

REDUNDANCY AND RESTRUCTURING POLICY AND PROCEDURE

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As part of our focus on diversity and inclusion, BDAT pledges that our policies will seek to promote equity, fairness, and respect for all staff and students. Our policies reflect the BDAT ICARE values of inclusion, compassion, aspiration, resilience, and excellence. By working closely with a range of stakeholders, such as our school, recognise Trade Union, and HR colleagues, we have ensured that BDAT's policies do not unlawfully discriminate against anybody.

1. Introduction

The purpose of this policy is to provide a consistent and fair procedure for handling redundancies and restructures.

The Trust Redundancy and Restructuring Policy will:

- Ensure staff have the relevant information on redundancy arrangements; and
- Support staff leaving the Trust through redundancy and provide a consistent and fair framework for redundancy payments.

The Trust may have a requirement to make redundancies or to restructure as a consequence of a reduction in school funding or where for instance student numbers studying in a particular subject area have declined or where the operational needs of the Trust reasonably dictate that there is a need to restructure, reorganise or reallocate staff in a particular area of the Trust.

Teachers will be entitled to a 3 year safeguarding pay protection period if any reorganisation results in them suffering a salary reduction. For support staff the agreed contractual conditions will apply.

This policy has been provided as a Trust level resource for BDAT and does not form part of an employee's terms and conditions of employment. In circumstances such as conversion to academy status, all rights and benefits accrued by an employee under any previous redundancy policy/policies will be subject to transfer under TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006). The Trust may choose to vary the terms of these rights and benefits after consultation with the recognised trade unions. In particular the Trust may elect not to follow this policy for staff with under two years continuous service with the Trust.

2. Avoiding Redundancies

The Trust will take reasonable steps to avoid a redundancy situation by using alternative methods for reducing staff numbers, for example and where appropriate, non-replacement of leavers, early retirement, recruitment restrictions, reduction in overtime working termination of external contractors, and reviewing the number of employees on temporary/fixed term contracts. Ordinarily, the Trust will ask for volunteers from any pool of staff at risk of redundancy. However, the Trust is not obliged to accept any volunteer.

3. Alternatives to Redundancy

The Trust has a commitment to maintaining job security, where possible. Therefore, when there are potential redundancy situations, the Trust will endeavour to redeploy and retrain staff where this is

reasonable and appropriate and does not unduly impact on teaching and learning and service delivery/provision within the academies and service delivery/provision at the central Trust office.

4. Definition of Redundancy

Redundancy is defined by the Employment Rights Act 1996 as dismissal attributable wholly or mainly to:

- an employer ceases, or intends to cease
 - (i) to carry on the business for the purpose of which the staff member was employed, or
 - (ii) to carry on that business in the place where the staff member was so employed,
- or
- the requirements of that business
 - (i) for staff to carry out work of a particular kind, or
for staff to carry out work of a particular kind in the place where the staff member was employed by the employer, have ceased or diminished or are expected to cease or diminish.

5. Selection Criteria

A dismissal on grounds of redundancy will only take place if a redundancy situation exists. The criteria used for selection will be applied objectively and in a fair and consistent manner in consultation with HR and Unions.

5.1 Procedure

Staff involved in managing the redundancies will be appropriately trained and qualified in how to do so; for example, they will know how to conduct the initial staff briefing and the subsequent consultation meetings, as well as answer a potentially wide range of questions, and apply selection criteria. The Trust is committed to providing support for all managers and employees involved in the procedure.

Key stakeholders will be placed in a state of readiness; for example, recognised trade unions, HR staff (at all stages of the procedure, not just by invitation and who must also be very clear about their respective responsibilities), payroll, outplacement consultants, job centre (although, this may have to wait until after the initial announcement is made, for reasons of confidentiality).

The Trust is committed to carrying out an advanced check of the affected staff's contracts of employment and other key information e.g. TUPE, their age, salary, length of service, notice periods, whether payment in lieu of notice may be applicable, and any other benefits that may be applied. The Trust will clearly define and explain why redundancies are necessary. The Trust will outline a timetable for the steps that will need to be taken, when, and by whom. The Trust will clearly explain to staff how they would be inducted into new roles, functions, or revised management structures. This will be a

key element of the overall consultation process. The draft documentation needed for each stage will be prepared in advance and will be securely stored to ensure confidentiality.

In redundancy, there are two types of consultation – individual and collective.

1) Individual Consultation:

Where fewer than 20 roles are planned to be made redundant within 90 days in a particular establishment i.e. an academy.

2) Collective Consultation:

Where 20 or more redundancies are planned to be made redundant within 90 days in a particular establishment. If between 20 and 99 roles are planned to be made redundant during this time a collective consultation period of 30 days will apply. If over 99 roles are planned to be made redundant during this time a collective consultation period of 45 days will apply.

For both individual and collective consultations, the Trust will consult with trade unions who will discuss the proposals with their members that are potentially affected. The Trust will facilitate the exchange of both verbal and written information and feedback to ensure that both are conveyed and understood clearly by all parties. The Trust will also give employees and representatives an opportunity to digest the information provided to them and ensure that they know whom to contact if they have further questions.

Trade union representatives are entitled to be provided with such accommodation and facilities as are appropriate to ensure that proper consultation can take place. This might mean access to space for meetings or to photocopiers. All representatives are entitled to reasonable paid time off to perform their functions or canvass support. What is reasonable will depend on the number of staff members in the pool/at risk, the redundancy exercise, and the maintenance of security and safety. Representatives will not face detrimental treatment or dismissal for carrying out their trade union duties.

5.2 Individual Consultation

5.2.1 At Risk of Redundancy

When a redundancy situation has been identified, all staff affected will be notified that their roles are at risk of redundancy. Where a group of people are affected within an academy, the Head Teacher/Principal may meet with the group of staff affected. Affected staff will also receive confirmation that their role is at risk of redundancy in writing.

The Trust will consult with the recognised trade unions on all redundancies.

5.2.2 Pools or Individuals at Risk of Redundancy

In some redundancy situations, there will be a need to select staff for redundancy from a group of staff. The group of staff is referred to as a 'pool'.

Where applicable, each staff member at risk of redundancy will be scored against a selection criteria. The criteria may be assessed by selection matrix, interview or assessment centre. The Trust reserves the right to decide what the most appropriate method in each situation is. Following the selection process, staff selected for redundancy will be informed of the outcome via a one to one meeting with the relevant manager and in writing.

Once a decision has been reached as to who has been provisionally selected for redundancy, the individuals whose roles are no longer being considered for redundancy will be notified in a one to one meeting and in writing

Where an individual carries out a specific role which is to be made redundant on their own (i.e. not in a pool), this is referred to as an individual role at risk of redundancy. In such cases, individual consultation will take place.

5.2.3 Consultation

Once it has been confirmed that a staff member, or a group of staff, is provisionally at risk of redundancy a period of consultation will follow with the rest of the relevant staff body.

A business case for restructure will be made that contains a clear analysis of the internal and external drivers for change. This should be shared with the recognised trade unions at the earliest possible opportunity and before it is shared with the staff as a whole. This provide full details of the present job descriptions for those employees potentially affected. This will allow for affected employees and their representatives to be involved in generating ideas and ranking options for how the organisation can move forward.

The purpose of consultation is to try and establish any alternatives to the redundancy including potential redeployment. During the consultation period, all staff and the recognised trade unions will be given the opportunity to raise any issues and to discuss what alternative opportunities they would consider.

During the consultation period, affected staff will have a minimum of one consultation meeting with the Trust. The consultation meeting should be documented, and a record should be kept of the meeting.

During the consultation meeting(s) the affected staff member will have a right to be accompanied by a work colleague of their choice or a trade union representative.

Staff who are at risk of redundancy will be permitted reasonable time off with pay to attend interviews. Staff must request time off via their Line Manager, and all requests will be considered against the operational requirements of the Trust. Staff will also have access to free professional and confidential advice and counselling.

5.2.4 Final Outcome Meeting

The Trust is committed to issuing a written response to any consultation responses which might include, for example, any changes to the proposals based on the consultation responses. This will be made available to all.

After the consultation period, if no alternative to dismissal has been identified, the staff member will be invited to a Final Outcome Meeting.

The Trust will provide at least 5 working days' notice of the Final Outcome Meeting and will set out in writing:

- the purpose of the Final Outcome Meeting.
- Selection criteria information
- that the staff member's role is at risk of redundancy.
- that the outcome to the Final outcome Meeting may be dismissal.
- when and where the hearing will be conducted.
- The opportunity to make representations that the application of the criteria is unfair or has been applied incorrectly
- the right to be accompanied by a trade union representative or work colleague not involved in the case.
- the requirement for the staff member to provide, at least 2 working days before the hearing, all documents that they intend to present at the hearing.

The Final Outcome Meeting will be conducted by either the Chief Executive Officer/Principal/Head teacher dependant on role. Any documentation that the staff member wishes the Chair of the meeting to consider should be submitted at least 2 working days prior to the meeting. The purpose of the Final Outcome Meeting is to provide staff the opportunity to ask any further questions discuss the selection criteria and inform them of the outcome decision.

The Chief Executive Officer/Principal/Head teacher should consider the proposed redundancy and any issues raised by the staff member before making a decision as to whether to make the staff member redundant. The Chief Executive Officer/Principal/Head teacher's decision will ordinarily be provided verbally and then confirmed in writing within 5 working days.

5.2.5 Confirmation of Redundancy

The Trust (Chief Executive Officer/Principal/Head teacher) will confirm the staff member's redundancy in writing.

All staff who are served notice of redundancy will receive a letter which will ordinarily confirm the following:

- The effective date of the redundancy
- Approach to the notice period (e.g. garden leave, working notice)
- Any redundancy payment due, and how this has been calculated
- Any outstanding holiday entitlement Right of Appeal and who to address any appeal to (see section below on Appeals)

5.3 Collective Consultation

5.3.1 Announcement

When a collective redundancy situation has been identified, the recognised trade unions and all staff who are affected will be notified prior to the rest of the relevant staff body being informed. This will normally be done via a group presentation and then confirmed in writing.

5.3.2 Consultation

Number of staff affected	Minimum length of consultation period
Where between 20 and 99 redundancies are proposed in a 90 day period in an establishment NB – Notification will be made to the Department for Business, Energy and Industrial Strategy on form HR1 if there are to be more than 19 employees affected.	30 days
Where over 99 redundancies are proposed in a 90 day period in an establishment	45 days

The objective of the collective consultation period is to review the reasons for the redundancies, the number of redundancies necessary, ways to minimise the redundancies where possible, to consider alternatives to redundancy, and the selection methods for those redundancies.

At the commencement of the collective consultation period, trade unions will be provided with the following information:

- The reason for the proposed roles being made redundant
- The numbers and categories of roles involved
- The numbers of staff in these categories
- The selection criteria proposed
- An explanation as to the proposed procedure that will be followed, outlining timescales
- An explanation as to how redundancy payments will be calculated

The purpose of consultation is to seek to reach agreement. Whilst this may not be possible, the Trust will enter into such consultation with a view to reaching agreement.

5.3.3 Selection

At the end of the collective consultation period all those staff in pools will be scored against the selection criteria (agreed, if possible) to determine who will be confirmed at risk of redundancy. The redundancy process followed, including selection criteria, will be lawful and non-discriminatory. This includes providing support in finding alternative employment for

those who are disabled, have a mental health condition, or with protected characteristics, as part of the Trust's general duty to make reasonable adjustments to accommodate staff's needs.

Once a decision has been reached as to who has been selected for redundancy, the individuals whose roles are no longer being considered for redundancy will be notified in writing.

Anybody who carries out an individual role at risk of redundancy (i.e. not in a pool) will not be scored.

The Trust may seek to reduce compulsory redundancies by accepting voluntary redundancy applications. . All applications for voluntary redundancies will be agreed by the Local Governing Body in line with the schools requirements.

5.3.4 Selection Notification

Those staff who receive the lowest scores within pools will be informed that they are formally 'at risk of redundancy'. This will be done via the final outcome meeting with the Chief Executive Officer/Principal/Headteacher or a nominated senior leader and confirmed in writing. The staff member will have the right to be accompanied at this meeting by a work colleague or a trade union representative.

5.3.5 Individual Consultation

Each staff member at risk of redundancy will have a period of individual consultation during the consultation period.

During the consultation period, the staff member will have a minimum of one consultation meeting with the Trust. The consultation meeting should be documented, and a record should be kept of the meeting with a copy provided to the staff member.

During the consultation meeting(s) the staff member will have a right to be accompanied by a work colleague of their choice or a trade union representative.

Staff who are at risk of redundancy will be permitted reasonable time off with pay to attend interviews. Staff must request time off via their Line Manager, and all requests will be considered against the operational requirements of the Trust.

During this period of individual consultation, staff whose roles are at risk of redundancy will be given the opportunity to challenge their scores, raise any issues and to discuss what alternative redeployment opportunities they would consider. The period of consultation will be used to try and identify any suitable alternative employment within the Trust.

5.3.6 Final Outcome Meeting

The Trust is committed to issuing a written response to any consultation responses which might include, for example, any changes to the proposals based on the consultation responses. This will be made available to all.

Prior to the end of the consultation period, if no alternative to dismissal has been identified the staff member will be invited to a Final Outcome Meeting.

The Trust will provide at least 5 working days' notice of the Final Outcome Meeting and will set out in writing:

- the purpose of the Final Consultation Meeting.
- that the staff member's role is at risk of redundancy.
- Selection criteria information
- that the outcome to the Final Consultation Meeting may be the staff member's dismissal.
- when and where the hearing will be conducted.
- the opportunity to make representations that the application of the criteria is unfair or has been applied incorrectly
- the right to be accompanied by a trade union representative or work colleague not involved in the case.
- the requirement for the staff member to provide, in at least 2 working days before the hearing, all documents that they intend to present at the hearing.

The Final Outcome Meeting will be conducted by the CEO/Headteacher/Principal/Trustee/or delegated deputy leader. Any documentation that the staff member wishes the CEO/Headteacher/Principal/Trustee/or delegated deputy leader to consider should be submitted at least 2 working days prior to the meeting. The purpose of the Final Outcome Meeting is to provide staff the opportunity to ask any further questions, discuss the selection criteria and inform them of the outcome decision.

5.3.7 Confirmation of Redundancy

The Trust will confirm the staff member's redundancy in writing.

All staff who are served notice of redundancy will receive a letter which will ordinarily confirm the following:

- The effective date of the redundancy
- Approach to the notice period (e.g. garden leave, working notice, payment in lieu of notice)
- Any redundancy payment due, and how this has been calculated
- Any outstanding holiday entitlement
- Right of appeal, how to exercise that right and who to address any appeal to (see section below on Appeals)

6. Appeals

If staff have questions or concerns about any part of the redundancy process they should be raised and where possible resolved during the consultation period. However, where there are outstanding issues which have not been resolved during the consultation period these will be heard as part of an appeal process.

All staff who receive notice of redundancy have the right to appeal against the redundancy decision.

Appeals must be lodged in writing clearly stating the grounds of appeal to the Appeal Officer (Chair of Governors for school staff and the Chair of the Trust Board for staff working in the Central Office) within ten working days of receiving the redundancy notice.

When an appeal letter is received the following procedure applies:

- The staff member will be provided with at least 5 working days' notice of the Appeal meeting in writing and will be informed of their entitlement to be represented at the meeting by a colleague or trade union representative.
- At the meeting the staff member will be asked to provide details on the grounds of their appeal and will be asked questions by the Appeal Officer to establish all the facts. The staff member must submit any written information at least 2 days in advance of the meeting.
- The Decision Maker will be asked to provide the details of the redundancy.
- The Appeal Officer will confirm their findings in writing within 5 working days. Their decision will be final.

7. Suitable alternatives

As part of the process for considering alternatives to redundancy, the Trust will seek to find affected staff a redeployment opportunity within the Trust where this is reasonable and appropriate and does not unduly impact on teaching and learning and service delivery/provision within the academies and service delivery/provision at the central Trust office.

The Trust (CEO / Headteacher) will make every effort to inform those at risk of redundancy of any appropriate vacancies until their termination date.

Where there is more than two individuals who are at risk of redundancy interested in the same redeployment opportunity, the Trust reserves the right to select the best candidate for the role. The selection for this will be agreed at the time and could include an application and interview.

To avoid redundancy a redeployment offer **must** be suitable, **made before the notice period** ends and involve starting the new role within four weeks following the notice period, or completing a four week trial period at the end of the notice period.

Redeployment opportunities will be subject to a four-week trial period. The trial period is in order that both the Trust and the member of staff can consider the suitability of the post. Where redeployment to another site is required the appropriate reimbursement for travelling expenses for the trial period should be agreed if requested. Confirmation of the redeployment opportunity and familiarisation period will be provided in writing.

The four-week trial period can be extended by written agreement between the Trust and the staff member. In all cases the trial period can only be extended for up to a further four weeks. Staff will be encouraged to consult with their trade union representative in such circumstances.

If a staff member accepts the role after the trial period they will be treated as no longer at risk of redundancy and will no longer be entitled to a redundancy payment.

If the alternative role is not acceptable to either party, then the staff member's employment will be terminated on the grounds of redundancy and the relevant redundancy payment will be made by the school completing the redundancy /restructure process.

Employees on maternity, paternity, adoption and shared parental leave have special rights. If these employees are selected for redundancy and there are suitable vacancies, they are entitled to be offered them.

8. Temporary Roles

An alternative to redundancy may be redeployment to a temporary (fixed-term) role within Trust. In such circumstances, once the temporary role has finished, the staff member will be served notice of redundancy.

9. Redundancy Payments

The Trust bases redundancy payments on the statutory guidelines set out in the Employment Rights Act 1996 and in line The Redundancy Modification Order. The Trust must seek specific approval from the Education and Skills Funding Agency (ESFA) for severance payments over £50,000, with any non-contractual elements.

In circumstances such as conversion to academy status, all accrued rights and benefits accrued by an employee under any previous redundancy policy/policies will be subject to transfer under TUPE.

The redundancy payment due to each staff member under the statutory redundancy payment scheme depends on the staff member's age and length of service (up to twenty years). This determines the number of weeks' pay due, which is then subject to a limit on weekly pay. The Trust commit to considering the statutory payment cap on a case by case basis based on the affordability at school level.

To calculate the number of weeks' pay due, the following amounts are used –

- 0.5 week's pay for each full year of service where age during year less than 22
- 1 week's pay for each full year of service where age during year is 22 or above, but less than 41
- 1.5 weeks' pay for each full year of service where age during year is 41+

For information on the redundancy payment calculation and current statutory limit on weekly pay, please contact your HR Advisor, or visit <http://www.direct.gov.uk/redundancy.dsb>

Any redundancy payment due will normally be paid on the next available payroll date following the last date of employment. Payment dates will be confirmed to staff in the letter confirming their redundancy.

Teachers, who are members of the Teachers' Pension Scheme (TPS) can, take their Actuarially Adjusted Benefits (AAB) benefits from the age of 55 up to the age at which they are eligible to take their Normal Pension Age (NPA) benefits.

Support staff that are members of the Local Government Pension Scheme (LGPS) and are aged 55 or over must take their pension benefits, on redundancy. The employer will be responsible for any pension contribution payable to the LGPS known as "pension strain".

The Redundancy Payments (Continuity of Employment in Local Government (Academies)) Modification Order 1999.

When an employee is under notice of redundancy and they receive and accept a job offer, before leaving, from an organisation that is included within the Modification Order, there will be no entitlement to redundancy where the new employment starts within four weeks of the end date of their previous employment. For example, where an employee is under notice of redundancy and their employment is due to end on 31 August, if they are offered and accept a job in an organisation covered by the Order which is due to start before 28 September, they will not be entitled to a redundancy payment.

10. Secondments

Where a staff member is on secondment and their original role becomes redundant, the staff member will continue in the seconded role until the end of the secondment, at which point the school or central office will look at other alternatives. This means that:

- The staff member should be included in the redundancy consultation process for their original role.
- If, at the end of the secondment, it is necessary to put the staff member at risk of redundancy, the period of consultation will follow the rules outlined in this policy.

Where a staff member is on secondment and the seconded role is no longer required, due to redundancy or another reason, they will ordinarily return to their original role.