

## **Bourne Education Trust Managing Changing Staffing Needs Policy**

### **1. Policy Statement**

The trust and constituent schools' governing bodies are responsible for determining the size and most effective deployment of the staffing complement at their schools. Inevitably, the needs of schools change over time and the Trust and Governing Bodies have a responsibility for periodically reviewing and, where necessary, undertaking changes to the staffing body in response to such factors as financial constraint, school reorganisation, demographic change or developments in policy, curriculum or technology.

In such circumstances, the Trust and Governing Bodies may need to consider such options as:

- Reducing the overall size of the school workforce;
- Making adjustments to working hours or contracted hours;
- Making adjustments to staffing levels and/or roles and responsibilities in particular areas.

Legislation and good practice require that the Trust and Governing Bodies should seek to avoid, wherever possible, the compulsory redundancy of any member of staff and to support the wellbeing of school employees through difficult periods of change.

The Trust and Governing Bodies aim to identify future staffing needs at an early stage through careful monitoring and planning in order to manage changing staffing needs through the use of natural measures where possible. Where action is required in the short term in response to more immediate circumstances, the aim is to make use of measures at its disposal to maintain employment stability, most particularly through the redeployment of affected individuals into suitable roles either within an individual school or beyond.

Where there is a risk of redundancy, the Trust and Governing Bodies will follow the procedures set out in this policy. Where the Trust and/or Governing Body is considering a change to terms and conditions of employment which will not result in redundancy, these procedures will also apply.

This policy and associated procedure will be applied fairly and consistently to all staff employed at the school regardless of gender, gender reassignment, race, colour, marital or civil partnership status, national or ethnic origin, nationality, disability, sexual orientation, age, religion, trade union membership/non membership or number of hours worked.

### **2. Scope**

This policy applies to all employees engaged directly by the Trust. It therefore does not apply to agency staff (such as supply teachers), casual employees where there is no mutuality of obligation, contractors or their staff, or workers who are engaged on a self-employed basis.

### **3. Planning to Avoid Redundancies**

The Trust and/or Governing Body will undertake annual reviews of the school staffing requirements, usually during the autumn term and at any other time when it is deemed necessary to do so. Where such reviews

indicate that changes to the staffing complement will be required in the longer term, the Trust will adopt relevant strategies aimed at achieving such changes in the desired timeframe whilst minimising the impact on staff. Through an appropriate level of discussion with the school's personnel advisors, strategies which might be considered include:

- Not replacing (or only partially replacing) posts following natural wastage;
- Restricting the recruitment of new permanent staff;
- Using fixed-term or temporary staff to address short-term staffing needs;
- Reduction or variation in hours on a temporary or permanent basis;
- Voluntary redeployment of staff into vacancies within the school or trust;
- Early release of staff working contractual notice, by mutual agreement;
- Training or re-training of existing staff;
- Reducing reliance on overtime;
- Any other voluntary means by mutual agreement.

Where the timescale to achieve change is, or has become, sufficiently pressing that redundancies are being contemplated, the following procedure will be applicable.

#### **4. Identifying a Redundancy Situation**

A redundancy is defined under the Employment Rights Act 1996, section 139, as a dismissal which is wholly or mainly attributable to:

- The fact that the employer has ceased or intends to cease:
  - to carry on that business for the purposes for which the employee was employed, or
  - to carry on that business in the place where the employee was so employed, or
- The fact that 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 by the employer, have ceased or diminished or are expected to cease or diminish.

Where the Trust or Governing Body is in any doubt regarding the application of redundancy provisions to a particular workforce change, it will seek further clarity at an early stage from its personnel advisors in order that the nature of any subsequent consultation is clear from the outset.

#### **5. Commencing Consultation**

##### **5.1 Formulating a Proposal and Seeking Advice**

When it becomes apparent following an initial staffing review that there is a risk of redundancy, the Trust or delegate will seek detailed advice from the trust's personnel advisors.

In order to ensure appropriate representation and appeal rights to employees and secure a fair procedure, the Trust will delegate powers to formulate the proposed means of achieving staffing

reductions, the handling of the consultation process and any resulting redundancy dismissals, to a committee of local governors working with the advice of the Headteacher or delegate in his/her executive role (the first committee). The local Governing Body will also establish a second committee of governors or trustees to hear appeals against redundancy selection decisions made by the first committee. The members of this second committee must not have contributed in any way to the actions or decisions of the first panel. Reference to the role of the Governing Body hereafter incorporates reference to the appropriate committee of governors.

## **5.2 Initial Notification to Staff and Representatives**

The Governing Body will provide school staff and the appropriate trade unions and teacher associations with background information about the staffing review, and the reasons for undertaking it, at the earliest reasonable opportunity. At the same time, or as soon as possible thereafter, the Governing Body will provide to all parties the following information in writing:

- The reasons for the proposal;
- The numbers and descriptions of employees who are potentially affected;
- The total number of employees of any such description employed at the school;
- The proposed method of selecting the employees who are at risk of redundancy;
- The proposed method of carrying out any resulting dismissals, including the period over which the dismissals are to take effect.

The Governing Body will also provide information about the proposed timetable for consultation and any measures it is considering to mitigate the effects of the proposal and to preserve continuity of employment.

Such measures might include:

- Natural wastage (if this is a reasonable prospect in the timescale proposed);
- Mutually agreed variations to contracts of employment on a temporary or permanent basis;
- Redeployment, within the school or the local authority;
- Any other voluntary means by mutual agreement.

## **5.3 Formulating a Timetable for Consultation**

The Governing Body will adhere to the statutory minimum consultation periods which are in force where 20 or more members of staff are at risk of redundancy. Where less than 20 members of staff are at risk, the Governing Body recognises that there is no set minimum period of consultation, but will provide what is reasonable, taking into account the particular circumstances, including (but not limited to) consideration of the number of staff affected and the deadline for achieving the reduction or workforce reorganisation. It would be good practice to allow a minimum of 2 weeks for formal consultation with staff and trade unions / teacher associations.

#### **5.4 Selection Pools and Criteria**

The Governing Body will determine the proposed selection pool and method of selection, and, where relevant, the selection criteria to be used in the event of a compulsory staffing reduction. These will form part of the consultation exercise. The Governing Body acknowledges that there is no set criteria which can be universally applied in such situations but will apply the general principle of seeking to achieve a balance between the needs of the school and the requirement to act fairly and consistently when dealing with staff. Careful consideration will be given to the 'pool' of staff from which those to be made redundant will be selected.

In all cases, the Governing Body will be mindful of the requirement not to select staff in a way which might discriminate, directly or indirectly, against individuals on one or more unlawful grounds. In devising selection criteria and establishing selection pools, the Governing Body will seek the advice of the personnel advisors.

#### **5.5 Consulting with Staff and Representatives**

In undertaking meaningful consultation with staff and appropriate trade union and teacher association representatives, the Governing Body will:

- Provide adequate information for the purpose;
- Consult with all those who are affected by the proposal, even where employment security is not directly at risk;
- Provide opportunities, both in writing and face-to-face, for members of staff and representatives to express their views on the proposal, to understand the impact on individuals, and to make suggestions and contributions which may mitigate the impact of any proposed redundancies;
- Give open-minded and conscientious consideration to the views expressed during the consultation period and, where appropriate, to respond directly to these;
- Ensure that absent employees (for example, those on maternity/adoption leave, long term sickness absence or sabbatical) receive the same information as other staff and have the opportunity to engage with the formal consultation period through methods adapted as appropriate to the circumstances.

#### **5.6 Redundancy & Right of Appeal**

At the end of the consultation period, should the application or consideration of other measures not have eliminated the need for compulsory redundancy, the Governing Body, through the committee established for the purpose (the first committee), will apply the finalised selection criteria to the established 'pool' of staff deemed to be at risk. Those employees identified to be at risk of redundancy by this means will be notified of their right to make representations against their selection to the first committee. No decision to dismiss a member of staff on grounds of redundancy will be taken before the employee has either taken up this right to make representations against selection, or the time allowed to exercise this right has elapsed in accordance with the notified deadline.

Where the decision to dismiss by reason of redundancy is upheld following the consideration of individual representations, the Headteacher or delegate will notify the personnel advisors, of those

members of staff who have been selected for redundancy. The appropriate body will be responsible for ensuring that notice of termination of employment is given in accordance with the contract of employment, or the statutory rights of the employee concerned, whichever is longer.

Any such employee under notice of dismissal will have the opportunity to appeal against the decision to the governors' appeals panel (the second committee) in writing within 5 working days of receiving the written outcome of the representations hearing. If the appeal is upheld, notice of dismissal will be withdrawn (or, in unusual circumstances where the appeal has not been heard before the expiry of notice, the employee reinstated).

The member of staff concerned has the right to be accompanied at any such representations or appeal hearings by a trade union representative or workplace colleague.

The usual advisory rights accorded in the case of such hearings will apply. The Headteacher or delegate also has the right to attend such hearings for the purposes of giving advice.

## **6. Redeployment Principles**

Redeployment opportunities, which could mean seeking another post within the school, trust or within the schools of the local authority itself, will be sought:

- a) prior to the issuing of notice of dismissal where an individual has expressed an interest in securing an alternative post and this would assist with achieving the required staffing changes;
- b) where an individual is vulnerable to redundancy, at any point in the consultation process where the individual wishes to be added to the redeployment register, and in any event no later than the start of the individual's notice period.

The school will, through its personnel advisors ensure that affected individuals are placed on a redeployment register maintained on behalf of the trust. Such individuals will also be given reasonable paid time off work to seek employment or to arrange training.

## **7. Protection of Earnings**

### **7.1 Teaching Staff**

The appropriate safeguarding provisions of the School Teachers' Pay & Conditions Document will apply to members of teaching staff who are redeployed to another school in the trust whose salary and/or allowances in the new post are of a lower value (or where allowances are not applicable to the new post).

At the date of this policy, safeguarding provides for a maximum of three years protection of salary and/or allowances, based on the difference between the old and new salary/allowance (or based on the value of the allowance if there is no equivalent allowance in the new post). The School Teachers' Pay & Conditions document is subject to change and therefore the provisions of the latest Document will take precedence over the arrangements outlined in this procedure in the event of any discrepancy.

In addition to these arrangements, a discretionary one-off cash incentive payment, pro rata for part time staff, may be made to a member of teaching staff who volunteers to be redeployed thus avoiding a compulsory redundancy for another member of staff. This payment would be subject to tax.

## 7.2 Support Staff

Protection of earnings payments for support staff will be made to any employee remaining in the school at a lower grade.

- Pay means all contractual pay applicable to a particular grade and the salary for comparison will be the one that applied to the redundant post at the date it was made redundant. For the sake of clarity an employee's rate of pay in the existing job will be protected.
- Specific terms and conditions associated with a group or an individual under consideration will be taken into account while implementing the principles of pay protection.
- Overtime, essential car user allowance or any other additional payments e.g. acting up allowances, will not be included in the calculation of the pay protection.
- It should be noted that employees will not be protected for loss of hours. Where this is accompanied by a lowering in grade, only the rate of pay of the original post will be protected.
- Employees will normally be appointed to the maximum of the substantive scale of the new post.
- Where no clear grade comparison can be made, one grade should be taken as a 10% difference in salary.
- If the new post is graded up to one grade below the redundant post, the annual pay protection payment will be the difference between the employee's normal pay in the redundant post and the new post.
- Where the new post is more than one grade below the employee's current grade, the employee's salary will reduce to the maximum of one grade above the grade of the new post.
- The pay protection payment will be recalculated to take account of any increase in the employee's pay in the new post during the period of protection e.g. as a result of any annual pay awards etc. This means that the actual pay protection payment will reduce in line with any such increases in the employee's level of remuneration during the period of protection.
- Accordingly this will apply in the event of a redeployed employee accepting another post with a higher level of pay during the protection period. Any pay protection payment still being received at that time will be reduced to reflect the higher salary in the new post.
- Pay protection will continue for one year or until the pay for the new post becomes higher than that of the substantive post, whichever is earlier.
- At the end of the year, the individual will be paid the substantive salary (normally the maximum of the pay scale) of the new post and any pay protection allowance will cease.
- Reasonable efforts should be made to assist employees in securing a post at their previous grade and end any period of pay protection as soon as possible.

## 8. Redundancy Payments

Employees will not be entitled to a redundancy payment if they:

- Accept an offer of employment with another local authority or an associated employer contained within the Redundancy Payments (Modification) Order 1999 (as amended) and commence what may be considered as continuous employment within four weeks of leaving the employment of the school (or of Surrey County Council);

- Unreasonably refuse suitable alternative employment offered by the local authority, or another school within the local authority, prior to their last day of service;
- Refuse to complete, without good reason, a trial period for a job offered by the local authority, or another school within the local authority;
- Resign from a job during a trial period;
- Refuse an offer of a job without good reason, after completion of a trial period.

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