

# Staffing Reduction Guidance

Schools should aim to develop a strategy to manage their workforce in order to avoid or minimise the need for enforced reductions, as redundancy can be costly in terms of the disruption it can cause and the uncertainty it creates amongst employees. Measures for avoiding or minimising compulsory redundancy should already be in place within school and include reducing or eliminating overtime, reviewing vacancies, review of fixed term contracts, applying restrictions on recruitment, redeployment within the school.

Compulsory redundancy should only be used when there is a genuine and demonstrable reason for reducing the establishment and when all other options have been explored. The need for staffing reductions is likely to be driven either by finance and/or mismatch of skills and curriculum needs. Should the need for redundancy occur it must be handled fairly and objectively.

This guidance sets out the process to be followed to make a reduction to your staffing establishment.

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## 1 Becoming aware of an issue

It is important the headteacher raises awareness of the issues facing the school with the Governing Body usually from the Autumn Term. The governing body will then delegate to the appropriate committee (usually the First Committee) to undertake the appropriate consultation and decision making on behalf of the school. It is the school's responsibility to ensure appropriate delegation is in place prior to commencing the staffing reductions process.

The headteacher may wish to contact Education Durham Governor Support (EDGS) to arrange a strategy meeting to discuss options. If the school do not have an SLA with EDGS, or opt not to use their services, then the school will be responsible for arranging all meetings and taking minutes of the meetings.

## 2 Stage 1 – Strategy meeting

This meeting will usually involve the headteacher, a representative from EDGS (where applicable), Human Resources (HR) and Finance (School Funding Officer) and it may be appropriate for the school to invite other attendees e.g. School Leadership Advisor where teaching reductions are being proposed.

The strategy meeting gives an opportunity for the headteacher to discuss the situation facing the school, gain an understanding of the relevant process to be followed and to suggest ways in which the issue could be addressed.

If it is determined that the formal redundancy process needs to be followed, the headteacher should consider issuing an early warning letter (EWL) to alert employees and trade unions to the issues facing the school.

This gives an opportunity for suggestions to be made prior to the next part of the process, which could resolve the situation and avoid the formal redundancy process. In certain circumstances it may be appropriate to issue the EWL to a group of employees rather than the whole school depending on the circumstances. A template early warning letter is available from the HR representative.

It is best practice for the headteacher to arrange to meet with all employees to issue the early warning letter. The headteacher should explain how the situation has come about and encourage employees to make suggestions for the school to consider (e.g. job share, reduction in hours, natural wastage, early retirement/voluntary redundancy). Alternative arrangements should be made for those absent from work. It is not appropriate to discuss any proposals at this stage.

It is essential that any affected employee who is absent from work e.g. maternity, sickness, paternity, adoption etc is kept informed and can fully participate in the consultation process.

It is advisable to inform the HR representative if there are any employees who are on maternity leave who are affected by the proposals so that additional advice can be provided regarding Regulation 10 of the Maternity and Parental Leave Regulations 1999.

It should be emphasised that employees can request an estimate of benefits without any obligation to accept it and without prejudice. It is recommended that employees obtain an estimate before making any definite decisions. Further information regarding voluntary and compulsory redundancy payments is available within the Redundancy Pay Policy.

During the strategy meeting it is advisable to agree a proposed timeline for the redundancy process for agreement by the committee.

An HR representative will be in attendance, as appropriate, throughout the redundancy process to provide advice and guidance to the headteacher and committee. This includes attendance at meetings involving the application of the selection criteria.

## **2.1 Type of consultation**

If the school is intending to make 20+ employees redundant then a Section 188 notice must be issued to recognised Trade Unions formally notifying them of the potential collective redundancies, in accordance with the Trade Union and Labour Relations Act (1992). This means that you must discuss redundancy changes with both recognised elected representatives and individual employees in collective redundancies. A copy of the S188 notice should also be sent to employees who may be affected by the proposals.

In addition, the school also have an obligation to inform the Secretary of State of the proposed redundancies via a HR1 form (Advanced Notification of Redundancies). Further information can be obtained from the HR representative.

In most cases, schools will be intending to make less than 20 employees redundant, and there is therefore no legal requirement to issue a Section 188 notice, however it is still essential that you undertake “meaningful” consultation with your employees and Trade Unions. A consultation letter should be issued to recognised Trade Unions notifying them of the potential redundancies and copied to employees who may be affected by the proposals.

The timescale of the process below is recommended, however can be shortened if required.

## 2.2 Preparation for meeting with the committee

The headteacher must present a context statement to the committee clearly explaining the current position, the proposals and the rationale. Additional information may include details of the budget deficit, funding, the anticipated position post restructure, curriculum analysis etc. A template context statement is available from the HR representative.

If the school are proposing to create new support posts/significantly amending existing support posts, time needs to be given for the post to be job evaluated prior to the meeting with the committee. Please contact Payroll and Employee Services for further information and support regarding job evaluation.

If it is likely that teaching employees will be affected, then the Headteacher should consider selection criteria for discussion and approval. A template selection criteria with examples is available from the HR representative.

Schools must submit the context statement and the selection criteria to the HR representative prior to the meeting with the committee, to ensure that feedback can be given to the headteacher.

### Actions for the headteacher

- ✓ Send EWL to relevant Trade Unions (HR representative has the most up to date TU contact details)
- ✓ Arrange a meeting with employees to issue the EWL (and agrees how to communicate with any absent employees)
- ✓ Draft a context statement, including any relevant additional information.
- ✓ Draft selection criteria as appropriate for discussion and approval.
- ✓ Arrange for new/amended job descriptions/JRD's to be evaluated (as appropriate)
- ✓ Draft an Equality Impact Assessment

## 3 Stage 2 – Meeting with First Committee

The headteacher must present the context statement and any further appropriate information e.g. budget, curriculum analysis to the committee. At this stage, and subsequent stages, consideration can be given to any suggestions from employees, e.g. Early Retirement/Voluntary Redundancy, reduction of hours etc.

Detailed information should not be shared with other governors at this point, in order to ensure that governors required for the appeals panel have not been involved in the process.

The committee should discuss and analyse the information provided and establish if there is a need to go ahead with redundancy consultation. It must also agree the appropriate method for selecting for redundancy and if selection criteria is to be used, then the criteria must be agreed by governors at this meeting.

The consultation letter and context statement should be agreed at the meeting, although the Chair of the committee can delegate confirmation of the final wording to the headteacher, as appropriate.

The consultation letter and context statement should be sent to the recognised trade unions by email following the meeting. The headteacher should meet with the employee(s) affected by the proposals to circulate the information.

The following documents may be requested by trade unions/employees to assist with the consultation and should be available upon request as appropriate:

- Budget information
- Curriculum Analysis (where the issue is curriculum)
- School Development Plan, (if relevant)
- Job details for relevant affected posts

### 3.1 Method of selection

#### 3.1.1 Leadership and support staff

The selection for redundancy for support and leadership posts is usually via an interview process. It is important that consideration is given to the ringfence guidance and slot-in guidance in relation to the new proposed structure. This is available from the HR Representative. It is also important that a job description and person specification is used as part of the interview selection process.

#### 3.1.2 Teaching staff

It is recommended that objective selection criteria, precisely defined and capable of being measured in an independent way, should be used when determining which teachers are to be selected for redundancy. The chosen criteria must be consistently applied, and particular care should be taken to ensure that it does not directly or indirectly discriminate on the grounds of gender, race, disability, age, sexual orientation or religion or belief, gender reassignment, marriage and civil partnership, pregnancy or maternity.

The most important considerations for the future viability of the school are to maintain a balanced workforce after redundancies have been carried out. Governors must discuss and agree the selection criteria for consultation.

Employees will be asked to provide information regarding how they meet the proposed criteria and are awarded points for each of the subheadings and these points are then ranked. Further details regarding the criteria is available from the HR Representative.

Actions for governors	Actions for the headteacher
<ul style="list-style-type: none"> <li>✓ Consider the proposals and decide whether a consultation process is required</li> <li>✓ Agree consultation documents, including selection criteria (if required)</li> </ul>	<ul style="list-style-type: none"> <li>✓ Circulate the consultation/S188 letter, context statement and supporting documents to trade unions (by email)</li> <li>✓ Circulate the consultation/S188 letter, context statement and supporting documents to affected employees (in a meeting, where possible)</li> </ul>

## 4 Stage 3 – Meeting with Trade Union

The purpose of this meeting is to consider representations from the trade unions regarding the proposals. Representations can also be made in writing.

Governors are advised to listen to any representations that are made to them and carefully consider these once the Trade Unions have left the meeting. A written response to the representations will be drafted by the HR representative, and approved by the Headteacher and delegated Governors, confirming all points raised and next steps.

Actions for governors	Actions for the headteacher
<ul style="list-style-type: none"> <li>✓ Consider representations and agree responses to queries and consider any representations. The actual wording can be delegated to the headteacher based on the decisions made in the meeting.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Send out agreed responses on behalf of the committee to trade unions and copies to affected employees (where appropriate)</li> </ul>

## 5 Stage 4 – Employee consultation meeting

The purpose of this meeting is to consider representations from the employee(s) affected by the proposals to decide whether the proposals are fair and reasonable and to consider any alternative suggestions. Representations can also be made in writing.

Affected employees can attend the meeting with a trade union representative or colleague and may raise any issues relating to the proposals that they feel are appropriate. Employee consultations can either be on an individual basis or as a group.

The governors will decide whether the proposals will become a determination and the HR representative will draft a response for the headteacher to send on its behalf.

Actions for governors	Actions for the headteacher
<ul style="list-style-type: none"> <li>✓ Consider representations and agree responses to queries and consider any representations. The actual wording can be delegated to the headteacher based on the decisions made in the meeting.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Inform the employee(s) of the outcome/determination, in writing, and confirms any next steps. Confirmation of the selection process is included within the response (see below).</li> <li>✓ <b>Support/Leadership/TLR</b> – arrange interview date and prepares questions in line with the normal school recruitment procedure. The headteacher receives the application forms and copies them for the interview panel.</li> <li>✓ <b>Teaching</b> – confirm the date for the submissions of the selection criteria form and collates the information submitted by affected teachers. The headteacher should make the necessary checks and copy the information in time for the next stage.</li> </ul>

## 6 Stage 5 – Selection process

### 6.1 Leadership, support and TLRs

The affected employees are interviewed for the post(s) in the new structure (as appropriate), in line with usual school recruitment and selection procedure. The interview panel must reach a decision who are to be appointed to the posts. The employee(s) not appointed will be selected for redundancy.

The headteacher should verbally inform the employee(s) identified and proposed for redundancy before anyone else is informed. The headteacher should then confirm the committee's determination in writing to the employee. A template letter is available from the HR representative.

Actions for interview panel	Actions for the headteacher
<ul style="list-style-type: none"><li>✓ Conducts the interviews and reaches a decision regarding who to appoint to the new/ringfenced post(s).</li></ul>	<ul style="list-style-type: none"><li>✓ Verbally inform employee(s) identified for redundancy before informing other affected employees.</li><li>✓ Confirm proposed determination in writing.</li><li>✓ Liaise with PES to arrange for a notice letter to be issued to the identified employee(s) and letters of appointment to employees appointed to posts (where applicable)</li><li>✓ Continue to liaise with the employee(s) to find alternatives to compulsory redundancy.</li></ul>

### 6.2 Teaching

The committee must evaluate the information provided by employees in their submission forms against the agreed criteria. The employee(s) with the lowest score at the end of the process will be the employee(s) identified and proposed for redundancy.

Once a decision is made, it is recommended that the outcome is relayed verbally to the employee(s) identified and confirmed in writing on behalf of the committee. A template letter is available from the HR representative.

Actions for governors	Actions for the headteacher
<ul style="list-style-type: none"><li>✓ Apply the agreed criteria and identify employee(s) for redundancy.</li></ul>	<ul style="list-style-type: none"><li>✓ Verbally informs identified employee(s) before informing other affected employees.</li><li>✓ Confirm proposed determination in writing.</li><li>✓ Liaise with PES to arrange for a notice letter to be issued to the identified employee(s).</li><li>✓ Continue to liaise with the employee(s) to find alternatives to compulsory redundancy.</li><li>✓ Inform PES of employees identified for redundancy</li></ul>

## 7 At risk meeting (for those subject to selection criteria)

The purpose of this meeting is to hear representations from the employee(s) identified for redundancy to decide whether or not the process and selection have been fair and reasonable.

Employees have the opportunity to attend the meeting with a trade union representative or colleague and may raise appropriate issues e.g. clarification of information submitted or the grounds for the First Committee's proposed determination.

An HR Representative will attend the meeting to provide advice and guidance to the First Committee and the Headteacher.

Actions for governors	Actions for the headteacher
✓ consider the representations and formulate a response	✓ Inform the employee(s) of the outcome and confirm the determination in writing

## 8 Appeal

The identified employee(s) has the right of appeal against the decision under the Appeal Policy.

When an employee submits an appeal, the headteacher will be responsible for preparing and delivering a presentation of the case to the Appeals Committee on behalf of the First Committee. This should cover an explanation of the procedure to date, including:

- How the problem was identified
- What proposals were made and why
- How the committee viewed any representations made
- How the committee made its identification
- How the committee dealt with any representations on identification

Please see the Appeal Policy for more guidance about the appeal process.

Members of the Appeals Committee must not have been members of the initial committee and, as far as is reasonably practicable, should have had no previous involvement in or knowledge of the process, or have been members of the interview panel.

Please note that complaints about the interview process should be raised as part of the complaints section of the school's Recruitment and Selection Policy.



This policy has been developed by the HR Advice and Support team, based on current legislation and best practice. If you would like any advice on the application of this policy, please do not hesitate to contact the team:

<b>Telephone</b>	03000 266688
<b>Email</b>	hradvice@durham.gov.uk

**Further support can be accessed by contacting (subject to SLA buy in):**

<b>Payroll and Employee Services</b>	<a href="mailto:pesschools@durham.gov.uk">pesschools@durham.gov.uk</a>
<b>Occupational Health</b>	<a href="mailto:occhealthadmin@durham.gov.uk">occhealthadmin@durham.gov.uk</a>
<b>Health and Safety</b>	<a href="mailto:hsteam@durham.gov.uk">hsteam@durham.gov.uk</a>
<b>Employee Assistance Programme</b>	<a href="http://www.healthassuredeap.com">www.healthassuredeap.com</a> Username: durham Password: council 0800 716017

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The school complies with all relevant statutory obligations. The school privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the school. For more information please contact the school directly.

If you have any concerns about how your data is handled, please contact either the school Data Protection Officer (details available from the school office), or the Information Commissioner's Office.