

Staffing Reduction Guidance

1 Introduction

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, retraining/ 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.

2 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 Schools responsibility to ensure appropriate delegation is in place prior to commencing the staffing reductions process.

The Headteacher should contact School and Governor Support Services (SGSS) to arrange a strategy meeting to discuss options. If the school do not have an SLA with SGSS, or opt not to use their services, then the school will be responsible for arranging all meetings and taking minutes of the meetings.

3 Staffing reduction process

3.1 Stage 1 - Strategy meeting

This meeting will usually involve the Headteacher, a representative from SGSS (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. Estimates can be requested as follows:

Teaching	Support
<p><u>Pension information</u> Teachers Pension Agency tpmail@teacherspensions.co.uk</p> <p><u>Redundancy information</u> Angela Nicholson angela.nicholson@durham.gov.uk</p>	<p><u>Pension & Redundancy information</u> Angela Nicholson angela.nicholson@durham.gov.uk</p>

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.

3.1.1 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.

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. The timescale of the

process below is recommended, however can be shortened upon request by the employee and where appropriate the Trade Union with the agreement of Governors.

3.1.2 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 HR Operations and Data Team for further information and support regarding job evaluation.

If it is likely that teaching employees will be affected, then the Headteacher must consider selection criteria for discussion and approval. A template selection criteria 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 prior to the meeting.



Actions

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

3.2 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 decide the appropriate method for selecting for redundancy. 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. Once issued, 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 (it is advisable to include this information with the context statement as appropriate)
- Curriculum Analysis (where the issue is curriculum)
- Governing body minutes (previous 2 years – where appropriate)
- School Development Plan, (if relevant)
- Job details for relevant affected posts

3.2.1 Method of selection – Interview process

It is generally accepted by employees and trade unions that for support and leadership posts the selection for redundancy is 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.

3.2.2 Method of selection – Teaching employees

Although an interview process can be used it is recommended that objective 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. As a guide it is advisable that the following criteria is applied and where appropriate amended to meet the needs of your individual school which may be in line with the SIP or Ofsted report:

Principal considerations:

1. Appropriateness of initial and subsequent training
2. Teaching duties undertaken
3. Other duties and responsibilities

Subsidiary considerations:

4. Contribution to the corporate life of the school

An appropriate timescale to assess relevant skills and experience should be agreed, usually this is for a period of up to three academic years but should be determined by Governors.

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. Criteria 4 has a reduced weighting than that of criteria 1-3. Further details regarding the criteria is available from the HR Representative.



Actions

- **Governors** consider the proposals and decide whether a consultation process is required
- **Governors** agree the consultation documents, including the selection criteria (if necessary)
- **Headteacher** circulates the consultation details and associated documents to trade unions (by email) and affected employees (in a meeting, where possible)

3.3 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 consider carefully any representations that are made to them and to be clear as to the nature of any counter proposals, or suggestions.

At the end of the meeting governors will consider all representations and consider whether the proposals are required. A written response is prepared as an outcome of the meeting confirming all points raised and next steps. A template letter is available from the HR representative.



Actions

- **Governors** agree responses to queries and consider any counter proposals. The actual wording can be delegated to the Headteacher, based on the decisions made.
- **Headteacher** sends out agreed responses on behalf of the Committee to Trade Unions and copies to affected employees (where appropriate)

3.4 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 will prepare a response for the Headteacher to send on its behalf. A template letter is available from the HR representative.



Actions

- **Governors** consider representations and agree a response (actual wording can be delegated to the Headteacher based on decisions made)
- **Headteacher** informs the employee(s) of the outcome/determination in writing and confirms any next steps. Confirmation of the selection process is included within the response.

- **SUPPORT/LEADERSHIP/TLR - Headteacher** arranges 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.
- **TEACHING – Headteacher** confirms the date for the submission of the selection criteria form and collates the information submitted by Teachers. The Headteacher should make the necessary checks and copy the information in time for the next stage.

3.5 Stage 5 – Selection process

3.5.1 Teaching employees

The Committee must evaluate the information provided by employees in their submission forms against the agreed criteria and identify the employee(s) with the lowest score who is 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 this is confirmed in writing on behalf of the Committee. A template letter is available from the HR representative.



Actions

- **Governors** apply the agreed criteria and agree which employee(s) have been identified
- **Headteacher** verbally informs the identified employee(s) before informing the other employees that they have not been identified
- **Headteacher** confirms the proposed determination in writing

3.5.2 Support employees and Teaching Leadership/TLR posts

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

- **Interview panel** conducts interviews and reaches a decision regarding who to appoint to the new post(s).
- **Headteacher** verbally informs identified employee(s) before informing other affected employees.
- **Headteacher** confirms the proposed determination in writing to the identified employee(s)
- **SGSS or school** liaise with the HR Operations and Data Team to arrange for a letter of notice to be issued to the identified employee(s) and letters of appointment to the employees appointed to posts where appropriate.
- **Headteacher** continues to liaise with the employee(s) and Local Authority (where appropriate) to find alternatives to compulsory redundancy. Please note the corporate redeployment policy is only available where the Council is the employer. Schools must review any vacancies to assess suitability for at risk employees.

3.6 Stage 6 - Appeal

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

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. The Appeals Committee must reach its decision only on information presented at the appeal hearing.

Although they are reviewing the decisions of other Governors, this must not affect their thinking with regards to their responsibility to overturn any decision that they do not feel to be fair and/or reasonable.

There are two broad areas for redundancy appeals committees to consider:

1. Does the Appeal Committee consider that there is a genuine need for redundancy? e.g. on curriculum/financial grounds
2. Has the process followed been applied fairly and reasonably? e.g. was the pool of selection fair, were the criteria applied in a fair manner?



Actions

- **Governors** consider the appeal submission, formulate a response and inform the employee(s) of the decision.

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.

For advice regarding the application of this policy please contact:

HR Advice and Support

hradvice@durham.gov.uk

Further support can be accessed by contacting the following teams where you have a Service Level Agreement:

HR Operations & Data

hrschoools@durham.gov.uk

Occupational Health

occhealthadmin@durham.gov.uk

Health and Safety

hsteam@durham.gov.uk

Employee Assistance Programme

www.healthassuredeap.com

Username: durham Password: council
0800 716 017

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.

Author	Version	Last review	Next review
Senior HR Officer	v 1.0	September 2019	September 2022