



Organisational Change and Redundancy Policy and Procedure

Version 5

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<p>Name and Title of Author:</p>	<p>Lisa Longstaff, Director of HR and Governance</p>
<p>Name of Responsible Committee/Individual:</p>	<p>Trust Board</p>
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<p>Target Audience:</p>	<p>All Employees</p>
<p>Related Documents: All Trust policies and procedures referred to are located on the trust website, www.theeducationalliance.org.uk. If English is not your first language, and you require assistance/translation, please contact the HR Department. This policy has been equality impact assessed.</p>	<p>Redeployment Procedure Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 www.acas.org.uk/redundancy</p>

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POLICY STATEMENT

We are here to make great schools and happier, stronger communities so that people have better lives. We do this by:

- Always doing what is right
- Trusting in each other and standing shoulder to shoulder
- Doing what we know makes the difference

Doing what is right means always acting with integrity, in the interests of others and being honest, open and transparent.

The aim of the Education Alliance (the Trust) and its recognised trade unions, is to safeguard the current and future employment of staff wherever possible through careful workforce planning and jointly agreed change management processes. In consultation with recognised trade unions, the Trust will seek to minimise any potential negative effects change can have on staff through the provision of sufficient time and effort to engage with staff, consulting at a formative stage of development, seeking staff input and seeking suitable alternative employment for staff at risk of redundancy wherever possible. The Trust aims to minimise the risk of redundancy and where it is necessary to make redundancies the Trust will handle the situation fairly, consistently and sympathetically.

This policy sets out Trust's approach to managing organisational change and redundancies. It does not form part of the employee's terms and conditions of employment and sits alongside other policies and procedures, such as the Redeployment Procedure. It is the Trust's aim to avoid redundancies wherever possible, however, there may be times where it is necessary and where redundancy arises the Trust will endeavour to:

- Keep the number of redundancies to a minimum
- Consult with staff and their representatives on proposals and their implementation
- Ensure selection for redundancy is based on clear criteria, which are applied objectively and fairly and agreed with trade unions through the JCNC
- Support staff, utilising the Redeployment Procedure

Measures for avoiding or minimising compulsory redundancies will be considered and they include the following:

- Natural wastage
- Restrictions on recruitment
- Reduction of overtime
- Seeking applicants for voluntary redundancy
- Retraining and redeployment to other parts of the organisation
- Termination of contractors/agency workers
- Reduction in the use of casual staff
- Other relevant measures

In circumstances where compulsory redundancy must be considered, the Trust will handle the situation in a fair, consistent and sympathetic manner.

1. SCOPE

This policy applies to all staff employed by the Trust, although apprentices will not normally be treated as employees for the purposes of redundancy selection.

2. ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for approving this policy.

The **CEO** is responsible for ensuring that redundancy situations across the Trust are managed appropriately and that staff and managers adhere to this policy and procedure.

Headteachers are responsible for ensuring adherence to this policy within their respective schools. Headteachers will consult with trade unions via the JCNC throughout a redundancy process.

The **Human Resources Department** is responsible for reviewing, applying, monitoring and evaluating this policy and procedure in line with legal and statutory requirements.

Managers and staff with supervisory or leadership responsibilities must ensure they implement this policy fairly and equitably, seeking guidance, clarification and support as and when required.

3. EQUALITY AND DIVERSITY

The Education Alliance is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged

When dealing with redundancy situations, the Trust will ensure that all affected staff, including those who may be absent from work due to maternity, adoption, parental and shared parental leave are consulted and kept informed. An employee on these types of leave, plus pregnant employees and those returning from maternity leave, whose post is to be made redundant must be offered any suitable alternative vacancy available in preference to other employees. Redundancy during these types of leave will end any contractual obligations to both occupational pay and the right to return. However, the payment of statutory maternity, adoption, paternity and shared parental pay will not be affected and will continue until the end of the relevant statutory pay entitlement (e.g. 39 weeks for SMP) or until the employee starts work for a new employer.

Selection criteria must not be such that an employee who is pregnant or due to go on maternity, adoption, parental or shared leave is put at disadvantage due to their leave of absence.

4. DEFINITION

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.

5. ORGANISATIONAL CHANGE

Organisational change may sometimes result in a redundancy situation and organisational changes may include:

- The closure, transfer or restructuring of a specific service or group of services
- A specific programme designed to achieve efficiency savings or increased performance and effectiveness through the transformation of current methods of working practice
- A response to statutory, local, regional or national requirements

Where organisational changes affecting staff are proposed, the Headteacher, senior managers and the HR Department will work with trade unions and staff to ensure that organisational change is managed appropriately. Wherever possible, consultation will commence at a formative stage of development, and staff will be encouraged to share their views, ideas and solutions, minimising the potential negative impact change can have on staff and services. Appendix 1 details the process, key stages and timescales for redundancy.

6. CONSULTATION AND EMPLOYEE SUPPORT

Consultation will be carried out at as early as possible and the Trust will allow for longer periods of consultation than the statutory minimum period wherever practicable. The Trust will agree timescales with trade unions and consult with trade unions via the JCNC at the formative stage. It is recognised that meaningful consultation allows for all concerned to share the problem and explore options. It can stimulate co-operation and can also reduce uncertainty, which in turn can lead to better decision making and reduced risk.

Legally, where there is a proposal to dismiss on the grounds of redundancy 20 or more employees at one establishment over a period of 90 days or less, the employer must consult representatives or recognised trade unions. Employers must also consult with individual employees. The Trust is committed to meaningful consultation wherever possible, with an aim of reaching agreement with appropriate representatives and staff on issues such as ways of avoiding dismissals or reducing the number of employees affected. As a minimum, where 20-99 employees are to be made redundant over a period of 90 days or less at one establishment, consultation must commence at least 30 days before the first dismissal takes effect. This increases to 45 days where 100 or more employees are to be made redundant from one establishment over a period of 90 days or less. The Trust will adhere to legal and statutory requirements, and normally provide staff with a formal consultation period of 2 weeks, opening the consultation period up with a meeting with directly affected staff who are at risk of redundancy. Staff at risk of redundancy will be encouraged to meet with their manager and HR (with their trade union representative if they are members of a trade union) to enable individual consultation to take place. A draft proposal for organisational change will be shared with directly affected staff and trade unions, and following the consultation period, the proposal will be reviewed in light of feedback received. Directly affected staff will be notified of the Trust Board's decision regarding the organisational change and they will be offered individual meetings to enable a detailed discussion to take place regarding the impact and opportunities available for each affected member of staff. Where staff are at risk of redundancy, they will be invited to a meeting with their manager and HR to discuss the next steps and the Trust will commence the redundancy process. They may wish to bring their trade union with them, as they can support them throughout the process.

In discussing organisational changes and potential redundancies with the trade unions, the Trust will share the following information with trade unions to enable them to play a constructive part in the consultation process:

- The reasons for the proposals
- The numbers and descriptions of employees it is proposing to dismiss as redundant
- The total number of employees of any such description employed at the establishment in question
- The way in which employees will be selected for redundancy
- How dismissals are to be carried out, including the period over which they will take effect
- The method of calculating the amount of redundancy payments to be made to those nominated for redundancy
- The total number of agency workers working temporarily for and under the supervision and direction of the employer, alongside the parts of the employer's undertaking in which those agency workers are working and the type of work those agency workers are carrying out

The Trust aims to balance transparency, discretion and confidentiality and will share this information on a need to know basis, sharing all of the above with each affected member of staff in relation to their own particular circumstances. Affected staff will be informed of the above as part of the collective and individual consultation process and the whole school will be informed of proposals for change as appropriate without breaching confidentiality.

Consultation can take many forms, including collective consultation with trade unions, staff briefings, forums for questions and feedback, and individual consultation in the form of individual meetings, emails and letters. Consultation should consider the following:

- Feedback received from staff (e.g. they may spot issues in the proposal or have alternative ideas that should be considered)
- The effect on earnings where redeployment is accepted in preference to redundancy
- How the selection of employees for redundancy will be applied
- Whether a redundant employee may leave during the notice period, or postpone the date of expiry of notice, without losing any entitlement they may have to a redundancy payment
- Any extension of the length of the trial period in a new role

When the Trust Board has approved a proposal to restructure that may result in redundancy, the HR Department will ensure all affected staff have access to support via the Redeployment Procedure.

The support offered to employees under notice of redundancy may include:

- Time off to attend interviews
- Contact with the local Job Centre
- External advice (e.g. via the Employee Assistance Programme, which includes legal, financial and counselling services)
- Support via the HR Department in the completion of application forms, CV writing and interview skills and techniques
- Learning and development opportunities (to be discussed with the HR Department)

All staff have access to the Employee Assistance Programme, which is a 24 hour, 7 days a week package, inclusive of telephone helplines covering family matters, financial, legal, personal, work and other confidential issues.

It is the Trust's intention that staff facing redundancy are supported appropriately to enable them to plan for the future and to assist staff in accessing internal and external opportunities. The Trust encourages staff to seek support via their trade unions at all stages of the redundancy process.

7. VOLUNTARY REDUNDANCY

In order to minimise the need for compulsory redundancies, the Trust may consider requests from employees for voluntary redundancy. The Trust reserves the right at its absolute discretion to decline requests for voluntary redundancy.

8. REDUNDANCY SELECTION

The criteria used for selecting employees for redundancy will depend on the existing circumstances and the particular needs of the organisation at that time. However, every effort will be made to construct a fair and robust set of criteria following appropriate consultation with trade unions.

For the purposes of selecting for redundancy, there are two sorts of redundancy situation. The first is where there is a specific decline in the need for the workforce in certain functions or locations. The second is where there is a general need to reduce the workforce as a whole. Where a reduction in the need for employees to carry out work of a particular kind leads to the redundancies, the pool for selection will usually be determined by the kind of work that employees do. Therefore, consideration needs to be given to which employees within the organisation do this kind of work. There may be occasions where the Trust may decide that the pool should be wider than just the employees that do the kind of work in the area that is being reduced. It may include other employees with the same skills, but in different areas of the organisation for example. Such considerations will be shared and discussed with trade unions before any redundancy selection is undertaken.

Selection criteria will:

- Be clear, objective and precisely defined. The pool for selection and the selection criteria should be clear and understood by managers, employees and employee representatives;
- Be applied in a reasonable, fair and objective manner;
- Not discriminate against staff on the grounds of age, sex, race, disability or any of the other protected characteristics under the Equality Act or on the grounds of part-time or fixed-term status;
- Not be indirectly discriminatory. Indirect discrimination may occur when a provision, criterion or practice is applied which puts those with a particular protected characteristic, including the individual concerned, at a particular disadvantage and which cannot be justified.

As part of an agreed way of handling redundancy and reorganisation, the Trust may use interviewing as a way of selecting employees for redundancy. For example, where new posts are created in a reorganisation. In such circumstances, the HR Department will ensure that the interview process is objective, and that interview questions relate to the job description and person specification.

Where there is a risk of redundancy, the Trust will determine a pool from which employees will be selected for redundancy and will ensure that the pool for selection has been fairly defined. The pool will normally consist of employees who carry out the same, or similar, work and perform jobs that are interchangeable, whether or not in the same department or location. When determining the redundancy pool the following circumstances will be taken into account:

- The work that employees carry out on a day-to-day basis
- Where employees carry out their work on a regular basis

In some circumstances it will not be appropriate to determine a pool for selection (e.g. where only one role/employee is affected or where the entire organisation is being shut down).

Objective selection based on skills or qualifications should enable the Trust to retain a balanced workforce appropriate to its future needs, however, formal qualifications and advanced skills should

be considered alongside other aptitudes. Depending on the circumstances the selection criteria may include the following:

- Qualifications and training
- Knowledge, skills, competencies and experience
- Aptitude for work
- Performance
- Attendance (not including absences due to pregnancy, maternity, other family-friendly leave, disability or any other protected characteristic)
- Disciplinary records that are live

Where selection criteria is used, the Trust will score employees against the selection criteria that has been agreed with trade unions in a reasonable, fair and consistent manner, with at least two managers applying the criteria, utilising appropriate evidence that has been verified. A redundancy selection matrix will be used and managers must ensure that they understand how they should apply and score the criteria.

The Trust will ensure that the application of the selection criteria is not discriminatory and where employees within the redundancy pool are disabled, the school will make reasonable adjustments to the selection criteria to remove any disadvantage the disabled employee might face.

Where organisational change occurs, a redundancy pool for selection may not be appropriate (e.g. where employees hold unique roles). In such circumstances, the proposed structure will be shared with affected staff and individuals will be consulted with regarding the impact for them and the opportunities they may face (e.g. alternative positions that they may be slotted into or encouraged to apply for depending on the circumstances). The Trust aims to retain staff wherever possible and consideration will be given to the possibilities of slotting, ring fencing and other redeployment options available.

Individual employees who are nominated for redundancy will be invited to a meeting with a manager and a member of the HR Department, where the rationale for the nomination will be shared with them, alongside an estimate for redundancy pay. The employee will be offered additional support (e.g. access to confidential counselling, support via the redeployment process). A Redundancy Selection Committee meeting will be arranged and the employee will be invited to attend to make representations regarding the fairness of the criteria or the application of the criteria, which the employee **may** deem to be unfair. If a Redundancy Selection Committee agrees to the redundancy and the employee believes their selection to be unfair, the employee can appeal against the decision to a panel made up of Trustees/Governors that were not involved in the initial Redundancy Selection Committee meeting. The composition of a Redundancy Selection Committee will be as specified in the Scheme of Delegation.

9. TRIAL PERIODS

Where the new post is different from the previous role, the employee is entitled to a statutory four-week trial period. The purpose of the trial period is for the employee and the employer to assess the suitability of the post. However, if the provisions of the new contract are the same as the original contract there is no statutory requirement for a trial period to be undertaken. If a trial period takes place and it is agreed that the position cannot be viewed as suitable alternative employment (e.g. the trial period is not successful) the position will revert to the original position (e.g. at risk of redundancy). The termination date for the purposes of calculating statutory redundancy pay will be the date on which the original post ceased, not the end of the trial period.

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 four week trial period can be extended by mutual written agreement (e.g. due to school holidays or for retraining purposes), specifying the date on which the trial period ends, detailing the employee's terms and conditions after it ceases. 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.

Should the Trust wish to terminate the new contract within the four week period for a reason connected with the new job, the employee retains their right to a redundancy payment as per their old contract (where they meet the criteria for a redundancy payment). However, if dismissal is unconnected to redundancy (e.g. for misconduct) the employee may lose any entitlement they had to a redundancy payment.

10. NOTICE PERIODS

Notice periods are specified in contracts of employment. Employees selected for redundancy will receive written confirmation of their notice period, alongside details of any redundancy payment they are entitled to.

Pay in lieu of notice (PILON) is compensation for not providing employees with the notice period to which they are contractually entitled, and it should only be paid where there is good reason for the employee not working the notice period. Following changes in the taxation system introduced in April 2018, any payment made for PILON is taxable as normal pay, irrespective of whether or not there is a PILON clause in the employee's contract of employment.

11. REDUNDANCY MODIFICATION ORDER

Under the Employment Rights Act 1996 (ERA), an employee can count service with an 'associated employer' towards the two year service requirement for a redundancy payment and, if appropriate, for calculating that payment. Local authorities are not associated employers under the definition in the Act, however, the effect of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (referred to as the Order) is to make local authorities associated employers for the purposes of the redundancy provisions of the ERA.

An employee must have at least two years' continuous service with the employer in order to qualify for a redundancy payment. The effect of the Order is that continuous service with bodies on the Order will also count when calculating the entitlement to, and the amount of, a redundancy payment.

Employees are advised to notify the HR Department if they are offered an alternative post with another Order body. This is due to the fact that if the employee is given notice of redundancy and before the dismissal takes effect the employee accepts an offer of employment from another body specified in Part II of Schedule 2 of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999, the employee will lose entitlement to a redundancy payment. This only applies where:

- the relevant body makes the offer of a new job before the end of the old contract
- **and** the employment starts within 4 weeks after the date of redundancy.

Where an employee unreasonably refuses a suitable alternative offer of employment, the provisions of s.141 ERA also apply. If an employee unreasonably refuses an offer of suitable alternative employment from an Order body, then s/he will not be entitled to a redundancy payment. In practice

this is unlikely to happen as it is likely that the employee would have actually applied for the job with another body and already made an assessment before interview as to whether the job was suitable.

It is important to note that, if an employee does take up a job with another Order body, the dismissal 'disappears' only for the purposes of determining whether there is an entitlement to a redundancy payment. Therefore, there is no effect for unfair dismissal rights, and an employee can still claim unfair dismissal in relation to the redundancy.

An employee will need two years' continuous service in the new job before they have the right to claim unfair dismissal.

12. REDUNDANCY PAY

A payment is due only if an employee has at least two years' continuous service, as detailed in section 11 of this policy. Apprentices who are not employees at the end of their training don't qualify for a redundancy payment. When calculating the redundancy payment, the Trust uses the actual weeks' pay rather than the statutory capped figure. For each complete year of service up to a maximum of 20 years, employees are entitled to one and a half week's pay.

A week's pay is that which the employee is entitled to under their contract at the calculation date (which is the date on which the Trust gives the employee their notice). If the employee's pay varies (e.g. there is no contractual amount due to a variable working pattern) the amount of the week's pay is averaged over the 12 week period prior to the calculation date. For term time staff, redundancy pay should be calculated on the basis of weeks actually worked rather than a notional 52 week calculation, which takes into account weeks they are not paid to work. Contractual pay usually includes basic salary, contractual overtime payments, and any contractual allowances. However, other payments, such as car allowances and honorariums, may or may not be contractual pay depending on how the payments have been incorporated into the employee's contract and salary.

The relevant date for calculating age and length of service for redundancy payments is:

- If the employee's contract is terminated with notice, the relevant date is the date on which the notice expires (i.e. when the termination takes effect)
- If no notice is given, the relevant date is the date statutory notice would have expired if it had been given at the termination date
- If insufficient notice is given, the relevant date is the date statutory notice would have expired if it had been given on the date notice was actually given
- If the employee is dismissed upon the expiry of a limited-term contract, the relevant date is the expiry of the contract
- If the employee resigns during a trial period (i.e. the four-week period laid down in s.138 ERA), the relevant date is the date on which the original contract terminated

Redundancy payments are tax-free for the first £30,000, and where garden leave is agreed, tax and national insurance deductions will be made on any payments received throughout the leave period.

13. APPEALS

If the Trust dismisses an employee on the grounds of redundancy, the employee may wish to appeal on the following grounds:

- The selection criteria have been unfairly applied or not applied at all

- Proper consideration was not given to alternatives
- There was a failure in the consultation process that breaches the legal obligation placed on the employer to consult

The appeal must be lodged in writing, detailing the grounds for appeal, to the Director of HR and Governance, within 10 working days of the date of written confirmation of redundancy.

14. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

Compliance and effectiveness of this policy will be monitored by the HR Department with trade unions via the JCNC.

15. REVIEW

This Policy will be reviewed within two years of the date of implementation.

Redundancy Timeframe

Summary of Key Stages

Stage	Action	Lead	Deadline
1	Brief Trust Board and the LGB on the outline proposal for an organisational change.		
2	Commence consultation (collective and individual) with trade unions via the JCNC on the proposal for change, detailing the reasons, the potential workforce impact, the timeframe and the consultation process.		
3	Commence consultation with staff, which may be collective and individual, detailing the proposal, the reasons for the proposal, the potential workforce impact, the timeframe and the consultation process.		
4	Close consultation feedback period and review feedback, ensuring queries/concerns are addressed on an individual basis. Review proposal and amend as necessary and appropriate.		
5	Provide the Trust Board with a final version of the proposal with recommendations, seeking the Trust Board's approval.		
6	Brief trade unions via the JCNC on the final proposal and next steps and arrange to meet with them to discuss information pack, process, selection criteria and timeline. Discuss ways of minimising redundancies.		
7	Meet with directly affected staff and their trade union representatives to share the information pack. Consider potential for voluntary redundancies/voluntary redeployment.		
8	If redeployment is an option, consider with employees and their trade unions as per the Redeployment Procedure, explore those options with them and confirm any trial periods, training and development and confirmation of new roles.		
9	If voluntary redundancy is an option, seek volunteers and consider the feasibility of requests. If the CEO supports volunteer requests, a redundancy selection committee will be arranged.		
10	If the voluntary redundancies are agreed by the redundancy selection committee, notify the		

	employees and their trade unions, providing appropriate documentation, support and confirmation, detailing next steps.		
11	If suitable alternative employment is not agreed and there are no agreed volunteers for redundancy, review selection criteria with trade unions and share with affected staff (which may be pools of staff depending on the circumstances).		
12	Arrange a redundancy selection committee to consider nominations for redundancy, as per the Scheme of Delegation.		
13	Notify employees of redundancy selection committee outcomes and next steps, including appeals. If an appeal is received, arrange appeal meeting.		