



Ousedale School

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Redundancy Policy and Procedure

Reviewed and approved by Personnel Committee	23/06/2021
Approved by Full Governors	05/07/2021
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GENERAL PRINCIPLES

- 1.1 This policy has been drawn up following consultation with Trade Unions and Teachers' Professional Associations.
- 1.2 The determination to dismiss by reason of redundancy is a matter for the school governing board.
- 1.3 The governing board will seek to ensure, as far as possible, security of employment for employees by careful forward planning. However, it is recognised that from time to time the needs of the school may lead to reduced staffing requirements. The governing board and, in consultation with Trades Unions/Teachers' Professional Associations, will seek to avoid redundancy through the provision of support in finding alternative employment.
- 1.4 Where redundancy may be inevitable, the governing board will handle the process in a fair, consistent and sympathetic manner and endeavour to minimise any hardship that may be suffered by any affected employee.
- 1.5 This policy is non-contractual and the governing board reserves the right to amend it from time to time.

2.0 LEGAL DEFINITION

- 2.1 Redundancy must conform to the criteria laid down in section 139 (1) of the Employment Rights Act 1996 which states that an employee shall be taken to be dismissed by reason of redundancy where the dismissal is wholly or mainly attributable to :
 - 2.1.1 (a) the fact that the employer has ceased, or intends to cease, to carry out the business for the purposes of which the employee was employed, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed;

or
 - 2.1.2 (b) the fact that the requirements of this 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, have ceased or diminished or are expected to cease or diminish.

3.0 PLANNING TO AVOID REDUNDANCY

- 3.1 The governing board will seek, as part of its planning process, to avoid or minimise any problem of staff surplus in cases where future reductions in staffing are known to be likely and consider the following strategies as appropriate:
 - Staff turnover
 - Restricting the recruitment of permanent staff
 - Reducing the use of temporary staff without infringing employment rights
 - Reduction in hours - where agreed with the employee or allowed for in the contract of employment
 - Filling vacancies from among existing employees
 - Job share
 - Seeking applicants for early retirement

- Training or re-training
- Voluntary redeployment of employees

4.0 THE REDUNDANCY PROCESS

4.1 Where all the measures outlined in Section 3 have failed, the governing board will need to determine the number and type of posts that may be surplus to the school's requirements: a potential redundancy situation will now exist. The governing board must restrict discussion to broad issues only, in order to ensure that a fair and reasonable consultation process can be implemented. In particular, this will avoid members of the Redundancy and Appeal Committees having detailed prior knowledge of the circumstances and the individuals affected.

4.2 Preparation, Planning and Timescale

4.2.1 Where the governing board has delegated the responsibility for dismissals to the headteacher, the headteacher will make the decision on which post(s) are to be declared redundant based on the agreed criteria. The governing board will also need to establish an Appeal Committee comprising a minimum of three governors.

4.2.2 In other circumstances the governing board will need to establish both a Redundancy Committee and an Appeal Committee. The Redundancy Committee may either comprise one or two governors to act with the headteacher or a committee of three governors. Where the headteacher is not a member of the committee s/he will still be expected to attend in order to present the business case and answer questions. The Appeal Committee should comprise a minimum of three governors. No governor may be a member of both committees.

4.2.3 Any consultation meeting would normally be clerked and a formal record of the proceedings must be kept.

4.2.4 The surplus staffing situation at the school may involve:

- (a) a unique post being declared redundant;
- (b) a reduction in the number of staff employed to do the same type of work (e.g. class teachers) where a selection matrix may be used;
- (c) a reduction in hours and/or a change in duties and responsibilities where a complete reorganisation of the structure may be advisable.

4.2.5 Whilst the school's governing board has overall responsibility for the redundancy process, it is generally expected that the headteacher will lead on the following actions:

- prepare the rationale (business case) and timeline for staff reductions;
- ensure that supporting budgetary information is set out clearly;
- formulate proposals on how the reduction might be achieved;
- suggest the most appropriate process to be followed;
- determine the number of "pools of selection";
- where a selection process is required, determine the posts which will be included in each selection pool;
- ensure that consultation with employees and where required, Trades Union/Association representatives takes place;
- where selection is required, formulate proposed selection criteria and the basis for scoring those criteria.

- 4.2.6 The headteacher must ensure that all staff, including those who may be absent from work due to maternity leave, sick leave and other forms of authorised absence are consulted and kept informed. Note: It is automatically unfair to select a woman for redundancy on the grounds of her pregnancy and women on maternity leave must be offered suitable alternative employment before it is offered to other affected employees. In addition, it is important to remember the duty to make reasonable adjustments for disabled employees under the Equality Act 2010.
- 4.2.7 Headteachers should also ensure that employees on fixed term contracts are not treated less favourably than permanent employees contrary to the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.
- 4.2.8 Examples of appropriate selection criteria which would normally be used for determining which individuals should be selected for redundancy include skills, experience, performance, attendance and disciplinary record. However, it shall be for the headteacher to propose appropriate criteria (which may or may not include all or any of the above examples) according to the specific circumstances of the redundancy situation.
- 4.2.9 Length of service will normally be used as a tie breaker in the event of two or more employees getting the same total score.
- 4.2.10 The role of the Redundancy Committee is to:
- discuss and agree the proposals set out by the headteacher;
 - determine appropriate selection criteria (including weighting and methods of scoring);
 - agree the redundancy timetable;
 - consider proposals put forward during the consultation process and formally respond;
 - at the end of the consultation, consider the information provided by the headteacher and make the final decision on which posts are to be declared redundant;
 - provisionally select individuals for redundancy based on the agreed criteria;
 - subsequently hear representations from the employee(s) who are provisionally selected for redundancy.
- 4.2.11 Where the headteacher is responsible for dismissal, s/he will consider the information that has been collated and, using the agreed criteria, make the final decision on which post(s) are to be declared redundant. The headteacher will also subsequently hear representations from the employee(s) whose post(s) are selected for redundancy. The Appeal Committee will then hear any subsequent appeal(s).
- 4.2.12 In considering any reduction in staff, the governors should agree a realistic timescale for implementation. The contracts of teachers may be terminated on three fixed dates only in the year: 30 April, 31 August and 31 December. Notice must be served by 28 February, 31 May and 31 October respectively in order to comply with statutory requirements. Contracts of employment for support staff do not limit termination to the end of a term, but in some cases there may be an entitlement of up to twelve weeks' notice.

4.3 Consultation

4.3.1 Where it is proposed to dismiss as redundant 20 or more employees at one establishment within in a 90 day period, the governing board has a duty under section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 to comply with minimum consultation periods which are 30 days for between 20 and 99 redundancies and 45 days for 100+ redundancies. Such collective consultation will be with recognised trade unions and/or elected employee representatives and will involve disclosing in writing:

- reasons for the proposals to reduce staffing levels;
- the number and description of employees whom it is proposed to dismiss by reason of redundancy and the total number of any such description employed at the establishment in question;
- the proposed method of selection for redundancy;
- the proposed method of effecting redundancy dismissals, including the period over which they are likely to take place;
- details of the method of calculation of any redundancy payments other than those required by law;
- the date of the first consultation meeting (if known at the time);
- the number of agency workers engaged by the school (specifying the departments in which they are working and the type of work they are doing).

4.3.2 At the same time as the Section 188 Notice is issued, the headteacher will notify the relevant Trade Union/Association representatives as well as informing the staff of the situation and the date of the first collective consultation meeting. This will take place as soon as possible and will include one or more members of the Redundancy Committee, the headteacher and the relevant Trade Union/Association representatives. There may be a need to hold more than one consultation meeting where groups of staff are affected differently by the proposals. The objective of the consultation process is to try to reach agreement with the Trade Unions/Associations. Any proposals made by the Trade Unions/ Associations will be considered by the Redundancy Committee and a written response will be given.

4.3.3 Regardless of whether the above statutory obligations (of section 188) apply the consultation process will always (where relevant) include:

- strategies to try to avoid redundancy;
- dates of the first and any subsequent consultation meetings;
- the reason for the proposed staffing reduction;
- relevant budgetary information where the reason for the proposed staffing reduction is financial;
- the procedure to be used (with copies available to staff);
- the pools of selection;
- selection criteria (including the basis for scoring) for identifying the post(s) to be declared redundant; and
- the timescale.

4.3.4 Where the potential redundancies are only likely to affect one or two distinct roles, the governing board may determine that the headteacher shall carry out the consultation process without the need to establish a Redundancy Committee. Consultation with the relevant Trade Union/Association representatives on the issues listed in the bullet points above shall still take place.

4.4 Voluntary Stage

4.4.1 Where possible, consideration should be given to resolving overstaffing issues by voluntary means (such as voluntary redeployment or redundancy) rather than progressing to compulsory selection.

4.4.2 Where voluntary redundancy is offered to affected staff the governing board reserves an absolute discretion as to whether to accept an application for voluntary redundancy but will always have regard to the needs of the school going forward and its financial circumstances.

4.5 Compulsory Stage

4.5.1 If the situation is not resolved by means of volunteers and compulsory measures are required, employees will be selected on a fair, consistent, objective and non-discriminatory basis. A selection process will not usually be necessary where only one post holder is carrying out the role which it is proposed to make redundant although the question of the pool of selection must have been properly considered.

4.6 Representation to the Redundancy Committee

4.6.1 Once the Redundancy Committee has provisionally identified the post to be declared redundant, the post holder(s) will be notified in writing and invited to attend a consultation meeting with the Redundancy Committee one week later. The letter should state the date, time and venue of the hearing, the reasons for the potential redundancy (including the employee's own scores against any selection criteria), give the names of the members of the Redundancy Committee, remind the employee of the right to be accompanied by a union/association representative or friend at the meeting, and state that representations may be made in person and/or in writing. The employee will be asked to confirm whether or not they will be attending.

4.6.2 As the date of the Redundancy Committee meeting has been pre-set at the start of the process, it is expected that staff and representatives will already have noted this in the diary. However, if the employee's representative is unavailable and the employee proposes an alternative date and time which is reasonable and within 5 working days of the scheduled meeting, the original meeting must be postponed. This will also apply in the case of an Appeal hearing.

4.6.3 The clerk will ensure that documentation to be submitted to the Redundancy Committee hearing is sent to all parties before the date of the meeting, although the employee will be permitted to submit documentation at the meeting itself if necessary.

4.6.4 The Redundancy Committee meeting should be conducted as follows:

- (a) the chair of the Redundancy Committee will make the necessary introductions;
- (b) the headteacher or chair of the Redundancy Committee will present the committee's reasons for its provisional selection of the post (and individual where a selection process is involved) for redundancy;
- (c) the employee (and/or his/her representative or friend) and the members of the Redundancy Committee may ask questions of the headteacher or chair of the Redundancy Committee;
- (d) the employee (and or his/her representative or friend) will make representations against selection for redundancy;
- (e) the headteacher and the members of the Redundancy Committee may ask questions of the employee (and/or his/her representative or friend);

- (f) the employee (and/or his/her representative or friend) may sum up his/her case if s/he so wishes;
- (g) the headteacher and the employee (and/or his/her representative or friend) should withdraw from the meeting. The clerk will remain;
- (h) The Redundancy Committee will come to a decision;
- (i) The Redundancy Committee will inform the employee and the headteacher of its decision in person and subsequently in writing. The letter should state that the representations have been properly considered, give reasons for the decision and advise the employee that notice of termination of employment will now be issued. The employee should also be advised of his/her right of appeal. If the employee wishes to exercise that right, s/he should write to the headteacher setting out in full the grounds for the appeal within five working days of the Redundancy Committee hearing.

4.6.5 Note: The committee may recall the headteacher and the employee (with his/her representative or friend) to clear points of uncertainty on the information, which has been given, provided that both parties are recalled even if the point of uncertainty concerns the view of one party only.

4.7 Dismissal

4.7.1 The chair of the Redundancy Committee will issue a formal notice of dismissal to the employee as soon as possible after the meeting.

4.7.2 The employee will receive the full period of notice to which his/her contract of employment entitles him/her, or statutory notice equating to one week for each completed year of service up to a maximum of 12 weeks if this is greater. An employee who is not entitled to a redundancy payment is nevertheless entitled to receive full notice of dismissal by reason of redundancy.

4.7.3 For support staff, where it is not possible to serve notice sufficiently early to fulfil the contractual or statutory notice requirement, a payment in lieu of notice will be made and the employee will not be required to attend for duty during what would have been the notice period. This would be payable regardless of any entitlement to a redundancy payment.

4.8 Redundancy Appeal Hearing

4.8.1 Arrangements for convening the Appeal Committee should be the same as those for the representations hearing. Following receipt by the headteacher of the written notice of appeal, the employee will be invited to attend a hearing of the Appeal Committee and given at least five working days' written notice of the date, time and venue. The letter should give the names of the members of the Appeal Committee, remind the employee of the right to be accompanied by a union/association representative or friend at the hearing, and state that representations may be made in person and/or in writing.

4.8.2 The clerk will ensure that all the documentation (including that submitted to the Redundancy Committee/head teacher) is sent to all parties concerned at least five working days before the date of the appeal hearing.

4.8.3 The Appeal Hearing should be conducted as follows:

- (a) the chair of the Appeal Committee will make the necessary introductions;

- (b) the Headteacher or chair of the Redundancy Committee (as appropriate) will explain the basis for their decision to dismiss the employee by reason of redundancy;
- (c) the employee (and/or his/her representative or friend) and the members of the Appeal Committee may ask questions of the headteacher or chair of the Redundancy Committee;
- (d) the employee (and/or his/her representative or friend) will present reasons why his/her post should not have been made redundant or where appropriate why he/she should not have been selected for redundancy;
- (e) the headteacher or chair of the Redundancy Committee and the members of the Appeal Committee may ask questions of the employee (and/or his/her representative or friend);
- (f) the headteacher or chair of the Redundancy Committee may sum up the basis for why their decision to dismiss should stand if s/he wishes;
- (g) the employee (and his/her representative or friend) may sum up his/her grounds for appeal if s/he so wishes;
- (h) the chair of the Redundancy Committee and/or the headteacher and the employee (and his/her representative or friend) should withdraw from the hearing. The clerk will remain;
- (i) the Appeal Committee will come to a decision;
- (j) the Appeal Committee will inform the employee and the headteacher/chair of the Redundancy Committee of its decision in person and subsequently in writing. The letter should state that the appeal has been properly considered, give reasons for the decision and state there is no further right of appeal.

4.8.4 Note: The committee may recall the headteacher and the employee (with his/her representative or friend) to clear points of uncertainty on the information which has been given, provided that both parties are recalled even if the point of uncertainty concerns the views of one party only.

4.9 Redeployment and Support

4.9.1 Every possible effort must be made to assist the person being dismissed on grounds of redundancy to find alternative employment and this will continue until the final date of termination of employment.

4.9.2 Prior consideration for alternative employment will be given to those employees "at risk" of redundancy or who remain in employment but are working their notice. Where a new post is different, there is an entitlement to a four week trial period and if this should prove to be unsuccessful, the original redundancy payment and notice entitlement would still apply.

4.9.3 If a suitable job offer in terms of pay, grade, job content, status, etc is made and the employee unreasonably refuses that offer, the employee may forfeit the right to a redundancy payment (but will still be entitled to notice of termination of employment).

4.9.4 Employees who are under notice of redundancy will be entitled to reasonable paid time off to look for alternative employment, subject to statutory limits.

4.9.5 Redundancy can be a traumatic experience for employees, especially for those who have worked for many years in a stable environment. Some employees will have special difficulties to contend with and the governing board will provide information, advice and help within the resources available.

4.9.6 It is good practice to give redundant employees as much information as possible to help them during this difficult period of their lives. Once formal notice has been served, a forecast of redundancy compensation will be provided to the employee, together with information regarding pension, where applicable. Further advice and support may include career counselling, job application and interview preparation, investment opportunities, family considerations and personal counselling.

4.10 Financial Entitlements

4.10.1 Statutory entitlements to redundancy pay are calculated in accordance with the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999. The School uses its discretion to base these payments on actual pay, and therefore, these are not limited to the statutory maximum weekly wage which usually applies to statutory redundancy payments.

4.10.2 An employee who is dismissed by reason of redundancy will be entitled to a redundancy payment providing s/he has at least two years' continuous service with the school or related employers as listed under the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999.

4.10.3 Payments are based on the statutory formula which includes an individual's age, gross weekly pay and length of service (up to a maximum of 20 years service). For each completed year's service this equates to:

Service Between Ages Entitlement

21 and under	Half a week's pay per year
22 to 40	One week's pay per year
41 and above	One and a half weeks' pay per year