

**MANAGING WORKFORCE CHANGE & STAFF REDUCTIONS
FOR SCHOOL BASED STAFF**

**Date adopted by Governing Body
>>INSERT DATE<<**

Policy and Procedure

1. Introduction

Changes in the way school services are provided will sometimes lead to individual jobs or groups of jobs changing or no longer being required. Most commonly, these changes will be as a consequence of a school's budget being unable to sustain the existing staffing complement. At other times, it may be necessary to conduct a staffing re-structure or review in order to respond to the changing needs of the school.

However, with careful management, continuous consultation with Leeds City Council, staff and trade unions, and a willingness to see all schools as part of the wider Leeds community, compulsory redundancy can be avoided. Staffs are a valuable asset, and are needed by the schools service as a whole. For further guidance refer to "Working Together to Avoid Compulsory Redundancy".

2. Principles Underlying the Procedure

Workforce Planning

Improvement and success will come when the right people, with the right knowledge, skills and behaviours are deployed appropriately within the school structure. Effective and sustained planning within schools can achieve this match and more critically forge links between organisational strategies and people plans for recruitment, retention, staff development and training.

Fair & Equitable Treatment

Leeds City Council is committed to ensuring that this policy does not discriminate directly or indirectly on grounds of race, colour, ethnic or national origin, religion or belief, gender, sexual orientation, marital status, pregnancy, disability, age, trade union membership and activity.

In order to ensure this it is appropriate to carry out an Equality Impact Assessment on commencement of the process. Further information in relation to this can be acquired through Leeds City Council HR.

Communication & Consultation

Effective communication with staff is crucial in managing any workforce change. Where practical, informal consultation regarding any changes affecting staff will begin at the earliest opportunity. This will be directed to all staff and not just to those who may potentially be affected by the changes. Such informal consultation may consist of a staff meeting being convened in order to discuss issues which could lead to redundancies at a later date.

Once the requirement for redundancies is confirmed by the Governing body the formal process will be initiated. At this time the fullest practicable information will be provided to staff at the earliest possible stage and co-operation and involvement of staff and trade unions will be sought.

It is recognised that initial consultation is often a time of concern and worry for all interested parties, but especially for staff potentially affected by any proposals. Staff have the right to be consulted and represented or accompanied by a trade union representative, colleague or friend (not acting in a legal capacity) at any stage of the process.

Consultation is:

- the provision of information which is clear and detailed enough to enable the Trade Unions to understand and consider the proposals;
- an invitation to them to discuss and comment on the proposals,
- a readiness to consider in good faith any comments or suggestions made before a formal decision is taken.

In the case of redundancy there is a legal requirement that consultation must:

- address ways of avoiding or reducing redundancies;

- consider how to mitigate the effects of any redundancy dismissals;
- be aimed at reaching agreement.

If it is proposed to make more than 20 employees redundant, the Governors are legally required to inform the Department of Works and Pensions.

There will be two main forms of consultation. These are as follows:

1. With Trade Unions

Consultation should take place with Trade Unions in all cases. Personnel Advisers will advise on arrangements for consultation with the recognised trade unions. Trade Unions recognised by Leeds City Council are listed below:

National Association of Head Teachers (NAHT), National Association of Schoolmasters Union of Women Teachers (NASUWT), National Union of Teachers (NUT), Association of School and College Leaders (ASCL), Association of Teachers and Lecturers (ATL), Professional Association of Teachers (PAT), UNISON, GMB and Transport and General Workers' Union (TGWU).

PAT is a trade union not recognised by Leeds City Council. However the City Council and Leeds City Council work as constructively with this union as with those that are recognised.

2. Consultation with Staff

Governors need to ensure that, in addition to the consultation with trade unions there is full consultation with staff, both collectively and individually. It needs to be remembered that some staff are not members of a trade union but will have the same right to be fully consulted as those who are members.

Affected staff on secondment, sick leave, maternity leave and any other statutory leave will need to be included within any consultation process.

Definition of redundancy

Under the Employment Rights Act 1996 redundancy arises when employees are 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 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.

Put more simply a redundancy is the deletion of a post which is no longer required.

It is sometimes assumed that the problem can be resolved simply by not renewing one or more fixed term contracts. This is likely to be illegal, as staff on continuous temporary or fixed term contracts with the same employer (in community schools, Leeds City Council) for more than 12 months have the same rights to be made redundant fairly as other staff on permanent contracts. However, staff will only qualify for a redundancy payment after 2 years continuous service. This highlights the need to use temporary contracts only when strictly appropriate.

Responsibility for the Review of this Policy

This policy will be reviewed from time to time to ensure that it reflects changing organisational needs. This review will be carried out by a nominated HR representative and recognised trade union representatives.

Further Guidance

Assistance and further guidance on the application of the procedure can be provided by Human Resources, Leeds City Council.

3. Procedure for Managing Staff Reductions

3.1 Full Governing Body Meeting 1

The purpose of this meeting will be to agree the need for staffing reductions through the MSR process, the areas that will be affected, to confirm the timetable and appoint the various committees required over the entire MSR process.

Is Redundancy Necessary?

In the first instance the governing body will discuss the need for staffing reductions and consider alternatives. The aim should always be to avoid redundancy if at all possible. Alternatives could include:

- making necessary savings elsewhere;
- agreeing with Finance a reduction of the deficit over a period (up to 3 years);
- a recruitment freeze;
- offering part-time or job-share to existing full –time staff;
- voluntary redeployment;
- voluntary severance;

If the conclusion of this initial discussion is that there is no other feasible alternative but to continue with a staffing reduction, the governing body will agree the areas likely to be affected by MSR, and the scope.

The Nominations Committee will be elected and it will be formally documented in the minutes of the meeting that the Nominations Committee will be given the authority to carry out the MSR process, the development of the selection criteria (if applicable) and the assessment of individuals against these criteria.

At this meeting the Appeals Committee will also be elected. This committee will include three Governors who have not been involved in the MSR process until the Appeal stage.

In the closing stages of the meeting the Governing body will agree the timetable of stages in the process.

3.2 Nominations Committee Meeting 1

During this meeting the selection criteria (if applicable) that will be used to nominate individuals for redundancy will be drafted. The detailed work maybe assigned to the head teacher and one of the nominated governors if this is more practical, although the Nominations Committee should be involved in reviewing the full draft selection criteria prior to consultation with staff and the unions.

There will be a review of the appropriateness of the ‘model’ selection criteria provided by Leeds City Council. This will determine whether any selection criteria specific to the school’s particular needs can be identified. For example this could include the curriculum, operational and organisational needs of the school, the key areas outlined in the school improvement plan, Ofsted priorities, succession planning issues, extended services and any other needs of the school.

They will also agree the weighting of the selection criteria and ensure the criteria are fair, objective and not discriminatory in any way (directly or indirectly) before agreeing the adoption of the final version.

3.3 Commencement of Formal Consultation Period

Once the governing body has confirmed the requirement to make a staffing reduction staff will normally be issued with the ‘Section 188 Letter’. Alternatively, should the information required for the Section 188 Letter be unavailable, a ‘Statement of Intentions Letter’ will be issued . This letter will notify them as to the date of a staff / group consultation meeting. Under the policy the consultation

period will usually commence from the date of the group consultation meeting. If the draft criteria for selection (if applicable) are not available to accompany the Section 188 letter then it is possible that the commencement of the consultation period will be delayed until it is available. Each member of staff and each Trade Union should receive a copy of the 188 letter and a copy should also be placed in school.

Under this policy there is a minimum formal consultation period of 10 working days with staff and recognised trade unions.

However, there is a specific legal requirement overriding this under certain circumstances. This applies where employers propose to dismiss 20 or more employees. In this situation the employer must begin consultation:

- At least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant over a period of 90 days or less, and
- At least 90 days before the first dismissal takes effect if 100 or more employees are to be made redundant over a period of 90 days or less.

Formal consultation will need to be prepared and must include the following information:

- a) the reasons for the proposal (including budget figures);
- b) the number and descriptions (i.e. teachers or support staff) of employees it is proposed to dismiss on grounds of redundancy;
- c) the total number of employees in the school;
- d) the proposed method of selecting the employees to be dismissed
- e) the proposed method of carrying out the dismissals, including the period over which they are to take effect;
- f) the proposed method of calculating redundancy payments.

The information set out above must be given to an authorised representative of the union or sent by post to an address notified by the union. Where possible it is helpful to the process if this information is received by the trade unions prior to a formal consultation meeting with staff.

The Governing Body must consider any representations made by the union and give reasons if any point is rejected. It should also comply with any reasonable request for further relevant information, e.g. budget details, pupil numbers, staffing numbers and structures. This information should be provided in writing.

Group Consultation Meeting

This meeting will be with all affected staff and relevant trade union representatives. The purpose of the meeting will be to ensure that full consultation with staff is undertaken regarding the need for staffing reductions. This will include communication regarding the detail of the Section 188 letter which will be issued during this meeting and on the proposed selection criteria. The meeting also gives staff an opportunity to put forward suggestions as to how staffing reductions could be avoided and ask any further questions they may have in relation to the procedure.

A copy of the adopted Redundancy Procedure should be available at the meeting for each of the staff affected by the proposal.

If applicable the criteria on which the selection is to be made will also be available at the meeting. The 10 working day consultation period will begin only when the criteria is distributed. A key focus of the meeting will be an explanation of how the selection criteria will be applied and how the scoring will operate.

Trade Unions should contact the Head Teacher within 5 working days if they wish to meet separately. Discussion with staff and unions at all stages of the consultation period can eliminate problems which may otherwise have arisen later in the process.

If at any stage of the consultation there is any change to the information provided to the staff and

Trade Unions that may affect the selection process, staff may be consulted once more.

Individual Consultation Meeting

As part of the consultation process, the opportunity for individual meetings will be made available for the member(s) of staff who face possible redundancy and their representative (if applicable and not acting in a legal capacity). The meeting will include the Head Teacher and a Human Resources representative.

The purpose of this meeting would be:

- To explain the Section 188 letter.
- An opportunity for the staff member to raise any possible ways of avoiding any dismissals on the grounds of redundancy, of reducing the number of such dismissals, and / or mitigating the consequences of any dismissals.
- To ask any general questions that the staff member may have.

3.4 Nominations Committee Meeting 2

The Head Teacher and the Nominations Committee will meet at this stage in order to consider any alternatives to staffing reductions put forward by staff/unions during the consultation period, and to decide if the selection criteria need to be amended in the light of this feedback or the needs of the school.

During the meeting a written response will be drafted for affected staff and trade unions. This will address the issues raised during the consultation period. This response will be approved by the full governing body prior to being issued.

Additionally the nominations committee will confirm who will be responsible for completing individual score sheets against the selection criteria. This will normally be the head teacher's responsibility. However, it can be delegated to another member, although this decision must be justifiable to ensure each affected individual feels they have been treated fairly and consistently.

Finally, the nominations committee will confirm the remaining activities in the MSR.

3.5 Full Governing Body Meeting 2

This meeting will enable the Nominations Committee to update the Governing Body on the progress of the process so far and to review feedback from the consultation period. The full governing body will also be expected to agree the written response addressing issues raised during the consultation period. Once approved this response will be issued to trade unions and affected staff.

The full governing body will also be responsible for the ratification of the final selection criteria prior to its implementation.

3.6 Application of Selection Criteria

It is the responsibility of the Head Teacher to complete the individual score sheet and to be prepared to justify the scores made.

The staff member has the option to make their own, independent assessment against the individual score sheet, although this is not compulsory.

Whether the affected staff member opts to complete the individual score sheet or not, they will be offered a meeting with the Head Teacher on a one on one basis (including a representative if desired). The purpose of this meeting will be to discuss the individual score sheet and ensure that all relevant experience and qualifications have been taken into account in reaching the final score.

It is not a compulsory requirement for the staff member to attend the meeting. If they choose not attend, the Head Teacher should send his/her completed score sheet to the individual allowing a

few days for comment.

The final score sheet will be completed by the Head Teacher and they will indicate whether the staff member attended the meeting or not.

In exceptional circumstances the Head Teacher may decide to delegate the application of the selection criteria to a 'nominated person'. Whoever applies the selection criteria should ensure fairness and consistency throughout this process.

Once all the assessments have been completed the final scores will be transferred onto a collective summary sheet, or matrix for presentation to the next Nominations Committee meeting.

3.7 Nominations Committee Meeting (3)

The Head Teacher and the Nominations Committee will now meet to consider the whole redundancy process prior to proceeding to the next stage. A review of the application of the selection criteria will take place and the nominations committee may challenge the scoring of individuals against the selection criteria.

Further discussion will also take place to consider whether staffing reductions are still required (given some weeks have passed since the MSR process started) and any changes since the commencement of the process to the scope of these staffing reductions (how many, which areas of the school etc.).

A further review will also take place of the consultation process that has been undertaken. Consideration will be given as to whether there has been adequate consultation and that all issues raised during the consultation period have been responded to.

Subsequently, the nominations committee will evaluate the application of the selection criteria, confirm the nomination(s) of individuals for redundancy and conclude with a review of the fairness of the overall MSR process.

3.8 Notification of Selection to Nominated Staff

The Nomination Committee should arrange for any employee whom they have provisionally selected for redundancy to be informed in writing by the Head Teacher or the Chair of the Committee. This notification will invite the nominated staff member to attend a representation hearing in order to make representations in person to the Committee. These representations will need to be taken into account before the nominated staff member's selection is confirmed.

Seven working days' notice will be given in relation to the hearing date and the notification will outline the right of the staff member to be accompanied by their trade union or other representative (not acting in a legal capacity). Where requested a collective summary sheet / matrix showing the anonymous scores of all staff within a selection pool will be provided.

3.9 Representation Hearing

The Head Teacher (or nominated representative) will be in attendance at this meeting in addition to the associated HR representative. Their role in the hearing will be to give advice and information. The Nominations Committee will explain the reasons for the provisional selection and:

- Will allow the staff member or their representative to make representations;
- Clarify any points arising;
- Will give full consideration to its provisional decision.

After the hearing the Nominations Committee will either confirm the original decision or select another staff member for redundancy. In the latter case, that staff member will be informed and given the same opportunity to make representations.

If following the representation hearing the Nominations Committee confirm the original decision, the

Head Teacher will put this in writing to the individual (s) affected, this letter will also advise the staff member of the right to appeal. The Head Teacher will also notify Leeds City Council of the redundancy nomination.

3.10 Issue of the Formal Notice Letter

Notice to terminate is issued by Leeds City Council in the case of Community schools, and by the Governing Body in Aided schools.

In order to formally terminate employment the following action is also required:

- (i) in the case of Community schools, the Governing Body must notify Leeds City Council, which will within 14 days, issue notice to the employee to terminate employment.
- (ii) In the case of Voluntary Aided schools, the Governing Body will issue notice to terminate employment and inform Leeds City Council of its decision.

Formal notice will be issued in accordance with the following timescales:

- (i) Support Staff
Statutory entitlement is for 1 weeks' notice per year of continuous service up to a maximum of 12 weeks (and subject to a minimum of 1 month for most school support staff);
- (ii) Head Teachers
3 months' notice (4 months in the summer term) ending on 31 December, 30 April or 31 August as appropriate;
- (iii) Other Teachers
2 months' notice (3 months in the summer term) or statutory notice if that exceeds contractual notice – see (i) above - ending on 31 December, 30 April or 31 August as appropriate.

The search for alternative employment should begin once the employee has had confirmation of their nomination for redundancy and should continue throughout the notice period.

3.11 Appeal against Selection for Redundancy

Staff members have the right to appeal against a decision to select them for redundancy. If they do wish to exercise that right they must notify Head Teacher, in writing, within 5 working days of the date of the confirmation of Nomination for Redundancy (post representation hearing). This letter will ideally briefly state the grounds of the appeal. The Head Teacher will subsequently make the arrangements for the appeal to be heard. Once again the staff member has the right to be accompanied by a trade union representative, colleague or friend (not acting in a legal capacity).

The appeal will be heard by the Appeals Committee consisting of three governors not involved in the original decision. This committee will focus on careful and objective examination of how the Nomination Committee applied the criteria.

Should the appeal be successful, the Appeals Committee will consider whether to select another employee for redundancy, in which case the process of selection, opportunity for representation, notification of redundancy, notice to terminate and right of appeal will be repeated.

Additionally the following action will be required to be taken should the appeal have been successful:

- (i) in the case of Community schools, the Governing Body must notify Leeds City Council, which will within 14 days, issue a withdrawal notice to the employee re-instating employment;
- (ii) in the case of Voluntary Aided schools, the Governing Body will issue withdrawal notice re-

instating employment and inform Leeds City Council of its decision.

Whether the appeal has been successful or unsuccessful the staff member will be notified of the outcome in writing.

3.12 Redeployment

The Governing Body will consider whether alternative employment is available at the school for an employee who is made compulsorily redundant. There is no requirement to create a job specifically for this purpose, or to offer a job which does exist but for which the employee is objectively unsuitable. However, the employee must be fully considered for any appropriate vacancy.

Leeds City Council as the employer has a responsibility to seek alternative employment for nominated staff based in a maintained school.

In either case, the Personnel Team of Leeds City Council will co-ordinate attempts to find alternative employment (or Redeployment). The aim will be to avoid compulsory redundancy for any member of staff.

Staff declared redundant will be assessed, via a "skills audit", with a view to matching them to vacancies which other Leeds schools may have.

Governing Bodies may be asked to consider appointing a redeployment candidate to fill either (i) a current vacancy in their school, or (ii) a post currently occupied by an employee who wishes to apply for voluntary redundancy or, following agreement with Leeds City Council, to take early retirement.

Support grants are available to schools which agree to employ redeployed staff (See "Working Together to Avoid Compulsory Redundancy").

4. Miscellaneous

Time off Work

An employee who is given notice of dismissal on grounds of redundancy and who has at least 2 years continuous service by the end of the notice period has a legal right to reasonable time off with pay during working hours to seek new employment or to arrange retraining. What is 'reasonable' depends on the circumstances of the particular case.

Redundancy Payments

Employees nominated for redundancy will receive from Leeds City Council an estimate of their redundancy payment plus an estimate of any pension benefits they might be entitled to.

Where an employee is offered similar alternative employment and unreasonably refuses to accept it, there is no right to a redundancy payment.

Where a redundant employee is offered a new job on different terms and conditions, but which is deemed to be suitable alternative employment, and unreasonably refuses to accept it, there is no right to a redundancy payment. However, in such cases the employee has a statutory right to a trial period of 4 weeks in the job during which to assess suitability.

If the new job requires the employee to be retrained, a longer trial may be agreed in writing in advance. If, after a trial period, the employee refuses to accept an offer of alternative employment, it may be possible to allow an extended trial period or to seek another redeployment opportunity. Alternatively, a redundancy payment would be made if the job is unsuitable or the employee's refusal to accept it is reasonable.

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