

The government has undertaken consultation into exit payments, the results of which have not yet been published. This policy and the exit payment options set out within it are available at the present time. If, and when, legislation is made or amended, the policy including the available exit payment options will be updated accordingly and communicated as necessary.

School Staffing Restructures and Reductions Policy

1. Purpose

- 1.1 There may be occasions when the school needs to reduce staffing levels and/or carry out a restructure which may or may not lead to redundancies. This policy provides a framework for the management of restructuring and/or redundancies. It ensures that any changes are implemented in a methodical and efficient manner, specifically ensuring that:
- full consultation takes place with affected employees together with the appropriate trade unions and professional associations;
 - each employee's wishes are fully considered as well as the educational and operational efficiency of the school;
 - the period of uncertainty for affected employees is kept to a minimum, balanced with the school's commitment to provide as much notice as possible of changes, allowing for voluntary solutions;
 - all potentially affected employees are aware of this policy;
 - the relevant employment legislation requirements are met.

2. Scope

2.1	The policy and the how to guide apply to:	• Teachers • Support staff
	The policy and the how to guide do not apply to:	• Volunteers • Contractors • Agency workers

The policy and the how to guide do not apply to genuine casual workers. Care needs to be taken to ensure that such workers have not accrued employment rights. Advice must be taken from Education Personnel Services in this situation and more information is available in the Manual of Personnel Practice.

- 2.2 This policy is non-contractual and does not form part of any employee's terms and conditions.

- 2.3 The policy applies to all restructures and redundancies in a school's staffing establishment.
- 2.4 The school should ensure that they take steps to end fixed term/temporary contracts that can be ended using the Ending fixed term/temporary contracts policy, where appropriate, before considering use of this policy. This Restructures and redundancy policy should be used if, even when these contracts end, there remains a need to reduce or restructure the establishment further.
- 2.5 Employees are actively encouraged to contact their professional association/ trade union representative at the earliest opportunity to obtain advice and support at any time.
- 2.6 The school expects all parties to maintain confidentiality throughout the application of the policy.

3. Definitions

3.1 Employer Continuous Service (For the purposes of establishing length of service and employment rights):

- For Hampshire County Council maintained schools (Community, Voluntary Aided, Foundation, or Trust) this will be the continuous period when an employee first commenced either with another Hampshire County Council maintained school or with Hampshire County Council.
- In an Academy school, this will be continuous service with that Academy or Academy Trust unless they TUPE transferred to the Academy or Academy Trust (in which case continuous service they have at the point of transfer is also considered as employer continuous service).
- Care needs to be taken to review exactly where an employee has previously worked in order to establish length of service and employment rights.

3.2 Local Government Continuous Service (for the purposes of eligibility for a redundancy payment, and the calculation of any payment):

Continuous service under the 'Redundancy Modification Order' will be counted. This Order includes all maintained and academy schools and other bodies including local government employers, where service would be considered as 'continuous' for redundancy purposes if there has been no break.

3.3 Manager:

For teaching staff: a manager in the leadership group.

For support staff: either a manager in the leadership group or the appropriate line manager as identified in the school staffing structure.

3.4 **Representative:**

A representative of a professional association or trade union who is accredited to accompany a member when the member is subject to formal procedures where they are entitled to be represented. Alternatively, an employee may be accompanied by a work colleague where they are entitled to be represented.

3.5 **Restructure:**

Any organisationally driven change within a school staffing establishment that might affect the terms and conditions of existing employees, for example:

- a change in working arrangements, for example a change of shift pattern or working hours;
- a change of roles or responsibilities within a group of staff (which may or may not affect pay);
- a reduction in the number of staff of a particular type which may involve the termination of employment of staff as a result of redundancy.

3.6 **TLR:**

Teaching and learning responsibility payment.

4. **Exclusions**

- 4.1 This policy excludes local authority-driven major reorganisations in or across schools which fall into the category of **school mergers** (see School Mergers and Amalgamations Procedure) and **school closures** (see School Closures – A suggested approach to personnel procedures). Governance based organisational changes, such as federations and academy conversions, are also excluded and subject to separate procedures.

5. **Key principles**

- 5.1 The school will enable as many staff as possible to remain in employment in the school. The process will focus on accommodating all existing staff wherever possible in accordance with their skills, qualifications and expertise.
- 5.2 Employees who have been identified for potential redundancy will be assisted in seeking suitable alternative employment.
- 5.3 Priority will be given to the identification of voluntary solutions prior to the implementation of any compulsory redundancy. However voluntary solutions do not include volunteering for redundancy.

- 5.4 The school will make every effort to anticipate future changes and so reduce disruption to staff on implementation of a restructure. This will include making temporary appointments instead of permanent appointments, subject to the specific needs of the school.
- 5.5 Any employee directly affected by the provisions of this policy will be able to access appropriate advice, i.e. the school will facilitate meetings with representatives while minimising disruption to the education of pupils.
- 5.6 Dismissal before Redundancy - Where the application of another HR Policy results in dismissal before the agreed end of employment through redundancy then that dismissal takes precedence, and the employee will no longer be entitled to redundancy in any form.
- 5.7 A copy of this policy and how to guide must be provided to any member of staff who is directly affected by its provisions.

6. Formal process

- 6.1 Before beginning the steps below, the manager must confirm with the governing body that a budget or organisational issue within the school requires a review of staffing structures or levels. The headteacher should discuss their staffing plans with the governing body and, where redundancy is a potential outcome, gain approval from the governing body to progress the matter further. (Governors will have further specific, direct input to the process under Step 3 below.)
- 6.2 When any restructure is proposed (whether or not there may be a need to reduce staff numbers) the manager must seek advice from Education Personnel Services at the earliest possible date. This is to ensure that appropriate support can be provided and to advise the school on achieving their desired outcome within the required timescale.

Step 1:

Initial consultation with staff (in cases of restructure resulting in a change, reduction or removal of posts/hours)

The manager must meet with staff at the earliest opportunity to inform them of the issues which necessitate a review of the structure or reductions in staffing. This initial consultation must include:

- the reason(s) behind the restructure and which groups of staff are likely to be affected;
- the proposed timescales, including both the date of the governing body meeting at which a decision will be made to restructure and the proposed final implementation date of that restructure;
- where there is a planned reduction in staff, a request to staff to consider whether there are any voluntary solutions that would avoid the need for reductions (see Step 2);

- confirmation of which manager will be the point of contact for any questions or concerns.

Or:

Step 1:

Initial consultation with staff (in cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post)

The manager must meet with only those staff who will be directly affected by the proposed changes. This initial consultation must include:

- information on the proposed change to the staffing structure and the reasons behind the change;
- the proposed timescales, including both the date of the governing body meeting at which a decision will be made to restructure and the proposed final implementation date of that restructure;
- confirmation of which manager will be the point of contact for any questions or concerns.

Step 2:

Seeking voluntary solutions

In a restructure that is likely to result in a reduction in staffing, the manager must at the earliest possible opportunity seek thoughts and ideas from staff on solutions which may avoid the need to make any redundancies. Such solutions are known as 'voluntary solutions'.

Staff cannot volunteer to be made redundant and managers must not consider this as an option.

Where, after obtaining advice from their representative, an employee opts to explore employment opportunities elsewhere, the manager should contact headteachers of schools in the geographical area agreed with the employee. The purpose is to encourage those schools to give the employee priority consideration for suitable posts.

The manager must continue to consider voluntary solutions from staff throughout the process.

Step 3:

Approval of restructure proposal at a full governing body/board of trustees meeting

The manager must write a report setting out the rationale for the changes and the process which will be followed, for approval by the full governing body. Copies of the report must be provided to governors and directly affected staff at least **seven working days** in advance of the full governing body meeting at which it is being

presented, to enable staff representatives to prepare a response at the meeting. The report must also be made available for all affected staff to view at the same time.

Staff representatives must be given the opportunity to attend the governing body meeting to contribute their views for consideration before a decision is made. They must then withdraw after their representations have been made.

All staff who were initially consulted under Step 1 should be notified in writing of the outcome of the governing body's decision.

Multi-academy trusts with Local Governing Bodies will need to be clear whether this decision is taken at Board of Trustee level or whether Local Governing Bodies have discretion over the staffing establishment for the setting.

Step 4: Determine the selection process

If the governing body approves in principle the proposals to restructure, the manager must determine (if applicable) the selection criteria which will be used and prepare paperwork to be provided to staff prior to the formal consultation meeting with unions.

The selection process to be used depends on the type of proposals being made, as follows:

- **Reduction in hours (or full time equivalents) from a particular category of staff:** The manager must ask all staff in the particular category to complete a skills audit questionnaire which asks for evidence that the employee meets a defined set of criteria. The manager must set the criteria using the appropriate model selection criteria and must seek advice on the proposed criteria from Education Personnel Services before sharing them with staff and/or their representatives.
- **Removal of one or more defined posts from the structure without any new posts being introduced:** The removal of the post from the structure identifies the postholder for potential redundancy.
- **Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts:** The manager must consider what selection methods are appropriate (e.g. 'slotting in', competitive interview process) depending on the circumstances.
- **Increase or decrease in value, or removal of, a TLR payment currently in the staffing structure:** No selection process is needed in this situation.

Step 5: Formal consultation with trade unions and professional associations

If it becomes apparent at any stage of this process that there is potential for staff reductions arising from the process, formal consultations must take place with the county and local secretaries of the recognised teacher associations and/or officers of

recognised trade unions. Consultation must also take place where there are changes to the school structure which do not result in redundancy, including:

- removal or reduction of one or more TLR allowances;
- a reduction in the individual range for a leading practitioner or a member of the leadership group.

The manager must send paperwork to the county secretaries of the recognised unions at least **five working days** in advance of the meeting. This paperwork must include a copy of the report provided to the full governing body in Step 3.

Consultation with recognised professional associations or trade union representatives must be meaningful, open and carried out with a view to reaching agreement.

Following the consultation meeting, the manager must produce a summary of key discussion points and must provide this to the employees and their representatives who were initially consulted under Step 1.

Step 6: Ongoing information and support to staff

Any selection process must take place as soon as practically possible following formal consultation. Where there is a delay between formal consultation at Step 5 and any selection process, the manager must keep staff informed of the timescales that will be followed and the next key steps in the process.

The manager must proactively assist staff to access job websites and allow reasonable time off to allow them to apply for and attend any interviews.

The manager must regularly seek any suggestions for voluntary solutions which may resolve the need to make reductions and must keep a record that this discussion has taken place.

In cases of removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post, the manager must write to each affected member of staff, informing them of:

- the reason for the decision;
- the date on which the teacher's allowance is to be withdrawn altogether or replaced with a new lower allowance, as appropriate (the 'relevant date');
- (if applicable) the date on which the fixed period expires, where the old allowance was awarded for a fixed period;
- (if applicable) the date on which the fixed term contract expires, where the old allowance was awarded to a teacher employed under a fixed term contract;
- the value of the safeguarded sum (unless the allowance was for a fixed period);
- the last date on which the safeguarding period could end (i.e. a maximum of three years from the relevant date);

- the value of the teacher's basic salary immediately before the relevant date and the value of the teacher's basic salary on the relevant date;
- the details of where a copy of the school's staffing structure and pay policy may be inspected.

This will be the end of the procedure for restructures involving the removal or reduction of allowances, or reduction in range of a leadership group post or leading practitioner post.

Step 7: Selection/identification process

The manager must follow the appropriate selection process as identified in Step 4. Where dismissal is a likely outcome, the manager must keep in mind the contractual notice periods for staff and in particular the dismissal notice requirements for teachers (which allow for termination to take effect on only three dates in the year); failure to issue notice (Step 12) by the required deadline will result in continuing employment for the teacher for the following school term.

For each of the selection scenarios identified in Step 4, the manager must at this stage take the appropriate action as follows:

- **Reduction in hours (or full time equivalents) from a particular category of staff:** The manager must collate data from the completed skills audit questionnaires and 'mark' whether or not staff have met each of the criteria.
- **Removal of one or more defined posts from the structure without any new posts being introduced:** In this situation there is no need for an identification process.
- **Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts:** The manager must inform individual employees of the outcomes of their selection process (for example, 'slotting in' or competitive interview) as soon as possible.

Step 8: Notification of selection/outcome to employees

For each of the remaining selection scenarios identified in Step 7, the manager must at this stage take the appropriate action as follows:

- **Reduction in hours (or full time equivalents) from a particular category of staff:** The manager must meet on a one-to-one basis with the employee and explain how their skills audit has been scored. The manager must refer to a copy of the employee's completed skills audit questionnaire and to a copy of an anonymised skills matrix showing the scores of all employees in the process, to ensure that the employee concurs with the assessment of how they have been scored. If the employee raises significant concerns, the manager must adjourn the meeting and seek advice from Education Personnel Services. If no issues are raised then the manager must inform the employee of the next steps.

- **Removal of one or more defined posts from the structure without any new posts being introduced:** The manager will already have informed the employee of the governors' decision at Step 3 and of the outcome of formal consultation at Step 5. The manager must meet with the employee to inform them of the next steps.
- **Removal of one or more defined posts from the structure and the introduction of one or more similar or new posts:** The manager will already have notified the employees of the outcome of any 'slotting in' or competitive interview process as these have taken place under Step 7. If there are any employees who have not been successfully appointed to any post in the new structure, then as soon as possible after completion of this process the manager must meet with the employee on a one-to-one basis to inform them of the next steps.

The manager must confirm to each employee who is without a post following the bullet points above that they:

- are in a potential redundancy situation;
- will have this confirmed in writing;
- will receive a letter from Education Personnel Services (where applicable) setting out support which is available;
- have a right to attend a formal hearing at which their selection for redundancy will be considered, but may also waive their right to attend a formal hearing;
- should contact their representative for support and advice.

Step 9: Ongoing information and support to staff

The manager must continue to seek voluntary or other solutions to avoid the need to make redundancies. This exploration of alternatives must continue until the end of the notice period of any employee who is issued notice of redundancy in Step 12. Any viable voluntary solution will halt the redundancy process or rescind any termination notice already issued.

The manager must nominate a suitable manager from within the school to provide redeployment support which will continue until the last day of employment, i.e. the end of the notice period issued in Step 12.

Step 10: Dismissal decision/hearing

The manager who has made the selection, accompanied by an HR adviser as required, must make a formal recommendation at a dismissal hearing, explaining how the selection process was carried out, before formal notice of redundancy can be issued. Until this point the employee is only 'at risk' of redundancy.

Hearing arrangements

The employee must be invited in writing to attend the hearing. The letter must give the employee **seven working days** notice of the hearing.

Decision maker

The decision maker at the hearing will either be the headteacher or a panel of governors (if the headteacher has been closely involved in earlier stages of the process, this will preclude them from a decision making role).

Right of representation

The employee has the right to be represented/ accompanied at a formal stage hearing or appeal hearing. This can be by a professional association/ trade union representative or a work colleague. The right to be accompanied is limited to one person only. It is the employee's responsibility to:

- arrange their own representation;
- liaise with their representative or work colleague to agree the formal hearing or appeal hearing date and time;
- advise management of the representative or work colleague's details.

There is no right to legal representation at any stage of this policy.

Alternative date

An alternative date should be scheduled at the same time as the original hearing date. All reasonable efforts should be made by the employee and their representative or work colleague to attend the first scheduled date. Where this is not possible due to availability, the alternative date will be used.

Sharing of information

The manager must send to the employee and their representative all relevant papers and supporting evidence at least **seven working days** in advance of the hearing. Management documents will be supplied with the invitation letter. The employee or their representative must submit all relevant papers and supporting evidence to arrive with the chair at least **three working days** before a hearing.

Medical fitness to attend

If the employee is unwell and not medically fit to attend the hearing, it may be deferred until they are able to attend. A hearing will not be deferred indefinitely because the employee is unable to attend.

Waiving right to attend

The employee may waive the right to attend a hearing. However, a decision must still be made about the dismissal of the employee by either the headteacher (where they have had powers of dismissal delegated to them) or a panel of governors (where the headteacher has been involved in the preceding steps of the process). The decision must be communicated to the employee in accordance with Step 11 below. Waiving rights to a dismissal hearing does not remove an employee's right to appeal against dismissal.

Local authority attendance

Where the local authority is the employer of the employees in the school, a representative of the local authority is entitled to attend a dismissal hearing; where

Education Personnel Services is the HR provider, an adviser who has not been previously involved will attend the hearing where appropriate to advise the decision maker(s) as well as to represent the local authority.

Step 11: **Communication of decision**

The decision regarding dismissal must be communicated in writing to the employee within **five working days** of the hearing/decision. If it is necessary to vary this timescale the employee must be notified at the conclusion of the hearing. This letter communicates the outcome but does not issue notice of redundancy. A copy of the outcome letter must be placed on the employee's personnel file.

Step 12: **Issuing notice of redundancy**

If the decision was to dismiss on the grounds of redundancy, notice of redundancy must be issued as follows:

Where Hampshire County Council is the employer:

The manager or chair of governors must notify Education Personnel Services of the need to dismiss the employee, in accordance with the School Staffing (England) Regulations 2009. Education Personnel Services will arrange, on behalf of the Director of Children's Services, for notice of termination of employment to be issued within **14 calendar days** from the date of the notification from the chair of governors.

Where the governing body is the employer (for example in a voluntary aided, foundation, trust or academy school):

The chair of governors must issue notice of termination of employment within **two working days** of the hearing or as soon as possible after the hearing.

Where an academy trust is the employer:

The Academy Trust must determine who is most appropriate to issue notice of termination (normally Chief Executive Officer or Chair of Trustees) and they must issue notice of termination of employment within **two working days** of the hearing or as soon as possible after the hearing.

In all cases involving dismissal of teachers, written notice must be issued before the relevant notice deadline (two months before dismissal in the autumn and spring terms, three months in the summer term).

Step 13: **Appeal hearing**

The employee has the right to appeal against the outcome of a formal hearing.

The employee must submit their appeal in writing to the clerk of the governing body. This must be within **10 working days** of the date of the letter confirming the outcome of the formal hearing. The letter must include the full reasons for the appeal.

The appeal hearing will be conducted by the governors' appeals panel.

Hearing arrangements

The employee must be invited to attend an appeal hearing. The employee must be given a minimum of **six working days** notice of the hearing.

Right of representation

The principles of right of representation will apply (see Step 10).

Alternative date

The principles of alternative date will apply (see Step 10).

Sharing of information

The principles of sharing of information will apply (see Step 10).

Medical fitness to attend

The principles of medical fitness to attend will apply (see Step 10).

Outcome of the appeal hearing

The chair of the panel must fully consider all evidence presented and decide on an outcome. The chair must advise the employee of the outcome at the appeal meeting unless otherwise agreed. The outcome must be confirmed in writing within **three working days** of the hearing. A copy of the outcome letter must be placed on the employee's personnel file.

Following an appeal of a formal hearing, there is no further right of internal appeal.

Step 14:

Ongoing information and support for the employee

The manager (or redeployment manager) must keep in contact with the employee and their representative throughout the notice period and continue to explore all options to avoid redundancy up to the date of termination of employment.

7. Policy governance

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