



Langley Park Learning Trust

Procedure for Managing Staff Changes

Staff in Langley Park Learning Trust

Owner (job role)	Director of HR
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Contents

1. Introduction
2. Glossary of Terms
3. Definition of Redundancy
4. Rights of Representation
5. Authority to Initiate a Redundancy
6. Trust Board Endorsement of Proposals
7. Consultation Process
 - 7.1 Responsibility for Consultation
 - 7.2 Information which must be supplied to Employees and their Representatives
 - 7.3 Redundancy Selection Criteria
 - 7.4 Identifying Alternatives to Compulsory Redundancy
 - 7.5 Identifying Suitable Alternative Employment
8. Provisional Selection for Redundancy
9. Appeal
10. Termination of Employment
11. Time Off
12. Summary of the Procedure for Handling Redundancies

1. Introduction

- 1.1 The Trust Board is responsible for establishing the Academy's staffing complement having regard to the ongoing needs of the Academy and the resources available. Governing Bodies will be accountable under employment law for any changes they may make which might affect employees' contracts of employment. Such changes are various and may be achieved by mutual agreement with the individuals concerned where, for example, a minor adjustment to contractual hours or duties is all that is required.
- 1.2 Sometimes, however, the changes proposed may be such that the Trust Board has to contemplate the dismissal of a member of staff on the grounds of "redundancy". The following paragraphs include details of an employer's (and therefore Trust Board's) responsibilities under employment law when handling redundancies and the formal procedure to be followed in these circumstances.

2. Glossary of terms

- 2.1 In accordance with the provisions of the School Staffing (England) Regulations 2003, the Governing Body may delegate its power to dismiss any member of staff to the Head Teacher, an individual governor or a group of governors with or without the Head Teacher.
- 2.2 The Head Teacher is normally expected to lead in all initial staff dismissal processes. The Head Teacher may involve other governors in dismissal processes but where responsibility for staff dismissal has been delegated to the Head Teacher the final decision should be the Head Teacher's.
- 2.3 A Staff Disciplinary Committee should be established, together with a Staff Dismissal Committee to consider disciplinary matters which could lead to dismissal. The two committees may be the same but should comprise a minimum of 3 governors.
- 2.4 The following definitions will apply throughout this procedure:

Supervisor -	Anyone who has been delegated supervisory responsibilities who can be defined as the employee's immediate supervisor/manager.
Senior Manager -	Head Teacher, or any manager with specific delegated power. Where the person subject to the procedure is the Head Teacher, the Senior Manager should be the Chair of Governors.
Support Staff -	Where there is reference in the procedures to support staff this should be understood to include all non-teaching support staff employed at the Academy.

Unions and Professional Associations -	Where there is reference in the procedures to unions this should be understood to include reference to the professional associations also
Early Retirement -	A teacher aged 55 or over, who has completed the normal qualifying period, may apply to the Trust Board for premature retirement.
Voluntary Redundancy	Termination of employment by dismissal in response to an invitation from a governing body. Teachers and support staff may apply when a redundancy situation is announced. The final date of service is to be arranged by mutual agreement and for teachers is normally the end of the Academy term, although this may be varied by agreement.
Redundancy	Termination of employment by dismissal of the employee on the grounds that the requirements of the Academy for the individual to carry out work of a particular kind has ceased or diminished or is expected to do so.
Days	Calendar days.

3. [Legal definition of redundancy](#)

3.1 Termination of Employment

3.1.1 In order for an employee to be dismissed on grounds of redundancy his/her dismissal must be wholly or mainly attributable to the fact that:

(a) his or her employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or

(b) the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he or she was so employed, have ceased or diminished or are expected to cease or diminish.

3.1.2 This will, for example, include:

(i) a reduction in the total number of full-time equivalent posts on the teaching or support staff complement;

(ii) changes to the curriculum which results in a required reduction of teachers in a particular subject area (even if an increase in staffing in a completely different subject area would mean that the total number of teachers at the Academy remained unchanged).

3.1.3 The non-renewal of a fixed term contract in the circumstances of 3.1.1 (a) or (b) above will also give rise to a redundancy situation.

4. **Rights of representation**

4.1 Employees have the right to be accompanied at all formal stages of this procedure. They may be accompanied by a trade union representative, a work colleague or friend of their choice.

4.2 Any other appropriate professional adviser may attend at any stage of the procedure to give advice or assist in the operation of this procedure, as required at the request of the Head Teacher/Senior Manager or any Governors' Committee.

4.3 Reference in this procedure to the Head Teacher/Senior Manager and employee shall include their personal representative as appropriate.

5. **Authority to initiate staff changes**

5.1 In accordance with the provisions of the School Staffing (England) Regulations 2003, the Governing Body may delegate its power to dismiss any member of staff to the Head Teacher, an individual Governor or group of Governors with or without the Head Teacher.

5.2 The Head Teacher is normally expected to lead in all initial staff dismissal processes. The Head Teacher may involve other Governors in dismissal processes but where responsibility for staff dismissal has been delegated to the Head Teacher, the final decision on whether to terminate an individual's employment rests with the Head Teacher.

6. **Trust board endorsement of proposals**

6.1 It is the responsibility of the Trust Board to economically, effectively and efficiently manage the budgets allocated to them. This would involve, as part of a regular ongoing review process, a careful and thorough examination of the staffing needs of the Academy.

6.2 The Head Teacher is required to submit a report to the full Trust Board which contains outline information on any proposal for changes to existing staffing structures. Once the Trust Board has endorsed the need to initiate formal procedures a second and more detailed report can then be submitted to the Personnel Committee with the delegated authority to consult on the proposals with all staff potentially affected and their representatives. This second report will form the basis on which formal consultation will take place.

7. **Consultation process**

7.1 Consultation Requirements

7.1.1 The obligation to consult is not just limited to redundancy dismissals, but also applies in circumstances where there is a reorganisation which involves proposed changes to the contract of employment necessitating the termination of one contract and the offer of a new one for a reason not related to the individual(s) concerned. This would apply, for example, where agreement to a necessary change in hours, rate of pay, days to be worked, etc., cannot be achieved and the need for a formal procedure therefore arises. In this case the Trust Board must follow the same consultation process as for a redundancy situation. Where it is

proposed to dismiss staff by reason of redundancy it is important to follow statutory consultation requirements.

7.2 Responsibility for Consultation

(a) Where the employee(s) is contracted solely to work at the Academy, it is the Trust Board/Head Teacher who will be proposing to dismiss on the grounds of redundancy and will, therefore, undertake the necessary consultation process.

7.3 Information which must be supplied to Employees and their Representatives

7.3.1 As part of formal consultation the following information will be given to employees and the relevant recognised trade unions:

- (a) the reason(s) for the proposed redundancies;
- (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
- (c) the total number of employees of any such description employed by the employer at the establishment in question;
- (d) the proposed method of selecting the employees who may be dismissed;
- (e) the proposed method of carrying out the dismissals including the period over which the dismissals are to take effect; and
- (f) the proposed method of calculating the amount of any redundancy payments to be made.

7.3.2 In order to consider possible alternatives to compulsory redundancy, the process of consultation will begin. As soon as a potential redundancy situation is identified, the Senior Manager should call a meeting of staff potentially and actually affected by the proposal to which the relevant recognised trade unions and staff associations will also be invited. In certain circumstances it may be appropriate to seek the views of staff as to the appropriateness of this arrangement and their preferred method of consultation. The information detailed above will be circulated in writing to staff and their representatives either during or in advance of this formal consultation meeting.

7.4 Redundancy Selection Criteria

7.4.1 Where the circumstances which have brought about the need for the redundancy proposals apply equally to two or more employees at the same Academy who hold like posts, selection criteria will need to be applied to determine which employee is to be dismissed on the grounds of redundancy. The application of selection criteria is not relevant where there is only one employee doing the type of work or if all the employees doing that work (or working in that place) are to be declared redundant.

7.4.2 These procedures will be operated by the Personnel Committee which will have been delegated powers to consult on and implement the redundancy proposals.

7.4.3 The Personnel Committee shall select employees as potentially redundant by use of criteria which shall be:

- (i) established after consultation with the staff concerned and the relevant employee representatives;
- (ii) explicit and made-known to staff as a whole;
- (iii) objective and fair and not depending solely upon the opinion of the person making the selection;
- (iv) non-discriminatory;
- (v) in accordance with the Academy's improvement plan;

Failure to use selection criteria in accordance with the above criteria may lead to unfair dismissal or constructive dismissal.

- 7.4.4 If the selection criteria are contrary to some previous criteria agreed by the Academy, the Personnel Committee must endeavour to reach agreement during the formal consultation period with the recognised unions/employee representatives as to the criteria to be adopted.

7.5 Identifying Alternatives to Compulsory Redundancy

The Personnel Committee will consider the following possible options as alternatives to redundancy during the formal consultation period. This is by no means an exhaustive list and alternative courses of action may become evident during the consultation process:

- Retraining of existing staff
- Agreement to job share applications or proposals for alternative working methods
- Inviting applications for early retirement
- Inviting applications for voluntary redundancy
- Possible alternative employment options for staff affected.

7.6 Identifying Suitable Alternative Employment

- 7.6.1 An employer is required by law to act reasonably over the question of alternative employment. The Trust Board will apply the following principles, both during the consultation process and until the date on which the employee's contract of employment actually ends:-
- (i) to take reasonable steps to find suitable alternative employment for the employee;
 - (ii) not to assume that an employee will reject an offer of a job at a lower grade/position to that currently held.

- 7.6.2 The Trust Board is not required to create a new job for an employee who is to be dismissed on the grounds of redundancy. If, however, suitable alternative work is available and it is not offered to the employee who is otherwise redundant, or if reasonable efforts are not made to find alternative work, the dismissal on the grounds of redundancy may be held to be unfair if the employee's representative makes an application to an Employment Tribunal.

8. [Provisional selection for redundancy](#)

- 8.1 Where, having considered all the alternatives, compulsory redundancy remains the only option, selection for redundancy by either the Staff Dismissal Committee or the Head Teacher will be necessary. Such decisions must be made fairly and in accordance with the specified criteria.
- 8.2 As far in advance of the proposed termination date as possible the Staff Dismissal Committee or Head Teacher will make a provisional selection for redundancy. The employee(s) affected will be informed of their provisional selection personally and the details will be confirmed in writing giving the reasons of the selection and inviting the employee(s) to make representations on the proposed dismissal(s) if they so wish. A duplicate copy of this letter will be provided for the employee(s) representative(s).
- 8.3 An employee may choose to make written representations to the Staff Dismissal Committee/Head Teacher or may request a personal hearing with the Staff Dismissal Committee/Head Teacher accompanied if he/she so wishes by a trade union representative,

friend or work colleague. The employee will inform the Senior Manager in writing of his/her wishes in this respect within **seven days** of receipt of the letter confirming the provisional selection.

- 8.4 Where an employee requests a meeting with the Staff Dismissal Committee/Head Teacher this shall be held within **14 days** of receipt by the Senior Manager of the employee's written request. The Senior Manager will attend to give professional advice as appropriate.
- 8.5 The Staff Dismissal Committee/Head Teacher will give full consideration to the employee's representations and any made by the Senior Manager before reaching a decision. Should an alternative provisional selection be made as a result of these consultations the procedure referred to in paragraph 7.5 above will again apply.
- 8.6 Having decided that an employee is to be selected for dismissal on the grounds of redundancy in accordance with the procedure outlined above, the Chair of the Staff Dismissal Committee/Head Teacher who made the decision will arrange for the employee to be notified of the decision in writing within **five days** of the decision being made, together with details of his/her right of appeal. A duplicate copy of this letter will be provided for the employee(s) representative.
- 8.7 Within **5 working or 7 consecutive days** of the date of written notification of the decision to dismiss by the Head Teacher / Staff Dismissal Committee, the Trust Board will give notice to terminate the employee's contract of employment at the Academy.
- 8.8 If the appeal to the Staff Dismissal Appeals Committee overturns the decision of the Staff Dismissal Committee/Head Teacher to dismiss, the termination notice may be rescinded.

9. **Appeal**

- 9.1 An employee is entitled to appeal against the Staff Dismissal Committee's/Head Teacher's decision to terminate his or her employment on grounds of redundancy. The appeal must be made in writing to the Senior Manager within **14 days** of receipt of written notification of the original decision.
- 9.2 The Chair of the Staff Dismissal Committee/Head Teacher will be called as the main witness by the Senior Manager presenting the case to the Staff Dismissal Appeal Committee. The appeal hearing will take place within **14 days** of receipt by the Senior Manager of written notice of appeal.
- 9.3 The Staff Dismissal Appeal Committee of the Governing Body must be established in accordance with the Education (School Government) (England) Regulations 1999 and will consist only of members who have taken no part in the original decision against which an appeal is made.
- 9.4 There is no further internal right of appeal beyond the Staff Dismissal Appeal Committee of the Academy Trust Governing Body.

10. **Termination of employment**

- 10.1 In the event that the employee chooses not to appeal, or where the Staff Dismissal Appeal Committee decides to uphold the decision of the Staff Dismissal Committee/Head Teacher to

dismiss there will be no further internal right of appeal. This decision may be communicated verbally to the employee at the conclusion of the hearing but will in every case be confirmed in writing to the employee and his/her representative within **5 working or 7 consecutive days**.

11. **Time off**

Employees who have been given notice of dismissal by reason of redundancy are entitled to reasonable paid time off work for the purposes of seeking alternative employment or making arrangements for training for future employment. For employees with two or more years continuous service there is a statutory right to such paid time off work and, if refused, the employee may make a complaint to an Employment Tribunal within three months from the time when it is claimed that the time off should have been allowed.

12. **Summary of the procedure for handling redundancies**

A summary of the procedure which must be followed in order to initiate a redundancy is:

1. Trust Board to endorse proposal to initiate consultations in a potential redundancy situation.
2. Trust Board delegates responsibility to an appropriate Personnel Committee.
3. Consultation process begins with detailed consultation document issued to staff and their representatives.
4. Personnel Committee considers alternatives to compulsory redundancy.
5. Personnel Committee agrees redundancy selection criteria.
6. Staff Dismissal Committee/Head Teacher agrees provisional selection for redundancy.
7. Staff Dismissal Committee/Head Teacher meets to hear representations against selection for redundancy and makes final decision on selection.
8. Trust Board terminates employment.
9. Appeal Hearing (Staff Dismissal Appeal Committee). If appeal succeeds termination notice will be rescinded.
10. Trust Board consider suitable alternative employment.
11. Employee(s) allowed reasonable time off.
12. Termination of employment with redundancy payment where eligible.