



EBOR ACADEMY TRUST

Policy Number

35

MANAGING ORGANISATIONAL CHANGE POLICY

Ebor Academy Trust works closely with Trade Union Partners to develop and implement a fair and effective suite of people policies. Please seek advice from your trade union representative if you require support with this policy. If you are not a member of a trade union, please visit the Union tab or HR Self-service. Ebor Academy Trust welcomes Trade Unions to support staff throughout the processes associated with this policy.

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Contents

1.	Aims	3
2.	Definitions	3
3.	The Change Process	4
4.	Redundancy Selection	7
5.	Redundancy Hearing Meeting	7
6.	Appeal	8
7.	Offer of a New Job and Trial Periods	8
8.	Notice Periods	9
9.	Time off to look for Alternative Work	9
10.	Notification of Redundancies	9
11.	Redundancy Payments	9
12.	Retention of Records relating to the Redundancy Process	9
13.	Redundancy and Absence from Work	9
	Appendix 1: Ebor Standard Appeal Process	10

1 Aims

The Trust recognises that people are its most valuable asset. However, it also has a duty to review staffing to ensure that our children receive the best education possible. The Trust recognises that organisational changes impact staff, as roles may change or are no longer required. This policy should be used to support changes in staffing as a result of organisational restructure. Changes will be subject to equality impact assessment and consideration of existing reasonable adjustments. This policy is non-contractual.

Related Policies: Recruitment, Pay

2 Definitions

2.1 Restructure

A restructure is 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 apply to one or more sites or affect the whole Trust.

A restructure may arise for a number of reasons including situations:

- 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
- Where systems change ways of working and require a different skill set or staffing capacity

Where pay protection applies it will be for a maximum of 12 months for support staff and 36 months for Teachers. The Trust may extend the period of protection in exceptional circumstances and with CEO approval

2.2 Redundancy

The Trust default position on redundancy will be to follow the statutory procedures as they are at the time. 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:

- 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
- 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.

3 The Organisational Change Process

3.1 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 ending 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
- retraining or redeployment
- use of voluntary redundancy
- 'bumping' of roles to enable voluntary redundancy elsewhere
- Relocating staff to another school or office within the Trust

3.2 Determining the posts affected by restructure

It is important to accurately identify the pool of staff affected by a proposed restructure. This process will be supported by the Director of People & Culture who will liaise with recognised trade union representatives.

If the school needs to make changes, 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 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 for consultation. However, it is important to ensure that all staff in school are advised of the proposals, as there may be opportunities to "bump" individuals to enable voluntary redundancies to take place.

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.

3.3 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 at the earliest opportunity using the JCNC members list

In cases of redundancy there is a requirement for meaningful consultation with staff, it is not enough to only inform. Current statutory guidelines will determine the scope and extent of consultation. Consideration must be given to:

- avoiding any redundancies
- reducing the numbers of any employees to be redundant; and
- mitigating the consequences of any redundancies.

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

3.4 The Consultation Process

The Trust will work to the current statutory guidance on redundancy consultation. Where numbers of anticipated redundancies dictate the need for consultation, the following process will be followed:

- The HR representative will provide recognised, relevant trade union representatives with written information about the proposed restructure and its rationale. 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.

- 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 and answer questions
- 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, where 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.

- 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 job descriptions of employees whom it is proposed to dismiss as redundant,
- (c) the total number of employees of any such roles 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.

Where there are fewer than 20 anticipated redundancies, periods of notice may run concurrently with a discretionary consultation period, an employee cannot leave through redundancy until after the last day of the consultation period. This is to enable the Trust to fully explore alternatives to redundancy.

Minimum consultation periods for redundancies are as follows:
 (this table will be updated to reflect any changes to statutory guidance)

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

3.5 Voluntary Redundancy

In order to mitigate against any compulsory redundancies the Trust will seek volunteers for redundancy from within those in scope. 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 deployed into a vacant post created by the volunteer.

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.

Requesting estimates of voluntary redundancy does not mean that individuals 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. Decisions will be made on the basis of the best outcome for the school and / or the Trust.

If there are more applicants for voluntary redundancy than required, then the employer will determine whose employment will be terminated, considering the needs of the school/ Trust.

3.6 Redeployment

Redeployment to suitable alternative positions will, where possible, be an option for staff who are 'at-risk'. 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 prioritised for deployment into role.

If a redundancy situation arises when an individual is absent from work due to maternity, adoption or shared parental leave, then the normal consultation procedures will be followed. Where a suitable available vacancy exists, an employee on maternity, paternity, parental or adoption leave is entitled to be offered this employment before their return to work. They have a right to be offered suitable available alternative employment in preference to other employees.

3.7 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. This may be through a competitive selection process for the remaining positions.
- 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. The selection process will be determined on a case-by-case basis but may include consideration of the scored matrix and / or a professional discussion. Selection will not be based on competency if the role is of the same grade / type currently held.
- 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 a suitability interview sometimes called a professional conversation.

4 Redundancy Selection

In redundancy situations management will have to decide which employees are identified for compulsory redundancy. The selection criteria to be used will vary according to the aims of the restructure and will be based on current ACAS guidelines.

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 relevant manager, Project lead, HR Business Partner will score the matrices on the basis of the information provided.

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

5 Redundancy Hearing Meeting

The employee(s) selected for redundancy will be invited to a meeting where the proposal to terminate the individual's employment by reason of redundancy will be discussed.

At the meeting it will be explained why the individual has been selected for redundancy and they will have the right to respond. The member of staff may be accompanied by a workplace colleague or trade union representative.

Staff should be informed of the final decision, in writing, within 10 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.

6 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 Ebor standard appeal process should be used.

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 the Director of People 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.

7 Offer of a New Job and Trial Periods

An employee will not be entitled to a redundancy payment if they have been offered and accepted a suitable new employment within the Trust prior to the end of their notice period, or if they commence another role within the Trust within 3 months of the termination date. They will be considered to have been reinstated, and their reckonable service will be retained (less their time away from employment with the Trust).

If staff return to employment with Ebor Academy Trust after 1 month but within 6 months of redundancy, they may return their redundancy payment and be considered to be reinstated. Their previous service will be retained. If staff do not return their redundancy payment or they rejoin the Trust after a break which exceeds 6 months, their reckonable service will be deemed to have started from the day that they returned. All employment offers made within a month of dismissal due to redundancy will be subject to the return of any redundancy payments.

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 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 them.

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, they 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 4 week trial period, the employee is still in the job, they 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 gross or other misconduct and not redundancy, the entitlement to a redundancy payment is lost.

8 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 pay in lieu of notice and any redundancy payment. In exceptional circumstances where it suits the school / Trust and the individual's contract permits it, an employee can be asked to stay away from work during the notice period by way of exceptional staff leave as defined in the Staff Leave Policy (section 13).

9 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.

10 Notification of Redundancies

The HR representative will be responsible for completing the HR1 form to notify the relevant government department of the staff reductions (where applicable based on current legislation).

11 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>

12 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.

13 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.

This policy is part of the Ebor People Policy Suite
Please refer to Self Service HR for the latest version of this and other Ebor People Policies

Appendix 1: Ebor Standard Appeal Process

[CLICK THIS LINK TO DOWNLOAD THE EBOR STANDARD APPEAL PROCESS](#)