



ACET REDUNDANCY POLICY			
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## 1. REDUNDANCY PROCEDURE

### 1.1 DEFINITION

Employment law states that an employee who is dismissed will have been dismissed for redundancy in the following circumstances:-

The employer has ceased, or intends to cease

- to carry on the business for the purpose of which the employee was employed; or
- 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; or
- to carry out work of a particular kind in the place where the employee was employed; or
- have ceased or diminished, or are expected to cease or diminish.

Within ACET, a redundancy situation may arise for a variety of reasons, however, the following examples are likely to be most common:

- falling numbers on roll or a drop in the popularity of or need for a particular subject may require fewer classes;
- a reduction in budget which means that the present range of subjects or number of classes cannot be maintained;
- a reorganisation of duties which allows the work to be carried out by fewer staff:

Employment Law widened the definition of redundancy for consultation purposes to include ***'any dismissal for reasons not related to the individual'***.

### 1.2 Effect of Education Legislation

Trustees have the power to set the staffing complement of each academy and to determine whether employees should continue to be employed. The trust is the employer, with responsibility to ensure that formal contracts of employment are issued to all employees and, where appropriate, the issuing of formal notices of dismissal. Trustees/Governors are responsible for dealing with all aspects of the dismissal procedure. Trustees/Governors carrying out dismissals for redundancy are under the obligations imposed by Employment Law to consult with the appropriate trade unions, to consider the ACAS Code of Practice, to act as reasonable employers and to comply with good employment practice.

### 1.3 Consultation

As the employer, the trust will consult with trade unions through the existing communication mechanisms. In relation to redundancy this will facilitate an overall exchange of information

and help achieve a consistent approach throughout the trust but it must be emphasised that this consultative process is in addition to our statutory responsibility to consult trade unions.

The specific legal requirements to consult with recognised trades unions over proposed redundancies are set out in Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992. This remains the case even if those vulnerable to redundancy are not members of a trade union or are members of a trade union which is not recognised.

Employers must consult with a view to reaching agreement and consultations must be about ways of avoiding, reducing or mitigating the consequences of redundancies.

Consultation about redundancies with appropriate representatives should have started a minimum of thirty days before the first dismissal takes place where the number of employees to be dismissed within a period of 90 days are between 20 and 99. There is no legal obligation to consult employee representatives where fewer than 20 redundancies are proposed at any one time, however, as a general rule the trust will begin consultation as early as possible and as soon as a potential situation is identified.

The two essentials are to begin the consultations at the earliest opportunity and to allow enough time for meaningful consultations to take place before any dismissal notices are issued, therefore the trust will always allow at least 30 days for consultations with the appropriate trade unions.

Where redundancies are proposed, the following information must be disclosed in writing to the relevant trade union officials:

- 1.3.1 The reason for the proposed redundancies
- 1.3.2 The number and description of employees at risk
- 1.3.3 The total number of employees of that description at the establishment affected by the proposals
- 1.3.4 The proposed method of selection for redundancy
- 1.3.5 The timescale of the redundancy
- 1.3.6 The proposed method of carrying out the dismissals
- 1.3.7 The proposed method of calculating the amount of any redundancy payment to be made, if other than statutory

As soon as possible after written information has been submitted to the trade unions a meeting should be arranged to begin the formal consultation process.

The consultation process is intended to enable the trade union(s) and employees who may be affected to take early steps to inform them of the relevant facts, consider possible alternative solutions and, if necessary, find alternative employment. Consultations should be based upon sufficient information for it to be sensible and it would facilitate the process if all relevant information (for example – budget, current and previous financial year, curriculum and staffing information) was

supplied at the commencement of the consultative process to the relevant trade union representatives.

Trustees/governors must ensure that individual employees are also consulted about proposed redundancies. This can be accomplished by holding staff meetings (to which union representatives should be invited) and other relevant means of communication.

In the course of the consultation required by Section 188 the trust must:-

- 1.3.8 Consider any representations made by individuals or trade union representatives; and
- 1.3.9 Reply to these representations and if rejecting any of them, state the reasons.

#### **1.4 Purpose of Consultation**

Consultations are intended to be meaningful and the trade unions have a right to explore with the trust ways of avoiding, reducing or mitigating the consequences of redundancies.

There are a number of measures that can and should be taken to initially minimise or avoid compulsory redundancies that may include:-

- 1.4.1 Natural wastage
- 1.4.2 Restrictions on recruitment
- 1.4.3 Seeking early retirements or voluntary redundancies
- 1.4.4 Retraining or redeploying employees
- 1.4.5 Savings on non-staffing budget heads
- 1.4.6 Voluntary internal transfer
- 1.4.7 Voluntary move to a part-time or job share post

#### **1.5 Redeployment**

The trust will consider the possibility of redeployment where staff are at risk, prior to placing external advertisements for identified vacancies.

#### **1.6. Selecting Staff for Redundancy**

##### **Skills Audit**

The Skills Audit process involves the identification of appropriate skills, qualifications and experience. Staff will be considered for selection for redundancy against these criteria.

As part of the consultation with staff and trade unions the selection criteria to be used for the Skills Audit process should be the subject of discussion and ideally an agreed set of criteria arrived at.

### **Interview Process**

There are circumstances where an interview process may be used as an alternative to the Skills Audit process.

Usually this is where the skills and experience of the individuals concerned are so similar that a more intensive process is needed to arrive at selection.

The need for an interview process should be one of the issues explored at the consultation process. The constitution of the interview panel should also be the subject of consultation and where possible agreed with trade unions.

The law requires that individuals should be selected without bias and discrimination and the determination of whether or not a dismissal is considered fair will have regard to:

- 1.6.1 Why a particular employee was dismissed;
- 1.6.2 What were the criteria used and were they fairly, objectively and consistently applied;
- 1.6.3 The extent of the consultation on criteria

The determination of selection criteria is the most difficult and problematic stage of the redundancy process.

## **1.7 The Process**

1.7.1 Having looked at possible alternatives and identified a potential redundancy situation the trust will need to establish two panels/committees.

- a Selection Panel
- an Appeal Panel

Both panels must be composed of different Trustees/Governors with a minimum of three per panel, and the Appeal Panel being not less in number than the Selection Panel. No employee of the trust or individual paid by the trust should be a member of either panel.

1.7.2 Trade unions and staff should be formally notified of the situation as early as possible and given the necessary information. Wherever possible, trade union officials will be given at least one weeks' notice of a proposed meeting.

1.7.3 Consultation should take place to discuss the problems involved and seek solutions. The trust must consider and respond to any representations made by the trade unions.

- 1.7.5 When discussions with trade unions have been completed and a list of criteria established reflecting the future needs of the academy, it is the responsibility of the Principal to communicate the process by which staff will be measured against the criteria.

This process should include staff meetings, completion of skills audit sheets in line with agreed criteria and where practical, meetings with each individual member of staff before agreeing a submission to be put before the Selection Panel on an anonymous basis.

- 1.7.6 The Selection Panel meets to apply the selection criteria to identify those individuals likely to be made redundant.

- 1.7.7 The individuals identified by the criteria are notified of their potential redundancy in writing. They should be informed of their right to a personal hearing with the Selection Panel.

At the hearing the selected employee can make representation (through a trade union or other representative of their choice) regarding their selection.

In order to allow the employee concerned to make adequate preparation at least 7 days notice of the hearing should be given, unless there are exceptional circumstances which necessitate an earlier hearing or both parties agree to an earlier meeting.

- 1.7.8 Representations are heard by the Selection Panel who have taken the decision on who is to be dismissed. The procedure for the Selection Hearing is attached at **Appendix B**.

- 1.7.9 Where the decision is to dismiss, the trust will issue notice of dismissal within 14 days. This notice of dismissal is subject to the right of appeal.

- 1.7.10 At least seven days' notice be given to the individual of the appeal hearing, unless there are exceptional circumstances which necessitate an earlier hearing or both parties agree to an earlier meeting

- 1.7.11 Where an appeal is made, it is heard by the Appeal Panel. This panel must be made up of different Trustees/Governors and be not less than the Selection Panel. The procedure for the Appeal Hearing is attached at **Appendix C**.

- 1.7.12 The Appeal Panel reaches a decision and informs the individual(s). In the case of a successful appeal revert to 1.7.6 in the process.

## **1.8 Subsequent Action by the Trust**

- 1.8.1 All potential redeployment situations will be identified.

- 1.8.2 Following 1.7.9 above the date of dismissal for a teacher will be one of the following:-

- 31<sup>st</sup> December
- 30<sup>th</sup> April
- 31<sup>st</sup> August

being the date which allows for appropriate notice and which next follows the decision date in 1.7.9 above.

1.8.3 For support staff notice of dismissal will be in accordance with the contractual notice period.

## **1.9 Assistance in Finding Alternative Work**

Consideration should be given of offers of suitable alternative work.

## **1.10 Time off to look for new work or attend training**

Employees who are under notice of redundancy qualify for a statutory entitlement to a reasonable amount of paid time off to look for another suitable job or to arrange training. The trust will consider extending this assistance to all employees affected by a redundancy situation. The agreed time off must be allowed before the expiry of the period of notice.

## **Redundancy Payments**

### **2.1 Who qualifies?**

An employee must have at least two years' continuous service in the trust, Local Government and employment covered by the Redundancy Modifications Payment Order.

### **2.2 What are the payments?**

For each complete year of service, up to a maximum of 20 years Teachers are entitled:-

- For each year of service at age 18 or over but under 22 = half a weeks pay
- For each year of service at age 22 but under 41 = one weeks pay
- For each year of service at age 41 or over but under 65 = one and a half weeks' pay
- Where an employee is within twelve months of their 65<sup>th</sup> birthday the statutory redundancy entitlement is reduced by one twelfth for each complete month after the 64<sup>th</sup> birthday.
- A 'weeks pay' is capped at the statutory maximum, **published here:** <https://www.gov.uk/staff-redundant/redundancy-pay>

For each completed year of service, up to a maximum of 20 years Support Staff are entitled:-

- For each year of service up to 65 = one and a half weeks' pay
- A 'weeks pay' is based on actual salary



### **2.3 Pensions**

Employees who are made redundant, over the age of 55, and have contributed to either the Teachers Superannuation Scheme or the Local Government Superannuation Scheme will be paid the superannuation benefits provided for under the appropriate regulations.

## **3. SUMMARY POINTS – PREMATURE RETIREMENT**

In this section are the schemes for voluntary premature retirement of teaching and support staff.

The Voluntary Premature Retirement Scheme is distinct from any Severance/Redundancy arrangements which may be operated in response to specific circumstances that may arise from time to time. Therefore this scheme should only be used in circumstances where employees volunteer to leave and not in the context of a redundancy situation.

If approved, costs arising from premature retirement and severance/redundancy will be met by the trust, and be subject to statutory constraints and the parameters set or established by internal/external auditors.

Advice on estimated benefits is available to individuals from the relevant pension authority.

Advice in this section is based upon current regulations, and may be subject to amendment should regulations change.

## **4. PREMATURE RETIREMENT SCHEME**

### **4.1 Introduction**

The trust will endeavour to maintain a policy of no redundancy and will operate this Premature Retirement Scheme only on the basis of voluntary premature retirement – any employee, therefore, retiring prematurely under this scheme will do so entirely on a voluntary basis through individual application.

### **4.2 Eligibility**

Applications can only be considered from individual employees who have attained the age of fifty five years, and –

4.2.1 where such premature retirement would be likely to assist in the effective deployment and rationalisation of staff;

4.2.2 in any other circumstances which the trust may consider justifies retirement

Every endeavour will be made to try and maintain consistency of practice and application of the scheme to each and every individual concerned. In considering all the circumstances of individual cases, the decision of the trust will be final.

### **4.3 Retirement Benefits**

The appropriate regulations provide what superannuation benefits shall be payable immediately to an employee who has completed five years or more reckonable service if, having attained the age of fifty five years, his/her employment is terminated in the interests of the efficient exercise of the trust's functions.

### **4.4 Arrangements**

Individual applications for premature retirement should be submitted initially to the Clerk to the Governing Body who will notify the trust of the application.

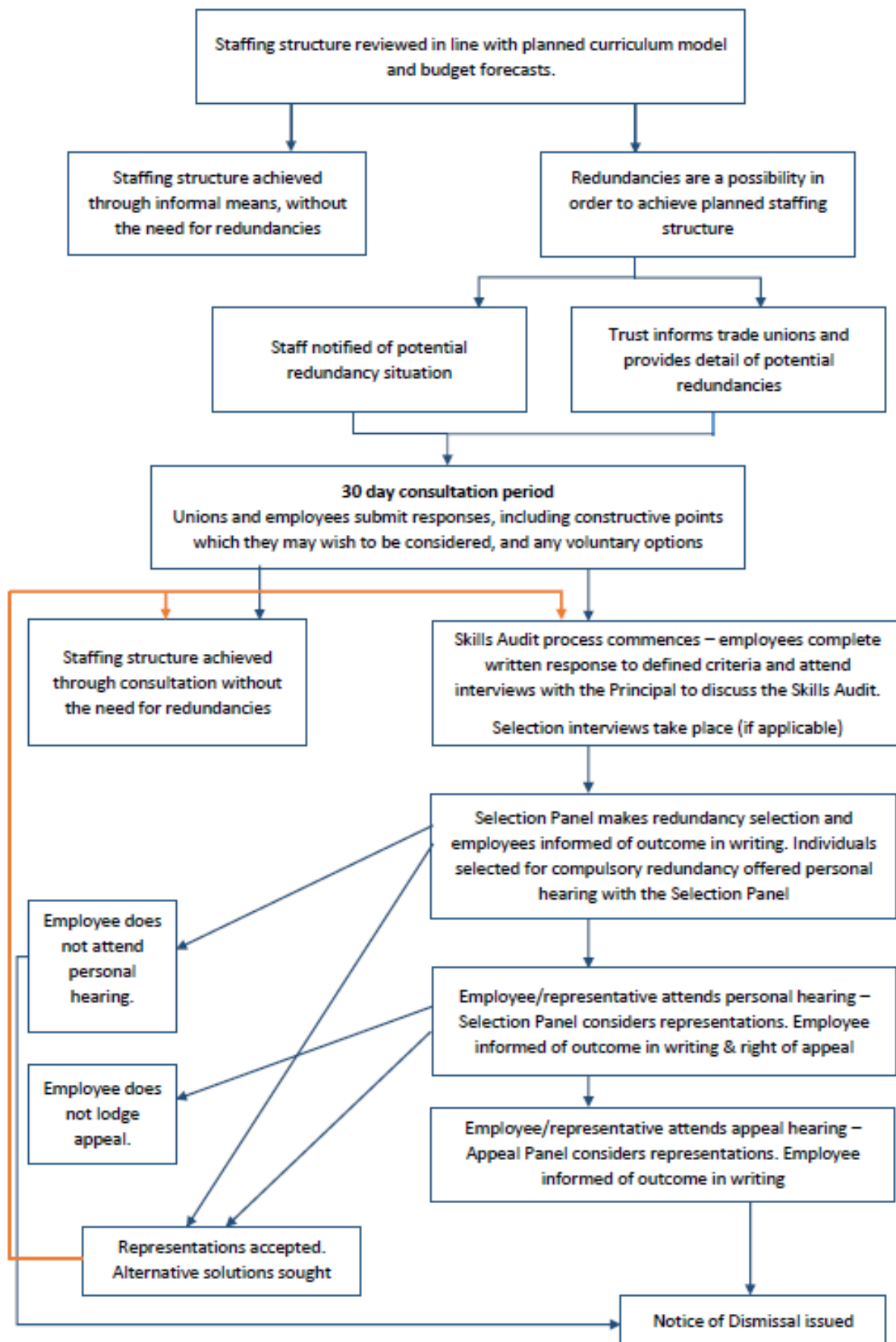
The trust will assist employees in requesting from the relevant pension authority an estimate of the retirement benefits which may become payable.

Although an application for premature retirement is a matter between the trust and the individual concerned, before making such application an employee may wish to seek the advice of their trade union.

### **4.5 Redeployment and Recruitment**

The filling of any vacancies which may arise as a consequence of premature retirements should, wherever possible, be by way of redeployment and internal recruitment.

PROCESS FLOW CHART



**PROCEDURE – SELECTION HEARING**

**Employee Representation to Selection Panel**

1. PURPOSE OF THE MEETING

- To consider representation from the employee who has been notified that s/he falls within the criteria determined for selection for compulsory redundancy.

2. CONDUCT OF HEARING

- The Chairperson will introduce all parties and outline the purpose of the meeting.
- The Chairperson, with supporting information provided by the Principal (if necessary), will make a statement concerning the selection of the employee against the criteria.
- The employee and/or their representative will have the opportunity to ask questions of the Selection Panel and the Principal.
- The members of the Selection Panel will have the opportunity to ask questions of the Chairperson and the Principal.
- The employee and/or representative may make a statement concerning their appropriateness for selection in relation to the criteria determined.
- The members of the Selection Panel may then ask questions of the employee and/or their representative.
- The Principal will have the opportunity to sum up the case for the academy.
- The employee and/or their representative will have the opportunity to sum up if they so wish.
- The employee/representative and the Principal will then withdraw and the Selection Panel will consider its decision.
- The Chairperson will announce the decision of the Selection Panel.

## PROCEDURE – APPEAL HEARING

### Employee Appeal AGAINST Selection for Redundancy to the Appeal Panel

#### 1. PURPOSE OF THE MEETING

- To consider an appeal from an employee who has been notified that they have been selected for dismissal on grounds of compulsory redundancy.

*NB The decision to select redundancy will have been made by the Selection Panel with supporting information being provided by the Principal. Therefore throughout this process the representative of the body which made the decision to select will be referred to as the Selection Panel representative.*

#### 2. CONDUCT OF HEARING

- The Chairperson will introduce all parties and outline the purpose of the meeting.
- The Selection Panel representative will then make a statement concerning the selection of the employee against the criteria.
- The employee/representative will have the opportunity to ask questions of the Selection Panel representative.
- The members of the Appeal Panel may then ask questions of the Selection Panel representative.
- The employee and/or representative may make a statement concerning his/her appropriateness for selection in relation to the criteria.
- The Selection Panel representative will have the opportunity to ask questions of the employee/representative.
- The members of the Appeal Panel may then ask questions of the employee/representative.
- The Selection Panel representative, followed by the employee/representative, will have an opportunity to sum up if they so wish.
- The employee/representative and the Selection Panel representative will then withdraw and the Appeal Panel will consider its decision.
- The Chairperson will announce the decision of the Appeal Panel.