



SPARKEN HILL
ACADEMY

REDUNDANCY AND RESTRUCTURING POLICY

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REDUNDANCY AND RESTRUCTURING POLICY

Introduction

While it is the governors' intention to develop and expand the activities of the academy and to provide a stable work environment and security of employment for its employees, it is also the governing board's responsibility to ensure the economic viability of the academy.

Circumstances may arise where change, for example due to education initiatives, organisational requirements, technological developments, budgetary position, or other factors, make it necessary to review and seek changes to the staffing structure, either across the academy or in particular areas, leading to changes in roles, contractual terms and conditions, or proposed redundancies.

A new code of practice on dismissal and re-engagement within the context of varying contractual terms was introduced and came into force on 18 July 2024. Where changes to terms and conditions are proposed, it is crucial to follow the new code with a view to minimising the potential negative consequences of dismissing and re-engaging staff. The full code is available here:

[www.gov.uk/government/publications/dismissal-and-re-engagement-code-of-practice/code-of-practice-on-dismissal-and-re-engagement-issued-by-the-secretary-of-state-under-section-203-of-the-trade-union-and-labour-relations-consolidat](https://www.gov.uk/government/publications/dismissal-and-re-engagement-code-of-practice/code-of-practice-on-dismissal-and-re-engagement-issued-by-the-secretary-of-state-under-section-203-of-the-trade-union-and-labour-relations-consolidation-act-1992)

A review of the academy's staffing structure will be with a view to ensuring that the allocation of responsibilities and duties is effective and focused on teaching and learning to raise standards.

Purpose

This policy sets out how the academy will approach and manage organisational change and potential staffing reductions. The main aim of this policy is to ensure fair and effective procedures are followed in managing staff involved in change, including informing and consulting individuals and recognised trade unions.

In order to minimise the impact of such organisational changes, the policy will be adopted wherever possible. However, it must be recognised that where the needs of the academy so dictate, the procedure will be adapted to the particular circumstances which prevail, following consultation with representatives of the recognised trade unions/professional associations.

If there is a required increase in staffing overall, or in particular areas, the academy's recruitment policy will be followed. Whatever the outcomes, the governors will act within the terms of the academy's single equality statement.

In following this process, the academy will have regard to its duties under the public sector equality duty (PSED) and, in the event of changes to terms and conditions or any redundancies, it will seek to avoid discrimination and any prohibited conduct under the Equality Act 2010.

Scope

This policy applies to all employees. It does not apply to agency workers, consultants or self-employed contractors.

This policy will be reviewed from time-to-time to ensure that it reflects the academy's legal obligations and business needs.

Redundancy

The governing board, as part of its employer responsibilities, will consider potential redundancies if the following circumstances occur:

- The academy has ceased, or intends to cease, to carry on the business for which the employee was employed, or to carry on that business in the place where the employee was employed; or
- The requirements of the academy for employees to carry out work of a particular kind, or to carry it out in the place where they are employed, have ceased or diminished or are expected to cease or diminish.

Avoiding redundancies

The governing board will always try to avoid and mitigate against the need for compulsory redundancies.

The governing board will consider steps that might be taken, depending on the circumstances, to avoid the need for compulsory redundancies. Examples of such steps include but are not restricted to:

- Reviewing the use of agency staff, self-employed contractors and consultants.
- Restricting recruitment in affected categories of employee and in those areas into which affected employees might be redeployed.
- Considering the introduction of short-time working, job-sharing or other flexible working arrangements, where these are practicable.
- Retraining or transferring staff to other duties.
- Voluntary reduction in hours or transferring from full-time to part-time.
- Identifying suitable alternative work with the academy that might be offered to potentially redundant employees.
- Inviting applications for early retirement or voluntary redundancy. Volunteers should normally be invited from the group of employees who are at risk of redundancy. In all cases, the acceptance of a volunteer for redundancy will be a matter of discretion for the governing board and the governing board reserves the right not to offer voluntary redundancy terms or to refuse an application where it is not in the interests of the academy to do so. A deadline should be set for applications for voluntary redundancy which expires before the start of the selection process.

Note

Any revisions of job descriptions should be agreed between the principal and the member of staff.

Any measures adopted must not adversely affect the running and management of the academy.

Step 1 – planning and designing a new structure

- The governing board will determine and propose the need for restructuring and delegate the detail regarding its implementation to a restructure sub-group of the governing board, to be advised by the principal.

- A draft business plan will be produced and authorised by the restructure group for consultation with staff and representatives of the recognised trade unions. Depending on the number of staff affected by the proposals, it may be necessary for the business plan to comprise of a formal section 188 notice. Further details regarding this type of notice are contained in step 2.
- The business plan should include the following:
 - Rationale for the proposals together with an outline of any budgetary implications.
 - Scope of the review or change, that is the number and description of posts affected. This should include whether there are any proposed redundancies, the roles affected and the number of staff at risk of being displaced.
 - If structural/departmental changes are envisaged – a copy of the old and new staff structure charts.
 - If the proposals include changes to terms and conditions, these should be set out within the proposals to include:
 - What the proposed changes are, including what they proposed new and/or revised terms will look like.
 - Who will be affected by the proposed changes.
 - The anticipated timings for the introduction of the proposed changes and the reason for those.
 - Any other options that have been considered.
 - The proposed next steps.
 - A timeline for consultation.
 - The selection method (in reorganisation and redundancy situations) and proposed selection criteria (see step 4 below).
 - Equality considerations and implications. The review should take into account equal pay considerations to avoid any later legal challenge.
 - The timescales for overall implementation. Staff notice periods must be factored into the timescales (see redundancy timetable).
- Any new posts may require job evaluation and a copy of the new or revised job description should be enclosed with the business case.
- A post identified as a new post should be subject to normal recruitment procedures.

Step 2 – consultation and engagement

The principal/restructure group will carry out consultation with staff and recognised trade unions in good faith.

The following matters will be considered for consultation:

- Restructures that affect employees.
- Potential redundancies.
- Changes to terms and conditions of employment including changes in working practices, location of employees etc.

The legal requirement to collectively inform and consult with unions derives from section 188(4) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA). As such the principal/restructure group must collectively inform and consult with recognised trade unions where there is a proposal to dismiss as redundant 20 or more employees at one establishment within a 90 day period or less.

Collective consultation must begin 45 days before the first proposed dismissal takes place if the proposals impact 100 or more employees. For less than 100 employees, the minimum consultation period is 30 days. If the proposals affect less than 20 employees, a reasonable period of consultation will be required.

The principal/restructure group will announce the start of the review and consultation process by writing on behalf of the academy to all affected employees, academy representatives and the secretaries of the recognised trade unions. A copy of the business plan (or section 188 notice as necessary) will be enclosed and the covering letter should advise of the following:

- The timescale for the process and dates of any relevant meetings.
- The dates by which any written responses to the consultation will be required. A period of four weeks will be allowed for written comments by staff and unions. The period can be reduced where the proposals involve a single employee or a small group, or where otherwise agreed.
- To whom queries about the process should be sent.

The academy will make arrangements to meet with any members of staff who consider they are directly affected by the proposals and who wish to discuss matters in person. Staff may be accompanied by a recognised trade union representative or colleague if they wish.

If requested by the trade unions, the principal should meet with the unions during the consultation period.

The principal will arrange for notes to be taken of all meetings held during the consultation stage. Key points made during the meeting and the outcome should be clear.

Any affected staff on long-term sickness absence, maternity leave, adoption leave or any other type of leave will also be consulted. Consideration will be given to adapting the communication method where necessary, as will the need for reasonable adjustments to allow all staff to equally take part in consultation.

Voluntary redundancies

If the proposals envisage compulsory redundancies, inviting staff to take voluntary redundancy is a good way of mitigating against the compulsory redundancies (see letter requesting volunteers for redundancy). A deadline should be set before any selection process begins.

Step 3 – considering the response from staff and unions and re-examination of the proposals

The restructure group will give due consideration to all written responses. If, as a result of any written comments, the restructure group determines to amend the draft structure plan, the amendments will be subject to a further week's consultation.

The final draft will be drawn up by the restructure group and presented to the full governing board for consideration with a recommendation for adoption.

Following the adoption of any proposals, the formal procedures for implementation will start.

Step 4 – implementation

Changes to terms and conditions

Reaching agreement through consultation is the priority and ought to be the goal of negotiations. However, if it appears to the governing board that agreement is not possible, it is advisable to let staff know that it will be opting to dismiss and re-engage.

Dismissal and re-engagement should not be used as a threat to force staff to accept changes. Attempts to reach an agreement with the changes to terms should be carried out first.

If the governing board resolves to change the terms and conditions, staff will be given an opportunity to accept the employment contract variation within a deadline of one week. If these are not accepted, the academy will dismiss and immediately re-engage the staff on the new terms.

The academy will ensure that the appropriate contractual or statutory notice periods (whichever is more) are followed for staff who do receive notice to terminate their contracts. Implementation should take place at the same time for all staff.

Selection in reorganisation and redundancy situations

If the governing board resolves to reorganise/make compulsory redundancies, the redundancy selection committee will apply the selection criteria that has been consulted upon.

Slotting in

Where a post is largely unchanged, and therefore a significant match to the responsibility of an existing member of staff, that member of staff should be 'slotted in' to the post.

Ring-fenced

Where a post is a combination of a number of existing responsibilities held by current staff, then the post should be ring-fenced to those staff only.

An individual's pay level and current responsibility will determine their entitlement to be in a ring-fenced group. For teachers, this will be determined by the value of permanent teaching and learning responsibility payments.

Where more than one post is available at a particular level, members of the ring-fenced group will be asked to express a preference from those posts available.

Candidates will be selected using fair selection criteria (details below) and the most suitable candidate/s will be appointed. The remaining candidates will be considered for the next ring-fenced level down (where available).

Special rules apply during redundancy processes to pregnant employees, employees on maternity leave, employees taking adoption leave and/or employees taking shared parental leave. While staff in such circumstances can still be selected for redundancy, *priority* is given to them over other employees in offering suitable alternative employment.

Promotion

A post in the new structure which has no similar role in the current structure and which represents a promotion will first be advertised internally within the academy and open for all to apply. If a suitable candidate cannot be appointed, the post will be advertised externally.

Staff should be provided with the opportunity during consultation to appeal to the principal to be included within a ring fence. The employee should first appeal directly to the principal. If they remain dissatisfied, the employee should write to the governing board setting out their reasons for appeal. The governing board will consider any appeal and respond to the employee within five days.

Selection criteria

The selection method used to select those employees who are at risk of redundancy will be based on criteria which are:

- Objective.
- Transparent and fair.
- Applied consistently.
- Based on the skills required to meet existing and anticipated business needs.
- Non-discriminatory directly or indirectly on grounds of any protected characteristic under the Equality Act 2010. Part-time employees and those working under fixed-term contracts will be treated the same as permanent, full-time employees.

Any scores and information collected as part of the selection process should be recorded and in sufficient detail to enable selected staff to understand why they have been selected. Scores should be made readily available to staff on request. It is important that information on scoring is anonymised to ensure details about individual employees are kept confidential. The academy will ensure compliance with the GDPR and Data Protection Act 2018.

Step 5 – making compulsory redundancies

Following selection, a designated officer from the redundancy selection committee, usually the principal, will consult individually with those employees who have been provisionally selected for redundancy (see letter confirming provisional selection of redundancy). The employee will be given the opportunity to make representations regarding their proposed redundancy and to suggest any alternatives to redundancy within a defined time frame.

Where, having considered any representations made by the employee, selection for redundancy is confirmed, employees selected for redundancy will be given notice of termination of employment in accordance with their contract of employment (see letter to employee – notice of redundancy). They will also be given written confirmation of the payments that they will receive. Employees will be given the opportunity to appeal against this decision (see below).

Where the employee is no longer at risk of redundancy, this will be confirmed in writing by the principal.

The principal will continue to look for suitable alternative employment for redundant employees and inform them of any suitable alternative employment, until their termination dates. The manner in which redundant employees will be invited to apply for and be interviewed for vacancies will be organised depending on the circumstances existing at the time. Alternative employment may be offered subject to a trial period of four weeks.

Subject to the academy's operational needs, employees will be allowed to take reasonable time off work during their notice period to seek alternative employment. Any request for such time off should be made to the principal.

Eligibility for redundancy payment

To be eligible for a redundancy payment, the employee should fulfil the following:

- Be dismissed by reason of redundancy.
- Have at least two years' continuous service.
- Be directly employed by the academy.

The employee will not qualify for a redundancy payment if they:

- Are self-employed, engaged through an employment agency or through a contract for services.
- Are dismissed for a reason other than redundancy.
- Unreasonably reject suitable alternative employment.
- Accept a suitable alternative post in a school, academy, or within a local government organisation within 28 days of the date of the termination of employment by reason of redundancy.

Redundancy payments

Redundancy payments will be at least in accordance with the statutory entitlement laid down in the Employment Rights Act 1996.

All employees who are selected for redundancy will be given written notification of the way in which their redundancy pay has been calculated.

Appeals

Staff have the right of appeal against a dismissal for redundancy.

Any appeal should be in writing, stating the full grounds of appeal, to the clerk to the disciplinary hearing panel within **10 working days** of the date of the letter providing notice of termination of employment.

The appeal should be dealt with as promptly as possible, and wherever possible within **20 working days** of the appeal being lodged. The employee will be provided with at least **five working days'** notice of the date, time and place of the appeal hearing.

The employee may be accompanied, if they so wish, by a recognised trade union representative, or work colleague of their choice. If the trade union representative/colleague is unable to attend on the date proposed, the employee can offer an alternative time and date, within five working days of the original.

A staff appeals panel appointed by the governing board and comprising at least three governors shall hear all appeals. The staff appeals panel should consist of members who have not previously been involved.

Implementation

Terms and conditions of any new posts will be confirmed in writing by way of an offer of a new contract of employment. Upon acceptance, the employee will be deemed to have accepted the alternative post.

Review

This procedure will remain under review by the governing board.