



ELAN Redundancy Policy and Procedure

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ELAN REDUNDANCY POLICY AND PROCEDURE

1. STATEMENT OF INTENT

- 1.1 Extend Learning Academies Network (ELAN) is committed to ensure as far as possible the security of employment for its staff through careful forward planning. It is recognised however that there may be situations when it is necessary to reduce staffing for example in response to falling pupil numbers, budget reductions, organisational or curriculum changes.

2. SCOPE AND DEFINITIONS

- 2.1 This policy applies to all staff employed by the trust.
- 2.2 A redundancy is a dismissal and is defined in section 139 (1) of the Employment Rights Act 1996 where the dismissal is wholly or mainly attributable to:
- the fact that the employer has ceased or intends to cease to carry on the business for the purposes of which the employee was employed, or
 - the fact that the employer has ceased or intends to cease to carry on that business in the place where the employee was so employed, or
 - the fact that the requirements of that business for an employee to carry out work of a particular kind, or in the place where the employee was employed by the employer, has ceased or diminished or are expected to cease or diminish.
- 2.3 If none of the above apply, the reason for dismissal is not redundancy.

3. LEGAL FRAMEWORK

- 3.1 This policy has due regard to all relevant legislation and guidance including, but not limited to, the following:
- The Data Protection Act 2018
 - The UK General Data Protection Regulation (UK GDPR)
 - The Freedom of Information Act 2000
 - The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
 - Equality Act 2010
 - Employment Rights Act 1996
 - Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.
 - Redundancy Payments (Continuity of Employment in Local Government, etc. (Modification) Order 1999).
- 3.2 **This policy operates in conjunction with the following trust policies:**
- Data Protection Policy

- Disciplinary Policy and Procedure
- Complaints Policy

4. MEASURES TO AVOID OR MINIMISE REDUNDANCIES

- 4.1 ELAN will ensure that all reasonable alternatives to redundancy are considered. Staff and Trade Unions will be consulted on measures that might be taken to avoid or reduce redundancies or to mitigate the consequences and will be provided with the opportunity to offer possible solutions.
- 4.2 Alternatives might include:
- Introducing a freeze on recruitment
 - Banning or reducing overtime
 - Normal resignations/natural attrition
 - Redeploying staff to other Trust schools or departments
 - Ceasing or reducing the use of supply / casual / agency workers
 - Examining options for retraining and redeployment
 - Variations in employees' hours (including flexible working requests) or responsibilities by agreement
 - Making savings in other budget areas
 - Considering voluntary redundancies

5. HIDDEN COSTS FOR EARLY RETIREMENT IN REDUNDANCY SITUATIONS

- 5.1 If a member of the LGPS aged 55 or over loses their job on the grounds of voluntary or compulsory redundancy or business efficiency, their unreduced benefits are payable immediately on termination of contract. This can result in a shortfall in the pension funding and this shortfall is also known as the hidden, capital or **pension strain cost**.
- 5.2 This is a pension liability cost which will fall to the Academy/School not the employee.
- 5.3 Please note employees with less than 2 years' reckonable pension service with the LGPS will not be entitled to pension benefits but will have their contributions refunded and therefore no pension strain cost will apply.
- 5.4 Pension strain costs occur when there is a clear shortfall in the assumed level of funding needed to provide a particular pension benefit. This occurs when a member draws their benefits a lot earlier than expected. For example, if normal retirement age is 65 and it is anticipated that a member will live until 90 years old the member will receive a pension for 25 years. If an employee retires at the age of 55 the pension will need to be paid for 35 years thus leaving a pension contribution shortfall of 10 years. The Academy/School will be expected to pay the strain cost associated with this shortfall.
- 5.5 Strain costs are produced automatically by our HR team when a redundancy estimate is requested for support staff over the age of 55 and this will enable the Academy/School to make an informed decision as to whether the cost is affordable.

- 5.6 The strain cost can be paid as a one-off lump sum or the Academy/School have the option of paying the amount over a period of 3 years, however, interest will be charged for this option.

6. THE CONSULTATION PROCESS

- 6.1 ELAN are required by the Trade Union Labour Relations (Consolidation) Act 1992 (as amended by various subsequent regulations (TURLCA)) to inform and consult with 'appropriate representatives' of any employees who may be affected, where it is proposed to dismiss at least 20 employees at any 'one establishment' within a period of 90 days or less (see Appendix A). The Trust and Schools are committed to ensuring meaningful consultation. The objective of consultation will be to seek the views of staff and Trade Unions on proposals and to avoid, reduce or mitigate the impact of compulsory redundancies.
- 6.2 Consultation will be initiated with relevant Trade Unions and staff directly affected by the proposals at the earliest opportunity. As part of the consultation process at least two meetings will be offered to individuals identified as at risk of redundancy. Consultation will also include staff indirectly affected, for example, staff being required to take on additional work and managers whose spans of control will be increased or reduced if the proposed redundancies take effect.
- 6.3 Where fewer than 20 redundancies are proposed we are not required by statute to follow this collective consultation process. However, to show the importance of good industrial relations within ELAN, we are committed to ensuring that the relevant Trade Unions are consulted, as soon as possible and at least 5 working days prior to individual consultations with all affected employees, and that affected employees are advised to contact their unions at the start of their involvement in the consultation process.
- 6.4 **Consultation Timescales**
To reach an agreement on a revised structure, the Trust will seek to complete the consultation process within the statutory consultation requirements, preferably in the shortest time frame possible.

Stage one – preparing workforce change proposals and starting consultation

The headteacher (with the Head of HR, Chief Financial Officer and the Chair of Governors support) will draw up a written business case for workforce changes, which includes detailed information on the proposals for consultation such as:

- A draft business rationale, project plan, and timeline for executing the changes.
- An equality impact assessment (EIA) systematically assessing the actual or likely effects of our activities on people with the nine protected characteristics defined in the Equality Act 2010.
- Draft proposals for the procedure which include:
 - The justification for the changes

- A brief outline of the proposed job profiles including up-to-date job descriptions
- Current and proposed staffing structures with confirmation of staffing costs and other relevant financial information on request.

The following information will also be prepared:

- A document highlighting the key differences in structure and staffing
- A list of employees potentially affected including agency staff, temporary, fixed-term, secondments, maternity leave, long-term sick leave etc.
- A list of trade unions to be consulted
- Any proposed selection criteria that will be used in the process

If Headteacher and/or Central team redundancies are being proposed, the above will be compiled by the CEO (with the Head of HR, Chief Financial Officer and the Chair of Trustees support).

Trade unions will be invited to a consultation meeting by letter with a minimum of five working days' notice. Proposals will be presented to the relevant trade unions in an initial consultation meeting.

No new posts should be advertised until the collective consultation is complete

Notes during the meeting will be produced, agreed and signed. The notes will accurately reflect the discussion and give reasons for any proposals, including acceptances and rejections of any counter proposals.

To give trade unions a better understanding during the consultation process, comments will be considered and responded to during the rationale for initial proposals. Proposals or counter proposals will be considered as they may contribute to shaping the proposed new organisational structure.

If the trade unions produce alternative proposals, a considered response will be presented to them at the earliest opportunity that highlights where there may be potential for settlement and where the original proposal may be modified and any consequences that this may have. Where the alternative proposals are not seen to be viable or practical, the response will outline the matters and state the consequences of adopting them.

A timescale for the consultation process will be prepared and meetings will be scheduled on a weekly basis. Feedback mechanisms from the trade unions to management and, where possible, from the employees directly themselves will be agreed. If it is deemed appropriate to receive feedback outside of the formal consultation meetings, this will be discussed and confirmed at the next formal meeting.

A staff meeting will be arranged as soon as possible after the Trade Union consultation meeting to enable the proposals to be presented to employees. The relevant Trade Union representatives will attend and distribute the proposal documents and explain the proposals in detail. This should identify positions only, not employees. Throughout the process, the Trust will ensure that absent

employees are fully informed of and consulted about developments and a record should be kept of information.

Employees are made aware that they can stay behind at the end of staff meetings and speak to their Trade Union representatives should they wish to do so.

Stage two – subsequent consultation meetings

Feedback from Trade Union representatives and employees is collected, summarised where appropriate, and includes any alternatives that have been suggested. Feedback will then be discussed and explored with the Trade Union representatives.

The Trust will be prepared to consider alternative suggestions and make changes to the proposals in response to the feedback, if necessary. Some changes may be able to be agreed at this meeting, others may need to be considered further and fed back at a later meeting.

Consultation will also include ways of avoiding redundancy dismissals, reducing the numbers of employees to be dismissed and mitigating the consequences of the dismissals. This will be balanced against the need to meet the objectives of the proposed changes but if the objectives can be achieved by an alternative method, proper consideration will be given to such counter proposals.

It will be confirmed with the trade unions of any outstanding issues that need to be resolved in order to reach an agreement and the timescales for resolution.

Stage three – final consultation meeting

Feedback on any revisions to the proposals will be discussed and explored. A detailed explanation of the consequences of adopting any alternative proposals will be provided where it has not been possible to include them.

The Trust and the trade unions will seek to discuss and resolve any issues in a positive way in order to move the proposals forward.

If all matters have been resolved as far as possible, the agreement will be confirmed.

Seeking agreement

The purpose of the consultation process is to reach agreement between the Trust and the trade unions, wherever possible, on the new structure. Both the Trust and the trade unions will seek to resolve any differences in a constructive and positive way; this may involve both sides making compromises in order to move forward.

Employment legislation does not require that an agreement must be reached with the trade unions; however, the Trust will consult in good faith and in good time with a view to reaching agreement where possible.

Following a thorough consultation process and attempts to resolve any differences where it has not been possible to reach an agreement, the Trust may

need to take an independent decision that the final structure, list of staff affected, and the selection criteria proposals should be implemented.

Stage four – assimilation procedure

The purpose of the assimilation procedure is to provide a fair, transparent and efficient process for placing existing staff into the new school structure, and identifying any displaced staff for redeployment and possible redundancy, should redeployment elsewhere in the school or within another school in the Trust not be possible.

Both the Trust and trade unions have a responsibility to ensure that the procedure is applied in a fair, transparent and open manner and the headteacher (with HR support) will formulate the school's assimilation proposals.

Employees on temporary, fixed-term contracts or secondment arrangements should have advice obtained from HR to ensure that any assimilation rights are determined correctly.

7. EMPLOYEE SUPPORT AND ASSISTANCE

- 7.1 The Trust will support reasonable time off, in line with statutory entitlements, to staff under notice of redundancy to enable them to seek alternative work or undertake training for future employment.
- 7.2 The Trust recognises the potential anxiety that staff face in such situations and will do everything reasonably possible to support them. Support offered may include the following areas, and will utilise internal and external expertise as appropriate:
- Information on pensions and other benefits
 - Access to the Trust's Employee Assistance provider
 - Information on redundancy entitlements
 - Assistance with applications / interviews etc.
 - Training guidance and support

8. NOTICE PERIODS

- 8.1 Notice of dismissal will only be issued when consultation has taken place.

Notice periods are set out below:

Staff Group	Notice Period (contractual)
Headteachers	30 September for dismissal on 31 December (3 months) 31 January for dismissal on 30 April (3 months) 30 April for dismissal on 31 August (4 months)
Teaching staff	31 October for dismissal on 31 December (2 months) 28 / 29 February for dismissal on 30 April (2 months) 31 May for dismissal on 31 August (3 months) N.B Teachers who have been continuously employed for more than 8 years are entitled to receive additional notice up to a maximum of 12 weeks when their dismissal date is 31 December or 30 April

Support staff	As stated in individual contracts (not bound by term dates) and not less than statutory notice, up to a maximum of 12 weeks.
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9. ALTERNATIVE EMPLOYMENT

- 9.1 The Trust will make genuine efforts to ascertain whether there are any suitable alternative employment opportunities which could be offered to staff selected for potential redundancy (this is a statutory requirement). Further details on Alternative Employment are set out in **Appendix B**.

10. IMPLEMENTATION

10.1 Voluntary Solutions

- 9.1.1 Where the Trust have received expressions of interest, it will ensure that relevant information is provided to enable individuals to make an informed decision e.g. estimate of redundancy payment / pension benefits or revised salary if considering a voluntary reduction in hours. Where the Trust are supportive of the voluntary measure the individual will be invited to put their request in writing. The headteacher will then provide written confirmation that the request has been approved / effective date. Note: there may be occasions where a request is declined on the grounds of cost. Voluntary redundancies are subject to discrimination law and ELAN will monitor its redundancy processes to ensure that we do not unlawfully discriminate in respect of offers of voluntary redundancy.

10.2 Compulsory Redundancies

- 9.2.1 Where compulsory redundancies are being considered the following information will be provided in writing to the Trade Unions:
- Numbers and job titles of staff it is proposed to dismiss as redundant
 - The way in which staff will be selected for redundancy, including details of selection criteria and ring-fencing arrangements, where applicable.
- 9.2.2 Consultation with Trade Unions and staff at risk of redundancy will be undertaken, if this has not previously happened. The purpose of this will be to explain and give Trade Unions and staff the opportunity to respond to the Trust's: Proposed approach towards implementation; and the selection criteria and why they have been chosen.
- 9.2.3 Using the classification of posts outlined in **Appendix C**, those staff identified as being at risk of redundancy and from whom the selection for redundancy will be made, will receive written notification that they are 'at risk' and of the arrangements for selection.

9.3 Ring-fencing

- 9.3.1 Ring-fencing is the grouping of employees who have not been automatically matched to a new position or to available vacancies within the new structure. Arrangements for 'ring-fencing' will take account of:
- Post(s) in the new structure which include areas of work that the employee is responsible for (the similarity / difference between the current and the new job description and whether or not the differences are significant / relate to key elements).

- The existing grade of the employee and the grade of the new post (however if an employee meets the essential criteria for a higher graded post and a post at an equal grade is not available to them, they will be eligible for ring fencing for the higher graded post).

9.4 Redundancy Selection Criteria

9.4.1 The selection criteria may take account of:

- Operational requirements to meet the School's/Trust's current and future needs (School Improvement Plan)
- Maintaining a balanced workforce in terms of skills mix to meet the requirements of the school/Trust
- Current job proficiency evidenced through skills, training, performance and experience
- Attendance records, including reasons for absence or poor timekeeping. Note Absence will be disregarded if it relates to Disability / Pregnancy / Maternity or other family-friendly leave and/or Work related industrial injuries
- Disciplinary records (only current warnings will be taken into account)
- Adaptability and suitability for retraining within a reasonable period

9.4.2 The selection will typically involve a competitive process, i.e. selection interview, lesson observation, work based assessment and/or the completion of a skills audit with individuals identified as 'at risk' completing a skills audit form and being assessed against the redundancy selection criteria.

10. INDIVIDUAL CONSULTATION

10.1 In accordance with legal requirements, the Trust will enter into meaningful consultation with each individual selected for potential redundancy. The purpose of this consultation will be to provide the opportunity for a two way dialogue with the objective of finding ways of avoiding the dismissal if at all possible e.g. reduction in hours, job sharing, suitable alternative employment. See **Appendix E** for a suggested template.

The purpose of this meeting will be to:

- Reiterate the reasons for the redundancy
- Explain the process followed so far
- Explain why the individual has been selected according to the selection criteria and is at risk of redundancy (checking facts and assumptions made are correct and being prepared to adjust the scores according to representations made). The employee does not have a right to be shown everyone else's scores although they need to see sufficient information to know that the system has been fairly applied to them. This information will be given at least 24 hours before any consultation meeting with the employee.
- Discuss alternative employment and whether the individual has ideas on how to avoid the redundancy
- Confirm likely timescales and whether they be asked to work out their notice or will be paid in lieu of working out their notice
- Explain any financial package on offer; and

- Explain any support, such as outplacement, that is on offer.
- 10.2 The employee will be entitled to be accompanied at any individual consultation meeting by their Trade Union representative or a work colleague.
 - 10.3 The Trust will consider any representations made by the employee before finalising a decision regarding the employee's proposed redundancy. A written statement will be provided to the employee confirming the decision. Where the decision is dismissal on the grounds of redundancy, written notice will be issued along with notification of the reasons why the employee has been selected for redundancy and their entitlement to appeal against their dismissal.
 - 10.4 The employee does not have to attend this consultation meeting where they accept their proposed redundancy and do not wish to make any representations.
 - 10.5 Indicative or conditional offers will be made where appropriate, based on the outcome of the selection process. These offers will be confirmed when the appeals process has been concluded.
 - 10.6 Employees who are to be affected by the proposed changes and are absent from work must also be consulted. E.g. employees on long term sickness absence; maternity leave; adoption leave; parental leave; paternity leave; secondment. There will be due regard to the individual circumstances in considering how best to communicate with absent employees. Special arrangements also apply to those on maternity leave, to ensure that they are not disadvantaged by their absence. Any potential risk for redundancy should be notified and the opportunity for first choice in a similar role should be prioritised accordingly.

11. FORMAL NOTIFICATION OF REDUNDANCY

- 11.1 At the end of the consultation period, employees whose job is to be declared redundant will be informed at a meeting that they will be issued with their notice of redundancy, the period of notice to which they are entitled (or payment in lieu of notice), details of any redundancy payment together with the timescales for doing this and their right to appeal to a more senior manager who has not already been involved in the process. Employees will also be informed of what support facilities will be available. This will be confirmed in writing and issued to the employee, usually at the conclusion of the relevant meeting.
- 11.2 Once an employee has been issued with a dismissal notice, they have the right to reasonable time off with pay to look for new work or to undergo training for future employment and the Trust will not unreasonably refuse such a request. The entitlement to such pay throughout the notice period is capped at two fifths of one week's actual pay.
- 11.3 To ensure this is consistently applied:
 - The relevant manager should agree time off in advance.
 - At least 24 hours' notice should be given.
 - A letter confirming the appointment or training, as far as possible, should be provided to support the request for time off.

- HR advice to be taken where necessary.

12. APPEALS

- 12.1 All employees have the right of appeal against a decision of dismissal on the grounds of redundancy. The appeal must be in writing to the Head teacher within 10 working days of the date of the letter confirming the decision. An appeal will be considered by a more senior manager who has not already been involved in the process.
- 12.2 The appeal must include specific details of the reasons why the employee considers that they should not be selected for redundancy.
- 12.3 Following the end of the appeals process, indicative appointments will be confirmed, if appropriate.

13. REDUNDANCY PAY

- 13.1 The Employment Rights Act 1996 provides that an employee must have more than two years' continuous service with the same employer, or a previous eligible employer, in order to qualify for a redundancy payment.
- 13.2 Redundancy compensation is based on an employee's actual weekly wage.
- 13.3 The payment is calculated on the basis of an employee's age, length of service (taking into account all previous service within the same Local Authority (LA), through either a TUPE transfer or for new employees with no break (see note below), Redundancy Modification body or academy service, will count towards calculating redundancy payments in line with the ERA 1996 and the Redundancy Payments (Continuity of Employment in Local Government, etc.(Modification) Order 1999) and weekly pay (subject to a weekly maximum, set at £700 from April 2024 for support staff). Note – for qualified teachers ELAN will make the discretionary exemption from the cap on salary as recommended under The Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 & 2015 and per Annex B of The Burgundy Book.

Note - A break in service of more than 1 week (i.e. from Sunday to Saturday) between contracts will normally constitute a break in service. Where an employee is under notice of redundancy and they receive and accept a job offer, before leaving, from an organisation that is included within the Modification Order, there will be no entitlement to redundancy where the new employment starts within 4 weeks of the end date of their previous employment.

- 13.4 For all employees, the formula in line with statutory redundancy, is currently:
 - One and a half weeks' pay for each complete year of service after reaching the age of 41
 - One week's pay for each complete year of service between the ages of 22 and 40 inclusive; and

- Half a week's pay for each complete year of service under the age of 22.

- 13.5 ELAN will pay the above redundancy pay or greater if on TUPE protected contractual terms.
- 13.6 A maximum of 20 years will be taken into account when calculating a statutory redundancy payment. If employees have more than 20 years' service, the earlier years are ignored.
- 13.7 Statutory redundancy payments are exempt from tax and national insurance up to £30,000. However, care needs to be taken, if someone is retiring, to ensure that HMRC do not deem the payments to be unapproved retirement benefits, which are taxable.

14. EARLY RETIREMENT

- 14.1 Where employees have requested to take early retirement in response to a redundancy exercise, the academy will consider all such requests made. This is discretionary and is not automatic although ELAN is supportive of this option as a viable option to avoid or reduce the number of compulsory redundancies.

15. SETTLEMENT AGREEMENTS

- 15.1 The Trust recognises that there may be circumstances in which an employee does not want to go through the redundancy process and may wish the Trust to consider a request for ending the employment relationship through a Settlement Agreement. Any such requests would need to be in writing to the Trust HR department and will be considered by the Chief Executive Officer (CEO), Head of HR and Trust Board, should any proposed settlement exceed Trust delegations or limits set out in the Academies Handbook (Should any settlement value exceed Academies Handbook limits, the board would seek approval from the ESFA in line with requirement and process as laid out in the current handbook).

16. SURVIVOR SYNDROME

- 16.1 Survivor syndrome is experienced by 'survivors' of the redundancy programme. Survivor syndrome includes feelings of guilt, job insecurity, fear and anger towards the Trust for being put them in this position. Others experience a feeling of relief that they have kept their jobs. High levels of mistrust are often experienced between colleagues, but also towards the organisation as a whole.
- 16.2 ELAN is committed to helping to minimise survivor syndrome firstly by ensuring a fair and transparent redundancy process and by treating any exiting employees with respect. Then by working with the senior leaders and line managers to help to re-build trust and engagement within the team. This will start with allowing the team to talk openly and honestly about the process and providing emotional support as needed.

APPENDICES

APPENDIX A - COLLECTIVE REDUNDANCY AND CONSULTATION

Where fewer than 20 redundancies are proposed we are not required by statute to follow this collective consultation process. However, to show the importance of good industrial relations within ELAN, we are committed to ensuring that the relevant Trade Unions are consulted prior to individual consultations with all affected employees.

Where it is proposed to dismiss 20 or more employees within a period of 90 days in one establishment the following additional legal requirements will be accounted for within the redundancy process:

1. Statutory notification of redundancies to the redundancy Payments Service (RPS)

The Trust will notify the Redundancy Payments Service (RPS), acting on behalf of the Secretary of State for Business, Energy & Industrial Strategy, using the appropriate form (HR1) [Redundancy payments: Form HR1 - advance notification of redundancies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/forms/redundancy-payments-form-hr1-advance-notification-of-redundancies) of the proposed redundancies before the consultation starts and in accordance with the following timescales:

Number of Proposed Redundancies	When notification to the RPS must be given
20-99	30 days before the first redundancy
100 +	45 days before the first redundancy

The '20 or more employees at one establishment' rule has been the subject of lengthy litigation and various courts and tribunals have grappled with the meaning of 'establishment' in a collective consultancy context. There is no definition of 'establishment' into the UK legislation. Due to the challenge of defining 'one establishment' ELAN will take a cautious approach to collectively consult when/if we have 20 or more redundancies being proposed across all of our individual schools.

2. Collective consultation

Trade Union representatives or elected employee representatives or staff (where no representatives) will be consulted. The following information will be provided on the planned redundancies:-

Information to be provided to Trade Unions / Employee representatives / Staff
The reasons for the redundancies
The numbers and categories of employees involved
The numbers of employees in each category
How the Trust plans to select employees for redundancy
How the Trust will carry out the redundancies
Details of redundancy payment entitlement

The minimum statutory consultation periods are:

Number of proposed redundancies	Minimum consultation period before dismissal
20 to 99	30 days
100 +	45 days

The Trust will respond to any requests for further information

APPENDIX B - ARRANGEMENTS FOR ALTERNATIVE EMPLOYMENT

If a post anywhere in the Trust becomes vacant during a restructuring, the Trust will, in the light of any anticipated redundancies and with appropriate consultation, consider whether it should be (i) held vacant or (ii) filled on a temporary basis. This will depend on whether it would offer a redeployment opportunity in the shorter or longer term or provide an alternative budget saving.

Staff who have been advised that their jobs are at risk of redundancy will be given priority consideration for suitable redeployment opportunities during the individual consultation or notice period as follows:

- Where suitable posts are advertised, staff at risk will be given prior consideration i.e. will be interviewed before other applicants if they meet the essential job requirements. ELAN would not expect redundancies to be made when there are suitable alternative posts within the Trust that the 'at risk' staff are prepared to fill.
- Factors taken into account when considering whether to afford an at risk employee a priority interview will include: skills and qualifications, experience, and their potential including training requirements.
- Priority will not normally be afforded for posts more than two grades below the employee's current post, as this would not normally constitute suitable alternative employment. Staff applying for a higher graded post will not normally be afforded priority if they do not meet the essential requirements of the post.
- If an employee at risk of redundancy has been unsuccessful, they will be provided with a written statement setting out the reasons why they were not successful. In all cases, every reasonable attempt will be made to redeploy individuals and to provide relevant training and support in order that they can successfully fill the role.
- Any offers of redeployment will be made in writing before the date employment ceases. Offers will also contain details of the 4 week trial period, as set out in s.138 of the Employment Rights Act 1996 to give the employee and the Trust a chance to consider whether the new job is suitable without the employee necessarily losing the right to a redundancy payment. The trial period may be extended by mutual agreement or for the purposes of an agreed programme of retraining.
- If the employee works beyond the end of the four week period the employee will be deemed to have accepted the new employment (unless agreed otherwise), notice of termination will be withdrawn (where this has been issued) and they will be issued with a contract of employment in connection with their new role. Any entitlement to a redundancy payment will be lost.
- If during the trial period the work is considered not to be suitable by the employee, and the Trust agrees that this is the case, and a decision is taken to terminate employment, the employee will be dismissed for redundancy under the terms and conditions of their old post.
- Where an employee unreasonably refuses an offer of suitable alternative employment they will lose their entitlement to a redundancy payment.
- The same will apply in the event that the employee, having taken up the offer of the suitable alternative role, then resigns before the end of the trial period.
- Employees who are on maternity, paternity, adoption or shared parental leave will be given preference over other employees in the search for suitable alternative vacancies.

- Where there is more than one suitable applicant for a vacancy, ELAN reserves the right to introduce a selection process akin to those used in a normal recruitment process, to allow for fair selection of the most suitable applicant.

APPENDIX C - CLASSIFICATION OF POSTS ON NEW STAFFING STRUCTURE

Employees' assimilation rights are determined by inspecting the following factors:

- Evaluation of the duties and responsibilities of each post in the new structure compared to those in their current fundamental post, as defined in the relevant job description
- Current level within the relevant part of the Trust
- Applicable experience, skills and competencies

The Trust will present the school's/Trust's assimilation proposals at the update meeting and allow Trade Union representatives to offer comments and questions to help understanding of the proposals.

To apply the assimilation procedure effectively, the following information will be shared with the Trade Union representatives at the update meeting:

- The finalised structure
- A template list with details of all current employees with current job titles, levels, contract status, location and assimilation consideration
- A list of employees who have communicated interest in voluntary redundancy, reduction in hours or other voluntary options
- Job descriptions and personnel specifications for jobs in the old structure, and draft job descriptions and personnel specifications for jobs in the new structure
- Acting up and temporary arrangements

The evaluation of duties and responsibilities of each post in the new structure should be compared with existing substantive posts, and should be based upon many duties and responsibilities listed in the new job description being the same as those in the employee's existing fundamental post.

All posts will be assigned an assimilation category of A, B, C or D.

It is necessary to establish the level at which an employee works, this is to preserve the employee's status, where possible, and to ensure fairness in the assimilation procedure. An employee's level within the organisation should be considered in relation to factors such as their job level and their reporting relationship.

An employee may be given the same level in the new structure as the level they work at in the old structure. An employee may be assimilated at a level below their current level, but this will only occur if it fairly displaces an employee who works at that lower level.

Where an employee cannot be assimilated at the current level, or to the level below, and there are no category C opportunities to apply for, the employee is displaced and will be considered for redeployment elsewhere in the school/Trust. Where a level-by-level approach is not necessary, or appropriate, an alternative approach can be determined through consultation between management and Trade Union representatives, according to the circumstances.

Where a job function is being split into two or more elements, and the job function has staff already in place, the current post holders will be consulted as to their preferred post.

Assimilation category definitions:

Category A

The post is considered to be **directly similar in tasks, duties and responsibilities to the post in the previous structure**. The grade and reporting relationship may be different, but the employee can be identified as being available for integration.

The member of staff merely needs to be assimilated to the new structure. Where there are more members of staff available for assimilation than category A posts in the new structure and all such members of staff are considered suitable then a limited competition selection procedure will apply.

An employee assigned with category A assimilation rights to a post in the new structure cannot have any other automatic assimilation rights to other posts within the organisational structure, unless the category A assimilated posts are oversubscribed. At which time those category A assimilated staff, that are unsuccessful in the category A limited competition selection process, will be reclassified within the process.

Category B

The post is considered to be **broadly similar in tasks, duties and responsibilities to the post in the previous structure, though the grade and reporting relationship may be different**. There may be one or more members of staff who can be identified as being available for assimilation to this post. The course of action is to integrate the member of staff whose current key tasks, duties and responsibilities are most similar to the new job.

Employees assigned with category B integration rights to a post in the new structure cannot have any other automatic assimilation rights to other posts within the organisation structure, unless posts are oversubscribed. At this time, those category B assimilated staff that are unsuccessful in the category B limited competition selection process will be reclassified within the process.

If there are still posts available once the selection process has completed, or there are no category B assimilations with the same grade, an employee with a higher grade will be considered for a category B post.

Category C

The **post has now changed in emphasis by task, duty, responsibility or level from the previous structure**. Where the new post represents a significant change in duties and responsibilities, a limited competition selection process to assess suitability of the potential new post holder may be necessary. Consultation with the headteacher, HR and the trade unions must take place to consider an appropriate selection process.

The course of action is as follows:

- Where only one staff member is recognised as being appropriate on the basis of their key task, duties and responsibilities of a former post, they can be assimilated directly
- Where more than one staff member can be identified as carrying out part of the duties and responsibilities, then limited competition selection should take place and particular staff members are identified as available for selection
- Where no members of staff are available, this post becomes open to other members of staff elsewhere

Category D

The post has been created to reflect a new direction or function within the school and as such, these posts have been generated to reflect **an entirely new route or role**.

The course of action is as follows:

- Internal advertising indicating the key requirements of the post
- Every possible consideration to be given to those members of staff who are affected from elsewhere within the school/Trust with suitable experience, qualifications and abilities
- A selection procedure will be undertaken

Employee notification of assimilation definitions and right of appeal against the assimilation category

Employees will be notified of their proposed assimilation rights following the assimilation process. They will be informed of their right of appeal against the assimilation category they have been allocated, which should set out the reasons for the appeal within five working days of notification of their assimilation rights. Appeal hearings will be arranged as soon as possible.

Notification of assimilation decisions

When assimilation categories have been assigned, and any relevant appeal hearings completed, the following will then take place:

Direct assimilations - Employees who have directly been assimilated into a post in the new structure will be informed and will receive a start date in writing.

Selection processes - Where this is required to assimilate employees into a post, it will be put in place as soon as possible. This will normally be undertaken by a limited competition selection interview which must be relevant and appropriate to the post, but there may be situations where other selection processes may be more appropriate.

The use of a redundancy selection matrix will be considered (see **Appendix D** for an example), but will depend on whether the new job is similar to the existing job and whether there are significant numbers available. It is not fitting where the job or the skills required have been changed. If the use of a matrix is being considered, prior consultation will take place first with HR and the trade unions. The process of those

staff affected completing a redundancy selection matrix should, where possible, will be built into the process from the start.

A matrix could be used as a means of identifying who will be dismissed if having undertaken the consultation previously outlined, there is still a need to consider redundancy.

The Trust is required to consult with recognised trade unions, Teacher Associations and worker representatives on proposed selection criteria before determining and setting them. The selection matrix must be objective, reasonable and fair.

The matrix will not be discriminatory, particularly in relation to these circumstances:

- Gender, race, disability, marital status.
- Trade Union reasons.

Once the employee is displaced:

- They will not be able to accept their previous duties and alternate duties should be allocated to the employee.
- Practical requests for time to carry out job searches, applications and interviews should be allowed.
- If they wish to forgo their notice period, they should give the decision plenty of consideration, and have a response submitted in writing highlighting that there will not be any payment in lieu of notice.
- Meetings should be scheduled in to keep the displaced employee up-to-date with any relevant developments during the notice period.

PAY PROTECTION

Pay protection will apply where as a result of the managing change there is a difference in the grade of the role.

Pay protection will not apply where there is a decrease in hours / weeks worked per year when the current salary will be adjusted accordingly.

Pay protection of the employee's current salary will be for a period of up two years for support staff and three years for qualified teachers per the School Teachers' Pay and Conditions document (September 2024).

APPEALS AGAINST NOT BEING APPOINTED TO A ROLE

An employee can appeal against not being appointed to a role.

To exercise the right to appeal the employee must notify the Head of HR in writing within 5 days of being notified of non-assimilation.

When lodging an appeal, the employee should state the grounds and brief reasons for the appeal based on the assimilation criteria in Section 16 of this procedure, supported by the appropriate job profile.

Appeal hearings will take place as soon as reasonably possible upon receipt of the employee's notification of appeal. The employee will be given at least 5 clear working days' written notice of the date, time and location of the appeal hearing and the opportunity, if they so wish, to be accompanied by a Trades Union representative or work based colleague.

The Appeal Hearing will be conducted by an appropriate senior manager who has not been involved in the process to date.

The procedure to be followed at an appeal will be as follows:

- The employee who is appealing will be invited to present their case for appeal.
- The headteacher will present the background and reasons for non-assimilation.
- Appeal manager will ask questions of the headteacher and the employee who has appealed.
- The Appeal panel manager will review the evidence and come to a decision.
- In some circumstances, it may be necessary to delay the decision whilst further investigations are completed. In these situations, the appeal hearing will be reconvened and a decision confirmed orally at the conclusion of the reconvened hearing.
- All decisions will be confirmed in writing within 5 working days of the appeal hearing.
- The decision of the Appeal Manager is final.

APPENDIX D – Example Redundancy selection matrix

Name of employee:		
Date:		
Assessor:		
Assessor:		
Redundancy selection matrix		
Selection criteria	Scoring (please indicate by marking a circle with 10 being the highest score and 0 being the lowest)	Evidence/supporting comments
Performance	0 (does not meet criteria) 1 (below expectation) 2 (inconsistent performance) 3 (meets expected criteria) 4 (exceeds expected criteria) 5 (role model performance)	
Skills, competencies and qualifications	0 (does not meet criteria) 1 (below expectation) 2 (meets some but not all criteria) 3 (meets expected criteria) 4 (exceeds expected criteria) 5 (role model)	
Disciplinary record	0 (current live formal disciplinary warning on file) 1 (no live formal disciplinary warning on file)	
Attendance record	0 (currently hitting ELAN 'Absence Triggers' but not due to Disability / Pregnancy / Maternity or other family-friendly leave and/or work related industrial injuries reason) 1 (not hitting any absence triggers or absence levels due to above exceptions)	
Relevant work experience	0 (does not meet criteria) 1 (limited experience) 2 (some experience) 3 (meets expected criteria) 4 (exceeds expected criteria) 5 (role model)	
Any additional comments:		
Total score (out of 17):		

APPENDIX E – Example of a Template/Record of one to one redundancy consultation meeting

Employee name:	
Job title:	
Date of consultation meeting:	
Chair of the meeting:	

Tick list of key points for discussion

Have you discussed the following?	Discussed (X)
Explained the reasons why redundancies are being considered and affected staff are at risk of redundancy	
Made suggestions for any potential other options i.e. short term working/lay-offs and voluntary redundancies	
Explained the selection criteria and outlined how this will be applied during the first consultation meeting	
Asked the employee if they have any suggestions they would like the Company to consider during selection	
Explained the later redundancy procedure and outlined the timescales	
Explained whether the employee has or hasn't been selected for redundancy during the second consultation meeting	
Discussed suitable alternative roles and whether the employee is interested in any available roles	
Confirmed the end date of the selected employee's employment and confirmed the length of notice period during the second consultation meeting	
Explained the right of appeal, the process to raise an appeal, the notice period requirements and any rights to time off	
Explained the Company support that is available to the employee during this period	

Additional notes:

Note.

Minimum consultation requirements:

If between 20 and 99 employees are proposed to be made redundant then consultation must start at least 30 days before any dismissal take effect.

If 100 or more employees are proposed to be made redundant then the consultation must start at least 45 days before any dismissal take effect.