



EBOR ACADEMY TRUST

Policy Number

35

**Organisational Change Policy
(Reorganisation and Redundancy)**

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1. INTRODUCTION

Ebor Academy Trust knows that its staff are its most important resource and that good management of them is a major contributor to the delivery of effective education to pupils. However, it also has a duty to continuously review staffing needs and costs to ensure best value. The Trust recognises that organisational changes impact staff, as roles may change or, at worst, no longer be required. By working together and within the framework of this policy, managers, staff and their representatives can mitigate the most negative effects of such changes.

This Policy has been discussed with trade unions and changes made where appropriate.

2. DEFINITIONS

2.1 Redundancy

Under the Employment Rights Act 1996 an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to:

- (a) the fact that the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed, or to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

2.2 Restructure

A restructure can be defined as a change to the staffing structure, from a change in the duties of one or more job types through to a change in the number or type of roles required. A restructure does not necessarily result in redundancies and may just apply to one site in the Trust, or across a wider area.

A restructure may arise for a number of reasons e.g:

- Where it is decided to amend the leadership structure of a school/ team
- Where duties previously undertaken in a school are undertaken by the central team, or vice versa.

3. ROLES AND RESPONSIBILITIES

The Trust will:

- Take all reasonable steps to avoid the necessity for redundancies, for example by proactive financial management and staff modelling, accommodating part-time working and providing training and development opportunities for its staff.

- Ensure that adequate provision is made for support for staff during a change process and training and development opportunities, so staff can update their skills and qualifications.
- Take into adequate considerations its legal and moral obligations when taking such action, including the Equality Act 2010.

School or CST Senior Management will:

- Manage restructures in accordance with this policy, considering any staff concerns or suggestions made.
- Consider in each case of redundancy/ restructuring whether any financial enhancement should be made to facilitate voluntary redundancy in the best interests of the school/ Trust.
- Ensure that changes are handled sensitively and appropriate confidentiality is maintained.
- Engage with recognised trade unions in good time regarding planned redundancies and restructures.
- Communicate proposed changes to staff requirements in good time to ensure that everyone affected has the correct information about the reasons for change, to facilitate appropriate means through which staff can make suggestions to minimise redundancy or improve the restructuring process and to allow proper consideration of any proposals from staff and/or representatives.
- Manage redundancies in a way which minimises the inevitable adverse impact on those who lose their jobs, or go through significant changes, and in accordance with this policy.

HR will:-

- Provide training, guidance and support to line managers on the operation of this policy and procedure.
- Ensure that appropriate support mechanisms are available for staff who may be affected by such changes.
- Will make this policy generally available via the Trust's website, and on request to staff and representatives.
- Monitor the implementation, effects and use of this policy and review it as required.
- Engage with recognised trade unions as early as possible and share consultation documents with them.

Individuals will:-

- Comply fully with this policy and procedure.
- Consider other employment in the Trust, where offered under this policy, and take advantage of appropriate training and development opportunities in a timely way, to enable them to undertake new or amended roles.

4. THE CHANGE PROCESS

4.1 Preventing redundancies

Where it appears that staff reductions may be needed, every attempt will be made by the Trust to avoid compulsory redundancies, through the following measures:

- monitoring and restricting external recruitment to vacant posts
- stopping or reducing any overtime or additional hours, particularly where this has become a standard practice
- terminating the contracts of temporary employees and fixed term contracts subject to the constraints of statutory rights and meeting the needs of the school/Trust and ceasing the use of casual workers
- ceasing the use of any agency staff, where possible
- retraining or redeployment
- use of voluntary redundancy and “bumping” (see para 4.5), if appropriate

If the use of the above does not resolve the staffing issues, then the consultation process must ensue.

4.2 Determining the posts affected by the review

It is important that the staff affected by the proposed review, should be accurately identified and consulted on with trade unions at an early stage. This process will be initiated by Human Resources staff who will liaise with recognised trade union representatives.

If the school/ department needs to make changes to, or there is potential that redundancies may result across the **whole school**, then **all** staff will be deemed to be “in scope” of the review. Sometimes an organisational change may affect more than one school in the Trust, so staff at all sites affected sites will need to be taken into consideration.

If the school needs to make changes to, or there is potential that redundancies may result in one **specific area of the school**, then the staff employed to work in this area should be those in scope. However, it is important to ensure that all staff in school are advised of the proposals, as there may be opportunities to “bump” individuals (see para 4.5).

Within the area of change, if staff are employed on generic job descriptions, that group of staff will usually be in the scope of the restructure e.g. Teachers or Teaching Assistants.

4.3 Consultation - principles

Once it has become evident that organisational change is required which is envisaged will result in a restructure or redundancy, consultation on the proposals with staff representatives must commence. This is likely to take place at the usual termly meeting between Trust management and recognised trade unions (the JCNC), but if this is not possible, the appropriate regional representatives will be contacted.

Consultation should:

- be initiated as soon as the proposals are formulated
- include adequate information on which the representatives can respond including, for example, current and proposed staffing structures, including pay related information, actual and projected budgets with and without any reorganisation and/or redundancy, curriculum plan with lesson numbers (secondary), class structure (primary), the proposed timescale and plan for the review and the proposed method of selection including draft criteria
- include all those affected by the review, this will include other staff indirectly affected by any changes, for example, those whose roles or line management may change as a result
- provide adequate time in which to respond and
- include conscientious consideration by the employer of the representative's response to consultation.

In cases of redundancy there is a requirement for meaningful consultation, it is not enough to only inform. It must also start early enough to affect the outcome. Consideration must be given to:-

- avoiding any dismissals;
- reducing the numbers of any employees to be dismissed; and
- mitigating the consequences of any dismissals.

In the case of organisational restructures, consultation must cover the changes envisaged, the reasons for them and how this might impact on the staff affected.

4.4 The consultation process

- i. The HR representative will provide recognised, regional trade union representatives with written information about the proposed restructure and its rationale. All recognised trade unions will be offered the opportunity of attending a meeting to consult over the changes and the change process. The purpose of this meeting will be to seek out views and alternatives to the proposals. 10 working days' notice will be provided of any meeting - this may be reduced by mutual agreement. A minimum of 10 working days will be provided to trade unions for them to provide feedback, if there is no meeting.

Written feedback will be provided following the initial consultation. Assuming that change is still deemed to be necessary, the formal consultation process will begin.

- ii. A meeting with all members of staff identified as being affected by the proposals will take place to initiate the formal consultation process. It is usual for this meeting to take place directly after a meeting with recognised trade unions representatives, who are also invited to attend the staff meeting.

The purpose of the meeting is to:

- start the consultation process
- explain the situation and to discuss possible options / alternatives, including voluntary options
- explain the process to be followed and associated timescales
- provide appropriate information, including the proposed selection criteria and methods (if available)
- to listen to any concerns raised and to explain the planned consultation process, including the mechanisms which will be made available for individuals to make suggestions to mitigate any proposed reductions / improve the restructuring plans
- answer any immediate questions from members of staff and union representatives
- outline the support available

The headteacher/head of school/manager will provide information about the alternatives to redundancy and encourage interested staff to seek advice from their trade unions. Staff will be given the option to volunteer for redundancy (see below), along with the opportunity to request reduced working hours, if this can be accommodated in the organisation structure. Staff will be given at least ten working days to consider whether they wish to volunteer for redundancy/ reduced working hours.

- iii. Following this meeting, a Section 188 letter (as required by the Trade Union and Labour Relations (Consolidation) Act 1992) is sent by HR to the recognised trade unions. A letter will also be sent to all staff in scope confirming the discussion. The date of the meeting together with the Section 188 letter constitutes the start of the formal consultation process.

The Section 188 letter will contain the following information:

- (a) the reasons for the proposals,
- (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant,
- (c) the total number of employees of any such description employed by the Trust at the establishment in question,
- (d) the proposed method of selecting the employees who may be dismissed
- (e) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect
- (f) the proposed method of calculating the amount of any redundancy payments to be made to employees who may be dismissed.
- (g) the number of agency workers working temporarily for and under the supervision and direction of the employer,
- (h) the parts of the employer’s undertaking in which those agency workers are working, and
- (i) the type of work those agency workers are carrying out.

Although individual periods of notice may run concurrently with part of the statutory consultation period, an employee cannot leave through redundancy until after the last day of the consultation period.

Minimum consultation periods for redundancies are as follows:

No. of employees to be made redundant	Consultation timescale
Fewer than 20	No legal minimum, although 30 days’ notice will usually be given unless agreed to the contrary
20 – 99 (over a period of 90 days or less)	30 days
100 or more (over a period of 90 days or less)	45 days

4.5 Voluntary Redundancy

In order to mitigate against any compulsory redundancies as a result of the restructuring proposals, the school will seek volunteers for redundancy from within those in scope of the review. In some circumstances, volunteers may also be sought from within the wider staff team (known as a “bumped redundancy”). A bumped redundancy may be considered where an individual at risk of compulsory redundancy could be slotted into a vacant post created by the volunteer.

Unless agreed by Trust senior management to the contrary, there are no enhanced payment terms for volunteers for redundancy - the same redundancy payment calculation is used for voluntary and

compulsory redundancies. Financial enhancements to the voluntary redundancy package will only be available where its use would be in the best interests of the school or Trust.

Volunteers must be considered carefully and should only be rejected by management if it can be shown that acceptance of their offer would not resolve the problem, or would lead to different difficulties, for example if the loss of an individual's specific skills would prove problematic for the operation of the team's work.

Requesting estimates of voluntary redundancy does not mean that individual will be more likely to be selected for redundancy.

There is no automatic right for someone who applies for voluntary redundancy to be formally offered it. Approval of release by voluntary redundancy is conditional on the basis that nothing alters within the school/ team, either in terms of staff turnover or improvements in the budget before the effective date of the redundancy e.g. if an employee volunteers for early voluntary redundancy in May but the effective date is not until 31 August and another member of staff leaves, or the budget improves, then that person may not be able to be released.

If there are more applicants for voluntary redundancy than required, then the employer will determine whose employment will be terminated, taking into account the needs of the school/ Trust. An individual who leaves by reason of voluntary redundancy will still have the legal right to appeal and the reason for the termination of their employment on all correspondence will be "redundancy".

4.6 Redeployment

Redeployment to suitable alternative positions in the Trust will also be explained and promoted to staff. Staff may volunteer for redundancy but still be considered for suitable alternative employment opportunities. Staff who are potentially at risk of redundancy and meet the essential criteria for vacancies elsewhere in the Trust will, wherever possible, be interviewed before other candidates and, if they are deemed to be able to undertake the role with reasonable training, will be offered the role.

If a redundancy situation arises when an individual is absent from work due to maternity, adoption or shared parental leave, then the normal warning and consultation procedures will be followed. Where a suitable available vacancy exists, an employee on family-friendly leave is entitled to be offered this employment before the end of their employment under their existing contract. In other words, an employee on family leave has a right to be offered suitable available alternative employment in preference to other employees; failure to do so would be automatically unfair in legal terms.

See section 8 for more information about when an individual is successful in obtaining redeployment in the Trust.

4.7 Review and next steps

After seeking volunteers and exploring redeployment, the situation will be reviewed. Where the required structure has not been achieved, further action will be required.

In cases of restructuring, the following situations are possible:

- Where posts remain the same and there are the same number of posts as there are current post holders, individuals should be directly slotted into the post without the requirement to participate in a selection process.
- Where posts remain the same, but there is a reduction in the number of posts versus the number of current post holders, a redundancy selection process will take place. This will usually be achieved through the application of a redundancy selection criteria – see below. Where agreed, it may be through a competitive selection process.
- Where employees' posts are deleted as part of the new structure, consideration will be given to ring-fencing any new posts in the structure to those employees, where applicable. Where there are no posts in the new structure to which an employee can be ring fenced, or an employee is unsuccessful at being appointed to a post, they are deemed at risk of redundancy.
- Where there are new posts in the structure, employees who have not secured a post by any of the above means should be invited to express interest in any new posts which remain vacant. Consideration of any such expressions from individuals at risk of redundancy should take place before any internal or external advertisement of the new posts. Appointment to these posts will be through an agreed selection process and may include the completion of a skills audit form and/or an interview.

5. REDUNDANCY SELECTION

In redundancy situations management will have to make a decision as to which employees are identified for compulsory redundancy. This will be achieved using the selection criteria. The selection criteria to be used will vary according to the aims of the restructure, but may include some or all of the following:

- The curricular needs of the school
- The age ranges taught over recent years (teaching staff/ Teaching Assistants)
- Qualifications
- Relevant training
- The knowledge and responsibilities of the individual
- Live disciplinary records
- Live attendance warnings

A selection matrix will be completed by the individual and evidenced appropriately. Where records exist on any of the criteria being used these will be provided to help the individual within the Trust.

A panel consisting of the headteacher/ head of school/ line manager and representative of HR will score the matrices on the basis of the information provided.

The individuals with the lowest scores will be selected for redundancy.

6. REDUNDANCY HEARING

The employee(s) selected for redundancy will be invited to a meeting chaired by a more senior manager from within the Trust who is independent from the situation. At the meeting the proposal to terminate the individual's employment by reason of redundancy will be considered.

At the meeting the line manager will explain why the individual has been selected for redundancy and the individual will have the right to respond. The individual may be accompanied by a workplace colleague or trade union representative and will be given working days' notice of the meeting. The scored selection matrix will be circulated to the meeting chairperson and the individual.

Staff should be informed of the outcome of the hearing, in writing, within five working days. The letter will inform the individual of their right to appeal. Where the individual has stated that they would like to be informed informally as soon as possible, this will be accommodated, before following up in writing.

If an individual does not wish to attend the redundancy hearing, or is unable to attend, a representative may attend on their behalf. If no one attends, the senior manager will consider the facts of the case available and reach a decision.

7. APPEAL

Employees who have their employment terminated on grounds of redundancy have the right of appeal against this decision. The individual must appeal within 10 working days of the receiving notice of termination, outlining why they believe the decision was unfair.

The appeal will be heard by a panel of at least two senior managers, independent of the case; this will usually include the Chief Executive Officer and/ or Senior Executive Head and/or a trustee(s). If the appeal is successful, the notice of compulsory redundancy will be withdrawn or employment will be reinstated if an appeal is heard after an employee's period of notice has expired.

8. OFFER OF A NEW JOB AND TRIAL PERIODS

An employee will not be entitled to a redundancy payment if s/he has been offered and accepted a suitable new employment within the Trust prior to the end of their notice period, or if s/he commences another role within the Trust within four weeks of the termination date.

If an employee obtains another position in an organisation named in the Redundancy Payments (Modification) Order 1999 before the termination date, or to start within 28 days of the termination date, then their entitlement to receive a redundancy payment will be affected. The Order typically covers roles in education or local authorities. **Employees are strongly advised to declare any such offer of employment with their line manager or member of the HR team prior to acceptance of such a job offer.**

Any redundant employee will be entitled to a minimum 4 week trial period in accordance with the Employment Rights Act 1996. This trial period can be extended beyond 4 weeks for the purposes of retraining, by mutual agreement between the employee and the Trust.

The line manager will monitor the individual's performance during the trial period and discuss it with him/her.

If, during the trial period, the employee decides that the job is unsuitable and turns it down before the end of the trial period, this will be discussed with the line manager and HR and if upheld, s/he will still be considered to have been redundant from the date that the employee's original employment ended and any redundancy entitlement will apply. If, during the trial period, the Trust decides that the job is unsuitable for the individual, it may end the trial period. In this case the entitlement to the original redundancy payment remains.

If, however, at the end of the trial period, the employee is still in the job, s/he will have been considered to have accepted it and no redundancy payment will be payable. This should not happen by default but should be with the agreement of both parties.

The Trust may withhold the redundancy payment if it is considered that the employee resigned unreasonably or if an employee refused an offer of a job that is a suitable alternative without a good reason.

If the individual is dismissed during the trial period for example by reason of misconduct and not redundancy, the entitlement to a redundancy payment is lost.

9. NOTICE PERIODS

An employee will receive the appropriate notice under their contract of employment..

In the case of an employee taking voluntary redundancy, the individual may, by mutual agreement, not be required to work their notice period. Payments will be broken down into “post employment notice pay” and any redundancy payment. In exceptional circumstances where it suits the school and the individual’s contract permits it, an employee can be asked to stay away from work during the notice period by way of ‘garden leave’.

10. TIME OFF TO LOOK FOR ALTERNATIVE WORK

An employee who has been continuously employed for two years or more and who is given notice of dismissal for redundancy is legally entitled to reasonable time off with pay to look for other employment or to arrange training for future employment.

Although legislation does not stipulate in relation to staff with less than 2 years continuous service, reasonable time off will be given to enable an employee to look for alternative employment or to arrange training for future employment.

What is reasonable depends upon individual circumstances and will be determined by the line manager, who will take advice where necessary from an HR representative.

11. NOTIFICATION OF REDUNDANCIES

The HR representative will be responsible for completing the HR1 form to notify the relevant government department of the staff reductions.

12. REDUNDANCY PAYMENTS

Redundancy payments are calculated and paid according to the statutory guidelines which are outlined here: <https://www.gov.uk/redundant-your-rights/redundancy-pay>

13. RETENTION OF RECORDS RELATING TO THE REDUNDANCY PROCESS

Detailed records will be kept only as long as is necessary for the purpose for which they were created. Any records will be kept securely within the HR team and, when destroyed, is done securely.

14. REDUNDANCY AND ABSENCE FROM WORK

When dealing with redundancy and restructuring situations, all staff, including those who may be absent from work due to maternity leave or other reasons must be consulted and kept informed. To ensure that this happens, a register will be kept of staff meetings where information is given or discussed and anyone not present will be communicated with separately.

It is automatically an unfair dismissal to select a woman for redundancy on the grounds of her pregnancy but this does not prevent women who are pregnant from being selected for redundancy on any of the grounds being applied to the staff group affected.

Redundancy during maternity, paternity or adoption leave will end the contractual obligations to both occupational maternity pay and additional paternity leave pay and the right to return. Statutory Maternity Pay (SMP) payments and Additional Statutory Paternity Pay payments are not affected and continue until the end of the Maternity Pay Period. Any payments made to the employee in respect of occupational maternity pay go towards meeting the employer's obligation in respect of notice pay.