



Redundancy Policy

Next review – September 2021

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1. INTRODUCTION

1.1 This procedure for handling reductions of staff in Wardle Academy Trust schools has been consulted upon with the Professional Associations and Trade Unions representing staff within our schools. The Academy Trust has adopted this policy. The term 'Governance' used throughout this procedure shall be taken to include those persons or committees acting in the name of the Board of Trustees through their membership of either (a) the Board of Trustees or (b) Local Governance Body (Academy Committee).

1.2 The procedure is consistent with the employment powers granted to Governance Bodies by the Education Reform Act 1988 and with Instruments and Articles of Government of individual schools. This Procedure is also consistent with current employment and school legislation as applicable to academies.

1.3 Whilst maintained schools are required to follow the STPCD, academies are free to set their own arrangements. Academies are not bound by the 'School Staffing (England) Regulations 2009' but the Wardle Academy Trust supports the non-statutory advice contained with the 2016 DfE 'Staffing and Employment Advice for Schools' document. The Trust does note that teachers whose employment transferred to an academy at the point of conversion are covered by the STPCD and it recognises its statutory obligations regarding TUPE.

1.4 The policy follows the ACAS advisory booklet on 'Redundancy Handling' and the Trust is aware of its responsibilities regarding 'Compromise Agreements' in accordance with the Academies Financial Management Handbook 2016.

2. GENERAL PRINCIPLE

2.1 It will be the aim of the CEO/Headteacher/Governance Body, by careful forward planning, to ensure as far as is possible, security of employment for all staff employed within the Trust. However, it is recognised that, on occasions, there may be changes in conditions, such as falling pupil numbers, financial, curriculum requirements or change in school/Trust circumstances, which may affect staffing levels within the school/Trust.

2.2 Before any reduction in staff occurs, the Academy Trust will review staffing structures, engage in consultation and gain governance approval of any proposed restructuring.

2.3 It will be the aim of the CEO/Headteacher/Governance Body and in consultation with the Teachers' Associations/Trade Unions, to minimise the effect of redundancy by making available reasonable time and effort for finding alternative employment.

2.4 Where redundancy is inevitable the CEO/Headteacher/Governance Body will handle the redundancy in a fair, consistent and sympathetic manner, and – as far as possible – will minimise the hardship which may be suffered by the staff concerned.

3. CONTEXT

3.1 The Board of Trustees are accountable under employment legislation for the way in which they exercise their powers under this procedure and may be held to account for their actions before an Employment Tribunal or a Court of Law.

3.2 Under the Employment Rights Act 1996 'dismissal' occurs if:-

- a) the employee's contract of employment is terminated by the employer with, or without notice; or
- b) the employee works under a fixed term contract of employment and the terms of it expire without renewal under the same contract; or
- c) the employee terminates their own contract of employment, with or without notice, in circumstances such that s/he is entitled to terminate the contract without notice by reason of the employer's conduct.

3.3 Also, under employment legislation, an employee has the right not to be 'wrongfully' or 'unfairly' dismissed. An employee may sue their employer for breach of contract in the case of wrongful dismissal and seek redress in the case of unfair dismissal. To be 'fair', dismissal of an employee must have occurred for one of the following reasons relating to:-

- a) conduct;
- b) capability or qualifications;
- c) redundancy;
- d) contravention of a statutory duty,
- e) retirement; or
- f) any other substantial reason and have followed proper procedures.

4. CONSULTATION AND DISCLOSURE OF INFORMATION

4.1 In employment law redundancy has two different connotations, one to establish entitlement to redundancy payment and one for the right to be consulted. For the purposes of the right to be consulted, if a school proposes to dismiss as redundant 20 or more employees at one establishment over a period of 90 days or less, then they have a statutory duty to consult representatives of any recognised independent trade union, or if no trade union is recognised, other elected representatives of the affected employees. For potential redundancies of less than 20 employees, the Board of Trustees recognise the benefit of 'meaningful consultation' in terms of alternative solutions and fairness.

4.2 Where the CEO/Headteacher/Governance Body proposes to reduce the number of staff employed to work at the school it will be committed to keeping the Teachers' Associations/Trade Unions and the staff concerned fully informed of the staffing requirements and the need for any reductions.

The Teachers' Associations/Trade Unions will be invited to attend relevant meetings between the Governance Body and/or the SCO/Headteacher and the staff to discuss such staffing reductions.

4.3 Where the CEO/Headteacher/Governance Body proposes to reduce the number of staff employed at the school it will consult the Secretaries of the Teachers' Associations/Trade Unions, setting out the following information:-

- a) the reasons for the proposal;
- b) consultation papers relating to the staffing review;
- c) the number and description of the posts to be deleted and staff it proposes to dismiss on the grounds of redundancy;
- d) the total number of staff employed at the school;
- e) the proposed method of selection;
- f) the proposed method of carrying out the dismissals, with due regard to this procedure, including the proposed timescale over which the dismissals are to take effect; and
- g) the proposed method of calculating the amount of any redundancy payments to be made (otherwise than in compliance with an obligation imposed by, or by virtue of, any enactment) to staff who may be dismissed.

4.4 A meeting will be held between the CEO/Headteacher/Governance Body and the Teachers' Associations/Trade Unions at the earliest possible opportunity to examine possible courses of action. At such a meeting HR advisors will also be present to offer advice to the Governance Body.

The CEO/Headteacher/Governance Body will keep all staff informed of the situation.

4.5 As part of the consultation process the CEO/Headteacher/Governance Body will provide sufficient and relevant information for the Teachers' Associations/Trade Unions to discuss the situation with their members in the school and allow them to make constructive suggestions as to how the redundancies may be avoided. The CEO/Headteacher/Governance Body is required to give serious consideration to any suggestions presented by the Teachers' Associations/Trade Unions, in writing and to give its reasons in writing as to why any suggestion/s were not accepted. (see Appendix 1)

4.6 The CEO/Headteacher/Governance Body will consult the Teachers' Associations/Trade Unions about ways of avoiding the dismissals, reducing the numbers of staff to be dismissed and mitigating the consequences of the dismissals and will undertake such consultation with a view to reaching agreement with the Teachers' Associations/Trade Unions.

4.7 During the consultation process a freeze on external recruitment will normally apply to the affected group of staff.

4.8 Staffing reductions will, in the first instance, be achieved by:-

- natural wastage;
- restrictions on recruitment;
- termination of the employment of temporary or contracted staff (if applicable);
- voluntary job share agreements;
- voluntary transfer to part-time employment within the school;
- internal redeployment, with retraining where applicable within resources;
- external redeployment to other Wardle Trust establishments, with retraining where applicable within resources;
- voluntary redundancy (where applicable); and
- premature retirement in accordance with the scheme (where applicable)

4.9 Staff employed to work at the school will be informed of the situation at school at meetings convened for the purpose. The Teachers' Association/Trade Unions will be invited to such meetings.

4.10 If, however, following exhaustive exploration of the above methods, there is still a need to reduce staff, the CEO/Headteacher/Governance Body may determine that individual members of staff employed to work at the school should cease to work there and, as such, become at risk of redundancy. This will be achieved by **EITHER** an individual has been clearly identified through a revision of the staffing structure **OR** there has been an assessment of the members of staff, based upon a selection criteria determined by the CEO/Headteacher/Governance body.

4.11 The reasons for making a determination that member(s) of staff employed to work at the school should cease to work there will be that the requirement for a member of staff to do work of a particular kind (e.g. curriculum, management or administrative structure of the school has ceased or diminished, and that the post would not need to be refilled).

4.12 The member(s) of staff selected will be given:

- a) a written statement as to the reasons for their selection for redundancy;
- b) a statement of their entitlement to redundancy pay and the period of contractual and statutory notice due; and
- c) information on their statutory entitlement to reasonable time off, with pay, to look for work, or for training.

4.13 Any member of staff who feels aggrieved by their selection for redundancy will have the right to appeal against the decision in accordance with the agreed procedure (Appendix 5).

Any appeal should be addressed to the Clerk of Trustees. Such an appeal will in no way affect the right of a member of staff to seek redress before a Court of Law for unlawful dismissal, or before an Employment Tribunal for unfair dismissal, or to receive compensation for dismissal on grounds of redundancy in accordance with statutory and contractual rights, together with any statutory or contractual notice due.

4.14 Following a final determination by the Governance Body that the member(s) of staff should leave the school, the Trust will make every effort to offer alternative employment within other Trust schools.

5. GUIDANCE

5.1 The CEO/Headteachers/Governance have considerable responsibilities for budget and staff management. The school and the Teachers' Association/Trade Unions are committed to working together to avoid compulsory redundancies occurring.

5.2 The Trust may have to consider staff reduction measures as a result of falling pupil rolls, a serious budget deficit or a change in school circumstances requiring different roles and responsibilities within the workforce.

5.3 It is essential that identification of members of staff to be deemed 'at risk' must be in strict accordance with procedures and practices given in this document for dealing fairly with any potential redundancies.

5.4 The Academy Trust will follow a fair and transparent process and procedure when selecting individuals for redundancy, and ensure that all statutory requirements, including consultation with Teachers' Association/Trade Unions, are observed. Information about good practice and other important considerations within the process are included within this document and further advice will be sought from external HR advisors.

5.5 The Board of Trustees must ensure that adequate records and notes are made at all stages of the procedures as these will be required at any subsequent appeal or tribunal processes.

6. CONFLICT OF INTEREST/BIAS

The CEO/Headteacher and members of Governance Bodies must ensure impartiality free from prejudice throughout the process. Interests, either pecuniary or by association, may leave the process open to challenge.

7. REDUCTION IN STAFF

Information – Preparation and Dissemination

7.1 The CEO will prepare a report for the Governance Body either for decision or for information only. The purpose of the meeting (if applicable) will be to consider the method of reducing staff in line with a proposed new staffing structure, the implementation plan and statutory notice periods.

7.2 The report should include the process; outcome and implementation plan resulting from the review of the staffing structure.

- a) The report should detail the outcome of the review of the staffing structure advising the number of staff displaced. The proposals in the report should identify 'at risk' areas, the numbers and descriptions of employees whom it is proposed to dismiss as redundant, the total number of employees of that description employed at the school, the proposed method of selecting employees for redundancy e.g. by interview process or selection criteria including factor assessments, the proposed method of carrying out the dismissal including the period over which the dismissals are to take effect; the proposed method of calculating the amount of any redundancy payments and proposed assistance with job seeking e.g. training opportunities, seeking redeployment.
- b) The report should be disclosed to the Teaching Associations/Trade Unions prior to the meeting. As part of the consultation process, representatives from the Teaching Associations/Trade Unions should be invited

to attend a Special Governance Body Meeting called to review consultation and the restructuring proposals.

- c) If approved the Governance Body will need to agree the redundancy procedure (if not already agreed), the selection criteria to be used during the process, e.g. by interview process or selection criteria including factor assessments, the establishment of a Governance panel and the timeline for the process through to its completion. The Governor Body should ensure that timescales are adhered to at all times.

7.3 Following the decision of the CEO/Headteacher/Governance Body on the process to be used for selection, the Headteacher should arrange to meet with all staff identified as 'at risk' directly after the Special Governance Body Meeting.

An invitation to this meeting should be afforded to all appropriate Teachers' Associations/Trade Unions. The Headteacher will need to inform 'at risk' staff at the meeting of the outcome of the Governance Body meeting advising them of:

- The timeline of the process
- The procedure e.g. selection via interview
- Identification of people potentially 'at risk' of redundancy
- Seek alternative methods by voluntary means e.g. part time working, job share, volunteers for voluntary redundancy in accordance with the current scheme *
- Issue 'at risk' letters to affected staff

All staff within the school organisation (if central team – Trust organisation) will be advised of the outcomes of the Governance Body meeting and, if appropriate, alternative methods by voluntary means sought for a second time.

* Any expressions of interest will need to be submitted in writing to the CEO/Headteacher within 7 days.

7.4 Selection via interview

Once the Governance Body has agreed the new staffing structure, each member of staff will need to be considered against it. Where a near match exists between an existing post and one within the new structure (defined as where a post has over 50% of its original responsibilities contained within the new post) then the individual will be slotted into that post.

Where a post/posts in the existing staffing structure has/have either been deleted or amalgamated, then all existing post holders will need to be interviewed for the post/posts and the best match to the job description selected. The process for interview is by the school's usual processes for staff appointments, as authorised by the Governance Body.

Staff should be considered for posts at their current level of responsibility to avoid loss of status and the need for salary protection. However, if there are insufficient posts at that level, following the due interview processes, those individuals without post will be slotted into the tier of posts closest to their previous salary (if applicable).

Displaced staff who have secured a post of a lesser value will be afforded the right of salary protection.

- a) *Teachers* - Salary protection for a three-year period* commencing at the published date of the implementation of the new structure depending on individuals contract details (*One year for new staff or existing staff on changed contracts appointed after 31st May 2018 – This does not apply to staff appointed before May 2018 who are re-engaged resulting from the redundancy process.)
- b) *Support Staff*. Salary protection for a one-year period commencing at the published date of the implementation of the new structure depending on individuals contract details.

Displaced staff who do not secure a post in the new structure will be selected for redundancy.

7.5 Selection via criteria/assessment factors

The CEO/Headteacher (with delegated powers) or the Governance Panel will select staff for redundancy following the selection criteria approved by the CEO/Headteacher (delegated powers) or Board of Trustees.

When drawing up the Selection Criteria, consideration will need to be given to ensuring that the balance of skills and experience within the remaining workforce is appropriate to the school's future needs.

Where possible, **Objective Criteria** should be used when drawing up a selection criteria.

Examples of Objective Criteria are:

- a) attendance record;
- b) disciplinary/conduct;
- c) skills/experience;
- d) standard of work performance; and
- e) aptitude for work

Selection Criteria

Case law requires the selection criteria to be objective where there is a choice between employees. Employment tribunals have found subjective selection decisions, not backed up with objective evidence, to be unfair.

FAIR

Selection criteria include (but are not limited to):

- length of service
- work experience
- attendance record
- disciplinary record
- qualifications
- skills
- standard of work performance or aptitude for work

UNFAIR

Selection criteria include (but are not limited to):

- Sex
- Religion
- Disability
- Diversity
- Ethnic origin
- Pregnancy
- Imprecise
- Marital status
- Subjective personal opinions
- Trade union membership (or non-membership)

Formal qualifications and advanced skills should be considered but not in isolation. If you are considering using the criteria on standard of work performance or aptitude for work, then the CEO/Headteacher/Governance would need to access objective evidence e.g. evidence of both formal and informal support relating to work performance.

If attendance or disciplinary records are to be used as a basis for redundancy selection, it will be necessary to ensure that they are accurate. Before selecting on the basis of attendance it is important to know the reasons for

and extent of any absences. This is particularly important when considering sickness absence. Employers should look carefully at the duration of the spells of sickness; for example, whether an employee has had one continuous lengthy bout of sickness or whether the absences were of a more intermittent nature but over a longer period.

Absences relating directly to an employee's disability should be discounted when using attendance as a selection criteria. Managers and employee representatives should adopt a consistent approach and have clear rules setting standards about discipline, absence, timekeeping and holidays.

A selection method often used is 'last in, first out', although this method is not recommended as it is an unsatisfactory way of retaining the staff who will provide the school with its future needs.

Once you have chosen the criteria, you need to ensure that it is applied consistently throughout.

Following the selection process a letter will be sent to selected staff informing them of the decision. The letter will contain information regarding the individuals' right of appeal. Prior to any appeal the individual can request to meet representatives of the Governance Panel or the Headteacher (delegated powers) to discuss their selection. The Chair of the Governance Panel and the Headteacher will explain why the person was selected – going through the procedure in detail and referring to all documentation used. Copies of all relevant documentation to be made available to members of staff at the hearing.

APPENDIX 1

Action Plan/Timeline for Reduction in Staff

Date		Note
	<p>Meet with staff to advise outcome of staffing reductions/changes as a result of a review of the school's staffing structure</p> <p>Formal Consultation Meeting (CEO/Headteacher/Governance Body/HR Adviser)</p> <ul style="list-style-type: none"> - Trust Report - At Risk Areas identified - Criteria for selection discussed in detail - Establish or confirm Governance Panel and Governance Panel Appeals Committee 	<p><i>This meeting should take place directly after approval of a change to the schools staffing structure</i></p> <p><i>Meeting to be held within a short period following approval of a change to the staffing structure which identifies deletion of posts</i></p>
	<p>Staff Meeting of potential 'at risk' staff - Teacher Association/Trade Unions invited</p> <p>Seek expressions of interest for voluntary reduction in hours, Voluntary Redundancy etc.</p> <p>'At Risk' letters to staff/staff group affected. (Step 1)</p> <p>All staff informed of the situation. Where the pool of 'potentially at risk' staff is not clearly defined all staff should be invited to the above meeting.</p>	<p><i>This meeting should take place very shortly after the formal consultation and ideally on the following day of the formal consultation meeting to inform staff of the posts/areas 'at risk', advise the criteria for selection and seek expressions of interest</i></p>
	<p>Deadline for written responses from Staff & Teacher Association/ Trade Union representatives</p>	<p><i>7 days from the staff meeting</i></p>
	<p>Written response made to staff & Teacher Association/Trade Union representatives</p>	<p><i>Within 5 days from the deadline for the written responses</i></p>
	<p>Governance Committee meeting to select staff via interview or criteria</p>	
	<ol style="list-style-type: none"> 1. Selected staff notified verbally (Trade Union notified verbally if possible) 2. Invite to meeting to discuss selection and future support including redeployment (accompanied by union representative if available) (Step 2) 3. Letter to be issued at meeting setting out circumstances of redundancy and their right of appeal (Step 3) 4. Right of Teacher Association/Trade Union Representative given 	<p><i>To take place immediately after the selection process has been finalised</i></p> <p><i>Points 2,3,4</i></p> <p><i>To be arranged asap after staff have been notified of their selection</i></p>
	<p>Deadline for lodging an appeal</p>	<p><i>7 calendar days following the issue of the letter advising selection for redundancy</i></p>

APPENDIX 2

Contractual and Statutory Notice Periods

Employees	Contractual Notice Periods		Date Notice Expires
	Term	Latest date by which Notice must be submitted	
Deputy Headteacher /Teachers	Spring/Autumn	Feb 28/Oct 31	April 30/Dec 31
	Summer	May 31	August 31
Headteacher	Spring/Autumn	Jan 31/Sept 30	April 30/Dec 31
	Summer	April 30	
Support Staff	Significant variation in notice period between posts but usually shorter than for teachers		Depends on contract of employment

Statutory Notice Entitlement (Any Employee)

Statutory notice entitlement (any employee)

Length of Continuous Service with an employer**	Notice entitlement
Between 1 month to 2 years	One Week
2 years or more but less than 3 years	2 weeks
Each additional complete year	One additional week
12 years or more	12 weeks

APPENDIX 3

GOVERNANCE PANEL

Membership

The CEO/Headteacher should not be a member of the Committee, although they may attend meetings to give advice/present their case to the Committee. Employees at the school should also not be members of this Committee.

Chair - *To be appointed by the Board of Trustees*

Quorum - *A panel of 3 trustees/governors (one reserve) be established*

Clerk - *Meetings may be clerked by any person nominated by the Governance Body except the Headteacher.*

Overall Purpose of the Committee

The overall purpose of the Committee is to implement the above redundancy policy in accordance with all Trust policy, contractual obligations, ACAS guidance and employment legislation.

In so doing, the Committee must ensure that all parties have had the opportunity to engage in meaningful consultation and be assured that the process has been conducted in a fair, equal and objective manner.

The reasons for all decisions need to be clearly minuted for feedback to Governance Bodies.

APPENDIX 4

GOVERNANCE APPEALS COMMITTEE

Membership - *3 Governors/trustees (plus one reserve) who are not members of the Governance Panel.*

The Headteacher should not be a member of the Committee, although they may attend meetings to give advice/present their case to the Committee. Employees at the school shall also not be members of this Committee.

Chair - *To be appointed by the Board of Trustees*

Overall Purpose of the Committee

The overall purpose of the Committee is to implement the personnel and pay policies of the Governance Body by making decisions related to individual members of staff.

Terms of Reference

To hear appeals from members of staff.

An appeal can be made on the following grounds:

- Ground 1 – that the reason for dismissal was not redundancy
- Ground 2 – that the selection for redundancy was unfair
- Ground 3 – that the process was flawed.

APPENDIX 5

Appeal Procedure

The Governance Panel Chair will present all evidence of fair selection to the Appeals Committee.

- a) The Appeals Committee of the Governance Body shall consist of no fewer than 2/3 Governors (excluding any members of staff of the school). All must be governance body members (Trustees or Local Governors) but may include governing committee members from partner Trust schools.
- b) No details in relation to the appeal will be given to the Appeals Committee prior to the hearing.
- c) The employee will be given 7 calendar days' advanced notice of the appeal hearing. They will be advised of the right to be accompanied by a trade union representative, teacher association representative or a work colleague of their choice if they wish, but by no-one else.
- d) Copies of all documents to be referred to at the appeal will be submitted by both parties to the Clerk of the Personnel Appeals Committee 5 calendar days prior to the hearing. Sufficient copies of all documents to be referred to should be provided. The Clerk of the Appeals Committee will exchange this information between the parties prior to the hearing.
- e) A Trust appointed representative shall be invited to attend the appeal hearing, in relation to a decision that the employees shall cease to work at the School, for the purpose of giving advice.
- f) The undermentioned procedure will be followed at the appeal hearing:-
 - i. CEO/Headteacher/Chair of Committee to put the case
 - ii. Employee (or their representative) to ask questions of the CEO/Headteacher/Chair Committee
 - iii. members of Appeals Committee to ask questions of the CEO/Headteacher/Chair of Committee
 - iv. employee (or their representative) to put their case
 - v. CEO/Headteacher/Chair of Committee to ask questions of employee and/or their representative
 - vi. members of the Appeals Committee to ask questions of employee and/or their representative

Note: Summing up should concentrate on the key points of the case. These points should be concise and last no more than a few minutes.

- vii. CEO/Headteacher/Chair of committee to sum up
- viii. Employee (or their representative) to sum up

The Chair may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, they will specify the nature of that information. Any adjournment will normally be for a stated period.

Following the summing up, both parties, together with their representatives, will withdraw. If it is necessary to recall one of the parties for further information before a decision is taken, both parties shall be recalled. The adviser to the Appeals Committee of the Governance Body shall remain during the Personnel Appeals Committee's deliberations.

On completion of the Appeals Committee's deliberations, the Chair will normally announce the decision. The Appeals Committee may allow or disallow, or partially allow the appeal.