



BATH & WELLS
Multi Academy Trust

'That they may have life, life in all its fullness' John 10:10

**Bath & Wells Multi Academy Trust
Redundancy Procedure**

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Redundancy Procedure

1. Purpose

- 1.1. The purpose of this procedure is to provide a clear and fair process to be followed when it becomes necessary to reduce/restructure the school's staffing establishment which is compliant with statutory requirements in relation to consultation, equalities legislation and dismissal procedures and to avoid or minimise the need for compulsory redundancies where possible.
- 1.2. This procedure is effective from 1 April 2013 as approved by the Bath & Wells Multi Academy Trust (hereafter referred to as the MAT).

2. Applicability

- 2.1 This policy applies to all employees of the school unless the reason for the expiry of the fixed term contract is not redundancy. Where an employee is employed on fixed term contract which is coming to an end this procedure may not be applicable or may not apply in full.
- 2.2 Where there is no employment relationship this policy will not apply i.e. to supply and agency teachers, casual support workers and contractors and other persons engaged by the School who are 'self employed' (N.B Where a supply or casual worker is engaged in regular work for over a year they may have accrued redundancy rights).

3. Roles and Responsibilities

- 3.1 The Headteacher/Executive Head are responsible for determining the required staffing complement and structure for the school which must be approved by the Local Governing Board and the MAT Directors where applicable.
- 3.2 If it is necessary to reduce the staffing complement, the local governing board is responsible for determining whether an employee should cease to work at the school by reason of redundancy. It may delegate the responsibility for this to the head teacher.
- 3.3 The school will notify the MAT of the possibility of reductions in staffing levels before any formal procedures commence.
- 3.4 The MAT is responsible for carrying out the dismissal of an employee whom the local governing board has determined should no longer work at the school by reason of redundancy.
- 3.5 All schools within the MAT are responsible for considering potentially redundant employees from other schools within the MAT for suitable vacancies in their own school.
- 3.6 The Headteacher is responsible for the internal organisation, management and control of the school and will lead the redundancy process complying with this procedure under the direction of the governing board.
- 3.7 The Headteacher is responsible for determining the selection criteria, for consulting trade union representatives on the criteria, and for undertaking the selection decision(s).

4. Definitions

- 4.1. Redundancy is one of the potentially fair reasons for dismissal (*Employment Rights Act 1996*).

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- 4.2. An employee who is dismissed shall be taken to be dismissed for redundancy if the dismissal is attributable wholly or mainly 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 has ceased, or intends to cease, to carry on that business in the place where the employee was so employed; or
 - the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished, or are expected to cease or diminish. (*Section 139 (1) Employment Rights Act (ERA 1996)*).
- 4.3. School redundancies are likely to occur either where a school is closing or amalgamating with another school; where it has to reduce its staffing establishment due to falling pupil numbers or budgetary problems; or where the staffing needs to be reorganised to respond to organisational or curricular changes.
- 4.4. The surplus staffing situation at the school may involve:
- A unique post being declared redundant
 - A reduction in the number of staff employed to do the same work (e.g. class teachers)
 - A reduction in hours and/or a change in duties and responsibilities where a complete reorganisation of the structure may be advisable.
- 4.5. In a primary school, 'work of a particular kind' for teachers will normally include the work of all teachers in the school. Thus the pool of potentially redundant teachers would include all teaching staff in the school.
- 4.6. For the purposes of this procedure, 'work of a particular kind' for secondary teachers is defined according to a distinct subject area rather than the wider definition of 'teaching'. Distinct work of a particular kind would normally mean no movement of teachers from that area to and from other subject areas. *For example the pool of potentially redundant teachers might be all teachers in the Modern Foreign Language Department.* Therefore it would be possible to define a pool of secondary teachers by department/ subject area.
- 4.7. For support employees, the pool of potentially redundant employees will be defined by the school, having regard to the type of work that is reducing.
- 4.8. Under the Trade Union Reform and Employment Rights Act 1993 (TURERA) the definition of redundancy for consultation purposes is widened to include "any dismissals for reasons not related to the individual", for example: terminating a contract and re-engaging on different terms would be the subject of consultation under the recognised redundancy procedure.
- 4.9. In all cases where redundancies become a possibility, there is a legal requirement to consult and the need to advise and involve both trade unions and the MAT.

5. Principles

- 5.1 If a need to reduce the number of school staff is identified the Headteacher should consult with Human Resources as soon as possible.
- 5.2 All consultation will be undertaken in good faith and with a view to reaching agreement.

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- 5.3 Consultation will include ways of avoiding dismissals, reducing the number to be dismissed and mitigating the effects of the redundancies.
- 5.4 Individual employees have the right to be accompanied by a trade union representative or a work colleague at any individual meeting to discuss potential redundancy or redeployment.
- 5.5 Information about the proposed staffing changes will be made available to all trade union representatives of the unions representing the groups of staff affected in good time.
- 5.6 If at any time throughout the redundancy process the necessary reduction in staff can be achieved through natural wastage, e.g. resignations/retirements, the relevant staff will be informed in writing that the redundancy process has been terminated.

6. Measures to avoid redundancies

- 6.1. To try and minimise the risk of having to make redundancies, the school will continually review its needs with regard to staffing. This will include an ongoing process of vacancy management so that whenever a vacancy occurs through retirement or resignations of staff, an assessment of the ongoing needs of the school will be undertaken prior to any posts being filled.
- 6.2. When the school receives its indicative budget, if this indicates a deficit, the management of the school will explore all possible measures to avoid compulsory redundancies in consultation with the MAT's Business Manager and/or Accountant. Measures could include:
 - virement from other budget headings.
 - utilising funds from the previous year's budget to meet any temporary shortfall.
 - long term pupil and budget projections.
 - generation of cash into the budget from other sources.
 - restricting the recruitment of permanent staff;
 - reducing the use of temporary staff without infringing employment rights;
 - reducing an employee's contractual hours - where agreed with the employee or allowed for in the contract of employment;
 - reducing an employee's contractual responsibilities where agreed with the employee;
 - concluding fixed term contracts that were put in place for this situation;
 - filling vacancies from among existing employees;
 - providing training or retraining opportunities to existing staff, to promote a more flexible workforce.
 - voluntary redeployment of employees within the MAT;

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- releasing of staff before the contractual resignation date.
- seeking volunteers for early retirement/redundancy as part of the consultation.

6.3. Where the above strategies have not achieved the requirement to reduce staffing numbers the following procedure will be applied. Before starting the procedure, the School will set a timeline for the process (Appendix A - Timeline).

7. Proposal to reduce staffing

7.1 When the Headteacher identifies that there may be a need to consider staff reductions, they will produce a proposal document with advice from Human Resources, MAT Accountant (see Appendix B – Model Proposal Form). The paper should explain the background to the need to reduce the staffing establishment and include details of:

- The reason for the proposal; including financial information
- Benefits of the proposed option
- Current staffing levels, including the numbers of staff in each type of staff group potentially affected.
- Details of proposed staffing levels, identifying the working groups from which the reductions are proposed to be made and the reason for this and the type and number of posts or hours that it is proposed to reduce by
- Measures already taken or planned to minimise possible redundancies, including non staffing and staffing.
- The proposed method of achieving the reduction.
- Voluntary options considered
- Framework for consultation including timescales and facilities.
- Details of redundancy entitlements (statutory redundancy pay applies) (see Appendix C)
- The proposed date by when the reductions will need to have taken place.

7.3 The Headteacher will discuss the paper with the Chair of the Local Governing Board and gain their agreement to consult staff and trade unions on the need to reduce staffing numbers. Following the Chair's approval the Headteacher must seek approval from the MAT's Chief Operating Officer.

7.4 If the school needs to seek support for the funding of severance costs where redundancies are unavoidable a copy of the proposal document along with a business case must be submitted to the MAT's Board of Directors for consideration.

8. Consultation

8.1 The objectives of consultation are to:

- seek the views of employees and their representatives on the proposals;
- seek to avoid the need for redundancies wherever possible;
- where avoidance of redundancies is not possible seek to reduce the number of employees who are to be made redundant to a minimum; and
- determine and share the criteria to be used to select employees for redundancy.

8.2 The Headteacher will write to representatives of relevant trade unions explaining the rationale for the proposed redundancies and notifying them of the dates for the staff

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consultation meeting and the local governing board meeting where ratification will be sought. A copy of the proposal paper will be enclosed.

- 8.3 Trade union representatives will be invited to attend staff consultation meetings where they have members at the school who will be potentially affected by the proposals.
- 8.4 The Headteacher will hold a consultation meeting with potentially affected staff to consult them and their representatives on the proposal to reduce staffing numbers. A copy of the staffing proposal and access to this procedure will be provided. HR will normally attend the meeting to provide advice, a member of the local governing board may also attend.
- 8.5 Where the Headteacher of a secondary school considers that the pool of affected teachers should be restricted, the teachers and their unions will be consulted on the rationale for selecting a smaller pool of potentially redundant teachers.
- 8.6 On meeting with staff and trade unions, the Headteacher will share the proposal document and fully explain the consultation process and what the outcomes of the proposals could be. Staff will be provided with the framework for consultation including timescales and informed of the requirement for the Local Governing Board to ratify the new staffing structure reduction in staffing numbers. Staff and trade unions will also be briefed on:
 - how they can give feedback on the proposals;
 - how they can access support;
- 8.7 Following meeting with staff collectively, individual meetings with the Headteacher can happen upon request.
- 8.8 Comments on proposals should be sought within a reasonable timescales to be determined by the Headteacher (normally a minimum of 10 working days).
- 8.9 The Headteacher should consider adjustments to the staffing proposal in the light of comments received during the consultation process.
- 8.10 Following consultation with staff and unions, the Headteacher will take the recommended staffing proposal to a meeting of the Local Governing Board's staffing panel. Written representations from staff affected and from trade union representatives will also be presented. The panel will then be invited to ratify the proposal either with or without amendments in the light of the views of staff and their representatives.

9. Voluntary Solutions

- 9.1 Following ratification by Governors, the Headteacher will write to all relevant staff and trade unions to inform them of the outcome of the governor staffing panel meeting and to consult on the process of implementation and to discuss potential voluntary solutions. Possible voluntary solutions could include:
 - Premature retirement
 - Voluntary redundancy
 - Voluntary redeployment
 - Voluntary reduction in hours
 - Job-sharing
 - Transfer to another school
- 9.2 If there are no volunteers from within the affected pool then discussions may occur about whether a 'bumped' redundancy might resolve the matter. If a solution for a bumped

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redundancy comes forward then a person from the pool of potential redundancies will slot into the vacant post which has been created. This post will be deemed 'suitable alternative employment' and the person slotted in will have no further opportunity to opt for redundancy. As the job is deemed suitable alternative employment there is no statutory trial period.

- 9.3 A reasonable timescale should be agreed by the Headteacher for individuals to consider these options, including seeking financial benefits information (at least 10 working days).
- 9.4 Whilst there is no automatic right to early retirement/voluntary redundancy the school may seek expressions of interest in early retirement / voluntary redundancy in certain work groups. General details of redundancy and pension / severance entitlements (i.e. methods of calculation) will be circulated to employees at the beginning of the consultation process. Those who express an interest in early retirement / voluntary redundancy will receive an estimate of their individual entitlement as soon as possible after the date they formally express an interest.
- 9.5 If more employees volunteer for redundancy than are required to meet the reduction in staffing structure, the Headteacher will seek to develop in consultation with the trade unions criteria for determining which staff need to be retained to best maintain the balance of expertise the school requires. Volunteers whom the Headteacher selects for redundancy will have their employment terminated on the grounds of redundancy in accordance with the dismissal procedure below. If the reduction can be achieved through voluntary reduction in hours, the Headteacher will arrange for the agreed amendments to individual contracts of employment to be confirmed in writing.
- 9.6 Where the school is asking the MAT to meet the redundancy costs it will seek the approval of the Board prior to the decision being finalised. Where approval for the payment of a redundancy compensation payment is granted the Headteacher will write to the individual(s) to confirm that their request for voluntary redundancy has been approved and that they will receive a dismissal letter from the MAT. The individual has the opportunity to withdraw their request at this point, if they have changed their mind.
- 9.7 Once voluntary solutions have been fully explored, if they do not meet the required reduction in staffing, the Headteacher will report back to the Governing Board setting out the measures taken to avoid compulsory redundancies and the impact of these measures and seeking approval to commence consultation with respect to compulsory redundancies.

10. Selection for Compulsory Redundancy

- 10.1 The redundancy process used will depend on the type of reorganisation required. In determining whether an individual is at risk of redundancy the Headteacher will classify an individual according to whether their post is unchanged, changed or deleted and whether there are any new posts on the staffing structure. The process of classifying posts in this way will be the subject of consultation with staff and the trade unions. Factors that may be taken into account include:

- The grade of the job
- The similarity / difference between the current and new job descriptions and whether or not the differences are significant / relate to key elements
- **Unchanged** – i.e. the individual's job remains more or less the same on the new staffing structure. Where this is the case the employee will not be considered at risk

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of redundancy, unless the number of like posts are reduced on the new staffing structure resulting in there being too many individuals than posts.

- **Changed** – i.e. the individual's job has changed significantly. Where this is the case the School will determine appropriate selection criteria, ring fencing arrangements and an appointment process in consultation with staff and the trade unions.
- **Deleted** – i.e. the individual's post ceases to exist on the new staffing structure for example where a service or work of a particular kind is being discontinued or reduced.
- **New** – i.e. a new job where there is no equivalent in the current structure. New posts may be the subject of ring fence arrangements.

10.2 It should be noted that if an individual's post is classified as either changed or deleted this potentially places them at risk of redundancy.

10.3 If a restructure involves the introduction of new or changed posts then employee will be ring fenced. Employees who are in a ring fence will be required to undergo a selection process. This can be undertaken using one or more of the following objective selection methods based on the requirements of the school improvement plan: -

- on a competitive basis through an interview and / or appropriate assessment method to assess skills ,competencies and qualifications;
- performance management records;
- disciplinary records;
- attendance records (subject to the Equality Act 2010); and/or
- through volunteers for redeployment.

10.4 If there is only one employee in the ring fence, the Headteacher or representative will meet with them to determine whether their skills and experiences match the essential requirements of the job (allowing for the possibility of re-training where practicable). This provision will also be extended to ring fences of 2 candidates for 2 jobs, 3 for 3 etc.

10.6 If the restructure involves a reduction in posts where redundancies are to be made then a selection criteria will be used. The Headteacher will design fair and objective selection criteria based on skills, expertise and job performance. The aim of this selection method is to enable the school to retain the balance of skills and expertise it needs. The normal method of selection will be to match the skills profile of each member of staff against the needs arising from the School Development Plan.

10.7 The Headteacher will write to staff and trade union representatives to inform them of the need to move to compulsory selection for redundancy. This notification will include details of the selection criteria defined by the Headteacher, and will seek their views and comments.

10.8 An employee who is acting-up/seconded to a post and who has another job in the school that is their substantive post (i.e. not an acting up or secondment position) will be assessed against the criteria in relation to their substantive post, not the acting-up or seconded post.

10.9 **Support Staff** - Where the reductions include support staff the Headteacher will determine the core and specialist requirements of the School for the affected staff group, including particular skills, training, qualifications and expertise relevant to the roles. Support staff on fixed term contracts with named pupils may be excluded from the redundancy pool if appropriate.

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10.10 Teachers - Where the reductions include Teachers the Headteacher will use the framework set out below to determine criteria against which the selection for potential redundancy will be made. This is a model framework and may be adapted dependent on the proposals.

10.10.1 Level one – core organisational and managerial requirements. These will include the need for a specific leadership roles and key management roles as dictated by the staffing structure

10.10.2 Level two - specialist requirements. These will focus on core curriculum needs and any specific requirements in the school or departmental action plan.

10.10.3 Level three - general needs. At this stage the Headteacher should identify any other requirements. In most cases this will be expressed as the school needing to retain teachers with the broadest range of skills and expertise in the particular key stage(s) or subject area(s). It could also involve consideration of staffs records; live Disciplinary warnings, current Capability processes and Attendance warnings (being mindful of Disability Discrimination under the Equality Act 2010).

11. Selection against criteria

11.1 To facilitate the selection exercise, each member of staff will be asked to complete a short skills audit form on which they should outline their key skills, qualifications, training and expertise.

11.2 **SUPPORT STAFF** - The Headteacher will conduct an analysis against the proposed staffing structure by comparing the skills and expertise of existing staff against the selection criteria. Current disciplinary, capability and/or attendance records can also be taken into account.

11.3 **TEACHERS** - Individuals' skills and expertise will be assessed against the three levels of criteria, as set out below

11.3.1 **Level one** analysis will identify teachers who should be retained to deliver key managerial and organisational requirements and who will not therefore be subject to any further analysis.

11.3.2 **Level two** consideration will be given to retaining the broadest range of **subject expertise**. Consideration will be given to a teacher's:

- current actual teaching and/or past actual teaching
- recent in-service or other training and development.
- qualifications and specialist skills

11.3.3 Analysis at this level will identify staff who should be retained and placed alongside those already defined to meet core requirements. They will not be subject to any further analysis.

11.3.4 **Level three** the school will consider its **general requirements** across the whole school or within an area or department. At this stage particular reference will be given to the suitability of the remaining teachers to teach children over a wide age range and/or spectrum of curriculum areas as evidenced by:

- current actual practice and or past actual practice
- qualifications
- recent in-service or other training

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- current disciplinary, capability and/or attendance records

12. Consideration of Termination of Employment (GOVERNORS HEARING)

- 12.1 Once the selection criteria have been applied and the individual(s) to be selected for redundancy identified, these staff will be notified of this in writing by the Headteacher and invited to meet with the Governing Board Dismissal Panel (this should include at least one MAT Director). The purpose of the meeting will be to discuss with the individual the basis on which they have been selected for redundancy, the termination of the individual's employment and provide the individual with an opportunity to make representations about their proposed selection for redundancy. Employees do not have to attend the Governing Board Dismissal Panel should they accept the decision and not wish to make representations.
- 12.2 The individual employee has the right to be accompanied at the meeting by a trade union representative or a work colleague.
- 12.3 Human Resources will attend to provide procedural advice.
- 12.4 Where, following this meeting, the decision is to dismiss the individual on the grounds of redundancy, the Governors panel will write informing them of their decision and that they have the right to appeal against this decision.
- 12.5 Once notified of the above decision Human Resources on behalf of the MAT issue letters to relevant employees giving formal notice of redundancy.
- 12.6 The school will ensure that efforts to help the individual to secure alternative employment continue up to the date of termination of the individual's employment. Where suitable alternative employment is found and this proves to be acceptable to relevant parties within a 4 week trial period of the individual commencing the new post, the notice of termination of employment will be withdrawn.
- 12.7 **Notice Periods – Teachers** As defined under the Teachers Pay and Conditions document, Teachers are under a minimum of two months notice and in the summer term three months terminating at the end of a school term. Headteachers are under a minimum of three months notice and in the summer term four months terminating at the end of a school term. Teachers that have been continuously employed for more than 8 years are entitled to receive additional notice up to a maximum of 12 weeks.
- 12.8 **Notice Periods - Support Staff** Are entitled to a maximum of 12 weeks notice (dependent on length of service) starting off as a minimum of one month or one week for each year of continuous service up to a maximum of 12, whichever is greater.
- 12.9 **Pay Protection** - Employees subject to School Teachers' Pay and Conditions Document (STPCD) who are redeployed in to a lower graded job covered by the STPCD, will receive pay protection in accordance with the provisions of the STPCD.
- 12.10 **Severance Payments and Early Retirement** - If an employee is dismissed on the grounds of redundancy they will be eligible to receive a redundancy payment provided they have at least two years continuous service at the date of termination. The MAT's policy is to pay statutory redundancy pay. Continuous service is defined by any service with employers listed in the Modification Order. Redundancy payments are based on an individual's age, weekly pay and the length of service up to a maximum of 20 years.

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12.11 If the employee is aged 55 or over and a member of the Local Government Pension Scheme they will receive their occupational pension, if they meet the qualification requirements of the scheme.

12.12 In respect of members of the Teachers' Pension Scheme, the employer has discretion to allow early release of pension if the teacher is aged 55 or over.

13. Appeal

13.1 An employee dismissed on the grounds of redundancy will have a right of appeal to a governor redundancy appeals panel, which may be made up of governors from the Local Governing Board, it may also include representation from the MAT's Board of Directors. To exercise the right of appeal they must state their intention to appeal in writing setting out their grounds for appeal within 5 working days of receiving written confirmation of dismissal.

13.2 The Governors Appeal Panel will hear any appeals with advice from Human Resources if required. The format of the appeal hearing will be as follows:

- The employee appealing will present their grounds for appeal and present their case
- The chair of the dismissal panel will explain the reasons for the decision. The Headteacher will be available to answer questions from the appeals panel, the employee and their representative.

13.3 The employee will receive written notification of the appeal panel's decision within 5 school working days. The appeal decision is final, and there is no further right of appeal to the school or to the MAT.

14 Employee Support

14.1 The school will allow reasonable time off to employees under notice of redundancy to enable them to seek alternative work or undertake training for future employment. Any requests for time off should be made as far in advance as possible to the employee's manager.

19.2 The school recognises the potential trauma and stress that employees face in such situations and will do everything possible to support them. Support offered may include the following areas, and will utilise internal and external expertise wherever possible as appropriate;

- Information on pensions and other benefits
- Redundancy payments
- Financial advice
- Assistance with applications / interviews etc.
- Redeployment support
- Training guidance and support
- Individual advice / guidance and or counselling

APPENDICES (see separate document 'Redundancy Policy – Appendices')

Appendix A – Timeline for consultation and implementation of staff redundancies

Appendix B – Model Proposal Form

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Appendix C – Details of Redundancy Entitlements

Appendix D – Request for Estimate of Redundancy / Retirement Details

Appendix E – Model Letters

Appendix F – Example Teacher Selection Criteria

Appendix G – Example Support Staff (Teaching Assistant) selection criteria

Appendix H – Example Support Staff (Administration) selection criteria

Appendix I – Example of Skills Audit Form

Appendix F – Example Selection Grid

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