

Education Policy - Model Redeployment and Redundancy v2.0



Policy Statement

Denbighshire County Council strives towards being a fair and equitable employer.

This policy ensures that the council has fair and effective arrangements for dealing with Redeployment and Redundancies.

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1. Introduction

Denbighshire County Council and the Governing Bodies of the schools within Denbighshire County Council are committed to the continued employment of its employees and will seek to avoid compulsory redundancies where possible.

It is recognised that there may be unavoidable factors which may have an impact on the staffing requirements within schools. In such circumstances, schools, Governing Bodies and Denbighshire County Council in consultation with the Trade Unions will seek to minimise the effect of potential redundancies by seeking alternative measures to avoid compulsory redundancy.

The School Standards and Framework Act 1998, the Education Act 2002 and The Staffing of Maintained Schools (Wales) Regulations 2006 delegate responsibility to school Governing Bodies for the management of staff and budgetary control. The establishment of appropriate and effective procedures is an essential requirement for the meeting of these continuing responsibilities.

2. Aims

The purpose of this agreement between Denbighshire County Council (hereafter referred to as DCC) and the Trade Unions/Associations is to avoid compulsory redundancies of school employees and to recommend jointly agreed procedures and practices to manage this complex and sensitive process.

3. Application/Scope of Policy

This policy applies to all employees based in schools in Denbighshire County Council who come under the control of the relevant Governing Body.

For the purposes of this agreement, any other managing bodies of those employees who are subject to teacher's terms and conditions of employment will be treated as if they are a governing body and hence be expected to assist in the identification of staff that may be potentially redundant. The final identification, will, however be carried out by DCC, who will normally act upon the advice of the Managing Body.

The policy will apply to all employees at risk of redundancy, regardless of length of service or type of contract. It should be noted however, that only those employees who have more than 2 year's continuous service at the date of termination will be entitled to a redundancy payment. This service may be as a result of a number of consecutive fixed term contracts or may result from an employee's earlier, unbroken service with an associated employer e.g. another Council.

Where fixed term contracts are due to end at the same time as redundancies are anticipated to take effect, the employees on the fixed term contracts should be treated in exactly the same way as permanent employees in accordance with the Fixed Term Employees (Prevention of less favourable Treatment) Regulations 2002. That is they should be offered the same support and consultation and redeployment opportunities . They should also be allowed the same opportunity to make representations and appeal a decision to end their contract. The only exceptions will be where an employee has been given a fixed term contract where it has been agreed at the outset that the contract will end when a specified date is reached; or on the completion of a specified task or when a specified event does or does not occur or pending a review of staffing needs and that employee has less than 12 months continuity of employment.

4.Engagement /Participation/Consultation

The Redundancy Policy and Procedures for School Employees has been agreed by Denbighshire County Council and the organisations in membership of the Denbighshire Teachers Joint Negotiating Committee (D.T.J.N.C) and in membership of the Lifelong Learning Joint Consultative Committee (LLLJCC), ASCL (formerly SHA), ATL, NAHT, NASUWT, NUT, UCAC, and the Trade Unions representing non-teaching employees (GMB, UNISON, and UNITE).

5.Legal & Other References

The policy seeks to ensure that employees who may be affected by potential redundancy are treated fairly and equitably and complies with the statutory minimum set out in the Human Rights Act 1998 and with consideration to the following legislation:-

- Employment Act 2002
- Employment Rights Act 1996
- Equality Act 2010

No employee shall be treated less favourably on the grounds of sex, race, ethnic or national origin, religion or belief, disability, sexual orientation, marital status, age or language.

6. Policy Details

6.1 General Principles

The determination to dismiss by reason of redundancy is a matter for the school Governing Body. However, DCC remains the employer in Community, Community Special, and Voluntary Controlled schools. In the case of Voluntary Aided schools, the Governing Body is the employer.

Governing Bodies are responsible for making policy decisions regarding changes in schools. It is the responsibility of the Headteacher to manage change and achieve the policy objectives set by the Governing Body

The Staffing of Maintained Schools (Wales) Regulations 2006, places a requirement on Governing Bodies operating under schemes of delegation, to inform the Council, of employees who the Governing Body have decided shall cease to work there, for whatever reason, including redundancy.

6.2 Financial Considerations

Any associated costs will be met through the school budget unless the Council has implemented closure as a result of statutory re-organisation.

With the introduction of medium term financial planning the Council would expect a Governing Body to look to reduce staffing where a school is heading for a budget deficit, rather than taking action when a budget deficit arises.

6.3 Adoption of the Policy

If the Governing Body of a school decides to formally adopt the policy outlined, details must be issued to all employees so they are fully aware of their rights and obligations. If Governing Bodies choose to adopt an alternative policy, they are advised to consult DCC on that policy beforehand. They will also need to ensure that they fulfil the statutory requirements in respect of termination on the grounds of redundancy.

Any payments made in excess of the agreed Council Selective Early Retirement/Redundancy Scheme will be a charge on the budget of the individual school.

If the school does not adopt this policy then it would have to negotiate collectively an alternative policy with the recognised Trade Unions within DCC prior to the implementation and use of such policy.

6.4 Legal Definition

Under the Employment Rights Act 1996, a redundancy arises when employees are dismissed in the following circumstances:

- where 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
- where 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 they were so employed, have ceased or diminished, or are expected to cease or diminish.

6.5 Related Policies and Guidance

This policy should be read in conjunction with the following policies
Early Voluntary Retirement Scheme for Teachers Collective Disputes
Procedure Grievance Procedure
Guidance for Support in the Redundancy Process Consultation Policy
Statement School Organisation Policy Facilitating Change
School Organisation Policy

6.6 Planning to avoid redundancies

Forecasting and managing change is integral to successful medium and long term planning. Change can occur for a variety of reasons, including:

- changes in curriculum requirements
- changes in legislation and policies
- falling pupil numbers
- reduced budgets
- statutory school reorganisation
- cessation of specific funding streams.

Governing Bodies need, as part of their overall planning process, to avoid or minimise any potential employee surpluses as a consequence of such changes. There are a number of strategies which could be considered, these include:

- employee turnover
- reviewing the need for recruitment
- filling vacancies from amongst existing employees
- training or re-training
- secondment
- job share amongst existing employees
- voluntary reduction in hours
- voluntary early retirement
- voluntary redeployment
- voluntary redundancy voluntary flexible retirement

6.7 Voluntary Redundancies

Voluntary Redundancy is an option which the Governing Body should consider to mitigate potential redundancies.

In order for the Voluntary Redundancy Scheme to be invoked, it must be possible to identify a redundancy situation. This means that:

A post will be made redundant under the reasons identified and will not be filled

By volunteering for redundancy, a post holder will create an opportunity for a potentially redundant employee (from another department within the school or other schools within the Council) to redeploy and thus avoid compulsory redundancy

Eligibility

In order to qualify for voluntary redundancy payments an employee must have 2 years continuous service with an organisation included in the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order.

Both full and part-time employees are eligible to apply.

Re-employment

Under the terms of the 'Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1983', an employee who takes up employment with another organisation covered by the Order in any capacity within four weeks of the termination of their employment with DCC will be required to repay the redundancy payment in full.

Due to the declaration of voluntary redundancy, employees leaving the Denbighshire County Council under this scheme will not normally be re-employed by Denbighshire County Council on a permanent basis. Employees successful in their application for voluntary redundancy will be eligible to apply for posts in a relief/supply capacity.

Redundancy payments

Under the terms of the Voluntary Redundancy Scheme, employees will be entitled to those payments as outlined in the Redundancy Pay Calculator in the Guidance for Support in the Redundancy Process.

Application process

Applications should be submitted in writing to the Governing Body as soon as possible, before the employee seeks to leave the service. The application should provide the following information:

full name place of work

the date on which the voluntary redundancy should take effect a brief explanation of the reasons for applying

Note:

Further information may be obtained, in confidence from the Human Resources, Council Offices, Wynnstay Road, Ruthin. Tel: 01824 706200.

6.8 Early Voluntary Retirement

DCC aims to avoid the need for compulsory redundancy.

As part of this aim, depending on the circumstances and assuming all other options have been exhausted, the Council may offer early retirement or voluntary severance as one of a range of voluntary strategies. However, this is dependant on affordability and the continuation of present DCC policies relating to early retirement and voluntary redundancy.

The first priority will always be to identify a suitable alternative post for an employee, therefore any expression of interest does not mean that it will be granted, each case will be assessed on its own merit in accordance with Council policies and practices.

6.9 Roles and Responsibilities

Where all measures outlined in Section 6.6 have failed, the Governing Body will need to determine the number and type of posts that may be surplus to the school's requirements. The Governing Body must restrict discussions to broad issues only, in order to abide by the principles of natural justice. This will avoid members of the Redundancy and Appeal Committees having detailed prior knowledge of the circumstances and ensure a fair hearing.

A summary flow chart for the whole process is documented in Appendix 1.

6.9.1 Summary of Roles

Given that Headteachers will inevitably have direct involvement in implementing redundancy procedures, it would be the strong advice of DCC that dismissal on the grounds of redundancy should be undertaken by a Redundancy Committee comprised of a minimum 3 Governors, the role of the Headteacher being to attend in order to present the case and answer questions. The Appeal Committee should comprise of a minimum of 3 Governors. The number of Governors on the Appeals Committee should not be less than the numbers on the Redundancy Committee. No Governor may be a member of both committees. It is advisable that staff governors are not members of either panel in order to ensure complete impartiality. Careful consideration should be given to the numbers of Governors on each committee so that all stages of the process can be completed.

Standing committees with the appropriate terms of reference should be established in advance to ensure that there are no delays in proceedings.

6.9.2 Role of Redundancy Committee

The role of the Redundancy Committee or nominated representative will be to:

- acknowledge and discuss the proposals set out by the Headteacher
- notify DCC, relevant Trade Unions and Human Resources Department at the earliest opportunity of potential redundancies
- issue and provide a copy to the Director of Lifelong Learning Section 188 Notice
- determine appropriate selection criteria in consultation with recognised Trade Unions
- agree the redundancy timetable
- consider proposals put forward during the consultation process and formally respond
- at the end of the consultation, consider the information provided by the Headteacher on the staff skills and experience summary sheet and make the final decision on which post(s) are to be declared redundant based on the agreed criteria
- subsequently hear representations from the employee (s) whose posts(s) are selected for redundancy where the employee exercises their right to such a hearing
- notify in writing to employees the outcome of the hearing and rights to appeal if applicable
- present at appeal hearings together with the Headteacher, the case to the Appeal Committee
- notify the Council requiring dismissal notices to be issued giving reasons (if no appeal).

6.9.3 Role of Appeal Committee

The role of the Appeal Committee will be to:

- hear any appeals from employees together with representations from the Headteacher and Chair of the Redundancy Committee or nominated person from the committee.
- notify in writing to employees the outcome of the appeal
- notify Denbighshire County Council of the decision and requiring them to issue dismissal notices where applicable.

Consider whether the Redundancy Committee have applied the agreed procedure and the criteria for the selection of an employee for potential redundancy, fairly and equitably. It will not be within their terms of reference to adopt, extend and re-write the criteria in any way.

6.9.4 Role of Headteacher

The role of the Headteacher will be to:

- plan processes and ensure the Governing Body are aware of and adopt appropriate procedures.
- advise the selection panel and lead the communication/ consultation with the DCC, Human Resources Department, Trade Unions and employees
- advise the Redundancy Committee on selection criteria
- meet with employees to verify appropriate information submitted relating to experience and skills
- advise the Redundancy Committee when it meets to apply the criteria and identify employees for potential redundancy
- meet with employees to inform them of their selection for redundancy in conjunction with a representative of the redundancy committee if practicably possible.
- at the redundancy hearing the Headteacher will present a statement of case
- at appeal hearings, the Headteacher along with the Chair of the Redundancy Committee will present the case to the Appeal Committee
- ensure that employees, including those who may be absent from work for whatever reason, including those on maternity leave are consulted and kept informed.

6.9.5 Role of Council

The role of DCC will be to:

- receive written information from Governing Bodies regarding potential redundancy situations
- ensure that the Headteacher has informed the Department of Business Innovation and Skills of potential redundancies (HR1) where applicable. This notification must be made at least **30 days** (for 20 to 99 employees) and at least **90 days** (for 100 or more employees) before dismissal.
- request The Human Resources Department to issue dismissal notices
- avoid redundancy of employees wherever possible and secure co-operation of Governing Bodies in redeploying employees
- consult with Headteachers, Governing Bodies and Trade Unions regarding DCC's Education Budget and the allocation of funds through the scheme for financing schools
- provide budgetary information to schools at the earliest opportunity in order to facilitate sufficient time for consultation, decisions and implementation.

6.9.6 Role of Human Resources

- i) To provide advice, guidance and support to the Headteacher, Governing Body, Redundancy and Appeal Committees in line with the Service Level Agreement for HR Provision.
- ii) Provide support to employees seeking redeployment
- iii) Issue Dismissal Notices as requested by the Corporate Director of Lifelong Learning (Community, Community Special & Voluntary Controlled – Voluntary Aided schools by arrangement only).

6.10 Timescales and notice periods

In considering any reduction in employees, Governing Bodies should agree a realistic time scale for implementation. The contracts of teachers may be terminated on grounds of redundancy on three fixed dates in the year:

- 30 April
- 31 August
- 31 December

In accordance with the Conditions of Service for School Teachers (the Burgundy Book), notice must be served by 28 February, 31 May and 31 October (31 January, 30 April and 30 September for Headteachers) respectively in order to comply with statutory requirements for the redundancy to take effect at the end of the respective school term.

Note that they are given contractual notice, which is 1 weeks notice for every complete year of service, up to a maximum of 12 weeks.

Notice periods for non-teaching employees are dependant on length of continuous service i.e. 1 week for every year of service with a minimum of one months notice up to maximum of 12 weeks.

The fair application of these procedures will take a significant period to complete. An example timetable is available in the Guidance for Support in the Redundancy Process and is for illustrative purposes only. Contracts for teachers may be terminated on 3 fixed dates in the year, but the process can be undertaken at any time in the academic year. When drawing up the timetable a minimum of 7 calendar days should be allowed for notice of hearing and appeal dates and for notice of any formal changes. Any changes to prearranged dates should normally only be made by mutual agreement.

7. Procedure

7.1 Consultation Process

7.1.1 Section 188 Notices

DCC and the Governing Body have a duty under sections 188-198 of the Trade Union and Labour relations (Consolidation) Act 1992, to consult with and issue formal notices to the recognised Trade Unions/Associations about the potential redundancy situation as soon as the redundancies are contemplated; and to inform all employees. The Redundancy Committee will normally issue Section 188 Notices on behalf of both parties, for which the following information will be required:

- the reasons for the proposals to reduce staffing levels
- the total number of employees, broken down into categories, employed at the school
- the total number and description of employees whom it is proposed to dismiss by reason of redundancy
- the proposed method of selection for redundancy
- the proposed method of effecting the redundancies, including the period over which the dismissals will take effect
- details of the method of calculation of any redundancy payments other than those required by law
- the date of the first consultation meeting

An example letter is provided in the Guidance for Support in the Redundancy Process and should be issued to the relevant Trade Unions/Associations with a copy to DCC.

The statutory timetable for consultation is as follows:

No of employees to be dismissed at the establishment	Period over which redundancy takes effect	Minimum Consultation Period
20 - 99	Within 30 days	30 days
100 +	Within 90 days	90 days

There is no set period laid down where redundancies involve less than 20 employees; however it is recommended good practice to apply as a minimum, the 30 day consultation period.

The consultation periods detailed above must expire before the first notices of redundancy are issued.

This policy recommends that consultation between the Governing Body and the representatives of the Trade Unions/Associations should take place at the earliest opportunity and prior to any selection of individuals. All parties to the consultation process at this stage are expected to maintain confidentiality at all times.

7.1.2 Preliminary Discussions

It is advised that preliminary discussions are had within the schools and staff are kept fully informed at the earliest and most appropriate opportunity. This may be through local joint consultative arrangements in schools where they exist. Governing body representatives and Headteachers with advice from appropriate LEA officers will explore fully the alternatives available within the school to mitigate any potential redundancy and draft proposals for consideration by the Governing body and appropriate committees. However for issues relating specifically to selection pools, criteria and timetabling of any formal redundancy consultation and implementation plan, this should be done together with local branch secretaries of all the unions. A copy of their contact details are contained in the Appendix 2 of this policy.

7.1.3 Consultation Meetings with Trade Unions / Associations

The objective of the consultation process is to try and reach agreement with the Trade Unions/Associations. Any proposals made by the Trade Unions/Associations will be considered by the Redundancy Committee and a written response will be given. As part of the consultation process, the Redundancy Committee will need to demonstrate that any alternative suggestions by the Trade Unions/Associations have been given full consideration. It is essential in draft proposals of suggestions made by this group are highlighted. A draft consultation framework document is available in the Guidance to Support in the Redundancy Process to assist with the process of communicating issues, proposals and final decisions.

The consultation process will include:

- strategies to try and avoid redundancy
- strategies to reduce the number of employees to be dismissed and mitigating the consequences of such dismissal
- dates of the first and any subsequent consultation meeting
- the reason for the proposed staffing reduction
- full budgetary information where the reason for the proposed staffing reduction is financial
- full details of the procedure to be used
- full details of the selection criteria for identifying the posts(s) to be declared redundant
- the time scale.

Strategies to avoid redundancy must continue to be explored throughout the process.

7.1.4 Consultation Meetings with Employees

At the time as the Section 188 notice is issued, the Headteacher will inform employees of the situation and the date of the first consultation meeting, which should take place at the earliest opportunity. Those invited to attend should include all employees likely to be affected, relevant Trade Unions/Associations representative(s), a representative of the Redundancy Committee, a representative of the Corporate Director of Lifelong Learning

Normally written notification should be issued in advance of the meeting to all employees setting out the issues to be addressed at the meeting.

The purpose of the meeting is to inform employees of the issues and to enable full explanation and discussion of ways to:

- avoid dismissals
- reduce the numbers of employees to be dismissed
- mitigate the consequences of the dismissals.

7.1.5 Absent and Pregnant Employees

The Headteacher must ensure that employees who are absent from work for any reason are consulted and kept informed. This is particularly important for employees who are on maternity leave as it is automatically unfair to select a woman for redundancy on the grounds of her pregnancy and an act of direct sex discrimination.

Employees who are on long term absence due to ill-health may be considered disabled for the purposes of the Disability Discrimination Act (1995) and should not be subjected to any detriment by reason of their disability.

Absent employees should be offered the same support and consultation and be subject to the same selection criteria. They should also be offered the same opportunity to make representations and to appeal against the decision to end their contract. Any reasonable adjustments to accommodate disabled employees must be made.

Under regulation 10 of the Maternity Paternity Leave Regulations 1999, if a pregnant employee is selected for redundancy she must be offered a suitable alternative job role to start immediately after her existing job role ends, if one exists. Therefore any suitable alternative jobs must be offered to women on maternity leave before they are offered to other staff.

If a pregnant employee is selected for redundancy, the selection criteria used must be as objective as possible and in line with how other employees are assessed.

If a pregnant employee or employee taking maternity leave is selected for redundancy, her notice period will be extended until the end of her maternity leave. If it is not possible to redeploy her, she will not be required to repay Occupational Maternity Pay.

7.1.6 Keeping Records

Details of consultation meetings should be recorded and documented so that the school can clearly demonstrate that it has followed Policy and Procedure and abided by statutory requirements.

Minutes of meetings with Trade Unions/Employees should be copied to relevant parties.

'Special Circumstances'

It should be noted that under section 188 of the Trade Unions and Labour Relations (Consolidation) Act 1992, if there are "special circumstances" * which prevent the level of consultation as outlined above, the Governing Body has a duty to: *"take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances".**

*Trade Union and Labour Relations (Consolidation) Act 1992

7.2 Selection for Redundancy

If reductions cannot be effected by voluntary means it will be necessary for compulsory redundancy procedures to be implemented.

7.2.1 Identifying Employees

The Redundancy Committee, advised by the Headteacher will need to meet to finalise where the reductions will be sought e.g. teaching and/or Non-teaching and the criteria by which it is proposed to select employees for redundancy. Consultation with Trade Unions/Associations and employees affected should continue throughout this process.

7.2.1 Selection Criteria and Pools

In considering and establishing appropriate selection criteria and pools it is essential that it is a fair, objective and consistent method of identifying employees who may be made redundant. It should not discriminate against employees on the grounds of sex, race, disability, religion or belief, sexual orientation, gender preference, marital status, part time working, age or trade union membership. The list below sets out examples of criteria which should be used:

- curriculum needs of the school
- management and organisational needs of the school
- qualifications
- experience
- future skill requirements

In order to minimise the effects of the redundancy selection process the principle of restricting the selection to pools of staff can be followed. The list below sets out examples of criteria that should be considered in this eventuality

- Staff in a department where there is evidence of falling demand
- Staff performing the same or broadly similar tasks and responsibilities

In seeking to agree selection criteria and pools, the most important consideration for the future viability of the school, is to maintain a balanced workforce after the redundancies have been carried out. Specific skills and flexibility may be the most relevant consideration to the future of the school but it is essential however that any decisions are based on robust evidence.

Once agreed the selection criteria and pool should not be changed without further consultation.

Advice should be sought from the Human Resources Department. DCC must also be consulted over the criteria, which the Governing Body propose to adopt.

Examples of selection criteria tools are outlined within the Guidance to Support in the Redundancy Process. It is essential that the tools to be used are agreed prior to implementing the selection for redundancy process.

7.2.3 Rights of Assimilation

Non Teaching Employees

In cases of reduction of non-teaching employees, DCC has agreed procedures in relation to rights of assimilation (slotting in) which are set out below and must be adhered to. The use of the Employee skills and experience summary form (non teaching) in the Guidance for Supporting in the Redundancy Process is recommended.

a) An assessment is undertaken to identify which employees will have the right of assimilation (i.e. slotting in) to any of the Non-teaching posts within the school. This should be based on a best fit criteria of the job description of the post in question and the employee's present post, current experience, skills and qualifications (e.g. if the employee currently undertakes 75% or more of the duties and responsibilities of the new post and meets the essential requirements of the employee specification, then they should be slotted in. This process will only apply where the new post is at the same grade.

b) If more than one employee has rights of assimilation or the chance of more than one redeployment opportunities, then a recruitment and selection process will be undertaken from those employees directly affected by the changes. These employees will form a 'pool' from which ring fenced appointments will take place.

c) Where there are no employees with rights of assimilation, then again a ring- fenced recruitments process will be undertaken with the posts open to those employees within the school subject to them meeting the criteria of the posts.

Non teaching employees should complete the Employee Skills and Experience Summary form shown at Guidance for Support in the Redundancy Process in order that the school can assess employee's assimilation rights and to undertake the ring fenced recruitment process as appropriate.

A form should be given to all non-teaching employees who are in the 'pool' along with the selection criteria to be used. Individual meetings should then be held with the employees in order to verify information submitted.

Teaching Employees

For reductions in teaching employees, the use of the Employee Skills and Experience Summary Form in Guidance for Support in the Redundancy Process should be used to assess employees against the selection criteria. Weightings should be applied to specific criteria, according to the priorities of the school.

The form should be given to all teaching employees who are in the 'pool' along with the selection criteria to be used.

Individual meetings should then be held with employees in order to verify information submitted.

Teaching Employees - Selection Matrix

For reductions in teaching employees the use of a selection matrix is recommended. The Selection matrix should give a summary of how employees have scored against the criteria. An example form is available from Guidance for Support in the Redundancy Process.

7.2.4 Meeting of the Redundancy Committee

The Redundancy Committee meets to apply the criteria and provisionally select employees for redundancy. The Headteacher should arrange for notes to be taken of the meeting to ensure records detailing the reasons for the decision are available for Redundancy Committee hearings and Appeals. Members of the Redundancy Committee should receive a copy of the selection criteria, profile forms and selection matrix. The Governing Body need to consult with the Headteacher to ensure that other relevant information is available i.e. job descriptions/employee specifications, summary of curriculum needs (*indicative or actual*). The professional judgement of the Headteacher should normally be the means of evaluating the information given by employees set against the selection criteria, to ensure that appropriate evidence is provided by the Governing Body.

The selection criteria must not be altered during the selection process.

In the case of non-teaching employees the Redundancy Committee would need to agree assimilations and ring fenced appointment to posts where applicable, in order to identify those employees to be selected for redundancy.

7.2.5 Informing Employees

The Chair of the Redundancy Committee or member thereof and the Headteacher should normally inform employees personally that they have been selected for potential redundancy and that they have an entitlement to a hearing and an Appeal unless other arrangements have been agreed.

Employees should be strongly advised to contact their Trade Union Representative at this point, if they have not already done so.

A formal letter will also be issued by the Chair of the Redundancy Committee to the employee notifying them of their selection and inviting them to make representations in person or in writing to a hearing of the Redundancy Committee and if required, an

Appeal hearing, before a final decision is made. The letter should state the date, time and venue of the hearing and the reasons for nomination for redundancy. Remind the employee of their rights to be accompanied by a trade union/association representative or colleague and state that the representations may be in person and/or in writing. The employee will be asked to confirm whether or not they will be attending. An example letter is shown at Guidance for Support in the Redundancy Process.

If an employee does not exercise their right to a hearing then a further letter should be issued confirming the selection. An example is shown at Guidance for Support in the Redundancy Process.

An employee need not attend but can provide written reasons which lead the Redundancy Committee to conclude no redundancy.

7.3 Hearings and Appeals

7.3.1 Representation to the Redundancy Committee

Employees are entitled to a hearing by the Redundancy Committee.

As the dates for Redundancy Committee Hearings have been preset as part of the consultation process, it is expected that employees and representatives will already have noted this. The principles outlined in Section 6.10 should be followed if dates are required to change.

The Headteacher and Chair of any relevant working group established to review the financial position of the school, will prepare a Statement of case including the matrix for all the 'pool' that were considered for potential redundancy (*although names should be omitted to preserve confidentiality*). The Statement of case should include reasons for redundancy, consultation process and an explanation of the selection criteria. This must be given to the employee together with a copy of the conduct for the hearing.

The Clerk to the Governing Body will ensure that any documentation to be submitted to the Redundancy Committee hearing is sent to all parties, including the employees Trade Union Representative, although, the employee will be permitted to submit relevant documentation at the hearing itself if necessary.

The Redundancy Committee may be advised by a representative from the HR Department whose role it will be to advise on points of the law and procedure regarding the case.

7.3.2 Conduct of the hearing

- a) The Chair of the Redundancy Committee will make the necessary introductions.
- b) The nominated governor representative and the Headteacher will present the case for its provisional nomination of the post for redundancy.
- c) The employee and/or their representative and members of the Redundancy Committee and any advisers to the Committee may ask questions or seek clarification from the Headteacher and the nominated governor presenting the case.
- d) The employee and/or their representative will make representations on the basis of their selection for redundancy. It is the application of the selection criteria which should be challenged and not the selection criteria itself, as this has formed part of the consultation process.
- e) The nominated governor presenting the case, the Headteacher and the members of the Redundancy Committee and any advisers may ask questions or seek clarification from the employee and/or their representative.
- f) Both parties will be offered the opportunity to make a closing statement, but shall not introduce any new matters for consideration other than those that have already been raised within the meeting.
- g) The Headteacher, the Chair of the Review Group and the employee and their representative should then withdraw from the hearing.
- h) The Redundancy Committee will then deliberate the facts of the case, only recalling both parties if appropriate, to clear any points of uncertainty
- i) The Redundancy Committee wherever practical will announce its decision to both parties personally and subsequently in writing confirm the decision.
- j) The employee should be advised of their right of appeal. If the employee wishes to exercise their right of appeal they should be informed to do so in writing, setting out the full grounds for the appeal. An example letter is shown at Guidance for Support in the Redundancy Process. If the employee does not wish to exercise their Right of Appeal then the Chair of the Committee should request the Director of Lifelong Learning to issue a letter of dismissal. An example letter is shown at Guidance for Support in the Redundancy Process.

k) Should the decision be that the employee is no longer to be selected for redundancy, advice should be sought from the schools HR Advisors on an appropriate letter. If as a consequence another employee is selected for redundancy they need to be informed in writing and their selection hearing arranged.

7.3.3 Conduct of the appeal

Arrangements for convening the Appeal Committee should be the same as those for the Redundancy Committee hearing. The Appeal Hearing dates should have already been agreed as part of the timetable for the process.

The Appeal should be conducted as follows:

- a) The Chair of the Appeal Committee will make the necessary introductions.
- b) The Headteacher and/or the Chair of the Redundancy Committee will present the case for the nomination of the employee for redundancy.
- c) The employee and/or their representative and members of the Appeal Committee and any advisers to the panel may ask questions of the Headteacher and/or Chair of the Redundancy Committee.
- d) The employee and/or their representative will make representations on the basis of their selection for redundancy. It is the application of the selection criteria which should be challenged and not the selection criteria itself, as this has formed part of the consultation process.
- e) The Headteacher and/or the Chair of the Redundancy Committee and members of the Appeal Committee and any advisers may ask questions of the employee and/or their representative.
- f) Both parties will be offered the opportunity to make a closing statement, but shall not introduce any new matters.
- g) The Headteacher and the Chair of the Redundancy Committee and the employee and their representative should then withdraw from the hearing.
- h) The Appeal Committee will then deliberate the facts of the case, only recalling both parties if appropriate to clear any points of uncertainty, before a decision is reached by the Committee.

- i) The Committee will announce its decision to both parties personally and subsequently in writing.
- j) Should the Appeal Committee's decision be to confirm the decision of the Redundancy Committee then the Chair of the Committee should request the Director of Lifelong Learning to issue a letter of dismissal. An example letter is shown at Guidance for Support in the Redundancy Process. The employee should be informed that notice of dismissal will now be issued. An example letter is shown at Guidance for Support in the Redundancy Process.
- k) Should the decision be that the employee is no longer to be selected for redundancy, advice should be sought from the schools HR Advisor on an appropriate letter. If, as a consequence another employee is selected for redundancy, they need to be informed in writing and their selection hearing arranged.

Note: If the Headteacher does not present the case on behalf of the Redundancy Committee, he/she will attend throughout the hearing to answer questions from all parties.

7.4 Dismissal

The Chair of the appropriate committee will immediately notify the Director of Lifelong Learning in writing of the determination that the employee will no longer work at the school. An example letter is shown in Guidance for Support in the Redundancy Process. The Human Resources department will issue formal notice. In the case of dismissal in a Voluntary Aided school, it is the Governing Bodies duty to issue formal notice, unless it has asked DCC, in writing, to issue such notice on its behalf.

Employees will receive the period of notice to which they are entitled, whether or not they are entitled to a redundancy payment.

7.5 Discussions relating to redundancies not upheld

- a) The Chair of the Redundancy Appeals Committee will notify the Chair of the Staffing Committee of its resolution not to uphold the decision of the Redundancy Committee.
- b) The Redundancy Committee will use the same criteria established under sub- section 8.2 above, and will apply the same criteria with the name of the successful appellant removed from further consideration.

c) The Staffing Committee will proceed to select an employee/s as potentially redundant by use of the criteria, and follow the procedures already agreed and set out in section 9 above.

7.6 Redundancy Payments

Eligibility

To qualify for a redundancy payment, an employee must have at least two years' continuous service with the DCC, or an associated employer to which the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1983 (as amended) applies.

An up to date Modification Order can be found at
<http://www.lgemployers.gov.uk/relations/law/issues/modification.html>

If there is a break of more than a week (running from Sunday to Saturday) between two contracts, continuity will be broken (except where there is a redundancy and a new job is taken up within 4 weeks).

7.6.1 Calculation of Payments

Redundancy payments will be in accordance with redundancy calculation tables available in Guidance for Support in the Redundancy Process. The calculation is based on:

- Age at the date of termination of employment
- Length of continuous service as stipulated in the 'Modification Order' at the date of termination of employment, up to a maximum of 20 years
- Actual Pay at the date of termination rather than the Statutory Maximum.

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by DCC to the employee under the current contract of employment for working their normal hours in a week.

Where there are no normal working hours, a week's pay is the average remuneration in the period 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

7.7 Counselling

Governing Bodies and DCC recognise that a redundancy situation is a very stressful time for individuals concerned. Affected employees are encouraged to contact the Councils' Occupational Health Department should they wish to access the free, confidential counselling service.

7.8 Redeployment

The Trade Unions/Associations recognise the Governing Bodies' and DCC's responsibility to seek to redeploy in order to avoid compulsory redundancy. The locally agreed redeployment procedures for teaching and non-teaching staff are designed to facilitate that redeployment. These procedures are contained within the Guidance for Support in the Redundancy Process accompanying this Policy

Every possible effort must be made to assist the person being dismissed on the grounds of redundancy to find alternative employment and this will continue until the final date of termination of employment.

DCC's Redeployment Procedures should be followed as outlined in the Guidance for Support in the Redundancy Process.

Retraining should be considered as an alternative to redundancy which may result in redeployment opportunities.

Employees who are under notice of redundancy will be entitled to reasonable paid time off to look for alternative employment i.e. attendance at interviews.

Redundancy can be a traumatic experience for employees, particularly those who have worked for a number of years within the school. Advice and support may cover career counselling, job application and interview preparation, investment opportunities, family considerations and personal counselling.

Governing Bodies and Headteachers should seek advice from Human Resources Department in relation to accessing appropriate support and advice for effected employees.

8. Supporting documents

