

MODEL POLICY FOR OXFORDSHIRE COUNTY COUNCIL (OCC) SCHOOLS**Restructuring and Staff Redundancy policy**

This policy is applicable for Oxfordshire County Council (OCC) maintained schools. It is provided as advice for schools where the Governors are the employer. Academies may adapt this policy should they wish to following appropriate consultation with their recognised trade unions where applicable.

1. Introduction

The local authority and schools have a responsibility to deliver services in the most efficient and effective way possible considering changing demands and funding.

Governing bodies with delegated budgets have a responsibility to determine the staffing levels and structure within the school. It is imperative that the schools adopt a consistent, transparent, equitable and systematic change process, to ensure minimal legal risks and challenges.

The policy should be referred to by schools when dealing with differing organisational change situations. It is important for the school management, where appropriate, to conduct an equality impact assessment regarding proposed organisational changes. Employees are to be treated fairly and consistently during an organisational restructuring process and appropriate consultation should take place with staff and recognised trade unions.

Whilst the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) are part of organisational change they have not been specifically covered in this document. TUPE applies where there is a transfer of business or part of a business from one employer to another. When a decision has been made to transfer employees from an OCC maintained school to an academy / trust, advice should be sought from Education Personnel Service (EPS).

2. Scope

This policy should be read in conjunction with other relevant documents such as the [School Teachers' Pay and Conditions Document \(STPCD\)](#), [Conditions of Service for School Teachers in England and Wales \(Burgundy Book\)](#) and the [National Agreement on Pay and Conditions of Service for support staff \(the Green Book\)](#).

This policy does not apply to Volunteers, Contractors and Agency workers as they are not employees of either OCC or the School's Governing body.

It is recommended that academies who have chosen to continue to use the STPCD, Burgundy Book and the National Agreement on Pay and Conditions of Service for support staff (the Green Book) adopt this model procedure in consultation with their recognised

trade union representatives, where applicable. Where an academy adopts this procedure, the word 'school' should be taken to refer to the academy.

3. Roles and Responsibilities

Under the School Staffing Regulations made under the Education Act 2002, the governing bodies have overall responsibility for staffing matters in schools. It is the full governing body which must ratify any proposal to reduce staffing or change the staffing structure.

For the purposes of this policy, it is assumed that the headteacher has the delegated responsibility for delivering and implementing the restructuring programme. However, the responsibility should be delegated to another member of the school's senior leadership team if there is a potential or declared conflict of interest and / or in situations where the headteacher is in-scope of the proposed restructuring.

Headteachers / delegated authority (where Headteacher is in-scope) are responsible for meaningful communication and consultation to take place with staff and trade unions/professional associations. *They should seek support from EPS / their HR provider when implementing this policy.*

4. Identifying the need to change

The Headteacher / delegated authority and the school's Governing Body should review the school's staffing structure and staffing level on a regular basis to ensure that it continues to meet the on-going and future needs of the school.

From the onset, the Headteacher / delegated authority should contact their HR team for further support and advice. For OCC maintained schools, this is Education Personnel Services (EPS)- 023 8038 3500 / eps.consultants@hants.gov.uk.

Restructuring may happen for several reasons. For example-

- Cost and efficiency savings to be made
- The introduction of new legislation or government guidelines that prompt service review
- Recommendations following reviews of the School Improvement Plan or Ofsted inspection
- Development of partnership arrangements with other schools
- New technology/new ways of working
- Contraction or expansion of the School due to rising/falling numbers on roll

Any decision to proceed with changes that impact on the staffing levels and staffing structures within a school should be clearly recorded in the minutes of the governing body meeting, together with the reasons identified as well as the timescale for delivery and implementation.

4.1 Key considerations for the Headteacher / delegated authority:

Please refer to Appendix 1 for more information.

1. Vision for Change

What does the future state look like? What do we want to achieve? Is it sustainable and cost efficient?

2. Benefits

How will the changes we make help improve the current state?

3. Situation Analysis

What needs to change and what are the interdependencies / potential risks- how do we mitigate risks?

4. Governance

Who is involved & accountable to make this happen?

5. Staff impact

Who is affected and how do we involve them?

6. Drivers for Change

Who can assist in helping us achieve our vision for change?

4.1.1 Conflict of Interest Declaration

A conflict of interest occurs where the potential or perceived conflict involves a person connected to the Governor or Headteacher (i.e., spouse / partner, family member or friend or someone living in the same household) or impacts the Governor or Headteacher themselves personally. Any Headteacher, Governor, member of staff or other relevant individual, with a pecuniary interest or potential conflict of interest in the matters under discussion must disclose it and, if necessary, withdraw from conversations around the restructuring in accordance with [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#). This does not mean that governors who are also members of staff should automatically be excluded from the relevant body's consideration of the draft structure and implementation plan on the basis that they have a pecuniary interest in the matter. Please refer to the above link for more information. If the Headteacher is in-scope of the proposed restructuring, they should not be involved in designing or drafting the new structure, and it may be necessary to delegate responsibility to another senior member of the school leadership team (delegated authority).

4.1.2 Designing a new structure

Once the Headteacher / delegated authority has identified the key considerations outlined above, they need to prepare a Consultation paper i.e., the business case for change. This paper will form the basis for consultation with staff impacted and their trade unions and should be comprehensive and clear on the vision and rationale for change.

Please refer to **Appendix 1** for the checklist on key considerations the Head Teacher and relevant bodies should undertake whilst planning for any restructuring.

Appendix 2 gives further information on what should be included in a consultation paper i.e., a suggested template for the consultation paper.

4.1.3 Approval of the proposal

The Headteacher / delegated authority should arrange for the draft consultation paper to be reviewed by HR / EPS. Following the review by HR /EPS, the consultation paper (including new JDs, proposed structure, communication plan and implementation plan) should be presented to the relevant body for their approval. The relevant body may also wish to make its own amendments to the draft before approving it as a basis for consultation. During the formal consultation phase, the relevant body will consider / review all suggestions from staff and trade union /elected employee representatives for any proposed revisions to the proposals.

4.1.4 Notifying the relevant Government authority

In addition to consulting the trade union(s) or elected employee representatives, it is necessary to notify the Secretary of State at the Department for Business, Energy and Industrial Strategy on [form HR1](#) of proposed redundancies involving twenty or more employees at any one establishment in a 90-day period. Form HR1 must be provided before any notice of dismissal is issued and, where-

- 20 – 90 employees are to be made redundant, at least 30 days before the first dismissal takes effect (i.e., when notice expires)
- or 45 days in the case of 100 or more employees.

At the same time, a copy of the HR1 form must also be given to the relevant trade union(s) or elected employee representatives.

5. Consultation

For any organisational change / restructuring situation, consultation is both a legal requirement and essential to the success of delivering the change. The Governing Body will normally delegate the process of consultation to the Headteacher unless there is a conflict of interest or the Headteacher themselves are in-scope of the proposed change.

Where collective consultation is appropriate, the relevant recognised trade union/elected employee representatives should be invited to participate in the consultation process. Staff in-scope should also be invited for individual consultation via 1:1 meeting or as a group. Staff in-scope should be given full opportunity to comment and feedback on the proposed changes during the consultation period.

Staff in-scope that are on maternity, paternity, adoption, shared parental leave or any other long-term absence should be consulted with as appropriate during the process. It is the responsibility of the Headteacher / delegated authority to ensure such staff are kept informed during the consultation and are given an opportunity to feedback on the consultation paper. EPS / HR provider can provide further advice.

For maintained schools, the Headteacher / delegated authority will ensure that the local authority is kept informed at the earliest opportunity of any organisational change process that has the potential to result in redundancies.

All staff in-scope should be regularly informed throughout the restructuring process on progress made, and a written record of discussions and meetings held with staff in-scope should be retained.

5.1 Length of consultation

The minimum period of consultation is:

- 20 to 99 redundancies - the consultation must start at least 30 days before any dismissals take effect
- 100 or more redundancies - the consultation must start at least 45 days before any dismissals take effect

For less than 20 redundancies, consultation will be for an appropriate period considering the number of staff affected and the time needed to allow for meaningful consultation with staff in-scope and, where appropriate, their recognised TU / elected employee representatives.

5.2 Approval of final proposal

Once the formal consultation period has come to an end, the Headteacher / delegated authority should report back to the Governing Body. The Headteacher / delegated authority should outline representation or comments made by staff and their trade unions/elected employee representatives.

Where redundancies are proposed, trade union/elected employee representatives will be given the opportunity to attend the relevant part of the governing body meeting to make representations before the final proposals are approved.

If the options for avoiding compulsory redundancies cannot achieve all the required cost savings or staff reductions, the Headteacher / delegated authority will meet with staff and the relevant trade union/elected employee representatives to advise that it is necessary to progress with selection for potential compulsory redundancy.

6. Assessment and Selection process for proposed structure

In determining the assessment and selection process, the Headteacher / delegated authority should ensure the following:

- The assessment and selection process applied enables the number of compulsory redundancies to be kept to the minimum necessary.
- The assessment and selection process is applied in a fair, consistent, reasonable, and objective manner and should not discriminate against staff on the grounds of any protected characteristic.

It is possible for different selection methods to be applied to different staff groups within the same restructuring process depending on the nature of the restructuring and the potential impact on the staff group concerned.

The following selection methods may be considered:

6.1 Where the job role does not change in the proposed structure

Assimilation to posts will happen where there is a clear 'like for like' match between current and proposed job roles and there is no change in the total number of headcount positions for current and proposed roles including no change in the proposed pay grade.

6.2 Where the proposed role has significant changes compared to the current role or where there are less positions for the proposed 'like for like' role than in the current structure

Such roles will be ring-fenced to ensure staff in-scope are given the opportunity as priority candidates to be assessed for the proposed like for like role as means of mitigating any potential redundancy situations.

Ring-fencing means that a post will not be open for all to apply but only for those staff whose current role is either significantly different from proposed role or where there are less headcount positions than current like for like roles. Ring fencing can also happen when the member of staff's current role no longer exists in the proposed structure. Posts in the new structure will be ringed fenced to those individuals at risk at the same or similar pay grade in the current structure.

An individual's pay level and current responsibility will determine their entitlement to be in a ring-fenced group. For teachers, this will usually be determined by the value of permanent teaching and learning responsibility payments. Ring-fenced groups will include relevant teachers and support staff who are paid a protected salary.

Candidates should be asked if they require any reasonable adjustments during the assessment and selection process and due consideration should be given to accommodate any such requests.

The selection panel should retain the scoring records for feedback to unsuccessful candidates and for any audit purposes.

6.3 Roles which represent a promotion

Where the proposed role is at a higher pay grade than the current role, this will represent a promotion opportunity and priority will be first given to those staff in-scope whose current role has changed significantly and regraded to a higher-grade role. Such staff will usually be interviewed for that role first via ringfencing. Once the ringfencing process is exhausted, priority will be given to those displaced candidates who are 'at-risk' of redundancy and their current grade is equivalent to the proposed new role grade.

7. Outcome of the assessment and selection process

Once the assessment and selection process is complete, the Headteacher / delegated authority will take the provisional outcomes to the relevant body for update and approval.

Where staff have been unsuccessful in the assessment and selection process and / or have been offered suitable alternative employment, and they have the right to appeal, no confirmed outcome should be given to staff in-scope, until the appeal process has been completed.

Once the appeal process has been completed, staff should receive a written confirmation of the outcome of the assessment and selection process including appeals (if applicable).

8. Redeployment / Suitable Alternative Employment

In cases of compulsory redundancy selection within maintained schools, the school will endeavour to explore suitable alternative employment opportunities for all staff that are 'at-risk' of redundancy.

The principal objective is to seek to retain experience and expertise within the school, or within the Council more broadly

8.1 Trial periods

Where, as part of a re-structure an employee is offered suitable alternative employment, a minimum of four-week statutory trial period will apply. This will allow both parties the opportunity to determine whether the role is suitable.

If an individual is successfully deployed to a suitable alternative post, after successful completion of the trial period, they will not be at risk of redundancy, and therefore will not be entitled to their redundancy payment.

Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay.

8.2 Pay Protection

8.2.1 Safeguarding salaries for teachers

The safeguarding arrangements for teachers' salaries will follow the statutory requirements contained in Section 2 of the current School Teachers' Pay and Conditions Document. Under these arrangements any safeguarded sums are for a maximum period of three years.

8.2.2 Safeguarding salaries for support staff

The safeguarding arrangements for support staff salaries will follow Oxfordshire County Council's Pay Protection policy. Where there is an entitlement, pay protection of up to the maximum of one grade can be offered. The protected rate will be frozen and paid for a period of 12 months. At the end of the 12-month period, the employee's pay will reduce to the top pay point of the grade of their new role.

The cost of any pay protection agreed will be met by the school in which the employee is currently employed.

9. Redundancy

An employee may be dismissed by reason of redundancy if the job they are doing is no longer needed in the proposed new structure. This may happen if the following situation arises-

- activities have ceased or are intended to cease.
- activities have ceased or are intended to cease in the place where the employee is employed.
- the requirements for employees to carry out work of a particular kind have ceased or diminished or are expected to cease or diminish.

Examples of potential redundancy situation may include-

- Reduction in the number of roles due to overstaffing
- Reduction in the number of roles or removal of roles altogether because of financial constraints
- Changes in the structure (for example classes and school duties are reorganised or ways of working are changed significantly so that certain skills are no longer required, or work can be completed by fewer staff)
- Merger of school with another school, leading to a reduction in some roles
- Closure of the school altogether
- Discontinuing a course or subject thereby no longer requiring the job role
- Situations where no suitable alternative role has been identified for the staff at risk of redundancy

An employee has an entitlement to a redundancy payment where-

- They are employed under a contract of employment
- They have been employed by continuously for 2 years before being made redundant

For further information please refer to- <https://www.acas.org.uk/redundancy>

9.1 Measures to avoid or minimise redundancies

The school will manage and plan resources appropriately to keep redundancies to a minimum. Where redundancies are unavoidable the cost effectiveness of any measures will be taken into consideration.

The school, in consultation with trade unions/elected employee representatives, may consider:

- restricting the recruitment of permanent staff
- filling vacancies from among existing employees who may be potentially at risk of redundancy
- reducing or eliminating overtime, where practicable
- retraining and redeploying staff to alternative jobs
- where appropriate (and as further set out below) seeking volunteers for redundancy
- part-time working / job sharing or Flexible Retirement for 'Green Book' employees.

9.2 Selection criteria for redundancy

The Headteacher / delegated authority must be clear on the rationale for selecting a role for redundancy.

The following considerations should be made when proposing a redundancy-

- Rationale must be clear and objective.
- The pool for selection and the selection criteria should be clear.

9.3 Notice of redundancy

Employees who are not successful in securing a role in the proposed new structure should be notified in writing and will have a right of appeal, such appeal should be made within 10 working days of the date of the written notification of the decision.

Prior to issuing the redundancy notice, the Headteacher / delegated authority should make every attempt to identify and offer a suitable alternative employment to the 'at-risk' / displaced employee. Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay.

If no suitable alternative employment is found for the displaced staff, they will be entitled to redundancy payment.

9.3.1 Notice of redundancy and dismissal for Teachers

Dismissal of teachers for the reason of redundancy can only take effect at the end of a school term (i.e., 30th April 31st August and 31st December). As per the [Burgundy Book](#), all teachers are entitled to:

Autumn term (1st September to 31st December) – minimum of two months' notice

Spring term (1st January to 30th April)– minimum of two months' notice

Summer term (1st May to 31st August)– minimum of three months' notice

These are the minimum notice periods a teacher is entitled to and do not replace (unless it is more advantageous than their contractual notice) the statutory entitlement to one weeks' notice pay for each complete year of service (up to a maximum of twelve weeks). For example, a teacher leaving at the end of the autumn term that has four years continuous service would be entitled to the minimum notice requirement of two months. However, if another teacher leaving at the same time had fifteen years' service, they would be entitled to be paid for twelve weeks' notice (their statutory entitlement, which would be more generous).

9.3.2 Notice of redundancy and dismissal for Headteachers

Headteachers should be given a minimum of three months' notice in the autumn and spring terms and a minimum of four months in the summer term, with their last date of service being at the end of the school term as defined in the Burgundy Book.

9.3.3 Notice of redundancy and dismissal of school support staff

School support staff must be issued either their contractual or statutory notice entitlement, whichever is the greater amount up to a maximum entitlement of 12 weeks' notice depending on their length of service.

9.4 Issuing Notice of redundancy

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

9.4.1 Where Oxfordshire County Council is the employer:

The manager or chair of governors must notify Education Personnel Service (EPS) of the need to dismiss the employee, in accordance with the School Staffing (England) Regulations 2009. Education Personnel Service (EPS) 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.

9.4.2 Where the governing body is the employer (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 relevant hearing/meeting with the employee regarding the redundancy 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).

If the decision of the hearing was to dismiss on the grounds of redundancy, notice of redundancy needs to be given to the employee, in accordance with the terms and conditions of their employment and regarding who is the employer of the staff in the school.

9.5 Redundancy costs

Employees with two or more years' continuous service are entitled to be paid a redundancy payment if they are dismissed on the grounds of redundancy. A redundancy payment will be calculated with reference to any relevant continuous service with '[associated employers](#)' as set out in the [Redundancy Payments \(Continuity of Employment in Local Government, etc.\) \(Modification\) Order 1999](#) (the "Modification Order") (see **Appendix 3**). Continuous service will also take account of any relevant transfer of employment under TUPE.

Where an employee has previously received a redundancy payment, continuity of service for the basis of the new payment will discount the previous relevant service.

An employee is ineligible for a redundancy payment if before the end of their employment, they receive an offer of another role with any employer listed in the Modification Order to start immediately or within 4 weeks of the end of their current employment.

The costs of redundancy compensation, including any costs arising from the early release of pension benefits for eligible Local Government Pension Scheme members must be met by the school. Governors need to be mindful of this whilst making decisions and such cost implications should be factored in whilst designing the new structure. The Council's finance team can help maintained schools in managing these costs.

Relevant employers are strongly recommended to obtain an estimate of the costs of redundancy at an early stage.

9.6 Pension implications

9.6.1 For support staff belonging to the Local Government Pension Scheme (LGPS):

Under current LGPS rules, support staff aged 55 or over on the date their employment ends, who are members of LGPS, are entitled to access to their pension benefits if they are dismissed on the grounds of redundancy.

9.6.2 For teaching staff belonging to the Teacher's Pension Scheme (TPS):

Teaching staff aged 55 or over may choose either to access their pension or to defer it, if they are dismissed on the grounds of redundancy. For maintained schools, please contact HR Advice desk at OCC- hradvisedesk@oxfordshire.gov.uk / 03300 240849.

More information on Pensions can be accessed from [Pensions-OCC](#).

9.7 Redundancy payment

A redundancy payment is based on an employee's age, salary and length of employment. For maintained schools, it is calculated in accordance with Oxfordshire County Council's current policy for such payments. This is to pay at actual salary rates for one and a half times the calculation for the statutory number of weeks' pay due.

Statutory redundancy pay rates are based on employee's age and length of service. The legal entitlement is:

- 1.5 weeks' pay for each year of employment after their 41st birthday
- a week's pay for each year of employment after their 22nd birthday
- half a week's pay for each year of employment up to their 22nd birthday

Length of service is capped at 20 years. If an employee was made redundant on or after 6 April 2021, the weekly pay is capped at £544. The capped figure may change subject to legislative changes; hence it is recommended to check the amount from the [Government website](#).

OCC enhance the rates above and pay one and a half times the number of weeks' at:

- 2.25 weeks' pay for each year of employment after their 41st birthday
- 1.5 weeks' pay for each year of employment after their 22nd birthday
- $\frac{3}{4}$ week's pay for each year of employment up to their 22nd birthday

Length of service is capped at 20 years.

This is then multiplied with the number of weeks applicable to the individual by their actual week's pay (the gross amount before tax and national insurance deductions). This provides the lump sum payment due to the individual. Such payments do not include any sum in respect of employer pension contributions.

Redundancy payments under £30,000 are not subject to tax or National Insurance. Tax and National Insurance contributions will be deducted from salary and holiday pay in the usual way.

9.8 Fixed Term Contracts

Any individual with over two years' continuous service has a statutory entitlement to redundancy payment if their fixed term contract ends by reason of redundancy.

Where permanent and fixed term employees are in the same pool for selection for redundancy, they should all be considered together as a group and have selection criteria applied to them in the same way.

9.9 Pregnancy and Maternity / Shared Parental leave / Adoption leave

Employees who are on Shared Parental leave and Adoption leave during restructuring have same protected period rights as those on Maternity leave. During a reorganisation, the Headteacher / delegated authority should ensure staff in-scope that are on any of these leaves or due to go on any of these leaves during the restructuring, are consulted with during the process.

An employee on maternity leave / shared parental leave / adoption leave has a legal right to return to work. If it is not possible (due to reorganisation) for them to return to their current position, they should be offered a comparable or suitable alternative vacant post. Where an employee on maternity leave / shared parental leave / adoption leave may potentially be dismissed on grounds of redundancy the [ACAS guidelines](#) should be referred to for further information and advice should be sought from EPS or HR.

9.10 Lost entitlement to Redundancy payment

An employee who would normally be entitled to a redundancy payment may lose this entitlement where:

- the employee commits an act of gross misconduct (i.e., an offence of a serious nature and/or as defined in the relevant disciplinary procedure) and is dismissed.
- the employee leaves the employment early before the notice has expired and without the employer's agreement and / or resigns.
- is in breach of the Modification Order; or
- unreasonably refuses to accept an offer of suitable alternative employment.

10. Appeals

In restructures where employees are assimilated into or appointed to posts that are the same or deemed to be substantially similar, there will be no right of appeal.

Employees have the right to appeal against selection for redundancy or where the at-risk employee has been offered a suitable alternative employment that they consider as not being suitable. The appeal should be made in writing explaining in detail the reasons for appeal within 10 working days of the date of the written notification of the decision.

Where an at-risk employee does not consider an alternative role offered as suitable, they should explain why in writing. Appeals will be dealt with by a panel of Governors. This panel will be composed of Governors not involved in the original selection for redundancy and should contain no fewer members than were on the original committee. Any appeal panel member must declare any conflict of interest to HR at the onset to be withdrawn from the appeal panel. The appeal panel will be supported by EPS / HR.

The employee must be invited to attend an appeal hearing. The employee must be given a minimum of 10 working days' notice of the hearing and have the right to be accompanied by a Trade union representative or a workplace colleague.

10.1 Outcome of the appeal hearing

The chair of the committee must fully consider all evidence presented and decide on an outcome. The outcome must be confirmed in writing, wherever possible 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.

11. Voluntary redundancy

The purpose of the scheme is to allow staff to express an interest in taking voluntary redundancy where this fits in with the staffing and financial needs of the school.

It is not the council's policy to invite applications for voluntary redundancy across all council services where savings need to be made. This option will only be offered as a last resort where reductions in posts are required.

In maintained schools, where possible, voluntary redundancies should only be considered where an employee cannot be redeployed, as redeployment will avoid the need for the redundancy.

The school may therefore invite applications from staff whose current roles are 'at-risk' before starting the assessment and selection process.

Employees should note that there is no obligation on the Headteacher / delegated authority to approve voluntary redundancy applications as they will need to consider the needs of the school.

The Headteacher / delegated authority will provide a timeline for applications for voluntary redundancy and when they will notify the applicants of the outcome. This should usually be concluded before the assessment and selection process.

Once a voluntary redundancy application is agreed, a suitable leaving date will be agreed, and the employee will still be required to comply with the Modification Order. The employee will lose their right to their redundancy payment if they breach the Modification Order or leave early without prior approval from the Headteacher / delegated authority.

As OCC offers an enhanced redundancy payment, the calculation matrix will be same for both voluntary and compulsory redundancies in maintained schools.

12. Time off to look for other work and training

Staff who are at-risk of redundancy and have not been able to secure suitable alternative employment at the school are entitled to reasonable amount of paid time off to look for another job and/or arrange training to help find another job before their last date of service with OCC / School. Staff must, however, provide as much advance notice to their Headteacher / delegated authority so that appropriate cover can be arranged to ensure work is not adversely impacted. What is deemed reasonable will depend on the role the staff currently performs and is at the discretion of the Headteacher.

13. Support for employees

The school recognises that the redundancy process can be difficult for employees and will seek to support employees throughout the process including providing assistance to find alternative work. Employees will also have access to the school's Employee Assistance Programme including counselling services.

14. Equality Monitoring and accessibility

If any aspect of this procedure causes difficulty on account of any disability that an employee or their companion/representative may have, or if assistance is needed because English is the employee's first language, this should be raised with management or EPS / HR provider.

15. Equality and Diversity Impact measure

This policy has been subject to an Equality Impact Assessment in accordance with the Council's Equality, Diversity and Inclusion Framework and is not considered to unduly impact upon any protected group. The Council will regularly monitor and review the impact of this procedure.

VARIATION OF PROCEDURES

This policy is not contractual, however, changes arising to individual employee's terms and conditions of employment as a result of application of this policy are contractual. The Restructuring and Staff Redundancy Policy and Procedure may be varied by the Council from time to time. Examples of variation include the need to comply with new legislation or best practice guidance. Should the Council decide not to apply the procedure, either in its entirety or in part, that will not amount to a breach of contract.

Changes to the procedure will be made in line with the relevant consultation process with the recognised trade unions and through raising employee awareness.

VERSION CONTROL

This version now supersedes any previous versions.

Date approved and published: October 2021

Date to review policy: August 2023 (unless subject to legislative change)

Date Consulted with recognised Trade Unions: 3rd March 2021.

Appendix 1: Key considerations checklist for restructuring

**Speak to HR / EPS from the Design stage and throughout the process.*

STAGE 1* PURPOSE & DESIGN	<ul style="list-style-type: none"> • Headteacher / delegated authority determines the needs to change and identifies the key drivers for change in discussions with the Governing body. • Identify whether the proposal will be sustainable to meet future demands including financial sustainability. • Run a report on Headcount to identify which roles would be in-scope for change including their grade. • Review current Job Descriptions (JDs) and amend where required to align with future needs. Determine whether roles are significantly changing or not. Look at the role not the staff occupying the role! Identify if the role is currently being overpaid or underpaid. • Prepare 'To-Be' organisation structure and compare with current i.e. 'As-Is'. No named individuals should be identifiable, but the structure should identify whether a post is new; or current. Make sure to show the line management arrangements i.e. which role will line manage the in-scope roles. Include proposed and existing grades. • Identify potential roles that are at-risk of redundancy and discuss with EPS / HR provider on ways to mitigate potential redundancies. • Ensure you are aware of the cost implications and discuss with EFS / Finance on budget and headcount cost implications. This includes costs for new roles, upgrading JDs, potential redundancy costs including pensions, pay protection costs, agency cover costs as well as any potential savings being made. • Consider possible assessment and selection processes bearing in mind on redundancy mitigation (if any) • Review Equality and Inclusion impact with EPS / HR. • Consider how will you engage with staff in-scope and union representatives during consultation including staff that are not directly in-scope of this restructuring. Think about how you will communicate with external stakeholders including parents / guardians of children. • Are there any staff in-scope who are on long term sickness, maternity leave or career break? If yes, speak to HR and think how you will communicate and engage with them during the consultation. • Consider how you will support staff during consultation, transition and implementation phase. Think about implications of transiting to new structure and how you will implement the new structure. • Plan your timelines and leave scope for any unplanned delays. Ensure you update staff in-scope regularly on any changes in timelines including in writing explaining reasons. <p>All the above should be included in the consultation paper including benefits of proposed change, considerations of risks and how do you intend to mitigate those risks.</p>	Think about Timelines and Communication Plan
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<p style="text-align: center;">STAGE 2* PREPARATION</p>	<ul style="list-style-type: none"> • Headteacher / delegated authority prepares ‘Proposed Organisational Change – Report to Governing Body / Consultation paper’ and sends to EPS / HR for final review. Once HR /EPS reviews, the Headteacher presents the Consultation paper to the Governing Body for their approval. • Headteacher / delegated authority should simultaneously submit new JDs and any significantly amended JDs for job evaluation (if applicable) to OCC HR. Please ensure you allow enough timeline to factor in Job Evaluations before agreeing a start date of consultation. Your Consultation paper should include current and proposed JDs as appendices. • Headteacher / delegated authority should discuss and agree a communication and engagement plan with EPS / HR and schedule Union and Staff consultation meetings in advance to ensure staff & union reps have reasonable time to engage in the process. • Headteacher / delegated authority sends ‘Proposed Organisational Change – Report to Governing Body’ along with proposed timescales, structure charts and any new job description/person specifications to staff and recognised trade unions in preparation for formal consultation. 	<p style="text-align: center;">Schedule Consultation meetings in a timely manner</p>
<p style="text-align: center;">STAGE 3* CONSULTATION</p>	<ul style="list-style-type: none"> • Headteacher / delegated authority presents proposals at formal consultation meeting with staff and recognised trade unions. • Headteacher / delegated authority offers opportunity for staff (with union/colleague support) to meet for individual 1 to 1 meeting. Such meetings should be set up in advance on a regular basis during the consultation and any staff in-scope who is on any form of long-term leave or sickness absence should be contacted to be given an opportunity to engage in the process. • Where redundancies are envisaged, headteacher / delegated authority continues exploring options to avoid/ minimise redundancies such as exploring suitable alternative roles within the school or canvassing across maintained schools. • Headteacher / delegated authority collates feedback, reviews the proposal if necessary and prepares responses to feedback to staff in-scope and union reps ensuring they are regularly updated on next steps. • Headteacher / delegated authority should ensure to update the governing body of any changes proposed as a result of staff / trade union feedback and once approved, communicate to staff in-scope and trade union during consultation. This will ensure that the consultation is meaningful. • If redundancies are proposed, ensure trade union representatives are invited to relevant part of governing body meeting in order to make any representations before final proposals are ratified. • Staff in-scope and their recognised trade union representative should be communicated with the final responses and any amendments to the original proposal. • Consultation should close once no further collective issues arise. • Staff should be communicated of proposed assessment and selection process and timelines, giving due considerations to those on sick leave, maternity leave or those that require any reasonable adjustments. 	<p style="text-align: center;">Have a meaningful consultation</p>
<p style="text-align: center;">STAGE 4* APPROVAL</p>	<ul style="list-style-type: none"> • Governing Body considers feedback against proposals. • (If redundancies proposed) governing body to consider any final representations from trade union representatives. • Governing Body approves final proposals. • Headteacher / delegated authority notifies staff and trade union representatives of outcome of governing body meeting in writing. 	<p style="text-align: center;">Keep staff well informed</p>



<p style="text-align: center;">STAGE 5* ASSESSMENT & SELECTION</p>	<p>Once consultation closes, initiate assessment and selection process to appoint to proposed new structure as per consultation and ratified proposals. Have an 'assessment and selection panel' wash-up session with HR / EPS to ensure the process has been fair and transparent. No staff should be confirmed in post before any appeal / potential dismissal due to redundancy has been concluded.</p> <ul style="list-style-type: none"> • Voluntary redundancies should only be considered where staff's current role is at risk of redundancy. OCC does not encourage voluntary redundancy applications, However, staff in-scope should they be at risk of redundancy, may put themselves forward for voluntary redundancy should they wish to. • An application for voluntary redundancy is not guaranteed to be agreed, however reasons should be given as to why you have rejected their request (for example- you would like to retain that staff member because they are highly skilled and experienced). Make sure you are treating all staff equally and in a fair manner. Speak to HR where in doubt. • Equally if a staff-in-scope has expressed an interest in seeking Voluntary redundancy, the employer must not impose or indicate in any manner that the staff should now take voluntary redundancy. • If you are considering applications for voluntary redundancy, make sure you communicate the outcome within the agreed timelines to all staff in-scope during a set timeframe, and do not delay the process. If voluntary redundancy application is approved by the Governing Body, that staff member will not be eligible to proceed to the assessment and selection process and will not be able to withdraw their voluntary redundancy request. • The Headteacher / delegated authority must outline to the staff from the onset of the restructuring process, about the modification order. Staff are advised to read the modification order information carefully. Modification order information is in Appendix 3. • If staff in-scope do not engage in the assessment and selection process without valid reasons or do not accept a suitable alternative employment without outlining the reasons for declining the offer as to why they deem it unsuitable, they may not be eligible for redundancy payments. • If staff in-scope resign during the consultation process, they may lose their redundancy payment entitlement if eligible. 	<p style="text-align: center;">Any decisions made must be communicated in writing to staff</p>
<p style="text-align: center;">STAGE 5* OUTCOME OF ASSESSMENT & SELECTION</p>	<ul style="list-style-type: none"> • Headteachers / delegated authority confirms provisional outcome to staff (subject to any appeals) - if applicable cover trial periods and right of appeal. • If any appeals are received, make the necessary arrangements for the appeal to be heard (see appeal process) • Hear the appeal, provide outcome to appeal to staff and then provide confirmation outcome to all staff once appeal has been concluded. • Identify total staff who are now at risk of redundancy and compare with vacancies. Initiate ring-fencing process or suitable alternative employment search for staff. • Commence the redeployment support process with staff identified as being at risk of redundancy. The redeployment process is an ongoing process which can run in parallel with an individual's notice period. • Consider any development and training needs of staff in new structure and puts development plan in place. • It is recommended that the headteacher undertake a review of the new structure with staff within first term of it being in place so that any concerns/issues can be addressed. • Once all staff are confirmed into posts and appeals process concluded, the school should carry an E&I impact assessment post restructuring and present to the governing board. 	<p style="text-align: center;">Be fair and consistent in selection</p>



Dismissal hearing:

- Governing body panel hears case for dismissal for reasons of redundancy following School Model Dismissal & Appeal Procedure
- If upheld, employee issued with notice of redundancy (confirmed in writing)
- Employee given right of appeal.
- Where redundancy is unavoidable, the school will seek to handle the redundancy fairly, consistently and sympathetically.

Appeal hearing:

- Employees have the right to appeal against selection for redundancy and should do so as soon as possible and within 10 working days of receiving the formal notification of the decision. Appeals against redundancy will be dealt with by a panel of Governors. This panel will be composed of Governors not involved in the original selection for redundancy and should contain no fewer members than were on the original committee.

The management should recognise that overall change and the redundancy process can be difficult for employees in-scope and should seek to support employees throughout the process including providing assistance to find suitable alternative employment. Employees should be informed of the wellbeing support and have access to the school's Employee Assistance Programme including counselling services.

Appendix 2: Proposed Organisational Change report / Consultation paper template guidance

The 'Proposed Organisational Change – Report to Governing Body' document (see below) has been developed to provide Headteachers / delegated authority with a standard template to capture the relevant information required to initiate organisational change process and consultation. As advised previously in this policy and guidance document, the school leadership team / Headteacher must involve HR / EPS from the onset of restructuring discussions to ensure the process is compliant with policy and legal requirements.

The purpose of this template is to ensure that all organisational change proposals are detailed, thorough and will be discussed with our recognised trade union colleagues and staff in-scope of the proposed change. The school should demonstrate that they have undertaken all possible action to mitigate against potential redundancies and have effectively communicated and engaged with staff in-scope during the entire restructuring process.

Consultation Paper headings / sections	Guidance note for headings / sections- What should you include?
Section 1 – OVERVIEW OF PROPOSED CHANGE	
Comprehensive overview of the context/current situation and the reasons why organisational change is necessary.	<p><i>This section should provide a summary about why the proposed change / restructuring is necessary and its context: This should include:</i></p> <ul style="list-style-type: none"> - Overview / Introduction / school context - Vision / mission - How will the strategic priorities of the school will be achieved as a result of change? - Why is restructuring required? Why do we have to change i.e. purpose and reason for change? - Details of changes proposed reasons and rationale - Any risks and mitigation options of those risks - Expected benefits - Proposed implementation date - Schedule governor meetings for ratification - Proposed timelines of each activity during the change process
Section 2 - BUDGET	
Summary of relevant budgetary information	<p><i>This section should provide a summary of the key financial information which has contributed to these proposals/options being put forward.</i></p> <p><i>Examples of budget pressures to be given e.g. falling pupil roll, reduction in funding / grant withdrawn.</i></p> <p><i>Consider whether the school is in deficit situation, if not in deficit, what would the school budget look like if structure is not implemented including any ear marked funds, any measures / savings from other areas of the school budget considered by the school.</i></p> <p><i>Give detail of any savings to be sought from elsewhere in the budget if relevant</i></p>



	<i>Headcount costs including overview of any potential redundancies (including pension) cost implications.</i>
Section 3 – ORGANISATIONAL STRUCTURE	
<p>Details of any proposed new organisational chart/s. Include current structure as well so staff can understand what is changing from current structure and how does that impact their role.</p>	<p><i>If there is a proposed impact on the organisation structure – the school needs to provide details of the proposed new structure/s under consideration and its impact on roles, numbers etc.</i></p> <p><i>Current structure and the revised structure proposals would need to be shared; with structure charts attached to document to show what is changing.</i></p> <p><i>Highlight which roles are new, significantly changed, or remain unchanged and cease to exist in the new structure so that staff can see what is changing from current structure.</i></p>
Section 4 - POTENTIAL OPTIONS	
<p>Summary of the potential options/proposals under consideration and their expected impact on the school, and potential impacts on other areas within the school.</p>	<p><i>This section should provide details on the range of options/proposals that have been considered, and the expected impact of the proposal on all aspects of the school that the change may affect. Include potential risks and how you intend to mitigate these risks. Indicate preferred option if any and why is it a preferred option.</i></p>
Section 5 – STAFFING IMPACT AND REDUNDANCY SELECTION CRITERIA	
<p>Details of roles identified for potential redundancy and summaries why these roles are at risk:</p> <p>Number and categories of employees who are expected to be affected – (including status, and any impact arising on work done by agency, supply teachers, casuals).</p> <p>Total number of staff in each category</p>	<p><i>This section should provide a summary of the potential impact on the staffing profile and provide details of the roles potentially at risk of redundancy and a summary of why these roles are at risk (if any).</i></p> <p><i>Details of roles that will be deleted, amended and created should be outlined, along with indicative Grades. Explain staffing implications i.e. what it means for staff in-scope.</i></p> <p><i>Proposed JDs and Current JDs should be appended to this document.</i></p> <p><i>In addition, details should be given of the proposed redundancy pool and selection criteria being proposed and details of timescales for agreement of selection criteria.</i></p>
Section 6 – MITIGATING ACTION	
<p>The school should clarify the proactive measures that have been taken or are being considered to ensure that every effort is being made to avoid redundancies. The list below highlights the measures that have been considered but is not exhaustive.</p> <ul style="list-style-type: none"> - recruitment activity (freeze) - agency/temp usage - use of overtime 	<p><i>This section should provide a summary of the potential impact the proposals/options may have on the staffing profile and the proactive measures which are being proposed or have been considered to avoid compulsory redundancies.</i></p>



<ul style="list-style-type: none"> - natural wastage expected (retirement/vacancies) - flexible working - consider the ending of any fixed term contracts 	
<p>Section 7 – EQUALITIES IMPACT ASSESSMENT (EqIA)</p>	
<p>There is a requirement for an impact assessment to be submitted with this document.</p>	<p><i>The service will need to provide evidence that a formal equalities impact assessment (EqIA) has been completed to ensure that prior consideration has been given to determine whether the proposals have a disproportionate effect on either gender, black and ethnic minority staff, staff with disabilities and staff of different ages.</i></p> <p><i>The school to consider the impact of the restructure proposals, and share any data regarding staffing profiles, e.g. number of known disabled employees in school, age, gender ethnicity profile, and so on.</i></p> <p><i>The school will ensure that the restructure will be managed in a fair and consistent manner, in line with equality legislation. The school will ensure that any selection process will not disadvantage any minority groups. Equal access will be given regarding any voluntary solutions. The school will ensure that the restructure does not have any direct or indirect discriminatory impact or unconscious bias towards any staff in-scope.</i></p>
<p>Section 8 – CONSULTATION AND KEY CONTACTS</p>	
<p>Set out commencement and conclusion of any statutory consultation period.</p> <p>Highlight how you propose to communicate with staff during consultation.</p> <p>Highlight support available to staff during the entire process including key contacts.</p>	<p><i>This should include –</i></p> <ul style="list-style-type: none"> - <i>proposed communications and timeline</i> - <i>attach any proposed communication plans for staff, unions, wider audience and other stakeholders</i> - <i>any relevant policies/procedures and information on:</i> - <i>how can staff feedback during consultation and to whom?</i> - <i>Employee support through EAP etc.</i> - <i>contact details of union colleagues</i> - <i>when will staff be notified of any 121 meetings</i>
<p>Section 9- KEY HR INFORMATION FOR STAFF</p>	
<p>Include information around appeal process, redundancy process, pay protection, staff on long term sickness, maternity leave, changes to terms and conditions of employment (if applicable). Seek advice from EPS / HR for this section.</p>	<p><i>This section should include information that you think will be relevant for staff in-scope. Include information around reasonable adjustments, flexible working, pay protection, suitable alternative employment, redundancy information, trials, Changes to working hours, leaves etc.</i></p>

Appendix 3- Modification Order Guidance

The purpose of this appendix section is to provide information for schools about the [Redundancy Payments \(Continuity of Employment in Local Government, etc\) \(Modification\) Order 1999](#) (also known as “the Modification Order”).

Q1. What is a modification order and how does the legislation impact schools?

The Employment Rights Act 1996 (ERA) gives an employee the right to count employment service with an 'associated employer' towards the service requirement for a redundancy payment.

Local authorities are not associated employers under the definition in the ERA. However, the effect of the Modification Order is to make local authorities associated employers for the purposes of redundancy. All academies and free schools are covered by the modification order.

If an employee has *at least two years of continuous employment* at the relevant date, they will qualify for a redundancy payment, the effect of the Modification Order is that continuous service with bodies named in the Order will also count. The Modification Order modifies the redundancy provisions in the ERA so that continuous employment with bodies named on the Modification Order are included for the purposes of calculating redundancy payments.

Q2. How is redundancy calculated in line with the modification order?

A redundancy payment must be calculated on the basis of the period of continuous employment. A change of employer normally breaks continuity of employment (unless a transfer of an undertaking (TUPE) has taken place or the two employers are associated organisations as outlined in the modification order.

Q3. What happens if the employee is offered a new job by another organisation / body outlined in the Modification order?

The Government has agreed that continuous employment with all local authorities and similar bodies (as stated in the modification order) shall count in working out the length of the employee's service for any redundancy payment due to them. This means that if an employee is under notice of redundancy with the school and then agrees to take up a job offer before their last day of service, with another local authority (or one of the associated employers listed in the modification order) and start their new job before the beginning of the fifth week following the last day of service, the employee is treated as not having been dismissed by reason of redundancy and therefore, will not be entitled to the redundancy payment due on leaving OCC, unless the authority agrees that it is not deemed to be other suitable alternative employment.

If the employee doesn't start working for their new job until after the 5 weeks have passed or the job offer is received after the last day of service and the employee does not start the new job within the 5 weeks of their last date of service, then the redundancy dismissal stands and the employee may retain their redundancy payment (subject to Public Sector Exit Pay Recovery rules when they come into force).

It is therefore a good idea, before the school makes the redundancy payment or arranges for the modification order to be signed, to ask the employee if they been offered another job with a Modification Order body and, if so, whether they intend to start their new job within 5 weeks of the last date of service from their current job.

If the employee breaches the modification order agreement, they will be required to pay back the redundancy payment made by their previous employer if such payment was already made to them.

Q4. If an employee does take a new job with a new employer, does this affect their unfair dismissal rights?

If an employee starts a new job with a new employer within 5 weeks of their last day of service, the dismissal is only removed for the purposes of assessing whether there is an entitlement to a redundancy payment. There is no effect on the employee's unfair dismissal rights and an employee can still claim unfair dismissal in relation to the redundancy (provided they are eligible to do so).

Q5. Does continuous service accrued under the Modification Order apply to other benefits e.g. annual leave and sick pay entitlements?

Continuous service with bodies on the Modification Order counts only for the purposes of redundancy.

Q6. Where can I find more information about the modification order?

If you have further questions about the modification order, you may contact 03300 240 849 or click on the link given at the beginning of this appendix.

Q7. Where can I find a list of organisations / bodies to which the modification order applies?

You may find the list of organisations / bodies under the modification order [here](#). Alternatively, you will be provided with this information when you arrange to sign the modification order.

Q8. I have informed my current employer that I have been offered a new job with another school that is part of an academy trust and I need to start my new job in 4 weeks' time, however I have not yet been issued the notice of redundancy. I would like to leave my current job immediately so that I do not breach the modification order and receive my redundancy payment. What should I do?

If you would like to take up the new job offer, it is your decision whether you would like to leave sooner to start your new job. Speak to your new employer to see if they can agree to delay your start date. If you would like to receive the redundancy payment, you will have to comply with the process of the restructuring / redundancy including adherence to the timelines and modification order with your current employer. If you breach the modification order, you will not be entitled to redundancy payment. The school will need to take a consistent and fair approach in issuing notice of redundancy / dismissal to any staff who are being made redundant on priority and cannot be partial towards one staff and issue them notice of redundancy earlier, just so they can start a new job and receive redundancy payment as well. You cannot force your current employer (i.e., school leadership team) to dismiss you early just so you can receive your redundancy payment. In such situations, you are encouraged to seek legal advice or speak to your trade union representative.