

**Redundancy**

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| **Signed** | **Policy review date** | | |
|  | **June 18** |  |  |
|  |  | **June 19** |  |
|  |  |  | **June 20** |
| Agreed at Governor meeting |  |  |  |



Ringway Primary School

**Redundancy**

**HUMAN RESOURCES POLICIES AND PROCEDURES**

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| **Title: Redundancy Reference Number: HRP-32-V1** |

# Operational Summary

## 1.1 Policy Aim

Ringway Primary School will always strive to take all reasonable steps to avoid redundancies. However, from time to time modernisation, service improvements, reorganisations and financial considerations affect numbers of employees or the need for particular types of employees, and redundancies become necessary. The aim of this policy is to ensure all employees affected by redundancy proposals are consulted and treated in a fair and equitable manner, taking into account the statutory responsibilities of the school together with compliance with employment legislation and ACAS Codes of Practice.

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## 1.2 Policy Summary

This policy is designed to apply to any proposal which may result in the redundancy of an individual employee or groups of employees.

## 1.3 What it means for employees

**Headteachers** – are responsible for ensuring adequate dissemination and implementation of the policy

**All Council employees** – are responsible for reading the policy

# Introduction

The changing nature of school’s will inevitably identify the need to re-provision. This will lead to changes in the school’s structure and in individual roles and responsibilities. Numbers of employees and the need for particular types of employee will change from time to time, and redundancies may become necessary. Where this occurs, the school is committed to minimising the effect and to giving reasonable support to those employees who are affected.

# Purpose

A school may need to make reductions to the number or type of employees in its staffing structure because of changes in, for example, its financial position, pupil numbers, curriculum or operational needs.

The purpose of this procedure is to ensure that the situation is handled fairly, sensitively and in accordance with employment law. The aim is to take all reasonable steps to avoid redundancies, minimise any impact for staff and ensure that the governing body acts lawfully.

Any school using this procedure needs to do so with an overall aim of avoiding redundancies wherever possible. The procedure can be halted at any stage if the school’s circumstances change; for example, if the financial position improves or a member of staff resigns.

Practical support to help schools to operate this procedure effectively is provided in the Guidance on the Redundancy Process in Schools.

# Duties

**4.1 Governing body:** The governing body is responsible for deciding the number of posts and type of staff to be employed at the school and has overall responsibility for operating this procedure. The governing body also has responsibility for adhering to correct consultation periods with recognised trade unions.

Under the School Staffing (England) Regulations 2009 for maintained schools it may decide to delegate responsibilities for dismissing staff to one or more governors, to the headteacher or to one or more governors and the headteacher together. Statutory guidance states that governors should delegate the responsibility for all dismissal decisions to the headteacher, unless there is good reason not to. The person(s) with delegated responsibility for making the dismissal decision will be referred to as the “hearing body” throughout this procedure. Where the hearing body consists of governors, five working days notice of hearing body meetings should be provided and those meetings reported to the next governing body meeting as a confidential item.

The governing body will be responsible for hearing appeals arising from this procedure.

Where staff have been employed under the collaboration arrangements allowed for under the School Staffing (England) Regulations 2009, the hearing body should be drawn from members of the joint committee established by the governing bodies of all those schools involved.

In the event that delegation has been withdrawn from the governing body of a maintained school the local authority will follow this procedure. However a local authority officer with the delegated authority to dismiss will act in place of the hearing body and appeals will be heard by an appropriate Head of Service.

**Headteacher:** In all cases the *headteacher will assist the governing body in the operation of the procedure and will usually lead the consultation exercise with staff and recognised trade unions.*

**Director of Education and Skills:** In community and voluntary controlled schools the Director of Education and Skills has the right for their representative to attend and give advice at any meeting where dismissal may be considered. Foundation/trust and voluntary aided schools accord these rights to the Director of Education and Skills representative.

**Local authority:** It is the responsibility of the local authority to issue notice of dismissal within 14 days of being notified by the school in the case of staff employed in community and voluntary controlled schools. Providing that the school buys into an appropriate service level agreement, the local authority will issue notice of dismissal on behalf of the governing body of foundation and voluntary aided schools or academies.

1. **Legal Considerations**

Redundancy occurs where one or more employees are dismissed because the school’s need for employees to perform work of a particular kind or at a particular place reduces or ceases. This includes the non-renewal of fixed-term contracts for these reasons. Redundancy also occurs when it is proposed to close one of the school’s sites or the school itself.

There are specific legal requirements about the redundancy consultation process if it is proposed that 20 or more employees at the same establishment are made redundant within a particular timescale. Trade unions can complain to an employment tribunal if there is a failure to consult properly. In addition, employees in organisations with 50 or more employees have a statutory right to be informed about its economic situation and informed and consulted about employment prospects and about decisions which may lead to substantial changes in work organisation or contractual relations, including redundancies and transfers.

Redundancy is a potentially fair reason for the dismissal of an employee, however a fair procedure must also be followed. Employers must not treat employees on fixed- term contracts less favourably than permanent employees or employees with part-time employees less favourably than full-time employees, unless this treatment can be objectively justified. An employee with two years of continuous employment with the same employer can make a complaint of unfair dismissal to an employment tribunal.

Employers must not discriminate, either directly or indirectly, against people on the basis of any of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, unless this can be objectively justified. This applies to all dismissal processes including selection for redundancy. Failure to make reasonable adjustments for disabled employees, including adjustments to selection criteria and the redundancy procedure itself, is a form of unlawful discrimination. An employee can make a complaint of unlawful discrimination to an employment tribunal regardless of their length of service.

Public sector employers are required to undertake an equalities impact assessment when making financial decisions, which includes redundancy situations in schools, to demonstrate that such decisions are being made in a fair, transparent and accountable way considering the needs and rights of different members of the community. The nature of the assessment should be proportionate to the decision being made; whether it is proportionate for a public sector organisation to conduct such an assessment depends on its relevance to the organisation’s function and its likely impact.

1. **Process**

**6.1 Decide on the need for redundancies**

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**6.2 Identify the proposed redundancies at a criteria meeting**

The hearing body should hold a criteria meeting as soon as it can be foreseen that redundancies may be necessary. The purpose of the meeting is to decide the proposal that will be put forward for consultation and therefore a number of options may be put forward by the headteacher for consideration. These options will be considered in light of the school’s future operational, curriculum and skills requirements and the relative cost-benefit analysis including an assessment of the potential savings against any implementation costs that will be incurred. No final decisions on the option to be implemented can be reached before the consultation exercise with individual staff and trade unions is complete.

Schools are required to undertake an equalities impact assessment when making financial decisions that are relevant to their particular functions as an education provider and employer. The extent of the assessment required depends on the relevance of the decision to the school’s particular function and its likely impact. Financial proposals that are relevant to equality such as those that are likely to impact on equality for pupils and/or employees should always be subject to a thorough assessment. An assessment of impact must be carried out at a formative stage so that the assessment is an integral part of the development of a proposal, not later justification of an approach that has already been adopted.

The hearing body must include the following detail in the proposal that it intends to take forward to consultation:

The proposed number/full-time equivalent and type of employees who are affected including identifying the number of employees who are currently employed in these posts: This determines the “selection pool” of employees from which it is proposed that an identified number of employees will be made redundant. For example, it may be proposed that all employees doing a particular job are made redundant or that one (or more) employee(s) from the pool of employees doing a particular job is made redundant;

The proposed date of dismissal: The requirement for reasonable consultation, the right of employees provisionally selected for redundancy to make representations to the hearing body, periods of notice and restrictions on dismissal dates for teachers must be considered when identifying the proposed date of dismissal; and

The proposed method of selecting who may be dismissed from the selection pool: No additional selection criteria will need to be identified in cases where it is proposed that all employees in the selection pool are selected for redundancy. In other cases draft selection criteria will need to be drawn up and consulted on. Detailed draft selection criteria can be provided after the start of the redundancy consultation period, however, sufficient time must be allowed for meaningful consultation to take place. Consideration should be given as to whether appropriate volunteers for redundancy will be sought or opportunities for “bumped” redundancies explored, whether this will be done before or at the same time as applying selection criteria and the criteria by which the hearing body will decide whether to approve received applications.

**6.3 Propose detailed selection criteria**

In order to ensure fairness, the selection of staff for redundancy must be based on criteria which:

* are as objective as possible;
* are supported by clear, verifiable evidence;
* are applied consistently;
* are relevant to the future needs of the school;
* enable the hearing body to distinguish between employees; and
* do not directly or indirectly discriminate on the basis of any of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, unless this can be objectively justified.

Selection criteria must be designed to ensure that the school is able to retain staff with the knowledge, skills and experience required to meet its future management, operational, curricular and pastoral needs.

It is recognised that in cases where the school is required to make immediate and real cost savings and has a limited financial resource to meet costs arising from a redundancy process that it may be possible to objectively justify using redundancy cost as a selection criterion, despite the potential indirect age discrimination of applying such a criterion.

Analysis of the potential impact of the proposed redundancy selection criteria will need to be included in the equalities impact assessment of the proposal.

**6.4 Notify and consult staff and trade unions**

The primary objective of the hearing body throughout the notification and consultation process (and beyond) must be to avoid compulsory redundancies if at all possible. Consultation must be undertaken in good faith and with a view to reaching agreement.

**6.4.1 Timing of notification**

The hearing body must ensure that trade unions have as early warning as possible of proposed redundancies so that they have the opportunity to be consulted about the proposals and assist in seeking alternative strategies.

Consideration should be given at an early stage, in consultation with staff and trade union representatives, to when relevant employees will be considered “at risk” within the context of the Alternative Employment Policy and Procedure.

Consultation must begin in good time as soon as the redundancies are proposed. The length of the consultation period should be proportionate to the number of the proposed redundancies and must provide reasonable time for all parties to give proper consideration to and express their views about the proposals.

It is a legal requirement that where it is proposed to dismiss between 20 and 99 employees at one establishment within 90 days, a “section 188 letter” is sent to the nominated official of the relevant recognised trade unions in good time and at least 30 days before notice of dismissal is given. Where it is proposed to dismiss 100 or more employees at one establishment then the letter must be sent at least 45 days before notice is given. Fixed-term employees who will be dismissed at the agreed date in their contract do not count towards this number of employees, however they are included if it is proposed to end their contract earlier than their contract states.

It is the policy in Northumberland to provide equivalent written notification of proposed redundancies in all cases, even where the number of proposed dismissals is less than 20. In these cases the hearing body will allow a consultation period of at least two working weeks.

The hearing body will provide the following information in a Section 188 or equivalent letter:

* the reasons for the proposed redundancies;
* the numbers and descriptions of employees it is proposed to dismiss as redundant;
* the total number of employees of those descriptions employed at the establishment;
* the proposed method of selecting the employees who are to be dismissed (explaining the proposed selection pool and selection criteria, although detailed selection criteria may follow in a separate letter);
* the proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take place;
* the proposed method of calculating any redundancy payments, other than those required by statute;
* the potential impact on other employees who may be affected by measures taken in connection with the redundancies;
* the number of agency workers working temporarily and under the supervision and direction of the employer;
* the parts of the employer’s undertaking which those agency workers are working; and
* the type of work those agency workers are carrying out.

**6.4.2 Handling consultation**

The hearing body must ensure that affected employees (including those who may be absent on sick leave, maternity leave or secondment), as well as the trade unions recognised for that employee group, are notified and consulted about proposed redundancies.

Different methods of communication may be used during the consultation period. The headteacher should hold a meeting with affected employees at the start of the consultation period to inform them of the hearing body’s proposed redundancy process. *During the consultation period* the headteacher should meet with individual employees *(who may be accompanied by their recognised trade union representative if they wish) to explain the proposal in more detail, listen to their views and ensure these are considered by the hearing body at the proposal meeting.* The headteacher should keep a record of the dates of any meetings, those present, the key points made and the outcome. *The headteacher should also arrange consultation meetings with representatives of the recognised trade unions, as appropriate.*

Consultation should be treated as part of the decision-making process and must include ways of:

* avoiding the redundancy situation or dismissals;
* reducing the numbers of dismissals involved; and
* mitigating the effect of any dismissals.

1. **Hearings and Appeals**

7.1 An employee selected for redundancy will be notified in writing of the proposal to dismiss them on the grounds of redundancy.

7.2 An employee has the right to appeal against dismissal by reason of redundancy to the Director of Human Resources.

1. **Assistance to Employees**

8.1 The County Council will give all reasonable help to employees made compulsorily redundant and this may include:

* reasonable paid time off to look for other work;
* reasonable retraining facilities to retrain for alternative work, where available and if appropriate;
* positive one to one support in dealing with the problems of redundancy;
* information on current vacancies within the County Council, via the services of a nominated Contact Officer and in accordance with the Council’s Alternative Employment Policy ;
* redeployment and pay protection (subject to the terms of the Pay Protection and Detriment Scheme); and,
* advice on redundancy and pension payments.

1. **Termination Benefits**

9.1 The County Council’s policy on redundancy, severance and pension is reviewed regularly (in accordance with *The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations*. The policy is non-contractual. In the case of Local Government Employees (firefighters excepted), redundancy payments will be based on actual weekly pay (rather than the statutory maximum).

9.2 Any payments, made on termination of contract, in excess of those detailed in paragraph 9.1 above will be subject to tax and national insurance. In addition, any payments made which exceed £30,000 will also be subject to tax and national insurance deductions.

1. **Re-employment**
   1. Where employees have been made compulsory redundant there is no general restriction on any future re-employment, where such re-employment occurs at a later date and as a discrete event unconnected with the redundancy, although in certain circumstances the return of pension and redundancy payments is a legal requirement.
   2. Where staff have requested voluntary redundancy, and this has been approved, then re-employment with the County Council to a permanent, fixed term or temporary post within a period of 2 calendar years will only be with the express approval of the Director of Human Resources. Such approval will only be given on the basis of service need and will take account of current legislation at the date of the request. Posts which are, by their nature, casual and place no obligation on the Council to provide work (and no obligation on an individual to accept work offered) are exempt from this requirement; such posts will include casual registration, electoral and invigilating staff.
   3. The County Council does not however approve of "deals" involving the redundancy / early retirement and immediate re-employment of employees either on the payroll or via an agency / consultancy basis.If there are any exceptional circumstances, which might appear to justify such arrangements, these must be discussed and agreed in advance with the relevant Director and Human Resources.

# Monitoring and Audit

11.1 The Council will monitor the application of this policy and has discretion to review it at any time through the appropriate consultation mechanisms.

11.2 Responsibility for the implementation, monitoring and development of this policy lies with the Director of Human Resources. Day to day operation of the policy is the responsibility of Heads of Service who will ensure that this policy is adhered to.

# Training and Support

12.1 Advice can be gained from the HR department in relation to the implementation of this policy and associated procedure.

12.2 Additional training in managing change is available from the Learning and OD Team.

# Associated Documentation and References

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| Reference | Title |
| HRP-05-V1 | Management of Change |
| HRP-30-V1 | Pay Protection and Detriment |
| HRP-36-V1 | Severance Scheme |