

Redundancy Policy

This policy sets out a framework for consultation and procedures for managing staffing reductions in schools and colleges. The intention is to avoid compulsory redundancies wherever possible as detailed in the [managing change policy](#).

This policy only applies to employees working in schools and colleges

Key Points

- Schools and colleges will aim to manage redundancy effectively through consultation, fair selection and positive action.
- The recognised trade unions will be consulted on any proposals that could result in redundancies.
- Employees identified as being “at risk” will be given assistance to find alternative employment including time off to attend interviews.
- Where multiple redundancies are envisaged, selection will be from a defined pool of staff using stated, non-discriminatory criteria. Volunteers will be considered provided a high quality skills base is retained.
- This policy should be used in conjunction with the [Managing Change, Restructure, Redeployment Code of Practice and Benefits and Compensation on Termination of Employment Policies](#).

1. Statement of Intent

- 1.1. The most significant and valuable asset of a school or college is its staff and providing job security for its employees is a high priority. It is necessary to maintain an optimum level of staff with the right skills mix and expertise to deliver excellent services in schools/colleges. In order to achieve this, the County Council develops workforce plans for schools which help to determine the future workforce requirements.
- 1.2. Where levels of staffing need to be reduced, every effort will be made to avoid the need for compulsory redundancies.
- 1.3. If a redundancy situation arises, requests for voluntary redundancy will be considered from employees in order to keep compulsory redundancies to a minimum. It should be stressed, however, that the overriding consideration should be the continued efficient running of the school/college and the maintenance of an appropriate and high quality skills base. Therefore, there may be requests for voluntary redundancy that are rejected where it is believed that it may be in the best interests of the school/college.

2 Definition of Redundancy

2.1 Redundancy is defined in law as a dismissal for one of the following reasons;

- the employer ceases or intends to cease the business in which the employee was employed
- the employer ceases or intends to cease to carry on the business in the place where the employee was employed
- the requirement to carry out work of a particular kind has ceased or diminished or is expected to cease or diminish.

2.2 In cases where the business transfers to another provider, employees are not necessarily redundant and would normally transfer to another employer on their existing terms and conditions, commonly referred to as "TUPE" regulations (Transfer of Undertakings Protection of Employment).

3. Procedure for the Management of Redundancy

3.1 Where there are proposals for staff reductions the headteacher/principal should undertake consultations with union representatives and the staff generally as set out in paragraph 4.

3.2 Every effort should be made to identify ways in which any reduction could be achieved by means other than compulsory redundancy. Where it is considered that staffing reductions cannot be achieved in this way it will be necessary to identify the group of staff at risk of redundancy. This will involve:

- a) considering carefully the organisation and staffing structure for the school/college as a whole. Particular posts which will continue to be required within the management structure or organisational requirements for the school/college should be identified.
- b) identifying the area(s) of work directly affected and the member(s) of staff involved in that work.

3.3 Once the area(s) of work and staff group(s) at risk of redundancy have been identified the following further action should be taken:

- a) Seek volunteers for voluntary redundancy or voluntary early retirement from the staff identified as at risk.
- b) Review the possibility of an agreement with the staff identified as at risk to a change in terms and conditions of employment, including reduced hours of work or alternative areas of work within the school/college.
- c) Identify whether more than one employee is at risk of redundancy and whether it will be necessary to make a selection for redundancy.

4. Consultation

- 4.1 The headteacher/principal will need to consider and take advice from Professional Services, Personnel and Training on the way in which consultation with trade unions should be undertaken and the way in which the governing body should be involved.
- 4.2 Where significant changes are proposed the headteacher/principal should report to the governing body outlining any proposals before entering into formal consultation with trade unions.
- 4.3 It is the role of the governing body to authorise the headteacher/principal to commence consultations with trade unions and staff and to monitor and review the process and to respond to representations. At the conclusion of the process it is for the governors to decide on the way forward.
- 4.4 Trade unions should be consulted first and made aware of the proposals for organisational change, and the reasons, at the earliest opportunity. Failure to consult could result in a finding of unfair dismissal by an Employment Tribunal. Before starting any redundancy process, advice should be sought from Professional Services, Personnel and Training.
- 4.5 At the initial meeting with trade unions as well as outlining the rationale for the proposal, information on costings, redundancies, selection criteria and timescales should be provided. Written information as to the current and future budget positions, current and future staffing and any other relevant information should be provided to the trade union representatives in advance of the consultation meeting.
- 4.6 Consultations should take place during working time and the timetable should be reviewed throughout the consultation period and union and staff representatives kept informed.
- 4.7 At the conclusion of the consultation the headteacher/principal should report back to the governing body detailing the outcome, and recommending the preferred option for making staffing reductions. The governing body will then determine the selection criteria. This determination could be delegated to a sub committee.

5 Guidelines and Timescales for Staffing Reductions

Stage 1 Recognition of problem which may result in redundancy of staff. If the problem is financial then discussions should take place with the finance officer attached to the school. They will be able to give advice as to whether the savings can be achieved in order to avoid a redundancy situation.

Stage 2 Governing body to authorise headteacher/principal to commence consultations with trade unions and staff - with a view to reaching agreement to avoid compulsory redundancy.

If not already done, the governing body to delegate the power to determine that an employee(s) ceases to work at the school to a panel of 3 governors and to delegate the power to consider appeals against such decisions to a separate panel (should these become necessary).

- Stage 3 Headteacher/principal and governors, as appropriate (with assistance from Professional Services, Personnel and Training (if required) to make a preliminary assessment of savings that need to be made, and possible groups of staff affected by the proposed reductions.
- Stage 4 Write to appropriate trade union representatives and staff, outlining proposal and arranging date for first consultation meeting to be held at the school. To give two week's notice of that meeting.
- Stage 5 **Week 1** First union consultation meeting to be held at the school. Headteacher to be accompanied by personnel officer, if desired. Proposal to be discussed with union representatives and their views/questions/alternative options to be received.
- Stage 6 **Week 2** Union consultation meeting to be followed (usually on same day) by meeting with staff. Staff to be advised of proposal and options to avoid compulsory redundancy to be given:
- a) voluntary redundancy
 - b) voluntary redundancy with early retirement benefits
 - c) redeployment - where possible
 - d) retraining - where appropriate/possible
 - e) reduction in hours
 - f) staff willing to consider job share arrangements.
- In accordance with statutory provisions, meaningful consultation must take place, with a view to reaching agreement to avoid redundancy or mitigate the loss of any redundancy.
- Stage 7 Staff to be given time to consider options, and request estimates of benefits if required. Discussions with individuals may also be required. Timescales can vary, depending on circumstances. If possible, staff should be given at least two weeks to consider options. During this time, consideration should also be given to any views presented by trade union/staff, and a response made in writing. Trade unions should also be supplied with any further relevant information as requested. It may also be necessary to await receipt of pension estimates before moving on.
- Stage 8 **Week 4** If 'volunteers' are identified, it may be necessary to have a meeting to inform staff and unions that the problem has been resolved by voluntary means. However this could be communicated in usual staff meeting or by letter.
- Stage 9 **Week 4** If reduction cannot be achieved by voluntary means, it will be necessary to continue consultations with the

possibility of compulsory redundancies. Trade unions and staff to be advised of this and any further questions or options to be considered and a response given.

Stage 10

Week 5 A report to be prepared by headteacher/principal (in consultation with Professional Services) to go to governors, or appropriate committee. This report is to outline background of proposal, detail consultations that have been undertaken, and give options as to how a reduction in staff can be made. Headteacher/principal may also wish to give a recommendation as to the preferred option. At this point no individual members of staff to be identified but the options to be given in organisational and financial terms only. This report to be sent to staff and trade unions prior to governors meeting for comment.

Stage 11

Week 6 The governors to agree **in principle** which option is to be pursued in order to make the required reduction in staff. If that option identifies a pool of staff at risk, then governors are also required to determine the selection criteria for redundancy. The selection criteria recommended by the County Council is as follows:

- a) **see 6.1** Selection based on merit, individual employees being measured against a person specification that reflect the requirements for skills, qualifications and experience in the new posts.
- b) interviews can be used to appoint to a new post and this can involve the use of tests that are relevant to the requirements of the new posts.
- c) attendance record
- d) disciplinary and capability records

The trade union representatives would have the opportunity of attending the beginning of that governors meeting to discuss the report that had been prepared and present any views they may have. Trade union representatives would then leave the meeting and the issues and options would be discussed with governors and headteacher/principal.

Stage 12

Week 6 Having determined the appropriate option and criteria, the headteacher/principal apply the criteria to ascertain which member of staff or members of staff are at risk of redundancy.

Stage 13

Members of staff at risk to be advised of the position and voluntary options re-iterated.

If staff not satisfied they are selected fairly, they can take to a dismissal hearing.

- Stage 14 **Week 7** Further report to be prepared by Headteacher to go to Panel of Governors to consider dismissal(s) on grounds of redundancy. That report would usually attach a copy of previous report (Stage 10) that went to Governors to make decision in principle.
- Stage 15 **Week 7** Report to be sent to member of staff concerned and their representative, at least 10 working days before dismissal hearing. Report also to be sent to the panel of governors.
- Stage 16 **Week 9** Dismissal hearing to take place and headteacher/principal to make a presentation based on report. Member of staff to be given opportunity to make a case against the redundancy.
- Stage 17 If decision by governors to dismiss on grounds of compulsory redundancy, member of staff to be advised of this and given 10 working days in which to appeal.
- Stage 18 **Week 11** If member of staff chooses not to appeal, then letter to come from Director of Children's Services, giving appropriate notice of date of dismissal.
- Stage 19 **Week 11** If member of staff submits an appeal, then appeal hearing to be arranged with separate panel of governors, to be conducted in same way as dismissal hearing.
- Stage 20 **Week 11** If panel of governors determine that appeal should be dismissed, the member of staff should be advised and letter from Director of Children's Services to be sent giving appropriate notice of date of dismissal.

5.1 Notification to the Department of Trade & Industry (DTI)

There are minimum statutory timescales that indicate when formal consultation should begin. Consultation should allow for further consideration of any counter-proposals and alternatives to redundancy.

No. of redundancies in any 3 month period	Period of Consultation
Less than 20 possible redundancies	Between 14 and 30 days consultation prior to any redundancy notice being issued.
20-99 possible redundancies:	30 day statutory consultation period (including notification to the DTI)
100+	90 day statutory consultation period (including notification to the DTI)

It is a legal requirement to notify the DTI in writing of a proposal to make 20 or more employees redundant. Notification must be made on form HR1, which can be obtained from the DTI website:

www.dti.gov.uk/employment/redundancy/index.html

6. Redundancy Selection

Where the redundancy applies to particular jobs held by one or more individuals, the post(s) would be redundant without the need for selection.

Where there are multiple redundancies or a reduction in posts within a group of employees the “pool” of employees from which the redundancies will be drawn must be defined. This might be one team within a department, a group of employees doing the same job, usually working to the same or similar job description, or those performing a particular function across a number of departments. Advice from Personnel and Training should be sought.

6.1 Selection criteria

The criteria used for redundancy selection must be clear and objective and be based on the future needs of the school/college. It should be applied fairly and consistently and must not discriminate on the grounds of:

- gender
- gender identity
- marital status
- full or part time employment
- civil partnership
- sexual orientation
- race, language, ethnic or national origins
- faith or religion
- disability
- medical condition, including people living with HIV or AIDS
- age
- trade union membership or activity
- political view or affiliation

Examples of redundancy selection criteria

- selection based on merit, any member of staff who possesses particular skills or abilities that the school/ college needs to retain
- attendance record
- disciplinary and capability records

It is essential that all selection methods are objective and supported by documentation in case the decision is later challenged.

When deciding on selection criteria the governing body will be advised by an officer from Professional Services, PAT. Trade union representatives should be

given the opportunity to put to governors their preferred method of selection prior to the meeting at which the criteria are to be decided.

7. Formal Notification of Redundancy

7.1 In accordance with this policy, and following a period of consultation, notification of redundancy will be given, providing employees with appropriate notice of their employment being terminated.

7.2 Notice Periods

The notice period will be an individual's contractual or statutory notice period, whichever **is greater**. (See table below).

Teachers

- all teachers are entitled to two months notice, and in the summer term three months notice, terminating at the end of a school term
- headteachers and principals are entitled to three months notice and in the summer term four months terminating at the end of a school term.

Support Staff

<u>Continuous Service</u>	<u>Statutory Notice</u>
1 month but less than 2 years	1 week
2 years but less than 12 years	1 week for each year of continuous employment
12 years or more	Not less than 12 weeks

6.3 The **Redeployment Policy and Code of Practice for Schools** should be applied throughout the consultation process and during the period of notice. This is particularly relevant to the search for suitable alternative employment and subsequent trial period (see paragraphs 8 and 9, below).

8. Suitable Alternative Employment

8.1 The County Council will make every effort to establish whether there is suitable alternative employment available and offer such employment to the individual(s) concerned. Records of such efforts should be maintained. If suitable alternative employment is not available, redundancy terms will apply, as detailed in the **Benefits and Compensation on Termination of Employment Policy**.

8.2 The factors which must be considered in determining whether a particular post offers suitable alternative employment include; relevance of an employee's skills, qualifications, abilities and experience to the requirements of the post, the practicality and cost of re-training, location and comparability of salary and other terms and conditions.

- 8.3 The headteacher/principal of the redundant employee, the personnel officer supporting the case and the employee concerned, supported by their trade union where appropriate, each have a responsibility to ensure a successful outcome.
- 8.4 If an employee expresses an interest in a job that is a potentially suitable alternative post, arrangements should be made for the employee to visit the school/ college /workplace to discuss the post with the headteacher/principal or manager who will explore whether there is a skills match.
- 8.5 If an employee refuses an offer of alternative employment which the Council deems suitable and the refusal is considered to be unreasonable, the individual could forfeit the redundancy payment.
- 8.6 The County Council will give prior consideration for suitable alternative employment, in advance of all other candidates, to all employees accepted for redeployment provided the employees' skills and abilities match the essential criteria of the post. Schools and colleges are encouraged to offer prior consideration to employees from other educational establishments.

9. Trial Period

Where an employee takes up an offer of alternative work he/she will be provided with a trial period of 4 weeks for both sides to determine whether it is a suitable match. This can be extended by mutual agreement by up to three months. During the trial period, the employee's salary should be maintained at least at the previous level. Further guidance on this is set out in the **Redeployment Policy and Code of Practice for Schools**.

Other Ways of Avoiding Redundancy

Headteachers/principals and governing bodies should consider applying any of the measures below to achieve staffing reductions and avoid compulsory redundancies.

- restrictions on recruitment
- cease overtime arrangements
- removal of temporary additional hours
- changing job descriptions and working practices
- reduction of hours for staff on variable hours contracts
- agreed reduction in hours
- termination of temporary and fixed term contracts of less than one year
- retraining
- voluntary redeployment
- voluntary redundancy
- voluntary early retirement with enhanced benefits.

These options should be discussed with Professional Services PAT in the first instance.

10. Employee Support and Advice

10.1 Time Off for Attending Interviews

To ensure that this policy is consistently applied, the following is recommended:

- the relevant department manager should agree time off in advance
- at least 24 hours notice should be given
- a letter confirming the interview appointment or the training arrangements should, as far as possible, support the request for time off.

10.2 Staff Counselling Network

Counselling is available through the Staff Counselling Network, a confidential and independent service accessed directly on 01273 481738.

10.3 Additional support

Managers may consider offering support to redundant employees (e.g. help with CVs, retraining, outplacement, personal support/accessibility). Professional Services, Personnel and Training can advise on these options.

11. Right of Appeal

- 11.1 The employee has the right of appeal if they believe the redundancy is unjustified or that the selection for redundancy is unfair. Only employees who have received formal notice may exercise this right.
- 11.2 Notice of the appeal should be made in writing within 5 working days of the formal notification of redundancy and should be sent to the relevant Chief Officer.
- 11.3 The appeal hearing should normally be heard by a panel of governors who have not been involved in the redundancy procedure or decision making process.
- 11.4 Employees are entitled to be accompanied by a trade union or workplace colleague.
- 11.5 Appeals may be heard collectively and employees may be accompanied by a trade union or a nominated spokesperson for the group.

12. Redundancy Payments

Please refer to the benefits and compensation on termination of employment benefits policy.

13. Withholding Redundancy Payments

- 13.1 If an employee, under notice of redundancy, receives an **offer** of work (in local government or a related employer, to commence the fifth Monday following the date of termination, there will be no entitlement to a redundancy payment. Related employers are those covered by the **redundancy modification order (link)** including an offer of a suitable alternative post at East Sussex.

14. Continuity of Service

- 14.1 The employee's continuity of service **will not** be broken if the employee receives and accepts an offer of employment with an organisation covered by the **Redundancy Modification Order** before their employment ends with East Sussex County Council and they start their new job before the fifth Monday following the date of termination of employment. However, in these circumstances, they will not be entitled to a redundancy payment.
- 14.2 Where a redundancy payment is made, continuity of service will be broken for the purpose of calculating a future redundancy payment. However, there is an entitlement to count previous service for notice periods, annual leave, sickness payments and maternity leave, provided that the break has not exceeded two years.

15. Re-engagement of retired employees

- 15.1 Any arrangement to re-engage a former employee who retired early on the grounds of redundancy with an enhanced pension should be on the following basis;
- (a) the employment should be for a fixed term, not exceeding one year. In exceptional circumstances this may be extended;
 - (b) the re-engaged pensioner should be employed, with a contract of employment. Abatement of the pension should be applied where appropriate;
 - (c) the rate of pay applied to the work undertaken by the re-engaged pensioner should be that appropriate to the work to be done and not the grading which applied to the pensioner before retirement;
 - (d) the arrangement must provide financial/operational advantage to the school/college or County Council.
- 15.2 For further guidance on re-engagement of retired employees please refer to **early retirement (re-employment) guidelines**

Date last reviewed	September 2008
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