



Endeavour Multi Academy Trust

REDUNDANCY AND REORGANISATION POLICY

Policy Statement

The Endeavour Multi Academy Trust is an employer who abides by all legislation relating to consultation and dismissal of staff.

The trust is committed to:

- providing a staffing structure which supports the needs of all within defined financial parameters
- safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff to share this commitment
- the principles of equal opportunities in the deployment and selection of staff and promotes fair treatment

Who the Policy Covers

This policy applies to all employees with the trust.

Any reference to "the trust" refers to The Endeavour Multi Academy Trust.

The Endeavour Multi Academy Trust commends the principles set out in this policy for adoption by the local governing body to apply to the recruitment of school staff.

Purpose

The purpose of this policy is to set out a fair and consistent process by which the trust will conduct its workforce planning and the reduction of staffing levels, as required. The trust is committed to ensuring, as far as is reasonably possible, a secure and stable working environment through the retention of individuals who have the right motivation, skill and experience to make a positive contribution to the trust's success and the delivery of high quality education. The trust will endeavour to maintain the efficiency and effectiveness of service provision in order to safeguard the current and future employment of its employees.

The trust is committed to achieving this through:

- giving careful consideration to the required skills, available finance, educational requirements and organisational development necessary to deliver consistently high standards of education
- the application of consistent and fair procedures in accordance with good practice and equal opportunities
- adhering to the employment legislation and guidance in relation to restructuring and redundancy

Scope

This procedure applies to all employees including temporary, fixed term staff, casual staff and apprentices regardless of length of service. This procedure does not form part of your contract of employment and may be varied from time to time.

Responsibilities

The appropriate level of authority will be determined according to the organisation's scheme of delegation.

It is the responsibility of the Trust Board to determine the staffing structure of the trust with advice provided by the CEO.

It is for the local governing committee (LGC) to determine the selection of individuals for displacement within each school with advice and support provided by the Headteacher and/or CEO.

It is the responsibility of each Headteacher to determine appointments to the school except for the post of CEO and Headteacher, which will be the responsibility of the trust board. The Headteacher may determine the dismissal of all other posts with advice and support from the CEO and LGC.

The LGC for each school will set up appropriate committees to consider restructuring and where necessary, redundancies including the appointment of an LGC Appeal Committee for dismissals of post holders in all but the posts of CEO and Headteachers in school.

Decisions relating to employees reporting directly to Trust Board will be the responsibility of a Selection Committee and separate Appeal Committee appointed by the Trust Board.

As the employer, the Trust Board may appoint a representative of the Trust Board to be present at any stage of the process.

Accountabilities

The Trust Board is accountable for ensuring that this process is carried out fairly and consistently and that any managers involved in any aspect of it have the appropriate training and skills to do so.

All employees have a responsibility to be aware of and conduct themselves in line with the trust's policies, the law and maintain acceptable standards of conduct and behaviour. Where relevant, employees must adhere to codes of practice or standards associated with their profession, trade or occupation. Employees should engage positively in consultation processes, providing constructive feedback and be sensitive to employees whose employment may be at risk. Employees who are at risk of redundancy are reminded that they are bound by all trust policies and procedures until their employment ends and should maintain professional standards of behaviour and comply with confidentiality clauses after their employment ends.

Guiding Principles

The following guiding principles will apply:

Equitable and Fair – We are committed to equality and diversity and will make reasonable adjustments to the application of this policy and procedure in line with our equal opportunities commitment.

Consistent and Objective – All managers have a duty to ensure that they and all of

the employees they are responsible for are aware of, and comply with, the trust's policies and procedures. Managers responsible for conducting processes under this policy should do so objectively, consistently and fairly with robust rationale for all decisions.

Lawful - The organisation will comply with the legislative framework relating to redundancy and ensure relevant parties are informed and consulted providing sufficient time for meaningful discussion and response.

Link with Other Policies and Procedures

Grievance Policy – There may be occasions when an employee wishes to use the Trust's Grievance Policy in connection with actions taken under this Redundancy Policy. This shall not lead to any automatic delay or pause in the conduct of any matters under this Redundancy Policy.

Managing Attendance at Work Policy - Where an employee is absent due to sickness whilst a redundancy matter is pending, the managing attendance at work procedure will apply as normal. The process will continue in your absence and as appropriate advice will be sought from Occupational Health to assess an employee's fitness to participate in formal meetings. Being absent from work due to sickness will not stop the redundancy matter progressing.

Redundancy Definition

Employees who have at least 2 years continuous service with any local authority or employer covered by the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 (as amended) are entitled to a redundancy payment. If an employee unreasonably rejects an offer of suitable alternative employment they will forfeit their right to a redundancy payment. A redundancy payment will not be paid where, before the end of their employment, the redundant employee receives an offer of employment with a local authority or with a Modification Order employer and accepts and starts the new job within 4 weeks of the date of the redundancy.

The Employment Rights Act 1996 defines a redundancy situation as one where the Employer has:

- (a) ceased, or intends to cease to carry on the business for the purposes of which the employee was employed, either generally or at the place where the employee was employed; or
- (b) the requirements of the business for employees to carry out work of a particular kind, either generally or at the place where the employee was employed, have ceased or diminished or are expected to cease or diminish.

Under section 197 of the Employment Rights Act 1996, the non-renewal of a fixed term contract is a dismissal in law. Therefore, employees with over 2 years' service whose fixed-term contract is not renewed may be entitled to a redundancy payment.

Advice should also be sought in regard to any longstanding casual contracts.

Consultation

Each stage of any school reorganisation/redundancy must involve appropriate trade union and collective/individual consultation and be explicit about the impact on, and implications for, employees.

The Legislation

The Information and Consultation of Employees Regulations 2004:

These Regulations give all employees the right to be informed and consulted about matters that affect their employment and the organisation they work for. These include reductions in staffing levels and substantial changes in work organisation or contractual changes.

The Court of Appeal ruled that 'fair consultation' means:

- consultation when the proposals are still at a formative stage
- adequate information on which to respond
- adequate time in which to respond and
- conscientious consideration by an authority of a response to consultation

Where the trust is contemplating making changes to its employee establishment that may lead to a redundancy situation, there should be meaningful consultation on any proposals with individual employees affected by the proposal and with the appropriate recognised trade unions. Consultation will involve considering ways of:

- avoiding proposed redundancies
- reducing the numbers to be made redundant
- mitigating the consequences of any redundancies
- undertaking selection
- developing any ring-fencing arrangements

Consultation, must begin 'in good time' and in any event:

- a) Consultation will be meaningful regardless of the number of employees affected.
- b) Consultation must begin at least **30 calendar days**, before the first dismissal takes effect where the employer is proposing to make redundant 20 to 99 employees within a period of 90 days or less.
- c) Consultation must begin at least **45 calendar days**, before the first dismissal takes effect where the employer is proposing to make redundant 100 or more employees within a period of 90 days or less.

Consultation must be completed before issuing redundancy notices to employees. Effective consultation does not compromise the trust's ability to manage or make challenging decisions. However, consultation means that the trust must consider the views of the employees before reaching any final decisions. Employees and trade union representatives must have the right to respond to any consultation, with appropriate mechanisms in place for their concerns.

Process

There are number of steps in consulting and implementing the change process. These are set out in the following sections:

Preparing the Business Case

This document will form the basis of any consultation discussions and the document must contain all the relevant information to ensure the trust meets the statutory requirements. The trust has a statutory responsibility under Section 188 of the Trade Union and Labour Relations (Consultation) Act 1992 (known as TULCRA) to disclose prescribed information to appropriate representatives. The business case must include the following information:

- the reasons for the proposed redundancy - this should include the rationale for change and the staffing implications, together with relevant financial and curriculum information
- the total number of employees affected by the proposals, including a pre- and post-restructure organisation chart with names, grades and job titles
- the number and description of roles at risk and therefore employees who may be made redundant (either voluntary or compulsory)
- job descriptions (old & new, where appropriate)
- proposed method of selection for redundancy
- proposed method of how the redundancies will be carried out including the period over which redundancies are to take effect. A timetable of activity should be included
- proposed method of calculating redundancy pay
- the number of agency workers working for the school and the type of work they are doing.

TULCRA further requires the trust to notify the Insolvency Service, within the Redundancy Payments Service (RPS), if it proposes to make 20 or more workers redundant at one establishment over a period of 90 days or less. The notification to the Secretary of State (via an HR1 form) must be received by RPS before redundancy notices are issued and at least 30 or 90 days before the first termination date. Timescales will depend upon the number of employees involved (Appendix 1 – Business Case and Timeline Template).

Appointing Committees

The LGC will appoint two separate committees (including a Chair for each) in advance of the process as follows:

- a selection committee to consider a staffing structure and identify staff for displacement
- an appeals committee to consider any appeals

The Selection Committee must consist of at least three members of the LGC and the appeals committee must have at least as many members as the Selection Committee. No committee member may be a member of both committees and there should be no discussion between members of the two committees about any decisions under consideration. There should also be no discussion with any other individuals apart from other members of the selection or appeals committee.

The Headteacher or other nominated senior member of staff in school can provide evidence and information to each committee in an 'expert advisor' capacity. The Headteacher may be present at both committees and make a contribution to the process, but is not part of the decision making.

It could be unethical for staff representatives of an LGC to be appointed as a member of either committee. Committee members should also consider whether it is appropriate to appoint parent representatives to either committee. The LGC may appoint a member of a committee from the LGC of another school in the trust. As the employer the Trust Board has an entitlement to send a representative to all proceedings relating to dismissals.

Either committee may be supported by a HR or other appropriate professional adviser. Such an adviser has no decision making powers.

Present Proposal to the Trust Board for Ratification of Draft Structure

Members of the Trust Board, via the Audit Committee, must agree the proposal before consultation commences. The appropriate selection committee must seek ratification for the proposals. Full minutes should be made and retained of the discussion regarding the proposals.

Once the proposal is ratified by the Board, the LGC will request that the Headteacher commences consultation.

Consultation with Trade Union Representatives and Staff

It is necessary to invite staff and appropriate Trade Unions colleagues to the first formal consultation meeting. Adequate notice should be provided and consideration given to alternative dates based upon maximum availability.

Schools must ensure that any member of staff absent due to sickness, maternity, paternity, secondment or suspension is fully included in this process.

During consultation, the Headteacher should offer individual meetings with affected staff to discuss the proposals and allow appropriate representation and should also respond to any written feedback from staff or trade union colleagues. Individual meetings should be minuted and a copy provided to the employee.

If the proposals include potential redundancies, expressions of interest for voluntary redundancy, early/flexible retirement and flexible working should also be requested at this stage.

Collate Feedback for Ratification of Final Structure

The CEO, LGC and Headteacher should fully consider and discuss any feedback received during the consultation process. The discussion should be noted along with agreement to any changes to the proposals and ratification of final structure.

Dependent upon the nature and extent of any changes made to the proposal as a result of consultation feedback, it may be necessary to undertake a shorter period of further formal consultation on these revised elements.

Outcome of Consultation, New Structure and Next Steps confirmed to Staff and Trade Unions

Once the final structure is ratified by the CEO, LGC and Headteacher, the details should be confirmed in writing to trade unions and employees as follows:

- that consultation has closed, what decisions were made and who was present at the meeting
- any significant feedback to date (i.e. detailing the considerations given to proposals made during consultation, what has been accepted and what has been rejected and why)

- any changes as a result of consultation
- what the final structure is
- confirm the selection process/criteria (if appropriate)
- ensure communications continue

It is also advisable for the Headteacher to meet with individuals directly affected by the outcomes to confirm the specific arrangements in relation to their role.

LGC Selection Committee – Selection Meeting 1

Once the final structure has been ratified, it is for the Selection Committee to meet and undertake the necessary activities to implement the agreed changes. At the first meeting, the committee will:

- Consider any applications for Voluntary Redundancy, Flexible Working or Early Retirement on a case by case basis against an agreed framework e.g. skills, school needs, cost, etc. This will provide a business justification for any decisions reached. An agreement should be reached in principle as to whether the requests are to be agreed (Appendix 2 – Voluntary Redundancy Application Form).
- In the event that the required staffing reductions cannot be achieved through voluntary applications, then the agreed selection criteria or method of selection will be applied.
- Assimilate (slot-in) employees into the revised structure where appropriate
- If appropriate, ring-fence specific posts for competitive selection process
- If current posts no longer exist in the new structure, redeployment and redundancy must be considered and the full financial implications, including salary protection, where applicable.
- It is important that in the event of any proposed redundancies, consideration is given to the notice periods for dismissal as this may vary for each employee. It is advisable that any proposed timeline is developed with these dates in mind.

All meetings relating to redundancy selection should be comprehensively minuted and the notes retained for audit purposes in the event of future challenge.

Conduct competitive selection process

If it has been determined that any of the posts within the structure are to be appointed to via a competitive selection process, that activity needs to be undertaken following Selection Committee Meeting 1 and before Selection Committee Meeting 2 (Appendix 3 – Short Application Form).

The LGC Selection Committee may delegate responsibility for the selection activities to the Headteacher/Senior Leaders, however members of the LGC's selection committee have the right to be involved in any activity which measures the skills and attributes of vulnerable staff against the selection criteria and which may impact on the outcome of the selection process.

The LGC Selection Committee and Headteacher must ensure that the organisation's Recruitment and Selection Procedures and the fair and objective selection criteria agreed during consultation is applied. The criteria should ensure that the appropriately skilled employees are retained to meet the needs of the trust.

Selection Committee – Selection Meeting 2

Meeting two of the selection committee is either:

- In the event that a competitive interview process has been conducted, to receive feedback and recommendations from the interview process and to seek ratification of the outcomes from the Selection Committee (Appendix 4 – Redundancy Selection Scoring Matrix). OR;
- To apply the agreed selection criteria i.e. to complete a desktop selection exercise. Any discussions around scoring and the award of points must be minuted and retained for audit purposes.

Upon conclusion of this meeting, the Selection Committee and Headteacher will know which individuals have been placed at risk of redundancy due to their selection via either interview or criteria.

Communicating the outcome

The Chair of the Selection Committee and/or Headteacher should inform each individual face-to-face that they have been selected for redundancy, including an outline of the reasons for selection. Individuals should be informed of the date of that meeting in advance and have a right to representation. In addition, they should be informed in writing of their dismissal by reason of selection for redundancy and of their right to appeal.

Appeal

An employee selected for redundancy has the right to appeal against their dismissal. The appeal should be submitted in writing to the clerk of the LGC [for the attention of the Chair of the Appeal Committee] within 10 days of written confirmation of notice of redundancy being received. The grounds for appeal must be stated. Arrangements for the LGC Appeal Committee to hear the case must be made, and an employee should have at least 5 working days' notice of the date. This meeting should be minuted and the notes retained for audit purposes.

Redeployment

Any employee who is "at risk" of redundancy will be subject to the provisions for redeployment in place across the trust at the time. Legally there is an obligation and responsibility to consider suitable alternative employment for redeployees and conversely, redeployees should show reasonableness in rejecting or accepting any suitable alternative employment.

The organisation must consider any other redeployment opportunities within the employee's own school and other schools within the trust which may be suitable for the 'at risk' employee. All applicants who meet the essential criteria for the post (as set out in the person specification) will be offered an interview. The trust has a responsibility to consider suitable alternative employment across the MAT.

The organisation must also provide, relevant retraining and redeployment of existing employees into appropriate vacancies where possible to maximise opportunities and minimise redundancies. In this event, the trust will retain the right to determine

the suitability of candidates for retraining and redeployment taking into account all skills possessed by the employees (Appendix 5 – Offer of Alternative Employment Form).

Where appropriate salary protection will apply as follows:

Teaching Staff

Salary safeguarding will apply for up to three years in accordance with the provisions of the School Teachers' Pay and Conditions Document.

Support Staff

Salary protection will apply when a support member of staff accepts redeployment to a post within 7 spinal column points of the redundant post. Staff moving into a grade with a maximum lower than their present pay point will be placed at the top pay point of the lower scale, i.e. on the Contribution Based Pay point, and they will not be eligible for incremental progression. Protection relates to the grade, e.g. where redeployment takes place into a post involving a reduction of working hours, it is the rate of pay, not the overall salary that is subject to protection. Salary protection arrangements will be put in place for these employees for up to three years or until such time as the new salary is equal to the salary protected amount. Support staff subject to pay protection would not receive any cost of living awards. Appropriate funding for salary protection/safeguarding will be the responsibility of the employee's originating school, this includes any costs of retraining and any pay protection element of the employee's new pay.

Re-engagement Following Redundancy

Former employees who wish to apply for future vacancies with the trust will be considered in open competition with other applicants in line with normal recruitment practices.

If employees are re-engaged within 4 weeks, continuity of service will not be broken, and employees would be required to return any redundancy pay received. In the event that redundancy pay is not paid back to the employer and the employee is made redundant again at a later date, redundancy pay will only be for the remaining service period following re-engagement.

Employees who are made redundant from any post within the trust must not be re-engaged in any post within 6 months of the redundancy taking effect.

Data Protection

The trust will comply with the provisions of the Data Protection Act 2018. Employee data will be processed by the organisation in accordance with the principles of that legislation, as necessary for the performance of the employee's contract of employment and/or the conduct of the organisation's business. The organisation will ensure that personal information about an employee, including information in personnel files, is securely retained.

Cross References

This policy should be read in conjunction with the following policies and procedures:

- Equality Policy
- Recruitment and Selection Policy
- Local Government Modification Order
- Code of Conduct

Adopted: January 2019
Review date: January 2022