



Southend East Community Academy Trust

“Strong Partnerships, Strong Community, Strong Schools”

Redundancy Policy and Procedure

September 2018

REVIEW: BI-ANNUAL
TARGET: ALL STAFF

Status : Statutory
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Reviewed and recommended by : Trustees
Signed by Chair :



Redundancy Policy

1. Introduction

The contract of employment of each individual employee is one of mutual trust and confidence between the employee and the school. The school will seek to ensure continuity of employment so far as it is compatible with the effective, economic and efficient provision of the school's services. It is the school's policy to try to avoid compulsory redundancy and it will only be resorted to when circumstances make it unavoidable. Nevertheless, determination of the requirements of the service is the responsibility of the school. In the event of a situation arising in which consideration of redundancy seems likely, the policy set out below will be followed.

2. Notification and Consultation

Trade Unions

Where a reorganisation or services or other measure which affects job security is contemplated, the school will formally notify the appropriate recognised Trade Unions as soon as possible before the proposed date of implementation and not later than the statutory periods of notification to Trade Unions provided under the Trade Union and Labour Relations (Consolidation) Act 1992 (Section 188).

Before firm decisions are taken on any such measures there will be full consultation with the recognised Trade Unions. In consulting the Trade Unions, the school will set out its proposals for dealing with the staffing implications of the measures.

In the event of any redundancy, Trades Unions must be consulted in all cases **irrespective** of whether the staff selected for redundancy are members of a trade union.

Employees

In addition to the statutory requirement of consultation with recognised Trade Unions each potentially affected employee shall be notified in writing as soon as possible of the potential risk to job security, that the Unions have been advised and that further notice will be given if the risk materialises. Thereafter, and before a selection is made, each of the affected employees will be consulted in more detail on an individual basis.

3. Avoidance of Compulsory Redundancy

The school will look for ways in which compulsory redundancy may be avoided. Among the employees at risk there may be individuals who wish to volunteer for early retirement or to be considered for redundancy (severance). Any employee contemplating early retirement or voluntary redundancy will be advised of retirement benefits or terms of severance before making his or her final decision to apply for early retirement or redundancy. **However, benefit calculations will only be given where the individual has already received provisional approval of their application. Acceptance is at the absolute discretion of the school** subject to the requirements of the service, and the conditions of the relevant employment legislation.

Within the area of service affected, and within other areas of service where there could be employment opportunities for employees at risk, consideration should be given to other options including:-

- (a) not filling vacancies, reductions in overtime, voluntary reductions in working hours, etc.;
- (b) ensuring that “at risk” employees are considered prior to any external advertising; within the school and across the Trust
- (c) banning the engagement of temporary and casual employees in circumstances where employment opportunities can be made available to suitable employees at risk;
- (d) reviewing the use of consultancy, contracting and agency services where this would create employment opportunities for employees at risk and would not be in conflict with other school policies, or legal or operational requirements.
- (f) the redeployment within the school and across the Trust and retraining of employees “at risk”.

4. Selection for Redundancy

Should compulsory redundancy become unavoidable, selection will be made by applying the following criteria to each potentially redundant employee in a defined group of employees, allocating points to each criterion and selecting on the basis of the resultant scores.

The criteria to be used are job performance, attendance record and disciplinary record. Job performance is weighted in order to give primary consideration to the school's service requirements.

There must be no discrimination directly or indirectly on the grounds of gender, marital status, family responsibilities, disability, race, colour, creed, nationality, ethnic or national origins, age, religion/belief, sexual orientation or offending background at any stage of the selection for Redundancy.

5. Redundancy Procedure

The procedures outlined below, will be followed and complement the Redundancy Policy.

6. Appeals

There shall be a right of appeal in respect of selection for redundancy and the ways in which the redundancy procedures have been operated. The redundancy appeals process is set out in the Redundancy Procedure.

7. Miscellaneous

Action by the Headteacher includes action by senior managers exercising the powers of the Headteacher if delegated to do so.

This redundancy policy is not contractually binding.

Reference to redundancy means redundancy as defined in the Employment Rights Act 1996.

Scope

- All permanent employees of SECAT, including new employees still subject to their 6 month probationary period
- Employees on temporary/fixed term contracts who have completed one years service within the relevant academy at the date of the implementation of the new structure
- In educational establishments with fully delegated budgets, it is for the relevant governing body to decide whether or not it is appropriate to apply this policy. Where it is decided that it is not appropriate, the governing body is reminded of its obligation as an employer to nevertheless satisfy the requirements of the law and, where appropriate, the requirements of specific conditions of service.

Delegations

As agreed by the Trustee Board

Redundancy Procedure

1. Introduction

It is the school's policy to try to avoid compulsory redundancy and it will only be resorted to when circumstances make it unavoidable. Where compulsory redundancies are contemplated the procedures set out below will apply.

When entering into consultation with the recognised Trade Union(s) on redundancy proposals a full review will be made by the Headteacher to ensure that redundancies are unavoidable. Where a reorganisation is proposed which will affect job security the Headteacher will follow the Implementing Staffing and Structural Changes policy.

2. Notification and Consultation

Consultation with recognised Trade Unions

The Trade Union and Labour Relations (Consolidation) Act 1992 places a statutory requirement on an employer to discuss any impending redundancies with recognised Trade Union representatives.

The following table sets out the current statutory minimum periods for consultation:

Total number of proposed redundancies.	Period over which the proposed redundancies are to be phased.	Last day by which consultation with the Trade Unions must begin before the first redundancy takes effect.
100 or more	90 days or less	90 days
20 to 99	90 days or less	30 days
0 - 19	There are no set rules to follow if there are fewer than 20 redundancies planned.	Best practice is recommended as 30 days

Irrespective of the number of redundancies proposed consultation should begin at the earliest opportunity. In calculating the figures to be given to the Trade Union representative(s) all employees who are at risk shall be included.

If an "at risk" employee is not a Trade Union member, consultation will be with the appropriate Trade Union(s) for the employee's category of employment.

The following information will be provided to the Trade Union representative(s) by the school after advice from the school's HR provider -

- (a) The reasons for the redundancy proposals.
- (b) The number and descriptions (i.e. job categories) of the employees whom it is proposed to make redundant.
- (c) The total number of employees in the area of service in question.
- (d) The proposed method of selecting the employees to be made redundant.
- (e) The proposed method of carrying out the redundancies, including the period over which the redundancies are to take effect (i.e. a timetable).
- (f) The proposed method of calculating the amount of any redundancy payment

The intention is that the Trade Union representative(s) should be given all information relevant to the proposed redundancies to enable meaningful and effective consultations to take place including, if possible, any information over and above the minimum requirements listed above. If representations are made by the Trade Union(s) these must be given considered replies, in writing wherever possible, by the Headteacher.

Consultation with employees

The Headteacher will, at the time of giving notice to recognised Trade Unions or as soon as is reasonably practicable after that, inform all potentially affected employees that their post may be at risk, and that recognised Trade Unions have been consulted and that a further notice will be issued if they are confirmed as being “at risk”.

At the conclusion of the statutory consultation with recognised Trade Unions, the Headteacher will identify those employees from whom a selection will be made and will notify them in writing of the selection criteria.

Each of the affected employees shall be afforded the opportunity of individual consultation with the Headteacher or delegated senior manager prior to selection being made.

Notification to the Secretary of State for Work & Pensions

When it is known that 20 or more employees are likely to be made redundant, the Headteacher, after advice from the school’s HR provider, will complete and send form HR1 (notification to the Secretary of State for Work & Pensions). A copy of form HR1 will be provided to the appropriate Trade Unions together with formal notification as required by Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Notice terminating employment

The Headteacher should give employees notice of the date of the proposed redundancies as soon as possible and not later than that required by the minimum period of notice referred to in their individual written statements of particulars of employment or contract and schedule.

The giving of notice will not prevent the Headteacher from offering suitable alternative employment (incorporating a trial period) if circumstances change.

Time off to attend interviews

Employees who have received notice of dismissal by reason of redundancy shall be entitled to be allowed reasonable time off with full pay in order to look for new employment, or to make arrangements for training.

3. Avoidance of Compulsory Redundancy

The School will look for ways in which compulsory redundancy may be avoided. Among the measures to be taken in a redundancy situation will be the following:

Voluntary Redundancy (Severance)

Headteacher may consider applications from employees who wish to be considered to volunteer for early retirement or redundancy, subject to the requirements of the service, including costs, and the provisions of relevant employment legislation.

In order for employees to make an informed decision regarding an application for early retirement or redundancy they will need to receive an estimate of benefits from Payroll. However, in order to request an estimate a provisional approval to apply for early retirement or redundancy will need to be given by the Headteacher. Approval is based on business / service requirements. Provisional approval does not mean that the individual has formally applied for either early retirement or redundancy, merely that they have registered an interest.

The procedures for notification and consultation outlined above must be followed for voluntary redundancies.

Restrictions on recruitment

The Headteacher will examine measures relating to the non-filling of vacancies, reductions in overtime, etc. These may include:

- a) Not advertising vacant posts externally until it has been ascertained that there are no "at risk" employees within the school or across the Trust that meet the essential criteria, or until any suitable "at risk" candidates have been given the opportunity to apply and for whatever reason have not been successful
- b) A ban on the engagement of temporary and casual employees in circumstances where employment opportunities can be made available to employees at risk
- c) A review of the contracts of existing temporary and casual employees which may be terminated or not renewed when this is practicable.

Termination of the use of consultancy, contracting and agency services

The Headteacher will review the use of consultancy, contracting and agency services where this would create employment opportunities for employees at risk and would not be in conflict with other school policies, legal obligations or operational requirements.

Redeployment and retraining of employees at risk

Where compulsory redundancies are necessary the Headteacher will declare the relevant employees "at risk" and initiate the redeployment procedure. "At risk" employees will be advised of any suitable vacancies within the School and across the trust for which they might consider applying.

Employees facing redundancy may undertake alternative employment within the school for a trial period of 4 weeks; at the end of which they may choose to remain in the new post or opt for redundancy.

4. Selection for Redundancy

Should compulsory redundancy become unavoidable the Headteacher will review the requirements of the school and organise the assessment procedures.

The assessment will be based on the following criteria which are set out in more detail in the **Selection Criteria section** of this procedure shown later in the procedure:

- Job Performance
- Attendance Record
- Disciplinary Record

A weighting has been applied to job performance in order to give primary consideration to the school's service requirements.

Each potentially affected employee will be evaluated against each of the criteria. All employees in a discrete group will be evaluated by the same manager(s). Each affected employee and his or her representative will be entitled to know what information has been used to arrive at the points allocated to him or her and to appeal against such marking to their Headteacher – see Redundancy Appeals Procedure.

The reference period for the application of the job performance criteria will be the 2 years immediately before the date on which notice of the risk of redundancy was issued. The reference period can be modified by agreement according to any conditions that might need to be taken into account.

Selection for redundancy will be made from those individuals “at risk”. Compulsory redundancy will normally begin with the employee with the least points. If, after taking account of these factors, more than one individual in the redundancy selection group has the same number of points, a further selection process will be undertaken with those individuals, normally an interview, and staff will be informed of this at the start of the selection process.

Periods of absence/sickness should be recorded and evaluated for a period extending 2 years prior to the date the redundancy consultation commences. Any period of sickness/absence relating to "maternity" must be discounted. Note - there must be a direct link to maternity, i.e. the absence of a pregnant woman with flu would still count towards the absence record as it could be shown that this was not related to the issue of her pregnancy.

Care should be exercised in the evaluation of sickness of disabled persons (the Disability provisions of the Equality Act). Advice is available from the school's HR provider. A list will be supplied to the relevant Trade Union and to the employee upon request showing by reference to each relevant group the rank order of employees following application of the selection criteria. There will be the opportunity for each employee and his or her representative to discuss in detail a disputed selection.

5. Miscellaneous

Should a female employee become redundant during maternity leave she is automatically to be considered as the highest priority candidate for any suitable vacancies where the minimum selection criteria have been met. Failure to employ a pregnant woman for a vacant post due to her pregnancy is direct sex discrimination.

Selection Criteria

1. Job Performance

(i) Performance and Capability

- Measures the level of quantitative work produced on a daily basis at a consistent level in the current job.
- Shows initiative in achieving targets and demonstrates in all aptitudes the ability to do the current job.

Rating	Score
(A) <i>A highly productive individual who consistently produces well above the targets expected for the job in question. An unusual, highly capable performer and in the case of teaching staff receives outstanding lesson observations.</i>	9 - 10
(B) <i>A self-motivated individual who shows they are generally capable and produces with the minimum of supervision and/or guidance and in the case of teaching staff receives good lesson observations.</i>	7 - 8
(C) <i>An individual who produces at the required level with the expected degree of supervision and/or guidance with some degree of competence and in the case of teaching staff receives satisfactory lesson observations.</i>	5 - 6
(D) <i>An individual whose performance ranges from just below the level expected to unsatisfactory performance requiring constant supervision and/or guidance, with limited or no capacity to carry out required duties and in the case of teaching staff receives unsatisfactory lesson observations.</i>	1 - 4

(ii) Quality

- The standard of work produced is at the necessary level of quality and the level of errors are rare, or are of a small enough magnitude as to be acceptable.

Rating	Score
(A) <i>Consistently produces good quality work with very few significant errors. Can be given most tasks and left unsupervised, and in the case of teaching staff planning, preparation and assessment is outstanding.</i>	7 - 10
(B) <i>Generally produces work of a good standard but occasionally makes errors. Can be given the majority of tasks to perform, and in the case of teaching staff planning, preparation and assessment is good.</i>	5 - 6
(C) <i>General standard of work varies from in need of marginal improvement with a few avoidable errors, to general level</i>	1 - 4

of work unsatisfactory with repetitive errors. Unable to be assigned to difficult jobs, and in the case of teaching staff planning, preparation and assessment is below expected standards.

(iii) Adaptability and Flexibility

- The individual has the additional skills, qualifications and/or experience which can be usefully transferred within/outside the normal area of work, to suit the future needs of the school.

Rating	Score
(A) <i>An individual who has additional skills and/or experience which are readily transferable without further training and can carry out the majority of work in the current department to a high level of competency; and in the case of teaching staff student support is offered both within and outside the school day to ensure higher than expected progress is made by all pupils for which the teacher has accountability.</i>	8 - 10
(B) <i>An individual who has additional skills and/or experience but the level is confined to a more limited range of work; and in the case of teaching staff student support is offered both within and outside the school day to ensure expected progress is made by all pupils for which the teacher has accountability.</i>	5 - 7
(C) <i>An individual who has no readily transferable skills or Minimal experience without undergoing significant Retraining; and in the case of teaching staff student support is offered to ensure progress is made by all pupils for which the teacher has accountability.</i>	0 - 4

(iv) General Approach to Work

- Measures such qualities as general enthusiasm and commitment to completing the task.

Rating	Score
(A) <i>A very co-operative individual who performs tasks outside of normal sphere of job role without being instructed.</i>	7 - 10
(B) <i>An individual who generally co-operates well within the normal scope of the job role.</i>	5 - 6
(C) <i>An individual who only does that which is reasonable and only if instructed by supervision and in the case of a teacher fails to meet the needs of all students.</i>	3 - 4
(D) <i>An individual who is generally uncooperative, typified by an attitude of "it's not my job".</i>	1 - 2

2. Attendance record

- Time actually lost over last two years (pro rata as regards employees with less than two years service) on sick leave.

<i>Absence Percentage</i>	<i>Points</i>
<i>More than 7%</i>	<i>1</i>
<i>More than 3% but less than 7%</i>	<i>2</i>
<i>More than 1% but less than 3%</i>	<i>3</i>
<i>Less than 1%</i>	<i>4</i>

NB 1 In order to ensure that a disabled employee is not at a substantial disadvantage under the provisions of the Disability provisions of the Equality Act, sickness absences directly related to the employee's disability should be recorded, but subsequently excluded from the calculations of the attendance record.

Any absence due to maternity must not be treated, under any circumstances, as absence for the purpose of this assessment. The whole period of maternity should be discounted and the period prior to, or either side of, the maternity period should be used for the purpose of the counting of absence.

3. Disciplinary Record

Category	Points
<i>A final warning within the past 3 years.</i>	<i>1</i>
<i>A written warning in the past 3 years.</i>	<i>2</i>
<i>A verbal warning in the past 3 years.</i>	<i>3</i>
<i>No disciplinary record.</i>	<i>4</i>

4. Recruitment Exercise

In the event of a tie-break the employees at risk are selected by interview against the essential criteria for the post. The successful candidate for the post is then appointed.

Appeals Procedure

1. Introduction

This procedure is to be followed in the circumstances when an employee who has received a written notification of redundancy believes that: -

- (a) he or she has been unfairly dismissed;
- (b) he or she has been unfairly selected for redundancy
- (c) he or she has reasonable grounds for refusing an offer of alternative employment

2. Procedure

Where an employee believes that he/she has a claim under this procedure, it should first be raised in writing with the Headteacher (or other nominated officer) through the Trade Union representative if desired.

A claim can be made after the employee has received notification of:-

- (a) dismissal for redundancy
- (b) an offer of suitable alternative employment / redeployment

The time limit for such claims is 5 working days after the employee receives the notification.

The Headteacher (or other nominated officer) should meet with the individual as soon as possible and then reply in writing to the claim within 5 working days.

If a claim is not satisfactorily resolved at this point the employee, or his or her Trade Union or other representative on his or her behalf may appeal in writing to the Clerk to Governors. They must exercise this right in writing within 10 working days of the date of receipt of the written response from the Headteacher.

This application must state why an appeal has been lodged and whether the appellant will be represented and if so, by whom.

The Clerk to Governors will then convene a meeting of a Governor panel for the case to be heard.

The employee shall be given notice in writing at least 15 working days in advance of the time and place of the hearing, and shall be allowed to be represented by his or her Trade Union representative, or some other person of his/her choice and shall be enabled to call witnesses and produce documents relevant to the case at the hearing.

Any documents which the Headteacher or employee intends to present at the hearing shall be sent to the Clerk to Governors not less than 10 working days before the hearing. Failure to observe this requirement may result in the documents being excluded or delay in the hearing the appeal.

The time limits referred to above can be varied by agreement with all the parties concerned.

3. Conduct of Appeals

Appeals under the Redundancy Procedure will be heard by an appropriate Governing Body Panel, advised by an HR Adviser. None of these should have prior involvement in the case. The Governor Appeal Panel represents the final stage of the School's Redundancy procedure.

1. The Chair of the Panel should introduce all parties, confirm they have all received the appropriate paperwork, confirm the grounds of appeal with the appellant and their representative (if any) and explain the purpose of the hearing
2. The presenting officer will present the management case in the presence of the appellant and their representative (if any) and the panel.
3. The other parties may ask questions of the presenting officer in the following order: appellant and/or representative, Panel members, HR Adviser.
4. The presenting officer may then call witnesses who can be questioned in the following order: presenting officer, appellant and/or representative, Panel members, HR Adviser.
5. The presentation is then reversed, with the appellant and/or representative having the chance to put their case and call witnesses.
6. Questions may be asked on this presentation by the presenting officer, followed by Panel members and the HR Adviser.
7. The appellant and/or representative may then call witnesses who can be questioned in the following order: appellant and/or representative, presenting officer, Panel members, HR Adviser.
8. The Presenting Officer, followed by the appellant/representative, will have the opportunity to sum up their cases, if they so wish.
9. Both parties will withdraw, leaving the Governor Appeal Panel to deliberate, accompanied by the HR Adviser. If recall is necessary to clear points of uncertainty both parties will return, notwithstanding that only one may be concerned with the point giving rise to doubt. In addition, the Panel may require that other witnesses/evidence should be called or produced in order to ensure that all necessary facts are considered before making a decision. The Panel may decide to adjourn the hearing to allow for this if necessary.

If a decision can be made within a reasonable time of the parties withdrawing, both parties should be recalled and informed of the Panel's decision. In all cases, and whether or not the decision has been given verbally at the end of the hearing, the employee will be sent a letter, outlining the reasons for the decision, within 5 working days of the Appeal hearing.