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## **Redundancy Policy and Procedure**

September 2018





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## 1. Introduction

It is the policy of the Trust to provide, as far as possible, security of employment for staff through careful forward planning and development of its human resource requirements. However, it is recognised that there may be changes in competitive conditions, organisational requirements and technological developments which may affect staffing needs. It is recognised that in order to maintain a climate of security of employment, flexibility may be required from staff in adapting to new staffing requirements, working methods, and organisational needs. It is a joint aim of the Academy and its recognised Trade Unions to avoid making compulsory redundancies amongst its employees wherever possible and to prevent situations arising which threaten job security.

In consultation with its recognised Trade Unions the Academy or Trust site will seek to minimise the effect of redundancies through the provision of support to assist in finding alternative employment for redundant staff. In cases where compulsory redundancy cannot be avoided the Academy or Trust site will handle the redundancy in the most fair, consistent and sympathetic manner possible, and seek to minimise hardship of the employees concerned. The trust will only seek to implement compulsory redundancies as a last resort.

## 2. What is Redundancy?

Redundancy is defined under the Employment Rights Act 1996 when an employee is dismissed because:

"The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was so employed;"

**Or**

"The employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed;"

**Or**

"The requirements of the business for the employees to carry out work of a particular kind has ceased or diminished or are expected to cease or diminish;"

**Or**

"The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish".

Note that a job change resulting from reorganisation, restructuring or a change of duties will not necessarily be a redundancy. The criteria for redundancy needs to be met.

- Redundancy should not be linked to staffing restructuring.
- The non-renewal of a temporary contract may amount to a redundancy.

### 3. Consultation

The Trust will consult with staff and their recognised Trade Union Representatives at the earliest practicable opportunity whenever there appears to be a situation which could lead to any redundancies. The Trust will provide, in writing to staff and recognised Trade Union Representatives, the following information concerning any proposed redundancies as part of the consultation process:

- The reasons for the proposals
- The numbers and descriptions of the employees it is proposed to dismiss as redundant
- The total number of employees of this description employed by the Academy or Trust site
- The way in which employees will be selected for redundancy
- How the dismissals will be carried out, and over what period
- The formula to be used for determining severance pay

When providing the reasons for redundancies, the employer will provide:

- current and forecasted school budgets;
- current and proposed staffing structures, with confirmation of staffing costs;
- other relevant financial information on request.

The Trust will give serious consideration to any proposals and representations put forward by employee groups and/or Trade Unions during the consultation period and will reply to them within the timescales specified for consultation. No employee will be given notice of dismissal until, at a minimum, the statutory consultation period is complete.

The Trust will carry out meaningful consultation with employee groups and/or Trade Unions in respect of proposed redundancies. This will take place in accordance with the following timescales:

- A minimum of 30 days' consultation where between 20 and 99 proposed redundancies are to take place at one establishment over a 90 day period, or
- A minimum of 45 days' consultation where 100 or more proposed redundancies are to take place at one establishment.

In such cases, the form [HR1](#) will be submitted for where the Trust is proposing to dismiss as redundant 20 or more employees at one establishment. This will be sent to the appropriate government department and to the relevant Trade Unions. These statutory requirements will be regarded as the minimum and the Trust will aim whenever possible to begin consultation at the earliest opportunity.

Where a member of staff is absent during the redundancy process the Trust must balance the interests of the absent staff member, the Trust, and all other employees who may be affected by the process. The Trust may continue with the selection and dismissal process even where staff are absent so long as reasonable adjustments such as input to meeting by telephone have been offered. The Trust will contact absent staff members to ask them to notify the Trust of any reasonable adjustments required. Where necessary, an opportunity for a home visit should be offered to absent staff not well enough to attend a meeting on premises.

Where a staff member is on maternity leave the Trust will ensure that they are able to access vacancies and that suitable vacancies are offered to staff on maternity leave in line with current legislation.

## 4. Avoiding Redundancies

The Trust will seek to avoid or minimise redundancies by means of the following measures as deemed appropriate by the Trust in consultation with recognised Trade Unions and employees:

- Assessing the effect of “normal” staff turnover
- Freezing or restricting recruitment
- Filling vacancies from existing employees by redeployment and/or retraining
- Reducing or eliminating overtime working
- Investigating the use of alternative working arrangements, such as part time working, reduced hours, job sharing etc.
- Trying to make savings in other areas
- Developing viable alternatives i.e. new qualifications
- Considering voluntary requests for early retirement or voluntary redundancy
- Collectively and/or individually agreeing a reduction of hours

## 5. Selection Methods

Where a need for redundancies has been identified, those employees directly affected will form a “pool” from which redundancies will be made which will be detailed in the consultation information as detailed above.

The selection criteria used may vary according to circumstances, but may include for example such considerations as:

- Qualifications, skills, and experience in relation to the Trust’s strategic and operational requirements, both current and future
- Other objective criteria which may be used to provide a fair basis for selection on grounds of performance or merit.

Criteria for selection for redundancy will not unlawfully discriminate. The following redundancy selection criteria will be avoided:

- pupil outcomes;
- performance management outcomes;
- disciplinary or capability procedure outcomes;
- being subject to a disciplinary or capability procedure;

- sickness absence.
- Trade unions will be consulted fully on the criteria for selection for redundancy.

Last in, first out will be one of the selection criteria for redundancy provided that this does not conflict with the employer's due regard to its equality duties as set out in the Equality Act 2010.

Redundancy should not be used to deal with cases of misconduct or poor performance, for which other procedures exist. However, where a genuine redundancy situation has already arisen, and there is a requirement to identify candidates for redundancy selectively from within a pool of employees, it may be appropriate to consider overall work performance where this is demonstrable by reference to accepted and objective criteria.

## 6. Voluntary Redundancy

Wherever possible the Trust will seek volunteers to achieve the required reduction in staff number. Any such volunteer will be treated as a normal redundancy and will not be expected to resign. It is not essential for volunteers to attend a formal dismissal meeting.

Volunteers will not be unreasonably refused, however the Trust must ensure that it retains the necessary balance of skills and experience amongst staff to carry out its future commitments effectively. If requests from volunteers exceed the required staff reduction then the selection criteria agreed through the consultation process will be used.

Staff who are accepted for voluntary redundancy may agree an appropriate leaving date including pay in lieu of notice with their budget holder and line manager. Holiday must be taken before any agreed early leaving date.

Voluntary redundancies are subject to discrimination law and the school will monitor its redundancy processes to ensure that they do not unlawfully discriminate in respect of offers of voluntary redundancy.

### Enhanced Severance and Voluntary Early Retirement

The Trust in consultation with the Trade Unions will make use of enhanced severance to avoid or reduce the number of redundancies and that 104 weeks' pay is the maximum enhanced severance payment payable. The Trust will make use of voluntary early retirement to avoid or reduce the number of redundancies, but that the use of this precludes the awarding of the maximum enhanced severance payment.

## 7. Selection

As detailed above the criteria to be used in the selection process will be sent to the trade unions and employees in the area(s) where redundancies are to be made before the selection process takes place.

After staff and managers have had the opportunity to agree and comment on criteria, staff in the pool will be given the opportunity to submit a written response to the criteria to indicate how they feel they matched the criteria. Matrices submitted after the date, agreed by the manager, will not be accepted unless in exceptional circumstances.

Assessments will be undertaken by the individual's line manager and a member of the senior management team. If it is not possible to differentiate between employees on the basis of criteria described in Section 5, a range of alternatives will be considered which include presentations, skills tests or interviews.

“One to one” meetings will be held between the selected employee, their line manager and an HR representative. This consideration will take into account the individual's skills, levels of responsibility and seniority, and career aspirations. Consideration will be given to reasonable retraining where practicable in order to assist with redeployment into suitable alternative work

Once staff are identified as redundant and notified of their potential redundancy the Trust will actively seek suitable alternative work for them prior to their redundancy taking effect. If a member of staff at risk of redundancy sees a vacancy they would like to be considered for they should express an interest in the job role by email to their regional HR contact and line manager in the first instance . If the staff member meets the minimum criteria they will be given preference in being appointed to that role over staff who are not at risk. Where staff apply for a role as an alternative to redundancy they will move onto the salary level appropriate for that job role immediately after they accept the role. Any accrued holiday entitlement must be taken prior to commencing the new job role.

## 8. Dismissal

Staff who are leaving the organisation owing to compulsory redundancy will be invited to a dismissal meeting. This meeting will not take place before the end of the legal consultation period.

## 9. Redeployment

Redeployment occurs where the Trust finds suitable alternative employment for a staff member who is under notice of redundancy. If a suitable role is found then a formal offer will be made in writing. Employees not accepting a reasonable offer of suitable alternative work may result in any potential redundancy payments not being made. (Women who are pregnant or on maternity leave are in a special position if selected for redundancy, the Trust recognises its obligation to look for alternative employment is much stricter for women made redundant when pregnant or on maternity leave.)

Staff who are redeployed to alternative posts will normally do so on the basis of a trial period of 4 weeks. Where the job role involves significant retraining then the Trust and staff member may agree to lengthen this period. If the trial period is successfully concluded the employee will be deemed not to be redundant.

Staff members who elect to leave following an unsuccessful trial period will still be entitled to receive their redundancy payments unless the Trust considers the alternative role is suitable alternative employment; however, they will not be entitled to a further period of notice. Notice will continue to run concurrently during the trial period.

The Trust will grant employees who are under notice of redundancy reasonable time off with pay to seek alternative work, or to arrange training. They will be permitted reasonable use of office facilities such as telephone, photocopier etc. to assist with this.

Staff who are redeployed into a suitable job role by the Trust will be moved onto the salary level appropriate for that job role following a contractual notice period.

## 10. Appeal

Any employee, who has been issued notice of redundancy and considers that s/he has been treated unfairly in having been selected for redundancy, may appeal; the appeal should be made in writing to;

- the Principal or;
- Regional Executive Principal (where the Principal has made the decision to give notice of redundancy) or;
- the Chief Operating Officer (in the case of non-Academy staff)

Written notice of an intention to appeal, and the grounds on which it is based should be submitted within 5 working days of the date of written notice of dismissal. An appeal meeting should take place within 10 working days after receiving notice of the appeal.

Appeals will be heard by a senior Trust staff member with a HR representative, both of whom will have had no previous involvement in the redundancy. The member of staff has the right to be accompanied to the meeting.

The member of staff will be informed of the outcome of the appeal in writing within 10 working days after the date of the appeal meeting. The Trust regards the appeal decision as final.

## 11. Payments

Those employees with two or more years' continuous service with the Trust will be entitled to receive a redundancy payment. This will be calculated according to their age, length of service and final gross weekly pay subject to the statutory maximum (based on the maximum rate of a week's pay at the time of the redundancy dismissal). More information can be obtained through the redundancy calculator at <http://www.direct.gov.uk/redundancy.dsb>

The Trust will pay due regard to the redundancy modification order requirements of the LGPS and Teacher Pension Scheme's where these relate to a redundancy dismissal.

Employees who are made redundant (either on a voluntary or compulsory basis) will not be required to repay any relocation or training expenses normally recovered on termination. Employees must however return any Trust equipment.

## 12. Notice and Termination of Employment

The Trust may decide to waive its right for the redundant employee to work their contractual notice.

Notice periods for teachers being made redundant are those which are set out in the Burgundy Book. In addition, all members with more than 8 years' service will be entitled to an additional weeks notice for every year served up to 12 years.

(if a teacher has been continuously employed for more than eight years they are entitled to receive longer notice as specified in the Employments Rights Act 1996. (An additional weeks' notice for every year served up to 12 years.)

A teacher's period of continuous for statutory employment rights dates from the commencement of service with the college. Previous continuous service with an organisation (s) covered by the Redundancy Payments



(Local Government) (Modification) Orders will be included in calculating entitlement to a redundancy payment, maternity pay and leave and sickness allowance.

### 13. Equality Impact Assessment

The Trust will discharge its Public-Sector Equality Duty (PSED) in the event of any redundancies and will ensure that every aspect of the redundancy process is monitored and controlled to comply with this. The PSED is implemented to:

- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- ii. advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it;
- iii. foster good relations between people who share a relevant protected characteristic and people who do not share it.

Protected characteristics are set out in Section 4 of the Equality Act 2010 and are:

- age;
- race;
- disability;
- religion or belief;
- gender reassignment;
- gender;
- marriage and civil partnership;
- sexual orientation.
- pregnancy (including maternity leave);

### 14. TUPE Protection

The Trust recognises that certain employees who have transferred to the Trust under TUPE protection may have differing contractual terms and conditions from previous employment relationships which remain in place due to TUPE rights. The Trust acknowledges that these may differ from entitlements set out in its portfolio of policies and recognises those terms.



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