



REORGANISATION, REDUNDANCY AND REDEPLOYMENT PROCEDURE

September 2017

Reorganisation, Redundancy and Redeployment Procedure

INTRODUCTION

This document provides guidance on consulting primarily for the purpose of staffing restructures which may include consideration of a different way of delivering the service or a reduction in staffing, leading to redundancies.

The procedure applies to all employees within Radius Trust. However, redundancy payments will only apply to employees who have more than two years' continuous service at the date of termination. Unless otherwise indicated, all references to staff include all staff employed by Radius Trust including the Executive Head and Principals/Heads.

For the purposes of this procedure, an employee is as defined in Section 230 of the Employment Rights Act 1996 or any substituting or amending legislation.

CONSULTATION

Organisational restructures can be an anxious time for staff affected by the changes. Keeping all staff and recognised trade unions involved in developments and engaging in genuine consultation should make the process easier to manage. Employers are required to consult with the 'appropriate representatives' of any employees who may be affected, directly or indirectly by any proposed redundancies or by any measures taken in connection with those redundancies arising from a reorganisation. It should minimise the opportunity for misinformation and misunderstanding to arise, and also help promote good staff morale and motivation.

Consultation should begin in good time and the process should be completed before any redundancy notices are issued as a result of a restructuring exercise. It is recommended that a minimum period of 30 days is given for consultation.

Draft proposal for consultation

Where a decision is made to review the staffing structure for delivery of the service in a more effective or cost efficient way, the Principal/Head/Manager should prepare a draft proposal of changes for consultation which should include the following:

- Existing staffing structure and proposed draft staffing structure chart which should detail the job titles but should not include names of staff against these jobs. It should indicate which posts are new and which posts are largely unchanged and therefore almost an exact match to existing responsibilities.

- Job Descriptions for each of the posts within the proposed staffing structure, with provisional evaluations.
- Reasons for the restructure to include any supporting documentation e.g. budgetary information, pupil/student intake, changes to the curriculum or service, changes in statute governing schools.
- Selection criteria and how any assimilation or appointment to any new post created will be dealt with.
- Timescale of the process to include the consultation timescale and, if appropriate, the dates of the governing body meetings to:
 1. Consider the initial feedback and decide whether to amend the proposal in the light of this feedback and whether a further period of consultation is required regarding any amendments.
 2. Consider the feedback on any amendments to the proposal and to agree the final proposal.
- The arrangements for any meetings to be held with the staff and the trade unions during the review process.
- How employees can give comments and feedback during the consultation period e.g. in writing, request for a meeting, e-mail etc and the date by which any responses will be required.

Start of consultation

Employees who are absent from work due to, for example, maternity leave, long term sickness etc. will need to be included in the consultation process.

A period of 30 days is recommended which starts from the time staff and their recognised trade unions have received details of the proposal.

As well as writing to staff and the recognised trade unions, the Principal/Head/Manager should offer to meet with staff, union representatives and elected employee representatives to describe the proposal, the proposed process and timescales and to answer any initial questions. In the event of proposed redundancies, the affected staff should be spoken to individually prior to any whole staff meeting. Employees should be informed that they are entitled to have trade union representation if they request it.

Steps during consultation

During the consultation period the Principal/Head/Manager should also bear in mind that individual staff will require adequate accommodation and time to discuss the implications of the revised staff structure with the recognised trade unions. Such facilitation will need to be co-ordinated and be built into the process. Principals/Heads/Managers should also be prepared to allow trade union representatives adequate accommodation and time to take advice and consult collectively with their members at an early stage.

Members of staff who consider that they are directly affected by the proposals may wish to meet with the Principal/Head/Manager to discuss them. The member of staff should be

allowed to be accompanied at such meetings by the union representative, elected employee representatives or work colleague.

The Principal/Head/Manager should keep a record of the dates of all meetings, those present and the key points made by the parties.

Following consultation

The Principal/Head/Manager will formulate the final proposal which will include the final staffing structure, the implementation plan and the feedback received. This will include formal written submissions from the recognised unions and others as a result of the consultation.

The Principal/Head/Manager should advise of any amendments to the proposal as a result of the consultation and the reasons for agreeing to those amendments, as well as any amendments proposed that were not considered and the reasons for not considering them.

If it is appropriate to seek approval, the circulation of documents to the Local Governing Body (LGB)/Committee and the recording of its decisions will be made in the normal way or as agreed when defining the process of consultation.

The LGB/Committee will carefully consider the feedback and outcome of the consultation together with any amendments or reasons to not amend any part of the final proposal. The options available are

- To adopt the original proposal if no amendments have been made;
- To adopt the revised proposal with any amendments proposed as part of the consultation;
- To propose amendments to the proposal which have not been subject to consultation. In this instance a further period of consultation with employees and recognised unions will be given. This should be confirmed in writing. The timescale for the additional consultation period should be proportionate to the scale of proposed amendments but will not be less than one week.

The Principal/Head/Manager will then inform all staff of the final structure, confirming the proposal in writing and sending a copy to the recognised trade unions.

REDUNDANCY

A redundancy arises where:

- The employer has ceased, or intends to cease to carry on the business for the purposes of which the employee was so employed, *or*
- The employer has ceased, or intends to cease, 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 has ceased or diminished or are expected to cease or diminish, *or*
- The requirements of the business for the employees to carry out work of a particular kind, in the place where they were so employed, has ceased or diminished or are expected to cease or diminish.

An employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to the factors above.

Schools can take steps to avoid or minimise redundancies by:

- Early identification of the need to reduce staffing numbers by projecting pupil numbers, curriculum needs and financial resources;
- Projections of staff losses through retirement, promotions and resignation;
- Considering whether to fill vacant posts or establish new ones;
- Use of additional hours or issuing temporary contracts to address short term needs or where there is uncertainty of budgets.

Consultation with those affected, potentially affected and trade union representatives should include ways of avoiding the dismissals, reducing the number of employees to be dismissed, and mitigating the effects of the dismissals. Consultation must be undertaken with a view to reaching an agreement with the 'appropriate representative'. This duty applies even when the employees to be made redundant are volunteers.

Where the LGB concludes that it is necessary to consider redundancies, it will agree the proposal to be made to staff, the recognised trade unions or employees' elected representatives of the affected staff, for consultation. At this stage no names of individuals should have been identified as potentially redundant. If a unique post has been provisionally identified, however, it will be self-evident that a specific individual is potentially at risk of redundancy.

Consultation will begin in good time and completed before any redundancy notices are issued.

There is no set period for consultation laid down where the redundancies involve fewer than 20 employees, but it is recommended as good practice to apply a minimum of 30 days' consultation period before the first dismissal takes effect following contractual/statutory notice periods.

In the case of a collective redundancy situation, where 20 or more redundancies are proposed, the statutory timetable for collective consultation should be regarded as a minimum and is as follows:

<i>Number of employees to be dismissed at an establishment over a 90 day period</i>	<i>Consultation must be at least</i>
20-99	30 days before the first dismissal takes effect

100+	45 days* before the first dismissal takes effect
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* reduced from 90 days from 6 April 2013.

It is also necessary to notify the Secretary of State at the Department for Business, Energy & Industrial Strategy of proposed redundancies involving 20 or more employees at any one establishment over a 90 day period.

Selection for redundancy

Employees will be potentially redundant if they are in the defined selection pool:

- Where a unique post with specific duties is deleted, the employee occupying that post will be identified as potentially redundant.
- Where numbers of staff employed in a generic post are reduced, all the employees in the generic post would be identified as potentially redundant.

As far as possible, objective criteria, precisely defined and capable of being applied in an independent way, should be used when determining which employees are to be selected for redundancy. The purpose of having objective criteria is to ensure that employees are not unfairly selected for redundancy. Care should be taken to ensure that the selection criteria are not directly or indirectly discriminatory on the grounds of any protected characteristic.

The needs of the school are the paramount selection criteria. Selection would be made on the basis of the needs of the school, the overriding principle being the maintenance of the school's curricular and pastoral needs. The needs of the school will have been identified through the process of forward planning and review.

An employee who has been selected for potential redundancy should be notified of the decision at a meeting with the Principal/Head/Manager and informed of their right of appeal. This decision should then be confirmed in writing with details of the appeal process. The termination letter will be issued by HR on behalf of the LGB.

Appeals will be heard by a panel established by the LGB/Board of Trustees. At an appeal hearing, the employee is entitled to be accompanied by a trade union representative, elected employee representative or work colleague. The Principal/Head/Manager will be invited to present the school's case.

When an employee has been selected for redundancy, the basis of the appeal can be that:

- The selection method was unfair, *and/or*
- The method of applying the selection criteria was unfair.

There is no right of appeal against the need to reduce staff numbers or the criteria for selection themselves.

An appeal must be made in writing to the Clerk to the Governors within 10 working days of the receipt of the termination letter.

The Appeal Committee will hear the appeal within 10 working days of receiving notice of an appeal, where possible. It is anticipated that most appeals will be heard during the employee's notice period and if the appeal is upheld, notice will be withdrawn. When the appeal takes place after the end of the notice period, the employee will be reinstated should the appeal be upheld.

The outcome of the Appeal Hearing should be confirmed in writing to the employee within 5 days of the meeting.

Support for potentially redundant employees

Employees who are under notice of redundancy will be permitted reasonable time off with pay to look for alternative employment or to make arrangements for training.

Radius Trust should offer the facility for appropriate advice and counselling to staff under notice of redundancy through the HR team, including practical assistance in completing applications and guidance on attending interviews where requested.

An employee who wishes to bring forward the date of dismissal on grounds of redundancy must discuss this with the Principal/Head/Manager. If an earlier date is agreed, the employee is still entitled to a redundancy payment but the payment will be recalculated with the date of dismissal being the expiry of the employee's notice period and not the date in the original notice of dismissal.

Modification order

If an employee on notice of redundancy and before the date of termination, is offered employment with another authority, he/she will lose the entitlement to a redundancy payment. This only applies where the offer is made before the end of the old contract and the employment starts within 4 weeks of the date of redundancy.

Tied accommodation

Where employees potentially to be made redundant are in tied accommodation, they may be eligible for rehousing into Local Authority or Housing Association property under a secure tenancy. Where the employee was appointed to the tied post and was at the time an employee of the local authority or was a staff member of a voluntary aided school, rehousing would be possible. It is essential that information and advice is sought from HR at the earliest opportunity.

Implementing the proposal

Any employee whose post has been made redundant as a result of the proposal will be written to, informing them of their redundancy and advising them of their rights and any benefits that may be due to them. Contractual notice must be given.

During the implementation period, employees will be given the opportunity to apply for posts that have been ring-fenced for them. Ring-fencing means that staff whose posts have been made redundant as part of a restructure are given the opportunity to apply for newly created posts before they are advertised elsewhere, either internally or externally.

Certain new posts may be very similar to existing posts and where this is the case, the employee may be assimilated or slotted in. Where there is more than one employee who could be considered for assimilation, a selection process including interview, tests or other method of determining suitability for the role, should be arranged.

Review

There may be a need to review or amend the final proposal to take account of any developments during the implementation periods. Any changes resulting from a review would be subject to further consultation. The timeframe for consultation would be proportionate to the scale of the changes proposed.

Redeployment

Where an employee's post is redundant as a result of a restructure and they are not appointed through ring-fencing or assimilation, the employee can be considered for redeployment to a suitable alternative role. It is the expectation that staff will actively engage in the process of redeployment as redundancy is seen as a last resort. Appendix A outlines the redeployment process and further advice is available from HR.

GENERAL PRINCIPLES UNDERLYING THIS PROCEDURE

Radius Trust will aim to avoid or minimise the risk of compulsory redundancies, through an on-going process of planning and review of future staffing requirements.

If redundancies appear necessary, the school will consult at an early stage and take appropriate steps to keep the number of redundancies to a minimum, whilst taking into the account the future needs of the school.

Radius Trust will seek to ensure that procedures for reorganisation, redundancy and redeployment are conducted with fairness, consideration and confidentiality.

The procedure will be implemented in accordance with the recommendations of the ACAS guidelines on handling redundancies.

Radius Trust is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for disabled staff. The Trust is aware of the guidance on the Equality Act issued by the Department for Education.

RELATED POLICIES AND PROCEDURES

Equality & Diversity Policy
Family Friendly Policies and Procedures

APPENDIX A: Redeployment Policy

There is no legal definition of what constitutes a suitable alternative role but factors to consider should include:

- Job content and status
- Pay and benefits
- Workplace
- Hours of work
- Job prospects

Stage 1 – Interviewing the employee

As soon as it becomes clear that an employee is likely to need to consider redeployment, the Principal/Head/Manager should arrange a meeting with the employee. The employee is entitled to bring a union representative, elected employee representative or work colleague with them to the meeting. A representative from HR may also be present.

The Principal/Head/Manager will outline the possible options to the employee. This should include redeployment within the school and may include redeployment elsewhere within Radius Trust. It should be made clear to the employee that redeployment cannot be guaranteed but that every effort will be made to find suitable alternative employment. The employee will be offered a skills audit, either at this meeting or at a later date, in order to assess the type of jobs that may be suitable for the employee. Information should be sought about any training undertaken, previous employment, and types of work that might be of interest. This audit may be undertaken by the Principal/Head/Manager or by a representative from the HR team.

Stage 2 – Vacancies within the employee’s current place of work

The Principal/Head/Manager will confirm with the employee that they will be informed of any suitable vacancies within the school and will be given the opportunity to apply for them before any attempt is made to advertise the vacancies. Provided the employee meets the requirements of the essential criteria on the person specification, they will be guaranteed an interview.

At the interview stage, if only one redeployee is interviewed and they are found to meet the essential criteria for the job, they will be offered the role. If more than one redeployee is being interviewed, the normal recruitment selection procedure will apply.

If an employee is seeking redeployment on the grounds of ill health or disability, any offer made will be subject to an assessment of suitability by the Occupational Health Adviser.

Stage 3 – Vacancies within Radius Trust

With the employee's agreement, all the relevant information about their skills, abilities, training etc. will be held by HR, who will then ensure that the employee is made aware of suitable vacancies within Radius Trust.

If the employee expresses an interest in a particular vacancy, the HR team will liaise with the Principal/Head/Manager of the school with the vacancy and ask for the employee to be considered before other applicants for the post.

The employee must complete an application form for the post in the usual way, demonstrating how they meet the essential criteria in the person specification. Advice on completing application forms is available from HR.

The Principal/Head/Manager of the vacancy will then assess the application and, if the essential criteria are met, will interview the employee for the vacancy before other applicants.

If an employee is seeking redeployment on the grounds of ill health or disability, any offer made will be subject to an assessment of suitability by the Occupational Health Adviser.

Statutory Trial Period

Where an employee is seeking redeployment due to a potential redundancy situation, they have a statutory right to a trial period of four weeks. This may be extended where appropriate e.g. to enable the employee to undergo training.

There is no statutory right to a trial period where an employee is being redeployed due to ill-health or disability. However this is something that should be considered and discussed with the employee. Advice is also available from HR.