



## **NEU Reorganisation Model policy**

### **1. Introduction**

This policy sets out how necessary reorganisation will be pursued in such steps to avoid redundancies wherever possible and to facilitate the continued employment of as many staff affected by the reorganisation as possible. References to trade union representatives in this document are to representatives determined by the trade unions themselves.

### **2. Commitment to consultation and avoiding compulsory redundancies**

The school/academy will ensure that:

- all possible steps are taken to avoid compulsory redundancies and, where this is not possible, to reduce their number and mitigate their effects
- alternatives to compulsory redundancy (such as a freeze on recruitment, staff turnover, job sharing, reduced hours by agreement, retraining and redeployment, reduced non-staffing expenditure, voluntary redundancies and retirements) will be thoroughly considered prior to any compulsory redundancy exercise being undertaken
- the total number of redundancies made is kept to a minimum
- employees and their representatives are fully consulted on any proposals and their implementation
- selection for redundancy is based on clear criteria that will be objectively and fairly applied
- every effort is made to redeploy or find suitable alternative work for employees selected for redundancy
- support and advice will be provided to employees selected for redundancy to help them find suitable work when their employment has come to an end.

Nothing in this document should be taken to imply agreement on the part of the trade unions to any redundancy.

### **3. Process and consultation**

#### **3.1 Consultation**

The consultations will begin as early as possible but will commence at least before the school/academy is obliged to notify the Department for Business, Energy & Industrial Strategy prevailing legislation.

The law provides that where the possibility of a sizeable reduction in the workforce arises, ie affecting 20 to 99 employees in a 90-day period, a minimum of 30 calendar days' consultation must take place prior to the first employee redundancy dismissal. Where this may affect 100 or more employees in a 90-day period, a 90-day consultation period must take place prior to the first redundancy dismissal. In both situations, the school/academy is required by law to notify the Secretary of State for the Department for Business, Energy & Industrial Strategy of a proposal to dismiss 20 or more employees as redundant at one establishment within a period of 90 days.

The school/academy will, however, inform and consult with all employees, including those on fixed-term contracts, and their representatives, regardless of the number of employees involved. The school/academy will provide the following information:

- Where no specific proposals are being tabled but the school/academy has a need to achieve a specific savings target, the school/academy will share that target and the relevant budget information.
- Where specific proposals are being tabled, the school/academy will provide the reasons for the proposals, including relevant budget information (past and future) including student numbers and the curriculum needs of the school/academy.
- The number and descriptions of employees the school/academy proposes to dismiss as redundant.
- The total number of employees of that description employed at the establishment in question.
- The proposed panel who will be involved in scoring the selection matrix to identify those employees to be made redundant.
- The proposed period of formal consultation.
- The proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect.
- The proposed method of calculating the amount of any payments to be made to employees who may be dismissed.
- Any other reasonable information requested.

Where the possibility of a reduction in the size of the workforce arises, the school/academy will enter consultation with trade union representatives with a view to avoiding the proposed job losses by any means other than compulsory redundancies, including natural wastage, retraining, redeployment and voluntary redundancies. Wherever possible, the school/academy will invite applications for voluntary redundancy at the start of the consultation period.

The school/academy has a statutory duty to disclose in writing to the representatives the information detailed above concerning proposals for redundancies so that they may play a constructive part in the consultation process. Consultation with union representatives will be undertaken at the earliest opportunity, with a view to reaching agreement wherever possible.

The school/academy will also engage in full consultations with the individual employees concerned as early as possible and will then inform all staff together at a group meeting as soon as possible, thereby reducing the level of concern among employees.

Employees have the right to be accompanied by a trade union representative or work colleague at all stages in the consultation process.

The consultation with trade union representatives and individual staff will be meaningful, clear and a two-way process.

The school/academy will take care to consult staff who are absent from the school/academy due to sickness, maternity or paternity leave etc.

The school/academy will provide additional facilities time for union representatives where necessary to allow them to participate in consultations on proposed reorganisations.

### 3.2 Selection process

Where, after the formal consultation period and after due consideration of the alternatives, the school/academy considers that the need for redundancies remains, the principal will give written details of their proposals to the trade union representatives.

Where the case for redundancy has been defined and the post(s) affected have been identified but attempts to find alternatives have so far been unsuccessful, the next step is to determine the provisional 'pool' for selection. A rationale for each such pool will be provided to the unions as part of the consultation arrangements.

The school/academy will undertake a skills audit of its staff as soon as possible to establish other skills areas (such as second subjects) which may help in redeployment and minimise compulsory redundancies. This may also include an identification of possible further training and/or support from the employer for staff member(s) at risk of redundancy. This would be to enable staff members at risk to potentially carry out different roles available as part of reorganisation.

The school/academy will then advise those employees on an individual basis that they have been provisionally selected for redundancy. During the consultation, employees will have been informed of the basis of their provisional selection and their payment entitlements. Employees will be invited to make oral and written representations on their proposed dismissals. The school/academy will consider any such representations and will make every effort to seek suitable alternative employment within the organisation and neighbouring school/academy before a confirmed selection for redundancy is made. Employees have the right to be accompanied by a trade union representative at all stages in the process. Where selection has been confirmed, employees must be invited in writing to a formal meeting where they will be given notice of termination of their employment in accordance with their contractual entitlement. They will also be informed of any other payment entitlements they may have, including the redundancy payment to be made.

### 3.3 Selection criteria

The school/academy is committed to ensuring that a fair, transparent, consistent, objective and non-discriminatory selection procedure is followed.

The process for selecting staff for redundancy will be using selection criteria. The precise criteria to be used will be consulted upon with union representatives at the start of the consultation process. As schools/academies have differing areas of specialism/requirements and the employees involved in each situation will be different, selection criteria will be developed as and when required.

Where selection criteria are used for employees in schools/academies, this will be based on a points system, which allocates a score for each employee within the pool for selection. The purpose of these selection criteria is to ensure that schools/academies retain the skills, knowledge and experience required to continue to operate effectively.

The criteria and process of selection will be appropriate to the redundancy exercise. Nevertheless, local consultation should be based on the following clear principles: that the criteria and process are fair, transparent, consistent, objective and non-discriminatory, and appropriate to the staff groups being selected for redundancy. In addition, criteria should be measurable, clear and precisely defined, and capable of verification by reference to relevant information. Great care will be taken in the choice of criteria to avoid indirect discrimination, such as length of service (which may amount to indirect age discrimination against younger employees and/or against women, who may have shorter service due to time out for raising children) or flexibility (which may amount to discrimination because of, or arising from, disability or because of sex). The regional human resources (HR) manager must be involved in the construction of the criteria.

When the criteria come to be applied to the scoring of the staff in the pool, a panel of preferably an odd number of people, but comprising at least two, must undertake this. All scoring decisions must be fairly and honestly applied and documented. Staff involved will be entitled to see their own score and to receive an explanation of how their score was arrived at.

### 3.4 Appeals

Employees have the right to appeal within 15 working days against their selection for redundancy to a panel who are independent of the original decision. Such appeals will be dealt with in accordance with the principles of the school/academy's dismissal

procedure. Employees will be advised of their right to be accompanied by a trade union representative or work colleague at the appeal stage.

### 3.5 Employees selected for redundancy

The member(s) of staff will be informed of their selection for redundancy as soon as possible and this will be confirmed in writing.

Subject to the school/academy's operational needs, all employees who are under notice of redundancy qualify for an entitlement to a reasonable amount of time off with pay to look for another job or to seek retraining opportunities, in accordance with current legislation. The school/academy is also committed to:

- contacting other schools/academies for any suitable vacancies which may be offered to employees
- contacting the local authority with a view to canvassing for any vacancies which may be offered to the redundant employees
- contacting the local job centre, who provide a free service for bringing together employers with vacancies and people looking for work
- providing support and guidance to employees with application writing and/or interview support.

All employees who receive redundancy payments will be given a written notification of the way in which their redundancy pay has been calculated.

Schools/academies must inform HR of any changes which may result in employees being made redundant at the earliest possible opportunity, prior to any discussions with trade union representatives or employees taking place.

Clear communication is vital and the awareness of the impact this process will have on all employees should be considered carefully.

Employees who take voluntary redundancy will be entitled to the same redundancy pay as those employees who are made compulsorily redundant.

## 4. Equality

This reorganisation policy must always be applied fairly in accordance with employment law and [name of school/academy] equality policy/statement/the principles of equality.

Furthermore, [insert name of school/academy] will seek to ensure that:

- all employees are represented and involved in the reorganisation process
- information relating to the reorganisation process is made available in accessible formats (eg Braille or large font)
- staff on maternity/adoption/paternity/parental leave and long-term sick leave are informed of the reorganisation process and are represented
- redundancy selection criteria does not give rise to discriminatory outcomes
- support currently available to disabled pupils/students and staff is not withdrawn or otherwise adversely affected
- redeployed disabled staff receive reasonable adjustments as and when required
- positive action initiatives such as those to encourage more black and minority ethnic (BME) and women staff into senior leadership roles continues.

## 5. Voluntary severance and premature retirement

Whether or not there is a pool, and, if so, the size of this, will vary depending on the extent to which there are other roles undertaking the same or similar work and the extent to which these roles can be deemed interchangeable with the redundant post(s). Where a pool is defined, consideration should be given as to whether it would be appropriate to invite applications for voluntary redundancy from within the pool, thus avoiding or reducing the need to make compulsory redundancies.

Wherever possible, the school/academy will also invite applications for voluntary severance more generally across the school/academy, not just from within the specific pools.

The school/academy is not obliged to accept every, or any, volunteer for severance if it does not consider it appropriate to do so.

Severance payments and notice periods are calculated on the same basis as for compulsory redundancy. It may be possible to agree an earlier release date in these circumstances, in which case, although retaining the right to a redundancy payment, the individual would normally forego the right to any remaining notice period (unless exceptionally agreed otherwise), and their salary and employment would cease on the actual day that they leave, not the proposed redundancy date.

Where members of staff have requested to take early retirement in response to a redundancy exercise, the school/academy will consider all such requests.

If, after allowing enough time to explore voluntary redundancies for staff, it does not appear possible to achieve the reduced staffing levels required, the principal will inform all relevant staff of the need to move to selection for potential compulsory redundancies.

#### 6. Calculation of redundancy pay/severance payments

All employees with at least two years' continuous service will qualify for redundancy pay. Redundancy pay will be calculated under locally agreed enhanced schemes, under the statutory scheme or under actual salary, whichever is the higher.

Payments will be calculated using multiples of a week's pay. The number of weeks will be based on the employee's complete years of service and age.

In order to calculate the employee's redundancy under their actual salary, the following formula will be used:

$$\frac{\text{Actual salary}}{365} \times 7 \times 1 \text{ week for every year's service under the age of 41 and/or}$$
$$1.5 \text{ weeks for every year's service over the age of 41}$$

The current minimum rate for a week's full-time pay under the statutory minimum pay is £508. Staff will be given the most up-to-date calculation at the point when consultation begins. The school/academy may consider offering a payment greater than that above to seek to achieve job reductions through voluntary severance.

#### 7. Notice periods

In addition to any redundancy payment entitlement, employees who are dismissed on the grounds of redundancy should be given the period of notice, or payment in lieu of notice, to which they are entitled under statute and their contracts of employment.

#### 8. Offers of an alternative role

The school/academy should consider whether employees likely to be affected by redundancy can be offered suitable alternative work. Where alternative work is available within a school/academy, or an associated employer, the employee should be given enough details to enable him or her to decide whether to accept or not. The search for alternative employment should extend throughout the group of schools/academies.

Female employees on maternity leave have a priority right to be offered a suitable alternative vacancy without having to undergo a competitive selection process.

In certain circumstances it may be a reasonable adjustment to transfer a disabled employee to a suitable alternative post without competitive interview.

All other employees at risk of redundancy have a right to suitable alternative employment without competitive interview, except where more than one employee wishes to apply for the vacant post.

Any change in an employee's hours of work, for example in shift patterns, may make an offer of work unsuitable if it fails to take account of the individual's personal circumstances. The school/academy may also consider the possibility of retaining the employee in a temporary capacity until permanent vacancies arise. This is particularly appropriate where vacancies arise regularly. Any decision about whether to advertise vacancies outside the school/academy will be given detailed consideration. It is up to the employee to decide whether the alternative work is suitable. The school/academy should be aware that the following factors may influence their decision:

- Earnings will be protected against a fall in the current rate of pay for three years. Alternatively, there may be opportunities for employees to earn more.
- The school/academy should consider the degree of disruption likely to be caused by a change of location and any additional expense incurred. Any increase in travelling time should be considered in relation to the age, health and domestic circumstances of the employee's working environment.
- This may be especially important for those employees who suffer a health complaint or disability, including mental impairments.
- The employee's skills, experience and qualifications, and their ability to perform duties and any additional training that may be required.

It is the school/academy's responsibility to show that an offer of an alternative job has been made. Any offer should therefore be put in writing, even where the school/academy believes that it may be rejected. The offer should show how the new employment differs from the old and, by law, must be made before the employment under the previous contract ends. The offer must be for the new job to start either immediately after the end of the old job or after an interval of not more than four weeks. To be deemed suitable alternative work, the role must be the same as, or not substantially different from, the previous work and must be suitable for the employee. Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay. Unreasonable refusal may arise where the differences between the new and old jobs are negligible or where the employee assumes rather than investigates the changes that a new job might involve, for example, travelling time or working conditions. Refusal may be reasonable if the new job would cause domestic upheaval, for example if there were a considerable change in working hours or a need to move to a new house or if it were detrimental to the employee.

## 9. Trial period

An employee who is under notice of redundancy has a statutory right to a trial period of four weeks in an alternative job where the provisions of the new contract differ from the original contract. The trial period begins when the previous contract has ended and ends four weeks after the date on which the employee starts work under the new contract. The effect of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment. The four-week trial period can be extended for retraining purposes by an agreement which is in writing, specifies the date on which the trial period ends, and sets out the employee's terms and conditions after it ends. If the employee works beyond the end of the four-week period or the jointly agreed extended period, any redundancy entitlement will be lost because the employee will be deemed to have accepted the new employment. The academy should communicate this to the employee when the alternative job offer is made.

The school/academy should also use the trial period to assess the employee's suitability. Should the academy wish to end the new contract within the four weeks for a reason connected with the new job, the employee will preserve the right to a redundancy payment under the old contract.

#### 10. Equality monitoring

To ensure that we are meeting our public sector equality duty, we will monitor annually the impact of this policy by reference to the protected characteristics of staff (age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and sexual orientation). The results will be shared (anonymised where appropriate) with the recognised trade unions.

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