undertaken with the representatives of the recognised Teacher Trade Unions/Professional Associations and Support Staff Trade Unions

At the initial stage of the consultation process the Recognised Trade Unions will be issued with a Schedule of Dates for the implementation of each stage of this procedure.

The purpose of consultation is to provide as early an opportunity as possible for all concerned to share the problem and explore the options to avoid, if possible, a compulsory redundancy (see engagement and communication P5).

There is a legal requirement to consult on:

- a. The reasons for the redundancy

And ways of

- b. Avoiding the dismissals
- c. Reducing the number of employees to be dismissed
- d. Mitigating the effects of dismissals

Meaningful consultation with recognised Trade Unions must take place irrespective of whether or not the employees at risk of redundancy are members of a Trade Union.

The Lead Person(s) should consult in 'good time' and the timescales are:

Number of employees it is proposed to dismiss at a single* establishment within 90 days	Length of formal consultation period
100 or more	45 days
20-99	30 days

\*The definition of 'establishment' within the legislation is unclear. However, in recognition of the purpose of the law, the consultation periods will be based on how many redundancies are proposed at a single establishment within the County Council i.e. a school.

There is no specified statutory minimum period where it is proposed to dismiss 1-19 employees at an establishment within 90 days. However, to ensure meaningful consultation and ensure good industrial relations it is recommended in these situations that the Governing Body should consult with the recognised Trade Unions irrespective of numbers for a period of 30 days (calendar days excluding school holidays) However, if the employees, Trade Unions and the Head Teacher agree that a shorter formal consultation would be more appropriate (e.g. to minimise anxiety) then this can be confirmed. For example, if an Action Plan is proposing to delete posts which will lead to compulsory redundancies for all affected employees (less than 20), then it may be appropriate to consult for a shorter period of time.

**If 20 or more redundancies are proposed at a single establishment\* the Department for Business, Innovation and Skills (BIS) must also be notified, on Form HR1. This will be completed by HR services and a copy of Form HR1 must also be given to the Trade Unions.**

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement changes in terms and conditions on which it has not been possible to reach agreement.

There is no specified statutory period of **consultation for restructurings that do not result in a redundancy**. However, sufficient time should be provided to ensure meaningful consultation from the affected employee group and the recognised trade unions.

### **With whom?**

Consultation must take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members. 'Employees affected' means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g. employees having to take on re-allocated work.

Employees on maternity/ adoption leave, long term sickness absence, secondment and career breaks should also be formally consulted with and appropriate arrangements put in place e.g. inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives. Details of this should be recorded.

Individuals who are at risk of redundancy must be provided with an opportunity to discuss their concerns with the Lead Person(s), in a constructive way, to explore alternatives to redundancy and consider how, if possible, redundancy can be avoided.

### **How?**

#### **Action Plans**

Employers have a statutory duty to disclose information under Section 188, Trade Union and Labour Relations (Consolidation) Act 1992, regarding the proposals in writing to affected employees and Trade Unions.

This requirement is met by drafting a formal consultation document, known as an action plan. This must be sent to all recognised Trade Unions even if none of their members are affected.

#### **End of Formal Consultation**

Once all comments, suggestions and where appropriate voluntary options have been seriously and thoroughly considered, the Action Plan will be finalised by the Lead Person(s).

Copies of the agreed Action Plan, which highlights all the changes which have been made must then be sent to the employees affected and the Trade Unions.

## **9. Implementation**

The implementation of staffing changes; both restructuring and/or redundancy can be made in the following ways:

1. The selection for redundancy from a “pool of affected employees”
2. A recruitment exercise which appoints staff to posts in a new structure.

Please refer to the “Special Considerations” section at the end of this procedure for assistance on individual issues.

## **1. Redundancy Only**

### **Selection for Redundancy from a “pool of affected employees”**

The “pool “of affected employees will have been identified at the commencement of the redundancy procedure and confirmed in the action plan. (see notes of guidance)

The selection criteria used must be fair, clear, non-discriminatory, easily evidenced and in line with the curriculum/ organisational needs of the School.

The selection methods adopted should be detailed in the Action Plan.

#### **Reducing the number of employees**

In a situation where the number of employees is being reduced, the Lead Person(s) can select by using a skills matrix and individual meetings as appropriate.

The standard selection criteria which it is recommended should be applied are as follows:

- The consideration of any applications for voluntary options
- The requirements of the curriculum, management and organisational needs of the school
- The match of qualifications, experience, skills, the flexibility of an employee to teach/ work in other subjects/ areas in the School, measured in relation to the curriculum/ organisational needs of the School.

A skills matrix can be used to assess the following:

- Skills, experience and knowledge
- Qualifications

A **skills matrix template** and further **guidance** is provided (see guidance document).

### **Selected Employees**

Employees selected for proposed redundancy will be issued with a letter inviting them to a redundancy hearing at the earliest opportunity and should receive redeployment status if applicable.

See **Compulsory Redundancy Process** for further information.

## **2: Restructuring with Redundancy**

When implementing a restructuring action plan, where it is proposed to make changes to the structure along with reductions i.e. changes to hours, the Lead Person(s) should consider the following methods in turn:

- Step 1: Confirmation into Post
- Step 2: New Posts
- Step 3: Expressions of Preference
- Step 4: Selection methods

### **Step 1: Confirmation into post**

When considering a new structure the Lead Person must first of all examine the current and proposed structures to assess whether there are any comparable jobs. This is where a job in a new structure is unchanged, or substantially the same as an existing job when the grade is unchanged. If this is the case and there are sufficient jobs, the substantive occupant will be confirmed in that job as no redundancy situation exists. Further information regarding comparability and the process for an employee to challenge the decision made, can be found within the guidance document.

### **Step 2: New Posts**

The action plan will already have detailed those posts which are deemed to be 'new' posts i.e. no comparable posts in the old structure or have remained the same as an existing post which was vacant. The action plan will also need to identify how recruitment to new posts in the structure will be undertaken, options which the School/ College may wish to consider are as follows:

New posts could either be "ring fenced" to existing school staff in the first instance. That "ring fence" could if appropriate apply only to employees who do not have a 'comparable' post within the new structure.

Alternatively new posts could be made available to staff who are covered by the action plan irrespective of whether they have a comparable post in the new structure.

With either of these options, it could be the case that a number of grades (both lower and higher) will be competing with each other on an equal basis. Employees will therefore need to be able to demonstrate that they meet or come close to meeting the essential criteria (for posts at a higher grade).

The above options may depend on the circumstances of the individual action plan, Schools should therefore seek further advice from their nominated HR Advisor, if required.

### **Step 3: Expression of Preference**

At the end of the consultation period all employees will be required to complete a simple form, giving some basic personal and professional information. Employees will be asked to confirm that they agree to be confirmed into their comparable post and/or indicate their preferences for the new posts within the new structure which they wish to be considered for. A proforma has been provided for this purpose.

### **Step 4: Selection**

Where there are more comparable post holders than jobs, or where there are new posts in the structure, then employees, who are subject to an Action Plan will be selected for jobs within the new structure. The selection process will normally commence with the most senior posts.

### **Employees who have not secured a job in the new structure**

Employees who do not secure a job within a new structure will be issued with a letter inviting them to a redundancy hearing at the earliest opportunity and should receive redeployment status if applicable.

See **Compulsory Redundancy Process** for further information.

### **3: Restructure only**

Where schools wish to amend their overall staffing structure, either partly or wholly, and this will not result in any reduction or change in contractual working hours for any individual then a staffing structure review should be undertaken.

This will include situations such as:

- Change to the number, type or focus of leadership or TLR posts;

## **10. Voluntary Options**

Voluntary redundancy, voluntary reduction of hours/job sharing may be appropriate measures where there is a need to reduce the existing pool of employees. The pool of affected employees from which volunteers will be sought and the deadline to submit requests will be defined in the Action Plan.

Inclusion of any employee in a 'volunteer' pool does not of itself guarantee that a request will be granted.

The criteria used must be fair, clear, non-discriminatory and easily evidenced. The Lead Person(s) should be aware of the need to retain key skills when considering a voluntary redundancy request.

### **Implementation of Voluntary options**

When implementing voluntary options, the Lead Person should ensure that they have the request detailed in writing and that a written response to the request is made in

accordance with the action plan. As a voluntary redundancy is a dismissal the employees will have the right of appeal against that dismissal.

## 11. Compulsory Redundancy Process

Normally the procedure will be followed in the order of the stages set out below.

In relation to the 2009 Staffing Regulations, the LA strongly advises Schools/ Colleges that dismissal decisions are best made by a panel rather than by one person acting on their own.

It is recommended therefore, that the redundancy panel should normally consist of 3 governors. It is generally considered unwise for staff governors to take part in such a hearing.

The employee will be given written notification of the hearing as soon as possible and at least 10 working days before the hearing. This timescale can be extended in exceptional circumstances.

Any decision of the Panel must be confirmed to the employee in writing within three working days.

### Appeal Hearing

Appeals should be made in accordance with the School **Appeals Procedure** and should be registered within 5 working days of receipt of the outcome letter.

The appeal hearing will be convened with 10 working days' notice in writing to the employee, with no further right of appeal after this. The panel will consist of three new Governors and an independent HR Advisor.

In circumstances when the appeal is upheld the notice issued above will be withdrawn.

## 12. Implementing other outcomes

All other changes to posts (e.g. grades, hours, new posts) should be confirmed in writing by the Chair of Governors (or as delegated) and where appropriate new contracts or variations to contracts issued.

In the case of compulsory changes to existing work patterns, employees should also be advised of a right of appeal to a Committee of the Governing Body. This appeal should be held in accordance with the school's appeals procedure.

## 13. Redundancy and Compensation Payments

Redundancy and Compensation payments and any costs incurred in relation to release of pension will normally be met by the Schools.

**Teachers:**

**Voluntary Redundancy**

**Under 55** – Redundancy Payment

**Over 55** – Redundancy Payment, Lump Sum, Early Pension Release (without actuarial reduction to benefits)

**Compulsory Redundancy**

**Under 55** – Redundancy Payment

**Over 55** – Redundancy Payment Lump Sum, Early Pension Release (without actuarial reduction to benefits)

**Deletion of hours – Compensation payment**

Please see calculation below.

**Support Staff:**

Voluntary and compulsory redundancy for **all** LCC staff (except teachers inc. centrally employed teachers – see above) warrants the same level of compensation.

**Employees with less than 2 years continuous Local Government Service:** No entitlement to compensation.

**Employees not in the Local Government Pension Scheme with at least 2 years continuous Local Government service:** A redundancy payment based on age, length of service and salary. A **Ready Reckoner** is available as part of the guidance supporting this process.

**Employees in the Local Government Pension Scheme aged under 55 with at least 2 years continuous Local Government service:** a redundancy payment, as above. Pension benefits will become payable from the employees state pension age without any reductions. However, the employee will be able to request that their benefits are paid at any time from age 55 onwards, but they would be subjected to actuarial reductions, the amount of which will depend on their age and pensionable service.

**Employees in the Local Government Pension Scheme aged 55 and over with at least 2 years continuous Local Government service:** a redundancy payment as above and immediate payment of pension benefits with no reduction (subject to a minimum of three months' scheme membership).

***Please note that the calculation of redundancy pay is based on actual salary.***

**Deletion in hours: Compensation payment**

Where a manager compulsorily deletes hours from a post or an employee voluntarily reduces their hours, the employee will receive a compensation payment on the basis of a redundancy payment pro rata to the number of hours lost (provided they have at least 2 years continuous Local Government service). As the employee(s) is not redundant the payment will be taxable.

Where during a restructuring, an employee is appointed to a post in the new structure at a lower grade and their hours of work have also been compulsorily reduced, they will be entitled to receive pay protection (see below) based on their new hours of work and a compensation payment for the reduction in hours.

Where during a restructuring, an employee's hours of work are compulsorily reduced but the grade of their job has increased:

- if their new salary is higher than their previous salary (based on gross pay received), they will not be eligible to receive a compensation payment for the reduction in hours;
- if their new salary is lower than their previous salary (based on gross pay received), they will be eligible to receive a compensation payment based on the calculation for a redundancy payment for the amount of pay lost. This payment is calculated as follows:  
Previous weekly salary less new weekly salary multiplied by the number of weeks' pay due according to age and length of service in the **Ready Reckoner**.  
Weekly salary is calculated as:  
Weekly hours x hourly rate.

Where during a restructuring, an employee applies for a post which is not their comparable post and it comprises fewer hours than their previous post, they will not be entitled to receive any compensation payment.

### **Compensation payments and Flexible Retirement (Support Staff only)**

Employees who receive a compensation payment will not be granted Flexible Retirement in relation to the reduction in hours.

### **Pay protection (Support Staff only)**

If an employee is redeployed into a job one grade<sup>1</sup> below their current grade, salary will be protected on a red-circled basis (i.e. frozen – no incremental progression or pay awards) for one year or until the maximum salary for the new job becomes higher than the frozen salary, whichever is the earlier.

Where the new job is more than one grade below the employee's current grade, the employee's salary will reduce to the maximum of the grade above the grade of the new job and be red-circled as above.

There will be no protection of any other payments (e.g. allowances, enhancements) and all other conditions of service will be those pertaining to the new job.

Pensionable pay (used in the calculation of the employee's pension benefits in respect of their pre April 2014 membership), will be protected for a period of ten years following the reduction in their pay.

### **Safeguarding (Teachers only)**

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The above does not apply to teachers as pay protection for this group will be in accordance with the **School Teachers Pay & Conditions Document**.

#### **Pay Protection and Flexible Retirement (support staff only)**

Pay protection will not apply where Flexible Retirement has been agreed.

#### **Flexible retirement**

A member of the **Local Government Pension Scheme** aged 55 and over who is redeployed to a lower graded job, may **request** release of their pension. However, it is important to note that if there is a cost to the Authority, then the request may be declined.

#### **Withholding a redundancy payment**

No redundancy payment will be made if, in the view of the Governors, an employee unreasonably refuses an offer of suitable alternative employment, including declining confirmation in post or unreasonably terminating a trial period.

### **14. Redeployment**

School support employees in maintained schools, who are at risk of redundancy, will if they wish, be placed on the redeployment register to assist those employees in securing redeployment. Under the Schools Staffing regulations 2009, the responsibility for the appointment of schools staff is a matter for the governing body and therefore schools are not governed by this policy. Governing bodies are encouraged to consider applicants from other schools who are in a potential redundancy situation

### **15. Supportive measures**

It is recognised that significant changes to working practices or the possibility of facing redundancy can be an extremely stressful time for employees and Head Teachers have a responsibility to provide appropriate support and advice.

#### **Employee Welfare Service**

Employees affected by organisational change will be advised how to contact the Employee Welfare Service which can provide counselling support.

#### **Time Off to Arrange Training or Seek Alternative Employment**

Employees who are selected for compulsory redundancy will be granted reasonable time off work with pay during his/her notice period to look for new employment or to make arrangements for training for future employment.

### **16. Special considerations**

## Maternity and adoption leave

Employers are under a statutory obligation to offer employees on **maternity and adoption leave** any suitable alternative vacancy. This means that if a vacancy that is suitable for the employee exists she must be offered the job even if this means that she is treated more favourably than other employees who are also at risk of redundancy. ***This preferential treatment applies where there is a reduction in the number of posts available in the new structure, the employee is entitled to preferential treatment at the point when they have failed to obtain a post following the selection process and have been issued with their formal redundancy notice. Where the employees post has been deleted, the individual will be entitled to preferential treatment from the outset.***

***Employees who are on maternity leave, adoption leave, or the additional paternity leave element of their maternity/adoption support leave during formal consultation but return to work at the point of implementation/selection are not entitled to this preferential treatment. However, Managers must ensure that these employees are fully engaged during the consultation period.*** The Lead Person(s) are strongly advised to seek advice from HR Services if one of their employees affected by the restructuring is on maternity or adoption leave.

## Sickness and other Absence

Employees who are absent on sick and other leave have the same entitlements to consultation and communication as other employees. Schools should therefore consider how they will fulfil this obligation and may wish to confirm with individual employees their preference as to how this occurs.

## Job Evaluation issues: New Posts (Support Staff Only)

Employees who have issues or concerns regarding the grade of a new post should raise these issues with their Head Teacher and/or the Trade Union representative as part of the formal consultation process. In line with the **Job Evaluation** policy, employees must be in the new post for 6 months before they appeal the Grade.

## Fixed Term employees

Please refer to the Fixed Term Contracts Guidance for detail regarding how to deal with employees that are on fixed term contracts.

## Secondments/Acting Up

Employees, who are on secondment/acting up, should return to their substantive post, irrespective of the period of time on secondment/acting up.