

Ormiston Forge Academy

Reorganisation Policy

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Contents

1. Introduction
2. Purpose
3. Scope
4. Equal Opportunities
5. Determining Academy Staffing Structures
6. Legal Requirements and Timescales for Consultation
7. Establishing Appropriate Panel
8. The Consultation Process
9. Alternatives to Redundancy
10. Voluntary Severance or Early Retirement
11. Methods of Selection and Criteria Used to Identify Staff
12. Personal Representations
13. Appeals
14. Redeployment of Staff
15. Trial Periods
16. Rejection of Suitable Alternative Employment
17. Assistance in Finding Other Work
18. Redundancy – Compensation Package
19. Salary Safeguarding
20. Records
21. Review

Appendix 1 - Alternatives to redundancy

Appendix 2 – Possible criteria for redundancy

Appendix 3 – Consultation timeframe

Appendix 4 - Teacher redundancy timetable

Reorganisation Policy

1. Introduction

1.1 OAT regards its employees as its most valuable asset and aims to provide a stable work environment and security of employment for all staff.

1.2 Each academy must, however, be able to respond to the need for organisational development and change. In order to minimise the impact of such events and wherever possible avoid redundancies, the principles and procedures within this policy will be followed.

2. Purpose

2.1 The principle aim of this policy is to provide an effective and fair way of dealing with the staffing implications of financial constraints, organisational improvements and service reviews. The framework recognises the need to reorganise, rationalise and, where necessary, reduce staff numbers where necessary.

3. Scope

3.1 This procedure should be used whenever an academy considers reorganisation which may lead to reductions in permanent and fixed term staff with one year's service or more.

3.2 In cases where reorganisation is unlikely to result in reduced numbers of staff, but will impact on existing roles, reporting lines etc, the principal, or nominated alternate, will consult with relevant staff and trade unions.

4. Equal Opportunities

4.1 The reorganisation procedure must always be applied fairly and in accordance with employment law and OAT Equal Opportunities Policy.

5. Determining Academy Staffing Structures

5.1 It is the principal's responsibility, in consultation with the governing body, to define the service that is to be provided within their academy and to formulate the most appropriate staffing structure to deliver that service within the constraints of budgets etc.

5.2 The staffing structure of each OAT academy will be reviewed annually by the governing body and Principal. Where change is proposed, this review will include consultation with the relevant trade unions in line with paragraph 3.2 above.

5.3 The possible need for reorganisation of the academy staffing structure may be identified for the following reasons:

- Changing requirements
- New legislation
- Organisational improvements
- Budgetary restrictions
- Other substantial reasons not listed above

6. Legal Requirements and Timescales for Consultation

6.1 Legislation and case law in relation to redundancy require that consultation shall take place at the earliest opportunity and continue throughout the redundancy process and must in any event begin:

- at least 30 days before the first dismissal takes effect if between 20 and 99 employees are to be made redundant at one establishment over a period of 30 days or less or
- at least 45 days before the first dismissal takes effect if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less.

6.2 As an employer, OAT is required by law to notify in advance proposed redundancies of 20 or more employees in a period of 90 days or less to the Department of Business Innovation & Skills (BIS).

6.3 Trade unions will, however, be informed as soon as possible in writing, in accordance with section 8 below, where the principal has identified the possible need for reorganisation of the staffing structure under which there would appear to be no practical alternative to a reduction in staffing.

6.4 The formal consultation process will cease when any reorganisation has been completed and any employees affected have either been appointed to a new structure, successfully redeployed or made redundant having completed their contractual notice period.

7. Establishing Appropriate Panels

7.1 The governing body will establish:

A 'Staffing Panel' (usually consisting of three members of the senior leadership team, (usually including the principal).

If the reorganisation or redundancy includes the senior leadership team, the 'Staffing Panel' should consist of the Principal and two members of the academy governors.

An 'Appeals Panel' (normally comprising three members, consisting of at least 3 academy governors).

Members of the Staffing Panel are not permitted to be members of the Appeals Panel.

7.2 The function of the Staffing Panel is to:

- establish and weigh criteria by which staff would be identified for positions in the new structure and/or to establish and weigh criteria by which staff would be identified for potential redundancy;
- determine which posts on the new structure will be regarded as new and which posts will be subject to ring-fencing or direct matching;
- conduct consultations and respond to the consultation procedures as outlined in detailed below;
- make a preliminary identification of staff;

- inform the identified staff in writing of the reasons for identification and ensure they are aware of their right to make representation and to be accompanied by a representative;
- hear representations;
- ensure that the names of those members of staff identified are not published until the 'Staffing Panel' has finished its work;
- inform the employee of their formal identification for redundancy and the right to make an appeal.

8. The Consultation Process

8.1 Where the principal has identified the possible need for reorganisation of the staffing structure under which there would appear to be no practical alternative to a reduction in staffing, the principal will submit a proposal to the governing body for approval.

8.2 The relevant Trade Union representatives should be informed as soon as possible in writing of the following:

- The reasons for the proposals
- The number and descriptions of staff affected
- The total number of employees of each description that work in the academy
- The proposed method of selection for staff to be placed into posts and how the dismissals will be carried out
- The procedures and timescale to be used, including proposals for consultation meetings with union representatives
- The proposed method of calculating the amount of redundancy payments

8.3 It is an important part of the procedure that consultations begin with trade unions at the earliest possible opportunity. Ideally, academy management should agree dates and times of the consultation meetings with trade unions, which are mutually convenient.

8.4 A meeting will take place with the trades unions to consult over reorganisation proposals and any anticipated staff reductions prior to any consultation with staff. In good time before that meeting, the trades unions will be provided with any relevant information which may include:

- the business case presented to governors
- any budgetary considerations
- details of planned curriculum changes
- the current and proposed staffing structures, including staff numbers.

8.5 When the consultation meeting with the relevant trade unions has taken place, meetings should take place with all staff or with the groups affected. The meetings should give time for a full explanation, as well as questions and comments from the staff. An HR representative may be present to advise on, or answer, any HR matters. Notes of any consultation meetings should be taken. Arrangements should be made to allow affected employees to meet both collectively and individually with their trade union representatives during work hours to discuss the proposed reorganisation.

8.6 Appropriate consultation on proposed re-organisation or redundancy must be undertaken with employees on maternity and adoption leave and long term sick leave. Special arrangements will be made with these employees to ensure that they are not disadvantaged and receive the same treatment as any other employee would receive.

8.7 Where an employee is affected by a reorganisation whilst on maternity or adoption leave, special protections apply.

8.8 Following these consultations, consideration will be given to whether the proposals need to go ahead or be revised. . If new proposals are drawn up then it may be necessary to repeat the steps in 8.1 to 8.7.

8.9 Once the proposals have been finalised the next step is for the Staffing Panel to issue a statement to all staff (copied to all Trade Union Representatives) which should contain:

- The current and proposed staffing structures, including staff numbers
- Reasons for the proposed reorganisation details (where relevant) of academy budget; the academy development plan and the curriculum plan
- Clarification of the areas in which reductions are envisaged
- The total number of employees of each description, who are selected for new posts in the structure or whom it is proposed to make redundant
- The proposed criteria to be used in selecting those for new posts in the structure or for identifying staff to be made redundant
- Proposed timescales, including when dismissals are envisaged to take place
- A request for volunteers for reduced hours, severance, early retirement, etc., if appropriate

8.10 Individual employees affected should be informed in writing as soon as possible of:

- Their proposed placement or non-placement in the structure;
- Any need to be interviewed;
- Any redeployment proposals and options
- Simultaneously, the relevant trade union representatives must be sent a complete set of the proposals.

9. Alternatives to Redundancy

9.1 When it has been identified that there is a need for staff reductions, it is important that all steps are taken to avoid compulsory redundancy.

9.2 There are various options that should be explored before individual members of staff are identified for redundancy (see appendix 1 for a list of options for consideration).

10. Voluntary Severance or Early Retirement

10.1 Staff in the work area concerned may be invited to express an interest in voluntary severance/early retirement on the grounds of the exigencies of the service. , however this should normally be targeted/limited to those work areas where staff will be allowed to go, and not to

general calls for volunteers in work areas where those coming forward will be refused release. Where there is competition for a post, that group may be targeted.

11. Methods of Selection and Criteria Used to Identify Staff

11.1 Before any action is taken to identify staff for positions in the new structure, it is important to initiate a freeze on recruitment to relevant vacant posts

11.2 A balanced approach will be used to assess employees for positions in the new structure using a range of weighted criteria. Selection will normally be paper-based assessment. The overriding factor for selection is to retain those employees who most closely match the skill sets required and therefore are most likely to contribute to the future success of the academy.

11.3 In relation to reorganisations and rationalisations, the method of selecting employees for posts within the new structure/staffing arrangements (and therefore of identifying those who have no post, if this is necessary), is to match the duties of the existing posts to equivalent duties required of posts in the new structure. Where a direct match to direct match is not apparent (by comparing job documentation of the old and new posts), a judgement is to be reached by the governors as to the closest match available. The existing postholder(s) should then be placed into the new post. This will be based on substantive posts only.

11.4 Where there are two or more suitable candidates for a post, and where the 'direct match' criterion is unable to discriminate between them, the individuals should be interviewed in competition for that work. Where competitive interviews are impractical, a skills audit approach may be used. Any criteria set will have full regard to future service needs and the OAT academy's equal opportunities policy. In all cases, the selection criteria proposed must be subject to consultation with the relevant Trade Unions prior to its application (see a list in appendix 1 for a list of possible criteria)

11.5 Any criteria used for the identification of staff, must be:

- Capable of clarifying the unit of selection
- Objective
- Consistently applied
- Capable of being checked and used by the governors
- Known to the staff in advance
- Relevant to the posts in question.

12. Personal Representations

12.1 Having completed the consultation and selection process, the Staffing Panel should convene a meeting to make their final decisions. However, before final decisions are made, the employee(s) concerned must be given an opportunity to make written and personal representation to the Staffing Panel. The employee may be accompanied at the meeting by a trade union representative or a work colleague of their choice.

12.2 Prior to this meeting, employees should be given adequate information to assist them in preparing representations, particularly (if appropriate) on the criteria used to recommend the deletion of their post, resulting in their dismissal by reason of redundancy.

12.3 After considering these representations, the Staffing Panel will inform the employee(s) concerned of their decision in writing within 10 working days. Notice of dismissal will be given to the employee(s) at this stage.

13. Appeals

13.1 If the employee wishes to appeal against the decision of the Staffing Panel, such an appeal must be received in writing by the Principal, within 10 working days of the date of the notification of the Staffing Panel's decision.

13.2 The Appeal Panel shall, within 10 working days of receipt of the appeal notification, meet to hear the appeal. The employee has a right to be accompanied by a trade union representative or a work colleague of their choice.

13.3 At the appeal meeting, the employee or his/her representative shall present the employee's case. This will be followed by the Staffing Panel's case, presented normally by the Principal. The employee or his/her representative is then entitled to sum up the employee's case, followed by summing up of the Staffing Panel's case. The decision of the Appeal Panel will be conveyed to the employee verbally at the end of the meeting, if practicable, and in writing, within five working days of the meeting. The decision of the Appeal Panel shall be final.

14. Redeployment of Staff

14.1 When the need for reorganisations, resulting in staff reductions, are identified within academies, it is the direct duty of the governing body to do all in its power to find, or facilitate the search for, alternative employment. Alternative employment may be sought within the academy, in other Ormiston academies or in neighbouring schools through liaison with the local authority.

15. Trial Periods

15.1 An employee who is redeployed has a statutory right to a trial period of four weeks in an alternative job where the provisions of the new contract differ from the original contract, without losing their entitlement to redundancy term. The period to begin when the previous contract has ended. The four-week trial period can be extended for retraining by written agreement. The length of the extension is discretionary, to be reviewed after four weeks.

16. Rejection of Suitable Alternative Employment

16.1 Where an employee unreasonably refuses offers of alternative suitable employment they may lose all rights to redundancy compensation. Alternative employment is, however, unlikely to be considered suitable if it is rejected by the employee on the basis that:

- a. the salary is lower, or the non salary benefits are significantly less than the original job;
- b. the status is significantly lower, in terms of the effect this would have on the employee's career history;

- c. the location or working time for the job involve the employee in significant domestic / personal disruption or additional costs, (subject to flexibility clauses in the contract of employment).

17. Assistance in Finding Other Work

17.1 Employees who are 'at risk' of redundancy and who qualify for a statutory redundancy payment also have a statutory entitlement to a reasonable amount of paid time off to look for another job or to arrange training. As a good employer the academy should provide a range of assistance in finding other work, eg access to Internet, referral to outplacement services as appropriate.

18. Redundancy – Compensation Package

18.1 All employees who have at least two years' continuous service will qualify for redundancy pay. This includes continuous service with any employer covered by the provisions of the Redundancy Payments Modification Order

18.2 The number of weeks' pay on which the payment is based are as follows, up to a maximum of 20 years' service:

- 0.5 week's pay for each full year of service where the employee's age was under 22
- 1 week's pay for each full year of service where the employee's age was 22 or above, but under 41
- 1.5 weeks' pay for each full year of service where the employee's age was 41 or above

18.3 A week's pay for the purposes of redundancy pay is defined as either a normal week's pay for the employee or the pay figure used in calculating limits on statutory redundancy payments* whichever is the higher, representing a just and reasonable amount as compensation for loss of office. Where a term time only worker is paid in 12 equal monthly instalments, a "week's pay" for redundancy purposes is based on the weeks actually worked in a year (including holiday) rather than 1/52.

18.4 A written statement must be given to an employee who is eligible for a statutory redundancy payment detailing how the payment has been calculated. While this requirement relates to the statutory payment, good practice demands that all such payments should be explained.

18.5 Where appropriate, the employer may consider offering a payment greater than that above, in particular in order to seek to achieve job reductions by voluntary means. Where employees retain the right to different terms by virtue of TUPE protection, this right will in all cases be observed.

* The pay figure used of calculating limits on statutory redundancy pay is £464 per week from 6 April 2014 as set out in the Employment Rights (Increase of Limits) Order 2014. The pay figure applicable under this policy will include any increases in this pay figure as made from

time to time. Staff will be given the most up-to-date calculation at the point when consultation begins.

19. Salary Safeguarding

19.1. In the event that reorganisation results in redeployment to a lower paid position:

Salary safeguarding arrangements for teaching staff will be in accordance with national terms and conditions

Salary safeguarding arrangements for non-teaching staff will be in accordance with the relevant local authority's arrangements at the time of transfer. If no such arrangements exist, then salary will be safeguarded for a minimum of 12 months.

20 Records

20.1 It is recommended that the following records are maintained and be readily accessible for a minimum of 9 months after the last dismissal arising from redundancy has occurred:

- evidence of action to avoid potential redundancies;
- evidence of the use of objective redundancy selection;
- comprehensive information on the 'Staffing Panel' decisions, dates of meetings,
- contemporaneous notes, information considered by the Staffing Panel, notification of the outcome.
- comprehensive information on any appeals raised including the basis of the appeal, dates of meetings, contemporaneous notes, information considered by the Appeals Panel in considering the employee's appeal, clarification of the decision making process, notification of the outcome.
- copies of redundancy termination letters to employees, including the calculation of benefits;
- copies of an employees written acceptance to payments made under OAT's financial package as compensation for loss of office;
- copies of written notification to the trade unions of potential redundancies;
- evidence of appropriate consultation;
- copies of written notification to the BIS.

21. Review

21.1 This policy will be reviewed every three years in consultation with the recognised trade unions.

Appendix 1 - Alternatives to redundancy

Options may include:

- Natural Wastage (e.g. resignations, retirements, etc.)
- Restriction on recruitment and non-replacement of posts
- Use of temporary, short term or part-time contracts
- Termination of temporary/casual appointments (subject to the requirements of the Employees (Prevention of Less Favourable Treatment) Regulations 2002)
- Voluntary early retirement
- Voluntary severance
- Voluntary job sharing arrangements (if appropriate)
- Voluntary transfer to part-time employment within the school
- Voluntary reduction in hours (including overtime, if relevant)
- Transfer of staff into other suitable work within the school (retraining where applicable)
- Potential redeployment of staff in to other suitable work within Ormiston academies where both governing bodies agree to this.

Appendix 2 – Possible criteria for redundancy

Criteria should include a range of relevant factors, and due consideration needs to be given to the context of the reorganisation. Possible criteria may include:

- organisational/curriculum requirements of the school;
- overall subject needs;
- special subject requirements (e.g. to boost, say, poor maths performance in a school)
- levels of responsibility;
- skills and level of qualifications required;
- academic qualification generally;
- particular subject expertise (e.g. recent specialist courses);
- capability to switch from subject to subject as demonstrated either by current actual teaching and/or qualifications and/or past actual teaching;
- lack of qualifications in above/below certain age groups and/or to teach to particular exam standards;
- additional qualifications, e.g. administration, sports, music, counselling;
- in relation to attendance particular regards must be paid to legislation regarding disability discrimination and the Equality Act 2010

Appendix 3 – Consultation timeframe

Where a change is proposed to the staffing structure, consultation will begin at the earliest opportunity.

The following timescales are for guidance only. There will be occasions when the suggested timescales will not be appropriate.

Written details should be sent to all relevant trade unions as soon as possible after the principal has identified the possible need for a reduction in staffing.

Trade unions should be given at least 10 working days' notice of the consultation meeting.

The full staff meeting should be arranged as soon after the trade union consultation meeting. Preferably 5 working days notice for staff should be given.

Following the staff meeting, a statement of intentions should be issued to staff (copy to trade unions) preferably within 10 working days of the meeting.

If volunteers for redundancy, reduced hours, etc., have been requested in the statement to staff, volunteers should be given 7 working days (from date of letter) to show an interest

Volunteers should receive estimates within 7 working days of showing an interest.

Volunteers would be expected to give a response as to whether they wish to accept redundancy, reduced hours, etc., within 10 working days of receiving their estimate.

If no volunteers are forthcoming, the selection criteria/process (discussed with trade unions in consultation meeting) will need to be implemented. The selection process will, ideally, be completed within 15 working days.

The principal (or nominee) should meet individually with those employees selected for redundancy (or variations in duties, etc.) within three working days of completion of the selection process. The principal should explain the reasons for selection orally and in writing. The letter should include an opportunity to declare a wish to make oral representation to the Staffing Panel within 10 working days of receipt of notification letter.

Employees selected should be given 10 working days notice of the oral representation hearing.

After hearing oral representations, the Staffing Panel should confirm their decision in writing within 5 working days of the meeting. The letter should give the employee an opportunity to appeal against the decision to an Appeals Panel. The employee should be given 10 working days from receipt of the decision letter to lodge an appeal.

Employees should be given 10 working days notice of the appeal hearing.

After hearing the appeal, the Appeals Panel should confirm their decision verbally at the end of the meeting, if practicable, and in writing within 5 working days of the meeting. The Appeals Panel's decision is final.

Appendix 4 - Teacher redundancy timetable

This timetable details the required legal time

