



London Borough of Waltham Forest

RE-ORGANISATION

&

REDUNDANCY

MODEL PROCEDURE

FOR SCHOOL BASED STAFF

March 2017

Date Adopted by GB:	
Review Date of Policy:	
Signed:	

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SECTION 1: OUTLINE OF POLICY

1.0 INTRODUCTION

- 1.1 Staff are the most important resource in any school and effective management of those staff is critical to the quality of service provided to the young people of Waltham Forest.
- 1.2 Careful forward planning by the Governing Body of the School, will ensure as far as possible, continuity of employment for its employees. However, it is recognised that there may be external factors which require an adjustment in staff levels.
- 1.3 Schools need to be able to respond to changes in requirements, such as those brought about by changing pupil numbers, reductions in budgetary provision or changes in curriculum emphasis which may result in a reduction of staff from time to time.
- 1.4 It is the responsibility of the Governing Body, in association with the LA (if a community school), to manage an organisation change process and consider all options available to avoid compulsory redundancies. This policy sets out how the School will manage such organisational changes.
- 1.5 This procedure will be used when circumstances arise that could potentially lead to organisational changes. Examples of when this procedure may apply are listed below, this list is not exhaustive.
 - Changes in number of pupils
 - Changes in curriculum requirement
 - Recruitment and retention difficulties
 - Members of staff leaving
 - Initiatives at either local or national level
 - A review of the deployment of staff resources
 - School/Academy closure or amalgamation
 - Changes in school's budget
 - Any other circumstances which gives rise to change in staffing

2.0 SCOPE

- 2.1 This policy applies to all teaching and support staff, regardless of grade or position, hours worked, or whether the contract is permanent, temporary or fixed term.
- 2.2 Where this policy refers to the 'Head teacher', and the Head teacher's post is identified in the organisation change proposal as being one at risk of potential redundancy, 'Chair of Governors' should replace 'Headteacher'.

3.0 PRINCIPALS

- 3.1 In the application of the policy, the Governing Body will ensure that all staff are dealt with fairly and equitably regardless of status. No employee will receive less favourable treatment or be discriminated against or victimised for any reason.
- 3.2 Consultation will take place with both staff and recognised unions, at Local Authority Level (see process flowchart on page 19) at the earliest possible stage in this procedure, with a view to reaching agreement to avoiding compulsory redundancies. Compulsory Redundancy will only be used after all other reasonable alternatives have been considered.
- 3.3 Staff will be informed of their right to be accompanied by a trade union representative or a work colleague throughout this process.
- 3.4 Fair selection procedures will be used if redundancy becomes necessary, in accordance with an agreed selection criteria formally adopted by the Governing Body. (4.4.2)
- 3.5 All employees selected for redundancy will have the right to appeal against such a decision and should use the appeals mechanism contained in this policy.
- 3.6 Every effort will be made to redeploy staff who have been selected for redundancy.
- 3.7 All those involved in carrying out the redundancy selection process will do so with sensitivity.
- 3.8 All staff will be offered counselling through the Council's Workplace Options Counselling Service throughout the organisational change process.

4.0 DEFINITION OF REDUNDANCY & CONTRACTUAL RIGHTS

- 4.1 An employee is redundant if the employer has:
 - Closed or intends to close the school where the employee is employed.
 - Ceased or intends to cease the particular kind of work for which the employee is employed, or the employer intends to,
 - Reduce the number of posts in the school establishment

NB: this is not an exhaustive list

- 4.2 An employee, dismissed by reason of redundancy, will be entitled to claim redundancy payment if he/she has two years of qualifying continuous employment at the effective date of termination. (see section 3 paragraph 3).

4.3 The following steps should be taken to comply with best practice, if an employer is intending dismissing an employee on the grounds of redundancy.

Step 1 - Write to the employee to discuss the redundancy and invite them to a meeting.

Step 2 - Hold a meeting with the employee (at which he/she has the right to be accompanied). Notify the employee of the decision and the right of appeal.

Step 3 - Hold an appeal meeting (if the employee wishes to appeal) at which the employee has the right to be accompanied and inform the employee of the decision.

4.4 A redundancy dismissal is not different from any other dismissal in that an employee will be entitled to the contractual period of notice or will be given a payment in lieu of notice comprising salary and other contractual benefits.

SECTION 2: PROCESS

1.0 IDENTIFYING THE ORGANISATIONAL CHANGE & POTENTIAL REDUNDANCIES

1.1 The Head teacher will identify the reason for the proposed change and will gather all the relevant information, to determine the requirements to the change of the service, including those at risk of redundancy. A consultation document should be submitted for approval by the Governing Body, which sets out:

- a clear rationale for the proposed change.
- the posts potentially affected by the proposal.
- the proposals for managing the change.
- the timescales involved.

1.2 The consultation document should include, but is not limited to, the following paperwork:

- Financial Savings.
- Current staffing structure.
- Proposed staffing structure.
- Job descriptions for any proposed new posts.
- Suggested strategies to avoid compulsory redundancies.

1.3 The School is expected to seek professional advice and support from their traded HR provider in the formulation of the proposal. Where HR support is required through this process this should also be provided by the traded HR provider.

1.4 In the case of Community Schools, the Head teacher must forward the completed restructure proposal document, to the Schools HR Team to review and advise prior to any formal consultation taking place. If the School do not inform LBWF (the employer) then the School will be liable for any potential liabilities that may arise as a

result of this process.

- 1.5 The Governing Body is advised to delegate the responsibility to the Personnel Committee, or another appropriate elected committee for implementing the procedure. During the process the Headteacher will provide advice and guidance to both the Governing body and the staff with the support of their Traded HR Provider.
- 1.6 The Governing Body will also establish an Appeals Committee (this should exclude any governors previously involved) and should consist of 3 governors.

2.0 MINIMISING REDUNDANCIES

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

- restrict/suspend any recruitment;
- delete any vacant posts that are not required;
- ending or reducing overtime spend;
- ending casual or temporary contracts;
- voluntary reduction in hours;
- assimilation – slotting in employees to a new post where the post is substantially unchanged.
- redeployment (see section 5);
- release of supply/agency staff;
- voluntary redundancy.

NB. this is not an exhaustive list and all measures should be considered.

3.0 CONSULTATION & COMMUNICATION

3.1 The purpose of consultation is to provide the opportunity to take account of as well as listening to the views of employees and their representatives, before decisions are made. Consultation should begin in good time, taking term dates into consideration in order that the process can be meaningful for all parties.

3.2 Consultation Periods

No of employees	Minimum Consultation Period
1-19 employees at risk of redundancy.	21 working days
20-99 employees at risk of redundancy	30 working days

100 plus employees at risk of redundancy	45 working days
Changes to job descriptions	21 working days

- 3.3 The Traded HR Provider will give the required notice of consultation, if appropriate (when 20 or more employees are being made redundant at one establishment), to the Secretary of State, on behalf of the School.
- 3.4 Governors and Head Teachers will recognise the length of time needed to complete the redundancy process. For example, in a normal school planning cycle, the Governing Body will start the process at the beginning of the Spring Term (January) to enable notices for teachers to be given by 31 May to take effect on 31 August (i.e. the normal contractual date for departure). The termination dates for support staff are not restricted to the ends of term.
- 3.5 It is a legal requirement for formal consultation to take place with Trade Unions where there are potential redundancies. This policy will be applied where there is a potential redundancy situation for any number of staff.
- 3.6 Prior to any formal meeting, it will be desirable and good practice, for the Headteacher to communicate to those staff who are directly or indirectly affected to inform them that formal consultation will be happening in the near future.

4.0 FORMAL CONSULTATION MEETING

- 4.1 The Headteacher, on behalf of the Redundancy Committee, should invite all staff who are likely to be affected to attend a meeting. (Following the formal consultation meeting, consideration should be given to the impact of the whole school workforce and these employees should be informed of the proposed changes).
- 4.2 Unions (at Local Authority level) will be notified in writing at the earliest possible time in advance of the formal consultation meeting but no later than 5 working days. The information provided to the unions should remain private and confidential; this will enable the trade union representatives to prepare for the meeting. The union reps should not share the document with their members at this point. Consideration should be given for union representatives to have a meeting with the Headteacher & HR prior to the formal staff consultation meeting.
- 4.3 The Headteacher will be responsible for ensuring that all staff attend the consultation launch and make the necessary arrangement for those staff on annual leave, sick or maternity/paternity leave to have access to the relevant information, either by appointment or sending out all information by post.
- 4.4 It is recommended that an HR representative attend the meeting to advise and support the Headteacher.

- 4.5 The purpose of this consultation meeting is to present the written proposal. To enable employees who may be affected and their representatives to:
- understand the facts, and
 - make any initial representation relating to the proposals
- 4.6 The trade union representative(s) will have the opportunity to meet with their members immediately after the meeting.
- 4.7 The Headteacher or another appropriate person must offer to hold one to one meetings with the affected staff in order to listen to their views. It is the decision of the employee as to whether they wish to attend and if they want to be accompanied by a work place colleague or a trade union representative.
- 4.8 The trade unions and staff affected must be given a reasonable time in which to respond during the consultation process. The Redundancy Committee or other appropriate elected committee must consider any representations made by the trade unions and respond formally in writing, giving a reason for any representation not accepted.

5.0 VOLUNTARY REDUNDANCY

- 5.1 Voluntary redundancy (VR) can be offered as a way of mitigating a compulsory redundancy but will not always be possible. During the process of seeking applications for voluntary redundancy, the Governing Body should ensure that it is made available to those directly affected by the changes and that:
- Staff are made aware that the redundancy package calculation is the same for VR as compulsory redundancy.
 - Staff are made aware that there is no automatic entitlement to redundancy/early retirement benefits. Whilst every effort would be made to accept volunteers to avoid compulsory redundancy, the needs of the school should be given priority.
 - The timescale for receiving applications takes into account time required for potential volunteers to seek advice and information on their redundancy/early retirement benefits.

NB: volunteers for redundancy should be given time to consider their options and as a minimum given the length of the consultation period to put in applications.

6.0 APPOINTING TO THE NEW STRUCTURE

- 6.1 For the purposes of managing the changes required across the School, the following

processes will apply.

- 6.2 In order to minimise redundancies, the School will seek to ensure posts are filled using one of the methods below, providing employees who possess the suitable skills and experience for the role. There could be times where a new post may be advertised externally during this process if the Headteacher/Governing Body believe that employees at risk do not have the relevant skills, following a skills audit.
- 6.3 Assimilation – matching employees with posts where the post is broadly similar to the current role, and must have a match of 70% (within one grade up or down for support staff).
- 6.4 Closed Ring fencing – This occurs when a group of employees who all undertake posts where the post is broadly similar to the current role. This applies to those who would normally assimilate to a post but where there are fewer posts available than the number of staff eligible, (within one grade up or down for support staff). All staff within the affected group should be interviewed and the position will be filled from the affected group. Ring-fencing may be applied during restructuring when;
 - there are fewer jobs within the new structure for the affected group
- 6.5 The following criteria will apply in determining the closed ring-fence group of employees:
 - Employees will be ring-fenced to posts where there is a broad similarity of job duties between the job in the old and the new structure;
 - Employees will be ring-fenced where it is likely that there is a substantial match of the employee's skills and experience to the job, i.e. the redeployee meets the essential requirements of the job specification; and
 - Employees in the ring-fence group will normally be on the same grade as the vacant job or within one grade up or down.
- 6.6 Open ring-fence – grouping employees who currently undertake posts of a similar nature to the new posts but where there are significant differences.
- 6.7 Care needs to be taken to ensure that no discrimination occurs during the redundancy process, neither directly nor indirectly, on the grounds of race, sex, disability, sexual orientation, age or religion or belief, or being a trade union member.
- 6.8 Wherever possible schools should ensure individuals who are pregnant or on maternity leave are given suitable alternative employment. However, if there are no suitable alternative vacancies, an employee may be made redundant during or after maternity leave providing:
 - There is a genuine redundancy situation.
 - There is no suitable alternative work available within the school.
 - Redeployment has been considered.

- The correct procedures have been followed

6.9 The recommended selection process within a redundancy situation would be interviews with a skills test.

6.10 Following the selection process, feedback should be given to staff.

7.0 COMPLUSORY REDUNDANCY

7.1 Once the above procedures have been exhausted any individual who is unsuccessful in securing a position within the new structure will therefore be made redundant. Redundancy payments will be made in accordance with section 3, paragraph 3.

8.0 NOTIFICATION OF DISMISSAL

8.1 If, after giving due consideration to the employee's representation, there are no apparent alternatives to redundancy and the decision is made to dismiss on the grounds of redundancy, the employee will be notified in writing. The letter should state:

- clear details of the termination date in accordance with their contractual entitlement.
- terms of redundancy and entitlements to redundancy pay.
- details of any payments in lieu of notice, payments for outstanding holiday pay.
- rights to reasonable time off to attend interviews.
- the right of appeal and the appeal process.
- redeployment

8.2 For community Schools (LBWF is the employer) you will be required to complete the template dismissal letters and forward them to the Schools' HR Team in order that they can be signed by the Deputy Chief Executive.

8.3 The redundancy notice period is the time between the date when an employee receives their formal notice of termination and the date on which the employment is to be terminated. These dates will be made clear during the meeting with the employee and within the termination letter.

8.4 Throughout the notice period, discussions will continue between the employee and management regarding the redundancy situation. Efforts will continue to be made to redeploy the employee up until the date of dismissal.

8.5 If suitable alternative employment is offered to the employee, which is not accepted, the employee will not be entitled to a redundancy payment.

9.0 APPEAL

- 9.1 An employee has the right of Appeal against dismissal to the Governing Body Appeals Panel, which will comprise of three Governors.
- 9.2 The employee must provide written grounds of their appeal within five working days of the receipt of the letter. The grounds must set out the reasons for the appeal. The notice of appeal should be addressed to the Chair of Governors c/o the school's address.
- 9.3 The appeal hearing, where possible, should be held within 10 working days of receipt of the employee's appeal, other than in exceptional circumstances when the parties may agree a later date (no more than ten calendar days after the date originally proposed). If the employee and/or their representative do not attend the rescheduled meeting, then it may be held in their absence.
- 9.4 The employee has the right to be accompanied by a trade union representative or work colleague. The panel will be supported by an HR representative and where LBWF is the employer a representative from the LA HR may also attend.
- 9.5 The employee will receive written notification of the appeal outcome within five working days. The decision of the Appeal Panel is final.
- 9.6 The possible outcomes of an appeal are:
 - Appeal rejected and no change to the decision to dismiss on the grounds of redundancy.
 - Appeal successful, in which case the governors may have to return to selection process of the procedures.
 - Reinstatement of the employee and if appropriate reimburse any outstanding pay.

SECTION 3: GENERAL INFORMATION

1.0 REDEPLOYMENT (Support Staff)

- 1.1 A redeployee is an employee who has been displaced as a result of an organisational change. Every effort will be made to ensure that all employees have access to all facilities available to them to find a new position through re-deployment..
- 1.2 The redeployment period will be the length of the contractual notice period. Any offer of redeployment must be suitable in terms of pay, status, place of employment etc.
- 1.3 Obligations of Redeployee:

- To prepare well and present the best application possible for all suitable posts.
- To consider all reasonable offers of suitable work.
- Wherever possible to inform your manager/Head teacher in good time if you require time off for training or job searching.
- To undertake the duties of a new post at the level of pay you are receiving.
- To consider all further reasonable offers of work which would reduce or eliminate your protected pay.
- To be as flexible as possible in the work he/she is prepared to consider as suitable and its location.

- 1.4 If there is suitable alternative employment available in the school, the Head teacher must advise the employee of this on behalf of the Governing Body. The Redundancy Committee should write to the employee with a firm offer setting out the details of the alternative post. .
- 1.5 Redeployment for staff based in schools cannot be guaranteed but every effort to support the employee in seeking alternative work will be made. .
- 1.6 For Community Schools employees can have access to the Council's re-deployment pool and employees will be informed how to access these vacancies.
- 1.7 The redeployee will have a trial period of 4 weeks in which to undertake initial induction and training to become accustomed to the new role and demonstrate their suitability for the post. A trial period will be 4 weeks unless there are exceptional circumstances warranting a longer trial period of up to 8 weeks. Any request for an extension will be considered on a case by case basis, however should the trial period not be successful then the employee will be entitled to their redundancy package.
- 1.8 For support staff, a redeployee who accepts an offer of suitable alternative work which is on a lower grade (normally within one grade from which they were made redundant) may be paid at their substantive spinal column point/grade immediately before redeployment for a period of six months or until the maximum spinal column point/grade of the new job meets or overtakes the protected grade. For teaching staff the safeguarding arrangements are as set out in the STP&CD and Burgundy Book will apply.

2.0 TRAINING & SUPPORT

- 2.1 Consideration should be given to any training, which may reasonably be available to improve a redeployee's performance in a job on a short timescale, but such training is usually given on the job.

- 2.2 Employees selected for redundancy will be given reasonable paid time off work during their notice period to look for work or seek retraining opportunities. All requests for time off must be agreed with the line manager/Head teacher.
- 2.3 All employees should be made aware of the Council's employee assistant programme as they can offer not only emotional but financial support.

3.0 REDUNDANCY BENEFITS

- 3.1 A redundant employee will be entitled to claim a statutory redundancy payment (if he/she satisfies the relevant criteria), which would be calculated according to age and length of service. The employee must have been dismissed by reason of redundancy and have two years qualifying continuous employment at the effective date of termination.
- 3.2 Under the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999, all school employees can also count previous teaching service or any other continuous service with one or more local authorities, where there has not been a break in employment. Any break of service of one week will break the continuity of service for a redundancy payment. Only complete years of service are counted.
- 3.3 The redundancy payment (which complies with age discrimination policy) is calculated as follows and based on the statutory Redundancy Matrix.
- (i) one and half week's pay for each complete year of service after reaching the age of 41.
 - (ii) one week's pay for each complete year of service between the ages of 22 and 40 inclusive; and
 - (iii) half a week's pay for each complete year of service after reaching the age of 18 but not having reached the age of 22.

NB The maximum number of service years is 20 when calculating redundancy payment.

- 3.4 Payment is based on actual pay rather than the statutory weekly limit and applies to both teaching and support staff. (Regulation 5 of the Teachers Compensation for Redundancy and Premature Retirement Regulations maintains the discretion for teacher's employers to disregard the earnings limit and to pay compensation for redundancy based on a teacher's full earning.)
- 3.5 Salary is calculated on the average of the last twelve weeks of pay and is defined as all contracted pay. Any temporary or 'acting-up' allowance will only be included if it has been part of the salary package for twelve months or more.

- 3.6 In the case of a term-time only employee a weeks' pay for redundancy purposes is the annual salary divided by the number of weeks worked plus any weeks where the employee has paid leave.
- 3.7 If an employee is offered a post with another employer covered under the above Order (all local authorities in England, Wales and Scotland) before the termination of the employment, which commences within 4 weeks of the termination, he/she will lose the right to redundancy payment.
- 3.8 For Community Schools the Governing Body can apply to LBWF for the reimbursement of redundancy costs providing that A panel of LA officers, to include Human Resources, Finance and School Improvement will review the restructure rationale and business case savings versus costs. The panel will consider meeting the redundancy costs against a set of criteria and this will be on a case by case basis.
- 3.9 Where the School has followed section 1 paragraph 1.3 of this policy then the Council will meet the costs of redundancy payments. Unless it has determined that the Governing Body has acted unreasonably or contrary to advice provided by the Council to avoid a redundancy situation.

4.0 PENSION

- 4.1 Employees who are members of the Local Government Pension Scheme (LGPS) and have attained the age of 55 are entitled to immediate payment of pension and lump sum if early retirement is on the grounds of redundancy, subject to three months pensionable service.
- 4.2 From age 55 employees who are members of the TPS may take early retirement by accepting actuarially reduced benefits (ARBs).

For Teachers' Pension Scheme (TPS) www.teacherspensions.co.uk

For Local Government Scheme (LGPS)

www.wandsworth.gov.uk/info/200260/finance_department/417/pensions_shared_service

Flowchart of Organisational Review/Change Procedure



