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# **REDUNDANCY POLICY FOR KINGSBRIDGE COMMUNITY COLLEGE January 2012**

**For academies that purchase support from the Devon County Council Human Resources Service where a link HR Adviser is provided to the school (not applicable for Helpline only subscription) comprehensive guidance is available to accompany this model policy. Further advice is also available from [schoolspersonnelhelpline@devon.gov.uk](mailto:schoolspersonnelhelpline@devon.gov.uk)**

**This policy was adopted by the Governing Body of**

**Kingsbridge Community College**

**on 14<sup>th</sup> May 2012**

**Academies' Model Redundancy Policy - Version date: January 2012**

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## **A. RESPONSIBILITY FOR REDUNDANCY**

- A.1.** The Governing Body is responsible for deciding the number and the categories of employees working within the Academy.
- A.2.** A number of responsibilities will be delegated to the Principal.
- A.3.** The Governing Body must adopt a policy for dealing with employee dismissals, including redundancy. This policy is provided, following consultation with trade unions/professional associations, for the Governing Body to consider for adoption. Should the Governing Body wish to make changes to this model policy, it must undertake the required consultation with the Devon County Officers of all recognised trade unions/professional associations.

## **B. THE LEGAL FRAMEWORK**

- B.1.** The Employment Rights Act 1996 defines redundancy as a situation where:
- The employer ceases or intends to cease either to carry on the business for the purposes for which the employee was employed or to carry on the business in the place in which the employee was employed.
- or
- The requirements of the 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 the employee was employed, have ceased or diminished or are expected to cease or diminish.
- B.2.** In the Academy this could be interpreted as, for example, when the Academy has to reduce its staffing establishment for budgetary reasons or the staffing needs to be reorganised to respond to organisational or curricular changes.
- B.3.** Any termination of a contract of employment is a dismissal and must be as a result of action under the appropriate policy.
- B.4.** Employees directly employed under 'temporary' or fixed term contracts are protected under the Fixed Term Workers Regulations.
- Employees on temporary or fixed term contracts must be treated equally with permanent employees for redundancy arising for a reason other than the ending of the employee's individual contract.
  - If the redundancy is due to the ending of the employee's individual contract due to the reason given in the contract of employment, please refer to appendix 1.

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- B.5.** Employees who are part-time are protected under the Part Time Workers Regulations. Part-time employees must be treated equally with full-time employees under this policy.
- B.6.** There is a legal requirement to consult.
- B.7.** A representative from a recognised trade union/professional association, or an appropriate work colleague, may accompany an employee at representation and/or appeal meetings.

## **C. POTENTIAL LEGAL COSTS**

- C.1.** The Academy will ensure it has adequate financial resources to cover any legal costs or compensatory awards arising from any subsequent claims.

## **D. EQUAL OPPORTUNITIES**

This procedure is based on best practice and is designed to promote a consistent and fair approach to redundancy issues in the Academy. The Governing Body will ensure that the application of the procedure will not disproportionately or unfairly affect any employees in the Academy recognising the diversity of the community.

## **E. WORKING DAYS**

The policy makes reference to a number of 'days' within which certain actions should take place. 'Days' are Monday to Friday excluding public holidays.

## **F. DETERMINING THE NEED FOR STAFFING REDUCTIONS**

- F.1.** The Governing Body will review the Academy's budget and in cases of a budget deficit determine whether staffing reductions are necessary.
- F.2.** As part of the review of the budget, the Governing Body will consider reductions elsewhere in the budget before determining staffing reductions are necessary.

## **G. AUTHORITY TO TAKE ACTION**

- G.1.** The Principal will be responsible for selecting employees to be made redundant and considering any representations by the employee.
- G.2.** An Appeal Committee of governors, who have had no previous involvement in the selection or representation(s), will consider any

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appeal(s) from employee(s) selected for dismissal on grounds of redundancy.

## H. WHO DOES WHAT?

The Governing Body is responsible for this policy being properly followed. However, the following areas will be delegated as indicated

	Head Teacher/ Principal	Governing Body	Chair of Governors	Chair of Appeal Committee	Clerk to Govs (or substitute)
Adopting Redundancy Policy		✓			
Determine membership (inc Chair) of the Appeal Committee		✓			
Overseeing proper application of process	✓				
Producing statutory information and documentation	✓				
All correspondence to employees during consultation process	✓				
Co-ordinating all parties to set timetable	✓				
Co-ordinate and chair consultation meetings	✓				
Attendance at consultation meetings	✓		✓ or substitute governor		
Consideration of responses to consultation meetings		✓ or delegated committee			
Ensuring a note-taker present at Representation and Appeal meetings	✓				✓
Ensuring the accuracy of selection process and Representation meetings notes	✓				
Notifying selected employee(s) orally and confirming in writing the outcome of selection and Representation meetings	✓				
Issuing notice to selected employees			✓		
Supporting selected employee(s) to seek alternative employment	✓				
Notifying the Chair of the Appeal Committee regarding the receipt of appeals from selected employees					✓
Setting up and administering Appeal Committee					✓
Notifying employee(s) orally and confirming in writing the outcome of the Appeal Committee				✓	
Ensuring accuracy of Appeal meeting notes				✓	

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## I. RECORD KEEPING

- I.1.** The Principal will ensure that a note is kept of the decisions made during the selection process and at Representation meetings given that there may be a need to produce the documentation used in arriving at decisions at the Appeal meeting.
- I.2.** The Chair of the Appeal meeting will ensure that notes of the decision of the Appeal meeting are held under Confidential Part 2 arrangements and will simply record the decision reached.

Who is responsible for record keeping:	Headteacher/ Principal	Chair of the relevant Committee	Clerk to Govs or nominated person
Full, comprehensive record of the redundancy process	✓		
Notes taken at the union consultation and staff consultation meeting	✓ plus governor representing the GB		
Record of decision at full governors meeting			✓
Notes of selection meeting	✓		
Notes of representation meeting	✓		
Notes of appeal meeting		✓	✓

## J. PRIOR CONSIDERATIONS BY THE GOVERNING BODY AND PRINCIPAL

- J.1.** The Principal will review the staffing levels at the Academy and determine a staffing structure to provide the best education to the pupils within the financial resources available to the school.
- J.2.** The Principal will agree a staffing structure with the Governing Body prior to the commencement of the consultation process.
- J.3.** The Governing Body and the Principal will determine whether any necessary staffing reduction only applies to one area of the Academy e.g. if a special unit closes and the employees are contracted specifically to work in that unit. In this case, the consultation will take place with these employees and the County Officers of the relevant trade union/professional association. All affected employees must be fully consulted, other employees will be kept informed.
- J.4.** The Governing Body will delegate to the Principal the responsibility for determining which employees sit within which 'pool' of employees to be considered for the staffing reductions.

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## **K. CONSULTATION WITH TRADE UNIONS/ PROFESSIONAL ASSOCIATIONS**

- K.1.** There is a legal requirement to consult. Consultation will be meaningful and genuine. However, consultation does not mean that agreement will be reached but that full and proper consideration will be given to any responses made either during consultation meetings or provided in writing during the consultation period.
- K.2.** Consultation with trade unions/professional associations will begin as soon as the potential need for staffing reductions has been identified and in any event before any Formal Staff meeting.
- K.3.** The Principal will provide a report to the County Officers of all recognised trade unions/professional associations including the following information. This report will provide the basis for the consultation which will take place prior to any staffing reductions being made and will include the following information:

**Individual employees will not be named or consulted at this stage. Individual posts may be identified.**

- The reasons and circumstances that have led to the need to consider staffing reductions;
- Details of savings made in other areas of the Academy budget to try to avoid or reduce the need for staffing reductions;
- Appropriate budget information including the likely budget shortfall for budget led redundancies;
- Curricular provision;
- Pupil number trends and projections;
- Academy Development Plan;
- The total number and category of employees in the establishment;
- The number and category of staffing reductions that may be needed;
- Whether a category of employees will be abolished;
- Where there is a need to reduce the number of employees in a particular category, the proposed criteria to differentiate between employees of the same category or where a selection process is to be followed, the proposed method of selection e.g. interview, presentation, psychometric testing, classroom observation etc;
- Which category of employee will be included in the 'pool' of staff to be considered;
- If appropriate, the proposed staffing restructure that will lead to a reduced number of employees;
- The proposed procedure for carrying out the redundancy dismissals, including the period over which the dismissals will take effect;
- The proposed method of calculating the redundancy pay.

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- K.4.** The Principal will invite all the relevant County Officers of the recognised trade unions/professional associations to a consultation meeting. The Principal will chair the meeting and the Chair of Governors (or substitute) will be present to represent the Governing Body. The Principal may also invite an HR Adviser. This meeting is for the Principal and Chair of Governors to provide information, to answer questions and to consult on the proposals, including any possible ways of avoiding redundancy. If staffing reductions are unavoidable, the ways of making the necessary staffing reductions will also be consulted on.
- K.5.** Any comments/responses made during the consultation process will be reported to the Governing Body or other committee as delegated for consideration prior to any staffing reductions being made.
- K.6.** Whenever possible, the Principal will, at the conclusion of the consultation meeting, inform the trade union/professional association representatives of the timetable for the process.

## **L. FORMAL CONSULTATION MEETING WITH EMPLOYEES**

- L.1.** Following the consultation meeting with trade unions/professional associations, the Principal will chair a consultation meeting with all affected employees. The Chair of Governors (or substitute) will be present to represent the Governing Body. This meeting is for the Principal and Chair of Governors to provide the same information to employees as provided at the union consultation meeting. The purpose of the meeting is to consult with employees and to answer questions on the options available, including any possible ways of avoiding redundancy. If staffing reductions are unavoidable, the ways of making the necessary staffing reductions will also be consulted on.
- L.2.** The same information will be given to all the employees, including those absent from school for any reason, as has been given to the trade unions/professional associations.
- L.3.** The Principal will ask whether any employees wish to make a request to alter their working arrangements or have any alternative proposals on how the school may achieve a balanced budget including volunteering their post for redundancy/redeployment. This should be put in writing to the Principal. Employees should be advised to seek advice from their trade unions/professional associations if considering this option.
- L.4.** At the meeting, the Principal will issue an Employee Profile Form to each employee in the pool. These Employee Profile Forms will be completed by employees to provide information to demonstrate how each employee meets the selection criteria contained within this policy. This information

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will be considered during the selection process and cannot be added to at a later stage of the process.

- L.5.** In exceptional circumstances, only specific categories of staff within the school will be considered for staffing reductions. If this is the case, the reason will be made clear to staff by the Principal.
- L.6.** In some cases, if only a specific category of staff is affected, the Governing Body may determine that rather than using the selection criteria in this policy to identify who is selected for redundancy, a selection process will be undertaken to identify who will secure a post(s) in the new structure resulting in anyone not successful in this process being provisionally selected for redundancy.
- L.7.** Employees should be made aware that they can request an estimate of redundancy payments from the Academy. Employees should also be advised to discuss any such matters with their trade union/professional association representative.

## **M. THE SELECTION CRITERIA**

- M.1.** Where there is a need to reduce the number of employees in a specific category of work, the following criteria will be used to differentiate between those employees in that category, if the Governing Body has determined not to undertake a selection process involving interviews and other recruitment tools .
- M.2.** Where more employees volunteer their posts for redundancy than are required, these selection criteria will be used.
- M.3.** The following selection criteria will be evidenced by each individual employee him or herself in relation to his/her category of work which is undertaken during contracted working time.

<b>SC1</b>	Working to Professional Standards for Teachers (Criterion for teachers only)
<b>SC2</b>	Sharing professional expertise appropriately
<b>SC3</b>	Possesses competencies to do the job effectively
<b>SC4</b>	Possesses an up to date knowledge of relevant area of work
<b>SC5</b>	Contributes effectively to raising standards of education in the school.
<b>SC6</b>	Contributes effectively to the good reputation of the school in

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	the community.
<b>SC7</b>	Communicates effectively.
<b>SC8</b>	Flexibility and adaptability to meet the needs of the school.
<b>SC9</b>	Performance in role.
<b>SC10</b>	Attendance and Timekeeping
<b>SC11</b>	Conduct in role

## **N. SELECTION OF EMPLOYEES**

- N.1.** An HR Adviser may be present to advise the Principal.
- N.2.** The Principal will consider requests from any employees that they be selected for redundancy or to alter their working arrangements. For each request the Principal will consider the potential impact on the Academy taking into account the overriding need to retain relevant skills, knowledge and experience required by the Academy.
- N.3.** After considering these requests, if the Principal still determines that compulsory redundancy is necessary the process will continue.
- N.4.** The Principal will ensure that the 'pools' of employees at risk of redundancy are clear and that affected employees are allocated to a 'pool' (this may be a 'pool' of one employee).
- N.5.** The Principal will consider whether any category of employee should be abolished as that role(s) is no longer required in the Academy. If this is the case, all staff in this category will be at risk of dismissal on grounds of redundancy. Completion of an Employee Profile Form is unnecessary in these circumstances.
- N.6.** If there is a need for further reductions, the Principal will consider the Employee Profile Forms against the selection criteria for each of the employees in each affected 'pool' to determine which individuals should be selected for redundancy.

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- N.7.** The selection criteria will be applied with care and in a reasonable, fair and objective way. The employee(s) identified as least able to contribute to taking the school forward in the future, based on the application of the selection criteria, will be provisionally selected for dismissal by reason redundancy.
- N.8.** If the Governing Body determined that a selection process should take place, the Principal will consider the outcome of that process and assure him/herself that the process undertaken was appropriate and employee(s) not appointed to a post(s) in the new structure will be selected for redundancy.

## **O. NOTIFICATION OF SELECTION**

The Principal will orally advise the relevant employee(s) of the proposal to select him/her for redundancy. This will be confirmed in writing within three days of the date of selection, giving reasons and advising of the right to make representations at the Representation Meeting with the Principal.

## **P. PRIOR TO THE REPRESENTATION MEETING**

- P.1.** An employee wishing to exercise his/her right to make representations, must notify the Principal in writing within five days of the date of the written notification of the selection for dismissal on grounds of redundancy.
- P.2.** At least five days before the Representation meeting, the selected employee will be given copies of the notes of his/her selection and if the selection criteria were applied, the employee's assessment. If a selection process was undertaken, written feedback from his/her interview and any other recruitment tool used will be provided to the employee.

## **Q. THE REPRESENTATION MEETING**

- Q.1.** An HR Adviser may be present
- Q.2.** The Clerk to Governors (or substitute) should take notes at the meeting.
- Q.3.** The meeting must be held in accordance with good employee relations practice.

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## **R. NOTIFICATION AFTER THE REPRESENTATION MEETING**

- R.1.** The Principal will orally advise the relevant employees of the decision.
- R.2.** If the decision is that the selection stands, the selected employee will be given written confirmation within three days of the date of the meeting including reasons for the decision and the employee's right to appeal.
- R.3.** If the decision is that the employee should not be selected then the employee will have written confirmation. In this case, the Principal will consider the appropriate course of action.
- R.4.** If the decision is that the employee should be selected, the Principal will report the outcome of the process to the governors.
- R.5.** The Chair of Governors will give the employee notice in writing.

## **S. APPEAL BY THE EMPLOYEE**

- S.1.** Any appeal by a potentially redundant employee must be made in writing to the Clerk to Governors (or named alternative) within five days of the Representation meeting, stating the grounds of appeal and giving reasons for the appeal.
- S.2.** An appeal can be made on the following grounds:

**Ground 1 – that the reason for dismissal was not redundancy**

**Ground 2 – that the selection for redundancy was unfair**

**Ground 3 – that the process was flawed**

## **T. PRIOR TO APPEAL MEETING**

- T.1.** The Appeal Committee must be made up of at least two Governors and no more than three.
- T.2.** Arrangements will be made for the Appeal Meeting to be held as soon as possible but not normally less than five days after the receipt of the letter of appeal.
- T.3.** An employee cannot appeal unless they have made Representations to the Principal.
- T.4.** At least three days before the Appeal Meeting, the appellant will be given copies of the notes of the Representation meeting.

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## **U. THE APPEAL MEETING**

- U.1.** An HR Adviser may be present.
- U.2.** An appeal provides the employee with an opportunity to make an appeal to Governors who have had no previous involvement in the process.
- U.3.** At the commencement of the Appeal meeting, it should be confirmed that none of the Governors on the Committee has an identifiable pecuniary interest, close relationship with any employee or vested interest.
- U.4.** An Appeal Committee should satisfy itself that:
- The process prior to this stage of the policy has been properly followed.
  - The employee was given an equal opportunity to participate in the redundancy process.
  - The Principal made a measured decision taking account of all the relevant evidence.
  - The employee was given the right to make representations and that those representations were considered by the Principal.
  - Having regard to all the circumstances the decision to select the employee was reasonable.
- U.5.** The Principal will respond to the appeal.
- U.6.** The meeting will be held in accordance with good employee relations practice.
- U.7.** In the event of the Appeal being unsuccessful, the decision will be final. Written confirmation will be given of the decision within three days of the decision.
- U.8.** In the event of the Appeal being successful:
- Written notification will be given to the employee within three days of the decision.
  - The Chair of Governors will withdraw the notice of dismissal.
  - The Appeal Committee will refer the matter back to the Principal for the Principal to consider the appropriate action.

## **V. LOOKING FOR SUITABLE ALTERNATIVE WORK FOR AN EMPLOYEE AT RISK OF DISMISSAL ON GROUNDS OF REDUDNANCY**

- V.1.** In any redundancy process an employer has a legal responsibility to mitigate compulsory redundancies and must actively pursue options for alternative work for selected employees.
- V.2.** The Principal and Governing Body will support the employee in his/her efforts to find alternative work.
- V.3.** The potentially redundant employee (whether voluntarily or compulsorily) will be expected to:
- Fully engage in the redeployment process;
  - Give consideration to every suitable, available opportunity;
  - Be flexible in considering job opportunities;
  - Present skills and experience appropriately on application forms;
  - Prepare thoroughly for any applications or interview processes;
  - Consider and identify any training requirements in advance of recruitment processes;
  - Request assistance for interview preparation when required;
  - Take on board feedback from the process.
  - The Academy will consider whether any vacancies within the Academy are suitable alternative employment for the employee.

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## APPENDIX 1

### **ACADEMIES' MODEL POLICY FOR THE ENDING OF TEMPORARY OR FIXED TERM CONTRACTS**

This Appendix will be followed when there is no longer a need for the work to be undertaken that was carried out by an employee directly employed by the school on a 'temporary' or fixed term contract. In these situations, the employee will be treated as a 'pool of one'. Please note, employees that have accrued twelve months' service have the statutory right not to be unfairly dismissed. Employees with two years' continuous service may also have an entitlement to a redundancy payment depending on the contractual position.

#### **A fixed-term contract (FTC) is:**

A contract which terminates on a specified date, the completion of a specified task or on the occurrence of an event which is certain to occur on a particular date. For example:

- to cover a period of leave where the end date is known;
- to cover a specific project for a defined period where governors have made funds available for that project e.g. one term for Reading Recovery;
- to cover a period of secondment or in-service or educational training;
- to cover maternity leave;
- to fill a post pending an appointee taking up the post.
- to cover a temporary reduction in the hours of a member of staff where the period of the reduction is defined;

#### **A temporary contract is:**

A contract which is normally used when no end date is known. For example:

- to cover sickness;
- to cover any other period of paid /unpaid leave where the end date is not known;
- to cover a short-term temporary increase in workload.

#### **1. INDIVIDUAL MEETING WITH EMPLOYEE(S)**

The Principal will meet with the temporary /FTC employee whose work is due to end on an individual basis to confirm that:

- the employee is aware of the nature of the contract and the reason for it being temporary or fixed term and that his/her contract will be ending for the reason on the contract which was stated at appointment.
- there is a formal procedure that the Academy will be following. A copy of the Redundancy Policy including this Appendix will be given to the employee.

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The Principal will also advise the member of staff:

- that support will be provided to the employee in seeking suitable alternative employment for the employee.
- to contact his/her union and to confirm that the Academy will be contacting all the recognised union representatives

## 2. SELECTION

**The Principal will:**

- Consider any feedback from the union(s) and/or the employee.
- Review contractual information to ensure the contract is correct and is ending for the reason stated in the letter of appointment.
- Carry out selection in accordance with the Academy's Redundancy Policy and good HR practice.
- Consider whether the post is:
  - Redundant within the definition of redundancy;
  - Whether other work is available or not;
  - Whether the contract can be ended for the reason stated.
- Confirm the decision in writing to the employee and offer the employee the right to make representations.

## 3. MAKING REPRESENTATIONS

3.1. An employee wishing to exercise his/her right to make representations must do so in accordance with the details set out in the selection decision letter.

3.2. A meeting will be convened as soon as possible to enable the Headteacher/Principal to hear and consider representation(s).

3.3. The meeting will be held in accordance with the Academy's Redundancy Policy and good HR practice.

3.4. Having considered the representations, the Principal will confirm the decision of the meeting in writing to the employee and, if the selection of the employee for dismissal on grounds of redundancy is confirmed, of the employee's the right of appeal.

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#### **4. APPEAL COMMITTEE**

- 4.1. An employee wishing to exercise his/her right of appeal must do so, in writing, in accordance with the details set out in the decision letter from the Representations meeting.
- 4.2. The Appeal Committee Meeting will be convened as soon as possible.
- 4.3. The Appeal Committee Meeting will be held in accordance with the Academy's Redundancy Policy and good HR practice.
- 4.4. The Appeal Committee will confirm the decision of the meeting in writing to the employee.

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