



Interim procedure for the determination of staff who cease to work at a school/college (School Redundancy Procedure)

For staff based in City Schools/Colleges and other establishments including centrally based teachers)

Human Resources
Education and Children's Services
Last reviewed: December 2016

Although this document refers to the Headteacher, it also applies to the Principal / Line Manager / governors as appropriate. Where there is reference to teacher in this document amendments will be required if the school decides to apply this policy to other staff.

LEICESTER CITY COUNCIL

Procedure for the determination of Staff who should cease to work at a School or College

1. Introduction

- 1.1. This policy should be read in conjunction with other relevant policies such as the schools restructuring policy and redeployment procedure where appropriate and supersedes all procedures previously circulated.
- 1.2. If a School or College is considering the necessity of reducing its establishment level it should contact Human Resources (HR) as soon as possible so that arrangements can be made for the Strategic Director of Children's Services or his/her representative to attend all proceedings of the Governing Body relating to the determination of staff who should cease to work at a School or College. The Director or his/her representative is entitled to attend all meetings for the purpose of providing advice.
- 1.3. This procedure may lead to compulsory redundancy, which is defined by the Employment Rights Act 1996 as a dismissal attributable wholly or mainly to:-
 - a) the employer ceasing, or intending to cease, to carry on the business for the purposes of which the employee was employed, or ceasing, or intending to cease, to carry on that business in the place where the employee was so employed,or
 - b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.
- 1.4. In (a) above, 'business' includes a trade or profession and includes any activity carried on by a body of persons, and cease/diminish means cease/diminish either permanently or temporarily and from whatever cause.
- 1.5. Before moving to this procedure, full consideration should be given to other methods to reduce the staffing establishment level including:-
 - i) Restricting external recruitment
 - ii) Natural wastage
 - iii) Voluntary redeployment (this can only be effective if there is sufficient time for it to operate). Please refer to the appropriate schools redeployment policy
 - iv) Consider offering the opportunity of job sharing
 - v) Changes in contractual hours taking into account curriculum demands

2. Consultation

- 2.1. The stages in the procedure are such to enable meaningful consultation to take place at the earliest opportunity between those responsible for employment, recognised Trade Unions (“collective consultation”) and individual staff (“individual consultation”). For consultation to be meaningful views of affected staff and Trade Unions recognised for the employees affected must be considered and reasons provided if they are rejected. If the report to the initial Governors’ meeting identifies that a particular post(s) should be deleted, consultation must take place with individuals prior to the report being agreed.
- 2.2. Where a redundancy situation arises as a result of fixed term contracts ending at the expiry of the fixed term, only individual consultation will take place unless it is proposed that 20 or more employees are to be made redundant within a period of 90 days or less.
- 2.3. All meetings during the consultation process held under this procedure will be arranged during term time and will be held within the school working day.
- 2.4. ***Collective Consultation***
- 2.4.1. Collective consultation in respect of potential redundancies must commence:
- at least 30 days before the first dismissal takes effect if 20 to 99 employees are to be made redundant over a period of 90 days or less.
 - at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant over a period of 90 days or less.
- 2.4.2. Where fewer than 20 redundancies are proposed the school will consult the appropriate trade unions on those proposals for a period which is proportionate and ensures that meaningful consultation takes place.
- 2.5. ***Individual Consultation***
- 2.5.1. Individual consultation should commence as soon as practicable after collective consultation has begun.

3. Procedure

- 3.1 The Governing Body meet to identify action to be taken:
- a) To agree the necessity of staff reduction having considered all alternative options - e.g. other budget savings.
 - b) To consider the type of work that is diminishing and which employees conduct this particular work (“selection pool”). This will occur where there is a proposed reduction in the number of employees undertaking work of a particular kind, to determine which employees are to be retained and those who will be placed at risk of redundancy. It will not, however, always be necessary to follow a selection process, for example where there is a cessation of work of a particular kind in which case all employees carrying out that work will be at risk of redundancy.
 - c) To agree a timetable from which an Action Plan can be formulated.
 - d) To identify fair and objective redundancy selection criteria (see below).

- e) To delegate the Staffing Sub-Committee full responsibility to agree and apply the final selection criteria to effect staff reductions. Membership must be no less than three Governors.

N.B. The meetings are time consuming and all members must be present for the whole meeting. Members of staff who are also Governors will need to consider whether membership of either the Staffing Sub-Committee or appeals panel is appropriate.

- f) To appoint an appeals panel, membership of which must not include Governors on the Staffing Sub-Committee and must not be less than the membership of the Staffing Sub-Committee.
- g) To agree the procedure to be followed.

3.3. Voluntary Redundancy

3.3.1. The school will seek volunteers to be considered for redundancy to avoid compulsory redundancies where possible once other alternatives to compulsory redundancy have been considered. For those members of staff over the age of 55 years and with qualifying superannuable service, this would include the early release of pension.

3.3.2. All requests for voluntary redundancy will be considered on a case by case basis and will only be approved subject to the school's future needs. Selection between volunteers will be necessary if there are too many volunteers, using fair and objective criteria.

3.3.3. In considering individual volunteers and/or compulsory redundancy, the following criteria may be appropriate:-

- Cessation of temporary contracts (where less than two years).
- Planned future curriculum and organisation of the School/College.
- Length of service
- Degree of involvement of the staff concerned with areas of work which are declining or have declined.
- Maximisation of savings.

3.3.4. The curriculum needs can best be matched to individuals via appropriate selection tools.

3.3.5. Following the Governors' meeting formal consultation with the appropriate trade unions under Section 188 of the Trade Union and Labour Relations Act 1992 will be undertaken by the Governors of the School/College.

3.4. **Section 188 Notice (Section 188 of the Trade Union and Labour Relations Act 1992)**

3.4.1. The 188 notice must be written and issued by the Head Teacher/Principal to trade unions recognised for the employees affected setting out details of the proposals, including information required under this Act.

3.4.2. A copy of the 188 Notice must be forwarded to the School/College's HR Adviser.

3.5. **Collective Consultation - Meeting with Trade Unions**

- 3.5.1. At least five working days' notice of the collective consultation meeting is required.
- 3.5.2. The Head Teacher/Principal to arrange in writing to meet with the recognised Trade Union representatives, to inform them of the proposals including the redundancy selection criteria, to invite comment and to inform them of the deadline for the end of the consultation period.
- 3.5.3. Information about the reason/s for the proposed reduction in staffing should also be provided. It is advisable to provide as much information as possible to the Trade Unions.

3.6. **Individual Consultation - Meeting with Staff**

- 3.6.1. At least five working days' notice of the meeting is required. This notice can run concurrently with the notice of collective consultation meeting with Trade Unions.
- 3.6.2. Head Teacher/Principal to meet with all staff involved and inform them of the proposals for reduction including any suggested redundancy selection criteria and to invite comment.
- 3.6.3. Head Teacher/Principal to inform staff of the deadline for the end of the consultation period. A follow-up individual consultation meeting can be arranged, if requested, during this period with individuals at which they can be invited to propose alternatives and comment on the proposals. A minimum of 10 working days should be given. In exceptional circumstances a shorter period can be agreed. It may be advisable to speak to the representative of the Director about any deviation from the 10 working day period.
- 3.6.4. It would be useful to have a representative from the school's HR provider at the collective and individual consultation meetings.

3.7. **Meeting of Governors' Staffing Sub-Committee**

- 3.7.1. The purpose of the meeting is:-
 - a) To consider comments from Trade Unions/staff
 - b) To agree final redundancy selection criteria
 - c) To consider voluntary redundancy requests
 - d) If necessary, move to identify staff most likely to be nominated
- 3.7.2. The final criteria must be published to School/College staff and the appropriate Trade Union representatives and Secretaries if they have been involved in the consultation process.

3.8. **Meeting of Head Teacher/Principal and member of staff whom it is proposed to determine should cease to work at the School or College**

- 3.8.1. Inform the member of staff concerned orally and in writing, how the application of the criteria relates to them including issuing the notice of dismissal. The period of notice will be in accordance with entitlement under either the Employment Rights Act 1996 or the Conditions of Service appropriate to the member of staff, whichever is the greater.

- 3.8.2. Inform the member of staff whom the Staffing Sub-Committee proposed to determine should cease to work at the School /College, orally and in writing, that they have the right of appeal and that they may be accompanied by a Trade Union representative/work colleague at the meeting.
- 3.8.3 The Strategic Director of Children's Services should be informed and the member of staff concerned will be given redeployment status without prejudice to the outcome of any later appeal. The name and details of the member of staff given redeployment status will be included in the appropriate redeployment procedure by the representative of the school's HR provider.
- 3.8.4 The member of Staff concerned then has two working days from the receipt of the written confirmation to lodge notification of an appeal in writing with the Head Teacher/Principal.

3.9. **Meeting of Appeals Panel**

- 3.9.1. Where notification of appeal is received, the appeals panel will be called to meet at least five working days after the Staffing Sub-Committee decision was confirmed to the member of staff concerned in writing. The member of staff concerned may be accompanied by a Trade Union representative/work colleague and has the right to appear and present reasons why the decision for selection for redundancy should be overturned.
- 3.9.2. The appeals panel will either confirm the committee's decision or uphold the appeal.
- 3.9.3. The member of staff concerned should be told of the outcome of the appeal at the conclusion of the hearing and this should be confirmed in writing. A member of the Staffing Sub-Committee, preferably the Chair of the panel, must be available to give evidence to the appeals panel.
- 3.9.4. All relevant documentation should be made available to the members of the appeals panel.
- 3.9.5 The most appropriate procedure to use at the appeal stage will involve:-
- i) Introductions.
 - ii) Presentation by member of staff or representative.
 - iii) Question of the member of staff or representative by:-
 - a) Management representative
 - b) The panel
 - iv) Management presentation. This should include the reason for the contraction and information about the procedure followed including a copy of the notes relating to the criteria for nomination for the employee making the appeal.
 - v) Questions of Management representative by:-
 - a) The member of staff or representative
 - b) The panel
 - vi) Final statement by member of staff or representative (no new issues raised).
 - vii) Final statement by management (no new issues raised).

- viii) Both sides withdraw.
- ix) Appeals panel makes decision.
- x) Both management representative(s) and member of staff/representative return and are informed of the Appeals Panel's decision.

3.10. **Confirmation of Appeals Panel Decision**

3.10.1. This should be sent in writing to the employee immediately following the panel's decision being made known.

3.11. **Notification to the Strategic Director of Children's Services**

3.11.1. The Head Teacher/Principal should notify the Director of the determination in writing within three working days of the appeal panel hearing the appeal.

3.12. **Confirmation of Dismissal**

3.12.1. The Director will arrange for correspondence confirming the decision for dismissal to be issued to the member of staff within 14 days after the notification is secured from the Governing Body.